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Senate

(Legislative day of Wednesday, January 4, 1995)

By Mr. DOMENICI (for himself, Mr. EXON, Mr. CRAIG, Mr. BRADLEY, Mr. COHEN, and Mr. DOLE):

S. 14. A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed cancellations of budget items; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committees have 30 days to report or be discharged.

LEGISLATIVE LINE ITEM VETO ACT

● Mr. DOMENICI. Mr. President, I introduce legislation to give the President a legislative line-item veto. I am particularly pleased to be joined by the distinguished ranking minority member of the Senate Budget Committee, Senator EXON, and Senators CRAIG, BRADLEY, and DOLE in introducing this legislation. We have a bipartisan bill that I think will enjoy strong support in the Senate and has the best chance of becoming law.

The American people are demanding greater accountability for the decisions that Congress makes. If Congress includes provisions in legislation that provide new spending that cannot stand on its merits, then there should be a procedure to extract this funding. The legislation we introduce today provides such a procedure.

Mr. President, there is a great deal of support for an item veto. All but two Presidents in the 20th century have expressed their support for an item veto authority. President Clinton campaigned on a promise that he could cut spending by $10 billion from the enactment of a line-item veto. Forty-three of our 50 State Governors have some form of item veto authority. Finally, the House, even under Democratic control, has sent the Senate two separate rescission bills during the 103d Congress.

There are two statutory line-item approaches that the Congress will consider. The first, Senator MCCAIN's enhanced rescission bill would provide the President with unilateral authority to delete any item funded in an appropriations bill. In order to overturn the President's action, each House of the Congress would have to pass a bill of disapproval, send it to the President, and then override the President's veto of this bill of disapproval. This provides an extraordinary shift of power from the legislative branch to the executive branch.

The second approach, embodied in the legislation that I introduce today, is frequently referred to as expedited rescission authority. Under this approach, the President proposes a rescission and is guaranteed a vote up or down by Congress on these proposed rescissions.

Our legislation is stronger than the enhanced rescission bill in many respects, but I will just mention two provisions. Our bill provides a ''lock box'' to guarantee that any savings go to deficit reduction. It also extends this rescission authority to direct spending, the real culprit behind the growth in Federal spending, and targeted tax benefits.

There is no question that discretionary spending can contribute to deficit reduction, but discretionary spending is a shrinking as a portion of the budget. Direct spending, spending outside the control of the appropriations process, will grow from 54 percent to 62 percent of the budget over the next 10 years.

Mr. President, the Constitution grants the President the power of the sword and the Congress the power of purse. The President has a great deal of power as Commander-in-Chief as we have most recently seen in Haiti. I am not ready today to turn as much of Congress' power over the purse over to the President as provided for in Senator MCCAIN's enhanced rescission proposal. But I do think there is a need to recalibrate the scales, balance them, and guarantee the President a vote on his or her rescission proposals.

Finally, Mr. President, I would like to take a moment to commend the senior Senator from Idaho, Senator CRAIG, for his leadership on this legislation. The legislation I introduce today, in many respects, represents the work product of the distinguished Senator from Idaho. In addition, the legislation borrows heavily from previous legislation written by the senior Senator from Maine, Senator COHEN, and the efforts of the senior Senator from New Jersey to fight tax breaks in our laws.

Mr. President, I ask unanimous consent that a brief description and the text of this legislation be printed in the RECORD.

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

S. 14

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 ''Legislative Line Item Veto Act''.

SEC. 2. EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS AND REPEALS OF TAX EXPENDITURES AND DIRECT SPENDING.

(a) IN GENERAL.—Title X of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 621 et seq.) is amended by adding after section 1012 the following new section:

''EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS AND REPEALS OF TAX EXPENDITURES AND DIRECT SPENDING

''SEC. 1012A. (a) PROPOSED CANCELLATION OF BUDGET ITEM.—The President may propose, at the time and in the manner provided in subsection (b), the cancellation of any budget item provided in any Act.

''(b) TRANSMITTAL OF SPECIAL MESSAGE.—

''(1)(A) Subject to the time limitations provided in subparagraph (B), the President

● This ''bullet'' symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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may transmit to Congress a special message proposing to cancel budget items and include with that special message a draft bill that, if enacted, would only cancel those budget items as provided in this section. The bill shall clearly identify each budget item that is proposed to be canceled including, where applicable, each program, project, or activity to which the budget item relates. The bill shall specify the amount, if any, of each budget item that the President designates for deficit reduction as provided in paragraph (4).

''(B) A special message may be transmitted under this section—

''(i) during the 20-calendar-day period (excluding Saturdays, Sundays, and legal holidays) commencing on the day after the date of enactment of the provision proposed to be rescinded or repealed; or

''(ii) at the same time as the President's budget.

''(2) In the case of an Act that includes budget items within the jurisdiction of more than one committee of a House, the President in proposing to cancel such budget item under this section shall send a separate special message and accompanying draft bill for each such committee.

''(3) Each special message shall specify, with respect to the budget item proposed to be canceled—

''(A) the amount that the President proposes be canceled;

''(B) any account, department, or establishment of the Government to which such budget item is available for obligation, and the specific project or governmental functions involved;

''(C) the reasons why the budget item should be canceled;

''(D) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect (including the effect on outlays and receipts in each fiscal year) of the proposed cancellation; and

''(E) all facts, circumstances, and considerations relating to or bearing upon the proposed cancellation and the decision to effect the proposed cancellation, and to the maximum extent practicable, the estimated effect of the proposed cancellation upon the objects, purposes, and programs for which the budget item is provided.

''(4)(A) Not later than 5 days after the date of enactment of a bill containing an amount designated by the President for deficit reduction under paragraph (1), the President shall—

''(i) with respect to a rescission bill, reduce the discretionary spending limits under section 601 of the Congressional Budget Act of 1974 for the budget year and each outyear to reflect such amount; and

''(ii) with respect to a repeal of a tax expenditure or direct spending, adjust the balances for the budget year and each outyear under section 252(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 to reflect such amount.

''(B) Not later than 5 days after the date of enactment of a bill containing an amount designated by the President for deficit reduction under paragraph (1), the chairs of the Committees on the Budget of the Senate and the House of Representatives shall revise levels under section 311(a) and adjust the committee allocations under section 602(a) to reflect such amount.

''(c) PROCEDURES FOR EXPEDITED CONSIDERATION.—

''(1)(A) Before the close of the second day of session of the Senate and the House of Representatives, respectively, after the date of receipt of a special message transmitted to Congress under subsection (b), the majority leader or minority leader of each House shall introduce (by request) the draft bill accompanying that special message. If the bill is not introduced as provided in the preceding sentence in either House, then, on the third day of session of that House after the date of receipt of that special message, any Member of that House may introduce the bill.

''(B) The bill shall be referred to the appropriate committee or (in the House of Representatives) committees. The committee shall report the bill without substantive revision and with or without recommendation. The committee shall report the bill not later than the seventh day of session of that House after the date of receipt of that special message. If the committee fails to report the bill within that period, the committee shall be automatically discharged from consideration of the bill, and the bill shall be placed on the appropriate calendar.

''(C) A vote on final passage of the bill shall be taken in the Senate and the House of Representatives on or before the close of the 10th day of session that House after the date of the introduction of the bill in that House. If the bill is passed, the Clerk of the Senate or the House of Representatives, as the case may be, shall cause the bill to be engrossed, certified, and transmitted to the other House within one calendar day of the day on which the bill is passed.

''(2)(A) During consideration under this subsection in the House of Representatives, any Member of the House of Representatives may move to strike any proposed cancellation of a budget item if supported by 49 other Members.

''(B) A motion in the House of Representatives to proceed to the consideration of a bill under this subsection shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

''(C) Debate in the House of Representatives on a bill under this subsection shall not exceed 4 hours, which shall be divided equally between those favoring and those opposing the bill. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit a bill under this subsection or to move to reconsider the vote by which the bill is agreed to or disagreed to.

''(D) Appeals from decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a bill under this section shall be decided without debate.

''(E) Except to the extent specifically provided in this section, consideration of a bill under this section shall be governed by the Rules of the House of Representatives. It shall not be in order in the House of Representatives to consider any rescission bill introduced pursuant to the provisions of this section under a suspension of the rules or under a special rule.

''(3)(A) During consideration of a bill under this subsection in the Senate, any Member of the Senate may move to strike any proposed cancellation of a budget item if supported by 11 other Members.

''(B) It shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

''(C) Debate in the Senate on a bill under this subsection, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (D)), shall not exceed 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

''(D) Debate in the Senate on any debatable motion or appeal in connection with a bill under this subsection shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

''(E) A motion in the Senate to further limit debate on a bill under this subsection is not debatable. A motion to recommit a bill under this subsection is not in order.

''(F) If the Senate proceeds to consider a bill introduced in the House of Representatives under paragraph (1)(A), then any Senator may offer as an amendment the text of the companion bill introduced in the Senate under paragraph (1)(A) as amended if amended (under subparagraph (A)). Debate in the Senate on such bill introduced in the House of Representatives, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (D)), and any amendment offered under this subparagraph, shall not exceed 10 hours minus such times (if any) as Senators consumed or yielded back during consideration of the companion bill introduced in the Senate under paragraph (1)(A).

''(4) Debate in the House of Representatives or the Senate on the conference report on any bill considered under this section shall be limited to not more than 2 hours, which shall be divided equally between the majority leader and the minority leader. A motion further to limit debate is not debatable. A motion to recommit the conference report is not in order, and it is not in order to move to reconsider the vote by which the conference report is agreed to or disagreed to.

''(d) AMENDMENTS AND DIVISIONS PROHIBITED.—Except as otherwise provided by this section, no amendment to a bill considered under this section shall be in order in either the Senate or the House of Representatives. It shall not be in order to demand a division of the question in the House of Representatives (or in a Committee of the Whole). No motion to suspend the application of this subsection shall be in order in the House of Representatives, nor shall it be in order in the House of Representatives to suspend the application of this subsection by unanimous consent.

''(e) REQUIREMENT TO MAKE AVAILABLE FOR OBLIGATION.—Any budget item proposed to be canceled in a special message transmitted to Congress under subsection (b) shall not be made available for obligation or take effect until the day after the date on which either House rejects the bill transmitted with that special message.

''(f) DEFINITIONS.—For purposes of this section—

''(1) the term 'appropriation Act' means any general or special appropriation Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations;

''(2) the term 'direct spending' shall have the same meaning given such term in section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985;

''(3) the term 'budget item' means—

''(A) an amount, in whole or in part, of budget authority provided in an appropriation Act;

''(B) an amount of direct spending; or

''(C) a targeted tax benefit;

''(4) the term 'cancellation of a budget item' means—

''(A) the rescission of any budget authority provided in an appropriation Act;

''(B) the repeal of any amount of direct spending; or

''(C) the repeal of any targeted tax benefit; and

''(5) the term 'targeted tax benefit' means any provision which has the practical effect of providing a benefit in the form of a different treatment to a particular taxpayer or a limited class of taxpayers, whether or not such provision is limited by its terms to a particular taxpayer or a class of taxpayers. Such term does not include any benefit provided to a class of taxpayers distinguished on the basis of general demographic conditions such as income, number of dependents, or marital status.''.

(b) EXERCISE OF RULEMAKING POWERS.—Section 904 of the Congressional Budget Act of 1974 (2 U.S.C. 621 note) is amended—

(1) in subsection (a), by striking ''and 1017'' and inserting ''1012A, and 1017''; and

(2) in subsection (d), by striking ''section 1017'' and inserting ''sections 1012A and 1017''.

(c) CLERICAL AMENDMENTS.—The table of sections for subpart B of title X of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 1012 the following:

''Sec. 1012A. Expedited consideration of certain proposed rescissions and repeals of tax expenditures and direct spending.''.

(d) EFFECTIVE PERIOD.—The amendments made by this Act shall—

(1) take effect on the date of enactment of this Act;

(2) apply only to budget items provided in Acts enacted on or after the date of enactment of this Act; and

(3) cease to be effective on September 30, 1998.●

Mr. CRAIG. Mr. President, I also wish to speak on S. 14 that has just been introduced by Budget Committee chairman Senator DOMENICI and also Senator EXON and myself. That is a new bill that will create a legislative line-item veto. We believe that is another important issue that the American people have been continually asking for for well over a decade now with calls the Congress refused to hear or to respond to. Now we think this new Congress will respond.

While I remain a strong cosponsor of S. 4—S. 4 is the pure line-item veto that Senator MCCAIN and Senator COATS have brought before this Senate year after year—I am also, in S. 14, offering an additional alternative.

Make no confusion by my remarks. I will support the pure line-item veto S. 4. I think it is important that we give it a clean opportunity. But if that cannot be accomplished, I think it is important that the Budget Committee recognize, as they have with the introduction of S. 14 by Senator PETE DOMENICI, an alternative piece of legislation of this type similar to that I introduced last year which also clearly allows the President to exercise a line-item veto and the Congress, through a procedure both timely and responsive, to address those items singled out by the President.

These are important issues. It is important to the American people who are watching today the most historic event in 40 years to see a House sworn in, to see a Republican Speaker by the name of NEWT GINGRICH take his seat, or to see 11 new Members, Republican Members, come to the U.S. Senate and see a historic change once again in the leadership of the Senate; for those who observe us to know that we will address the Contract With America, we will address mandates, we will vote on a line-item veto, we will vote on a balanced budget amendment.

That is what the American people have asked for. I believe that is what the 104th Congress will produce for them. That is historic. I think it is clearly important that we now respond to the mandate the American people sent us to this new Congress to address.

In September of last year, I, along with a dozen of our Senate colleagues, introduced a legislative line-item veto as a part of S. 2458, the Common Cents Budget Reform Act of 1994. This year, S. 14 incorporates all the essentials of title III of that legislation and makes improvements in the fine tuning.

This bill is also similar to H.R. 4600 in the 103d Congress, as it passed the House last June 14, by a vote of 342 to 69, after a weaker version was rejected.

I want to acknowledge and commend the thoughtfulness and cooperation of the other original sponsors of S. 14. These also include the Senators from Maine [Mr. COHEN] and New Jersey [Mr. BRADLEY], both of whom have had their own legislation in this area, and the distinguished majority leader. They, along with the chairman and ranking member [Mr. EXON] of the Budget Committee have worked hard to achieve a meeting of the minds.

As I have noted, I am also an original cosponsor of S. 4.

In brief, S. 4 is an enhanced rescission bill, which would allow a Presidential rescission of spending to stand unless a disapproval of that rescission was enacted into law, presumably over the President's veto, which would require a two-thirds vote.

Under S. 14 which contains an expedited rescission process, a Presidential proposal to cancel budget items—whether appropriations, narrowly targeted tax benefits, or new direct spending—would be given mandatory consideration in Congress, with approval or disapproval by majority vote concluded on an expedited basis.

I prefer the pure approach taken in S. 4. But both versions are second, effective reforms. Both would increase accountability, promote fiscal responsibility, and improve public confidence in the budget process. This Senator is committed, and I call on my colleagues to commit, to passing the strongest legislative line item veto possible. The most effective line item veto is the one that becomes law.

There are three principal reasons for Congress to pass this kind of budget reform:

First, it would promote fiscal responsibility.

According to GAO, since 1974, Presidents have requested 1,019 individual rescissions of appropriations. Congress has approved 354—34.5 percent—of these, amounting to 30 percent of the dollar volume of proposed rescissions.

Excluding 1981, Congress has approved less than 20 percent of the dollar volume of rescissions proposed by Presidents.

Congress has simply ignored $48 billion in rescissions proposed under title X of the 1974 Budget Act, refusing to take a vote on the merits.

Alone, a line-item veto is not going to be enough to balance the budget. However, it's routinely estimated that an additional $10 billion a year in discretionary spending could be saved this way. To quote the late Senator Everett Dirksen, and adjust him for inflation: ''$10 billion here, $10 billion there, pretty soon we're talking about real money.''

On the tax side, public cynicism regarding Congress has grown with increased attention to provisions, hidden away in large tax bills, which benefit narrow interests and special constituencies.

For example, in H.R. 11, passed late in 1992—but vetoed, there were 50 special tax provisions that cost more than the enterprise zones that were supposed to be the centerpiece of the bill.

We've all heard the horror stories about tax breaks that benefit one sports stadium, one wealthy family, one large corporation, Our constituents have heard those stories, too. They're demanding that things change.

Second, it would improve legislative accountability and produce a more thoughtful legislative process.

A line-item veto would cast an additional dose of sunlight on the legislative process.

All too often, large bills include individual items that would never stand up to public scrutiny.

We're all familiar with the rush to get the legislative trains out on time. That means bills and reports spanning hundreds of pages that virtually no one is able to read—much less digest—in the day or two that they are voted on.

Moreover, any more, virtually every appropriations bill—even the 13 regular bills—and certainly every tax bill, is a huge bill.

Knowing that any individual provision may have to return to Congress one more time to stand on its own merits will promote more responsible legislation in the first place.

Third, it would improve executive accountability.

There is always some concern that any form of line-item veto or expedited rescission process would transfer too much power from the Congress to the President.

But there's another side to that coin.

Many of us on both sides of the aisle have suggested, at different times, that Presidents aren't always serious about the rescission messages they send to Congress, or that the volume of rescissions they propose don't live up to their tough talk about what they would do if they had a line-item veto.

I think it's time to call the President's bluff—and I mean every President, because this is a bipartisan issue.

Already we are seeing groups like Citizens Against Government Waste and others come up with billions of dollars in long lists of pork items. Once we give the President expedited rescission authority, he or she will have to answer to the people if the use of that authority doesn't match the Presidential rhetoric.

In particular, in S. 14, we give the President the chance to designate how much of his or her rescissions savings would be applied to the deficit through the use of a lockbox, or deficit reduction account.

Under this expedited rescission procedure, Congress would not lose the power of the purse, but the power of the spotlight would be restored to the President.

In conclusion:

I commend to the attention of my colleagues both S. 4 and S. 14, and urge prompt consideration. This year, I believe, we will enact a line item veto law, and I look forward to this long overdue reform.

By Mr. MOYNIHAN:

S. 15. A bill to provide that professional baseball teams and leagues composed of such teams shall be subject to the antitrust laws; to the Committee on the Judiciary.

NATIONAL PASTIME PRESERVATION ACT

● Mr. MOYNIHAN. Mr. President, in his book, ''God's Country and Mine,'' the author Jacques Barzun, a former history professor at Columbia University, wrote ''Whoever wants to know the heart and mind of America had better learn baseball. * * *''

Baseball is America's national pastime. It was invented, at least according to the view espoused by New Yorkers, by General Abner Doubleday in Cooperstown, NY, in 1839. Today it is deeply embedded in our culture.

Yet in recent years the game has become troubled. Baseball has had eight work stoppages over the last two decades, more than in all other professional sports combined. The existing strike has been with us since August, and no end is in sight. The 1995 season is in grave jeopardy. Indeed, many observers believe the future of baseball itself is in peril.

The current difficulties may be traced back to 1922, when Justice Oliver Wendell Holmes delivered the opinion of the U.S. Supreme Court in *Federal Baseball* v. *National League*, 259 U.S. 200. It was therein decided that the Sherman Act did not apply to exhibitions of baseball because baseball was not interstate commerce.

The Supreme Court has considered this matter on two subsequent occasions: In 1953 in *Toolson* v. *New York Yankees*, 346 U.S. 356, and in 1972 in *Flood* v. *Kuhn*, 407 U.S. 258. In Flood, the most recent pronouncement, the Court concluded that the antitrust exemption was an ''anomaly'' and an ''aberration confined to baseball'' and that ''professional baseball is a business and it is engaged in interstate commerce.'' Even so, the Court refused to reverse its 1922 decision in Federal Baseball. Justice Blackman, delivering the opinion of the Court in Flood, wrote:

> If there is any inconsistency or illogic in all this, it is an inconsistency and illogic of long standing that is to be remedied by the Congress and not by this Court.

This decision clearly laid responsibility for baseball's antitrust exemption on Congress. It also explicitly recognized baseball's evolution into a major industry. George F. Will aptly described this transformation in his best-selling book ''Men at Work'':

> It has been said that baseball in the pre-Civil War era taught a puritanical America the virtues of play. But industrialists of the Gilded Age would approve of the way baseball has become a big business. Fifty years ago baseball was a comparatively mom-and-pop operation. Sunday play was not permitted in Pittsburgh and Philadelphia until 1934. In 1922 the U.S. Supreme Court held, for purposes of antitrust regulations, that baseball is not a business. Today sports columnist Jim Murray says, ''If it isn't, General Motors is a sport.''

As a result of this anomaly in American law, Mr. President, the World Series was cancelled in 1994 for the first time since 1904. With none of the legal restraints that prevent other businesses from engaging in anticompetitive behavior, the baseball team owners are free to act as a cartel. To end this monopoly, Congress must remove baseball's antitrust exemption and subject the game to the same rules of law that apply to all other major league sports.

This is why I am introducing today the National Pastime Preservation Act, a bill to repeal the antitrust exemption for major league baseball. It may not solve all of baseball's troubles, but it is a necessary step and one that is decades overdue. Many Members of Congress have begun to examine this issue more closely in view of the seeming intractability of the strike. My friend Senator ORRIN HATCH, the new chairman of the Judiciary Committee, has indicated that he supports repealing the exemption and is prepared to move a bill quickly through his committee. I look forward to working with him and other Members of Congress who share our concern about the future of major league baseball in America.

Mr. President, I ask unanimous consent that the full 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. 15

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Pastime Preservation Act of 1995''.

SEC. 2. FINDINGS.

The Congress finds that—

(1) the business of organized professional baseball is in, or affects, interstate commerce; and

(2) the antitrust laws should be amended to reverse the result of the decisions of the Supreme Court of the United States in Federal Baseball Club of Baltimore, Inc. v. National League of Professional Baseball Clubs, 259 U.S. 200 (1922), Toolson v. New York Yankees, Inc., 346 U.S. 356 (1953), and Flood v. Kuhn, 407 U.S. 258 (1972), which exempted baseball from coverage under the antitrust laws.

SEC. 3. APPLICATION OF ANTITRUST LAWS TO PROFESSIONAL BASEBALL.

The Clayton Act (15 U.S.C. 12 et seq.) is amended by adding at the end the following new section:

''SEC. 27. (a) IN GENERAL.—Except as provided in Public Law 87–331 (15 U.S.C. 291 et seq.) (commonly known as the 'Sports Broadcasting Act of 1961'), the antitrust laws shall apply to the business of organized professional baseball.

''(b) APPLICATION OF SECTION.—This section—

(1) shall apply to any agreement that is in effect on or after the date of enactment of this section and to conduct engaged in after that date in furtherance of that agreement or in furtherance of any other object; but

(2) shall not apply to conduct engaged in before that date.''.●

By Mr. DOLE:

S. 16. A bill to establish a Commission to review the dispute settlement reports of the World Trade Organization, and for other purposes; to the Committee on Finance.

WTO DISPUTE SETTLEMENT REVIEW COMMISSION

Mr. DOLE. Mr. President, just over 1 month ago, in consecutive special sessions, both Houses of Congress passed a landmark bill implementing the new GATT Agreement. The Agreement establishes a new international body, the World Trade Organization, to oversee with unprecedented authority the growth and development of international trade into the 21st century.

I heard from Americans across the country in the days and weeks leading up to the vote. They wanted to know what effect the WTO would have on U.S. sovereignty. People from all over Kansas and just about everywhere else were deeply concerned that this entirely new international organization would rob us of our freedom. I set out to identify those things in this new organization that had the greatest potential to go awry, that might end up harming instead of helping U.S. interests in global trade. I believe the legislation I am introducing today goes a long way toward ensuring that America retains full control of her destiny, that no international organization staffed by unelected bureaucrats will dictate what we do here at home.

I hope my colleagues understand, and I want the American people to understand, that the World Trade Organization is an experiment. It is an experiment that Congress has endorsed. But we have not done so unconditionally. Far from it. We have not signed away American sovereignty. To the contrary, Mr. President, we intend to scrutinize this institution—the WTO—to ensure that its every act is consistent with the interests of the United States.

The WTO is an organization which is on trial. I know it is just starting out, just beginning the process of establishing itself. The outcome of that trial will depend on these early actions, on the strict observance by the WTO of its mandate, and in particular on the results of the dispute settlement mechanism.

An effective dispute settlement mechanism was one of the major negotiating objectives for the United States. In the GATT talks, the United States sought to have binding and automatic dispute settlement. Trade disputes would be put to international panels, and the defendant would be deprived of any means of blocking the result. The United States supported this idea out of frustration largely with our European friends who maintained agricultural policies that adversely affected every other agricultural exporting nation.

All other nations agreed with our proposal, obviously from a variety of motivations, not always identical with our own. They largely objected to our use of what they called our ''unilateral measures,'' actions which we have taken to defend our national commerical interests against their dumped and subsidized goods, or occasionally using our leverage of access to the world's largest, most open market to pry open the markets of others.

Despite different motivations, for the first time in any international forum, there will be binding dispute settlement. This means that no nation will be able to prevent the result from being accepted by the body of nations in the WTO. The defendant will incur costs of various kinds if it ignores the findings of a dispute settlement panel—costs in terms of international condemnation, in terms of weakening international respect for the trading rules, and in terms of possible internationally sanctioned retaliation against its goods.

This places a heavy burden on the new dispute settlement system, and all who manage it and participate in it.

Make no mistake, the future of the World Trading System depends on this new dispute settlement process being used prudently and administered wisely. Those of us who voted for the GATT Agreement knew these risks when we accepted the overall package. There was no option for us, or for any other country, to pick and choose among the parts of the Agreement or to make any modifications.

Therefore, we must do what we can with the Agreement that was negotiated, and make a good faith effort to make it work well, to further international trade and American national commercial interests.

President Clinton assured me in this connection last month as we approached the vote on the GATT Agreement that he and his administration would fully support my effort to ensure that U.S. interests will be protected. Working with Ambassador Kantor, I developed a proposal, which I am introducing today, that will give the fullest possible protection against abuses by the WTO, and yet allow us to enjoy all of the benefits of the GATT Agreement.

My proposal establishes the WTO Dispute Settlement Review Commission. It will be composed of five Federal appellate judges, appointed by the President in consultation with Congress. The Commission will be empowered to review every adverse decision produced by the WTO dispute settlement process. In cases where the dispute settlement panels adhered to the proper standard of review, and where they did not exceed or abuse their authority, no further action will be taken. But if a panel decision reaches an inappropriate result that amounts to abuse of its mandate, the Review Commission would transmit that determination to Congress. Any Members would then be permitted to introduce a privileged resolution requiring renegotiation of the WTO dispute settlement rules. After three determinations of inappropriate decisions by dispute settlement panels, any Member could introduce a resolution to withdraw from the WTO. I call this process ''Three strikes and we're out.''

The United States is only one country, but we are the one most capable of exercising international leadership. My proposal today is a way to exercise that needed leadership.

I want to avoid the worst of all possible results—a kind of nightmare scenario in which panelists who may come from countries whose firms engage in widespread dumping, whose governments heavily subsidize industry, agriculture, and services, and whose governments fail to live up to a reasonable standard of antitrust enforcement, advised by a WTO secretariat of international bureaucrats with an agenda of their own to modify existing international trade amendments, abuse their role, and reach inappropriate results.

I am not making a prediction that such a scenario will occur. I am saying that the knowledge of the existence of a highly competent, impartial Commission of judges in the United States overseeing in detail the operation of these panels will serve as a protection against that outcome. If the dispute settlement process proves tyrannical and abusive rather than fair and impartial, the United States will be well on the road to withdrawal from the WTO.

Mr. President, I ask unanimous consent that the bill and a letter to me from Ambassador Mickey Kantor dated today be inserted in the RECORD.

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

S. 16

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 ''WTO Dispute Settlement Review Commission Act''.

SEC. 2. CONGRESSIONAL FINDINGS AND PURPOSE.

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

(1) The United States joined the World Trade Organization as a founding member with the goal of creating an improved global trading system.

(2) The American people must receive assurances that United States sovereignty will be protected, and United States interests will be advanced, within the global trading system which the WTO will oversee.

(3) The survival of the new WTO requires the continuation of both trade liberalization and the ability to respond effectively to unfair or otherwise harmful trade practices.

(4) United States support for the WTO depends upon obtaining mutual trade benefits through the openness of foreign markets and the maintenance of effective United States and WTO remedies against unfair or otherwise harmful trade practices.

(5) Congress passed the Uruguay Round Agreements Act based upon its understanding that effective trade remedies would not be eroded. These remedies are essential to continue the process of opening foreign markets to imports of goods and services and to prevent harm to American industry and agriculture particularly through foreign dumping and subsidization.

(6) The continued support of the Congress for the WTO is dependent upon a WTO dispute settlement system that—

(A) operates in a fair and impartial manner;

(B) does not add to the obligations of or diminish the rights of the United States under the Uruguay Round agreements; and

(C) does not exceed its authority, scope, or established standard of review.

(b) PURPOSE.—It is the purpose of this Act to provide for the establishment of the WTO Dispute Settlement Review Commission to achieve the goals described in subsection (a)(6).

SEC. 3. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the WTO Dispute Settlement Review Commission (hereafter in this Act referred to as the ''Commission'').

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 5 members all of whom shall be judges of the Federal judicial circuits and shall be appointed by the President, after consultation with the Majority Leader and Minority Leader of the House of Representatives, the Majority Leader and Minority Leader of the Senate, the chairman and ranking member of the Committee on Ways and Means of the House of Representatives, and the chairman and ranking member of the Committee on Finance of the Senate.

(2) DATE.—The appointments of the members of the Commission shall be made no later than 60 days after the date of the enactment of this Act.

(c) PERIOD OF APPOINTMENT; VACANCIES.—

(1) IN GENERAL.—Members of the Commission first appointed shall each be appointed for a term of 5 years. After the initial 5-year term, 3 members of the Commission shall be appointed for terms of 3 years and the remaining 2 members shall be appointed for terms of 2 years.

(2) VACANCIES.—

(A) IN GENERAL.—Any vacancy on the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment and shall be subject to the same conditions as the original appointment.

(B) UNEXPIRED TERM.—An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced.

(d) INITIAL MEETING.—No later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(e) MEETINGS.—The Commission shall meet at the call of the Chairman.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) CHAIRMAN AND VICE CHAIRMAN.—The Commission shall select a Chairman and Vice Chairman from among its members.

SEC. 4. DUTIES OF THE COMMISSION.

(a) REVIEW OF WTO DISPUTE SETTLEMENT REPORTS.—

(1) IN GENERAL.—The Commission shall review—

(A) all reports of dispute settlement panels or the Appellate Body of the World Trade Organization in proceedings initiated by other parties to the WTO which are adverse to the United States and which are adopted by the Dispute Settlement Body, and

(B) upon request of the United States Trade Representative, any other report of a dispute settlement panel or the Appellate Body which is adopted by the Dispute Settlement Body.

(2) SCOPE OF REVIEW.—In the case of reports described in paragraph (1), the Commission shall conduct a complete review and determine whether—

(A) the panel or the Appellate Body, as the case may be, exceeded its authority or its terms of reference;

(B) the panel or the Appellate Body, as the case may be, added to the obligations of or diminished the rights of the United States under the Uruguay Round agreement which is the subject of report;

(C) the panel or the Appellate Body, as the case may be, acted arbitrarily or capriciously, engaged in misconduct, or demonstrably departed from the procedures specified for panels and Appellate Bodies in the applicable Uruguay Round Agreement; and

(D) the report of the panel or the Appellate Body, as the case may be, deviated from the applicable standard of review, including in antidumping, countervailing duty, and other unfair trade remedy cases, the standard of review set forth in Article 17.6 of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994.

(3) AFFIRMATIVE DETERMINATION.—If the Commission makes an affirmative determination with respect to the action of a panel or an Appellate Body under subparagraph (A), (B), (C), or (D) of paragraph (2), the Commission shall determine whether the action of the panel or Appellate Body materially affected the outcome of the report of the panel or Appellate Body.

(b) DETERMINATION; REPORT.—

(1) DETERMINATION.—No later than 120 days after the date of a report of a panel or Appellate Body described in subsection (a)(1) is adopted by the Dispute Settlement Body, the Commission shall make a written determination with respect to matters described in subsections (a)(2) and (a)(3).

(2) REPORTS.—The Commission shall report the determinations described in paragraph (1) to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

SEC. 5. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this Act.

(b) INFORMATION FROM INTERESTED PARTIES AND FEDERAL AGENCIES.—

(1) NOTICE OF PANEL OR APPELLATE BODY REPORT.—The United States Trade Representative shall advise the Commission no later than 5 days after the date the Dispute Settlement Body adopts the report of a panel or Appellate Body that is adverse to the United States and shall immediately publish notice of such advice in the Federal Register, along with notice of an opportunity for interested parties to submit comments to the Commission.

(2) SUBMISSIONS AND REQUESTS FOR INFORMATION.—Any interested party may submit comments to the Commission regarding the panel or Appellate Body report. The Commission may also secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this Act. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(3) ACCESS TO PANEL AND APPELLATE BODY DOCUMENTS.—The United States Trade Representative shall make available to the Commission all submissions and relevant documents relating to the panel or Appellate Body report, including any information contained in such submissions identified by the provider of the information as proprietary information or information treated as confidential by a foreign government.

SEC. 6. REVIEW OF DISPUTE SETTLEMENT PROCEDURES AND PARTICIPATION IN THE WTO.

(a) AFFIRMATIVE REPORT BY COMMISSION.—

(1) IN GENERAL.—If a joint resolution described in subsection (b)(1) is enacted into law pursuant to the provisions of subsection (c), the President shall undertake negotiations to amend or modify the rules and procedures of the Understanding on Rules and Procedures Governing the Settlement of Disputes to which such joint resolution relates.

(2) 3 AFFIRMATIVE REPORTS BY COMMISSION.—If a joint resolution described in subsection (b)(2) is enacted into law pursuant to the provisions of subsection (c), the approval of the Congress, provided under section 101(a) of the Uruguay Round Agreements Act, of the WTO Agreement shall cease to be effective in accordance with the provisions of the joint resolution and the United States shall cease to be a member of the WTO.

(b) JOINT RESOLUTIONS DESCRIBED.—

(1) IN GENERAL.—For purposes of subsection (a)(1), a joint resolution is described in this paragraph, if it is a joint resolution of the 2 Houses of Congress and the matter after the resolving clause of such joint resolution is as follows: ''That the Congress authorizes and directs the President to undertake negotiations to amend or modify the rules and procedures of the Understanding on Rules and Procedures Governing the Settlement of Disputes relating to ___ with respect to the affirmative determination submitted to the Congress by the WTO Dispute Settlement Review Commission on ___'', the first blank space being filled with the specific rules and procedures with respect to which the President is to undertake negotiations and the second blank space being filled with the date of the affirmative determination submitted to the Congress by the Commission pursuant to section 4(b) which has given rise to the joint resolution.

(2) WITHDRAWAL RESOLUTION.—For purposes of subsection (a)(2), a joint resolution is described in this paragraph, if it is a joint resolution of the 2 Houses of Congress and the matter after the resolving clause of such joint resolution is as follows: ''That the Congress authorizes and directs the President to undertake negotiations to amend or modify the rules and procedures of the Understanding on Rules and Procedures Governing the Settlement of Disputes relating to ___ with respect to the affirmative report submitted to the Congress by the WTO Dispute Settlement Review Commission on ___ and if such negotiations do not result in a satisfactory solution by ___, the Congress withdraws its approval, provided under section 101(a) of the Uruguay Round Agreements Act, of the WTO Agreement as defined in section 2(9) of that Act'', the first blank space being filled with the specific rules and procedures with respect to which the President is to undertake negotiations, the second blank space being filled with the date of the affirmative determination submitted to the Congress by the Commission pursuant to section 4(b) which has given rise to the joint resolution, and the third blank space being filled with the date the Congress withdraws its approval of the WTO Agreement.

(c) PROCEDURAL PROVISIONS.—

(1) IN GENERAL.—The requirements of this subsection are met if the joint resolution is enacted in accordance with this subsection, and—

(A) in the case of a joint resolution described in subsection (b)(1) the Congress adopts and transmits the joint resolution to the President before the end of the 90-day period (excluding any day described in section 154(b) of the Trade Act of 1974), beginning on the date on which the Congress receives an affirmative determination from the Commission described in section 4(b), or

(B) in the case of a joint resolution described in subsection (b)(2), the Commission has made 3 affirmative determinations described in section 4(b) during a 5-year period, and the Congress adopts and transmits the joint resolution to the President before the end of the 90-day period (excluding any day described in section 154(b) of the Trade Act of 1974), beginning on the date on which the Congress receives the third such affirmative determination.

(2) PRESIDENTIAL VETO.—In any case in which the President vetoes the joint resolution, the requirements of this subsection are met, if each House of Congress votes to override that veto on or before the later of the last day of the 90-day period referred to in subparagraph (A) or (B), whichever is applicable, or the last day of the 15-day period (excluding any day described in section 154(b) of the Trade Act of 1974) beginning on the date on which the Congress receives the veto message from the President.

(3) INTRODUCTION.—

(A) TIME.—A joint resolution to which this section applies may be introduced at any time on or after the date on which the Commission transmits to the Congress an affirmative determination described in section 4(b), and before the end of the 90-day period referred to in subparagraph (A) or (B), as the case may be.

(B) ANY MEMBER MAY INTRODUCE.—A joint resolution described in subsection (b) may be introduced in either House of the Congress by any Member of such House.

(4) EXPEDITED PROCEDURES.—

(A) GENERAL RULE.—Subject to the provisions of this subsection, the provisions of subsections (b), (d), (e), and (f) of section 152 of the Trade Act of 1974 (19 U.S.C. 2192(b), (d), (e), and (f)) apply to joint resolutions described in subsection (b) to the same extent as such provisions apply to resolutions under such section.

(B) REPORT OR DISCHARGE OF COMMITTEE.—If the committee of either House to which a joint resolution has been referred has not reported it by the close of the 45th day after its introduction (excluding any day described in section 154(b) of the Trade Act of 1974), such committee shall be automatically discharged

from further consideration of the joint resolution and it shall be placed on the appropriate calendar.

(C) FINANCE AND WAYS AND MEANS COMMITTEES.—It is not in order for—

(i) the Senate to consider any joint resolution unless it has been reported by the Committee on Finance or the committee has been discharged under subparagraph (B); or

(ii) the House of Representatives to consider any joint resolution unless it has been reported by the Committee on Ways and Means or the committee has been discharged under subparagraph (B).

(D) SPECIAL RULE FOR HOUSE.—A motion in the House of Representatives to proceed to the consideration of a joint resolution may only be made on the second legislative day after the calendar day on which the Member making the motion announces to the House his or her intention to do so.

(5) CONSIDERATION OF SECOND RESOLUTION NOT IN ORDER.—It shall not be in order in either the House of Representatives or the Senate to consider a joint resolution (other than a joint resolution received from the other House), if that House has previously adopted a joint resolution under this section relating to the same matter.

(d) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—This section is enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such is deemed a part of the rules of each House, respectively, and such procedures supersede other rules only to the extent that they are inconsistent with such other rules; and

(2) with the full recognition of the constitutional right of either House to change the rules (so far as relating to the procedures of that House) at any time, in the same manner, and to the same extent as any other rule of that House.

SEC. 7. PARTICIPATION IN WTO PANEL PROCEEDINGS.

(a) IN GENERAL.—If the United States Trade Representative, in proceedings before a dispute settlement panel or the Appellate Body of the WTO, seeks—

(1) to enforce United States rights under a multilateral trade agreement, or

(2) to defend a challenged action or determination of the United States Government,

a private United States person that is supportive of the United States Government's position before the panel or Appellate Body and that has a direct economic interest in the panel's or Appellate Body's resolution of the matters in dispute shall be permitted to participate in consultations and panel proceedings. The Trade Representative shall issue regulations, consistent with subsections (b) and (c), ensuring full and effective participation by any such private person.

(b) ACCESS TO INFORMATION.—The United States Trade Representative shall make available to persons described in subsection (a) all information presented to or otherwise obtained by the Trade Representative in connection with a WTO dispute settlement proceeding. The United States Trade Representative shall promulgate regulations implementing a protective order system to protect information designated by the submitting member as confidential.

(c) PARTICIPATION IN PANEL PROCESS.—Upon request from a person described in subsection (a), the United States Trade Representative shall—

(1) consult in advance with such person regarding the content of written submissions from the United States to the WTO panel concerned or to the other member countries involved;

(2) include, where appropriate, such person or its appropriate representative as an advisory member of the delegation in sessions of the dispute settlement panel;

(3) allow such special delegation member, where such member would bring special knowledge to the proceeding, to appear before the panel, directly or through counsel, under the supervision of responsible United States Government officials; and

(4) in proceedings involving confidential information, allow appearance of such person only through counsel as a member of the special delegation.

SEC. 8. DEFINITIONS.

For purposes of this Act:

(1) APPELLATE BODY.—The term ''Appellate Body'' means the Appellate Body established under Article 17.1 of the Dispute Settlement Understanding.

(2) ADVERSE TO THE UNITED STATES.—The term ''adverse to the United States'' includes any report which holds any law, regulation, or application thereof by a government agency to be inconsistent with international obligations under the Uruguay Round Agreement (or a nullification or impairment thereof), whether or not there are other elements of the decision which favor arguments made by the United States.

(3) DISPUTE SETTLEMENT PANEL; PANEL.—The terms ''dispute settlement panel'' and ''panel'' mean a panel established pursuant to Article 6 of the Dispute Settlement Understanding.

(4) DISPUTE SETTLEMENT BODY.—The term ''Dispute Settlement Body'' means the Dispute Settlement Body administering the rules and procedures set forth in the Dispute Settlement Understanding.

(5) DISPUTE SETTLEMENT UNDERSTANDING.—The term ''Dispute Settlement Understanding'' means the Understanding on Rules and Procedures Governing the Settlement of Disputes referred to in section 101(d)(16) of the Uruguay Round Agreements Act.

(6) URUGUAY ROUND AGREEMENT.—The term ''Uruguay Round Agreement'' means one or more of the agreements described in section 101(d) of the Uruguay Round Agreements Act.

(7) WORLD TRADE ORGANIZATION; WTO.—The terms ''World Trade Organization'' and ''WTO'' mean the organization established pursuant to the WTO Agreement.

(8) WTO AGREEMENT.—The term ''WTO Agreement'' means the Agreement Establishing the World Trade Organization entered into on April 15, 1994.

U.S. TRADE REPRESENTATIVE,
EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, DC, January 4, 1995.

Hon. ROBERT DOLE,
Senate Majority Leader,
U.S. Senate,
Washington, DC.

DEAR SENATOR DOLE: Thank you for providing me with a draft earlier today of your bill to establish a commission to review adverse dispute settlement reports of the World Trade Organization (WTO) and to provide for expedited Congressional action in the event that the commission makes affirmative determinations under the criteria set out in the bill.

Your bill reflects the basic agreement we reached on those subjects in November. It also adds a new provision regarding participation by private persons in WTO dispute settlement proceedings, which I look forward to reviewing with you.

I hope to have the chance to discuss with you shortly the details of your bill.

Sincerely,

MICHAEL KANTOR.

By Mr. SPECTER (for himself and Ms. MOSELEY-BRAUN):

S. 17. A bill to promote a new urban agenda, and for other purposes; to the Committee on Finance.

NEW URBAN AGENDA FOR AMERICA'S CITIES

Mr. SPECTER. Mr. President, as we begin the 104th Congress, we have an historic opportunity to make fundamental changes in the Federal government. We have an opportunity to reduce the size of Government, to have less spending, to reduce taxes, to attack crime control, and to speak with a strong voice on foreign policy. I think it is very important, as we approach the issue of reducing expenses, that we be very careful and handle the issue with a scalpel as opposed to a meat axe. As we look forward to cutting taxes, we should examine the capital gains tax which should have been cut long ago, and which will probably produce more revenue because of more transactions. It is something we should have accomplished a long time ago. But where we have tax cuts we should not add to the deficit, unless we first have spending cuts so that we know precisely what we are doing.

I agree with key points in the Contract With America. I have long urged the adoption of a constitutional amendment for a balanced budget when it came to the floor of the Senate more than a decade ago. And I have urged the President to exercise the line-item veto on the fundamental proposition that the President currently has authority under the Constitution to do so because the Federal provision is identical with the provision of the Massachusetts State constitution, followed by other States, where the Governors, the chief executive officers, have exercised the line-item veto. I tried to persuade President Bush to exercise the line-item veto under existing authority, and he said, ''Arlen, my lawyer tells me I cannot do that.'' I made perhaps the tempered suggestion that he change lawyers. I quickly added that he should not tell the Bar Association about that. I have urged President Clinton to do the same and sent him a detailed memorandum of law. These are items within the Contract With America, and others, which we can implement to have very sensible change in the Federal Government.

I hope, Mr. President, that the Congress does not move to the activist social agenda. There is nothing in the Contract With America on school prayer. Although I very fervently believe in the power of prayer, I think that it belongs in the churches and synagogues and homes, and not in the schools. I recall my own experience as a child of six or seven in Wichita, KS, when there was school prayer. I recall how uncomfortable I felt—perhaps not quite intimidated—but I hope that issue does not come before the Congress. If it reaches the floor of the U.S. Senate, it is a matter which will take weeks or perhaps months before it is concluded.

Also, I hope that we do not occupy the time of the U.S. Senate on the abortion issue. Here again, I personally am very much opposed to abortion, but I believe it is a matter for the individual, again and for families or ministers, priests and rabbis. And I hope that we will spend our time tackling the tough, substantive issues which I think last November's mandate calls upon the Congress to do.

It is my hope, Mr. President, that we will not become embroiled in the gridlock and partisanship which occupied so much of the 103d Congress. I think it would be a mistake for those on this side of the aisle, Republicans, to think that the mandate of last November's election is a blanket endorsement for whatever views we have. In many quarters—and I think with some cause—it is viewed that last November's election was a repudiation of the Congress controlled by the Democrats for what the administration had done. So it is my hope that we will tackle these core issues and that we will deal with them in a way which does not get us bogged down in partisanship but looks to the national interests.

When we talk about the agenda, I hope, Mr. President, that we will tackle health care reform early on. I think that there are a number of divergent positions regarding health care reform, but a centrist position is one I will urge the Congress to adopt. I will be introducing today a bill designated as Senate bill 18, by prearrangement, which is the same number my health care reform bill had last year. Senate bill 18 preserves the free enterprise entrepreneurial system, which provides the best health care in the world to approximately 85 percent of the American people, and then targets the specific problems to extend coverage to people when they change jobs, to cover preexisting conditions, where we find in the courts that lawyers spend more time arguing about what is a preexisting condition than it would take the doctors to treat the condition.

We will also deal with the issue of spiraling health care costs, with more managed care in Medicare, for example, where the costs are astronomical and have to be brought under control. And managed care has to be very carefully calibrated so that the care is adequate and with a view to more than a profit motive. A significant provision of my legislation is dealing with low-birthweight babies. They are a human tragedy, weighing no more than a pound, a human about as big as the size of my hand, carrying scars for a lifetime and enormous health care costs of more than $150,000 per child. Provisions in S. 18 are one way of how we can curtail health care costs.

Mr. President, I intend to introduce today Senate bill 17, a number arranged by a designation which will deal with an urban agenda for America's cities, which I will introduce on behalf of Senator CAROL MOSELEY-BRAUN and myself. I think it may well be the case that the Federal Government, Washington, DC, has given up on America's cities, and I think that is a tragedy. We have long seen the unsuccessfulness and difficulties of throwing money at the problems of cities.

My legislation embodied in the urban agenda for American cities is patterned after proposals suggested by the distinguished mayor of Philadelphia, Edward Rendell, and has the backing of many mayors in America and the National League of Cities. What it intends to do is to provide assistance to the cities, without additional Federal expenditures, by means such as a requirement that Federal procurement be located in the distressed areas of America's cities; that 15 percent of foreign aid be expended in distressed areas of American cities; that items like the historical tax credit, scaled back in 1986, be restored. It has been a revenue loser for the Federal Government to strike that form of a deduction, which had been tremendously developmental for American cities and had produced a net effect of more money. These items which are encompassed within the legislative proposal by Mayor Rendell and embodied in this bill will do much for America's cities.

I live in one of America's great cities, the city of Philadelphia. My experience goes beyond the big city to my birthplace of Wichita, KS, which is a moderate-size city in America, and to the town where I moved when I was 12, Russell, KS, a city of 5,000. The problems of the cities, Mr. President, are not left for the cities alone, but they travel across America. Today, you may find the gangs of Los Angeles, the Bloods and the Crips, in Des Moines, IA, or in Lancaster, PA. So that in moving to assist the cities, we are moving to assist all of America.

Mr. President, I know my time is short with the period set aside for each Senator being limited to 10 minutes. I thank my colleagues, and the distinguished Senator from West Virginia, for awaiting my presentation.

Mr. President, We convene in legislative session eight weeks after the most extraordinary congressional election in American history. With a voice that was consistent throughout the nation, the American people repudiated the policies of the current Administration and its congressional majorities, and for the first time in four decades gave control of both houses of Congress to Republicans.

The very extraordinariness of the election that has brought us here guarantees that the 104th Congress that we begin today will be historically memorable. We have it in our power now, and as we work together over the next two years, to determine whether this Congress will be remembered as the moment when a new majority and new legislative leadership spawned a new American Renaissance of growth, prosperity and accomplishment—or as the moment when Republicans showed that they were no more capable or governing than Democrats.

THE FAILURES OF THE 103D CONGRESS

The 103d Congress just concluded will find its own way into the history books, and I do not believe the references will be complimentary. The legislative accomplishment of the last two years were meager, as we failed to do anything to expand access to health care; as we failed to enact meaningful Congressional reform or curb the influence of lobbyists; as we failed in our efforts at campaign finance reform; and as we consigned our children to more years of deficit and more mountains of debt by failing to adopt a balanced budget amendment to the Constitution.

Only in the area of international trade, with most Republicans joining some Democrats to support the NAFTA and GATT agreements—agreements worked out under both Republican and Democratic administrations—was there real legislative cooperation to promote the best interests of the nation.

We also passed a Crime Bill that, while not perfect, should help to make America safer by providing more police, building more prisons, expanding the federal death penalty, and reducing violence against women—but we did so in such a spirit of legislative acrimony that the meanness of the debate nearly overswept the bill's value as an anticrime measure.

In fact, it may be that the spirit more than the substance of the 103d Congress is what endures. If so, it will not be a pleasant recollection. In my 14 years in this body, I do not recall a session when party and partisanship, rather than honest debate on the merits of the issues, played so large a role in determining what legislation would be considered, or when, or how it would be voted upon.

Take the issue of health care. Faced only with the alternatives of the massive bureaucracy and government regulation proposed by the Clinton administration, on the one hand, and the determination of some in my own caucus to do nothing, on the other, we accomplished nothing. That failure was almost entirely a failure of process—begun by the administration, which excluded Congressional Republicans from the formulation of its health care proposals; and compounded by some in the Republican caucus who decided that it was more important to deny the President whatever credit there might be in a good health care bill than to address the problems of those Americans who lacked coverage, or were not getting care. The enormous miscalculation of the Democratic congressional leadership in refusing even to bring up health care until late August, when they thought the coercive power of a summer recess would let them force a bad bill through, was the final nail in the coffin.

Had we gone about our work differently, we could have had a good

health care bill in the last Congress—a bill that solved the problems of portability, of pre-existing conditions and other impediments to health insurance access, while at the same time maintaining the private market and patient-physician choice system that has given the best health care in the world to 86% of Americans. What we needed, but did not have, was an open process of bipartisan consideration and debate, where the needs of working Americans were considered ahead of tactical maneuverings for the next election.

For my part, I have been pushing for wise health care reform since my first term in the Senate, when I sponsored the ''Health Care Cost Containment Act'' of 1983. In the 102d and 103d congressional sessions, I made repeated attempts to bring the health care issue to the floor in a setting where the issue could receive full and fair consideration. My attempts were, unfortunately, blocked by the Democratic leadership. What we got, instead, were partisan efforts to pass the so-called Clinton and Mitchell health care bills—bills drafted without Republican participation, and bills which relied on massive federal bureaucracy rather than free market forces to produce health care reform.

Regrettably, the very process of health care reform turned the issue into a matter of partisanship. The Administration's health care task force met in secret, illegally as it turns out, and made no effort to reach out to Republican Senators with a demonstrated commitment to health care reform to create a broad base of Congressional support that crossed party lines. Similarly, the Democratic leadership in both houses made no effort to build bipartisan support, believing instead that they could pass a bill by legislative hardball.

The result, not surprisingly, was a bad bill—a bill based on more Big Government and social engineering; a bill that undercut the longstanding determination we've had that health care choices should be made by patients and their physicians and not faceless bureaucrats; a bill that in the name of reform threatened to raise premiums and reduce choice for working Americans; a bill that, once it was understood, had no chance of passage.

The result of this partisan hubris, unfortunately, was also to preclude those Republicans and Democrats who were interested in forging a compromise on health care from having the opportunity to do so. The American people would have welcomed a health care reform package that relied on market mechanisms to expand coverage and control costs, but the social engineers of the Democratic left demanded a bill that put America's whole health care system under the thumb of more than 150 federal agencies, while the naysayers of the Republican right were only too happy to use the Democrats' excess as an excuse to do nothing.

The 103d Congress is likely to be remembered more than anything else as the Congress of gridlock—and not just for its failure to enact health care reform. Senators of both parties were more willing than ever to invoke pointless procedural rules, like requiring bills to be read in full, to keep the Senate in session nearly all night and to delay adjournments. The results were short tempers and frayed nerves—and an erosion of some of the sense of collegiality that ought to have allowed us to cross boundaries of partisanship and ideology in search of compromise and in service of the people's best interests.

Obstructionism found its practitioners on both sides of the aisle; it was the delaying tactics of a Democratic chairman that forced us to return for a special post-election session to take up the GATT issue. The inability of Democrats in the Senate to reach agreement with their own colleagues in the House prevented campaign finance reform from coming to the Senate floor until the final days of session, when it had no chance for passage.

The record of the 103d Congress is one we would do well not to replicate.

THE 104TH CONGRESS: A NEW SPIRIT OF BIPARTISANSHIP?

Fiorello La Guardia, a great Republican Mayor of New York, once observed that ''There is no Democratic or Republican way of cleaning the streets.'' La Guardia did not mean that there were not differences, longstanding and important, between the two major American parties, but rather that sometimes those differences need to be overcome in doing the work of governing. I agree, and I share Woodrow Wilson's wish, expressed while he was a candidate for President, that ''party battles could be fought with less personal passion and more passion for the common good.'' I urge in the strongest terms that the spirit of putting the common good ahead of party advantage be the spirit of the 104th Congress.

In a spirit of accommodation, I urge my colleagues across the aisle to recognize in the results of the last election the people's rejection of high taxes, big government and bureaucracy—and the people's rejection of an entrenched and tired Congressional leadership. But in that same spirit, I urge my colleagues on this side of the aisle not to misread the results of the last election as a mandate for uncaring or do nothing government, or a government that turns its back on people's problems—because if we do, our majorities will be short lived.

I urge all my colleagues in this body, and those in the House, to hear in the election just past the voice of the American people calling on us to leave behind partisanship, to end gridlock, to stop wrangling for tactical advantage, and instead to forge a new spirit of compromise and cooperation that will enable the 104th to be remembered as a Congress of accomplishment.

Sometimes, as one of the giants of this body, Scoop Jackson, observed, ''[t]he best politics is no politics.''

A spirit of bipartisanship that in critical moments puts the national interest above party has always been part of the American grain. In his Farewell Address, Washington warned that ''[t]he alternate domination of one faction over another, sharpened by the spirit of revenge natural of party dissension * * * is itself a frightful despotism.'' At the close of his life, Jefferson wrote that a democratic government, like ours, demands

> much compromise of opinion; that things even salutary should not be crammed down the throats of dissenting brethren * * * and that a great deal of indulgence is necessary to strengthen habits of harmony and fraternity.

In more recent years, a great American who was to be elected President as a Democrat, John F. Kennedy, spoke out while a Senator to remind us ''not [to] seek the Republican answer or the Democratic answer, but the right answer.'' Another great American who was to be elected President as a Republican, Dwight Eisenhower, said that ''[t]o define democracy in one word, we must use the word 'cooperation.'''

Even in the bitter 103d Congress, we did have moments where we could lay partisanship aside and cooperate in seeking ''right answers'' for the American people. I have already mentioned NAFTA and GATT. President Clinton had the full backing of Congressional Republicans for his prompt response to last fall's provocative Iraqi troop movements, just as many Democrats had supported President Bush's liberation of Kuwait. So we know that today legislative bipartisanship is not an impossibility.

I respectfully suggest to my colleagues that bipartisanship and cooperation are now not only possibilities, they are imperatives. In the last Congress, we too often did our legislative business with our eyes fixed on the electoral calendar, more concerned with polls and ''spin'' and ''fallout''—with getting credit and placing blame—than with meeting the needs of the nation. The voters responded by repudiating the Congressional majority with unprecedented unanimity. So if the 104th Congress does no better, we should not be surprised if the people render the same verdict on its new Congressional majority.

As World War I ended, and controversy swirled over whether America would continue to play a role in maintaining a peaceful world, President Wilson asked Americans ''What difference does party make when mankind is involved?'' Today, when our schools do not educate; when violent crime spreads from city to suburb to rural America; when a sixth of our population cannot get health insurance; when teen pregnancy rates soar and our welfare system works more as a trap of dependency than a door to opportunity; when our cities decay as

jobs flee and their tax bases erode; when our prosperity at home and our competitiveness abroad are held back by a government that overspends, overtaxes and overregulates—Today, we ought to ask what difference does party make when the future of the nation is at stake?

America's needs are real enough. Let us spend these two years addressing them without rancor or bitterness, looking on both sides of the aisles for honest answers and constructive solutions. Let us not waste time worrying about who will get the ''credit'' for our successes, because in that divisive struggle lies the certainty that we will all be held accountable for our failures.

A FRAMEWORK FOR MEETING THE NEEDS OF THE NATION

I believe that the Congressional session we begin today has the potential for historic greatness. The work that the Republican leaders in both houses have already done, to reduce the size of Congressional staffs and budgets and to open up the legislative process, represents an excellent beginning. The fact that even before our session has begun, the President and Congressional leaders are engaged in a dialog over how best to cut spending and provide tax relief to middle class Americans is a welcome sign.

The prospects are excellent in the coming Congress for real health care reform targeted at problems and not at supplanting the system; for welfare reform to end dependency and reduce irresponsible teen pregnancy; for measures to lower the deficit and cut federal spending, including a balanced budget amendment to the constitution; for tax reforms that provide relief to working Americans while promoting growth and prosperity; and for a key step in the fight against violent crime by ending the absurd federal court delays in carrying out death sentences.

The prospects for these accomplishments, and more, are there. But to attain them, we must avoid the pitfalls of the last Congress. We must, as I have said, legislate responsibility and without concern for political advantage. We must resist intransigence, recognizing as another future Republican President, Gerald Ford, told Congress in his vice-presidential confirmation hearings, that ''[c]ompromise is the oil that makes governments go.''

We must also be careful not to misread the electoral mandate. For my part, I am convinced that the last election was a message for smaller government, but not uncaring government; for lower taxes, but not an end to government's efforts to help the disadvantaged, improve access to health care, reform our educational system and fight crime. I believe that we will respond best to what the people want if we look to find ways to meet the needs of the nation not with government programs and bureaucracies, but by engaging the most basic engine of our prosperity and growth, the free enterprise system, in bettering the lives of all Americans.

For my part, I am also convinced that the last election was most emphatically not a mandate for Congress to enmesh itself in legislating a divisive social agenda. We should not let issues like school prayer or choice on abortion, on which Americans of both parties are divided, divert us from what we can accomplish.

In the last Congress, I supported legislative initiatives to make federal education monies available for experiments in the private management of public schools; to provide assistance to distressed urban areas without new taxes, new spending or new government programs under a New Urban Agenda; and to improve health care, increase access and contain costs through market reforms and narrowly targeted solutions to specific problems. These legislative proposals shared a common framework as federal responses to critical national needs in which the free market, rather than more big government, is the central instrument of help.

This framework, I believe, can be the basis for a bipartisan effort in the new Congress as many Democrats, now free to shed the outmoded ideas of big-government liberalism, join with constructive Republicans who recognize that even as we lower taxes, cut spending and reduce government, there remains a vital role for a federal Government that meets its citizens needs.

It is my intention in the coming weeks to offer my own legislative program consistent with these principles:

I will offer a revised comprehensive health care bill to solve targeted problems by an incremental process of trial and modification, which respects the free enterprise system and preserves patient-physician choice.

I will offer a revised Urban Agenda Bill, aimed at directing existing federal spending into cities, reviving the historic tax credit, and otherwise promoting urban revitalization and job creation without new federal outlays, programs or taxes.

I will offer legislation to further charter schools and the private management concept, in an effort to use market competition, and not bureaucrats, to spearhead a drive for educational excellence—while at the same time preserving and strengthening our public school systems.

I will offer legislation to make our tax code more growth oriented, including capital gains tax relief to encourage investment, expanded IRA deductions to provided for educational and medical expenses, and reinitiation of selected tax credits, such as those for research and development, to promote business expansion and job creation.

In combatting the nation's number one domestic issue I will offer legislation to end the absurd federal court delays in carrying out the death sentences handed down in state courts, which will help reinvigorate the deterrent aspect of our criminal law.

I will press my Judiciary Committee Resolution to urge Presidential use of the line-item veto under existing constitutional law.

And in my role as Chairman of the Senate Intelligence Committee, I will offer legislation to restructure our intelligence agencies and make the CIA more open to public scrutiny and more responsive to our national needs in the post-Cold War world.

For my part, I look forward to constructive work with all my colleagues in this chamber and this Congress. The extraordinary election that has brought us here has focused extraordinary attention upon us. I believe that if we are big enough to lay partisanship aside, to identify the issues honestly and work constructively to seek solutions that are neither Republican nor Democratic but right, this can be a Congress of extraordinary accomplishment.

Mr. President, I have sought recognition to introduce legislation that will deal with the plight of our Nation's cities and Washington's increasing neglect of them. We have an opportunity to correct that and this legislation, which I introduced in the 103d Congress along with my distinguished colleague, Senator CAROL MOSELEY-BRAUN, is an effort to give our cities some much needed attention and to do so without massive infusions of cash.

If we are to really address the very serious issues that we face—jobs, teenage pregnancy, welfare reform, and other pressing issues—we cannot give up on our cities. There must be new strategies for dealing with the problems of urban America.

The days of ''Great Society'' Federal-aid type programs are clearly past, but that is no excuse for the national government to turn a blind eye to the problem of the cities. The recent November elections reaffirm the basic principle of limited government. Limited government, however, does not mean an uncaring or do-nothing government.

Urban areas remain integral to America's greatness, as centers of commerce, industry, education, health care, and culture. Yet urban areas, particularly the inner cities which tend to have a disproportionate share of our Nation's neediest and most disadvantaged, also have special needs which must be recognized. We must develop ways of aiding our cities that do not require either new taxes or more government bureaucracy.

I commend the Mayor of Philadelphia, Edward Rendell, for his efforts to revitalize America's cities. Collaborating with the Conference of Mayors and the National League of Cities, he proposed last year a ''New Urban Agenda.'' Much of that proposal is the basis of this legislation.

As a Philadelphia resident, I have firsthand knowledge of the growing problems that plague our cities. I have

long supported a variety of programs to assist our cities such as funding for community development block grants and legislation to establish enterprise and empowerment zones. To encourage similar efforts, in April 1994 I took the opportunity to host my Senate Republican colleagues on a visit to explore urban problems in my hometown. We talked with people who want to obtain work, but have found few opportunities. We saw a crumbling infrastructure and its impact on residents and businesses. We were reminded of the devastating effect that the loss of inner city businesses and jobs has had on our neighborhoods in America's cities.

What my Republican colleagues saw then in Philadelphia was the rule across our country and not the exception. There are many who do not know of city life, who are far removed from the cities and would not be expected to have any kept interest in what goes on in the big cities of America.

I cite my own boyhood experience illustratively: Born in Wichita, KS, raised in Russell, a small town of 5,000 people on the plains of Kansas, where there is not much knowledge of what goes on in Philadelphia, PA, my home, or other big cities like Los Angeles, San Francisco, New York, Miami, Pittsburgh, Dallas, Detroit or Chicago.

Those big cities are alien to people in much of America. But there is a growing understanding that the small towns are very much affected by the problems of the big cities.

What are the problems? Crime for one. Take the Bloods and the Crips gangs from Los Angeles, CA, and similar gangs; they are all over America. They are in Lancaster, PA, in Des Moines, IA, Portland, OR, Jackson, MS, Racine, WI, and Martinsburg, WV. They are literally everywhere, big city and small city alike.

In addition, according to the National League of Cities 1992 report, ''State of America's Cities,'' 397 randomly selected municipal leaders said that after overall economic conditions, crime, and drugs were the second and third items that had caused their cities to deteriorate the most in the prior 5 years. In Atlanta, the number of crimes per 100,000 people was 18,953, making it number one in 1991. We have all heard of that unenviable moniker for our Nation's capital—the ''murder capital.'' And from an employer's perspective, Mr. Scott Zelov, president of VIZ Manufacturing located in the Germantown section of Philadelphia, told my staff that his workers can't even walk to work in safety anymore.

Joblessness and a less skilled work force is another problem. At the end of the 103d Congress, I asked my staff to meet with various urban leaders and business people during the recess in order to help us understand and develop ideas to meet the needs of urban America. One of the most important issues that business people—minority and nonminority alike—told my staff about was the need for greater incentives to help people work and find jobs to meet their skills.

I have introduced legislation in the last two Congresses to provide targeted tax incentives for investing in small minority- or women-owned businesses. Small businesses provide the bulk of the jobs in this country. Many minority entrepreneurs, for instance, have told me and my staff that they are dedicated to staying in the cities to employ people there, but continue to confront capital access issues. My ''Minority and Women Capital Formation Act'' would help remove the capital access barriers thereby facilitating the ability of these entrepreneurs to grow their businesses and employee base.

Municipal leaders are stressing many of the same concerns that business people are voicing. In a July 1994 National League of Cities report dealing with poverty and economic development, municipal leaders ranked inadequate skills and education of workers as one of the top three reasons, in addition to shortage of jobs and below-poverty wages, for poverty and joblessness in their cities. They said, according to the survey, that more jobs must be created through local economic development initiatives.

This ''skills deficit'' is highlighted in an urban revitalization plan prepared in 1991 by the National Urban League called ''Playing to Win: A Marshall Plan for America's Cities.'' The report cites a statistic by the Commission on Achieving Necessary Skills which showed that 60 percent of all 21 to 25 year-olds lack the basic reading and writing skills needed for the modern workplace, and only 10 percent of those in that age group have enough mathematical competence for today's jobs.

The economic problems our cities are facing are not easy to deal with or answer. In a report by the National League of Cities entitled ''City Fiscal Conditions in 1994,'' municipal officials from 551 cities answered questions on the economic state of their cities. For instance, 17.4 percent reported that they expect their 1994 expenditures to exceed 1994 revenues. Seventy percent had to raise taxes or user fees during the past 12 months. Just over half of these cities, 54.4 percent, said they were better able to meet their cities' financial needs in 1994 as compared to 1993.

These numbers are of concern to me and I believe they highlight the need for Federal legislation to enhance the ability of cities to achieve competitive economic status. An added concern is that city managers are forced to balance cuts in services or enact higher taxes. Neither choice is easy and it often counteracts municipal efforts to retain residents or businesses.

One issue, in particular, that is hurting many cities is the erosion of their respective tax base, evidenced particularly by middle-class flight to the suburbs. Mr. Ronald Walters, professor of political science at Howard University, in testimony before the Senate Banking Committee in April 1993, stated that in 1950, 23 percent of the American population lived outside central cities; by 1988, that number was up to 46 percent.

In an October 9, 1994, article in the Washington Post magazine, David Finkel profiled ward 7 of Washington, DC, and wrote that ward 7 lost 13,000 residents between 1980 and 1990 alone. He noted further that the population decline in Washington, DC, has averaged 10,000 people a year since 1990. These losses are devastating, not only to the financial stability of the city, but to the social fabric as well.

On the financial side, statistics show that these people were earning an average of $30,000 and $75,000 a year. On the social side, roughly half of these are African-American middle-class families. By losing this critical demographic group, the city loses much of what makes it strong.

Eroding tax bases are also evidenced by job-flight and job loss. Professor Walters testified that Chicago lost 47 percent of its manufacturing jobs between 1972 and 1982. Los Angeles lost 327,000 jobs, half of which were in the manufacturing sector. More recently, according to census data, New York City had only 11.4 percent of its population employed in manufacturing. According to Stephen Moore and Dean Stansel in a March 1994 USA Today magazine article, since the 1970's more than 50 Fortune 500 company headquarters have fled New York City, representing a loss of over 500,000 jobs.

Pittsburgh, according to the same data, had only 8.5 percent of its population in manufacturing jobs. I received a letter dated October 31, 1994, from Pittsburgh City Councilman Bob O'Connor in response to a letter I sent him on October 5th regarding legislative issues in the 104th Congress. In his response, Councilman O'Connor simply says: ''we need jobs, jobs, jobs!'' I ask unanimous consent that a copy of Councilman O'Connor's letter be printed in the RECORD at the end of my statement.

It is clear that the social fabric of our cities is also deteriorating. The issues of infant mortality and single-parent families are tragic problems that plague American urban areas. According to 1990 census data, Washington, DC ranked first out of 77 cities for infant death rates per 1,000 live births in 1988. Detroit led the same number of cities in the percentage of one-parent households in 1990 at 53 percent.

When I traveled to Pittsburgh in 1984, I saw 1-pound babies for the first time and I learned that Pittsburgh had the highest infant mortality rate of African-American babies of any city in the United States. It is a human tragedy for a child to be born weighing 16 ounces with attendant problems that last a lifetime. I wondered, how could that be true of Pittsburgh, which has such enormous medical resources. It was an amazing thing for me to see a 1-pound baby, about as big as my hand.

Indeed, our cities are desperate, and the issues are heavy.

Historically, cities have been the center of commerce and culture. Surrounding communities have relied on a thriving, growing economy in our metropolitan areas to provide jobs and opportunities. As I have noted though, over the past several decades, America's cities have struggled with the loss or exodus of residents, businesses and industry and other problems. The resulting tax base shrinkage causes enormous budget problems for city governments. Across the country, cities such as New York, Los Angeles, and the District of Columbia have experienced the flight of major industries to the suburbs.

As a result, city residents who remain are faced with problems ranging from increased tax burdens and lesser services therefor to dwindling economic opportunities leading to welfare dependence and unemployment assistance. In the face of all this, what do we do?

The Federal Government has attempted to revitalize our ailing urban infrastructure by providing Federal funding for transit and sewer systems, roads and bridges. I have supported this. For example, I have been a strong supporter of public transit which provides critically needed transportation services in urban areas. Transit helps cities meet clean air standards, reduce traffic congestion, and allows disadvantaged persons access to jobs. Federal assistance for urban areas, however, has become increasingly scarce as we grapple with the Nation's deficit and debt. Therefore, we must find alternatives to reinvigorate our Nation's cities so they can once again be economically productive areas providing promising opportunities for residents and neighboring areas.

I believe there are ways Congress can assist the cities. Mayor Rendell has come up with this legislative package which contains many good ideas.

First, recognizing that the Federal Government is the Nation's largest purchaser of goods and services, this legislation would require that no less than 15 percent of Federal Government purchases be made from businesses and industries within designated urban empowerment zones and enterprise communities. Similarly, it would require that not less than 15 percent of foreign aid funds be redeemed through purchases of products manufactured in urban empowerment zones and enterprise communities. I presented this idea to then-treasury Secretary Bentsen at a March 22, 1994, hearing of the Appropriations Subcommittee on Foreign Operations. The Secretary responded favorably.

I have also written to several mayors across the country regarding this concept. By letter dated July 28, 1994, Miami Mayor Stephen P. Clark responded: ''Miami's selection as a procurement center for foreign aid would be a natural complement to our status as the Business Capital of the Americas.'' Miami has a wide range of businesses, such as high-technology firms and medical equipment manufacturers that would benefit from this provision.

And by letter dated April 6, 1994, Harrisburg, Pennsylvania Mayor Stephen R. Reed wrote:

> Many of our existing businesses would no doubt seize upon the opportunity to broaden their market by engaging in export activity triggered by foreign aid vouchers * * *. Therefore, in brief, we believe the voucher proposal has considerable merit and that this city would benefit from the same.

I ask unanimous consent that a copy of my letter and the letters from Mayor Clark and Mayor Reed be included in the RECORD at the end of my statement.

To further enhance job opportunities within our urban centers, this legislation contains Mayor Rendell's recommendation that the manufacturing extension centers be located in the urban zones. These proposals do not require new expenditures of Federal funds. Instead, these proposals would require that a minimum amount of existing government procurement and foreign aid moneys be used to spur economic activity within urban areas.

The second major provision of this bill would commit the Federal Government to play an active role in restoring the economic health of our cities by encouraging the location, or relocation, of Federal facilities in urban areas. To accomplish this, all Federal agencies would be required to prepare and submit to the President an urban impact statement detailing the impact that relocation or downsizing decisions would have on the affected city. Presidential approval would be required to place a Federal facility outside an urban area, or to downsize a city-based agency.

The third critical component of this bill would revive and expand Federal tax incentives that were eliminated or restricted in the Tax Reform Act of 1986. These provisions offer meaningful incentives to business to invest in our cities. I am calling for the restoration of the Historic Rehabilitation Tax Credit which supports inner city revitalization projects.

According to information provided by Mayor Rendell, there were 8,640 construction jobs involved in 356 projects in Philadelphia from 1978 to 1985 stimulated by the historic rehabilitation tax credit. In Chicago, 302 projects prior to 1985 generated $524 million in investment and created 20,695 jobs. In St. Louis, 849 projects generated $653 million in investment and created 27,735 jobs.

Nationally, according to National Park Service estimates for the 16 years before the 1986 Act, the historic rehabilitation tax credit stimulated $16 billion in private investment for the rehabilitation of 24,656 buildings and the creation of 125,306 homes which included 23,377 low and moderate income housing units. The 1986 Tax Act dramatically reduced the pool of private investment capital available for rehabilitation projects. In Philadelphia, projects dropped from 356 to 11 by 1988 from 1985 levels. During the same period, investments dropped 46 percent in Illinois and 92 percent in St. Louis.

Another tool is to expand the authorization of commercial industrial development bonds. Under the Tax Reform Act of 1986, authorization for commercial industrial bonds was permitted to expire. Consequently, private investment in cities declined. For instance, according to Mayor Rendell, from 1986 (the last year commercial development bonds were permitted) to 1987, the total number of city-supported projects in Philadelphia was reduced by more than half.

Industrial development or private activity bonds encourage private investment by allowing, under certain circumstances, tax-exempt status for projects where more than 10 percent of the bond proceeds are used for private business purposes. The availability of tax-exempt commercial industrial development bonds will encourage private investment in cities, particularly the construction of sports, convention and trade show facilities; free standing parking facilities owned and operated by the private sector, and, industrial parks.

The bill I am introducing would allow this. It would also increase the small issue exemption—which means a way to help finance private activity in the building of manufacturing facilities—from $10 million to $50 million to allow increased private investment in our cities.

A minor change in the Federal tax code related to arbitrage rebates on municipal bond interest earnings could also free additional capital for infrastructure and economic development by cities. Currently, municipalities are required to rebate to the Federal Government any arbitrage—a fancy financial term meaning interest earned in excess of interest paid on the debt—earned from the issuance of tax-free municipal bonds. I am informed that compliance, or the cost for consultants to perform the complicated rebate calculations, is actually costing municipalities more than the actual rebate owed to the government. This bill would allow cities to keep the arbitrage earned so that they can use it to fund city projects and for other necessary purposes.

A fourth provision of this legislation provides needed reforms to regulations concerning affordable housing. This legislation provides language to study streamlining Federal housing program assistance to urban areas into ''block grant'' form so that municipal agencies can better serve local residents. The bill would improve the circumstances of public housing tenants by encouraging the location of newly built units on the lots of demolished older housing and allowing the original residents to

move into the new units. This provision will contribute to community stability and promote urban renewal.

Lastly, the development of urban areas can be accelerated by easing certain environmental restrictions on urban land known as ''brown fields.'' My legislative provides a ''governmental exception'' which will encourage the redevelopment of contaminated industrial sites by cities without assuming liability as ''potentially responsible parties'' under Superfund laws. While the cities would not be added as liable parties, liability would remain with others responsible under existing law. Increasingly, certain parcels of urban land that pose a very low environmental threat are left unused. If proper remediation occurs, they would be reused. This measure also contains a provision for a pilot powerplant designed to burn solid waste and create inexpensive energy for energy intensive industries. Such a plant will create jobs and help provide a solution for cities to deal with their treatment of waste.

In the previous Congress, the New Urban Agenda Act, S. 2535, contained a section that would eliminate unfunded Federal mandates. I was a cosponsor of legislation in the 103d Congress, S. 993, introduced by my distinguished colleague from Idaho, Senator KEMPTHORNE, that would eliminate unfunded Federal mandates. The language of S. 993 was written into this legislation when I introduced it in the 103d Congress. I have chosen to omit that provision from this bill because we will soon vote on free-standing unfunded Federal mandates legislation in this Congress.

However, I want to mention some facts regarding how cities are adversely affected by unfunded mandates and how important it is that we enact such legislation promptly. In Senator KEMPTHORNE's home State of Idaho, the city of Boise had to cover over $3 million for eight mandates in fiscal year 1993, according to a report done by the accounting firm of Price Waterhouse for the United States Conference of Mayors. I am informed that six Pennsylvania cities—Allentown, Altoona, Philadelphia, Pittsburgh, Wilkes-Barre, and York—faced 10 unfunded Federal mandates that cost them a collective total of $17 million for fiscal year 1993.

All over the country the story is the same. In California, 54 cities had to cover a grand total $948.3 million in unfunded Federal mandates, with Los Angeles paying almost $582 million, according to the report done for the Conference of Mayors. In Texas, 27 cities had to cover $316 million in unfunded mandates, with Houston covering $154 million. New York had nine cities working to find $517 million and New York City was $475 million of that total. Illinois, in fiscal year 1993, had 22 cities facing a total of $88 million, with Chicago comprising $70 million of that number.

Cities are facing incredible financial burdens from unfunded Federal mandates and must reallocate resources accordingly. Atlanta had to pay for nine unfunded Federal mandates—totaling almost $50 million—taking much needed funds from infrastructure projects, an overburdened criminal justice system, and housing programs. Phoenix has had to raise consumer's sewage and water rates to cover $36 million in unfunded Federal mandates, along with curtailing almost all of the city's service departments. The release from Federal mandates would allow Houston to allocate $154 million more for the maintenance of city property and public safety. The U.S. Conference of Mayors report presents similar facts on 314 cities. In addition, the National League of Cities report on city fiscal conditions in 1994 claims that unfunded Federal mandates was the second most important factor as a negative impact on city budgets. It is critical that as legislators we financially back the laws we write, or otherwise provide the appropriate assistance so that municipalities can comply.

Mr. President, it may well be that America has given up on its cities. That is a stark statement, but it is one which I believe may be true—that America has given up on its cities. But this Senator has not done so. And I believe there are others in this body on both sides of the aisle who have not done so.

As one of a handful of U.S. Senators who lives in a big city, I have seen firsthand both the problems and the promise of urban America. This legislation for our cities is good public policy. The plight of our cities must be of extreme concern to America. We can ill-afford for them to wither and die. I am committed to a new urban agenda that relies on market forces, and not welfare-statism, for urban revitalization. I invite the input and assistance of my colleagues in order to fashion a strong approach assisting the cities with their pressing problems.

I ask unanimous consent that my bill be printed in the RECORD.

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

S. 17

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 ''New Urban Agenda Act of 1995''.

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

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) cities in the United States have been facing an economic downhill trend in the past several years; and

(2) a new approach to help such cities prosper is necessary.

(b) PURPOSES.—It is the purpose of this Act to—

(1) provide various incentives for the economic growth of cities in the United States;

(2) provide an economic agenda designed to reverse current urban economic trends; and

(3) revitalize the jobs and tax base of such cities without significant new Federal outlays.

TITLE I—FEDERAL COMMITMENT TO URBAN ECONOMIC DEVELOPMENT

SEC. 101. FEDERAL PURCHASES FROM BUSINESSES IN EMPOWERMENT ZONES, ENTERPRISE COMMUNITIES, AND ENTERPRISE ZONES.

(a) REQUIREMENTS.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended by adding at the end the following new section:

''PURCHASES FROM BUSINESSES IN EMPOWERMENT ZONES, ENTERPRISE COMMUNITIES, AND ENTERPRISE ZONES

''SEC. 29. (a) MINIMUM PURCHASE REQUIREMENT.—Not less than 15 percent of the total amount expended by executive agencies for the purchase of goods in a fiscal year shall be expended for the purchase of goods from businesses located in empowerment zones, enterprise communities, or enterprise zones.

''(b) RECYCLED PRODUCTS.—To the maximum extent practicable consistent with applicable law, the head of an executive agency

shall purchase recycled products that meet the needs of the executive agency from businesses located in empowerment zones, enterprise communities, or enterprise zones.

''(c) REGULATIONS.—The Federal Acquisition Regulations shall include provisions that ensure the attainment of the minimum purchase requirement set out in subsection (a).

''(d) DEFINITIONS.—In this section:

''(1) The term 'empowerment zone' means a zone designated as an empowerment zone pursuant to subchapter U of chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. 1391 et seq.).

''(2) The term 'enterprise community' means a community designated as an enterprise community pursuant to subchapter U of chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. 1391 et seq.).

''(3) The term 'enterprise zone' has the meaning given such term in section 701(a)(1) of the Housing and Community Development Act of 1987 (42 U.S.C. 11501(a)(1)).''.

(b) EFFECTIVE DATE.—Section 29 of the Office of Federal Procurement Policy Act, as added by subsection (a), shall take effect on the date of the enactment of this Act and shall apply with respect to fiscal years beginning after September 30, 1995.

SEC. 102. MINIMUM ALLOCATION OF FOREIGN ASSISTANCE FOR PURCHASE OF CERTAIN UNITED STATES GOODS.

(a) ALLOCATION OF ASSISTANCE.—Notwithstanding any other provision of law, effective beginning with fiscal year 1996, not less than 15 percent of United States assistance provided in a fiscal year shall be provided in the form of credits which may only be used for the purchase of United States goods produced, manufactured, or assembled in empowerment zones, enterprise communities, or enterprise zones within the United States.

(b) UNITED STATES ASSISTANCE.—As used in this section, the term ''United States assistance'' means—

(1) any assistance under the Foreign Assistance Act of 1961;

(2) sales, or financing of sales under the Arms Export Control Act; and

(3) assistance and other activities under the Support for East European Democracy (SEED) Act of 1989 (Public Law 101–179, as amended).

SEC. 103. PREFERENCE FOR LOCATION OF MANUFACTURING OUTREACH CENTERS IN URBAN AREAS.

(a) DESIGNATION.—In designating an organization as a manufacturing outreach center under paragraph (1) of section 304(c) of the Stevenson-Wydler Technology Innovation Act of 1980, the Secretary of Commerce shall, to the maximum extent practicable, designate organizations that are located in empowerment zones, enterprise communities, or enterprise zones.

(b) FINANCIAL ASSISTANCE.—In utilizing a competitive, merit-based review process to determine the manufacturing outreach centers to which to provide financial assistance under paragraph (3) of such section, the Secretary shall give such additional preference to centers located in empowerment zones, enterprise communities, and enterprise zones as the Secretary determines appropriate in order to ensure the continuing existence of such centers in such zones.

SEC. 104. PREFERENCE FOR CONSTRUCTION AND IMPROVEMENT OF FEDERAL FACILITIES IN DISTRESSED URBAN AREAS.

(a) PREFERENCE.—Notwithstanding any other provision of law, in determining the location for the construction of a new facility of a department or agency of the Federal Government, in determining to improve an existing facility (including an improvement in lieu of such construction), or in determining the location to which to relocate functions of a department or agency, the head of the department or agency making the determination shall take affirmative action to construct or improve the facility, or to relocate the functions, in a distressed urban area.

(b) URBAN IMPACT STATEMENT.—A determination to construct a new facility of a department or agency of the Federal Government, to improve an existing facility, or to relocate the functions of a department or agency may not be made until the head of the department or agency making the determination prepares and submits to the President a report that—

(1) in the case of a facility to be constructed—

(A) identifies at least one distressed urban area that is an appropriate location for the facility;

(B) describes the costs and benefits arising from the construction and utilization of the facility in the area, including the effects of such construction and utilization on the rate of unemployment in the area; and

(C) describes the effect on the economy of the area of the closure or consolidation, if any, of Federal facilities located in the area during the 10-year period ending on the date of the report, including the total number of Federal and non-Federal employment positions terminated in the area as a result of such closure or consolidation;

(2) in the case of a facility to be improved that is not located in a distressed urban area—

(A) identifies at least one facility located in a distressed urban area that would serve as an appropriate alternative location for the facility;

(B) describes the costs and benefits arising from the improvement and utilization of the facility located in such area as an alternative location for the facility to be improved, including the effect of the improvement and utilization of the facility so located on the rate of unemployment in such area; and

(C) describes the effect on the economy of such area of the closure or consolidation, if any, of Federal facilities located in such area during the 10-year period ending on the date of the report, including the total number of Federal and non-Federal employment positions terminated in such area as a result of such closure or consolidation;

(3) in the case of a facility to be improved that is located in a distressed urban area—

(A) describes the costs and benefits arising from the improvement and continuing utilization of the facility in the area, including the effect of such improvement and continuing utilization on the rate of unemployment in the area; and

(B) describes the effect on the economy of the area of the closure or consolidation, if any, of Federal facilities located in the area during the 10-year period ending on the date of the report, including the total number of Federal and non-Federal employment positions terminated in the area as a result of such closure or consolidation; or

(4) in the case of a relocation of functions—

(A) identifies at least one distressed urban area that would serve as an appropriate location for the carrying out of the functions;

(B) describes the costs and benefits arising from carrying out the functions in the area, including the effect of carrying out the functions on the rate of unemployment in the area; and

(C) describes the effect on the economy of the area of the closure or consolidation, if any, of Federal facilities located in the area during the 10-year period ending on the date of the report, including the total number of Federal and non-Federal employment positions terminated in the area as a result of such closure or consolidation.

(c) APPLICABILITY TO DEPARTMENT OF DEFENSE FACILITIES.—The requirements set forth in subsections (a) and (b) shall apply to a determination to construct or improve any facility of the Department of Defense, or to relocate any functions of the Department, unless the President determines that the waiver of the application of such requirements to the facility, or to such relocation, is in the national interest.

(d) DEFINITION.—In this section, the term ''distressed urban area'' means any city having a population of more than 100,000 that meets (as determined by the Secretary of Housing and Urban Development) the qualifications for a distressed community that are otherwise established for large cities and urban counties under section 570.452(c) of title 24, Code of Federal Regulations.

SEC. 105. DEFINITIONS.

As used in this title:

(1) The term ''empowerment zone'' means a zone designated as an empowerment zone pursuant to subchapter U of chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. 1391 et seq.).

(2) The term ''enterprise community'' means a community designated as an enterprise community pursuant to subchapter U of chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. 1391 et seq.).

(3) The term ''enterprise zone'' has the meaning given such term in section 701(a)(1) of the Housing and Community Development Act of 1987 (42 U.S.C. 11501(a)(1)).

TITLE II—TAX INCENTIVES TO STIMULATE URBAN ECONOMIC DEVELOPMENT.

SEC. 201. TREATMENT OF REHABILITATION CREDIT UNDER PASSIVE ACTIVITY LIMITATIONS.

(a) GENERAL RULE.—Paragraphs (2) and (3) of section 469(i) of the Internal Revenue Code of 1986 (relating to $25,000 offset for rental real estate activities) are amended to read as follows:

''(2) DOLLAR LIMITATIONS.—

''(A) IN GENERAL.—Except as otherwise provided in this paragraph, the aggregate amount to which paragraph (1) applies for any taxable year shall not exceed $25,000 reduced (but not below zero) by 50 percent of the amount (if any) by which the adjusted gross income of the taxpayer for the taxable year exceeds $100,000.

''(B) PHASEOUT NOT APPLICABLE TO LOW-INCOME HOUSING CREDIT.—In the case of the portion of the passive activity credit for any taxable year which is attributable to any credit determined under section 42—

''(i) subparagraph (A) shall not apply, and

''(ii) paragraph (1) shall not apply to the extent that the deduction equivalent of such portion exceeds—

''(I) $25,000, reduced by

''(II) the aggregate amount of the passive activity loss (and the deduction equivalent of any passive activity credit which is not so attributable and is not attributable to the rehabilitation credit determined under section 47) to which paragraph (1) applies after the application of subparagraph (A).

''(C) $55,500 LIMIT FOR REHABILITATION CREDITS.—In the case of the portion of the passive activity credit for any taxable year which is attributable to the rehabilitation credit determined under section 47—

''(i) subparagraph (A) shall not apply, and

''(ii) paragraph (1) shall not apply to the extent that the deduction equivalent of such portion exceeds—

''(I) $55,500, reduced by

''(II) the aggregate amount of the passive activity loss (and the deduction equivalent of any passive activity credit which is not so attributable) to which paragraph (1) applies

for the taxable year after the application of subparagraphs (A) and (B).

''(3) ADJUSTED GROSS INCOME.—For purposes of paragraph (2)(A), adjusted gross income shall be determined without regard to—

''(A) any amount includable in gross income under section 86,

''(B) any amount excludable from gross income under section 135,

''(C) any amount allowable as a deduction under section 219, and

''(D) any passive activity loss.''.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 469(i)(4) of the Internal Revenue Code of 1986 is amended to read as follows:

''(B) REDUCTION FOR SURVIVING SPOUSE'S EXEMPTION.—For purposes of subparagraph (A), the $25,000 amounts under paragraph (2)(A) and (2)(B)(ii) and the $55,500 amount under paragraph (2)(C)(ii) shall each be reduced by the amount of the exemption under paragraph (1) (determined without regard to the reduction contained in paragraph (2)(A)) which is allowable to the surviving spouse of the decedent for the taxable year ending with or within the taxable year of the estate.''.

(2) Subparagraph (A) of section 469(i)(5) of such Code is amended by striking clauses (i), (ii), and (iii) and inserting the following:

''(i) '$12,500' for '$25,000' in subparagraphs (A) and (B)(ii) of paragraph (2),

''(ii) '$50,000' for '$100,000' in paragraph (2)(A)'', and

''(iii) '$27,750' for '$55,500' in paragraph (2)(C)(ii).''.

(3) The subsection heading for subsection (i) of section 469 of such Code is amended by striking ''$25,000''.

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

SEC. 202. REHABILITATION CREDIT ALLOWED TO OFFSET PORTION OF ALTERNATIVE MINIMUM TAX.

(a) IN GENERAL.—Section 38(c) of the Internal Revenue Code of 1986 (relating to limitation based on amount of tax) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

''(2) REHABILITATION INVESTMENT CREDIT MAY OFFSET PORTION OF MINIMUM TAX.—

''(A) IN GENERAL.—In the case of the rehabilitation investment tax credit—

''(i) this section and section 39 shall be applied separately with respect to such credit, and

''(ii) for purposes of applying paragraph (1) to such credit—

''(I) the tentative minimum tax under subparagraph (A) thereof shall be reduced by the minimum tax offset amount determined under subparagraph (B) of this paragraph, and

''(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the rehabilitation investment tax credit).

''(B) MINIMUM TAX OFFSET AMOUNT.—For purposes of subparagraph (A)(ii)(I), the minimum tax offset amount is an amount equal to—

''(i) in the case of a taxpayer not described in clause (ii), the lesser of—

''(I) 25 percent of the tentative minimum tax for the taxable year, or

''(II) $20,000, or

''(ii) in the case of a C corporation other than a closely held C corporation (as defined in section 469(j)(1)), 5 percent of the tentative minimum tax for the taxable year.

''(C) REHABILITATION INVESTMENT TAX CREDIT.—For purposes of this paragraph, the term 'regular investment tax credit' means the portion of the credit under subsection (a) which is attributable to the credit determined under section 47.''.

(b) CONFORMING AMENDMENT.—Section 38(d) of the Internal Revenue Code of 1986 (relating to components of investment credit) is amended by adding at the end the following new paragraph:

''(4) SPECIAL RULE FOR REHABILITATION CREDIT.—Notwithstanding paragraphs (1) and (2), the rehabilitation investment tax credit (as defined in subsection (c)(2)(C)) shall be treated as used last.''.

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

SEC. 203. COMMERCIAL INDUSTRIAL DEVELOPMENT BONDS.

(a) FACILITY BONDS.—

(1) IN GENERAL.—Subsection (a) of section 142 of the Internal Revenue Code of 1986 (relating to exempt facility bond) is amended by striking ''or'' at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting a comma, and by adding at the end the following new paragraphs:

''(13) sports facilities,

''(14) convention or trade show facilities,

''(15) freestanding parking facilities,

''(16) air or water pollution control facilities, or

''(17) industrial parks.''.

(2) INDUSTRIAL PARKS DEFINED.—Section 142 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(k) INDUSTRIAL PARKS.—A facility shall be treated as described in subsection (a)(17) only if all of the property to be financed by the net proceeds of the issue—

''(1) is—

''(A) land, and

''(B) water, sewage, drainage, or similar facilities, or transportation, power, or communication facilities incidental to the use of such land as an industrial park, and

''(2) is not structures or buildings (other than with respect to facilities described in paragraph (1)(B)).''.

(3) CONFORMING AMENDMENTS.—

(A) Section 147(c) of the Internal Revenue Code of 1986 (relating to limitation on use for land acquisition) is amended by adding at the end the following new paragraph:

''(4) SPECIAL RULE FOR INDUSTRIAL PARKS.—In the case of a bond described in section 142(a)(17), paragraph (1)(A) shall be applied by substituting '50 percent' for '25 percent'.''.

(B) Section 147(e) of such Code (relating to no portion of bonds may be issued for skyboxes, airplanes, gambling establishments, etc.) is amended by striking ''A private activity bond'' and inserting ''Except in the case of a bond described in section 142(a)(13), a private activity bond''.

(b) SMALL ISSUE BONDS.—Section 144(a)(12) of the Internal Revenue Code of 1986 (relating to termination of qualified small issue bonds) is amended—

(1) by striking ''any bond'' in subparagraph (A)(i) and inserting ''any bond described in subparagraph (B)'',

(2) by striking ''a bond'' in subparagraph (A)(ii) and inserting ''a bond described in subparagraph (B)'', and

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

''(B) BONDS FOR FARMING PURPOSES.—A bond is described in this subparagraph if it is issued as part of an issue 95 percent or more of the net proceeds of which are to be used to provide any land or property not in accordance with section 147(c)(2).''.

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

SEC. 204. INCREASE IN AMOUNT OF QUALIFIED SMALL ISSUE BONDS PERMITTED FOR FACILITIES TO BE USED BY RELATED PRINCIPAL USERS.

(a) IN GENERAL.—Clause (i) of section 144(a)(4)(A) of the Internal Revenue Code of 1986 (relating to $10,000,000 limit in certain cases) is amended by striking ''$10,000,000'' and inserting ''$50,000,000''.

(b) CLERICAL AMENDMENT.—The heading of paragraph (4) of section 144(a) of the Internal Revenue Code of 1986 is amended by striking ''$10,000,000'' and inserting ''$50,000,000''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) obligations issued after the date of the enactment of this Act, and

(2) capital expenditures made after such date with respect to obligations issued on or before such date.

SEC. 205. SIMPLIFICATION OF ARBITRAGE INTEREST REBATE WAIVER.

(a) IN GENERAL.—Clause (ii) of section 148(f)(4)(C) of the Internal Revenue Code of 1986 (relating to exception from rebate for certain proceeds to be used to finance construction expenditures) is amended to read as follows:

''(ii) SPENDING REQUIREMENT.—The spending requirement of this clause is met if 100 percent of the available construction proceeds of the construction issue are spent for the governmental purposes of the issue within the 3-year period beginning on the date the bonds are issued.''.

(b) CONFORMING AMENDMENTS.—

(1) Clause (iii) of section 148(f)(4)(C) of the Internal Revenue Code of 1986 (relating to exception for reasonable retainage) is repealed.

(2) Subclause (II) of section 148(f)(4)(C)(vi) of such Code (relating to available construction proceeds) is amended by striking ''2-year period'' and inserting ''3-year period''.

(3) Subclause (I) of section 148(f)(4)(C)(vii) of such Code (relating to election to pay penalty in lieu of rebate) is amended by striking '', with respect to each 6-month period after the date the bonds were issued,'' and '', as of the close of such 6-month period,''.

(4) Clause (viii) of section 148(f)(4)(C) of such Code (relating to election to terminate 1½ percent penalty) is amended by striking ''to any 6-month period'' in the matter preceding subclause (I).

(5) Clause (ii) of section 148(c)(2)(D) of such Code (relating to bonds used to provide construction financing) is amended by striking ''2 years'' and inserting ''3 years''.

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

TITLE III—COMMUNITY-BASED HOUSING DEVELOPMENT

SEC. 301. BLOCK GRANT STUDY.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall conduct a study regarding—

(1) the feasibility of consolidating existing public and low-income housing programs under the United States Housing Act of 1937 into a comprehensive block grant system of Federal aid that—

(A) provides assistance on an annual basis;

(B) maximizes funding certainty and flexibility; and

(C) minimizes paperwork and delay; and

(2) the possibility of administering future public and low-income housing programs under the United States Housing Act of 1937 in accordance with such a block grant system.

(b) REPORT TO COMPTROLLER GENERAL.—Not later than 18 months after the date of

enactment of this Act, the Secretary of Housing and Urban Development shall submit to the Comptroller General of the United States a report that includes—

(1) the results of the study conducted under subsection (a); and

(2) any recommendations for legislation.

(c) REPORT TO CONGRESS.—Not later than 24 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Congress a report that includes—

(1) an analysis of the report submitted under subsection (b); and

(2) any recommendations for legislation.

SEC. 302. DEMOLITION AND DISPOSITION OF PUBLIC HOUSING.

Section 18(b)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437p(b)(3)) is amended—

(1) in subparagraph (G), by striking ''and'' at the end;

(2) in subparagraph (H), by adding ''and'' at the end; and

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

''(I) provides, subject to the approval of both the unit of general local government in which the property on which the units to be demolished or disposed of are located and the local public housing agency, for—

''(i) the eventual reconstruction of units on the same property on which the units to be demolished or disposed of are located; and

''(ii) the ultimate relocation of displaced tenants to that property;''.

TITLE IV—RESPONSE TO URBAN ENVIRONMENTAL CHALLENGES

Subtitle A—Environmental Cleanup

SEC. 401. EXEMPTION FROM LIABILITY FOR LOCAL GOVERNMENTS THAT ARE OWNERS OR OPERATORS OF FACILITIES IN DISTRESSED URBAN AREAS.

Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601) is amended—

(1) in paragraph (20), by adding at the end the following:

''(E) EXCLUSION OF DISTRESSED URBAN AREAS.—The term 'owner or operator' does not include a unit of local government for a distressed urban area that—

''(i) purchased real property, in the distressed urban area, on or in which a facility is located;

''(ii) purchased the property to further the redevelopment of the property for industrial activities;

''(iii) did not conduct or permit the generation, transportation, storage, treatment, or disposal of any hazardous substance at the facility; and

''(iv) did not contribute to the release or threat of release of a hazardous substance at the facility through any action or omission.''; and

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

''(39) DISTRESSED URBAN AREA.—The term 'distressed urban area' has the meaning given the term in section 104(d) of the New Urban Agenda Act of 1995.

''(40) INDUSTRIAL ACTIVITY.—The term 'industrial activity' means commercial, manufacturing, or any other activity carried out to further the development, manufacturing, or distribution of goods and services, including administration, research and development, warehousing, shipping, transport, remanufacturing, and repair and maintenance of commercial machinery and equipment.''.

SEC. 402. STANDARDS FOR REMEDIATION IN DISTRESSED URBAN AREAS.

Section 121 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9621) is amended by adding at the end the following:

''(g) FACILITIES IN DISTRESSED URBAN AREAS.—

''(1) IDENTIFICATION.—The President shall identify the facilities on the National Priorities List that are located in distressed urban areas.

''(2) STUDY AND REPORT.—The President shall conduct, directly or by grant or contract, a study of appropriate response actions for facilities located in distressed urban areas. In conducting the study, the President shall examine the appropriate degree of cleanup of hazardous substances, pollutants, and contaminants released into the environment at such a facility, and the appropriate considerations for the selection of a response action at such a facility.

''(3) STANDARDS.—Notwithstanding any other provision of this Act, the President shall by regulation establish standards for the degree of cleanup described in paragraph (2), and the considerations described in paragraph (2), for such a facility. In establishing the standards, the President shall take into consideration the results of the study described in paragraph (2).''.

Subtitle B—Environmental-Economic Recovery

SEC. 411. FINDINGS.

Congress finds that—

(1) plants such as the SEMASS plant in Rochester, Massachusetts, and the Wheelabrator plant in Baltimore, Maryland, provide an effective and efficient means of disposing of solid waste and obtaining inexpensive electrical power and steam; and

(2) the availability of such plants in a community will attract energy intensive industry to the community, increasing the tax base and strengthening the economy of the community.

SEC. 412. DEFINITIONS.

As used in this subtitle:

(1) DISTRESSED URBAN AREA.—The term ''distressed urban area'' has the meaning given the term in section 104(d).

(2) ENERGY INTENSIVE INDUSTRY.—The term ''energy intensive industry'' means an industry that consumes more than 25,000 BTUs per dollar of value added, as determined by the Secretary.

(3) FULLY OPERATIONAL.—The term ''fully operational'' means at least 90 percent operational, determined by averaging the percentage of solid waste intake capacity achieved and the percentage of electric output capacity achieved.

(4) MARKET RATE.—The term ''market rate'' means the applicable rate for retail bulk power sales made by the electric utility within the service territory concerned.

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

(6) SOLID WASTE.—The term ''solid waste'' has the meaning given the term in section 1004(27) of the Solid Waste Disposal Act (42 U.S.C. 6903(27)).

SEC. 413. LOAN AUTHORITY.

(a) LOANS.—

(1) IN GENERAL.—The Secretary shall make not more than 3 loans to units of local government for distressed urban areas for the establishment of facilities described in section 414.

(2) PRIORITY.—In making one of the loans, the Secretary shall give priority to a unit of local government that demonstrates that the unit of local government will establish the facility through a contract or agreement with an organization that has demonstrated an ability to oversee and manage the creation of a comprehensive, national, strategic, energy intensive, environmental industry initiative.

(b) AUTHORITY TO BORROW.—

(1) IN GENERAL.—Subject to paragraphs (2), (3), and (4), and notwithstanding any other provision of law, the Secretary may borrow from the Treasury such funds as the Secretary determines to be necessary to make loans under this section.

(2) AMOUNTS.—The Secretary may borrow funds under paragraph (1) if amounts sufficient to pay for the cost, as defined in section 502(5) of the Congressional Budget Act of 1974 (2 U.S.C. 661a(5)), of the loan involved are provided in advance in appropriation Acts.

(3) TERMS.—Subject to paragraph (4), the Secretary may borrow the funds on such terms as may be established by the Secretary and the Secretary of the Treasury.

(4) INTEREST.—The rate of interest to be charged in connection with a loan made under paragraph (1) shall be not less than a rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.

SEC. 414. FACILITY.

Each facility referred to in section 413—

(1) shall produce electric power, or steam, from solid waste;

(2) shall have 2 boilers and be capable of expansion;

(3) shall be located in a distressed urban area in the United States;

(4) shall provide electricity or steam to energy intensive industry customers at no more than 40 percent of the market rate for electricity;

(5) may provide electricity to public entities or light industry, but not to residential consumers; and

(6) shall obtain a continuing supply of feedstock sufficient to sustain maximum operational capability through long-term contracts with municipal and other governmental sources.

SEC. 415. REINVESTMENT OF SAVINGS.

(a) IN GENERAL.—Any energy intensive industry customer obtaining electricity or steam from the facility described in section 414 shall—

(1) invest in equipment, physical plant, or increased employment at least 7 percent of the saving gained by such customer; and

(2) from the saving gained by such customer, make payments to the Secretary, in an amount determined by the Secretary to be appropriate, to assist in repaying the funds borrowed by the Secretary under section 413 and the costs associated with borrowing the funds.

(b) DEFINITION.—As used in this section, the term ''saving'', used with respect to a customer obtaining electricity or steam from a facility described in section 414, means an amount equal to—

(1) the cost of obtaining an amount of such electricity or steam from other sources during a period of time; minus

(2) the cost of obtaining the same amount of such electricity or steam from the facility during such period.

SEC. 416. REPORT TO CONGRESS.

(a) REPORT.—Not later than 1 year after the facilities described in section 414 become fully operational, the Secretary shall prepare and submit to Congress a report containing a recommendation concerning whether the Federal Government should make additional loans similar to the loans authorized by this subtitle.

(b) ANALYSIS.—Such recommendation shall be based on analysis of the Secretary concerning whether the loans made under this subtitle have resulted in—

(1) the creation of jobs in the communities in which the facilities are located due to the relocation of energy intensive industry;

(2) the effective disposal of solid waste; and

(3) easier and less expensive production of electricity and steam.

BOB O'CONNOR,
COUNCILMAN, CITY OF PITTSBURGH,
Pittsburgh, PA, October, 31, 1994.

Hon. ARLEN SPECTOR,
U.S. Senate, Washington, DC

DEAR SENATOR SPECTOR: Thank you for your letter of October 5th, soliciting my input on your legislative agenda in the U.S. Senate. I appreciate your interest.

As you know, the City of Pittsburgh and Southwestern Pennsylvania have been decimated economically beginning in the 1970's and especially in the early 1980's. We have seen our principal manufacturing base literally disappear, our population decline, and lost corporate leadership due to buyouts and consolidations.

Your questions all can be answered with one response—we need jobs, jobs, jobs! And, these jobs have to fill the full spectrum of employment opportunities from high tech to low tech.

We have planted seeds for growth here in Pittsburgh which will hopefully fuel our local economy. Those ''seeds'' include robotics, high speed rail, motion pictures, tourism, exporting and computer software.

The federal government can foster the development of these and other industries in the region by directing contracts and research to this area which will enhance employment opportunities.

If we don't meet the challenge of job creation in this region then we have no choice but to increase spending on social welfare programs.

I wish you well in your efforts to bring employment opportunities to Pittsburgh. Your efforts on our behalf are greatly appreciated.

Sincerely,

BOB O'CONNOR,
Councilman.

U.S. SENATE,
Washington, DC, March 31, 1994.

Hon. STEVE CLARK,
Mayor, City of Miami,
Miami, FL.

DEAR MAYOR CLARK: I was interested to read in the *Washington Post* on March 20, 1994, of Philadelphia Mayor Rendell's interest in requiring some amount of foreign aid to be issued in vouchers ''redeemable only in distressed cities.'' I raised this idea with Secretary of Treasury Bentsen at a hearing before the Foreign Operations Subcommittee on Appropriations on Tuesday, March 22, 1994. I agree that we must look for innovative ways to make cities attractive investment opportunities for the businesses of the future. Foreign aid vouchers could play an effective role in accomplishing this objective.

In order to flesh out this foreign aid proposal in more detail, I am interested in your views on whether this would be an effective tool in attracting investment capital to cities. If you could have someone on your staff help us identify which business activities and services in Miami could be useful in extending foreign assistance, I would be very appreciative. This information will help me in pursuing this idea in my capacity as a member of the Foreign Operations Subcommittee.

I look forward to working with you on this important matter. Please have you staff contact Morrie Ruffin (202 224–9016) of my staff with any information that could be useful in this endeavor.

My best.

Sincerely,

ARLEN SPECTER.

U.S. SENATE,
Washington, DC, March 29, 1994.

Hon. STEPHEN R. REED,
Mayor, City of Harrisburg,
Harrisburg, PA.

DEAR STEPHEN: I was interested to read in the *Washington Post* on March 20, 1994, of Philadelphia Mayor Rendell's interest in requiring some amount of foreign aid to be issued in vouchers ''redeemable only in distressed cities.'' I raised this idea with Secretary of Treasury Bentsen at a hearing before the Foreign Operations Subcommittee on Appropriations on Tuesday, March 22, 1994. I agree that we must look for innovative ways to make cities attractive investment opportunities for the businesses of the future. Foreign aid vouchers could play an effective role in accomplishing this objective.

In order to flesh out this foreign aid proposal in more detail, I am interested in your views on whether this would be an effective tool in attracting investment capital to cities. If you could have someone on your staff help us identify which business activities and services in Harrisburg could be useful in extending foreign assistance, I would be very appreciative. This information will help me in pursuing this idea in my capacity as a member of the Foreign Operations Subcommittee.

I look forward to working with you on this important matter. Please have your staff contact Morrie Ruffin (202 224–9016) of my staff with any information that could be useful in this endeavor.

My best.

Sincerely,

ARLEN SPECTER.

CITY OF MIAMI, FL
Miami, FL, July 28, 1994.

Hon. ARLEN SPECTER,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR SPECTER: On behalf of the City of Miami, thank you for including our community in your and Mayor Rendell's proposal to require some amount of foreign aid to be issued in vouchers, which can be redeemed in distressed cities throughout the country. The initiative set forth in Mayor Rendell's New Urban Agenda, will benefit Greater Miami/Dade County, should our application for Empowerment Zone or Enterprise Community status be successful. Miami's selection as a procurement center for foreign aid would be a natural complement to our status as the Business Capital of the Americas.

My staff and The Beacon Council, Greater Miami/Dade County's economic development organization, have been working for the past several months with Doug Troutman of your staff to determine which business activities and services in Miami could be useful in extending foreign assistance: Toward this end, Mr. Troutman has been extremely helpful in providing further background information to assist our efforts. We look forward to working with you and your staff further on this important issue.

On behalf of our community, thank you for involving Miami in this significant project.

Sincerely,

STEPHEN P. CLARK,
Mayor.

OFFICE OF THE MAYOR,
THE CITY OF HARRISBURG,
Harrisburg, PA, April 6, 1994.

Hon. ARLEN SPECTER,
U.S. Senate,
Senate Office Building, Washington, DC.

DEAR SENATOR SPECTER: This is to acknowledge and thank you for your correspondence, which I was pleased to receive on April 4, 1994, regarding the suggestion by the Mayor of Philadelphia that a portion of foreign aid be issued in the form of vouchers that would be redeemable only in distressed cities.

The concept has considerable merit and we would support such. The key to such a voucher provision having a measurable and nearly immediate impact in urban communities would be for a proper and clearly stated definition of the words ''distressed cities.'' At a minimum, such a definition should stipulate that eligible cities would be those with 15% or more of its households living at or below the Federal poverty income level.

I suspect that most cities would be able to benefit by such a voucher program. It would redirect investment, development and growth forces into such cities since foreign aid vouchers would represent a far less speculative venture and, in some cases, a literally guaranteed opportunity.

In the case of the City of Harrisburg, there are few areas of products and services which could not be provided. Many of our existing businesses would no doubt seize upon the opportunity to broaden their market by engaging in export activity triggered by foreign aid vouchers. Our infrastructure is sufficient to also accommodate additional growth of existing and new businesses and industries.

Therefore, in brief, we believe the voucher proposal has considerable merit and that this City would benefit from the same.

I appreciate your affording us this opportunity to express an opinion on the subject.

WIth warmest personal regards, I am

Yours sincerely,

STEPHEN R. REED,
Mayor.

By Mr. SPECTER:

S. 18. A bill to provide improved access to health care, enhance informed individual choice regarding health care services, low health care costs through the use of appropriate providers, improve the quality of health care, improve access to long-term care, and for other purposes; to the Committee on Finance.

HEALTH CARE ASSURANCE ACT

Mr. SPECTER. Mr. President, there are some who believe health care reform is dead and declared as much last Fall when Congress failed to enact reform legislation. But they are wrong. President Clinton was grossly in error when he proposed health care by government mandate and massive bureaucracy. But anyone who reads the repudiation of the Clinton bill as an excuse to do nothing is equally in error. There is as much need now as there was then to correct the problems in our health care system for the 14.6 percent or 39.7 million Americans, for whom the system does not work—a group which, according to the Census Bureau, contained 1.1 million more uninsured individuals in 1993 than the previous year. As I have said many times, we can do so without big government and turning the best health care system in the world, serving 85.4 percent of all Americans, on its head. The legislation I am introducing today, the Health Care Assurance Act of 1995, will do just that.

While Congressional jaw-boning in the 103d Congress may have caused market competition to dampen cost increases a bit and encouraged more

managed care, in my judgment no amount of congressional talk will fix many of the problems that still exist—for instance, the pre-existing condition problem, where people are denied health care insurance because of a pre-existing health problem; or the portability problem, where people lose their job or are otherwise between jobs and lose their health coverage; or the self-employed problem, where self-employed individuals are denied the right to deduct as a business expense their health care costs unlike other employers who may deduct 100 percent of that business expense; or the problem of employees in small businesses not having health coverage because their employer simply cannot afford to provide it.

The recent November elections reaffirmed the basic principle of limited government. Limited government, however, does not mean an uncaring or do-nothing government. Consistent with this principle, Congress should enact health care reform legislation that focuses on these and other problems in the current system while leaving intact what already works for 220 million Americans.

To be sure, health care reform remains a very complex issue for Congress to address. But it is not so complex that we cannot act now in a bipartisan way. As many of my colleagues will recall, in 1990 the Congress passed Clean Air Act amendments that many said were not doable. That issue was brought to the Senate floor, and task forces were formed which took up the complex question of sulfuric acid in the air. We targeted the removal of 10 million tons in a year. We made significant changes in industrial pollution and in tailpipe emissions. We produced a balanced bill which protected the environment and retained jobs. This can be done with health care reform. If we forces on the areas both Democrats and Republicans agree upon—insurance market reforms, full-deductibility for the self-employed, administrative simplification, to name a few—we will accomplish a lot in addressing problems with our current health care system.

I have been advocating reform in one form or another throughout my now 15 years in the Senate. My strong interest in health care dates back to my first term when I sponsored the Health Care Cost Containment Act of 1983, S. 2051, which would have granted a limited anti-trust exemption to health insurers permitting them to engage in certain joint activities such as acquiring or processing information, and collecting and distributing insurance claims for health care services aimed at curtailing then escalating health care costs. Later, in 1985, I introduced the Community Based Disease Prevention and Health Promotion Projects Act of 1985, S. 1873, directed at reducing the human tragedy of low birthweight babies and infant mortality. Since 1983, I have introduced and cosponsored numerous other bills concerning health care in our country. A complete list of the 20 health care bills that I have sponsored since 1983 are included for the Record.

During the 102d Congress, I pressed to have the Senate take action on this issue. On July 29, 1992, I offered an amendment on health care to legislation then pending on the Senate Floor. This amendment included provisions from legislation introduced by Senator CHAFEE, which I cosponsored and which was previously proposed by Senators Bentsen and Durenberger. The amendment included a change from 25 percent to 100 percent deductibility for health care insurance purchased by self-employed persons and small business insurance market reform to make health coverage more affordable for small businesses. When then-Majority Leader George Mitchell argued that the health care amendment I was proposing did not belong on that bill, I offered to withdraw the amendment if he would set a date certain to take up health care, just as product liability legislation had been placed on the calendar for September 8, 1992. The Majority Leader rejected that suggestion and the Senate did not consider comprehensive health care legislation during the balance of the 102d Congress. The amendment was defeated on a procedural motion by a vote of 35 to 60 along party lines.

The substance of that amendment, however, was adopted later by the Senate as part of broader tax legislation on September 23, 1992 when it was included in an amendment to H.R. 11 introduced by Senators Bentsen and Durenberger and which I cosponsored. This latter amendment, which included substantially the same self-employed deductibility and small group reforms that I had proposed on July 29, passed the Senate by voice vote. Unfortunately, these provisions were later dropped from H.R. 11 in the House-Senate conference. On January 23, 1994, when Senator Mitchell was asked on the television program ''Face The Nation'' about Senator Bentsen's bill from 1992, he stated that President Bush vetoed that provision as part of a broader bill. In fact, the legislation sent to President Bush never included that provision.

On August 12, 1992, I introduced legislation entitled the ''Health Care Affordability and Quality Improvement Act of 1992,'' S. 3176, that would have enhanced informed individual choice regarding health care services by providing certain information to health care recipients, lowered the cost of health care through use of the most appropriate provider, and improves the quality of health care.

On January 21, 1993, the first day of the 103d Congress, I introduced comprehensive health care legislation, entitled the ''Comprehensive Health Care Act of 1993,'' S. 18. This legislation was comprised of reform initiatives that our health care system could adopt immediately. They were reforms which both improved access and affordability of insurance coverage and implemented systemic changes to bring down the escalating cost of care in this country. S. 18, which is the principal basis of the legislation I am introducing today, melded the two health care reform bills I introduced and the one bill that I cosponsored in the 102d Congress and built upon with significant additions.

On March 23, 1993, I introduced the Comprehensive Access and Affordability Health Care Act of 1993, S. 631, which was a composite of health care legislation introduced by Senators COHEN, KASSEBAUM, BOND, and MCCAIN, as well as my bill, S. 18. I introduced this legislation in an attempt to move ahead on the consideration of health care legislation and provide a critical mass as a starting point. On April 28, 1993, I proposed this bill as an amendment to then pending S. 171, the Department of Environment Act in an attempt to urge the Senate to act on health care reform.

In total, I have taken to this floor on 13 occasions over the past 3 years to urge the Senate to address health care reform. On two occasions I introduced health care related amendments.

As early as June 26, 1984, I stated that the issue of health care is one of the most important matters facing the Nation today. That statement continues to ring true today, 10 years later. As reported in the New York Times on December 29, 1993, the Commerce Department estimated that health spending would total $942.5 billion in 1994 and would rise 12.5 percent in 1995. Moreover, there are an estimated 40 million, or 15 percent of the American population without health insurance.

Not long ago, Mr. President, in June 1993, I had my own health problem when a magnetic resonance imaging machine discovered an intercranial lesion in my head. I was the beneficiary of the greatest health care delivery system in the world. That experience made me ever more aware, knowledgeable of and sensitive to the subject than I had been in the past.

I share the American people's frustration with government and their desire to have the problems addressed. This past November they made it abundantly clear that they want the problems fixed—be it health care, welfare, tax or spending reform. But I want to make clear, Mr. President, since it has been said from time to time that Republicans support only the status quo, that many of my Republican colleagues have shared my sentiment to pass health care legislation, and we continue to be committed to action. In the 102d Congress, for instance, Senate Republicans were instrumental in the passage of reforms that would have helped small businesses and self-employed individuals to afford coverage more easily. In the 103d Congress, Senate Republicans introduced numerous health care bills that did not go to the

floor. And now I am introducing legislation that targets many of the problems and will result in affordable coverage for millions of the uninsured.

From last year's debate, I believe we learned a great deal about our health care system and what the American people are willing to accept from the Federal Government. The message we heard loudest was that Congress was acting too hastily, and that Americans did not want a massive overhaul of the health care system. Instead, our constituents want Congress to proceed more slowly and to target what isn't working in the health care system while leaving in place what is working.

As I have said both publicly and privately, I was willing to cooperate with President Clinton in solving the problems facing the country. However, there were many important areas where I differed with the President's approach and I did so because I believed that they were proposals that would have been deleterious to my fellow Pennsylvanians, to the American people, and to our health care system. Most importantly, I did not support creating a large new government bureaucracy because I believe that savings should go to health care services and not bureaucracies.

On this latter issue, I first became concerned about the bureaucracy back in September 1993 after reading the President's 239-page preliminary health care reform proposal. I was surprised by the number of new boards, agencies, and commissions, so I asked my legislative assistant to make me a list of all of them. Instead, she decided to make a chart. The initial chart depicted 77 new entities and 54 existing entities with new or additional responsibilities. When the President's 1,342-page Health Security Act was transmitted to Congress on October 27, 1993, my staff reviewed it and found an increase to 105 new agencies, boards, and commissions and 47 existing departments, programs and agencies with new or expanded jobs. This chart received national attention after being used by Senator BOB DOLE in his response to the President's State of the Union address on January 24, 1994. The response to the chart was tremendous, with more than 12,000 people from across the country contacting my office for a copy. Numerous groups and associations—such as United We Stand America, the American Small Business Association, the National Federation of Republican Women, and the Christian Coalition—reprinted the chart in their publications amounting to hundreds of thousands more in distribution. I might add, Mr. President, that proposals offered during last year's debate by Democratic leaders like Senator KENNEDY, then-Chairman of the Labor Committee, and then-Majority Leader, Senator MITCHELL, also suffered from the same big government affliction, as the Kennedy plan proposed 107 new entities and the Mitchell plan proposed 167 new entities.

In addressing our health care problems, let me be clear: In creating solutions it is imperative that we do so without adversely affecting the many positive aspects of our health care system which works for 85 percent of all Americans. I believe our approach should be to focus on affordable coverage for the approximately 15 percent of the population without insurance, covering people who change jobs, providing adequate coverage to the underinsured, holding down spiraling costs and generally addressing the specific problems with the current system rather than a massive change.

If such reforms do not solve the problems of coverage and costs then we will need to revisit them. Different proposals introduced in the last Congress had a phase-in period under any reform plan. I believe that a prudent approach is to implement targeted reforms and then act to improve upon what we have done. I call this trial and modification. We must be careful not to damage the positive aspects of our health care system upon which more than 220 million Americans justifiably rely.

Legislation which I am introducing today has four objectives: (1) to provide affordable health insurance for the 40 million Americans now not covered; (2) to reduce the health care costs for all Americans; (3) to increase the security of coverage and the portability of health insurance between jobs; and (4) to improve coverage for underinsured individuals and families. This legislation is comprised of initiatives that our health care system can readily adopt in order to meet these objectives, and it does not create an enormous new bureaucracy to meet them.

This bill builds and improves upon provisions put forth in my legislation from the 103d Congress, S. 18, which included: full deductibility of health care costs for the self-employed; purchasing groups and insurance market reforms for small employers to have access to affordable health insurance; increased availability to prenatal care and outreach for the prevention of low-birthweight births; improved implementation of patients' rights regarding medical care at the end of life; improved health education; greater emphasis on and expanded access to primary and preventive health services; and improved utilization of non-physician providers, consumer information, and outcomes research.

To this I have added: insurance market reforms to provide greater coverage security and portability between jobs; COBRA reform to extend the time period for employees who leave their jobs to continue their health benefits until alternative coverage becomes available and provide such individuals with additional affordable options; an obligation on employers to offer—but not to pay for—health care insurance; and a 1-year extension of the Medicare Select Program, which gives beneficiaries the option to select a managed care plan and provides Medicare recipients more choice in choosing supplemental insurance plans. Taken together, I believe these reforms will both improve the quality of health care delivery and will cut the escalating cost of health care in this country. They represent a blueprint which can be modified, improved and expanded. In total, I believe this bill can significantly reduce the number of uninsured Americans, improve the affordability of care, ensure the portability and security of coverage between jobs; and yield cost savings of billions of dollars to the Federal Government which can be used to insure the remaining uninsured and underinsured Americans.

INCREASING COVERAGE AND SAVING COSTS

The 6 titles of the bill seek to reduce the health care costs and the concerns regarding security for the 220 million, or 85 percent of Americans now covered, and to increase coverage for the other 39.7 million, or 15 percent, of Americans who are not.

COVERAGE

The 220 million Americans now covered derive their health insurance coverage as follows: approximately 57 percent from employer plans; 24.9 percent from Medicare and Medicaid; 3.7 percent from the military; and 13 percent from individual private insurance.

Title I would implement health insurance reforms which include: extending full deductibility of health insurance premiums to the self-employed; establishing small employer and individual health insurance purchasing groups; obligating employers to offer, but not pay for, at least two health insurance plans that protect individual freedom of choice and that meets a standard minimum benefit package; improving health insurance market practices to guarantee coverage of preexisting conditions; and extending COBRA benefits and coverage options to provide portability and security of affordable coverage between jobs.

While it is not possible to predict with certainty how many additional Americans will be covered as a result of the reforms in Title I, a reasonable expectation would be that the reforms included in this legislation will cover approximately 21 million Americans. This estimate encompasses the provisions included in Title I which I discuss in further detail below.

Title I seeks to make insurance affordable by enhancing portability of insurance and choice to cover persons who are uninsured for brief periods between jobs. The reason that we often hear varying statistics cited regarding the number of uninsured persons is because a number of the uninsured are without insurance for limited periods of time between jobs. To address this portion of the uninsured, Title I includes reforms to increase the portability of coverage. These reforms also address the 220 million with insurance and their concerns with security and portability. These reforms include: (1) insurance market reform to cover pre-

existing conditions, including hereditary conditions and pregnancy; (2) extending COBRA health benefits option from 18 to 24 months and enhancing coverage options under COBRA to make insurance more affordable; and (3) providing individuals access to affordable insurance through purchasing groups.

Coverage of pre-existing conditions is a concern of many people with insurance who face the potential threat of losing their coverage if they or a family member becomes ill. I believe that these practices are resulting in too much litigation and too much money being spent on lawyers rather than providing coverage for such persons. According to the Employee Benefit Research Institute, of the 5.9 million workers American who are denied coverage through their employers' health plan, 100,000 workers are ineligible for insurance because of pre-existing health conditions. Under my bill, no one will be denied reasonably priced coverage or continued coverage due to a pre-existing condition.

Title I also extends the COBRA benefit option from 18 months to 24 months. COBRA refers to a measure which was enacted in 1985 as part of the Omnibus Budget Reconciliation Act [OBRA '85] to allow employees who leave their job, either through a law-off of choice, to continue receiving their health care benefits by paying the full cost of such coverage. By extending this option, such unemployed persons will have enhanced coverage options.

In addition, options under COBRA are expanded to include plans with lower premiums and higher deductible of either $1,000 or $3,000. This provision is incorporated from legislation introduced in the 103rd Congress by Senator Phil GRAMM and will provide an extra cushion of coverage options for people in transition. According to Senator GRAMM, with these options, the typical monthly premium paid for a family of four would drop by as much as 20 percent when switching to a $1,000 deductible and as much as 52 percent when switching to a $3,000 deductible.

With respect to the uninsured and underinsured, my bill would permit individuals and families to purchase guaranteed, comprehensive health coverage through purchasing groups. Health insurance plans offered through the purchasing groups would be required to meet basic, comprehensive standards with respect to benefits. Such benefits must include a variation of benefits permitted among actuarially equivalent plans to be developed by the National Association of Insurance Commissioners. The standard plan would consist of the following services when medically necessary or appropriate: (1) medical and surgical devices; (2) medical equipment; (3) preventive services; and (4) emergency transportation in frontier areas. It is estimated that for businesses with fewer than 50 employees, voluntary purchasing cooperatives such as those included in my legislation could cover up to 17 million people who are currently uninsured.[8]

My bill would also create individual health insurance purchasing groups for individuals wishing to purchase health insurance on their own. In today's market, such individuals often face a market where coverage options are not affordable. These purchasing groups will change that by allowing small businesses and individuals to buy coverage by pooling together within purchasing groups, and choose from among insurance plans that provide comprehensive benefits, with guaranteed enrollment and renewability, and equal pricing through community rating adjusted by age and family size. Community rating will assure that no one small business or individual will be singly priced out of being able to buy comprehensive health coverage because of health status. With community rating, a small group of individuals and businesses can join together, spread the risk, and have the same purchasing power that larger companies have today.

For example, Pennsylvania has the fourth lowest rate of uninsured in the nation with over 90 percent of all Pennsylvanians enrolled in some form of heath coverage. Lewin and Associates found that one of the factors enabling Pennsylvania to achieve this low rate of uninsured persons is the practice by Pennsylvania's Blue Cross/Blue Shield plans which provide guaranteed enrollment and renewability, an open enrollment period, community rating, and coverage for persons with pre-existing conditions. My legislation seeks to enact reforms to provide for more of these types of practices.

The purchasing groups as developed and administered on a local level, in addition to the insurance market reforms related to pre-existing conditions for all insurance policies, will provide small businesses and all individuals with affordable health coverage options.

For individuals who are self-employed, this bill seeks to extend the same tax advantage for the purchase of health insurance to these individuals as is afforded to all other employers. Under current law, businesses are permitted to deduct 100 percent of what they pay for the health insurance of their employees, but self-employed individuals may not deduct any of their cost. The provision permitting self-employed individuals to deduct 25 percent of their health insurance costs expired on December 31, 1993. It is hard to find a provision in the Internal Revenue Code that is more discriminatory than this one.

According to the Congressional Research Service, 12 percent or 3.9 million of uninsured workers are self-employed. Providing full deductibility of health insurance premiums, beginning with reinstatement of the 25 percent deduction for 1994 and reaching 100 percent by 1999, for self-employed individuals is a simple matter of fairness. It also should make health insurance coverage more affordable for the estimated 3.9 million self-employed individuals and their families who are now uninsured.

The Joint Committee on Taxation has estimated the cost of this provision at $1.0 billion in the first year and $5.2 billion over the next 5 years.

Unique barriers to coverage exist in both rural and urban medically underserved areas. Within my home State of Pennsylvania, there are examples of such barriers due to a lack of health care providers in rural areas and other problems associated with the lack of coverage for indigent populations living in inner cities. This bill improves access to health care services for these populations by increasing Public Health Service programs and also through training more primary care providers to serve in such areas; increasing the utilization of non-physician providers including nurse practitioners, clinical nurse specialists and physician assistants through direct reimbursements under the Medicare and Medicaid programs; and increasing support for education and outreach.

While I reiterate the difficulty in making definitive conclusions regarding the reforms put forth under this legislation and accomplishing universal health coverage for all Americans, I believe that it is a promising starting point. Admittedly, the figures are inexact, but by my rough calculations potentially 21 million of the 40 million uninsured will be able to obtain affordable health care coverage under my bill. I arrive at this figure by including the 17 million that will be able to purchase insurance as a result of allowing individuals and small employers to purchase insurance through voluntary purchasing cooperatives, the 3.9 self-employed individuals who are uninsured that will now have full-deductibility for the cost of their health insurance, and the 100,000 who now will not be denied coverage due to pre-existing conditions. Certainly increasing the 220 million Americans with coverage to 241 million is a significant improvement. But we must not lose sight of those who for whatever reason may not achieve coverage under this plan. In this regard, I welcome any and all suggestions that make sense within our current constraints to increase coverage. I am committed to enacting reforms this year and committing to a time certain when the Congress must revisit the issue and act to modify these reforms and correct problems related to coverage where they still exist.

COST SAVINGS

It is anticipated that the increased costs of coverage to employers choosing to cover employees under Title I would be offset by administrative savings from the development of the small employer purchasing groups. Such savings have been estimated as high as $9 billion annually. In addition, if we address some of the areas within the

health care system that are exacerbating costs, we can achieve significant savings to be redirected toward direct health care services.

Title I includes a provision to extend the Medicare Select program, which already has demonstrated success in passing along savings to the consumer. The Medicine Select program is a demonstration project initiated in the Omnibus Reconciliation Act of 1990 that allows Medicare recipients to select managed care plans, specifically through preferred provider organizations, for their Medicare supplemental insurance. Fifteen States have demonstration sites and over 400,000 Medicare beneficiaries are enrolled in the program. Medicare Select plans are 10 to 30 percent less expensive than traditional plans that offer the same benefits and quality is not sacrificed. The August 1994 Consumer Reports rated Medicare Select plans as some of the best Medigap products nationwide. Of the top 15 Medigap rated policies, 8 were Medicare Select plans.

While savings from such reforms are difficult to predict, I believe that savings of $214 billion over 5 years can be achieved through the reforms set forth in this legislation.

While examining the issues that contribute to our health care crisis, I was struck by the fact that so much attention is being focused on treating the symptoms and so little on some of its root causes. Granted, our existing health care system suffers from very serious structural problems. But there also are some common sense steps we can take to head off problems before they reach crisis proportions. Title II of my bill includes three initiatives which enhance primary and preventive care services aimed at preventing disease and ill-health.

Each year about 7 percent, or 287,000, of the 4,100,000 American babies born in the U.S. are born of low birth weight, multiplying their risk of death and disability. Nearly 37,000 of those born die before their first birthday. Approximately 1,000 of those deaths are preventable. Although the infant mortality rate in the United States fell to an all-time low in 1989, an increasing percentage of babies still are born of low birth weight. The Executive Director of the National Commission To Prevent Infant Mortality, put it this way, ''More babies are being born at risk and all we are doing is saving them with expensive technology.''

It is a human tragedy for a child to be born weighing 16 ounces with attendant problems which last a lifetime. I first saw 1-pound babies in 1984 when I was astounded to learn that Pittsburgh, PA, had the highest infant mortality rate of African-American babies of any city in the United States. I wondered, how could that be true of Pittsburgh, which has such enormous medical resources. It was an amazing thing for me to see a 1-pound baby, about as big as my hand.

Beyond the human tragedy of low birth weight there are the financial consequences. Low birth weight children, those who weigh less than 5.5 pounds, account for 16 percent of all costs for initial hospitalization, re-hospitalization and special services up to age 35. The short and long-term costs of saving and caring for infants of low birth weight is staggering. A study issued by the Office of Technology Assessment in 1988, concluded that $8 billion was expended in 1987 for the care of 262,000 low birth weight infants in excess of that which would have been spent on an equivalent number of babies born of normal weight birth averted by earlier or more frequent prenatal care, the U.S. health care system saves between $14,000 and $30,000 in the first year in addition to the projected savings in lifetime care.

The Department of Health and Human Services estimated that by reducing the number of children born of low birth weight by 82,000 births, we could save between $1.1 billion and $2.5 billion per year.

We know that in most instances prenatal care is effective in preventing low birth weight babies. Numerous studies have demonstrated that low birth weight, that does not have a genetic link, is associated with inadequate prenatal care or lack of prenatal care.

To improve pregnancy outcomes for women at risk of low birth weight, Title II authorizes the Secretary of Health and Human Services to award grants to States for projects to reduce infant mortality and low birth weight births and to improve the health and well-being of mothers and their families, pregnant women and infants. The funds would be awarded to community-based consortia, made up of State and local governments, the private sector, religious groups, community and migrant health centers, and hospitals and medical schools, whose goal would be to develop and coordinate effective health care and social support services for women and their babies.

The second initiative under Title II involves the provision of comprehensive health education for our nation's children. The Carnegie Foundation for the Advancement of Teaching recently conducted a survey of teachers. More than half of the respondents said that poor nourishment among students is a serious problem at their schools; 60 percent cited poor health as a serious problem. Another study issued in 1992 by the Children's Defense Fund reported that children deprived of basic health care and nutrition are ill-prepared to learn. Both studies indicated that poor health and social habits are carried into adulthood and often passed on to the next generation.

To interrupt this tragic cycle, this nation must invest in proven preventive health education programs. My legislation includes comprehensive health education and prevention initiatives through increased support to local educational agencies to develop and strengthen comprehensive health education programs and to Head Start resource centers to support health education training programs for teachers and other day care workers.

Title II further expands the authorization for a variety of public health programs, such as breast and cervical cancer prevention, childhood immunizations, family planning and community health centers. These existing programs are designed to improve the public health and prevent disease through primary and secondary prevention initiatives. It is essential that we invest more resources now in these programs if we are to make any substantial progress in reducing the costs of acute care in this country.

The proposed expansions in preventive health services included in Title II are conservatively projected to save approximately $2.5 billion per year or $12.5 billion over 5 years. I believe the savings will be higher. Again, it is impossible to be certain of such savings; only experience will tell. For example, how do you quantify today the savings that will surely be achieved tomorrow from future generations of children that are truly educated in a range of health-related subjects including hygiene, nutrition, physical and emotional health, drug and alcohol abuse, accident prevention and safety, et cetera? I suggest these projections, subject to future modification, only to give some generalized perspective on the impact of this bill.

Title III would establish a federal standard and create uniform national forms concerning the patient's right to decline medical treatment. Nothing in my bill mandates the use of uniform forms, rather, the purpose of this provision is to make it easier for individuals to make their own choices and determination regarding their treatment during this vulnerable and highly personal time. Studies have also found that improved access to living wills and advanced directives will lead to substantial dollar savings. According to a 1978 study by the Health Care Financing Administration, about 30 percent of expenditures for people who died were spent in the last 30 days of life and constituted 8 percent of total Medicare expenditures that year. Approximately 27 percent of Medicare expenditures are made in the final days of life, and conservatively estimating that approximately 10 percent of such expenditures are unwanted, we could save nearly $4 billion per year. I believe that such savings could be greater. A recent study by researchers at Thomas Jefferson University Medical College in Philadelphia also concluded the notion that greater use of advanced directives have potential for enormous cost savings. This study also cited research which found that about 90 percent of the American population expresses interest in participating in advance directives discussion although

only 8 to 15 percent of adults have prepared a living will. Provisions in my bill would provide information on individuals' rights regarding living wills and advanced directives and would make it clearer for people to have their rights known and honored.

Title IV provides incentives to improve the supply of generalist physicians and would increase the utilization of non-physician providers like nurse practitioners, clinical nurse specialists and physician assistants through direct reimbursement under the Medicare and Medicaid programs. These provisions I believe will also yield substantial savings. A study of the Canadian health system utilizing nurse practitioners projected a 10 to 15 percent savings for all medical costs—or $300 million to $450 million. While our system is dramatically different from Canada's, it may not be unreasonable to project a 5 percent—or $41.5 billion—savings from the increase in the number of primary care providers in our system. Again, experience will raise or lower this projection. Assuming this savings, though, it seems reasonable, based on an average expenditure for health care of $3,299 per person in 1993, that we could cover over 10 million more uninsured persons.

Outcomes research is another area where we can achieve considerable health care savings in the long run and improve the quality of care. According to the former editor-in-chief of the New England Journal of Medicine, Dr. Marcia Angell, 20 to 30 percent of health care procedures are either inappropriate, ineffective or unnecessary. If the implementation of medical practice guidelines eliminates 10 to 20 percent of these costs, savings between $8 and $16 billion can be realized annually. To achieve this we must, as Dr. C. Everett Koop, former Surgeon General of the United States says, have a well funded program for outcomes research. Title V would accomplish this by imposing a one-tenth of 1 cent surcharge on all health insurance premiums. Based on the Congressional Budget Office's estimate that in 1993 private health insurance premiums totalled $315 billion, this surcharge would result in a $315 million outcomes research fund—compared to the approximately $81 million appropriated for fiscal year 1995.

Title V also includes provisions to reduce the administrative costs incurred by our health care system. Estimates for administrative costs range as high a 25 cents per dollar spent on health care, or over $225 billion annually. A reasonable expectation is that we can reduce administrative costs by 25 percent through such reforms. This would yield savings of $55 billion over the next 5 years. While the development of a national electronic claims system to handle the billions of dollars in claims is complex and will take time to implement fully, I believe it is essential for operating a more efficient health care system and achieving the savings necessary to provide insurance for the remaining uninsured Americans.

Title V also includes a provision to improve consumer access to health care information. True cost containment and competition cannot occur it purchasers of health care do not have the information available to them to compare cost and quality.

Title V authorizes the Secretary of Health and Human Services to award grants to States to establish or improve a health care data information system. Currently, there are 39 States that have a mandate to establish such a system, and 20 States are in various stages of implementation. In my own State, the Pennsylvania Health Care Cost Containment Council has received national recognition for the work it has done in providing important information regarding health care costs and quality. Consumers, businesses, labor, insurance companies, health maintenance organizations, and hospitals have utilized this information. For example, hospitals have used information provided by the Pennsylvania's Cost Containment Council to become more competitive in the marketplace; businesses and labor have used this data to lower their health care expenditures; health plans have used this information when contracting with providers; and consumers have used this information to compare costs and outcomes of health care providers and procedures.

States have not yet produced any figures on statewide savings as a result of implementing health information systems, however, there are many examples of savings from users of these systems all across the country. In Pennsylvania, for example, Accutrex, a mid-size company that is part of an alliance of businesses in southwest Pennsylvania, reported a savings of $1 million over a 6-month period by using information produced by the Pennsylvania Cost Containment Council.

There are many other examples of savings such as this, and I believe that if such systems where in place in every State, the savings could be substantial.

Title VI addresses the issue of home nursing care. The costs of such care to those requiring it are exorbitant. Title VI proposes, among other things, a tax credit for premiums paid to purchase private long-term care insurance and tax deductions to offset long-term care expenses and proposes home and community-based care benefits as less costly alternatives to institutional care. The Joint Tax Committee estimates that the cost to the Treasury of this proposal is approximately $20 billion. Other tax incentives and reforms to make long term care insurance more affordable are: (1) allowing employees to select long-term care insurance as part of a cafeteria plan and allowing employers to deduct this expense; (2) excluding life insurance savings used to pay for long term care from income tax; and (3) setting standards for long term care insurance that reduce the bias that favors institutional care over community and home-based alternatives.

While precision is again impossible, it is a reasonable projection that we could achieve under my proposal a net savings of approximately $174.9 million. I arrive at this sum by totaling the projected savings of $214 billion over 5 years—$45 billion in small employer market reforms coupled with employer purchasing groups; $12.5 billion for preventive health services; $20 billion for reducing unwanted care; $41.5 billion from increasing primary care providers; $40 billion through outcomes research; and $55 billion through reducing administrative costs—and netting against that the projected cost of $39.1 billion—$5.2 billion for extending full deductibility of health insurance cost to the self employed; $20 billion for long term care; and approximately $13.9 billion in funding for primary and preventive health care programs and the initiatives that I am proposing.

Since there are no precise estimates in each one of these areas, experience will require modification of these projections, but at least it is a beginning. I am prepared to work with other Senators in the development of implementing legislation, to press this important area of health care reform.

CONCLUSION

The provisions which I have outlined today contain the framework for providing affordable health care for all Americans. I am opposed to rationing health care. I do not want rationing for myself, for my family, or for America. The question is whether we have essential resources—doctors and other health care providers, hospitals, pharmaceutical products, et cetera—to provide medical care for all Americans. I am confident that we do.

In my judgment, we should not scrap, but build on our current health delivery system. We do not need the overwhelming bureaucracy that President Clinton and other Democratic leaders proposed last year to accomplish this. I believe we can provide care for the almost 40 million Americans who are now not covered and reduce health care costs for those who are covered within the currently growing $884.2 billion in health spending.

With the savings projected in this bill, I believe it is possible to provide access to comprehensive affordable health care for all Americans. This bill is a significant first-step in obtaining that objective. It is obvious that the total answer to the health care issue will not be achieved immediately or easily but the time has come for concerted action on this subject.

I understand that there are several controversial issues presented in this bill and I am open to suggestions on possible modifications. I urge the Congressional leadership, including the appropriate committee chairmen, to move this legislation and other health care bills forward promptly.

I ask unanimous consent that a summary and the full text of the bill be printed in the RECORD.

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

S. 18

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 ''Health Care Assurance Act of 1995''.

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

TITLE I—HEALTH CARE INSURANCE COVERAGE

Subtitle A—Definitions

SEC. 100. DEFINITIONS.

For purposes of this title:

(1) DEPENDENT.—The term ''dependent'' means, with respect to any individual, any person who is—

(A) the spouse or surviving spouse of the individual; or

(B) under regulations of the Secretary, a child (including an adopted child) of such individual and—

(i) under 19 years of age; or

(ii) under 25 years of age and a full-time student.

(2) ELIGIBLE EMPLOYEE.—The term ''eligible employee'' means, with respect to an employer, an employee who normally performs on a monthly basis at least 30 hours of service per week for that employer.

(3) ELIGIBLE INDIVIDUAL.—The term ''eligible individual'' means, with respect to an eligible employee, such employee, and any dependent of such employee.

(4) EMPLOYER.—The term ''employer'' shall have the meaning given such term in section 3(5) of the Employee Retirement Income Security Act of 1974.

(5) GROUP HEALTH PLAN.—The term ''group health plan'' means an employee welfare benefit plan providing medical care (as defined in section 213(d) of the Internal Revenue Code of 1986) to participants or beneficiaries directly or through insurance, reimbursement, or otherwise, but does not include any type of coverage excluded from the definition of a health insurance plan under paragraph (6)(B).

(6) HEALTH INSURANCE PLAN.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term ''health insurance plan'' means any hospital or medical service policy or certificate, hospital, or medical service plan contract, or health maintenance organization group contract offered by an insurer.

(B) EXCEPTION.—Such term does not include any of the following:

(i) Coverage only for accident, dental, vision, disability income, or long-term care insurance, or any combination thereof.

(ii) Medicare supplemental health insurance.

(iii) Coverage issued as a supplement to liability insurance.

(iv) Worker's compensation or similar insurance.

(v) Automobile medical-payment insurance.

(vi) Any combination of the insurance described in clauses (i) through (v).

(7) HEALTH MAINTENANCE ORGANIZATION.—The term ''health maintenance organization'' includes an organization recognized under State law as a health maintenance organization or managed care organization or a similar organization regulated under State law for solvency that offers to provide health services on a prepaid, at-risk basis primarily through a defined set of providers.

(8) INSURER.—The term ''insurer'' means any person that offers a health insurance plan including—

(A) a licensed insurance company;

(B) a prepaid hospital or medical service plan;

(C) a health maintenance organization;

(D) a self-insurer carrier;

(E) a reinsurance carrier; and

(F) a multiple small employer welfare arrangement (a combination of small employers associated for the purpose of providing health insurance plan coverage for their employees).

(9) NAIC.—The term ''NAIC'' means the National Association of Insurance Commissioners.

(10) QUALIFIED HEALTH INSURANCE PLAN.—The term ''qualified health insurance plan'' shall have the meaning given such term in section 111(b).

(11) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(12) SMALL EMPLOYER.—The term ''small employer'' means, with respect to a calendar year, an employer that normally employs more than 1 but not more than 50 eligible employees on a typical business day. For the purposes of this paragraph, the term ''employee'' includes a self-employed individual. For purposes of determining if an employer is a small employer, rules similar to the rules of subsection (b) and (c) of section 414 of the Internal Revenue Code of 1986 shall apply.

(13) STATE.—The term ''State'' means the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, and American Samoa.

Subtitle B—Increased Availability and Continuity of Health Coverage

PART 1—REFORM OF HEALTH INSURANCE MARKETPLACE FOR SMALL EMPLOYERS

Subpart A—Insurance Market Reform

SEC. 111. REQUIREMENT FOR INSURERS TO OFFER QUALIFIED HEALTH INSURANCE PLANS.

(a) REQUIREMENT TO OFFER.—Each insurer that makes available a health insurance plan to a small employer in a State shall make available to each small employer in the State a qualified health insurance plan (as defined in subsection (b)).

(b) QUALIFIED HEALTH INSURANCE PLAN.—The term ''qualified health insurance plan'' means a health insurance plan (whether a managed-care plan, indemnity plan, or other plan) that is designed to provide standard coverage (consistent with section 112(b)).

(c) MARKETING REQUIREMENTS.—The requirements of subsection (a) are not met unless the plan described in subsection (a) is made available to small employers using at least the marketing methods and other sales practices which are used in selling other health insurance plans within the same class of business made available by the insurer.

SEC. 112. ACTUARIAL EQUIVALENCE IN BENEFITS PERMITTED.

(a) SET OF RULES OF ACTUARIAL EQUIVALENCE.—

(1) INITIAL DETERMINATION.—The NAIC is requested to submit to the Secretary, within 6 months after the date of the enactment of this Act, a set of rules which the NAIC determines is sufficient for determining, in the case of any health insurance plan and for purposes of this section, the actuarial value of the coverage offered by the plan.

(2) CERTIFICATION.—If the Secretary determines that the NAIC has submitted a set of rules that comply with the requirements of paragraph (1), the Secretary shall certify such set of rules for use under this subtitle. If the Secretary determines that such a set of rules has not been submitted or does not comply with such requirements, the Secretary shall promptly establish a set of rules that meets such requirements.

(b) STANDARD COVERAGE.—

(1) IN GENERAL.—A health insurance plan is considered to provide standard coverage consistent with this subsection if the benefits are determined, in accordance with the set of actuarial equivalence rules certified under subsection (a), to have a value that is within 5 percentage points of the target actuarial value for standard coverage established under paragraph (2).

(2) INITIAL DETERMINATION OF TARGET ACTUARIAL VALUE FOR STANDARD COVERAGE.—

(A) INITIAL DETERMINATION.—

(i) IN GENERAL.—The NAIC is requested to submit to the Secretary, within 6 months after the date of the enactment of this Act, a target actuarial value for standard coverage equal to the average actuarial value of the coverage described in clause (ii). No specific procedure or treatment, or classes thereof, is required to be considered in such determination by this Act or through regulations. The determination of such value shall be based on a representative distribution of the population of eligible employees offered such coverage and a single set of standardized utilization and cost factors.

(ii) COVERAGE DESCRIBED.—The coverage described in this clause is coverage for medically necessary and appropriate services consisting of medical and surgical services, medical equipment, preventive services, and emergency transportation in frontier areas. No specific procedure or treatment, or classes thereof, is required to be covered in such a plan, by this Act or through regulations.

(B) CERTIFICATION.—If the Secretary determines that the NAIC has submitted a target actuarial value for standard coverage that complies with the requirements of subparagraph (A), the Secretary shall certify such value for use under this subtitle. If the Secretary determines that a target actuarial value has not been submitted or does not comply with the requirements of subparagraph (A), the Secretary shall promptly determine a target actuarial value that meets such requirements.

(c) SUBSEQUENT REVISIONS.—

(1) NAIC.—The NAIC may submit from time to time to the Secretary revisions of the set of rules of actuarial equivalence and target actuarial values previously established or determined under this section if the NAIC determines that revisions are necessary to take into account changes in the relevant types of health benefits provisions or in demographic conditions which form the basis for the set of rules of actuarial equivalence or the target actuarial values. The provisions of subsection (a)(2) shall apply to such a revision in the same manner as they apply to the initial determination of the set of rules.

(2) SECRETARY.—The Secretary may by regulation revise the set of rules of actuarial equivalence and target actuarial values from time to time if the Secretary determines such revisions are necessary to take into account changes described in paragraph (1).

SEC. 113. ESTABLISHMENT OF HEALTH INSURANCE PLAN STANDARDS.

(a) ESTABLISHMENT OF GENERAL STANDARDS.—

(1) ROLE OF NAIC.—The NAIC is requested to submit to the Secretary, within 9 months after the date of the enactment of this Act, model regulations that specify standards with respect to the requirement, under section 111(a), that insurers make available qualified health insurance plans. If the NAIC develops recommended regulations specifying such standards within such period, the Secretary shall review the standards. Such review shall be completed within 60 days after the date the regulations are developed. Unless the Secretary determines within such period that the standards do not meet the requirement under section 111(a), such standards shall serve as the standards under this section, with such amendments as the Secretary deems necessary.

(2) CONTINGENCY.—If the NAIC does not develop such model regulations within the period described in paragraph (1), or the Secretary determines that such regulations do not specify standards that meet the requirement under section 111(a), the Secretary shall specify, within 15 months after the date of the enactment of this Act, standards to carry out such requirement.

(3) EFFECTIVE DATE.—The standards specified in the model regulations shall apply to health insurance plans in a State on or after the respective date the standards are implemented in the State under subsection (b).

(4) NO PREEMPTION OF STATE LAW.—A State may implement standards for health insurance plans made available to small employers that are more stringent than the requirements under this section, except that a State may not implement standards that prevent the offering by an insurer of at least one health insurance plan that provides standard coverage (as described in section 112(b)).

(b) APPLICATION OF STANDARDS THROUGH STATES.—

(1) IN GENERAL.—Each State shall submit to the Secretary, by the deadline specified in paragraph (2), a report on the steps the State is taking to implement and enforce the standards with respect to insurers, and qualified health insurance plans offered, not later than such deadline.

(2) DEADLINE FOR REPORT.—

(A) 1 YEAR AFTER STANDARDS ESTABLISHED.—Subject to subparagraph (B), the deadline under this paragraph is 1 year after the date the standards are established under subsection (a).

(B) EXCEPTION FOR LEGISLATION.—In the case of a State which the Secretary identifies, in consultation with the NAIC, as—

(i) requiring State legislation (other than legislation appropriating funds) in order for insurers and qualified health insurance plans offered to meet the standards established under subsection (a), but

(ii) having a legislature which is not scheduled to meet in 1997 in a legislative session in which such legislation may be considered, the date specified in this paragraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 1998. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(3) FEDERAL ROLE.—If the Secretary determines that a State has failed to submit a report by the deadline specified under paragraph (1) or finds that the State has not implemented and provided adequate enforcement of the standards under such paragraph, the Secretary shall notify the State and provide the State a period of 60 days in which to submit the report or to implement and enforce the standards. If, after that 60-day period, the Secretary finds that the failure has not been corrected, the Secretary shall provide for the implementation and enforcement of the standards in the State in such a way as the Secretary determines to be appropriate. Such implementation and enforcement shall take effect with respect to insurers and qualified health insurance plans offered or renewed on or after 3 months after the date of the Secretary's finding under the previous sentence and until the date the Secretary finds that such a failure has been corrected.

Subpart B—Additional Standards for Health Insurance Plans Offered to Small Employers

SEC. 121. GENERAL ISSUANCE REQUIREMENTS.

(a) GENERAL RULE.—Any insurer offering a health insurance plan to a small employer shall meet the following requirements:

(1) The guaranteed issue requirements of subsection (b).

(2) The mandatory registration and disclosure requirements of subsection (c).

(b) GUARANTEED ISSUE.—

(1) IN GENERAL.—The requirements of this subsection are met if the insurer offering a health insurance plan to small employers in the State—

(A) accepts every small employer in the State that applies for coverage under the plan; and

(B) accepts for enrollment under the plan every eligible individual who applies for enrollment on a timely basis (consistent with paragraph (3)).

(2) SPECIAL RULES FOR HEALTH MAINTENANCE ORGANIZATIONS.—In the case of a plan offered by a health maintenance organization, the plan may—

(A) limit the employers that may apply for coverage to those with eligible individuals residing in the service area of the plan;

(B) limit the individuals who may be enrolled under the plan to those who reside in the service area of the plan; and

(C) within the service area of the plan, deny coverage to such employers if the plan demonstrates that—

(i) it will not have the capacity to deliver services adequately to enrollees of any additional groups because of its obligations to existing group contract holders and enrollees; and

(ii) it is applying this subparagraph uniformly to all employers without regard to the health status, claims experience, or duration of coverage of those employers and their employees.

(3) CLARIFICATION OF TIMELY ENROLLMENT.—

(A) GENERAL INITIAL ENROLLMENT REQUIREMENT.—Except as provided in this paragraph, a health insurance plan may consider enrollment of an eligible individual not to be timely if the eligible employee or dependent fails to enroll in the plan during an initial enrollment period, if such period is at least 30 days long.

(B) ENROLLMENT DUE TO LOSS OF PREVIOUS EMPLOYER COVERAGE.—Enrollment in a health insurance plan is considered to be timely in the case of an eligible individual who—

(i) was covered under another health insurance plan or group health plan at the time of the individual's initial enrollment period;

(ii) stated at the time of the initial enrollment period that coverage under a health insurance plan or a group health plan was the reason for declining enrollment;

(iii) lost coverage under another health insurance plan or group health plan (as a result of the termination of the other plan's coverage, termination or reduction of employment, or other reason); and

(iv) requests enrollment within 30 days after termination of such coverage.

(C) REQUIREMENT APPLIES DURING OPEN ENROLLMENT PERIODS.—Each health insurance plan shall provide for at least one period (of not less than 30 days) each year during which enrollment under the plan shall be considered to be timely.

(D) EXCEPTION FOR COURT ORDERS.—Enrollment of a spouse or minor child of an employee shall be considered to be timely if—

(i) a court has ordered that coverage be provided for the spouse or child under a covered employee's group health plan; and

(ii) a request for enrollment is made within 30 days after the date the court issues the order.

(E) ENROLLMENT OF SPOUSES AND DEPENDENTS.—

(i) IN GENERAL.—Enrollment of the spouse (including a child of the spouse) and any dependent child of an eligible employee shall be considered to be timely if a request for enrollment is made either—

(I) within 30 days of the date of the marriage or of the date of the birth or adoption of a child, if family coverage is available as of such date; or

(II) within 30 days of the date family coverage is first made available.

(ii) COVERAGE.—If a plan makes family coverage available and enrollment is made under the plan on a timely basis under clause (i)(I), the coverage shall become effective not later than the first day of the first month beginning after the date of the marriage or the date of birth or adoption of the child (as the case may be).

(4) FINANCIAL CAPACITY EXCEPTION.—Paragraph (1) shall not require any insurer to issue a health insurance plan to the extent that the issuance of such plan would result in such insurer violating the financial solvency standards (if any) established by the State in which such plan is to be issued.

(5) DELIVERY CAPACITY EXCEPTION.—

(A) IN GENERAL.—Paragraph (1) shall not prohibit an insurer from ceasing enrollment under a health insurance plan if—

(i) the insurer ceases to enroll any new small employers under the plan; and

(ii) the insurer can demonstrate to the Secretary that its provider capacity to serve previously covered groups or individuals (and additional individuals who will be expected to enroll because of affiliation with such previously covered groups or individuals) will be impaired if it is required to enroll other small employers.

(B) FIRST-COME-FIRST-SERVED.—An insurer is only eligible to exercise the exceptions provided for in subparagraph (A) if such insurer provides for enrollment on a first-come-first-served basis (except in the case of additional individuals described in subparagraph (A)(ii)).

(6) ADDITIONAL EXCEPTIONS.—Paragraph (1) shall not apply to a failure to issue a health insurance plan to a small employer if—

(A) such employer is unable to pay the premium for such contract; or

(B) in the case of a small employer with fewer than 15 employees, such employer fails to enroll a minimum percentage of the employer's employees for coverage under such plan, so long as such percentage is enforced uniformly for all small employers of comparable size.

(7) EXCEPTION FOR ALTERNATIVE STATE PROGRAMS.—

(A) IN GENERAL.—Paragraph (1) shall not apply if the State in which the health insurance plan is issued—

(i) has a program which—

(I) assures the availability of health insurance plans to small employers through the equitable distribution of high risk groups among all insurers offering such contracts to such small employers; and

(II) is consistent with a model program developed by the NAIC;

(ii) has a qualified State-run reinsurance program; or

(iii) has a program which the Secretary has determined assures all small employers in the State an opportunity to purchase a health insurance plan without regard to any risk characteristic.

(B) REINSURANCE PROGRAM.—

(i) PROGRAM REQUIREMENTS.—For purposes of subparagraph (A)(ii), a State-run reinsurance program is qualified if such program is one of the NAIC reinsurance program models developed under clause (ii) or is a variation of one of such models, as approved by the Secretary.

(ii) MODELS.—Not later than 120 days after the date of the enactment of this Act, the NAIC shall develop several models for a reinsurance program, including options for program funding.

(c) MANDATORY REGISTRATION REQUIREMENTS.—The requirements of this subsection are met if the insurer offering health insurance plans to small employers in any State registers with the State commissioner or superintendent of insurance or other State authority responsible for regulation of health insurance.

SEC. 122. RATING LIMITATIONS FOR COMMUNITY-RATED MARKET.

(a) STANDARD PREMIUMS WITH RESPECT TO COMMUNITY-RATED ELIGIBLE EMPLOYEES AND ELIGIBLE INDIVIDUALS.—

(1) IN GENERAL.—Each health insurance plan offered to a small employer shall establish within each community rating area in which the plan is to be offered, a standard premium for enrollment of eligible employees and eligible individuals for the standard coverage (as defined under section 112(b)).

(2) ESTABLISHMENT OF COMMUNITY RATING AREA.—

(A) IN GENERAL.—Not later than January 1, 1996, each State shall, in accordance with subparagraph (B), provide for the division of the State into 1 or more community rating areas. The State may revise the boundaries of such areas from time to time consistent with this paragraph.

(B) GEOGRAPHIC AREA VARIATIONS.—For purposes of subparagraph (A), a State—

(i) may not identify an area that divides a 3-digit zip code, a county, or all portions of a metropolitan statistical area;

(ii) shall not permit premium rates for coverage offered in a portion of an interstate metropolitan statistical area to vary based on the State in which the coverage is offered; and

(iii) may, upon agreement with one or more adjacent States, identify multi-State geographic areas consistent with clauses (i) and (ii).

(3) ELIGIBLE INDIVIDUALS.—For purposes of this section, the term ''eligible individuals'' includes certain uninsured individuals (as described in section 133).

(b) UNIFORM PREMIUMS WITHIN COMMUNITY RATING AREAS.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), the standard premium for each health insurance plan shall be the same, but shall not include the costs of premium processing and enrollment that may vary depending on whether the method of enrollment is through a qualified small employer purchasing group (established under subpart C), through a small employer, or through a broker.

(2) APPLICATION TO ENROLLEES.—

(A) IN GENERAL.—The premium charged for coverage in a health insurance plan which covers eligible employees and eligible individuals shall be the product of—

(i) the standard premium (established under paragraph (1));

(ii) in the case of enrollment other than individual enrollment, the family adjustment factor specified under subparagraph (B); and

(iii) the age adjustment factor (specified under subparagraph (C)).

(B) FAMILY ADJUSTMENT FACTOR.—

(i) IN GENERAL.—The standards established under section 113 shall specify family adjustment factors that reflect the relative actuarial costs of benefit packages based on family classes of enrollment (as compared with such costs for individual enrollment).

(ii) CLASSES OF ENROLLMENT.—For purposes of this Act, there are 4 classes of enrollment:

(I) Coverage only of an individual (referred to in this Act as the ''individual'' enrollment or class of enrollment).

(II) Coverage of a married couple without children (referred to in this Act as the ''couple-only'' enrollment or class of enrollment).

(III) Coverage of an individual and one or more children (referred to in this Act as the ''single parent'' enrollment or class of enrollment).

(IV) Coverage of a married couple and one or more children (referred to in this Act as the ''dual parent'' enrollment or class of enrollment).

(iii) REFERENCES TO FAMILY AND COUPLE CLASSES OF ENROLLMENT.—In this subtitle:

(I) FAMILY.—The terms ''family enrollment'' and ''family class of enrollment'' refer to enrollment in a class of enrollment described in any subclause of clause (ii) (other than subclause (I)).

(II) COUPLE.—The term ''couple class of enrollment'' refers to enrollment in a class of enrollment described in subclause (II) or (IV) of clause (ii).

(iv) SPOUSE; MARRIED; COUPLE.—

(I) IN GENERAL.—In this subtitle, the terms ''spouse'' and ''married'' mean, with respect to an individual, another individual who is the spouse of, or is married to, the individual, as determined under applicable State law.

(II) COUPLE.—The term ''couple'' means an individual and the individual's spouse.

(C) AGE ADJUSTMENT FACTOR.—The Secretary, in consultation with the NAIC, shall specify uniform age categories and maximum rating increments for age adjustment factors that reflect the relative actuarial costs of benefit packages among enrollees. For individuals who have attained age 18 but not age 65, the highest age adjustment factor may not exceed 3 times the lowest age adjustment factor.

(3) ADMINISTRATIVE CHARGES.—

(A) IN GENERAL.—In accordance with the standards established under section 113, a health insurance plan which covers eligible employees and eligible individuals may add a separately-stated administrative charge which is based on identifiable differences in legitimate administrative costs and which is applied uniformly for individuals enrolling through the same method of enrollment. Nothing in this subparagraph may be construed as preventing a qualified small employer purchasing group from negotiating a unique administrative charge with an insurer for a health insurance plan.

(B) ENROLLMENT THROUGH A QUALIFIED SMALL EMPLOYER PURCHASING GROUP.—In the case of an administrative charge under subparagraph (A) for enrollment through a qualified small employer purchasing group, such charge may not exceed the lowest charge of such plan for enrollment other than through a qualified small employer purchasing group in such area.

(c) TREATMENT OF NEGOTIATED RATE AS COMMUNITY RATE.—Notwithstanding any other provision of this section, an insurer which negotiates a premium rate (exclusive of any administrative charge described in subsection (b)(3)) with a qualified small employer purchasing group in a community rating area shall charge the same premium rate to all eligible employees and eligible individuals.

SEC. 123. RATING PRACTICES AND PAYMENT OF PREMIUMS.

(a) FULL DISCLOSURE OF RATING PRACTICES.—

(1) IN GENERAL.—An insurer shall fully disclose rating practices for such plan to the appropriate certifying authority (as determined under section 121(c)).

(2) NOTICE ON EXPIRATION.—An insurer shall provide for notice of the terms for renewal of a health insurance plan at the time of the offering of the plan and at least 90 days before the date of expiration of the plan.

(3) ACTUARIAL CERTIFICATION.—Each insurer shall file annually with the appropriate certifying authority a written statement by a member of the American Academy of Actuaries (or other individual acceptable to such authority) who is not an employee of the insurer certifying that, based upon an examination by the individual which includes a review of the appropriate records and of the actuarial assumptions of such insurer and methods used by the insurer in establishing premium rates and administrative charges for health insurance plans—

(A) such insurer is in compliance with the applicable provisions of this subtitle; and

(B) the rating methods are actuarially sound.

Each insurer shall retain a copy of such statement at its principal place of business for examination by any individual.

(b) PAYMENT OF PREMIUMS.—

(1) IN GENERAL.—With respect to a new enrollee in a health insurance plan, the plan may require advanced payment of an amount equal to the monthly applicable premium for the plan at the time such individual is enrolled.

(2) NOTIFICATION OF FAILURE TO RECEIVE PREMIUM.—If a health insurance plan fails to receive payment on a premium due with respect to an eligible employee or eligible individual covered under the plan, the plan shall provide notice of such failure to the employee or individual within the 20-day period after the date on which such premium payment was due. A plan may not terminate the enrollment of an eligible employee or eligible individual unless such employee or individual has been notified of any overdue premiums and has been provided a reasonable opportunity to respond to such notice.

Subpart C—Small Employer Purchasing Groups

SEC. 131. QUALIFIED SMALL EMPLOYER PURCHASING GROUPS.

(a) QUALIFIED SMALL EMPLOYER PURCHASING GROUPS DESCRIBED.—

(1) IN GENERAL.—A qualified small employer purchasing group is an entity that—

(A) is a nonprofit entity certified under State law;

(B) has a membership consisting solely of small employers;

(C) is administered solely under the authority and control of its member employers;

(D) with respect to each State in which its members are located, consists of not fewer than the number of small employers established by the State as appropriate for such a group;

(E) offers a program under which qualified health insurance plans are offered to eligible employees and eligible individuals through its member employers and to certain uninsured individuals in accordance with section 122; and

(F) an insurer, agent, broker, or any other individual or entity engaged in the sale of insurance—

(i) does not form or underwrite; and

(ii) does not hold or control any right to vote with respect to.

(2) STATE CERTIFICATION.—A qualified small employer purchasing group formed under this section shall submit an application to the State for certification. The State shall determine whether to issue a certification and otherwise ensure compliance with the requirements of this Act.

(3) SPECIAL RULE.—Notwithstanding paragraph (1)(B), an employer member of a small employer purchasing group that has been certified by the State as meeting the requirements of paragraph (1) may retain its membership in the group if the number of employees of the employer increases such that the employer is no longer a small employer.

(b) BOARD OF DIRECTORS.—Each qualified small employer purchasing group established under this section shall be governed by a board of directors or have active input from an advisory board consisting of individuals and businesses participating in the group.

(c) DOMICILIARY STATE.—For purposes of this section, a qualified small employer purchasing group operating in more than one State shall be certified by the State in which the group is domiciled.

(d) MEMBERSHIP.—

(1) IN GENERAL.—A qualified small employer purchasing group shall accept all small employers and certain uninsured individuals residing within the area served by the group as members if such employers or individuals request such membership.

(2) VOTING.—Members of a qualified small employer purchasing group shall have voting rights consistent with the rules established by the State.

(e) DUTIES OF QUALIFIED SMALL EMPLOYER PURCHASING GROUPS.—Each qualified small employer purchasing group shall—

(1) enter into agreements with insurers offering qualified health insurance plans;

(2) enter into agreements with small employers under section 132;

(3) enroll only eligible employees, eligible individuals, and certain uninsured individuals in qualified health insurance plans, in accordance with section 133;

(4) provide enrollee information to the State;

(5) meet the marketing requirements under section 135; and

(6) carry out other functions provided for under this Act.

(f) LIMITATION ON ACTIVITIES.—A qualified small employer purchasing group shall not—

(1) perform any activity involving approval or enforcement of payment rates for providers;

(2) perform any activity (other than the reporting of noncompliance) relating to compliance of qualified health insurance plans with the requirements of this Act;

(3) assume financial risk in relation to any such health plan; or

(4) perform other activities identified by the State as being inconsistent with the performance of its duties under this Act.

(g) RULES OF CONSTRUCTION.—

(1) ESTABLISHMENT NOT REQUIRED.—Nothing in this section shall be construed as requiring—

(A) that a State organize, operate or otherwise establish a qualified small employer purchasing group, or otherwise require the establishment of purchasing groups; and

(B) that there be only one qualified small employer purchasing group established with respect to a community rating area.

(2) SINGLE ORGANIZATION SERVING MULTIPLE AREAS AND STATES.—Nothing in this section shall be construed as preventing a single entity from being a qualified small employer purchasing group in more than one community rating area or in more than one State.

(3) VOLUNTARY PARTICIPATION.—Nothing in this section shall be construed as requiring any individual or small employer to purchase a qualified health insurance plan exclusively through a qualified small employer purchasing group.

SEC. 132. AGREEMENTS WITH SMALL EMPLOYERS.

(a) IN GENERAL.—A qualified small employer purchasing group shall offer to enter into an agreement under this section with each small employer that employs eligible employees in the area served by the group.

(b) PAYROLL DEDUCTION.—

(1) IN GENERAL.—Under an agreement under this section between a small employer and a qualified small employer purchasing group, the small employer shall deduct premiums from an eligible employee's wages.

(2) ADDITIONAL PREMIUMS.—If the amount withheld under paragraph (1) is not sufficient to cover the entire cost of the premiums, the eligible employee shall be responsible for paying directly to the qualified small employer purchasing group the difference between the amount of such premiums and the amount withheld.

SEC. 133. ENROLLING ELIGIBLE EMPLOYEES, ELIGIBLE INDIVIDUALS, AND CERTAIN UNINSURED INDIVIDUALS IN QUALIFIED HEALTH INSURANCE PLANS.

(a) IN GENERAL.—Each qualified small employer purchasing group shall offer—

(1) eligible employees,

(2) eligible individuals, and

(3) certain uninsured individuals,

the opportunity to enroll in any qualified health insurance plan which has an agreement with the qualified small employer purchasing group for the community rating area in which such employees and individuals reside.

(b) UNINSURED INDIVIDUALS.—For purposes of this section, an individual is described in subsection (a)(3) if such individual is an uninsured individual who is not an eligible employee of a small employer that is a member of a qualified small employer purchasing group or a dependent of such individual.

SEC. 134. RECEIPT OF PREMIUMS.

(a) ENROLLMENT CHARGE.—The amount charged by a qualified small employer purchasing group for coverage under a qualified health insurance plan shall be equal to the sum of—

(1) the premium rate offered by such health plan;

(2) the administrative charge for such health plan; and

(3) the purchasing group administrative charge for enrollment of eligible employees, eligible individuals and certain uninsured individuals through the group.

(b) DISCLOSURE OF PREMIUM RATES AND ADMINISTRATIVE CHARGES.—Each qualified small employer purchasing group shall, prior to the time of enrollment, disclose to enrollees and other interested parties the premium rate for a qualified health insurance plan, the administrative charge for such plan, and the administrative charge of the group, separately.

SEC. 135. MARKETING ACTIVITIES.

Each qualified small employer purchasing group shall market qualified health insurance plans to members through the entire community rating area served by the purchasing group.

SEC. 136. GRANTS TO STATES AND QUALIFIED SMALL EMPLOYER PURCHASING GROUPS.

(a) IN GENERAL.—The Secretary shall award grants to States and small employer purchasing groups to assist such States and groups in planning, developing, and operating qualified small employer purchasing groups.

(b) APPLICATION REQUIREMENTS.—To be eligible to receive a grant under this section, a State or small employer purchasing group shall prepare and submit to the Secretary an application in such form, at such time, and containing such information, certifications, and assurances as the Secretary shall reasonably require.

(c) USE OF FUNDS.—Amounts awarded under this section may be used to finance the costs associated with planning, developing, and operating a qualified small employer purchasing group. Such costs may include the costs associated with—

(1) engaging in education and outreach efforts to inform small employers, insurers, and the public about the small employer purchasing group;

(2) soliciting bids and negotiating with insurers to make available health care benefit plans;

(3) preparing the documentation required to receive certification by the Secretary as a qualified small employer purchasing group; and

(4) such other activities determined appropriate by the Secretary.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for awarding grants under this subsection such sums as may be necessary.

SEC. 137. QUALIFIED SMALL EMPLOYER PURCHASING GROUPS ESTABLISHED BY A STATE.

A State may establish a system in all or part of the State under which qualified small employer purchasing groups are the sole mechanism through which health care coverage for the eligible employees of small employers shall be purchased or provided.

PART 2—STANDARDS APPLICABLE TO ALL HEALTH INSURANCE PLANS

SEC. 141. COVERAGE REQUIREMENTS.

(a) GENERAL RULE.—Any insurer offering a health insurance plan shall meet the coverage requirements of subsection (b).

(b) COVERAGE REQUIREMENTS.—

(1) IN GENERAL.—The requirements of this subsection are met with respect to any health insurance plan if, under the terms and operation of the plan, the following requirements are met:

(A) GUARANTEED ELIGIBILITY.—No individual (and any dependent of the individual eligible for coverage) may be denied, limited, conditioned, or excluded from coverage under (or benefits of) the plan for any reason, including health status, medical condition, claims experience, receipt of health care, medical history, anticipated need for health care expenses, disability, or lack of evidence of insurability, of the individual.

(B) LIMITATIONS ON COVERAGE OF PREEXISTING CONDITIONS.—Any limitation under the plan on any preexisting condition—

(i) may not extend beyond the 6-month period beginning with the date an insured is first covered by the plan;

(ii) may only apply to preexisting conditions which manifested themselves, or for which medical care or advice was sought or recommended, during the 3-month period preceding the date an insured is first covered by the plan;

(iii) may not extend to an individual who, as of the date of birth, was covered under the plan; and

(iv) may not relate to pregnancy.

(C) GUARANTEED RENEWABILITY.—

(i) IN GENERAL.—The plan must be renewed at the election of the insured unless the plan is terminated for cause.

(ii) CAUSE.—For purposes of this subparagraph, the term ''cause'' means—

(I) nonpayment of the required premiums;

(II) fraud or misrepresentation of the insured or their representatives;

(III) noncompliance with the plan's minimum participation requirements;

(IV) noncompliance with the plan's employer contribution requirements; or

(V) repeated misuse of a provider network provision in the plan.

(2) WAITING PERIODS.—Paragraph (1)(A) shall not apply to any period an employee is excluded from coverage under the plan solely by reason of a requirement applicable to all employees that a minimum period of service with the employer is required before the employee is eligible for such coverage.

(3) DETERMINATION OF PERIODS FOR RULES RELATING TO PREEXISTING CONDITIONS.—For purposes of paragraph (1)(B), the date on which an insured is first covered by a plan shall be the earlier of—

(A) the date on which coverage under such plan begins; or

(B) the first day of any continuous period—

(i) during which the insured was covered under one or more other health insurance arrangements; and

(ii) in the case of an employee, which does not end more than 120 days before the date employment with the employer begins.

(4) CESSATION OF BUSINESS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, an insurer shall not be treated as failing to meet the requirements of paragraph (1)(C) if such insurer terminates the class of business which includes the health insurance plan.

(B) NOTICE REQUIREMENT.—Subparagraph (A) shall apply only if the insurer gives notice of the decision to terminate at least 90 days before the expiration of the plan.

(C) 5-YEAR MORATORIUM.—If, within 5 years of the year in which an insurer terminates a class of business under subparagraph (A), such insurer establishes a new class of business, the issuance of plans in that year shall be treated as a failure to which this section applies.

(D) TRANSFERS.—If, upon a failure to renew a plan to which subparagraph (A) applies, an insurer offers to transfer such plan to another class of business, such transfer must be made without regard to risk characteristics.

(5) CLASS OF BUSINESS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term ''class of business'' means, with respect to health care insurance provided to persons, all health care insurance provided to such persons.

(B) ESTABLISHMENT OF GROUPINGS.—

(i) IN GENERAL.—An issuer may establish separate classes of business with respect to health care insurance provided to all persons but only if such classes are based on one or more of the following:

(I) Business marketed and sold through insurers not participating in the marketing and sale of such insurance to other persons.

(II) Business acquired from other insurers as a distinct grouping.

(III) Business provided through an association of not less than 20 small employers which was established for purposes other than obtaining insurance.

(IV) Business related to managed care plans.

(V) Any other business which the Secretary determines needs to be separately grouped to prevent a substantial threat to the solvency of the insurer.

(ii) EXCEPTION ALLOWED.—Except as provided in subparagraph (C), an insurer may not establish more than one distinct group of persons for each category specified in clause (i).

(C) SPECIAL RULE.—An insurer may establish up to 2 groups under each category in subparagraph (A) or (B) to account for differences in characteristics (other than differences in plan benefits) of health insurance plans that are expected to produce substantial variation in health care costs.

PART 3—ENFORCEMENT OF STANDARDS FOR HEALTH INSURANCE PLANS

SEC. 151. ENFORCEMENT BY EXCISE TAX ON INSURERS.

(a) IN GENERAL.—Chapter 43 of the Internal Revenue Code of 1986 (relating to qualified pension, etc., plans) is amended by adding at the end the following new section:

"SEC. 4980C. FAILURE OF INSURER TO COMPLY WITH CERTAIN STANDARDS FOR HEALTH INSURANCE PLANS.

''(a) IMPOSITION OF TAX.—

''(1) IN GENERAL.—There is hereby imposed a tax on the failure of an insurer to comply with the requirements applicable to such insurer under parts 1 and 2 of subtitle B of title I of the Health Care Assurance Act of 1995.

''(2) EXCEPTION.—Paragraph (1) shall not apply to a failure by an insurer in a State if the Secretary of Health and Human Services determines that the State has in effect a regulatory enforcement mechanism that provides adequate sanctions with respect to such a failure by such an insurer.

''(b) AMOUNT OF TAX.—

''(1) IN GENERAL.—Subject to paragraph (2), the amount of the tax imposed by subsection (a) shall be $100 for each day during which such failure persists for each person to which such failure relates. A rule similar to the rule of section 4980B(b)(3) shall apply for purposes of this section.

''(2) LIMITATION.—The amount of the tax imposed by subsection (a) for an insurer with respect to a health insurance plan shall not exceed 25 percent of the amounts received under the plan for coverage during the period such failure persists.

''(c) LIABILITY FOR TAX.—The tax imposed by this section shall be paid by the insurer.

''(d) LIMITATIONS ON AMOUNT OF TAX.—

''(1) TAX NOT TO APPLY TO FAILURES CORRECTED WITHIN 30 DAYS.—No tax shall be imposed by subsection (a) on any failure if—

''(A) such failure was due to reasonable cause and not to willful neglect, and

''(B) such failure is corrected during the 30-day period (or such period as the Secretary may determine appropriate) beginning on the first date the insurer knows, or exercising reasonable diligence could have known, that such failure existed.

''(2) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved.

''(e) DEFINITIONS.—For purposes of this section, the terms 'health insurance plan' and 'insurer' have the meanings given such terms in section 100 of the Health Care Assurance Act of 1995.''.

(b) CLERICAL AMENDMENT.—The table of sections for such chapter 43 is amended by adding at the end the following new item:

''Sec. 4980C. Failure of insurer to comply with certain standards for health insurance plans.''.

PART 4—EFFECTIVE DATES

SEC. 161. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in this subtitle, the provisions of this subtitle are effective on the date of the enactment of this Act.

(b) EXCEPTION.—The provisions of section 121(b) shall apply to contracts which are issued, or renewed, after the date which is 18 months after the date of the enactment of this Act.

Subtitle C—Required Coverage Options for Eligible Employees and Dependents of Small Employers

SEC. 171. REQUIRING SMALL EMPLOYERS TO OFFER COVERAGE FOR ELIGIBLE INDIVIDUALS.

(a) REQUIREMENT TO OFFER.—Each small employer shall make available with respect to each eligible employee a group health plan under which—

(1) coverage of each eligible individual with respect to such an eligible employee may be elected on an annual basis for each plan year;

(2) coverage is provided for at least the standard coverage specified in section 112(b); and

(3) each eligible employee electing such coverage may elect to have any premiums owed by the employee collected through payroll deduction.

(b) NO EMPLOYER CONTRIBUTION REQUIRED.—An employer is not required under subsection (a) to make any contribution to the cost of coverage under a group health plan described in such subsection.

(c) SPECIAL RULES.—

(1) EXCLUSION OF NEW EMPLOYERS AND CERTAIN VERY SMALL EMPLOYERS.—Subsection (a) shall not apply to any small employer for any plan year if, as of the beginning of such plan year—

(A) such employer (including any predecessor thereof) has been an employer for less than 2 years;

(B) such employer has no more than 2 eligible employees; or

(C) no more than 2 eligible employees are not covered under any group health plan.

(2) EXCLUSION OF FAMILY MEMBERS.—Under such procedures as the Secretary may prescribe, any relative of a small employer may be, at the election of the employer, excluded from consideration as an eligible employee for purposes of applying the requirements of subsection (a). In the case of a small employer that is not an individual, an employee who is a relative of a key employee (as defined in section 416(i)(1) of the Internal Revenue Code of 1986) of the employer may, at the election of the key employee, be considered a relative excludable under this paragraph.

(3) OPTIONAL APPLICATION OF WAITING PERIOD.—A group health plan shall not be treated as failing to meet the requirements of subsection (a) solely because a period of service by an eligible employee of not more than 60 days is required under the plan for coverage under the plan of eligible individuals with respect to such employee.

(d) CONSTRUCTION.—Nothing in this section shall be construed as limiting the group health plans, or types of coverage under such a plan, that an employer may offer to an employee.

SEC. 172. COMPLIANCE WITH APPLICABLE REQUIREMENTS THROUGH MULTIPLE EMPLOYER HEALTH ARRANGEMENTS.

(a) IN GENERAL.—In any case in which an eligible employee is, for any plan year, a participant in a group health plan which is a multiemployer plan, the requirements of section 171(a) shall be deemed to be met with respect to such employee for such plan year if the employer requirements of subsection (b) are met with respect to the eligible employee, irrespective of whether, or to what extent, the employer makes employer contributions on behalf of the eligible employee.

(b) EMPLOYER REQUIREMENTS.—The employer requirements of this subsection are met under a plan with respect to an eligible employee if—

(1) the employee is eligible under the plan to elect coverage on an annual basis and is provided a reasonable opportunity to make the election in such form and manner and at such times as are provided by the plan;

(2) coverage is provided for at least the standard coverage specified in section 112(b);

(3) the employer facilitates collection of any employee contributions under the plan and permits the employee to elect to have employee contributions under the plan collected through payroll deduction; and

(4) in the case of a plan to which part 1 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 does not otherwise apply, the employer provides to the employee a summary plan description described in section 102(a)(1) of such Act in the form and manner and at such times as are required under such part 1 with respect to employee welfare benefit plans.

SEC. 173. ENFORCEMENT BY EXCISE TAX ON SMALL EMPLOYERS.

(a) IN GENERAL.—Chapter 47 of the Internal Revenue Code of 1986 (relating to excise taxes on certain group health plans) is amended by inserting after section 5000 the following new section:

"SEC. 5000A. SMALL EMPLOYER REQUIREMENTS.

''(a) GENERAL RULE.—There is hereby imposed a tax on the failure of any small employer to comply with the requirements of subtitle C of title I of the Health Care Assurance Act of 1995.

''(b) AMOUNT OF TAX.—The amount of tax imposed by subsection (a) shall be equal to $100 for each day for each individual for which such a failure occurs.

''(c) LIMITATION ON TAX.—

''(1) TAX NOT TO APPLY WHERE FAILURES CORRECTED WITHIN 30 DAYS.—No tax shall be imposed by subsection (a) with respect to any failure if—

''(A) such failure was due to reasonable cause and not to willful neglect, and

''(B) such failure is corrected during the 30-day period (or such period as the Secretary may determine appropriate) beginning on the 1st date any of the individuals on whom the tax is imposed knew, or exercising reasonable diligence would have known, that such failure existed.

''(2) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved.''.

(b) CLERICAL AMENDMENT.—The table of sections for such chapter 47 is amended by adding at the end the following new item:

''Sec. 5000A. Small employer requirements.''.

Subtitle D—Required Coverage Options for Individuals Insured Through Association Plans

PART 1—QUALIFIED ASSOCIATION PLANS

SEC. 181. TREATMENT OF QUALIFIED ASSOCIATION PLANS.

(a) GENERAL RULE.—For purposes of this subtitle, in the case of a qualified association plan—

(1) except as otherwise provided in this part, the plan shall meet all applicable requirements of subpart A of part 1 and part 2 of subtitle B and subtitle C for group health plans offered to and by small employers;

(2) if such plan is certified as meeting such requirements and the requirements of this part, such plan shall be treated as a plan established and maintained by a small employer, and individuals enrolled in such plan shall be treated as eligible employees; and

(3) any individual who is a member of the association not enrolling in the plan shall not be treated as an eligible employee solely by reason of membership in such association.

(b) ELECTION TO BE TREATED AS PURCHASING COOPERATIVE.—Subsection (a) shall not apply to a qualified association plan if—

(1) the health plan sponsor makes an irrevocable election to be treated as a qualified small employer purchasing group for purposes of subpart C of subtitle B; and

(2) such sponsor meets all requirements of this title applicable to a purchasing cooperative.

SEC. 182. QUALIFIED ASSOCIATION PLAN DEFINED.

(a) GENERAL RULE.—For purposes of this part, a plan is a qualified association plan if the plan is a multiple employer welfare arrangement or similar arrangement—

(1) which is maintained by a qualified association;

(2) which has at least 500 participants in the United States;

(3) under which the benefits provided consist solely of medical care (as defined in section 213(d) of the Internal Revenue Code of 1986);

(4) which may not condition participation in the plan, or terminate coverage under the plan, on the basis of the health status or health claims experience of any employee or member or dependent of either;

(5) which provides for bonding, in accordance with regulations providing rules similar to the rules under section 412 of the Employee Retirement Income Security Act of 1974, of all persons operating or administering the plan or involved in the financial affairs of the plan; and

(6) which notifies each participant or provider that it is certified as meeting the requirements of this subtitle applicable to it.

(b) SELF-INSURED PLANS.—In the case of a plan which is not fully insured (within the meaning of section 514(b)(6)(D) of the Employee Retirement Income Security Act of 1974), the plan shall be treated as a qualified association plan only if—

(1) the plan meets minimum financial solvency and cash reserve requirements for claims which are established by the Secretary of Labor and which shall be in lieu of any other such requirements under this subtitle;

(2) the plan provides an annual funding report (certified by an independent actuary) and annual financial statements to the Secretary of Labor and other interested parties; and

(3) the plan appoints a plan sponsor who is responsible for operating the plan and ensuring compliance with applicable Federal and State laws.

(c) CERTIFICATION.—

(1) IN GENERAL.—A plan shall not be treated as a qualified association plan for any period unless there is in effect a certification by the Secretary of Labor that the plan meets the requirements of this part. For purposes of this subtitle, the Secretary of Labor shall be the appropriate certifying authority with respect to the plan.

(2) FEE.—The Secretary of Labor shall require a $5,000 fee for the original certification under paragraph (1) and may charge a reasonable annual fee to cover the costs of processing and reviewing the annual statements of the plan.

(3) EXPEDITED PROCEDURES.—The Secretary of Labor may by regulation provide for expedited registration, certification, and comment procedures.

(4) AGREEMENTS.—The Secretary of Labor may enter into agreements with the States to carry out the Secretary's responsibilities under this part.

(d) AVAILABILITY.—Notwithstanding any other provision of this subtitle, a qualified association plan may limit coverage to individuals who are members of the qualified association establishing or maintaining the plan, an employee of such member, or a dependent of either.

(e) SPECIAL RULES FOR EXISTING PLANS.—In the case of a plan in existence on January 1, 1995—

(1) the requirements of subsection (a) (other than paragraph (4), (5), and (6) thereof) shall not apply;

(2) no original certification shall be required under this part; and

(3) no annual report or funding statement shall be required before January 1, 1997, but the plan shall file with the Secretary of Labor a description of the plan and the name of the plan sponsor.

SEC. 183. DEFINITIONS AND SPECIAL RULES.

(a) QUALIFIED ASSOCIATION.—For purposes of this part, the term ''qualified association'' means any organization which—

(1) is organized and maintained in good faith by a trade association, an industry association, a professional association, a chamber of commerce, a religious organization, a public entity association, or other business association serving a common or similar industry;

(2) is organized and maintained for substantial purposes other than to provide a health plan;

(3) has a constitution, bylaws, or other similar governing document which states its purpose; and

(4) receives a substantial portion of its financial support from its active, affiliated, or federation members.

(b) MULTIPLE EMPLOYER WELFARE ARRANGEMENT.—For purposes of this subchapter, the term ''multiple employer welfare arrangement'' has the meaning given such term by section 3(40) of the Employee Retirement Income Security Act of 1974.

(c) COORDINATION WITH PART 2.—The term ''qualified association plan'' shall not include a plan to which part 2 applies.

PART 2—SPECIAL RULE FOR CHURCH, MULTIEMPLOYER, AND COOPERATIVE PLANS

SEC. 191. SPECIAL RULE FOR CHURCH, MULTIEMPLOYER, AND COOPERATIVE PLANS.

(a) GENERAL RULE.—For purposes of this subtitle, in the case of a group health plan to which this section applies—

(1) except as otherwise provided in this part, the plan shall be required to meet all applicable requirements of subpart A of part 1 and part 2 of subtitle B and subtitle C for group health plans offered to and by small employers;

(2) if such plan is certified as meeting such requirements, such plan shall be treated as a plan established and maintained by a small employer and individuals enrolled in such plan shall be treated as eligible employees; and

(3) any individual eligible to enroll in the plan who does not enroll in the plan shall not be treated as an eligible employee solely by reason of being eligible to enroll in the plan.

(b) MODIFIED STANDARDS.—

(1) CERTIFYING AUTHORITY.—For purposes of this subtitle, the Secretary of Labor shall be the appropriate certifying authority with respect to a plan to which this section applies.

(2) AVAILABILITY.—Rules similar to the rules of subsection (e) of section 182 shall apply to a plan to which this section applies.

(3) ACCESS.—An employer which, pursuant to a collective bargaining agreement, offers an employee the opportunity to enroll in a plan described in subsection (c)(2) shall not be required to make any other plan available to the employee.

(4) TREATMENT UNDER STATE LAWS.—A church plan described in subsection (c)(1) which is certified as meeting the requirements of this section shall not be deemed to be a multiple employer welfare arrangement or an insurance company or other insurer, or to be engaged in the business of insurance, for purposes of any State law purporting to regulate insurance companies or insurance contracts.

(c) PLANS TO WHICH SECTION APPLIES.—This section shall apply to a health plan which—

(1) is a church plan (as defined in section 414(e) of the Internal Revenue Code of 1986) which has at least 100 participants in the United States;

(2) is a multiemployer plan (as defined in section 3(37) of the Employee Retirement Income Security Act of 1974) which is maintained by a health plan sponsor described in section 3(16)(B)(iii) of such Act and which has at least 500 participants in the United States; or

(3) is a plan which is maintained by a rural electric cooperative or a rural telephone cooperative association (within the meaning of section 3(40) of such Act) and which has at least 500 participants in the United States.

PART 3—ENFORCEMENT

SEC. 1001. ENFORCEMENT BY EXCISE TAX ON QUALIFIED ASSOCIATIONS.

(a) IN GENERAL.—Chapter 43 of the Internal Revenue Code of 1986 (relating to qualified pension, etc., plans), as amended by section 151, is amended by adding at the end the following new section:

''SEC. 4980D. FAILURE OF QUALIFIED ASSOCIATIONS, ETC., TO COMPLY WITH CERTAIN STANDARDS FOR HEALTH INSURANCE PLANS.

''(a) IMPOSITION OF TAX.—

''(1) IN GENERAL.—There is hereby imposed a tax on the failure of a qualified association (as defined in section 183 of the Health Care Assurance Act of 1995), church plan (as defined in section 414(e) of the Internal Revenue Code of 1986), multiemployer plan (as defined in section 3(37) of the Employee Retirement Income Security Act of 1974), or plan maintained by a rural electric cooperative or a rural telephone cooperative association (within the meaning of section 3(40) of such Act) to comply with the requirements applicable to such association or plans under parts 1 and 2 of subtitle D of title I of the Health Care Assurance Act of 1995.

''(2) EXCEPTION.—Paragraph (1) shall not apply to a failure by a qualified association, church plan, multiemployer plan, or plan maintained by a rural electric cooperative or a rural telephone cooperative association in a State if the Secretary of Health and Human Services determines that the State has in effect a regulatory enforcement mechanism that provides adequate sanctions with respect to such a failure by such a qualified association or plan.

''(b) AMOUNT OF TAX.—The amount of the tax imposed by subsection (a) shall be $100 for each day during which such failure persists for each person to which such failure relates. A rule similar to the rule of section 4980B(b)(3) shall apply for purposes of this section.

''(c) LIABILITY FOR TAX.—The tax imposed by this section shall be paid by the qualified association or plan.

''(d) LIMITATIONS ON AMOUNT OF TAX.—

''(1) TAX NOT TO APPLY TO FAILURES CORRECTED WITHIN 30 DAYS.—No tax shall be imposed by subsection (a) on any failure if—

''(A) such failure was due to reasonable cause and not to willful neglect, and

''(B) such failure is corrected during the 30-day period (or such period as the Secretary may determine appropriate) beginning on the first date the qualified association, church plan, multiemployer plan, or plan maintained by a rural electric cooperative or a rural telephone cooperative association knows, or exercising reasonable diligence could have known, that such failure existed.

''(2) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved.''.

(b) CLERICAL AMENDMENT.—The table of sections for such chapter 43, as amended by section 151, is amended by adding at the end the following new item:

''Sec. 4980D. Failure of qualified associations, etc., to comply with certain standards for health insurance plans.''.

Subtitle E—1-Year Extension of Medicare Select

SEC. 1011. 1-YEAR EXTENSION OF PERIOD FOR ISSUANCE OF MEDICARE SELECT POLICIES.

(a) IN GENERAL.—Section 4358(c) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 1320c–3 note) is amended by striking ''3½-year'' and inserting ''4½-year''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1990.

Subtitle F—Tax Provisions

SEC. 1021. DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) PHASE-IN DEDUCTION.—Section 162(*l*) of the Internal Revenue Code of 1986 (relating to special rules for health insurance costs of self-employed individuals) is amended—

(1) by striking paragraph (6); and

(2) by striking paragraph (1) and inserting the following:

''(1) ALLOWANCE OF DEDUCTION.—

''(A) IN GENERAL.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to the applicable percentage of the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, his spouse, and dependents.

''(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be determined as follows:

''If the taxable year begins in:	The applicable percentage is:
1994 or 1995	25 percent
1996 or 1997	50 percent
1998 or 1999	75 percent
2000 or thereafter	100 percent.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

SEC. 1022. AMENDMENTS TO COBRA.

(a) LOWER COST COVERAGE OPTIONS.—Subparagraph (A) of section 4980B(f)(2) of the Internal Revenue Code of 1986 (relating to continuation coverage requirements of group health plans) is amended to read as follows:

''(A) TYPE OF BENEFIT COVERAGE.—The coverage must consist of coverage which, as of the time the coverage is being provided—

''(i) is identical to the coverage provided under the plan to similarly situated beneficiaries under the plan with respect to whom a qualifying event has not occurred,

''(ii) is so identical, except such coverage is offered with an annual $1,000 deductible, and

''(iii) is so identical, except such coverage is offered with an annual $3,000 deductible.

If coverage under the plan is modified for any group of similarly situated beneficiaries, the coverage shall also be modified in the same manner for all individuals who are qualified beneficiaries under the plan pursuant to this subsection in connection with such group.''.

(b) TERMINATION OF COBRA COVERAGE AFTER ELIGIBLE FOR EMPLOYER-BASED COVERAGE FOR 90 DAYS.—Clause (iv) of section 4980B(f)(2)(B) of such Code (relating to period of coverage) is amended—

(1) by striking ''or'' at the end of subclause (I),

(2) by redesignating subclause (II) as subclause (III), and

(3) by inserting after subclause (I) the following new subclause:

''(II) eligible for such employer-based coverage for more than 90 days, or''.

(c) REDUCTION OF PERIOD OF COVERAGE.—Clause (i) of section 4980B(f)(2)(B) of such Code (relating to period of coverage) is amended by striking ''18 months'' each place it appears and inserting ''24 months''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to qualifying events occurring after the date of the enactment of this Act.

TITLE II—PRIMARY AND PREVENTIVE CARE SERVICES

SEC. 201. GRANTS TO STATES FOR HEALTHY START INITIATIVES.

(a) IN GENERAL.—The Secretary shall make grants to States with applications approved under this section in order to significantly reduce infant mortality and low birth weight births and improve the health and well-being of pregnant women, mothers, infants, and their families over a 5-year period through accelerated implementation of innovative strategies.

(b) PROJECTS DESCRIBED.—

(1) IN GENERAL.—In order to achieve the purposes described in subsection (a), grant funds under this section shall be used to conduct projects in eligible project areas (as defined in paragraph (3)). A project under this section shall be conducted by a community-based consortium (as defined in paragraph (4)) located in such eligible project area.

(2) CERTAIN ACTIVITIES.—A community-based consortium conducting a project under this section shall—

(A) have the ability to maximize and coordinate existing Federal, State, and local resources and acquire additional resources;

(B) ensure substantial involvement in State and local maternal and child health agencies and other agencies;

(C) have a demonstrated ability to effectively manage the project's fiscal resources;

(D) have the leadership capability to achieve the project goals and objectives; and

(E) target communities in which problems are most severe, resources can be concentrated, implementation is manageable, and progress can be measured.

(3) ELIGIBLE PROJECT AREA.—The term ''eligible project area'' means an area which is composed of one or more contiguous or non-contiguous geographic areas which have—

(A) an average annual infant mortality rate of 150 percent of the State's average annual infant mortality rate based upon an average of the most recently available official vital statistics data for the previous 5-year period; and

(B) at least 50 infant deaths per year, but not more than 200 infant deaths per year.

(4) COMMUNITY-BASED CONSORTIUM.—The term ''community-based consortium'' means a group of project area providers and consumers, including public health departments, community and migrant health centers, hospitals, local professional associations, medical schools, grant-making foundations, civic groups, schools, churches, social and fraternal organizations, and residents of areas to be served.

(5) DURATION.—A project receiving funds under this section shall operate for no more than 5 years.

(c) APPLICATION.—

(1) IN GENERAL.—To be eligible to receive a grant under this section a State shall prepare and submit to the Secretary for approval an application at such time, in such manner, and containing such information, as the Secretary may require, including a description of the use to which the State will apply any amounts received under the grant and the information required under paragraph (3). A State may submit only one application under this subsection.

(2) APPLICATIONS ON BEHALF OF CONSORTIA.—Applications for grant funds shall be submitted under paragraph (1) on behalf of a community-based consortium located in an eligible project area. Such applications shall be approved by the highest elected official of the city or county in which the consortium is based.

(3) INFORMATION REQUIRED.—The information required is a detailed description of the following:

(A) The extent to which the State has justified and documented the need for the project to be funded by the grant and developed measurable goals and objectives for meeting the need.

(B) The level of community commitment and involvement with the project.

(C) The extent to which the community-based consortium operating in the project area has demonstrated plans for coordinating and maximizing existing and proposed Federal, State, and local and private resources.

(D) The extent of the involvement of State and local providers of primary care and public health services in the project.

(E) The State's approach to planning for a public education campaign to address the maintenance of early and continuous prenatal care and of preventive health practices during pregnancy and infancy.

(F) Other factors which the Secretary determines will increase the potential of projects to reduce by 50 percent the rate of infant mortality.

(d) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of carrying out this section, there are authorized to be appropriated $150,000,000 for fiscal year 1996, $250,000,000 for fiscal year 1997, and $300,000,000 for fiscal years 1998 through 2001.

(2) DISTRIBUTION OF FUNDS.—

(A) IN GENERAL.—For a fiscal year, each State shall be allocated an amount equal to the applicable percentage determined under subparagraph (B) of the total amount available under this section for all States.

(B) APPLICABLE PERCENTAGE.—The applicable percentage for a State for a fiscal year is the amount (expressed as a percentage) equal to—

(i) the amount available to the State in the preceding fiscal year under title V of the Social Security Act; divided by

(ii) the total amount available to all States in the preceding fiscal year under such title.

SEC. 202. REAUTHORIZATION OF CERTAIN PROGRAMS PROVIDING PRIMARY AND PREVENTIVE CARE.

(a) IMMUNIZATION PROGRAMS.—Section 317(j)(1)(A) of the Public Health Service Act (42 U.S.C. 247b(j)(1)(A)) is amended—

(1) by striking ''and such sums'' and inserting ''such sums''; and

(2) by striking ''each of the fiscal years 1992 through 1995'' and inserting ''each of the fiscal years 1992 through 1995, $600,000,000 for fiscal years 1996 and 1997, and such sums as may be necessary for each of the fiscal years 1998 through 2000''.

(b) TUBERCULOSIS PREVENTION GRANTS.—Section 317(j)(2) of the Public Health Service Act (42 U.S.C. 247b(j)(2)) is amended—

(1) by striking ''and such sums'' and inserting ''such sums''; and

(2) by striking ''each of the fiscal years 1992 through 1995'' and inserting ''each of the fiscal years 1992 through 1995, $150,000,000 for fiscal year 1996, and such sums as may be necessary for each of the fiscal years 1997 through 1999''.

(c) SEXUALLY TRANSMITTED DISEASES.—Section 318(d)(1) of the Public Health Service Act (42 U.S.C. 247c(d)(1)) is amended—

(1) by striking ''and such sums'' and inserting ''such sums''; and

(2) by inserting before the first period the following: ''$125,000,000 for fiscal years 1996 and 1997, and such sums as may be necessary

for each of the fiscal years 1998 through 2000''.

(d) MIGRANT HEALTH CENTERS.—Section 329(h)(1)(A) of the Public Health Service Act (42 U.S.C. 254b(h)(1)(A)) is amended by striking ''and 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1994'' and inserting ''through 1995, $80,000,000 for fiscal year 1996, and such sums as may be necessary for each of the fiscal years 1997 through 1999''.

(e) COMMUNITY HEALTH CENTERS.—Section 330(g)(1)(A) of the Public Health Service Act (42 U.S.C. 254c(g)(1)(A)) is amended by striking ''and 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1994'' and inserting ''through 1995, $700,000,000 for fiscal year 1996, and such sums as may be necessary for each of the fiscal years 1997 through 1999''.

(f) HEALTH CARE SERVICES FOR THE HOMELESS.—Section 340(q)(1) of the Public Health Service Act (42 U.S.C. 256(q)(1)) is amended—

(1) by striking ''and such'' and inserting ''such''; and

(2) by striking ''and 1994.'' and inserting ''through 1995, $90,000,000 for fiscal years 1996 and 1997, and such sums as may be necessary for each of the fiscal years 1998 through 2000.''.

(g) FAMILY PLANNING PROJECT GRANTS.—Section 1001(d) of the Public Health Service Act (42 U.S.C. 300(d)) is amended—

(1) by striking ''and $158,400,000'' and inserting ''$158,400,000''; and

(2) by inserting before the period the following: ''; $200,000,000 for fiscal year 1996, and such sums as may be necessary for each of the fiscal years 1997 through 1999''.

(h) BREAST AND CERVICAL CANCER PREVENTION.—Section 1509(a) of the Public Health Service Act (42 U.S.C. 300n–5(a)) is amended—

(1) by striking ''and such sums'' and inserting ''such sums''; and

(2) by striking ''for each of the fiscal years 1992 and 1993'' and inserting ''for each of the fiscal years 1992 through 1995, $100,000,000 for fiscal year 1996, and such sums as may be necessary for each of the fiscal years 1997 through 1999''.

(i) PREVENTIVE HEALTH AND HEALTH SERVICES BLOCK GRANT.—Section 1901(a) of the Public Health Service Act (42 U.S.C. 300w(a)) is amended by striking ''$205,000,000'' and inserting ''$235,000,000''.

(j) HIV EARLY INTERVENTION.—Section 2655 of the Public Health Service Act (42 U.S.C. 300ff–55) is amended—

(1) by striking ''and such sums'' and inserting ''such sums''; and

(2) by inserting before the period '', $650,000,000 for fiscal year 1996, and such sums as may be necessary for each of the fiscal years 1997 through 1999''.

(k) MATERNAL AND CHILD HEALTH SERVICES BLOCK GRANT.—Section 501(a) of the Social Security Act (42 U.S.C. 701(a)) is amended by striking ''$705,000,000 for fiscal year 1994 and each fiscal year thereafter'' and inserting ''$705,000,000 for fiscal years 1994 and 1995, $800,000,000 for fiscal year 1996, and such sums as may be necessary in each of the fiscal years 1997 through 1999''.

SEC. 203. COMPREHENSIVE SCHOOL HEALTH EDUCATION PROGRAM.

(a) PURPOSE.—It is the purpose of this section to establish a comprehensive school health education and prevention program for elementary and secondary school students.

(b) PROGRAM AUTHORIZED.—The Secretary of Education (referred to in this section as the ''Secretary''), through the Office of Comprehensive School Health Education established in subsection (e), shall award grants to States from allotments under subsection (c) to enable such States to—

(1) award grants to local or intermediate educational agencies, and consortia thereof, to enable such agencies or consortia to establish, operate, and improve local programs of comprehensive health education and prevention, early health intervention, and health education, in elementary and secondary schools (including preschool, kindergarten, intermediate, and junior high schools); and

(2) develop training, technical assistance, and coordination activities for the programs assisted pursuant to paragraph (1).

(c) RESERVATIONS AND STATE ALLOTMENTS.—

(1) RESERVATIONS.—From the sums appropriated pursuant to the authority of subsection (f) for any fiscal year, the Secretary shall reserve—

(A) 1 percent for payments to Guam, American Samoa, the Virgin Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, the Northern Mariana Islands, and the Republic of Palau, to be allotted in accordance with their respective needs; and

(B) 1 percent for payments to the Bureau of Indian Affairs.

(2) STATE ALLOTMENTS.—From the remainder of the sums not reserved under paragraph (1), the Secretary shall allot to each State an amount which bears the same ratio to the amount of such remainder as the school-age population of the State bears to the school-age population of all States, except that no State shall be allotted less than an amount equal to 0.5 percent of such remainder.

(3) REALLOTMENT.—The Secretary may reallot any amount of any allotment to a State to the extent that the Secretary determines that the State will not be able to obligate such amount within 2 years of allotment. Any such reallotment shall be made on the same basis as an allotment under paragraph (2).

(d) USE OF FUNDS.—Grant funds provided to local or intermediate educational agencies, or consortia thereof, under this section may be used to improve elementary and secondary education in the areas of—

(1) personal health and fitness;

(2) prevention of chronic diseases;

(3) prevention and control of communicable diseases;

(4) nutrition;

(5) substance use and abuse;

(6) accident prevention and safety;

(7) community and environmental health;

(8) mental and emotional health;

(9) parenting and the challenges of raising children; and

(10) the effective use of the health services delivery system.

(e) OFFICE OF COMPREHENSIVE SCHOOL HEALTH EDUCATION.—The Secretary shall establish within the Office of the Secretary an Office of Comprehensive School Health Education which shall have the following responsibilities:

(1) To recommend mechanisms for the coordination of school health education programs conducted by the various departments and agencies of the Federal Government.

(2) To advise the Secretary on formulation of school health education policy within the Department of Education.

(3) To disseminate information on the benefits to health education of utilizing a comprehensive health curriculum in schools.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated $50,000,000 for fiscal year 1996 and such sums as may be necessary for each of the fiscal years 1997 and 1998 to carry out this section.

(2) AVAILABILITY.—Funds appropriated pursuant to the authority of paragraph (1) in any fiscal year shall remain available for obligation and expenditure until the end of the fiscal year succeeding the fiscal year for which such funds were appropriated.

SEC. 204. COMPREHENSIVE EARLY CHILDHOOD HEALTH EDUCATION PROGRAM.

(a) PURPOSE.—It is the purpose of this section to establish a comprehensive early childhood health education program.

(b) PROGRAM.—The Secretary of Health and Human Services (referred to in this section as the ''Secretary'') shall conduct a program of awarding grants to agencies conducting Head Start training to enable such agencies to provide training and technical assistance to Head Start teachers and other child care providers. Such program shall—

(1) establish a training system through the Head Start agencies and organizations conducting Head Start training for the purpose of enhancing teacher skills and providing comprehensive early childhood health education curriculum;

(2) enable such agencies and organizations to provide training to day care providers in order to strengthen the skills of the early childhood workforce in providing health education;

(3) provide technical support for health education programs and curricula; and

(4) provide cooperation with other early childhood providers to ensure coordination of such programs and the transition of students into the public school environment.

(c) USE OF FUNDS.—Grant funds under this section may be used to provide training and technical assistance in the areas of—

(1) personal health and fitness;

(2) prevention of chronic diseases;

(3) prevention and control of communicable diseases;

(4) dental health;

(5) nutrition;

(6) substance use and abuse;

(7) accident prevention and safety;

(8) community and environmental health;

(9) mental and emotional health; and

(10) strengthening the role of parent involvement.

(d) RESERVATION FOR INNOVATIVE PROGRAMS.—The Secretary shall reserve 5 percent of the funds appropriated pursuant to the authority of subsection (e) in each fiscal year for the development of innovative model health education programs or curricula.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $40,000,000 for fiscal year 1996 and such sums as may be necessary for each of the fiscal years 1997 and 1998 to carry out this section.

TITLE III—PATIENT'S RIGHT TO DECLINE MEDICAL TREATMENT

SEC. 301. PATIENT'S RIGHT TO DECLINE MEDICAL TREATMENT.

(a) RIGHT TO DECLINE MEDICAL TREATMENT.—

(1) RIGHTS OF COMPETENT ADULTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a State may not restrict the right of a competent adult to consent to, or to decline, medical treatment.

(B) LIMITATIONS.—

(i) AFFECT ON THIRD PARTIES.—A State may impose limitations on the right of a competent adult to decline treatment if such limitations protect third parties (including minor children) from harm.

(ii) TREATMENT WHICH IS NOT MEDICALLY INDICATED.—Nothing in this subsection shall be construed to require that any individual be offered, or to state that any individual may demand, medical treatment which the health care provider does not have available, or which is, under prevailing medical standards, either futile or otherwise not medically indicated.

(2) RIGHTS OF INCAPACITATED ADULTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B)(i) of paragraph (1), States

may not restrict the right of an incapacitated adult to consent to, or to decline, medical treatment as exercised through the documents specified in this paragraph, or through similar documents or other written methods of directive which evidence the adult's treatment choices.

(B) ADVANCE DIRECTIVES AND POWERS OF ATTORNEY.—

(i) IN GENERAL.—In order to facilitate the communication, despite incapacity, of an adult's treatment choices, the Secretary, in consultation with the Attorney General, shall develop a national advance directive form that—

(I) shall not limit or otherwise restrict, except as provided in subparagraph (B)(i) of paragraph (1), an adult's right to consent to, or to decline, medical treatment; and

(II) shall, at minimum—

(aa) provide the means for an adult to declare such adult's own treatment choices in the event of a terminal condition;

(bb) provide the means for an adult to declare, at such adult's option, treatment choices in the event of other conditions which are medically incurable, and from which such adult likely will not recover; and

(cc) provide the means by which an adult may, at such adult's option, declare such adult's wishes with respect to all forms of medical treatment, including forms of medical treatment such as the provision of nutrition and hydration by artificial means which may be, in some circumstances, relatively nonburdensome.

(ii) NATIONAL DURABLE POWER OF ATTORNEY FORM.—The Secretary, in consultation with the Attorney General, shall develop a national durable power of attorney form for health care decisionmaking. The form shall provide a means for any adult to designate another adult or adults to exercise the same decisionmaking powers which would otherwise be exercised by the patient if the patient were competent.

(iii) HONORED BY ALL HEALTH CARE PROVIDERS.—The national advance directive and durable power of attorney forms developed by the Secretary shall be honored by all health care providers.

(iv) LIMITATIONS.—No individual shall be required to execute an advance directive. This section makes no presumption concerning the intention of an individual who has not executed an advance directive. An advance directive shall be sufficient, but not necessary, proof of an adult's treatment choices with respect to the circumstances addressed in the advance directive.

(C) DEFINITION.—For purposes of this paragraph, the term ''incapacity'' means the inability to understand or to communicate concerning the nature and consequences of a health care decision (including the intended benefits and foreseeable risks of, and alternatives to, proposed treatment options), and to reach an informed decision concerning health care.

(3) HEALTH CARE PROVIDERS.—

(A) IN GENERAL.—No health care provider may provide treatment to an adult contrary to the adult's wishes as expressed personally, by an advance directive as provided for in paragraph (2)(B), or by a similar written advance directive form or another written method of directive which clearly and convincingly evidence the adult's treatment choices. A health provider who acts in good faith pursuant to the preceding sentence shall be immune from criminal or civil liability or discipline for professional misconduct.

(B) HEALTH CARE PROVIDERS UNDER THE MEDICARE AND MEDICAID PROGRAMS.—Any health care provider who knowingly provides services to an adult contrary to the adult's wishes as expressed personally, by an advance directive as provided for in paragraph (2)(B), or by a similar written advance directive form or another written method of directive which clearly and convincingly evidence the adult's treatment choices, shall be denied payment for such services under titles XVIII and XIX of the Social Security Act.

(C) TRANSFERS.—Health care providers who object to the provision of medical care in accordance with an adult's wishes shall transfer the adult to the care of another health care provider.

(4) DEFINITION.—For purposes of this subsection, the term ''adult'' means—

(A) an individual who is 18 years of age or older; or

(B) an emancipated minor.

(b) FEDERAL RIGHT ENFORCEABLE IN FEDERAL COURTS.—The rights recognized in this section may be enforced by filing a civil action in an appropriate district court of the United States.

(c) SUICIDE AND HOMICIDE.—Nothing in this section shall be construed to permit, condone, authorize, or approve suicide or mercy killing, or any affirmative act to end a human life.

(d) RIGHTS GRANTED BY STATES.—Nothing in this section shall impair or supersede rights granted by State law which exceed the rights recognized by this section.

(e) EFFECT ON OTHER LAWS.—

(1) IN GENERAL.—Except as specified in paragraph (2), written policies and written information adopted by health care providers pursuant to sections 4206 and 4751 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508), shall be modified within 6 months after the enactment of this section to conform to the provisions of this section.

(2) DELAY PERIOD FOR UNIFORM FORMS.—Health care providers shall modify any written forms distributed as written information under sections 4206 and 4751 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508) not later than 6 months after promulgation of the forms referred to in clauses (i) and (ii) of subsection (a)(2)(B) by the Secretary.

(f) INFORMATION PROVIDED TO CERTAIN INDIVIDUALS.—The Secretary shall provide on a periodic basis written information regarding an individual's right to consent to, or to decline, medical treatment as provided in this section to individuals who are beneficiaries under titles II, XVI, XVIII, and XIX of the Social Security Act.

(g) RECOMMENDATIONS TO CONGRESS ON ISSUES RELATING TO A PATIENT'S RIGHT OF SELF-DETERMINATION.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter for a period of 3 years, the Secretary shall provide recommendations to Congress concerning the medical, legal, ethical, social, and educational issues related to in this section. In developing recommendations under this subsection the Secretary shall address the following issues:

(1) The contents of the forms referred to in clauses (i) and (ii) of subsection (a)(2)(B).

(2) Issues pertaining to the education and training of health care professionals concerning patients' self-determination rights.

(3) Issues pertaining to health care professionals' duties with respect to patients' rights, and health care professionals' roles in identifying, assessing, and presenting for patient consideration medically indicated treatment options.

(4) Issues pertaining to the education of patients concerning their rights to consent to, and decline, treatment, including how individuals might best be informed of such rights prior to hospitalization and how uninsured individuals, and individuals not under the regular care of a physician or another provider, might best be informed of their rights.

(5) Issues relating to appropriate standards to be adopted concerning decisionmaking by incapacitated adult patients whose treatment choices are not known.

(6) Such other issues as the Secretary may identify.

(h) EFFECTIVE DATE.—

(1) IN GENERAL.—This section shall take effect on the date that is 6 months after the date of enactment of this Act.

(2) SUBSECTION (g) .—The provisions of subsection (g) shall take effect on the date of enactment of this Act.

TITLE IV—PRIMARY AND PREVENTIVE CARE PROVIDERS

SEC. 401. EXPANDED COVERAGE OF CERTAIN NONPHYSICIAN PROVIDERS UNDER THE MEDICARE PROGRAM.

(a) IN GENERAL.—Section 1833(a)(1) of the Social Security Act (42 U.S.C. 1395l(a)(1)) is amended—

(1) in subparagraph (K), by striking ''80 percent'' and all that follows through ''physician)'' and inserting ''85 percent of the fee schedule amount provided under section 1848 for the same service performed by a physician''; and

(2) by amending subparagraph (O) to read as follows: ''(O) with respect to services described in section 1861(s)(2)(K) (relating to services provided by a nurse practitioner, clinical nurse specialist, or physician assistant) the amounts paid shall be 85 percent of the fee schedule amount provided under section 1848 for the same service performed by a physician, and''.

(b) NURSE PRACTITIONERS AND PHYSICIAN ASSISTANTS.—Section 1842(b)(12) of the Social Security Act (42 U.S.C. 1395u(b)(12)) is amended to read as follows:

''(12) With respect to services described in clause (i), (ii), or (iv) of section 1861(s)(2)(K) (relating to physician assistants and nurse practitioners)—

''(A) payment under this part may only be made on an assignment-related basis; and

''(B) the prevailing charges determined under paragraph (3) shall not exceed—

''(i) in the case of services performed as an assistant at surgery, 85 percent of the amount that would otherwise be recognized if performed by a physician who is serving as an assistant at surgery, or

''(ii) in other cases, 85 percent of the fee schedule amount specified in section 1848 for such services performed by physicians who are not specialists.''.

(c) DIRECT PAYMENT FOR ALL NURSE PRACTITIONERS OR CLINICAL NURSE SPECIALISTS.—(1) Section 1832(a)(2)(B)(iv) of the Social Security Act (42 U.S.C. 1395k(a)(2)(B)(iv)) is amended by striking ''provided in a rural area (as defined in section 1886(d)(2)(D))''.

(2) Subparagraph (C) of section 1842(b)(6) of such Act (42 U.S.C. 1395u(b)(6)) is amended by striking ''shall'' and inserting ''may''.

(d) REMOVAL OF RESTRICTIONS ON SETTINGS.—Section 1861(s)(2)(K) of the Social Security Act (42 U.S.C. 1395x(s)(2)(K)) is amended—

(1) in clause (i), by striking ''(I) in a hospital'' and all that follows through ''professional shortage area,'';

(2) in clause (ii), by striking ''in a skilled'' and all that follows through ''1919(a)''; and

(3) in clause (iii), by striking ''in a rural'' and all that follows through ''(d)(2)(D))''.

SEC. 402. REQUIRING COVERAGE OF CERTAIN NONPHYSICIAN PROVIDERS UNDER THE MEDICAID PROGRAM.

Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) is amended—

(1) by striking ''and'' at the end of paragraph (24),

(2) by redesignating paragraph (25) as paragraph (26), and

(3) by inserting after paragraph (24) the following new paragraph:

''(25) services furnished by a physician assistant, nurse practitioner, clinical nurse specialist (as defined in section 1861(aa)(5)), and certified registered nurse anesthetist (as defined in section 1861(bb)(2)); and''.

SEC. 403. MEDICAL STUDENT TUTORIAL PROGRAM GRANTS.

Part C of title VII of the Public Health Service Act is amended by adding at the end thereof the following new section:

''SEC. 753. MEDICAL STUDENT TUTORIAL PROGRAM GRANTS.

''(a) ESTABLISHMENT.—The Secretary shall establish a program to award grants to eligible schools of medicine or osteopathic medicine to enable such schools to provide medical students for tutorial programs or as participants in clinics designed to interest high school or college students in careers in general medical practice.

''(b) APPLICATION.—To be eligible to receive a grant under this section, a school of medicine or osteopathic medicine shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including assurances that the school will use amounts received under the grant in accordance with subsection (c).

''(c) USE OF FUNDS.—

''(1) IN GENERAL.—Amounts received under a grant awarded under this section shall be used to—

''(A) fund programs under which students of the grantee are provided as tutors for high school and college students in the areas of mathematics, science, health promotion and prevention, first aide, nutrition and prenatal care;

''(B) fund programs under which students of the grantee are provided as participants in clinics and seminars in the areas described in paragraph (1); and

''(C) conduct summer institutes for high school and college students to promote careers in medicine.

''(2) DESIGN OF PROGRAMS.—The programs, institutes, and other activities conducted by grantees under paragraph (1) shall be designed to—

''(A) give medical students desiring to practice general medicine access to the local community;

''(B) provide information to high school and college students concerning medical school and the general practice of medicine; and

''(C) promote careers in general medicine.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for fiscal year 1996, and such sums as may be necessary for fiscal year 1997.''.

SEC. 404. GENERAL MEDICAL PRACTICE GRANTS.

Part C of title VII of the Public Health Service Act (as amended by section 403) is further amended by adding at the end thereof the following new section:

''SEC. 754. GENERAL MEDICAL PRACTICE GRANTS.

''(a) ESTABLISHMENT.—The Secretary shall establish a program to award grants to eligible public or private nonprofit schools of medicine or osteopathic medicine, hospitals, residency programs in family medicine or pediatrics, or to a consortium of such entities, to enable such entities to develop effective strategies for recruiting medical students interested in the practice of general medicine and placing such students into general practice positions upon graduation.

''(b) APPLICATION.—To be eligible to receive a grant under this section, an entity of the type described in subsection (a) shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including assurances that the entity will use amounts received under the grant in accordance with subsection (c).

''(c) USE OF FUNDS.—Amounts received under a grant awarded under this section shall be used to fund programs under which effective strategies are developed and implemented for recruiting medical students interested in the practice of general medicine and placing such students into general practice positions upon graduation.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $25,000,000 for each of the fiscal years 1996 through 2000, and such sums as may be necessary for fiscal years thereafter.''.

TITLE V—COST CONTAINMENT

SEC. 501. NEW DRUG CLINICAL TRIALS PROGRAM.

Part B of title IV of the Public Health Service Act (42 U.S.C. 284 et seq.) is amended by adding at the end the following new section:

''SEC. 409B. NEW DRUG CLINICAL TRIALS PROGRAM.

''(a) IN GENERAL.—The Director of the National Institutes of Health (referred to in this section as the 'Director') is authorized to establish and implement a program for the conduct of clinical trials with respect to new drugs and disease treatments determined to be promising by the Director. In determining the drugs and disease treatments that are to be the subject of such clinical trials, the Director shall give priority to those drugs and disease treatments targeted toward the diseases determined—

''(1) to be the most costly to treat;

''(2) to have the highest mortality; or

''(3) to affect the greatest number of individuals.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $120,000,000 for fiscal year 1996, and such sums as may be necessary for each of the fiscal years 1997 through 2000.''.

SEC. 502. MEDICAL TREATMENT EFFECTIVENESS.

(a) RESEARCH ON COST-EFFECTIVE METHODS OF HEALTH CARE.—Section 926 of the Public Health Service Act (42 U.S.C. 299c–5) is amended—

(1) in subsection (a), by striking ''and'' and inserting ''and such sums as may be necessary for each of the fiscal years 1996 through 1998''; and

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

''(f) USE OF ADDITIONAL APPROPRIATIONS.—Within amounts appropriated under subsection (a) for each of the fiscal years 1995 through 1997 that are in excess of the amounts appropriated under such subsection for fiscal year 1993, the Secretary shall give priority to expanding research conducted to determine the most cost-effective methods of health care and for developing and disseminating new practice guidelines related to such methods. In utilizing such amounts, the Secretary shall give priority to diseases and disorders that the Secretary determines are the most costly to the United States and evidence a wide variation in current medical practice.''.

(b) RESEARCH ON MEDICAL TREATMENT OUTCOMES.—

(1) IMPOSITION OF TAX ON HEALTH INSURANCE POLICIES.—

(A) IN GENERAL.—Chapter 36 of the Internal Revenue Code of 1986 (relating to certain other excise taxes) is amended by adding at the end thereof the following new subchapter:

''Subchapter G—Tax on Health Insurance Policies

''Sec. 4501. Imposition of tax.

''Sec. 4502. Liability for tax.

''SEC. 4501. IMPOSITION OF TAX.

''(a) GENERAL RULE.—There is hereby imposed a tax equal to .001 cent on each dollar, or fractional part thereof, of the premium paid on a policy of health insurance.

''(b) DEFINITION.—For purposes of subsection (a), the term 'policy of health insurance' means any policy or other instrument by whatever name called whereby a contract of insurance is made, continued, or renewed with respect to the health of an individual or group of individuals.

''SEC. 4502. LIABILITY FOR TAX.

''The tax imposed by this subchapter shall be paid, on the basis of a return, by any person who makes, signs, issues, or sells any of the documents and instruments subject to the tax, or for whose use or benefit the same are made, signed, issued, or sold. The United States or any agency or instrumentality thereof shall not be liable for the tax.''.

(B) CONFORMING AMENDMENT.—The table of subchapters for chapter 36 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new item:

''SUBCHAPTER G. Tax on health insurance policies.''.

(2) ESTABLISHMENT OF TRUST FUND.—

(A) IN GENERAL.—Subchapter A of chapter 98 of such Code (relating to trust fund code) is amended by adding at the end thereof the following new section:

''SEC. 9512. TRUST FUND FOR MEDICAL TREATMENT OUTCOMES RESEARCH.

''(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Trust Fund for Medical Treatment Outcomes Research' (referred to in this section as the 'Trust Fund'), consisting of such amounts as may be appropriated or credited to the Trust Fund as provided in this section or section 9602(b).

''(b) TRANSFERS TO TRUST FUND.—There is hereby appropriated to the Trust Fund an amount equivalent to the taxes received in the Treasury under section 4501 (relating to tax on health insurance policies).

''(c) DISTRIBUTION OF AMOUNTS IN TRUST FUND.—On an annual basis the Secretary shall distribute the amounts in the Trust Fund to the Secretary of Health and Human Services. Such amounts shall be available to the Secretary of Health and Human Services to pay for research activities related to medical treatment outcomes.''.

(B) CONFORMING AMENDMENT.—The table of sections for subchapter A of chapter 98 of such Code is amended by adding at the end thereof the following new item:

''Sec. 9512. Trust Fund for Medical Treatment Outcomes Research.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to policies issued after December 31, 1995.

SEC. 503. NATIONAL HEALTH INSURANCE DATA AND CLAIMS SYSTEM.

(a) IN GENERAL.—Using advanced technologies to the maximum extent practicable, the Secretary of Health and Human Services (referred to in this section as the ''Secretary'') shall establish and maintain a national health insurance data and claims system, which shall be comprised of—

(1) a centralized national data base for health insurance and health outcomes information;

(2) a standardized, universal mechanism for electronically processing health insurance and health outcomes data; and

(3) a standardized system for uniform claims and uniform transmission of claims.

(b) NATIONAL DATA BASE FOR HEALTH INSURANCE INFORMATION.—The national data base for health insurance and health outcomes information shall—

(1) be centrally located;

(2) rely on advanced technologies to the maximum extent practicable; and

(3) be readily accessible for data input and retrieval.

(c) STANDARDIZED SYSTEM FOR UNIFORM CLAIMS AND TRANSMISSION OF CLAIMS.—

(1) CONSULTATION WITH THE NAIC.—The Secretary shall consult with the National Association of Insurance Commissioners in connection with the establishment of the system under subsection (a)(3).

(2) USE OF RECOGNIZED STANDARDS.—The Secretary shall, to the maximum extent practicable, establish standards for the system under subsection (a)(3) that are consistent with standards that are widely recognized and adopted.

(3) TIMING FOR ESTABLISHMENT OF SYSTEM.—

(A) IN GENERAL.—Not later than 12 months after the date of the enactment of this Act, the Secretary shall establish standards for the system under subsection (a)(3).

(B) REVIEW.—Not later than 24 months after standards have been established under subparagraph (A), the Secretary shall review such standards and make any modifications determined appropriate by the Secretary.

(d) CONFIDENTIALITY.—The Secretary shall ensure that all patient information collected under this section is managed so that confidentiality is protected.

(e) AUTHORIZATION OF APPROPRIATIONS.—There shall be authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SEC. 504. HEALTH CARE COST CONTAINMENT AND QUALITY INFORMATION PROGRAM.

(a) GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the ''Secretary'') shall make grants to States that establish or operate health care cost containment and quality information systems (as defined in subsection (f)(1)). In order to be eligible for a grant under this section, a State must establish or operate a system which, at a minimum, meets the Federal standards established under subsection (c).

(2) USE OF FUNDS.—States may use grant funds received under this section only to establish a health care cost containment and quality information system or to improve an existing system operated by the State.

(b) SUBMISSION OF APPLICATIONS.—To be eligible for a grant under this section, a State must submit an application to the Secretary within 2 years after the date of the enactment of this section. Such application shall be submitted in a manner determined appropriate by the Secretary and shall include the designation of a State agency that will operate the health care cost containment and quality information system for the State. The Secretary shall approve or disapprove a State application within 6 months after its submission.

(c) MINIMUM FEDERAL STANDARDS.—Not later than 6 months after the date of the enactment of this section, the Secretary, after consultation with the Agency for Health Care Policy and Research, other Federal agencies, the Joint Commission on Accreditation of Hospitals, States, health care providers, consumers, insurers, health maintenance organizations, businesses, academic health centers, and labor organizations that purchase health care, shall establish Federal standards for the operation of health care cost containment and quality information systems by States receiving grants under this section.

(d) COLLECTION AND PUBLIC DISSEMINATION OF INFORMATION BY STATES.—

(1) IN GENERAL.—A State receiving a grant under this section shall require that a health care cost containment and quality information system will collect at least the information described in paragraph (2) and publicly disseminate such information in a useful format to appropriate persons such as businesses, consumers of health care services, labor organizations, health plans, hospitals, and other States.

(2) INFORMATION DESCRIBED.—The information described in this paragraph is the following:

(A) Information on hospital charges.

(B) Clinical data.

(C) Demographic data.

(D) Information regarding treatment of individuals by particular health care providers.

(3) ELECTRONIC TRANSMISSION OF INFORMATION.—The State program under this section shall provide that any information described in paragraph (2) with respect to which the Secretary has established standards for data elements and information transactions under section 503 shall be transmitted to the State health care cost containment and quality information system in accordance with such standards.

(4) PRIVACY AND CONFIDENTIALITY.—The State cost containment and quality information system shall ensure that patient privacy and confidentiality is protected at all times.

(e) COMPLIANCE.—If the Secretary determines that a State receiving grant funds under this section has failed to operate a system in accordance with the terms of its approved application, the Secretary may withhold payment of such funds until the State remedies such noncompliance.

(f) DEFINITIONS.—For purposes of this section—

(1) the term ''health care cost containment and quality information system'' means a system which is established or operated by a State in order to collect and disseminate the information described in subsection (d)(2) in accordance with subsection (d)(1) for the purpose of providing information on health care costs and outcomes in the State; and

(2) the term ''State'' means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and includes the Commonwealth of the Northern Mariana Islands.

(g) AUTHORIZATION.—

(1) IN GENERAL.—There are authorized to be appropriated for the purpose of carrying out this section not more than $150,000,000 for fiscal years 1996 through 1998, and such sums as may be necessary thereafter, to remain available until expended.

(2) ALLOCATION TO STATES.—The Secretary shall allocate the amounts available for grants under this section in any fiscal year in accordance with a formula developed by the Secretary which takes into account—

(A) the number of hospitals in a State relative to the total number of hospitals in all States;

(B) the population of the State relative to the total population of all States; and

(C) the type of system operated or intended to be operated by the State, including whether the State establishes an independent State agency to operate the system.

TITLE VI—LONG-TERM CARE

Subtitle A—Tax Treatment of Qualified Long-Term Care Insurance Policies and Services

SEC. 601. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 602. QUALIFIED LONG-TERM CARE SERVICES TREATED AS MEDICAL CARE.

(a) GENERAL RULE.—Paragraph (1) of section 213(d) (defining medical care) is amended by striking ''or'' at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

''(C) for qualified long-term care services (as defined in subsection (g)), or''.

(b) QUALIFIED LONG-TERM CARE SERVICES DEFINED.—Section 213 (relating to the deduction for medical, dental, etc., expenses) is amended by adding at the end the following new subsections:

''(g) QUALIFIED LONG-TERM CARE SERVICES.—For purposes of this section—

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

''(A) are required by an individual during any period the individual is an incapacitated individual (as defined in paragraph (2)),

''(B) have as their primary purpose—

''(i) the provision of needed assistance with 1 or more activities of daily living (as defined in paragraph (3)), or

''(ii) protection from threats to health and safety due to severe cognitive impairment, and

''(C) are provided pursuant to a continuing plan of care prescribed by a licensed professional (as defined in paragraph (4)).

''(2) INCAPACITATED INDIVIDUAL.—The term 'incapacitated individual' means any individual who—

''(A) is unable to perform, without substantial assistance from another individual (including assistance involving cueing or substantial supervision), at least 2 activities of daily living as defined in paragraph (3), or

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

Such term shall not include any individual otherwise meeting the requirements of the preceding sentence unless a licensed professional within the preceding 12-month period has certified that such individual meets such requirements.

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

''(A) Eating.

''(B) Toileting.

''(C) Transferring.

''(D) Bathing.

''(E) Dressing.

''(4) LICENSED PROFESSIONAL.—The term 'licensed professional' means—

''(A) a physician or registered professional nurse, or

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

''(5) CERTAIN SERVICES NOT INCLUDED.—The term 'qualified long-term care services' shall not include any services provided to an individual—

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

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

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

''(h) SPECIAL RULE FOR CERTAIN LONG-TERM CARE EXPENSES.—For purposes of subsection (a), the term 'dependent' shall include any parent or grandparent of the taxpayer for whom the taxpayer has expenses for qualified long-term care services described in subsection (g), but only to the extent of such expenses.''.

(c) TECHNICAL AMENDMENTS.—

(1) Subparagraph (D) of section 213(d)(1) (as redesignated by subsection (a)) is amended to read as follows:

''(D) for insurance (including amounts paid as premiums under part B of title XVIII of the Social Security Act, relating to supplementary medical insurance for the aged) covering medical care referred to in—

''(i) subparagraphs (A) and (B), or

''(ii) subparagraph (C), but only if such insurance is provided under a qualified long-term care insurance policy (as defined in section 7705(a)) and the amount paid for such insurance is not disallowed under section 7705(b).''

(2) Paragraph (6) of section 213(d) is amended—

(A) by striking ''subparagraphs (A) and (B)'' and inserting ''subparagraph (A), (B), and (C)'', and

(B) by striking ''paragraph (1)(C)'' in subparagraph (A) and inserting ''paragraph (1)(D)''.

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

SEC. 603. DEFINITION OF QUALIFIED LONG-TERM CARE INSURANCE POLICY.

(a) IN GENERAL.—Chapter 79 (relating to definitions) is amended by adding at the end the following new section:

''SEC. 7705. QUALIFIED LONG-TERM CARE INSURANCE POLICY.

''(a) QUALIFIED LONG-TERM CARE INSURANCE POLICY.—For purposes of this title—

''(1) IN GENERAL.—The term 'qualified long-term care insurance policy' means any long-term care policy that—

''(A) limits benefits under such policy to individuals who are certified by a licensed professional (as defined in section 213(g)(4)) within the preceding 12-month period—

''(i) as being unable to perform, without substantial assistance from another individual (including assistance involving cueing or substantial supervision), 2 or more activities of daily living (as defined in section 213(g)(3)), or

''(ii) having a severe cognitive impairment (as defined in section 213(g)(2)(B)), and

''(B) satisfies the requirements of paragraphs (2), (3), (4), (5), and (6).

''(2) PREMIUM REQUIREMENTS.—The requirements of this paragraph are met with respect to a policy if such policy provides that premium payments may not be made earlier than the date such payments would have been made if the contract provided for level annual payments over the life expectancy of the insured or 20 years, whichever is shorter. A policy shall not be treated as failing to meet the requirements of the preceding sentence solely by reason of a provision in the policy providing for a waiver of premiums if the insured becomes an individual certified in accordance with paragraph (1)(A).

''(3) PROHIBITION OF CASH VALUE.—The requirements of this paragraph are met if the policy does not provide for a cash value or other money that can be paid, assigned, pledged as collateral for a loan, or borrowed, other than as provided in paragraph (4).

''(4) REFUNDS OF PREMIUMS AND DIVIDENDS.—The requirements of this paragraph are met with respect to a policy if such policy provides that—

''(A) policyholder dividends are required to be applied as a reduction in future premiums or, to the extent permitted under paragraph (6), to increase benefits described in subsection (a)(2),

''(B) refunds of premiums upon a partial surrender or a partial cancellation are required to be applied as a reduction in future premiums, and

''(C) any refund on the death of the insured, or on a complete surrender or cancellation of the policy, cannot exceed the aggregate premiums paid under the contract.

Any refund on a complete surrender or cancellation of the policy shall be includible in gross income to the extent that any deduction or exclusion was allowable with respect to the premiums.

''(5) COORDINATION WITH OTHER ENTITLEMENTS.—The requirements of this paragraph are met with respect to a policy if such policy does not pay, or provide reimbursement for, expenses incurred to the extent that such expenses are also paid or reimbursed under title XVIII of the Social Security Act or are paid or reimbursed under a qualified health insurance plan (as defined in section 100(10) of the Health Care Assurance Act of 1995).

''(6) MAXIMUM BENEFIT.—

''(A) IN GENERAL.—The requirements of this paragraph are met if the benefits payable under the policy for any period (whether on a periodic basis or otherwise) may not exceed the dollar amount in effect for such period.

''(B) NONREIMBURSEMENT PAYMENTS PERMITTED.—Benefits shall include all payments described in subsection (a)(2) to or on behalf of an insured individual without regard to the expenses incurred during the period to which the payments relate. For purposes of section 213(a), such payments shall be treated as compensation for expenses paid for medical care.

''(C) DOLLAR AMOUNT.—The dollar amount in effect under this paragraph shall be $150 per day (or the equivalent amount within the calendar year in the case of payments on other than a per diem basis).

''(D) ADJUSTMENTS FOR INCREASED COSTS.—

''(i) IN GENERAL.—In the case of any calendar year after 1996, the dollar amount in effect under subparagraph (C) for any period or portion thereof occurring during such calendar year shall be equal to the sum of—

''(I) the amount in effect under subparagraph (C) for the preceding calendar year (after application of this subparagraph), plus

''(II) the product of the amount referred to in subclause (I) multiplied by the cost-of-living adjustment for the calendar year.

''(ii) COST-OF-LIVING ADJUSTMENT.—For purposes of clause (i), the cost-of-living adjustment for any calendar year is the percentage (if any) by which the cost index under clause (iii) for the preceding calendar year exceeds such index for the second preceding calendar year.

''(iii) COST INDEX.—The Secretary, in consultation with the Secretary of Health and Human Services, shall before January 1, 1997, establish a cost index to measure increases in costs of nursing home and similar facilities. The Secretary may from time to time revise such index to the extent necessary to accurately measure increases or decreases in such costs.

''(iv) SPECIAL RULE FOR CALENDAR YEAR 1997.—Notwithstanding clause (ii), for purposes of clause (i), the cost-of-living adjustment for calendar year 1997 is the sum of 1.5 percent plus the percentage by which the CPI for calendar year 1996 (as defined in section 1(f)(4)) exceeds the CPI for calendar year 1995 (as so defined).

''(E) PERIOD.—For purposes of this paragraph, a period begins on the date that an individual has a condition which would qualify for certification under subsection (b)(1)(A) and ends on the earlier of the date upon which—

''(i) such individual has not been so certified within the preceding 12-months, or

''(ii) the individual's condition ceases to be such as to qualify for certification under subsection (b)(1)(A).

''(F) AGGREGATION RULE.—For purposes of this paragraph, all policies issued with respect to the same insured shall be treated as one policy.

''(b) TREATMENT OF COVERAGE PROVIDED AS PART OF A LIFE INSURANCE CONTRACT.—No deduction shall be allowed under section 213(a) for charges against a life insurance contract's cash surrender value (within the meaning of section 7702(f)(2)(A)), unless such charges are includible in income as a result of the application of section 72(e)(10) and the coverage provided by the rider is a qualified long-term care insurance policy under subsection (a).''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 79 is amended by inserting after the item relating to section 7704 the following new item:

''Sec. 7705. Qualified long-term care insurance.''.

SEC. 604. TREATMENT OF QUALIFIED LONG-TERM CARE INSURANCE AS ACCIDENT AND HEALTH INSURANCE FOR PURPOSES OF TAXATION OF INSURANCE COMPANIES.

(a) IN GENERAL.—Section 818 (relating to other definitions and special rules) is amended by adding at the end the following new subsection:

''(g) QUALIFIED LONG-TERM CARE INSURANCE TREATED AS ACCIDENT OR HEALTH INSURANCE.—For purposes of this subchapter, any reference to noncancellable accident or health insurance contracts shall be treated as including a reference to qualified long-term care insurance.''.

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

SEC. 605. TREATMENT OF ACCELERATED DEATH BENEFITS UNDER LIFE INSURANCE CONTRACTS.

(a) EXCLUSION OF AMOUNTS RECEIVED.—Section 101 (relating to certain death benefits) is amended by adding at the end the following new subsection:

''(g) TREATMENT OF CERTAIN ACCELERATED DEATH BENEFITS.—

''(1) IN GENERAL.—For purposes of this section, any amount paid to an individual under a life insurance contract on the life of an insured who is a terminally ill individual, who has a dread disease, or who has been permanently confined to a nursing home shall be treated as an amount paid by reason of the death of such insured.

''(2) TERMINALLY ILL INDIVIDUAL.—For purposes of this subsection, the term 'terminally ill individual' means an individual who has been certified by a physician, licensed under State law, as having an illness or physical condition which can reasonably be expected to result in death in 12 months or less.

''(3) DREAD DISEASE.—For purposes of this subsection, the term 'dread disease' means a medical condition which has been certified by a physician as having required or requiring extraordinary medical intervention without which the insured would die, or a medical condition which would, in the absence of extensive or extraordinary medical treatment, result in a drastically limited life span.

''(4) PERMANENTLY CONFINED TO A NURSING HOME.—For purposes of this subsection, an individual has been permanently confined to a nursing home if the individual is presently confined to a nursing home and has been certified by a physician, licensed under State law, as having an illness or cognitive impairment or loss of functional capacity which can reasonably be expected to result in the individual remaining in a nursing home for the rest of the individual's life.''.

(b) TREATMENT OF QUALIFIED ACCELERATED DEATH BENEFIT RIDERS AS LIFE INSURANCE.—

(1) IN GENERAL.—Section 818 (relating to other definitions and special rules), as amended by section 603, is amended by adding at the end the following new subsection:

''(h) QUALIFIED ACCELERATED DEATH BENEFIT RIDERS TREATED AS LIFE INSURANCE.—For purposes of this part—

''(1) IN GENERAL.—Any reference to a life insurance contract shall be treated as including a reference to a qualified accelerated death benefit rider on such contract.

''(2) QUALIFIED ACCELERATED DEATH BENEFIT RIDER.—For purposes of this subsection, the term 'qualified accelerated death benefit rider' means any rider or addendum on, or other provision of, a life insurance contract which provides for payments to an individual on the life of an insured upon such insured becoming a terminally ill individual (as defined in section 101(g)(2)), incurring a dread disease (as defined in section 101(g)(3)), or being permanently confined to a nursing home (as defined in section 101(g)(4)).''.

(2) DEFINITIONS OF LIFE INSURANCE AND MODIFIED ENDOWMENT CONTRACTS.—

(A) RIDER TREATED AS QUALIFIED ADDITIONAL BENEFIT.—Subparagraph (A) of section 7702(f)(5) (relating to definition of life insurance contract) is amended by striking ''or'' at the end of clause (iv), by redesignating clause (v) as clause (vi), and by inserting after clause (iv) the following new clause:

''(v) any qualified accelerated death benefit rider (as defined in section 818(h)(2)), or any qualified long-term care insurance which reduces the death benefit, or''.

(B) TRANSITIONAL RULE.—For purposes of applying section 7702 or 7702A of the Internal Revenue Code of 1986 to any contract (or determining whether either such section applies to such contract), the issuance of a rider or addendum on, or other provision of, a life insurance contract permitting the acceleration of death benefits (as described in section 101(g)) or for qualified long-term care insurance shall not be treated as a modification or material change of such contract.

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

Subtitle B—Tax Incentives for Purchase of Qualified Long-Term Care Insurance

SEC. 611. CREDIT FOR QUALIFIED LONG-TERM CARE PREMIUMS.

(a) GENERAL RULE.—Subpart C of part IV of subchapter A of chapter 1 (relating to refundable credits) is amended by redesignating section 35 as section 36 and by inserting after section 34 the following new section:

''SEC. 35. LONG-TERM CARE INSURANCE CREDIT.

''(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the applicable percentage of the premiums for a qualified long-term care insurance policy (as defined in section 7705(a)) paid during such taxable year for such individual or the spouse of such individual.

''(b) APPLICABLE PERCENTAGE.—

''(1) IN GENERAL.—For purposes of this section, the term 'applicable percentage' means 28 percent reduced (but not below zero) by 1 percentage point for each $1,000 (or fraction thereof) by which the taxpayer's adjusted gross income for the taxable year exceeds the base amount.

''(2) BASE AMOUNT.—For purposes of paragraph (1) the term 'base amount' means—

''(A) except as otherwise provided in this paragraph, $25,000,

''(B) $40,000 in the case of a joint return, and

''(C) zero in the case of a taxpayer who—

''(i) is married at the close of the taxable year (within the meaning of section 7703) but does not file a joint return for such taxable year, and

''(ii) does not live apart from his or her spouse at all times during the taxable year.

''(c) COORDINATION WITH MEDICAL EXPENSE DEDUCTION.—Any amount allowed as a credit under this section shall not be taken into account under section 213.''.

(b) CLERICAL AMENDMENT.—The table of sections for subpart C of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 35 and inserting the following:

''Sec. 35. Long-term care insurance credit.

''Sec. 36. Overpayments of tax.''.

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

SEC. 612. EXCLUSION FROM GROSS INCOME OF BENEFITS RECEIVED UNDER QUALIFIED LONG-TERM CARE INSURANCE POLICIES.

(a) IN GENERAL.—Section 105 (relating to amounts received under accident and health plans) is amended by adding at the end the following new subsection:

''(j) SPECIAL RULES RELATING TO QUALIFIED LONG-TERM CARE INSURANCE POLICY.—For purposes of section 104, this section, and section 106—

''(1) BENEFITS TREATED AS PAYABLE FOR SICKNESS, ETC.—Any benefit received through a qualified long-term care insurance policy shall be treated as amounts received through accident or health insurance for personal injuries or sickness.

''(2) EXPENSES FOR WHICH REIMBURSEMENT PROVIDED UNDER QUALIFIED LONG-TERM CARE INSURANCE POLICY TREATED AS INCURRED FOR MEDICAL CARE OR FUNCTIONAL LOSS.—

''(A) EXPENSES.—Expenses incurred by the taxpayer or spouse, or by the dependent, parent, or grandparent of either, to the extent of benefits paid under a qualified long-term care insurance policy shall be treated for purposes of subsection (b) as incurred for medical care (as defined in section 213(d)).

''(B) BENEFITS.—Benefits received under a qualified long-term care insurance policy shall be treated for purposes of subsection (c) as payment for the permanent loss or loss of use of a member or function of the body or the permanent disfigurement of the taxpayer or spouse, or the dependent, parent, or grandparent of either.

''(3) REFERENCES TO ACCIDENT AND HEALTH PLANS.—Any reference to an accident or health plan shall be treated as including a reference to a plan providing qualified long-term care services (as defined in section 213(a)).''.

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

SEC. 613. EMPLOYER DEDUCTION FOR CONTRIBUTIONS MADE FOR LONG-TERM CARE INSURANCE.

(a) IN GENERAL.—Subparagraph (B) of section 404(b)(2) (relating to plans providing certain deferred benefits) is amended to read as follows:

''(B) EXCEPTIONS.—Subparagraph (A) shall not apply to—

''(i) any benefit provided through a welfare benefit fund (as defined in section 419(e)), or

''(ii) any benefit provided under a qualified long-term care insurance policy through the payment (in whole or in part) of premiums for such policy by an employer pursuant to a plan for its active or retired employees, but only if any refund or premium is applied to reduce the future costs of the plan or increase benefits under the plan.''.

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

SEC. 614. INCLUSION OF QUALIFIED LONG-TERM CARE INSURANCE IN CAFETERIA PLANS.

(a) IN GENERAL.—Paragraph (2) of section 125(d) (relating to the exclusion of deferred compensation) is amended by adding at the end the following new subparagraph:

''(D) EXCEPTION FOR QUALIFIED LONG-TERM CARE INSURANCE POLICIES.—For purposes of subparagraph (A), amounts paid or incurred for any qualified long-term care insurance policy shall not be treated as deferred compensation to the extent section 404(b)(2)(A) does not apply to such amounts by reason of section 404(b)(2)(B)(ii).''.

(b) CONFORMING AMENDMENT.—Subsection (f) of section 125 (relating to qualified benefits) is amended by striking ''and such term includes'' and inserting the following: '', qualified long-term care insurance policies, and''.

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

SEC. 615. EXCLUSION FROM GROSS INCOME FOR AMOUNTS RECEIVED ON CANCELLATION OF LIFE INSURANCE POLICIES AND USED FOR QUALIFIED LONG-TERM CARE INSURANCE POLICIES.

(a) IN GENERAL.—

(1) EXCLUSION FROM GROSS INCOME.—

(A) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 136 as section 137 and by inserting after section 135 the following new section:

''SEC. 136. AMOUNTS RECEIVED ON CANCELLATION, ETC. OF LIFE INSURANCE CONTRACTS AND USED TO PAY PREMIUMS FOR QUALIFIED LONG-TERM CARE INSURANCE.

''No amount (which but for this section would be includible in the gross income of an individual) shall be included in gross income on the whole or partial surrender, cancellation, or exchange of any life insurance contract during the taxable year if—

''(1) such individual has attained age 59½ on or before the date of the transaction, and

''(2) the amount otherwise includible in gross income is used during such year to pay for any qualified long-term care insurance policy which—

''(A) is for the benefit of such individual or the spouse of such individual if such spouse has attained age 59½ on or before the date of the transaction, and

''(B) may not be surrendered for cash.''.

(B) CLERICAL AMENDMENT.—The table of sections for such part III is amended by striking the last item and inserting the following new items:

''Sec. 136. Amounts received on cancellation, etc. of life insurance contracts and used to pay premiums for qualified long-term care insurance.

''Sec. 137. Cross references to other Acts.''.

(2) CERTAIN EXCHANGES NOT TAXABLE.—Subsection (a) of section 1035 (relating to certain exchanges of insurance contracts) is amended by striking the period at the end of paragraph (3) and inserting ''; or'', and by adding at the end the following new paragraph:

''(4) in the case of an individual who has attained age 59½, a contract of life insurance or an endowment or annuity contract for a qualified long-term care insurance policy, if such policy may not be surrendered for cash.''.

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

SEC. 616. USE OF GAIN FROM SALE OF PRINCIPAL RESIDENCE FOR PURCHASE OF QUALIFIED LONG-TERM HEALTH CARE INSURANCE.

(a) IN GENERAL.—Subsection (d) of section 121 (relating to 1-time exclusion of gain from sale of principal residence by individual who has attained age 55) is amended by adding at the end the following new paragraph:

''(10) ELIGIBILITY OF HOME EQUITY CONVERSION SALE-LEASEBACK TRANSACTION FOR EXCLUSION.—

''(A) IN GENERAL.—For purposes of this section, the term 'sale or exchange' includes a home equity conversion sale-leaseback transaction.

''(B) HOME EQUITY CONVERSION SALE-LEASEBACK TRANSACTION.—For purposes of subparagraph (A), the term 'home equity conversion sale-leaseback' means a transaction in which—

''(i) the seller-lessee—

''(I) has attained the age of 55 before the date of the transaction,

''(II) sells property which during the 5-year period ending on the date of the transaction has been owned and used as a principal residence by such seller-lessee for periods aggregating 3 years or more,

''(III) uses a portion of the proceeds from such sale to purchase a qualified long-term care insurance policy, which policy may not be surrendered for cash,

''(IV) obtains occupancy rights in such property pursuant to a written lease requiring a fair rental, and

''(V) receives no option to repurchase the property at a price less than the fair market price of the property unencumbered by any leaseback at the time such option is exercised, and

''(ii) the purchaser-lessor—

''(I) is a person,

''(II) is contractually responsible for the risks and burdens of ownership and receives the benefits of ownership (other than the seller-lessee's occupancy rights) after the date of such transaction, and

''(III) pays a purchase price for the property that is not less than the fair market price of such property encumbered by a leaseback, and taking into account the terms of the lease.

''(C) ADDITIONAL DEFINITIONS.—For purposes of subparagraph (B)—

''(i) OCCUPANCY RIGHTS.—The term 'occupancy rights' means the right to occupy the property for any period of time, including a period of time measured by the life of the seller-lessee on the date of the sale-leaseback transaction (or the life of the surviving seller-lessee, in the case of jointly held occupancy rights), or a periodic term subject to a continuing right of renewal by the seller-lessee (or by the surviving seller-lessee, in the case of jointly held occupancy rights).

''(ii) FAIR RENTAL.—The term 'fair rental' means a rental for any subsequent year which equals or exceeds the rental for the first year of a sale-leaseback transaction.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to sales after December 31, 1995, in taxable years beginning after such date.

HEALTH CARE ASSURANCE ACT OF 1995

SENATOR SPECTER

SUMMARY OF THE BILL

Title I: Health Insurance Market Reforms: Market reforms include:

Insurance Standards: Title I establishes standards for health insurers which would include guaranteed issue and renewability requirements of coverage to all individuals regardless of the existence of pre-existing conditions.

Tax Equity for the Self-Employed: Title I provides self-employed individuals and their families 100 percent tax deductibility for the cost of health insurance coverage. Under current law, no deduction exists for the self-employed since the law which provided only a 25 percent deduction for such costs expired on December 31, 1993. However, all other employers may deduct 100 percent of such costs. Title I corrects this inequity for the self-employed, 3.9 million of which are currently uninsured.

Small Employer and Individual Purchasing Groups: Title I establishes voluntary small employer and individual purchasing groups designed to provide affordable, comprehensive health coverage options for such employers, their employees, and other uninsured and underinsured individuals and families. Health plans offering coverage through such groups will: (1) provide a standard health benefits package; (2) guarantee issue and renewability of coverage including persons with pre-existing health conditions; (3) adjusted community rated premiums by age and family size in order to spread risk and provide price equity to all; and (4) meet certain other guidelines involving marketing practices.

Empoyer Mandate to Offer: Title I provides that each small employer shall offer at least 2 health care plans, one of which is a fee-for-service plan or a plan with a point-of-service option. There is no requirement that employers pay for coverage in this bill. This provision is to increase consumers availability of choice in their health care coverage.

Standard Benefits Package: The standard package of benefits would include a variation of benefits permitted among actuarially equivalent plans developed through the National Association of Insurance Commissioners (NAIC). The standard plan will consist of the following services when medically necessary or appropriate: (1) medical and surgical services; (2) medical equipment; (3) preventive services; and (4) emergency transportation in frontier areas.

Portability: For those persons who are uninsured between jobs, and for insured persons who fear losing coverage should they lose their jobs, Title I reforms existing COBRA law by: (1) extending to 24 months the minimum time period in which COBRA covers former employees through their former employers' plans; and (2) expanding coverage options to include plans with a lower premium and a $1,000 deductible—saving a typical family of four 20 percent in monthly premiums—and plans with a lower premium and a $3,000 deductible—saving a family of four 52 percent in monthly premiums.

Medicare Select Program: Title I extends the Medicare Select Program, which expires on June 30, 1995, for one year. This program authorizes States to conduct demonstration projects to give Medicare recipients the option of enrolling in a Preferred Provider Organization for their supplemental Medicare insurance. Currently, there are demonstration projects in 15 States.

Title II: Primary and Preventive Care Services: Title II authorizes the Secretary of Health and Human services to provide grants to States for projects (healthy start initiatives) to reduce infant mortality and low birth weight births and to improve the health and well-being of mothers and their families, pregnant women and infants. Title II also would provide assistance through a grant program to local education agencies and pre-school programs to provide comprehensive health education. In addition, Title II increases authorization of several existing preventive health programs, such as, breast and cervical cancer prevention, childhood immunizations, and community health centers.

Title III: Patient's Right to Decline Medical Treatment: Improve the effectiveness and portability of advance directives by strengthening the federal law regarding patient self-determination and establishing uniform federal forms with regard to self-determination.

Title IV: Primary and Preventive Care Providers: Utilizing non-physician providers, such as nurse practitioners, physician assistants, and clinical nurse specialists, by providing direct reimbursement without regard to the setting where services are provided through the Medicare and Medicaid programs. Title IV also seeks to encourage students early on in their medical training to pursue a career in primary care, and it provides assistance to medical training programs to recruit such students.

Title V: Cost Containment: Cost containment provisions include:

Outcomes Research: Expands funding for outcomes research necessary for the development of medical practice guidelines and increasing consumers' access to information in order to reduce the delivery of unnecessary and overpriced care.

New Drug Clinical Trials Program: Title V authorize a program at the National Institutes of Health to expand support for clinical trials on promising new drugs and disease treatments with priority given to the most costly diseases impacting the greatest number of people.

National Health Insurance Data and Claims System: Title V authorizes the development of a National Health Insurance Data System to curtail the escalating costs associated with paper work and bureaucracy. The Secretary of Health and Human Services is directed to create a system to centralize health insurance and health outcomes information incorporating effective privacy protections. Standardizing such information will reduce the time and expense involved in processing paperwork, increase efficiency, and reduce costs.

Health Care Cost Containment and Quality Information Project: Title V authorizes the Secretary of Health and Human Services to award grants to States to establish a health care cost and quality information system or to improve an existing system. Currently 39 States have State mandates to establish an information system, and of those 39, approximately 20 States have information systems in operation. Information, such as hospital charge data and patient procedure outcomes data, which the State agency or council collects is used by businesses, labor, health maintenance organizations, hospitals, researchers, consumers, States, etc. Such data has enabled hospitals to become more competitive, businesses to save health care dollars, and consumers to make informed choices regarding their care.

Title VI: Long-Term Care: Title VI increases access to long-term care by: (1) establishing a tax credit and deduction for amounts paid towards long-term care services of family members; (2) excluding life insurance savings used to pay for long-term care from income tax; (3) allowing employees to select long-term care insurance as part of a cafeteria plan and allowing employers to deduct this expense; (4) setting standards

that require long-term care to eliminate the current bias that favors institutional care over community and home-based alternatives.

FOOTNOTES

[1]Bureau of the Census Statistical Brief, ''Health Insurance Coverage: 1993,'' October 1994.

[2]98th Congress 1/3/83 until 1/2/85—(1) S. 811: The Health Care for Displaced Workers Act of 1983 (3/15/83); (2) S. 2051: The Health Care Cost Containment Act of 1983 (11/4/83); 99th Congress 1/3/85 until 1/2/87—(3) S. 379: The Health Care Cost Containment Act of 1985 (2/5/85); (4) S. 1873: The Community Based Disease Prevention and Health Promotion Projects Act of 1985 (11/21/85); 100th Congress 1/3/87 until 1/2/89—(5) S. 281: The Aid to Families and Employment Transition Act (1/6/87); (6) S. 1871: The Pediatric Acquired Immunodeficiency Syndrome (AIDS) Resource Centers Act (11/17/87); (7) S. 1872: The Minority Acquired Immunodeficiency Syndrome (AIDS) Awareness and Prevention Projects Act (11/17/87); 101st Congress 1/3/89 until 1/2/91—(8) S. 896: The Pediatric AIDS Resource Centers Act (5/2/89); (9) S. 1607: Authorization of the Office of Minority Health (9/12/89); 102nd Congress 1/3/91 until 1/5/93—(10) S. 1122: The Long-Term Care Incentives Act of 1991 (5/22/91); (11) S. 1214: The Change in Designation of Lancaster County, PA, for Purposes of Medicare Services (6/4/91); (12) S. 1864: The Children's Hospital of Philadelphia Medical Research Facility Act (10/23/91); (13) S. 1995: The Health Care Access and Affordability Act of 1991 (11/20/91); (14) S. 2028: The Women Veteran's Health Equity Act of 1991 (11/22/91); (15) S. 2029: Self-Funding of Veteran's Administration Health Care Act (11/22/91); (16) S. 2188: Rural Veterans Health Care Facilities Act (2/5/92); (17) S. 3176: The Health Care Affordability and Quality Improvement Act of 1992 (8/12/92); (18) S. 3353: The Deferred Acquisition Cost Act (10/6/92); 103rd Congress 1/5/93 until 2/3/94—(19) S. 18: The Comprehensive Health Care Act of 1993 (1/21/93); (20) S. 631: The Comprehensive Access and Affordability Health Care Act of 1993 (3/23/93).

[3]''We did pass that bill twice, and President Bush vetoed it twice as part of a broader bill.'' Senator George Mitchell; CBS ''Face The Nation''; Sunday, January 23, 1994.

[4]August 5, 1992; March 11, 1993; April 1, 1993; May 6, 1993; May 13, 1993; September 24, 1993; October 7, 1993; October 27, 1993; January 27, 1994; August 5, 1994; August 10, 1994; August 11, 1994; September 26, 1994.

5. July 29, 1992 and April 27, 1993. A third amendment was filed on March 26, 1993.

6. Bureau of the Census Statistical Brief, ''Health Insurance Coverage: 1993,'' October 1994.

7. Employee Benefit Research Institute, Analysis of March 1993 Current Population Survey, January 1994.

8. Employee Benefit Research Institute, Analysis of March 1993 Current Population Survey, January 1994.

9. Congressional Budget Office Testimony before the Committee on Ways and Means, U.S. House of Representatives, March 4, 1992.

10. J. Lubitz and R. Prihoda, ''The Use and Costs of Medicare Services in the Last Two Years of Life,'' Health Care Financing Review, Spring, 1984.

11. Based on 1993 Medicare expenditures from the Health Care Financing Administration of $143 billion and 1994 projected expenditures of $158 billion.

12. HHS News, U.S. Department of Health and Human Services, ''National Health Expenditures for 1993,'' November 22, 1994.

13. Dr. Marcia Angell, former Editor of the New England Journal of Medicine, ''Cost Containment and the Physician,'' The Journal of the American Medical Association, September 6, 1985.

14. The Reporter, Lansdale, PA, March 30, 1993.

15. HHS News, U.S. Department of Health and Human Services, ''National Health Expenditures for 1993,'' November 22, 1994.

By Mr. NICKLES (for himself, Mr. HELMS, Mr. SMITH, and Mr. GRASSLEY):

S. 19. A bill to amend title IV of the Social Security Act to enhance educational opportunity, increase school attendance, and promote self-sufficiency among welfare recipients; to the Committee on Finance.

LEARNFARE LEGISLATION

● Mr. NICKLES. Mr. President, today I along with Senators HELMS, SMITH, and GRASSLEY introduce legislation that will give States greater flexibility in enacting laws that link school attendance to welfare benefits. These innovative State initiatives are known as Learnfare.

We are all aware that this Congress will face the larger issue of comprehensive which emphasizes individual choice and responsibility as the key to leaving welfare and getting out of poverty, not a bloated bureaucracy. A very significant part of that reform which will break the welfare cycle is education and innovative Learnfare programs.

State governments all over the Nation are looking for new ways to reduce the prevalence of welfare dependency and lower high school dropout rates. Learnfare calls on adults to be held accountable for their actions, and holds parents on public assistance accountable for the education of their children. This is just plain common sense.

Most policymakers agree that education is the best way to break the cycle of generational poverty that plagues our Nation's poor. Children who drop out of high school are more likely to be unemployed, more likely to turn to a life of crime, and more likely to end up on welfare than their peers who remain in school. We must take every measure possible to insure that every child in the country benefits from our Nation's educational systems.

Pioneered in Wisconsin, Learnfare is the linkage of AFDC dollars to school attendance. Interest in these programs has been voiced from Massachusetts to California and from Washington to Florida as well as the State of Oklahoma. Currently, States are able to enact these measures by obtaining a waiver from the Department of Health and Human Services to expand their mandated Job Opportunities and Basic Skills [JOBS] programs to include school-age dependents of AFDC recipients. Unfortunately, States seeking to gain this waiver have met with Federal, bureaucratic stonewalling. I want to stress that this is not a mandate on the States but simply gives them the option by removing barriers which currently exist if they chose to implement a Learnfare program.

My legislation will remove this Federal stumbling block by amending the State programs section of the social Security code's AFDC regulations to allow States the option of implementing Learnfare programs. Doing away with the necessity for a Federal waiver will encourage States to implement innovative ways of keeping at-risk youths in school. It is important to note that this legislation places no mandates on the States—it simply gives them the option to establish a program if they chose. Knowing the importance of educational opportunities, the Nation's Governors adopted a 90-percent graduation rate as one of the national education goals. Learnfare will help attain this goal.

I truly hope this will be the first step toward reestablishing the once commonplace notion that individuals are answerable for their actions. Requiring responsible actions of welfare recipients will create a two-way obligation between the States and those on welfare. States are obliged to assist recipients in getting off the welfare rolls and recipients, in turn, are encouraged to use their benefits to better their situation.

We must challenge all Americans to take a stake in our Nation's education systems. As the debate on welfare reform unfolds, I challenge my colleagues to support this legislation and ensure that it is a key part of any welfare reform package. It will give the States the opportunity to enact programs the ensure every school-age child in America the educational opportunity they deserve.●

By Mr. MOYNIHAN:

S. 20. A bill to amend title 18, United States Code, with respect to the licensing of ammunition manufacturers, and for other purposes; to the Committee on the Judiciary.

HANDGUN AMMUNITION CONTROL ACT

● Mr. MOYNIHAN. Mr. President, I introduce a measure to improve our information about the regulation and criminal use of ammunition and to prevent the irresponsible production of ammunition. This bill has three components. First, it would require importers and manufacturers of ammunition to keep records and submit an annual report to the Bureau of Alcohol, Tobacco and Firearms (BATF) on the disposition of ammunition, including the amount, caliber and type of ammunition imported or manufactured. Second, it would require the Secretary of the Treasury, in consultation with the National Academy of Sciences, to conduct a study of ammunition use and make recommendations on the efficacy of reducing crime by restricting access to ammunition. Finally, it would amend title 18 of the United States Code to raise the application fee for a license to manufacture certain calibers of ammunition.

While there are enough handguns in circulation to last well into the 22nd century, there is perhaps only a 4-year supply of ammunition. But how much of what kind of ammunition? Where does it come from? Where does it go? There are currently no reporting requirements for manufacturers or importers of ammunition; earlier reporting requirements were repealed in 1986. The Federal Bureau of Investigation's annual Uniform Crime Reports, based on information provided by local law enforcement agencies, does not record the caliber, type, or quantity of ammunition used in crime. In short, our data base is woefully inadequate.

I supported the Brady law, which requires a waiting period before the purchase of a handgun, and the recent ban on semiautomatic weapons. But while the debate over gun control continues, I offer another alternative: Ammunition control. After all, as I have said

before, guns do not kill people; bullets do.

Ammunition control is not a new idea. In 1982 Phil Caruso of the New York City Patrolmen's Benevolent Association asked me to do something about armor-piercing bullets. Jacketed in tungsten or other materials, these rounds could penetrate four police flak jackets and five Los Angeles County telephone books. They are of no sporting value. I introduced legislation, the Law Enforcement Officers Protection Act, to ban the ''cop-killer'' bullets in the 97th, 98th and 99th Congresses. It enjoyed the overwhelming support of law enforcement groups and, ultimately, tacit support from the National Rifle Association. It was finally signed into law by President Reagan on August 28, 1986.

The Crime Bill enacted in 1994 contained my amendment to broaden the 1986 ban to cover new thick steel-jacketed armor-piercing rounds.

Our cities are becoming more aware of the benefits to be gained from ammunition control. The District of Columbia and some other cities prohibit a person from possessing ammunition without a valid license for a firearm of the same caliber or gauge as the ammunition. Beginning in 1990, the City of Los Angeles banned the sale of all ammunition 1 week prior to Independence Day and new Year's Day in an effort to reduce injuries and deaths caused by the firing of guns into the air. And most recently, in September of 1994, the City of Chicago became the first in America to ban the sale of all handgun ammunition.

Such efforts are laudable. But they are isolated attempts to cure what is in truth a national disease. We need to do more, but to do so, we need information to guide policy-making. This bill would fulfill that need by requiring annual reports to BATF by manufacturers and importers and by directing a study by the National Academy of Sciences. We also need to encourage manufacturers of ammunition to be more responsible. By substantially increasing application fees for licenses to manufacture .25 caliber, .32 caliber, and 9 mm ammunition, this bill would discourage the reckless production of unsafe ammunition or ammunition which causes excessive damage.

I urge my colleagues to support this measure, and ask unanimous consent that its full text be printed in the RECORD.

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

S. 20

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that this Act may be cited as the ''Handgun Ammunition Control Act of 1995''.

SECTION 1. RECORDS OF DISPOSITION OF AMMUNITION.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Section 923(g) of title 18, United States Code, is amended—

(1) in paragraph (1)(A) by inserting after the second sentence ''Each licensed importer and manufacturer of ammunition shall maintain such records of importation, production, shipment, sale or other disposition of ammunition at the place of business of such importer or manufacturer for such period and in such form as the Secretary may by regulations prescribe. Such records shall include the amount, caliber, and type of ammunition.''; and

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

''(8) Each licensed importer or manufacturer of ammunition shall annually prepare a summary report of imports, production, shipments, sales, and other dispositions during the preceding year. The report shall be prepared on a form specified by the Secretary, shall include the amounts, calibers, and types of ammunition that were disposed of, and shall be forwarded to the office specified thereon not later than the close of business on the date specified by the Secretary.''.

(b) STUDY OF CRIMINAL USE AND REGULATION OF AMMUNITION.—The Secretary of the Treasury shall request the National Academy of Sciences to—

(1) prepare, in consultation with the Secretary, a study of the criminal use and regulation of ammunition; and

(2) to submit to Congress, not later than July 31, 1997, a report with recommendations on the potential for preventing crime by regulating or restricting the availability of ammunition.

SEC. 2. INCREASE IN LICENSING FEES FOR MANUFACTURERS OF AMMUNITION.

Section 923(a) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) by redesignating subparagraphs (A), (B), (C), and (D) as subparagraphs (B), (C), (D), and (E) respectively;

(2) by inserting after paragraph (1), the following new paragraph:

''(A) of .25 caliber, .32 caliber, or 9 mm ammunition, a fee of $10,000 per year;''●

By Mr. DOLE (for himself, Mr. LIEBERMAN, Mr. HELMS, Mr. THURMOND, Mr. MCCONNELL, Mr. LOTT, Mr. FEINGOLD, Mr. D'AMATO, MR. MCCAIN, Mr. BIDEN, Mr. MACK, Mr. KYL, Mr. GORTON, Mr. HATCH, Mr. SPECTER, Mr. PACKWOOD AND MR. CRAIG):

S. 21. A bill to terminate the United States arms embargo applicable to the Government of Bosnia and Herzegovina; to the Committee on Foreign Relations.

BOSNIA-HERZEGOVINA SELF-DEFENSE ACT

Mr. DOLE. Mr. President, I will also introduce another bill, which will have the number S. 21, together with the distinguished Senator from Connecticut, Senator LIEBERMAN. The bill is known as the Bosnia-Herzegovina Self-Defense Act of 1995, which would terminate the United States arms embargo on Bosnia. We are pleased to be joined by a number of bipartisan sponsors, and we have had a lot of bipartisan votes. In fact, the last time we had a vote we had 58 votes.

Mr. President, I was hoping that we would not have to offer this legislation again this year. I was hoping that after more than a thousand days of Sarajevo's Siege, after more than thousand excuses from the leaders of the international community, that finally some action would be taken. Tragically, despite countless promises of tough action against brutal Serb aggression, the international community has chosen to confront this egregious violation of international law and the affront to principles of humanity, with what amounts to appeasement. Ironically, the only promise this administration, the Europeans, and the United Nations have kept is their promise to continue to deny the Bosnian people the right to defend themselves against genocidal aggression.

What is so disappointing about this situation, is that the last time the Senate debated this matter, the Clinton administration made the following predictions and commitments: First, the contact group countries were serious about living up to the commitments they made in the July 30 communique, which included stricter enforcement and expansion of the exclusion zones in Bosnia; Second, the Clinton administration would seek a multilateral lifting of the arms embargo in the U.N. Security Council; and Third no further concessions would be made to the Bosnian Serbs, the contact group plan being a ''Peaceful Ultimatum.''

Nearly 6 months later, what do we see? In Bihac we saw that there is no will to fulfill current NATO and U.N. commitment to protect the safe havens in Bosnia, let alone take on greater responsibilities;

A U.S.-sponsored resolution to lift the embargo lies dormant in the U.N. Security Council for more than 2 months now; and

Representatives from contact group countries are rushing to Belgrade and to Pale to further sweeten the pot for the Bosnian Serbs and their mentor, Slobodan Milosevic. The have tacitly agreed to a confederation between Serb-controlled areas of Bosnia and Serbia, and are moving toward extending sanctions relief for Serbia even though Milosevic's announced embargo of the Bosnian Serbs has proven to be a sham.

We still every day hope peace is around the corner. We are told, let us pass some more resolutions, let somebody in the United Nations make a statement, let us listen to the British, let us listen to the French, let us do all these things and we have been doing it and doing it and nothing happens.

The United Nations has a dual key approach, which means NATO cannot do anything in Bosnia, if they want to do anything, and even that is questionable.

Another ceasefire has been reached—and maybe it will hold—but by their own admission, the Bosnian Serbs have only agreed to the contact group plan as a ''basis for further negotiations.'' Can we really call that progress?

And so, we are offering legislation to lift the arms embargo once more. This bill does allow for the possibility that the ceasefire may hold for 4 months; it would not lift the arms embargo until

May 1 of this year unless there is a formal request from the Bosnian Government prior to that time.

There are those who will say that this bill undermines the ceasefire and the peace process. I strongly disagree. Since when does leverage undermine diplomacy? So far, the only leverage is on the Bosnian Serb side—because they control 70 percent of Bosnia, they hold U.N. troops hostage with impunity, they shut down the Sarajevo airlift by threatening NATO planes, because they do these things and all they have to fear is another visit by Yasushi Akashi. On the other side are the Bosnians, who are nominally protected in their safe havens, and can only see evidence of their rights as a sovereign nation on paper—in the U.N. Charter or some U.N. resolution.

The bottom line is that if this legislation is passed and no peace settlement is reached, Radovan Karadzic and his thugs will have to face greater consequences than another meeting of the contact group. That would be a great improvement on the empty threats of the last 33 months.

I would like to quote from the late Secretary General of NATO, Manfred Woerner, who gave a speech in the Fall of 1993 about NATO and foreign policy in the 21st century. He said, and I quote: ''First, political solutions and diplomatic efforts will only work if backed by the necessary military power and the credible resolve to use it against an aggressor. Second, if you cannot or do not want to help the victim of aggression, enable him to help himself.''

The United States and the members of the alliance would do well to consider the wise words of Manfred Woerner—one of the strongest secretaries general in NATO's history. The contact group's diplomacy is not backed by the necessary military power or credible resolve—and that is why its diplomatic efforts have failed, causing considerable damage to the credibility of the alliance. Furthermore, since after these long months it is apparent that the international community is unwilling to confront Serbian aggression, we should help the victim of this aggression, Bosnia.

Mr. President, I would also like to address some of the arguments made against ''unilaterally'' lifting the arms embargo. First, if the United States acts first, that does not mean we will not be joined by other countries. I believe that despite British and French objections, even some of our NATO allies would join us. Moreover, there are other countries, including the gulf states and moderate Islamic governments that would participate in financing and providing military assistance. As for the argument that leading the way would lead to the demise of other embargoes against aggressor states, such as Iraq, this argument assumes that our allies cannot tell the difference between a legal and illegal embargo.

Second, the provision of training and arms would not require the deployment of U.S. ground troops. The Bosnians have an advantage in manpower—what they need are weapons. Indeed, it is the administration's policy of committing the United States to assist in the enforcement of the contact group settlement that would lead to the potential deployment of tens of thousands of U.S. ground troops—and for a considerable length of time because the Bosnians would still be unable to protect their territory.

Third, contrary to those who point to reports of arms shipments from Iran to Bosnia, a decision to arm the Bosnians would reduce the potential influence and role of radical extremists states like Iran. The Muslins in Bosnia are secular Muslims, not fundamentalists, who have lived with Christians and Jews in peace for centuries. Ironically, our policy toward Bosnia has fueled anti-Western extremism in the Middle East.

Some say it is too late, the Bosnians have lost and it would take too long for them to achieve the capability to defend themselves against the powerful Serb forces. In my view, that judgment should be left to the Bosnians—it is their country and their future. Furthermore, the fact is that Serb forces have not paid a price for their aggression and we do not know what the impact of leveling the military playing field will have on the effectiveness of Serb forces. Let us recall that some in our Government greatly overestimated the cohesiveness and morale of the Iraqi forces, and underestimated the military and political impact that stingers had on the mighty Soviet Red Army in Afghanistan. Serb forces are not the Red army, they are not the Iraqi army.

As for the extent of military assistance required, the Bosnians do not need to duplicate the inventory of Serb forces, only acquire the means to counter them. Earlier Pentagon estimates that $5 billion in military assistance is required to assist the Bosnians amount to a scare tactic. The Bosnians need Soviet-style weapons—which are readily available and less expensive than top of the line U.S. systems—in addition to training in strategy and tactics.

Finally, I would like to address the argument I heard in London, that the withdrawal of U.N. protection forces would result in the serious deterioration of the humanitarian situation in Bosnia. This would likely be true in the short term, particularly in the eastern enclaves. However, we must recognize that the circumstances have worsened in recent months despite the presence of U.N. protection forces. Should the Bosnian Serbs choose to target their forces on the eastern enclaves, as they did in Bihac, U.N. protection would probably amount to very little. The bottom line is that over the long term, the Bosnians are better off putting their future into their own hands, than in the hands of international bureaucrats—even if in the short term, the situation worsens.

Mr. President, we are rapidly approaching the third anniversary of this tragic war. We have an opportunity to take real action, to take meaningful action, by terminating this illegal and unjust arms embargo on Bosnia-Herzegovina. I urge my colleagues to sign up as cosponsors and take a firm stand in support of democracy, international law and humanity.

Mr. President, I ask unanimous consent that my entire statement be made a part of the RECORD, and also a statement by Senator LIEBERMAN and Senator FEINGOLD. And I would indicate to my colleagues the other cosponsors. Of course, our resolution is open to additional cosponsors. The cosponsors are Senators DOLE and LIEBERMAN, HELMS, THURMOND, MCCONNELL, LOTT, FEINGOLD, D'AMATO, MCCAIN, BIDEN, MACK, KYL, GORTON, HATCH, SPECTER, PACKWOOD and GREGG.

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. 21

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 ''Bosnia and Herzegovina Self-Defense Act of 1995''.

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) For the reasons stated in section 520 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236), the Congress has found that continued application of an international arms embargo to the Government of Bosnia and Herzegovina contravenes that Government's inherent right of individual or collective self-defense under Article 51 of the United National Charter and therefore is inconsistent with international law.

(2) The United States has not formally sought multilateral support for terminating the arms embargo against Bosnia and Herzegovina through a vote on a United Nations Security Council resolution since the enactment of section 1404 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337).

(3) The United Nations Security Council has not taken measures necessary to maintain international peace and security in Bosnia and Herzegovina since the aggression against that country began in April 1992.

SEC. 3. STATEMENT OF SUPPORT.

The Congress supports the efforts of the Government of the Republic of Bosnia and Herzegovina—

(1) to defend its people and the territory of the Republic;

(2) to preserve the sovereignty, independence, and territorial integrity of the Republic; and

(3) to bring about a peaceful, just, fair, viable, and sustainable settlement of the conflict in Bosnia and Herzegovina.

SEC. 4. TERMINATION OF ARMS EMBARGO.

(a) TERMINATION.—The President shall terminate the United States arms embargo of the Government of Bosnia and Herzegovina on—

(1) the date of receipt from that Government of a request for assistance in exercising its right of self-defense under Article 51 of the United Nations Charter, or

(2) May 1, 1995,

whichever comes first.

(b) DEFINITION.—As used in this section, the term ''United States arms embargo of the Government of Bosnia and Herzegovina'' means the application to the Government of Bosnia and Herzegovina of—

(1) the policy adopted July 10, 1991, and published in the Federal Register of July 19, 1991 (58 F.R. 33322) under the heading ''Suspension of Munitions Export Licenses to Yugoslavia''; and

(2) any similar policy being applied by the United States Government as of the date of receipt of the request described in subsection (a) pursuant to which approval is denied for transfers of defense articles and defense services to the former Yugoslavia.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be interpreted as authorization for deployment of United States forces in the territory of Bosnia and Herzegovina for any purpose, including training, support, or delivery of military equipment.

Mr. LIEBERMAN. Mr. President, the people of Bosnia-Herzegovina are in the midst of their third terrible winter of war. For most Bosnians, uncertain food supplies, running water, heat and fuel compound the misery of loss—of family members, and friends, personal security and their former multicultural identity. Bosnia, a United Nations member state, has been the victim of aggression from neighboring Serbia, has suffered genocide in the guise of ''ethnic cleansing,'' and has been effectively forced by the so-called ''Great Powers'' to trade sovereignty over more than half of its territory in exchange for unfulfilled promises of peace.

Why did these terrible things happen to Bosnia? Has it blown up civilian aircraft? Assassinated policeman? Kidnapped diplomats? Built or exported nuclear weapons? No. Bosnia had the temerity to be one of four states to leave the former Yugoslavia pursuant to a vote by its citizens.

When the remnants of the former Yugoslavia retaliated by invading Bosnia, how did the United Nations respond? It has not supported member state Bosnia's right of self-defense. It has not effectively defended the safe areas it persuaded Bosnia to agree to. It has assisted the Serbs with ethnic cleansing by moving populations out of contested areas and providing a share of fuel and humanitarian supplies to Serb forces—even while they shelled civilians and U.N. peacekeepers.

The intention behind these misguided policies was to stop the fighting in Bosnia. It was thought that an even-handed policy taking sides against the aggressor was the best way to restore peace. But the practical effect of this policy has been anything but even-handed.

The divisions rending the former Yugoslavia are not new since the end of the cold war. The emotions propelling the violence in that region festered invisibly for years but did not disappear under authoritarian communism. Similarly, they will not disappear under an unjust peace imposed under the United Nations. This is the post-cold war era, when democracy and human rights are supposed to be free to flower. It is inconsistent both with the opportunities presented by the end of the cold war and with the United States' commitment to human rights and democracy to participate in a policy which does not side with the victims against the aggressor and reward democratic leaders instead of authoritarian dictators.

The United Nations asserts that lifting the arms embargo against Bosnia will lead to further violence in Bosnia, expansion of the conflict to neighboring Balkan States, the withdrawal of UNPROFOR and Serbian conquest of even more of Bosnia. Rather than risk these consequences, some argue the United States should continue to acquiesce in a peace process that has resulted in more and more concessions from the Bosnian side in exchange for more and more broken promises by the Serbs and the United Nations. But as the continued shelling of Sarajevo and strangling of supplies to the eastern areas shows, this process has not produced peace. The attack launched from Croatia into Bihac in November demonstrated that it has not prevented spillover to other Balkan States. And as President Izethegovic stated at the CSCE Summit in Budapest, and unjust peace will not prevent the outgunned Bosnians from continuing their fight for freedom.

Evenhandedness between a victim and an aggressor is not only immoral; it is dangerous. If Serbian aggression and intransigence is successful in Bosnia, we can expect more of it, not only in the Balkans but elsewhere as well. No peace based on injustice will endure long in a democracy. In international relations as in medicine, an intervener should be sure first to do no harm. These should be the starting points of United States' and United Nations' policy in Bosnia. We should not presume a U.N. role first and then allow a preoccupation with the practicalities of it to obscure our purpose.

I have heard warnings that if the United States unilaterally lifts the arms embargo on Bosnia, not only Bosnia but also the institutions of the United Nations and even NATO will be harmed. It do not see the consequences of the United States' correcting its policy in Bosnia in such stark terms. But I am prepared to live with the consequences that follow. To some, Bosnian sovereignty seems a small price to pay in order to preserve NATO and the U.N. But if NATO, which stood for a strong defense against potential aggression during the cold war, stands for timidity in the face of aggression in the New World, then it needs to be rethought. Similarly, if the United Nations, created as a forum to fairly resolve post-World War II disputes is not preoccupied with preserving the status quo at enormous cost and without regard to justice, then it too is in need of change.

Of this much I am certain: the United States should turn away from acquiescence in a policy which immorally equates victim and aggressor, makes promises to the victims which it does not honor and establishes as a tenet of the new world order that determined aggression pays. During the current cessation of hostilities in Bosnia, the Bosnian Serbs have one more change to reach a peaceful settlement with the Bosnian Government. If they do not take advantage of this opportunity or violate the cessation of hostilities, the United States should lift the arms embargo, preferably with but if necessary without the concurrence of the United Nations.

Mr. FEINGOLD. Mr. President, I rise today as an original co-sponsor of the Dole-Lieberman bill to terminate the U.S. arms embargo against the Republic of Bosnia and Herzegovina. By introducing this bill on the first day of the 104th Congress, we are signalling that we will do all we can to pursue a just and moral policy toward Bosnia, and are designating it a top foreign policy priority. Of course, the partition of a member state of the United Nations should be of utmost concern to every member of the international community, but I also believe that this debate is about how our post-World War II structures and cold war principles respond in practice to post-cold war crises.

This feels a bit like deja vu. When I came to the Senate 2 years ago, the war in Bosnia was already raging. The Bosnian Serbs, egged on by Serbia, were fighting to create a greater Serbia at the expense of a sovereign nation, and at any cost to humanity and international law. We were horrified by evidence of ethnic cleansing of non-Serbs by Serbian forces; of systematic rape of Bosnian women by Serb military; and of naked aggression against a member state of the United Nations. Informed by resolutions after the Holocaust in 1945 that ''never again'' would we ''bear witness'' to such atrocities, we debated whether to lift the U.N. arms embargo against Bosnia, and permit the Bosnian Government to exercise its guaranteed right of self-defense. In March 1993 I introduced the first resolution urging the United States to work with the United Nations to lift the embargo, and then I joined Senators DOLE, LIEBERMAN, and others in offering several floor amendments to lift the U.S. embargo unilaterally.

In the Senate Foreign Relations Committee, on the floor of the Senate, and in conference on major foreign policy bills during the 103d Congress we voted repeatedly on the question of whether to lift the arms embargo against Bosnia, either multilaterally or unilaterally. I and others argued that as a sovereign nation, Bosnia was entitled to exercise its right of self-defense, and that since the negotiating strength of each party is dependent to

some degree on equity in access to arms, no peace plan would meet success unless Bosnia had an opportunity to counter Serbian aggression on its own.

There was overwhelming majority support to lift the embargo, though the Senate was closely divided on any given day about whether the United States should proceed unilaterally or only in concert with the United Nations. Finally, in response to congressional direction, President Clinton announced on November 12 that the United States would no longer enforce the embargo. This is a welcome step, but falls short of the imperative to terminate the embargo altogether.

I maintain that the United States is authorized to lift the embargo unilaterally because it contravenes Article 51 of the United Nations Charter, and is therefore non-binding. Article 51 protects the inherent right of individuals and states to self-defense ''until the Security Council has taken measures necessary to maintain international peace and security.'' Clearly, the United Nations has yet to take measures which do that.

As a substitute, the United Nations has passed resolutions to restrain the Serb advances; deployed an international peacekeeping force to deliver humanitarian aid to starving Bosnians; and sponsored a series of failed and misguided peace plans. NATO has also threatened air attacks, obliquely coordinated with the United Nations in certain cases. The promises to be a surrogate protector were all supposed to compensate Bosnia for the denial of its self-defense by the international community.

But, while some of these measures may have saved lives, there is no substitute for self-defense, Mr. President. In fact, these policies have subverted the rules of international law and order, and have made the United Nations and NATO, through inaction, false fatalism, and now appeasement, party to the aggression they were created after World War II to combat.

Mr. President, after taking responsibility for Bosnia's security, the member nations of the U.N. Security Council through the Contact Group are selling out Bosnia and presiding over the dismemberment of a sovereign state of the United Nations. The administration, perhaps tired of a difficult situation, has apparently decided to appease the Bosnian Serbs by concessions instead of sanctions, implying that the war is over and that the Serbs have won because they have demonstrated the most force, fought the most viciously, and in the end occupy the most land.

This is hardly a formula for peace. As we learned in World War II, and even during the Persian Gulf crisis, appeasement does not work; rewarding aggression does not work. Through the latest Contact Group plan, and the apparent shift in United States policy, Serbian belligerence and nationalism have only been emboldened. U.N. Security Council resolutions, along with NATO threats of force, have not been enforced and have been proven hollow: in fact, the United Nations has so little leverage in the region, Bosnian Serbs are even kidnapping U.N. peacekeepers with impunity. Each act of appeasement has only whetted their appetite for more, and threatens exactly the wider war the administration and NATO say they want to contain. Given this situation, I am skeptical that the 4-month ceasefire signed this weekend—and, at Serbian insistence, explicitly without any linkage to peace talks—will hold: after all, with everything to gain for violating it, what incentive do the Serbs have to honor it?

There may be little the world can do to stop further carnage in Bosnia. However, we have an option to pursue justice in Bosnia, an option far better than appeasement, an option that would create a level playing field: lift the arms embargo against Bosnia, either with or without our NATO allies or U.N. approval. The embargo has not contained violence in the former Yugoslavia, but rather has helped to victimize further Bosnia; it has, as President Izetbegovic said at the United Nations in September, ''turned justice into injustice.''

If the Contact Group wishes to succeed, then any settlement it negotiates will have to include a lifting of the embargo—not just because it will restore dignity to the people of Bosnia, but also because it is the only type of pressure which may ensure that the Serbs abide by the agreement and do not seek additional concessions as time goes on. Lifting the embargo may mean the departure of U.N. peacekeepers in Bosnia. If it is done in connection with a peace agreement, this may be warranted, and perhaps even U.N. weapons in the region can be transferred to the Bosnian army. If the U.N. presence continues to be the only reason not to lift the embargo, then I would submit that the United Nations is standing in the way of a just settlement, and its purpose in the region should be re-thought.

Though I firmly believe legally the United States can send weapons to the Bosnians, I think the administration would be well-served politically if it continued to work to lift the arms embargo multilaterally. In October the U.S. presented a resolution to the Security Council to lift the embargo, but has never moved it. At a minimum, the United States should call for a vote on the resolution, and then work to round up multinational support for it similar to what the administration did for its invasion into Haiti. We might lose, but at least we would have tried to cooperate with our allies. At least we would not be relegating Bosnia to the lowest level of importance in our international relationships, or behaving as if we cannot influence what the United Nations does.

I would also urge the administration to continue its efforts to negotiate a comprehensive solution to the Balkan war. The Contact Group plan addresses only Bosnia, yet Bosnia is just one component of Serbian aggression. The Serbs have grabbed about one-third of Croatian territory, and the United Nations has not implemented its resolutions to cut off those areas. The Croatian-Muslim federation has been one of the most positive developments this year, and every step should be taken to strengthen this union: indeed, both countries depend on each other for survival. Therefore, provided that Croatia continues to contribute to an overall peaceful resolution in the Balkans, I would be inclined to lift the embargo against Croatia as well. We must remember that if there is an agreement between Bosnia and the Serbs, the region will quickly erupt again if Croatia's grievances are not addressed as well.

The Balkan war is complex, ugly, and terrifying. The risks and potential for further violence are mind-boggling. But, it is also a test for the international community to define its interests, philosophies, and methods in the post-cold war world. So far, it has failed deplorably in principle and practice, and it won't get it right until the arms embargo is lifted.

By Mr. DOLE (for himself, Mr. HEFLIN, Mr. BROWN, Mr. BURNS, Mr. HATCH, Mr. NICKLES, Mr. CRAIG and Mrs. KASSEBAUM:

S.22. A bill to require Federal agencies to prepare private property taking impact analyses; to the Committee on Governmental Affairs.

THE PRIVATE PROPERTY RIGHTS ACT OF 1995

Mr. DOLE. Mr. President, time and again I have heard from the people all across America that Congress must do more to stop the infringement on private property rights. I believe we have all heard this message. Today, I along with Senators HEFLIN, BROWN, CRAIG, KASSEBAUM, BURNS, HATCH and NICKLES are introducing the private property Rights Act of 1995. This legislation will serve as a small step toward ensuring that government mandates and government bureaucrats do not continue to run over individual citizens and individual rights.

Now, a lot has been said on this floor regarding private property rights. I think many of us agree on the need to protect private property. The question is—How do we best proceed to get the government out of the peoples' backyards?

Last year I introduced the private property rights Act of 1994. Some Members in this Chamber may recall a modified version of that legislation was later attached to the Safe Drinking Water Act. Today, I am introducing the Private Property Rights Act of 1995. This bill has incorporated some of the changes proposed during the debate of the 1994 Safe Drinking Water Act, although there are still differences.

This bill takes a ''look before you leap'' approach to the regulatory process. The legislation requires Federal

agencies to conduct a takings impact assessment when promulgating any agency policy, regulation, guideline or before recommending legislative proposals to Congress. This bill does not stop legitimate regulatory processes and it only applies to any action which could result in an actual taking.

The assessment must consider the effect of the agency action, the cost of the action to the Federal Government, the reduction in the value to the owners property, and require the agency to consider alternatives to taking private property.

It is important to note that taking can occur even though title to the property remains with the original owner and the government has only placed restrictions on its use. Fortunately, courts have recognized these partial takings are subject to just compensation. Unfortunately, the only check on the enforcement of the Constitution has been through the court system, wherein citizens can, at the expense of vast amounts of money and time, ensure the government complies with the Constitution.

The rights of property owners are supposed to be protected from the Federal Government under the fifth amendment and from State governments by the fourteenth amendment. Unfortunately, those who have sworn to uphold our Constitution are not always as vigilant as they need to be. Let's face it, there are billions of dollars in claims filed against the Federal Government by landowners who believe their private property has been taken.

This bill is the first step toward putting the people back in charge of their land. This is a good government bill. It brings government into the sunshine. If you support the Freedom of Information Act, if you support the National Environmental Policy Act, if you support the Administrative Procedures Act, then you should support the Private Property Rights Act of 1995.

Mr. President, I ask my colleagues to ask small business owners, farmers and ranchers, and those who believe in the private property rights contained in our Constitution, what they think about this bill? When they do, I am certain they will agree we should adopt this legislation in 1995.

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. 22

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

SECTION 1. PRIVATE PROPERTY RIGHTS.

(a) SHORT TITLE.—This Act may be cited as the ''Private Property Rights Act of 1995''.

(b) FINDINGS.—The Congress finds that—

(1) the protection of private property from a taking by the Government without just compensation is an integral protection for private citizens incorporated into the United States Constitution by the fifth amendment and made applicable to the States by the fourteenth amendment; and

(2) Federal agencies should take into consideration the impact of governmental actions on the use and ownership of private property.

(c) PURPOSE.—The Congress, recognizing the important role that the use and ownership of private property plays in ensuring the economic and social well-being of the Nation, declares that the Federal Government should protect the health, safety, and welfare of the public and, in doing so, to the extent practicable, avoid takings of private property.

(d) DEFINITIONS.—For purposes of this section—

(1) the term ''agency'' means a department, agency, independent agency, or instrumentality of the United States, including any military department, Government corporation, Government-controlled corporation, or other establishment in the executive branch of the United States Government; and

(2) the term ''taking of private property'' means any action whereby private property is taken in such a way as to require compensation under the fifth amendment to the United States Constitution.

(e) PRIVATE PROPERTY TAKING IMPACT ANALYSIS.—

(1) IN GENERAL.—The Congress authorizes and directs that, to the fullest extent possible—

(A) the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies under this title; and

(B) subject to paragraph (2), all agencies of the Federal Government shall complete a private property taking impact analysis before issuing or promulgating any policy, regulation, proposed legislation, or related agency action which is likely to result in a taking of private property.

(2) NONAPPLICATION.—The provisions of paragraph (1)(B) shall not apply to—

(A) an action in which the power of eminent domain is formally exercised;

(B) an action taken—

(i) with respect to property held in trust by the United States; or

(ii) in preparation for, or in connection with, treaty negotiations with foreign nations;

(C) a law enforcement action, including seizure, for a violation of law, of property for forfeiture or as evidence in a criminal proceeding;

(D) a communication between an agency and a State or local land-use planning agency concerning a planned or proposed State or local activity that regulates private property, regardless of whether the communication is initiated by an agency or is undertaken in response to an invitation by the State or local authority;

(E) the placement of a military facility or a military activity involving the use of solely Federal property;

(F) any military or foreign affairs function (including a procurement function under a military or foreign affairs function), but not including the civil works program of the Army Corps of Engineers; and

(G) any case in which there is an immediate threat to health or safety that constitutes an emergency requiring immediate response or the issuance of a regulation under section 553(b)(B) of title 5, United States Code, if the taking impact analysis is completed after the emergency action is carried out or the regulation is published.

(3) CONTENT OF ANALYSIS.—A private property taking impact analysis shall be a written statement that includes—

(A) the specific purpose of the policy, regulation, proposal, recommendation, or related agency action;

(B) an assessment of the likelihood that a taking of private property will occur under such policy, regulation, proposal, recommendation, or related agency action;

(C) an evaluation of whether such policy, regulation, proposal, recommendation, or related agency action is likely to require compensation to private property owners;

(D) alternatives to the policy, regulation, proposal, recommendation, or related agency action that would achieve the intended purposes of the agency action and lessen the likelihood that a taking of private property will occur; and

(E) an estimate of the potential liability of the Federal Government if the Government is required to compensate a private property owner.

(4) SUBMISSION TO OMB.—Each agency shall provide the analysis required by this section as part of any submission otherwise required to be made to the Office of Management and Budget in conjunction with the proposed regulation.

(5) PUBLIC AVAILABILITY OF ANALYSIS.—An agency shall—

(A) make each private property taking impact analysis available to the public; and

(B) to the greatest extent practicable, transmit a copy of such analysis to the owner or any other person with a property right or interest in the affected property.

(f) GUIDANCE AND REPORTING REQUIREMENTS.—

(1) GUIDANCE.—The Attorney General shall provide legal guidance in a timely manner, in response to a request by an agency, to assist the agency in complying with this section.

(2) REPORTING.—Not later than 1 year after the date of enactment of this Act and at the end of each 1-year period thereafter, each agency shall provide a report to the Director of the Office of Management and Budget and the Attorney General identifying each agency action that has resulted in the preparation of a taking impact analysis, the filing of a taking claim, or an award of compensation pursuant to the Just Compensation Clause of the Fifth Amendment to the Constitution. The Director of the Office of Management and Budget and the Attorney General shall publish in the Federal Register, on an annual basis, a compilation of the reports of all agencies made pursuant to this paragraph.

(g) PRESUMPTIONS IN PROCEEDINGS.—For the purpose of any agency action or administrative or judicial proceeding, there shall be a rebuttable presumption that the costs, values, and estimates in any private property takings impact analysis shall be outdated and inaccurate, if—

(1) such analysis was completed 5 years or more before the date of such action or proceeding; and

(2) such costs, values, or estimates have not been modified within the 5-year period preceding the date of such action or proceeding.

(h) RULES OF CONSTRUCTION.—Nothing in this Act shall be construed to—

(1) limit any right or remedy, constitute a condition precedent or a requirement to exhaust administrative remedies, or bar any claim of any person relating to such person's property under any other law, including claims made under this Act, section 1346 or 1402 of title 28, United States Code, or chapter 91 of title 28, United States Code; or

(2) constitute a conclusive determination of—

(A) the value of any property for purposes of an appraisal for the acquisition of property, or for the determination of damages; or

(B) any other material issue.

(i) EFFECTIVE DATE.—The provisions of this Act shall take effect 120 days after the date of the enactment of this Act.

Mr. HEFLIN. Mr. President, I rise today to support the Private Property Rights Act of 1995—a bill similar to the private property rights legislation Senator DOLE and I introduced during the 103d Congress. This bill recognizes the important role the use and ownership of property plays in American society and declares the policy of the Federal Government to be one that will minimize takings of private property.

The fifth amendment to the Constitution clearly provides that private property cannot be taken for public use without just compensation. As such, the Dole-Heflin bill creates a method whereby the impact on private property rights is duly considered in Federal regulatory activities. Specifically, the bill will require Federal agencies to certify to the Attorney General that a taking impact assessment has been completed prior to promulgating any agency policy. The takings impact assessment must consider the effect of the agency action, the cost of the action to the Federal Government, the reduction in value to private property owners, and requires the agency to consider alternatives to taking private property. In effect, compliance with this act will not only help avoid inadvertent takings of constitutionally guaranteed rights but will also reduce the Federal Government's financial liability for such compensable takings.

In closing, I believe that private property rights are the foundation of the individual liberties we all enjoy as Americans. Therefore, I urge my colleagues to join me in supporting this important legislation.

By Mr. HELMS:

S. 23. A bill to protect the First Amendment rights of employees of the Federal Government; read the first time.

PROTECTING FEDERAL EMPLOYEES' RIGHTS TO QUESTION HOMOSEXUAL AGENDA IN THE WORKPLACE

Mr. HELMS. Mr. President, it became an embarrassment to the decency of the American people last year that in many high places within Government, free speech was to be permitted only when organized homosexuals agreed to it.

There was an episode on July 20, 1994, when 58 Senators voted in defense of a faithful and longtime employee of the Department of Agriculture—Dr. Karl Mertz, whose first amendment rights were callously violated after he dared to stand up against sodomy. Took a stand, on his own time, by stating his opposition to special rights for homosexuals. As a result of that Senate vote and my holding up USDA nominations and legislation, the former Secretary of Agriculture, Mike Espy, restored that employee, Dr. Karl Mertz, to his previous position.

While the amendment I offered last summer only protected the first amendment rights of employees at the USDA, I said at the time that it was also imperative that all employees throughout the Federal Government be assured that they are able to exercise, without fear of reprisal, their right to question the special rights for homosexuals that have been proposed by numerous Federal agencies.

And that is the intent for the legislation I am introducing today. For Senators who did not hear the text of the bill when it was read by the clerk, let me read it again.

Notwithstanding any other provision of law, no employee of the Federal Government shall be peremptorily removed without public hearings from his or her position because of remarks made during personal time in opposition to the Federal Government's policies, or proposed policies, regarding homosexuals, and any such individual so removed prior to date of this Act shall be reinstated to his or her previous position.

Senators might belittle this bill as needless. Nothing could be further from the truth. Simply put, this bill protects the rights of Federal employees to speak their mind on their own time when it comes to matters of moral and spiritual significance. If they lose this right—as Dr. Mertz almost did at the Department of Argriculture—then all Americans lose.

Mr. President, Americans have very strong feelings about the religious and moral implications of homosexuality. And Americans opposed to it have every bit as much a right to oppose the Government's efforts to extend special rights to homosexuals.

As the homosexuals have to ask for special rights, privileges, and protections from the Government. Allowing homosexuals to characterize free speech opposing their agenda as hate speech—as the news media does as well—is one thing; but allowing the Federal Government to take their side in the public debate—and in the Federal workplace—is quite another.

That is why this legislation is designed, if enacted, to ensure that the Federal Government remains neutral in the on-going cultural debate over homosexuality. Federal employees will be able to state their true feelings on the issue without having to worry about so-called politically correct bureaucrats getting them fired.

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

S. 23

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

SECTION. 1. Notwithstanding any other provision of law, no employee of the Federal Government shall be peremptorily removed without public hearings from his or her position because of remarks made during personal time in opposition to the Federal Government's policies, or proposed policies regarding homosexuals, and any such individual so removed prior to date of enactment of this Act shall be reinstated to his or her previous position.

By Mr. HELMS:

S. 24. A bill to make it a violation of a right secured by the Constitution and laws of the United States to perform an abortion with knowledge that such abortion is being performed solely because of the gender of the fetus, and for other purposes; read the first time.

CIVIL RIGHTS OF INFANTS ACT

Mr. HELMS. Mr. President, all who value the rights of the unborn are indebted to our distinguished former colleague from New Hampshire, Mr. Humphrey. From the day he arrived in the Senate, until the day he left, he championed the cause of the most innocent, most helpless, victims of the permissive society that plagues America.

It was Senator Humphrey who in 1989 brought to the attention of the Senate a new and particularly brutal form of discrimination in America—abortions performed solely because the prospective mother prefers a child of a gender other than that of the fetus in her womb.

Senator Humphrey brought to Senators' attention a New York Times article published on Christmas morning of 1988, headed ''Fetal Sex Test used as Step to Abortion.''

I remember well my own consternation when I read the article, which began:

In a major change in medical attitudes and practices, many doctors are providing prenatal diagnoses to pregnant women who want to abort a fetus on the basis of the gender of the unborn child.

Geneticists say that the reasons for this change in attitude are an increased availability of diagnostic technologies, a growing disinclination of doctors to be paternalistic, deciding for patients what is best, and an increasing tendency for patients to ask for the tests. Many geneticists and ethicists say they are disturbed by the trend.

Professor George Annas of the Boston University School of Medicine was quoted as saying:

I think the [medical] profession should set limits and I think most people would be outraged and properly so at the notion that you would have an abortion because you don't want a boy or you don't want a girl. If you are worried about a woman's right to an abortion, the easiest way to lose it is not set any limits on this technology.

Mr. President, I recall my disbelief after having read the article that any mother in a civilized society would be willing to destroy her unborn female child simply when she preferred a male—or vice-versa. But believe it. It has happened and continues to happen with the acquiescence of the U.S. Government.

That is why I am today again offering legislation to limit this cruel and inhumane practice. The 103d Congress declined to act on my legislation in this regard. I pray that the 104th Congress will take action to end this callous cruelty.

Specifically, the legislation I've sent to the desk proposes to amend title 42 of the United States Code—the statute governing civil rights—so as to provide that abortionists who administer an abortion—because the mother doesn't

like the gender of the infant in her womb—will be subject to the same laws which protect other citizens who are victims of other forms of discrimination.

Then, Mr. President, there was a USA Today article published February 2, 1989, which reported:

In a break with past medical attitudes more geneticists are open to identifying gender for parents early—so they can decide whether to abort.

The change has ethicists debating where a parent's right to information ends and the rights of the unborn begin.

A recent national survey of 212 medical geneticists found 20 percent approved of performing prenatal testing for sex selection; in a 1973 survey, only 1 percent approved.

''Probably 99 percent of nonmedical requests for prenatal diagnosis are made because people want a boy,'' says Dr. Mark Evans, an obstetrician and geneticist at Wayne State University, Detroit. Some experts are concerned about the social impact.

Evans turns down nonmedical sex selection requests. ''Being female,'' he says, ''is not a disease.''

Mr. President, how can various feminist groups such as the National Organization of Women remain silent while America hurtles down the path taken in India 5 years ago when a survey in Bombay 5 years ago revealed that of 8,000 abortions, 7,999 were female?

Mr. President, I have never been able to countenance the senseless slaughter of unborn babies. I have sought in vain for someone to explain the logic—aside from the moral and spiritual aspects—of deliberately destroying literally millions of little baby boys and girls when hundreds of thousands of Americans are standing in line to adopt babies.

A Boston Globe poll reported that 93 percent of the American people reject the taking of life as a means of gender selection. So, Mr. President, when NOW, NARAL, and the other antifamily groups invade Capitol Hill from time to time, Molly Yard, Patricia Ireland, and many others chant the mantra that when it comes to abortion-on-demand ''it's time for Congress to understand we are the majority,'' they may want to redo their calculations, based on the November 8 elections.

Hopefully, this 104th Congress can take some early action to fulfill the desires of the 93 percent of the American people who rightfully believe it is immoral to destroy unborn babies because the mother happens to prefer a boy instead of a girl, or a girl instead of a boy.

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. 24

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Civil Rights of Infants Act''.

SEC. 2. DEPRIVING PERSONS OF THE EQUAL PROTECTION OF LAWS BEFORE BIRTH.

Section 1979 of the Revised Statutes (42 U.S.C. 1983) is amended—

(1) by inserting ''(a)'' before ''Every person''; and

(2) by adding at the end thereof the following new subsection:

''(b) For purposes of subsection (a), and for purposes of other provisions of law, it shall be a deprivation of a 'right' secured by the laws of the United States for an individual to perform an abortion with the knowledge that the pregnant woman is seeking the abortion solely because of the gender of the fetus. No pregnant woman who seeks to obtain an abortion solely on the basis of the gender of the fetus shall be liable in any manner under this section.''.

By Mr. HELMS:

S. 25. A bill to stop the waste of taxpayer funds on activities by Government agencies to encourage its employees or officials to accept homosexuality as a legitimate or normal lifestyle; read the first time.

ENDING TAXPAYER SUPPORT FOR HOMOSEXUAL AGENDAS IN THE FEDERAL WORKPLACE

Mr. HELMS. Mr. President, the American people declared on November 8, that there's more government running their lives than is either wanted or needed—and certainly more wasteful government than the American people should be forced to pay for.

And Congress, for a half century, has been wasting billions of dollars, running up a Federal debt of $4.8 trillion. As a matter of fact, the exact Federal debt as of the close of business on December 30 was $4,800,149,946,143.

I know of no American who favors adding to this horrendous Federal debt—some, of course, don't care as long as the Federal Government continues to conduct seminars, fund programs—or hire staff for the purpose of persuading, indeed, intimidating—Federal employees to accept homosexuality as a legitimate and normal lifestyle.

But that is precisely how so much of the taxpayer's money is being used at numerous Federal agencies including the Department of Agriculture, the Department of Housing and Urban Development, the Department of Transportation, and the Department of Defense.

Here are just a few examples of how the taxpayer's money is being spent:

On March 25, 1994, the USDA officially sanctioned GLOBE—The Gay, Lesbian, and Bisexual Employee Organization, thus allowing USDA time, money, and resources to be used to promote GLOBE's agenda. I might add, GLOBE chapters exist in many Federal agencies. The Department of Agriculture went further when they created a Gay, Lesbian, and Bisexual Program Manager position within the Foreign Agriculture Service.

The Family Research Council reports that on September 8, 1994, the Clinton administration, under the auspices of the U.S. Navy, hosted pro-gay and anti-religious diversity training for civilian and military Federal employees. The costs of Diversity Day '94, as it was named, included: The pay for hundreds of Federal employees, speakers fees, use of leased space, transportation, live diversity entertainment, Diversity Day '94 trinkets, video and equipment rental costs, and reproduction of printed material.

For Senators who may not have been in the Chamber when the text of the bill was read by the clerk, let me read it again for the RECORD:

No funds appropriated out of the Treasury of the United States may be used by any entity to fund, promote, or carry out any seminar or program for employees of the Government, or to fund any position in the Government, the purpose of which is to compel, instruct, encourage, urge, or persuade employees or officials to—

(1) recruit, on the basis of sexual orientation, homosexuals for employment with the Government; or

(2) embrace, accept, condone, or celebrate homosexuality as a legitimate or normal lifestyle.

This legislation is similar to an amendment offered by this Senator to the 1995 Agriculture Appropriations bill. Although the amendment was adopted by the Senate by a vote of 92 to 8, it was subsequently dropped in conference. That amendment applied to only the Department of Agriculture. The legislation I introduce today applies to USDA and to all other agencies of the Federal Government. That, Mr. President, is the only difference.

I wish this legislation was not necessary. But it is and it is a sad day for America because of it. You see, the Clinton administration has conducted a concerted effort to give homosexual rights, privileges, and protections throughout the Federal agencies—to extend the homosexuals special rights in the Federal workplace, rights not accorded to most other groups and individuals. No other group in America is given special rights based on their sexual preferences.

So, I urge Senators members to consider this bill in light of the mandate given by the American people regarding wasteful government spending. But I also ask them to consider it in light of whether it is proper for the Federal Government to use tax dollars to promote, ratify, and protect a lifestyle that most Americans, and most religions, consider a sexual and moral perversion.

Mr. President, I ask unanimous consent that the bill and the Family Research Council article titled ''Federal Government Promotes Homosexuality Using 'Diversity' Cover'' be included in the RECORD.

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

S. 25

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

SECTION 1. LIMITATION ON USE OF APPROPRIATED FUNDS.

No funds appropriated out of the Treasury of the United States may be used by any entity to fund, promote, or carry out any seminar or program for employees of the Government, or to fund any position in the Government, the purpose of which is to compel, instruct, encourage, urge, or persuade employees or officials to—

(1) recruit, on the basis of sexual orientation, homosexuals for employment with the Government; or

(2) embrace, accept, condone, or celebrate homosexuality as a legitimate or normal lifestyle.

FEDERAL GOVERNMENT PROMOTES HOMOSEXUALITY USING ''DIVERSITY'' COVER

(By Robert L. Maginnis)

The federal government is using taxpayer money to promote homosexuality as the moral equivalent to heterosexuality. This is happening under the guise of diversity and it links virtually every aspect of government to the homosexual agenda.

FEDERAL GOVERNMENT GRANTS HOMOSEXUALS OFFICIAL STATUS

During the first two years of the Clinton Administration, most federal agencies have amended their equal employment opportunity and civil rights policies to include the term ''sexual orientation.'' These changes are not justified by law.

For example, Carol Browner, Administrator of the Environmental Protection Agency, sent a memo to all EPA employees on October 14, 1994 stating, ''Today, the EPA joins the growing list of public and private sector employers which have added 'sexual orientation' to our equal employment opportunity policy.''[1]

Housing and Urban Development Secretary Henry Cisneros did the same in August, 1994 with a memo that states, ''Sexual harassment and discrimination based on sexual orientation are unacceptable in the workplace and will not be condoned at HUD.''[2]

Department of Transportation Secretary Federico Pena published his statement in 1993 which declares, ''[N]o one be denied opportunities because of his or her race, color, religion, sex. . .or sexual orientation.''[3]

The Federal Bureau of Investigation joined the chorus when director Louis Freeh stressed that ''homosexual conduct is not per se misconduct'' and adopted a new policy to admit homosexuals to the ranks of the Bureau.[4] Several homosexuals are now being trained to become FBI agents.

Freeh's boss, Attorney General Janet Reno, declared that the Department of Justice will not discriminate on the basis of sexual orientation when conducting security clearances.[5] Although homosexuality has long been a marker for homosexual misconduct, Reno removed any reference to sexual orientation from application forms. Congressman Barney Frank (D–MA), an openly homosexual man, stated, ''The clear implication is that, outside the uniformed military services, being gay will not be a relevant factor.''[6]

Moreover, Reno ruled that a foreigner who claimed that he was persecuted by his government for being homosexual may be eligible to immigrate to the U.S.[7] In 1994 the Attorney General waived immigration laws so that avowed HIV-infected homosexuals could participate in New York's ''Gay-Olympics.''[8]

This official recognition of homosexuals is taking place without legislative action. Indeed, there are no laws requiring these changes, and little chance that such laws could be passed. Homosexuals are being awarded a special class status solely based on behavior, not on a benign characteristic like race or gender.

The Administration's official recognition goes further. Office of Personnel Management Director James King sent a memo to all OPM employees in January, 1994 announcing the formal recognition of the Gay, Lesbian and Bisexual Employees (GLOBE) as a professional association. This recognition bestows on GLOBE the same privileges extended to other associations. For example, GLOBE can now use government facilities communication systems, bulletin boards, and have official representation at personnel meetings.[9]

GLOBE's stated purpose is to ''promote understanding of issues affecting gay, lesbian and bisexual employees; provide outreach to the gay, lesbian and bisexual community; serve as a resource group to the Secretary on issues of concern to gay, lesbian and bisexual employees; work for the creation of diverse work force that assures respect and civil rights for gay, lesbian and bisexual employees; and create a forum for the concerns of the gay, lesbian and bisexual community.''[10] There are more than 40 chapters throughout the federal government.[11]

The Department of Transportation GLOBE chapter earned some notoriety when posters depicting famous people alleged to be homosexual were displayed on bulletin boards. The posters were made at government expense and identified Eleanor Roosevelt, Virginia Woolf, Errol Flynn, and Walt Whitman as homosexuals.[12]

Federal Aviation Administration employee Anthony Venchieri complained when he received a DOT voice mail message inviting him to ''celebrate with us the diversity of the gay and lesbian community.'' The message was broadcast to all 4,100 DOT voicemail users. He was removed from the system after complaining but was later reinstated. FAA's Office of Civil Rights spokesman stated, ''The Department of Transportation has officially recognized the organization [GLOBE]. . . . The FAA complies with this recognition of an employee association which contributes to employee welfare and morale and assists in fostering a climate of diversity and inclusion.''[13]

GLOBE also uses government facilities to promote homosexuality. During June 1994, many federal agencies permit GLOBE chapter to use space to host homosexual programs. For example, DOT hosted six events in the Washington headquarters. Those included: a panel of DOT officials discussing diversity; a presentation by Parent, Friends and Families of Lesbians and Gays; and a program on the gay and lesbian Asian Pacific American community.[14]

THE DIVERSITY AGENDA

''Diversity'' is a vogue concept that is being used to advance the homosexual agenda.[15]

The U.S. Fish and Wildlife Service has embraced diversity. In a July 1994 memo entitled, ''Stepping Stones to Diversity: An Action Plan,'' the service proclaims that ''Managing diversity needs to be a top service priority. . . . The service must also recognize that the differences among people are important.''[16]

DOT's Secretary Pena left no doubt about what he means by diversity. In a policy statement he defines it as ''inclusion—hiring developing promoting and retaining employees of all races ethnic groups, sexual orientations, and cultural backgrounds. . . .''[17]

The Department of Agriculture joined the diversity movement in March 1994 by establishing a GLOBE chapter.[18] A report in The Sacramento Valley Mirror shows just what the Department of Agriculture and, more specifically, a subordinate organization, the Forest Service, means by diversity.[19] According to that article, diversity means a redefinition of family promoting gay pride month, and encouraging the use of federal resource to promote homosexual causes.

A letter from Region 5 Forester Ronald E. Stewart to his employees outlines Forest Service recommendations concerning homosexuals. Stewart's memo to ''All Region 5 Employees'' says, ''We can not allow our personal *beliefs* to be transformed into *behaviors* that would discriminate against another employee.''[20] The recommended policy:

Prohibits discrimination based on sexual orientation.

Empowers homosexuals to serve as mentors and network coordinators.

Incorporates sexual orientation awareness training.

Establishes a computerized network for isolated homosexual employees.

Awards pro-gay work settings.

Encourages local ''multicultural awareness celebrations'' like gay pride month.

Directs supervisors to consider an employee's domestic partner when assigning schedules.

Prohibits private permitters and concessionaires from discriminating against domestic partners.

Mandates unions to become proactive in the ''sexual diversity'' movement.

Requires that contracts include domestic partner services.

Guarantees government child care for children of an employee's domestic partner.

Considers gay and lesbian owned businesses when arranging local purchase agreements.

The proposals encourage Forest Service employees to lobby for the following.

Amend federal travel regulations to incorporate the needs of domestic partners.

Adopt this definition of a family. ''A unit of interdependent and interacting persons, related together over time by strong social and emotional bonds and/or by ties of marriage, birth, and adoption, whose central purpose is to create, maintain, and promote the social, mental, physical and emotional development and well being of each of its members.''

Advocate to the Small Business Administration the inclusion of gay and lesbian owned businesses eligible for minority set-aside contracts.

Advocate that retirement benefits include domestic partners.

Add non-discrimination provisions to all private sector contracts prohibiting discrimination based on sexual orientation except for bona fide religions and youth groups.

DIVERSITY TRAINING MANDATORY

Bureau of Labor Statistics Commissioner Katherine Abraham, whose performance agreement with Secretary of Labor Robert Reich includes diversity training, hosted three-hour diversity training sessions for BLS employees. The paid guest speaker began each session by stating, ''Diversity means our national survival.''[21] He closed the session by reading a letter from homosexual BLS employees complaining about discrimination. The guest concluded, ''What's necessary in the workplace is for everybody to have the attitude that people are not good, not bad, just different.''[22]

The U.S. Postal Service is also promoting diversity. During a November 1, 1994 diversity seminar a guest psychologist suggested ''aggressive recruitment is needed; develop, attract and retain members from under-represented groups.'' His speech followed legal

[1] Footnotes at end of article.

counsel's presentation on the new non-discrimination policy for gays, lesbians, and bisexuals.[23]

The Forest Service has a training booklet entitled, ''Valuing Diversity.'' Inside the booklet are statements such as: ''Fact: Psychological and social influences alone cannot cause homosexuality. . . . Fact: A biological (genetic, hormonal, neurological, other) predisposition toward homosexual, bisexual, or heterosexual orientation is present at birth in all boys and girls.'' No source for these ''facts'' is provided, nor could there be.[24] So-called genetic studies on homosexuality are flawed and conducted by homosexual activists.

The U.S. Health and Human Services sponsored a ''Multi-Culture Day'' in Dallas, Texas in April, 1994. An HHS employee gained official permission to man an exhibit, ''Highlighting Our Gay and Lesbian Culture.''[25]

Four federal agencies hosted a ''Global Diversity Day'' on May 25, 1994 at San Francisco's U.S. Customs House. The activities were attended by 300 federal employees and included displays by gay, lesbian, and bisexual representatives. On display were a rainbow flag that was flown at the 1993 March on Washington, posters displaying famous homosexuals, and cultural items such as books and GLOBE applications.[26]

Possibly the largest diversity event was hosted by the U.S. Navy on September 8, 1994 near the Pentagon. Diversity Day '94 included an opening ceremony with a welcome by a three-star admiral who stated, ''The federal and private sector must make diversity part of business.''[27] He also said that the work environment ''is not a matter for moral issues.''[28]

The government's guest speaker was diversity expert and professor at Northeastern Illinois University Dr. Samuel Betances. He equated racism, sexism, and homophobia and then stated, ''We can start all over if need be.''[29] He explained that former Alabama Governor George Wallace, a one-time racist, started over by recanting his racist beliefs.

Betances encouraged homosexuals to organize ''to get respect'' much like women, blacks, and Latinos organized.[30] He emphasized that all of us ''must be prepared to unlearn'' old ways. He observed that homosexuals are ''part of the diversity equation whether we like it or not'' and they ''need a climate of respect.''[31]

The activities included a seminar entitled ''Another Color of the Rainbow: Sexual Minorities in the Workplace'' taught by an acknowledged lesbian, and a videotape, ''On Being Gay,'' which promotes homosexuality as the moral equivalent to heterosexuality.

The U.S. Air Force Academy already has a diversity day scheduled for April 1995. The symposium is entitled, ''Strength Through Diversity Leadership Symposium.'' Conference director Colonel David Wagie says that his program will not include ''sexual orientation'' issues. He explained. ''We are interested only in using the term as officially defined and used by DOD.''[32]

The Navy, however, is cruising toward sexual diversity. Secretary of the Navy John Dalton wrote the following in his diversity policy statement on May 23, 1994: ''Our continued success requires that each civilian employee and applicant be afforded the opportunity to excel without regard to his or her race, color, gender, sexual orientation. . . .''[33]

AIDS AWARENESS OR MORE DIVERSITY TRAINING?

President Clinton announced on September 30, 1993 to all heads of executive departments his HIV/AIDS policy. The policy requires each secretary to designate a senior staff member to implement HIV/AIDS education and prevention programs and to develop workplace policies for employees with HIV/AIDS.

The training has received a mixed review. Federal employees have called the Family Research Council to complain that they found the training offensive.

Two supervisors and 41 employees in the Federal Communication Commission's audio services division chose not to attend mandatory ''AIDS Awareness Training.'' An FCC employee stated, ''The classes are basically an adult versions of high school sex ed, with the modern-day sensitivity training thrown in.''[34]

The training includes a brief history of HIV, symptoms and prevention and risk reduction. There is a discussion of needle sharing and sexual contact. Federal employees are told to reduce their HIV contraction risk by practicing ''safer sex'' by using barriers like condoms, dental dams, plastic wrap, and latex gloves. The manual states, ''A dental dam (a small, square piece of latex) or plastic may be used for any oral-vaginal or oral-anal contact. All types of barriers (condoms, dental dams, and plastic wrap) are effective aganist HIV transmission only if they are used correctly and consistently from start to finish.''[36]

The training materials are based on government ''evidence'' and the materials espouse confidence in latex which is not supported by research. For example, the U.S. Centers for Disease Control and Prevention misrepresent a wealth of conflicting scientific evidence. The CDC does a disservice to the American public when it promotes condoms as a responsible prevention strategy. CDC places its hopes on the correct and consistent use of condoms, an unreached and unreachable goal.''[37]

The Energy Department makes a disclaimer: ''HIV is transmitted without regard to gender, age, race, ethnicity, sexual orientation, religion, or identification with any group. For this reason, we avoid referring to 'high risk groups.''' Not identifying ''high risk groups, is irresponsible. The HIV/AIDS Surveillance Report shows that at least 87 percent of HIV victims either contracted the virus from homosexual encounters or by sharing needles.

Probably the most outrageous example of government sponsored AIDS training was done for the Forest Service. It took place in the Forest Service's Tahoe Region on May 6, 1994 and was conducted by a local health official with degrees in sexology, a self-described homosexual phlebotomist [individual who draws blood], and an HIV-positive woman from the community.[39]

Most of the ''infectious disease training'' addressed HIV/AIDS. The phlebotomist was an exconvict who tried to debunk ''homophobic'' misconceptions. He speculated that many husbands were involved in homosexual affairs. He showed a variety of condoms and how to apply them to a life size replica of erect male genitalia. He even explained a technique for using one's mouth to apply the condom. He also explained the proper cleaning techniques when sharing hypodermic needles.[40]

One of the workers in the audience later complained, ''There seems to be no logic or equity in penalizing one employee for repeatedly bringing up 'Christmas' at work, during December because he or she believes in God, while instructing other employees how to use intravenous drugs or engage in anal sex.''[41]

FEDERAL MONEY FUNDS ''GAY SCIENCE''

In Fiscal Year 1993, in addition to more than $2 billion for AIDS, the U.S. Department of Health and Human Services awarded 84 grants worth over $20 million to research topics that primarily involve homosexuals.[42] These grants include:

''Phone counseling in reducing barriers to AIDS prevention,'' which studies homosexual men who are purportedly unable to avoid unsafe sexual behavior.[43]

A project that examines how ''stress generated by societal reactions leads adolescents who are coming-out to be at higher risk of problems'' than their heterosexual peers.[44]

A project entitled ''Drinking, drug use and unsafe sex among gay and bisexual couples'' which explores the relationship ''between drinking, drug use and unprotected sex . . . among gay and bisexual couples.''[45]

A study designed to analyze behavioral data about HIV transmission among bisexual men in Mexico.[46]

A study by Dr. Dean Hamer provides a good example of how federal funds are being used to help advance gay political activism.

Dr. Hamer, chief of the Gene Structure and Regulation Section, Laboratory of Biochemistry of the National Cancer Institute, National Institutes of Health, Department of Health and Human Services, published the results of his two year ''gay-gene'' research project, ''A Linkage Between DNA Markers on the X Chromosome and Male Sexual Orientation,'' in the July, 1993 edition of *Science.*[47]

The Family Research Council published an investigative report on Dr. Hamer's study. The report shows problems with the study, Hamer's promotion of homosexuality in the media, and questions whether federal funds were properly used.[48]

While published NCI budgets do not identify money earmarked for Dr. Hamer's research, funding for Hamer's research (which totaled $420,000) apparently came from money designated for research into Kaposi's sarcoma (KS).[49] NCI's press office indicated that Hamer's study looked at KS, which is an AIDS-related cancer prevalent among gay men.[50] And Hamer promoted his research as a multifactorial study investigating host genetic factors for Kaposi's sarcoma and lymphoma.[51]

Yet, curiously, Hamer ''ran no tests to determine whether his clients had KS.''[52] And Hamer stated in a court deposition that he has never published anything on Kaposi's sarcoma.''[53]

More taxpayer-funded gay research is in the works. Hamer wrote a letter to Health and Human Services Secretary Donna Shalala arguing for the creation of an NIH Office of Gay and Lesbian Health Concerns. The *American Medical News* reports that the HHS will seriously consider Hamer's proposal. Hamer envisions the office going beyond research into the origins of sexual orientation to include HIV and other sexually transmitted diseases, breast and gynecologic cancers, substance abuse and adolescent suicide.[54]

In addition, Angela Pattatucci, one of Hamer's research assistants, has an ongoing project that deals with genetics and lesbianism. According to Victoria L. Magnuson of Hamer's NIH office, Pattatucci's ''lesbian study has a cancer component.'' Yet the advertising fliers developed for this study call it a study of the ''genetic nature of sexual orientation . . . a gay gene study.'' They state that ''per diem and travel expenses'' would be covered by ''NIH,'' and that subjects would be interviewed by ''gay-positive'' persons.[55]

(Pattatucci's track record raises serious questions about her objectivity as a researcher. She recently told *Network,* a homosexual magazine based in New Jersey, ''I believe the most important thing a gay person

can do is to be public about his or her homosexuality.'' That article included a picture of Dr. Pattatucci holding her jacket open to reveal a T-shirt with the work ''DYKE'' written in large, bold type.[56])

FEDERAL EMPLOYEES ON THE GAY AGENDA FRONT

U.S. Patent and Trademark Commissioner Bruce Lehman is a self-described homosexual who promotes Commerce Secretary Ron Brown's ''Diversity Policy.'' For those who object, Lehman states, ''As far as I'm concerned, it's got to be forced down their throats. If they want to be bigots, they can go work for someone else's department.'' The agency's director of human resources created a ''diversity recruitment support team'' to spend up to 15 days of diversity recruiting in 1995.[57]

The nation's former Surgeon General Joycelyn Elders told homosexual magazine *The Advocate,* ''Americans need to know that sex is wonderful and a normal . . . and healthy part of our being, whether it is homosexual or heterosexual.'' She endorses adoption of children by homosexuals and called the Boy Scouts' ban on homosexual Scouts and Scout leaders ''unfair.''[58]

Roberta Achtenberg is HUD's assistant secretary for Fair Housing and Equal Opportunity. She appeared in San Francisco's 1992 gay pride parade riding in the back seat of a convertible next to her ''partner'' (Mary Morgan, a San Francisco municipal court judge) and ''their'' child. The sign on the car said: ''Celebrating Family Values.''[59]

While a member of the San Francisco board of supervisors and a member of a United Way chapter in that area, Achtenberg helped to defund the Boy Scouts for their moral standards. She has continued her activism in the federal government.[60]

In February 1994 Achtenberg signed a diversity policy that requires managers to ''participate as active members of minority, feminist or other cultural organization's'' to qualify for an ''outstanding'' rating.[61]

Some federal agencies have appointed homosexual watchdogs to ensure employee compliance with pro-gay diversity policies. For example, the Foreign Agriculture Service has a gay, lesbian and bisexual program manager. This is a collateral duty to take no more than 20 percent of the manager's time. Her task is to promote gay, lesbian and bisexual employment program and develop and disseminate information on employment matters throughout the agency.[62]

DISCOURAGING DISSENT

Federal employees who object to the diversity push beware! U.S. Merit Systems Protection Board Chairman Ben Erdreich has embraced diversity. The MSPB is the agency that rules on federal employee appeals of personnel actions. Erdriech told his employees on November 19, 1994: ''I have a strong commitment to diversity and equitable treatment in the workplace. . . . Managers will be graded on . . . respect for diversity in the workplace and performs responsibilities without regard to the differences of race, color . . . sexual orientation. . . .''[63]

Department of Agriculture and senior EEO manager Karl Mertz ran into the diversity wall. On March 4, 1994 Mertz told a reporter when asked about Secretary Espy's gay-rights agenda, the AG Department should be headed ''toward Camelot, not Sodom and Gomorrah.''[64]

Mertz was later told that his interview disagrees with Department civil rights policy ''which could seriously undermine your ability to perform your responsibilities.'' He was transferred to a non-management job.[65]

CONCLUSION

The Clinton Administration is methodically unleashing an avalanche of pro-homosexual policies and advocacy. It is costing the federal taxpayer millions of dollars and discriminates against workers who object on religious grounds. The 104th Congress should investigate this abuse and reverse the federal government's promotion of homosexuality under the label of diversity.

ENDNOTES

[1] Environmental Protection Agency memo to all EPA employees, October 14, 1994, signed Carol Browner.

[2] U.S. Department of Housing and Urban Development, memo for ''All HUD Employees,'' Subject: Policy Statement—Equal Employment Opportunity, Affirmative Employment, Prevention of Sexual Harassment, Discrimination Based on Sexual Orientation, August 30, 1994, signed by Henry G. Cisneros.

[3] ''Equal Opportunity Policy Statement, U.S. Department of Transportation memo ''To All DOT Employees,'' May 27, 1993, signed Federico Pena.

[4] ''FBI Guidelines Stress Ethical, Sexual Behavior,'' *The Washington Post,* March 8, 1994, p. A–3 and David Johnston, ''Gay Stand Costs Prospect a Justice Post, *New York Times,* October 20, 1994, p. A–20.

[5] Joan Biskupic, ''Reno Prohibits Bias Against Gays in Security Clearances,'' *The Washington Times,* December 3, 1993, p. A–4.

[6] Ibid.

[7] Memorandum for Mary Maguire Dunne, Acting Chair Board of Immigration Appeals, from The Attorney General (signed by Janet Reno); Subject: Attorney General Order Designating Board of Immigration Appeals Case as Precedent, undated.

[8] Paula Span, ''A Week About Gay Pride, And Prejudice,'' *The Washington Post,* June 16, 1994, p. A–1.

[9] ''GLOBE Gains Official Recognition in OPM,'' Federal EEO Update, Vol. 5, No. 01, January 1994, p. 1.

[10] USDA GLOBE Bylaws, U.S. Department of Agriculture, March 25, 1994.

[11] GLOBE/GSA (Gay, Lesbian or Bisexual Employees/GSA) flier with statement of purpose and lists a GSA Diversity Coordinator at 202–501–2127.

[12] ''Rest in Peace?,'' *The Washington Times,* July 12, 1993, p. A–6.

[13] Ruth Larson, ''FAA Employee Objects to Gay-Pride Voice Mail,'' *The Washington Times,* June 28, 1994.

[14] ''Community Closeness: DOT GLOBE Celebrates Gay Pride Month,'' *Intercom,* May 31, 1994, p. 6.

[15] *The American Heritage Dictionary* (Houghton Mifflin Co: Boston, 1991), p. 412.

[16] Alston Chase, ''Does Ranger Rick Love Murphy Brown?,'' *The Washington Times,* August 30, 1994.

[17] ''Diversity Policy Statement,'' Secretary of Transportation memorandum ''To All DOT Employees,'' May 27, 1993, signed by Federico Pena.

[18] ''Establishment of USDA GLOBE,'' Department of Agriculture memo to Pat Browne, Spokesperson, USDA GLOBE, signed Wardell C. Townsend, Jr., March 25, 1994.

[19] Tim Crews, ''U.S.F.S. Now 'Proactive' For Gays, Lesbians, Bisexuals,'' *The Sacramento Valley Mirror,* March 15, 1993.

[20] ''RMT Decisions on Sexual Orientation Report Recommendations,'' U.S. Department of Agriculture, Forest Service, February 24, 1993, signed by Ronald E. Stewart, Regional Forester.

[21] Kishore Jayabalan, ''Typecasting 'Diversity,''' *The Washington Post,* December 4, 1994, p. C–5.

[22] Ibid.

[23] ''Inspection Service Diversity Network Meeting Memo,'' United States Postal Service, Cincinnati, Ohio, October 31 to November 1, 1994.

[24] ''Valuing Diversity,'' U.S. Forest Service, Northern Region Phase II, not dated.

[25] *The Washington Times,* April 18, 1994.

[26] ''Pacific Southwest News Log,'' U.S. Department of Agriculture, Forest Service, Pacific Southwest Region, June, 1994, pp. 12–13.

[27] Robert L. Maginnis attended the Diversity Day '94 welcoming ceremony. This comment reflects notes taken by Maginnis at that ceremony on September 8, 1994 in the Crystal City Forum.

[28] Ibid.

[29] Ibid.

[30] Ibid.

[31] Ibid.

[32] ''Strength Through Diversity Symposium,'' Center for Character Development, Commandant of Cadets, United States Air Force Academy, October 12, 1994.

[33] ''Equal Employment Opportunity/Diversity Policy Statement,'' Department of the Navy, Office of the Secretary, May 23, 1994, signed by John H. Dalton.

[34] ''Big Brother Is Watching,'' Inside the Beltway, *The Washington Times,* August 8, 1994, p. A–8.

[35] ''Information about the Federal Workplace AIDS Education Initiative and Class Schedule Announcement,'' Department of Energy, from Donald Donaldson, Federal Workplace HIV/AIDS Education Coordinator, October 9, 1994.

[36] ''Walkin' the Talk,'' HIV Education Materials for Managers, Supervisors and Team Leaders, The Department of Energy, Office of Economic Impact and Diversity, in conjunction with the Federal Workplace HIV Education Initiative, not dated, p. 8.

[37] Robert L. Maginnis, ''New CDC Report Encourages False Confidence In Condoms,'' Insight by the Family Research Council, IS93K1CI, p. 7.

[38] ''HIV/AIDS Surveillance Report,'' U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, Vol. 5, No. 4, December 1993, p. 8.

[39] ''Infectious Disease Training,'' Forest Service memo to Hope Pineda, Personnel Officer, Tahoe NF, June 7, 1994.

[40] Ibid.

[41] Ibid.

[42] Robert L. Maginnis, ''Taxpayer Funded 'Gay-Science' or Legitimate Cancer Research?,'' Family Research Council Insight IS94B2HS, p. 1.

[43] Project number MH46792–03. The investigator is Roger A. Roffman with the University of Washington, Seattle, Washington.

[44] Project number MH43520–06, Title: HIV Center—Clinical and Behavioral Studies. The investigator is Mary Jane Rotheram-Borus of New York, NY.

[45] Project number AA09320–02. The investigator is George R. Seage of Boston, MA.

[46] NIH project number HD28305–04, Title: Influencing Risk Behaviors of Bisexual Males in Mexico. Kathryn Tolbert is the investigator.

[47] Dean H. Hamer, Stella Hu, Victoria L. Magnuson, Nan Hu, Angela M. L. Pattatucci, ''A Linkage Between DNA markers on the X Chromosome and Male Sexual Orientation,'' *Science,* Vol. 261, July 16, 1993, pp. 321–327.

[48] Robert L. Maginnis, op cit.

[49] NCI Fact Book, National Cancer Institute, 1992, ''Acquired Immunodeficiency Syndrome (AIDS) Funding Activity Fiscal Year 1992,'' Division of Cancer Biology, Diagnosis and Centers $13,620,000. This is cited from page 68. The 1991 version of NCI's Fact book (page 63) awards Dr. Hamer's division $13,457,000. These funds are not broken down to the individual sections or laboratories. This researcher visited the office of Dr. Alan Rabson, Chief for the Division of Cancer Biology, Diagnosis and Centers on December 8, 1993 (room 3A11, building 31, NIH) and asked for copies of the Division's budgets for FY1991–94. No one was available to discuss the budgets nor did anyone return telephone calls. Linda Anderson, Office of Cancer Communications, Building 31, Bethesda, Maryland stated that Dr. Hamer's study cost $420,000. She indicated that this figure includes salaries. This information comes from a telephone conversation between Ms. Anderson and FRC researcher Craig Gottlieb on December 1, 1993. Ms. Anderson followed their conversation with a fax transmission on December 2d which states, ''The budget figured I gave you for Dr. Hamer's study is total including staff salaries.'' Dr. Magnuson indicated that the salaries for research salaries are not part of Hamer's research budget.

[50] Conversation between Linda Anderson, NCI's press office and Craig Gottlieb on December 1, 1993.

[51] NCI Press Release entitled ''New Study Finds Genetic Link to Homosexuality,'' July 15, 1993. This information is taken from Dr. Hamer's answer to question 9: ''Why was the research supported by the National Cancer Institute?

[52] ''National Cancer Institute Scandal: Gay Rights Instead of Cancer Research,'' *Family Research Report,* September–October, 1993, p. 6.

[53] Telephone Deposition of Dean Hamer, taken October 11, 1993 in case of *Richard G. Evans, et al., v. Roy Romer, et al.,* District Court, City and County of Denver, State of Colorado, Case No. 92–CV–7223, Courtroom 19, p. 70. A search of NIH Library's files on Dr. Hamer reveals 71 postings for published studies. The ''gay-gene'' study was the first of its kind for Dr. Hamer.

[54] Brian McCormick, ''Researchers, Doctors Press for Gay Office at NIH,'' *American Medical News,* September 13, 1993. p. 10.

[55] Interview of Victoria L. Magnuson, NCI's Biochemistry Laboratory, Building 37, NIH, December 8, 1993. The interview was conducted by FRC research assistant Craig Gottlieb, a Cornell University student.

[56] ''Media Spike 'Gay Gene' Researcher's Homosexuality,'' *Lambda Report,* October 1993, p. 12.

[57] *The Washington Times,* September 8, 1994, p. A–6.

[58] Joyce Price, ''Elders Calls Gay Sex 'Wonderful,' 'Healthy,''' *The Washington Times,* March 19, 1994.

[59] Joyce Price, ''Lesbian Nominee's Foes Light Up Senate Phones,'' *The Washington Times*, May 21, 1993, p. A–3.
[60] Ibid.
[61] ''Certification of the Mandatory Equal Employment Opportunity/Affirmative Employment (EEO/AE), Cultural Diversity Critical Element and Performance Standards for Managers and Supervisors,'' U.S. Department of Housing and Urban Development, January 13, 1994, signed by Roberta Achtenberg, Assistant Secretary for Fair Housing and Equal Opportunity and Marilynn A. Davis, Assistant Secretary for Administration.
[62] ''Announcement Soliciting Applications: Gay, Lesbian and Bi-Sexual Program Manager (Collateral Duty Assignment), Foreign Agriculture Service, not dated.
[63] Ruth Larson, ''Employees To Be Graded On Support For Diversity,'' *The Washington Times*, December 2, 1993, p. A–7.
[64] Max Boot, ''A Different Kind of Whistle-Blower,'' *The Wall Street Journal*, April 27, 1994.
[65] Ibid.

By Mr. HELMS:

S. 26. A bill to amend the Civil Rights Act of 1964 to make preferential treatment an unlawful employment practice, and for other purposes; read the first time.

CIVIL RIGHTS RESTORATION ACT

Mr. HELMS. Mr. President, 3½ years ago, on June 25, 1991, I offered an amendment to the Omnibus Crime Bill to do away with quotas in the workplace by amending Title VII of the Civil Rights Act of 1964. I recall an article in the August 12 of the New Republic magazine which reported that my amendment had caused a great deal of agitation in the Senate because it required Senators who claimed back home that they were opposed to quotas to take a stand on outlawing the practice of racial preferences.

The New Republic went on to say that in order to force ''a showdown on preferences in hiring and promotion.'' I should accept a modification of the original amendment offered by the distinguished Republican Leader, (Mr. DOLE). Senators may recall that Senator DOLE did propose during the June 1991 debate, that the Helms amendment contain language which would permit special recruitment of minorities and women for the employer's applicant pool—i.e, a broadly acceptable form of affirmative action.

At the time I agreed that Senator DOLE's modification would be an important addition to my amendment. However, Democrats objected to such a modification, and it never happened.

Mr. President, the legislation I'm introducing today—the Civil Rights Restoration Act of 1995—offers Senators the opportunity to pick up the gauntlet laid down by Senator DOLE and me. This legislation is quite simple: It prevents Federal agencies, and the Federal courts, from interpreting Title VII of the Civil Rights Act of 1964 to permit an employer to grant preferential treatment in employment to any group or individual on account of race.

The Helms proposal prohibits the use of racial quotas in employment once and for all. During the past 2 years, almost every member of the Senate—and the President of the United States—have proclaimed that they are opposed to quotas. This bill will give Senators an opportunity to reinforce their statements by voting in a roll call vote against quotas.

I am not here merely on behalf of businesses, large, medium, or small. I am here on behalf of working people of all races, ethnic groups and gender all over this Nation. The working people don't have 500 organizations trying to ''protect'' their civil rights. They are not organized into Washington pressure groups. They simply want to work for a living free of discrimination.

Unfortunately, Government-imposed and Government-encouraged quotas are a fact of life. According to the June 3, 1991, edition of Newsweek magazine, a substantial number of Fortune 500 companies have very clear minority hiring ''goals'' which is a euphemism for quotas. In a survey of CEOs of Fortune 500 companies, 72 percent acknowledged that they use some form of—now get this—quota hiring system. Only 14 percent of the CEOs claimed that they hire solely on merit.

I note with interest that the Business Roundtable favored the socalled Civil Rights Act passed in the last Congress. Mr. President, for whom does the Business Roundtable speak? Surely not for the little man. As the Newsweek article suggests, these are big businesses that regularly engage in reverse discrimination. They are interested in public relations, not the civil rights of their individual workers.

Mr. President, all the Helms legislation says is, that from here on out, employers must hire on a race neutral basis. They can reach out into the community to the disadvantaged—something all Senators support—and they can even have businesses with 80 percent, 90 percent, minority workforces as long as the motivating factor in employment is not race.

The Helms legislation clarifies section 703 (j) of Title VII of the Civil Rights Act of 1964 to make it consistent with the intent of its authors, Hubert Humphrey and Everett Dirksen. Let me state it for the Record:

> It shall be an unlawful employment practice for any employer, employment agency, labor organization, or joint labor committee that is subject to this title to grant preferential treatment, with respect to selection, compensation, terms, condition, or privileges of employment or union membership, to any individual or to any group of individuals on account of the race, color, religion, sex, or national origin of such individual or group for any purpose, except as provided in subsection (e) of this section.
>
> It shall not be an unlawful employment practice for any person described in paragraph (1) to establish an affirmative action program designed to recruit qualified minorities and women to expand the applicant pool of the person.

Mr. President, this legislation is necessary because in the 29 years since the passage of the Civil Rights Act, the Federal Government and the courts have combined to corrupt the spirit of the Act as enumerated by both Hubert Humphrey and Everett Dirksen who made clear that they were unalterably opposed to racial quotas.

Specifically, this bill proposes to make part (j) of Section 703 of the 1964 Civil Rights Act consistent with subsections (a) and (d) of that section. It contains the identical language used in those sections to make preferential treatment on the basis of race—that is, quotas—an unlawful employment practice.

This legislation will forbid the Federal Government from ever again terrorizing the small businesses of this country with threats and fines for not meeting some bureaucrat's vision of a proportionalized and racially ''correct'' society.

Perhaps Senators are familiar with the Daniel Lamp Company, a small Chicago lamp factory recently visited by the investigators of the Equal Employment Opportunity Commission [EEOC]. On March 24, 1991 the CBS News program, 50 Minutes, blew the cover off of the EEOC's attempt to impose its quota mentality on one defenseless businessman.

As Morley Safer put it, the Daniel Lamp Company ''is guilty of not playing the numbers game.'' You see, the EEOC found the owner of the Daniel Lamp Company to be a practitioner of racial discrimination and leveled a fine of $148,000 against him. What was interesting about the charges was the fact that of the company's 28 employees the only two who were neither black nor Hispanic were the owner and his father—who, by the way, is a survivor of Auschwitz. There were 18 Hispanics and 8 blacks on the payroll when 60 Minutes began its investigation.

The trouble began when a disgruntled job applicant filed an EEOC racial discrimination complaint against the Daniel Lamp Company. The EEOC demanded the records of the company. The owner, who hired only minorities, was proud of his work force and happy to allow the Federal Government to inspect the ledger. He thought he might be commended for providing jobs for minorities. How wrong he was.

In its investigation CBS found that the only information the EEOC was using against the Daniel Lamp Company was the agency's computerized quota numbers. The EEOC's computer told the agency that based on the employment statistics of Chicago businesses with over 100 employees—a fascinating comparison since the Lamp Company never had more than thirty workers—the Daniel Lamp Company had to employ exactly 8.45 blacks. That sounds like a quota to me, and it even sounded like a quota to Morley Safer who was puzzled as to why the agency was disobeying the law which as Mr. Safer put it ''says the EEOC can't set quotas.''

Despite the denials by the EEOC, Mr. Safer concluded that, ''it —the EEOC—did set numbers by telling Mike—the owner of the company—that based on other larger companies' personnel, Daniel Lamp should employ 8.45

blacks.'' When the Daniel Lamp Company stood up to the intimidation of the EEOC, the agency tightened the noose. Not only did the company have to meet the quota and pay a huge fine, it also had to spend $10,000 to advertise in newspapers to tell other job applicants that they might have been discriminated against and to please contact the Daniel Lamp Company for a potential financial windfall.

Mr. President, do you see what is going on here? The Daniel Lamp Company wasn't one of those Fortune 500 companies that can afford a gaggle bunch of lawyers and can placate the various special interest groups by hiring according to quotas. The Daniel Lamp Company was a small, struggling enterprise which can afford to pay its few employees a scant $4.00 an hour. This company hired only minorities. But that wasn't good enough for the quota bureaucrats in Washington. They said the company didn't hire enough of the ''right'' minorities.

This bill will put an end to this disgraceful power play by the quota crowd in the Federal bureaucracy.

Mr. President, do we want a nation where privilege and employment are handed out on the basis of group identity rather than merit? Already police and firemen in our major cities are clashing over who can be classified as black or Hispanic to ensure they receive job preference because of their minority status. Check the newspapers in San Francisco, Chicago, and Boston to see if I'm correct.

The Helms legislation protects the Daniel Lamp Company and the firemen and the policemen, of whatever race, who are out there working hard at their jobs in the belief that they will be rewarded for their hard work—not judged on the color of their skin.

This proposal also includes an important safeguard which will protect those businesses and institutions whose special needs require personnel qualified for the job on the basis of religion, sex, or national origin. Like the other sections of title VII, this amendment protects the religious school or institution which grants preferences in hiring or admission to those of its own religion. It protects those ethnic-based enterprises which require special language skills and familiarity with particular customs.

Mr. President, some may defensively claim that the Helms legislation destroys affirmative action and outreach programs. That flimsy strawman comes tumbling down with even a casual examination of the legislation.

If one equates affirmative action with ''goals'' otherwise known as hiring by the numbers, it is clear that this bill does indeed forbid that practice.

But Senators who support race conscious programs, and who support race norming tests, will be rebuffed by this legislation and that's why they oppose it.

Those Senators who equate affirmative action with outreach programs have had nothing to worry about. Under the language supplied in 1991 by the distinguished Republican Leader, a company can recruit and hire in the inner city, prefer people who are disadvantaged, create literacy programs, recruit in the schools, establish day care programs, and expand its labor pool in the poorest sections of the community. In other words expansion of the employee pool—Senator DOLE calls it good affirmative action—is specifically provided for under this act.

Mr. President, America was founded on the philosophy of individual rights with no group entitlement. With that understanding, the former Mayor of the City of New York, Ed Koch addressed the issue of numbers oriented affirmative action. In a letter to me, Mr. Koch made the following observation:

> As to the already existing social problems caused by preferential affirmative action programs, several scholars, including the noted professor and sociologist Thomas Sowell, have observed that racial quotas and discriminatory affirmative action programs have not helped the intended beneficiaries. Those who are often preferred are the very ones who could have competed with the best * * * if we are to uphold our commitment to civil rights—as we should—we must set in motion programs to ensure that all deprived persons—without regard to race, color, religion, sex or national origin—have the opportunity to achieve their full potential.
>
> We should focus our attention on assisting minorities who have suffered from unequal opportunity * * * never excluding from programs others equally poor or deprived simply because they are white. The solution is not to place unqualified minority workers, or others of different national origin, in jobs for which they are not adequately trained as a band-aid to end discrimination. If anything that is the way to destroy the self-esteem of many workers, heightening anger and discrimination among fellow employees when some members of the workforce are unable to carry their fair share of the load * * * such practices unfairly reflect upon many minority members who were hired because they were qualified and are better than other applicants. They unfairly become judged, not individuals, but as members of a protected class, not able to compete with others.

Mayor Koch's comments cut to the heart of the matter.

It makes absolutely no sense to that Congress should support programs that discriminate against the poor Asians from San Francisco, or the poor whites from any where in America simply because they don't fall into the class of protected minorities.

Mr. President, a few days ago I came across a scholarly paper titled, ''Equality and the American Creed: Understanding the Affirmative Action Debate,'' by Seymour Lipset. By the way, this paper was sponsored by the Democratic Leadership Council. The central thesis of this paper was summed up in this fashion:

> Affirmative action policies—hiring or promoting people by the numbers or group identify—challenge the basic American tenet that rights to equal treatment should be guaranteed to individuals, and that remedial preferences should not be given to groups. And given the strength of individualism in American tradition, it is not surprising that most Americans, including a considerable majority of women and a plurality of blacks, have continued to reject applying emphasis on protected rights to groups.
>
> It is crucial that civil rights leaders, liberals, and Democrats rethink the politics of special preference. The American Left from Jefferson to Humphrey stood for making equality of opportunity a reality.

Mr. President, those sentiments are right on the mark. I applaud the DLC for its foresight and hope its members join the fight to eliminate the use of quotas in our society.

The Helms proposition puts America back on the course that Thomas Jefferson, Hubert Humphrey, and Sam Ervin envisioned. It offers Senators an opportunity to back up their speeches and press statements against quotas. It gives Senators an opportunity to vote against quotas, and this they should do.

I ask unanimous consent that the bill be printed in the RECORD.

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

S. 26

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Civil Rights Restoration Act of 1995'.

SEC. 2. PREFERENTIAL TREATMENT.

(a) UNLAWFUL EMPLOYMENT PRACTICE.—Section 703(j) of the Civil Rights Act of 1964 (42 U. (j)) is amended to read as follows:

''(j)(1) It shall be an unlawful employment practice for any entity that is an employer, employment agency, labor organization, or joint labor-management committee subject to this title to grant preferential treatment to any individual or group with respect to selection for, discharge from, compensation for, or the terms, conditions or privilege of, employment or union membership, on the basis of the race, color, religion, sex, or national origin of such individual or group, for any purpose, except as provided in subsection (e) or paragraph (2).

''(2) It shall not be an unlawful employment practice for an entity described in paragraph (1) to undertake affirmative action designed to recruit individuals of an underrepresented race, color, religion, sex, or national origin, to expand the applicant pool of the individuals seeking employment or union membership with the entity.''.

(b) CONSTRUCTION.—Nothing in the amendment made by subsection (a) shall be construed to affect the authority of courts to remedy intentional discrimination under section 706(g) of the Civil Rights Act of 1964 (42 U.(g)).

By Mr. HELMS:

S. 27. A bill to prohibit the provision of Federal funds to any State or local educational agency that denies or prevents participation in constitutionally-protected prayer in schools; read the first time.

VOLUNTARY SCHOOL PRAYER PROTECTION ACT

Mr. HELMS. Mr. President, like so many others, I often contemplate the obvious fact that America is in the midst of an historic struggle between

those who, on the one hand, yearn for a restoration of the heritage of traditional values envisioned by our Founding Fathers and those who, on the other hand, contend that anything goes no matter how destructive—especially when the Federal Government finances it. Seldom mentioned is the fact that the Federal Government has no money except that which it forcibly extracts from the pockets of the American taxpayers back home in our States.

So, what we have is a struggle for the soul of America. How it is finally resolved will determine whether America will move forward—or end up on history's ash heap, as have so many nations before us.

The American people are more aware than ever before about what is at stake. They are sick and tired of crime, pornography, mediocre schools, and politicians who cater to every fringe group and perverse lifestyle. The voters resoundingly and unmistakably demonstrated their anger at the polls this past November.

Mr. President, Reader's Digest presaged this public outcry when it published an article a few years ago titled ''Let Us Pray'', in which the magazine reported the results of a Wirthlin poll. That poll found that 80 percent of the American people resent the Supreme Court's ruling that it is unconstitutional for prayers to be offered at high school graduations. The poll showed that 75 percent of Americans favor prayer in public schools. But a profound impression was found in the subtitle which read ''Why can't the voice of the people be heard on prayer in schools?''

As Reader's Digest pointed out, those pro-prayer opinions ''were expressed by Democrats, Republicans, blacks and whites, rich and poor, high-school dropouts and college graduates—reflecting a profound disparity between the citizenry and the Court.'' Yet, despite this massive outcry, the liberals in Congress and in the media prate that the Constitution somehow forbids governmental establishment of religion and ipso facto prayer in school cannot be permitted.

Well, the voice of the people was unmistakable this past November 8. The question before us now is whether we in the Congress are going to really listen to them for a change—that's the real change the people voted for.

For instance, seldom is it heard on the issue of school prayer that the Constitution also forbids governmental restrictions on the free exercise of religion, or that the Constitution protects students' free speech—whether religious or not—and that student-initiated, voluntary prayer expressed at an appropriate time, place and manner has never been outlawed by the Supreme Court.

But back to the Reader's Digest question: ''Why can't the voice of the people be heard on prayer in schools?'' The simple answer is that many of the Nation's politicians have misled—and continue to mislead—the voters about where they really stand on the issue of school prayer. They go home at election time—some even run campaign commericals—proclaiming their staunch support for school prayer and traditional family values. Back in Washington they vote otherwise.

Yet while these same people are in Washington, they knowingly and willingly allow the liberal Democratic leadership in the Congress to beat back school prayer time after time. That's so these so-called moderate family values politicians can vote with a wink and a nod for school prayer on the floor of the House and Senate and then go home again and lie to their constituents again about how strongly they support school prayer when they are in Washington.

Mr. President, last year was a perfect example of the continuing deceit politicians have perpetrated against the voters. The liberal Democrats in Congress—and specifically the senior Senator from Massachusetts—killed school prayer not once, but twice last year, despite overwhelming 3 to 1 votes for school prayer in both the House and Senate. However, with the help of the press and the other news media, they tried once again to keep the voters in the dark about who the true voices are in support of school prayer when they walked into the voting booths this past November.

But no matter how the media tries to explain it away, for once the people—the voters—were not fooled in November. They know who has been responsible for wrecking the American dream over the past four decades—a dream which was built on individual responsibility and an acknowledgement of God's governance in the affairs of men.

Mr. President, my friend Bill Bennett told me recently that America has become the kind of country that civilized countries once dispatched missionaries to centuries ago. If we care about cleaning up the streets and the classrooms, if we care about the long term survival of our Nation—how could there be anything more important for Congress to protect than the right of America's children to participate in voluntary, constitutionally-protected prayer in their schools?

We already spend more money per pupil than any other industrialized country and what has it bought? We have the lowest math scores, the lowest language scores, and the highest crime rate of any of our major trading partners. We can spend all the money we can tax out of people and it will not improve our children's achievement, happiness, or well-being one whit unless and until we take traditional morality out of government-imposed exile and restore it to the prominence and respect it once enjoyed.

As Michael Novak of the American Enterprise Institute has pointed out:

> There is no issue in American life in which the public will is so clear and the political establishment is so heedless. The cultural and political elites have simply ignored the overwhelming support of the American people for voluntary school prayer—indeed for the role of religion and faith in the nation's life.

Mr. President, since the sea change wrought by the November elections, there has been a great deal of discussion concerning a constitutional amendment regarding school prayer. I must admit that I was a bit shocked by the number of so-called friends of school prayer who have changed their tune now that it appears Congress might actually be able to enact such an amendment—or at least see it brought up for discussion on the House and Senate floors. Some groups now question either the wisdom of, or the need for, a Constitutional amendment while other groups are wrangling over the proper wording for such an amendment.

However, before we get mired in myriad debates about a Constitutional amendment, Congress can do something immediately to protect school prayer. Congress can enact into the law the school prayer amendment that last year overwhelming passed the Senate once, 75–22, and the House twice, 367–55 and 345–64. Senators will recall that this was the amendment which was dropped in the closing 60 seconds of a conference with no debate, no discussion, no vote, just a wink and a nod between the Senator from Massachusetts and his counterpart on the House side.

That amendment, offered by Senator LOTT and this Senator would have prevented public schools from prohibiting constitutionally-protected, voluntary student-initiated school prayer. The amendment did not, as was falsely asserted, mandate school prayer. It did not require schools to write any particular prayer, nor did it compel any student to participate in prayer. It did not stop school districts from establishing appropriate time, place, and manner restrictions on voluntary prayer—the same kind of restrictions that are placed on other forms of free speech in the schools.

Again, what the amendment would have done is prevent school districts from establishing official policies or procedures with the intent of prohibiting students from exercising their constitutionally-protected right to lead, or participate in, voluntary prayer in school.

And that is why the amendment met with such vehement opposition and subterfuge. It exploded the myth popular among school administrators and bureaucrats—a myth perpetuated by liberal groups such as the American Civil Liberties Union—that the United States Constitution somehow prohibits every last vestige of religion from the public schools. However, even the ACLU when it gets to court acknowledges that voluntary, student-initiated school prayer may be protected under the Constitution on the same basis that students' other non-religious free speech is protected—i.e. as long as the

speech in question is uttered in an appropriate time, place, and manner, such that the speech does not materially disrupt the school day.

Once the Helms-Lott amendment exploded the old school prayer myths, those opposed to school prayer at all costs switched to the argument that it was unfair to put school administrators in the position of having to be Constitutional scholars in order to determine what religious activities must be allowed to prevent their federal funding from being put at risk. They missed the whole point—which was that school administrators for almost 3 decades have already been acting as Constitutional scholars—and bad ones at that—by uniformly prohibiting all students from praying or exercising their religion at school in any way at any time.

Why is it that under the liberals' double standard they are so concerned that a school district's funding might be adversely affected by a school official's Constitutional ignorance, but they don't give one whit that an individual child's Constitutional rights might be trampled on by such Constitutional ignorance on the part of school officials? So much for the liberals always casting themselves as the eternal defenders of the individual against the powers of the state.

The answer is that contrary to the neutrality they profess about religious issues, liberals are in fact virulently anti-religious and have taken sides in the cultural war against America's—and the Founding Fathers'—Judeo-Christian traditions.

Mr. President, that is why I am introducing the Helms-Lott amendment as a bill in the 104th Congress to be known as the ''Voluntary School Prayer Protection Act.''

I reiterate that the intent of the bill is to counteract the unbalanced pressure currently being exerted on school boards by the ACLU and their legal allies, groups which are in the legal driver's seat as far as this issue is concerned. They swoop down on any offending school district and threaten its official with a law suit if any kind of voluntary student-initiated prayer or religious activity is even rumored.

Under the proposed legislation, school districts could not continue—in Constitutional ignorance—enforcing blanket denials of students' rights to voluntary prayer and religious activity in the schools. Schools for the first time would be faced with some real consequences for making uninformed and unconstitutional decisions prohibiting all voluntary prayer. The bill thus creates a complete system of checks and balances to ensure that school districts do not shortchange their students one way or the other.

Mr. President, the bill would ensure that student-initiated prayer is treated the same as all other student-initiated free speech—which the United States Supreme Court has upheld as constitutionally-protected as long as it is done in an appropriate time, place, and manner such that it ''does not materially disrupt the school day.'' [*Tinker* v. *Des Moines School District,* 393 U.S. 503.]

George Washington's final counsel—and warning—to the Nation is significant and just as relevant today as 200 years ago. Washington counseled the new nation,

> Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports. In vain would that man claim the tribute of patriotism who should labor to subvert these great pillars of human happiness.

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

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

S. 27

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 ''Voluntary School Prayer Protection Act''.

SEC. 2. FUNDING CONTINGENT ON RESPECT FOR CONSTITUTIONALLY-PROTECTED SCHOOL PRAYER.

(a) IN GENERAL.—Notwithstanding any other provision of law, no funds made available through the Department of Education shall be provided to any State or local educational agency that has a policy of denying, or that effectively prevents participation in, constitutionally-protected prayer in public schools by individuals on a voluntary basis.

(b) LIMITATION.—No person shall be required to participate in prayer or influence the form or content of any constitutionally-protected prayer in public schools.

By Mr. HELMS:

S. 28. A bill to protect the lives of unborn human beings, and for other purposes; read the first time.

UNBORN CHILDREN'S CIVIL RIGHTS ACT

Mr. HELMS. Mr. President, 2 years ago and on occasions prior to that, I have offered the Unborn Children's Civil Rights Act, which proposes to take that important first step in reversing the infamous Roe v. Wade decision. Today, as the 104th Congress is beginning its work, I hope that all Senators will give thought to the need to put an end to the legalized slaughter of innocent, helpless babies.

The Unborn Children's Civil Rights Act proposes four things:

First, to put Congress clearly on record in declaring that (1) every abortion destroys deliberately, the life of an unborn child, (2) that the U.S. Constitution sanctions no right to abortion, and (3) that Roe versus Wade was improperly decided.

Second, this legislation will prohibit Federal funding to pay for, or to promote, abortion. Further, this legislation proposes to defund abortion permanently, thereby relieving Congress of annual legislative battles about abortion restrictions in appropriation bills.

Third, the Unborn Children's Civil Rights Act proposes to end indirect Federal funding for abortions by (1) prohibiting discrimination, at all federally-funded institutions, against citizens who as a matter of conscience object to abortion and (2) curtailing attorney's fees in abortion-related cases.

Fourth, this legislation proposes that appeals to the Supreme Court be provided as a right if and when any lower Federal court declares restrictions on abortion unconstitutional, thus effectively assuring Supreme Court reconsideration of the abortion issue.

Mr. President, if even the warning was applicable that those who cannot remember the past are condemned to repeat it—this is it. Fifty years ago, millions of European Jews and others died at the hands of Hitler's Nazis. Today many forget that horror—and the lesson that all human life is sacred.

We are today reliving another kind of holocaust, by another name. It is called abortion, but it is the same horrible fate—except that now, in our time, it is being met by millions of unborn children in America. Killing unborn babies has become a sort of tool-of-convenience in today's permissive society. At latest count, more than 32 million unborn children have been deliberately, intentionally, destroyed.

Mr. President, Roe versus Wade has no foundation whatsoever in the text or history of the constitution. It was a callous invention. Mr. Justice White said it best in his dissent: ''Roe was an exercise in raw judicial power,'' he declared.

Why has this Supreme Court exercise in raw judicial power been allowed to stand? Why have we stood idly by for 22 years while 4,000 unborn babies are deliberately, intentionally destroyed every day as a result of legalized abortion?

The answer is simple, Mr. President. Even though Roe versus Wade was and is an unconstitutional decision, Congress has been unwilling to exercise its powers to check and balance a Supreme Court that deliberately destroyed the lives of the most defenseless, most innocent humanity imaginable.

So, Mr. President, Roe versus Wade still stands and the holocaust continues. It is not a failure of the Constitution. It is a failure of the supreme Court—but, more importantly, it is the failure of Congress for 22 years to do its duty, to overturn Roe versus Wade. Untold millions of innocent, helpless little ones have been slaughtered.

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. 28

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 ''Unborn Children's Civil Rights Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) scientific evidence demonstrates that abortion takes the life of an unborn child who is a living human being;

(2) a right to abortion is not secured by the Constitution; and

(3) in the cases of Roe v. Wade, 410 U.S. 113 (1973) and Doe v. Bolton, 410 U.S. 179 (1973) the Supreme Court erred in not recognizing the humanity of the unborn child and the compelling interest of the States in protecting the life of each person before birth.

SEC. 3. PROHIBITION ON USE OF FUNDS FOR ABORTION.

No funds appropriated by Congress shall be used to take the life of an unborn child, except that such funds may be used only for those medical procedures required to prevent the death of either the pregnant woman or her unborn child so long as every reasonable effort is made to preserve the life of each.

SEC. 4. PROHIBITION ON USE OF FUNDS TO ENCOURAGE OR PROMOTE ABORTION.

No funds appropriated by Congress shall be used to promote, encourage, counsel for, refer for, pay for (including travel expenses), or do research on, any procedure to take the life of an unborn child, except that such funds may be used in connection with only those medical procedures required to prevent the death of either the pregnant woman or her unborn child so long as every reasonable effort is made to preserve the life of each.

SEC. 5. PROHIBITION ON ENTERING INTO CERTAIN INSURANCE CONTRACTS.

Neither the United States, nor any agency or department thereof shall enter into any contract for insurance that provides for payment or reimbursement for any procedure to take the life of an unborn child, except that the United States, or an agency or department thereof may enter into contracts for payment or reimbursement for only those medical procedures required to prevent the death of either the pregnant woman or her unborn child so long as every reasonable effort is made to preserve the life of each.

SEC. 6. LIMITATIONS ON RECIPIENTS OF FEDERAL FUNDS.

No institution, organization, or other entity receiving Federal financial assistance shall—

(1) discriminate against any employee, applicant for employment, student, or applicant for admission as a student on the basis of such person's opposition to procedures to take the life of an unborn child or to counseling for or assisting in such procedures;

(2) require any employee or student to participate, directly or indirectly, in a health insurance program which includes procedures to take the life of an unborn child or which provides counseling or referral for such procedures; or

(3) require any employee or student to participate, directly or indirectly, in procedures to take the life of an unborn child or in counseling, referral, or any other administrative arrangements for such procedures.

SEC. 7. LIMITATION ON CERTAIN ATTORNEY'S FEES.

Notwithstanding any other provision of Federal law, attorneys' fees shall not be allowable in any civil action in Federal court involving, directly or indirectly, a law, ordinance, regulation, or rule prohibiting or restricting procedures to take the life of an unborn child.

SEC. 8. APPEALS OF CERTAIN CASES.

Between the first and second paragraphs of section 1252 of title 28, United States Code, insert the following new paragraph:

''Notwithstanding the absence of the United States as a party, if any State or any subdivision of any State enforces or enacts a law, ordinance, regulation, or rule prohibiting procedures to take the life of an unborn child, and such law, ordinance, regulation, or rule is declared unconstitutional in an interlocutory or final judgment, decree, or order of any court of the United States, any party in such a case may appeal such case to the Supreme Court, notwithstanding any other provision of law.''.

By Mr. HELMS:

S. 29. A bill to amend title X of the Public Health Service Act to permit family planning projects to offer adoption services, and for other purposes; read the first time.

FEDERAL ADOPTION SERVICES ACT OF 1995

Mr. HELMS. Mr. President, a significant question about the use of the American taxpayers' money is: should family planning clinics, funded under Title X of the Public Health Services Act, be forbidden to offer adoption services to pregnant women?

My own answer is: Absolutely not. To the contrary such clinics should regard the advocacy of adopting babies, instead of deliberately destroying them, their number one responsibility. And there are numerous polls indicating that the vast majority of Americans agree.

With this in mind, I offer today the Federal Adoption Services Act of 1995, a bill that proposes to amend Title X of the Public Health Services Act to permit federally-funded family planning services to provide adoption services based on two factors: (1) the needs of the community in which the clinic is located, and (2) the ability of an individual clinic to provide such services.

Mr. President, those familiar with the many Senate debates of the past regarding Title X will recall the excessive emphasis placed on preventing and/or spacing of pregnancies, and limiting the size of the American family.

I hope that this year, we can refocus this debate, to shift the emphasis to the need to affirm life rather than preventing or terminating it.

Sure, the radical feminists and other pro-abortionists will voice their usual hysterical outcries. So before they raise their voices, let's make clear what this legislation will not do. For example:

No woman will be threatened or cajoled into giving up her child for adoption. Family planning clinics will not be required to provide adoption services. Rather, this legislation will make it clear that federal policy will allow, even encourage adoption as a means of family planning to help assure women who use Title X services—one-third of whom are teenagers—will be in a better position to make informed, compassionate judgments about the as yet unborn children they are carrying.

Mr. President, adoption has rightly been called ''the loving adoption''. It brought joy to my own family as well as to countless others. In a world where hundreds of children are destroyed every day—some because their mothers prefer another gender—is it not time to stop and ponder the question: Why not give life a chance?

Is it not the responsibility of civilized society to protect the most innocent, most helpless among us?

Mr. President, I ask unanimous consent that the text of the Federal Adoption Services Act of 1995 be printed in the RECORD.

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

S. 29

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Federal Adoption Services Act of 1995''.

SEC. 2. ADOPTION SERVICES.

Section 1001(a) of the Public Health Service Act (42 U.S.C. 300(a)) is amended by inserting after the first sentence the following new sentences: ''Such projects may also offer adoption services. Any adoption services provided under such projects shall be nondiscriminatory as to race, color, religion, or national origin.''.

By Mr. MCCAIN (for himself, Mr. BRYAN, Mr. COATS, Mr. GORTON, Mr. HEFLIN, Mr. HELMS, Mr. KYL, Mr. LOTT, Mr. MACK, Mr. REID, Mr. SHELBY, Mr. SMITH, Mr. STEVENS, Mr. WARNER, and Mr. GRAMM):

S. 31. A bill to amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age; to the Committee on Finance.

OLDER AMERICANS FREEDOM TO WORK ACT

• Mr. MCCAIN. Mr. President, I am pleased to be joined by my colleagues, Senators BRYAN, COATS, GORTON, HEFLIN, KYL, LOTT, MACK, REID, SHELBY, SMITH, STEVENS, and WARNER in introducing this bill, the Older Americans Freedom to Work Act, to fully repeal the Social Security Earnings Test for older Americans between the ages of 65 and 69. This legislation would provide freedom, opportunity and fairness for our Nation's senior citizens.

Most people are amazed to find that older Americans are actually penalized for their productivity. For every $3 earned by a retiree over the $11,160 limit, they lose $1 in Social Security benefits. Due to this cap on earnings, our senior citizens, many of whom exist on low incomes, are effectively burdened with a 33.3 percent tax. Combined with Federal, State and other Social Security taxes, it will amount to a shocking 55–65 percent tax bite, and sometimes even more: Federal tax—15 percent, FICA—7.65 percent, earnings test penalty—33.3 percent, State and local tax—5 percent. Obviously, this earnings cap is a tremendous disincentive to work. No one who is struggling along at $11,000 a year wants to face an effective marginal tax rate which exceeds 55 percent.

Mr. President, this is unquestionably an issue of fairness. No American should be discouraged from working. Unfortunately, as a result of the earnings test, Americans over the age of 65 are being punished for attempting to be

productive. The earnings test does not take into account an individual's desire or ability to contribute to society. It arbitrarily mandates that a person retire at age 65 or face losing benefits. It is plainly age discrimination; it is plainly wrong.

There are more than 40 million Americans age 60 or older who have over 1 billion years of cumulative work experience—all going to waste. Three out of five of these people do not have any disability that would preclude them against working. Furthermore, almost half a million elderly individuals who do work earn annual incomes within 10 percent of the earnings limit. They are struggling to get ahead without hitting the limit. If not for the earnings test, many more seniors would work, but the system is coercing them into retirement and idleness.

Perhaps most importantly, the earnings cap is a serious threat to the welfare of low-income senior citizens. Once the earnings cap has been met, a person with a job providing just $5 an hour would find the after tax value of that wage dropping to only $2.20. A person with no private pension or liquid investments—which, by the way, are not counted as ''earnings''—from his or her working years may need to work in order to meet the most basic expenses, such as shelter and food. Health care costs, rising at an astronomical rate, are another expense many elderly Americans have trouble meeting. There is also a myth that repeal of the earnings test would only benefit the rich. Nothing could be further from the truth. The highest effective marginal rates are imposed on the middle income elderly who must work to supplement their income.

Finally, it is simply outrageous to pursue a policy that keeps people out of the work force who are experienced and want to work. We have been warned to expect a labor shortage. Why should we discourage our senior citizens from meeting that challenge? As the U.S. Chamber of Commerce, which strongly supports this legislation, has pointed out, ''retraining older workers already is a priority in labor intensive industries, and will become even more critical as we approach the year 2000.''

We have a massive Federal deficit. Studies have found that repealing the earnings test could net $140 million in extra Federal revenue. Furthermore, the earnings test is costing us $15 billion a year in reduced production. Taxes on that lost production would go a long way toward reducing the budget deficit. Nor, as it continues to become tougher to compete globally, can America afford to pursue any policy that adversely affects production or effectively prevents our citizens from working.

Repeal would also save the taxpayer over $200 million a year in reduced compliance costs. According to the Social Security Administration, the earnings test is the largest administrative burden. Sixty percent of all overpayment and 45 percent of benefit underpayment are attributable to the earnings test.

Several of our Nation's largest seniors organizations strongly support this particular bill: National Committee to Preserve Social Security and Medicare, Seniors Coalition, National Alliance of Senior Citizens, Retired Officers Association, and the National Association of Retired Federal Employees.

I can say, in closing, that America cannot afford to continue to pursue a policy that adversely effects production or effectively prevents our citizens from working. Our Nation would be better served if we eliminate the burdensome earnings test and allow our Nation's senior citizens to return to the work force.●

Mr. BRYAN. Mr. President, today I am pleased to join as an original cosponsor of Senator JOHN MCCAIN's ''Older Americans' Freedom to Work Act'' to repeal the Social Security earnings limitation test.

I understand the frustration of seniors who want to work without being penalized by a reduction in their Social Security earnings limitation test, and since coming to the Senate in 1988, I have supported efforts to repeal this test. During the last Congress, Senator MCCAIN tried to add this same bill as an amendment to the Unemployment Compensation Act. Unfortunately, only 45 Senators joined me in voting in favor of the amendment.

As seniors live healthier and longer lives, we have a tremendous human resource that wants to continue to play a positive role in our workforce. These seniors represent incredible knowledge and work experience, skills our Nation very much needs to remain competitive both at home and abroad. But for those seniors, ages 65 through 69, who want to contribute by continuing to work, their decision to remain in the workplace means they face reduced Social Security benefits because of the Social Security earnings limitation test. We should not place such financial penalties in their way. The Social Security earnings limitation test must go.

The Social Security earnings limitation test reduces the Social Security benefits of senior beneficiaries, if their earned income from work is above a certain sum. After Social Security beneficiaries reach age 70, they are no longer subject to the test. In 1995, the maximum amount of money that beneficiaries, between the ages 65 and 69, can earn without reducing the amount of their Social Security benefits is $11,280. For every $3 a person earns over this limit, $1 is withheld from his or her benefit. The exempt amounts are currently adjusted each year to rise in proportion to average wages in the economy.

I am optimistic this Congress will pass and enact this important legislation to repeal this earnings limitation test. I encourage my colleagues to join with me in this effort to free seniors to continue to work, without penalty, for as long as they choose.

Mr. BREAUX (for himself and Mr. JOHNSON):

S. 32. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit for the production of oil and gas from existing marginal oil and gas wells and from new oil and gas wells; to the Committee on Finance.

S. 33. A bill to amend the Oil Pollution Act of 1990 to clarify the financial responsibility requirements for offshore facilities.

S. 34. A bill to amend the Internal Revenue Code of 1986 to treat geological, geophysical, and surface casing costs like intangible drilling and development costs, and for other purposes; to the Committee on Finance.

S. 35. A bill to amend the Internal Revenue Code of 1986 to allow a tax credit for fuels produced from offshore deep-water projects; to the Committee on Finance.

HIGH TECH JOB GROWTH AND DOMESTIC ENERGY PRODUCTION LEGISLATION

Mr. BREAUX. Mr. President, I rise today to introduce four separate bills that will help create jobs in the U.S. domestic energy industry and will help achieve domestic energy security. These four bills are: deepwater production tax incentives, clarification of the tax treatment of geological and geophysical costs, marginal well production tax incentives, and clarification of the financial responsibility requirements under the Oil Pollution Act of 1990.

Mr. President, oil imports are still too high. We continue to import over 50 percent of our oil needs. The warning signals are here. We can change politics as usual—the politics of crisis management—and we can work now to avert an energy crisis in the future.

The domestic energy industry continues to decline. Thousands of oil industry workers have been laid off and it looks like many more may become unemployed in the near future. Over 400,000 jobs have been lost in the oil and gas industry in the last 10 years; by some estimates, 40,000 to 50,000 may have been lost in 1992 alone.

Our national security depends on access to dependable domestic energy reserves. Unfortunately, our domestic oil and gas industry cannot turn on a dime. There is no magic spigot that can be turned on when the need for secure domestic oil reserves become acute. The expertise needed to develop oil and gas is highly skilled and trained, particularly now that the remaining domestic reserves are increasingly more difficult to recover.

Unless we take steps today to help preserve a viable domestic industry, the next energy crisis may be chronic and very damaging to our economy. Unless we act to preserve a core of talent and capital in the United States, the domestic industry may not be able

to deploy the necessary capital investment and trained labor necessary to quickly add large increments to our overall domestic supply of oil and petroleum products.

The jobs in the oil industry today are very different than those of yesterday. The reserves that are fast and easy to recover through simple hard labor are no more. Increasingly extraction of oil and gas requires very sophisticated technology that requires skilled and highly educated work force. The energy industry of today creates the kinds of jobs we want for tomorrow—high technology, high paying jobs.

This country would never allow us to import over 50 percent of our food supply. Why is our energy supply any less important? Let's not forget the oil shocks of the 70's and let's not forget that several years ago we sent our young Americans to the Persian Gulf to protect our strategic interest in the oil there.

These four bills are simple and easy steps that can be accomplished now that can help maintain a viable domestic energy industry. This is not just an oil and gas state issue. This is a national interest concern. Energy fuels our cars, heats our homes, runs our factories in every part of the country. Also, let's not forget the thousands of jobs that are created in other non-energy related sectors to service the energy industry: computers, metals, transportation, financial and other service industries. When domestic oil and gas producing increases so do the jobs created in all of these sectors.

My bills address four major areas. First, to encourage production in the frontier areas of production, I am introducing legislation to provide a tax credit for deepwater Outer Continental Shelf [OCS] production, especially in the Gulf of Mexico. Second, to help all producers afford sophisticated exploration technology, I am introducing legislation to allow for the immediate expending of geophysical and geological costs. Third, to prevent the needless plugging of marginal and stripper wells and to encourage new stripper and marginal well production, I am introducing legislation to provide tax incentives for existing and new marginal well production. Finally, to prevent the shutting down of onshore and offshore oil and gas producers because they cannot meet onerous Federal financial responsibility standards, I am introducing legislation to clarify the financial responsibility requirements of the Oil Pollution Act of 1990. More detail on each of these bills will follow.

DEEPWATER PRODUCTION INCENTIVES

The first bill I am introducing today would provide a $5-per barrel tax credit for oil and gas produced from deep water production—defined as 400 meters or more. This legislation is vitally needed to reduce our reliance on foreign oil, reduce the trade deficit, maintain a vital infrastructure, create jobs, and minimize the risk of oil spills.

An important part of our strategy to assure the availability of domestic supply is the development of the Outer Continental Shelf [OCS], in particular areas in the deep water, well over 1,200 feet. The OCS contains almost one quarter of all estimated remaining domestic oil and gas reserves; much of the reserves are in deep water. According to estimates from the Department of the Interior, there are 11 billion barrels of oil equivalent in the Gulf of Mexico in waters of a depth of 200 meters or more. The costs of finding and producing oil and gas in deep water areas is astronomical; for example, a state-of-the-art rig in deep water, over 3,000 feet, can cost more than $1 billion, as opposed to $300 million for a conventional fixed leg platform in 800 feet of water.

Based on similar large-scale projects, the development of the deep water of the Gulf of Mexico would create tens of thousands of jobs in the oil industry and a multiple of that in the general economy. The investment required to find, develop, and produce 5 to 10 billion barrels of oil could range from 50 to 100 billion dollars. Since various studies have estimated that every billion dollars worth of investment could create 20,000 jobs; a large scale effort could ultimately create up to one million jobs.

Under current economic conditions, most oil and gas potential in the deep water Gulf of Mexico will not attract investment, due to the high cost of finding and producing hydrocarbons in a hostile deep water environment. Therefore, I am introducing legislation to provide a $5-per-barrel credit for production of qualified fuels, defined as domestic crude and natural gas produced from a property located under at least 400 meters of water. Unlike the general business credit, the deep water credit cannot be carried back 3 years. Unused credits can be carried forward 15 years. The credit could be used to offset the corporate alternative minimum tax since many companies in the oil production and services industries are subject to the minimum tax.

Mr. President, I must emphasize that I have designed the credit to minimize revenue loss to the Government. Since there is typically 5 to 8 years between discovery and production of oil and gas in commercial quantities, there should not be a negative near-term impact on tax revenues. In fact, in the first years, the deep water credit could raise revenue. During this interim time period, significant investments will be made to assure that the oil and gas be brought to market. Suppliers, contractors, and employers will pay taxes on the additional income generated by these development activities. Their increased spending will increase the earnings and stimulate employment in many industries throughout the United States.

Also, contrary to popular belief, oil and gas production on the Outer Continental Shelf is environmentally sound. The most recent data obtained from the Minerals Management Survey shows that only 2 percent of the world's oil spills are the result of Outer Continental Shelf [OCS] development. In contrast, 45 percent of the world's oil spills come from transportation related, or tanker spills. The more we import, the higher risk there is of large oil spills.

GEOLOGICAL AND GEOPHYSICAL EXPENSES

One very important fact about the domestic oil and gas industry that is too often overlooked, is that it is an extremely high-technology industry. Particularly now that reserves are harder to recover, exploring and producing these remaining reserves requires very sophisticated technology. Some of the most sophisticated technology used in any industry, even more sophisticated than that used in the air and space industry, is the use of 3–D seismic technology by the oil and gas industry. The basic purpose of these tools are to survey and interpret subsurface geology.

Obviously, this very sophisticated technology is extremely costly. Currently, this kind of technology is the most economically viable for the major oil and gas producers. Independent oil and gas producers, who produce 31 percent of domestic crude oil and about 60 percent of domestic natural gas production, need greater financial access to this type of equipment.

Therefore, this legislation that I am introducing today would allow oil and gas producers that incur geological and geophysical [G&G] costs to expense those costs rather than capitalize them regardless of whether a will is producing or dry. I understand the administration is also considering supporting a similar initiative on which I hope to work with them.

MARGINAL WELL PRODUCTION

Last spring, a bipartisan group of House and Senate Members met with President Clinton to outline our concerns about the domestic energy industry. The president was given a list of proposals that was developed in consultation with the energy industry. That list included the deepwater credit, the G&G proposal and also a new idea for a marginal well production credit for new and existing wells.

The third bill I am introducing today would create a new set of tax incentives for marginal production. Mr. President of the nation's 600,000 oil wells, more than 450,000 produce less than 3 barrels per day. These small wells are extremely sensitive to oil prices. Between October 1993 and March 1994, oil prices plunged more than 40 percent placing in jeopardy these wells. Energy policy is needed that protects this vital source of production during periods of low prices.

There are two main elements of this proposal. First, for existing wells, the bill would provide a maximum $3 per barrel tax credit for the first 3 barrels of daily production from an existing marginal well—a well that produces less than 15 barrels per day or produces

heavy oil. For natural gas, the bill would provide a maximum $0.50 per thousand cubic feet [MCF] tax credit for the first 18 MCF of natural gas produced per day from a marginal gas well—a well that produces less than 90 MCF per day. In addition, the definition of marginal wells would be expanded to include high water cut property.

The second major element of this bill is the creation of a new credit for newly drilled marginal wells. For those wells drilled after December 31, 1994 the following new credits would apply. Oil production would receive a maximum $3 per barrel for the first 15 barrels of daily oil production. Natural gas production would receive a maximum credit of $.50 per MCF for the first 90 MCF of daily natural gas production.

To make sure that the tax incentives are truly targeted to when the price of oil and gas are the most threatening to domestic production, the benefit of these credits would phase out for oil when the price of oil is between $14 and $20 per barrel and for natural gas when gas prices reach between $2.49 and $3.55.

FINANCIAL RESPONSIBILITY REQUIREMENTS OF THE OIL POLLUTION ACT OF 1990

The Oil Pollution Act of 1990 was passed in response to the Exxon *Valdez* oil spill and was designed to prevent oil spills and if oil spills do occur to make sure sufficient financial resources are available to clean up those spills. The statute establishes liability limits and requirements of financial responsibility to meet those limits. However, recent interpretation of the statute by the Department of the Interior indicates that legislative changes are needed to meet congressional intent in the area of financial responsibility for onshore facilities and to correct the overly burdensome financial responsibility requirements for offshore facilities that threaten the viability of many offshore producers.

When the Congress adopted the Oil Pollution Act, it clearly intended that onshore facilities would not have to demonstrate evidence of financial responsibility. However, a recent Interior Department Solicitor's opinion indicates that due to the interrelationship of several definitions in the act, that they interpret the statute to require financial responsibility be demonstrated by onshore facilities. Mr. President, clearly, Congress did not and does not want to require small marina operators or other onshore facilities to demonstrate $150 million of financial responsibility. Therefore, the bill I am introducing today clarifies the congressional intent on the law with respect to financial responsibility for onshore facilities.

Also, I have proposed to give the Minerals Management Service the authority to require evidence of financial responsibility between $35 million and $150 million based on the amount of environmental risk posed by the facility. Current law is inflexible on this point, all offshore facilities must provide evidence of $150 million regardless of the amount of oil they handle, their history of oil spills, or other factors that would determine the true risk of oil spill. In addition, my bill would provide that any producer that handles less than 1,000 barrels of oil at any one time would be exempt from the financial responsibility requirement. Both the $35 million financial responsibility level and the 1,000 barrels were included in prior law—the Outer Continental Shelf Lands Act. Unless, this flexibility is provided for offshore facilities, the Oil Pollution Act requirements will freeze out small and independent companies that drill the majority of wells offshore. These onerous requirements, unless fixed, will lead to a loss of jobs in the oil and gas industry.

This bill is a starting point. I expect the Domestic Petroleum Council to develop specific recommendations on the issue raised by the Oil Pollution Act in the near future. I look forward to seeing those and to working to further revise this legislation. There are other issues that we may have to address such as self-insurance, guarantor liability on which I hope we can get specific recommendations by the council.

Mr. President, I hope my colleagues will have an opportunity to support this legislation so that we can act on these proposals during this Congress.

By Mr. KOHL:

S. 36. A bill to replace the Aid to Families with Dependent Children under title IV of the Social Security Act and a portion of the food stamp program under the Food Stamp Act of 1977 with a block grant to give the States the flexibility to create innovative welfare to work programs, and for other purposes; to the Committee on Finance.

WELFARE TO WORK ACT

• Mr. KOHL. Mr. President, today I am reintroducing a welfare reform proposal that I introduced in the 103d Congress. My legislation is based on one fundamental conviction: that the current welfare system is so bad—so removed from the American values of work, family, and responsibility—that it must be completely abolished. My bill will take the Federal Government out of the business of welfare and put the States into the business of empowering their residents to find and keep jobs.

Before I describe our bill, let me talk a moment about the current system. It discourages work, discourages marriage, and discourages responsible choices about parenthood. We have set up a cash grant program that tells young women—don't work, don't marry, have children, and you will get support. Work, marry, plan your family for when you can afford to support it, and we will leave you out in the cold—in fact, we will take your tax money to support those who have decided not to work. The current welfare system pays people to reject the values of work and family that have made this country strong, and the time has come to reject that approach.

Right now, State and local governments that want to reject this system and implement something that helps those down on their luck get jobs don't have the freedom to do so—they have to beg Washington for waivers from myriad Federal rules, and often as not, they get turned down or have to wait years and years for an answer. Meanwhile, another generation grows up in our broken welfare system.

I think there is a better way. A simple, common sense approach, that is consistent with American values. This legislation truly ends welfare as we know it by abolishing AFDC and most of food stamps. The money now used for welfare payments and Federal administrative costs is turned over to the States in the form of a block grant. They will use the grant to establish welfare-to-work systems designed to meet the needs of their local communities.

My legislation ensures that the elderly and disabled continue to get food stamp assistance and that needy children get food through an expansion of WIC. Beyond that, States are allowed to use the money we now spend on welfare to connect people to work in any way they determine will be successful—through job placement assistance, job training, children care, transportation assistance, earnings supplements, public service jobs, etc.

To have its block grant renewed each year, all a State would have to do is show that it is moving people into work. If it meets this test, then it is doing better than we have ever done at the Federal level, and its block grant will be continued.

My welfare-to-work legislation will spend not one penny more on welfare than we currently spend. There are many who would argue that we have to add more money to the current system to get it to work. But, as most people operating in the private sector know, it doesn't matter how much you spend to dress up a product nobody wants, in the end, all you have is an expensive product nobody wants. It is time to stop pouring money into a welfare system that doesn't help anyone, because in the end all we will get is an expensive welfare system that still doesn't help anyone. We can use the money currently spent on welfare—including $3 billion in administrative expenses—to let the States design systems that work for them and their citizens. By turning over to the States most of the money we currently spend on Federal administrative costs, and getting States to re-orient their systems away from check-writing and toward helping people find jobs, we can make big strides in getting people to work.

Another reason I have proposed keeping the block grant at current welfare spending levels is the fact that placing people in jobs will generate savings for State welfare-to-work programs, since such individuals won't need as much

assistance as they were getting before, allowing those savings to be used to help harder-to-place people get the job training/child care/and other assistance they need to get and keep jobs. Another part of the answer lies in encouraging States to better utilize other Federal resources they already get. Right now, we give States over $7 billion to help people attain, and maintain self-sufficiency through child care, social services, and job training grants. These grants could be better targeted, and if connected to State welfare-to-work systems, could provide additional support to help welfare-to-work programs be even more successful.

Economic circumstances and people in Kenosha, WI, are different from those in Ottumwa, IA. Portland, ME, is not San Diego, CA. A one-size-fits-all welfare plan designed in Washington cannot work for all these communities. By introducing this bill, we are saying that it is time to face the fact that the answer to something as hard as helping people get work is not going to be developed in Washington—the many answers we need are going to come from communities throughout this country. State and local governments have been pleading for flexibility to design programs that work—it is time to get out of their way!

Some may think that I'm bashing the Federal Government when I say that I don't think it can solve this problem. I'm not. I'm simply saying that there are some things Washington is good at, such as the relatively straight-forward tasks of collecting payments for Social Security and sending out the checks our elderly so depend on. And there are some things our Federal Government is not good at, such as trying to help individuals get back on their feet. This is because so much of the answer to getting welfare beneficiaries into jobs depends on an individual's circumstances and the local situation—both of which are impossible to take completely into account when developing a comprehensive, national solution.

The crucial difference between my bill and others you may hear about is this: instead of adding yet another layer to the overly complex welfare system we have today, we admit that it needs to be abolished and completely replaced, and propose to do so with a simple program, run by States, that moves people to work.

Many of us are concerned that welfare reform plans need to show compassion for children. I think this proposal meets that test: it ensures needy children will get nutrition assistance through WIC and that their parents will receive assistance getting connected to a job. Frankly, I think the most compassionate thing we can do for these children is to help their parents get a job, which is more than the current system can say. My bill says that government has the responsibility to provide a helping hand to assist individuals, but also that individuals have the responsibility to use the assistance to help themselves.

As a final note, let me point out that this plan would remove the requirement that families break up before they can get assistance. With this block grant, States can help families who need help before they break up. This is one more reason why we think this bill is more consistent with American values—the values of compassion, work, family, and responsibility—than our current welfare system.

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. 36

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Welfare to Work Act of 1995''.

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

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The current welfare system is broken and requires replacement.

(2) Work is what works best for American families.

(3) Since State and local governments know the best methods of connecting welfare recipients to work and since each community faces different circumstances, Federal assistance to the States should be flexible.

(4) Government has the responsibility to provide a helping hand to assist individuals but individuals have the responsibility to use the assistance to help themselves.

SEC. 3. PURPOSE.

The purpose of this Act is to create a block grant program to replace the aid to families with dependent children program under title IV of the Social Security Act and a portion of the food stamp program under the Food Stamp Act of 1977 and give the States the flexibility to create innovative welfare to work programs.

SEC. 4. DEFINITION OF STATE.

For purposes of this Act, the term ''State'' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

SEC. 5. APPLICATIONS BY STATES.

(a) IN GENERAL.—Each State desiring to receive a grant to operate a State welfare to work program described in section 6 shall annually submit an application to the Secretary of Health and Human Services (hereafter in this Act referred to as the ''Secretary'') containing the matter described in subsection (b) in such manner as the Secretary may require.

(b) CONTENTS.—

(1) FISCAL YEAR 1996.—An application for a grant to operate a State welfare to work program during fiscal year 1996 shall contain a description of the program in accordance with section 6.

(2) SUBSEQUENT FISCAL YEARS.—

(A) IN GENERAL.—

(i) CONTENTS.—Except as provided in clause (ii), an application for a grant to operate a State welfare to work program during fiscal year 1997 and each subsequent fiscal year shall contain—

(I) a description of the program in accordance with section 6;

(II) the State work percentage (as determined under subparagraph (B)) for each of the 2 preceding fiscal years;

(III) a statement of the number of participants who became ineligible for participation in the program due to increased income for each of the 2 preceding fiscal years; and

(IV) a statement of the amount of non-Federal resources that the State invested in the program in the preceding fiscal year.

(ii) SPECIAL RULE FOR APPLICATIONS SUBMITTED FOR FISCAL YEAR 1997.—An application for a grant to operate a State welfare to work program during fiscal year 1997 shall contain the information described in subclauses (II) and (III) of clause (i) only for the preceding fiscal year in lieu of such information for each of the 2 preceding fiscal years.

(B) STATE WORK PERCENTAGE.—For purposes of subparagraph (A)(ii), the State work percentage (prior to any adjustment under subparagraph (C)) for a fiscal year is equal to—

(i) the number of participants in the State welfare to work program in the fiscal year who were employed in private sector or public sector jobs for at least 20 hours per week for 26 weeks out of the year, divided by

(ii) the total number of participants in the State welfare to work program in the fiscal year.

(C) ADJUSTMENT.—

(i) IN GENERAL.—The State work percentage determined under subparagraph (B) for a fiscal year shall be adjusted by subtracting 1 percentage point from such State work percentage for each 5 percentage points by which the percentage of individuals described in subparagraph (B)(i) who are also described in clause (ii) participating in the program in such fiscal year falls below 75 percent of the number of individuals described in subparagraph (B)(i) in such fiscal year.

(ii) INDIVIDUAL DESCRIBED.—An individual described in this clause is a custodial parent or other individual who is primarily responsible for the care of a child under the age of 18.

(D) MONITORING OF DATA.—The Secretary shall ensure the validity of the data provided by a State under this paragraph.

(c) APPROVAL.—

(1) FISCAL YEARS 1996 AND 1997.—The Secretary shall approve each application for a grant to operate a State welfare to work program—

(A) during fiscal year 1996, if the application contains the information described in subsection (b)(1); and

(B) during fiscal year 1997, if the application contains the information described in subsection (b)(2).

(2) AUTOMATIC APPROVAL IN SUBSEQUENT FISCAL YEARS.—The Secretary shall approve any application for a grant to operate a State welfare to work program during fiscal year 1998 and each succeeding fiscal year if the State's application reports that—

(A) the State work percentage for the preceding fiscal year is greater than the State work percentage for the second preceding fiscal year; or

(B) more participants became ineligible for participation in the State welfare to work program during the preceding fiscal year due to increased income than became ineligible for participation in the program in the second preceding fiscal year as a result of increased income.

(3) SECRETARIAL REVIEW.—

(A) IN GENERAL.—If a State application for a grant under this Act is not automatically approved under paragraph (2), the Secretary shall approve the application upon a finding that the application—

(i) provides an adequate explanation of why the State work percentage or the number of participants who became ineligible for participation in the State welfare to work program due to increased income during the preceding fiscal year did not exceed such State work percentage or the number of participants who became ineligible for participation in the program in the second preceding fiscal year; and

(ii) provides a plan of remedial action which is satisfactory to the Secretary.

(B) ADEQUATE EXPLANATIONS.—An adequate explanation under subparagraph (A) may include an explanation of economic conditions in the State, failed program innovations, or other relevant circumstances.

(4) RESUBMISSION.—A State may resubmit an application for a grant under this Act until the Secretary finds that the application meets the requirements of paragraph (3)(A).

SEC. 6. STATE WELFARE TO WORK PROGRAM DESCRIBED.

(a) IN GENERAL.—A State welfare to work program described in this section shall provide that—

(1) during fiscal year 1996, the State shall designate individuals who are eligible for participation in the program and such individuals shall include at least those individuals who received benefits under the State plan approved under part A of title IV of the Social Security Act during fiscal year 1996;

(2) during fiscal year 1997 and each subsequent fiscal year, the State shall designate individuals who are eligible for participation in the program (as determined by the State), with priority given to those individuals most in need of such services; and

(3) the program shall be designed to move individuals from welfare to self-sufficiency and may include—

(A) job placement and training;

(B) supplementation of earned income;

(C) nutrition assistance and education;

(D) education;

(E) vouchers to be used for rental of privately owned housing;

(F) child care;

(G) State tax credits;

(H) health care;

(I) supportive services;

(J) community service employment; or

(K) any other assistance designed to move such individuals from welfare to self-sufficiency.

(b) NO ENTITLEMENT.—Notwithstanding any criteria a State may establish for participation in a State welfare to work program, no individual shall be considered to be entitled to participate in the program.

SEC. 7. STATE GRANTS.

(a) IN GENERAL.—The Secretary shall annually award to each State with an application approved under section 5(c) an amount equal to—

(1) in fiscal year 1996, 100 percent of the State's base amount;

(2) in fiscal year 1997, the sum of 80 percent of the State's base amount, 20 percent of the State's share of the national grant amount, and any applicable bonus payment;

(3) in fiscal year 1998, the sum of 60 percent of the State's base amount, 40 percent of the State's share of the national grant amount, and any applicable bonus payment;

(4) in fiscal year 1999, the sum of 40 percent of the State's base amount, 60 percent of the State's share of the national grant amount, and any applicable bonus payment;

(5) in fiscal year 2000, the sum of 20 percent of the State's base amount, 80 percent of the State's share of the national grant amount, and any applicable bonus payment; and

(6) in fiscal year 2001 and each subsequent fiscal year, the sum of 100 percent of the State's share of the national grant amount and any applicable bonus payment.

(b) STATE BASE AMOUNT.—

(1) IN GENERAL.—For purposes of subsection (a), a State's base amount is equal to—

(A) for fiscal year 1996, 100 percent of the amount determined under paragraph (2); and

(B) for fiscal year 1997 and succeeding fiscal years, 99.6 percent of the amount determined under paragraph (2).

(2) AMOUNT DETERMINED.—The amount determined under this paragraph for a State is an amount equal to the sum of—

(A) the amount of Federal financial participation received by the State under section 403 of the Social Security Act during fiscal year 1995; and

(B) an amount equal to the sum of—

(i) the benefits under the food stamp program under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), including benefits provided under section 19 of such Act (7 U.S.C. 2028), during fiscal year 1995 other than benefits provided to elderly or disabled individuals in the State (as determined under section 3(r)) of such Act (7 U.S.C. 2012); and

(ii) the amount paid to the State under section 16 of the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) during fiscal year 1995 for administrative expenses for providing benefits to non elderly and non disabled individuals.

(c) STATE SHARE OF THE NATIONAL GRANT AMOUNT.—

(1) IN GENERAL.—For purposes of subsection (a), the State's share of the national grant amount for a fiscal year is equal to the sum of the amounts determined under paragraph (2) (relating to economic need) and paragraph (3) (relating to State effort) for the State.

(2) ECONOMIC NEED.—The amount determined under this paragraph is equal to the sum of the amounts determined under subparagraphs (A) and (B) for the State.

(A) STATE PER CAPITA INCOME MEASURE.—The amount determined under this subparagraph is an amount which bears the same ratio to one-quarter of the national grant amount as the product of—

(i) the population of the State; and

(ii) the allotment percentage of the State (as determined under paragraph (4)),

bears to the sum of the corresponding products for all States.

(B) STATE UNEMPLOYMENT MEASURE.—The amount determined under this subparagraph is an amount which bears the same ratio to one-quarter of the national grant amount as the number of individuals in the State who are estimated as being unemployed according to the Department of Labor's annual estimates bears to the number of individuals who are estimated as being unemployed according to the Department of Labor's annual estimates in all States.

(3) STATE EFFORT.—The amount determined under this paragraph is the amount which bears the same ratio to one-half of the national grant amount as the product of—

(A) the dollar amount the State invested in the State welfare to work program in the previous fiscal year, as reported in section 5(b)(2)(A)(iv); and

(B) the allotment percentage of the State (as determined under paragraph (4)),

bears to the sum of the corresponding products for all States.

(4) ALLOTMENT PERCENTAGE.—

(A) IN GENERAL.—Except as provided in subparagraph (C), the allotment percentage for any State shall be 100 percent, less the State percentage.

(B) STATE PERCENTAGE.—The State percentage shall be the percentage which bears the same ratio to 50 percent as the per capita income of such State bears to the per capita income of all States.

(C) EXCEPTION.—The allotment percentage shall be 70 percent in the case of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(5) DETERMINATION OF GRANT AMOUNTS.—Each State's share of the national grant amount shall be determined under this subsection on the basis of the average per capita income of each State and all States for the most recent fiscal year for which satisfactory data are available from the Department of Commerce and the Department of Labor.

(6) NATIONAL GRANT AMOUNT.—The term ''national grant amount'' means an amount equal to 99.6 percent of sum of the amounts determined under subsection (b)(2) for all States.

(d) BONUS PAYMENT.—Beginning with fiscal year 1997, the Secretary may use 0.4 percent of the sum of the amounts determined under subsection (b)(2) for all States to award additional bonus payments under this section to those States which have the highest or most improved State work percentage as determined under section 5(b)(2)(B). The Secretary shall designate one State as the leading job placement State and such State shall receive the highest bonus payment under the preceding sentence and the President is authorized and requested to acknowledge such State with a special Presidential award.

(e) USE OF FUNDS FOR ADMINISTRATIVE PURPOSES.—A State shall not use more than 10 percent of the amount it receives under this section for the administration of the State welfare to work program.

(f) CAPPED ENTITLEMENT.—This section constitutes budget authority in advance of appropriations Acts, and represents the obligation of the Federal Government to provide the payments described in subsection (a) (in an amount not to exceed the sum of the amounts determined under subsection (b)(2) for all States).

SEC. 8. STATE MAINTENANCE OF EFFORT.

Any funds available for the activities covered by a State welfare to work program conducted under this Act shall supplement, and shall not supplant, funds that are expended for similar purposes under any State, regional, or local program.

SEC. 9. TERMINATION OF CERTAIN FEDERAL WELFARE PROGRAMS.

(a) TERMINATION OF AFDC AND JOBS PROGRAMS.—

(1) AFDC.—Part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) is amended by adding at the end the following new section:

''TERMINATION OF AUTHORITY

''SEC. 418. The authority provided by this part shall terminate on October 1, 1995.''.

(2) JOBS.—Part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.) is amended by adding at the end the following new section:

''TERMINATION OF AUTHORITY

''SEC. 488. The authority provided by this part shall terminate on October 1, 1995.''.

(b) FOOD STAMP PROGRAM TO SERVE ONLY ELDERLY AND DISABLED INDIVIDUALS.—

(1) DEFINITIONS.—Section 3 of the Food Stamp Act of 1977 (7 U.S.C. 2012) is amended—

(A) in subsection (g)—

(i) in paragraph (4), by striking ''(and their spouses)'';

(ii) in paragraph (5)—

(I) by striking ''in the case of'' and inserting ''in the case of elderly or disabled''; and

(II) by inserting ''disabled'' before ''children''; and

(iii) in paragraph (8), by inserting ''elderly or disabled'' before ''women and children temporarily'';

(B) in subsection (i)—

(i) in the first sentence—

(I) in paragraph (1), by inserting ''elderly or disabled'' before ''individual''; and

(II) in paragraph (2), by inserting '', each of whom is elderly or disabled,'' after ''individuals'';

(ii) in the second sentence, by inserting before the period at the end the following: '', if each of the individuals is elderly or disabled'';

(iii) in the third sentence—

(I) by striking '', together'' and all that follows through ''of such individual,''; and

(II) by striking '', excluding the spouse,''; and

(iv) in the fifth sentence—

(I) by striking ''coupons, and'' and inserting ''coupons, and elderly or disabled''; and

(II) by inserting ''disabled'' after ''together with their''; and

(C) in subsection (r), by striking ''Elderly'' and all that follows through ''who'' and inserting the following: '''Elderly or disabled', with respect to a member of a household or other individual, means a member or other individual who''.

(2) CONFORMING AMENDMENTS.—

(A) ELIGIBILITY.—Section 5 of such Act (7 U.S.C. 2014) is amended—

(i) in the first sentence of subsection (c)—

(I) by striking ''program if—'' and all that follows through ''household's income'' and inserting ''program if the income of the household'';

(II) by striking ''respectively; and'' and inserting ''respectively.''; and

(III) by striking paragraph (2); and

(ii) in subsection (e)—

(I) in the first sentence, by striking ''containing an elderly or disabled member and determining benefit levels only for all other households'';

(II) in the fifteenth sentence—

(aa) by striking ''containing an elderly or disabled member''; and

(bb) in subparagraph (A), by striking ''elderly or disabled members'' and inserting ''the members'';

(III) in the seventeenth sentence, by striking ''elderly and disabled''; and

(IV) by striking the fourth through fourteenth sentences.

(B) PERIODIC REPORTING.—Section 6(c)(1)(A)(iv) of such Act (7 U.S.C. 2015(c)(1)(A)(iv)) is amended by striking ''and in which all adult members are elderly or disabled''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply on and after October 1, 1995.

(c) REFERENCES IN OTHER LAWS.—

(1) IN GENERAL.—Any reference in any law, regulation, document, paper, or other record of the United States to any provision that has been terminated by reason of the amendments made in subsection (a) shall, unless the context otherwise requires, be considered to be a reference to such provision, as in effect immediately before the date of the enactment of this Act.

(2) STATE PLANS.—Any reference in any law, regulation, document, paper, or other record of the United States to a State plan that has been terminated by reason of the amendments made in subsection (a), shall, unless the context otherwise requires, be considered to be a reference to such plan as in effect immediately before the date of the enactment of this Act.

SEC. 10. ELIGIBILITY FOR WIC PROGRAM.

(a) IN GENERAL.—Section 17(d)(1) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)(1)) is amended by adding at the end the following new sentence: ''For purposes of participation in the program under this section, a child shall be considered to be at nutritional risk if such child is in the care of a custodial parent or other individual primarily responsible for the care of such child who is a participant in a State welfare to work program which receives Federal funds under the Welfare to Work Act of 1995.''.

(b) CONFORMING AMENDMENTS.—Section 17(d)(2)(A)(ii) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)(2)(A)(ii)) is amended—

(1) by striking ''(ii)(I)'' and inserting ''(ii)''; and

(2) by striking subclause (II).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply on and after October 1, 1995.

SEC. 11. SECRETARIAL SUBMISSION OF LEGISLATIVE PROPOSAL FOR AMENDMENTS TO MEDICAID ELIGIBILITY CRITERIA AND TECHNICAL AND CONFORMING AMENDMENTS.

The Secretary shall, within 90 days after the date of enactment of this Act, submit to the appropriate committees of Congress, a legislative proposal providing eligibility criteria for medical assistance under a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) in lieu of the eligibility criteria under section 1902(a)(10)(A)(i) of such Act (42 U.S.C. 1396a(a)(10)(A)(i)) relating to the receipt of aid to families with dependent children under a State plan under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) and such technical and conforming amendments in the law as are required by the provisions of this Act.●

By Mr. FEINGOLD (for himself and Mr. KOHL):

S. 37. A bill to terminate the Extremely Low Frequency Communication System of the Navy; to the Committee on Armed Services.

EXTREMELY LOW FREQUENCY COMMUNICATION SYSTEM TERMINATION AND DEFICIT REDUCTION ACT

● Mr. FEINGOLD. Mr. President, today I am reintroducing legislation for myself and Senator KOHL which we offered during the 103d Congress to terminate the Extremely Low Frequency Communications System, located in Clam Lake, WI., and Republic, MI. This project has been opposed by residents of Wisconsin since its inception, but for years, we were told that the national security considerations of the cold war outweighed our concerns about this installation in our State. This year, as the Department of Defense is scrambling to meet a tighter budget, and with the Base Closure Commission making its final recommendations, Project ELF should be closed down. If enacted, my bill would save $9 to $20 million a year.

Project ELF was developed in the late 1970's as an added protection against the Soviet naval nuclear deployment. It is an electromagnetic messenger system—otherwise known as a bell ringer—which only tells a deeply submerged *Trident* submarine that it needs to come to shallow water to retrieve a message. Because it communicates through very primitive pulses, called phonetic-letter-spelled-out [PLSO] messages, ELF's radiowaves cannot transmit any messages themselves. Thus, in the case of a nuclear attack, ELF is not useful because during a nuclear attack a *Trident* would not surface at all. And, in the absence of a Soviet naval nuclear threat from which to hide, its usefulness is even more difficult to justify.

Since its major justification has apparently disappeared, Project ELF itself becomes hard to justify. *Trident* submarines no longer need to take that extra precaution against Soviet nuclear forces. They can now surface on a regular basis with less danger of detection or attack. They can also receive more complicated messages through very low frequency [VLF] radiowaves, or lengthier messages through satellite systems, if it can be done more cheaply.

Not only do many Wisconsinites think the mission of Project ELF is unnecessary and anachronistic, but they are also concerned about possible environmental and public health hazards associated with it. While I have heard some ELF supporters say there is no apparent environmental impact of Project ELF, we can only conclude that we do not know that: in fact, we do not know much about its affects at all.

The Navy itself has yet to conclude definitively that operating Project ELF is safe for the residents living near the site. If you are a resident in Clam Lake, that is unsettling news. In 1982, the Illinois Institute of Technology Research Institute undertook a study of ELF's health effects. The results have thus far proven inconclusive, and are still being reviewed and analyzed by the National Academy of Sciences. After the NAS reviews the data, it will, at my request, be forwarded to the Office of Management and Budget and the Office of Technology Assessment.

We also know that other studies give Wisconsinites reason to be concerned. In 1992, a Swedish study found that children exposed to relatively weak magnetic fields from powerlines develop leukemia at almost four times the expected rate. We also know that in 1984, a U.S. district court ruling on State of Wisconsin versus Weinberger ordered Project ELF to be shut down because the Navy paid inadequate attention to the system's possible health effects, and violated the National Environmental Policy Act. That decision was overturned on appeal, however, in a ruling that claimed national security interests at the time prevailed over environmental concerns. I would hope that in post-cold-war 1995 that conclusion would be reconsidered.

Last session, I worked with the Senator from Georgia [Senator NUNN] to include an amendment in the National

Defense Authorization Act for fiscal year 1994 requiring a report by the Secretary of Defense on the benefits and costs of continued operation of Project ELF. The report issued by DOD was particularly disappointing because it basically argued that because Project ELF may have had a purpose during the cold war, it should continue to operate after the cold war as part of the complete complement of command and control links configured for the cold war. I am hoping that OTA will also issue an independent assessment of the strategic capabilities of Project ELF, as described in the Senate-passed amendment in 1993.

I have also proposed that the Base Closure Commission [BRAC] look at Project ELF this year. I understand that in addition to military value, the BRAC will consider recommendations according to four other criteria: return on investment; the economic impact on the community; the ability of both the existing and potential receiving communities' infrastructure to support forces, missions and personnel; and environmental impact. On all these grounds, ELF qualifies as a candidate for closure.

Did Project ELF play a role in helping to minimize the Soviet threat? Perhaps. Did it do so at risk to the community? Perhaps. Does it continue to play a vital security role to the Nation? No.

Most of us in Wisconsin don't want it anymore. Many of my constituents have opposed Project ELF since its inception, and my constituent mail today runs 8–1 against it. Congressman DAVID OBEY has consistently sought to terminate Project ELF, and in fact, we have him to thank in part for getting ELF scaled down from the large-scale project first conceived by the Carter administration. I look forward to continue working with him on this issue when he introduces a similar measure in the House this year.

As the Department of Defense and the Armed Services Committee consider what they say are very tight defense budgets for fiscal year 1996, I hope they will zero out the ELF transmitter system, as I propose in this bill, and save the taxpayer $9 to $20 million a year. Given both its apparently diminished strategic value and the potential environmental and public health hazards, Project ELF is a perfect target for termination. I can only echo the words of an October 2 editorial in the Wausau Daily Herald: ''ELF isn't needed. It isn't wanted. It's an unwarranted expense.''

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. 37

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 ''Extremely Low Frequency Communication System Termination and Deficit Reduction Act of 1995''.

SEC. 2. PROHIBITION OF FURTHER FUNDING OF THE EXTREMELY LOW FREQUENCY COMMUNICATION SYSTEM.

(a) PROHIBITION ON USE OF FUNDS.—Except as provided in subsection (b), funds appropriated on or after the date of the enactment of this Act to or for the use of the Department of Defense may not be obligated or expended for the Extremely Low Frequency Communication System of the Navy.

(b) LIMITED EXCEPTION FOR TERMINATION COSTS.—Subsection (a) does not apply to expenditures solely for termination of the Extremely Low Frequency Communication System.●

By Mr. HATCH (for himself, Mr. DOLE, Mr. THURMOND, Mr. SIMPSON, Mr. GRASSLEY, Mr. KYL, Mr. ABRAHAM, Mr. NICKLES, Mr. GRAMM, Mr. SANTORUM, and Mr. ASHCROFT):

S. 38. A bill to amend the Violent Crime Control and Law Enforcement Act of 1994, and for other purposes; to the Committee on the Judiciary.

VIOLENT CRIME CONTROL AND LAW ENFORCEMENT AMENDMENTS ACT

Mr. HATCH. Mr. President, I rise today to introduce the Violent Crime Control and Law Enforcement Amendments Act of 1995. This legislation corrects the most glaring flaws in the 1994 Crime bill, and is intended as only a first step in enacting the comprehensive anti-crime laws the American people are demanding. Each of the provisions of this bill is also included in our comprehensive Crime bill, S. 3, introduced earlier today. As with S. 3, I am pleased to be joined in this effort by the distinguished majority leader. I am also pleased that Senators THURMOND, SIMPSON, GRASSLEY, KYL, ABRAHAM, NICKLES, GRAMM, SANTORUM, and ASHCROFT have joined me as cosponsors of this bill as well.

The people of Utah and across our Nation understand that the best crime prevention program is to ensure the swift apprehension of criminals and their certain and lengthy imprisonment. My earlier statement today set forth the details of our crime problem. Congress can do better than the legislation it passed last year. That bill wasted billions on duplicative social spending programs, devoted insufficient resources to the needed emergency build-up in prison space, failed to enact tough penalties for Federal violent and drug crimes, weakened mandatory minimum sentences for drug trafficking, and failed to ensure that violent criminals are ordered to pay restitution to their victims.

Now the American people expect us to fix these flaws, and this bill begins that task with several straight-forward provisions first proposed during the last Congress. A number of these overwhelmingly passed this body, only to be scrapped during the conference on last year's Crime bill.

First, it eliminates the wasteful social programs passed in the 1994 Crime bill, including the Local Partnership Act, the National Community Economic Partnership Act and the Family Unity Demonstration Project, among many others. These programs would have wasted billions of dollars on duplicative, top-down spending programs without reducing violent crime. Having Washington bureaucrats impose untested programs on the States would do little to prevent crime.

Of the over $4.5 billion saved by eliminating these programs, approximately $1 billion is redirected to prison construction and operation grants.

Second, in addition to increasing the amount authorized for state prison grants, our bill also ensures that these grants will be used for the construction and operation of brick-and-mortar prisons. The bill removes conditions requiring the states to adopt specified corrections plans in order to qualify for the Federal funds. Our bill also eliminates wasteful grants for ''alternative sanctions'' for young offenders, saving the taxpayers another $150 million.

Third, our bill also includes several tough Federal criminal penalties either omitted from or weakened in the 1994 Crime bill. For instance, it includes the provisions requiring tough mandatory minimum sentences for Federal crimes committed with a firearm, for the sale of drugs to minors or the use of a minor in the commission of a drug crime, and for violations of drug-free zones.

Our bill also replaces the overly broad reform of mandatory minimum sentences with an approach that will insure the just imposition of those sentences. Thus, while providing less leeway to judges to avoid imposing minimum mandatory sentences than the 1994 Crime bill, it allows such discretion where it is merited. The truly first-time, non-violent, low-level offender deserving some measure of leniency will be treated more justly under our legislation, without providing a windfall to career drug dealers. I should note that our provision was overwhelmingly supported by the Senate in the last Congress.

Lastly, we also include in our bill provisions for restitution to victims of federal crimes to ensure that crime victims receive the restitution they are due from those who have preyed on them.

With this legislation, we have an opportunity to begin to fulfill our commitment to the American people. It is only a start, but it is a measure that I believe this body could pass quickly. We must at the same time continue our efforts to pass a more comprehensive crime bill that addresses the American people's concern over rampant violent crime in a way that empowers them and that respects the competencies and powers of the State and Federal spheres of government. Additionally, we must remain committed to ensuring that our legislation does not increase the Federal deficit.

I believe that the bills we have introduced today will give the American people the crime control legislation they demand and deserve. I urge the support of my colleagues for this important legislation.

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

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

THE VIOLENT CRIME CONTROL AND LAW ENFORCEMENT AMENDMENTS ACT

This legislation is based on Republican proposals championed during the debate on the Conference Report on the 1994 Crime Bill. The bill eliminates much of the ''pork'' contained in the 1994 Crime Bill and strengthens prison and sentencing provisions.

Should you have questions about the bill not answered by this summary, please call Mike O'Neill or Mike Kennedy of the Judiciary Committee staff of extension 4–5225.

SECTION-BY-SECTION ANALYSIS

SEC. 1. Short Title.

The short title of the bill is the Violent Crime Control and Law Enforcement Amendments Act of 1995.

SEC. 2. Elimination of Ineffective Programs.

Section 2 eliminates the wasteful social programs passed in the 1994 Crime Bill, including the Local Partnership Act, the National Community Economic Partnership Act and the Family Unity Demonstration Project, among many others. These programs would have wasted billions of dollars on duplicative, top-down spending programs without reducing violent crime.

Of the over $4.5 billion dollars saved by eliminating these programs, approximately $1 billion is redirected to prison construction and operation grants.

SEC. 3. Amendment of Violent Offender Incarceration And Truth In Sentencing Incentive Grant Program.

Section 3 amends the prisons grants included in the 1994 Crime Bill to insure that the funds are spent on the actual construction and operation of prisons for violent offenders and would also remove provisions tying the funds to federal mandates on state corrections systems. Specifically, the proposal would make the following changes:

The Act currently allows prison funds to be spent on alternative correctional facilities in order ''to free conventional prison space.'' This section requires that prison grants be spent on conventional prisons to house violent offenders, not on alternative facilities.

The proposal removes from the Act a provision which would have conditioned state receipt of the prison grants on adoption of a comprehensive correctional plan that would include diversion programs, jobs skills programs for prisoners, and post-release assistance. Accordingly, these grants will be used exclusively to build and operate prisons.

The proposal amends the prisons grant allocation provisions of the Act by increasing the minimum per-state allocation and removing the Attorney General's discretionary grant authority.

SEC. 4. Punishment For Young Offenders.

Section 4 repeals Subtitle B of title II of the 1994 Crime Bill, which authorized $150 million in discretionary grants for alternate sanctions for criminal juveniles.

SEC. 5. Increased Mandatory Minimum Sentences For Criminals Using Firearms.

Section 5 establishes a mandatory minimum penalty of 10 years' imprisonment for anyone who uses or carries a firearm during a federal crime of violence or federal drug trafficking crime. If the firearm is discharged, the person faces a mandatory minimum penalty of 20 years' imprisonment. If death results, the penalty is death or life imprisonment.

SEC. 6. Mandatory Minimum Prison Sentences For Those Who Use Minors in Drug Trafficking Activities.

Section 6 establishes a mandatory minimum sentence of 10 years' imprisonment for anyone who employs a minor in drug trafficking activities. The section also establishes a sentence of mandatory life imprisonment for a second offense.

SEC. 7. Mandatory Minimum Sentences For Persons Convicted Of Distribution Of Drugs To Minors.

Section 7 establishes a mandatory minimum sentence of 10 years' imprisonment for anyone 21 years of age or older who sells drugs to a minor. The section also establishes a sentence of mandatory life imprisonment for a second offense.

SEC. 8. Penalties For Drug Offenses In Drug-Free Zones.

Section 8 establishes new mandatory minimum sentences for drug offenses in drug-free zones which were omitted from the 1994 Crime Bill.

SEC. 9. Flexibility In Application of Mandatory Minimum Sentence Provisions In Certain Circumstances.

Section 9 includes a narrowly circumscribed mandatory minimum reform measure that returns a small degree of discretion to the federal courts in the sentencing of truly first-time, non-violent low-level drug offenders. To deviate from the mandatory minimum, the court would have to find that the defendant did not finance the drug sale, did not sell the drugs, and did not act as a leader or organizer.

SEC. 10. Mandatory Restitution To Victims Of Violent Crime.

Section 10 amends 18 U.S.C. 3663 by mandating Federal judges to enter orders requiring defendants to provide restitution to the victims of their crimes.

By Mr. STEVENS (for himself, Mr. KERRY, and Mr. MURKOWSKI):

S. 39. A bill to amend the Magnuson Fishery Conservation and Management Act to authorize appropriations, to provide for sustainable fisheries, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE SUSTAINABLE FISHERIES ACT

Mr. STEVENS. Mr. President, I am pleased on this first day of the 104th Congress to introduce with my colleagues from Massachusetts and Alaska a bill to significantly strengthen and improve the Magnuson Fishery Conservation and Management Act.

The bill we introduce today is a continuation of the effort Senator KERRY and I began in the 103rd Congress to reauthorize the Magnuson Act—one of the most important federal laws in our home states.

Our bill includes a number of important new protections for our fishery resources and for the fishermen who depend upon them. These include: (1) significant new across-the-board mandates to reduce waste in U.S. fisheries; (2) a new section specifically mandating the reduction of fishery waste in the fisheries off Alaska—with a specific time frame that the North Pacific Council must follow; (3) new conflict-of-interest and recusal requirements for fishery management council members, as well as other reforms to the Council process; (4) guidelines for individual transferable quotas, or ITQs, to help define and ensure the fairness in the use of this relatively new management tool; and (5) a new National Standard to ensure that conservation and management measures take into account the importance of the harvest of fish to fishery dependent communities, such as the many communities along our Alaska coasts.

These are just a few of the improvements we are proposing that will help ensure the sustainability of our fishery resources for generations to come.

As chairman of the new Oceans Subcommittee, I intend to hold oversight hearings on this legislation early in the session, and look forward to working with my colleagues to complete the reauthorization process before the end of the summer.

I would like to ask that the remainder of my statement describing the bill be printed in the RECORD as if read, along with the text of the bill.

WASTE REDUCTION

The bill incorporates virtually all of the operative provisions of S. 2022, the bill I introduced last year to address the problems of fishery waste in the North Pacific.

The bill would add specific definitions for ''bycatch,'' ''economic discards'' and ''regulatory discards'' (which we in the North Pacific call prohibited species) to the Magnuson Act in order to clearly delineate between specific types of waste which may require different solutions.

The bill requires each Council to assess bycatch and to minimize the mortality caused by economic and regulatory discards in each fishery which is managed by that Council.

For the North Pacific, the bill also requires the Council to incorporate provisions in its fishery management plans to reduce bycatch, economic and regulatory discards, as well as to reduce ''processing waste'' and to achieve full retention and full utilization by specific dates. These are the same mandates for the North Pacific and the same basic definitions as those that I included in S. 2022 last year.

The bill directs the Council to take additional steps to ensure that the valuable fishery resources off Alaska are available for future generations.

In addition to provisions from S. 2022, we've also added a definition of ''overfishing'' to the Magnuson Act. The bill requires each Council to include in each fishery management plan specific criteria for determining when a fishery under that Council's jurisdiction is overfished or is approaching such a condition.

The intent is to get the Councils to establish a mechanism to provide sufficient warning so that preventive measures can be put in place before any additional fisheries become overfished.

The Secretary of Commerce (Secretary) will use the criteria to report to Congress (and back to the Councils) on the fisheries within each Council's geographical area that are overfished or approaching a condition of being overfished. Each Council will have one year to submit appropriate fishery management plans, amendments or regulations to prevent the overfishing of fisheries approaching that condition, and to stop overfishing and begin to rebuild fisheries that are already overfished.

If the Council fails to take action to begin this process within one year, the Secretary will be required to prepare an appropriate fishery management plan or plan amendment.

We know from current National Marine Fisheries Service data that our fisheries in Alaska are not overfished. These new provisions in the Magnuson Act will make sure Alaska's fisheries remain healthy for generations to come.

COUNCIL REFORM

The bill includes measures to reform the Council process, perhaps the most difficult issue we've dealt with in our review of the Magnuson Act.

Our bill would prevent Council members from voting on certain matters that benefit them financially, but it does not require such widespread recusal by Council members that the Councils would be rendered ineffective.

I still believe in the basic goal Senator MAGNUSON and I had for the original Act—that the councils should be made up of the people directly affected by fishery management decisions.

Senator KERRY and I have incorporated valuable portions of other proposals, including the Administration's proposal (which was based on the existing Alaska Board of Fisheries recusal process) and Senator BREAUX's proposal, in the recusal section of our bill.

The bill requires Council members to recuse themselves from voting on Council decisions that would have a ''significant and predictable effect'' on their financial interests. A Council decision would be considered to have a ''significant and predictable effect'' if there is ''a close causal link between the Council decision and an expected disproportionate benefit, shared only by a minority of persons within the same industry sector or gear group, to the financial interest'' of the Council member.

This language will prevent Council members from voting on decisions that give a disproportionate benefit only to themselves or a minority in their gear group, but will not prevent them from expressing views or from voting on most matters on which they have expertise.

The Secretary, with the concurrence of a majority of the voting members of the Council, will select a ''designated official'' with Federal conflict-of-interest experience to attend Council meetings and make determinations regarding the financial interests of members. These determinations will occur at the request of the affected Council member or at the initiative of the designated official.

Any Council member can ask for a review by the Secretary of a determination, but this review will not be treated as cause for the invalidation or reconsideration by the Secretary of a Council decision. At its own discretion, the Council could decide to postpone voting on a matter until receiving the result from the Secretary's review of a determination, or could decide to reconsider a vote that had occurred if the Secretary's review was different than the designation official's determination had been.

This bill also increases Council reporting requirements, and includes a provision to require a roll call vote for the record at the request of any Council member.

ITQS

This bill establishes a definition and sets out general requirements for any individual transferable quota (ITQ) system. The bill prohibits the Secretary from approving any more ITQ plans until ITQ guidelines are completed based on these requirements. The Secretary would convene an advisory panel to provide recommendations for the ITQ guidelines.

The bill requires the guidelines to, among other things: (1) provide for the fair and equitable allocation of fishing privileges; (2) provide for the collection of fees of up to four percent annually of the value of the fish harvested or processed under an ITQ, and an additional one percent of the value of fish harvested or processed by a person receiving an initial quota or transferring a quota; (3) address methods for providing for new entrants, including, in fisheries where appropriate, mechanisms to provide a portion of the annual harvest for entry-level fishermen or small vessel owners who do not hold an ITQ; and (4) provide requirements for the effective monitoring and enforcement of ITQ systems, and provide for penalties, including the revocation of fishing privileges under ITQ systems.

The bill clearly states that an ITQ does not constitute a property right, and that no provision of law shall be construed to limit the ability of the Secretary to terminate or limit an ITQ at any time and without compensation.

The bill also specifies that holders of an ITQ may include fishing vessel owners, fishermen, crew members or other citizens of the United States, as well as United States fish processors.

Upon reviewing the October 7, 1994 version of our bill (S. 2538), a number of Alaskans expressed concerns to me about the effect of these ITQ provisions on the halibut and sablefish individual fishing quota (IFQ) plan off Alaska.

The primary concerns were related to the mistaken impression that the ITQ provisions of the bill would require a reallocation of halibut/sablefish quota shares (i.e. to crew members, skippers, etc.) after the initial allocation (which is taking place now), and that the bill would require the halibut/sablefish plan to include processor quotas.

Neither S. 2538, nor the bill we are introducing today, requires these things.

While the bill defines ITQs to allow the Councils to include processor shares (in addition to harvesting shares), it does not require ITQ plans to include processor shares.

Processor quotas were added because the North Pacific Council is exploring their use for the Bering Sea pollock fishery, and because doubt has been expressed by the National Oceanic and Atmospheric Administration about the Council's current authority to create processor quotas. Our bill simply clarifies that the Councils have this tool to use at their discretion—it does not require their use.

The concern that the bill would require a reallocation of halibut and sablefish quota to skippers and crew members is also without basis.

The bill specifies that holders of ITQs may include crewmen (as well as skippers), but does not require that crewmen (or skippers) receive an initial allocation.

While I share the concern of skippers and other crewmen—as well as future generations of Alaskans—who were left out of the initial halibut/sablefish allocation, it would not be feasible or appropriate to require the North Pacific council to adopt a wholesale reallocation, particularly when shares will already have been purchased and sold before any reallocation could take place.

As I have mentioned, the bill we are introducing today does require the Secretary of Commerce to complete ITQ guidelines to: (1) ensure the fair and equitable allocation of fishing privileges, and (2) to provide methods for allowing new entrants into ITQ fisheries.

It also requires existing ITQ plans to comply with these guidelines within 3 years.

The halibut/sablefish plan in Alaska already includes provisions to meet most of these requirements.

The plan includes provisions to restrict the transfer of quota shares between vessel size categories, and to prevent the consolidation of initial quota blocks—two mechanisms which help provide for new entrants.

The ''fair and equitable allocation'' requirement for ITQs in our bill is already a general requirement in the National Standards section of the existing Magnuson Act. Because the Secretary has already approved the qualifying criteria for the halibut/sablefish plan under this National Standard, it would also be approved under the specific ''fair and equitable'' requirement we have added for ITQs.

The bill we are introducing today provides for increased fees to be assessed on any ITQ in order to, among other things, allow the Secretary to recoup the increased enforcement costs of ITQ systems, and to extract from ITQ holders an increased rent commensurate with the increased privilege received form ITQs.

FISHERY DEPENDENT COMMUNITIES

The bill defines the term, ''fishery dependent community'' for purposes of its use in the Magnuson Act as part of a new national standard and for purposes of defining who is eligible for programs included in new sections 315 and 316 of the Magnuson Act.

A new National Standard is added to the Magnuson Act which requires all Councils ''to take into account the importance of the harvest of fishery resources to fishery dependent communities'' in recommending conservation and management measures under each fishery management plan.

This new standard has been included in the bill as a means of ensuring that all of the Councils consider measures like the closure of the Gulf of Alaska pollock fishery to certain vessels, community development quotas (CDQs), and the allocation of Pacific whiting to shore plants that have already been included in fishery management plans by the North Pacific Council and the Pacific Council in order to address the needs of certain fishery dependent communities.

Another provision requires consideration be given to fishery dependent communities in developing any limiting access systems, including ITQ systems.

By including these new provisions we intend to increase the Councils' consideration of the needs of coastal communities dependent on fishery resources.

I agree with Judge Singleton's recent ruling in *Alliance Against IFQs* v. *Ronald H. Brown* that National Standard Four of the Magnuson Act (which prohibits conservation and management measures form discriminating between residents of different states) does not apply to the CDQ program, and with his affirmation of the North Pacific Council's and Secretary's existing authority to create CDQs.

CDQs are one of the appropriate tools the North Pacific Council and Secretary have already used to help address the needs of fishery dependent communities.

VESSEL AND PERMIT BUYOUT PROGRAMS/ EMERGENCY RELIEF

The bill contains important new sections authorizing vessel and permit buy-back programs, and creating a relief program for commercial fishery failures which occur beyond the control of the fishery management councils, or for unknown reasons.

Section 315 of the bill authorizes the Secretary, with the concurrence of a majority of the appropriate Council, to develop and implement a program to buy out fishing vessels or permits.

The bill would require that any buyout program ensure that vessels or permits cannot reenter the fishery.

This buyout section authorizes Councils to implement a fee system to pay for the buyout, but also authorizes the Federal Government to pay for up to 50 percent of a buyout.

Section 316 of the bill authorizes the Secretary, at his or her own discretion or at the request of a Governor or affected fishery dependent community, to declare a commercial fishery failure, and to then make money available to restore the fishery and to assist fishery dependent communities affected by the failure.

The Federal Government could pay for up to 75 percent of this type of relief.

Recently, the Secretary of Commerce used existing authority to provide relief to New England and Pacific Northwest fishermen.

These new Magnuson Act provisions, in addition to providing needed guidance for such relief, would help to ensure that affected States and fishermen also contribute to relief efforts and buyout programs.

I am aware of the concerns of some of my colleagues about these particular provisions, and look forward to working with them to address their concerns before the Commerce Committee marks up this bill.

OTHER PROVISIONS

I will briefly mention some of the other improvements to the Magnuson Act included in our bill.

The bill simplifies the review process by the Secretary of fishery management plans and amendments by eliminating a preliminary evaluation required under current law.

The bill also would provide a framework for Secretarial review of proposed regulations, giving the Councils greater certainty that proposed regulations and regulatory amendments will be implemented in a timely manner.

The bill also includes provisions providing for the increased protection of fishery habitat essential to the life cycles of fish stocks.

I look forward to working with Senator KERRY, our new Commerce Committee Chairman and Ranking Member, and with our other colleagues to complete this reauthorization process.

I ask that the complete text of the sustainable Fisheries Act be printed in the RECORD.

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

S. 39

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 ''Sustainable Fisheries Act''.

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

TITLE I—CONSERVATION AND MANAGEMENT

SEC. 101. AMENDMENT OF MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

SEC. 102. FINDINGS; PURPOSES; POLICY.

Section 2 (16 U.S.C. 1801) is amended—

(1) by striking subsection (a)(2) and inserting the following:

''(2) Certain stocks of fish have declined to the point where their survival is threatened, and other stocks of fish have been so substantially reduced in number that they could become similarly threatened as a consequence of (A) increased fishing pressure, (B) the inadequacy of fishery resource conservation and management practices and controls, or (C) direct and indirect habitat losses which have resulted in a diminished capacity to support existing fishing levels.'';

(2) by inserting ''to facilitate long-term protection of essential fish habitats,'' in subsection (a)(6) after ''conservation,'';

(3) by adding at the end of subsection (a) the following:

''(9) One of the greatest long-term threats to the viability of commercial and recreational fisheries is the continuing loss of marine, estuarine, and other aquatic habitats on a national level. Habitat considerations should receive increased attention for

the conservation and management of fishery resources of the United States.'';

(4) by inserting ''in a non-wasteful manner'' in subsection (b)(6) after ''such development''; and

(5) by adding at the end of subsection (b) the following:

''(7) to promote the protection of essential fish habitat in the review of projects conducted under Federal permits, licenses, or other authorities that affect or have the potential to affect such habitat.''.

SEC. 103. DEFINITIONS.

Section 3 (16 U.S.C. 1802) is amended—

(1) by redesignating paragraphs (2) through (32) as paragraphs (3) through (33) respectively, and inserting after paragraph (1) the following:

''(2) The term 'bycatch' means fish which are harvested by a fishing vessel, but which are not sold or kept for personal use, including, but not limited to, economic and regulatory discards.'';

(2) by redesignating paragraphs (7) through (33) (as redesignated) as paragraphs (9) through (35), respectively, and inserting after paragraph (6) (as redesignated) the following:

''(7) The term 'economic discards' means fish which are the target of a fishery, but which are not retained by the fishing vessel which harvested them because they are of an undesirable size, sex or quality, or for other economic reasons.

''(8) The term 'essential fish habitat' means any area essential to the life cycle of a stock of fish, or to the production of maximum sustainable yield of one or more fisheries managed under this Act.'';

(3) by redesignating paragraphs (12) through (35) (as redesignated) as paragraphs (13) through (36), respectively, and inserting after paragraph (11) (as redesignated) the following:

''(12) The term 'fishery dependent community' means a community which is substantially dependent on the harvest of fishery resources to meet social and economic needs.'';

(4) by redesignating paragraphs (19) through (36) (as redesignated) as paragraphs (20) through (37), respectively, and inserting after paragraph (18) (as redesignated) the following:

''(19) The term 'individual transferable quota' means a revocable Federal authorization to harvest or process a quantity of fish under a unit or quota share that represents a percentage of the total allowable catch of a stock of fish, that may be received or held by a specific person or persons for their exclusive use, and that may be transferred in whole or in part by the holder to another person or persons for their exclusive use.'';

(5) by redesignating paragraphs (22) through (37) (as redesignated) as paragraphs (23) through (38), respectively, and inserting after paragraph (21) (as redesignated) the following:

''(22) The term 'limited access system' means any system for controlling fishing effort which includes such measures as license limitations, individual transferable quotas, and non-transferable quotas.'';

(6) by striking ''Pacific Marine Fisheries Commission'' in paragraph (23), as redesignated, and inserting ''Pacific States Marine Fisheries Commission'';

(7) by striking paragraph (27), as redesignated, and inserting the following:

''(27) The term 'optimum', with respect to the yield from a fishery, means the amount of fish which—

''(A) will provide the greatest overall benefit to the Nation, with particular reference to food production and recreational opportunities, and taking into account the protection of marine ecosystems;

''(B) is prescribed on the basis of the maximum sustainable yield from a fishery, as modified by any relevant social, economic, or ecological factor; and

''(C) provides for the rebuilding of an overfished fishery to a level consistent with producing the maximum sustainable yield.'';

(8) by redesignating paragraphs (28) through (38) (as redesignated) as paragraphs (29) through (39), respectively, and inserting after paragraph (27) (as redesignated) the following:

''(28) The terms 'overfishing' and 'overfished' mean a level or rate of fishing mortality that jeopardizes the capacity of a fishery to produce the maximum sustainable yield on a continuing basis.'';

(9) by redesignating paragraphs (30) through (39) (as redesignated) as paragraphs (31) through (40), respectively, and inserting after paragraph (29) (as redesignated) the following:

''(30) The term 'regulatory discards' means fish caught in a fishery which fishermen are required by regulation to discard whenever caught, or are required by regulation to retain but not sell.'';

(10) by striking ''for which a fishery management plan prepared under title III or a preliminary fishery management plan prepared under section 201(h) has been implemented'' in paragraph (38), as redesignated, and inserting ''regulated under this Act''; and

(11) by redesignating paragraph (40), as redesignated, as (41), and inserting after paragraph (39) the following:

''(40) The term 'vessel subject to the jurisdiction of the United States' has the same meaning as in section 3(c) of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903(c)).''.

SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

The Act is amended by inserting after section 3 the following:

''SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to the Secretary for the purposes of carrying out the provisions of this Act, not to exceed the following sums (of which 15 percent in each fiscal year shall be used for enforcement activities):

''(1) $102,000,000 for fiscal year 1993;
''(2) $106,000,000 for fiscal year 1994;
''(3) $143,000,000 for fiscal year 1995;
''(4) $147,000,000 for fiscal year 1996;
''(5) $151,000,000 for fiscal year 1997;
''(6) $155,000,000 for fiscal year 1998; and
''(7) $159,000,000 for fiscal year 1999.''.

SEC. 105. HIGHLY MIGRATORY SPECIES.

Section 102 (16 U.S.C. 1812) is amended by striking ''promoting the objective of optimum utilization'' and inserting ''shall promote the achievement of optimum yield''.

SEC. 106. FOREIGN FISHING.

Section 201 (16 U.S.C. 1821) is amended—

(1) by inserting a comma and ''or is approved under section 204(b)(6)(A)(ii)'' before the semicolon in subsection (a)(1);

(2) by striking ''(g)'' in subsection (a)(2) and inserting ''(f)'';

(3) by striking ''(i)'' in subsection (c)(2)(D) and inserting ''(h)'';

(4) by striking '', including any regulations promulgated to implement any applicable fishery management plan or any preliminary fishery management plan'' in subsection (c); and

(5) by striking subsection (f) and redesignating subsections (g), (h), (i), and (j) as (f), (g), (h), and (i), respectively.

SEC. 107. PERMITS FOR FOREIGN FISHING.

(a) So much of section 204(b) (16 U.S.C. 1824(b)) as precedes paragraph (2) is amended to read as follows:

''(b) APPLICATIONS AND PERMITS.—

''(1) ELIGIBILITY.—

''(A) Each foreign nation with which the United States has entered into a governing international fishery agreement shall submit an application to the Secretary of State each year for a permit for each of its fishing vessels that wishes to engage in fishing described in subsection (a).

''(B) An owner of a vessel, other than a vessel of the United States, who wishes to engage in the transshipment at sea of fish products in the exclusive economic zone or within the boundary of any State, may submit an application to the Secretary each year for a permit for a vessel belonging to that owner, whether or not such vessel is subject to an international fishery agreement described in section 201(b) or (c).

''(C) No permit issued under this section may be valid for longer than a year. Section 558(c) of title 5, United States Code, does not apply to the renewal of any such permit.''.

(b) Section 204(b)(4) (16 U.S.C. 1824(b)(4)) is amended—

(1) by inserting ''(A)'' after the caption;

(2) by inserting ''submitted under paragraph (1)(A)'' after ''any application'';

(3) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively; and

(4) by inserting at the end thereof the following:

''(B) Upon receipt of any application submitted under paragraph (1)(B) which complies with the requirements of paragraph (3), the Secretary shall promptly transmit copies of the application or summary as indicated under subparagraphs (A)(ii) and (iii), and shall also promptly transmit such application or summary to States bordering the exclusive economic zone where such transshipment is proposed to occur.''.

(c) Section 204(b)(5) (16 U.S.C. 1824(b)(5)) is amended by striking ''under paragraph (4)(C)'' and inserting ''submitted under paragraph (1)''.

(d) Section 204(b)(6) (16 U.S.C. 1824(b)(6)) is amended—

(1) by striking ''transmitted under paragraph (4)(A)'' in subparagraph (A) and inserting ''submitted under paragraph (1)(A)'';

(2) by inserting ''(i)'' before ''After'' in subparagraph (A); and

(3) by inserting before subparagraph (B) the following:

''(ii) In the case of any application submitted under paragraph (1)(B), the Secretary, after taking into consideration any comments submitted by the Council under paragraph (5) or any affected State, may approve the application upon determining that the activity described in the application will be in the interest of the United States and will meet the applicable requirements of this Act, and that the owners or operators have agreed to comply with requirements set forth in section 201(c)(2) and have established any bonds or financial assurances that may be required by the Secretary; or the Secretary may disapprove all or any portion of the application.''.

(e) Section 204(b)(8) (16 U.S.C. 1824(b)(8)) is amended—

(1) by inserting a comma and ''or the agent for the foreign vessel owner for any application submitted under paragraph (1)(B)'' before the semicolon at the end of subparagraph (A); and

(2) by inserting ''and any affected State'' before the period at the end of subparagraph (C).

(f) Section 204(b)(9) (16 U.S.C. 1824(b)(9)) is amended—

(1) by inserting ''paragraph (1)(A) of'' after ''by a foreign nation under'';

(2) by inserting ''(A)'' after the heading in paragraph (9); and

(3) by adding at the end thereof the following:

''(B) If the Secretary does not approve any application submitted by a foreign vessel owner under paragraph (1)(B) of this subsection, the Secretary shall promptly inform the vessel owner of the disapproval and the reasons therefore. The owner, after taking into consideration the reasons for disapproval, may submit a revised application under this subsection.''.

(g) Section 204(b)(11) (16 U.S.C. 1824(b)(11)) is amended—

(1) by inserting ''(A)'' after the paragraph heading,

(2) by inserting ''submitting an application under paragraph (1)(A)'' after ''If a foreign nation''; and

(3) adding at the end thereof the following:

''(B) If the vessel owner submitting an application under paragraph (1)(B) notifies the Secretary of acceptance of the conditions and restrictions established by the Secretary under paragraph (7), and upon payment of the applicable fees established pursuant to paragraph (10) and confirmation of any bonds or financial assurances that may be required for such transshipment of fish, the Secretary shall thereupon issue a permit for the vessel.''.

(h) Section 204 (16 U.S.C. 1824) is amended by adding at the end thereof the following:

''(d) PROHIBITION ON PERMIT ISSUANCE.—Notwithstanding any other provision of this Act, the Secretary is prohibited from issuing, before December 1, 1999, any permit to authorize the catching, taking, or harvesting of Atlantic mackerel or Atlantic herring by foreign fishing vessels within the exclusive economic zone. This subsection shall not apply to permits to authorize foreign fish processing vessels to process Atlantic mackerel or Atlantic herring harvested by fishing vessels of the United States.''.

SEC. 108. LARGE-SCALE DRIFTNET FISHING.

(a) Section 206(e) (16 U.S.C. 1826(e)) is amended by striking paragraphs (3) and (4), and redesignating paragraphs (5) and (6) as (3) and (4), respectively.

(b) Section 206(f) (16 U.S.C. 1826(f)) is amended by striking ''(6)'' and inserting ''(4)''.

SEC. 109. NATIONAL STANDARDS.

(a) Paragraph (1) of section 301(a) (16 U.S.C. 1851(a)) is amended to read as follows:

''(1) Conservation and management measures shall prevent overfishing and rebuild overfished fishery resources while achieving, on a continuing basis, the optimum yield from each fishery.''.

(b) Section 301(a)(5) (16 U.S.C. 1851(a)(5)) is amended by striking ''promote'' and inserting ''consider''.

(c) Section 301(a) (16 U.S.C. 1851(a)) is amended by adding at the end thereof the following:

''(8) Conservation and management measures shall take into account the importance of the harvest of fishery resources to fishery dependent communities.''.

SEC. 110. REGIONAL FISHERY MANAGEMENT COUNCILS.

(a) Section 302(a) (16 U.S.C. 1852(a)) is amended—

(1) by inserting ''(1)'' after the subsection heading;

(2) by redesignating paragraphs (1) through (7) as subparagraphs (A) through (H);

(3) by striking ''section 304(f)(3)'' wherever it appears and inserting in lieu thereof ''paragraph (3)'';

(4) by striking paragraph (1)(F), as redesignated, and inserting the following:

''(F) PACIFIC COUNCIL.—The Pacific Fishery Management Council shall consist of the States of California, Oregon, Washington, and Idaho and shall have authority over the fisheries in the Pacific Ocean seaward of such States. The Pacific Council shall have 13 voting members, including 7 appointed by the Secretary in accordance with subsection (b)(2) (at least one of whom shall be appointed from each such State), and including one appointed from an Indian tribe with Federally recognized fishing rights from California, Oregon, Washington, or Idaho in accordance with subsection (b)(5).'';

(5) by indenting the sentence at the end thereof and inserting ''(2)'' in front of ''Each Council'', and by inserting ''The Secretary shall establish the boundaries between the geographical areas of authority of adjacent Councils.'' after ''authority.''; and

(6) by adding at the end the following:

''(3) The Secretary shall have authority over any highly migratory species fishery that is within the geographical area of authority of more than one of the following Councils: New England Council, Mid-Atlantic Council, South Atlantic Council, Gulf Council, and Caribbean Council.''.

(b) Section 302(b) (16 U.S.C. 1852(b)) is amended—

(1) by striking subparagraph (C) of subsection (b)(1) and inserting the following:

''(C) The members required to be appointed by the Secretary in accordance with subsections (b)(2) and (5).'';

(2) by redesignating paragraph (5) as paragraph (6), and inserting after paragraph (4) the following:

''(5)(A) The Secretary shall appoint to the Pacific Fishery Management Council one representative of an Indian tribe with Federally recognized fishing rights from California, Oregon, Washington, or Idaho, from a list of not less than 3 individuals submitted by the tribal governments. The representative shall serve for a term of 3 years and may not serve more than 3 consecutive terms. The Secretary, in consultation with the Secretary of the Interior and tribal governments, shall establish by regulation the procedure for submitting lists under this subparagraph.

''(B) Representation shall be rotated among the tribes taking into consideration—

''(i) the qualifications of the individuals on the list referred to in subparagraph (A),

''(ii) the various treaty rights of the Indian tribes involved and judicial cases that set forth how those rights are to be exercised, and

''(iii) the geographic area in which the tribe of the representative is located.

''(C) A vacancy occurring prior to the expiration of any term shall be filled in the same manner set out in subparagraphs (A) and (B), except that the Secretary may use the list from which the vacating representative was chosen.''; and,

(3) by striking ''subsection (b)(2)'' in paragraph (6), as redesignated, and inserting ''subsections (b)(2) and (5)''.

(c) Section 302(e) (16 U.S.C. 1852(e)) is amended by adding at the end the following:

''(5) At the request of any voting member of a Council, the Council shall hold a roll call vote on any matter before the Council. The official minutes and other appropriate records of any Council meeting shall identify all roll call votes held, the name of each voting member present during each roll call vote, and how each member voted on each roll call vote.''.

(d) Section 302(g) (16 U.S.C. 1852(g)) is amended by redesignating paragraph (4) as (5), and by inserting after paragraph (3) the following:

''(4) The Secretary shall establish advisory panels to assist in—

''(A) the collection and evaluation of information relevant to the development of or amendment to any fishery management plan under section 303(e)(2); and

''(B) carrying out the purposes of section 303(f).''.

(e) Section 302(h) (16 U.S.C. 1852(h)) is amended—

(1) by striking ''section 304(f)(3)'' in paragraphs (1) and (5) and inserting ''subsection (a)(3)''; and

(2) by striking ''204(b)(4)(C)'' in paragraph (2) and inserting ''204(b)(4)(A)(iii)''.

(f) Section 302(i) (16 U.S.C. 1852(i)) is amended to read as follows:

''(i) NEGOTIATED CONSERVATION AND MANAGEMENT MEASURES.—

''(1) A Council may, in consultation with the Secretary, establish a negotiation panel to assist in the development of specific conservation and management measures for a fishery under authority of such Council. In making the decision to establish such panel, the Council shall consider whether—

''(A) there are a finite number of identifiable interests that will be significantly affected by the development of such measures;

''(B) there is a reasonable likelihood that a negotiation panel can be convened with a balanced representation of persons who—

''(i) can adequately represent the interests identified under subparagraph (A); and

''(ii) are willing to act in good faith to reach a consensus on the development of a such measures;

''(C) there is reasonable likelihood that a negotiation panel will contribute to the development of such measures within a fixed period of time; and

''(D) the process under this subsection will not unreasonably delay the development of any conservation and management measure or its submission to the Secretary.

''(2) If the Council decides to establish a negotiation panel it shall notify all identifiable interests of its intention to convene such panel at least 30 calendar days prior to the appointment of members. Such notification shall be published in accordance with subsection (j)(2)(C) of this section and shall include—

''(A) a description of the subject and scope of the measures to be developed and the issues to be considered;

''(B) a list of interests likely to be significantly affected by the measures to be developed;

''(C) a list of the persons proposed to represent such interests, the person or persons proposed to represent the Council, and the person or persons proposed to be nominated as facilitator;

''(D) an explanation of how a person may apply or nominate another person for membership on the negotiation panel; and

''(E) a proposed agenda and schedule for completing the work of the negotiation panel.

''(3) No more than 45 calendar days after providing this notification the Council shall make appointments to the negotiation panel in such a manner as to achieve balanced representation of all significant interests to the conservation and management measures. Such interests shall include, where appropriate, representatives from the fishing industry, consumer groups, the scientific community, tribal organizations, conservation organizations and other public interest organizations, and Federal and State fishery managers.

''(4) Each negotiation panel established under this section shall attempt to reach a consensus concerning specific conservation and management measures and any other issue such panel determines is relevant to such measures. The Council, to the maximum extent possible consistent with its legal obligations and the best scientific information available, will use the consensus of the negotiation panel, with respect to

such measures, as the basis for the development of the conservation and management measures to be adopted by the Council for submission by the Council to the Secretary in accordance with this Act.

''(5) The person or persons representing the Council on a negotiation panel shall participate in the deliberations and activities of such panel with the same rights and responsibilities as other panel members.

''(6) Any facilitator nominated by the Council to a negotiation panel must be approved by the panel by consensus. If the panel does not approve a facilitator nominated by the Council the panel shall select by consensus another person to serve as facilitator. No person appointed by the Council to the negotiation panel to represent any interest on the Council may serve as facilitator or otherwise chair such panel.

''(7) A facilitator approved or selected by a negotiation panel shall—

''(A) chair the meetings of such panel in an impartial manner;

''(B) impartially assist the panel members in conducting discussions and negotiations; and

''(C) manage the keeping of any minutes or records, (except that any personal notes and materials of the facilitator or the panel members shall not be subject to disclosure, except upon order of a court).

''(8) A negotiation panel may adopt any additional procedures for the operation of the negotiation panel not in conflict with those specified in this section.

''(9) At the conclusion of the negotiation process, if the negotiation panel reaches a consensus on proposed conservation and management measures, such panel shall transmit to the Council, and present to the Council at the next scheduled meeting of the Council, a report containing the proposed conservation and management measures. If the negotiation panel does not reach consensus on proposed conservation and management measures, such panel shall transmit to the Council, and present to the Council at the next scheduled meeting of the Council, a report specifying its recommendations and describing the areas in which the negotiation panel reached consensus and the areas in which consensus was not achieved. The negotiation panel may include in a report any other information or materials that such panel considers appropriate. Any panel member may include, as an addendum to the report, additional information or materials.

''(10) A negotiation panel shall terminate upon transmittal and presentation to the Council of the report required under paragraph (9) unless the Council in consultation with the panel specifies an alternative termination date.

''(11) For the purposes of this subsection—

''(A) The term 'negotiation panel' means an advisory panel established by a Council under section (g)(2) to assist in the development of specific conservation and management measures through the process established under this subsection.

''(B) The term 'consensus' means general but not unanimous concurrence among the interests represented unless such panel—

''(i) agrees by consensus to define such term to mean a unanimous concurrence; or

''(ii) agrees by consensus upon another specified definition.

''(C) The term 'facilitator' means a person experienced or trained in group mediation and negotiation who impartially aids in the discussions and negotiations among the members of a negotiation panel.

''(D) The term 'interest' means, with respect to this subsection, multiple persons or parties who have a similar point of view or which are likely to be affected in a similar manner.''.

(g) Section 302(j) (16 U.S.C. 1852(j)) is amended—

(1) by striking ''of the Councils'' in paragraph (1) and inserting ''established under subsection (g)''; and

(2) by striking ''of a Council:'' in paragraph (2) and inserting ''established under subsection (g):''.

(3) by adding the following at the end of paragraph (2)(C): ''Interested persons may propose to modify the published agenda of a meeting by submitting to a Council, panel or committee within 14 calendar days of the published date of the meeting a notice containing a written description of the proposed modification signed by not less than two Council members.'';

(4) by adding the following at the end of paragraph (2)(D): ''All written data submitted to a Council by an interested person shall include a statement of the source and date of such information. Any oral or written statement shall include a brief description of the qualifications and interests of the person in the subject of the oral or written statement.'';

(5) by amending paragraph (2)(E) to read as follows:

''(E) Detailed minutes of each meeting of the Council shall be kept and shall contain a record of the persons present, a complete and accurate description of matters discussed and conclusions reached, and copies of all statements filed, issued, or approved by the Council. The Chairman shall certify the accuracy of the minutes of each meeting and submit a copy thereof to the Secretary. The minutes shall be made available to any court of competent jurisdiction.''; and

(6) by striking ''303(d)'' in paragraph (2)(F) and inserting ''402(b)''.

(g) Section 302(k) (16 U.S.C. 1852(k)) is amended—

(1) by inserting ''and recusal'' in the subsection heading;

(2) by striking paragraph (1) and inserting the following:

''(1) For the purposes of this subsection—

''(A) the term 'affected individual' means an individual who—

''(i) is nominated by the Governor of a State for appointment as a voting member of a Council in accordance with subsection (b)(2); or

''(ii) is a voting member of a Council appointed under subsection (b)(2); and

''(B) the term 'designated official' means a person with expertise in Federal conflict-of-interest requirements who is designated by the Secretary, with the concurrence of a majority of the voting members of the Council, to attend Council meetings and make determinations under paragraph (7)(B).'';

(3) by striking ''(1)(A)'' in paragraph (3)(A) and inserting ''(1)(A)(i)'';

(4) by striking ''(1)(B) or (C)'' in paragraph (3)(B) and inserting ''(1)(A)(ii)'';

(5) by striking ''(1)(B) or (C)'' in paragraph (4) and inserting ''(1)(A)(ii)'';

(6)(A) by striking ''and'' at the end of paragraph (5)(A);

(B) by striking the period at the end of paragraph (5)(B) and inserting a semicolon and the word ''and''; and

(C) by adding at the end of paragraph (5) the following:

''(C) be kept on file by the Secretary for use in reviewing determinations under paragraph (7)(B) and made available for public inspection at reasonable hours.'';

(7) by striking ''(1)(B) or (C)'' in paragraph (6) and inserting ''(1)(A)(ii)'';

(8) by redesignating paragraph (7) as (8) and inserting after paragraph (6) the following:

''(7)(A) An affected individual required to disclose a financial interest under paragraph (2) shall not vote on a Council decision which would have a significant and predictable effect on such financial interest. A Council decision shall be considered to have a significant and predictable effect on a financial interest if there is a close causal link between the Council decision and an expected and disproportionate benefit, shared only by a minority of persons within the same industry sector or gear group, to the financial interest. An affected individual who may not vote may participate in Council deliberations relating to the decision after notifying the Council of the voting recusal and identifying the financial interest that would be affected.

''(B) At the request of an affected individual, or at the initiative of the appropriate designated official, the designated official shall make a determination for the record whether a Council decision would have a significant and predictable effect on a financial interest.

''(C) Any Council member may submit a written request to the Secretary to review any determination by the designated official under subparagraph (B) within 10 days of such determination. Such review shall be completed within 30 days of receipt of the request.

''(D) Any affected individual who does not participate in a Council decision in accordance with this subsection shall state for the record how he or she would have voted on such decision if he or she had voted.

''(E) If the Council makes a decision before the Secretary has reviewed a determination under subparagraph (C), the eventual ruling may not be treated as cause for the invalidation or reconsideration by the Secretary of such decision.

''(F) No later than December 1, 1995, the Secretary, in consultation with the Councils, shall issue guidelines with respect to voting recusals under subparagraph (A) and the making of determinations under subparagraph (B).''; and

(9) by striking ''(1)(B) or (C)'' in paragraph (8), as redesignated, and inserting ''(1)(A)(ii)''.

SEC. 111. FISHERY MANAGEMENT PLANS.

(a) Section 303(a) (16 U.S.C. 1853(a)) is amended—

(1) by striking paragraph (6) and inserting the following:

''(6) consider and provide for, after consultation with the Coast Guard and persons participating in the fishery and to the extent practicable without adversely affecting conservation efforts in other fisheries or discriminating among participants in the affected fishery—

''(A) safety of life and property at sea;

''(B) temporary adjustments regarding access to the fishery for vessels otherwise prevented from harvesting because of weather or other ocean conditions affecting the safe conduct of the fishery; and

''(C) effective enforcement measures (including an estimate of the resources necessary for such measures).'';

(2) by striking paragraph (7) and inserting the following:

''(7) facilitate the protection of essential fish habitat by—

''(A) summarizing available information on the significance of such habitat to the fishery and the effects of changes to such habitat on the fishery; and

''(B) identifying Federal actions that should be considered to promote the long-term protection of essential fish habitats.'';

(3) by striking ''and'' at the end of paragraph (8);

(4) by striking the period at the end of paragraph (9) and inserting a semicolon; and

(5) by adding at the end the following:

''(10) specify objective and measurable criteria for classifying when the fishery to

which the plan applies would be or is overfished, with an analysis of how the criteria were determined and the relationship of the criteria to the reproductive potential of stocks of fish in that fishery;

''(11) assess the level of bycatch occurring in the fishery, and to the extent practicable, assess and specify the effect of the fishery on stocks of fish to which the plan does not apply, but which are associated with the ecosystem of the fishery; and

''(12) to the extent practicable, minimize mortality caused by economic and regulatory discards in the fishery.''.

(b) Section 303(b) (16 U.S.C. 1853(b)) is amended—

(1) by striking paragraph (6) and inserting the following:

''(6) establish a limited access system for the fishery in order to achieve optimum yield if—

''(A) in developing such system, the Council and the Secretary take into account present participation in the fishery, historical fishing practices in and dependence on the fishery, the economics of the fishery, the capability of fishing vessels used in the fishery to engage in other fisheries, the cultural and social framework relevant to the fishery and fishery dependent communities, and any other relevant considerations; and

''(B) in the case of any system that provides for individual transferable quotas, such system also complies with the guidelines and fee requirements established under section 303(f);''; and

(2) by striking ''and'' at the end of paragraph (9);

(3) by striking the period at the end of paragraph (10) and inserting a semicolon and ''and''; and

(4) by adding at the end the following:

''(11) include, consistent with the other provisions of this Act, conservation and management measures that provide a harvest preference or other incentives for fishing vessels within each gear group that employ fishing practices resulting in lower levels of bycatch.''.

(c) Section 303 (16 U.S.C. 1853) is amended by striking subsection (c) and all thereafter and inserting the following:

''(c) REGULATIONS TO IMPLEMENT A FISHERY MANAGEMENT PLAN.—Proposed regulations which the Council deems necessary or appropriate for the purposes of implementing a fishery management plan or amendment to a plan may be submitted to the Secretary for action under section 304—

''(1) simultaneously with submission of the plan or amendment to the Secretary for action under section 304; or

''(2) at any time after the plan or amendment is approved.

''(d) FISHERIES UNDER AUTHORITY OF MORE THAN ONE COUNCIL.—

''(1) Except as provided in section 302(a)(3), if any fishery extends beyond the geographical area of authority of any one Council, the Secretary may—

''(A) designate which Council shall prepare the fishery management plan for such fishery and any amendment to such plan, as well as any proposed regulations for such fishery; or

''(B) require that the plan, amendment, and proposed regulations be prepared jointly by the Councils concerned.

''(2) No jointly prepared fishery management plan, amendment, or proposed regulations may be submitted to the Secretary unless approved by a majority of the voting members, present and voting, of each Council concerned.

''(e) PREPARATION BY THE SECRETARY.—

''(1) The Secretary shall prepare a fishery management plan with respect to any fishery (other than a fishery to which section 302(a)(3) applies), or any amendment to any such plan, in accordance with the national standards, the other provisions of this Act, and any other applicable law, if—

''(A) the appropriate Council fails to develop and submit to the Secretary, after a reasonable period of time, a fishery management plan for such fishery, or any necessary amendment to such plan, if such fishery requires conservation and management and the Secretary provides written notice to the Council of the need for such conservation and management;

''(B) the Secretary disapproves or partially disapproves any such plan or amendment, or disapproves a revised plan or amendment, and the Council involved fails, after a reasonable period of time, to take final action on a revised or further revised plan or amendment, as the case may be; or

''(C) the Secretary determines that the appropriate Council has failed to take sufficient action on a fishery management plan, a plan amendment or proposed regulations to rebuild an overfished fishery pursuant to section 305(b) within 1 year after determining that such fishery is overfished.

''(2) The Secretary shall prepare a fishery management plan with respect to any highly migratory species fishery to which section 302(a)(3) applies that requires conservation and management, or any amendment to any such plan, in accordance with the national standards, the other provisions of this Act, and any other applicable law. In preparing and implementing any such plan or amendment, the Secretary shall—

''(A) conduct public hearings, at appropriate times and in appropriate locations in the geographical areas concerned, so as to allow interested persons an opportunity to be heard in the preparation and amendment of the plan and any regulations implementing the plan;

''(B) consult with and consider the comments and views of affected Councils, as well as commissioners and advisory groups appointed under Acts implementing relevant international fishery agreements pertaining to highly migratory species;

''(C) establish an advisory panel under section 302(g) for each fishery management plan to be prepared under this paragraph, which shall consist of a balanced number of representatives (but not less than 7) who are knowledgeable and experienced with respect to the fishery concerned selected from among members of advisory groups appointed under Acts implementing relevant international fishery agreements pertaining to highly migratory species and other interested parties;

''(D) evaluate the likely effects, if any, of conservation and management measures on participants in the affected fisheries and minimize, to the extent practicable, any disadvantage to United States fishermen in relation to foreign competitors;

''(E) with respect to a highly migratory species for which the United States is authorized to harvest an allocation or quota or fishing mortality level under a relevant international fishery agreement, provide fishing vessels of the United States with a reasonable opportunity to harvest such allocation, quota, or fishing mortality level;

''(F) review, on a continuing basis (and promptly whenever a recommendation pertaining to fishing for highly migratory species has been made under a relevant international fishery agreement), and revise as appropriate, the conservation and management measures included in the plan;

''(G) diligently pursue, through international entities (such as the International Commission for the Conservation of Atlantic Tunas), comparable international fishery management measures with respect to fishing for highly migratory species; and

''(H) ensure that conservation and management measures adopted under this paragraph—

''(i) promote international conservation of the affected fishery;

''(ii) take into consideration traditional fishing patterns of fishing vessels of the United States and the operating requirements of the fisheries; and

''(iii) are fair and equitable in allocating fishing privileges among United States fishermen and not have economic allocation as the sole purpose.

''(3) In preparing any plan or amendment under this subsection, the Secretary shall consult with the Secretary of State with respect to foreign fishing and with the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea.

''(4) The Secretary may not include in any fishery management plan, or any amendment to any such plan, prepared by the Secretary under paragraph (1), a provision establishing a limited access system, unless such system is first approved by a majority of the voting members of each appropriate Council.

''(f) INDIVIDUAL TRANSFERABLE QUOTAS.—

''(1) The Secretary may not approve a fishery management plan that includes individual transferable quotas until the Secretary has promulgated guidelines under paragraph (2). Thereafter, the Secretary may approve a fishery management plan or amendment that includes individual transferable quotas only if the plan or amendment is consistent with the guidelines promulgated under paragraph (2).

''(2) The Secretary shall promulgate, after consultation with the Councils and public notice and comment, mandatory guidelines for the establishment of any individual transferable quota system. The guidelines shall—

''(A) ensure that any individual transferable quota system—

''(i) is consistent with the requirements for limited access systems under section 303(b)(6),

''(ii) promotes conservation,

''(iii) requires collection of fees from holders of individual transferable quotas under section 304(f)(2),

''(iv) provides for the fair and equitable allocation of fishing privileges, and minimizes negative social and economic impacts on fishery dependent communities;

''(v) establishes a national lien registry system for the identification, perfection, determination of lien priorities, and nonjudicial foreclosure of encumbrances or individual transferable quotas; and

''(vi) facilitates a reduction in excessive fishing capacity in the fishery;

''(B) address the characteristics of fisheries that are relevant to the design of suitable individual transferable quota systems, the nature and extent of the privilege established under an individual transferable quota system, factors in making initial allocations and determining eligibility for ownership of individual transferable quotas, limitations on the consolidation of individual transferable quotas, and methods of providing for new entrants, including, in fisheries where appropriate, mechanisms to provide a portion of the annual harvest for entry-level fishermen or small vessel owners who do not hold individual transferable quotas;

''(C) provide for effective monitoring and enforcement of individual transferable quota

systems, including providing for the inspection of fish harvested under such systems before the fish is transported beyond the geographic area under a Council's jurisdiction or the jurisdiction of the United States;

''(D) provide for appropriate penalties for violations of individual transferable quota systems, including the revocation of individual transferable quotas for such violations; and

''(E) include recommendations for potential management options related to individual transferable quotas, including the authorization of individual units or quotas that may not be transferred by the holder, and the use of leases or auctions by the Federal government in the establishment or allocation of individual transferable or nontransferable units or quotas.

''(3) Any fishery management plan which includes individual transferable quotas that the Secretary approved on or before the date of enactment of the Sustainable Fisheries Act shall be amended within 3 years after that date to be consistent with this subsection and any other applicable provisions of this Act.

''(4) No later than 60 days after the date of enactment of the Sustainable Fisheries Act, the Secretary shall establish an advisory panel on individual transferable quotas under section 302(g)(3) which shall be comprised of fishery scientists and representatives of the Councils, representatives of affected States and fishery dependent communities, fishery participants and conservation organizations. Such advisory panel shall provide recommendations on the guidelines required under paragraph (2), a list of all United States fisheries that may be suited for the development of limited access systems that include individual transferable quotas, and other information as the Secretary or the advisory panel deem appropriate.

''(5) An individual transferable quota does not constitute a property right. Nothing in this section or in any other provision of law shall be construed to limit the authority of the Secretary to terminate or limit such individual transferable quota at any time and without compensation to the holder of such quota. The term 'holder of an individual transferable quota' includes (A) fishing vessel owners, fishermen, crew members or other citizens of the United States, and (B) United States fish processors.''.

SEC. 112. PLAN REVIEW AND IMPLEMENTATION.

Section 304 (16 U.S.C. 1854) is amended to read as follows:

''SEC. 304. PLAN REVIEW AND IMPLEMENTATION.

''(a) ACTION BY THE SECRETARY AFTER RECEIPT OF PLAN.—

''(1) Upon transmittal by the Council to the Secretary of a fishery management plan, or amendment to such plan, the Secretary shall—

''(A) immediately commence a review of the management plan or amendment to determine whether it is consistent with the national standards, the other provisions of this Act, and any other applicable law; and

''(B) immediately publish in the Federal Register a notice stating that the plan or amendment is available and that written data, views, or comments of interested persons on the document or amendment may be submitted to the Secretary during the 60-day period beginning on the date the notice is published.

''(2) In undertaking the review required under paragraph (1), the Secretary shall—

''(A) take into account the data, views, and comments received from interested persons;

''(B) consult with the Secretary of State with respect to foreign fishing; and

''(C) consult with the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea and to fishery access adjustments referred to in section 303(a)(6).

''(3) The Secretary shall approve, disapprove, or partially approve a plan or amendment within 30 days of the end of the comment period under paragraph (1) by written notice to the Council. A notice of disapproval or partial approval shall specify—

''(A) the applicable law with which the plan or amendment is inconsistent;

''(B) the nature of such inconsistencies; and

''(C) recommendations concerning the actions that could be taken by the Council to conform such plan or amendment to the requirements of applicable law.

''(4) If the Secretary disapproves or partially approves a plan or amendment, the Council may submit a revised plan or amendment to the Secretary for review under this subsection.

''(b) ACTION ON REGULATIONS.—

''(1) Upon transmittal by the Council to the Secretary of proposed regulations prepared under section 303(c), the Secretary shall immediately initiate an evaluation of the proposed regulations to determine whether they are consistent with the fishery management plan, this Act and other applicable law. Within 15 days of initiating such evaluation the Secretary shall make a determination and—

''(A) if that determination is affirmative, the Secretary shall publish such regulations, with such technical changes as may be necessary for clarity and an explanation of those changes, in the Federal Register for a public comment period of 15 to 60 days; or

''(B) if that determination is negative, the Secretary shall notify the Council in writing of the inconsistencies and provide recommendations on revisions that would make the proposed regulations consistent with the fishery management plan, this Act, and other applicable law.

''(2) Upon receiving a notification under paragraph (1)(B), the Council may revise the proposed regulations and submit them to the Secretary for reevaluation under paragraph (1).

''(3) The Secretary shall promulgate final regulations within 30 days after the end of the comment period under paragraph (1)(A). The Secretary shall consult with the Council before making any revisions to the proposed regulations, and must publish in the Federal Register an explanation of any differences between the proposed and final regulations.

''(c) DEFINITION.— For purposes of subsections (a) and (b), the term 'immediately' means on or before the 5th day after the day on which a Council transmits to the Secretary a plan, amendment, or proposed regulation that the Council characterizes as final.

''(d) SECRETARIAL PLAN REVIEW.—

''(1)(A) Whenever, under section 303(e), the Secretary prepares a fishery management plan or amendment, the Secretary shall immediately—

''(i) for a plan or amendment prepared under section 303(e)(1), submit such plan or amendment to the appropriate Council for consideration and comment; and

''(ii) publish in the Federal Register a notice stating that the plan or amendment is available and that written data, views, or comments of interested persons on the plan or amendment may be submitted to the Secretary during the 60-day period beginning on the date the notice is published.

''(B) Whenever a plan or amendment is submitted under subsection (1)(A)(i), the appropriate Council must submit its comments and recommendations, if any, regarding the plan or amendment to the Secretary before the close of the 60-day period referred to in subparagraph (A)(ii). After the close of such 60-day period, the Secretary, after taking into account any such comments and recommendations, as well as any views, data, or comments submitted under subparagraph (A)(ii), may adopt such plan or amendment.

''(2) The Secretary may propose regulations in the Federal Register to implement any plan or amendment prepared by the Secretary. The comment period on proposed regulations shall be 60 days, except that the Secretary may shorten the comment period on minor revisions to existing regulations.

''(3) The Secretary shall promulgate final regulations within 30 days after the end of the comment period under paragraph (3). The Secretary must publish in the Federal Register an explanation of any substantive differences between the proposed and final rules. All final regulations must be consistent with the plan, with the national standards and other provisions of this Act, and with any other applicable law.

''(e) JUDICIAL REVIEW.—

''(1) Regulations promulgated by the Secretary under this Act and actions described in paragraph (2) shall be subject to judicial review to the extent authorized by, and in accordance with, chapter 7 of title 5, United States Code, if a complaint for such review is filed within 30 days after the date on which the regulations are promulgated or the action is published in the Federal Register, as applicable; except that—

''(A) section 705 of such title is not applicable, and

''(B) the appropriate court shall only set aside any such regulation or action on a ground specified in section 706(2)(A), (B), (C), or (D) of such title.

''(2) The actions referred to in paragraph (1) are actions that are taken by the Secretary under regulations which implement a fishery management plan, including but not limited to actions that establish the date of closure of a fishery to commercial or recreational fishing.

''(3) (A) Notwithstanding any other provision of law, the Secretary shall file a response to any complaint filed in accordance with paragraph (1) not later than 45 days after the date the Secretary is served with that complaint, except that the appropriate court may extend the period for filing such a response upon a showing by the Secretary of good cause for that extension.

''(B) A response of the Secretary under this paragraph shall include a copy of the administrative record for the regulations that are the subject of the petition.

''(4) Upon a motion by the person who files a complaint under this subsection, the appropriate court shall assign the matter for hearing at the earliest possible date and shall expedite the matter in every possible way.

''(f) ESTABLISHMENT OF FEES.—

''(1) The Secretary shall by regulation establish the level of any fees that are authorized to be charged pursuant to section 303(b)(1). The Secretary may enter into a cooperative agreement with the States concerned under which the States administer the permit system and the agreement may provide that all or part of the fees collected under the system shall accrue to the States. The level of fees charged under this paragraph shall not exceed the administrative costs incurred in issuing the permits.

''(2)(A) Notwithstanding paragraph (1), the Secretary shall collect a fee from each person holding an individual transferable quota pursuant to a limited access system established under section 303(b)(6). Fees assessed under this paragraph shall be sufficient to recover the cost of managing the fishery to

which the quota applies, including reasonable costs for salaries, training, data analysis and other costs directly related to fishery management and enforcement, up to—

''(i) four percent annually of the value of fish harvested or processed in that year under the individual transferable quota; and

''(ii) an additional 1 percent of the value of fish authorized to be harvested or processed for that year under the individual transferable quota to be assessed on a person receiving an initial quota or transferring a quota.

''(B) The Secretary, in consultation with the Councils, shall promulgate regulations, prescribing the method of determining the value of fish authorized to be taken, the amount of each fee, and the method of collecting fees. Fees collected under this paragraph shall meet the requirements of section 9701(b) of title 31, United States Code. Fees collected under this paragraph shall be an offsetting collection and shall be available only to the Secretary for the purposes of administering and implementing this Act in the region in which the fees were collected.

''(C) Persons holding individual transferable quota pursuant to limited access systems established in the surf clam and ocean quahog fishery or in the wreckfish fishery are exempt from the collection of fees under this paragraph for a period ending 5 years after the date of enactment of the Sustainable Fisheries Act.

''(g) EFFECT OF CERTAIN LAWS ON CERTAIN TIME REQUIREMENTS.—The Secretary shall comply with any applicable provisions of chapter 35 of title 44, United States Code, chapter 6 of title 5, United States Code, and Executive Order Numbered 12866, dated September 30, 1993, within the time limitations specified in subsections (a) and (b).

''(h) RESPONSIBILITY OF THE SECRETARY.—The Secretary shall have general responsibility to carry out the provisions of this Act. The Secretary may promulgate such regulations, in accordance with section 553 of title 5, United States Code, as may be necessary to discharge such responsibility.''.

SEC. 113. ECOSYSTEM MANAGEMENT.

Section 305 (16 U.S.C. 1855) is amended to read as follows:

''SEC. 305. ECOSYSTEM MANAGEMENT.

''(a) REPORT ON STATUS OF FISHERIES.—The Secretary shall report annually to the Congress and the Councils on the status of fisheries within each Council's geographical area of authority and identify those fisheries that are approaching a condition of being overfished or are overfished. For those fisheries managed under a fishery management plan, the status shall be assessed using the criteria for overfishing specified by the appropriate Council under section 303(a)(10). A fishery shall be classified as approaching a condition of being overfished if, based on trends in fishing effort, fishery resource size, and other appropriate factors, the Secretary estimates that the fishery will become overfished within 2 years. Any fishery determined to be a commercial fishery failure under section 316, shall be deemed to be overfished for the purposes of subsections (a) and (b).

''(b) FISHERY RECOVERY EFFORT.—

''(1) The Council shall take immediate action to prepare a fishery management plan, a plan amendment, or proposed regulations for fisheries under such Council's authority—

''(A) to prevent overfishing of a fishery from occurring whenever such fishery is classified under subsection (a) as approaching an overfished condition, or

''(B) to stop overfishing of a fishery whenever such fishery is classified under subsection (a) as overfished, and to rebuild affected stocks of fish.

''(2) The Council shall submit a fishery management plan, amendment or proposed regulations required under paragraph (1) to the Secretary within 1 year from the date of transmittal of the report on the status of stocks under subsection (a). For a fishery that is overfished, such fishery management plan, amendment or proposed regulations shall specify a time period for stopping overfishing and rebuilding the fishery. The time period shall be as short as possible, taking into account the status and biology of the overfished stock of fish, the needs of fishery-dependent communities, and the interaction of the overfished stock of fish within the marine ecosystem. The time period may not be more than 10 years, except under extraordinary circumstances.

''(3) During the development of a fishery management plan, a plan amendment, or proposed regulations under this subsection, the Council may request that the Secretary promulgate emergency regulations under subsection (e)(2) to reduce overfishing. Any request by the Council under this paragraph shall be deemed an emergency.

''(c) FISH HABITAT.—

''(1) The Secretary, in cooperation with the Councils and the Secretary of the Interior, after notice and public comment, shall identify the essential fish habitat for each fishery for which a fishery management plan is in effect. The identification shall be based on the description of essential fish habitat contained in the plan.

''(2) Each Council—

''(A) may comment on and make recommendations concerning any activity undertaken, or proposed to be undertaken, by any Federal or State agency that, in the view of the Council, may have an adverse effect on essential fish habitat of a fishery under its authority; and

''(B) shall comment on and make recommendations to any Federal or State department or agency concerning any such activity that, in the view of the Council is likely to substantially affect the habitat of an anadromous fishery resource under its jurisdiction.

''(3) If the Secretary receives information from a Council or determines from other sources that an action authorized, funded, carried out, or proposed to be carried out by any Federal agency may result in the destruction or adverse modification of any essential fish habitat identified under paragraph (1), the Secretary shall comment on and make recommendations to the Federal agency concerning that action.

''(4) Within 45 days after receiving a comment or recommendation under paragraphs (2) or (3) from a Council or the Secretary, a Federal agency shall provide a detailed response, in writing, to the commenting Council and the Secretary regarding the matter. The response shall include a description of measures being considered by the agency for avoiding, mitigating, or offsetting the impact of the activity on such habitat. In the case of a response that is inconsistent with a recommendation from any Council or the Secretary, the Federal agency shall explain its reasons for not following the recommendations.

''(d) GEAR EVALUATION AND NOTIFICATION OF ENTRY.—

''(1) Each Council shall submit to the Secretary by June 1, 1996, information describing (A) all fishing technologies employed under such Council's authority; and (B) all fisheries under the authority of such Council. The Secretary shall compile such information, along with information to comply with both (A) and (B) for fisheries to which section 302(a)(3) applies.

''(2) By July 15, 1996, the Secretary shall publish a proposed list of all technologies and fisheries, for each Council and for fisheries to which section 302(a)(3) applies, in the Federal Register for a public comment period of not less than 60 days. The Secretary shall include with such list specific guidelines for determining when a technology or fishery is sufficiently different from those listed as to require notification under paragraph (3). Within 30 days after the close of the public comment period the Secretary shall publish in the Federal Register a final list (including the guidelines), after taking into account any public comment received.

''(3) Beginning on the date that is 180 days after the date of the publication of the final list required under paragraph (2), no person or vessel shall employ a fishing technology or engage in a fishery that is not included on the final list for the appropriate Council or for fisheries to which section 302(a)(3) applies without first giving 90 days advance written notice of the intent to employ such unlisted technology or engage in such unlisted fishery to the appropriate Council, or the Secretary with respect to a fishery to which section 302(a)(3) applies. Such notice shall be by first class mail, return receipt requested, and shall include information on the use of the unlisted technology in other fisheries, if any, and a detailed description, including drawings, maps or diagrams if appropriate, of the unlisted technology or unlisted fishery which such person or vessel seeks to employ or engage in.

''(4) A Council may submit to the Secretary amendments to the final list published under paragraph (2) to reflect any substantial changes in the fishing technologies employed or fisheries engaged in under the authority of such Council. The Secretary may submit any amendments for fisheries to which section 302(a)(3) applies. The Secretary shall publish any such amendments in the Federal Register as proposed amendments (along with any proposed revisions to the guidelines) to the final list for a public comment period of not less than 60 days. Within 45 days of the close of the comment period, the Secretary shall publish a revised final list incorporating such proposed amendments, after taking into account any public comments received.

''(5) A Council may request the Secretary to promulgate emergency regulations under subsection (e) prohibiting any persons or vessels from employing an unlisted technology or engaging in an unlisted fishery if the appropriate Council, or the Secretary for fisheries to which section 302(a)(3) applies, determines that use of such technology or entry into such fishery would compromise the effectiveness of conservation and management efforts under this Act.

''(6) If, after providing the notice required under paragraph (3), no emergency regulations are implemented under paragraph (5), the person or vessel submitting notice under paragraph (3) may, after the required 90 day period has lapsed, employ the unlisted technology or enter the unlisted fishery to which such notice applies. The signed return receipt shall constitute adequate evidence of the submittal of such notice and the date upon which the 90-day period begins.

''(7) A violation of this subsection shall be considered a violation of section 307, punishable under section 308.

''(e) EMERGENCY ACTIONS.—

''(1) If the Secretary finds that an emergency exists involving any fishery, he may promulgate emergency regulations necessary to address the emergency, without regard to whether a fishery management plan exists for such fishery.

''(2) If a Council finds that an emergency exists involving any fishery within its jurisdiction, whether or not a fishery management plan exists for such fishery—

''(A) the Secretary shall promulgate emergency regulations under paragraph (1) to address the emergency if the Council, by unanimous vote of the voting members of the Council, requests the taking of such action; and

''(B) the Secretary may promulgate emergency regulations under paragraph (1) to address the emergency if the Council, by less than a unanimous vote, requests the taking of such action.

''(3) Any emergency regulation which changes an existing fishery management plan shall be treated as an amendment to such plan for the period in which such regulation is in effect. Any emergency regulation promulgated under this subsection—

''(A) shall be published in the Federal Register together with the reasons therefor;

''(B) shall, except as provided in subparagraph (C), remain in effect for not more than 180 days after the date of publication, and may be extended by publication in the Federal Register for an additional period of not more than 180 days, provided the public has had an opportunity to comment on the emergency regulation, and, in the case of a Council recommendation for emergency regulations, the Council is actively preparing a fishery management plan, amendment, or proposed regulations to address the emergency on a permanent basis;

''(C) that responds to a public health emergency may remain in effect until the circumstances that created the emergency no longer exist, provided that the Secretary of Health and Human Services concurs with the Secretary's action and the public has an opportunity to comment after the regulation is published;

''(D) that reduces overfishing may be approved without regard to the requirements of section 301(a)(1); and

''(E) may be terminated by the Secretary at an earlier date by publication in the Federal Register of a notice of termination, except for emergency regulations promulgated under paragraph (2) in which case such early termination may be made only upon the agreement of the Secretary and the Council concerned.

''(4) The Secretary may, pursuant to guidelines established by a Council in a fishery management plan, close or restrict a particular fishery covered by such fishery management plan in order to prevent overfishing or reduce bycatch. Any such guidelines shall specify appropriate means for providing timely notice to fishermen of any closure or restriction. In exercising the authority granted under this paragraph, the Secretary shall not be required to provide an opportunity for notice and comment if such closure or restriction is done in accordance with the fishery management plan guidelines and does not extend beyond the end of the current fishing period established for that fishery by the fishery management plan.''.

SEC. 114. STATE JURISDICTION.

(a) Section 306(b) (16 U.S.C. 1856(b)) is amended by adding at the end the following:

''(3) If the State involved requests that a hearing be held pursuant to paragraph (1), the Secretary shall conduct such hearing prior to taking any action under paragraph (1).''.

(b) Section 306(c)(1) (16 U.S.C. 1856(c)(1)) is amended—

(1) by striking ''and'' in subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting a semicolon and the word ''and''; and

(3) by inserting after subparagraph (B) the following:

''(C) the owner or operator of the vessel submits reports on the tonnage of fish received from U.S. vessels and the locations from which such fish were harvested, in accordance with such procedures as the Secretary by regulation shall prescribe.''.

SEC. 115. PROHIBITED ACTS.

(a) Section 307(1)(J)(i) (16 U.S.C. 1857(1)(J)(i)) is amended by striking ''American Lobster Fishery Management Plan, as implemented by'' and '', or any successor to that plan, implemented under this title''.

(b) Section 307(1)(L) (16 U.S.C. 1857(1)(L)) is amended to read as follows:

''(L) to forcibly assault, resist, oppose, impede, intimidate, sexually harass, or interfere with any observer on a vessel under this Act, or any data collector employed by or under contract to the National Marine Fisheries Service;''.

(c) Section 307(1)(M) (16 U.S.C. 1857(1)(M)) is amended to read as follows:

''(M) to engage in large-scale driftnet fishing on a vessel of the United States or a vessel subject to the jurisdiction of the United States upon the high seas beyond the exclusive economic zone of any nation or within the exclusive economic zone of the United States, (and any vessel that is shoreward of the outer boundary of the exclusive economic zone of the United States or beyond the exclusive economic zone of any nation, and that has onboard gear that is capable of use for large-scale driftnet fishing, shall be presumed to be engaged in such fishing, but that presumption may be rebutted); or''.

(d) Section 307(2)(A) (16 U.S.C. 1857(2)(A)) is amended to read as follows:

''(A) in fishing within the boundaries of any State, except—

''(i) recreational fishing permitted under section 201(i),

''(ii) fish processing permitted under section 306(c), or

''(iii) transshipment at sea of fish products within the boundaries of any State in accordance with a permit approved under section 204(b)(6)(A)(ii);''.

(e) Section 307(2)(B) (16 U.S.C. 1857(2)(B)) is amended by striking ''201(j)'' and inserting ''201(i)''.

(f) Section 307(3) (16 U.S.C. 1857(3)) is amended to read as follows:

''(3) for any vessel of the United States, and for the owner or operator of any vessel of the United States, to transfer at sea directly or indirectly, or attempt to so transfer at sea, any United States harvested fish to any foreign fishing vessel, while such foreign vessel is within the exclusive economic zone or within the boundaries of any State except to the extent that the foreign fishing vessel has been permitted under section 204(b)(6)(B) or section 306(c) to receive such fish;''.

(g) Section 307(4) (16 U.S.C. 1857(4)) is amended by inserting ''or within the boundaries of any State'' after ''zone''.

SEC. 116. CIVIL PENALTIES AND PERMIT SANCTIONS.

(a) The first sentence of section 308(b) (16 U.S.C. 1858(b)) is amended to read as follows: ''Any person against whom a civil penalty is assessed under subsection (a), or against whom a permit sanction is imposed under subsection (g) (other than a permit suspension for nonpayment of penalty or fine), may obtain review thereof in the United States district court for the appropriate district by filing a complaint against the Secretary in such court within 30 days from the date of such order.''.

(b) Section 308(g)(1)(C) (16 U.S.C. 1858(g)(1)(C)) is amended by striking the matter from ''(C) any'' through ''overdue,'' and inserting the following: ''(C) any amount in settlement of a civil forfeiture imposed on a vessel or other property, or any civil penalty or criminal fine imposed on a vessel or owner or operator of a vessel or any other person who has been issued or has applied for a permit under any marine resource law enforced by the Secretary, has not been paid and is overdue,''.

(c) Section 308(16 U.S.C. 1858) is amended by inserting at the end thereof the following:

''(h) After deduction for any administrative or enforcement costs incurred or other expenditures authorized under this Act, all funds collected under this section shall be deposited in a separate account of the Ocean Conservation Trust Fund established under section 315.''.

SEC. 117. ENFORCEMENT.

(a) Section 311(e)(1) (16 U.S.C. 1861(e)(1)) is amended—

(1) by striking ''fishery'' each place it appears and inserting ''marine'';

(2) by inserting ''of not less than 20 percent of the penalty collected'' after ''reward'' in subparagraph (B), and

(3) by striking subparagraph (E) and inserting the following:

''(E) claims of parties in interest to property disposed of under section 612(b) of the Tariff Act of 1930 (19 U.S.C. 1612(b)), as made applicable by section 310(c) of this Act or by any other marine resource law enforced by the Secretary, to seizures made by the Secretary, in amounts determined by the Secretary to be applicable to such claims at the time of seizure; and''.

(b) Section 311(e)(2) (16 U.S.C. 1861(e)(2)) is amended to read as follows:

''(2) Any person found in an administrative or judicial proceeding to have violated this Act or any other marine resource law enforced by the Secretary shall be liable for the cost incurred in the sale, storage, care, and maintenance of any fish or other property lawfully seized in connection with the violation.''.

(c) Section 311 (16 U.S.C. 1861) is amended by redesignating subsection (f) as subsection (h), and by inserting the following after subsection (e):

''(f) ANNUAL REPORT ON ENFORCEMENT.—Each year at the time the President's budget is submitted to the Congress, the Secretary and the Secretary of the Department in which the Coast Guard is operating shall, after consultation with the Councils, submit a report on the effectiveness of the enforcement of fishery management plans and regulations to implement such plans under the jurisdiction of each Council, including—

''(1) an analysis of the adequacy of federal personnel and funding resources related to the enforcement of fishery management plans and regulations to implement such plans; and

''(2) recommendations to improve enforcement that should be considered in developing amendments to plans or to regulations implementing such plans.

''(g) FISHERMEN'S INFORMATION NETWORKS.—The Secretary, in consultation with the Secretary of the department in which the Coast Guard is operating, shall conduct a program to encourage the formation of volunteer networks, to be designated as Fishermen's Information Networks, to advise on and assist in the monitoring, reporting, and prevention of violations of this Act.''.

SEC. 118. NORTH PACIFIC FISHERIES CONSERVATION.

Section 313 (16 U.S.C. 1862) is amended—

(1) by striking ''research plan'' in the section heading and inserting ''conservation''; and

(b) by adding at the end the following:

''(f) REDUCTION OF WASTE.—

''(1) No later than June 1, 1996, the North Pacific Fishery Management Council shall include in each fishery management plan under its jurisdiction conservation and management measures, including fees or other

incentives, to reduce bycatch in each fishery. Notwithstanding section 304(d), in implementing this subsection the Council may recommend, and the Secretary may approve and implement any such recommendation, consistent with the other provisions of this Act, a system of fees to provide an incentive to reduce bycatch, and, in particular, economic and regulatory discards. Any such system of fees or incentives shall be fair and equitable to all fishermen and United States fish processors, and shall not have economic allocation as its sole purpose.

''(2) Not later than January 1, 1997, the North Pacific Fishery Management Council shall recommend, and the Secretary may approve and implement any such recommendation, consistent with the other provisions of this Act, conservation and management measures to ensure total catch measurement in each fishery under the Council's jurisdiction. Such conservation and management measures shall ensure the accurate enumeration of target species, economic discards, and regulatory discards.

''(3) Beginning on January 1, 1998, such conservation and management measures shall include a harvest preference or other incentives to fishing and processing practices within each gear group that result in the lowest levels of economic discards, processing waste, regulatory discards, and other bycatch. In determining which practices shall be given priority, the reduction of economic discards shall be given the greatest weight, followed by processing waste (where applicable), regulatory discards and other bycatch, in that order.

''(4) In determining the level of target species catch, economic discards, regulatory discards, other bycatch, and processing waste, the Council and Secretary shall base such determinations on observer data or the best available information.

''(5) In the case of fisheries occurring under an individual transferable quota system under the jurisdiction of the North Pacific Fishery Management Council after January 1, 1998—

''(A) the Council shall designate non-target species, bycatch species, and regulatory discards for each such fishery;

''(B) the Council may not recommend, and the Secretary may not approve, any assignment or allocation of individual transferable quotas for regulatory discards, or non-target species for those fisheries, other than for each individual fishing season on an annual basis pursuant to subparagraph (C) of this paragraph; and

''(C) any harvest preference required under paragraph (3) shall be implemented by giving priority in the allocation of quotas for regulatory discards and non-target species and to fishing practices that result in the lowest levels of economic discards, regulatory discards, processing waste, and other bycatch.

''(6) Nothing in this section shall be construed to preclude the North Pacific Fishery Management Council from allocating a portion of any quota for a directed fishery for use as bycatch in another fishery or fisheries, if the Council determines such allocation is necessary to prosecute a fishery, after taking into account the requirements of this section regarding reduction of bycatch and processing waste.

''(g) FULL RETENTION AND FULL UTILIZATION.—

''(1) The North Pacific Fishery Management Council shall, consistent with the other provisions of this Act, submit to the Secretary by January 1, 1997, a plan to phase-in by January 1, 2000, to the maximum extent practicable, fishery management plan amendments to require full retention by fishing vessels and full utilization by United States fish processors of all fishery resources, except regulatory discards, caught under the jurisdiction of such Council if such fishery resources cannot be quickly returned alive to the sea with the expectation of extended survival.

''(2) The plan shall include conservation and management measures to minimize processing waste and ensure the optimum utilization of target species, including standards setting minimum percentages of target species harvest which must be processed for human consumption.

''(3) In determining the maximum extent practicable, the North Pacific Fishery Management Council shall consider—

''(A) the state of available technology;

''(B) the extent to which species brought on board can be safely returned alive, with the expectation of extended survival, to the sea;

''(C) the extent to which each species is fully utilized as a target species by United States fishermen;

''(D) the impact of different processing practices on the price paid to fishermen and processors;

''(E) the nature and economic costs of each specific fishery; and

''(F) the effect of a full retention or full utilization requirement in a given fishery on other fisheries when compared with the beneficial effect of reducing economic discards and processing waste.

''(4) Notwithstanding section 304(f), the North Pacific Fishery Management Council may propose, and the Secretary may approve and implement any such recommendation, consistent with the other provisions of this Act, a system of fines or other incentives to implement this section. Any such fines or incentive system shall be fair and equitable to all fishing vessels and United States fish processors, and shall not have economic allocation as its sole purpose.

''(h) REGULATORY DISCARDS.—

''(1) Regulatory discards shall not be considered an economic discard for purposes of this section, however, the North Pacific Fishery Management Council shall seek to reduce the incidental catch of regulatory discards to the maximum extent practicable while allowing for the prosecution of fisheries under its jurisdiction.

''(2) Not later than June 1, 1996, the North Pacific Fishery Management Council shall propose, and the Secretary may approve and implement any such recommendation, consistent with the other provisions of this Act, for each groundfish fishery under the Council's jurisdiction, conservation and management measures to reduce the incidental harvest of regulatory discards to the minimum level necessary to prosecute directed fisheries for designated target species, and to otherwise meet the requirements of this section. Notwithstanding section 304(f), such conservation and management measures may include a system of fines, caps, or other incentives to reduce the incidental harvest of regulatory discards. Any system of fines or incentives under this section shall be fair and equitable to all fishing vessels and United States fish processors, and shall not have economic allocation as its sole purpose.

''(3) The North Pacific Fishery Management Council shall establish for each fishery which incidentally harvests regulatory discards under the Council's jurisdiction a cap which prevents such regulatory discards from being overfished or from being placed in risk of being overfished. Upon reaching such cap, the commercial fishery in which such regulatory discards are incidentally caught shall be closed for that season.

''(i) OBSERVER PROGRAM.—

''(1) Beginning June 1, 1996, the North Pacific Fishery Management Council shall require under the authority granted to it by subsection (a)—

''(A) 100 percent observer coverage on all fishing vessels which can safely accommodate an observer or observers, and at all United States fish processors to the extent that funding for such coverage is available, and

''(B) for vessels which cannot safely accommodate an observer, statistically reliable sampling of a fishing vessel's effort in each fishery in which that fishing vessel participates,

when such vessel or processor is fishing in a fishery under the North Pacific Fishery Management Council's jurisdiction. In implementing subparagraph (A) the North Pacific Fishery Management Council shall require that more than one observer be stationed on a fishing vessel or at a United States fish processor whenever the Council determines that more than one such observer is necessary to accurately monitor that vessel or processor's operation.

''(2) Observers stationed on fishing vessels or at United States fish processors under the authority of this section shall be paid by the Secretary using funds deposited in the North Pacific Fishery Observer Fund. Such payment shall not make an observer an employee of the Federal Government, unless such observer is otherwise employed by an agency of the United States.

''(3) Failure to pay the fee established by the North Pacific Fishery Management Council under subsection (a) shall be a considered a violation of section 307, punishable under section 308. Any fines collected pursuant to the authority granted by this subsection shall be deposited in the North Pacific Fishery Observer Fund account in the United States Treasury, and shall remain available until expended under the terms of that fund.

''(4) Notwithstanding sections 304(f) and subsection (b), the Secretary is authorized to recover from vessels participating in a fishery under an individual fishing quota regime or other limited access program established by the North Pacific Fishery Management Council, the full cost of any observers stationed on such vessel (including all costs for salaries, expenses, equipment, food and lodging, transportation, insurance, and analysis of observer data, plus reasonable costs for training and administrative overhead). Each participant in an individual fishing quota regime shall only be required to contribute the same proportion of the costs as that participant's quota shares represent to the total number of quota shares in such regime. To the extent that the costs recovered under this paragraph exceed the fee established by the Council under subsection (b), the Secretary shall deduct any payment by a vessel under subsection (b) from the amount owed by such vessel under this paragraph. The Secretary shall deposit any fees collected under this paragraph in the North Pacific Fishery Observer Fund account in the United States Treasury.

''(j) INDUSTRY ASSISTANCE.—

''(1) The Secretary shall submit a plan by January 1, 1996, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives to develop jointly with industry accurate methods of weighing the fish harvested by U.S. fishing vessels in fisheries under the jurisdiction of the North Pacific Fishery Management Council. Such plan shall include methods for assessing contributions from industry to fund such development, as well as recommendations from the Secretary concerning the level of funds needed to successfully implement the plan in fiscal year 1997.

''(2) The Secretary shall submit by January 1, 1996, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives a plan to develop markets and harvesting and processing techniques for arrowtooth flounder. The Secretary shall include in such plan recommendations concerning the level of funds needed to successfully implement the plan in fiscal year 1997.

''(3) For fiscal years 1996, 1997, 1998, and 1999, $50,000 is authorized to be appropriated for the purposes of implementing paragraph (1), and $250,000 is authorized to be appropriated for programs to implement paragraph (2).

''(k) DEFINITION.—For the purposes of this section, 'processing waste' means that portion of a fish which is processed and which could be used for human consumption or other commercial use, but which is not so used.''.

SEC. 119. TRANSITION TO SUSTAINABLE FISHERIES.

(a) The Act is amended by adding at the end of title III the following:

''SEC. 315. TRANSITION TO SUSTAINABLE FISHERIES.

''(a) SUSTAINABLE DEVELOPMENT STRATEGY.—

''(1) At the discretion of the Secretary or at the request of the Governor of an affected State or a fishery dependent community, the Secretary, in consultation with the Councils and Federal agencies, as appropriate, may work with regional authorities, affected States, fishery dependent communities, the fishing industry, conservation organizations, and other interested parties, to develop a sustainable development strategy for any fishery classified as overfished under section 305(a) or determined to be a commercial fishery failure under section 316.

''(2) Such sustainable development strategy shall—

''(A) take into consideration the economic, social, and ecological factors affecting the fishery and provide recommendations for addressing such factors in the development of a fishery recovery effort under section 305(b);

''(B) identify Federal and State programs which can be used to provide assistance to fishery dependent communities during development and implementation of a fishery recovery effort;

''(C) develop a balanced and comprehensive long-term plan to guide the transition to a sustainable fishery, identifying alternative economic opportunities and establishing long-term objectives for the fishery including vessel types and sizes, harvesting and processing capacity, and optimal fleet size;

''(D) establish procedures to implement such a plan and facilitate consensus and coordination in regional decision-making; and

''(E) include any program established under subsection (b) to reduce the number of vessels or level of capital investment in the fishery.

''(2) REPORT.—The Secretary shall complete and submit to the Congress a report on any sustainable development strategy developed under this section within 6 months and annually thereafter.

''(b) BUY-OUT PROGRAM.—

''(1) The Secretary, in consultation with the appropriate Council, may develop and implement a buy-out program for fishing vessels or permits in a fishery for the purpose of reducing the number of fishing vessels and fishing effort in such fishery, if the Secretary, with the concurrence of the majority of the voting members of such Council, determines that a buy-out program is necessary for the development and implementation of a fishery recovery effort under section 305(b).

''(2) Any buy-out program developed or implemented in a fishery shall—

''(A) require a fishery management plan to be in place for such fishery that is adequate to limit access to the fishery and prevent the replacement of fishing effort removed by the buy-out program;

''(B) require fishing vessels or permits acquired under such program to be disposed of in a manner ensuring that such vessels or permits do not re-enter the fishery or contribute to excess fishing effort in other fisheries;

''(C) establish criteria for determining types and numbers of vessels which are eligible for participation in such program consistent with—

''(i) any strategy developed under subsection (a);

''(ii) the requirements of applicable fishery management plans; and

''(iii) the need to minimize program costs;

''(D) establish procedures (such as submission of owner bid under an auction system or fair market-value assessment) to be used in determining the level of payment for fishing vessels or permits acquired under the program; and

''(E) identify Federal and non-Federal mechanisms for funding the buy-out program, consistent with paragraphs (3) and (4).

''(3) The Federal share of the cost of a buy-out program implemented under this section shall not exceed 50 percent of the cost of that program. Such Federal share may be provided from monies deposited in the Ocean Conservation Trust under section 308(h) or monies made available under section 316(b) of this Act or under section 2(b) of the Act of August 11, 1939 (15 U.S.C. 713c-3(b)).

''(4) Notwithstanding section 305(f)(1), the Secretary, with the concurrence of a majority of the voting members of the affected Council, may establish a fee system to collect those funds required for the non-Federal share of such program that are not available from other non-Federal sources. Under such fee system, the Secretary may assess an annual fee on holders of fishing permits in the fishery for which the buy-out program is established which may not exceed 5 percent annually of the value of the fish harvested under the fishing permit. Assessments may not be used to pay any costs of administrative overhead or other costs not directly incurred in carrying out the specific buy-out program under which they are collected. Assessments shall be deposited in the Ocean Conservation Trust fund established under subsection (d) and shall be considered part of the non-Federal share of the cost of a buyout program.

''(5)(A) Upon completion of a proposal for a buy-out program (including any fee system to be established under this subsection), the Secretary shall immediately—

''(i) submit the proposed program and regulations necessary for its implementation to the appropriate Council for consideration and comment; and

''(ii) publish in the Federal Register a notice stating that the proposed program and regulations are available and that written data, views, or comments of interested persons on the proposed program and regulations may be submitted to the Secretary during the 60-day period beginning on the date the notice is published.

''(B) During the 60-day public comment period—

''(i) the Secretary shall conduct a public hearing in each State affected by the proposed buy-out program; and

''(ii) the appropriate Council shall submit its comments and recommendations, if any, regarding the proposed program and regulations.

''(C) Within 45 days after the close of the public comment period, the Secretary, in consultation with the affected Council, shall analyze the public comment received and publish a final buy-out program and regulations for its implementation. The Secretary shall include an explanation of any substantive differences between the proposed and final program and regulations.

''(c) TASK FORCE.—The Secretary shall establish a task force to assist in the development of a sustainable development strategy or a buy-out program under this section. Such task force shall, at a minimum, consist of members of the affected communities and individuals with expertise in fishery management and conservation, economics, and sociology. Members of the task force are authorized to receive per diem and travel expenses consistent with section 302 of this Act.

''(d) OCEAN CONSERVATION TRUST FUND.—There is established in the Treasury an Ocean Conservation Trust Fund. The Fund shall be available, without appropriation or fiscal year limitation, only to the Secretary for the purpose of carrying out the provisions of this section subject to the restrictions of this Act. This fund shall consist of all monies deposited into it in accordance with this section and section 308(h). Sums in the Fund that are not currently needed for the purpose of this section shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

''SEC. 316. FISHERIES DISASTER RELIEF.

''(a) DETERMINATION OF FAILURE.—At the discretion of the Secretary or at the request of the Governor of an affected State or a fishery dependent community, the Secretary shall determine whether there is a commercial fishery failure due to a fishery resource disaster as a result of—

''(1) natural causes;

''(2) man-made causes beyond the control of fishery managers to mitigate through conservation and management measures; or

''(3) undetermined causes.

''(b) ECONOMIC ASSISTANCE.—

''(1) Upon the determination under subsection (a) that there is a commercial fishery failure, the Secretary is authorized to make sums available to be used by the affected State, fishery dependent community, or by the Secretary in cooperation with the affected State or fishery dependent community for—

''(A) assessing the economic and social effects of the commercial fishery failure; and

''(B) any activity that the Secretary determines is appropriate to restore the fishery or prevent a similar failure in the future and to assist a fishery dependent community affected by such failure.

''(2) Before making funds available for an activity authorized under this section, the Secretary shall make a determination that such activity will not expand the size or scope of the commercial fishery failure into other fisheries or other geographic regions.

''(c) FEDERAL COST-SHARING.—The Federal share of the cost of any activity carried out under the authority of this section shall not exceed 75 percent of the cost of that activity.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary for each of the fiscal years 1995, 1996, 1997, 1998 and 1999, provided that such sums are designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.''.

(b)Section 2(b)(1)(A) of the Act of August 11, 1939 (15 U.S.C. 713c-3(b)(1)(A)) is amended—

(1) by striking ''and'' at the end of clause (ii); and

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

''(iii) to fund the Federal share of a buy-out program established under section 315(b) of the Magnuson Fishery Conservation and Management Act.''.

TITLE II—FISHERY MONITORING AND RESEARCH

SEC. 201. CHANGE OF TITLE.

The heading of title IV (16 U.S.C. 1881 et seq.) is amended to read as follows:

''TITLE IV—FISHERY MONITORING AND RESEARCH''.

SEC. 202. REGISTRATION AND DATA MANAGEMENT.

Title IV (16 U.S.C. 1881 et seq.) is amended by inserting after the title heading the following:

''SEC. 401. REGISTRATION AND DATA MANAGEMENT.

''(a) STANDARDIZED FISHING VESSEL REGISTRATION AND DATA MANAGEMENT SYSTEM.—The Secretary shall, in cooperation with the Secretary of the department in which the Coast Guard is operating, the States, the Councils, and Marine Fisheries Commissions, develop recommendations for implementation of a standardized fishing vessel registration and data management system on a regional basis. The proposed system shall be developed after consultation with interested governmental and nongovernmental parties and shall—

''(1) be designed to standardize the requirements of vessel registration and data collection systems required by this Act, the Marine Mammal Protection Act (16 U.S.C. 1361 et seq.), and any other marine resource law implemented by the Secretary;

''(2) integrate programs under existing fishery management plans into a nonduplicative data collection and management system;

''(3) avoid duplication of existing state, tribal, or federal systems (other than a federal system under paragraph (1)) and utilize, to the maximum extent practicable, information collected from existing systems;

''(4) provide for implementation through cooperative agreements with appropriate State, regional, or tribal entities and Marine Fisheries Commissions;

''(5) establish standardized units of measurement, nomenclature, and formats for the collection and submission of information;

''(6) minimize the paperwork required for vessels registered under the system;

''(7) include all species of fish within the geographic areas of authority of the Councils and all fishing vessels, except for private recreational fishing vessels used exclusively for pleasure; and

''(8) prescribe procedures necessary to ensure the confidentiality of information collected under this section.

''(b) FISHING VESSEL INFORMATION.—The registration and data management system should, at a minimum, obtain the following information for each fishing vessel—

''(1) the name and official number or other identification, together with the name and address of the owner or operator or both;

''(2) vessel capacity, type and quantity of fishing gear, mode of operation (catcher, catcher processor or other), and such other pertinent information with respect to vessel characteristics as the Secretary may require;

''(3) identification of the fisheries in which the fishing vessel participates;

''(4) estimated amounts of fish caught, and processed (if applicable) in each fishery; and

''(5) the geographic area of operations and the season or period during which the fishing vessel operates.

''(c) FISHERY INFORMATION.—The registration and data management system should, at a minimum, provide basic fisheries performance data for each fishery, including—

''(1) the number of vessels participating in the fishery;

''(2) the time period in which the fishery occurs;

''(3) the approximate geographic location, or official reporting area where the fishery occurs;

''(4) a description of fishery gear used in the fishery, including the amount of such gear and the appropriate unit of fishery effort;

''(5) catch and ex-vessel value of the catch for each stock of fish in the fishery; and

''(6) the amount and types of economic and regulatory discards, and an estimate of any other bycatch.

''(d) PUBLIC COMMENT.—Within one year after the date of enactment of the Sustainable Fisheries Act, the Secretary shall publish in the Federal Register for a 60-day public comment period, a proposal that would provide for implementation of a standardized fishing vessel registration and data collection system that meets the requirements of subsections (a) through (c). The proposal shall include—

''(1) a description of the arrangements for consultation and cooperation with the department in which the Coast Guard is operating, the States, the Councils, Marine Fisheries Commissions, the fishing industry and other interested parties; and

''(2) proposed regulations and legislation necessary to implement the proposal.

''(e) CONGRESSIONAL TRANSMITTAL.—Within 60 days after the end of the comment period and after consideration of comments received under subsection (d), the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives a proposal for implementation of a national fishing vessel registration system that includes—

''(1) any modifications made after comment and consultation;

''(2) a proposed implementation schedule; and

''(3) recommendations for any such additional legislation as the Secretary considers necessary or desirable to implement the proposed system.

''(f) REPORT TO CONGRESS.—Within 15 months after the date of enactment of the Sustainable Fisheries Act, the Secretary shall report to Congress on the need to include private recreational fishing vessels used exclusively for pleasure into a national fishing vessel registration and data collection system. In preparing its report, the Secretary shall cooperate with the Secretary of the department in which the Coast Guard is operating, the States, the Councils, and Marine Fisheries Commissions, and consult with governmental and nongovernmental parties.''.

SEC. 203. DATA COLLECTION.

Section 402 is amended to read as follows:

''SEC. 402. DATA COLLECTION.

''(a) COUNCIL REQUESTS.—If a Council determines that additional information and data (other than information and data that would disclose proprietary or confidential commercial or financial information regarding fishing operations or fish processing operations) would be beneficial for developing, implementing, or revising a fishery management plan or for determining whether a fishery is in need of management, the Council may request that the Secretary implement a data collection program for the fishery which would provide the types of information and data (other than information and data that would disclose proprietary or confidential commercial or financial information regarding fishing operations or fish processing operations) specified by the Council. The Secretary shall approve such a data collection program if he determines that the need is justified, and shall promulgate regulations to implement the program within 60 days after such determination is made. If the Secretary determines that the need for a data collection program is not justified, the Secretary shall inform the Council of the reasons for such determination in writing. The determinations of the Secretary under this subsection regarding a Council request shall be made within a reasonable period of time after receipt of that request.

''(b) CONFIDENTIALITY OF INFORMATION.—Any information submitted to the Secretary by any person in compliance with any requirement under this Act shall be confidential and shall not be disclosed if disclosure would significantly impair the commercial interests of the person from whom the information was obtained, except—

''(1) to Federal employees and Council employees who are responsible for fishery management plan development and monitoring;

''(2) to State or Marine Fisheries Commission employees pursuant to an agreement with the Secretary that prevents public disclosure of the identity or business of any person;

''(3) when required by court order;

''(4) when such information is used to verify catch under an individual transferable quota system; or

''(5) unless the Secretary has obtained written authorization from the person submitting such information to release such information and such release does not violate other requirements of this subsection.

The Secretary shall, by regulation, prescribe such procedures as may be necessary to preserve such confidentiality, except that the Secretary may release or make public any such information in any aggregate or summary form which does not directly or indirectly disclose the identity or business of any person who submits such information. Nothing in this subsection shall be interpreted or construed to prevent the use for conservation and management purposes by the Secretary, or with the approval of the Secretary, the Council, of any information submitted in compliance with regulations promulgated under this Act.

''(c) RESTRICTION ON USE OF CERTAIN DATA.—

''(1) The Secretary shall promulgate regulations to restrict the use, in civil enforcement or criminal proceedings under this Act, the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.), or the Endangered Species Act (16 U.S.C. 1531 et seq.), of information collected by voluntary fishery data collectors, including sea samplers, while aboard any vessel for conservation and management purposes if the presence of such a fishery data collector aboard is not required by any of such Acts or regulations thereunder.

''(2) The Secretary may not require the submission of a Federal or State income tax return or statement as a prerequisite for issuance of a Federal fishing permit until such time as the Secretary has promulgated regulations to ensure the confidentiality of information contained in such return or statement, to limit the information submitted to that necessary to achieve a demonstrated conservation and management purpose, and to provide appropriate penalties for violation of such regulations.''.

SEC. 204. OBSERVERS.

Title IV of the Act (16 U.S.C. 1882) is amended by adding the following new section 403:

"SEC. 403. OBSERVERS.

''(a) GUIDELINES FOR CARRYING OBSERVERS.—Within one year of the date of enactment of the Sustainable Fisheries Act, the Secretary shall promulgate regulations, after notice and public comment, for fishing vessels that are required to carry observers. The regulations shall include guidelines for determining—

''(1) when a vessel is not required to carry an observer on board because the facilities of such vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized; and

''(2) actions which vessel owners or operators may reasonably be asked to take to render such facilities adequate and safe.

''(b) TRAINING.—The Secretary, in cooperation with State programs and the National Sea Grant College Program, shall—

''(1) establish programs to ensure that each observer receives adequate training in collecting and analyzing data necessary for the conservation and management purposes of the fishery to which such observer is assigned; and

''(2) require that an observer demonstrate competence in fisheries science and statistical analysis at a level sufficient to enable such person to fulfill the responsibilities of the position.

''(c) WAGES AS MARITIME LIENS.—Claims for observers' wages shall be considered maritime liens against the vessel and be accorded the same priority as seamen's liens under admiralty and general maritime law.''.

SEC. 205. FISHERIES RESEARCH.

Section 404 is amended to read as follows:

"SEC. 404. FISHERIES RESEARCH.

''(a) IN GENERAL.—The Secretary shall initiate and maintain, in cooperation with the Councils, a comprehensive program of fishery research to carry out and further the purposes, policy, and provisions of this Act. Such program shall be designed to acquire knowledge and information, including statistics, on fishery conservation and management and on the economics of the fisheries.

''(b) STRATEGIC PLAN.—Within one year after the date of enactment of the Sustainable Fisheries Act, and at least every 3 years thereafter, the Secretary shall develop and publish in the Federal Register a strategic plan for fisheries research for the five years immediately following such publication. The plan shall—

''(1) identify and describe a comprehensive program with a limited number of priority objectives for research in each of the areas specified in subsection (c);

''(2) indicate the goals and timetables for the program described in paragraph (1); and

''(3) provide a role for commercial fishermen in such research, including involvement in field testing.

''(c) AREAS OF RESEARCH.—The areas of research referred to in subsection (a) are as follows:

''(1) Research to support fishery conservation and management, including but not limited to, research on the economics of fisheries and biological research concerning the abundance and life history parameters of stocks of fish, the interdependence of fisheries or stocks of fish, the identification of essential fish habitat, the impact of pollution on fish populations, the impact of wetland and estuarine degradation, and other matters bearing upon the abundance and availability of fish.

''(2) Conservation engineering research, including the study of fish behavior and the development and testing of new gear technology and fishing techniques to minimize bycatch and any adverse effects on essential fish habitat and promote efficient harvest of target species.

''(3) Information management research, including the development of a fishery information base and an information management system that will permit the full use of data in the support of effective fishery conservation and management.

''(d) PUBLIC NOTICE.—In developing the plan required under subsection (a), the Secretary shall consult with relevant Federal, State, and international agencies, scientific and technical experts, and other interested persons, public and private, and shall publish a proposed plan in the Federal Register for the purpose of receiving public comment on the plan. The Secretary shall ensure that affected commercial fishermen are actively involved in the development of the portion of the plan pertaining to conservation engineering research. Upon final publication in the Federal Register, the plan shall be submitted by the Secretary to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives.''.

SEC. 206. INCIDENTAL HARVEST RESEARCH.

Section 405 is amended to read as follows:

"SEC. 405. INCIDENTAL HARVEST RESEARCH.

''(a) COLLECTION OF DATA.—Within 9 months after the date of enactment of the Sustainable Fisheries Act, the Secretary shall, after consultation with the Gulf of Mexico Fishery Management Council and South Atlantic Fishery Management Council, conclude the collection of data in the program to assess the impact on fishery resources of incidental harvest by the shrimp trawl fishery within the authority of such Councils. Within the same time period, the Secretary shall make available to the public aggregated summaries of data collected prior to June 30, 1994 under such program.

''(b) IDENTIFICATION OF STOCK.—The program concluded pursuant to subsection (a) shall provide for the identification of stocks of fish which are subject to significant incidental harvest in the course of normal shrimp trawl fishing activity.

''(c) COLLECTION AND ASSESSMENT OF SPECIFIC STOCK DATA.—For stocks of fish identified pursuant to subsection (b), with priority given to stocks which (based upon the best available scientific information) are considered to be overfished, the Secretary shall conduct—

''(1) a program to collect and evaluate data on the nature and extent (including the spatial and temporal distribution) of incidental mortality of such stocks as a direct result of shrimp trawl fishing activities;

''(2) an assessment of the status and condition of such stocks, including collection of information which would allow the estimation of life history parameters with sufficient accuracy and precision to support sound scientific evaluation of the effects of various management alternatives on the status of such stocks; and

''(3) a program of data collection and evaluation for such stocks on the magnitude and distribution of fishing mortality and fishing effort by sources of fishing mortality other than shrimp trawl fishing activity.

''(d) INCIDENTAL MORTALITY REDUCTION PROGRAM.—The Secretary shall, in cooperation with affected interests, commence a program to design and evaluate the efficacy of technological devices and other changes in fishing technology for the reduction of incidental mortality of nontarget fishery resources in the course of shrimp trawl fishing activity which are designed to be inexpensive to operate and which cause insignificant loss of shrimp. Such program shall take into account local conditions and include evaluation of any reduction in incidental mortality, as well as any reduction or increase in the retention of shrimp in the course of normal fishing activity.

''(e) REPORT TO THE CONGRESS.—The Secretary shall, within one year of completing the programs required by this subsection, submit a detailed report on the results of such programs to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives.

''(f) IMPLEMENTATION CRITERIA.—Any measure implemented under this Act to reduce the incidental mortality of nontarget fishery resources in the course of shrimp trawl fishing shall, to the extent practicable,—

''(1) apply to such fishing throughout the range of the nontarget fishery resource concerned; and

''(2) be implemented first in those areas and at those times where the greatest reduction of such incidental mortality can be achieved.''.

SEC. 207. REPEAL.

Section 406 (16 U.S.C. 1882) is repealed.

SEC. 208. CLERICAL AMENDMENTS.

The table of contents is amended by striking the matter relating to title IV and inserting the following:

''Sec. 315. Transition to sustainable fisheries.
''Sec. 316. Fisheries disaster relief.
''TITLE IV—FISHERY MONITORING AND RESEARCH
''Sec. 401. Registration.
''Sec. 402. Data collection.
''Sec. 403. Observers.
''Sec. 404. Fisheries research.
''Sec. 405. Incidental harvest research.''.

TITLE III—FISHERIES STOCK RECOVERY FINANCING

SEC. 301. SHORT TITLE.

This title may be cited as the ''Fisheries Stock Recovery Financing Act''.

SEC. 302. FISHERIES STOCK RECOVERY REFINANCING.

Title XI of the Merchant Marine Act, 1936 (46 U.S.C. 1271 et seq.), is amended by adding at the end the following new section:

''Sec. 1111. (a) Pursuant to the authority granted under section 1103(a) of this title, the Secretary shall, under such terms and conditions as the Secretary shall prescribe by regulation, guarantee and make commitments to guarantee the principal of, and interest on, obligations which aid in refinancing, in a manner consistent with the reduced cash flows available to obligors because of reduced harvesting allocations during implementation of a fishery recovery effort, existing obligations relating to fishing vessels or fishery facilities. Guarantees under this section shall be subject to all other provisions of this title not inconsistent with the provisions of this section. The provisions of this section shall, notwithstanding any other provisions of this title, apply to guarantees under this section.

''(b) Obligations eligible to be refinanced under this section shall include all obligations which financed or refinanced any expenditures associated with the ownership or operation of fishing vessels or fishery facilities, including but not limited to expenditures for reconstructing, reconditioning, purchasing, equipping, maintaining, repairing, supplying, or any other aspect whatsoever of operating fishing vessels or fishery facilities, excluding only such obligations—

''(1) which were not in existence prior to the time the Secretary approved a fishery recovery effort eligible for guarantees under this section and whose purpose, in whole or in part, involved expenditures which resulted in increased vessel harvesting capacity; and

''(2) as may be owed by an obligor either to any stockholder, partner, guarantor, or

other principal of such obligor or to any unrelated party if the purpose of such obligation had been to pay an obligor's preexisting obligation to such stockholder, partner, guarantor, or other principal of such obligor.

''(c) The Secretary shall refinance up to 100 percent of the principal of, and interest on, such obligations, but, in no event, shall the Secretary refinance an amount exceeding 75 percent of the unencumbered (after deducting the amount to be refinanced by guaranteed obligations under this section) market value, as determined by an independent marine surveyor, of the fishing vessel or fishery facility to which such obligations relate plus 75 percent of the unencumbered (including but not limited to homestead exemptions) market value, as determined by an independent marine surveyor, of all other supplementary collateral. The Secretary shall do so regardless of—

''(1) any fishing vessel or fishery facility's actual cost or depreciated actual cost; and

''(2) any limitations elsewhere in this title on the amount of obligations to be guaranteed or such amount's relationship to actual cost or depreciated actual cost.

''(d) Obligations guaranteed under this section shall have such maturity dates and other provisions as are consistent with the intent and purpose of this section (including but not limited to provisions for obligors to pay only the interest accruing on the principal of such obligations during the period in which fisheries stocks are recovering, with the principal and interest accruing thereon being fully amortized between the date stock recovery is projected to be completed and the maturity date of such obligations).

''(e) No provision of section 1104A(d) of this title shall apply to obligations guaranteed under this section.

''(f) The Secretary shall neither make commitments to guarantee nor guarantee obligations under this section unless—

''(1) the Secretary has first approved the fishery recovery effort, for the fishery in which vessels eligible for the guarantee of obligations under this section are participants; and

''(2) the Secretary has considered such factors as—

''(A) the projected degree and duration of reduced fisheries allocations;

''(B) the projected reduction in fishing vessel and fishery facility cash flows;

''(C) the projected severity of the impact on fishing vessels and fishery facilities;

''(D) the projected effect of the fishery recovery effort;

''(E) the provisions of any related fishery management plan under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.); and

''(F) the need for and advisability of guarantees under this section;

''(3) the Secretary finds that the obligation to be guaranteed will, considering the projected effect of the fishery recovery effort involved and all other aspects of the obligor, project, property, collateral, and any other aspects whatsoever of the obligation involved, constitute, in the Secretary's opinion, a reasonable prospect of full repayment; and

''(4) the obligors agree to provide such security and meet such other terms and conditions as the Secretary may, pursuant to regulations prescribed under this section, require to protect the interest of the United States and carry out the purpose of this section.

''(g) All obligations guaranteed under this section shall be accounted for separately, in a subaccount of the Federal Ship Financing Fund to be known as the Fishery Recovery Refinancing Account, from all other obligations guaranteed under the other provisions of this title and the assets and liabilities of the Federal Ship Financing Fund and the Fishery Recovery Refinancing Account shall be segregated accordingly.

''(h) For the purposes of this section, the term 'fishery recovery effort' means a fishery management plan, amendment, or regulations required under section 305(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854(b)) to rebuild a fishery which the Secretary has determined to be a commercial fishery failure under section 316 of such Act.''.

SEC. 303. FEDERAL FINANCING BANK RELATING TO FISHING VESSELS AND FISHERY FACILITIES.

Section 1104A(b)(2) of the Merchant Marine Act, 1936 (46 U.S.C. 1274(b)(2)), is amended by striking ''*Provided, further,* That in the case of a fishing vessel or fishery facility, the obligation shall be in an aggregate principal amount equal to 80 percent of the actual cost or depreciated actual cost of the fishing vessel or fishery facility, except that no debt may be placed under this proviso through the Federal Financing Bank:'' and inserting the following: ''*Provided, further,* That in the case of a fishing vessel or fishery facility, the obligation shall be in an aggregate principal amount not to exceed 80 percent of the actual cost or depreciated actual cost of the fishing vessel or fishery facility, and obligations related to fishing vessels and fishery facilities under this title shall be placed through the Federal Financing Bank unless placement through the Federal Financing Bank is not reasonably available or placement elsewhere is available at a lower annual effective yield than placement through the Federal Financing Bank:''.

SEC. 304. FEES FOR GUARANTEEING OBLIGATIONS.

Section 1104A(e) of the Merchant Marine Act, 1936 (46 U.S.C. 1274(e)), is amended to read as follows:

''(e)(1) The Secretary is authorized to fix a fee for the guarantee of obligations under this title. Obligors shall pay all such fees to the Secretary when moneys are first advanced under guaranteed obligations and at least 60 days prior to each anniversary date thereafter. All such fees shall be computed and shall be payable to the Secretary under such regulations as the Secretary may prescribe.

''(2) For fishing vessels and fishery facilities, such fee shall—

''(A) if the obligation will not be purchased by the Federal Financing Bank, be in an amount equal to 1 percent per year of the average principal amount of the obligation outstanding (unless such obligation is issued under section 1111 of this title, in which case such fee shall be 1 and one-half percent per year of such average principal amount; and

''(B) if the obligation will be purchased by the Federal Financing Bank, be in an amount equal to 2 percent per year of the average principal amount of the obligation outstanding (unless such obligation is issued under section 1111 of this title, in which case such fee shall be 2 and one-half percent per year of such average principal amount), less any fee the Federal Financing Bank customarily charges for its services with respect to federally guaranteed obligations purchased by it and less the amount, if any, by which the interest rate on such obligation (which shall be fixed at the time the Federal Financing Bank commits to purchase such obligation) exceeds the current new issue rate on outstanding marketable obligations of the United States of comparable maturity.

''(3) For everything other than fishing vessels and fishery facilities, such fee shall—

''(A) if the security for the guarantee of an obligation under this title relates to a delivered vessel, not be less than one-half of 1 percent per year nor more than 1 percent per year of the average principal amount of such obligation outstanding, excluding the average amount (except interest) on deposit in an escrow fund created under section 1108 of this title; and

''(B) if the security for the guarantee of an obligation under this title relates to a vessel to be constructed, reconstructed, or reconditioned, not be less than one-quarter of 1 percent per year nor more than one-half of 1 percent per year of the average principal amount of such obligation outstanding, excluding the average amount (except interest) on deposit in an escrow fund created under section 1108 of this title. For the purposes of this subsection, if the security for the guarantee of an obligation under this title relates both to a delivered vessel or vessels and to a vessel or vessels to be constructed, reconstructed, or reconditioned, the principal amount of such obligation shall be prorated in accordance with regulations prescribed by the Secretary. The regulations to be prescribed by the Secretary under this subsection shall provide a formula for determining the creditworthiness of obligors under which the most creditworthy obligors pay a fee computed on the lowest allowable percentage and the least creditworthy obligors pay a fee which may be computed on the highest allowable percentage (the range of creditworthiness to be based on obligors which have actually issued guaranteed obligations).''.

SEC. 305. SALE OF ACQUIRED COLLATERAL.

Section 1104A(a)(3) of the Merchant Marine Act, 1936 (46 U.S.C. 1274(a)(3)), is amended by inserting after ''financing'' the following: ''(without requiring subsidy cost ceiling or other authorization under the Federal Credit Reform Act of 1990)''.

Mr. KERRY. Mr. President, on March 1, 1977, the Fishery Conservation and Management Act was signed into law in response to an urgent threat to the valuable living marine resources of our coastal waters. At that time, the threat to our domestic fisheries came in the form of an efficient and aggressive state-of-the-art foreign fishing fleet that was operating within sight of our shores and displacing our domestic fishermen and processors. In response, Congress, led by Senator Warren Magnuson, passed the Fishery Conservation and Management Act establishing a 200-mile fishery conservation zone and asserting United States management authority over fish within the conservation zone, as well as over anadromous species such as salmon throughout their migratory range. In honor of Senator Magnuson's leadership, in 1980, the act was officially retitled the Magnuson Fishery Conservation and Management Act.

The Magnuson Act succeeded—it limited the operation of foreign fishing vessels and processors and encouraged the development of the U.S. domestic fishing fleet and processing industry. In 1993, U.S. commercial fishermen landed over 10 billion pounds of fish, producing $3.4 billion in dockside revenues. By weight of catch, the United States is now the world's sixth largest fishing nation. The United States is also the top seafood exporter, with exports valued at $3.1 billion in 1993.

However, we have succeeded too well in some ways, and today there is another threat to our coastal fisheries. The threat is not from abroad but from ourselves. Since the implementation of the Magnuson Act, the number of commercial groundfish vessels in New England has increased by 70 percent, and the number of fishermen has risen by 130 percent. Although fish and shellfish are renewable resources, they are not unlimited. In several U.S. fisheries, a pattern has been repeated: Fishermen, lured by the promise of large and lucrative harvests, enter a fishery when fish populations are abundant. As the fishery develops, larger boats often replace smaller boats, the number of boats increases, and new technologies are continually introduced to improve each vessel's fishing power and efficiency. In several U.S. fisheries, these trends have been bolstered by government policies, including tax incentives and Federal loan guarantees, designed to stimulate development of the domestic fishing industry. The result is that the harvesting capacity in many fisheries has out-paced the capacity of the fisheries to renew themselves. U.S. fisheries also have suffered from destruction of essential habitat, destructive fishing practices, and water pollution.

The key to the success of the Magnuson Act is the ability of the eight regional fisheries management councils established under the act to work with the National Marine Fisheries Service to manage the fisheries on a regional level while meeting the national standards set forth in the act. The councils have made a substantial effort to manage the Nation's fisheries—as of September 1, 1993, 33 fishery management plans are in effect with several others in development. However, their success in managing the nation's fisheries has been mixed. Critics charge that since the enactment of the Magnuson Act, the councils have sometimes reacted to developments in fisheries rather than anticipating problems—even when looming problems are apparent. In addition, the complexity of the process has impeded the council response, often exacerbating the problem. In many instances, minor management actions could have been taken sooner to avoid the need for more dramatic measures later. In some regions, including parts of the Northwest, the council members are no longer perceived as stewards of the public resource, providing fair and balanced representation, but are seen as protectors of special economic interests. The Magnuson Act requires that council members be knowledgeable or experienced with regard to the conservation and management, or the recreational or commercial harvest, of the fishery resources within their respective geographic areas of responsibility. However, this requirement has created situations in which a council member may have personal or financial interests in a fishery he or she is responsible for managing.

In fact, despite the work of the councils, problems continue to exist in varying degrees in many regions. These include: continued overfishing; lack of coordination between councils and the Federal Government; lack of accountability; inconsistency in State and Federal management measures; and adoption of unenforceable management measures.

Perhaps the most visible example of the problems in fisheries management is one with which I unfortunately am too familiar—the collapse of the traditional New England groundfish stocks of cod, haddock, and yellowtail flounder. In 1990, the commercial fishing industry in Massachusetts was a $300 million industry. By 1993, revenues had dropped to almost $232 million, and their year revenues are certain to be much lower.

In 1993, the decline of these valuable fish stocks necessitated a substantial amendment to the fisheries management plan for these stocks in an effort to eliminate overfishing by cutting in half fishing mortality over the next 5 to 7 years. The initiation of regulations necessary to rebuild the fishery has already had significant economic impact on the coastal communities throughout New England. However, even before those programs could be fully implemented, scientific information from the National Marine Fisheries Service indicated that the situation was worse than predicted, and as a result the New England Fisheries Management Council voted to recommend that the Secretary of Commerce take emergency action to address the crisis in New England while it develops a plan amendment under normal procedures. In December, the Secretary took emergency action to close portions of U.S. waters of the Georges Bank and southern New England to commercial fishing in an effort to save the traditional groundfish stocks from commercial extinction. These emergency measures are the latest blows to the New England fishing industry that is already staggering from the dire situation which they face. Further fishing restrictions are likely to have disastrous economic and social impacts on the historic fishing communities of the Northeast. These problems must be addressed and reversed for the sake of the fishermen and the fish in New England and throughout the Nation.

Over the last 2 years, the Commerce Committee has conducted a series of hearings here in Washington and in fishing communities around the U.S. coast. We have reviewed comments from members of the fishing industry, the administration, conservation groups and other public interest groups. This has been a bipartisan effort. I have worked closely with the senior Senator from Alaska. We and our colleagues share the desire to ensure plentiful yields of fish for years to come. The bill that I am introducing today is an effort to address the existing problems of the fisheries management process.

I recognize that this bill is ambitious in scope. However, the fisheries of the United States are at a crossroads and significant action is required to remedy our fisheries management problems and preserve the way of life of our fishing communities. Fish on the dinner table is something that many Americans may have taken for granted in the past; but unless we take steps to ensure that these vital resources are conserved, they will not be there for future generations. I hope my colleagues will join me in committing themselves to passing legislation as soon as possible to ensure that the fisheries of the United States once again will be bountiful and sustainable. I look forward to working with the new chairman of the Commerce Committee, Senator PRESSLER, and his staff and of course, the former chairman and new ranking Democratic member, Senator HOLLINGS and his staff, toward this end. I want to thank Senator HOLLINGS, Senator STEVENS and his staff, and the staff of the majority and the minority, for their assistance in preparing this bipartisan bill for introduction today.

I ask unanimous consent that a summary of the bill's principal provisions, and the bill itself, appear in the RECORD following my remarks.

SUMMARY OF MAJOR PROVISIONS—SUSTAINABLE FISHERIES ACT OF 1995

The Sustainable Fisheries Act amends the Magnuson Fishery Conservation and Management Act to extend the authorization of appropriations through 1999, strengthen conservation efforts and rebuild depleted fisheries. Major provisions include the following:

FISHERIES CONSERVATION

Preventing overfishing and rebuilding depleted fisheries. The bill would require the Councils to define overfishing in each fishery management plan. It also calls for an annual report by the Secretary of Commerce (Secretary) on the status of fisheries under each Council and identification of fisheries that are overfished or approaching an overfished condition. A Council would have one year to come up with a plan to stop overfishing and rebuild the fishery, and the Secretary would be required to step in if the Council fails to act. While a plan is under development, interim measures to reduce overfishing could be implemented as emergency measures. To deal with the socioeconomic issues associated with rebuilding the fishery, the Secretary would work with the states and local communities to develop a sustainable development strategy.

Habitat protection. The Secretary would be required to identify essential habitat for all fisheries under management, based on information provided by the Councils. The bill also would expand the existing authority of the Councils and the Secretary to comment and make recommendations to Federal agencies concerning actions that would affect essential fish habitat. In addition, the Secretary and the Councils would develop and publish a list of fisheries and approved gear for each fishery. Ninety days prior to using a new gear type or expanding into a new fishery, a fisherman would be required to provide a Council with notice and the opportunity to take emergency action to restrict such gear or fishery.

Bycatch and waste reduction. The bill defines categories of bycatch and requires any

fishery management plan developed by a Council or the Secretary to (1) assess the level of bycatch concurring in each fishery, including the effect of a fishery on other stocks of fish in the ecosystem; and (2) minimize, to the extent practicable, mortality caused by waste and discards of unusable fish. In addition, the bill would encourage plans to provide incentives for fishing vessels within each gear group to reduce bycatch. Finally, provisions are included to establish specific timetables for reducing waste and promoting full utilization in the North Pacific fisheries.

MANAGEMENT PROCESS

Streamlining the approval process for plans and regulations. The bill simplifies and tightens the approval process for fishery management plans and regulations.

Council procedures and conflicts of interest. The bill proposes a number of changes to increase Council accountability, requiring that (1) a Council member be recused from voting on a Council decision ''which would have a significant and predictable effect'' on any financial interest; (2) each Council keep detailed minutes of each Council meeting, including a complete and accurate description of discussions and conclusions; (3) each Council record all roll call votes; and (4) with advance notice and member concurrence, each Council consider additional agenda items at meetings. The bill also establishes procedures for appointing a treaty tribe representative to the Pacific Council.

Individual transferable quotas (ITQ). The bill prohibits the Secretary from approving ITQ programs until guidelines are established to deal with ITQ-related issues such as initial allocation, eligibility for participation, consolidation, and access by entry-level fishermen. To cover management costs of an ITQ program, the Secretary would be authorized to establish an annual fee of up to four percent of the value of the fish harvested or processed, and an additional one percent transfer fee. A 5-year fee exemption is provided in the existing programs for the surf clam and ocean quahog fishery and the wreckfish fishery. The bill also clarifies that ITQs do not convey a property right and are subject to termination at any time.

Scientific basis for management. The bill includes several provisions to improve monitoring and data collection for fisheries management: (1) development (in cooperation with the states and the Councils) of a federal plan for a standardized vessel registration and data management system to ensure the availability of basic fisheries data: (2) establishment of an observer training and education program and regulations for vessels that carry observers, including protection from sexual harassment; and (3) an expanded research program to provide better biological information and to study the effects of fishing on the marine ecosystem.

Enforcement. The bill would (1) establish voluntary fishermen's networks to promote compliance with fishery regulations; (2) require an annual report analyzing the adequacy and effectiveness of enforcement efforts; (3) encourage a reward of not less than 20 percent of any penalty assessed for information leading to an enforcement action; (4) require that fishery management plans identify needed enforcement.

TRANSITION TO SUSTAINABLE FISHERIES

Fisheries disaster relief. At the discretion of the Secretary or at the request of an affected state or community, the Secretary would (1) determine whether there is a commercial fishery failure; and (2) make relief funds available to the affected State or community, with the Federal cost-share not to exceed 75 percent.

Vessel or permit buy-out. As part of a sustainable development strategy and to limit effort in an overfished fishery, the Secretary would be authorized to develop and implement a vessel or permit buy-out program requiring that (1) a fishery management plan is in place that limits access to the fishery and prevents replacement of fishing effort that is bought out; (2) vessels or permits acquired under the buy-out program cannot reenter the fishery or contribute to excess fishing effort in other fisheries; and (3) criteria are established to determine types and numbers of vessels which are eligible for participation. The bill specifies that the Federal share of a buy-out program may not exceed 50 percent of the program costs. Working with the Council, the Secretary would be authorized to establish a fee system to collect the non-Federal share of funds for the program. Annual fees could not exceed 5 percent of the value of fish harvested in the fishery and would be deposited into a newly established Ocean Conservation Trust fund.

Vessel refinancing. The bill would amend Title XI of the Merchant Marine Act of 1936 to provide for a fisheries stock recovery refinancing program under the Fishing Vessel Obligation Guarantee Program. For those fisheries in which a fishery recovery effort is under way, the Secretary would be authorized to refinance vessel mortgages, providing for an extended repayment schedule (including interest-only payments) that reflects reduced vessel income due to stock rebuilding restrictions.

● Mr. MURKOWSKI. Mr. President. I am very pleased to join with my friends and colleagues Senator STEVENS and Senator KERRY in the introduction of S. 39, a bill to reauthorize and revitalize the Fishery Conservation and Management Act, also known as the Magnuson Act.

This bill is similar in almost all respects with the bill we introduced in the final days of the last Congress. As promised, that bill and this one both mark our intention that Magnuson Act discussions in this new Congress should focus on outstanding differences, rather than starting from scratch and covering old ground.

A tremendous amount of work already has been done on this matter by fishing industry groups, the environmental community and others in Congress, so that this year's hearings will start with a solid, carefully laid platform.

I have a great interest in seeing this bill move expeditiously through the legislative process to the President's desk. The Magnuson Act is the basis for all marine fisheries regulation in this country, and as such it is vital that it be reauthorized. As the regional fishery management councils created by this act struggle with new and evolving problems, we must take steps to allow the law to evolve.

My own primary efforts are focused on an issue and I believe is about to explode into prominence throughout the world—the need to identify and reduce the levels of fishery bycatch and discard in America's fisheries. That's why I introduced the first bill to address bycatch back in November of last year. Today's bill follows the lead I established in October 1993, by requiring regional fishery management councils to adopt specific measures for bycatch reduction and assessment. This would become a mandatory part of every fishery management plan in the country, and would put us on the road to stopping the shameful waste that is currently occurring in many fisheries.

Following up on this principle, Senator STEVENS has authored a separate section of the bill for Alaska only, in which more specific targets are set for the North Pacific Fishery Management Council. Because the North Pacific Council is farther advanced in addressing this issue than many, I think it only appropriate that this reauthorization reflect that reality.

Another amendment adopted from my 1993 bill is a change of only one word of one of the national standards established by Magnuson. However, that change, from 'promote' to 'consider,' is very important to ensuring a fair deal for Alaska's fishermen and shore-based processors. The national standards currently say that conservation and management plans should 'promote' efficiency. This became a clear problem for Alaskan interests during the consideration of regulations to protect onshore interests from being preempted by offshore factory-trawlers, because it was seen as requiring the most economically efficient methods—rather than those that contributed to the overall welfare of fishing communities. The change will eliminate that threat, and allow all relevant issues to be fully considered.

Among other provisions, this bill will improve fisheries conservation and utilization, on which so many individuals in our coastal communities depend. It will for the first time address the problem of overfishing by requiring corrective action to be taken when a fishery is or is in danger of becoming overfished. It will also strengthen the fisheries management process by improving the way that regional fishery councils function, improve the way fisheries research is conducted and make many other changes of great importance and urgent need.

There are still many issues that need to be addressed and answers that need to be clarified. However, we will have an ample opportunity to address these areas and to hear from all those concerned during the deliberative process. I am assured that Senator STEVENS and Senator KERRY wish to renew this effort as soon as possible this year, and I look forward to working with them both and with the interested members of the fisheries community.●

By Mr. FEINGOLD (for himself and Mr. KOHL):

S. 40. A bill to direct the Secretary of the Army to transfer to the State of Wisconsin lands and improvements associated with the LaFarge Dam and Lake portion of the project for flood control and allied purposes, Kickapoo River, WI, and for other purposes; to the Committee on Environment and Public Works.

LA FARGE DAM LEGISLATION

● Mr. FEINGOLD. Mr. President, I am pleased to join with my colleague from Wisconsin, Senator KOHL, in again introducing a bill to complete some unfinished business the Federal Government began in our State in 1962, a public works project on the Kickapoo River that left a community expecting Federal flood control relief in a state of economic devastation. Identical legislation is being introduced today in the other Chamber by our colleagues from Wisconsin, Representatives GUNDERSON and PETRI.

Senator KOHL and I brought this measure before the Senate in the 103d Congress, and although it was passed by the other Chamber in the omnibus Water Resources Development Act [WRDA] we were not able to complete action on that measure in the Senate in the closing days of the 103d Congress. It is tenacity and enduring spirit of the people in this area, and their desire to turn away from the past, that brings us again to the floor on their behalf. It is also our responsibility, not only as members of the Wisconsin delegation, but also as Senators to seek to correct Federal actions when they adversely affect local areas. This legislation presents this body with such an opportunity.

Mr. President, the story of the LaFarge Dam remains the same. More than 30 years ago, the U.S. Army Crops of Engineers planned to build a dam across the Kickapoo River, near the village of LaFarge, WI, which is located in southwest portion of my State. The dam was supposed to provide flood control in an often flooded valley. In addition, local residents were told of the economic benefits in tourism dollars that the planned lake and other improvements would bring to the area.

Federal legislation authorizing the LaFarge Dam passed in 1962, and construction began in 1971. Despite the best of intentions, the project was never completed. Construction ended in 1975, leaving the proposed dam only 61 present complete, while 80 percent of the land needed to build the dam had been acquired by the Federal Government, including the private homes and farms of 140 families who were evicted in order to begin the project.

The area, already struggling economically prior to the dam's development, was devastated. By 1990, it was estimated that annual losses resulting from the cessation of family farm operations and the unrealized tourism benefits that had been promised with the dam totaled more 300 jobs and $8 million for the local economy per year. In fact, the only remaining legacy of the project is a fragmented landscape. It is dotted with scattered remains of former farm homes, and a 103-foot tall, concrete shell of the dam that stands like an eerie sentinel, with the Kickapoo River flowing unimpeded through a 1000 foot gap. The most important benefit of the dam, its flood control protection, as never realized. The area continues to experience frequent floods today.

The legislation we are introducing will being this chapter of the history of LaFarge to a close, but not by completing construction of the dam. Local residents who were once convinced that completion of the dam was the only ways out of their plight have now reached consensus the project should not continue.

Instead, Mr. President, for the past 4 years, members of the local community, the Army Corps of Engineers, University of Wisconsin—Extension, Wisconsin Department of Natural Resources, Wisconsin Department of Transportation, Wisconsin State Historic Society, the Governor's office, State legislators, Wisconsin environmental groups, and the members of the congressional delegation who join in introducing this legislation, have collaborated together to develop a plan to reclaim the dam area and manage it under a combination of State and local control.

This legislation is the embodiment of that consensus. It contains several simple components.

First, it deauthorizes the dam and accompanying 8,569 acres of federally-owned land and turns the land over to the State of Wisconsin. The Wisconsin State Legislature passed legislation last year to take over management of the Kickapoo Valley lands in preparation for Federal action. It provides that the deauthorized land will be managed as a reserve under the auspices of the newly created Kickapoo Valley Governing Board. The board is required, by Wisconsin State law, to preserve and enhance the unique environmental, scenic, and cultural features of the Kickapoo Valley, to provide facilities for the use and enjoyment of visitors to the area and to promote the area as a destination for vacationing and recreation.

Strong environmental protection provisions are included in the State law including limits on development and an outright ban on any mining activities. In addition the board is required to consult with the State historical society and Wisconsin Indian tribes in managing the historical and cultural content of the lands.

The Kickapoo Valley is truly a beautiful area of the State, filled with unique natural features such as sandstone cliffs, hearty forest lands, and scenic valleys. It is home to many rare plants and several State threatened and endangered animals, as well as more than 400 archeological sites.

It is these very attributes which contributed to the demise of dam plans, and which were long regarded to be standing in the way of progress. Now, the local community has embraced protection of these natural treasures as a means to revitalize the region.

Second, Mr. President, the legislation that I am introducing maintains and slightly modifies authorization for improvement projects which were included in the original designs. These improvements include renovation of three roads, and construction of an education and interpretation complex that includes buildings, parking areas, recreational trails, and canoe facilities. The legislation also provides for environmental cleanup and site restoration of abandoned wells and farm sites in the area.

These projects provide hope for the area and fulfillment of Federal promises made long ago. When the 140 families were forced to leave their homes in the 1960's, many of them left the region entirely. As I mentioned, many of those who stayed in the area lost income and the land they once owned was removed from the local tax base. Local businesses which once relied on these customers, suffered, and the school system lost property tax funding along with approximately one-third of its students. Today, the median income is only slightly above half of the State average. And the heartfelt bitterness toward what is widely considered an irresponsible Federal boondoggle has been tempered only recently with plans for Federal deauthorization.

Mr. President, that is why I am convinced the legislation we offer today is the best option. It is based on consensus, allows for responsible local and State control, and fulfills the Federal Government's responsibility to this area. It is not often that we are able to consider truly beneficial proposals that local communities want and need.

As many in this Chamber know, I am concerned about the fiscal implications of all legislation that I bring before this body. The Army Corps of Engineers estimates that if the LaFarge Dam were to be completed today, the total cost would be $102 million of which only $18.6 million has already been expended. The legislation we offer completes the promised improvements to the area at a cost of $17 million—a substantial savings of $66.4 million over costs for dam completion.

In closing, Mr. President, I would like to extend my thanks to my colleagues who join me in introducing this legislation today. I also want to acknowledge the support and hard work of the people of the Kickapoo Valley in bringing this legislation to fruition.

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

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

S. 40

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

SECTION 1. KICKAPOO RIVER, WISCONSIN.

(a) PROJECT MODIFICATION.—The project for flood control and allied purposes, Kickapoo River, Wisconsin, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1190), as modified by section 814 of the Water Resources Development Act of 1986 (100 Stat. 4169), is further modified as provided by this section.

(b) TRANSFER OF PROPERTY.—

(1) IN GENERAL.—Subject to the requirements of this subsection, the Secretary shall transfer to the State of Wisconsin, without consideration, all right, title, and interest of the United States in and to the lands described in paragraph (2), including all works, structures, and other improvements on the lands.

(2) LAND DESCRIPTION.—The lands to be transferred pursuant to paragraph (1) are the approximately 8,569 acres of land associated with the LaFarge Dam and Lake portion of the project referred to in subsection (a) in Vernon County, Wisconsin, in the following sections:

(A) Section 31, Township 14 North, Range 1 West of the 4th Principal Meridian.

(B) Sections 2 through 11, and 16, 17, 20, and 21, Township 13 North, Range 2 West of the 4th Principal Meridian.

(C) Sections 15, 16, 21 through 24, 26, 27, 31, and 33 through 36, Township 14 North, Range 2 West of the 4th Principal Meridian.

(3) TERMS AND CONDITIONS.—The transfer under paragraph (1) shall be made on the condition that the State of Wisconsin enters into a written agreement with the Secretary to hold the United States harmless from all claims arising from or through the operation of the lands and improvements subject to the transfer.

(4) DEADLINES.—Not later than July 1, 1995, the Secretary shall transmit to the State of Wisconsin an offer to make the transfer under this subsection. The offer shall provide for the transfer to be made in the period beginning on November 1, 1995, and ending on December 31, 1995.

(5) DEAUTHORIZATION.—The LaFarge Dam and Lake portion of the project referred to in subsection (a) is not authorized after the date of the transfer under this subsection.

(6) INTERIM MANAGEMENT AND MAINTENANCE.—The Secretary shall continue to manage and maintain the LaFarge Dam and Lake portion of project referred to in subsection (a) until the date of the transfer under this subsection.

(c) COMPLETION OF PROJECT FEATURES.—

(1) REQUIREMENT.—The Secretary shall undertake the completion of the following features of the project referred to in subsection (a):

(A) The continued relocation of State Highway Route 131 and County Highway Routes P and F substantially in accordance with plans contained in Design Memorandum No. 6, Relocation-LaFarge Reservoir, dated June 1970, except that the relocation shall generally follow the road right-of-way through the Kickapoo Valley in existence on the date of enactment of this Act.

(B) Construction of a visitor and education complex to include buildings, parking areas, recreational trails, and canoe facilities substantially in accordance with plans contained in Design Memorandum No. 3, Preliminary Master Plan for Resource Management, Kickapoo River, Wisconsin, dated May 1967, and Design Memorandum No. 7, Master Recreation Plan for Resource Management, LaFarge Lake Kickapoo River, Wisconsin, dated July 1974.

(C) Environmental cleanup and site restoration of abandoned wells, farm sites, and safety modifications to the water control structures.

(D) Cultural resource activities to meet the requirements of Federal law.

(2) PARTICIPATION BY STATE OF WISCONSIN.—In undertaking the completion of the features identified in paragraph (1), the Secretary shall determine the requirements of the State of Wisconsin on the location and design of each such feature.

(d) COSTS.—The cost of the project referred to in subsection (a) is modified to authorize the Secretary to carry out the project at a total cost of $17,000,000, with a first Federal cost of $17,000,000.

SEC. 2. SECRETARY DEFINED.

As used in this Act, the term ''Secretary'' means the Secretary of the Army, acting through the Chief of Engineers.

Mr. KOHL. Mr. President, we in the Senate spend a great deal of time arguing about the appropriate role of the Federal Government. Certainly this past election has shown us that the American people are changing their opinions about the role that the Federal Government ought to play in our lives. That debate will continue long into the future.

But one thing that we can probably all agree on is that one appropriate role of the Federal Government is to rectify its past mistakes, whenever possible. I know that my colleagues of all ideological stripes can list specific instances in which Federal intervention has caused undue pain and suffering to individuals or communities. Today I join with my colleague from Wisconsin, Senator FEINGOLD in introducing a bill to address one of those mistakes that occurred some 30 years ago in the Kickapoo River Valley of Wisconsin. And I'm proud to say that the ''fix'' to this problem also saves the taxpayers millions of dollars.

In the mid 1960s, Congress authorized the Corps of Engineers to build a flood control dam on the Kickapoo River at LaFarge in Vernon County, WI. In order to proceed with the project, the Corp of Engineers condemned 140 farms covering an area of about 8,500 acres. To LaFarge, a community of only 840 people, the loss of these farms dealt a significant blow to the local economy.

With the loss of economic activity, the community eagerly awaited the completion of the dam, and the creation of a lake that promised to provide some economic benefits in the form of recreational and tourism activities. But because of budgetary and environmental concerns, the project never happened. And the people of LaFarge were left holding the bag.

But I am proud to say that the reintroduction of this bill today represents a milestone in the cooperative effort of the citizens of the Kickapoo River Valley, the state of Wisconsin, and local environmental leaders to turn this bad situation into an outstanding success for the community, the State, and the Federal taxpayers.

The LaFarge Dam legislation would modify the original LaFarge Dam authorization, returning the federally condemned property to the state of Wisconsin. Anticipating this action, the State Legislature and Governor Thompson acted last year to authorize the use of this 8,500 property as a state recreational and environmental management area.

The highway repairs envisioned by the original dam authorization would remain. Because the original authorization required an area to be flooded, the highway was targeted for relocation. The project has been in limbo all these years, the relocation never took place, nor have any improvements or needed maintenance been done on the highway. Now, over 30 years later, the road has fallen into extreme disrepair, and this bill would authorize the necessary road improvements.

The bill also reauthorizes the construction of a recreational facility to help interpret the surrounding environment for the visitors.

While the original dam and flood control project, in today's dollars, would have cost the Federal Government $102 million, the modified project as authorized by the bill introduced today would only cost $17 million.

Late last year, both the House and Senate attempted to pass a Water Resources bill. A provision addressing the LaFarge dam project was included in the bill passed by the House, as well as the bill proposed for consideration in the Senate. Unfortunately, time grew short, and the bill was bogged down in the Senate Environment and Public Works Committee.

Mr. President, it is my hope that the House and Senate will be able to work together early in the 104th Congress to pass a Water Resources bill, and that this legislation will be included in that bill.

By Mr. BAUCUS (for himself and Mr. BURNS):

S. 41. A bill for the relief of Wade Bomar, and for other purposes; to the Committee on the Judiciary.

WADE BOMAR RELIEF ACT

• Mr. BAUCUS. Mr. President, today, along with Senator BURNS, I am introducing a bill for the private relief of Wade Bomar. This bill would provide Mr. Bomar with relief in the amount he would qualify for under the Public Safety Officers' Benefit Act.

Almost 5½ years ago, Wade volunteered to help the Bureau of Indian Affairs extinguish the Pryor Gap Fire, which was threatening the Crow Indian Reservation. While fighting the fire, a burning 50 foot pine crashed down on Wade. The accident left him paralyzed and unable to work again.

As the fire raged in the Pryor Gap, the Senate was debating the Public Safety Officers' Benefit Act [PSOBA]. The bill passed and went into effect a few months later. Had Wade been injured a little while later he would have qualified for a payment of around $100,000 under this Act.

Wade, the father of three young children, has dealt with his injury courageously. But beyond the physical and emotional pain, the accident left him and his family without medical insurance provided by his former job as a laborer to help pay for the huge medical bills. Because of these medical bills, he can't afford health or dental insurance for his children.

Wade is a strong and courageous fighter, and I know he can make it on his own. But unable to work, the injury has left him with a hospital debt that

he simply will not be able to pay. With the money provided by this bill, Wade will be able to bring himself out of debt once and for all. He will be able to give his family some security.

This very bill passed the Senate unanimously last October. Unfortunately, time was short, and the House of Representatives failed to act. My hope is that Congress will act soon to give Wade the relief he has earned.

I extend my appreciation to my colleagues in the Senate who supported this effort in the 103d Congress. And I ask for their support again to do what is right for a good man who was injured while helping others.

I ask unanimous consent that the full text of this legislation be printed in the RECORD.

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

S. 41

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

SECTION 1. RELIEF OF WADE BOMAR.

The Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, $100,000 to Mr. Wade Bomar in full settlement of a claim for injuries sustained by Mr. Bomar in the line of duty on August 6, 1989, while fighting the Pryor Gap fire, permanently depriving him of the use of his limbs.●

By Mr. FEINGOLD:

S. 42. A bill to terminate the Uniformed Services University of the Health Sciences; to the Committee on Armed Services.

TERMINATING THE UNIVERSITY OF HEALTH SCIENCES

● Mr. FEINGOLD. Mr. President, I am today reintroducing legislation terminating the Uniformed Services University of the Health Sciences [USUHS]. This is a measure I introduced in the 103d Congress and is part of my 82-point plan to reduce the Federal deficit which I proposed when I ran for the U.S. Senate in 1992.

USUHS is a medical school run by the Department of Defense [DOD]. Along with the Armed Forces Health Professionals Scholarship Program [AFHPSP] and other sources, including volunteers, it provides physicians for the military.

Created in 1972, USUHS was intended to supply the bulk of the military's physician requirements. Today, USUHS only accounts for a fraction of the Department's needs—less than 9 percent in 1991 according to the Congressional Budget Office [CBO].

The other body has voted to terminate this program on several occasions, and last year, the Vice President's national performance review joined others, ranging from the Grace Commission to the CBO, in raising the question of whether this medical school, which graduated its first class in 1980, should be closed in light of the high cost of providing military physicians under this program in contrast to other, less costly sources.

Last session, in assessing the 5-year budget impact of a plan to phase-down the school, the Office of Management and Budget [OMB] estimated $286.5 million in savings, including offsetting increases in the AFHPSP—a less costly mechanism for obtaining military physicians. After USUHS is fully closed, the annual savings would be in excess of $80 million.

Mr. President, according to the Pentagon, USUHS is the single most expensive source of military physicians. It costs the Government more than four times as much to acquire a doctor from USUHS as it does to acquire one through the scholarship program.

Even taking into account the longer service obligation of USUHS graduates, the CBO reports that accession costs are still three times those of AFHPSP physicians.

As a practical matter, though, the military does not rely primarily on USUHS for its doctors. USUHS provides only about 1 of every 10 of the physicians for our military, while nearly three-fourths come from the scholarship program.

Nor, evidently, has relying primarily on these other sources compromised the ability of military physicians to meet the needs of the Pentagon. According to OMB, of the approximately 2,000 physicians serving in Desert Storm, only 103, about 5 percent, were USUHS trained.

Mr. President, though I am persuaded that there is sufficient reason to begin phasing out USUHS, there are a variety of questions that have arisen about the school that should be explored. Last session I authored an amendment to the fiscal year 1995 Defense authorization bill directing the General Accounting Office [GAO] to examine some of those issues. That amendment resulted from negotiations between myself and other Senators concerned with the future of USUHS, the senior Senator from Hawaii [Mr. INOUYE] and the senior Senator from Maryland [Mr. SARBANES], and was aimed at having GAO examine some critical issues relating to USUHS.

Among those matters are whether USUHS is fulfilling its statutory mandate. A 1990 report of the DOD's inspector general noted that although there have been three studies on the cost effectiveness of USUHS, there had been no evaluation of how well USUHS meets DOD objectives, nor had there been an evaluation of the quality of the medical education.

Mr. President, this lack of evaluation is particularly troubling as the inspector general's report noted that questions have been raised as to whether the style of education provided at USUHS—''. . . may be in danger of inhibiting the students from developing those critical abilities considered essential for innovation and/or ready adaptation to expected changes in biomedical technology anticipated during the military/civilian careers of the students.''

Mr. President, another area of concern is how USUHS is meeting the needs of today's military structure. The proponents of USUHS frequently cite the higher retention rates of USUHS graduates over physicians obtained from other sources as a justification for continuation of this program. And there may be evidence that a greater percentage of USUHS trained physicians may remain in the military longer than those from other sources.

But there does not appear to be a good understanding of what factors might contribute to longer retention rates. The body of students entering USUHS, for example, is disproportionately made up of members of the military, an aspect of USUHS grads that may have a large impact on their retention rates, and a feature that could be built into the military's alternative physician sources if needed.

Nor is there any systematic analysis of how retention rates compare to the needs of the services for military physicians during a period of downsizing. This issue may be of particular relevance given the downsizing of our force levels.

Testimony by the Department of Defense before the Subcommittee on Force Requirements and Personnel suggested that, based upon a 1989 study, it needed to maintain a 10 percent of retention rate of physicians beyond 12 years, and that alternative sources like the AFHPSP may already be meeting the retention needs of the services.

That prompted the chairman of the Armed Service Committee, the senior Senator from Georgia [Mr. NUNN], to question, during hearings held in the 103d Congress, whether these figures meant that we are retaining a more senior force than we need, a crucial consideration in determining the role of USUHS. This is a question GAO is addressing in its review.

Mr. President, another question that can be raised is what other options are available to provide the unique contribution of USUHS. Suggestions have been made that civilian medical schools could provide the basic medical education with USUHS taking over a greater role in graduate and specialized military medical education.

Since 90 percent of the military physicians come from sources other than USUHS, it is fair to ask whether all military physicians should receive some specialized training along the lines offered at this facility, rather than limiting it to a tiny percentage of military physicians. Perhaps the mission of USUHS should be refocused in this direction.

Mr. President, these are all important matters that certainly merit examination, and I look forward to reviewing the work that the GAO will be doing in its study.

I expect GAO to have much of its work done in time for consideration of the future of USUHS, and the legislation I am introducing today, during the

1995 deliberations on the Department of Defense authorization and appropriations bills.

Mr. President, in conclusion, let me say that I fully recognize that USUHS has some dedicated supporters in the U.S. Senate, and I realize that there are legitimate arguments that those supporters have made in defense of this institution. The problem, however, is that the Federal Government can no longer afford to continue every program that provides some useful function.

In the face of our staggering national debt and annual deficits, we must prioritize and eliminate programs that can no longer be sustained with limited Federal dollars, or where a more cost-effective means of fulfilling those functions can be substituted. The future of USUHS continues to be debated precisely because in these times of budget restraint it does not appear to pass the higher threshold tests which must be applied to all Federal spending programs.

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

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

S. 42

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 ''Uniformed Services University of the Health Sciences Termination and Deficit Reduction Act of 1995''.

SEC. 2. TERMINATION OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES.

(1) TERMINATION.—(1) The Uniformed Services University of the Health Sciences is terminated.

(2)(A) Chapter 104 of title 10, United States Code, is repealed.

(B) The table of chapters at the beginning of subtitle A of such title, and at the beginning of part III of such subtitle, are each amended by striking out the item relating to chapter 104.

(b) EFFECTIVE DATE.—The termination referred to in subsection (a), and the amendments made by such subsection, shall take effect on the date of the graduation from the Uniformed Services University of the Health Sciences of the last class of students that enrolled in such university on or before the date of the enactment of this Act.●

By Mr. FEINGOLD:

S. 43. A bill to phase out Federal funding of the Tennessee Valley Authority; to the Committee on Environment and Public Works.

TENNESSEE VALLEY AUTHORITY LEGISLATION

● Mr. FEINGOLD. Mr. President, I am pleased to introduce S. 43, legislation that phases out funding for the Tennessee Valley Authority, and reduces the deficit by about $600 million over 5 years.

The Tennessee Valley Authority [TVA], a federally owned and chartered corporation created in 1933, is one of the largest electric utilities in the country, supplying power to an 80,000 square mile, 125 county, 7 State region.

In addition to providing power, however, the TVA operates several other programs. Federal appropriations to the TVA support programs concerning nonpoint-source water pollution; economic development; a stewardship program that maintains a system of dams, reservoirs, and manages 300,000 acres of public land; recreational programs including the Land Between the Lakes region in the western part of Tennessee and Kentucky; a fertilizer research center, recently renamed the Environmental Research Center; and other programs.

Mr. President, this legislation phases out Federal funding for TVA over 2 years. Funding for the fertilizer research center is eliminated beginning in fiscal year 1996 and funding for other activities is phased out by fiscal year 1997.

The legislation directs the Office of Management and Budget to submit a plan to Congress by no later than January 1, 1996, outlining which programs the TVA will continue and how they will be funded, and which programs will be turned over to other entities.

Mr. President, Federal law requires the TVA's electric power program to be financially self-supporting, and the Congressional Budget Office [CBO] has noted, in its March 1994, report ''Reducing the Deficit: Spending and Revenue Options,'' that ''because many of TVA's stewardship activities are necessary to maintain its power system, their costs would more appropriately be borne by users of the power,'' rather than the Federal taxpayer.

In its 1992 study of energy subsidies, the Department of Energy reported that the TVA power operation benefits from a significant subsidy already, the ability to borrow capital at much lower interest rates than paid by investor-owned utilities, an advantage the Department said was worth $231 million in fiscal year 1990. Federal taxpayers should not be expected to pay the additional subsidy of supporting power-related stewardship activities.

The CBO report also stated that other activities could be discontinued, or their costs could be recovered from State and local governments and others who more directly benefit from those activities, or through TVA's power rates.

Mr. President, this makes sense, especially at a time of on-going Federal budget deficits when we have asked farmers, veterans, retirees, and small businesses to sacrifice in order to address those deficits.

Similarly, the National Environmental Research Center, which costs Federal taxpayers $35 million annually, could be more appropriately funded by the private sector beneficiaries of its work, or by competing for research grants as other research institutions already do.

In assessing the savings generated by their similar proposal, the CBO estimated that eliminating many of the activities supported by appropriations and increasing the funding from non-Federal sources could save $610 million over 5 years.

Mr. President, in the middle of the Great Depression there may have been good reasons to create a Federal agency charged with broad powers over a diverse set of missions for a specific region. Today, with a national and regional economy in much better shape than it was 60 years ago, and with other Federal, State, and local agencies overseeing these same missions, the special reasons that may have justified creation of the TVA no longer exist.

Indeed, some have criticized the structure of TVA, not because it duplicates many services that could be provided by other public and private entities, but because it is not accountable to local residents.

Mr. President, for some, at least, the price of Federal funding has been the lack of local control.

Beyond the savings that this measure can produce for deficit reduction, it can also restore local control for some of the activities now overseen by a Board of Directors that is appointed by the President.

Let me add that this is certainly not a criticism of the dedicated individuals who have served in the TVA now or in past years. But a structure that relies on a distanced appointment process can not be as truly responsive to the needs and preferences of local residents as one which is more directly beholden to those residents.

At the same time, given the singular nature of TVA and its special history, many residents and State and local governments may feel it is appropriate for TVA to continue some activities. And to the extent that Federal taxpayers are not asked to subsidize them, this legislation would not restrict the ability of TVA to continue operating those programs, consistent with the plan that the Office of Management and Budget will submit to Congress.

Mr. President, the Tennessee Valley Authority was born in the New Deal and at that time it may well have been the appropriate model to address the many problems facing the region it serves.

But we need to reassess that model, redistribute the burden of some activities to those who benefit from them, allocate other activities to private or public entities where appropriate, and help reduce the Federal deficit.

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

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

S. 43

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

SECTION 1. TENNESSEE VALLEY AUTHORITY.

(a) DISCONTINUANCE OF APPROPRIATIONS.—Section 27 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831z) is amended—

(1) by inserting ''for fiscal years ending with (and including) fiscal year 1996'' before the period; and

(2) by adding at the end the following: ''No appropriations may be made available for the National Fertilizer and Environmental Research Center for fiscal year 1996.''.

(b) REPORT.—Not later than January 1, 1996, the Director of the Office of Management and Budget shall submit a plan to Congress that—

(1) describes the programs that should continue to be operated by the Tennessee Valley Authority after fiscal year 1996 and describes how those programs should be funded;

(2) describes the programs that the Tennessee Valley Authority should discontinue or should transfer to other entities after fiscal year 1996; and

(3) recommends any legislation that may be necessary or appropriate to carry out the purposes of this Act.●

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

S. 44. A bill to amend title 4 of the United States Code of limit State taxation of certain pension income; to the Committee on Finance.

SOURCE TAX LEGISLATION

Mr. REID. Mr. President, today I rise to reintroduce legislation that passed the House and Senate in the 103d Congress and passed this body twice in the 102d. It is legislation in which all Members of Congress have a stake.

The bill which I introduce will eliminate a State's ability to tax a nonresidents pension income. As the situation exists today, retirees in every State may be forced to pay taxes to States where they do not reside. The retirees pay taxes on pensions drawn in the States where they spent their working years, despite the fact that they are no longer present to participate in medical assistance programs or senior centers, nor do they use the roads or public parks that these taxes are helping to fund. Most important of all, they don't even get to vote in their former State of residence—yet they still pay taxes to these States. It has been said many times, and I would agree, this is a clear case of taxation without representation.

I would like to relate to my colleagues an example illustrating the inequity of the practice of source taxing pension incomes on nonresidents. The story I tell is what happened to a Nevada citizen, but it could be happening in any State.

An older woman who lives in Fallon, NV has an annual income of between $12,000 and $13,000 a year. She is not rich, but she is surviving. One day the mail carrier delivers a notice from California that says she owes taxes on her pension income from California, plus the penalties and interest on those taxes. She cannot believe it but, being an honest person, she tells California that she has never paid these taxes in the past and asks why she is being assessed at this time. Mr. President, to make a long story short, the California Franchise Tax Board went back to 1978 and calculated her tax debt to be about $6,000. Mr. President, this woman's income is only $12,000 a year.

Most citizens pay their taxes honestly and without too much complaining, but when they are taxed by a State where they do not reside, they begin to get upset with the system. I would like to pass on another case that illustrates the problem.

In 1971 a Washington State resident went to work at a Federal penitentiary on McNeil Island, WA. In the late 1970's the Bureau of Prisons began closing the facility and reducing the staff. This man was left with two choices. He could resign and give up 9 years toward retirement or he could transfer to a Federal center in San Diego. He close the latter and went to work for the Bureau of Prisons.

When this gentleman retires he plans on returning to the State of Washington where he still owns a home. He wants to be near his children and grandchildren, as they still reside in Washington.

Although the State of Washington has no State income tax, this man learned that he will be subject to California's source tax on his pension income when he returns to Washington. This man was prodded by the system to move to California because the Federal Government closed down the prison where he worked. In order to maintain his income and continue building his pension he moved. Nevertheless he always intended to move back to Washington. Needless to say, he is justifiably angry. Let me read to you an excerpt from his letter to me. I quote:

> The so called source tax appears to be grossly illegal and contrary to the rights guaranteed by our Constitution. That being the case, I am amazed that our Congress does not take immediate action to abolish such totally illegal state levies. I am sure you understand that people employed by the federal government could serve in numerous states throughout their careers before retiring to their home states. It is absolutely ridiculous, insidious and downright illegal for those states to levy an income tax against a nonresident. It is mind-boggling that a federal retiree, or any other retiree living in a state that has no income tax could be paying income tax to as many as 13 states.

He continues his letter,

> Couple this tax with the ridiculously high cost of medical care, hospitalization and other fast rising consumer costs, and it should be quite evident that people will not be able to survive on retirement incomes.

Mr. President, this issue was brought to my attention several years ago by a Nevadan named Bill Hoffman. He told me about the cases I have related to you and many others. Bill informed me that retirees were being harassed by their former States because of this tax, commonly called a source tax. In fact, he had heard so many complaints that eventually he and his wife, Joanne, began organizing the people that were affected. Eventually they formed a group known as Retirees to Eliminate State Income Source Tax [RESIST].

RESIST was founded in July of 1988 in Carson City, NV. In the less than 4 years since its beginning, RESIST membership has grown to tens of thousands of members. It includes members of every State of the Union. It is truly a nonprofit, grass roots organization. It operates entirely on the work of volunteers. No members are salaried.

The credibility of this group has convinced other long-established organizations, such as the National Association of Retired Federal Employees [NARFE], the National Association for Uniformed Services, with 60,000 members, and the Fund for Assuring an Independent Retirement [FAIR] to make a commitment to the prohibition of the source tax on pension income.

In the beginning, this issue affected mostly retired Government employees because of easy access to their records. However, as economic times become tougher, and State budgets are straining for additional revenues, the source tax is becoming an ever more popular revenue source. As an example, I have copies of letters from Ford and Rockwell that were sent to their retired employees telling them that they must report tax liabilities in those states that collect the source tax. Other companies have followed suit. As a result, the American Payroll Association has joined the coalition that wants to prohibit this tax.

We are all aware of the increased mobility that Americans have come to know. Many people today plan to retire in places other than the area they work. The recent growth of Nevada is ample evidence of this. There are many reasons for it. People might want to live in a warmer climate. Or, possibly their families have moved and they want to join them. Whatever the reason, they spend their working years saving enough to be able to move to their chosen area. You can imagine the shock and then dismay when they receive a notification that back taxes, along with penalties and interest are owed to their old State of residence. The shock is from a tax for which they receive no services and no representation. The dismay comes from the often inability to pay a sometimes enormous tax debt when one lives on a fixed income.

To prohibit this unethical practice, I am reintroducing this legislation which prohibits States from taxing pensions or retirement income of nonresidents, taking into consideration the way the State defines a resident.

State budgets are experiencing economic hard times. It won't take long for States to realize that taxing someone from another State is an easy way to increase revenues without paying the political price. In other words, unless this legislation is passed, you can be sure that more and more States will begin to impose this unfair tax for which no one is accountable.

In conclusion, there is no cost to the Federal Government to prohibit the practice of source taxing the pension

income of nonresidents, and I urge my colleagues to cosponsor this bill.

By Mr. FEINGOLD:

S. 45. A bill to amend the Helium Act to require the Secretary of the Interior to sell Federal real and personal property held in connection with activities carried out under the Helium Act, and for other purposes; to the Committee on Energy and Natural Resources.

TERMINATION OF THE FEDERAL HELIUM PROGRAM

• Mr. FEINGOLD. Mr. President, I am pleased to introduce S. 45, the Helium Reform and Deficit Reduction Act of 1995, legislation to phase out the Federal Helium Program. The measure is based on the excellent legislation introduced in the other body during the 103d Congress by Representatives COX and FRANK, and a similar bill introduced by Representatives LEHMAN, VUCANOVICH, and MILLER.

The legislation will produce real savings both in the near term, as operations are phased out, and over the long run, as the stockpile of helium is sold off.

Analysis by the Congressional Budget Office [CBO] of similar legislation last year estimated that, under that bill, income to the Federal Treasury from the helium program would eventually double to $16 million annually over the estimated CBO baseline of $8 million. These savings do not include revenues that will go to the Treasury from the sale of facilities and equipment of the helium program, nor do they include the value to the Treasury of the bulk of the helium stockpile that will remain well after the 5-year budget window—valued at a reported $1.6 billion at today's helium prices.

Mr. President, the Helium Act of 1925 was initiated in large part because of the potential military importance of blimps. It authorized the Bureau of Mines to build and operate a helium extraction and purification plant, which went into operation in Amarillo, TX in 1929.

According to the General Accounting Office, a nominal private helium industry existed in the United States before 1937, but between 1937 and 1960, the Bureau of Mines was the only domestic helium producer, selling most of what it produced to other Federal agencies, but also supplying some to private firms.

With the advent of space exploration and the growth of defense programs, the Federal Government's demand for helium was expected to grow dramatically, and in 1960, Congress amended the Helium Act to provide incentives for stripping natural gas of its helium, for purchase of the separated helium by the Government, and for its long-term storage in the Cliffside Reservoir near Amarillo.

Today, helium is used in large quantities in space, defense, an advanced energy systems. Its major uses include cryogenics in medical and superconductivity applications, cover gas in welding, and for pressurizing and purging fuel tanks and vessels in the space program. It is also used in breathing gas mixtures for deep sea diving, controlled atmospheres for growing crystals for transistors, heat transfer mediums for nuclear power generators, leak detection, chromatography, and as a lifting gas for blimps.

As a result of the 1960 Act, four private natural gas producing companies built five helium extraction facilities and entered into 22-year contracts with the Bureau of Mines.

However, instead of appropriating funds for the helium program, the 1960 act authorized the Secretary of the Interior to borrow from the Treasury up to $47.5 million per year, at compound interest, to purchase helium.

The act stipulated that the Bureau of Mines set prices that would cover all of the program's costs, including debt and interest, and provided a period of 25 years to pay back the debt, subsequently extended to 1995. In addition, Federal agencies and contractors were required to buy helium from the Bureau of Mines.

Mr. President, to a certain extent, the 1960 changes to program have succeeded, in so far as they helped create private helium operations. Prior to the 1960 act, the Federal Government owned the only helium extraction plants in the world. Today, 90 percent of the helium produced in this country comes from private operations.

Unfortunately, the 1960 act also led to a growing Government-run operation. The borrowing done to pay for helium purchases has not been paid back, with the program now having accumulated a debt of approximately $1.4 billion to the treasury, and a stockpile of helium that some have suggested could supply the Government's needs for the next 80 to 100 years.

Mr. President, the measure I have introduced directs the Secretary of the Interior to cease producing, refining, and marketing refined helium 1 year after the effective date. It also directs the Secretary to dispose of all facilities and equipment used for the purpose of producing, refining, and marketing refined helium, consistent with Federal laws governing the disposal of surplus properties.

The measure directs the Secretary to begin selling off the helium reserves owned by the Government. The sale of the helium reserves would be done over time to ensure that taxpayers will receive a fair price for the helium they have financed, and to minimize disruption of the private helium market.

This legislation freezes the current debt owned by the helium program to the treasury, and dedicates the revenues from the sale of the facilities, equipment, and helium reserves to the repayment of that debt.

Finally, the measure that annual financial statements be prepared describing the financial position of the helium operations, including a statement of what the interest payments on the outstanding repayable amounts would have been under the arrangements initiated in the 1960 act.

Mr. President, as I noted earlier, the CBO analyzed similar legislation last year, and estimated that under that measure income to the Federal treasury from the helium program would roughly double as the changes are phased in, with income exceeding expenses by about $16 million annually in fiscal year 1999 under the legislation, compared with $8 million annually estimated for CBO baseline calculations.

Though these are very real savings, there will be additional savings for the treasury as well under this legislation, including additional revenues that would accrue to the treasury from the sale of facilities and equipment, and the value to the treasury of the bulk of the helium stockpile that will remain well after the 5-year budget window.

Though the helium stockpile is valued at $373 million in the Helium Fund Budget, the Congressional Research Service reports that the value of the crude helium in the Government's Cliffside Reservoir could be worth about $1 billion if it were sold at rates ranging from $25 to $35 per thousand cubic feet, and a reported $1.6 billion if it were sold at today's prices.

Mr. President, supporters of the helium program argue that the roughly $1.4 billion in debt it has accumulated should be disregarded. They maintain that since the debt is owed by one agency of the Government to another, it is only a bookkeeping dispute.

That is not an acceptable description of the matter. First, though it is true that, in a sense, the Government owes the money to itself, those who would defend the helium program cannot selectively pick and choose those program costs to be included and those that are not to be included in assessing the program's efficiency. The growing debt was created because of borrowing by the program from the Federal treasury, borrowing that was used to fund the significant assets of the program, including the massive helium stockpile. It is deceptive to suggest that the overall productivity of the program should be measured without taking into account the borrowed capital which produced the giant stockpile of helium on which the program is drawing.

Second, and just as important, the funding provided for this enterprise came at the cost of other governmental activities and an increased Federal deficit. The funds borrowed over the years could have been used for education, health care programs, national defense, small business programs, lower income taxes, or a lower Federal budget deficit. The debt that has been accumulating is a measure of the opportunity cost of that decision, and will be a measure of the opportunity cost to continue the helium operation should this legislation not pass.

Mr. President, supporters of this program also argue that the program is as efficient as private sector helium producers and that the program produces helium at competitive rates. They maintain that their revenues exceed their cost of operation, if one excludes the debt payments they owe the Federal treasury.

But, Mr. President, the facts do not bear this out. In part due to outdated plant and equipment, the Federal Helium Program is much less efficient than private sector helium refineries, producing one-third as much with more than four times the number of employees.

Further, the Helium Advisory Council suggests that the Federal program understates the true costs of its helium production, in part because they do not include the cost of the crude helium purchased with the very funds borrowed from the taxpayers.

The Council also notes that royalty payments to the Bureau of Mines for helium extracted by private companies from Federal land are used to subsidize the costs of the refining operation.

Mr. President, though I dispute the contention that the Federal Helium Program is an efficient and competitive producer of helium, I want to stress that even if the Government was doing a competent job of producing helium, that is not a sufficient argument for the continuation of a program that is no longer needed.

Though at one time there may have been an appropriate role for a Government-run helium program, there is now a sufficiently mature private helium industry to which the Government can turn for its helium needs.

Mr. President, the time has come for the Federal Government to get out of the helium business. The Federal Helium Program is no longer needed, and we should begin to dismantle this operation as soon as possible in the most cost effective manner.

This legislation does precisely that.

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

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

S. 45

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 ''Helium Reform and Deficit Reduction Act of 1995''.

SEC. 2. AMENDMENT OF HELIUM ACT.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Helium Act (50 U.S.C. 167 to 167n).

SEC. 3. AUTHORITY OF SECRETARY.

Sections 3, 4, and 5 are amended to read as follows:

''SEC. 3. AUTHORITY OF SECRETARY.

''(a) EXTRACTION AND DISPOSAL OF HELIUM ON FEDERAL LANDS.—

''(1) IN GENERAL.—The Secretary may enter into agreements with private parties for the recovery and disposal of helium on Federal lands upon such terms and conditions as he deems fair, reasonable and necessary.

''(2) LEASEHOLD RIGHTS.—The Secretary may grant leasehold rights to any such helium.

''(3) LIMITATION.—The Secretary may not enter into any agreement by which the Secretary sells such helium other than to a private party with whom the Secretary has an agreement for recovery and disposal of helium.

''(4) REGULATIONS.—Agreements under paragraph (1) may be subject to such regulations as may be prescribed by the Secretary.

''(5) EXISTING RIGHTS.—An agreement under paragraph (1) shall be subject to any rights of any affected Federal oil and gas lessee that may be in existence prior to the date of the agreement.

''(6) TERMS AND CONDITIONS.—An agreement under paragraph (1) (and any extension or renewal of an agreement) shall contain such terms and conditions as the Secretary may consider appropriate.

''(7) PRIOR AGREEMENTS.—This subsection shall not in any manner affect or diminish the rights and obligations of the Secretary and private parties under agreements to dispose of helium produced from Federal lands in existence on the date of enactment of the Helium Act of 1995 except to the extent that such agreements are renewed or extended after that date.

''(b) STORAGE, TRANSPORTATION AND SALE.—The Secretary may store, transport, and sell helium only in accordance with this Act.

''(c) MONITORING AND REPORTING.—The Secretary may monitor helium production and helium reserves in the United States and periodically prepare reports regarding the amounts of helium produced and the quantity of crude helium in storage in the United States.

''SEC. 4. STORAGE AND TRANSPORTATION OF CRUDE HELIUM.

''(a) STORAGE AND TRANSPORTATION.—The Secretary may store and transport crude helium and maintain and operate crude helium storage facilities, in existence on the date of enactment of the Helium Act of 1995 at the Bureau of Mines Cliffside Field, and related helium transportation and withdrawal facilities.

''(b) CESSATION OF PRODUCTION, REFINING, AND MARKETING.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Helium Act of 1995, the Secretary shall cease producing, refining, and marketing refined helium and shall cease carrying out all other activities relating to helium which the Secretary was authorized to carry out under this Act before the date of enactment of the Helium Act of 1995, except those activities described in subsection (a).

''(2) AMOUNT OWNED BY THE UNITED STATES.—The amount of helium reserves owned by the United States and stored in the Bureau of Mines Cliffside Field at the date of cessation of activities, less 600,000,000 cubic feet, shall be the helium reserves owned by the United States required to be sold pursuant to section 8(b).

''(c) DISPOSAL OF FACILITIES.—

''(1) IN GENERAL.—Subject to paragraph (5), not later than 1 year after the date of enactment of the Helium Act of 1995, the Secretary shall dispose of all facilities, equipment, and other real and personal property, and all interests therein, held by the United States for the purpose of producing, refining and marketing refined helium.

''(2) APPLICABLE LAW.—The disposal of such property shall be in accordance with the provisions of law governing the disposal of excess or surplus properties of the United States.

''(3) PROCEEDS.—All proceeds accruing to the United States by reason of the sale or other disposal of such property shall be treated as moneys received under this chapter for purposes of section 6(f).

''(4) COSTS.—All costs associated with such sale and disposal (including costs associated with termination of personnel) and with the cessation of activities under subsection (b) shall be paid from amounts available in the helium production fund established under section 6(f).

''(5) EXCEPTION.—Paragraph (1) shall not apply to any facilities, equipment, or other real or personal property, or any interest therein, necessary for the storage and transportation of crude helium or any equipment needed to maintain the purity, quality control, and quality assurance of helium in the reserve.

''(d) EXISTING CONTRACTS.—

''(1) IN GENERAL.—All contracts that were entered into by any person with the Secretary for the purchase by the person from the Secretary of refined helium and that are in effect on the date of the enactment of the Helium Act of 1995 shall remain in force and effect until the date on which the facilities described in subsection (c) are disposed of.

''(2) COSTS.—Any costs associated with the termination of contracts described in paragraph (1) shall be paid from the helium production fund established under section 6(f).

''SEC. 5. FEES FOR STORAGE, TRANSPORTATION AND WITHDRAWAL.

''(a) IN GENERAL.—Whenever the Secretary provides helium storage, withdrawal, or transportation services to any person, the Secretary shall impose a fee on the person to reimburse the Secretary for the full costs of providing such storage, transportation, and withdrawal.

''(b) TREATMENT.—All fees received by the Secretary under subsection (a) shall be treated as moneys received under this Act for purposes of section 6(f).''.

SEC. 4. SALE OF CRUDE HELIUM.

Section 6 is amended—

(1) in subsection (a) by striking ''from the Secretary'' and inserting ''from persons who have entered into enforceable contracts to purchase an equivalent amount of crude helium from the Secretary'';

(2) in subsection (b)—

(A) by inserting ''crude'' before ''helium''; and

(B) by adding the following at the end: ''Except as may be required by reason of subsection (a), the Secretary shall not make sales of crude helium under this section in such amounts as will disrupt the market price of crude helium.'';

(3) in subsection (c)—

(A) by inserting ''crude'' after ''Sales of''; and

(B) by striking ''together with interest as provided in this subsection'' and all that follows through the end of such subsection and inserting ''all funds required to be repaid to the United States as of October 1, 1994 under this section (hereinafter referred to as 'repayable amounts'). The price at which crude helium is sold by the Secretary shall not be less than the amount determined by the Secretary as follows:

''(1) Divide the outstanding amount of such repayable amounts by the volume (in mcf) of crude helium owned by the United States and stored in the Bureau of Mines Cliffside Field at the time of the sale concerned.

''(2) Adjust the amount determined under paragraph (1) by the Consumer Price Index for years beginning after December 31, 1994.'';

(4) by striking subsection (d) and inserting the following:

''(d) EXTRACTION OF HELIUM FROM DEPOSITS ON FEDERAL LANDS.—All moneys received by the Secretary from the sale or disposition of helium on Federal lands shall be paid to the Treasury and credited against the amounts required to be repaid to the Treasury under subsection (c).'';

(5) by striking subsection (e); and

(6) in subsection (f)—

(A) by inserting ''(1)'' after ''(f)''; and

(B) by adding the following at the end:

''(2)(A) Within 7 days after the commencement of each fiscal year after the disposal of the facilities referred to in section 4(c), all amounts in such fund in excess of $2,000,000 (or such lesser sum as the Secretary deems necessary to carry out this Act during such fiscal year) shall be paid to the Treasury and credited as provided in paragraph (1).

''(B) Upon repayment of all amounts referred to in subsection (c), the fund established under this section shall be terminated and all moneys received under this Act shall be deposited in the Treasury as General Revenues.''.

SEC. 5. ELIMINATION OF STOCKPILE.

Section 8 is amended to read as follows:

''SEC. 8. ELIMINATION OF STOCKPILE.

''(a) REVIEW OF RESERVES.—The Secretary shall review annually the known helium reserves in the United States and make a determination as to the expected life of the domestic helium reserves (other than federally owned helium stored at the Cliffside Reservoir) at that time.

''(b) STOCKPILE SALES.—

''(1) COMMENCEMENT.—Not later than January 1, 2005, the Secretary shall commence offering for sale crude helium from helium reserves owned by the United States in such minimum annual amounts as would be necessary to dispose of all such helium reserves in excess of 600,000,000 cubic feet on a straight-line basis between that date and January 1, 2015.

''(2) MINIMUM PRICE.—The minimum price for all sales under paragraph (1), as determined by the Secretary in consultation with the helium industry, shall be such price as will ensure repayment of the amounts required to be repaid to the Treasury under section 6(c).

''(3) DEFERMENT.—The minimum annual sales requirement may be deferred only to the extent that the Secretary is unable to arrange sales at the minimum price.

''(4) TIMES OF SALE.—The sales shall be at such times during each year and in such lots as the Secretary determines, in consultation with the helium industry, are necessary to carry out this subsection with minimum market disruption.

''(c) DISCOVERY OF ADDITIONAL RESERVES.—The discovery of additional helium reserves shall not affect the duty of the Secretary to make sales of helium under subsection (b).''.

SEC. 6. REPEAL OF AUTHORITY TO BORROW.

Sections 12 and 15 are repealed.

SEC. 7. REPORTS.

Section 16 is amended—

(1) by inserting ''(a) BY THE SECRETARY.—'' before ''The Secretary''; and

(2) by adding at the end the following:

''(b) BY THE INSPECTOR GENERAL.—

''(1) FINANCIAL STATEMENTS.—The Inspector General of the Department of the Interior shall cause to be prepared, not later than March 31 following each fiscal year commencing with the date of enactment of the Helium Act of 1995, annual financial statements for the helium operations of the Bureau of Mines.

''(2) COOPERATION.—The Director of the Bureau of Mines shall cooperate with the Inspector General in carrying out paragraph (1), and shall provide the Inspector General with such personnel and accounting assistance as may be necessary for that purpose.

''(3) CONTENTS.—

''(A) IN GENERAL.—The financial statements shall be comprised of—

''(i) a balance sheet reflecting the overall financial position of the helium operations, including assets and liabilities thereof;

''(ii) a statement of operations reflecting the fiscal period results of the helium operations;

''(iii) a statement of cash flows or changes in financial position of the helium operations; and

''(iv) a reconciliation of budget reports of the helium operations.

''(B) STATEMENT OF OPERATIONS.—A statement of operations shall include the revenues from, and costs of, sales of crude helium, the storage and transportation of crude helium, the production, refining and marketing of refined helium, and the maintenance and operation of helium storage facilities at the Bureau of Mines Cliffside Field.

''(C) BALANCE SHEET.—

''(i) IN GENERAL.—The balance sheet shall include—

''(I) on the asset side, the present discounted market value of crude helium reserves; and

''(II) on the liability side, the accrued liability for principal and interest on debt to the United States.

''(ii) FOR REPORTING PURPOSES.—For financial reporting purposes but not in connection with the determination of sales prices in section 6(c), the balance sheet shall include accrued but unpaid interest on outstanding repayable amounts (as described in section 6(c)) through the date of the report, calculated at the same rates as such interest was calculated prior to the date of enactment of the Helium Act of 1995.

''(D) DEFINITIONS.—In this paragraph:

''(i) REVENUES.—The term 'revenues' does not include—

''(I) royalties paid to the United States for production of helium or other extraction of resources, except to the extent that the helium operations incur direct costs in connection therewith; or

''(II) proceeds from sales of assets other than inventory.

''(ii) EXPENSES.—The term 'expenses' includes—

''(I) all labor costs of the Bureau of Mines helium operations, and of the Department of the Interior in connection therewith; and

''(II) for financial reporting purposes but not in connection with the determination of sales prices under section 6(c), all current-period interest on outstanding repayable amounts (as described in section 6(c)) calculated at the same rates as such interest was calculated prior to the date of enactment of the Helium Act of 1995.

''(4) AUDITS.—

''(A) IN GENERAL.—The financial statements shall be audited annually by the Comptroller General of the United States, who shall submit a report on such audits to the Secretary of the Interior and Congress not later than June 30 following the end of the fiscal year for which they are prepared.

''(B) STANDARDS.—Each audit under subparagraph (A) shall be prepared in accordance with generally accepted government auditing standards.''.●

By Mr. FEINGOLD:

S. 46. A bill to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate primary and general election campaigns, to limit contributions by multicandidate political committees, and for other purposes; to the Committee on Rules and Administration.

CAMPAIGN FINANCING AND SPENDING REFORM ACT

Mr. FEINGOLD. Mr. President, I rise today on this first day of the 104th Congress to introduce legislation designed to fundamentally change the way we finance elections for the United States Senate. Over the last several years, there have been a host of campaign finance reform bills introduced in the Senate, different in scope, complexity and vision. Although most legislators agree that there is a dire need of campaign finance reform, we have been unable to reach agreement on the avenue that will best produce fair and competitive elections. This is regrettable. I fear that this lack of progress is in part due to the fact that many Members of Congress have lulled themselves into the belief that the public doesn't care about this issue. In fact, it seems possible that efforts to enact comprehensive campaign finance reform will be less of a priority in the 104th Congress, than it was in the 103d Congress.

Many Americans, however, are appalled and outraged at the big money or bought and sold images of our campaign financing system, whether it be a $44 million U.S. Senate campaign in California or the ugly spectacle of excessive contributions timed to coincide with key votes on major issues.

Given the new political landscape in the U.S. Congress and the continuing failure to reform the system, this bill is a new attempt to forge a bipartisan consensus on the issue, in the hopes that real reform will be one of the great achievements of the 104th Congress. Failure to act in a bipartisan manner on this issue will surely deepen the disillusionment of the American people at the flaws in our current system, where big money plays such a dominate role in too many elections.

Mr. President, perhaps the finest feature of our political system is that our form of government allows individuals from all walks of life to run for public office and represent their communities. Admittedly, it took our Nation some time to recognize the importance of expanding the ability of all individuals to participate fully in our democratic form of government. But over the years, a multitude of barriers including race and gender have been lifted and the result has been a system that can be fairly characterized as a representative democracy. I suspect few, if any, would argue that encouraging participation has been anything but tremendously beneficial to our political system.

Unfortunately, at least one very ominous barrier remains, a barrier that has prevented too many qualified and competent individuals from seeking elected office and that barrier is the power of money. This is often true when a political challenger is discouraged by the financial advantage of an incumbent. Holding elected office has

become an inherent financial advantage to incumbents for several reasons. It facilitates the ability to raise large amounts of money, be it from large contributors or political action committees, or from other such sources. Members of Congress also have other advantages, such as the ability to use the franking privilege to send free mass mailings to their constituents in the midst of a reelection campaign.

Yet, this same type of advantage arises when an individual with large personal wealth enters a race for an open seat or a primary election. It is the ability to pour large sums of money into an election, whether it is the power of big money derived from the benefits of incumbency or the financial advantages of a wealthy candidate running for an open seat, that distorts our current electoral process. The unfortunate result is that we have a system that discourages individuals without access to large sums of money from running for elected office. I know this all too well because as I prepared to run for the United States Senate, I was constantly told that I was well qualified to be a candidate, but that I shouldn't run because I didn't have the financial resources to win such a race. Too few people have the ability to do what the current system requires of them to run an effective, competitive campaign—raise and spend millions of dollars. If you are a powerful member of the Senate Appropriations Committee as was my opponent in my 1992 election, and you have the ability to raise the nearly $6 million that he accumulated for that campaign, then the current system accommodates you. If you are independently wealthy and decide you would like to use your wealth to run for elected office, as the current trend seems to be, then the current system accommodates you. But if you are a schoolteacher, and serve part-time on your city council, or a State legislator and a bricklayer by trade, and decide that you would like to run for the United States Senate, then the current system tells you that based on your income level, employment status and other such factors, you are automatically a longshot to beat the incumbent Senator. Your positions on the issues? Not a factor. Your experience as a teacher or a bricklayer and your record on the city council or the State legislature? Irrelevant. Why? Because your inability to raise large amounts of money will in all likelihood inhibit you from getting your message to a state-wide electorate. This, Mr. President, must change.

But there is more to this problem than simply the need to stop discouraging worthy candidates from running for Federal office. At times, I have believed that assisting challengers was the most compelling reason for reforming the campaign finance system. I assumed that incumbents were fairly content with the current system as it enabled incumbents to raise large amounts of money. But I have come to learn that there is another trait of our current campaign finance system that is antithetical to our political system, and that is the amount of time Members of Congress, that is, incumbents themselves, must spend raising funds for their reelection campaigns. If I have been struck by any single factor since become a Member of the Senate, it is the time and study that must go into work here, whether it is meeting with constituents, questioning witnesses or hearing testimony in our committees, or simply reviewing and examining the many proposals and bills that are considered in this chamber. And yet on top of all this work, Members of Congress are told by their advisers that they must raise money at a feverish pace for their reelection efforts, beginning the day after they are elected to a new 6-year term.

It has been estimated that the average cost to run for reelection to the United States Senate is some 4 million dollars. That means that during a 6 year Senate term, one would have to raise, on average, over 13,000 dollars a week or nearly 1,800 dollars a day to finance a reelection effort. The problem with this is, how can Members of Congress be expected to fulfill their legislative duties when so much time is required to raise this kind of money? We should be Senators first, and we should not have a system that forces a Member of Congress to forego certain legislative duties in favor of political fundraising. I have heard stories of Members missing late Friday night votes because of prior commitments to attend fundraisers. I do not believe that these votes would have been missed had our current system not placed such a heavy emphasis on the importance of raising money for reelection campaigns.

There is another issue here that we should address. Many incumbent Members of Congress focus their fundraising efforts on large individual contributors or Political Action Committees, or PAC's, often from outside of their home states. This is, after all, where the big money is, and these sources are eager to contribute to Members who may protect or advance their interests. But we should ask ourselves if it is good for our political system to have legislators devoting so much of their time raising funds from large contributors and special interest groups from other States, rather than maintaining contact with their own constituents? Most of our constituents cannot afford to give $500 or $1,000 to a candidate, and few have the clout and influence possessed by those that control a PAC. By primarily focusing fundraising efforts on large contributors and special interests, Members of Congress are sending a message—hopefully a false message—to the American people that these groups have special access to and influence with an elected representative. Such perceptions are the offspring of this dependence on special interest money and have fueled the public's growing disenchantment with our political system. It is little wonder under our current campaign financing system that the American people increasingly view Congress as an institution that is dominated and controlled by special interests.

Another aspect that permeates the current system is the presumption that a campaign contribution entitles the giver to some form of repayment by the recipient. I remember one individual who gave a contribution, then hinted if I won the election and hired his nephew, there might be more contributions. Since my election, some individuals have called my office and indicated they could no longer support me financially if I could not get them tickets for a tour of the White House. One restaurant-owner questioned contributing to my campaign again because he claimed I did not patronize his restaurant enough, saying that ''I don't make a profit on you.'' We must recognize that it is our current campaign finance system that has fostered this you scratch my back mentality.

The most comprehensive reform of our campaign system that will solve these problems is full public financing of campaigns, giving challengers a legitimate opportunity to run a competitive campaign and allowing incumbents to focus on their legislative obligations rather than criss-crossing the country to raise money. This kind of reform would help extinguish public perceptions that the legislative branch of Government is run by special interests.

Mr. President, I recognize there has been much criticism directed at public financing in the past. Critics contend that it is an incumbent-protection program and that the taxpayers would never stand for such a system. Yet, the only current public financing system we have for federal elections, the presidential system, has been a good model for reform. In the nearly 20 years of this system's existence, I have not heard it criticized for being unfair to challengers, unfair to either party, or dominated by special interests. In fact, there are Members of Congress, some who have heavily criticized the concept of public financing for congressional elections, who have accepted public funds in their campaigns for the presidency. Had it not been for the availability of those funds, I suspect many of these members would not have been able to attempt such an election bid. And that is exactly the dilemma faced by many qualified individuals who are interested in elected office. Public financing has been a success for presidential elections and there is no reason why it would not be equally successful for congressional elections.

The task of mending our current campaign finance system is immense, but the bill I am introducing today will make significant progress towards addressing the flaws of our current system that I have just discussed. This bill will establish voluntary spending

limits based on each state's individual voting age population. With the cooperation of the candidates, this will finally curtail the skyrocketing spending that has plagued political campaigns in recent years. Just as important, these spending limits will allow members of Congress to focus on their duties and responsibilities as elected officials rather than spending substantial amounts of time raising money. For those candidates that do abide by the spending limits, there will be matching funds in the primary election for contributions under $250, once a candidate has raised 10 percent of that State's spending limit in contributions of $250 or less, half of which must come from within the candidate's State. There will be a 100 percent match for contributions under $100, and a 50 percent match for contributions between $101 and $250. These provisions, along with only providing matching funds for in-state contributions, will encourage candidates to focus on smaller contributions from their home states. I believe this focus upon raising money within our home States is critical—so critical that I have already pledged to do so for my own fundraising. The bill will also provide 90% public funding for general elections, again, once a threshold has been met. This funding will be in the form of direct payments, as well as discounted postage and discounted broadcast media rates.

This bill will also ban contributions from political action committees, with a backup provision that will severely limit their influence if the Supreme Court rules such a ban unconstitutional. The bill will require greater disclosure of so-called ''soft money'', that is, the unregulated money that finds its way into campaigns which affect Federal elections. The bill will include several other provisions as well. It will prohibit an incumbent from sending out a franked mass mailing during the year of that Senator's election. It addresses lobbyists by prohibiting them from contributing to Senators that they lobby and from lobbying those they contribute to in the 12 months before an election. The bill will codify a recent ruling by the Federal Election Commission that bars candidates from using campaign funds for personal purposes, such as mortgage payments, country club memberships and vacations.

Mr. President, there are certainly other reforms that have been proposed by various individuals in recent years and I welcome additional suggestions and ideas. The elements addressed in this measure, however, are designed to focus upon the major problems that should be addressed in Senate campaigns. The bill does not include provisions relating primarily to House elections or changes in the presidential campaign system but certainly additional proposals in these areas would not be inconsistent with the measures emphasized in this legislation.

Mr. President, obviously there are various ways to approach campaign finance reform, but I want to highlight the fact that my bill has a special focus on two essential elements of campaign finance reform—voluntary spending limits and an emphasis upon raising a majority of funds within your home State rather than from special interests in Washington, D.C. I believe that these two reforms can provide the central core of a meaningful campaign finance reform bill that can be enacted in this Congress. In the past, many Democrats have pushed hard for spending limits while many Republicans have been at the forefront of efforts to restrict out-of-state contributions. I hope that a bipartisan consensus can emerge for legislation that contains these two core elements of reform because they focus on what are central problems that need to be addressed—the obscene amount of money being spent on political campaigns and the fact that so much of the money being raised to run these expensive campaigns comes not from the people who will be represented by the winner of the contest, but from wealthy individuals and special interests outside the State where the election is being conducted. During my 1992 campaign for the United States Senate, I pledged to raise a majority of my campaign funds from within the State of Wisconsin because I found it to be fundamentally wrong for candidates for public office to be focusing most of their campaign efforts on contributors from outside the districts they were seeking to represent. Some will argue that candidates should be allowed to raise funds from family, friends and supporters outside of their home States. My bill does not prevent this—it merely restricts access to public assistance only to those candidates who agree to raise the majority of funds from within their home State.

As I have indicated, limiting out-of-state contributions is a broadly supported concept that has transcended party lines in the past. Such limits were not only included in campaign finance bills introduced in the last Congress by Democrats, but also in reform bills offered by Republicans. Senators DOMENICI and PACKWOOD included out-of-state contribution limits in their respective bills, as did Senators DOLE and MCCONNELL in their bill which was cosponsored by 24 Republican Senators. Similar restrictions have been included in reforms proposed by the Republican leader in the House of Representatives in the 103d Congress, Bob Michel. The out-of-state fundraising limits included in this bill would be an important step towards making candidates for elected office more accountable to the voters in their home States.

To fund the public benefits included in this bill, the legislation would create a new checkoff box on all income tax forms that will allow individuals to contribute an additional $5 on their tax bill, which will go to a Senate Election Campaign Fund that will be the source of public benefits. It may be argued that this funding mechanism is inadequate, that the American people will never voluntarily pay an additional $5 in taxes for a welfare program for Senators. But I disagree. I firmly believe that if we provide true leadership on this issue and inform the public of what that checkoff box would really mean, that we will have more than adequate funds to publicly finance Senate elections. That box would represent a contract with the American people. We are saying that if you want a campaign system that is fair to both parties, would allow elected officials to focus on their legislative responsibilities, and would free our political system from the grip that special interests have had for so many years, then it is worth it to you to give 5 dollars a year to this system. If such a system does not appeal to you, simply do not check the box. But I have faith in the American people, Mr. President, and I am convinced that if we offer them the true reforms that they have been demanding for so many years, they will support a system that merits such a modest donation.

Mr. President, we have a system that is virtually out of control. During the 1994 elections, congressional candidates spent close to $600 million—an 18 percent increase from the 1992 spending level and a 50 percent increase from the 1990 level. Every campaign season, millions and millions of dollars are spent on political campaigns and the result has been an election system that is tailored almost exclusively for candidates that are well-financed or well-connected. The public benefits included in my bill will provide candidates who agree to limit their expenditures more than enough financing to adequately get their message out to the electorate. They will be able to purchase television, radio and print advertising. They will be able to send out mass mailings. We do not dictate to these candidates what they can say or how they say it—we only provide them with the means to inform voters of their ideas, their positions and their vision.

But most importantly, this bill will return our campaign system to the people we represent. If individuals want to participate financially, they do not have to write a check for $100, $500 or $1,000. They can give 5 dollars when they pay their taxes and know that they are supporting a fair and equitable election process. If they want to run for office, they will have the financial opportunity if they can meet a threshold, thus proving that their ideas and viewpoints represent a broad base of support and deserve recognition. And if we reverse the perceptions of a Congress dominated by special interests and convince the American people that their voice means something, perhaps we can change the very troubling voter turnout figures that we have seen in recent elections.

We should not have a campaign finance system that favors either challengers or incumbents, wealthy individuals or those from limited means, candidates who are rank and file workers or those from the side of management. We should have a system that provides all qualified candidates an equal and fair opportunity to run for public office. The bill I have introduced today represents the comprehensive reform that the American people have asked for. I am hopeful that the Members of this body understand how important this problem is to our constituents, and how fundamental it is to our political system. We need to enact campaign finance reform legislation this year, and I look forward to working with my colleagues in passing a bill that truly addresses the flaws and inadequacies of the current system. 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. 46

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

SECTION 1. SHORT TITLE; AMENDMENT OF CAMPAIGN ACT; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Senate Campaign Financing and Spending Reform Act''.

(b) AMENDMENT OF FECA.—When used in this Act, the term ''FECA'' means the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.).

(c) TABLE OF CONTENTS.—

SEC. 2. FINDINGS AND DECLARATIONS OF THE SENATE.

(a) NECESSITY FOR SPENDING LIMITS.—The Senate finds and declares that—

(1) the current system of campaign finance has led to public perceptions that political contributions and their solicitation have unduly influenced the official conduct of elected officials;

(2) permitting candidates for Federal office to raise and spend unlimited amounts of money constitutes a fundamental flaw in the current system of campaign finance, and has undermined public respect for the Senate as an institution;

(3) the failure to limit campaign expenditures has caused individuals elected to the Senate to spend an increasing proportion of their time in office as elected officials raising funds, interfering with the ability of the Senate to carry out its constitutional responsibilities;

(4) the failure to limit campaign expenditures has damaged the Senate as an institution, due to the time lost to raising funds for campaigns; and

(5) to prevent the appearance of undue influence and to restore public trust in the Senate as an institution, it is necessary to limit campaign expenditures, through a system which provides public benefits to candidates who agree to limit campaign expenditures.

(b) NECESSITY FOR BAN ON POLITICAL ACTION COMMITTEES.—The Senate finds and declares that—

(1) contributions by political action committees to individual candidates have created the perception that candidates are beholden to special interests, and leave candidates open to charges of undue influence;

(2) contributions by political action committees to individual candidates have undermined public confidence in the Senate as an institution; and

(3) to restore public trust in the Senate as an institution, responsive to individuals residing within the respective States, it is necessary to encourage candidates to raise most of their campaign funds from individuals residing within those States.

(c) NECESSITY FOR ATTRIBUTING COOPERATIVE EXPENDITURES TO CANDIDATES.—The Senate finds and declares that—

(1) public confidence and trust in the system of campaign finance would be undermined should any candidate be able to circumvent a system of caps on expenditures through cooperative expenditures with outside individuals, groups, or organizations;

(2) cooperative expenditures by candidates with outside individuals, groups, or organizations would severely undermine the effectiveness of caps on campaign expenditures, unless they are included within such caps; and

(3) to maintain the integrity of the system of campaign finance, expenditures by any individual, group, or organization that have been made in cooperation with any candidate, authorized committee, or agent of any candidate must be attributed to that candidate's cap on campaign expenditures.

TITLE I—CONTROL OF CONGRESSIONAL CAMPAIGN SPENDING

Subtitle A—Senate Election Campaign Spending Limits and Benefits

SEC. 101. SENATE SPENDING LIMITS AND BENEFITS.

(a) AMENDMENT OF FECA.—

(1) IN GENERAL.—FECA is amended by adding at the end the following new title:

''TITLE V—SPENDING LIMITS AND BENEFITS FOR SENATE ELECTION CAMPAIGNS

''SEC. 501. CANDIDATES ELIGIBLE TO RECEIVE BENEFITS.

''(a) IN GENERAL.—For purposes of this title, a candidate is an eligible Senate candidate if the candidate—

''(1) meets the primary and general election filing requirements of subsections (b) and (c);

''(2) meets the primary and runoff election expenditure limits of subsection (d); and

''(3) meets the threshold contribution requirements of subsection (e).

''(b) PRIMARY FILING REQUIREMENTS.—(1) The requirements of this subsection are met if the candidate files with the Secretary of the Senate a declaration that—

''(A) the candidate and the candidate's authorized committees—

''(i)(I) will meet the primary and runoff election expenditure limits of subsection (d); and

''(II) will only accept contributions for the primary and runoff elections which do not exceed such limits;

''(ii)(I) will meet the primary and runoff election multicandidate political committee contribution limits of subsection (f); and

''(II) will only accept contributions for the primary and runoff elections from multicandidate political committees which do not exceed such limits; and

''(iii) will limit acceptance of contributions during an election cycle from individuals residing outside the candidate's State and multicandidate political committees, combined, to less than 50 percent of the aggregate amount of contributions accepted from all contributors;

''(B) the candidate and the candidate's authorized committees will meet the general election expenditure limit under section 502(b); and

''(C) the candidate and the candidate's authorized committees will meet the limitation on expenditures from personal funds under section 502(a).

''(2) The declaration under paragraph (1) shall be filed not later than the date the candidate files as a candidate for the primary election.

''(c) GENERAL ELECTION FILING REQUIREMENTS.—(1) The requirements of this subsection are met if the candidate files a certification with the Secretary of the Senate under penalty of perjury that—

''(A) the candidate and the candidate's authorized committees—

''(i)(I) met the primary and runoff election expenditure limits under subsection (d); and

''(II) did not accept contributions for the primary or runoff election in excess of the primary or runoff expenditure limit under subsection (d), whichever is applicable, reduced by any amounts transferred to this election cycle from a preceding election cycle; and

''(ii)(I) met the multicandidate political committee contribution limits under subsection (f);

''(II) did not accept contributions for the primary or runoff election in excess of the multicandidate political committee contribution limits under subsection (f); and

(iii) will limit acceptance of contributions during an election cycle from individuals residing outside the candidate's state and multicandidate political committees, combined, to less than 50 percent of the aggregate amount of contributions accepted from all contributors;

''(B) the candidate met the threshold contribution requirement under subsection (e), and that only allowable contributions were taken into account in meeting such requirement;

''(C) at least one other candidate has qualified for the same general election ballot under the law of the State involved;

''(D) such candidate and the authorized committees of such candidate—

''(i) except as otherwise provided by this title, will not make expenditures which exceed the general election expenditure limit under section 502(b);

''(ii) will not accept any contributions in violation of section 315;

''(iii) except as otherwise provided by this title, will not accept any contribution for the general election involved to the extent that such contribution would cause the aggregate amount of such contributions to exceed the sum of the amount of the general election expenditure limit under section 502(b) and the amount described in section 502(c), reduced by any amounts transferred to the current election cycle from a previous election cycle and not taken into account under subparagraph (A)(ii);

''(iv) will deposit all payments received under this title in an account insured by the Federal Deposit Insurance Corporation from which funds may be withdrawn by check or similar means of payment to third parties;

''(v) will furnish campaign records, evidence of contributions, and other appropriate information to the Commission; and

''(vi) will cooperate in the case of any audit and examination by the Commission under section 506; and

''(E) the candidate intends to make use of the benefits provided under section 503.

''(2) The declaration under paragraph (1) shall be filed not later than 7 days after the earlier of—

''(A) the date the candidate qualifies for the general election ballot under State law; or

''(B) if, under State law, a primary or runoff election to qualify for the general election ballot occurs after September 1, the date the candidate wins the primary or runoff election.

''(d) PRIMARY AND RUNOFF EXPENDITURE LIMITS.—(1) The requirements of this subsection are met if:

''(A) The candidate or the candidate's authorized committees did not make expenditures for the primary election in excess of the lesser of—

''(i) 67 percent of the general election expenditure limit under section 502(b); or

''(ii) $2,750,000.

''(B) The candidate and the candidate's authorized committees did not make expenditures for any runoff election in excess of 20 percent of the general election expenditure limit under section 502(b).

''(2) The limitations under subparagraphs (A) and (B) of paragraph (1) with respect to any candidate shall be increased by the aggregate amount of independent expenditures in opposition to, or on behalf of any opponent of, such candidate during the primary or runoff election period, whichever is applicable, which are required to be reported to the Secretary of the Senate with respect to such period under section 304(c).

''(3)(A) If the contributions received by the candidate or the candidate's authorized committees for the primary election or runoff election exceed the expenditures for either such election, such excess contributions shall be treated as contributions for the general election and expenditures for the general election may be made from such excess contributions.

''(B) Subparagraph (A) shall not apply to the extent that such treatment of excess contributions—

''(i) would result in the violation of any limitation under section 315; or

''(ii) would cause the aggregate contributions received for the general election to exceed the limits under subsection (c)(1)(D)(iii).

''(e) THRESHOLD CONTRIBUTION REQUIREMENTS.—(1) The requirements of this subsection are met if the candidate and the candidate's authorized committees have received allowable contributions during the applicable period in an amount at least equal to the lesser of—

''(A) 10 percent of the general election expenditure limit under section 502(b); or

''(B) $250,000.

''(2) For purposes of this section and section 503(b)—

''(A) The term 'allowable contributions' means contributions which are made as gifts of money by an individual pursuant to a written instrument identifying such individual as the contributor.

''(B) The term 'allowable contributions' shall not include—

''(i) contributions made directly or indirectly through an intermediary or conduit which are treated as made by such intermediary or conduit under section 315(a)(8)(B);

''(ii) contributions from any individual during the applicable period to the extent such contributions exceed $250; or

''(iii) contributions from individuals residing outside the candidate's State to the extent such contributions exceed 50 percent of the aggregate allowable contributions (without regard to this clause) received by the candidate during the applicable period.

Clauses (ii) and (iii) shall not apply for purposes of section 503(b).

''(3) For purposes of this subsection and section 503(b), the term 'applicable period' means—

''(A) the period beginning on January 1 of the calendar year preceding the calendar year of the general election involved and ending on—

''(i) the date on which the certification under subsection (c) is filed by the candidate; or

''(ii) for purposes of section 503(b), the date of such general election; or

''(B) in the case of a special election for the office of United States Senator, the period beginning on the date the vacancy in such office occurs and ending on the date of the general election involved.

''(f) MULTICANDIDATE POLITICAL COMMITTEE CONTRIBUTION LIMITS.—The requirements of this subsection are met if the candidate and the candidate's authorized committees have accepted from multicandidate political committees contributions that do not exceed—

''(1) during any period in which the limitation under section 323 is in effect, zero dollars; and

''(2) during any other period—

''(A) during the primary election period, an amount equal to 20 percent of the primary election spending limit under subsection (d)(1)(A); and

''(B) during the runoff election period, an amount equal to 20 percent of the runoff election spending limit under subsection (d)(1)(B).

''(g) INDEXING.—The $2,750,000 amount under subsection (d)(1) shall be increased as of the beginning of each calendar year beginning with calendar year 1998, based on the increase in the price index determined under section 315(c), except that, for purposes of subsection (d)(1), the base period shall be calendar year 1992.

''SEC. 502. LIMITATIONS ON EXPENDITURES.

''(a) LIMITATION ON USE OF PERSONAL FUNDS.—(1) The aggregate amount of expenditures which may be made during an election cycle by an eligible Senate candidate or such candidate's authorized committees from the sources described in paragraph (2) shall not exceed $25,000.

''(2) A source is described in this paragraph if it is—

''(A) personal funds of the candidate and members of the candidate's immediate family; or

''(B) personal debt incurred by the candidate and members of the candidate's immediate family.

''(b) GENERAL ELECTION EXPENDITURE LIMIT.—(1) Except as otherwise provided in this title, the aggregate amount of expenditures for a general election by an eligible Senate candidate and the candidate's authorized committees shall not exceed the lesser of—

''(A) $5,500,000; or

''(B) the greater of—

''(i) $950,000; or

''(ii) $400,000; plus

''(I) 30 cents multiplied by the voting age population not in excess of 4,000,000; and

''(II) 25 cents multiplied by the voting age population in excess of 4,000,000.

''(2) In the case of an eligible Senate candidate in a State which has no more than 1

transmitter for a commercial Very High Frequency (VHF) television station licensed to operate in that State, paragraph (1)(B)(ii) shall be applied by substituting—

''(A) '80 cents' for '30 cents' in subclause (I); and

''(B) '70 cents' for '25 cents' in subclause (II).

''(3) The amount otherwise determined under paragraph (1) for any calendar year shall be increased by the same percentage as the percentage increase for such calendar year under section 501(f) (relating to indexing).

''(c) PAYMENT OF TAXES.—The limitation under subsection (b) shall not apply to any expenditure for Federal, State, or local taxes with respect to a candidate's authorized committees.

''(d) EXPENDITURES.—For purposes of this title, the term 'expenditure' has the meaning given such term by section 301(9), except that in determining any expenditures made by, or on behalf of, a candidate or a candidate's authorized committees, section 301(9)(B) shall be applied without regard to clause (ii) or (vi) thereof.

''SEC. 503. BENEFITS ELIGIBLE CANDIDATE ENTITLED TO RECEIVE.

''(a) IN GENERAL.—An eligible Senate candidate shall be entitled to—

''(1) the broadcast media rates provided under section 315(b) of the Communications Act of 1934;

''(2) the mailing rates provided in section 3626(e) of title 39, United States Code; and

''(3) payments in the amounts determined under subsection (b).

''(b) AMOUNT OF PAYMENTS.—(1) For purposes of subsection (a)(3), the amounts determined under this subsection are—

''(A) the public financing amount;

''(B) the independent expenditure amount; and

''(C) in the case of an eligible Senate candidate who has an opponent in the general election who receives contributions, or makes (or obligates to make) expenditures, for such election in excess of the general election expenditure limit under section 502(b), the excess expenditure amount.

''(2) For purposes of paragraph (1), the public financing amount is—

''(A) in the case of an eligible candidate who is a major party candidate and who has met the threshold requirement of section 501(e)—

''(i) during the primary election period, an amount equal to 100 percent of the amount of contributions received during that period from individuals residing in the candidate's State in the aggregate amount of $100 or less plus an amount equal to 50 percent of the amount of contributions received during that period from individuals residing in the candidate's State in the aggregate amount of more than $100 but less than $251, up to 50 percent of the primary election spending limit under section 501(d)(1)(A), reduced by the threshold requirement under section 501(e);

''(ii) during the runoff election period, an amount equal to 100 percent of the amount of contributions received during that period from individuals residing in the candidate's State in the aggregate amount of $100 or less plus an amount equal to 50 percent of the amount of contributions received during that period from individuals residing in the candidate's State in the aggregate amount of more than $100 but less than $251, up to 10 percent of the general election spending limit under section 501(d)(1)(B); and

''(iii) during the general election period, an amount equal to the general election expenditure limit applicable to the candidate under section 502(b) (without regard to paragraph (4) thereof); and

''(B) in the case of an eligible candidate who is not a major party candidate and who has met the threshold requirement of section 501(e)—

''(i) during the primary election period, an amount equal to 100 percent of the amount of contributions received during that period from individuals residing in the candidate's State in the aggregate amount of $100 or less plus an amount equal to 50 percent of the amount of contributions received during that period from individuals residing in the candidate's State in the aggregate amount of more than $100 but less than $251, up to 50 percent of the primary election spending limit under section 501(d)(1)(A), reduced by the threshold requirement under section 501(e);

''(ii) during the runoff election period, an amount equal to 100 percent of the amount of contributions received during that period from individuals residing in the candidate's State in the aggregate amount of $100 or less plus an amount equal to 50 percent of the amount of contributions received during that period from individuals residing in the candidate's State in the aggregate amount of more than $100 but less than $251, up to 10 percent of the general election spending limit under section 501(d)(1)(B); and

''(iii) during the general election period, an amount equal to 100 percent of the amount of contributions received during that period from individuals residing in the candidate's State in the aggregate amount of $100 or less plus an amount equal to 50 percent of the amount of contributions received during that period from individuals residing in the candidate's State in the aggregate amount of more than $100 but less than $251, up to 50 percent of the general election spending limit under section 502(b)

''(3) For purposes of paragraph (1), the independent expenditure amount is the total amount of independent expenditures made, or obligated to be made, during the general election period by 1 or more persons in opposition to, or on behalf of an opponent of, an eligible Senate candidate which are required to be reported by such persons under section 304(c) with respect to the general election period and are certified by the Commission under section 304(c).

''(4) For purposes of paragraph (1), the excess expenditure amount is the amount determined as follows:

''(A) In the case of a major party candidate, an amount equal to the sum of—

''(i) if the excess described in paragraph (1)(C) is not greater than 133⅓ percent of the general election expenditure limit under section 502(b), an amount equal to one-third of such limit applicable to the eligible Senate candidate for the election; plus

''(ii) if such excess equals or exceeds 133⅓ percent but is less than 166⅔ percent of such limit, an amount equal to one-third of such limit; plus

''(iii) if such excess equals or exceeds 166⅔ percent of such limit, an amount equal to one-third of such limit.

''(B) In the case of an eligible Senate candidate who is not a major party candidate, an amount equal to the least of the following:

''(i) The allowable contributions of the eligible Senate candidate during the applicable period in excess of the threshold contribution requirement under section 501(e).

''(ii) 50 percent of the general election expenditure limit applicable to the eligible Senate candidate under section 502(b).

''(iii) The excess described in paragraph (1).

''(c) WAIVER OF EXPENDITURE AND CONTRIBUTION LIMITS.—(1) An eligible Senate candidate who receives payments under subsection (a)(3) which are allocable to the independent expenditure or excess expenditure amounts described in paragraphs (3) and (4) of subsection (b) may make expenditures from such payments to defray expenditures for the general election without regard to the general election expenditure limit under section 502(b).

''(2)(A) An eligible Senate candidate who receives benefits under this section may make expenditures for the general election without regard to clause (i) of section 501(c)(1)(D) or subsection (a) or (b) of section 502 if any one of the eligible Senate candidate's opponents who is not an eligible Senate candidate either raises aggregate contributions, or makes or becomes obligated to make aggregate expenditures, for the general election that exceed 200 percent of the general election expenditure limit applicable to the eligible Senate candidate under section 502(b).

''(B) The amount of the expenditures which may be made by reason of subparagraph (A) shall not exceed 100 percent of the general election expenditure limit under section 502(b).

''(3)(A) A candidate who receives benefits under this section may receive contributions for the general election without regard to clause (iii) of section 501(c)(1)(D) if—

''(i) a major party candidate in the same general election is not an eligible Senate candidate; or

''(ii) any other candidate in the same general election who is not an eligible Senate candidate raises aggregate contributions, or makes or becomes obligated to make aggregate expenditures, for the general election that exceed 75 percent of the general election expenditure limit applicable to such other candidate under section 502(b).

''(B) The amount of contributions which may be received by reason of subparagraph (A) shall not exceed 100 percent of the general election expenditure limit under section 502(b).

''(d) USE OF PAYMENTS.—Payments received by a candidate under subsection (a)(3) shall be used to defray expenditures incurred with respect to the general election period for the candidate. Such payments shall not be used—

''(1) except as provided in paragraph (4), to make any payments, directly or indirectly, to such candidate or to any member of the immediate family of such candidate;

''(2) to make any expenditure other than expenditures to further the general election of such candidate;

''(3) to make any expenditures which constitute a violation of any law of the United States or of the State in which the expenditure is made; or

''(4) subject to the provisions of section 315(k), to repay any loan to any person except to the extent the proceeds of such loan were used to further the general election of such candidate.

''SEC. 504. CERTIFICATION BY COMMISSION.

''(a) IN GENERAL.—(1) The Commission shall certify to any candidate meeting the requirements of section 501 that such candidate is an eligible Senate candidate entitled to benefits under this title. The Commission shall revoke such certification if it determines a candidate fails to continue to meet such requirements.

''(2) No later than 48 hours after an eligible Senate candidate files a request with the Secretary of the Senate to receive benefits under section 501, the Commission shall issue a certification stating whether such candidate is eligible for payments under this title and the amount of such payments to which such candidate is entitled. The request referred to in the preceding sentence shall contain—

''(A) such information and be made in accordance with such procedures as the Commission may provide by regulation; and

''(B) a verification signed by the candidate and the treasurer of the principal campaign committee of such candidate stating that the information furnished in support of the request, to the best of their knowledge, is correct and fully satisfies the requirements of this title.

''(b) DETERMINATIONS BY COMMISSION.—All determinations (including certifications under subsection (a)) made by the Commission under this title shall be final and conclusive, except to the extent that they are subject to examination and audit by the Commission under section 505 and judicial review under section 506.

''SEC. 505. EXAMINATION AND AUDITS; REPAYMENTS; CIVIL PENALTIES.

''(a) EXAMINATION AND AUDITS.—(1) After each general election, the Commission shall conduct an examination and audit of the campaign accounts of 10 percent of all candidates for the office of United States Senator to determine, among other things, whether such candidates have complied with the expenditure limits and conditions of eligibility of this title, and other requirements of this Act. Such candidates shall be designated by the Commission through the use of an appropriate statistical method of random selection. If the Commission selects a candidate, the Commission shall examine and audit the campaign accounts of all other candidates in the general election for the office the selected candidate is seeking.

''(2) The Commission may conduct an examination and audit of the campaign accounts of any candidate in a general election for the office of United States Senator if the Commission determines that there exists reason to believe that such candidate may have violated any provision of this title.

''(b) EXCESS PAYMENTS; REVOCATION OF STATUS.—(1) If the Commission determines that payments were made to an eligible Senate candidate under this title in excess of the aggregate amounts to which such candidate was entitled, the Commission shall so notify such candidate, and such candidate shall pay an amount equal to the excess.

''(2) If the Commission revokes the certification of a candidate as an eligible Senate candidate under section 504(a)(1), the Commission shall notify the candidate, and the candidate shall pay an amount equal to the payments received under this title.

''(c) MISUSE OF BENEFITS.—If the Commission determines that any amount of any benefit made available to an eligible Senate candidate under this title was not used as provided for in this title, the Commission shall so notify such candidate and such candidate shall pay the amount of such benefit.

''(d) EXCESS EXPENDITURES.—If the Commission determines that any eligible Senate candidate who has received benefits under this title has made expenditures which in the aggregate exceed—

''(1) the primary or runoff expenditure limit under section 501(d); or

''(2) the general election expenditure limit under section 502(b),

the Commission shall so notify such candidate and such candidate shall pay an amount equal to the amount of the excess expenditures.

''(e) CIVIL PENALTIES FOR EXCESS EXPENDITURES AND CONTRIBUTIONS.—(1) If the Commission determines that a candidate has committed a violation described in subsection (c), the Commission may assess a civil penalty against such candidate in an amount not greater than 200 percent of the amount involved.

''(2)(A) LOW AMOUNT OF EXCESS EXPENDITURES.—Any eligible Senate candidate who makes expenditures that exceed any limitation described in paragraph (1) or (2) of subsection (d) by 2.5 percent or less shall pay an amount equal to the amount of the excess expenditures.

''(B) MEDIUM AMOUNT OF EXCESS EXPENDITURES.—Any eligible Senate candidate who makes expenditures that exceed any limitation described in paragraph (1) or (2) of subsection (d) by more than 2.5 percent and less than 5 percent shall pay an amount equal to three times the amount of the excess expenditures.

''(C) LARGE AMOUNT OF EXCESS EXPENDITURES.—Any eligible Senate candidate who makes expenditures that exceed any limitation described in paragraph (1) or (2) of subsection (d) by 5 percent or more shall pay an amount equal to three times the amount of the excess expenditures plus a civil penalty in an amount determined by the Commission.

''(f) UNEXPENDED FUNDS.—Any amount received by an eligible Senate candidate under this title may be retained for a period not exceeding 120 days after the date of the general election for the liquidation of all obligations to pay expenditures for the general election incurred during the general election period. At the end of such 120-day period, any unexpended funds received under this title shall be promptly repaid.

''(g) LIMIT ON PERIOD FOR NOTIFICATION.—No notification shall be made by the Commission under this section with respect to an election more than three years after the date of such election.

''(h) DEPOSITS.—The Secretary shall deposit all payments received under this section into the Senate Election Campaign Fund.

''SEC. 506. JUDICIAL REVIEW.

''(a) JUDICIAL REVIEW.—Any agency action by the Commission made under the provisions of this title shall be subject to review by the United States Court of Appeals for the District of Columbia Circuit upon petition filed in such court within thirty days after the agency action by the Commission for which review is sought. It shall be the duty of the Court of Appeals, ahead of all matters not filed under this title, to advance on the docket and expeditiously take action on all petitions filed pursuant to this title.

''(b) APPLICATION OF TITLE 5.—The provisions of chapter 7 of title 5, United States Code, shall apply to judicial review of any agency action by the Commission.

''(c) AGENCY ACTION.—For purposes of this section, the term 'agency action' has the meaning given such term by section 551(13) of title 5, United States Code.

''SEC. 507. PARTICIPATION BY COMMISSION IN JUDICIAL PROCEEDINGS.

''(a) APPEARANCES.—The Commission is authorized to appear in and defend against any action instituted under this section and under section 506 either by attorneys employed in its office or by counsel whom it may appoint without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation it may fix without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title.

''(b) INSTITUTION OF ACTIONS.—The Commission is authorized, through attorneys and counsel described in subsection (a), to institute actions in the district courts of the United States to seek recovery of any amounts determined under this title to be payable to the Secretary.

''(c) INJUNCTIVE RELIEF.—The Commission is authorized, through attorneys and counsel described in subsection (a), to petition the courts of the United States for such injunctive relief as is appropriate in order to implement any provision of this title.

''(d) APPEALS.—The Commission is authorized on behalf of the United States to appeal from, and to petition the Supreme Court for certiorari to review, judgments or decrees entered with respect to actions in which it appears pursuant to the authority provided in this section.

''SEC. 508. REPORTS TO CONGRESS; REGULATIONS.

''(a) REPORTS.—The Commission shall, as soon as practicable after each election, submit a full report to the Senate setting forth—

''(1) the expenditures (shown in such detail as the Commission determines appropriate) made by each eligible Senate candidate and the authorized committees of such candidate;

''(2) the amounts certified by the Commission under section 504 as benefits available to each eligible Senate candidate;

''(3) the amount of repayments, if any, required under section 505 and the reasons for each repayment required; and

''(4) the balance in the Senate Election Campaign Fund, and the balance in any account maintained by the Fund.

Each report submitted pursuant to this section shall be printed as a Senate document.

''(b) RULES AND REGULATIONS.—The Commission is authorized to prescribe such rules and regulations, in accordance with the provisions of subsection (c), to conduct such examinations and investigations, and to require the keeping and submission of such books, records, and information, as it deems necessary to carry out the functions and duties imposed on it by this title.

''(c) STATEMENT TO SENATE.—Thirty days before prescribing any rules or regulation under subsection (b), the Commission shall transmit to the Senate a statement setting forth the proposed rule or regulation and containing a detailed explanation and justification of such rule or regulation.

''SEC. 509. PAYMENTS RELATING TO ELIGIBLE CANDIDATES.

''(a) ESTABLISHMENT OF CAMPAIGN FUND.—(1) There is established on the books of the Treasury of the United States a special fund to be known as the 'Senate Election Campaign Fund'.

''(2)(A) There are appropriated to the Fund for each fiscal year, out of amounts in the general fund of the Treasury not otherwise appropriated, amounts equal to—

''(i) any contributions by persons which are specifically designated as being made to the Fund;

''(ii) amounts collected under section 505(h); and

''(iii) any other amounts that may be appropriated to or deposited into the Fund under this title.

''(B) The Secretary of the Treasury shall, from time to time, transfer to the Fund an amount not in excess of the amounts described in subparagraph (A).

''(C) Amounts in the Fund shall remain available without fiscal year limitation.

''(3) Amounts in the Fund shall be available only for the purposes of—

''(A) making payments required under this title; and

''(B) making expenditures in connection with the administration of the Fund.

''(4) The Secretary shall maintain such accounts in the Fund as may be required by this title or which the Secretary determines to be necessary to carry out the provisions of this title.

''(b) PAYMENTS UPON CERTIFICATION.—Upon receipt of a certification from the Commission under section 504, except as provided in subsection (d), the Secretary shall promptly pay the amount certified by the Commission to the candidate out of the Senate Election Campaign Fund.

''(c) REDUCTIONS IN PAYMENTS IF FUNDS INSUFFICIENT.—(1) If, at the time of a certification by the Commission under section 504 for payment to an eligible candidate, the Secretary determines that the monies in the Senate Election Campaign Fund are not, or may not be, sufficient to satisfy the full entitlement of all eligible candidates, the Secretary shall withhold from the amount of such payment such amount as the Secretary determines to be necessary to assure that each eligible candidate will receive the same pro rata share of such candidate's full entitlement.

''(2) Amounts withheld under subparagraph (A) shall be paid when the Secretary determines that there are sufficient monies in the Fund to pay all, or a portion thereof, to all eligible candidates from whom amounts have been withheld, except that if only a portion is to be paid, it shall be paid in such manner that each eligible candidate receives an equal pro rata share of such portion.

''(3)(A) Not later than December 31 of any calendar year preceding a calendar year in which there is a regularly scheduled general election, the Secretary, after consultation with the Commission, shall make an estimate of—

''(i) the amount of monies in the fund which will be available to make payments required by this title in the succeeding calendar year; and

''(ii) the amount of payments which will be required under this title in such calendar year.

''(B) If the Secretary determines that there will be insufficient monies in the fund to make the payments required by this title for any calendar year, the Secretary shall notify each candidate on January 1 of such calendar year (or, if later, the date on which an individual becomes a candidate) of the amount which the Secretary estimates will be the pro rata reduction in each eligible candidate's payments under this subsection. Such notice shall be by registered mail.

''(C) The amount of the eligible candidate's contribution limit under section 501(c)(1)(D)(iii) shall be increased by the amount of the estimated pro rata reduction.

''(4) The Secretary shall notify the Commission and each eligible candidate by registered mail of any actual reduction in the amount of any payment by reason of this subsection. If the amount of the reduction exceeds the amount estimated under paragraph (3), the candidate's contribution limit under section 501(c)(1)(D)(iii) shall be increased by the amount of such excess.''.

(2) EFFECTIVE DATES.—(A) Except as provided in this paragraph, the amendment made by paragraph (1) shall apply to elections occurring after December 31, 1995.

(B) For purposes of any expenditure or contribution limit imposed by the amendment made by paragraph (1)—

(i) no expenditure made before January 1, 1996, shall be taken into account, except that there shall be taken into account any such expenditure for goods or services to be provided after such date; and

(ii) all cash, cash items, and Government securities on hand as of January 1, 1996, shall be taken into account in determining whether the contribution limit is met, except that there shall not be taken into account amounts used during the 60-day period beginning on January 1, 1996, to pay for expenditures which were incurred (but unpaid) before such date.

(3) EFFECT OF INVALIDITY ON OTHER PROVISIONS OF ACT.—If section 501, 502, or 503 of title V of FECA (as added by this section), or any part thereof, is held to be invalid, all provisions of, and amendments made by, this Act shall be treated as invalid.

(b) PROVISIONS TO FACILITATE VOLUNTARY CONTRIBUTIONS TO SENATE ELECTION CAMPAIGN FUND.—

(1) GENERAL RULE.—Part VIII of subchapter A of chapter 61 of the Internal Revenue Code of 1986 (relating to returns and records) is amended by adding at the end the following:

''Subpart B—Designation of Additional Amounts to Senate Election Campaign Fund

''Sec. 6097. Designation of additional amounts.

''SEC. 6097. DESIGNATION OF ADDITIONAL AMOUNTS.

''(a) GENERAL RULE.—Every individual (other than a nonresident alien) who files an income tax return for any taxable year may designate an additional amount equal to $5 ($10 in the case of a joint return) to be paid over to the Senate Election Campaign Fund.

''(b) MANNER AND TIME OF DESIGNATION.—A designation under subsection (a) may be made for any taxable year only at the time of filing the income tax return for the taxable year. Such designation shall be made on the page bearing the taxpayer's signature.

''(c) TREATMENT OF ADDITIONAL AMOUNTS.—Any additional amount designated under subsection (a) for any taxable year shall, for all purposes of law, be treated as an additional income tax imposed by chapter 1 for such taxable year.

''(d) INCOME TAX RETURN.—For purposes of this section, the term 'income tax return' means the return of the tax imposed by chapter 1.''.

(2) CONFORMING AMENDMENTS.—(A) Part VIII of subchapter A of chapter 61 of such Code is amended by striking the heading and inserting:

''PART VIII—DESIGNATION OF AMOUNTS TO ELECTION CAMPAIGN FUNDS

''Subpart A. Presidential Election Campaign Fund.

''Subpart B. Designation of additional amounts to Senate Election Campaign Fund.

''Subpart A—Presidential Election Campaign Fund''.

(B) The table of parts for subchapter A of chapter 61 of such Code is amended by striking the item relating to part VIII and inserting:

''Part VIII. Designation of amounts to election campaign funds.''

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

SEC. 102. BAN ON ACTIVITIES OF POLITICAL ACTION COMMITTEES IN FEDERAL ELECTIONS.

(a) IN GENERAL.—Title III of FECA (2 U.S.C. 431 et seq.), is amended by adding at the end thereof the following new section:

''BAN ON FEDERAL ELECTION ACTIVITIES BY POLITICAL ACTION COMMITTEES

''SEC. 323. (a) Notwithstanding any other provision of this Act, no person other than an individual or a political committee may make contributions, solicit or receive contributions, or make expenditures for the purpose of influencing an election for Federal office.

''(b) In the case of individuals who are executive or administrative personnel of an employer—

''(1) no contributions may be made by such individuals—

''(A) to any political committees established and maintained by any political party; or

''(B) to any candidate for nomination for election, or election, to Federal office or the candidate's authorized committees,

unless such contributions are not being made at the direction of, or otherwise controlled or influenced by, the employer; and

''(2) the aggregate amount of such contributions by all such individuals in any calendar year shall not exceed—

''(A) $20,000 in the case of such political committees; and

''(B) $5,000 in the case of any such candidate and the candidate's authorized committees.''.

(b) DEFINITION OF POLITICAL COMMITTEE.—(1) Paragraph (4) of section 301 of FECA (2 U.S.C. 431(4)) is amended to read as follows:

''(4) The term 'political committee' means—

''(A) the principal campaign committee of a candidate;

''(B) any national, State, or district committee of a political party, including any subordinate committee thereof; and

''(C) any local committee of a political party which—

''(i) receives contributions aggregating in excess of $5,000 during a calendar year;

''(ii) makes payments exempted from the definition of contribution or expenditure under paragraph (8) or (9) aggregating in excess of $5,000 during a calendar year;

''(iii) makes contributions or expenditures aggregating in excess of $1,000 during a calendar year; or

''(D) any committee described in section 315(a)(8)(D)(i)(III).''.

(2) Section 316(b)(2) of FECA (2 U.S.C. 441b(b)(2)) is amended by striking subparagraph (C).

(c) CANDIDATE'S COMMITTEES.—(1) Section 315(a) of FECA (2 U.S.C. 441a(a)) is amended by adding at the end thereof the following new paragraph:

''(9) For the purposes of the limitations provided by paragraphs (1) and (2), any political committee which is established or financed or maintained or controlled by any candidate or Federal officeholder shall be deemed to be an authorized committee of such candidate or officeholder. Nothing in this paragraph shall be construed to permit the establishment, financing, maintenance, or control of any committee which is prohibited by paragraph (3) or (6) of section 302(e).''.

(2) Section 302(e)(3) of FECA (2 U.S.C. 432) is amended to read as follows:

''(3) No political committee that supports or has supported more than one candidate may be designated as an authorized committee, except that—

''(A) a candidate for the office of President nominated by a political party may designate the national committee of such political party as the candidate's principal campaign committee, but only if that national committee maintains separate books of account with respect to its functions as a principal campaign committee; and

''(B) a candidate may designate a political committee established solely for the purpose of joint fundraising by such candidates as an authorized committee.''.

(d) RULES APPLICABLE WHEN BAN NOT IN EFFECT.—For purposes of the Federal Election Campaign Act of 1971, during any period beginning after the effective date in which the limitation under section 323 of such Act (as added by subsection (a)) is not in effect—

(1) the amendments made by subsections (a), (b), and (c) shall not be in effect;

(2) in the case of a candidate for election, or nomination for election, to Federal office (and such candidate's authorized committees), section 315(a)(2)(A) of FECA (2 U.S.C. 441a(a)(2)(A)) shall be applied by substituting ''$1,000'' for ''$5,000'';

(3) it shall be unlawful for a multicandidate political committee to make a contribution to a candidate for election, or

nomination for election, to Federal office (or an authorized committee) to the extent that the making or accepting of the contribution will cause the amount of contributions received by the candidate and the candidate's authorized committees from multicandidate political committees to exceed the lesser of—

(A) $825,000; or

(B) 20 percent of the aggregate Federal election spending limits applicable to the candidate for the election cycle.

The $825,000 amount in paragraph (3) shall be increased as of the beginning of each calendar year based on the increase in the price index determined under section 315(c) of FECA, except that for purposes of paragraph (3), the base period shall be the calendar year 1996. A candidate or authorized committee that receives a contribution from a multicandidate political committee in excess of the amount allowed under paragraph (3) shall return the amount of such excess contribution to the contributor.

(e) RULE ENSURING PROHIBITION ON DIRECT CORPORATE AND LABOR SPENDING.—If section 316(a) of the Federal Election Campaign Act of 1971 is held to be invalid by reason of the amendments made by this section, then the amendments made by subsections (a), (b), and (c) of this section shall not apply to contributions by any political committee that is directly or indirectly established, administered, or supported by a connected organization which is a bank, corporation, or other organization described in such section 316(a).

(f) RESTRICTIONS ON CONTRIBUTIONS TO POLITICAL COMMITTEES.—Paragraphs (1)(C) and (2)(C) of section 315(a) of FECA (2 U.S.C. 441a(a) (1)(D) and (2)(D)) are each amended by striking ''$5,000'' and inserting ''$1,000''.

(g) EFFECTIVE DATES.—(1) Except as provided in paragraph (2), the amendments made by this section shall apply to elections (and the election cycles relating thereto) occurring after December 31, 1996.

(2) In applying the amendments made by this section, there shall not be taken into account—

(A) contributions made or received before January 1, 1996; or

(B) contributions made to, or received by, a candidate on or after January 1, 1996, to the extent such contributions are not greater than the excess (if any) of—

(i) such contributions received by any opponent of the candidate before January 1, 1996, over

(ii) such contributions received by the candidate before January 1, 1996.

SEC. 103. REPORTING REQUIREMENTS.

Title III of FECA is amended by inserting after section 304 the following new section:

''REPORTING REQUIREMENTS FOR SENATE CANDIDATES

''SEC. 304A. (a) CANDIDATE OTHER THAN ELIGIBLE SENATE CANDIDATE.—(1) Each candidate for the office of United States Senator who does not file a certification with the Secretary of the Senate under section 501(c) shall file with the Secretary of the Senate a declaration as to whether such candidate intends to make expenditures for the general election in excess of the general election expenditure limit applicable to an eligible Senate candidate under section 502(b). Such declaration shall be filed at the time provided in section 501(c)(2).

''(2) Any candidate for the United States Senate who qualifies for the ballot for a general election—

''(A) who is not an eligible Senate candidate under section 501; and

''(B) who either raises aggregate contributions, or makes or obligates to make aggregate expenditures, for the general election which exceed 75 percent of the general election expenditure limit applicable to an eligible Senate candidate under section 502(b),

shall file a report with the Secretary of the Senate within 24 hours after such contributions have been raised or such expenditures have been made or obligated to be made (or, if later, within 24 hours after the date of qualification for the general election ballot), setting forth the candidate's total contributions and total expenditures for such election as of such date. Thereafter, such candidate shall file additional reports (until such contributions or expenditures exceed 200 percent of such limit) with the Secretary of the Senate within 24 hours after each time additional contributions are raised, or expenditures are made or are obligated to be made, which in the aggregate exceed an amount equal to 10 percent of such limit and after the total contributions or expenditures exceed 133⅓, 166⅔, and 200 percent of such limit.

''(3) The Commission—

''(A) shall, within 24 hours of receipt of a declaration or report under paragraph (1) or (2), notify each eligible Senate candidate in the election involved about such declaration or report; and

''(B) if an opposing candidate has raised aggregate contributions, or made or has obligated to make aggregate expenditures, in excess of the applicable general election expenditure limit under section 502(b), shall certify, pursuant to the provisions of subsection (d), such eligibility for payment of any amount to which such eligible Senate candidate is entitled under section 503(a).

''(4) Notwithstanding the reporting requirements under this subsection, the Commission may make its own determination that a candidate in a general election who is not an eligible Senate candidate has raised aggregate contributions, or made or has obligated to make aggregate expenditures, in the amounts which would require a report under paragraph (2). The Commission shall, within 24 hours after making each such determination, notify each eligible Senate candidate in the general election involved about such determination, and shall, when such contributions or expenditures exceed the general election expenditure limit under section 502(b), certify (pursuant to the provisions of subsection (d)) such candidate's eligibility for payment of any amount under section 503(a).

''(b) REPORTS ON PERSONAL FUNDS.—(1) Any candidate for the United States Senate who during the election cycle expends more than the limitation under section 502(a) during the election cycle from his personal funds, the funds of his immediate family, and personal loans incurred by the candidate and the candidate's immediate family shall file a report with the Secretary of the Senate within 24 hours after such expenditures have been made or loans incurred.

''(2) The Commission within 24 hours after a report has been filed under paragraph (1) shall notify each eligible Senate candidate in the election involved about each such report.

''(3) Notwithstanding the reporting requirements under this subsection, the Commission may make its own determination that a candidate for the United States Senate has made expenditures in excess of the amount under paragraph (1). The Commission within 24 hours after making such determination shall notify each eligible Senate candidate in the general election involved about each such determination.

''(c) CANDIDATES FOR OTHER OFFICES.—(1) Each individual—

''(A) who becomes a candidate for the office of United States Senator;

''(B) who, during the election cycle for such office, held any other Federal, State, or local office or was a candidate for such other office; and

''(C) who expended any amount during such election cycle before becoming a candidate for the office of United States Senator which would have been treated as an expenditure if such individual had been such a candidate, including amounts for activities to promote the image or name recognition of such individual,

shall, within 7 days of becoming a candidate for the office of United States Senator, report to the Secretary of the Senate the amount and nature of such expenditures.

''(2) Paragraph (1) shall not apply to any expenditures in connection with a Federal, State, or local election which has been held before the individual becomes a candidate for the office of United States Senator.

''(3) The Commission shall, as soon as practicable, make a determination as to whether the amounts included in the report under paragraph (1) were made for purposes of influencing the election of the individual to the office of United States Senator.

''(d) CERTIFICATIONS.—Notwithstanding section 505(a), the certification required by this section shall be made by the Commission on the basis of reports filed in accordance with the provisions of this Act, or on the basis of such Commission's own investigation or determination.

''(e) COPIES OF REPORTS AND PUBLIC INSPECTION.—The Secretary of the Senate shall transmit a copy of any report or filing received under this section or of title V (whenever a 24-hour response is required of the Commission) as soon as possible (but no later than 4 working hours of the Commission) after receipt of such report or filing, and shall make such report or filing available for public inspection and copying in the same manner as the Commission under section 311(a)(4), and shall preserve such reports and filings in the same manner as the Commission under section 311(a)(5).

''(f) DEFINITIONS.—For purposes of this section, any term used in this section which is used in title V shall have the same meaning as when used in title V.''.

SEC. 104. DISCLOSURE BY NONELIGIBLE CANDIDATES.

Section 318 of FECA (2 U.S.C. 441d), as amended by section 133, is amended by adding at the end thereof the following:

''(e) If a broadcast, cablecast, or other communication is paid for or authorized by a candidate in the general election for the office of United States Senator who is not an eligible Senate candidate, or the authorized committee of such candidate, such communication shall contain the following sentence: 'This candidate has not agreed to voluntary campaign spending limits.'.''.

Subtitle B—General Provisions

SEC. 131. BROADCAST RATES AND PREEMPTION.

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

(1) in paragraph (1)—

(A) by striking ''forty-five'' and inserting ''30'';

(B) by striking ''sixty'' and inserting ''45''; and

(C) by striking ''lowest unit charge of the station for the same class and amount of time for the same period'' and inserting ''lowest charge of the station for the same amount of time for the same period on the same date''; and

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

''In the case of an eligible Senate candidate (as definedin section 301(19) of the Federal Election Campaign Act of 1971), the charges during the general election period (as defined

in section 301(21) of such Act) shall not exceed 50 percent of the lowest charge described in paragraph (1).''.

(b) PREEMPTION; ACCESS.—Section 315 of the Communications Act of 1934 (47 U.S.C. 315) is amended by redesignating subsections (c) and (d) as subsections (e) and (f), respectively, and by inserting immediately after subsection (b) the following new subsection:

''(c)(1) Except as provided in paragraph (2), a licensee shall not preempt the use, during any period specified in subsection (b)(1), of a broadcasting station by a legally qualified candidate for public office who has purchased and paid for such use pursuant to the provisions of subsection (b)(1).

''(2) If a program to be broadcast by a broadcasting station is preempted because of circumstances beyond the control of the broadcasting station, any candidate advertising spot scheduled to be broadcast during that program may also be preempted.

''(d) In the case of a legally qualified candidate for the United States Senate, a licensee shall provide broadcast time without regard to the rates charged for the time.''.

SEC. 132. EXTENSION OF REDUCED THIRD-CLASS MAILING RATES TO ELIGIBLE SENATE CANDIDATES.

Section 3626(e) of title 39, United States Code, is amended—

(1) in paragraph (2)(A)—

(A) by striking ''and the National'' and inserting ''the National''; and

(B) by striking ''Committee;'' and inserting ''Committee, and, subject to paragraph (3), the principal campaign committee of an eligible House of Representatives or Senate candidate;'';

(2) in paragraph (2)(B), by striking ''and'' after the semicolon;

(3) in paragraph (2)(C), by striking the period and inserting ''; and'';

(4) by adding after paragraph (2)(C) the following new subparagraph:

''(D) The terms 'eligible Senate candidate' and 'principal campaign committee' have the meanings given those terms in section 301 of the Federal Election Campaign Act of 1971.''; and

(5) by adding after paragraph (2) the following new paragraph:

''(3) The rate made available under this subsection with respect to an eligible Senate candidate shall apply only to—

''(A) the general election period (as defined in section 301 of the Federal Election Campaign Act of 1971); and

''(B) that number of pieces of mail equal to the number of individuals in the voting age population (as certified under section 315(e) of such Act) of the congressional district or State, whichever is applicable.''.

SEC. 133. REPORTING REQUIREMENTS FOR CERTAIN INDEPENDENT EXPENDITURES.

Section 304(c) of FECA (2 U.S.C. 434(c)) is amended—

(1) in paragraph (2), by striking out the undesignated matter after subparagraph (C);

(2) by redesignating paragraph (3) as paragraph (5); and

(3) by inserting after paragraph (2), as amended by paragraph (1), the following new paragraphs:

''(3)(A) Any independent expenditure (including those described in subsection (b)(6)(B)(iii) of this section) aggregating $1,000 or more made after the 20th day, but more than 24 hours, before any election shall be reported within 24 hours after such independent expenditure is made.

''(B) Any independent expenditure aggregating $10,000 or more made at any time up to and including the 20th day before any election shall be reported within 48 hours after such independent expenditure is made. An additional statement shall be filed each time independent expenditures aggregating $10,000 are made with respect to the same election as the initial statement filed under this section.

''(C) Such statement shall be filed with the Secretary of the Senate and the Secretary of State of the State involved and shall contain the information required by subsection (b)(6)(B)(iii) of this section, including whether the independent expenditure is in support of, or in opposition to, the candidate involved. The Secretary of the Senate shall as soon as possible (but not later than 4 working hours of the Commission) after receipt of a statement transmit it to the Commission. Not later than 48 hours after the Commission receives a report, the Commission shall transmit a copy of the report to each candidate seeking nomination or election to that office.

''(D) For purposes of this section, the term 'made' includes any action taken to incur an obligation for payment.

''(4)(A) If any person intends to make independent expenditures totaling $5,000 during the 20 days before an election, such person shall file a statement no later than the 20th day before the election.

''(B) Such statement shall be filed with the Secretary of the Senate and the Secretary of State of the State involved, and shall identify each candidate whom the expenditure will support or oppose. The Secretary of the Senate shall as soon as possible (but not later than 4 working hours of the Commission) after receipt of a statement transmit it to the Commission. Not later than 48 hours after the Commission receives a statement under this paragraph, the Commission shall transmit a copy of the statement to each candidate identified.

''(5) The Commission may make its own determination that a person has made, or has incurred obligations to make, independent expenditures with respect to any Federal election which in the aggregate exceed the applicable amounts under paragraph (3) or (4). The Commission shall notify each candidate in such election of such determination within 24 hours of making it.

''(6) At the same time as a candidate is notified under paragraph (3), (4), or (5) with respect to expenditures during a general election period, the Commission shall certify eligibility to receive benefits under section 504(a) or section 604(b).

''(7) The Secretary of the Senate shall make any statement received under this subsection available for public inspection and copying in the same manner as the Commission under section 311(a)(4), and shall preserve such statements in the same manner as the Commission under section 311(a)(5).''

SEC. 134. CAMPAIGN ADVERTISING AMENDMENTS.

Section 318 of FECA (2 U.S.C. 441d) is amended—

(1) in the matter before paragraph (1) of subsection (a), by striking ''an expenditure'' and inserting ''a disbursement'';

(2) in the matter before paragraph (1) of subsection (a), by striking ''direct'';

(3) in paragraph (3) of subsection (a), by inserting after ''name'' the following ''and permanent street address''; and

(4) by adding at the end the following new subsections:

''(c) Any printed communication described in subsection (a) shall be—

''(1) of sufficient type size to be clearly readable by the recipient of the communication;

''(2) contained in a printed box set apart from the other contents of the communication; and

''(3) consist of a reasonable degree of color contrast between the background and the printed statement.

''(d)(1) Any broadcast or cablecast communication described in subsection (a)(1) or subsection (a)(2) shall include, in addition to the requirements of those subsections an audio statement by the candidate that identifies the candidate and states that the candidate has approved the communication.

''(2) If a broadcast or cablecast communication described in paragraph (1) is broadcast or cablecast by means of television, the statement required by paragraph (1) shall—

''(A) appear in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds; and

''(B) be accompanied by a clearly identifiable photographic or similar image of the candidate.

''(e) Any broadcast or cablecast communication described in subsection (a)(3) shall include, in addition to the requirements of those subsections, in a clearly spoken manner, the following statement—

' is responsible for the content of this advertisement.'

with the blank to be filled in with the name of the political committee or other person paying for the communication and the name of any connected organization of the payor; and, if broadcast or cablecast by means of television, shall also appear in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds.''.

SEC. 135. DEFINITIONS.

(a) IN GENERAL.—Section 301 of FECA (2 U.S.C. 431) is amended by striking paragraph (19) and inserting the following new paragraphs:

''(19) The term 'eligible Senate candidate' means a candidate who is eligible under section 502 to receive benefits under title V.

''(20) The term 'general election' means any election which will directly result in the election of a person to a Federal office, but does not include an open primary election.

''(21) The term 'general election period' means, with respect to any candidate, the period beginning on the day after the date of the primary or runoff election for the specific office the candidate is seeking, whichever is later, and ending on the earlier of—

''(A) the date of such general election; or

''(B) the date on which the candidate withdraws from the campaign or otherwise ceases actively to seek election.

''(22) The term 'immediate family' means—

''(A) a candidate's spouse;

''(B) a child, stepchild, parent, grandparent, brother, half-brother, sister or half-sister of the candidate or the candidate's spouse; and

''(C) the spouse of any person described in subparagraph (B).

''(23) The term 'major party' has the meaning given such term in section 9002(6) of the Internal Revenue Code of 1986, except that if a candidate qualified under State law for the ballot in a general election in an open primary in which all the candidates for the office participated and which resulted in the candidate and at least one other candidate qualifying for the ballot in the general election, such candidate shall be treated as a candidate of a major party for purposes of title V.

''(24) The term 'primary election' means an election which may result in the selection of a candidate for the ballot in a general election for a Federal office.

''(25) The term 'primary election period' means, with respect to any candidate, the period beginning on the day following the

date of the last election for the specific office the candidate is seeking and ending on the earlier of—

''(A) the date of the first primary election for that office following the last general election for that office; or

''(B) the date on which the candidate withdraws from the election or otherwise ceases actively to seek election.

''(26) The term 'runoff election' means an election held after a primary election which is prescribed by applicable State law as the means for deciding which candidate will be on the ballot in the general election for a Federal office.

''(27) The term 'runoff election period' means, with respect to any candidate, the period beginning on the day following the date of the last primary election for the specific office such candidate is seeking and ending on the date of the runoff election for such office.

''(28) The term 'voting age population' means the resident population, 18 years of age or older, as certified pursuant to section 315(e).

''(29) The term 'election cycle' means—

''(A) in the case of a candidate or the authorized committees of a candidate, the term beginning on the day after the date of the most recent general election for the specific office or seat which such candidate seeks and ending on the date of the next general election for such office or seat; or

''(B) for all other persons, the term beginning on the first day following the date of the last general election and ending on the date of the next general election.

''(30) The terms 'Senate Election Campaign Fund' and 'Fund' mean the Senate Election Campaign Fund established under section 509.

''(31) The term 'lobbyist' means—

''(A) a person required to register under section 308 of the Federal Regulation of Lobbying Act (2 U.S.C. 267) or the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.); and

''(B) a person who receives compensation in return for having contact with Congress on any legislative matter.''.

(b) IDENTIFICATION.—Section 301(13) of FECA (2 U.S.C. 431(13)) is amended by striking ''mailing address'' and inserting ''permanent residence address''.

SEC. 136. PROVISIONS RELATING TO FRANKED MASS MAILINGS.

(a) MASS MAILINGS OF SENATORS.—Section 3210(a)(6) of title 39, United States Code, is amended—

(1) in subparagraph (A), by striking ''It is the intent of Congress that a Member of, or a Member-elect to, Congress'' and inserting ''A Member of, or Member-elect to, the House''; and

(2) in subparagraph (C)—

(A) by striking ''if such mass mailing is postmarked fewer than 60 days immediately before the date'' and inserting ''if such mass mailing is postmarked during the calendar year''; and

(B) by inserting ''or reelection'' immediately before the period.

(b) MASS MAILINGS OF HOUSE MEMBERS.—Section 3210 of title 39, United States Code, is amended—

(1) in subsection (a)(7) by striking '', except that—'' and all that follows through the end of subparagraph (B) and inserting a period; and

(2) in subsection (d)(1) by striking ''delivery—'' and all that follows through the end of subparagraph (B) and inserting ''delivery within that area constituting the congressional district or State from which the Member was elected.''.

(c) PROHIBITION ON USE OF OFFICIAL FUNDS.—The Committee on House Administration of the House of Representatives may not approve any payment, nor may a Member of the House of Representatives make any expenditure from, any allowance of the House of Representatives or any other official funds if any portion of the payment or expenditure is for any cost related to a mass mailing by a Member of the House of Representatives outside the congressional district of the Member.

TITLE II—INDEPENDENT EXPENDITURES

SEC. 201. CLARIFICATION OF DEFINITIONS RELATING TO INDEPENDENT EXPENDITURES.

(a) INDEPENDENT EXPENDITURE DEFINITION AMENDMENT.—Section 301 of FECA (2 U.S.C. 431) is amended by striking paragraphs (17) and (18) and inserting the following:

''(17)(A) The term 'independent expenditure' means an expenditure for an advertisement or other communication that—

''(i) contains express advocacy; and

''(ii) is made without the participation or cooperation of a candidate or a candidate's representative.

''(B) The following shall not be considered an independent expenditure:

''(i) An expenditure made by a political committee of a political party.

''(ii) An expenditure made by a person who, during the election cycle, has communicated with or received information from a candidate or a representative of that candidate regarding activities that have the purpose of influencing that candidate's election to Federal office, where the expenditure is in support of that candidate or in opposition to another candidate for that office.

''(iii) An expenditure if there is any arrangement, coordination, or direction with respect to the expenditure between the candidate or the candidate's agent and the person making the expenditure.

''(iv) An expenditure if, in the same election cycle, the person making the expenditure is or has been—

''(I) authorized to raise or expend funds on behalf of the candidate or the candidate's authorized committees; or

''(II) serving as a member, employee, or agent of the candidate's authorized committees in an executive or policymaking position.

''(v) An expenditure if the person making the expenditure has advised or counseled the candidate or the candidate's agents at any time on the candidate's plans, projects, or needs relating to the candidate's pursuit of nomination for election, or election, to Federal office, in the same election cycle, including any advice relating to the candidate's decision to seek Federal office.

''(vi) An expenditure if the person making the expenditure retains the professional services of any individual or other person also providing those services in the same election cycle to the candidate in connection with the candidate's pursuit of nomination for election, or election, to Federal office, including any services relating to the candidate's decision to seek Federal office.

''(vii) An expenditure if the person making the expenditure has consulted at any time during the same election cycle about the candidate's plans, projects, or needs relating to the candidate's pursuit of nomination for election, or election, to Federal office, with—

''(I) any officer, director, employee or agent of a party committee that has made or intends to make expenditures or contributions, pursuant to subsections (a), (d), or (h) of section 315 in connection with the candidate's campaign; or

''(II) any person whose professional services have been retained by a political party committee that has made or intends to make expenditures or contributions pursuant to subsections (a), (d), or (h) of section 315 in connection with the candidate's campaign.

For purposes of this subparagraph, the person making the expenditure shall include any officer, director, employee, or agent of such person.

''(18) The term 'express advocacy' means, when a communication is taken as a whole, an expression of support for or opposition to a specific candidate, to a specific group of candidates, or to candidates of a particular political party, or a suggestion to take action with respect to an election, such as to vote for or against, make contributions to, or participate in campaign activity.''.

(b) CONTRIBUTION DEFINITION AMENDMENT.—Section 301(8)(A) of FECA (2 U.S.C. 431(8)(A)) is amended—

(1) in clause (i), by striking ''or'' after the semicolon at the end;

(2) in clause (ii), by striking the period at the end and inserting ''; or''; and

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

''(iii) any payment or other transaction referred to in paragraph (17)(A)(i) that does not qualify as an independent expenditure under paragraph (17)(A)(ii).''.

TITLE III—EXPENDITURES

Subtitle A—Personal Loans; Credit

SEC. 301. PERSONAL CONTRIBUTIONS AND LOANS.

Section 315 of FECA (2 U.S.C. 441a) is amended by adding at the end the following new subsection:

''(i) LIMITATIONS ON PAYMENTS TO CANDIDATES.—(1) If a candidate or a member of the candidate's immediate family made any loans to the candidate or to the candidate's authorized committees during any election cycle, no contributions after the date of the general election for such election cycle may be used to repay such loans.

''(2) No contribution by a candidate or member of the candidate's immediate family may be returned to the candidate or member other than as part of a pro rata distribution of excess contributions to all contributors.''.

SEC. 302. EXTENSIONS OF CREDIT.

Section 301(8)(A) of FECA (2 U.S.C. 431(8)(A)), as amended by section 201(b), is amended—

(1) by striking ''or'' at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting ''; or''; and

(3) by inserting at the end the following new clause:

''(iv) with respect to a candidate and the candidate's authorized committees, any extension of credit for goods or services relating to advertising on broadcasting stations, in newspapers or magazines, or by mailings, or relating to other similar types of general public political advertising, if such extension of credit is—

''(I) in an amount of more than $1,000; and

''(II) for a period greater than the period, not in excess of 60 days, for which credit is generally extended in the normal course of business after the date on which such goods or services are furnished or the date of the mailing in the case of advertising by a mailing.''.

Subtitle B—Provisions Relating to Soft Money of Political Parties

SEC. 311. REPORTING REQUIREMENTS.

(a) REPORTING REQUIREMENTS.—Section 304 of FECA (2 U.S.C. 434), as amended by section 133(a), is amended by adding at the end thereof the following new subsection:

''(e) POLITICAL COMMITTEES.—(1) The national committee of a political party and any congressional campaign committee of a

political party, and any subordinate committee of either, shall report all receipts and disbursements during the reporting period, whether or not in connection with an election for Federal office.

''(2) Any political committee to which paragraph (1) does not apply shall report any receipts or disbursements which are used in connection with a Federal election.

''(3) If a political committee has receipts or disbursements to which this subsection applies from any person aggregating in excess of $200 for any calendar year, the political committee shall separately itemize its reporting for such person in the same manner as under subsection (b) (3)(A), (5), or (6).

''(4) Reports required to be filed by this subsection shall be filed for the same time periods required for political committees under subsection (a).''.

(b) REPORT OF EXEMPT CONTRIBUTIONS.—Section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)) is amended by inserting at the end thereof the following:

''(C) The exclusion provided in clause (viii) of subparagraph (B) shall not apply for purposes of any requirement to report contributions under this Act, and all such contributions aggregating in excess of $200 shall be reported.''.

(c) REPORTS BY STATE COMMITTEES.—Section 304 of FECA (2 U.S.C. 434), as amended by subsection (a), is amended by adding at the end thereof the following new subsection:

''(f) FILING OF STATE REPORTS.—In lieu of any report required to be filed by this Act, the Commission may allow a State committee of a political party to file with the Commission a report required to be filed under State law if the Commission determines such reports contain substantially the same information.''.

(d) OTHER REPORTING REQUIREMENTS.—

(1) AUTHORIZED COMMITTEES.—Paragraph (4) of section 304(b) of FECA (2 U.S.C. 434(b)(4)) is amended by striking ''and'' at the end of subparagraph (H), by inserting ''and'' at the end of subparagraph (I), and by adding at the end the following new subparagraph:

''(J) in the case of an authorized committee, disbursements for the primary election, the general election, and any other election in which the candidate participates;''.

(2) NAMES AND ADDRESSES.—Subparagraph (A) of section 304(b)(5) of FECA (2 U.S.C. 434(b)(5)(A)) is amended—

(A) by striking ''within the calendar year'', and

(B) by inserting '', and the election to which the operating expenditure relates'' after ''operating expenditure''.

TITLE IV—CONTRIBUTIONS

SEC. 401. CONTRIBUTIONS THROUGH INTERMEDIARIES AND CONDUITS; PROHIBITION ON CERTAIN CONTRIBUTIONS BY LOBBYISTS.

(a) CONTRIBUTIONS THROUGH INTERMEDIARIES AND CONDUITS.—Section 315(a)(8) of FECA (2 U.S.C. 441a(a)(8)) is amended to read as follows:

''(8) For the purposes of this subsection:

''(A) Contributions made by a person, either directly or indirectly, to or on behalf of a particular candidate, including contributions that are in any way earmarked or otherwise directed through an intermediary or conduit to a candidate, shall be treated as contributions from the person to the candidate.

''(B) Contributions made directly or indirectly by a person to or on behalf of a particular candidate through an intermediary or conduit, including contributions made or arranged to be made by an intermediary or conduit, shall be treated as contributions from the intermediary or conduit to the candidate if—

''(i) the contributions made through the intermediary or conduit are in the form of a check or other negotiable instrument made payable to the intermediary or conduit rather than the intended recipient; or

''(ii) the intermediary or conduit is—

''(I) a political committee;

''(II) an officer, employee, or agent of such a political committee;

''(III) a political party;

''(IV) a partnership or sole proprietorship;

''(V) a person who is required to register or to report its lobbying activities, or a lobbyist whose activities are required to be reported, under section 308 of the Federal Regulation of Lobbying Act (2 U.S.C. 267), the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.), or any successor Federal law requiring a person who is a lobbyist or foreign agent to register or a person to report its lobbying activities; or

''(VI) an organization prohibited from making contributions under section 316, or an officer, employee, or agent of such an organization acting on the organization's behalf.

''(C)(i) The term 'intermediary or conduit' does not include—

''(I) a candidate or representative of a candidate receiving contributions to the candidate's principal campaign committee or authorized committee;

''(II) a professional fundraiser compensated for fundraising services at the usual and customary rate, but only if the individual is not described in subparagraph (B)(ii);

''(III) a volunteer hosting a fundraising event at the volunteer's home, in accordance with section 301(8)(B), but only if the individual is not described in subparagraph (B)(ii); or

''(IV) an individual who transmits a contribution from the individual's spouse.

''(ii) The term 'representative' means an individual who is expressly authorized by the candidate to engage in fundraising, and who occupies a significant position within the candidate's campaign organization, provided that the individual is not described in subparagraph (B)(ii).

''(iii) The term 'contributions made or arranged to be made' includes—

''(I) contributions delivered to a particular candidate or the candidate's authorized committee or agent; and

''(II) contributions directly or indirectly arranged to be made to a particular candidate or the candidate's authorized committee or agent, in a manner that identifies directly or indirectly to the candidate or authorized committee or agent the person who arranged the making of the contributions or the person on whose behalf such person was acting.

Such term does not include contributions made, or arranged to be made, by reason of an oral or written communication by a Federal candidate or officeholder expressly advocating the nomination for election, or election, of any other Federal candidate and encouraging the making of a contribution to such other candidate.

''(iv) The term 'acting on the organization's behalf' includes the following activities by an officer, employee or agent of a person described in subparagraph (B)(ii)(VI):

''(I) Soliciting or directly or indirectly arranging the making of a contribution to a particular candidate in the name of, or by using the name of, such a person.

''(II) Soliciting or directly or indirectly arranging the making of a contribution to a particular candidate using other than incidental resources of such a person.

''(III) Soliciting contributions for a particular candidate by substantially directing the solicitations to other officers, employees, or agents of such a person.

''(D) Nothing in this paragraph shall prohibit—

''(i) bona fide joint fundraising efforts conducted solely for the purpose of sponsorship of a fundraising reception, dinner, or other similar event, in accordance with rules prescribed by the Commission, by—

''(I) 2 or more candidates;

''(II) 2 or more national, State, or local committees of a political party within the meaning of section 301(4) acting on their own behalf; or

''(III) a special committee formed by 2 or more candidates, or a candidate and a national, State, or local committee of a political party acting on their own behalf; or

''(ii) fundraising efforts for the benefit of a candidate that are conducted by another candidate.

When a contribution is made to a candidate through an intermediary or conduit, the intermediary or conduit shall report the original source and the intended recipient of the contribution to the Commission and to the intended recipient.''.

(b) PROHIBITION OF CERTAIN CONTRIBUTIONS BY LOBBYISTS.—Section 315 of FECA (2 U.S.C. 441a), as amended by section 301, is amended by adding at the end the following new subsection:

''(j)(1) A lobbyist, or a political committee controlled by a lobbyist, shall not make contributions to, or solicit contributions for or on behalf of—

''(A) any member of Congress with whom the lobbyist has, during the preceding 12 months, made a lobbying contact; or

''(B) any authorized committee of the President of the United States if, during the preceding 12 months, the lobbyist has made a lobbying contact with a covered executive branch official.

''(2) A lobbyist who, or a lobbyist whose political committee, has made any contribution to, or solicited contributions for or on behalf of, any member of Congress or candidate for Congress (or any authorized committee of the President) shall not, during the 12 months following such contribution or solicitation, make a lobbying contact with such member or candidate who becomes a member of Congress (or a covered executive branch official).

''(3) If a lobbyist advises or otherwise suggests to a client of the lobbyist (including a client that is the lobbyist's regular employer), or to a political committee that is funded or administered by such a client, that the client or political committee should make a contribution to or solicit a contribution for or on behalf of—

''(A) a member of Congress or candidate for Congress, the making or soliciting of such a contribution is prohibited if the lobbyist has made a lobbying contact with the member of Congress within the preceding 12 months; or

''(B) an authorized committee of the President, the making or soliciting of such a contribution shall be unlawful if the lobbyist has made a lobbying contact with a covered executive branch official within the preceding 12 months.

''(4) For purposes of this subsection—

''(A) the term 'covered executive branch official' means the President, Vice-President, any officer or employee of the executive office of the President other than a clerical or secretarial employee, any officer or employee serving in an Executive Level I, II, III, IV, or V position as designated in statute or Executive order, any officer or employee serving in a senior executive service position (as defined in section 3232(a)(2) of title 5, United States Code), any member of the uniformed services whose pay grade is at or in excess of 0-7 under section 201 of title 37, United States Code, and any officer or employee serving in a position of confidential

or policy-determining character under schedule C of the excepted service pursuant to regulations implementing section 2103 of title 5, United States Code;

''(B) the term 'lobbyist' means—

''(i) a person required to register under section 308 of the Federal Regulation of Lobbying Act (2 U.S.C. 267) or the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.) or any successor Federal law requiring a person who is a lobbyist or foreign agent to register or a person to report its lobbying activities; or

''(C) the term 'lobbying contact'—

''(i) means an oral or written communication with or appearance before a member of Congress or covered executive branch official made by a lobbyist representing an interest of another person with regard to—

''(I) the formulation, modification, or adoption of Federal legislation (including a legislative proposal);

''(II) the formulation, modification, or adoption of a Federal rule, regulation, Executive order, or any other program, policy or position of the United States Government; or

''(III) the administration or execution of a Federal program or policy (including the negotiation, award, or administration of a Federal contract, grant, loan, permit, or license); but

''(ii) does not include a communication that is—

''(I) made by a public official acting in an official capacity;

''(II) made by a representative of a media organization who is primarily engaged in gathering and disseminating news and information to the public;

''(III) made in a speech, article, publication, or other material that is widely distributed to the public or through the media;

''(IV) a request for an appointment, a request for the status of a Federal action, or another similar ministerial contact, if there is no attempt to influence a member of Congress or covered executive branch official at the time of the contact;

''(V) made in the course of participation in an advisory committee subject to the Federal Advisory Committee Act (5 U.S.C. App.);

''(VI) testimony given before a committee, subcommittee, or office of Congress a Federal agency, or submitted for inclusion in the public record of a hearing conducted by the committee, subcommittee, or office;

''(VII) information provided in writing in response to a specific written request from a member of Congress or covered executive branch official;

''(VIII) required by subpoena, civil investigative demand, or otherwise compelled by statute, regulation, or other action of Congress or a Federal agency;

''(IX) made to an agency official with regard to a judicial proceeding, criminal or civil law enforcement inquiry, investigation, or proceeding, or filing required by law;

''(X) made in compliance with written agency procedures regarding an adjudication conducted by the agency under section 554 of title 5, United States Code, or substantially similar provisions;

''(XI) a written comment filed in a public docket and other communication that is made on the record in a public proceeding;

''(XII) a formal petition for agency action, made in writing pursuant to established agency procedures; or

''(XIII) made on behalf of a person with regard to the person's benefits, employment, other personal matters involving only that person, or disclosures pursuant to a whistleblower statute.''.

''(5) For purposes of this subsection, a lobbyist shall be considered to make a lobbying contact or communication with a member of Congress if the lobbyist makes a lobbying contact or communication with—

''(i) the member of Congress;

''(ii) any person employed in the office of the member of Congress; or

''(iii) any person employed by a committee, joint committee, or leadership office who, to the knowledge of the lobbyist, was employed at the request of or is employed at the pleasure of, reports primarily to, represents, or acts as the agent of the member of Congress.''.

SEC. 402. CONTRIBUTIONS BY DEPENDENTS NOT OF VOTING AGE.

Section 315 of FECA (2 U.S.C. 441a), as amended by section 401(b), is amended by adding at the end the following new subsection:

''(k) For purposes of this section, any contribution by an individual who—

''(1) is a dependent of another individual; and

''(2) has not, as of the time of such contribution, attained the legal age for voting for elections to Federal office in the State in which such individual resides,

shall be treated as having been made by such other individual. If such individual is the dependent of another individual and such other individual's spouse, the contribution shall be allocated among such individuals in the manner determined by them.''.

SEC. 403. CONTRIBUTIONS TO CANDIDATES FROM STATE AND LOCAL COMMITTEES OF POLITICAL PARTIES TO BE AGGREGATED.

Section 315(a) of FECA (2 U.S.C. 441a(a)) is amended by adding at the end the following new paragraph:

''(9) A candidate for Federal office may not accept, with respect to an election, any contribution from a State or local committee of a political party (including any subordinate committee of such committee), if such contribution, when added to the total of contributions previously accepted from all such committees of that political party, exceeds a limitation on contributions to a candidate under this section.''.

SEC. 404. LIMITED EXCLUSION OF ADVANCES BY CAMPAIGN WORKERS FROM THE DEFINITION OF THE TERM "CONTRIBUTION".

Section 301(8)(B) of FECA (2 U.S.C. 431(8)(B)) is amended—

(1) in clause (xiii), by striking ''and'' after the semicolon at the end;

(2) in clause (xiv), by striking the period at the end and inserting: ''; and''; and

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

''(xv) any advance voluntarily made on behalf of an authorized committee of a candidate by an individual in the normal course of such individual's responsibilities as a volunteer for, or employee of, the committee, if the advance is reimbursed by the committee within 10 days after the date on which the advance is made, and the value of advances on behalf of a committee does not exceed $500 with respect to an election.''.

TITLE V—REPORTING REQUIREMENTS

SEC. 501. CHANGE IN CERTAIN REPORTING FROM A CALENDAR YEAR BASIS TO AN ELECTION CYCLE BASIS.

Paragraphs (2) through (7) of section 304(b) of FECA (2 U.S.C. 434(b)(2)–(7)) are amended by inserting after ''calendar year'' each place it appears the following: ''(election cycle, in the case of an authorized committee of a candidate for Federal office)''.

SEC. 502. PERSONAL AND CONSULTING SERVICES.

Section 304(b)(5)(A) of FECA (2 U.S.C. 434(b)(5)(A)) is amended by adding before the semicolon at the end the following: '', except that if a person to whom an expenditure is made is merely providing personal or consulting services and is in turn making expenditures to other persons (not including employees) who provide goods or services to the candidate or his or her authorized committees, the name and address of such other person, together with the date, amount and purpose of such expenditure shall also be disclosed''.

SEC. 503. REDUCTION IN THRESHOLD FOR REPORTING OF CERTAIN INFORMATION BY PERSONS OTHER THAN POLITICAL COMMITTEES.

Section 304(b)(3)(A) of FECA (2 U.S.C. 434(b)(3)(A)) is amended by striking ''$200'' and inserting ''$50''.

SEC. 504. COMPUTERIZED INDICES OF CONTRIBUTIONS.

Section 311(a) of FECA (2 U.S.C. 438(a)) is amended—

(1) by striking ''and'' at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting ''; and''; and

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

''(11) maintain computerized indices of contributions of $50 or more.''.

TITLE VI—FEDERAL ELECTION COMMISSION

SEC. 601. USE OF CANDIDATES' NAMES.

Section 302(e)(4) of FECA (2 U.S.C. 432(e)(4)) is amended to read as follows:

''(4)(A) The name of each authorized committee shall include the name of the candidate who authorized the committee under paragraph (1).

''(B) A political committee that is not an authorized committee shall not include the name of any candidate in its name or use the name of any candidate in any activity on behalf of such committee in such a context as to suggest that the committee is an authorized committee of the candidate or that the use of the candidate's name has been authorized by the candidate.''.

SEC. 602. REPORTING REQUIREMENTS.

(a) OPTION TO FILE MONTHLY REPORTS—Section 304(a)(2) of FECA (2 U.S.C. 434(a)(2)) is amended—

(1) in subparagraph (A) by striking ''and'' at the end;

(2) in subparagraph (B) by striking the period at the end and inserting ''; and''; and

(3) by inserting the following new subparagraph at the end:

''(C) in lieu of the reports required by subparagraphs (A) and (B), the treasurer may file monthly reports in all calendar years, which shall be filed no later than the 15th day after the last day of the month and shall be complete as of the last day of the month, except that, in lieu of filing the reports otherwise due in November and December of any year in which a regularly scheduled general election is held, a pre-primary election report and a pre-general election report shall be filed in accordance with subparagraph (A)(i), a post-general election report shall be filed in accordance with subparagraph (A)(ii), and a year end report shall be filed no later than January 31 of the following calendar year.''.

(b) FILING DATE.—Section 304(a)(4)(B) of FECA (2 U.S.C. 434(a)(4)(B)) is amended by striking ''20th'' and inserting ''15th''.

SEC. 603. PROVISIONS RELATING TO THE GENERAL COUNSEL OF THE COMMISSION.

(a) VACANCY IN THE OFFICE OF GENERAL COUNSEL.—Section 306(f) of FECA (2 U.S.C. 437c(f)) is amended by adding at the end the following new paragraph:

''(5) In the event of a vacancy in the office of general counsel, the next highest ranking enforcement official in the general counsel's office shall serve as acting general counsel

with full powers of the general counsel until a successor is appointed.''.

(b) PAY OF THE GENERAL COUNSEL.—Section 306(f)(1) of FECA (2 U.S.C. 437c(f)(1)) is amended—

(1) by inserting ''and the general counsel'' after ''staff director'' in the second sentence; and

(2) by striking the third sentence.

SEC. 604. ENFORCEMENT.

(a) BASIS FOR ENFORCEMENT PROCEEDING.—Section 309(a)(2) of FECA (2 U.S.C. 437g(a)(2)) is amended by striking ''it has reason to believe that a person has committed, or is about to commit'' and inserting ''facts have been alleged or ascertained that, if true, give reason to believe that a person may have committed, or may be about to commit''.

(b) AUTHORITY TO SEEK INJUNCTION.—(1) Section 309(a) of FECA (2 U.S.C. 437g(a)) is amended by adding at the end the following new paragraph:

''(13)(A) If, at any time in a proceeding described in paragraph (1), (2), (3), or (4), the Commission believes that—

''(i) there is a substantial likelihood that a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1986 is occurring or is about to occur;

''(ii) the failure to act expeditiously will result in irreparable harm to a party affected by the potential violation;

''(iii) expeditious action will not cause undue harm or prejudice to the interests of others; and

''(iv) the public interest would be best served by the issuance of an injunction,

the Commission may initiate a civil action for a temporary restraining order or a temporary injunction pending the outcome of the proceedings described in paragraphs (1), (2), (3), and (4).

''(B) An action under subparagraph (A) shall be brought in the United States district court for the district in which the defendant resides, transacts business, or may be found.''.

(2) Section 309(a) of FECA (2 U.S.C. 437g(a)) is amended—

(A) in paragraph (7) by striking ''(5) or (6)'' and inserting ''(5), (6), or (13)''; and

(B) in paragraph (11) by striking ''(6)'' and inserting ''(6) or (13)''.

SEC. 605. PENALTIES.

(a) PENALTIES PRESCRIBED IN CONCILIATION AGREEMENTS.—(1) Section 309(a)(5)(A) of FECA (2 U.S.C. 437g(a)(5)(A)) is amended by striking ''which does not exceed the greater of $5,000 or an amount equal to any contribution or expenditure involved in such violation'' and inserting ''which is—

''(i) not less than 50 percent of all contributions and expenditures involved in the violation (or such lesser amount as the Commission provides if necessary to ensure that the penalty is not unjustly disproportionate to the violation); and

''(ii) not greater than all contributions and expenditures involved in the violation''.

(2) Section 309(a)(5)(B) of FECA (2 U.S.C. 437g(a)(5)(B)) is amended by striking ''which does not exceed the greater of $10,000 or an amount equal to 200 percent of any contribution or expenditure involved in such violation'' and inserting ''which is—

''(i) not less than all contributions and expenditures involved in the violation; and

''(ii) not greater than 150 percent of all contributions and expenditures involved in the violation''.

(b) PENALTIES WHEN VIOLATIONS ARE ADJUDICATED IN COURT.—(1) Section 309(a)(6)(A) of FECA (2 U.S.C. 437g(a)(6)(A)) is amended by striking all that follows ''appropriate order'' and inserting '', including an order for a civil penalty in the amount determined under subparagraph (A) or (B) in the district court of the United States for the district in which the defendant resides, transacts business, or may be found.''.

(2) Section 309(a)(6)(B) of FECA (2 U.S.C. 437g(a)(6)(B)) is amended by striking all that follows ''other order'' and inserting '', including an order for a civil penalty which is—

''(i) not less than all contributions and expenditures involved in the violation; and

''(ii) not greater than 200 percent of all contributions and expenditures involved in the violation,

upon a proper showing that the person involved has committed, or is about to commit (if the relief sought is a permanent or temporary injunction or a restraining order), a violation of this Act or chapter 95 of chapter 96 of the Internal Revenue Code of 1986.''.

(3) Section 309(a)(6)(C) of FECA (29 U.S.C. 437g(6)(C)) is amended by striking ''a civil penalty'' and all that follows and inserting ''a civil penalty which is—

''(i) not less than 200 percent of all contributions and expenditures involved in the violation; and

''(ii) not greater than 250 percent of all contributions and expenditures involved in the violation.''.

SEC. 606. RANDOM AUDITS.

Section 311(b) of FECA (2 U.S.C. 438(b)) is amended—

(1) by inserting ''(1)'' before ''The Commission''; and

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

''(2) Notwithstanding paragraph (1), the Commission may from time to time conduct random audits and investigations to ensure voluntary compliance with this Act. The subjects of such audits and investigations shall be selected on the basis of criteria established by vote of at least 4 members of the Commission to ensure impartiality in the selection process. This paragraph does not apply to an authorized committee of an eligible Senate candidate subject to audit under section 505(a) or an authorized committee of an eligible House of Representatives candidate subject to audit under section 605(a).''.

SEC. 607. PROHIBITION OF FALSE REPRESENTATION TO SOLICIT CONTRIBUTIONS.

Section 322 of FECA (2 U.S.C. 441h) is amended—

(1) by inserting after ''SEC. 322.'' the following: ''(a)''; and

(2) by adding at the end the following:

''(b) No person shall solicit contributions by falsely representing himself as a candidate or as a representative of a candidate, a political committee, or a political party.''.

SEC. 608. REGULATIONS RELATING TO USE OF NON-FEDERAL MONEY.

Section 306 of FECA (2 U.S.C. 437c) is amended by adding at the end the following new subsection:

''(g) The Commission shall promulgate rules to prohibit devices or arrangements which have the purpose or effect of undermining or evading the provisions of this Act restricting the use of non-Federal money to affect Federal elections.''.

TITLE VII—MISCELLANEOUS

SEC. 701. PROHIBITION OF LEADERSHIP COMMITTEES.

Section 302(e) of FECA (2 U.S.C. 432(e)) is amended—

(1) by amending paragraph (3) to read as follows:

''(3) No political committee that supports or has supported more than one candidate may be designated as an authorized committee, except that—

''(A) a candidate for the office of President nominated by a political party may designate the national committee of such political party as the candidate's principal campaign committee, but only if that national committee maintains separate books of account with respect to its functions as a principal campaign committee; and

''(B) a candidate may designate a political committee established solely for the purpose of joint fundraising by such candidates as an authorized committee.''; and

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

''(6)(A) A candidate for Federal office or any individual holding Federal office may not establish, maintain, or control any political committee other than a principal campaign committee of the candidate, authorized committee, party committee, or other political committee designated in accordance with paragraph (3). A candidate for more than one Federal office may designate a separate principal campaign committee for each Federal office.

''(B) For one year after the effective date of this paragraph, any such political committee may continue to make contributions. At the end of that period such political committee shall disburse all funds by one or more of the following means: making contributions to an entity qualified under section 501(c)(3) of the Internal Revenue Code of 1986; making a contribution to the treasury of the United States; contributing to the national, State or local committees of a political party; or making contributions not to exceed $1,000 to candidates for elective office.''.

SEC. 702. POLLING DATA CONTRIBUTED TO CANDIDATES.

Section 301(8) of FECA (2 U.S.C. 431(8)), as amended by section 314(b), is amended by inserting at the end the following new subparagraph:

''(D) A contribution of polling data to a candidate shall be valued at the fair market value of the data on the date the poll was completed, depreciated at a rate not more than 1 percent per day from such date to the date on which the contribution was made.''.

SEC. 703. SENSE OF THE SENATE THAT CONGRESS SHOULD CONSIDER ADOPTION OF A JOINT RESOLUTION PROPOSING AN AMENDMENT TO THE CONSTITUTION THAT WOULD EMPOWER CONGRESS AND THE STATES TO SET REASONABLE LIMITS ON CAMPAIGN EXPENDITURES.

It is the sense of the Senate that Congress should consider adoption of a joint resolution proposing an amendment to the Constitution that would—

(1) empower Congress to set reasonable limits on campaign expenditures by, in support of, or in opposition to any candidate in any primary, general, or other election for Federal office; and

(2) empower the States to set reasonable limits on campaign expenditures by, in support of, or in opposition to any candidate in any primary, general, or other election for State or local office.

SEC. 704. PERSONAL USE OF CAMPAIGN FUNDS.

Section 313 of FECA (2 U.S.C. 439a) is amended—

(1) by inserting ''(a)'' before ''Amounts''; and

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

''(b) For the purposes of this section, the term 'personal use' means the use of funds in a campaign account of a present or former candidate to fulfill a commitment, obligation, or expense of any person that would exist irrespective of the candidate's campaign or duties as a holder of Federal office.

TITLE VIII—EFFECTIVE DATES; AUTHORIZATIONS

SEC. 801. EFFECTIVE DATE.

Except as otherwise provided in this Act, the amendments made by, and the provisions

of, this Act shall take effect on the date of the enactment of this Act but shall not apply with respect to activities in connection with any election occurring before January 1, 1996.

SEC. 802. SEVERABILITY.

Except as provided in sections 101(c) and 121(b), if any provision of this Act (including any amendment made by this Act), or the application of any such provision to any person or circumstance, is held invalid, the validity of any other provision of this Act, or the application of such provision to other persons and circumstances, shall not be affected thereby.

SEC. 803. EXPEDITED REVIEW OF CONSTITUTIONAL ISSUES.

(a) DIRECT APPEAL TO SUPREME COURT.—An appeal may be taken directly to the Supreme Court of the United States from any interlocutory order or final judgment, decree, or order issued by any court ruling on the constitutionality of any provision of this Act or amendment made by this Act.

(b) ACCEPTANCE AND EXPEDITION.—The Supreme Court shall, if it has not previously ruled on the question addressed in the ruling below, accept jurisdiction over, advance on the docket, and expedite the appeal to the greatest extent possible.

By Mr. SARBANES:

S. 47. A bill to amend certain provisions of title 5, United States Code, in order to ensure equality between Federal firefighters and other employees in the civil service and other public sector firefighters, and for other purposes; to the Committee on Governmental Affairs.

FIREFIGHTERS PAY FAIRNESS ACT

● Mr. SARBANES. Mr. President, as we begin the 104th Congress, I am reintroducing legislation to improve the pay system used for Federal firefighters.

This important bill has three broad purposes: First, to improve pay equality with municipal and other public section firefighters; second, to enhance recruitment and retention of firefighters in order to maintain the highest quality Federal fire service; and third, to encourage Federal firefighters to pursue career advancement and training opportunities.

Fire protection is clearly a major concern at Federal facilities and on Federal lands throughout the Nation. From fighting wildland fires in our National parks and forests to protecting military families from fires in their base housing, Federal firefighters play a vital role in preserving life and property. One only needs to recall the terrible tragedies in Colorado last summer to understand the incredible commitment of our Federal firefighters.

The Department of Agriculture, the Coast Guard, the Department of Commerce, the Department of Defense, the General Services Administration, the Department of the Interior, and the Department of Veterans Affairs are among the Federal agencies that rely on Federal employees to protect their vast holdings of land and structures. Just like their municipal counterparts, these Federal firefighters are the first line of defense against threats to life and property.

Mr. President, the current system used to pay our Federal firefighters is at best confusing and at worst unfair. These men and women work longer hours than other public sector firefighters yet are paid substantially less. The current pay system, which consists of three tiers, is overly complex and, more importantly, is hurting Federal efforts to attract and retain top-quality employees.

Currently, most Federal firefighters work an average 72-hour week under exceptionally demanding conditions. The typical workweek consists of a one-day-on/one-day-off schedule which results in three 24-hour shifts per 72-hour week. Despite this unusual schedule, firefighters are paid under a modified version of the same General Schedule pay system used for full-time, 40-hour-per-week Federal workers.

The result of the pay modification is that Federal firefighters make less per hour than any other Federal employees at the same grade level. For example: a firefighter who is a GS–5, Step 5 makes $7.21 per hour while other employees at the same grade and step earn $10.34 per hour. Some have tried to justify this by noting that part of a firefighter's day is downtime. However, I must note that all firefighters have substantial duties beyond those at the site of a fire. Adding to this discrepancy is the fact that the average municipal firefighter makes $12.87 per hour.

Mr. President, this has caused the Federal fire service to become a training ground for young men and women who then leave for higher pay elsewhere in the public sector. Continually training new employees is, as my colleagues know, very expensive for any employer.

The Office of Personnel Management is well aware of these problems. In fact, section 102 of the Federal Employees Pay Comparability Act of 1990 [FEPCA], title V of Public Law 101–509, authorizes the establishment of special pay systems for certain Federal occupations. The origin of this provision was a recognition that the current pay classification system did not account for the unique and distinctive employment conditions of Federal protective occupations including the Federal fire service.

In May of 1991, I wrote to OPM urging the establishment of a separate pay scale for firefighters under the authority provided for in FEPCA. Subsequently, OPM established an Advisory Committee on Law Enforcement and Protective Occupations consisting of agency personnel and representatives from Federal fire and law enforcement organizations. Beginning in August of 1991, representatives from the Federal fire community began working with OPM and other administration officials to identify and address the problems of paying Federal firefighters under the General Schedule. The committee completed its work in June of 1992 and in December of that year issued a staff report setting forth recommendations to correct the most serious problems with the current pay system.

Mr. President, I regret that since the release of the OPM recommendations, there has been no effort to implement any of the proposals of the advisory task force. In fact, OPM has communicated quite clearly that it has no plans to pursue any solution to the serious pay deficiencies that have been so widely identified and acknowledged.

It would not be necessary to introduce this legislation today had OPM taken the corrective action that, in my view, is so clearly warranted. However, I have determined that legislation appears to be the only vehicle to achieve the necessary changes in the pay system for Federal firefighters.

Mr. President, the Firefighter Pay Fairness Act would improve Federal firefighter pay in several important and straightforward ways. Perhaps most importantly, the bill draws from existing provisions in title V to calculate a true hourly rate for firefighters. This would alleviate the current problem of firefighters being paid considerably less than other General Schedule employees at the same GS level. It would also account for the varying length in the tour of duty for Federal firefighters stationed at different locations.

In addition, the bill would use this hourly rate to ensure that firefighters receive true time and one-half overtime for hours worked over 106 in a biweekly pay period. This is designed to correct the problem, under the current system, where the overtime rate is calculated based on an hourly rate considerably less than base pay.

The Firefighter pay Fairness Act would also extend these pay provisions to so-called wildland firefighters when they are engaged in firefighting duties. Currently, wildland firefighters are often not compensated for all the time spent responding to a fire event. Our bill would ensure that these protectors of our parks and forests would be paid fairly for ensuring the safety of these invaluable national resources.

The bill also ensures that firefighters promoted to supervisory positions would be paid at a rate of pay at least equal to what they received before the promotion. This would address the situation, under the current pay system, which discourages employees from accepting promotions because of the significant loss of pay which often accompanies a move to a supervisory position.

Similarly, the bill would encourage employees to get the necessary training in hazardous materials, emergency medicine, and other critical areas by ensuring they do not receive a pay cut while engaged in these training activities.

Mr. President, this legislation is based upon a bill I authored in the 103d Congress. A bipartisan group of more than 50 Members cosponsored the measure in the Senate and the House

last year. The legislation I am introducing today reflects several modifications that were suggested to the bill following substantial discussions with various Members. However, it is identical to the so-called compromise measure that was discussed with the authorizing as well as the appropriating committees last summer and received widespread support.

To reduce initial costs and allow oversight of the effectiveness of the legislation, the bill I am introducing today would implement the new pay system and other provisions beginning October 1, 1995. However, the new rate of pay would be phased in over a four year period ending October 1, 1999.

Mr. President, I consulted many of the affected groups in developing my legislation. I am very pleased that this bill has been endorsed by the American Federation of Government Employees, the International Association of Fire Chiefs, the International Association of Fire Fighters, the National Association of Government Employees, and the National Federation of Federal Employees.

As I have said before, Mr. President, fairness is the key word. There is no reason why Federal firefighters should be paid dramatically less than their municipal counterparts. As a co-chairman of the Congressional Fire Services Caucus, I want to urge all members of the caucus and, indeed, all Members of the Senate to join in cosponsoring this important piece of legislation.●

By Mr. STEVENS (for himself and Mr. MURKOWSKI):

S. 49. To amend the Federal Water Pollution Control Act to modify the wetlands regulatory program corresponding to the low wetlands loss rate in Alaska and the significant wetlands conservation in Alaska, to protect Alaskan property owners, and to ease the burden on overly regulated Alaskan cities, boroughs, municipalities and villages; to the Committee on Environment and Public Works.

THE ALASKA WETLANDS REGULATORY REFORM ACT OF 1995

Mr. STEVENS. Mr. President, I send to the desk a bill to set a bold standard for the conservation of wetlands based upon the Alaska model. I am pleased that my colleague from Alaska, the chairman of the Energy Committee, has worked so closely with me on this bill. It is a combined effort and I thank him and his staff for their advice and assistance.

This bill, S. 49, comes after years and years of working for regulatory and administrative solutions to the wetlands permitting problems experienced too frequently by Alaskans. I worked with the Small Business Committee for wetlands reform when I was a member of that committee and I testified before the Environment and Public Works Committee when it considered reform of the wetlands program. Senator MURKOWSWKI and I, with our staffs, spent hours with the Environment Committee members on Alaskan wetlands reform during the 103d Congress. We sought improvements to the wetlands program, improvements that take into account the wetlands conditions in Alaska. However, the Clean Water Act was not reauthorized during the 103d Congress. The current administration even failed to propose meaningful reforms after again studying the Alaska wetlands problem to death.

Today, Mr. President, we lay down our marker for Alaska wetlands regulatory program reform. We have exhausted other avenues. Our bill proposes the needed changes in the law and it is our reference point. Concepts in our bill will work because they change the regulatory program where they are inconsistent with Alaska's wetlands circumstances. Alaskans who encounter the wetlands program have helped us draft these proposals.

Within Alaska are approximately 170 million acres of wetlands. We have many types of wetlands. Some, such as permafrost wetlands, are found in no other State. During the past 200 years virtually none of these wetlands have been lost. Estimates of Alaska wetlands loss over the past 200 years range from 80,000 to 200,000 acres. So in 200 years, Alaska lost less than one-tenth of 1 percent of its wetlands. The total Alaska wetlands impacted in over 200 years are less than loss rates for the south 48 annually.

What's more, Mr. President, Alaska has vast acreage of wetlands that are conserved in national and State parks, wilderness systems, and refuges. Even our local governments designate expansive wetlands areas for conservation. The whole coastline along the city of Anchorage composes the Anchorage Coastal Wildlife Refuge; it is a wetlands conservation area established by Alaskans for Alaska.

The point, Mr. President, is that within Alaska are vast wetlands. The bulk of the best wetlands are already conserved, most permanently protected.

In contrast, the south 48 has lost over one-half of its wetlands during the past 200 years. South 48 loss occurred for a variety of reasons. Land was drained for agriculture. Swamps were filled for community growth and development. Much of the wetlands loss in the south 48 occurred well before the wetlands regulatory program began.

Then, in the mid-1980's, came the idea of no net loss, a concept first proposed by President Bush. The President declared the goal of no net loss to reverse the trend of wetlands loss in the south 48. When he first mentioned the goal, President Bush referred to wetlands loss rates exceeding 50 percent, and he was clearly not talking about Alaska. If Alaska is factored in, the national loss rate would only be around 30 percent.

After the President announced the new goal, the wetlands program was modified to implement no net loss. When the goal of no net loss was embraced by EPA and the Corps, it imprisoned Alaska.

Therein lies the crux of the difficulties for Alaskans: the changes in the wetlands program designed to address the south 48 wetlands loss problem were imposed on a State containing the most wetlands, but without the loss problem of the south 48.

Knowing this and considering the administrative and regulatory changes that the Alaska delegation has advocated for more than 5 years, Senator MURKOWSKI and I are left with no choice but to introduce this bill. Make no mistake, this bill addresses squarely the problem of mitigation, the concept in the wetlands doctrine that penalizes Alaskans.

In brief, our bill does the following:

It introduces a balancing concept as a purpose of the Clean Water Act and requires wetlands conservation to be balanced with economic impacts on local and private economic interests.

It establishes a new conservation standard. For States with substantial areas of conservation of wetlands, 15 acres in Federal, State, and local conservation designations for each acre filled, a modified permit standard applies. This approach will allow Alaskan permit applicants to receive permits without needless mitigation and without establishing that the project cannot be placed somewhere else. All projects must still minimize impact to wetlands.

It establishes the concept of economic base lands for Native and State land grants by the Congress, lands that receive the same permit review as outlined for States with substantial conserved wetlands areas.

Lastly, our bill provides for permit exemptions for certain activities such as water treatment facilities for mines, log transfer facilities, and airports.

Alaskans have waited long enough for this reform, Mr. President. The time has come for meaningful reform that helps Alaskans. At current rates of development, it would take 250 years for Alaskans to impact just one percent of its wetlands. But Alaska has conserved its wetlands credit for this conservation must be given when it comes to utilizing our small private land base and our State and Native land grants. The time has come for wetlands reform, reform that is meaningful and effective for those who contribute to the economic well being of my State.

Mr. MURKOWSKI. Mr. President, I join Senator STEVENS today in introducing legislation, aptly numbered S. 49 for Alaska, the 49th State, to free our State to properly and sensitively develop land that is currently off-limits because a muscle-bound bureaucracy has refined the dispensing of red-tape to an art form.

Anyone who looks at the facts, and who is not already biased against any and all development in Alaska, cannot help but be persuaded that the very

tough rules that apply to the development of wetlands in the lower 48 where 53 percent of the original wetlands have already been filed, drained or otherwise removed from wetland status do not make sense for Alaska where less than one tenth of 1 percent of original wetlands have been developed.

Good public policy rewards behavior and penalizes bad behavior. Alaska has diligently protected its wetlands. One hundred fifty four million acres of wetlands, over 60 million acres are already out of reach of any sort of development, having been placed in Federal conservation units. By contrast in the lower 48 only 31 million acres are publicly owned. Alaska has developed at most only about 200,000 acres of wetlands less than one tenth of 1 percent, compared to 117,000,000 acres developed in the lower 48—53 percent. In other words, Alaska's wetlands are already better protected than any other State. We will never, never become another New Jersey. It is simply good public policy to tailor regulatory oversight of wetlands development in Alaska to Alaska, not to some other State that has badly managed its wetlands. That is what our bill attempts to do.

Alaska is a young, strong State. The Federal Government has gone to great effort to provide for the orderly economic development of Alaska, first through the Statehood Act, in which 104 million acres were set aside for the State for purposes of economic development. Similarly, when the Congress passed the Alaska Natives Claim Settlement Act, approximately 43 million acres were granted to Native Alaskans through regional and village corporations for the purposes of economic development.

The irony is that, because so much of Alaska is wetland, 98 percent of all Alaskan communities and 200 out of 209 remote villages are located in or next to wetlands. So, while the Federal Government on one hand provided the resources for planned, sensitive development by means of the Statehood Act and ANCSA, on the other hand the Federal bureaucrats have tied those same lands in a sticky ball of redtape that may make sense on the east coast, but makes no sense in Alaska. Can you imagine requiring compensatory mitigation, that is, creating new wetlands to replace any wetland used in a state in which 3 out of 4 acres of non-mountainous land is already a wetland? Can you imagine requiring a wetlands permit to pile plowed snow on undeveloped land for the winter? Our bill is designed to address such absurdities.

This legislation does not do away with regulatory oversight of wetlands in Alaska. But, in Alaska, wetlands regulation should no longer completely ignore the economic and social effect of the permitting process. Compensatory mitigation would be done away with in many circumstances such as when critical infrastructure for minimal rural water and sewer delivery are installed. In addition, Alaska would get credit for the wetlands we already protect. Other protections, such as avoidance and minimization, would remain.

This will not satisfy those who are pleased with the status quo. They will not be comfortable with protecting Alaska for Alaskans. To them, preventing an Alaskan from building a garage, or a business on land designated wetland, even after avoidance and minimization requirements are met, is a small price to pay to preserve Alaska in its pristine primitiveness. In fact, in most cases it there is no price for them to pay because many of them live in New York, or Washington, DC or Los Angeles. For Alaskans, these regulations stop us dead in our tracks from pursuing the full promise of statehood.

This legislation just deals with Alaska. It is our hope to work with other Senators and Members of Congress from other States in which the regulators are running amuck. It's a starting point and a signal that we are serious about bringing sense back to a process that seems to have been lobotomized. I look forward to beginning that process.

By Mr. LOTT (for himself, Mr. KYL, Mr. MACK, Mr. SHELBY, and Mr. WARNER):

S. 50. A bill to repeal the increase in tax on Social Security benefits; to the Committee on Finance.

SENIOR CITIZENS TAX FAIRNESS ACT

Mr. LOTT. Mr. President, I am here today to reintroduce the Senior Citizens Tax Fairness Act. I am introducing it today along with my distinguished new colleague from the State of Arizona, Senator JON KYL. Senator KYL led the effort against the tax increase that this legislation would repeal when he was in the House of Representatives last year. So I am delighted now to have the opportunity to work with him on this legislation and on other issues here in the Senate.

The Omnibus Budget Reconciliation Act of 1993 raised taxes on millions of Americans. For that reason, I opposed that legislation last year. In my opinion, the most unfair of all the new taxes included in OBRA 1993 was the increased tax on Social Security recipients. We raised taxes on the senior citizens, the group of Americans who have worked all their lives paying into the Social Security Trust Fund. They planned their retirements based on a certain level of income and return from their contributions, and then Congress, last year, in its infinite wisdom—I think mistakenly—changed the rules of the game on them. We broke our word to the elderly people of America. I think that was unconscionable, and it needs to be changed.

As a member of the Budget Committee, I fought this tax last year from its inception. I offered amendments to knock it out in the Committee. I offered amendments on the floor of the Senate that were defeated by close votes, and that tax went on to become law. So I now do not intend to give up that fight, and I want to work this year to make sure that this new tax is repealed.

The Senior Citizens Tax Fairness Act would do just that: It would completely repeal the tax increase imposed on the senior citizens of this country last year. Our bill would return the percentage of taxable benefits from the current 85 percent to the former 50 percent. For that reason, we have requested the bill number to be S. 50. This should make it easy for everyone to understand the purpose of the legislation.

The tax increase should be repealed for many reasons. First, it directly hits those prudent and frugal Americans who have worked, sacrificed, and invested in America. This tax penalizes people who have saved for their retirements. It also penalizes those who are still working. This tax increase, combined with the perverse interplay of taxes on working seniors, will create marginal tax rates of more than 100 percent for some beneficiaries. In addition to the taxes other Americans pay on their incomes, Social Security beneficiaries under 70 who work forfeit $1 of Social Security benefits for every $3 they earn. This will cause some working seniors in the 28 percent bracket $1.04 for every additional dollar they earn.

This is fundamentally unfair. This retirement earnings test reduction, combined with other state and federal taxes, and the increased tax on benefits, creates a powerful work disincentive for older Americans, many of whom would like to continue to work and are needed in many instances. Why should we punish those who work with a tax rate higher than that of millionaires? Is that the American dream? I do not think so.

As a study for the National Center for Policy Analysis points out, taxpayers are not taxed on their income unless they put away additional savings for their retirement or are working. Penalizing savings—and working—is harmful to our economy as a whole.

What is even worse about this is that the revenues from the tax increase will not go to reduce the deficit. They will not go into the Social Security Trust Fund. The revenues will do nothing to help assure the fiscal integrity of the Social Security System. No, this tax increase and the revenue it produces, will go to fund other new government spending. To my knowledge, I believe I am correct in saying, this is the first time this has happened. I think that is the fact that most alarmed the seniors when they realized what was happening.

The tax has repeatedly been referred to as a tax on the wealthy. But I remember when it was first proposed, it could apply to senior citizens with incomes as low as $19,000. Now the threshold has been raised somewhat, but surely, by most standards, somebody earning $34,000 is not wealthy.

The Heritage Foundation analyzed distribution tables published by the House Ways and Means Committee and Census Bureau data. Based on that information, it is estimated that 57 percent of this tax will be paid by seniors earning less than $75,000. In my own State of Mississippi, it is estimated that the tax increase will cost senior citizens more than $20 million in 1994 alone.

Additionally, the thresholds above which the additional tax must be paid are not indexed. Thus, because of inflation, more and more people will be subject to the tax each year.

The question here is simple. Should Social Security recipients, retirees making as little as $34,000 a year, pay a higher marginal rate than any other American taxpayer just so the Federal Government can have more money to fund spending programs?

I do not believe so. It is not fair to reduce the incomes of those who cannot change past work and savings decisions which were based on current law. Social Security represents a contract we made with the American people years ago. They have done their part by working hard and paying into the system all their lives. Congress must now uphold its end of the bargain, so I believe we need to repeal this inequitable tax this year. I will be looking for an opportunity to offer this bill on the floor, or to have it included in legislation that will be coming out of the Finance Committee, and perhaps even the Budget Committee. I believe that we are going to have a lot of support for it. I invite my colleagues to join Senator KYL of Arizona and me as cosponsors.

● Mr. KYL. Mr. President, I rise as an original co-sponsor of S. 50, the ''Senior Citizens Tax Fairness Act of 1995.'' As Senator LOTT has explained, passage of S. 50 would repeal the Clinton Social Security Tax Increase contained in the Omnibus Budget Reconciliation Act of 1993 (OBRA '93). I believe S. 50 represents an important ''first step'' in re-establishing the fundamental American principles of limited government, tax fairness, and self-reliance. I believe repeal of the Clinton Social Security Tax Increase is a simple matter of justice.

During the 1992 presidential campaign, President Clinton promised to protect citizens ''who work hard and play by the rules.'' Surely, America's senior citizens are included in this category. Seniors have contributed to the Social Security system throughout their working lives. Many are dependent upon the government to discharge its obligations under the Social Security contract.

Also during the campaign, the President said, ''we don't need to tamper with Social Security. It's solid. It's secure. It's sound. And I'm going to keep it that way. . . You can take that one to the bank.'' But, the President broke his promise. Included in the President's 1993 tax legislation was a big penalty for many seniors.

Under the Clinton Social Security Tax Increase, senior citizens with incomes over $34,000 and couples with incomes over $44,000 are now taxed on 85% of their Social Security benefits. This represents a 70 percent increase in the marginal tax rate over prior law. For some beneficiaries, this has meant an annual tax hike of $2,700. When the Social Security Tax Increase is combined with the ''Social Security Earnings Limitation,'' a senior's marginal tax rate can reach 88%—twice the rate paid by millionaires! This is not taxation. This is confiscation.

The CBO estimates that, in 1994, 9.5 million beneficiaries were hit by the Clinton Social Security Tax Increase. This figure will rise to roughly 13.5 million by 1998 and will go higher each year thereafter because this tax is not indexed for inflation, thereby allowing ''bracket creep.''

To remedy the injustice imposed by the Clinton Social Security Tax Increase, Senator Trent Lott and I have introduced S. 50, the ''Senior Citizens Tax Fairness Act of 1995.'' S. 50 would repeal the punitive rate of taxation imposed upon millions of middle class senior citizens by the Clinton Social Security Tax Increase. S. 50 is identical to H.R. 2959, which I introduced as a member of the House of Representatives on August 6, 1993, the day this tax increase was passed by the Congress.

According to a Heritage Foundation analysis of figures provided by the Congressional Budget Office (CBO) and the U.S. Treasury Department, the Clinton Social Security Tax Increase will remove $380,675,441 from the pockets of Arizona's senior citizens between 1994 and 1998. Throughout America, $24.6 billion will be confiscated from seniors during the same period.

The President and some members of Congress apparently forgot that Social Security is not an insurance policy intended to offset some unforeseen future occurrence. Rather it is a supplemental pension plan with a certain amount paid on a regular basis to retirees who made contributions to the fund on a regular basis throughout their working lives. Social Security is a planned savings program designed to provide income during an individual's retirement years.

Mr. President, since the imposition of the Clinton Social Security Tax Increase, I have heard from thousands of senior citizens. Their message is clear and persuasive: While they are willing to do their fair share to reduce the size of the budget deficit, they do not understand why they must pay a new tax on their Social Security benefits in order to finance increased federal spending. America's seniors believe the government should cut spending first. And they are absolutely right. The history of federal taxation—including the Clinton Social Security Tax Increase—demonstrates compellingly that tax increases inevitably provide for increased federal spending rather than deficit reduction, as these measures are frequently advertised to provide.

For instance, a study by the Joint Economic Committee found that, since 1947, every dollar of increased taxation resulted in $1.59 in increased Federal spending. This confirms a study by the Office of Management and Budget which concluded that, in the 1970s, tax revenues grew by $324.3 billion while spending rose by $395.3 billion. Thus, during this time period, for every dollar in higher taxes, spending rose by $1.22. In the 1980s, tax revenues increased by $514.6 billion. However, instead of using these additional revenues for deficit reduction, the Congress increased spending by $661.7 billion, a spending increase of $1.29 for each dollar of revenue raised through new taxes. This trend has dramatically worsened since 1990. In fiscal years 1990–1993, federal spending has increased by $1.91 for each dollar of new revenue raised through taxation.

The Congress imposed major tax increases in 1982, 1984, 1987, and 1990. In each case lawmakers promised that the revenues raised would be used to reduce the deficit. However, in each instance, new tax revenues were used to fund new Federal spending. In fact, under OBRA '93, Federal spending is projected by the CBO to increase from $1.467 trillion in 1994 to $1.758 trillion in 1998—an increase of $291 billion. The same is true about revenues raised by the Clinton Social Security Tax Increase. These revenues have not been used to reduce the deficit. These revenues have been used to provide for additional Federal spending.

The Clinton Social Security Tax Increase hinders economic growth by reducing incentives to save, work, and invest. For instance, a Social Security recipient in the middle tax bracket receiving $8,000 in annual benefits paid almost $800 in additional taxes this year. However, this individual pays the tax only because participation in the work force generates taxable income above the marginal rate. The incentive not to work is clear: The payment of additional taxes on benefits is required as a result of earnings received from productive economic activity. Taxation discourages this activity.

It is also important to remember that Social Security is not the cause of the deficit. As we all know, the Social Security system now has an annual surplus of between $50 and $60 billion dollars. And, although CBO projects Social Security spending to rise by an average of 4.96 percent annually over the next 5 years, it is not growing at an astronomical rate. We must remember that the driving force behind the growth in Federal spending is not Social Security; it is Medicare and Medicaid. Medicare is projected to rise by an average of 11.9 percent annually between 1993 and 1998. Medicaid is projected to grow at an annual average rate of 12.8 percent over the next 5 years. Mr. President, because Social

Security is not the cause of the budget deficit, and because the revenues generated by the Clinton Social Security Tax Increase are not used to reduce that deficit. I believe justice requires that this tax be repealed.

I believe America's primary problem is not that our citizens are taxed too little but that government spends too much. With regrettable consistency, the Clinton Social Security Tax Increase of 1993 continued the failed policies of past Congresses that seemed actually addicted to raising taxes and adverse cutting spending. Passage of S. 50 will represent an important reversal of this ''tax and spend'' tendency.

The American people have given the 104th Congress an historic opportunity to reaffirm the fundamental principles of limited government, tax fairness, and self reliance. The Congress must not continue to impose higher taxes on Social Security to provide for additional Federal spending. Further, the Government simply must stop borrowing from the Social Security Trust Fund, and must begin the process of insuring the solvency of the system for all current and future retirees. But we cannot and should not begin this process until there is a significant national consensus and until all retires are adequately protected.

I hope you will join Senator LOTT and me in supporting passage of S. 50, which will repeal the unjust Clinton Social Security Tax Increase. Thank you, Mr. President.●

By Mr. THURMOND:

S. 51. A bill to amend title 28 of the United States Code to clarify the remedial jurisdiction of inferior Federal courts; to the Committee on the Judiciary.

JUDICIAL TAXATION PROHIBITION ACT

Mr. THURMOND. Mr. President, I rise today to introduce legislation to prohibit Federal Judges from ordering new taxes or ordering increases in existing tax rates as a judicial remedy.

In 1990, the Supreme Court decided in *Missouri! v. Jenkins* to allow Federal judges to order new taxes or tax increases as a judicial remedy. It is my firm belief that this narrow 5–4 decision permits Federal judges to exceed their proper boundaries of jurisdiction and authority under the Constitution.

Mr. President, this ruling and Congressional response raises two constitutional issues which warrant discussion. One is whether Federal courts have authority under the Constitution to inject themselves into the legislative of taxation. The second constitutional issue arises in light of the Judicial Taxation Prohibition Act which I am now introducing to restrict the remedial jurisdiction of the Federal courts. This narrowly drafted legislation would prohibit Federal judges from ordering new taxes or ordering increases in existing tax rates. I believe it is clear under Article III that the Congress has the authority to restrict the remedial jurisdiction of the Federal Courts in this fashion.

First, I want to speak on the issue of judicial taxation. Not since Great Britiain's ministry of George Grenville in 1765, have the American people faced the assault of taxation without representation as now authorized in the *Jenkins* decision.

As part of his imperial reforms to tighten British control in the colonies, Grenville pushed the Stamp Act through the Parliament in 1765. This act required excise duties to be paid by the colonists in the form of revenue stamps affixed to a variety of legal documents. This action came at a time when the colonies were in an uproar over the Sugar Act of 1764 which levied duties on certain imports such as sugar, indigo, coffee, linens, and other items.

The ensuing firestorm of debate in America centered on the power of Britain to tax the colonies. James Otis, a young Boston attorney, echoed the opinion of most colonists stating that the Parliament did not have power to tax the colonies because Americans had no representation in that body. Mr. Otis had been attributed in 1761 with the statement that ''taxation without representation is tyranny.''

In October, 1765, delegates from nine States were sent to New York as part of the Stamp Act Congress to protest the new law. It was during this time that John Adams wrote in opposition to the Stamp Act:

> We have always understood it to be a grand and fundamental principle * * * that no freeman shall be subject to any tax to which he has not given his own consent, in person or by proxy.

A number of resolutions were adopted by the Stamp Act Congress protesting the acts of Parliament. One resolution stated:

> It is inseparably essential to the freedom of a people * * * that no taxes be imposed on them, but with their own consent, given personally or by their representatives.

The resolutions concluded that the Stamp Act had a ''manifest tendency to subvert the rights and liberties of the colonists.''

Opposition to the Stamp Act was vehemently continued through the colonies in pamphlet form. These pamphlets asserted that the basic premise of a free government included taxation of the people by themselves or through their representatives.

Other Americans reacted to the Stamp Act by rioting, intimidating collectors, and boycotts directed against England. While Grenville's successor was determined to repeal the law, the social, economic and political climate in the colonies brought on the American Revolution. The principles expressed during the earlier crisis against taxation without representation became firmly imbedded in our Federal Constitution or 1787.

Yet, the Supreme Court has overlooked this fundamental lesson in American history. The *Jenkins* decision extends the power of the judiciary into an area which has traditionally been reserved as a legislative function within the Federal, State, and local governments. In the ''Federalist No. 48,'' James Madison explained that in our democratic system, ''the legislative branch alone has access to the pockets of the people.''

This idea has remained steadfast in America for over 200 years. Elected officials with authority to tax are directly accountable to the people who give their consent to taxation through the ballot box. The shield of accountability against unwarranted taxes has been removed now that the Supreme Court has sanctioned judicially imposed taxes. The American citizenry lacks adequate protection when they are subject to taxation by unelected, life tenured Federal judges.

There are many programs and projects competing for a finite number of tax dollars. The public debate surrounding taxation is always intense. Sensitive discussions are held by elected officials and their constituents concerning increases and expenditures of scarce tax dollars. To allow Federal judges to impose taxes is to discount valuable public debate concerning priorities for expenditures of a limited public resource.

Mr. President, the dispositive issue presented by the *Jenkins* decision is whether the American people want, as a matter of national policy, to be exposed to taxation without their consent by an independent and insulated judiciary. I most assuredly believe they do not.

This brings us to the second constitutional issue which we must address in light of the *Jenkins* decision. That issue is congressional authority under the Constitution to limit the remedial jurisdiction of lower Federal courts established by the Congress. Article III, section 1, of the Constitution provides jurisdiction to the lower Federal courts as the ''Congress may from time to time ordain and establish.'' There is no mandate in the Constitution to confer equity jurisdiction to the inferior Federal courts. Congress has the flexibility under article III to ''ordain and establish'' the lower Federal courts as it deems appropriate. This basic premise has been upheld by the Supreme Court in a number of cases including *Lockerty* v. *Phillips, Lauf* v. *E.G. Skinner and Co., Kline* v. *Burke Construction Co.,* and *Sheldon* v. *Sill.*

This legislation would preclude the lower Federal courts from issuing any order or decree requiring imposition of ''any new tax or to increase any existing tax or tax rate.'' I firmly believe that this language is wholly consistent with congressional authority under article III, section 1 of the Constitution.

There is nothing in this legislation which would restrict the power of the Federal courts from hearing constitutional claims. It accords due respect to all provisions of the Constitution and

merely limits the availability of a particular judicial remedy which has traditionally been a legislative function. The objective of this legislation is straightforward, to prohibit Federal courts from increasing taxes. The language in this bill applies to the lower Federal courts and does not deny claimants judicial access to seek redress of any Federal constitutional right.

Mr. President, how long will it be before a Federal judge orders tax increases to build new highways or prisons? I do not believe the Founding Fathers had this type of activism in mind when they established the judicial branch of Government. The role of the judiciary is to interpret the law. The power to tax is an exclusive legislative right belonging to the Congress and governments at the State level. We are accountable to the citizens and must justify any new taxes. The American people deserve a timely response to the *Jenkins* decision and we must provide protection against the imposition of taxes by an independent judiciary.

Mr. President, I ask unanimous consent that this proposal be printed in the RECORD.

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

S. 51

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 ''Judicial Taxation Prohibition Act''.

SEC. 2. FINDINGS.

The Congress finds and declares that—

(1) a variety of effective and appropriate judicial remedies are available for the full redress of legal and constitutional violations under existing law, and that the imposition or increase of taxes by courts is neither necessary nor appropriate for the full and effective exercise of Federal court jurisdiction;

(2) the imposition or increase of taxes by judicial order constitutes an unauthorized and inappropriate exercise of the judicial power under the Constitution of the United States and is incompatible with traditional principles of American law and government and the basic American principle that taxation without representation is tyranny;

(3) Federal courts exceed the proper boundaries of their limited jurisdiction and authority under the Constitution of the United States, and impermissibly intrude on the legislative function in a democratic system of government, when they issue orders requiring the imposition of new taxes or the increase of existing taxes; and

(4) the Congress retains the authority under article III, sections 1 and 2 of the Constitution of the United States to limit and regulate the jurisdiction of the inferior Federal courts which it has seen fit to establish, and such authority includes the power to limit the remedial authority of inferior Federal courts.

SEC. 3. AMENDMENT TO TITLE 28.

(a) IN GENERAL.—Chapter 85 of title 28, United States Code, is amended by adding between sections 1341 and 1342, the following new section:

''§ 1341A. Prohibition of judicial imposition or increase of taxes

''(a) Notwithstanding any other provision of law, no inferior court established by Congress shall have jurisdiction to issue any remedy, order, injunction, writ, judgment, or other judicial decree requiring the Federal Government or any State or local government to impose any new tax or to increase any existing tax or tax rate.

''(b) Nothing in this section shall prohibit inferior Federal courts from ordering duly authorized remedies, otherwise within their jurisdiction, which may require expenditures by Federal, State, or local government where such expenditures are necessary to effectuate such remedies.

''(c) For purposes of this section, the term 'tax' includes—

''(1) personal income taxes;

''(2) real and personal property taxes;

''(3) sales and transfer taxes;

''(4) estate and gift taxes;

''(5) excise taxes;

''(6) user taxes;

''(7) corporate and business income taxes; and

''(8) licensing fees or taxes.''.

(b) TABLE OF SECTIONS.—The table of sections for chapter 85 is amended by inserting between the item relating to section 1341 and the item relating to section 1342, the following new item:

''1341A. Prohibition of judicial imposition or increase of taxes.''.

SEC. 4. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on the date of enactment.

By Mr. THURMOND:

S. 52. A bill to provide that a justice or judge convicted of a felony shall be suspended from office without pay; to the Committee on the Judiciary.

LEGISLATION TO SUSPEND THE PAY OF JUSTICES OR JUDGES CONVICTED OF A FELONY

Mr. THURMOND. Mr. President, today I am introducing legislation which provides that a justice or judge convicted of a felony shall be suspended from office without pay pending the disposition of impeachment proceedings.

I believe that the citizens of the United States will agree that those who have been convicted of felonies should not be allowed to continue to occupy positions of trust and responsibility in our Government. Nevertheless, under current constitutional law it is possible for judges to continue to receive a salary and to still sit on the bench and hear cases even after being convicted of a felony. If they are unwilling to resign, the only method which may be used to remove them from the Federal payroll is impeachment.

Currently, the Congress has the power to impeach officers of the Government who have committed treason, bribery, or other high crimes and misdemeanors. Even when a court has already found an official guilty of a serious crime, Congress must then essentially retry the official before he or she can be removed from the Federal payroll. The impeachment process is typically very time consuming and can occupy a great deal of the resources of Congress.

Mr. President, one way to solve this problem would be to amend the Constitution. Today, I am also introducing a Senate resolution proposing a constitutional amendment providing for forfeiture of office by Government officials and judges convicted of felonies. While I believe that a constitutional amendment may be the best solution to the problem, I am also introducing this statutory remedy to address the current situation.

This legislation will provide that a judge convicted of a felony shall be suspended from office without pay pending the disposition of impeachment proceedings. The Framers of the Constitution could not have intended convicted felons to continue to serve on the bench and to receive compensation once they have violated the law and the trust of the people.

Mr. President, I urge my colleagues to carefully consider this legislation and ask unanimous consent that it be printed in the RECORD.

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

S. 52

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3 of title 28, United States Code, is amended by—

(1) inserting ''(a)'' before ''Whenever the'';

(2) adding at the end thereof the following:

''(b) Justices of the Supreme Court shall hold office during good behavior.

''(c) For purposes of the tenure or appointment of a justice, the term 'good behavior' shall not include any offense committed by a justice if the conviction of such offense is punishable by death or imprisonment for a term exceeding one year. Any justice convicted of such an offense shall be suspended from office without pay pending the disposition of impeachment proceedings.''.

SEC. 2. Sections 44(b) and 134(a) of title 28, United States Code, are each amended by adding at the end thereof the following: ''For purposes of the tenure or appointment of a judge, the term 'good behavior' shall not include any offense committed by a judge if the conviction of such offense is punishable by death or imprisonment for a term exceeding one year. Any judge convicted of such an offense shall be suspended from office without pay pending the disposition of impeachment proceedings.''.

By Mr. THURMOND:

S. 53. A bill to amend title 18, United States Code, to prohibit any person who is being compensated for lobbying the Federal Government from being paid on a contingency fee basis; to the Committee on the Judiciary.

LEGISLATION BANNING CONTINGENCY FEES FOR LOBBYING ACTIVITIES

Mr. THURMOND. Mr. President, today, I am introducing a bill which would prohibit any person who is being compensated for lobbying the Federal Government from being paid on a contingency fee basis. This bill is virtually identical to a bill I introduced in the 103d Congress. This legislation takes an important step towards ensuring integrity in the administration of the Federal Government.

Congress has a great responsibility to ensure integrity in the administration of the Federal Government in all its departments. This has become even more important now that we have entered the era of the $1 trillion Federal budget. Vast sums of money are appropriated by Congress for various projects and studies. Contracts worth millions of dollars are regularly entered into by Federal agencies. The competition for these funds and contracts is intense.

It is not realistic to assume that Congress can legislate integrity. However, we can, through legislation, make efforts to remove certain incentives to use undue influence to enter into contracts which are contrary to the fiscal and ethical interests of our Nation. Accordingly, I introduce this legislation which will prohibit payment for lobbying on a contingency fee basis.

Mr. President, I have heard reports of certain lobbying activities which greatly disturb me. Specifically, I was informed that one lobbyist approached an institution and inquired as to how much Federal money was needed to fund a particular project. When the response was $12 million, the lobbyist responded that he would ask Congress for $14 million. If successful, he would be paid $2 million. If he was unsuccessful, only a base fee would be charged. When our Nation is bridled with such a huge debt, we certainly cannot afford to borrow more money to provide such suspect incentive payments which work to further increase the deficit.

Many lobbying firms do not operate on a contingency fee basis. Yet, other firms follow this practice. Hearings on these issues would be very helpful as this legislation moves through Congress. However, even if it is determined that such arrangements are rare—I take the view that even one is too much. Such arrangements are clearly wrong, and should not be tolerated.

I firmly believe that lobbying on a contingency fee basis is wrong and should not be allowed. Congress should follow the lead of most States by enacting this legislation which would prohibit such arrangements.

Mr. President, the question of the propriety of contingency fees in lobbying activities is not a new one. Common law has held such contracts unenforceable for decades. in fact, in 1916, the Supreme Court ruled on the character of such financial arrangements in the case of Crocker versus United States. The Court, quoting from a prior case, stated:

> All contracts . . . should be made with those . . . who will execute them most faithfully, and at the least expense to the Government. [Contingency fee arrangements] . . . tend to introduce personal solicitation, and personal influence, as elements in the procurement of contracts; and thus directly lead to inefficiency in the public service, and to unnecessary expenditures of the public funds.

Mr. President, recognizing the improper incentives contingency fees for lobbyists have injected into Government, 35 States have laws on the books which prohibit payment for lobbying on a contingent fee basis. My home State of South Carolina has prohibited this type of lobbying since 1935.

At the Federal level, contingency fee arrangements are addressed to some extent in the executive branch. Two laws covering contracts awarded by the Executive Departments—41 U.S.C. 254 (a) and 10 U.S.C. 2306 (b)—restrict the use of ''commission, percentage, brokerage or contingent fee'' arrangements to secure these contracts. However, the scope of these statutes is deficient in two respects. First, the violation of these provisions carries little penalty. the Government can only annul the contract secured by a contingency fee arrangement, or deduct from the contract the full amount of the contingency fee. They carry no criminal penalties. Second, these statutes only apply to the executive branch and not to activities involving Congress.

Mr. President, the legislation I am introducing would make contingency fee arrangements to influence Government action a crime under Federal law. Any person who violates the provisions of this section shall be fined up to $100,000, or imprisoned not more than 5 years, or both.

Moreover, the Attorney General is empowered to bring a civil action to recover twice the proceeds obtained by that person due to such conduct. This act is prospective in nature and would only apply to contracts entered into after enactment.

Lobbyists often provide expertise and helpful information not otherwise available. I want to be clear on this point. This is an important role for lobbyists, but I am opposed to contractual arrangements which impugn the integrity and efficiency of our system. Clearly, a person should be entitled to reasonable fees for legitimate services in presenting officials of the Government with information as may apprise them of the character and value of the project or service offered, and thus enable those officers to act for the best interest of the Nation. However, the law has long recognized that contingency fees are not appropriate in some areas while appropriate in others. For instance, contingency fees in tort actions provide the poor with access to the courts and are viewed favorably. In other areas, such as criminal and domestic law, such fees are inappropriate because they introduce improper incentives into the system. Similar principles should apply to contingency fees for lobbying.

Mr. President, I urge my colleagues to support this legislation and I look forward to hearings on this important issue. The public deserves action on the part of Congress.

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. 53

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

That chapter 11 of title 18, United States Code, is amended by—

(1) inserting between sections 219 and 223, the following new section:

''§ 220. Contingency fees in lobbying

''(a)(1) It shall be unlawful for any person to make, with intent to influence, any oral or written communication on behalf of any other person other than the United States to any department, agency, court, House of Congress, or commission of the United States, for compensation if such compensation has knowingly been made dependent—

''(A) upon any action of Congress, including but not limited to actions of either the house of Representatives or the Senate, or any committee or member thereof, or the passage or defeat of any proposed legislation;

''(B) upon the securing of an award, or upon the denial of an award, of a contract or grant by establishment of the Federal Government; or

''(C) upon the securing, or upon the denial, of any Federal financial assistance or any other Federal contract or grant.

''(2) The provisions of paragraph (1) shall not apply in any case involving the collection of any amount owed on a debt or on a contract claim owed to a person by the Federal Government.

''(b) Any person who violates the provisions of this section shall be fined not more than $50,000 or imprisoned not more than two years, or both.

''(c) The Attorney General may bring a civil action in any United States district court, on behalf of the United States, against any person who engages in conduct prohibited by this section in lieu of or in addition to an action taken pursuant to subsection (b), and upon proof of such conduct by a preponderance of the evidence, may recover twice the amount of any proceeds obtained by that person due to such conduct. Such civil action shall be barred unless the action is commenced within six years after the later of (1) the date on which the prohibited conduct occurred, or (2) the date on which the United States became or reasonably should have become aware that the prohibited conduct had occurred.''; and

(2) amending the table of sections by striking out the item between the item relating to section 219 and the item relating to section 224 and inserting in lieu thereof the following:

''220. Contingency fees in lobbying.''.

SEC. 2. This Act and the amendments made by this Act shall become effective on the date of enactment of this Act and shall apply to any contract entered into on or after such date of enactment.

By Mr. THURMOND:

S. 54. A bill to amend title 18 to limit the application of the exclusionary rule; to the Committee on the Judiciary.

EXCLUSIONARY RULE LIMITATION ACT

Mr. THURMOND. Mr. President, today, I rise to introduce a bill which would codify the good faith exception to the exclusionary rule that has been recognized by the Supreme Court.

The legislation that I am offering today is similar to measures I have introduced in the last five Congresses and to a proposal which passed the Senate by the vote of 63–24 in 1984. Although the House of Representatives passed similar legislation during the

last three out of four Congresses, the Senate failed to pass this proposal.

The exclusionary rule is a judicially creased remedy for violations by law enforcement officers of the fourth amendment prohibition against illegal searches and seizures. More simply, if evidence is obtained by a law enforcement officer in violation of the fourth amendment then that evidence will be excluded in a criminal trail. The exclusionary rule is an important principle since it helps to ensure that law enforcement officers not be allowed to randomly enter our homes or private places and search without just cause.

However, since the creation of the exclusionary rule remedy in 1914, in Weeks versus California, the Supreme Court has recognized exceptions when the exclusionary rule should not apply. This measure addresses one of those exceptions. This legislation codifies the Court's holding in United States versus Leon to provide that evidence obtained pursuant to a warrant which is later found to be defective will not be excluded it the law enforcement officer acted in objective good faith. Objective good faith would be established if the circumstances surrounding the search justify an objectively reasonable belief that it was in conformity with the fourth amendment. This bill also extends this exception to warrantless searches which has been recognized in two Federal circuits.

Mr. President, the bill that I am introducing today neither authorizes nor encourages law enforcement officers to disregard the fourth amendment and randomly search a person's home. What it does is address the legal loophole that often allows a criminal to go free, irrespective of guilt or innocence, when evidence crucial to a criminal proceeding is suppressed. The goal of the exclusionary rule is to deter law enforcement conduct that violates the fourth amendment. Therefore, if a law enforcement officer's conduct in executing a search is in conformity with the fourth amendment, applying the exclusionary rule does not serve as a deterrent. It should be noted that the determination as to whether the officer conducted the search in objective good faith would be made by a court based on the circumstances surrounding the search. Of course, if the officer's conduct did not exhibit objective good faith, the evidence would not be allowed. This amendment is a reasonable extension of the exception currently recognized by the Supreme Court.

We are well aware of the fact that the exclusion of evidence most often resulted in the release of the accused. This is a high price to pay for acts which do not violate the Constitution. Therefore, I think it wise to preclude the use of the exclusionary rule in these situations unless Congress so provides. This legislation will aid in the apprehension and prosecution of criminals without sacrificing the principles of the fourth amendment.

In an effort to work towards a bi-partisan comprehensive crime bill last Congress, I agreed to not pursue passage of this measure. However, it is my belief that the Congress failed to produce a true, tough crime bill worthy of the American people. This Congress, I plan to strongly pursue this, and other, vital criminal law reform measures which will ensure that criminals are appropriately punished. I strongly urge my colleagues to support this vital measure and hope that we will act without delay.

I ask unanimous consent that the full text of this bill be printed in the RECORD.

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

S. 54

That this Act may be cited as the ''Exclusionary Rule Limitation Act of 1995''.

SEC. 2. (a) Chapter 223 of title 18, United States Code, is amended by adding the following two sections:

''§ 3508. Limitation of the fourth amendment exclusionary rule

''Evidence which is obtained as a result of a search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the fourth amendment to the Constitution of the United States, if the search or seizure was undertaken in an objectively reasonable belief that it was in conformity with the fourth amendment. A showing that evidence was obtained pursuant to and within the scope of a warrant constitutes prima facie evidence of such a reasonable belief, unless that warrant was obtained through intentional and material misrepresentation.

''§ 3509. General limitation of the exclusionary rule

''Except as specifically provided by statute or rule of procedure evidence which is otherwise admissible shall not be excluded in a proceeding in a court of the United States on the ground that the evidence was obtained in violation of a statute or rule of procedure, or of a regulation issued pursuant thereto.''.

(b) The table of sections of chapter 223 of title 18, United States Code, is amended by adding at the end thereof:

''3508. Limitation of the fourth amendment exclusionary rule.

''3509. General limitation of the exclusionary rule.''.

By Mr. INOUYE:

S. 55. A bill to amend title 38, United States Code, to deem certain service in the organized military forces of the Government of the Commonwealth of the Philippines and the Philippine Scouts to have been active service for purposes of benefits under programs administered by the Secretary of Veterans Affairs; to the Committee on Veterans Affairs.

FILIPINO VETERANS EQUITY ACT

● Mr. INOUYE. Mr. President, today, I rise to introduce legislation which amends title 38, United States Code, to restore full veterans' benefits, by reason of service, to certain organized military forces of the Philippine Commonwealth Army and the Philippine Scouts.

On July 26, 1941, President Roosevelt issued a military order that called members of the Philippine Commonwealth Army into the service of the United States Forces of the Far East. Under the Command of General Douglas MacArthur, our Filipino allies joined alongside American soldiers in fighting some of the most fierce battles of World War II.

From the onset of the war through February 18, 1946, Filipinos who were called into service under President Roosevelt's order were entitled to full veterans' benefits by reason of their active service in our armed forces. Unfortunately, on February 18, 1946, the Congress enacted the Rescission Act of 1946 (now codified as Section 107, Title 38, United States Code), which states that service performed by these Filipino veterans is not deemed as active service for purposes of any law of the United States conferring rights, privileges, or benefits. On May 27, 1946, the Congress extended the limitation on benefits to the new Filipino Scout units.

Interestingly enough, Section 107 denied Filipino veterans access to health care, particularly for nonservice connected disability, and denied them other benefits such as pensions and home loan guarantees. Additionally, Section 107 limited the benefits received for service-connected disabilities and death compensation to 50 percent of what was received by their American counterparts.

As a result, Filipino veterans sued to obtain relief from this discriminatory treatment. The U.S. District Court for the District of Columbia, on May 12, 1989, in *Quiban* v. *U.S. Veterans Administration,* declared Section 107 unconstitutional. However, the U.S. Court of Appeals for the District of Columbia reversed that ruling and the veterans did not file a petition for certiorari to the U.S. Supreme Court. Thus, the Congress is responsible for rectifying this injustice.

For many years, Filipino veterans of World War II have sought to correct this injustice by seeking equal treatment for their valiant military service in our Armed Forces. We must not ignore the recognition they duly deserve as U.S. veterans. Accordingly, I urge my colleagues to support this measure which would restore full veterans' benefits, by reason of service, to our Filipino allies of World War II.

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

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

S. 55

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 ''Filipino Veterans Equity Act of 1995''.

SEC. 2. CERTAIN SERVICE IN THE ORGANIZED MILITARY FORCES OF THE PHILIPPINES AND THE PHILIPPINE SCOUTS DEEMED TO BE ACTIVE SERVICE.

(a) IN GENERAL.—Section 107 of title 38, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out ''not'' after ''Army of the United States, shall''; and

(B) by striking out '', except benefits under—'' and all that follows and inserting in lieu thereof a period; and

(2) in subsection (b)—

(A) by striking out ''not'' after ''Armed Forces Voluntary Recruitment Act of 1945 shall''; and

(B) by striking out ''except—'' and all that follows and inserting in lieu thereof a period.

(b) CONFORMING AMENDMENTS.—(1) The heading of such section is amended to read as follows:

''§107. Certain service deemed to be active service: service in organized military forces of the Philippines and in the Philippine Scouts''.

(2) The item relating to such section in the table of sections at the beginning of chapter 1 of such title is amended to read as follows:

''107. Certain service deemed to be active service: service in organized military forces of the Philippines and in the Philippine Scouts.''.

SEC. 3. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this Act shall take effect on _____.

(b) APPLICABILITY.—No benefits shall accrue to any person for any period before the effective date of this Act by reason of the amendments made by this Act.●

By Mr. INOUYE:

S. 57. A bill to amend the Immigration and Nationality Act to facilitate the immigration to the United States of certain aliens born in the Philippines or Japan who were fathered by United States citizens; to the Committee on the Judiciary.

AMERASIAN IMMIGRATION ACT AMENDMENTS

● Mr. INOUYE. Mr. President, today, I rise to introduce legislation which amends Public Law 97–359, the Amerasian Immigration Act, to include Amerasian children from the Philippines and Japan as eligible applicants. This legislation also expands the eligibility period for the Philippines until the completion of the last United States military base closure and until the date of enactment of the proposed legislation for Japan.

Under the current Amerasian immigration law, only children born in Korea, Laos, Kampuchea, Thailand, and Vietnam after December 31, 1950, and before October 22, 1982, who were fathered by United States citizens, are allowed to immigrate to the United States. When this legislation was first introduced in the 97th Congress, it included Amerasian children born in the Philippines and Japan with no time limits concerning their births. The final version of this bill, however, included only areas where the United States had engaged in active military combat from the Korean War onward, and hence, excluded both the Philippines and Japan.

Although the Philippines and Japan were not considered a war zone from 1950 to 1982, the extent and nature of United States military involvement in both countries were quite similar to the involvement of the United States military in other Asian countries during the Korean and Vietnam wars. As a result, interracial marriages in both countries were common, thereby leading to a significant number of Amerasian children fathered by U.S. citizens. There are now over 50,000 Amerasian children in the Philippines and 6,000 Amerasian children in Japan born between 1987 and 1992.

These children face similar problems to the Amerasian children provided for under Public Law 97–359. Due to the illegitimate or mixed ethnic make-up, they are often ostracized within their home countries. This stigmatization, in turn, leaves many without viable opportunities of employment, education, or family life. As a result, Amerasian children are subjected to conditions of severe poverty and prejudice, with very little hope of escaping their plight.

Public Law 97–359 was passed in hopes of redressing the situation of Amerasian children in Korea, Laos, Kampuchea, Thailand, and Vietnam. Now is the time for the Senate to recognize our responsibilities to Amerasian children in the Philippines and Japan, and pass legislation that would lessen the severity of their impoverished lives.

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

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

S. 57

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 204(f)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1154(f)(2)(A)) is amended—

(1) by inserting ''(I)'' after ''born''; and

(2) by inserting after ''subsection,'' the following: ''(II) in the Philippines after 1950 and before November 24, 1992, or (III) in Japan after 1950 and before the date of enactment of this subclause,''.●

By Mr. INOUYE:

S. 58. A bill to increase the role of the Secretary of Transportation in administering section 901 of the Merchant Marine Act, 1936, and for other purposes; to the Committee on Commerce, Science, and Transportation.

LEGISLATION RELATING TO THE MERCHANT MARINE ACT OF 1936

● Mr. INOUYE. Mr. President, the legislation I am introducing today would centralize authority in the Secretary of Transportation for administering our cargo preference laws. The background of these laws, the need for them, and the problems which, in my view, necessitate the legislation are succinctly stated in a Journal of Commerce article dated November 18, 1988. While the first printing of this article was several years ago, the background it provides and the light it sheds on our present needs are still pertinent. I ask unanimous consent that the text of the bill and the article be printed in the RECORD.

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

S. 58

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

SECTION 1. TRANSPORTATION IN AMERICAN VESSELS OF GOVERNMENT PERSONNEL AND CERTAIN CARGOES.

Section 901(b)(2) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(b)(2)), is amended to read as follows:

''(2)(A) The Secretary of Transportation shall have the sole responsibility for determining and designating the programs that are subject to the requirements of this subsection. Each department or agency that has responsibility for a program that is designated by the Secretary of Transportation pursuant to the preceding sentence shall, for the purposes of this subsection, administer such program pursuant to regulations promulgated by such Secretary.

''(B) The Secretary of Transportation shall—

''(i) review the administration of the programs referred to in subparagraph (A); and

''(ii) on an annual basis, submit a report to Congress concerning the administration of such programs.''.

CARGO PREFERENCE

[From Journal of Commerce, Nov. 18, 1988]

What it is: A series of statutes, going back to 1904, intended to assure U.S.-flag ships a minimum share of cargoes produced by U.S. government programs. It is the oldest U.S. maritime promotional program and while subsidies and financing aids have shrunk over the years, preference has survived.

Background: The preference laws began by tracking this country's extension of its military and naval power, starting with the Spanish-American War. More recently, they have come to reflect the expansion of government programs extending U.S. economic power and interest abroad.

The Military Transportation Act of 1904 was the first of the preference statutes and its requirement for U.S.-flag vessel use, 100 percent, is the highest.

In 1934 Congress adopted Public Resolution 17 to require that half of the exports financed by the Reconstruction Finance Corp. were to move in U.S.-flag vessels. Later that resolution was made to apply to financing of the Export-Import Bank, established originally to facilitate trade with the Soviet Union.

In the early postwar period, Congress acted each year to apply the resolution's 50 percent U.S.-flag share to foreign aid shipments. It permanently inserted the requirement into the 1954 Agricultural Trade Development and Assistance Act, better known as Food for Peace and PL–480.

Public Law 664 in 1961 made clear that preference should benefit and protect all U.S.-flag vessels, not just liners, and that all U.S. programs, including those where nonmilitary agencies procured equipment, materials or commodities for themselves or foreign governments, had to use U.S. flags to the extent of 50 percent.

Importance to Carriers: In the last year for which statistics are available, calendar 1986, U.S.-flag carriers hauled more than 33 million metric tons of preference cargo, somewhat more than the 28.5 million tons of commercial shipments carried that year. As an

industry, the revenue amounted to about $502 million.

Necessity for Preference: Preference statutes are formally predicated on the need for assured cargoes to encourage the existence of a U.S.-flag merchant fleet to act as a military auxiliary in times of national emergencies.

Past efforts to apply preference to commercial cargoes have failed, reflecting U.S. governmental sensitivity to objections by this country's trading partners as well as stern opposition from U.S. exporters, importers and agricultural interests. The availability of preference cargoes has unquestionably kept some U.S. carriers in business but critics argue that preference has encouraged keeping obsolete vessels in operation long after they should have been scrapped.

Extent of Program: The Defense Department, the Agriculture Department and the Agency for International Development are the agencies most heavily involved in utilizing shipping and observing cargo preference. But there are at least 10 others with the same cargo preference responsibilities although smaller volumes. The Export-Import Bank in 1987 reported an unusually high, 91 percent rate of U.S.-flag vessel use. It brought participating carriers some $14.5 million in revenue.

Problems: The Maritime Administration is responsible for monitoring other government agencies to try to make sure they live up to preference requirements. In fiscal year 1987, those agencies met the cargo share minimums for the most part. Among the exceptions were cases in which the cargo origins and destinations were such that U.S.-flag vessels were simply not available.

Despite Reagan administration pledges to honor cargo preference requirements, the Navy and the Agriculture Department have had a number of preference fights with the maritime industry.

One produced an agreement by which the carriers agreed to forgo preference claims on new Agriculture Department-supported export programs with commercial-like terms in return for increasing to 75 percent their share of giveaway relief food shipments.

In another such dispute, the Navy and the U.S. State Department were forced to negotiate a cargo-sharing agreement with Iceland for military shipments there. Iceland threatened the future of U.S. bases in that country if the United States didn't agree to a departure from 100 percent U.S.-flag carriage of defense shipments.

There have been other, largely budget-driven attempts to bypass preference, but carriers and their supporters in Congress generally have managed to forestall them.

Comment: Budgetary austerity and the Defense Department's strict insistence of competitive procurement have combined to make for increasing carrier dissatisfaction, especially with the Navy's Military Sealift Command.

Efforts already are under way to change the competitive procurement system the command uses. Carriers hope generally, to end the pressures they believe force rates downward to depressed levels.

The presidentially appointed commission on Merchant Marine and Defense has recommended that all U.S.-flag preference requirements programs be raised to 100 percent but the tight budget and such interests as farmers and traders will work against such a step. Agricultural interests have tried unsuccessfully to have existing preference removed from government programs in the belief that they inhibit U.S. farm exports.●

By Mr. INOUYE:

S. 59. A bill to amend the Public Health Service Act to provide health care practitioners in rural areas with training in preventive health care, including both physical and mental care, and for other purposes; to the Committee on

HEALTH CARE TRAINING ACT

● Mr. INOUYE. Mr. President, I introduce the Rural Preventive Health Care Training Act of 1995, a bill that responds to the dire situation our rural communities face in obtaining quality health care and disease prevention programs.

Recently, the Institute of Medicine [IOM] released a report from their 2-year study entitled, ''Reducing Risks for Mental Disorders: Frontiers for Preventive Intervention Research.'' This study, mandated by the Senate Appropriations Subcommittee on Labor, Health and Human Services, and Education, of which I am a member and the distinguished Senator from Pennsylvania is Chair, highlights the benefits of preventive care for all health problems.

Almost one fourth of Americans live in rural areas and thus frequently lack access to adequate physical and mental health care. For example, approximately 1,700 rural communities in virtually every State of the union suffer critical shortages of health care providers. As many as 21 million of the 34 million people living in underserved rural areas are without access to a primary care provider. In areas where providers exist, there are numerous limits to access, such as geography and distance, lack of transportation, and lack of knowledge about available resources. Additionally, due to the diversity of rural populations, ranging from native Americans to migrant farm workers, language and cultural obstacles are often a factor.

Compound these problems with slim financial resources and many of America's rural communities go without vital health care, especially preventive care. Children fail to receive immunizations and routine checkups. Preventable illnesses and injuries occur needlessly and lead to expensive hospitalizations. Early symptoms of emotional problems and substance abuse go undetected and often develop into full blown disorders.

Rural health care providers face a lack of training opportunities. Training in prevention is crucial in order to meet the demand for care in underserved areas. The Institute of Medicine Committee recommended that Congress and Federal agencies should immediately take steps to develop and support the training of additional researchers who can develop new preventive intervention research trials as well as evaluate the effectiveness of current service projects.

Beyond the scope of simple prevention training, interdisciplinary preventive training in rural health is important because of a growing array of evidence that links mental disorders to physical ailments. For example, it has been estimated that from 50 to 70 percent of visits to physicians for medical symptoms are due in part or whole to psychosocial problems. By encouraging interdisciplinary training, rural communities can integrate the behavioral, biological, and psychological sciences to form the most effective preventive care possible.

The problems with quality, access, and understanding of health care in rural areas all suggest that promoting interdisciplinary training of psychologists, nurses, and social workers is essential. The need becomes clearer when considering that many of the behavior-related problems afflicting rural communities are amenable to proven risk reduction strategies that are best provided by trained mental health care professionals.

Interdisciplinary team prevention training will facilitate both health and mental health clinics sharing single service sites and routine consultation between groups. Social workers, psychologists, clinical psychiatric nurse specialists, and paraprofessionals play an important role in extending rural mental health services to those in need. Linkage of these services can provide better utilization of existing mental health care personnel, increase awareness and understanding of mental health services, and contribute to the overall health of rural communities.

The Rural Preventive Health Care Training Act of 1995, targeted specifically toward rural communities, would implement the risk-reduction model described in the IOM study. This model is based on the identification of risk factors for a certain disorder and the implementation of specific preventive strategies to target groups with those risk factors. The IOM Committee aptly demonstrates that methods of risk reduction have proven highly successful in many health-related areas, such as cardiovascular disease, smoking reduction, and the numerous childhood diseases and conditions that are preventable by early prenatal care for pregnant women.

The cost of human suffering caused by poor health is immeasurable, but the huge financial burden placed on communities, families, and individuals is evident. By implementing preventive measures, the potential for savings in psychological and financial realms is enormous. This savings is the goal of the Rural Preventive Health Care Training Act of 1995.

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

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

S. 59

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Rural Preventive Health Care Training Act of 1995''.

SEC. 2. PREVENTIVE HEALTH CARE TRAINING.

Section 778 of the Public Health Service Act (42 U.S.C. 294p) is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively;

(2) by inserting after subsection (d), the following new subsection:

''(e) PREVENTIVE HEALTH CARE TRAINING.—

''(1) IN GENERAL.—The Secretary may make grants to, and enter into contracts with, any eligible applicant to enable such applicant to provide preventive health care training to health care practitioners practicing in rural areas in accordance with paragraph (3). Such training should include health care to prevent both physical and mental disorders before the initial occurrence of such disorders. In carrying out this paragraph, the Secretary shall encourage, but may not require, the use of interdisciplinary training project applications.

''(2) LIMITATION.—To be eligible to receive training using assistance provided under paragraph (1), a health care practitioner must be determined by the eligible applicant involved to be practicing, or desiring to practice, in a rural area.

''(3) USE OF ASSISTANCE.—Amounts received under a grant or contract under this subsection shall be used—

''(A) to provide student stipends to individuals attending rural community colleges or other institutions which service predominantly rural communities for the purpose of receiving preventive health care training;

''(B) to increase staff support at rural community colleges or other institutions which service predominantly rural communities to facilitate the provision of preventive health care training;

''(C) to provide training in appropriate research and program evaluation skills in rural communities;

''(D) to create and implement innovative programs and curricula with a specific prevention component; and

''(E) for other purposes as the Secretary determines appropriate.

''(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection, $5,000,000 for each of the fiscal years 1996 through 1998.''; and

(3) in subsection (g) (as so redesignated), by inserting '', except subsection (e),'' after ''section,''.●

By Mr. INOUYE:

S. 60. A bill to amend title VII of the Public Health Service Act to revise and extend certain programs relating to the education of individuals as health professionals, and for other purposes; to the Committee on Labor and Human Resources.

PHYSICAL AND OCCUPATIONAL THERAPY EDUCATION ASSISTANCE ACT

● Mr. INOUYE. Mr. President, today I am introducing the ''Physical and Occupational Therapy Education Assistance Act of 1995''. This legislation will assist in educating greater numbers of physical and occupational therapy practitioners to meet the current and future demand for the valuable services they provide our communities.

In its most recent report, the Department of Labor's Bureau of Labor Statistics projected that the demand for services provided by physical and occupational therapy practitioners will increase dramatically over the next decade. According to the Bureau, between 1992 and 2005 the increase in demand will create a need for 79,400 additional physical therapists, an 88% increase over 1992 figures. Demand for physical therapist assistants is expected to grow at an even faster rate, experiencing a 93% increase over the same period. High demand is also expected for occupational therapists and occupational therapist assistants at 60% and 78%, respectively, by the year 2005.

Current shortages exacerbate the problem and call for quick response. In a survey released in May 1994 regarding hospital employment (1992 Survey of Human Resources), the American Hospital Association confirmed that physical therapy and occupational therapy maintain the highest average vacancy rates at 16.3% and 14%, respectively, of 26 health occupations. The legislation I introduce today would provide necessary assistance to physical therapy and occupational therapy programs throughout the country to address this current problem and assist in providing an adequate work force for the future. In awarding grants, preference would be given to those applicants that train practitioners in either rural or urban medically underserved communities.

In addition, a shortage of physical and occupational therapy faculty threatens the ability of education programs to train an adequate supply of practitioners. The critical shortage of doctorally prepared physical and occupational therapists has resulted in an almost nonexistent pool of potential faculty. For the 1993 academic year, 65 faculty shortages were reported from the 131 accredited, professional-level physical therapy programs in the United States. Similarly, 50 faculty shortages were reported from the 85 accredited, professional-level occupational therapy programs. The legislation I introduce today would assist in the development of a pool of qualified faculty by giving preference to those grant applicants seeking to develop and expand post-professional programs for the advanced training of physical and occupational therapists.

Passage of the ''Physical and Occupational Therapy Education Assistance Act of 1995'', as part of this year's reauthorization of Title VII of the Public Health Service Act, is essential to ensure adequate numbers of providers to meet the health needs of our nation. I look forward to working with my colleagues in the Congress and the Administration to enact this legislation.

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

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

S. 60

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 ''Physical and Occupational Therapy Education Assistance Act of 1995.''

SEC. 2. PHYSICAL THERAPY AND OCCUPATIONAL THERAPY.

Subpart II of part D of title VII of the Public Health Service Act (42 U.S.C. 294d et seq.) is amended by adding at the end thereof the following new section:

''SEC. 768. PHYSICAL THERAPY AND OCCUPATIONAL THERAPY.

''(a) IN GENERAL.—The Secretary may make grants to, and enter into contracts with, programs of physical therapy and occupational therapy for the purpose of planning and implementing projects for the recruitment, training and retention of physical and occupational therapy practitioners in approved programs that provide financial assistance in the form of traineeships to students who participate in such projects.

''(b) PREFERENCE IN MAKING GRANTS.—In making grants under subsection (a), the Secretary shall give preference to qualified applicants that provide training in either physical or occupational therapy programs in rural or urban medically underserved communities, or that expand post-baccalaureate programs for the advanced training of physical or occupational therapy practitioners.

''(c) PEER REVIEW.—Each peer review group established under section 798(a) that reviews proposals for grants or contracts under subsection (a) shall include no fewer than 2, and no more than 3, physical or occupational therapists.

''(d) REPORT TO CONGRESS.—

''(1) IN GENERAL.—The Secretary shall prepare a report that—

''(A) summarizes the applications submitted to the Secretary for grants or contracts under subsection (a);

''(B) specifies the identity of entities receiving the grants or contracts; and

''(C) evaluates the effectiveness of the program based upon the objectives established by the entities receiving the grants or contracts.

''(2) DATE CERTAIN FOR SUBMISSION.—Not later than February 1, 1999, the Secretary shall complete the report required in paragraph (1) and submit the report to the Committee on Commerce of the House of Representatives, the Committee of Appropriations of the House of Representatives, the Committee of Labor and Human Resources of the Senate, and the Committee of Appropriations of the Senate.

''(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $3,000,000 for each of the fiscal years 1996 through 1998.''.●

By Mr. INOUYE:

S. 61. A bill to amend title XIX of the Social Security Act to provide for coverage of services provided by nursing school clinics under State Medicaid programs, and for other purposes; to the Committee on Finance.

THE NURSING SCHOOL CLINICS ACT OF 1995

Mr. INOUYE. Mr. President, I rise today to introduce the Nursing School Clinics Act of 1995, a bill that has two main purposes. First, it builds on our concerted efforts to provide access to quality health care for all Americans by furnishing grants and incentives for nursing schools to establish primary care clinics in areas where additional medical services are most needed. Second, it provides the opportunity for nursing schools to enhance the scope of their students' training and education by giving them firsthand clinical experience in primary care facilities.

Any good manager knows that when major problems are at hand and resources are tight, the most important act is the one that makes full use of all available resources. The American health care system is particularly deficient in this regard. We all know only too well that many individuals in the Nation have no or inadequate access to health care services, especially if they live in many of our rural towns and villages or inhabit our Indian communities. Many good people are trying to deliver services that are so vitally needed, but we need to do more. We must make full use of all health care practitioners, especially those who have been long waiting to give the nation the full measure of their professional abilities.

Nursing is one of the noblest professions, with an enduring history of offering effective and sensitive care to those in need. Yet it is only in the last few years that we have begun to recognize the role that nurses can play as independent providers of care. Only recently, in 1990, Medicare was changed to authorize direct reimbursements to nurse practitioners. Medicaid is gradually being reformed to incorporate their services more effectively. The Nursing School Clinics Act continues the progress toward fully incorporating nurses in the delivery of health care services. Under the act, nursing schools will be able to establish clinics, supervised and staffed by nurse practitioners and nurse practitioner students, that provide primary care targeted to medically underserved rural and Native American populations.

In the process of giving direct ambulatory care to their patients, these clinics will also furnish the forums in which both public and private schools of nursing can design and implement clinical training programs for their students. Simultaneous school-based education and clinical training have been a traditional part of physician development, but nurses have enjoyed fewer opportunities to combine classroom instruction with the practical experience of treating patients. This bill reinforces the principle for nurses of joining schooling with the actual practice of health care.

To accomplish these objectives, title XIX of the Social Security Act is amended to designate that the services provided in these nursing school clinics are reimbursable under Medicaid. The combination of grants and the provision of Medicaid reimbursement furnishes the incentives and operational resources to start the clinics and to keep them going.

To meet the increasing challenges of bringing cost-effective and quality health care to all Americans, we are going to have to think about and debate a variety of proposals, both large and small. Most important, however, we must approach the issue of health care with creativity and determination, ensuring that all reasonable avenues are pursued. Nurses have always been an integral part of health care delivery. The Nursing School Clinics Act of 1995 recognizes the central role they can perform as care givers to the medically underserved.

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

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

S. 61

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

SECTION 1. MEDICAID COVERAGE OF SERVICES PROVIDED BY NURSING SCHOOL CLINICS.

(a) IN GENERAL.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) is amended—

(1) in paragraph (24), by striking ''and'' at the end;

(2) by redesignating paragraph (25) as paragraph (26); and

(3) by inserting after paragraph (24), the following new paragraph:

''(25) nursing school clinic services (as defined in subsection (t)) furnished by or under the supervision of a nurse practitioner or a clinical nurse specialist (as defined in section 1861(aa)(5)), whether or not the nurse practitioner or clinical nurse specialist is under the supervision of, or associated with, a physician or other health care provider; and''.

(b) NURSING SCHOOL CLINIC SERVICES DEFINED.—Section 1905 of such Act (42 U.S.C. 1396d) is amended by adding at the end the following new subsection:

''(t) The term 'nursing school clinic services' means services provided by a health care facility operated by an accredited school of nursing which provides primary care, long-term care, mental health counseling, home health counseling, home health care, or other health care services which are within the scope of practice of a registered nurse.''.

(c) CONFORMING AMENDMENTS.—Section 1902 of such Act (42 U.S.C. 1396a) is amended—

(1) in subsection (a)(10)(C)(iv), by striking ''through (24)'' and inserting ''through (25)''; and

(2) in subsection (j), by striking ''through (25)'' and inserting ''through (26)''.

(d) EFFECTIVE DATE.—The amendments made by this Act shall be effective with respect to payments under title XIX of the Social Security Act for calendar quarters commencing with the first calendar quarter beginning after the date of the enactment of this Act.

By Mr. INOUYE:

S. 62. A bill to amend title XVIII of the Social Security Act to remove the restriction that a clinical psychologist or clinical social worker provide services in a comprehensive outpatient rehabilitation facility to a patient only under the care of a physician, and of other purposes; to the Committee on Finance.

AUTONOMOUS FUNCTIONING OF CLINICAL PSYCHOLOGISTS AND SOCIAL WORKERS UNDER MEDICARE

● Mr. INOUYE. Mr. President, today I am introducing legislation to authorize the autonomous functioning of clinical psychologists and clinical social workers within the Medicare comprehensive outpatient rehabilitation facility program.

In my judgment, it is truly unfortunate that programs such as this currently require clinical supervision of the services provided by certain health professionals and do not allow each of the various health professions to truly function to the extent of their State practice acts. In my judgment, it is especially appropriate that those who need the services of outpatient rehabilitation facilities have access to a wide range of social and behavioral science expertise. Clinical psychologists and clinical social workers are recognized as independent providers of mental health care services through the Federal Employees Health Benefits Program, the Civilian Health and Medical Program of the Uniformed Services, the Medicare (Part B) Program, and numerous private insurance plans.

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

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

S. 62

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

SECTION 1. REMOVAL OF RESTRICTION THAT A CLINICAL PSYCHOLOGIST OR CLINICAL SOCIAL WORKER PROVIDE SERVICES IN A COMPREHENSIVE OUTPATIENT REHABILITATION FACILITY TO A PATIENT ONLY UNDER THE CARE OF A PHYSICIAN.

(a) IN GENERAL.—Section 1861(cc)(2)(E) of the Social Security Act (42 U.S.C. 1395x(cc)(2)(E)) is amended by inserting before the semicolon ''(except with respect to services provided by a clinical psychologist or a clinical social worker)''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective with respect to services provided on or after January 1, 1996.●

By Mr. INOUYE:

S. 63. A bill to amend title XVIII of the Social Security Act to provide improved reimbursement for clinical social worker services under the medicare program, and for other purposes; to the Committee on Finance.

THE CLINICAL SOCIAL WORKER SERVICES ACT OF 1995

Mr. INOUYE. Mr. President, today I am introducing legislation to amend Title XVIII of the Social Security Act to correct discrepancies in the reimbursement of clinical social workers covered through Medicare, Part B. The three proposed changes that are contained in this legislation are necessary to clarify the current payment process for clinical social workers and to establish a reimbursement methodology for the profession that is similar to other health care professionals reimbursed through the Medicare program.

First, this legislation would set payment for clinical social worker services according to a fee schedule established by the Secretary. Currently, the methodology for reimbursing clinical social

workers' services is set at a percentage of the fee for another non-physician provider group, creating a greater differential in charges than that which exists in the marketplace. I am aware of no other provision in the Medicare statute where one non-physician's reimbursement rate is tied to that of another non-physician provider. This is a precedent that clinical social workers understandably wish to change. I also wish to see that clinical social workers' services are valued on their own merit.

Second, this legislation makes it clear that services and supplies furnished incident to a clinical social worker's services are a covered Medicare expense, just as these services are currently covered for other mental health professionals in Medicare. Third, the bill would allow a clinical social worker to be reimbursed for services provided to a client who is hospitalized.

Clinical social workers are valued members of our health care provider team. They are legally regulated in every State of our Nation and are recognized as independent providers of mental health care throughout the health care system. Clinical social worker services were made available to Medicare beneficiaries through the Omnibus Budget Reconciliation Act of 1989. I believe that it is time now to correct the reimbursement problems that this profession has experienced through Medicare.

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

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

S. 63

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

SECTION 1. IMPROVED REIMBURSEMENT FOR CLINICAL SOCIAL WORKER SERVICES UNDER MEDICARE.

(a) IN GENERAL.—Section 1833(a)(1)(F)(ii) of the Social Security Act (42 U.S.C. 13951(a)(1)(F)(ii)) is amended to read as follows: ''(ii) the amount determined by a fee schedule established by the Secretary,''.

(b) DEFINITION OF CLINICAL SOCIAL WORKER SERVICES EXPANDED.—Section 1861(hh)(2) of such Act (42 U.S.C. 1395x(hh)(2)) is amended by striking ''services performed by a clinical social worker (as defined in paragraph (1))'' and inserting ''such services and such services and supplies furnished as an incident to such services performed by a clinical social worker (as defined in paragraph (1))''.

(c) CLINICAL SOCIAL WORKER SERVICES NOT TO BE INCLUDED IN INPATIENT HOSPITAL SERVICES.—Section 1861(b)(4) of such Act (42 U.S.C. 1395x(b)(4)) is amended by striking ''and services'' and inserting ''clinical social worker services, and services''.

(d) TREATMENT OF SERVICES FURNISHED IN INPATIENT SETTING.—Section 1832(a)(2)(B)(iii) of such Act (42 U.S.C. 1395k(a)(2)(B)(iii)) is amended by striking ''and services'' and inserting ''clinical social worker services, and services''.

(e) EFFECTIVE DATE.—The amendments made by this section shall become effective with respect to payments made for clinical social worker services furnished on or after January 1, 1996.

By Mr. INOUYE:

S. 64. A bill to amend title VII of the Public Health Service Act to make certain graduate programs in clinical psychology eligible to participate in various professions loan programs, and for other purposes; to the Committee on Labor and Human Resources.

THE U.S. PUBLIC HEALTH SERVICE ACT AMENDMENT ACT OF 1995

Mr. INOUYE. Mr. President, I am introducing legislation today to modify title VII of the U.S. Public Health Service Act in order to provide students enrolled in graduate psychology programs with the opportunity to participate in various health professions loan programs.

Providing students enrolled in graduate psychology programs with eligibility for financial assistance in the form of loans, loan guarantees, and scholarships will facilitate a much needed infusion of behavioral science expertise into our public health efforts. There is a growing recognition of the valuable contribution that is being made by our nation's psychologists toward solving some of our nation's most distressing problems such as domestic violence, addictions, occupational stress, child abuse, and depression.

The participation of students of all kinds is vital to the success of health care training. The title VII programs play a significant role in providing financial support for the recruitment of minorities, women, and individuals from economically disadvantaged backgrounds. Minority therapists, for example, have an advantage in the provision of critical services to minority populations because they are more likely to understand or, perhaps, share the cultural background of their clients and are often able to communicate to them in their own language. Also significant is the fact that, when compared with non-minority graduates, ethnic minority graduates are less likely to work in private practice and more likely to work in community or non-profit settings, where ethnic minority and economically disadvantaged individuals are more likely to seek care.

It is important that a continued emphasis be placed on the needy populations of our nation and that continued support be provided for the training of individuals who are most likely to provide services in underserved areas.

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

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

S. 64

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

SECTION 1. PARTICIPATION IN VARIOUS HEALTH PROFESSIONS LOAN PROGRAMS.

(a) LOAN AGREEMENTS.—Section 721 of the Public Health Service Act (42 U.S.C. 292q) is amended—

(1) in subsection (a), by inserting '', or any public or nonprofit schools that offer graduate programs in clinical psychology'' after ''veterinary medicine'';

(2) in subsection (b)(4), by striking ''or doctor of veterinary medicine or an equivalent degree'' and inserting ''doctor of veterinary medicine or an equivalent degree, or a graduate degree in clinical psychology''; and

(3) in subsection (c)(1), by inserting '', or schools that offer graduate programs in clinical psychology'' after ''veterinary medicine''.

(b) LOAN PROVISIONS.—Section 722 of such Act (42 U.S.C. 292r) is amended—

(1) in subsection (b)(1), by striking ''or doctor of veterinary medicine or an equivalent degree'' and inserting ''doctor of veterinary medicine or an equivalent degree, or a graduate degree in clinical psychology''; and

(2) in subsection (k)—

(A) by striking ''or podiatry'' and inserting ''podiatry, or clinical psychology'' in the matter preceding paragraph (1); and

(B) by striking ''or podiatric medicine'' in paragraph (4), and inserting ''podiatric medicine, or clinical psychology''.

By Mr. INOUYE:

S. 65. A bill to amend title VII of the Public Health Service Act to establish a psychology post-doctoral fellowship program, and for other purposes; to the Committee on Labor and Human Resources.

THE PUBLIC HEALTH SERVICE ACT AMENDMENT ACT OF 1995

Mr. INOUYE. Mr. President, I am introducing legislation today to amend Title VII of the Public Health Service Act to establish a psychology post-doctoral program.

Psychologists have made a unique contribution in serving the nation's medically underserved populations. Expertise in behavioral science is useful in addressing many of our most distressing concerns such as violence, addiction, mental illness, children's behavior disorders, and family disruption. Establishment of a psychology post-doctoral program could be most effective in finding solutions to these pressing societal issues.

Similar programs supporting additional, specialized training in traditionally underserved settings or with specific underserved populations have been demonstrated to be successful in providing services to those same underserved populations during the years following the training experience. That is, mental health professionals who have participated in these specialized federally funded programs have tended not only to meet their payback obligations, but have continued to work in the public sector or with the underserved populations with whom they have been trained to work.

While the doctorate in psychology provides broad-based knowledge and mastery in a wide variety of clinical skills, the specialized post-doctoral fellowship programs provide particular diagnostic and treatment skills required to effectively respond to these underserved populations. For example, what

looks like severe depression in an elderly person might be a withdrawal related to hearing loss, or what looks like poor academic motivation in a child recently relocated from Southeast Asia might be reflective of a cultural value of reserve rather than a disinterest in academic learning. Each of these situations requires very different interventions, of course, and specialized assessment skills.

Domestic violence is not just a problem for the criminal justice system, it is a significant public health problem. A single aspect of the issue, domestic violence against women results in almost 100,000 days of hospitalization, 30,000 emergency room visits, and 40,000 visits to physicians each year. Rates of child and spouse abuse in rural areas are particularly high as are the rates of alcohol abuse and depression in adolescents. A post-doctoral fellowship program in the psychology of rural populations could be of special benefit in addressing these problems.

Given the changing demographics of the nation—the increasing life span and numbers of the elderly, the rising percentage of minority populations within the country, as well as an increased recognition of the long-term sequelae of violence and abuse—and given the demonstrated success and effectiveness of these kinds of specialized training programs, it is incumbent upon us to encourage participation in post-doctoral fellowship programs that respond to the needs of the nation's underserved.

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

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

S. 65

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

SECTION 1. GRANTS FOR FELLOWSHIPS IN PSYCHOLOGY.

Part E of the Public Health Service Act is amended by inserting after section 778 (42 U.S.C. 294p) the following new section:

"SEC. 779. GRANTS FOR FELLOWSHIPS IN PSYCHOLOGY.

"(a) IN GENERAL.—The Secretary shall establish a psychology post-doctoral fellowship program to make grants to and enter into contracts with eligible entities to encourage the provision of psychological training and services in underserved treatment areas.

"(b) ELIGIBLE ENTITIES.—

"(1) INDIVIDUALS.—In order to receive a grant under this section an individual shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary shall require, including a certification that such individual—

"(A) has received a doctoral degree through a graduate program in psychology provided by an accredited institution at the time such grant is awarded;

"(B) will provide services in a medically underserved population during the period of such grant;

"(C) will comply with the provisions of subsection (c); and

"(D) will provide any other information or assurances as the Secretary determines appropriate.

"(2) INSTITUTIONS.—In order to receive a grant or contract under this section, an institution shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary shall require, including a certification that such institution—

"(A) is an entity, approved by the State, that provides psychological services in medically underserved areas or to medically underserved populations (including entities that care for the mentally retarded, mental health institutions, and prisons);

"(B) will use amounts provided to such institution under this section to provide financial assistance in the form of fellowships to qualified individuals who meet the requirements of subparagraphs (A) through (C) of paragraph (2);

"(C) will not use in excess of 10 percent of amounts provided under this section to pay for the administrative costs of any fellowship programs established with such funds; and

"(D) will provide any other information or assurance as the Secretary determines appropriate.

"(c) CONTINUED PROVISION OF SERVICES.—Any individual who receives a grant or fellowship under this section shall certify to the Secretary that such individual will continue to provide the type of services for which such grant or fellowship is awarded for at least 1 year after the term of the grant or fellowship has expired.

"(d) REGULATIONS.—Not later than 180 days after the date of enactment of this section, the Secretary shall promulgate regulations necessary to carry out this section, including regulations necessary to carry out this section, including regulations that define the terms 'medically underserved areas' or medically unserved populations'.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for each of the fiscal years 1996 through 1998.''.

By Mr. INOUYE:

S. 66. A bill to amend title VII of the Public Health Service Act to ensure that social work students or social work schools are eligible for support under the Health Careers Opportunity Program, the Minority Centers of Excellence Program, and programs of grants for training projects in geriatrics, to establish a social work training program, and for other purposes; to the Committee on Labor and Human Resources.

SUPPORT FOR SOCIAL WORK SCHOOLS AND STUDENTS

Mr. INOUYE. Mr. President, on behalf of our Nation's clinical social workers, I am introducing legislation to amend the Public Health Service Act. This legislation will first, establish a new social work training program; second, ensure that social work students are eligible for support under the Health Careers Opportunity Program and that social work schools are eligible for support under the Minority Centers for Excellence programs; third, permit schools offering degrees in social work to obtain grants for training projects in geriatrics; and fourth, ensure that social work is recognized as a profession under the Public Health Maintenance Organization [HMO] Act.

Despite the impressive range of services social workers provide to the people of this Nation, particularly our elderly, disadvantaged, and minority populations, few Federal programs exist to provide opportunities for social work training in health and mental health care. This legislation builds on the health professions education legislation enacted by the 102d Congress enabling schools of social work to apply for AIDS training funding and resources to establish collaborative relationships with rural health care providers and schools of medicine or osteopathic medicine. My bill provides funding for traineeships and fellowships for individuals who plan to specialize in, practice, or teach social work, or for operating approved social work training programs; it assists disadvantaged students to earn graduate degrees in social work with concentrations in health or mental health; it provides new resources and opportunities in social work training for minorities; and it encourages schools of social work to expand programs in geriatrics. Finally, the recognition of social work as a profession merely codifies current social work practice and reflects the modifications made by the Medicare HMO legislation.

I believe it is important to ensure that the special expertise and skills social workers possess continue to be available to the citizens of this nation. This legislation, by providing financial assistance to schools of social work and social work students, recognizes the long history and critical importance of the services provided by social work professionals. In addition, since social workers have provided quality mental health services to our citizens for a long time and continue to be at the forefront of establishing innovative programs to serve our disadvantaged populations, I believe that it is time to provide them with the proper recognition of their profession that they have clearly earned and deserve.

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

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

S. 66

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

SECTION 1. SOCIAL WORK STUDENTS.

(a) SCHOLARSHIPS, GENERALLY.—Section 737(a)(3) of the Public Health Service Act (42 U.S.C. 293a(a)(3)) is amended by striking ''offering graduate programs in clinical psychology'' and inserting ''offering graduate programs in clinical psychology, graduate programs in clinical social work, or programs in social work''.

(b) FACULTY POSITIONS.—Section 738(a)(3) of the Public Health Service Act (42 U.S.C. 293b(a)(3)) is amended by striking ''offering graduate programs in clinical psychology'' and inserting ''offering graduate programs in clinical psychology, graduate programs in clinical social work, or programs in social work''.

(c) HEALTH PROFESSIONS SCHOOL.—Section 739(h)(1)(A) of the Public Health Service Act (42 U.S.C. 293c(h)(1)(A)) is amended by striking ''or a school of pharmacy'' and inserting ''a school of pharmacy, or a school offering graduate programs in clinical social work, or programs in social work''.

(d) HEALTH CAREERS OPPORTUNITIES PROGRAM.—Section 740(a)(1) of the Public Health Service Act (42 U.S.C. 293d(a)(1)) striking ''offer graduate programs in clinical psychology'' and inserting ''offering graduate programs in clinical psychology or programs in social work''.

SEC. 2. GERIATRICS TRAINING PROJECTS.

Section 777(b)(1) of the Public Health Service Act (42 U.S.C. 294o(b)(1)) is amended by inserting ''schools offering degrees in social work,'' after ''teaching hospitals,''.

SEC. 3. SOCIAL WORK TRAINING PROGRAM.

Part E of title VII of the Public Health Service Act (42 U.S.C. 294n et seq.) is amended by adding at the end thereof the following new section:

''SEC. 779. SOCIAL WORK TRAINING PROGRAM.

''(a) TRAINING GENERALLY.—The Secretary may make grants to, or enter into contracts with, any public or nonprofit private hospital, school offering programs in social work, or to or with a public or private nonprofit entity (which the Secretary has determined is capable of carrying out such grant or contract)—

''(1) to plan, develop, and operate, or participate in, an approved social work training program (including an approved residency or internship program) for students, interns, residents, or practicing physicians;

''(2) to provide financial assistance (in the form of traineeships and fellowships) to students, interns, residents, practicing physicians, or other individuals, who are in need thereof, who are participants in any such program, and who plan to specialize or work in the practice of social work;

''(3) to plan, develop, and operate a program for the training of individuals who plan to teach in social work training programs; and

''(4) to provide financial assistance (in the form of traineeships and fellowships) to individuals who are participants in any such program and who plan to teach in a social work training program.

''(b) ACADEMIC ADMINISTRATIVE UNITS.—

''(1) IN GENERAL.—The Secretary may make grants to or enter into contracts with schools offering programs in social work to meet the costs of projects to establish, maintain, or improve academic administrative units (which may be departments, divisions, or other units) to provide clinical instruction in social work.

''(2) PREFERENCE IN MAKING AWARDS.—In making awards of grants and contracts under paragraph (1), the Secretary shall give preference to any qualified applicant for such an award that agrees to expend the award for the purpose of—

''(A) establishing an academic administrative unit for programs in social work; or

''(B) substantially expanding the programs of such a unit.

''(c) DURATION OF AWARD.—The period during which payments are made to an entity from an award of a grant or contract under subsection (a) may not exceed 5 years. The provision of such payments shall be subject to annual approval by the Secretary of the payments and subject to the availability of appropriations for the fiscal year involved to make the payments.

''(d) FUNDING.—

''(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $10,000,000 for each of the fiscal years 1996 through 1998.

''(2) ALLOCATION.—Of the amounts appropriated under paragraph (1) for a fiscal year, the Secretary shall make available not less than 20 percent for awards of grants and contracts under subsection (b).''.

SEC. 4. CLINICAL SOCIAL WORKER SERVICES.

Section 1302 of the Public Health Service Act (42 U.S.C. 300e–1) is amended—

(1) in paragraphs (1) and (2), by inserting ''clinical social worker,'' after ''psychologist,'' each place it appears;

(2) in paragraph (4)(A), by striking ''and psychologists'' and inserting ''psychologists, and clinical social workers''; and

(3) in paragraph (5), by inserting ''clinical social work,'' after ''psychology,''.

By Mr. INOUYE:

S. 67. A bill to amend title 10, United States Code, to authorize former members of the Armed Forces who are totally disabled as the result of a service-connected disability to travel on military aircraft in the same manner and to the same extent as retired members of the Armed Forces are entitled to travel on such aircraft; to the Committee on Armed Services.

THE PATRIOTIC AMERICANS ACT OF 1995

Mr. INOUYE. Mr. President, today, I am reintroducing a bill which is of great importance to a group of patriotic Americans. This legislation is designed to extend space-available travel privileges on military aircraft to those who have been totally disabled in the service of our country.

Currently, retired members of the Armed Forces are permitted to travel on space-available basis on non-scheduled military flights within the continental United States and on scheduled overseas flights operated by the Military Airlift Command. My bill would provide the same benefits for 100 percent, service-connected disabled veterans.

Surely, we owe these heroic men and women, who have given so much to our country, a debt of gratitude. Of course, we can never repay them for the sacrifice they have made on behalf of all of us but we can surely try to make their lives more pleasant and fulfilling. One way in which we can help is to extend military travel privileges to these distinguished American veterans. I have received numerous letters from all over the country attesting to the importance attached to this issue by veterans. Therefore, I ask that my colleagues show their concern and join me in saying ''thank you'' by supporting this legislation.

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

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

S. 67

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 53 of title 10, United States Code, is amended by inserting after section 1031 the following new section:

§ 1032. Travel privileges on military aircraft for certain former members of the armed forces

''A former member of the armed forces who is entitled to compensation from the Veterans' Administration for a service-connected disability rated total in degree by the Veteran's Administration is entitled, in the same manner and to the same extent as retired members of the armed forces are entitled to travel on a space-available basis on unscheduled military flights within the continental United States and on scheduled overseas flights operated by the Military Airlift Command.''.

SEC. 2. The table of sections, at the beginning of chapter 53 of title 10, United States Code, is amended by inserting after the item relating to section 1031 the following new item:

''§ 1032. Travel privileges on military aircraft for certain former members of the armed forces.''.

By Mr. INOUYE:

S. 68. A bill to amend title 10, United States Code, to authorize the appointment of health care professionals to the positions of the Surgeon General of the Navy, and the Surgeon General of the Air Force; to the Committee on Armed Services.

THE SURGEON GENERALS ACT OF 1995

Mr. INOUYE. Mr. President, I am introducing legislation today that would authorize the appointment of various health care professionals to policy-making positions in the Department of Defense. My legislation would allow the most qualified individuals from the full range of health professions, including but not limited to dentistry, medicine, nursing, osteopathy and psychology to fill the Army, Navy, and Air Force Surgeon General positions.

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

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

S. 68

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

SECTION 1. SURGEON GENERAL OF THE ARMY.

Section 3036 of title 10, United States Code, is amended—

(1) in subsection (b), by inserting before the period at the end of the third sentence the following. ''and shall be appointed as prescribed in subsection (f)''; and

(2) by adding at the end of the following new subsection (f):

''(f) The President shall appoint the Surgeon General from among commissioned officers in any corps of the Army Medical Department who are educationally and professionally qualified to furnish health care to other persons, including doctors of medicine, dentistry, and osteopathy, nurses, and clinical psychologists.''.

SEC. 2. SURGEON GENERAL OF THE NAVY.

Section 5137 of title 10, United States Code, is amended—

(1) in the first sentence of subsection (a), by striking out ''in the Medical Corps'' and inserting in lieu thereof ''who are educationally and professionally qualified to furnish health care to other persons, including doctors of medicine, dentistry, and osteopathy, nurses, and clinical psychologists''; and

(2) in subsection (b), by striking out ''in the Medical Corps'' and inserting in lieu thereof ''who is qualified to be the Chief of the Bureau of Medicine and Surgery''.

SEC. 3. SURGEON GENERAL OF THE AIR FORCE.

The first sentence of section 8036 of title 10, United States Code, is amended by striking out ''designated as medical officers under section 8067(a) of this title'' and inserting in lieu thereof ''educationally and professionally qualified to furnish health care to other persons, including doctors of medicine, dentistry, and osteopathy, nurses, and clinical psychologists''.

By Mr. INOUYE:

S. 69. A bill to amend section 1086 of title 10, United States Code, to provide for payment under CHAMPUS of certain health care expenses incurred by certain members and former members of the uniformed services and their dependents to the extent that such expenses are not payable under medicare, and for other purposes; to the Committee on Armed Services.

THE CHAMPUS AMENDMENT ACT OF 1995

Mr. INOUYE. Mr. President, I feel that it is very important that our Nation continue its firm commitment to those individuals and their families who have served in the Armed Forces and made us the great Nation that we are today. As this population becomes older, they are unfortunately finding that they need a wider range of health services, some of which are simply not available under Medicare. These individuals made a commitment to their Nation, trusting that when they needed help the Nation would honor that commitment. The bill that I am recommending today would ensure the highest possible quality of care for these dedicated citizens and their families, who gave so much for us.

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

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

S. 69

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

SECTION 1. EXPANSION OF MEDICARE EXCEPTION TO THE PROHIBITION OF CHAMPUS COVERAGE FOR CARE COVERED BY ANOTHER HEALTH CARE PLAN.

(a) AMENDMENT AND REORGANIZATION OF EXCEPTIONS.—Subsection (d) of section 1086 of title 10, United States Code, is amended to read as follows:

''(d)(1) Section 1079(j) of this title shall apply to a plan contracted for under this section except as follows:

''(A) Subject to paragraph (2), a benefit may be paid under such plan in the case of a person referred to in subsection (c) for items and services for which payment is made under title XVIII of the Social Security Act.

''(B) No person eligible for health benefits under this section may be denied benefits under this section with respect to care or treatment for any service-connected disability which is compensable under chapter 11 of title 38 solely on the basis that such person is entitled to care or treatment for such disability in facilities of the Department of Veterans Affairs.

''(2) If a person described in paragraph (1)(A) receives medical or dental care for which payment may be made under both title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) and a plan contracted for under subsection (a), the amount payable for that care under the plan may not exceed the difference between—

''(A) the sum of any deductibles, coinsurance, and balance billing charges that would be imposed on the person if payment for that care were made solely under that title; and

''(B) the sum of any deductibles, coinsurance, and balance billing charges that would be imposed on the person if payment for that care were made solely under the plan.

''(3) A plan contracted for under this section shall not be considered a group health plan for the purposes of paragraph (2) or (3) of section 1862(b) of the Social Security Act (42 U.S.C. 1395y(b)).

''(4) A person who, by reason of the application of paragraph (1), receives a benefit for items or services under a plan contracted for under this section shall provide the Secretary of Defense with any information relating to amounts charged and paid for the items and services that, after consulting with the other administering Secretaries, the Secretary requires. A certification of such person regarding such amounts may be accepted for the purposes of determining the benefit payable under this section.''.

(b) REPEAL OF SUPERSEDED PROVISION.—Such section is amended—

(1) by striking out subsection (g); and

(2) redesignating subsection (h) as subsection (g).

SEC. 2. CONFORMING AMENDMENT.

Section 1713(d) of title 38, United States Code, is amended by striking out ''section 1086(d)(1) of title 10 or''.

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall take effect with respect to health care items or services provided on and after the date of enactment of this Act.

By Mr. DOLE (for Mr. MURKOWSKI (for himself, Mr. BREAUX, Mr. STEVENS, and Mr. HEFLIN)):

S. 70. A bill to permit exports of certain domestically produced crude oil, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs

ALASKA OIL LEGISLATION

● Mr. MURKOWSKI. Mr. President, I rise to introduce legislation (S. 70) on behalf of myself and Senators Stevens and Breaux and Heflin that is critical to the economy of Alaska and the energy security of the United States. This legislation would lift the 22-year old prohibition on the export of Alaskan North Slope (ANS) crude oil, thereby allowing the state's most important and vital industry to sell its products in the global marketplace.

Mr. President, the export ban is contrary to the free trade, non-discrimination, and open market principles that have guided this Administration in the successful NAFTA and GATT negotiations. It represents the worst type of protectionism that costs workers jobs in Alaska and California, damages our nation's energy security, and contributes to our international trade deficit.

The export ban is an unjustifiable and unprecedented discrimination against the State of Alaska and the citizens of my State. It costs the state hundreds of millions dollars a year in lost royalties and hinders the ability of the State to provide social services and infrastructure that would enable the State to diversify its economy. This artificial constraint on the development of Alaska's economy is fundamentally unfair, and in this Senator's view, impinges on the sovereignty of the State in a way that no other state has to endure.

In 1973, when the ban was imposed, many people believed that our nation's energy security would be enhanced if ANS crude was committed solely for domestic consumption. Twenty-two years later, it is clear to nearly every economist who has studied this issue, that the export ban, rather than enhancing energy security, will ultimately make America more dependent on foreign oil.

Today, most of the 1.8 million barrels of oil that is shipped from Alaska is delivered by tanker to the closest domestic markets on the West Coast, primarily California. The remainder is generally shipped to Panama, off-loaded into a pipeline and then re-loaded onto a tanker and transported to the Gulf Coast.

The 1.3 million barrels of oil shipped into California each day glut the California market and drive the price of oil there far below the world price. These glut-induced prices have devastated the California oil and gas industry and exacerbated the prolonged California recession. Wells have been permanently shut in. Exploration and development activities have crawled to a near halt, and employment has been devastated.

Mr. President, the single most effective way of reversing this trend and encouraging the renewed exploration and development of oil production in California is to lift the ban on the export of Alaska crude oil. The Department of Energy (DOE) reached this precise conclusion last year when it issued a report which concluded that California oil producers could be producing an additional 100 to 110 thousand barrels a day if the ban is lifted. Moreover, the higher returns resulting from exports would stimulate exploration and development activities in major North Slope fields such as Point McIntyre or Endicott. As a result of this activity, DOE estimates that Alaskan oil reserves could increase by 200 million to 400 million barrels.

Moreover, the DOE study found that ''exporting ANS crude oil would result in a substantial net increase in U.S. employment.'' According to DOE, if the ban is lifted this year, an additional 11,000, and possibly as many as 16,000 new jobs would be created over the next 12 months. And by the end of the decade, as many as 25,000 new jobs would be generated from ANS exports. Nearly all of those jobs would be created in two states that have yet to recover from the recession—California and Alaska.

Another benefit that would result if the ban is lifted is that royalty revenue for the Federal government would increase, and tax and royalty revenues for Alaska and California would rise. DOE estimates that Federal receipts would increase from $99 million to $180 million, while Alaska royalties and severance income would increase from $700 million to $1.6 billion. For California's state government, returns from royalties and state and local taxes would add $180 million to $230 to the state's coffers. And three-fourths of these financial benefits could accrue in the next two years.

Mr. President, I am fully aware of concerns in the domestic maritime community that if the ban is lifted, the American-flag merchant marine will suffer severe employment declines because all of the oil currently shipped from Alaska to the lower 48 is shipped on American flag tankers. We are sympathetic to this concern and recognize the importance of maintaining a strong American-flag merchant marine. It is for that reason that our legislation requires exported Alaskan oil to be transported on American flag tankers. It is my expectation that these U.S. flag tankers will also be constructed in the United States, but I have not included a U.S.-build requirement in the legislation because of concerns expressed by the President.

Mr. President, the Department of Energy has long supported lifting the export ban. The President has expressed his support for the concept of allowing ANS exports. It is my hope that this year, the President will work with members on both sides of the aisle to finally end this economically irrational export ban.

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

S. 70

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

SECTION 1. EXPORTS OF ALASKAN NORTH SLOPE OIL.

Section 28 of the Act entitled ''An Act to promote the mining of coal phosphate, oil, oil shale, gas, and sodium on the public domain'', approved February 25, 1920 (commonly known as the ''Mineral Leasing Act'') (30 U.S.C. 185), is amended—

(1) by striking subsection (s) and inserting the following:

''EXPORTS OF ALASKAN NORTH SLOPE OIL

''(s)(1) Subject to paragraphs (2) and (3), notwithstanding any other provision of law (including any regulation), any oil transported by pipeline over a right-of-way granted pursuant to section 203 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1652) may be exported.

''(2) Except in the case of oil exported to a country pursuant to a bilateral international oil supply agreement entered into by the United States with the country before June 25, 1979, or to a county pursuant to the International Emergency Oil Sharing Plan of the International Energy Agency, the oil shall be transported by a vessel documented under the laws of the United States and owned by a citizen of the United States (as determined in accordance with section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802)).

''(3) Nothing in this subsection shall restrict the authority of the President under the Constitution, the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), or the National Emergencies Act (50 U.S.C. 1601 et seq.) to prohibit exportation of the oil.''; and

(2) by striking subsection (u).

SECTION 2. EFFECTIVE DATE

This Act and the amendments made by it shall take effect on the date of enactment.

Mr. STEVENS. Mr. President, I am pleased to join my colleague from Alaska and Senator BREAUX and HEFLIN in introducing legislation to permit the export of Alaskan North Slope crude oil carried on U.S. flag vessels. This vital legislation will create jobs and increase oil production in Alaska and California. Moreover, it will ensure the continued survival of the independent tanker fleet manned by U.S. crews, and thus help enhance our national security while eliminating an injustice that for too long has discriminated exclusively against the citizens of Alaska. With the Administration's support, we intend to move this bill as quickly as possible to begin creating jobs, spurring energy production, and preserving our independent tanker fleet.

For Senators who are less familiar with this issue, think it would be helpful to put the current export ban into perspective. The original ban was first enacted shortly after the commencement of the Arab-Israeli war and the first oil boycott in 1973. It was tightened in 1979 after the second oil shock. The original intent of the law was to enhance energy security, but today it actually discourages energy production and creates unnecessary hardships for the struggling domestic oil industry.

Most North Slope crude oil is delivered to the West Coast, especially California, on U.S. flag vessels. The export ban drastically reduces the market value of the oil, and creates an artificial surplus on the West Coast. This depresses the production and development of both the North Slope crude and the heavy crude produced by small independent operations in California.

In June of 1994, the Department of Energy released a comprehensive report which concluded that Alaskan oil exports would boost production in Alaska and California by at least 100,000 barrels per day by the end of the decade. That Department also concluded that permitting exports of this oil on U.S. flag ships would help create as many as 25,000 new jobs and hundreds of millions of dollars in new State and Federal revenues.

Our proposed legislation would require the use of U.S. flag ships to carry the exports, meaning in general that the same ships which carry this oil today will continue to do so in the future. The majority of the oil, in fact, would never be exported and would still be sent to refineries in Washington, California, and Hawaii, preserving the shipping and refining industry jobs that are currently suffering from the artificial glut of oil on the West Coast. Further, although Administration concerns about certain international obligations led us to leave out provisions which would have required that these ships actually be build in the U.S., we expect that these ships will in fact continue to be built here and that the domestic shipping industry will benefit greatly from the increased activity which will result from lifting the ban.

Mr. President, I emphasize that this legislation will increase jobs for Americans. It will help small businesses by permitting the oil market to function normally. It will help preserve the independent tanker fleet. It will help slow the decline in North Slope crude oil production and it will encourage additional production in California. Finally, it will help eliminate an injustice which for too long has unfairly discriminated against the citizens of Alaska. We urge the administration to join with us to help move this bipartisan legislation as quickly as possible.

By Mr. INOUYE:

S. 72. A bill to direct the Secretary of the Army to determine the validity of the claims of certain Filipinos that they performed military service on behalf of the United States during World War II; to the Committee on Armed Services.

THE MILITARY CLAIMS ACT OF 1995

Mr. INOUYE. Mr. President, I am introducing legislation today that would direct the Secretary of the Army to determine whether certain nationals of the Philippine Islands performed military service on behalf of the United States during World War II.

Mr. President, our Filipino veterans fought side by side and sacrificed their lives on behalf of the United States. This legislation would confirm the validity of their claims and further allow qualified individuals the opportunity to apply for military and veterans' benefits that, I believe, they are entitled to. As this population becomes older, it is important for our nation to extend its firm commitment to the Filipino veterans and their families who participated in making us the great nation today.

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

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

S. 72

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

SECTION 1. DETERMINATIONS BY THE SECRETARY OF THE ARMY.

(a) IN GENERAL.—Upon the written application of any person who is a national of the Philippine Islands, the Secretary of the Army shall determine whether such person performed any military service in the Philippine Islands in aid of the Armed Forces of the United States during World War II which qualifies such person to receive any military, veterans', or other benefits under the laws of the United States.

(b) INFORMATION TO BE CONSIDERED.—In making a determination for the purpose of subsection (a), the Secretary shall consider all information and evidence (relating to service referred to in subsection (a)) available to the Secretary, including information and evidence submitted by the applicant, if any.

SEC. 2. CERTIFICATE OF SERVICE.

(a) ISSUANCE OF CERTIFICATE OF SERVICE.—The Secretary shall issue a certificate of service to each person determined by the Secretary to have performed service described in section 1(a).

(b) EFFECT OF CERTIFICATE OF SERVICE.—A certificate of service issued to any person under subsection (a) shall, for the purpose of any law of the United States, conclusively establish the period, nature, and character of the military service described in the certificate.

SEC. 3. APPLICATIONS BY SURVIVORS.

An application submitted by a surviving spouse, child, or parent of a deceased person described in section 1(a) shall be treated as an application submitted by such person.

SEC. 4. LIMITATION PERIOD.

The Secretary may not consider for the purpose of this Act any application received by the Secretary more than two years after the date of the enactment of this Act.

SEC. 5. PROSPECTIVE APPLICATION OF DETERMINATIONS BY THE SECRETARY OF THE ARMY.

No benefits shall accrue to any person for any period prior to the date of the enactment of this Act as a result of the enactment of this Act.

SEC. 6. REGULATIONS.

The Secretary shall issue regulations to carry out sections 1, 3, and 4.

SEC. 7. RESPONSIBILITIES OF THE ADMINISTRATOR OF VETERANS' AFFAIRS.

Any entitlement of a person to receive veterans' benefits by reason of this Act shall be administered by the Veterans' Administration pursuant to regulations issued by the Administrator of Veterans' Affairs.

SEC. 8. DEFINITIONS.

As used in this Act—

(1) the term ''World War II'' means the period beginning on December 7, 1941, and ending on December 31, 1946; and

(2) the term ''Secretary'' means the Secretary of the Army.

By Mr. INOUYE:

S. 73. A bill to amend title 10, United States Code, to authorize certain disabled former prisoners of war to use Department of Defense commissary stores and post and base exchanges; to the Committee on Armed Services.

THE FORMER PRISONERS OF WAR ACT OF 1995

Mr. INOUYE. Mr. President, today I am introducing legislation to enable those former Prisoners of War who have been separated honorably from their respective services and who have been rated to have a 30 percent service-connected disability to have the use of both the military commissary and post exchange privileges. While I realize that it is impossible to adequately compensate one who has endured long periods of incarceration at the hands of our Nation's enemies, I do feel that this gesture is both meaningful and important to those concerned. It also serves as a reminder that our Nation has not forgotten their sacrifices.

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

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

S. 73

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 53 of title 10, United States Code, is amended by adding at the end thereof the following new section:

''§ 1051. Use of commissary stores and post and base exchanges by certain disabled former members of the armed forces

''(a) In this section—

''(1) 'former prisoner of war' has the same meaning as provided in section 101(32) of title 38; and

''(2) 'service-connected' has the same meaning as provided in section 101(16) of such title.

''(b)(1) Under regulations prescribed as provided in paragraph (2), a former prisoner of war who—

''(A) has been separated from active service in the Army, the Navy, the Air Force, or the Marine Corps under honorable conditions, and

''(B) has a service-connected disability rated by the Secretary concerned or the Administrator of Veterans' Affairs at 30 per centum or more,

shall be permitted to use commissary stores and post and base exchanges operating under the Department of Defense.

''(2)(A) The Secretary of Defense shall prescribe regulations to carry out paragraph (1) in the case of commissary stores.

''(B) The Secretary of the military department concerned shall prescribe regulations to carry out paragraph (1) in the case of post or base exchanges operating under the jurisdiction of such military department.''.

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

''1051. Use of commissary stores and post and base exchanges by certain disabled former members of the armed forces.''.

By Mr. INOUYE:

S. 74. A bill to amend title 10, United States Code, to provide for jurisdiction, apprehension, and detention of members of the Armed Forces and certain civilians accompanying the Armed Forces outside the United States, and for other purposes; to the Committee on Armed Services.

THE JURISDICTION, APPREHENSION, AND DETENTION ACT OF 1995

Mr. INOUYE. Mr. President, the purpose of this bill is to fill certain jurisdictional voids involving offenses committed by U.S. nationals abroad. The Supreme Court has held that, at least in peacetime, civilians may not be tried by courts martial for offenses against military law that they may have committed abroad when they were members of the U.S. Armed Forces and when they were serving with, employed by, or accompanying the Armed Forces. Further, under existing statutes, acts committed by U.S. nationals abroad generally do not constitute offenses against any U.S. law even though they would constitute such offenses if they had been committed in this country. Thus, civilian nationals of the United States are generally not accountable to U.S. Courts for their conduct abroad.

This bill would remedy this situation for conduct abroad by civilians who, at the time of the acts in question, were members of the Armed Forces or were serving with, employed by, or accompanying the Armed Forces. The bill would generally provide that such conduct would be subject to the same civilian criminal proscriptions that apply in areas under Federal jurisdiction.

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

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

S. 74

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

SECTION 1. CRIMINAL OFFENSES COMMITTED OUTSIDE THE UNITED STATES

(a) IN GENERAL.—Subtitle A of title 10 of the United States Code is amended by inserting after chapter 49 the following new chapter:

''CHAPTER 50—CRIMINAL OFFENSES COMMITTED OUTSIDE THE UNITED STATES

''Sec.

''991. Definitions.

''992. Criminal offenses committed by a member of the armed forces or by any person serving with, employed by, or accompanying the armed forces outside of the United States.

''993. Delivery to authorities of foreign countries.

''§ 991. Definitions

''In this chapter:

''(1) The term 'United States' includes the special maritime and territorial jurisdiction of the United States.

''(2) The term 'special maritime and territorial jurisdiction of the United States' has the same meaning as is provided in section 7 of title 18.

''(3) The term 'criminal offense' means an offense classified in section 1 of title 18 as a felony or a misdemeanor (not including a petty offense).

''§ 992. Criminal offenses committed by a member of the armed forces or by any person serving with, employed by, or accompanying the armed forces outside of the United States

''(a) Except as otherwise provided in this section, any person who, while serving as a member of the armed forces outside the United States, or while serving with, employed by, or accompanying the armed forces outside of the United States, engages in conduct which would constitute a criminal offense if the conduct were engaged in within the special maritime and territorial jurisdiction of the United States shall be guilty of a like offense against the United States and shall be subject to the same punishment as is provided under the provisions of title 18 for such like offense.

''(b) A member of the armed forces may not be tried pursuant to an indictment or information charging an offense described under subsection (a) while such member is subject to trial by court-martial for the conduct charged in such indictment or information.

''(c) A person employed by the armed forces outside the United States is not punishable under subsection (a) of this section for conduct described in such subsection if such person is not a national of the United States and was appointed to his position of employment in the country in which such person engaged in such conduct.

''(d)(1) Except in the case of a prosecution approved as provided in paragraph (2), prosecution of a person may not be commenced under this section for an offense described in subsection (a) if a foreign government, in accordance with jurisdiction recognized by the United States, has prosecuted such person for the conduct constituting such offense.

''(2) The Attorney General of the United States, the Deputy Attorney General of the United States, the Associate Attorney General of the United States, or an Assistant Attorney General of the United States may approve a prosecution which, except for this paragraph, is prohibited under paragraph (1). An approval of prosecution under this paragraph must be in writing. The authority to approve a prosecution under this paragraph may not be delegated below the level of Assistant Attorney General.

''(e)(1) The Secretary of Defense may designate and authorize any member of the armed forces serving in a law enforcement position in a criminal investigative agency of the Department of Defense to apprehend and detain, outside the United States, any person described in subsection (a) who is reasonably believed to have engaged in conduct which constitutes a criminal offense under such subsection.

''(2) A person apprehended and detained under paragraph (1) shall be released to the custody of civilian law enforcement authorities of the United States for removal to the United States for judicial proceedings in relation in conduct referred to in such paragraph unless (A) such person is delivered to authorities of a foreign country under section 993 of this title, or (B) such person is pending court-martial under chapter 47 of this title for such conduct.

''§ 993. Delivery to authorities of foreign countries

''(a) Any member of the armed forces designated and authorized under subsection (e) of section 992 of this title may deliver any person described in subsection (a) of such section to the appropriate authorities of a foreign country in which such person is alleged to have engaged in conduct described in such subsection (a) if—

''(1) the appropriate authorities of that country request the delivery of the person to such country for trial for such conduct as an offense under the laws of that country; and

''(2) the delivery of such person to that country is authorized by a treaty or other international agreement to which the United States is a party.

''(b) The Secretary of Defense may confine or otherwise restrain a person whose delivery is requested under subsection (a) until the completion of the trial of such person by the foreign country making such request.

''(c) The Secretary of Defense shall determine what officials of a foreign country constitute appropriate authorities for the purposes of this section.''.

(b) TECHNICAL AMENDMENT.—The tables of chapters at the beginning of such title and such subtitle are each amended by inserting after the item relating to chapter 49 the following:

''50. Criminal Offenses Outside the United States ..... 991''.

By Mr. INOUYE:

S. 75. A bill to allow the psychiatric or psychological examinations required under chapter 313 of title 18, United States Code, relating to offenders with mental disease or defect to be conducted by a clinical social worker; to the Committee on the Judiciary.

THE PSYCHIATRIC AND PSYCHOLOGICAL EXAMINATIONS ACT OF 1995

Mr. INOUYE. Mr. President, today I am introducing legislation to amend Title 18 of the United States Code to allow our Nation's clinical social workers to provide their mental health expertise to the Federal judiciary.

I feel that the time has come to allow our Nation's judicial system to have access to a wide range of behavioral science and mental health expertise. I am confident that the enactment of this legislation would be very much in our Nation's best interest.

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

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

S. 75

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

SECTION 1. EXAMINATIONS BY CLINICAL SOCIAL WORKERS.

The first sentence of subsection (b) of section 4247 of title 18, United States Code, is amended by—

(1) striking out ''or'' after ''certified psychiatrist'' and inserting a comma; and

(2) inserting after ''psychologist,'' the following: ''or clinical social worker,''.

By Mr. INOUYE:

S. 76. A bill to recognize the organization known as the National Academies of Practice, and for other purposes; to the Committee on the Judiciary.

THE NATIONAL ACADEMIES OF PRACTICE RECOGNITION ACT OF 1995

Mr. INOUYE. Mr. President, today I am introducing legislation that would provide a federal charter for the National Academies of Practice. This organization represents outstanding practitioners who have made significant contributions to the practice of applied psychology, medicine, dentistry, nursing, optometry, podiatry, social work, and veterinary medicine. When fully established, each of the nine academies will possess 100 distinguished practitioners selected by their peers. This umbrella organization will be able to provide the Congress of the United States and the executive branch with considerable health policy expertise, especially from the perspective of those individuals who are in the forefront of actually providing health care.

As we continue to grapple with the many complex issues surrounding the delivery of health care services, it is clearly in our best interest to ensure that the Congress have systematic access to the recommendations of an interdisciplinary body of health care practitioners.

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

S. 76

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

SECTION 1. CHARTER.

The National Academies of Practice organized and incorporated under the laws of the District of Columbia, is hereby recognized as such and is granted a Federal charter.

SEC. 2. CORPORATE POWERS.

The National Academies of Practice (hereafter referred to in this Act as the ''corporation'') shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State in which it is incorporated and subject to the laws of such State.

SEC. 3. PURPOSES OF CORPORATION.

The purposes of the corporation shall be to honor persons who have made significant contributions to the practice of applied psychology, dentistry, medicine, nursing, optometry, osteopathy, podiatry, social work, veterinary medicine, and other health care professions, and to improve the practices in such professions by disseminating information about new techniques and procedures.

SEC. 4. SERVICE OF PROCESS.

With respect to service of process, the corporation shall comply with the laws of the State in which it is incorporated and those States in which it carries on its activities in furtherance of its corporate purposes.

SEC. 5. MEMBERSHIP.

Eligibility for membership in the corporation and the rights and privileges of members shall be as provided in the bylaws of the corporation.

SEC. 6. BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES.

The composition and the responsibilities of the board of directors of the corporation shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State in which it is incorporated.

SEC. 7. OFFICERS OF THE CORPORATION.

The officers of the corporation and the election of such officers shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State in which it is incorporated.

SEC. 8. RESTRICTIONS.

(a) USE OF INCOME AND ASSETS.—No part of the income or assets of the corporation shall inure to any member, officer, or director of the corporation or be distributed to any such person during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(b) LOANS.—The corporation shall not make any loan to any officer, director, or employee of the corporation.

(c) POLITICAL ACTIVITY.—The corporation, any officer, or any director of the corporation, acting as such officer or director, shall not contribute to, support, or otherwise participate in any political activity or in any manner attempt to influence legislation.

(d) ISSUANCE OF STOCK AND PAYMENT OF DIVIDENDS.—The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

(e) CLAIMS OF FEDERAL APPROVAL.—The corporation shall not claim congressional approval or Federal Government authority for any of its activities.

SEC. 9. LIABILITY.

The corporation shall be liable for the acts of its officers and agents when acting within the scope of their authority.

SEC. 10. MAINTENANCE AND INSPECTION OF BOOKS AND RECORDS.

(a) BOOKS AND RECORDS OF ACCOUNT.—The corporation shall keep correct and complete books and records of account and shall keep minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors.

(b) NAMES AND ADDRESSES OF MEMBERS.—The corporation shall keep at its principal office a record of the names and addresses of all members having the right to vote in any proceeding of the corporation.

(c) RIGHT TO INSPECT BOOKS AND RECORDS.—All books and records of the corporation may be inspected by any member having the right to vote, or by any agent or attorney of such member, for any proper purpose, at any reasonable time.

(d) APPLICATION OF STATE LAW.—Nothing in this section shall be construed to contravene any applicable State law.

SEC. 11. AUDIT OF FINANCIAL TRANSACTIONS.

The first section of the Act entitled ''An Act to provide for audit of accounts of private corporations established under Federal law'', approved August 30, 1964 (36 U.S.C. 1101), is amended—

(1) by redesignating paragraph (72) as paragraph (71);

(2) by designating the paragraph relating to the Non Commissioned Officers Association of the United States of America, Incorporated, as paragraph (72);

(3) by redesignating paragraph (60), relating to the National Mining Hall of Fame and Museum, as paragraph (73); and

(4) by adding at the end thereof the following new paragraph:

''(75) National Academies of Practice.''.

SEC. 12. ANNUAL REPORT.

The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as is the report of the audit for such fiscal year required by section 3 of the Act referred to in section 11 of this Act. The report shall not be printed as a public document.

SEC. 13. RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER.

The right to alter, amend, or repeal this Act is expressly reserved to the Congress.

SEC. 14. DEFINITION.

For purposes of this Act, the term ''State'' includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

SEC. 15. TAX-EXEMPT STATUS.

The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1986 or any corresponding similar provision.

SEC. 16. TERMINATION.

If the corporation fails to comply with any of the restrictions or provisions of this Act the charter granted by this Act shall terminate.

By Mr. INOUYE:

S. 77. A bill to restore the traditional observance of Memorial Day and Veterans Day; to the Committee on the Judiciary.

THE TRADITIONAL OBSERVANCE ACT OF 1995

Mr. INOUYE. Mr. President, in our effort to accommodate many Americans by making the last Monday in May, Memorial Day, we have lost sight of the significance of this day to our Nation. My bill would restore Memorial Day to May 30 and authorize our flag to fly at half mast on that day. In addition, this legislation would authorize the President to issue a proclamation making both Memorial Day and Veterans Day as days for prayers and ceremonies. This legislation would help restore the recognition our veterans deserve for the sacrifices they have made on behalf of our Nation.

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

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

S. 77

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, (a) effective one year following the date of enactment of this Act—

(1) section 6103(a) of title 5, United States Code, is amended by striking out:

''Memorial Day, the last Monday in May.''

and inserting in lieu thereof:

''Memorial Day, May 30.''; and

(2) section 2(d) of the joint resolution entitled ''An Act to codify and emphasize existing rules and customs pertaining to the display and use of the flag of the United States of America'', approved June 22, 1942 (36 U.S.C. 174(d)), is amended by striking out:

''Memorial Day (half-staff until noon), the last Monday in May;''

and inserting in lieu thereof:

''Memorial Day (half-staff until noon), May 30;''.

(b) The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe Memorial Day and Veterans Day as days for prayer and ceremonies showing respect for American veterans of wars and other military conflicts.

By Mr. INOUYE:

S. 78. A bill to establish a temporary program under which parenteral diacetylmorphine will be make available through qualified pharmacies for the relief of intractable pain due to cancer; to the Committee on Labor and Human Resources.

THE COMPASSIONATE PAIN RELIEF ACT

Mr. INOUYE. Mr. President, today I am introducing legislation that is directed to relieving the suffering of a small but significant number of our citizens—patients who are terminally ill with cancer and whose pain has not been effectively mitigated with currently available medications.

For many years, the thought of cancer and its accompanying pain have sent chills of fear through all of us; likewise, the thought of heroin and its addictive qualities produces similar fears. In my judgment, we are in a position now where we can make a logical and thoughtful decision to legalize the therapeutic use of heroin for the terminally ill cancer patient suffering intractable pain while at the same time safeguarding against the diversion of the drug into illicit channels.

The legislation I am introducing today is supported by thousands of Americans. Furthermore, it reflects the evolution and attitude of our Nation's health care system as evidenced by an editorial in the January 14, 1982, issue of the prestigious New England Journal of Medicine, that urged more flexibility in the use of addictive drugs in the treatment of pain. This attitude is also present in an official statement made by the American Psychiatric Association that endorses the ''principle that the effectiveness of relief of pain in terminal cancer patients should take priority over a concern about 'addiction' of the terminal cancer patient and should take priority over a concern about medication diversion to addicts''. A later article in the August 23, 1984 issue of the New England Journal of Medicine by Dr. Allen Mondzac reviewed the unique characteristics of heroin and its valuable clinical role where it is available.

The need for this legislation is dramatic. Although over the past two decades, a great deal of progress has been made in treating cancer, each year an estimated 800,000 Americans are diagnosed as having cancer, and over 400,000 die from the disease. Most of these individuals will have received competent and compassionate medical care, and many will receive adequate relief of pain. Unfortunately, the reality is also that a certain number of cancer patients do not obtain relief of pain from the current available analgesic medication—even the strongest narcotics. A panel from the National Institutes of Health [NIH] convened in May 1986 and heard testimony that 50 to 60 percent of patients with cancer pain lived the last part of their lives with unrelieved pain. A recent, 1992, survey by the Eastern Cooperative Oncology Group has found that as a general rule, patients underreport pain and physicians undertreat it. As a minimal figure, it has elsewhere been estimated that about 20 percent of terminal cancer patients suffer significant pain. Of this 20 percent, it has been estimated that 10 percent do not obtain relief with presently prescribed medications. In human terms, these percentages mean that as many as 8,000 Americans will die in agony this year because of the intractable pain associated with terminal cancer. I have been assured by experts in the field that in many cases this pain can be alleviated with the therapeutic use of heroin, making the last months, weeks, or days of these patients more bearable. These dying patients are not now given the option of dying with dignity because of our Nation's continued and overriding fear of heroin. In my judgement, this fear alone has continued to prevent us, the lawmakers of our Nation, from making clear and rational decisions regarding the limited use of this long-proven and already available substance.

Heroin has been proven effective with a number of patients in relieving pain. Research completed at Georgetown University's Vincent T. Lombardi Cancer Research Center has found heroin to be an effective analgesic for the control of cancer-related pain. In particular, it has been reported to be more potent than morphine in relieving cancer pain. Less than half a dose of heroin

produces the same pain relief as a dose of morphine. In the terminal phase of cancer, many patients cannot take medication by mouth, and might require injections. As the disease progresses, individuals might require higher doses at more frequent intervals to provide relief. This is when it would be desirable to have the option of using heroin in treating pain, since heroin is more potent and more soluble than morphine salts, and an effective dose can be administered in considerably smaller volumes. Thus, physicians have informed me that it is less painful to have such an injection—an important consideration in the emaciated, cachectic patient with little tissue mass remaining. In addition, its euphoric effects might be beneficial for people who know they are dying.

Further, the onset of action of heroin is more rapid than morphine because of its solubility, giving relief of pain and a sense of well-being sooner. It is most unfortunate that the use of heroin for these patients has not been allowed up to this date. This legislation will enable physicians to treat the dying cancer patient who suffers from intractable pain with a proven, effective medication.

The time has now come to address the issue of why heroin should not be readily available as a therapeutic medication for our Nation's physicians in very specific situations when we have dying cancer patients who are suffering extreme pain. William F. Buckley, Jr., Editor-at-Large of National Review, has described our irrational maintenance of the prohibition against such uses of heroin in very real terms. As he pointed out:

> The irony is that anybody in a major city can acquire the knowledge necessary to buy heroin from a dirty little drug pimp, but licensed doctors may not administer the identical drug to men and women—and children—literally dying from excruciating pain.

Our colleagues on the House Subcommittee on Health and the Environment held hearings on a similar bill as early as September 4, 1980. At the time, a number of practicing physicians and others asked that the Federal controls on heroin be eased to permit the prescription of heroin for patients for whom more conventional pain killers were inadequate. It was further pointed out that in Great Britain, heroin has been used for years for these patients and that it has been shown to be particularly effective for those 10 percent of terminal cancer patients who require injected medication. British physicians consider heroin to be an indispensable potent narcotic analgesic in the treatment of advanced cancer. Use of heroin in specific situations is also permitted in Belgium, New Zealand, China, and many other civilized nations.

Since this information was made public in the House hearings, the editorial writers of our country have taken up the issue, as reflected in supportive statements by, among a number of others, the New York Times, the Washington Post, the Washington Times, the Los Angles Times, the San Francisco Chronicle, the San Francisco Examiner, the Honolulu Star-Bulletin, the Honolulu Advertiser, the Chicago Sun-Times, the Cleveland Plain Dealer, the Rocky Mountain News, and the Richmond Times-Dispatch. Both the National Review and the New Republic have backed the proposal. The American Nurses' Association has strongly endorsed this merciful action. As a result of widespread support among physicians and the general public, heroin has become available in Canada for terminal cancer patients.

The bill I am introducing today will give a very high priority to relief from intractable pain for terminal cancer patients. It authorizes the Secretary of the Department of Health and Human Services to establish demonstration programs that will permit the use of heroin by terminally ill cancer patients only, when suffering from pain that is not effectively treated with currently available analgesic medications.

My bill has more than adequate safeguards to prevent the drug from being introduced to the general public. For example, a diagnosis must be made by the attending physician that his or her patient is ill with cancer and is suffering from pain that is not being effectively treated with other available analgesic medications. This diagnosis must be reviewed and approved by a medical review board of the hospital that will dispense the heroin. The heroin used in the program will be from that supply now confiscated under current laws. The Secretary of Health and Human Services is further authorized to establish additional regulations for the safe use and storage of heroin, to prevent its diversion into illicit channels. This program will be in force for a 5-year period and periodic reporting is required of the Secretary on the activities under the bill.

I strongly believe that the proposal will provide substantial benefits to those who are in intractable pain from terminal cancer and I am hopeful that my colleagues on the Senate Labor and Human Resources Committee will give this measure their prompt and most serious consideration.

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

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

S. 78

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 ''Compassionate Pain Relief Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) cancer is a progressive, degenerative, and often painful disease that afflicts one out of every four persons in the United States and is the second leading cause of death;

(2) in the progression of terminal cancer, a significant number of patients experience levels of intense and intractable pain that cannot be effectively treated by presently available medication;

(3) the effect of such pain often leads to a severe deterioration in the quality of life of the patient and heartbreak for the family of the patient;

(4) the therapeutic use of parenteral diacetylmorphine is not permitted in the United States but extensive clinical research has demonstrated that the drug is a potent, highly soluble painkilling drug when properly formulated and administered under the supervision of a physician;

(5) it is in the public interest to make parenteral diacetylmorphine available to patients through controlled channels as a drug for the relief of intractable pain due to terminal cancer;

(6) diacetylmorphine is successfully used in Great Britain and other countries for relief of pain due to cancer;

(7) the availability of parenteral diacetylmorphine for the limited purposes of controlling intractable pain due to terminal cancer will not adversely affect the abuse of illicit drugs or increase the incidence of pharmacy thefts;

(8) the availability of parenteral diacetylmorphine will enhance the ability of physicians to effectively treat and control intractable pain due to terminal cancer; and

(9) it is appropriate for the Federal Government to establish a temporary program to permit the use of pharmaceutical dosage forms of parenteral diacetylmorphine for the control of intractable pain due to terminal cancer.

SEC. 3. PARENTERAL DIACETYLMORPHINE PROGRAM.

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by adding at the end the following new part:

''PART O—COMPASSIONATE PAIN RELIEF

''SEC. 399G. PARENTERAL DIACETYLMORPHINE.

''(a) REGULATIONS.—

''(1) IN GENERAL.—Not later than three months after the date of the enactment of this part, the Secretary shall issue regulations establishing a program (referred to in this section as the 'program') under which parenteral diacetylmorphine may be dispensed from pharmacies for the relief of intractable pain due to terminal cancer.

''(2) TERMINAL CANCER.—For purposes of this section, an individual shall be considered to have terminal cancer if there is histologic evidence of a malignancy in the individual and the cancer of the individual is generally recognized as a cancer with a high and predictable mortality.

''(b) MANUFACTURING.—Regulations established under this section shall provide that manufacturers of parenteral diacetylmorphine for dispensing under the program shall use adequate methods of, and adequate facilities and controls for, the manufacturing, processing, and packing of such drug to preserve the identity, strength, quality, and purity of the drug.

''(c) AVAILABILITY TO PHARMACIES.—

''(1) REQUIREMENTS.—Regulations established under this section shall require that parenteral diacetylmorphine be made available only to pharmacies that—

''(A) are hospital pharmacies or such other pharmacies as the regulations specify;

''(B) are registered under section 302 of the Controlled Substances Act (21 U.S.C. 822);

''(C) meet such qualifications as the regulations specify; and

''(D) submit an application in accordance with paragraph (2).

''(2) APPLICATION.—An application for parenteral diacetylmorphine shall—

''(A) be in such form and submitted in such manner as the Secretary may prescribe; and

''(B) contain assurances satisfactory to the Secretary that—

''(i) the applicant will comply with such special requirements as the Secretary may prescribe respecting the storage and dispensing of parenteral diacetylmorphine; and

''(ii) parenteral diacetylmorphine provided under the application will be dispensed through the applicant upon the written prescription of a physician registered under section 302 of the Controlled Substances Act (21 U.S.C. 822) to dispense controlled substances in schedule II of such Act (21 U.S.C. 812(2)).

''(3) INTENT OF CONGRESS.—It is the intent of Congress that—

''(A) the Secretary shall primarily utilize hospital pharmacies for the dispensing of parenteral diacetylmorphine under the program; and

''(B) the Secretary may distribute parenteral diacetylmorphine through pharmacies other than hospital pharmacies in cases in which humanitarian concerns necessitate the provision of parenteral diacetylmorphine, a significant need is shown for such provision, and adequate protection is available against the diversion of parenteral diacetylmorphine.

''(d) ILLICIT DIVERSION.—Regulations established by the Secretary under this section shall be designed to protect against the diversion into illicit channels of parenteral diacetylmorphine distributed under the program.

''(e) PRESCRIPTION BY PHYSICIANS.—Regulations established under this section shall—

''(1) require that parenteral diacetylmorphine be dispensed only to an individual in accordance with the written prescription of a physician;

''(2) provide that a physician registered under section 302 of the Controlled Substances Act (21 U.S.C. 822) may prescribe parenteral diacetylmorphine for individuals for the relief of intractable pain due to terminal cancer;

''(3) provide that any such prescription shall be in writing; and

''(4) specify such other criteria for the prescription as the Secretary may determine to be appropriate.

''(f) FEDERAL FOOD, DRUG, AND COSMETIC ACT.—The Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) and titles II and III of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 801 et seq. and 951 et seq.) shall not apply with respect to—

''(1) the importing of opium;

''(2) the manufacture of parenteral diacetylmorphine; and

''(3) the distribution and dispensing of parenteral diacetylmorphine,

in accordance with the program.

''(g) REPORTS.—

''(1) BY THE SECRETARY.—

''(A) IMPLEMENTATION AND ACTIVITIES.—

''(i) IMPLEMENTATION.—Not later than 2 months after the date of the enactment of this part and every third month thereafter until the program is established under subsection (a), the Secretary shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report containing information on the activities undertaken to implement the program.

''(ii) ACTIVITIES.—Not later than 1 year after the date the program is established under subsection (a) and annually thereafter until the program is terminated under subsection (h), the Secretary shall prepare and submit to the committees described in clause (i) a report containing information on the activities under the program during the period for which the report is submitted.

''(B) PAIN MANAGEMENT.—Not later than 6 months after the date of the enactment of this part, the Secretary shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report that—

''(i) describes the extent of research activities on the management of pain that have received funds through the National Institutes of Health;

''(ii) describes the ways in which the Federal Government supports the training of health personnel in pain management; and

''(iii) contains recommendations for expanding and improving the training of health personnel in pain management.

''(2) BY THE COMPTROLLER GENERAL.—Not later than 56 months after the date on which the program is established under subsection (a), the Comptroller General of the United States shall prepare and submit to the committees referred to in paragraph (1)(A)(i) a report containing information on the activities conducted under the program during such 56-month period.

''(h) TERMINATION AND MODIFICATION.—

''(1) IN GENERAL.—The Secretary may at any time later than 6 months after the date on which the program is established under subsection (a), modify the regulations required by subsection (a) or terminate the program if in the judgment of the Secretary the program is no longer needed or if modifications or termination are needed to prevent substantial diversion of the diacetylmorphine.

''(2) FINAL TERMINATION.—The program shall terminate 60 months after the date the program is established under subsection (a).''.

By Mr. INOUYE:

S. 79. A bill to require the Secretary of Agriculture to extend a nutrition assistance program to American Samoa, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE NUTRITION ASSISTANCE PROGRAM EXTENSION ACT OF 1995

Mr. INOUYE. Mr. President, I rise today to introduce a bill that will address an important need of the people of American Samoa.

The American Samoa Nutrition Assistance Program [ASNAP], which serves the low-income elderly, blind and disabled in American Samoa, operates as a modified Food Stamp program coordinated by the Food and Nutrition Service [FNS] of the U.S. Department of Agriculture [USDA]. The ASNAP is currently supported through annual appropriations out of discretionary funds in the FNS account. Because of the small population of American Samoa—approximately 53,000 people—and the limited scope of the beneficiaries of this program, the cost of ASNAP only amounts to approximately $5.5 million annually. Yet, this is an important program to those individuals who look to it for sustenance. Unfortunately, the discretionary funding mechanism for the ASNAP makes annual funding unsure and makes it difficult for administrators to plan ahead.

Similar programs for Puerto Rico and the Commonwealth of the Northern Mariana Islands are supported with mandatory funds through the Food Stamp Act of 1977. There is no reason that the ASNAP should be treated any differently. It should be funded through the identical mechanism. My bill will require the Secretary of Agriculture to extend the ASNAP to the low-income elderly, blind and disabled people of American Samoa under the Food Stamp Act. I urge my colleagues to join me in making this small, but worthwhile gesture for the benefit of those in need in American Samoa.

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. 79

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

SECTION 1. EXTENSION OF NUTRITION ASSISTANCE PROGRAM OF AMERICAN SAMOA.

The First sentence of section 601(c) of Public Law 96–597 (48 U.S.C. 1469d(c)) is amended by inserting before the period at the end the following: '', and the Secretary of Agriculture shall extend a nutrition assistance program conducted under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) to American Samoa''.

By Mr. INOUYE:

S. 80. A bill to amend the Perishable Agricultural Commodities Act, 1930, to include marketing of fresh cut flowers and fresh cut foliage in the coverage of the Act, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE PERISHABLE AGRICULTURAL COMMODITIES ACT AMENDMENTS

Mr. INOUYE. Mr. President, I rise today to introduce a bill that will add a measure of fairness to the Perishable Agriculture Commodities Act of 1930 [PACA], which currently ignores an important segment of perishable agricultural items, namely, fresh cut flowers and fresh cut foliage.

The PACA currently protects the interests of consumers and producers of fresh fruits and vegetables by requiring that the Secretary of Agriculture provide a licensing mechanism for brokers and dealers of these products. In addition, the PACA defines unfair and unlawful practices by such brokers and dealers, requires that such brokers and dealers hold commodities and proceeds of sales in trust for the benefit of unpaid growers, and outlines administrative and judicial causes of action for anyone injured by any violations of the PACA.

The purpose of the PACA is to ensure that the public is assured of quality in the marketing of fresh products and that the producers' interests are protected when they entrust a shortlived commodity to a broker or dealer for transfer and sale.

Consumers and producers of fresh cut flowers and fresh cut foliage experience many of the same risks as consumers

and producers of fruits and vegetables; risks which the PACA seeks to alleviate. For this reason, consumers and producers of fresh cut flowers and fresh cut foliage should be afforded the same quality control and protections provided by the PACA with respect to fruits and vegetables. I urge my colleagues to join me in supporting my bill which will amend the PACA to include fresh cut flowers and fresh cut foliage in its coverage.

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. 80

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

SECTION 1. INCLUSION OF FRESH CUT FLOWERS AND FRESH CUT FOLIAGE IN PACA COVERAGE.

Section 1(b)(4)(A) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499a(b)(4)(A)), is amended by striking ''fruits and fresh vegetables'' and inserting ''fruits, fresh vegetables, fresh cut flowers, and fresh cut foliage''.

By Mr. INOUYE:

S. 81. A bill to amend the Internal Revenue Code of 1986 to provide a credit for the purchase of child restraint systems used in motor vehicles; to the Committee on Finance.

THE CHILD RESTRAINT SYSTEMS AMENDMENT ACT OF 1995

Mr. INOUYE. Mr. President, today I am introducing legislation to provide for a Federal income tax credit for those families who purchase a child restraint system for their automobiles.

Accidents and injuries continue to cause almost half of the deaths of children between the ages of one and four, more than half of the deaths of children between five and fifteen, and continue to be the leading cause of death among children and young adults.

It is my understanding that although the Department of Transportation has made injury prevention among children a top priority, a significant number of parents either do not have adequate child restraint systems or do not have them properly installed.

It is imperative that we create this opportunity to provide America's parents with a financially accessible alternative to the insufficient level of child safety measures currently available for use in automobiles.

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

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

S. 81

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

SECTION 1. CREDIT FOR PURCHASE OF CHILD RESTRAINT SYSTEMS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by adding at the end the following new section:

''SEC. 25A. PURCHASE OF CHILD RESTRAINT SYSTEM.

''(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the costs incurred by the taxpayer during such taxable year in purchasing a qualified child restraint system for any child of the taxpayer.

''(b) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED CHILD RESTRAINT SYSTEM.—The term 'qualified child restraint system' means any child restraint system which meets the requirements of section 571.213 of title 49 of the Code of Federal Regulations.

''(2) CHILD.—The term 'child' has the meaning given to such term by section 151(c)(3).''

(b) CONFORMING AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 25 the following new item:

''Sec. 25A. Purchase of child restraint system.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1994.

By Mr. INOUYE:

S. 82. A bill to amend title 38, United States Code, to revise certain provisions relating to the appointment of clinical and counseling psychologists in the Veterans Health Administration, and for other purposes; to the Committee on Veterans' Affairs.

THE VETERANS' HEALTH ADMINISTRATION ACT OF 1995

Mr. INOUYE. Mr. President, today I am introducing a bill to allow for the deferral of duty on merchandise admitted into a U.S. foreign trade zone, or subzone, for use within such a zone as production equipment, or parts thereof, until such merchandise is completely assembled, installed, tested, and used in the production for which it was admitted. This bill does not relieve any manufacturer operating in a U.S. foreign trade zone or subzone of its obligation to pay all applicable duty on such equipment, but rather it would allow these firms to defer the payment of duty until the equipment begins commercial operations in the zone or subzone, or enters the customs territory of the United States. The duty chargeable shall be at the same rate as would have been imposed on such production machinery and related equipment, and parts thereof—taking into account the privileged foreign or nonprivileged foreign zone status of merchandise—had duty been imposed at the time of entry into the customs territory of the United States.

This legislation provides several practical advantages for U.S. manufacturers. Production equipment entering customs territory subject to duty often must be stored, assembled, tested, and/or reconfigured prior to beginning commercial operation for its intended purpose. Many times this equipment is found to be broken, flawed, lacking in components or materials and/or otherwise scrapped as useless. If duties have been filed, recovery of these funds through drawbacks can be burdensome and often full recovery of these financial resources is never realized. This can provide a tremendous financial strain on U.S. manufacturing firms by imposing an unnecessary economic burden.

Under current law, production and capital equipment can be produced or assembled in one foreign trade zone, entered into the customs territory with payment of duties, and then transferred to another zone where it will be used. However, for many firms this is not always a realistic solution. Often production and capital equipment used in a foreign trade zone, once assembled, cannot be moved.

Prior to 1988, the U.S. Customs Service allowed for the deferral of duty on foreign production equipment in U.S. foreign trade zones where it was to be used until such time as the equipment was placed in commercial operation. In 1988, however, Customs overturned its own ruling without any direction from the Congress.

My legislation is consistent with the intent of the Foreign Trade Zones Act of 1934—19 U.S.C. 81(c)—which provides for the deferral of duty on merchandise in a foreign trade zone.

Mr. President, I realize this bill will not eliminate the U.S. trade imbalance but it will remove an unnecessary economic burden on U.S. manufacturers and will further enhance our ability to compete in the global marketplace. Further, it will help preserve the American manufacturing base and preserve American jobs. For these reasons, I urge my colleagues to support the prompt passage of this important legislation.

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

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

S. 82

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

SECTION 1. REVISION OF AUTHORITY RELATING TO THE APPOINTMENT OF CLINICAL AND COUNSELING PSYCHOLOGISTS IN THE VETERANS HEALTH ADMINISTRATION.

(a) IN GENERAL.—Section 7401(3) of title 38, United States Code, is amended by striking out ''who hold diplomas as diplomates in psychology from an accrediting authority approved by the Secretary''.

(b) CERTAIN OTHER APPOINTMENTS.—Section 7405(a) of such title is amended—

(1) in paragraph (1)(B), by striking out ''Certified or'' and inserting in lieu thereof ''Clinical or counseling psychologists, certified or''; and

(2) in paragraph (2)(B), by striking out ''Certified or'' and inserting in lieu thereof ''Clinical or counseling psychologists, certified or''.

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

(d) APPOINTMENT REQUIREMENT.—Notwithstanding any other provision of law, the Secretary of Veterans Affairs shall begin to make appointments of clinical and counseling psychologists in the Veterans Health Administration under section 7401(3) of title 38, United States Code (as amended by subsection (a)), not later than 1 year after the date of the enactment of this Act.

By Mr. INOUYE:

S. 83. A bill to amend title 5, United States Code, to require the issuance of a prisoner-of-war medal to civilian employees of the Federal Government who are forcibly detained or interned by an enemy government or a hostile force under wartime conditions; to the Committee on Governmental Affairs.

THE PRISONER-OF-WAR MEDAL AMENDMENT ACT OF 1995

Mr. INOUYE. Mr. President, all to often we find that our Nation's Civilians who have been captured by a hostile government do not receive the recognition they deserve. My bill would correct this inequity and provide a prisoner-of-war medal for civilian employees of the Federal Government.

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

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

S. 83

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

SECTION 1. PRISONER-OF-WAR MEDAL FOR CIVILIAN EMPLOYEES OF THE FEDERAL GOVERNMENT.

(a) AUTHORITY TO ISSUE PRISONER-OF-WAR MEDAL.—Subpart A of part III of title 5, United States Code, is amended by inserting after chapter 23 the following new chapter:

''CHAPTER 25—MISCELLANEOUS AWARDS

''2501. Prisoner-of-war medal: issue.

''§ 2501. Prisoner-of-war medal: issue

''(a) The President shall issue a prisoner-of-war medal to any person who, while serving in any capacity as an officer or employee of the Federal Government was forcibly detained or interned, not as a result of such person's own willful misconduct—

''(1) by an enemy government or its agents, or a hostile force, during a period of war; or

''(2) by a foreign government or its agents, or a hostile force, during a period other than a period of war in which such person was held under circumstances which the President finds to have been comparable to the circumstances under which members of the armed forces have generally been forcibly detained or interned by enemy governments during periods of war.

''(b) The prisoner-of-war medal shall be of appropriate design, with ribbons and appurtenances.

''(c) Not more than one prisoner-of-war medal may be issued to a person under this section or section 1128 of title 10. However, for each succeeding service that would otherwise justify the issuance of such a medal, the President (in the case of service referred to in subsection (a) of this section) or the Secretary concerned (in the case of service referred to in section 1128(a) of title 10) may issue a suitable device to be worn as determined by the President or such Secretary, as the case may be.

''(d) For a person to be eligible for issuance of a prisoner-of-war medal, the person's conduct must have been honorable for the period of captivity which serves as the basis for the issuance.

''(e) If a person dies before the issuance of a prisoner-of-war medal to which he is entitled, the medal may be issued to the person's representative, as designated by the President.

''(f) Under regulations to be prescribed by the President, a prisoner-of-war medal that is lost, destroyed, or rendered unfit for use without fault or neglect on the part of the person to whom it was issued may be replaced without charge.

''(g) In this section, the term 'period of war' has the meaning given such term in section 101(11) of title 38.''.

(b) TECHNICAL AMENDMENT.—The table of chapters at the beginning of part III of such title is amended by inserting after the item relating to chapter 23 the following new item:

''25. Miscellaneous Awards ..... 2501''.

SEC. 2. EFFECTIVE DATE.

Section 2501 of title 5, United States Code, as added by section 1, applies with respect to any person who, after April 5, 1917, is forcibly detained or interned as described in subsection (a) of such section.

By Mr. INOUYE:

S. 84. A bill to authorize the Secretary of Transportation to issue a certificate of documentation and coastwide trade endorsement for the vessel BAGGER, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE VESSEL BAGGER ACT OF 1995

Mr. INOUYE. Mr. President, this private relief bill that I am introducing would authorize a certificate of documentation and coastwise trade endorsement for the vessel *Bagger*, a small boat to be used for charter fishing. I ask unanimous consent that the bill be printed in the RECORD.

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

S. 84

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

SECTION 1. CERTIFICATE OF DOCUMENTATION.

Notwithstanding sections 12106 through 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), the Secretary of Transportation may issue a certificate of documentation and coastwise trade endorsement for the vessel BAGGER, hull identification number 3121125, and State of Hawaii registration number HA1809E.

By Mr. FEINGOLD (for himself and Mr. SIMON):

S. 85. A bill to provide for home and community-based services for individuals with disabilities, and for other purposes; to the Committee on Finance.

THE LONG-TERM CARE REFORM AND DEFICIT REDUCTION ACT OF 1995

Mr. FEINGOLD. Mr. President, I am pleased to introduce S. 85, the Long-Term Care Reform and Deficit Reduction Act of 1995, legislation to reform fundamentally the way we provide long-term care in this country.

Though Congress failed to pass comprehensive health care reform last year, we must not wait to renew our efforts. We should begin now, and universal coverage should again be our goal.

The legislation I am introducing today does not attempt to reform our health care system in any comprehensive way, but it does serve to resume the debate, and can be a first step in the effort to pursue universal coverage.

The bill establishes a system of consumer-oriented, consumer-directed home and community-based long-term care services for individuals with disabilities of any age.

It is based on Wisconsin's home and community-based long-term care program, the Community Options Program [COP], which has been a national model of reform. COP was the keystone of Wisconsin's long-term care reforms that have saved Wisconsin taxpayers hundreds of millions of dollars.

The legislation is also similar, in large part, to the excellent long-term care proposal included in President Clinton's health care reform bill last year, as well as to the provisions establishing home and community long-term care benefits in the versions of the President's bill that came out of the Senate Committee on Labor and Human Resources and the Senate Committee on Finance.

Unlike so many other aspects of health care reform, the long-term care provisions that came out of the two Senate Committees, that were included in the Mitchell compromise measure, and that were part of the proposals produced by the standing committees in the other body, received bipartisan support. It is somewhat remarkable that when there was so much controversy over so many issues relating to health care reform that there was so much agreement over the need to include long-term care reform.

Mr. President, the measure also provides for a hospital-long-term care link program, identical to legislation I introduced, S.52, on the first day for introduction of bills in the 103d Congress.

The hospital link program is based on our experiences in Wisconsin where such an initiative has helped direct individuals needing long-term care services out of hospitals, and back to their own homes and communities. The hospital discharge is a critical point of embarkation into the long-term care system for many, and this program helps ensure that those who leave a hospital in need of long-term care can receive needed services where they prefer them—in their own homes.

Mr. President, though I am convinced that long-term care reform can result in substantial savings to taxpayers—and this has been our experience in Wisconsin—this measure does not depend on hypothetical savings for funding. This measure includes funding provisions consisting of specific cuts within the health care system, scored by the Congressional Budget Office to reduce federal spending under Medicare.

Included in these proposed spending cuts is a provision that reduces the

subsidy we give to the wealthiest Medicare beneficiaries through the Part B premium. The provision would peg the Part B premium to income, reducing the taxpayer subsidy for individuals with income over $100,000 and couples with income over $125,000. The subsidy would be completely phased-out for individuals with income over $125,000, and couples with income over $150,000.

Other savings are generated from a 10 percent home health copayment applied to individuals with incomes over 150 percent of poverty—still only half the copayment charged on other Medicare services; modifying the routine cost limits for home health services; correcting an anomaly in the formula for certain outpatient services; and, continuing the reduction in the inpatient hospital capital reimbursement formula.

Based on the estimates of the provisions in this legislation generated by the CBO for 5 fiscal years, the measure actually generates savings in each of those years, and produces a total of $6.1 billion in deficit reduction over that time.

This must be the approach we adopt, even for those proposals which experience shows will result in savings. By including funding provisions in this long-term care reform measure, we ensure that any additional savings produced by these reforms will only further reduce the budget deficit.

Mr. President, though long-term care reform may serve to move us toward truly comprehensive health care reform, it is very much needed in its own right.

While the population of those needing long-term care is growing much faster than those providing indirect support as taxpayers, informal care, which is largely provided by families, has been stretched to the limit by the economics of health care and the increasing age of the caregivers themselves.

The default system of formal long-term care, currently funded through the Medicaid Program, requires that individuals impoverish themselves before they can receive needed care, and it largely limits care to expensive institutional settings.

Failure to reform long-term care will inevitably lead to increased use of the Medicaid system—the most expensive long-term care alternative for taxpayers, and the least desirable for consumers.

Mr. President, there are few statistical forecasts as accurate as those dealing with our population, and estimates show that the population needing long-term care will explode during the next few decades. The elderly are the fastest growing segment of our population, with those over age 85—individuals most in need of long-term care—the fastest growing segment of the elderly. The over 85 population will triple in size between 1980 and 2030, and will be nearly seven times larger in 2050 than in 1980.

The growth in the population of elderly needing some assistance is expected to be equally dramatic. Activities of daily living, or ADL's, are a common measure of need for long-term care services. These activities include eating, transferring in and out of bed, toileting, dressing, and bathing. In 1988, approximately 6.9 million elderly could not perform all of these activities. By 2000, this population is expected to increase to 9 million, and by 2040 to 18 million.

Mr. President, that we have been able to stave off a long-term care crisis to date is due in large part to the direct caregiving provided by millions of families for their elderly and disabled family members. But here, also, we see that the demographic changes of the next several decades will result in increased strain on the current system.

While the number of people in need of care is increasing rapidly, the population supporting those individuals, either through direct caregiving, or indirectly through their taxes, is growing much more slowly, and thus is shrinking in comparison.

In 1900, there were about 7 elderly individuals for every 100 people of working age. As of 1990, the ratio was about 20 elderly for every 100, by 2020 the ratio will be 29 per 100, and after that it will rise to 38 per 100 by 2030.

These population differences will be further aggravated by the changing nature of the family and the work force. As the Alzheimer's Association has noted smaller families, delayed childbearing, more women in the work force, higher divorce rates, and increased mobility all mean there will be fewer primary caregivers available, and far less informal support for those who do continue to provide care to family members in need of long-term care services.

Mr. President, while some elderly are relatively well off, thanks in part to programs like Social Security and Medicare that have kept many out of poverty, it is also true that too many seniors still find themselves living near or below the poverty line. This is especially true for those needing long-term care, who, on average, are poorer than those who do not need long-term care. In 1990, about 27 percent of people needing help with some activity of daily living survived on incomes below the poverty level, compared with 17 percent of all older people. About half of impaired elderly have income under 150 percent of poverty, compared with 35 percent of all elderly, and, according to Families USA, while 20 percent of the population as a whole had annual family income under $15,685 in 1992, nearly half of the disabled population had income under that level.

Further aggravating the problem is that informal family member caregivers are getting older. These caregivers are already an average of 57, with 36 percent of caregivers 65 or older. As the population ages, so will the average age of caregivers, and as the population of caregivers increases, their ability to provide adequate informal care diminishes.

Mr. President, all in all our country faces a rapidly growing population needing long-term care services, a population which is disproportionately poor. At the same time, the group of family caregivers, that has kept most of the population needing long-term care out of government programs like Medicaid, is shrinking relative to those in need of services, and is becoming progressively older.

The inescapable result of these trends is substantial pressure on government provided long-term care services—services that are inadequate in several fundamental ways.

First, with some exceptions, the current system fails to build effectively on the informal care provided by families.

Mr. President, most people with disabilities, even with severe disabilities, rely on care in their home from family and friends. The Alzheimer's Association estimates that families provide between 80 and 90 percent of all care at home, willingly and without pay. The Association estimates that this informal off-budget care would cost $54 billion to replace.

This last figure can be only an estimate, not because it doesn't fairly represent the services currently being provided by family members, but because comparable services are largely unavailable from the long-term care system. The variety of home and community-based services provided by family members simply do not exist in many areas.

Mr. President, the prevalence of family-provided caregiving affirms that, in reforming our long-term care system, it is vital that we build on top of the existing informal care that is being provided, not try to substitute for that care by imposing a new system. The goal of long-term care reform is first to enable family caregivers to continue to provide the care they currently give and that their family members prefer.

Mr. President, another weakness of the current long-term care system is the lack of a home and community service capacity. This is due in part to the inadequacies of the Medicaid Program. Enacted in 1965, Medicaid was primarily a response to the acute care needs of the poor. Though Congress did not envision Medicaid as a long-term care program, it quickly became the primary source of Government funds for long-term care services.

For many years, those long-term services provided under Medicaid were almost exclusively institutionally based. Not until institutional services, such as nursing homes, had become well established were community and home-based services funded.

The result of the head start given institutional long-term care services has been a continuing bias toward institutions in our long-term care programs. The rate of nursing home use by the elderly since the advent of Medicare and

Medicaid has doubled, while the community and home-based alternatives to institutional care are considered exceptions to institutional care. A State must get a waiver from the Federal Government in order to qualify for community and home-based nonmedical service alternatives under Medicaid, and in many cases, an individual must otherwise be headed to an institution in order to qualify for those Medicaid-funded community and home-based alternative programs.

More significantly, there remains an absolute entitlement to institutional care that does not exist for the home and community-based waiver alternatives.

Mr. President, many families have been able to provide long-term care services themselves to their elderly and disabled family members, but the lack of even partial support services makes it increasingly difficult for families to choose to keep their family members at home.

According to 1991 Alzheimer's Association study, the family caregiving alternative to Government-funded long-term care is likely to disappear not because of the increasing impairment of the long-term care consumer, but because of the physical, emotional, or financial exhaustion of the caregiver:

> Family caregivers suffer more stress-related illness, resulting from exhaustion, lowered immune functions, and injuries, than the general population . . . Depression among caregivers of the frail elderly is as high as 43 to 46 percent, nearly three times the norm. . . . The likelihood of health problems is heightened by the relatively high age of caregivers: the average is 57. Thirty-six percent of caregivers are 65 or older.

Mr. President, the impact on the economy of the family caregiver is also significant. Beyond the obvious strain on the personal economy of those families with members needing long-term care services, there is also a significant effect on employers.

One quarter of American workers over the age of 30 care for an elderly parent, and this percentage is expected to increase with 40 percent of workers expected to be caring for aging parents in the next 5 years.

There are impressive statistics when one considers that caregivers report missing a week and a half of work each year in order to provide care, and nearly one-third of working caregivers have either quit their job or reduced their work hours because of their caregiving responsibilities.

For those working 20 hours or fewer a week, over half have reduced their work hours because of caregiving responsibilities.

Mr. President, long-term care is very much a women's issue. Women live longer than men, and make up a greater portion of the population needing care. And women are much more likely to be the family member that is providing care to a loved one who needs long-term care. One in five women have a parent living in their home, and nearly half of adult daughters who are caregivers are unemployed. Over a quarter of these women said they either quit their jobs or retired early just to provide care for an older person.

In addition to the impact on caregivers as employees, workers, and family breadwinners, there is also a measurable impact on their personal health. As the Alzheimer's Association study noted, caregivers are more likely to be in poor health than the general population, and are three times more likely to suffer from depression, a condition that raises the risk of other ailments such as exhaustion, lowered immune function, stress-related illness, and injury related to their caregiving responsibilities.

Compounding both the work-related and health-related problems, the burden of this kind of caregiving can increase over time. The Alzheimer's Association study noted that unlike caring for a child, which diminishes over time as the child matures and becomes more independent, caregiving responsibilities for an aging parent often increase as they become more dependent and require more care.

Mr. President, failure to reform long-term care will also lead to cost-shifting and will undermine our efforts both to contain acute care costs and further reduce the deficit.

Thanks in large part to the lack of universal coverage and the attendant shared responsibility, the health care system has become expert at shifting costs. Federal and State policymakers, in attempting to control costs, have often only created bigger incentives to shift costs as they try to clamp down in one area only to see utilization jump in another. All too often, no real savings are achieved in the end.

This was seen, for example, when the Federal Government changed several aspects of Medicare reimbursements. Patients were discharged from hospitals quicker and sicker than they had been before with a resulting increase in utilization in other areas, including long-term care services such as skilled nursing facilities.

This example is particularly appropriate. As efforts are made to limit costs in the acute care system, it is precisely this kind of shifting, from the acute care side to the long-term care side, that will occur unless long-term care reforms are pursued.

A grandmother who is discharged from a hospital by an HMO seeking to lower its costs, may have little alternative but to enter a nursing home. Long-term care reform could provide her family with sufficient additional supports to be able to care for that grandmother in her own home, and at significantly lower cost to the family and the system as a whole.

But, Mr. President, as important as it is to gain control of our health care costs, long-term care reform is needed first and foremost as a matter of humanity.

In my own State of Wisconsin, long-term care has been the focus of significant reforms since the early 1980s.

One long-term care administrator, Chuck McGlaughlin of Black River Falls, WI, testified before a field hearing of the Senate Aging Committee in the 103d Congress that prior to those reforms, he saw an almost complete absence of community or home-based long-term care services for people in need of support.

This was especially visible for older disabled individuals. Except for those seniors with sufficient resources to create their own system of in-home supports, he saw many forced to enter nursing homes who would have liked to have remained in their own home or community.

McLaughlin noted that though some eventually adjusted to leaving their home and entering the nursing home, others never did.

> I saw people who simply willed their own death because they saw no reason to continue living. These were people who were literally torn from familiar places and familiar people. People who had lost the continuity of their lives and the history that so richly made them into who they were now. People who had nurtured and sustained their communities which in turn provided them with positive status in that community. These people were truly uprooted and adrift in an alien environment lacking familiar sights, sounds, and smells. Many of them simply chose not to live any longer. While the medical care they received was excellent, they were more than just their physical bodies. Modern medicine has no treatment for a broken spirit.

Mr. President, for many, the current long-term care system continues to be so inflexible as to be inhumane.

Mr. President, there are many reasons for pursing long-term care reform—certainly more than are addressed here. But the one which may be the most meaningful for those actually needing long-term care is the ability to make their own choice about what kinds of services they will receive. In particular, this will mean the chance to remain as independent as possible, living at home or in the community or, if they choose, in an institution.

Survey after survey reveal the overwhelming preference for home-based care, and these findings are consistent with the anecdotal evidence available from just about every family facing some kind of long-term care need.

Ann Hauser, a 74-year-old woman who retired after 30 years as a ward clerk in a Milwaukee hospital, offered testimony at a May 9, 1994 field hearing of the Senate Special Committee on Aging that is typical of what many have said over the years.

Now living at home with help from Wisconsin's home and community-based long-term care program, the Community Options Program [COP], Ms. Hauser related a number of problems she had experienced while in different nursing homes.

> While at this nursing home and the others, I was to continue on IV antibiotics and needed some, but not total assistance for chair

transfers. Before much time had passed, I was assisted in moving around so seldom that I lost muscle tone. Within 5 months, I became bedridden. The Heuer lift became a cop-out, and I learned that I was better to refuse it so that I would keep the use of some of my muscles. The less active I became, the more depressed I became. I was going downhill fast.

How could I be happy in places that allowed the aids to switch the TV station on my television to their favorite soap operas (when I don't even like shows like that)? Furthermore, when I would remind them that I was at their mercy to finish my bed bath as they stopped to watch ''just one more minute,'' they would take away my remote control while I shivered and waited.

The particulars of Ms. Hauser's experience are less important than the overall loss of control and independence that she experienced, something that is common for many in nursing homes. As Ms. Hauser noted:

How could I thrive in an environment that counted on my remaining inactive when I had been so active until now?

Dorothy Freund, a nursing home resident who also gave testimony at the May 9 field hearing. Ms. Freund, who received her BA from Ohio State University, majored in English, and later received an additional degree from Maclean College of Drama, Speech, and Voice in Chicago.

After a brief stay in a hospital for treatment to her ankle, she came to a nursing home for further treatment. She gave up her apartment, because it was not designed for maneuvering in a wheelchair, and she has been on the COP waiting list for a year and a half.

Ms. Freund testified that she enjoys helping people, and this was obvious to those at the hearing as she related her efforts to tutor a nursing assistant who had worked at the nursing home. The aid decided that she would like to become a nurse, to get her LPN, but needed to get her high school diploma. Ms. Freund helped her with English, geometry, government, and geography, and, thanks in large part to Ms. Freund's efforts, the nursing assistant did receive her high school diploma.

Ms. Freund spoke about her experience and her thoughts on living in a nursing home:

Then why not stay at the nursing home and help others in the same way? It is not an atmosphere of peace and quiet for any length of time. I'm not deprecating the nursing home and its quality of care. They are always looking for ways to improve situations and to solve problems that arise. Nor am I downgrading those who are trying their best to give that care. But when the shouting, moaning, screaming, and babbling all go on at the same time it can be bedlam. It may erupt at any moment. The frustrations of being stuffed in a nursing home, the struggle to ride out the storms, and keep one's head above the turbulent waters, can seem overwhelming when there's not even a gleam at the end of the tunnel. But I just can't resign myself to a life of Bingo and Roll-a-ball. ''Don't give up; there must be a way.'' I keep telling myself.

Ms. Freund's testimony, again, is typical of the experiences of many needing long-term care. And it bears emphasizing that the desire to live in one's own home, and to be able to function as independently as possible, exists despite the high quality of care that is provided in most nursing homes.

Mr. President, this should come as no surprise in a society that values independence so highly. We cannot expect an individual's value system to change the instant they require some long-term care, though this is precisely how our current long-term care system is structured.

If for no other reason, we need to reform our long-term care system to reflect the values we cherish as a Nation, to live, as we wish, independently, in our own homes and communities.

Mr. President, last year I issued a report reviewing the long-term care provisions in President Clinton's health care reform legislation and offering some modifications to those provisions based on our experience in Wisconsin. In that report, I noted that Chuck McLaughlin's eloquent comments on the importance of community were not only relevant, even central, to the discussion of long-term care, but that community must also be the focus of our efforts in many other areas of our lives as Americans and citizens of the world.

More often than not, the critical problems we face stem from a failure of community or a lack of adequate community-based supports—for example jobs and economic development, housing, crime, and education. These and other important issues are usually confronted by policymakers at a distance—from Washington, DC, or from state capitals—essentially from the top down.

Too often we have tried to solve these challenges, including the challenge of long-term care, by imposing a superior vision from above. This approach has led to inflexible systems that cannot react to individual needs, but rather end up trying to fit the problem to their own structure.

This fundamental weakness is often enough to undermine even the sometimes huge amounts of money that we send along to implement the problem solving. It also limits the kinds of creative approaches those who are on the ground may see as useful and necessary.

Mr. President, just as we have a need to reinvent Government to respond more efficiently to our country's needs and our national deficit, we need also to reinvent community to allow flexible approaches to problems, and to allow those in the community to exercise their judgment as to how best solve problems.

A great strength of the Wisconsin long-term care reforms, and especially the home and community-based benefit on which this legislation is based, is that it is focused on the needs of the individual. Eligibility is based on disability, not age, and services are centered around the particular needs of a individual rather than the perceived needs of a group.

The approach this legislation takes is not only appropriate, but integral to the nature of long-term care.

Mr. President, the population needing long-term care services is a diverse group with widely differing needs.

Of the many misconceptions about long-term care, and about programs providing long-term care services, the most common may be that long-term care is purely an elderly issue. Though it is true that the elderly make up the largest part of the population needing long-term cares services, long-term care is an issue facing millions of younger Americans. Approximately 1 million children have severe disabilities that require long-term care services.

Beyond the wide difference in the ages of those needing long-term care services, there is a diversity of needs, including the needs of the caregiving family members who may need a variety of different long-term care services.

From individuals with cerebral palsy to families that have a loved one afflicted with Alzheimer's disease, however well intentioned, no one set of services will address the individual needs of long-term care consumers.

Rather than trying to fit all of those needing long-term care services into one set of services, this legislation lets case managers, working with long-term care consumers and their families, determine just what services are needed and preferred.

Mr. President, the failure to enact comprehensive reform will not interrupt my own efforts to advocate and push individual reforms that respond to the needs of people and that can help save our health care system money.

In home and community-based long-term care reform, we can achieve both.

For taxpayers in Wisconsin, COP has saved hundreds of millions of dollars that would otherwise have been spent on more expensive institutional care.

During the 1980's, while the rest of the country was experiencing a 24-percent increase in Medicaid nursing home bed use, in Wisconsin, thanks to COP and other long-term care reforms, Medicaid nursing home bed use actually dropped by 19 percent. In a recent talk, Gov. Tommy Thompson noted that COP saves Wisconsin taxpayers about $25 million every year.

At the same time, COP has provided an alternative that allows the consumer to participate in determining the plan of care and in the execution of that plan.

But, Mr. President, at the Federal level we are behind Wisconsin and other States in reforming long-term care. Despite the creation of community-based Medicaid waiver programs, consumers are, for the most part, faced with few alternatives.

In describing the situation facing many elderly disabled prior to the establishment of COP in Wisconsin, Chuck McLaughlin testified before our field hearing that he recalled thinking that when he went to a grocery store there was incredible choice. He noted that there was an entire aisle for various types of pet food.

But when elderly people encountered frailty and the loss of independence, there were basically no choices for them. It seemed a sad reality that society was doing a much better job at providing meal diversity to cats and dogs than we were doing at offering choices to humans facing frailty.

Mr. President, that is the plight of many needing long-term care today. The disabled of all ages have few options. And those that they do have are expensive for them, for their families, and for taxpayers.

This proposal will begin to provide the flexibility that State and local government needs to provide consumer-oriented and consumer-directed services.

Mr. President, I ask unanimous consent that a summary of the measure, followed by the complete text of the legislation, be printed in the RECORD.

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

S. 85

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 ''Long-Term Care Reform and Deficit Reduction Act of 1995''.

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

TITLE I—HOME AND COMMUNITY-BASED SERVICES FOR INDIVIDUALS WITH DISABILITIES

SEC. 101. STATE PROGRAMS FOR HOME AND COMMUNITY-BASED SERVICES FOR INDIVIDUALS WITH DISABILITIES.

(a) IN GENERAL.—Each State that has a plan for home and community-based services for individuals with disabilities submitted to and approved by the Secretary under section 102(b) may receive payment in accordance with section 108.

(b) ENTITLEMENT TO SERVICES.—Nothing in this title shall be construed to create a right to services for individuals or a requirement that a State with an approved plan expend the entire amount of funds to which it is entitled under this title.

(c) DESIGNATION OF AGENCY.—Not later than 6 months after the date of enactment of this Act, the Secretary shall designate an agency responsible for program administration under this title.

SEC. 102. STATE PLANS.

(a) PLAN REQUIREMENTS.—In order to be approved under subsection (b), a State plan for home and community-based services for individuals with disabilities must meet the following requirements:

(1) STATE MAINTENANCE OF EFFORT.—

(A) IN GENERAL.—A State plan under this title shall provide that the State will, during any fiscal year that the State is furnishing services under this title, make expenditures of State funds in an amount equal to the State maintenance of effort amount for the year determined under subparagraph (B) for furnishing the services described in subparagraph (C) under the State plan under this title or the State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(B) STATE MAINTENANCE OF EFFORT AMOUNT.—

(i) IN GENERAL.—The maintenance of effort amount for a State for a fiscal year is an amount equal to—

(I) for fiscal year 1997, the base amount for the State (as determined under clause (ii)) updated through the midpoint of fiscal year 1997 by the estimated percentage change in the index described in clause (iii) during the period beginning on October 1, 1995, and ending at that midpoint; and

(II) for succeeding fiscal years, an amount equal to the amount determined under this clause for the previous fiscal year updated through the midpoint of the year by the estimated percentage change in the index described in clause (iii) during the 12-month period ending at that midpoint, with appropriate adjustments to reflect previous underestimations or overestimations under this clause in the projected percentage change in such index.

(ii) STATE BASE AMOUNT.—The base amount for a State is an amount equal to the total expenditures from State funds made under the State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) during fiscal year 1995 with respect to medical assistance consisting of the services described in subparagraph (C).

(iii) INDEX DESCRIBED.—For purposes of clause (i), the Secretary shall develop an index that reflects the projected increases in spending for services under subparagraph (C), adjusted for differences among the States.

(C) MEDICAID SERVICES DESCRIBED.—The services described in this subparagraph are the following:

(i) Personal care services (as described in section 1905(a)(24) of the Social Security Act (42 U.S.C. 1396d(a)(24))).

(ii) Home or community-based services furnished under a waiver granted under subsection (c), (d), or (e) of section 1915 of such Act (42 U.S.C. 1396n).

(iii) Home and community care furnished to functionally disabled elderly individuals under section 1929 of such Act (42 U.S.C. 1396t).

(iv) Community supported living arrangements services under section 1930 of such Act (42 U.S.C. 1396u).

(v) Services furnished in a hospital, nursing facility, intermediate care facility for the mentally retarded, or other institutional setting specified by the Secretary.

(2) ELIGIBILITY.—

(A) IN GENERAL.—Within the amounts provided by the State and under section 108 for such plan, the plan shall provide that services under the plan will be available to individuals with disabilities (as defined in section 103(a)) in the State.

(B) INITIAL SCREENING.—The plan shall provide a process for the initial screening of an individual who appears to have some reasonable likelihood of being an individual with disabilities. Any such process shall require the provision of assistance to individuals who wish to apply but whose disability limits their ability to apply. The initial screening and the determination of disability (as defined under section 103(b)(1)) shall be conducted by a public agency.

(C) RESTRICTIONS.—

(i) IN GENERAL.—The plan may not limit the eligibility of individuals with disabilities based on—

(I) income;

(II) age;

(III) residential setting (other than with respect to an institutional setting, in accordance with clause (ii)); or

(IV) other grounds specified by the Secretary;

except that through fiscal year 2005, the Secretary may permit a State to limit eligibility based on level of disability or geography (if the State ensures a balance between urban and rural areas).

(ii) INSTITUTIONAL SETTING.—The plan may limit the eligibility of individuals with disabilities based on the definition of the term ''institutional setting'', as determined by the State.

(D) CONTINUATION OF SERVICES.—The plan must provide assurances that, in the case of an individual receiving medical assistance for home and community-based services under the State medicaid plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) as of the date a State's plan is approved under this title, the State will continue to make available (either under this plan, under the State medicaid plan, or otherwise) to such individual an appropriate level of assistance for home and community-based services, taking into account the level of assistance provided as of such date and the individual's need for home and community-based services.

(3) SERVICES.—

(A) NEEDS ASSESSMENT.—Not later than the end of the second year of implementation, the plan or its amendments shall include the results of a statewide assessment of the needs of individuals with disabilities in a format required by the Secretary. The needs assessment shall include demographic data concerning the number of individuals within each category of disability described in this title, and the services available to meet the needs of such individuals.

(B) SPECIFICATION.—Consistent with section 104, the plan shall specify—

(i) the services made available under the plan;

(ii) the extent and manner in which such services are allocated and made available to individuals with disabilities; and

(iii) the manner in which services under the plan are coordinated with each other and with health and long-term care services available outside the plan for individuals with disabilities.

(C) TAKING INTO ACCOUNT INFORMAL CARE.—A State plan may take into account, in determining the amount and array of services made available to covered individuals with disabilities, the availability of informal care. Any individual plan of care developed under section 104(b)(1)(B) that includes informal care shall be required to verify the availability of such care.

(D) ALLOCATION.—The State plan—

(i) shall specify how services under the plan will be allocated among covered individuals with disabilities;

(ii) shall attempt to meet the needs of individuals with a variety of disabilities within the limits of available funding;

(iii) shall include services that assist all categories of individuals with disabilities, regardless of their age or the nature of their disabling conditions;

(iv) shall demonstrate that services are allocated equitably, in accordance with the needs assessment required under subparagraph (A); and

(v) shall ensure that—

(I) the proportion of the population of low-income individuals with disabilities in the State that represents individuals with disabilities who are provided home and community-based services either under the plan, under the State medicaid plan, or under both, is not less than

(II) the proportion of the population of the State that represents individuals who are low-income individuals.

(E) LIMITATION ON LICENSURE OR CERTIFICATION.—The State may not subject consumer-directed providers of personal assistance services to licensure, certification, or other requirements that the Secretary finds not to be necessary for the health and safety of individuals with disabilities.

(F) CONSUMER CHOICE.—To the extent feasible, the State shall follow the choice of an individual with disabilities (or that individual's designated representative who may be a family member) regarding which covered services to receive and the providers who will provide such services.

(4) COST SHARING.—The plan shall impose cost sharing with respect to covered services in accordance with section 105.

(5) TYPES OF PROVIDERS AND REQUIREMENTS FOR PARTICIPATION.—The plan shall specify—

(A) the types of service providers eligible to participate in the program under the plan, which shall include consumer-directed providers of personal assistance services, except that the plan—

(i) may not limit benefits to services provided by registered nurses or licensed practical nurses; and

(ii) may not limit benefits to services provided by agencies or providers certified under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.); and

(B) any requirements for participation applicable to each type of service provider.

(6) PROVIDER REIMBURSEMENT.—

(A) PAYMENT METHODS.—The plan shall specify the payment methods to be used to reimburse providers for services furnished under the plan. Such methods may include retrospective reimbursement on a fee-for-service basis, prepayment on a capitation basis, payment by cash or vouchers to individuals with disabilities, or any combination of these methods. In the case of payment to consumer-directed providers of personal assistance services, including payment through the use of cash or vouchers, the plan shall specify how the plan will assure compliance with applicable employment tax and health care coverage provisions.

(B) PAYMENT RATES.—The plan shall specify the methods and criteria to be used to set payment rates for—

(i) agency administered services furnished under the plan; and

(ii) consumer-directed personal assistance services furnished under the plan, including cash payments or vouchers to individuals with disabilities, except that such payments shall be adequate to cover amounts required under applicable employment tax and health care coverage provisions.

(C) PLAN PAYMENT AS PAYMENT IN FULL.—The plan shall restrict payment under the plan for covered services to those providers that agree to accept the payment under the plan (at the rates established pursuant to subparagraph (B)) and any cost sharing permitted or provided for under section 105 as payment in full for services furnished under the plan.

(7) QUALITY ASSURANCE AND SAFEGUARDS.—The State plan shall provide for quality assurance and safeguards for applicants and beneficiaries in accordance with section 106.

(8) ADVISORY GROUP.—The State plan shall—

(A) assure the establishment and maintenance of an advisory group under section 107(b); and

(B) include the documentation prepared by the group under section 107(b)(4).

(9) ADMINISTRATION AND ACCESS.—

(A) STATE AGENCY.—The plan shall designate a State agency or agencies to administer (or to supervise the administration of) the plan.

(B) COORDINATION.—The plan shall specify how it will—

(i) coordinate services provided under the plan, including eligibility prescreening, service coordination, and referrals for individuals with disabilities who are ineligible for services under this title with the State medicaid plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), titles V and XX of such Act (42 U.S.C. 701 et seq. and 1397 et seq.), programs under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.), programs under the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.), programs under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), and any other Federal or State programs that provide services or assistance targeted to individuals with disabilities; and

(ii) coordinate with health plans.

(C) ADMINISTRATIVE EXPENDITURES.—Effective beginning with fiscal year 2005, the plan shall contain assurances that not more than 10 percent of expenditures under the plan for all quarters in any fiscal year shall be for administrative costs.

(D) INFORMATION AND ASSISTANCE.—The plan shall provide for a single point of access to apply for services under the State program for individuals with disabilities. Notwithstanding the preceding sentence, the plan may designate separate points of access to the State program for individuals under 22 years of age, for individuals 65 years of age or older, or for other appropriate classes of individuals.

(10) REPORTS AND INFORMATION TO SECRETARY; AUDITS.—The plan shall provide that the State will furnish to the Secretary—

(A) such reports, and will cooperate with such audits, as the Secretary determines are needed concerning the State's administration of its plan under this title, including the processing of claims under the plan; and

(B) such data and information as the Secretary may require in a uniform format as specified by the Secretary.

(11) USE OF STATE FUNDS FOR MATCHING.—The plan shall provide assurances that Federal funds will not be used to provide for the State share of expenditures under this title.

(12) HEALTH CARE WORKER REDEPLOYMENT.—The plan shall provide for the following:

(A) Before initiating the process of implementing the State program under such plan, negotiations will be commenced with labor unions representing the employees of the affected hospitals or other facilities.

(B) Negotiations under subparagraph (A) will address the following:

(i) The impact of the implementation of the program upon the workforce.

(ii) Methods to redeploy workers to positions in the proposed system, in the case of workers affected by the program.

(C) The plan will provide evidence that there has been compliance with subparagraphs (A) and (B), including a description of the results of the negotiations.

(13) TERMINOLOGY.—The plan shall adhere to uniform definitions of terms, as specified by the Secretary.

(b) APPROVAL OF PLANS.—The Secretary shall approve a plan submitted by a State if the Secretary determines that the plan—

(1) was developed by the State after a public comment period of not less than 30 days; and

(2) meets the requirements of subsection (a).

The approval of such a plan shall take effect as of the first day of the first fiscal year beginning after the date of such approval (except that any approval made before January 1, 1997, shall be effective as of January 1, 1997). In order to budget funds allotted under this title, the Secretary shall establish a deadline for the submission of such a plan before the beginning of a fiscal year as a condition of its approval effective with that fiscal year. Any significant changes to the State plan shall be submitted to the Secretary in the form of plan amendments and shall be subject to approval by the Secretary.

(c) MONITORING.—The Secretary shall annually monitor the compliance of State plans with the requirements of this title according to specified performance standards. In accordance with section 108(e), States that fail to comply with such requirements may be subject to a reduction in the Federal matching rates available to the State under section 108(a) or the withholding of Federal funds for services or administration until such time as compliance is achieved.

(d) TECHNICAL ASSISTANCE.—The Secretary shall ensure the availability of ongoing technical assistance to States under this section. Such assistance shall include serving as a clearinghouse for information regarding successful practices in providing long-term care services.

(e) REGULATIONS.—The Secretary shall issue such regulations as may be appropriate to carry out this title on a timely basis.

SEC. 103. INDIVIDUALS WITH DISABILITIES DEFINED.

(a) IN GENERAL.—For purposes of this title, the term ''individual with disabilities'' means any individual within one or more of the following categories of individuals:

(1) INDIVIDUALS REQUIRING HELP WITH ACTIVITIES OF DAILY LIVING.—An individual of any age who—

(A) requires hands-on or standby assistance, supervision, or cueing (as defined in regulations) to perform three or more activities of daily living (as defined in subsection (d)); and

(B) is expected to require such assistance, supervision, or cueing over a period of at least 90 days.

(2) INDIVIDUALS WITH SEVERE COGNITIVE OR MENTAL IMPAIRMENT.—An individual of any age—

(A) whose score, on a standard mental status protocol (or protocols) appropriate for measuring the individual's particular condition specified by the Secretary, indicates either severe cognitive impairment or severe mental impairment, or both;

(B) who—

(i) requires hands-on or standby assistance, supervision, or cueing with one or more activities of daily living;

(ii) requires hands-on or standby assistance, supervision, or cueing with at least such instrumental activity (or activities) of daily living related to cognitive or mental impairment as the Secretary specifies; or

(iii) displays symptoms of one or more serious behavioral problems (that is on a list of such problems specified by the Secretary) that create a need for supervision to prevent harm to self or others; and

(C) who is expected to meet the requirements of subparagraphs (A) and (B) over a period of at least 90 days.

Not later than 2 years after the date of enactment of this Act, the Secretary shall make recommendations regarding the most appropriate duration of disability under this paragraph.

(3) INDIVIDUALS WITH SEVERE OR PROFOUND MENTAL RETARDATION.—An individual of any age who has severe or profound mental retardation (as determined according to a protocol specified by the Secretary).

(4) YOUNG CHILDREN WITH SEVERE DISABILITIES.—An individual under 6 years of age who—

(A) has a severe disability or chronic medical condition that limits functioning in a manner that is comparable in severity to the standards established under paragraphs (1), (2), or (3); and

(B) is expected to have such a disability or condition and require such services over a period of at least 90 days.

(5) STATE OPTION WITH RESPECT TO INDIVIDUALS WITH COMPARABLE DISABILITIES.—Not more than 2 percent of a State's allotment for services under this title may be expended for the provision of services to individuals with severe disabilities that are comparable in severity to the criteria described in paragraphs (1) through (4), but who fail to meet the criteria in any single category under such paragraphs.

(b) DETERMINATION.—

(1) IN GENERAL.—In formulating eligibility criteria under subsection (a), the Secretary shall establish criteria for assessing the functional level of disability among all categories of individuals with disabilities that are comparable in severity, regardless of the age or the nature of the disabling condition of the individual. The determination of whether an individual is an individual with disabilities shall be made by a public or nonprofit agency that is specified under the State plan and that is not a provider of home and community-based services under this title and by using a uniform protocol consisting of an initial screening and a determination of disability specified by the Secretary. A State may not impose cost sharing with respect to a determination of disability. A State may collect additional information, at the time of obtaining information to make such determination, in order to provide for the assessment and plan described in section 104(b) or for other purposes.

(2) PERIODIC REASSESSMENT.—The determination that an individual is an individual with disabilities shall be considered to be effective under the State plan for a period of not more than 6 months (or for such longer period in such cases as a significant change in an individual's condition that may affect such determination is unlikely). A reassessment shall be made if there is a significant change in an individual's condition that may affect such determination.

(c) ELIGIBILITY CRITERIA.—The Secretary shall reassess the validity of the eligibility criteria described in subsection (a) as new knowledge regarding the assessments of functional disabilities becomes available. The Secretary shall report to the Congress on its findings under the preceding sentence as determined appropriate by the Secretary.

(d) ACTIVITY OF DAILY LIVING DEFINED.—For purposes of this title, the term ''activity of daily living'' means any of the following: eating, toileting, dressing, bathing, and transferring.

SEC. 104. HOME AND COMMUNITY-BASED SERVICES COVERED UNDER STATE PLAN.

(a) SPECIFICATION.—

(1) IN GENERAL.—Subject to the succeeding provisions of this section, the State plan under this title shall specify—

(A) the home and community-based services available under the plan to individuals with disabilities (or to such categories of such individuals); and

(B) any limits with respect to such services.

(2) FLEXIBILITY IN MEETING INDIVIDUAL NEEDS.—Subject to subsection (e)(2), such services may be delivered in an individual's home, a range of community residential arrangements, or outside the home.

(b) REQUIREMENT FOR NEEDS ASSESSMENT AND PLAN OF CARE.—

(1) IN GENERAL.—The State plan shall provide for home and community-based services to an individual with disabilities only if the following requirements are met:

(A) COMPREHENSIVE ASSESSMENT.—

(i) IN GENERAL.—A comprehensive assessment of an individual's need for home and community-based services (regardless of whether all needed services are available under the plan) shall be made in accordance with a uniform, comprehensive assessment tool that shall be used by a State under this paragraph with the approval of the Secretary. The comprehensive assessment shall be made by a public or nonprofit agency that is specified under the State plan and that is not a provider of home and community-based services under this title.

(ii) EXCEPTION.—The State may elect to waive the provisions of clause (i) if—

(I) with respect to any area of the State, the State has determined that there is an insufficient pool of entities willing to perform comprehensive assessments in such area due to a low population of individuals eligible for home and community-based services under this title residing in the area; and

(II) the State plan specifies procedures that the State will implement in order to avoid conflicts of interest.

(B) INDIVIDUALIZED PLAN OF CARE.—

(i) IN GENERAL.—An individualized plan of care based on the assessment made under subparagraph (A) shall be developed by a public or nonprofit agency that is specified under the State plan and that is not a provider of home and community-based services under this title, except that the State may elect to waive the provisions of this sentence if, with respect to any area of the State, the State has determined there is an insufficient pool of entities willing to develop individualized plans of care in such area due to a low population of individuals eligible for home and community-based services under this title residing in the area, and the State plan specifies procedures that the State will implement in order to avoid conflicts of interest.

(ii) REQUIREMENTS WITH RESPECT TO PLAN OF CARE.—A plan of care under this subparagraph shall—

(I) specify which services included under the individual plan will be provided under the State plan under this title;

(II) identify (to the extent possible) how the individual will be provided any services specified under the plan of care and not provided under the State plan;

(III) specify how the provision of services to the individual under the plan will be coordinated with the provision of other health care services to the individual; and

(IV) be reviewed and updated every 6 months (or more frequently if there is a change in the individual's condition).

The State shall make reasonable efforts to identify and arrange for services described in subclause (II). Nothing in this subsection shall be construed as requiring a State (under the State plan or otherwise) to provide all the services specified in such a plan.

(C) INVOLVEMENT OF INDIVIDUALS.—The individualized plan of care under subparagraph (B) for an individual with disabilities shall—

(i) be developed by qualified individuals (specified in subparagraph (B));

(ii) be developed and implemented in close consultation with the individual (or the individual's designated representative); and

(iii) be approved by the individual (or the individual's designated representative).

(c) REQUIREMENT FOR CARE MANAGEMENT.—

(1) IN GENERAL.—The State shall make available to each category of individuals with disabilities care management services that at a minimum include—

(A) arrangements for the provision of such services; and

(B) monitoring of the delivery of services.

(2) CARE MANAGEMENT SERVICES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the care management services described in paragraph (1) shall be provided by a public or private entity that is not providing home and community-based services under this title.

(B) EXCEPTION.—A person who provides home and community-based services under this title may provide care management services if—

(i) the State determines that there is an insufficient pool of entities willing to provide such services in an area due to a low population of individuals eligible for home and community-based services under this title residing in such area; and

(ii) the State plan specifies procedures that the State will implement in order to avoid conflicts of interest.

(d) MANDATORY COVERAGE OF PERSONAL ASSISTANCE SERVICES.—The State plan shall include, in the array of services made available to each category of individuals with disabilities, both agency-administered and consumer-directed personal assistance services (as defined in subsection (h)).

(e) ADDITIONAL SERVICES.—

(1) TYPES OF SERVICES.—Subject to subsection (f), services available under a State plan under this title may include any (or all) of the following:

(A) Homemaker and chore assistance.

(B) Home modifications.

(C) Respite services.

(D) Assistive technology devices, as defined in section 3(2) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2202(2)).

(E) Adult day services.

(F) Habilitation and rehabilitation.

(G) Supported employment.

(H) Home health services.

(I) Transportation.

(J) Any other care or assistive services specified by the State and approved by the Secretary that will help individuals with disabilities to remain in their homes and communities.

(2) CRITERIA FOR SELECTION OF SERVICES.—The State electing services under paragraph (1) shall specify in the State plan—

(A) the methods and standards used to select the types, and the amount, duration, and scope, of services to be covered under the plan and to be available to each category of individuals with disabilities; and

(B) how the types, and the amount, duration, and scope, of services specified, within the limits of available funding, provide substantial assistance in living independently to individuals within each of the categories of individuals with disabilities.

(f) EXCLUSIONS AND LIMITATIONS.—A State plan may not provide for coverage of—

(1) room and board;

(2) services furnished in a hospital, nursing facility, intermediate care facility for the mentally retarded, or other institutional setting specified by the Secretary; or

(3) items and services to the extent coverage is provided for the individual under a health plan or the medicare program.

(g) PAYMENT FOR SERVICES.—In order to pay for covered services, a State plan may provide for the use of—

(1) vouchers;

(2) cash payments directly to individuals with disabilities;

(3) capitation payments to health plans; and

(4) payment to providers.

(h) PERSONAL ASSISTANCE SERVICES.—

(1) IN GENERAL.—For purposes of this title, the term ''personal assistance services'' means those services specified under the State plan as personal assistance services and shall include at least hands-on and standby assistance, supervision, cueing with activities of daily living, and such instrumental activities of daily living as deemed necessary or appropriate, whether agency-administered or consumer-directed (as defined in paragraph (2)). Such services shall include services that are determined to be necessary to help all categories of individuals with disabilities, regardless of the age of such individuals or the nature of the disabling conditions of such individuals.

(2) CONSUMER-DIRECTED.—For purposes of this title:

(A) IN GENERAL.—The term ''consumer-directed'' means, with reference to personal assistance services or the provider of such services, services that are provided by an individual who is selected and managed (and, at the option of the service recipient, trained) by the individual receiving the services.

(B) STATE RESPONSIBILITIES.—A State plan shall ensure that where services are provided in a consumer-directed manner, the State shall create or contract with an entity, other than the consumer or the individual provider, to—

(i) inform both recipients and providers of rights and responsibilities under all applicable Federal labor and tax law; and

(ii) assume responsibility for providing effective billing, payments for services, tax withholding, unemployment insurance, and workers' compensation coverage, and act as the employer of the home care provider.

(C) RIGHT OF CONSUMERS.—Notwithstanding the State responsibilities described in subparagraph (B), service recipients, and, where appropriate, their designated representative, shall retain the right to independently select, hire, terminate, and direct (including manage, train, schedule, and verify services provided) the work of a home care provider.

(3) AGENCY ADMINISTERED.—For purposes of this title, the term ''agency-administered'' means, with respect to such services, services that are not consumer-directed.

SEC. 105. COST SHARING.

(a) NO COST SHARING FOR POOREST.—

(1) IN GENERAL.—The State plan may not impose any cost sharing for individuals with income (as determined under subsection (d)) less than 150 percent of the official poverty level applicable to a family of the size involved (referred to in paragraph (2)).

(2) OFFICIAL POVERTY LEVEL.—For purposes of paragraph (1), the term ''official poverty level applicable to a family of the size involved'' means, for a family for a year, the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.

(b) SLIDING SCALE FOR REMAINDER.—

(1) REQUIRED COINSURANCE.—The State plan shall impose cost sharing in the form of coinsurance (based on the amount paid under the State plan for a service)—

(A) at a rate of 10 percent for individuals with disabilities with income not less than 150 percent, and less than 175 percent, of such official poverty line (as so applied);

(B) at a rate of 15 percent for such individuals with income not less than 175 percent, and less than 225 percent, of such official poverty line (as so applied);

(C) at a rate of 25 percent for such individuals with income not less than 225 percent, and less than 275 percent, of such official poverty line (as so applied);

(D) at a rate of 30 percent for such individuals with income not less than 275 percent, and less than 325 percent, of such official poverty line (as so applied);

(E) at a rate of 35 percent for such individuals with income not less than 325 percent, and less than 400 percent, of such official poverty line (as so applied); and

(F) at a rate of 40 percent for such individuals with income equal to at least 400 percent of such official poverty line (as so applied).

(2) REQUIRED ANNUAL DEDUCTIBLE.—The State plan shall impose cost sharing in the form of an annual deductible—

(A) of $100 for individuals with disabilities with income not less than 150 percent, and less than 175 percent, of such official poverty line (as so applied);

(B) of $200 for such individuals with income not less than 175 percent, and less than 225 percent, of such official poverty line (as so applied);

(C) of $300 for such individuals with income not less than 225 percent, and less than 275 percent, of such official poverty line (as so applied);

(D) of $400 for such individuals with income not less than 275 percent, and less than 325 percent, of such official poverty line (as so applied);

(E) of $500 for such individuals with income not less than 325 percent, and less than 400 percent, of such official poverty line (as so applied); and

(F) of $600 for such individuals with income equal to at least 400 percent of such official poverty line (as so applied).

(c) RECOMMENDATION OF THE SECRETARY.—The Secretary shall make recommendations to the States as to how to reduce cost-sharing for individuals with extraordinary out-of-pocket costs for whom the cost-sharing provisions of this section could jeopardize their ability to take advantage of the services offered under this title. The Secretary shall establish a methodology for reducing the cost-sharing burden for individuals with exceptionally high out-of-pocket costs under this title.

(d) DETERMINATION OF INCOME FOR PURPOSES OF COST SHARING.—The State plan shall specify the process to be used to determine the income of an individual with disabilities for purposes of this section. Such standards shall include a uniform Federal definition of income and any allowable deductions from income.

SEC. 106. QUALITY ASSURANCE AND SAFEGUARDS.

(a) QUALITY ASSURANCE.—

(1) IN GENERAL.—The State plan shall specify how the State will ensure and monitor the quality of services, including—

(A) safeguarding the health and safety of individuals with disabilities;

(B) setting the minimum standards for agency providers and how such standards will be enforced;

(C) setting the minimum competency requirements for agency provider employees who provide direct services under this title and how the competency of such employees will be enforced;

(D) obtaining meaningful consumer input, including consumer surveys that measure the extent to which participants receive the services described in the plan of care and participant satisfaction with such services;

(E) establishing a process to receive, investigate, and resolve allegations of neglect or abuse;

(F) establishing optional training programs for individuals with disabilities in the use and direction of consumer directed providers of personal assistance services;

(G) establishing an appeals procedure for eligibility denials and a grievance procedure for disagreements with the terms of an individualized plan of care;

(H) providing for participation in quality assurance activities; and

(I) specifying the role of the Long-Term Care Ombudsman (under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.)) and the protection and advocacy system (established under section 142 of the the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6042)) in assuring quality of services and protecting the rights of individuals with disabilities.

(2) ISSUANCE OF REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue regulations implementing the quality provisions of this subsection.

(b) FEDERAL STANDARDS.—The State plan shall adhere to Federal quality standards in the following areas:

(1) Case review of a specified sample of client records.

(2) The mandatory reporting of abuse, neglect, or exploitation.

(3) The development of a registry of provider agencies or home care workers and consumer directed providers of personal assistance services against whom any complaints have been sustained, which shall be available to the public.

(4) Sanctions to be imposed on States or providers, including disqualification from the program, if minimum standards are not met.

(5) Surveys of client satisfaction.

(6) State optional training programs for informal caregivers.

(c) CLIENT ADVOCACY.—

(1) IN GENERAL.—The State plan shall provide that the State will expend the amount allocated under section 109(b)(2) for client advocacy activities. The State may use such funds to augment the budgets of the Long-Term Care Ombudsman (under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.) and the protection and advocacy system (established under section 142 of the the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6042)) or may establish a separate and independent client advocacy office in accordance with paragraph (2) to administer a new program designed to advocate for client rights.

(2) CLIENT ADVOCACY OFFICE.—

(A) IN GENERAL.—A client advocacy office established under this paragraph shall—

(i) identify, investigate, and resolve complaints that—

(I) are made by, or on behalf of, clients; and

(II) relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of the clients (including the welfare and rights of the clients with respect to the appointment and activities of guardians and representative payees), of—

(aa) providers, or representatives of providers, of long-term care services;

(bb) public agencies; or

(cc) health and social service agencies;

(ii) provide services to assist the clients in protecting the health, safety, welfare, and rights of the clients;

(iii) inform the clients about means of obtaining services provided by providers or agencies described in clause (i)(II) or services described in clause (ii);

(iv) ensure that the clients have regular and timely access to the services provided through the office and that the clients and complainants receive timely responses from representatives of the office to complaints; and

(v) represent the interests of the clients before governmental agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the clients with regard to the provisions of this title.

(B) CONTRACTS AND ARRANGEMENTS.—

(i) IN GENERAL.—Except as provided in clause (ii), the State agency may establish and operate the office, and carry out the program, directly, or by contract or other arrangement with any public agency or nonprofit private organization.

(ii) LICENSING AND CERTIFICATION ORGANIZATIONS; ASSOCIATIONS.—The State agency may not enter into the contract or other arrangement described in clause (i) with an agency or organization that is responsible for licensing, certifying, or providing long-term care services in the State.

(d) SAFEGUARDS.—

(1) CONFIDENTIALITY.—The State plan shall provide safeguards that restrict the use or disclosure of information concerning applicants and beneficiaries to purposes directly connected with the administration of the plan.

(2) SAFEGUARDS AGAINST ABUSE.—The State plans shall provide safeguards against physical, emotional, or financial abuse or exploitation (specifically including appropriate safeguards in cases where payment for program benefits is made by cash payments or vouchers given directly to individuals with disabilities). All providers of services shall be required to register with the State agency.

(3) REGULATIONS.—Not later than January 1, 1997, the Secretary shall promulgate regulations with respect to the requirements on States under this subsection.

(e) SPECIFIED RIGHTS.—The State plan shall provide that in furnishing home and community-based services under the plan the following individual rights are protected:

(1) The right to be fully informed in advance, orally and in writing, of the care to be provided, to be fully informed in advance of any changes in care to be provided, and (except with respect to an individual determined incompetent) to participate in planning care or changes in care.

(2) The right to—

(A) voice grievances with respect to services that are (or fail to be) furnished without discrimination or reprisal for voicing grievances;

(B) be told how to complain to State and local authorities; and

(C) prompt resolution of any grievances or complaints.

(3) The right to confidentiality of personal and clinical records and the right to have access to such records.

(4) The right to privacy and to have one's property treated with respect.

(5) The right to refuse all or part of any care and to be informed of the likely consequences of such refusal.

(6) The right to education or training for oneself and for members of one's family or household on the management of care.

(7) The right to be free from physical or mental abuse, corporal punishment, and any physical or chemical restraints imposed for purposes of discipline or convenience and not included in an individual's plan of care.

(8) The right to be fully informed orally and in writing of the individual's rights.

(9) The right to a free choice of providers.

(10) The right to direct provider activities when an individual is competent and willing to direct such activities.

SEC. 107. ADVISORY GROUPS.

(a) FEDERAL ADVISORY GROUP.—

(1) ESTABLISHMENT.—The Secretary shall establish an advisory group, to advise the Secretary and States on all aspects of the program under this title.

(2) COMPOSITION.—The group shall be composed of individuals with disabilities and their representatives, providers, Federal and State officials, and local community implementing agencies. A majority of its members shall be individuals with disabilities and their representatives.

(b) STATE ADVISORY GROUPS.—

(1) IN GENERAL.—Each State plan shall provide for the establishment and maintenance of an advisory group to advise the State on all aspects of the State plan under this title.

(2) COMPOSITION.—Members of each advisory group shall be appointed by the Governor (or other chief executive officer of the State) and shall include individuals with disabilities and their representatives, providers, State officials, and local community implementing agencies. A majority of its members shall be individuals with disabilities and their representatives. The members of the advisory group shall be selected from those nominated as described in paragraph (3).

(3) SELECTION OF MEMBERS.—Each State shall establish a process whereby all residents of the State, including individuals with disabilities and their representatives, shall be given the opportunity to nominate members to the advisory group.

(4) PARTICULAR CONCERNS.—Each advisory group shall—

(A) before the State plan is developed, advise the State on guiding principles and values, policy directions, and specific components of the plan;

(B) meet regularly with State officials involved in developing the plan, during the development phase, to review and comment on all aspects of the plan;

(C) participate in the public hearings to help assure that public comments are addressed to the extent practicable;

(D) report to the Governor and make available to the public any differences between the group's recommendations and the plan;

(E) report to the Governor and make available to the public specifically the degree to which the plan is consumer-directed; and

(F) meet regularly with officials of the designated State agency (or agencies) to provide advice on all aspects of implementation and evaluation of the plan.

SEC. 108. PAYMENTS TO STATES.

(a) IN GENERAL.—Subject to section 102(a)(9)(C) (relating to limitation on payment for administrative costs), the Secretary, in accordance with the Cash Management Improvement Act, shall authorize payment to each State with a plan approved under this title, for each quarter (beginning on or after January 1, 1997), from its allotment under section 109(b), an amount equal to—

(1)(A) with respect to the amount demonstrated by State claims to have been expended during the year for home and community-based services under the plan for individuals with disabilities that does not exceed 20 percent of the amount allotted to the State under section 109(b), 100 percent of such amount; and

(B) with respect to the amount demonstrated by State claims to have been expended during the year for home and community-based services under the plan for individuals with disabilities that exceeds 20 percent of the amount allotted to the State under section 109(b), the Federal home and community-based services matching percentage (as defined in subsection (b)) of such amount; plus

(2) an amount equal to 90 percent of the amount demonstrated by the State to have been expended during the quarter for quality assurance activities under the plan; plus

(3) an amount equal to 90 percent of amount expended during the quarter under the plan for activities (including preliminary screening) relating to determination of eligibility and performance of needs assessment; plus

(4) an amount equal to 90 percent (or, beginning with quarters in fiscal year 2005, 75 percent) of the amount expended during the quarter for the design, development, and installation of mechanical claims processing systems and for information retrieval; plus

(5) an amount equal to 50 percent of the remainder of the amounts expended during the quarter as found necessary by the Secretary for the proper and efficient administration of the State plan.

(b) FEDERAL HOME AND COMMUNITY-BASED SERVICES MATCHING PERCENTAGE.—In subsection (a), the term ''Federal home and community-based services matching percentage'' means, with respect to a State, the State's Federal medical assistance percentage (as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b))) increased by 15 percentage points, except that the Federal home and community-based services matching percentage shall in no case be more than 95 percent.

(c) PAYMENTS ON ESTIMATES WITH RETROSPECTIVE ADJUSTMENTS.—The method of computing and making payments under this section shall be as follows:

(1) The Secretary shall, prior to the beginning of each quarter, estimate the amount to be paid to the State under subsection (a) for such quarter, based on a report filed by the State containing its estimate of the total sum to be expended in such quarter, and such other information as the Secretary may find necessary.

(2) From the allotment available therefore, the Secretary shall provide for payment of the amount so estimated, reduced or increased, as the case may be, by any sum (not previously adjusted under this section) by which the Secretary finds that the estimate of the amount to be paid the State for any prior period under this section was greater or less than the amount that should have been paid.

(d) APPLICATION OF RULES REGARDING LIMITATIONS ON PROVIDER-RELATED DONATIONS AND HEALTH CARE RELATED TAXES.—The provisions of section 1903(w) of the Social Security Act (42 U.S.C. 1396b(w)) shall apply to payments to States under this section in the same manner as they apply to payments to States under section 1903(a) of such Act (42 U.S.C. 1396b(a)).

(e) FAILURE TO COMPLY WITH STATE PLAN.—If a State furnishing home and community-based services under this title fails to comply with the State plan approved under this title, the Secretary may either reduce the Federal matching rates available to the State under subsection (a) or withhold an amount of funds determined appropriate by the Secretary from any payment to the State under this section.

SEC. 109. APPROPRIATIONS; ALLOTMENTS TO STATES.

(a) APPROPRIATIONS.—

(1) FISCAL YEARS 1997 THROUGH 2005.—Subject to paragraph (5)(C), for purposes of this title, the appropriation authorized under this title for each of fiscal years 1997 through 2005 is the following:

(A) For fiscal year 1997, $1,800,000,000.
(B) For fiscal year 1998, $3,500,000,000.
(C) For fiscal year 1999, $5,800,000,000.
(D) For fiscal year 2000, $7,300,000,000.
(E) For fiscal year 2001, $10,000,000,000.
(F) For fiscal year 2002, $15,700,000,000.
(G) For fiscal year 2003, $22,800,000,000.
(H) For fiscal year 2004, $30,700,000,000.
(I) For fiscal year 2005, $34,600,000,000.

(2) SUBSEQUENT FISCAL YEARS.—For purposes of this title, the appropriation authorized for State plans under this title for each fiscal year after fiscal year 2005 is the appropriation authorized under this subsection for the preceding fiscal year multiplied by—

(A) a factor (described in paragraph (3)) reflecting the change in the consumer price index for the fiscal year; and

(B) a factor (described in paragraph (4)) reflecting the change in the number of individuals with disabilities for the fiscal year.

(3) CPI INCREASE FACTOR.—For purposes of paragraph (2)(A), the factor described in this paragraph for a fiscal year is the ratio of—

(A) the annual average index of the consumer price index for the preceding fiscal year, to—

(B) such index, as so measured, for the second preceding fiscal year.

(4) DISABLED POPULATION FACTOR.—For purposes of paragraph (2)(B), the factor described in this paragraph for a fiscal year is 100 percent plus (or minus) the percentage increase (or decrease) change in the disabled population of the United States (as determined for purposes of the most recent update under subsection (b)(3)(D)).

(5) ADDITIONAL FUNDS DUE TO MEDICAID OFFSETS.—

(A) IN GENERAL.—Each participating State must provide the Secretary with information concerning offsets and reductions in the medicaid program resulting from home and community-based services provided disabled individuals under this title, that would have been paid for such individuals under the State medicaid plan. At the time a State first submits its plan under this title and before each subsequent fiscal year (through fiscal year 2005), the State also must provide the Secretary with such budgetary information (for each fiscal year through fiscal year 2005), as the Secretary determines to be necessary to carry out this paragraph.

(B) REPORTS.—Each State with a program under this title shall submit such reports to the Secretary as the Secretary may require in order to monitor compliance with subparagraph (A). The Secretary shall specify the format of such reports and establish uniform data reporting elements.

(C) ADJUSTMENTS TO APPROPRIATION.—

(i) IN GENERAL.—For each fiscal year (beginning with fiscal year 1997 and ending with fiscal year 2005) and based on a review of information submitted under subparagraph (A), the Secretary shall determine the amount by which the appropriation authorized under subsection (a) will increase. The amount of such increase for a fiscal year shall be limited to the reduction in Federal expenditures of medical assistance (as determined by Secretary) that would have been made under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) but for the provision of home and community based services under the program under this title.

(ii) ANNUAL PUBLICATION.—The Secretary shall publish before the beginning of such fiscal year, the revised appropriation authorized under this subsection for such fiscal year.

(D) CONSTRUCTION.—Nothing in this subsection shall be construed as requiring States to determine eligibility for medical assistance under the State medicaid plan on behalf of individuals receiving assistance under this title.

(b) ALLOTMENTS TO STATES.—

(1) IN GENERAL.—The Secretary shall allot the amounts available under the appropriation authorized for the fiscal year under paragraph (1) of subsection (a) (without regard to any adjustment to such amount under paragraph (5) of such subsection), to the States with plans approved under this title in accordance with an allocation formula developed by the Secretary that takes into account—

(A) the percentage of the total number of individuals with disabilities in all States that reside in a particular State;

(B) the per capita costs of furnishing home and community-based services to individuals with disabilities in the State; and

(C) the percentage of all individuals with incomes at or below 150 percent of the official poverty line (as described in section 105(a)(2)) in all States that reside in a particular State.

(2) ALLOCATION FOR CLIENT ADVOCACY ACTIVITIES.—Each State with a plan approved under this title shall allocate one-half of one percent of the State's total allotment under paragraph (1) for client advocacy activities as described in section 106(c).

(3) NO DUPLICATE PAYMENT.—No payment may be made to a State under this section for any services provided to an individual to the extent that the State received payment for such services under section 1903(a) of the Social Security Act (42 U.S.C. 1396b(a)).

(4) REALLOCATIONS.—Any amounts allotted to States under this subsection for a year that are not expended in such year shall remain available for State programs under this title and may be reallocated to States as the Secretary determines appropriate.

(5) SAVINGS DUE TO MEDICAID OFFSETS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), from the total amount of the increase in the amount available for a fiscal year under paragraph (1) of subsection (a) resulting from the application of paragraph (5) of such subsection, the Secretary shall allot to each State with a plan approved under this title, an amount equal to the Federal offsets and reductions in the State's medicaid plan for such fiscal year that was reported to the Secretary under subsection (a)(5), reduced or increased, as the case may be, by any amount by which the Secretary determines that any estimated Federal offsets and reductions in such State's medicaid plan reported to the Secretary under subsection (a)(5) for the previous fiscal year were greater or less than the actual Federal offsets and reductions in such State's medicaid plan.

(B) CAP ON STATE SAVINGS ALLOTMENT.—In no case shall the allotment made under this paragraph to any State for a fiscal year exceed the product of—

(i) the Federal medical assistance percentage for such State (as defined under section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b))); multiplied by

(ii)(I) for fiscal year 1997, the base medical assistance amount for the State (as determined under subparagraph (C)) updated through the midpoint of fiscal year 1997 by the estimated percentage change in the index described in section 102(a)(1)(B)(iii) during the period beginning on October 1, 1995, and ending at that midpoint; and

(II) for succeeding fiscal years, an amount equal to the amount determined under this clause for the previous fiscal year updated through the midpoint of the year by the estimated percentage change in such index during the 12-month period ending at that midpoint, with appropriate adjustments to reflect previous underestimations or overestimations under this clause in the projected percentage change in such index.

(C) BASE MEDICAL ASSISTANCE AMOUNT.—The base medical assistance amount for a State is an amount equal to the total expenditures from Federal and State funds made under the State plan under title XIX of the Social Security Act (42 U.S.C 1396 et seq.) during fiscal year 1995 with respect to medical assistance consisting of the services described in section 102(a)(1)(C).

(c) STATE ENTITLEMENT.—This title constitutes budget authority in advance of appropriations Acts, and represents the obligation of the Federal Government to provide for the payment to States of amounts described in subsection (a).

SEC. 110. FEDERAL EVALUATIONS.

(a) IN GENERAL.—Not later than December 31, 2002, December 31, 2005, and each December 31 thereafter, the Secretary shall provide to Congress analytical reports that evaluate—

(1) the extent to which individuals with low incomes and disabilities are equitably served;

(2) the adequacy and equity of service plans to individuals with similar levels of disability across States;

(3) the comparability of program participation across States, described by level and type of disability; and

(4) the ability of service providers to sufficiently meet the demand for services.

(b) GERIATRIC ASSESSMENTS.—Not later than 18 months after the date of enactment of this Act, the Secretary shall report to Congress concerning the feasibility of providing reimbursement under health plans and other payers of health services for full geriatric assessment, when recommended by a physician.

SEC. 111. INFORMATION AND TECHNICAL ASSISTANCE GRANTS RELATING TO DEVELOPMENT OF HOSPITAL LINKAGE PROGRAMS.

(a) FINDINGS.—Congress finds that—

(1) demonstration programs and projects have been developed to offer care management to hospitalized individuals awaiting discharge who are in need of long-term health care services that meet individual needs and preferences in home and community-based settings as an alternative to long-term nursing home care or institutional placement; and

(2) there is a need to disseminate information and technical assistance to hospitals and State and local community organizations regarding such programs and projects and to provide incentive grants to State and local public and private agencies, including area agencies on aging, to establish and expand programs that offer care management to individuals awaiting discharge from acute care hospitals who are in need of long-term care so that services to meet individual needs and preferences can be arranged in home and community-based settings as an alternative to long-term placement in nursing homes or other institutional settings.

(b) DISSEMINATION OF INFORMATION, TECHNICAL ASSISTANCE, AND INCENTIVE GRANTS TO ASSIST IN THE DEVELOPMENT OF HOSPITAL LINKAGE PROGRAMS.—Part C of title III of the Public Health Service Act (42 U.S.C. 248 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 327B. DISSEMINATION OF INFORMATION, TECHNICAL ASSISTANCE AND INCENTIVE GRANTS TO ASSIST IN THE DEVELOPMENT OF HOSPITAL LINKAGE PROGRAMS.

''(a) DISSEMINATION OF INFORMATION.—The Secretary shall compile, evaluate, publish and disseminate to appropriate State and local officials and to private organizations and agencies that provide services to individuals in need of long-term health care services, such information and materials as may assist such entities in replicating successful programs that are aimed at offering care management to hospitalized individuals who are in need of long-term care so that services to meet individual needs and preferences can be arranged in home and community-based settings as an alternative to long-term nursing home placement. The Secretary may provide technical assistance to entities seeking to replicate such programs.

''(b) INCENTIVE GRANTS TO ASSIST IN THE DEVELOPMENT OF HOSPITAL LINKAGE PROGRAMS.—The Secretary shall establish a program under which incentive grants may be awarded to assist private and public agencies, including area agencies on aging, and organizations in developing and expanding programs and projects that facilitate the discharge of individuals in hospitals or other acute care facilities who are in need of long-term care services and placement of such individuals into home and community-based settings.

''(c) ADMINISTRATIVE PROVISIONS.—

''(1) ELIGIBLE ENTITIES.—To be eligible to receive a grant under subsection (b) an entity shall be—

''(A)(i) a State agency as defined in section 102(43) of the Older Americans Act of 1965 (42 U.S.C. 3002(43)); or

''(ii) a State agency responsible for administering home and community care programs under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.); or

''(B) if no State agency described in subparagraph (A) applies with respect to a particular State, a public or nonprofit private entity.

''(2) APPLICATIONS.—To be eligible to receive an incentive grant under subsection (b), an entity shall prepare and submit to the Secretary an application at such time, in such manner and containing such information as the Secretary may require, including—

''(A) an assessment of the need within the community to be served for the establishment or expansion of a program to facilitate the discharge of individuals in need of long-term care who are in hospitals or other acute care facilities into home and community-care programs that provide individually planned, flexible services that reflect individual choice or preference rather than nursing home or institutional settings;

''(B) a plan for establishing or expanding a program for identifying individuals in hospital or acute care facilities who are in need of individualized long-term care provided in home and community-based settings rather than nursing homes or other institutional settings and undertaking the planning and management of individualized care plans to facilitate discharge into such settings;

''(C) assurances that nongovernmental case management agencies funded under grants awarded under this section are not direct providers of home and community-based services;

''(D) satisfactory assurances that adequate home and community-based long term care services are available, or will be made available, within the community to be served so that individuals being discharged from hospitals or acute care facilities under the proposed program can be served in such home and community-based settings, with flexible, individualized care that reflects individual choice and preference;

''(E) a description of the manner in which the program to be administered with amounts received under the grant will be continued after the termination of the grant for which such application is submitted; and

''(F) a description of any waivers or approvals necessary to expand the number of individuals served in federally funded home and community-based long term care programs in order to provide satisfactory assurances that adequate home and community-based long term care services are available in the community to be served.

''(3) AWARDING OF GRANTS.—

''(A) PREFERENCES.—In awarding grants under subsection (b), the Secretary shall give preference to entities submitting applications that—

''(i) demonstrate an ability to coordinate activities funded using amounts received under the grant with programs providing individualized home and community-based case management and services to individuals in need of long term care with hospital discharge planning programs; and

''(ii) demonstrate that adequate home and community-based long term care management and services are available, or will be made available to individuals being served under the program funded with amounts received under subsection (b).

''(B) DISTRIBUTION.—In awarding grants under subsection (b), the Secretary shall ensure that such grants—

''(i) are equitably distributed on a geographic basis;

''(ii) include projects operating in urban areas and projects operating in rural areas; and

''(iii) are awarded for the expansion of existing hospital linkage programs as well as the establishment of new programs.

''(C) EXPEDITED CONSIDERATION.—The Secretary shall provide for the expedited consideration of any waiver application that is necessary under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) to enable an applicant for a grant under subsection (b) to satisfy the assurance required under paragraph (1)(D).

''(4) USE OF GRANTS.—An entity that receives amounts under a grant under subsection (b) may use such amounts for planning, development and evaluation services and to provide reimbursements for the costs of one or more case mangers to be located in or assigned to selected hospitals who would—

''(A) identify patients in need of individualized care in home and community-based long-term care;

''(B) assess and develop care plans in cooperation with the hospital discharge planning staff; and

''(C) arrange for the provision of community care either immediately upon discharge from the hospital or after any short term nursing-home stay that is needed for recuperation or rehabilitation;

''(5) DIRECT SERVICES SUBJECT TO REIMBURSEMENTS.—None of the amounts provided under a grant under this section may be used to provide direct services, other than case management, for which reimbursements are otherwise available under title XVIII or XIX of the Social Security Act (42 U.S.C. 1395 et seq. and 1396 et seq.).

''(6) LIMITATIONS.—

''(A) TERM.—Grants awarded under this section shall be for terms of less than 3 years.

''(B) AMOUNT.—Grants awarded to an entity under this section shall not exceed $300,000 per year. The Secretary may waive the limitation under this subparagraph where an applicant demonstrates that the number of hospitals or individuals to be served under the grant justifies such increased amounts.

''(C) SUPPLANTING OF FUNDS.—Amounts awarded under a grant under this section may not be used to supplant existing State funds that are provided to support hospital link programs.

''(d) EVALUATION AND REPORTS.—

''(1) BY GRANTEES.—An entity that receives a grant under this section shall evaluate the effectiveness of the services provided under the grant in facilitating the placement of individuals being discharged from hospitals or acute care facilities into home and community-based long term care settings rather than nursing homes. Such entity shall prepare and submit to the Secretary a report containing such information and data concerning the activities funded under the grant as the Secretary determines appropriate.

''(2) BY SECRETARY.—Not later than the end of the third fiscal year for which funds are appropriated under subsection (e), the Secretary shall prepare and submit to the appropriate committees of Congress, a report concerning the results of the evaluations and reports conducted and prepared under paragraph (1).

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for each of the fiscal years 1996 through 1998.''.

TITLE II—PROVISIONS RELATING TO MEDICARE

SEC. 201. RECAPTURE OF CERTAIN HEALTH CARE SUBSIDIES RECEIVED BY HIGH-INCOME INDIVIDUALS.

(a) IN GENERAL.—Subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new part:

"PART VIII—CERTAIN HEALTH CARE SUBSIDIES RECEIVED BY HIGH-INCOME INDIVIDUALS

"SEC. 59B. RECAPTURE OF CERTAIN HEALTH CARE SUBSIDIES.

''(a) IMPOSITION OF RECAPTURE AMOUNT.—In the case of an individual, if the modified adjusted gross income of the taxpayer for the taxable year exceeds the threshold amount, such taxpayer shall pay (in addition to any other amount imposed by this subtitle) a recapture amount for such taxable year equal to the aggregate of the Medicare part B recapture amounts (if any) for months during such year that a premium is paid under part B of title XVIII of the Social Security Act for the coverage of the individual under such part.

''(b) MEDICARE PART B PREMIUM RECAPTURE AMOUNT FOR MONTH.—For purposes of this section, the Medicare part B premium recapture amount for any month is the amount equal to the excess of—

''(1) 200 percent of the monthly actuarial rate for enrollees age 65 and over determined for that calendar year under section 1839(a)(1) of the Social Security Act, over

''(2) the total monthly premium under section 1839 of the Social Security Act (determined without regard to subsections (b) and (f) of section 1839 of such Act).

''(c) PHASE-IN OF RECAPTURE AMOUNT.—

''(1) IN GENERAL.—If the modified adjusted gross income of the taxpayer for any taxable year exceeds the threshold amount by less

than $25,000, the recapture amount imposed by this section for such taxable year shall be an amount that bears the same ratio to the recapture amount that would (but for this subsection) be imposed by this section for such taxable year as such excess bears to $25,000.

''(2) JOINT RETURNS.—If a recapture amount is determined separately for each spouse filing a joint return, paragraph (1) shall be applied by substituting '$50,000' for '$25,000' each place it appears.

''(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section:

''(1) THRESHOLD AMOUNT.—The term 'threshold amount' means—

''(A) except as otherwise provided in this paragraph, $100,000;

''(B) $125,000 in the case of a joint return; and

''(C) zero in the case of a taxpayer who—

''(i) is married (as determined under section 7703) but does not file a joint return for such year; and

''(ii) does not live apart from his spouse at all times during the taxable year.

''(2) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means adjusted gross income—

''(A) determined without regard to sections 135, 911, 931, and 933; and

''(B) increased by the amount of interest received or accrued by the taxpayer during the taxable year that is exempt from tax.

''(3) JOINT RETURNS.—In the case of a joint return—

''(A) the recapture amount under subsection (a) shall be the sum of the recapture amounts determined separately for each spouse; and

''(B) subsections (a) and (c) shall be applied by taking into account the combined modified adjusted gross income of the spouses.

''(4) COORDINATION WITH OTHER PROVISIONS.—

''(A) TREATED AS TAX FOR SUBTITLE F.—For purposes of subtitle F, the recapture amount imposed by this section shall be treated as if it were a tax imposed by section 1.

''(B) NOT TREATED AS TAX FOR CERTAIN PURPOSES.—The recapture amount imposed by this section shall not be treated as a tax imposed by this chapter for purposes of determining—

''(i) the amount of any credit allowable under this chapter; or

''(ii) the amount of the minimum tax under section 55.

''(C) TREATED AS PAYMENT FOR MEDICAL INSURANCE.—The recapture amount imposed by this section shall be treated as an amount paid for insurance covering medical care, within the meaning of section 213(d).''.

(b) TRANSFERS TO FEDERAL SUPPLEMENTARY MEDICAL INSURANCE TRUST FUND.—

(1) IN GENERAL.—There are hereby appropriated to the Federal Supplementary Medical Insurance Trust Fund amounts equivalent to the aggregate increase in liabilities under chapter 1 of the Internal Revenue Code of 1986 that is attributable to the application of section 59B(a) of such Code, as added by this section.

(2) TRANSFERS.—The amounts appropriated by paragraph (1) to the Federal Supplementary Medical Insurance Trust Fund shall be transferred from time to time (but not less frequently than quarterly) from the general fund of the Treasury on the basis of estimates made by the Secretary of the Treasury of the amounts referred to in paragraph (1). Any quarterly payment shall be made on the first day of such quarter and shall take into account the recapture amounts referred to in such section 59B(a) for such quarter. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(c) REPORTING REQUIREMENTS.—

(1) Paragraph (1) of section 6050F(a) of the Internal Revenue Code of 1986 (relating to returns relating to social security benefits) is amended by striking ''and'' at the end of subparagraph (B) and by inserting after subparagraph (C) the following new subparagraph:

''(D) the number of months during the calendar year for which a premium was paid under part B of title XVIII of the Social Security Act for the coverage of such individual under such part, and''.

(2) Paragraph (2) of section 6050F(b) of such Code is amended to read as follows:

''(2) the information required to be shown on such return with respect to such individual.''.

(3) Subparagraph (A) of section 6050F(c)(1) of such Code is amended by inserting before the comma ''and in the case of the information specified in subsection (a)(1)(D)''.

(4) The heading for section 6050F of such Code is amended by inserting ''**AND MEDICARE PART B COVERAGE**'' before the period.

(5) The item relating to section 6050F in the table of sections for subpart B of part III of subchapter A of chapter 61 of such Code is amended by inserting ''and Medicare part B coverage'' before the period.

(d) WAIVER OF CERTAIN ESTIMATED TAX PENALTIES.—No addition to tax shall be imposed under section 6654 of the Internal Revenue Code of 1986 (relating to failure to pay estimated income tax) for any period before April 16, 1998, with respect to any underpayment to the extent that such underpayment resulted from section 59B(a) of the Internal Revenue Code of 1986, as added by this section.

(e) CLERICAL AMENDMENT.—The table of parts for subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new item:

''Part VIII. Certain health care subsidies received by high-income individuals.''.

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

SEC. 202. IMPOSITION OF 10 PERCENT COPAYMENT ON HOME HEALTH SERVICES UNDER MEDICARE.

(a) IN GENERAL.—

(1) PART A.—Section 1813(a) of the Social Security Act (42 U.S.C. 1395e(a)) is amended by adding at the end the following new paragraph:

''(5)(A) The amount payable for a home health service furnished to an individual under this part shall be reduced by a copayment amount equal to 10 percent of the average nationwide per visit cost for such a service furnished under this title (as determined by the Secretary on a prospective basis for services furnished during a calendar year).

''(B) Subparagraph (A) shall not apply to individuals whose family income does not exceed 150 percent of the official poverty line (referred to in section 1905(p)(2)) for a family of the size involved.''.

(2) PART B.—

(A) IN GENERAL.—Section 1833(b) of the Social Security Act (42 U.S.C. 1395l(b)) is amended by adding at the end the following new sentence: ''If the total amount of the expenses incurred by an individual as determined under the preceding provisions of this subsection include expenses for a home health service, such expenses shall be further reduced by a copayment amount equal to 10 percent of the average nationwide per visit cost for such a service furnished under this title (as determined by the Secretary on a prospective basis for services furnished during a calendar year). The preceding sentence shall not apply to individuals whose family income does not exceed 150 percent of the official poverty line (referred to in section 1905(p)(2)) for a family of the size involved.''.

(B) CONFORMING AMENDMENT.—Section 1833(a)(2) of the Social Security Act (42 U.S.C. 1395l(a)(2)), as amended by sections 147(f)(6)(C) and 156(a)(2)(B)(iii) of the Social Security Act Amendments of 1994 (Public Law 103–432; 108 Stat. 4432, 4440), is further amended—

(i) in subparagraph (A), by striking ''to home health services (other than a covered osteoporosis drug (as defined in section 1861(kk))) and'';

(ii) in subparagraph (E), by striking ''and'' at the end;

(iii) in subparagraph (F), by striking the semicolon at the end and inserting ''; and''; and

(iv) by adding at the end the following new subparagraph:

''(G) with respect to any home health service (other than a covered osteoporosis drug (as defined in section 1861(kk)))—

''(i) the lesser of —

''(I) the reasonable cost of such service, as determined under section 1861(v); or

''(II) the customary charges with respect to such service;

less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A); or

''(ii) if such service is furnished by a public provider of services, or by another provider that demonstrates to the satisfaction of the Secretary that a significant portion of its patients are low-income (and requests that payment be made under this clause), free of charge or at nominal charges to the public, the amount determined in accordance with section 1814(b)(2).''.

(3) PROVIDER CHARGES.—Section 1866(a)(2)(A)(i) of the Social Security Act (42 U.S.C. 1395cc(a)(2)(A)(i)) is amended—

(A) by striking ''deduction or coinsurance'' and inserting ''deduction, coinsurance, or copayment''; and

(B) by striking ''or (a)(4)'' and inserting ''(a)(4), or (a)(5)''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to home health services furnished on or after January 1, 1996.

SEC. 203. REDUCTION IN PAYMENTS FOR CAPITAL-RELATED COSTS FOR INPATIENT HOSPITAL SERVICES.

(a) PPS HOSPITALS.—

(1) REDUCTION IN BASE PAYMENT RATES FOR PPS HOSPITALS.—Section 1886(g)(1)(A) of the Social Security Act (42 U.S.C. 1395ww(g)(1)(A)) is amended by adding at the end the following new sentence: ''In addition to the reduction described in the preceding sentence, for discharges occurring after September 30, 1995, the Secretary shall reduce by 7.31 percent the unadjusted standard Federal capital payment rate (as described in section 412.308(c) of title 42, Code of Federal Regulations, as in effect on the date of enactment of the Long-Term Care Reform and Deficit Reduction Act of 1995) and shall reduce by 10.41 percent the unadjusted hospital-specific rate (as described in section 412.328(e)(1) of title 42, Code of Federal Regulations, as in effect on the date of enactment of the Long-Term Care Reform and Deficit Reduction Act of 1995).''.

(2) REDUCTION IN UPDATE.—Section 1886(g)(1) of the Social Security Act (42 U.S.C. 1395ww(g)(1)) is amended—

(A) in subparagraph (B)(i)—

(i) by striking ''and (II)'' and inserting ''(II)''; and

(ii) by striking the semicolon at the end and inserting the following: ", and (III) an annual update factor established for the prospective payment rates applicable to discharges in a fiscal year that (subject to reduction under subparagraph (C)) will be based upon such factor as the Secretary determines appropriate to take into account amounts necessary for the efficient and effective delivery of medically appropriate and necessary care of high quality;";

(B) by redesignating subparagraph (C) as subparagraph (D); and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C)(i) With respect to payments attributable to portions of cost reporting periods or discharges occurring during each of the fiscal years 1996 through 2003, the Secretary shall include a reduction in the annual update factor established under subparagraph (B)(i)(III) for discharges in the year equal to the applicable update reduction described in clause (ii) to adjust for excessive increases in capital costs per discharge for fiscal years prior to fiscal year 1992 (but in no event may such reduction result in an annual update factor less than zero).

"(ii) In clause (i), the term 'applicable update reduction' means, with respect to the update factor for a fiscal year—

"(I) 4.9 percentage points; or

"(II) if the annual update factor for the previous fiscal year was less than the applicable update reduction for the previous year, the sum of 4.9 percentage points and the difference between the annual update factor for the previous year and the applicable update reduction for the previous year.".

(b) PPS-EXEMPT HOSPITALS.—Section 1861(v)(1) of the Social Security Act (42 U.S.C. 1395x(v)(1)) is further amended by adding at the end the following new subparagraph:

"(T) Such regulations shall provide that, in determining the amount of the payments that may be made under this title with respect to the capital-related costs of inpatient hospital services furnished by a hospital that is not a subsection (d) hospital (as defined in section 1886(d)(1)(B)) or a subsection (d) Puerto Rico hospital (as defined in section 1886(d)(9)(A)), the Secretary shall reduce the amounts of such payments otherwise established under this title by 15 percent for payments attributable to portions of cost reporting periods occurring during each of the fiscal years 1996 through 2003.".

SEC. 204. ELIMINATION OF FORMULA-DRIVEN OVERPAYMENTS FOR CERTAIN OUTPATIENT HOSPITAL SERVICES.

(a) AMBULATORY SURGICAL CENTER PROCEDURES.—Section 1833(i)(3)(B)(i)(II) of the Social Security Act (42 U.S.C. 1395l(i)(3)(B)(i)(II)) is amended—

(1) by striking "of 80 percent"; and

(2) by striking the period at the end and inserting the following: ", less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A).".

(b) RADIOLOGY SERVICES AND DIAGNOSTIC PROCEDURES.—Section 1833(n)(1)(B)(i)(II) of the Social Security Act (42 U.S.C. 1395l(n)(1)(B)(i)(II)) is amended—

(1) by striking "of 80 percent"; and

(2) by striking the period at the end and inserting the following: ", less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished during portions of cost reporting periods occurring on or after July 1, 1995.

SEC. 205. REDUCTION IN ROUTINE COST LIMITS FOR HOME HEALTH SERVICES.

(a) REDUCTION IN UPDATE TO MAINTAIN FREEZE IN 1996.—

(1) IN GENERAL.—Section 1861(v)(1)(L)(i) of the Social Security Act (42 U.S.C. 1395x(v)(1)(L)(i)) is amended—

(A) in subclause (II), by striking "or" at the end;

(B) in subclause (III), by striking "112 percent," and inserting "and before July 1, 1996, 112 percent, or"; and

(C) by inserting after subclause (III) the following new subclause:

"(IV) July 1, 1996, 100 percent (adjusted by such amount as the Secretary determines to be necessary to preserve the savings resulting from the enactment of section 13564(a)(1) of the Omnibus Budget Reconciliation Act of 1993),".

(2) ADJUSTMENT TO LIMITS.—Section 1861(v)(1)(L)(ii) of the Social Security Act (42 U.S.C. 1395x(v)(1)(L)(ii)) is amended by adding at the end the following new sentence: "The effect of the amendments made by section 205(a)(1) of the Long-Term Care Reform and Deficit Reduction Act of 1995 shall not be considered by the Secretary in making adjustments pursuant to this clause.".

(b) BASING LIMITS IN SUBSEQUENT YEARS ON MEDIAN OF COSTS.—

(1) IN GENERAL.—Section 1861(v)(1)(L)(i) of the Social Security Act (42 U.S.C. 1395x(v)(1)(L)(i)), as amended by subsection (a), is amended in the matter following subclause (IV) by striking "the mean" and inserting "the median".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to cost reporting periods beginning on or after July 1, 1997.

SUMMARY OF LONG-TERM CARE REFORM LEGISLATION

OVERALL

The measures establishes a new home and community-based long-term care program to persons of all ages. The program would provide funds to States in the form of a block grant, matched by State funds, on a voluntary basis. Federal and State financial participation is capped, and the program would not constitute an entitlement to individuals. In particular, neither States nor the Federal government would be required to spend anymore than set forth by this measure.

ELIGIBILITY

Those meeting any of the following criteria would be eligible for the program:

(1) Individuals requiring assistance with three or more activities of daily living.

(2) Individuals with severe mental retardation.

(3) Individuals with severe cognitive or mental impairment.

(4) Children, under 6, with severe disabilities.

In addition, States could set aside up to 2% of their program funding for individuals who may not meet any one of the above criteria, but who have a disability of comparable level of severity.

SERVICES

States participating in the program would be required to provide assessment, plan of care, personal assistance, and case management services. In addition, states may also offer homemaker services, home modifications, respite, assistive devices, adult day care, habilitation/rehabilitation, supported employment home health care, and any other service at State discretion.

FEDERAL ALLOTMENT TO STATES

The total Federal allotment to States under this program would be:

(A) For fiscal year 1997, $1,800,000,000
(B) For fiscal year 1998, $3,500,000,000
(C) For fiscal year 1999, $5,800,000,000
(D) For fiscal year 2000, $7,300,000,000
(E) For fiscal year 2001, $10,000,000,000
(F) For fiscal year 2002, $15,700,000,000
(G) For fiscal year 2003, $22,800,000,000
(H) For fiscal year 2004, $30,700,000,000
(I) For fiscal year 2005, $34,600,000,000.

Thereafter, the total Federal allotment would be increased by factors relating to inflation, and the change in the number of disabled.

In addition, States would be allowed to capture any Medicaid savings generated by the new benefit, and apply that savings to their program.

COPAYMENTS AND DEDUCTIBLES

The program includes a sliding scale payment schedule for eligible individuals based on income. Individuals with incomes below 150% of poverty would have no copayment or deductible. Above 150% of poverty, copayments and deductibles would range from 10% and $100 respectively for those with incomes between 150% and 175% of poverty, up to 40% and $600 respectively for those with incomes above 400% of poverty.

HOSPITAL/HOME & COMMUNITY LINKAGE

The program includes a hospital/home and community-based long-term care linkage program, to establish and expand State run programs designed to help facilitate the placement of individuals in need of long-term health care services into home- and community-based settings rather than institutional settings. This provision authorizes up to $5 million per year for three years.

FUNDING PROVISIONS

The measure includes the following modifications to Medicare:

Applies an income test to Medicare Part B premiums for individuals with incomes over $100,000 and couples with incomes over $125,000, increasing to 100% of Medicare costs for individuals with incomes over $125,000 and couples with incomes over $150,000.

Applies a 10% copayment to home health services for individuals with incomes over 150% of poverty.

Modifies aggregate cost limits for home health agencies.

Eliminates formula-driven overpayments to hospitals for certain outpatient services.

Modifies reimbursement for inpatient-related capital costs.

By Mr. FEINGOLD:

S. 86. A bill to modify the estate recovery provisions of the medicaid program to give States the option to recover the costs of home and community-based services for individuals over age 55, and for other purposes; to the Committee on Finance.

THE MEDICAID ESTATE RECOVERY ACT OF 1995

Mr. FEINGOLD. Mr. President, I am pleased to reintroduce legislation today to eliminate the current mandate on States to place liens on the homes and estates of older medicaid beneficiaries receiving home and community-based long-term care services, and to provide more than adequate funding for that change by establishing a certificate of need process to regulate the growth of federally funded nursing home beds.

This legislation was made necessary by an interpretation being made by the Health Care Financing Administration [HCFA] of language included in the Omnibus Budget Reconciliation Act of 1993 [OBRA 93]. Specifically, language

was included relating to States' recovering Medicaid payments from the estates of beneficiaries, for certain services to people over age 55. HCFA has interpreted OBRA 93 to mandate the recovery of, among other things, home and community-based long-term care services.

Unless changed, States will have to implement the mandate.

This legislation modifies the estate recovery provisions of OBRA 93 to clarify that States may pursue recovery of the cost of Medicaid home and community-based long-term care services from the estates of beneficiaries, but that States are not required to do so.

Mr. President, in the past, States have had the option of recovering payments for those services from the estates of beneficiaries, but in some cases, at least, have chosen not to do so.

In Wisconsin, estate recovery for home and community-based long-term care services was implemented briefly in 1991, but was terminated because of the significant problems experienced with the home and community-based Medicaid waiver programs.

Many cases were documented where individuals needing long-term care refused community-based care because of their fear of estate recovery or the placement of a lien on their homes.

One case in southwestern Wisconsin involved an older woman who was suffering from Congestive Heart Failure, phlebitis, severe arthritis, and who had difficulty just being able to move. She was being screened for the Medicaid version of Wisconsin's model home and community-based long-term care program, the Community Options Program, when the caseworker told her of the new law, and that a lien would be put on the estate of the program's clients. The caseworker reported that the older woman began to sob, and told the caseworker that she had worked hard all her life and paid taxes and could not understand why the things she had worked for so hard would be taken from her family after her death.

When asked if she would like to receive services, the client refused. As frail as this client was, the social worker noted that she preferred to chance being on her own rather than endanger her meager estate by using Medicaid funded services.

In northeastern Wisconsin, a 96 year old woman was being cared for by her 73 year old widowed daughter in their home. The family was receiving some Medicaid long-term care services, including respite services for the elderly caregiver daughter, but the family discontinued all services when they heard of the new law because the older daughter needed to count on the home for security in her own old age.

A 72 year old man, who had 4 by-pass surgeries and was paralyzed on one side, and his 66 year old wife, who had 3 by-pass surgeries and rheumatoid arthritis, both needed some assistance to be able to live together at home. But when Medicaid was suggested, they refused because of the new law.

Mr. President, these examples are not unusual.

Nor were many of the individuals and families who refused help protecting vast estates. For many, the estates being put at risk were modest at best.

A couple in the Green Bay area of Wisconsin who lived in a mobile home and had less than $20,000 in life savings told the local Benefit Specialist that they would refuse Medicaid funded services rather than risk not leaving their small estate to their family members.

Leaving even a small bequest to a loved-one is a fundamental and deeply felt need of many seniors. Even the most modest home can represent a lifetime's work, and many are willing to forego medical care they know they need to be able to leave a small legacy.

The prospect of estate recovery requirements is not a happy one for program administrators either. State, counties, and non-profit agencies, administrators of Medicaid services, are ill-equipped to be real estate agents.

Divestment concerns in the Medicaid program, already a problem, could continue to grow as pressure to utilize existing loopholes increases with estate recovery mandated in this way. Worse, as the Coalition of Wisconsin Aging Groups has pointed out, children who feel ''entitled to inheritance'' might force transfers, constituting elder abuse in some cases.

Too, Mr. President, there is a very real question of age discrimination with the estate recovery provisions of OBRA 93. Only individuals over age 55 are subject to estate recovery. Such age-based distinctions border on age discrimination and ought to be minimized.

Mr. President, I strongly believe we must be prudent in estimating the costs of legislative proposals, and to that end it is vital that we accept the cost estimates from the Congressional Budget Office [CBO] for purposes of assessing the budgetary impact of legislation and how those impacts are to be offset. For those reasons, I have included provisions in this measure that are scored by CBO to more than offset the officially estimated loss in savings from the estate recovery mandate.

But, Mr. President, I also believe that the expected savings from this mandate are questionable.

Prior to enacting estate recovery in Wisconsin, officials estimated $13.4 million a year could be recovered by the liens. Real collections fell far short. For fiscal year 1992, the State only realized a reported $1 million in collections. And for the period of January to July of 1993, even after officials lowered their estimates, only $2.2 million was realized of an expected $3.8 million in collections.

In addition to lower than expected collections, the refusal to accept home and community-based long-term care because of the prospect of a lien on the estate could lead to the earlier and more costly need for institutional care. Such a result would not only undercut the questionable savings from the program, but would be directly contrary to the Medicaid home and community-based waiver program, which is intended precisely to keep people out of institutions and in their own homes and communities.

The brief experience we had in Wisconsin led the State to limit estate recovery to nursing home care and related services, where, as a practical matter, the potential for estate recovery and liens on homes are much less of a barrier to services.

Indeed, just as we should provide financial incentives to individuals to use more cost-effective care, so too should we consider financial disincentives for more costly alternatives. A recent study in Wisconsin showed that two Medicaid waiver programs saved $17.6 million in 1992 by providing home and community-based alternatives to institutional care.

In that context, including the more expensive institutional care alternatives in the estate recovery mandate makes good sense, and my legislation would not change that portion of the law.

But it does not make sense to jeopardize a program that has produced many more times the savings in lowered institutional costs than even the overly optimistic estimates suggest could be recovered from the estates of those receiving home and community-based long-term care.

All in all, the estate recovery provisions of OBRA 93, as interpreted by HCFA, will generate little additional revenue, are likely to produce more expensive utilization of Medicaid services, may cause an administrative nightmare for state and local government, could aggravate the divestment problem, may result in increased elder abuse, and could well constitute age discrimination.

Though many long-term care experts maintain that mandating estate recovery for home and community-based long-term care services will only lead to increased utilization of more expensive institutional alternatives, and thus increased cost to Federal taxpayers, the CBO estimated a revenue loss of $20 million in the first year and $260 million over five years for this proposal.

As I noted above, it is important to act responsibly to fund that formal cost estimate with offsetting spending cuts. The additional savings I firmly believe will be generated beyond the scored amounts would then help reduce our Federal budget deficit.

This measure includes a provision that more than offsets the official scored revenue loss from eliminating the estate recovery mandate. That provision regulates the growth in the number of nursing home beds eligible for Federal funding through Medicaid, Medicare, or other Federal programs

by requiring providers to obtain a certificate of need [CON] to operate additional beds.

For any specified area, States would issue a CON only if the ratio of the number of nursing home beds to the population that is likely to need them falls below guidelines set by the State and subject to Federal approval.

This approach allows new nursing home beds to operate where there is a demonstrated need, while limiting the potential burden on the taxpayer where no such need has been established.

Slowing the growth of nursing home beds is critical to reforming the current long-term care system. In Wisconsin, limiting nursing home bed growth has been part of the success of the long-term care reforms initiated in the early 1980s. While the rest of the country experienced a 24 percent increase in Medicaid nursing home bed use during the 1980s, Wisconsin saw Medicaid nursing home bed use decline by 19 percent.

The certificate of need provision is far more modest than the absolute cap on nursing home beds adopted in Wisconsin, and recognizes that there needs to be some flexibility to recognize the differences of long-term care services among States.

It is also consistent with the kind of long-term care reform I will be proposing as separate legislation, as well as the reforms included in several of the major health care reform proposals of last session.

Certainly, our ability to reform long-term care will depend not only on establishing a consumer-oriented, consumer-driven home and community-based benefit that is available to the severely disabled of all ages, but also on establishing a more balanced and cost-effective allocation of public support of long-term care services by eliminating the current bias toward institutional care.

As I noted above, an analysis by the CBO estimated the lost revenue from eliminating the State mandate on home and community-based services at $20 million in the first year, and $260 million over 5 years. However, in their spending and revenue options document for 1994, CBO estimates that the proposed regulation of nursing home bed growth would generate savings of $35 million in the first year, and $625 million over 5 years. The combined effect of this proposal, then, would be to generate about $15 million in savings in the first year, and $365 million over 5 years.

Mr. President, taken together, the change in the estate recovery provisions and the slowing of nursing home bed growth, these two provisions will help shift the current distorted Federal long-term care policy away from the institutional bias that currently exists and toward a more balanced approach that emphasizes home and community-based services.

This is the direction that we will need to take if we are to achieve significant long-term care reform.

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

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

S. 86

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

SECTION 1. MEDICAID ESTATE RECOVERIES.

Section 1917(b)(1)(B) of the Social Security Act (42 U.S.C. 1396p(b)(1)(B)) is amended by striking ''consisting of—'' and all that follows and inserting the following: ''consisting of—

''(i) nursing facility services and related hospital and prescription drug services; and

''(ii) at the option of the State, any additional items or services under the State plan.''

SEC. 2. REQUIRING STATES TO REGULATE GROWTH IN THE NUMBER OF NURSING FACILITY BEDS.

(a) IN GENERAL.—A nursing facility shall not receive reimbursement under the medicare program under title XVIII of the Social Security Act, the medicaid program under title XIX of such Act, or any other Federal program for services furnished with respect to any beds first operated by such facility on or after the date of the enactment of this Act unless a certificate of need is issued by the State with respect to such beds.

(b) ISSUANCE OF CERTIFICATE.—A certificate of need may be issued by a State with respect to a geographic area only if the ratio of the number of nursing facility beds in such area to the total population in such area that is likely to need such beds is below the ratio included in guidelines that are established by the State and approved by the Secretary of Health and Human Services under subsection (c).

(c) APPROVAL OF GUIDELINES.—The Secretary of Health and Human Services shall promulgate regulations under which States may submit proposed guidelines for the issuance of certificates of need under subsection (b) for review and approval.

By Mr. INOUYE:

S. 87. A bill to amend the Foreign Trade Zones Act to permit the deferral of payment of duty on certain production equipment; to the Committee on Finance.

THE FOREIGN TRADE ZONES ACT AMENDMENT ACT OF 1995

Mr. INOUYE. Mr. President, I am introducing legislation today to amend Chapter 74 of Title 38, United States Code, to revise certain provisions relating to the appointment of clinical and counseling psychologists in the Veterans Health Administration [VHA].

The VHA has a long history of maintaining a staff of the very best health care professionals to provide care to those men and women who have served their country in the Armed Forces. It is certainly fitting that this should be done.

Recently a quite distressing situation regarding the care of our veterans has come to my attention. In particular, the recruitment and retention of psychologists in the VHA of the Department of Veterans Affairs has become a significant problem.

The Congress has recognized the important contribution of the behavioral sciences in the treatment of several conditions from which a significant portion of our veterans suffer. For example, programs related to homelessness, substance abuse, and post traumatic stress disorder [PTSD] have received funding from the Congress in recent years.

Certainly, psychologists, as behavioral science experts, are essential to the successful implementation of these programs. However, the high vacancy and turnover rates for psychologists in the VHA (over 11% and 18% respectively as reported in one recent survey) might seriously jeopardize these programs and will negatively impact overall patient care in the VHA.

Recruitment of psychologists by the VHA is hindered by a number of factors including a pay scale not commensurate with private sector rates of pay as well as by the low number of clinical and counseling psychologists appearing on the register of the Office of Personnel Management [OPM]. Most new hires have no post-doctoral experience and are hired immediately after a VA internship. Recruitment, when successful, takes up to six months or more.

Retention of psychologists in the VA system poses an even more significant problem. I have been informed that almost 40% of VHA psychologists had five years or less of post-doctoral experience. Without doubt, our veterans would benefit from a higher percentage of senior staff who are more experienced in working with veterans and their particular concerns. May bill provides incentives for psychologists to continue their work with the VHA and seek additional education and training.

Several factors are associated with the difficulties in retention of VHA psychologists including low salaries and lack of career advancement opportunities. It seems that psychologists are apt to leave the VA system after 5 years because they have almost reached peak levels for salary and professional development in the VHA. Furthermore, under the present system psychologists cannot be recognized nor appropriately compensated for excellence or for taking on additional responsibilities such as running treatment programs.

In effect, the current system for hiring psychologists in the VHA supports mediocrity, not excellence and mastery. Our veterans with behavioral disorders and mental health problems are deserving of better psychological care from more experienced professionals than they are currently receiving.

A hybrid Title 38 appointment authority for psychologists would help ameliorate the recruitment and retention problems in several ways. The length of time it takes to recruit psychologists could be abbreviated by eliminating the requirement for applicants to be rated by the Office of Personnel Management. This would also facilitate the recruitment of applicants who are not recent VA interns by reducing the amount of time between

identifying a desirable applicant and being able to offer that applicant a position.

It is expected that problems in retention of behavioral science experts will be greatly alleviated with the implementation of a hybrid Title 38 system for VA psychologists, primarily through offering financial incentives for psychologists to pursue professional development with the VHA. Achievements that would merit salary increases under Title 38 should include such activities as assuming supervisory responsibilities for clinical programs, implementing innovative clinical treatments that improve the effectiveness and/or efficiency of patient care, making significant contributions to the science of psychology, earning the ABPP diplomat status, and becoming a Fellow of the American Psychological Association.

Currently, psychologists are the only doctoral level health care providers in the VHA who are not included in Title 38. This is, without question, a significant factor in the recruitment and retention difficulties that I have addressed. Ultimately, an across-the-board salary increase might be necessary. However, the conversion of psychologists to a hybrid Title 38, as proposed by this amendment, would provide relief for these difficulties and enhance the quality of care for our Nation's veterans and their families.

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

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

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

SECTION 1. DEFERRAL OF DUTY ON CERTAIN PRODUCTION EQUIPMENT.

(a) IN GENERAL.—Section 3 of the Act of June 18, 1934 (commonly known as the Foreign Trade Zones Act, 19 U.S.C. 81c) is amended by adding at the end thereof the following new subsection:

''(e) PRODUCTION EQUIPMENT.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, if all applicable customs laws are complied with (except as otherwise provided in this subsection), merchandise which is entered into a foreign trade zone for use within such zone as production equipment or as parts for such equipment, shall not be subject to duty until such merchandise is completely assembled, installed, tested, and used in the production for which it was entered. The duty imposed on such merchandise shall be at the same rate as would have been imposed (but for the provisions of this subsection) on such merchandise had duty been imposed on such merchandise at the time of entry into the customs territory of the United States.

''(2) FOREIGN TRADE ZONE.—For purposes of this subsection, the term 'foreign trade zone' includes a subzone as defined in section 146.1(b)(17) of chapter 19, Code of Federal Regulations.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to merchandise entered, or withdrawn from warehouse for consumption, after the date that is 15 days after the date of the enactment of this Act.

By Mr. INOUYE:

S. 89. A bill to amend the Science and Engineering Equal Opportunities Act; to the Committee on Labor and Human Resources.

THE SCIENCE AND ENGINEERING EQUAL OPPORTUNITIES ACT AMENDMENT ACT OF 1995

Mr. INOUYE. Mr. President, I rise to introduce a bill that begins to address the need for culturally sensitive math and science education targeted toward Native American, Native Hawaiian and Pacific Islander students.

Native American, Native Hawaiian and Pacific Island students perform significantly below the national average in these subjects at the elementary and secondary levels and are extremely underrepresented in math and science majors at the college level. My legislation would provide for the development and implementation of culturally sensitive math and science curricula emphasizing the scientific achievements of these native cultures.

I ask unanimous consent that the bill be printed in the RECORD.

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

S. 89

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

SECTION 1. AMENDMENT TO THE SCIENCE AND ENGINEERING EQUAL OPPORTUNITIES ACT.

(a) OPPORTUNITIES FOR STUDENTS.—Section 32 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885) is amended by adding at the end the following new subsection:

''(c)(1) The Congress finds that Native Hawaiian students, students who are Pacific Islanders, and Native American students are underrepresented in science, computer science, and engineering. Such students face both cultural barriers to the study of science and geographical isolation.

''(2) The Director is authorized to make awards to institutions of higher education, including community colleges, and local educational agencies to work in partnership with community organizations to develop and implement science, computer science, technology, and mathematics curricula that—

''(A) are in accord with the traditional cultural values of the students described in paragraph (1);

''(B) emphasize the scientific achievements of the native cultures of such students; and

''(C) encourage enrollment of such students in higher education.''.

By Mr. HATFIELD:

S. 88. A bill to increase the overall economy and efficiency of Government operations and enable more efficient use of Federal funding, by enabling local governments and private, nonprofit organizations to use amounts available under certain Federal assistance programs in accordance with approved local flexibility plans; to the Committee on Governmental Affairs.

S. 90. A bill to amend the Job Training Partnership Act to improve the employment and training assistance programs for dislocated workers, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. HATFIELD (for himself and Mrs. MURRAY):

S. 92. A bill to provide for the reconstitution of outstanding repayment obligations of the Administrator of the Bonneville Power Administration for the appropriated capital investments in the Federal Columbia River Power System; to the Committee on Energy and Natural Resources.

By Mr. HATFIELD.

S. 93. A bill to amend the Federal Land Policy and Management Act of 1976 to provide for ecosystem management, and for other purposes; to the Committee on Energy and Natural Resources.

LEGISLATIVE PRIORITIES

Mr. HATFIELD. Mr. President, this country has crossed many thresholds of change in the past two hundred years. As we being the 104th Congress today, we face another set of challenges. The opportunity to change direction in our national domestic policy is again offered to us, facilitated by the recent change in leadership.

The Republican call to return to the essence of democracy—federalism—is especially exciting. I intend to dedicate myself this Congress to redefining Federal programs to enhance the efforts already underway in the States. I am convinced, as are many of my colleagues, that the best policy making in this country is bubbling forth from laboratories commonly known as our United States.

To inaugurate the new year and the new Congress, I am introducing five of my key legislative priorities today. First, in what I intend to be a series of proposals, are three bills designed to decrease the burden of Federal compliance and oversight measures in key policy areas. In exchange for loosening the Federal regulatory straightjacket, we will transform accountability from paperwork requirements to performance-based results. I call this the ''flexibility factor'' in government and it entails finding a path through every Federal agency where innovation at the State and local level is nurtured and rewarded. We have already had some success in this area in the Department of Education—Secretary Riley and his staff have worked with Congress to capitalize on being more responsive and flexible with States which are on the cutting edge of educational reform. This example will help guide us through the same land mines in other Federal agencies.

Second, I am introducing today two bills which focus on some of the major issues in the Northwest. The first deals with stabilizing the longterm outlook for the major provider of power supply in the Northwest, the Bonneville Power Administration, and the second considers the future of natural resource management.

Mr. President, this is not an exclusive list of my priorities for the 104th Congress. I will have other proposals—

particularly in the areas of small business development, youth violence prevention, international arms transfers, and recycling, to enumerate just a few. Yet the initiatives I have put forth today define two of the major themes I have exercised throughout my political career and will continue to advance in the current Congress—enhancing the innovation in our State laboratories by removing Federal restraints to reform, and wise utilization and management of our Nation's natural resources.

The bills I submit for consideration by the Senate are the following:

I. The Local Empowerment and Flexibility Act of 1995 (Local-Flex)

Flexibility, accountability, and efficiency are qualities we, as consumers, expect from private industry. Americans expect and deserve to have those same qualities present in their government as well, whether at the Federal, State, or local level. As the Congress plans its Federal government reforms, it should use these qualities as its measures of success.

We have already witnessed some substantive steps in addressing these goals. This reform oriented approach is apparent in the unfunded mandate legislation and in the Administration's proposal to restructure and consolidate Federal agencies and programs. While these proposals have merit, I believe that rash reform decisions can lead to the omission of a reservoir of great ideas.

This reservoir of ideas is located throughout the country in our State, local, and community governments. In order to tap into this stock of ideas and innovation I am introducing The Local Empowerment and Flexibility Act of 1995. I introduced a similar bill in the 103d Congress which was passed in the Senate by a vote of 97–0 as an amendment to the National Competitiveness Act.

The Local Empowerment and Flexibility Act of 1995 is premised on two ideas. First, Federal regulation treats all communities alike despite their inherent differences. Local governments are eligible for hundreds of separate Federal categorical grants to provide services and implement Federal programs. To be effective those programs must recognize the differences among communities and permit variation in spending and enforcement based on local needs. Second, regulatory red tape has stifled the very resources designed to provide services and address problems. Many programs are too narrow, and this regulatory rigidity translates into funding spent wastefully in audits and record-keeping rather than directed to meet community needs.

The Local Empowerment and Flexibility Act of 1995 would establish a framework for local governments to prepare ''Local Flexibility Plans'' including a road map for integrating Federal funds at the local level to meet local needs. The local government would identify all Federal, State, local and private resources they would use, and any Federal, State and local regulations which would need to be waived. This would enable local governments and non-profit organizations to adapt Federal funds and related programs to their local area by drawing on appropriations from more than one Federal program and integrating funds across existing Federal categories. By involving the community in developing these ''Local Flexibility Plans'', efficiency of Federal, State, and local resources would be greatly increased.

Mr. President, at a time when the our Federal treasury is being squeezed from all sides for funding priorities, it is imperative that funds are allocated in the most efficient and effective manner possible. I know this legislation would assist the Federal, State, and local governments in the accomplishment of that goal.

I ask unanimous consent that the text of the bill, along with a section-by-section analysis be included in the RECORD, following my remarks.

II. The Worker Retraining Flexibility Act of 1995 (Labor Flex)

It is no secret, Mr. President, that dislocation of the labor force has been a significant issue in my State and in the entire Northwest—an area heavily impacted by the Endangered Species Act. The Northern Spotted Owl was just the tip of the iceberg in terms of transition to new employment for many of the natural resources workers in my State. In fact, we have lost over 15,000 jobs in the forest products industry in my State since the owls listing in 1990.

Most of these jobs have been in rural areas built up around saw mills which are dependent on Federal timber supply. Our State, with its growing high tech industry, has been able to cushion this blow in terms of total employment, but the rural areas dependent on Federal timber are continuing to be devastated. For example, just before Christmas in the Eastern Oregon town of Burns, with a population of 2,880, Snow Mountain Pine announced that, due to the lack of Federal timber supply, it would be permanently closing its doors on 184 workers in early 1995. This work force reduction and others are coming as a direct result of the forest protection policies of this Administration and more are anticipated in the future. Retraining of our labor force, particularly those dislocated due to Federal policy, continues to be one of my highest priorities.

For the last 3 years I have introduced various forms of legislation in this area, specifically the Endangered Species Employment Transition Assistance Act and the Environmental Employment Transition Assistance Act. The premise of these bills has been that if workers lose their jobs due to Federal environmental laws or regulation, the Federal government has a responsibility to see that their basic needs are met while they participate in worker retaining programs. The objective of these bills was to create a new set aside under our national retraining programs that would have provided dislocated workers easier access to needs-based related payments after their 26 weeks of unemployment insurance ended so that they could complete their long-term retraining programs. Congress has created similar set asides over the years for workers dislocated due to Federal efforts to clean the air and promote or increase trade.

But the sands have shifted in the last year. In 1994, the Government Accounting Office reported to me that the Federal government has an inventory of 154 Federal vocational educational and retraining programs which, collectively, create an enormous potential for duplication of effort, raising questions concerning administrative costs at all levels of government. For this, as well as other reasons, I believe that a review and consolidation of these programs is in order. Rather than adding further to this current administrative burden, I have redrafted my legislation to improve the existing Job Training Partnership Act without creating a new program.

The Worker Retraining Flexibility Act of 1995 which I am introducing today will make three important changes to the existing JTPA statute in order to provide a great deal more flexibility in addressing the long-term needs of dislocated workers. Specifically, the bill would: remove the limitation in the statute which prohibits States from using more than 25 percent of the funds on needs-related payments and supportive services while still maintaining the 15 percent ceiling on administrative costs; modify the State waiver which permits a governor to reduce to 30 percent the requirement that not less than 50 percent of the funds be used for retraining services; and finally, permit needs-related payments to those who have enrolled in retraining programs after the sixth week of a discretionary grant award rather than after the 13th week of being laid-off. Finally, the bill will create a new section requiring the Secretary of Labor to expend the Administration's commitment of $12 million from the discretionary reserve based on need, to provide retraining funding to dislocated workers in the Pacific Northwest.

These provisions will eliminate major impediments that dislocated workers face while participating in long-term retraining programs and will enable communities to provide both the training and income support these workers need to re-enter the work force. It is an example of retooling a traditional federal program, based on advice and counsel from a State which has been managing a great deal of JTPA funds over the past several years. I included most of these provisions in the fiscal year 1995 Appropriations bill for the Department of Labor. However, these changes will only last for a single program year under the Job Training Partnership Act. I think

we will soon see the need to make these changes permanent which is why I am offering this legislation. Until we streamline and consolidate our current retraining programs, I am committed to operating them in as flexible a manner as possible so States like Oregon can better assist our dislocated workers as they make the transition to new high skill family wage jobs.

I ask unanimous consent that the text of the bill, along with a letter of support from the Oregon Economic Development Department, be included in the RECORD.

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

S. 88

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 ''Local Empowerment and Flexibility Act of 1995''.

SEC. 2. FINDINGS.

The Congress finds that—

(1) historically, Federal programs have addressed the Nation's problems by providing categorical financial assistance with detailed requirements relating to the use of funds;

(2) while the assistance described in paragraph (1) has been directed at critical problems, some program requirements may inadvertently impede the effective delivery of services;

(3) the Nation's local governments and private, nonprofit organizations are dealing with increasingly complex problems which require the delivery of many kinds of services;

(4) the Nation's communities are diverse, and different needs are present in different communities;

(5) it is more important than ever to provide programs that—

(A) promote more effective and efficient local delivery of services to meet the full range of needs of individuals, families, and society;

(B) respond flexibly to the diverse needs of the Nation's communities;

(C) reduce the barriers between programs that impede local governments' ability to effectively deliver services; and

(D) empower local governments and private, nonprofit organizations to be innovative in creating programs that meet the unique needs of their communities while continuing to address national policy goals; and

(6) many communities have innovative planning and community involvement strategies for providing services, but Federal, State, and local regulations often hamper full implementation of local plans.

SEC. 3. PURPOSES.

The purposes of this Act are to—

(1) enable more efficient use of Federal, State, and local resources;

(2) place less emphasis in Federal service programs on measuring resources and procedures and more emphasis on achieving Federal, State, and local policy goals;

(3) enable local governments and private, nonprofit organizations to adapt programs of Federal financial assistance to the particular needs of their communities, by—

(A) drawing upon appropriations available from more than one Federal program; and

(B) integrating programs and program funds across existing Federal financial assistance categories; and

(4) enable local governments and private, nonprofit organizations to work together and build stronger cooperative partnerships to address critical service problems.

SEC. 4. DEFINITIONS.

For purposes of this Act—

(1) the term ''approved local flexibility plan'' means a local flexibility plan that combines funds from Federal, State, local government or private sources to address the service needs of a community (or any part of such a plan) that is approved by the Flexibility Council under section 5;

(2) the term ''community advisory committee'' means such a committee established by a local government under section 9;

(3) the term ''Flexibility Council'' means the council composed of the—

(A) Assistant to the President for Domestic Policy;

(B) Assistant to the President for Economic Policy;

(C) Secretary of the Treasury;

(D) Attorney General;

(E) Secretary of the Interior;

(F) Secretary of Agriculture;

(G) Secretary of Commerce;

(H) Secretary of Labor;

(I) Secretary of Health and Human Services;

(J) Secretary of Housing and Urban Development;

(K) Secretary of Transportation;

(L) Secretary of Education;

(M) Secretary of Energy;

(N) Secretary of Veterans Affairs;

(O) Secretary of Defense;

(P) Director of Federal Emergency Management Agency;

(Q) Administrator of the Environmental Protection Agency;

(R) Director of National Drug Control Policy;

(S) Administrator of the Small Business Administration;

(T) Director of the Office of Management and Budget; and

(U) Chair of the Council of Economic Advisers.

(4) the term ''covered Federal financial assistance program'' means an eligible Federal financial assistance program that is included in a local flexibility plan of a local government;

(5) the term ''eligible Federal financial assistance program''—

(A) means a Federal program under which financial assistance is available, directly or indirectly, to a local government or a qualified organization to carry out the specified program; and

(B) does not include a Federal program under which financial assistance is provided by the Federal Government directly to a beneficiary of that financial assistance or to a State as a direct payment to an individual;

(6) the term ''eligible local government'' means a local government that is eligible to receive financial assistance under 1 or more covered Federal programs;

(7) the term ''local flexibility plan'' means a comprehensive plan for the integration and administration by a local government of financial assistance provided by the Federal Government under 2 or more eligible Federal financial assistance programs;

(8) the term ''local government'' means a subdivision of a State that is a unit of general local government (as defined under section 6501 of title 31, United States Code);

(9) the term ''priority funding'' means giving higher priority (including by the assignment of extra points, if applicable) to applications for Federal financial assistance submitted by a local government having an approved local flexibility program, by—

(A) a person located in the jurisdiction of such a government; or

(B) a qualified organization eligible for assistance under a covered Federal financial assistance program included in such a plan;

(10) the term ''qualified organization'' means a private, nonprofit organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of the Internal Revenue Code of 1986; and

(11) the term ''State'' means the 50 States, the District of Columbia, Puerto Rico, American Samoa, Guam, and the Virgin Islands.

SEC. 5. PROVISION OF FEDERAL FINANCIAL ASSISTANCE IN ACCORDANCE WITH APPROVED LOCAL FLEXIBILITY PLAN.

(a) PAYMENTS TO LOCAL GOVERNMENTS.—Notwithstanding any other provision of law, amounts available to a local government or a qualified organization under a covered Federal financial assistance program included in an approved local flexibility plan shall be provided to and used by the local government or organization in accordance with the approved local flexibility plan.

(b) ELIGIBILITY FOR BENEFITS.—An individual or family that is eligible for benefits or services under a covered Federal financial assistance program included in an approved local flexibility plan may receive those benefits only in accordance with the approved local flexibility plan.

SEC. 6. APPLICATION FOR APPROVAL OF LOCAL FLEXIBILITY PLAN.

(a) IN GENERAL.—A local government may submit to the Flexibility Council in accordance with this section an application for approval of a local flexibility plan.

(b) CONTENTS OF APPLICATION.—An application submitted under this section shall include—

(1)(A) a proposed local flexibility plan that complies with subsection (c); or

(B) a strategic plan submitted in application for designation as an enterprise community or an empowerment zone under section 1391 of the Internal Revenue Code of 1986;

(2) certification by the chief executive of the local government, and such additional assurances as may be required by the Flexibility Council, that—

(A) the local government has the ability and authority to implement the proposed plan, directly or through contractual or other arrangements, throughout the geographic area in which the proposed plan is intended to apply; and

(B) amounts are available from non-Federal sources to pay the non-Federal share of all covered Federal financial assistance programs included in the proposed plan; and

(3) any comments on the proposed plan submitted under subsection (d) by the Governor of the State in which the local government is located;

(4) public comments on the plan including the transcript of at least 1 public hearing and comments of the appropriate community advisory committee established under section 9; and

(5) other relevant information the Flexibility Council may require to approve the proposed plan.

(c) CONTENTS OF PLAN.—A local flexibility plan submitted by a local government under this section shall include—

(1) the geographic area to which the plan applies and the rationale for defining the area;

(2) the particular groups of individuals, by service needs, economic circumstances, or other defining factors, who shall receive services and benefits under the plan;

(3)(A) specific goals and measurable performance criteria, a description of how the plan is expected to attain those goals and criteria;

(B) a description of how performance shall be measured; and

(C) a system for the comprehensive evaluation of the impact of the plan on participants, the community, and program costs;

(4) the eligible Federal financial assistance programs to be included in the plan as covered Federal financial assistance programs and the specific benefits that shall be provided under the plan under such programs, including—

(A) criteria for determining eligibility for benefits under the plan;

(B) the services available;

(C) the amounts and form (such as cash, in-kind contributions, or financial instruments) of nonservice benefits; and

(D) any other descriptive information the Flexibility Council considers necessary to approve the plan;

(5) except for the requirements under section 8(b)(3), any Federal statutory or regulatory requirement applicable under a covered Federal financial assistance program included in the plan, the waiver of which is necessary to implement the plan;

(6) fiscal control and related accountability procedures applicable under the plan;

(7) a description of the sources of all non-Federal funds that are required to carry out covered Federal financial assistance programs included in the plan;

(8) written consent from each qualified organization for which consent is required under section 6(b)(2); and

(9) other relevant information the Flexibility Council may require to approve the plan.

(d) PROCEDURE FOR APPLYING.—(1) To apply for approval of a local flexibility plan, a local government shall submit an application in accordance with this section to the Governor of the State in which the local government is located.

(2) A Governor who receives an application from a local government under paragraph (1) may, by no later than 30 days after the date of that receipt—

(A) prepare comments on the proposed local flexibility plan included in the application;

(B) describe any State laws which are necessary to waive for successful implementation of a local plan; and

(C) submit the application and comments to the Flexibility Council.

(3) If a Governor fails to act within 30 days after receiving an application under paragraph (2), the applicable local government may submit the application to the Flexibility Council.

SEC. 7. REVIEW AND APPROVAL OF LOCAL FLEXIBILITY PLANS.

(a) REVIEW OF APPLICATIONS.—Upon receipt of an application for approval of a local flexibility plan under this Act, the Flexibility Council shall—

(1) approve or disapprove all or part of the plan within 45 days after receipt of the application;

(2) notify the applicant in writing of that approval or disapproval by not later than 15 days after the date of that approval or disapproval; and

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

(b) APPROVAL.—(1) The Flexibility Council may approve a local flexibility plan for which an application is submitted under this Act, or any part of such a plan, if a majority of members of the Council determines that—

(A) the plan or part shall improve the effectiveness and efficiency of providing benefits under covered Federal programs included in the plan by reducing administrative inflexibility, duplication, and unnecessary expenditures;

(B) the applicant local government has adequately considered, and the plan or part of the plan appropriately addresses, any effect that administration of each covered Federal program under the plan or part of the plan shall have on administration of the other covered Federal programs under that plan or part of the plan;

(C) the applicant local government has or is developing data bases, planning, and evaluation processes that are adequate for implementing the plan or part of the plan;

(D) the plan shall more effectively achieve Federal financial assistance goals at the local level and shall better meet the needs of local citizens;

(E) implementation of the plan or part of the plan shall adequately achieve the purposes of this Act and of each covered Federal financial assistance program under the plan or part of the plan;

(F) the plan and the application for approval of the plan comply with the requirements of this Act;

(G) the plan or part of the plan is adequate to ensure that individuals and families that receive benefits under covered Federal financial assistance programs included in the plan or part shall continue to receive benefits that meet the needs intended to be met under the program; and

(H) the local government has—

(i) waived the corresponding local laws necessary for implementation of the plan; and

(ii) sought any necessary waivers from the State.

(2) The Flexibility Council may not approve any part of a local flexibility plan if—

(A) implementation of that part would result in any increase in the total amount of obligations or outlays of discretionary appropriations or direct spending under covered Federal financial assistance programs included in that part, over the amounts of such obligations and outlays that would occur under those programs without implementation of the part; or

(B) in the case of a plan or part that applies to assistance to a qualified organization under an eligible Federal financial assistance program, the qualified organization does not consent in writing to the receipt of that assistance in accordance with the plan.

(3) The Flexibility Council shall disapprove a part of a local flexibility plan if a majority of the Council disapproves that part of the plan based on a failure of the part to comply with paragraph (1).

(4) In approving any part of a local flexibility plan, the Flexibility Council shall specify the period during which the part is effective. An approved local flexibility plan shall not be effective after the date of the termination of effectiveness of this Act under section 13.

(5) Disapproval by the Flexibility Council of any part of a local flexibility plan submitted by a local government under this Act shall not affect the eligibility of a local government, a qualified organization, or any individual for benefits under any Federal program.

(c) MEMORANDA OF UNDERSTANDING.—(1) The Flexibility Council may not approve a part of a local flexibility plan unless each local government and each qualified organization that would receive financial assistance under the plan enters into a memorandum of understanding under this subsection with the Flexibility Council.

(2) A memorandum of understanding under this subsection shall specify all understandings that have been reached by the Flexibility Council, the local government, and each qualified organization that is subject to a local flexibility plan, regarding the approval and implementation of all parts of a local flexibility plan that are the subject of the memorandum, including understandings with respect to—

(A) all requirements under covered Federal financial assistance programs that are to be waived by the Flexibility Council under section 8(b);

(B)(i) the total amount of Federal funds that shall be provided as benefits under or used to administer covered Federal financial assistance programs included in those parts; or

(ii) a mechanism for determining that amount, including specification of the total amount of Federal funds that shall be provided or used under each covered Federal financial assistance program included in those parts;

(C) the sources of all non-Federal funds that shall be provided as benefits under or used to administer those parts;

(D) measurable performance criteria that shall be used during the term of those parts to determine the extent to which the goals and performance levels of the parts are achieved; and

(E) the data to be collected to make that determination.

(d) LIMITATION ON CONFIDENTIALITY REQUIREMENTS.—The Flexibility Council may not, as a condition of approval of any part of a local flexibility plan or with respect to the implementation of any part of an approved local flexibility plan, establish any confidentiality requirement that would—

(1) impede the exchange of information needed for the design or provision of benefits under the parts; or

(2) conflict with law.

SEC. 8. IMPLEMENTATION OF APPROVED LOCAL FLEXIBILITY PLANS; WAIVER OF REQUIREMENTS.

(a) PAYMENTS AND ADMINISTRATION IN ACCORDANCE WITH PLAN.—Notwithstanding any other law, any benefit that is provided under a covered Federal financial assistance program included in an approved local flexibility plan shall be paid and administered in the manner specified in the approved local flexibility plan.

(b) WAIVER OF REQUIREMENTS.—(1) Notwithstanding any other law and subject to paragraphs (2) and (3), the Flexibility Council may waive any requirement applicable under Federal law to the administration of, or provision of benefits under, any covered Federal assistance program included in an approved local flexibility plan, if that waiver is—

(A) reasonably necessary for the implementation of the plan; and

(B) approved by a majority of members of the Flexibility Council.

(2) The Flexibility Council may not waive a requirement under this subsection unless the Council finds that waiver of the requirement shall not result in a qualitative reduction in services or benefits for any individual or family that is eligible for benefits under a covered Federal financial assistance program.

(3) The Flexibility Council may not waive any requirement under this subsection—

(A) that enforces any constitutional or statutory right of an individual, including any right under—

(i) title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.);

(ii) section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.);

(iii) title IX of the Education Amendments of 1972 (86 Stat. 373 et seq.);

(iv) the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.); or

(v) the Americans with Disabilities Act of 1990;

(B) for payment of a non-Federal share of funding of an activity under a covered Federal financial assistance program; or

(C) for grants received on a maintenance of effort basis.

(c) SPECIAL ASSISTANCE.—To the extent permitted by law, the head of each Federal agency shall seek to provide special assistance to a local government or qualified organization to support implementation of an approved local flexibility plan, including expedited processing, priority funding, and technical assistance.

(d) EVALUATION AND TERMINATION.—(1) A local government, in accordance with regulations issued by the Flexibility Council, shall—

(A) submit such reports on and cooperate in such audits of the implementation of its approved local flexibility plan; and

(B) periodically evaluate the effect implementation of the plan has had on—

(i) individuals who receive benefits under the plan;

(ii) communities in which those individuals live; and

(iii) costs of administering covered Federal financial assistance programs included in the plan.

(2) No later than 90 days after the end of the 1-year period beginning on the date of the approval by the Flexibility Council of an approved local flexibility plan of a local government, and annually thereafter, the local government shall submit to the Flexibility Council a report on the principal activities and achievements under the plan during the period covered by the report, comparing those achievements to the goals and performance criteria included in the plan under section 6(c)(3).

(3)(A) The Flexibility Council may terminate the effectiveness of an approved local flexibility plan, if the Flexibility Council, after consultation with the head of each Federal agency responsible for administering a covered Federal financial assistance program included in such, determines—

(i) that the goals and performance criteria included in the plan under section 6(c)(3) have not been met; and

(ii) after considering any experiences gained in implementation of the plan, that those goals and criteria are sound.

(B) In terminating the effectiveness of an approved local flexibility plan under this paragraph, the Flexibility Council shall allow a reasonable period of time for appropriate Federal, State, and local agencies and qualified organizations to resume administration of Federal programs that are covered Federal financial assistance programs included in the plan.

(e) FINAL REPORT; EXTENSION OF PLANS.—(1) No later than 45 days after the end of the effective period of an approved local flexibility plan of a local government, or at any time that the local government determines that the plan has demonstrated its worth, the local government shall submit to the Flexibility Council a final report on its implementation of the plan, including a full evaluation of the successes and shortcomings of the plan and the effects of that implementation on individuals who receive benefits under those programs.

(2) The Flexibility Council may extend the effective period of an approved local flexibility plan for such period as may be appropriate, based on the report of a local government under paragraph (1).

SEC. 9. COMMUNITY ADVISORY COMMITTEES.

(a) ESTABLISHMENT.—A local government that applies for approval of a local flexibility plan under this Act shall establish a community advisory committee in accordance with this section.

(b) FUNCTIONS.—A community advisory committee shall advise a local government in the development and implementation of its local flexibility plan, including advice with respect to—

(1) conducting public hearings; and

(2) reviewing and commenting on all community policies, programs, and actions under the plan which affect low income individuals and families, with the purpose of ensuring maximum coordination and responsiveness of the plan in providing benefits under the plan to those individuals and families.

(c) MEMBERSHIP.—The membership of a community advisory committee shall—

(1) consist of—

(A) persons with leadership experience in the private and voluntary sectors;

(B) local elected officials;

(C) representatives of participating qualified organizations; and

(D) the general public; and

(2) include individuals and representatives of community organizations who shall help to enhance the leadership role of the local government in developing a local flexibility plan.

(d) OPPORTUNITY FOR REVIEW AND COMMENT BY COMMITTEE.—Before submitting an application for approval of a final proposed local flexibility plan, a local government shall submit the final proposed plan for review and comment by a community advisory committee established by the local government.

(e) COMMITTEE REVIEW OF REPORTS.—Before submitting annual or final reports on an approved Federal assistance plan, a local government or private nonprofit organization shall submit the report for review and comment to the community advisory committee.

SEC. 10. TECHNICAL AND OTHER ASSISTANCE.

(a) TECHNICAL ASSISTANCE.—(1) The Flexibility Council may provide, or direct that the head of a Federal agency provide, technical assistance to a local government or qualified organization in developing information necessary for the design or implementation of a local flexibility plan.

(2) Assistance may be provided under this subsection if a local government makes a request that includes, in accordance with requirements established by the Flexibility Council—

(A) a description of the local flexibility plan the local government proposes to develop;

(B) a description of the groups of individuals to whom benefits shall be provided under covered Federal assistance programs included in the plan; and

(C) such assurances as the Flexibility Council may require that—

(i) in the development of the application to be submitted under this title for approval of the plan, the local government shall provide adequate opportunities to participate to—

(I) individuals and families that shall receive benefits under covered Federal financial assistance programs included in the plan; and

(II) governmental agencies that administer those programs; and

(ii) the plan shall be developed after considering fully—

(I) needs expressed by those individuals and families;

(II) community priorities; and

(III) available governmental resources in the geographic area to which the plan shall apply.

(b) DETAILS TO COUNCIL.—At the request of the Flexibility Council and with the approval of an agency head who is a member of the Council, agency staff may be detailed to the Flexibility Council on a nonreimbursable basis.

SEC. 11. FLEXIBILITY COUNCIL.

(a) FUNCTIONS.—The Flexibility Council shall—

(1) receive, review, and approve or disapprove local flexibility plans for which approval is sought under this Act;

(2) upon request from an applicant for such approval, direct the head of an agency that administers a covered Federal financial assistance program under which substantial Federal financial assistance would be provided under the plan to provide technical assistance to the applicant;

(3) monitor the progress of development and implementation of local flexibility plans;

(4) perform such other functions as are assigned to the Flexibility Council by this Act; and

(5) issue regulations to implement this Act within 180 days after the date of its enactment.

(b) REPORTS.—No less than 18 months after the date of the enactment of this Act, and annually thereafter, the Flexibility Council shall submit a report on the 5 Federal regulations that are most frequently waived by the Flexibility Council for local governments with approved local flexibility plans to the President and the Congress. The President shall review the report and determine whether to amend or terminate such Federal regulations.

SEC. 12. REPORT.

No later than 54 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Congress, a report that—

(1) describes the extent to which local governments have established and implemented approved local flexibility plans;

(2) evaluates the effectiveness of covered Federal assistance programs included in approved local flexibility plans; and

(3) includes recommendations with respect to local flexibility.

SEC. 13. CONDITIONAL TERMINATION.

This Act is repealed on the date that is 5 years after the date of the enactment of this Act unless extended by the Congress through the enactment of the resolution described under section 14.

SEC. 14. JOINT RESOLUTION FOR THE CONTINUATION AND EXPANSION OF LOCAL FLEXIBILITY PROGRAMS.

(a) DESCRIPTION OF RESOLUTION.—A resolution referred to under section 13 is a joint resolution the matter after the resolving clause is as follows: ''That Congress approves the application of local flexibility plans to all local governments in the United States in accordance with the Local Empowerment and Flexibility Act of 1995, and that—

''(1) if the provisions of such Act have not been repealed under section 13 of such Act, such provisions shall remain in effect; and

''(2) if the repeal under section 13 of such Act has taken effect, the provisions of such Act shall be effective as though such provisions had not been repealed.''.

(b) INTRODUCTION.—No later than 30 days after the transmittal by the Comptroller General of the United States to the Congress of the report required in section 12, a resolution as described under subsection (a) shall be introduced in the Senate by the chairman of the Committee on Governmental Affairs, or by a Member or Members of the Senate designated by such chairman, and shall be introduced in the House of Representatives by the Chairman of the Committee on Government Operations, or by a Member or Members of the House of Representatives designated by such chairman.

(c) REFERRAL.—A resolution as described under subsection (a) shall be referred to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives.

The committee shall make its recommendations to the Senate or House of Representatives within 30 calendar days of the date of such resolution's introduction.

(d) DISCHARGE FROM COMMITTEE.—If the committee to which a resolution is referred has not reported such resolution at the end of 30 calendar days after its introduction, that committee shall be deemed to be discharged from further consideration of such resolution and such resolution shall be placed on the appropriate calendar of the House involved.

(e) VOTE ON FINAL PASSAGE.—When the committee has reported or has been deemed to be discharged from further consideration of a resolution described under subsection (a), it is at any time thereafter in order for any Member of the respective House to move to proceed to the consideration of the resolution.

(f) RULES OF THE SENATE AND HOUSE.—This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in subsection (a), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

LOCAL EMPOWERMENT AND FLEXIBILITY ACT OF 1995

SECTION-BY-SECTION ANALYSIS

INTRODUCTION

To increase the overall economy and efficiency of Government operations and enable more efficient use of Federal funding, by enabling local governments and private, nonprofit organizations to use amounts available under certain Federal assistance programs in accordance with approved local flexibility plans.

SECTION 1. SHORT TITLE

Section 1 sets the short title of this Act as the ''Local Empowerment and Flexibility Act of 1995.''

SECTION 2. FINDINGS

Section 2 states that Federal programs often contain detailed requirements relating to the use of categorical financial assistance which may inadvertently impede the effective delivery of services. Section 2 also states that in order to reduce the barriers that impede local government's ability to effectively deliver services, the federal government should empower local governments and private, nonprofit organizations to be innovative in creating programs that meet the unique needs of their communities while continuing to address national policy goals.

SECTION 3. PURPOSES

Section 3 states that the purposes of this Act are to: (1) enable more efficient use of Federal, State, and local resources; (2) place less emphasis in Federal programs on measuring resources and procedures and more emphasis on achieving Federal, State, and local policy goals; (3) enable local governments and private, nonprofit organizations to adapt programs of Federal financial assistance to the particular needs of their communities; and (4) enable local governments and private, nonprofit organizations to work together and build stronger cooperative partnerships to address critical service problems.

SECTION 4. DEFINITIONS

Section 4 contains definitions that apply to this act including the ''Flexibility Council'' which is charged with approving local flexibility plans submitted by state and local governments. This section also defines ''eligible Federal financial assistance program'' as: (1) a Federal program under which financial assistance is available, directly or indirectly, to a local government or a qualified organization to carry out a specified program; and (2) does not include a Federal program under which financial assistance is provided by the Federal Government directly to a beneficiary of that financial assistance or to a State as a direct payment to an individual.

SECTION 5. PROVISION OF FEDERAL FINANCIAL ASSISTANCE IN ACCORDANCE WITH APPROVED LOCAL FLEXIBILITY PLAN

Section 5 provides that upon approval of a local flexibility plan, Federal financial assistance which is included in the approved local flexibility plan shall be provided to an used by the local government or organization in accordance with the approved local flexibility plan. Section 5 also provides that upon approval of a local flexibility plan, individuals or families that are eligible for benefits or services under a covered Federal financial assistance program may receive those benefits only in accordance with the approved local flexibility plan.

SECTION 6. APPLICATION FOR APPROVAL OF LOCAL FLEXIBILITY PLAN

Section 6 establishes that a local flexibility plan shall be; (1) a strategic plan submitted during the application for designation as an enterprise community or empowerment zone; or (2) shall include the geographic area to which the plan applies, the particular groups of individuals who shall receive services and benefits under the plan, a description of how the plan is expected to attain specific goals and measurable performance criteria, the eligible Federal financial assistance programs to be included in the plan, any Federal statutory or regulatory requirement applicable under a covered Federal financial assistance program that needs to be waived to implement the plan, a description of the sources of all non-Federal funds that are required to carry out the plan, written consent from each qualified organization included in the plan, and any other relevant information the Flexibility Council may require to approve the plan.

In addition, Section 6 requires certification by the chief executive of the local government that the local government has the ability and authority to implement the proposed plan, and that amounts are available from non-Federal sources to pay the non-Federal share of all covered Federal financial assistance programs included in the proposed plan. Section 6 requires that the plan include any comments on the proposed plan submitted by the Governor of the State in which the local government is located, public comments on the plan including transcripts of a least one public hearing on the plan, and comments of the community advisory committee established to review the plan.

Section 6 also establishes the procedure for applying for approval of a local flexibility plan. Local flexibility plans must first be submitted to the Governor of the State in which the local government is located. The Governor then has 30 days after receipt to prepare comments on the plan, describe any State laws which are necessary to be waived for implementation of the plan, and submit the application and comments to the Flexibility Council. If the Governor fails to act within 30 days, the local government may submit the application directly to the Flexibility Council.

SECTION 7. REVIEW AND APPROVAL OF LOCAL FLEXIBILITY PLANS

Section 7 establishes the responsibilities of the Flexibility Council in reviewing applications for approval of local flexibility plans. Within 45 days of receipt of the application, the Flexibility Council shall approve or disapprove all or part of the local flexibility plan. The Council must also, within 15 days after the approval or disapproval, notify the applicant in writing of its decision and in the case of any disapproval, include a written justification of the reasons for the disapproval.

Section 7 also requires that approval of the plan be based on; (1) the plan or part of the plan shall improve the effectiveness and efficiency of providing benefits under covered Federal programs included in the plan; (2) the applicant has adequately considered any effect that administration of each covered Federal program under the plan or part of the plan shall have on administration of other covered Federal programs under the plan; (3) the applicant has or is developing data bases, planning, and evaluation procedures that are adequate for implementing the plan; (4) implementation of the plan or part of the plan shall adequately achieve the purposes of this Act and each covered Federal financial assistance program under the plan; (5) the plan is adequate to ensure that individuals and families that receive benefits under covered Federal financial assistance programs included in the plan shall continue to receive benefits that meet the needs intended to be met under the program; and (6) the local government has waived the corresponding local laws and sought any waivers from State laws necessary for implementation of the plan.

Section 7 forbades the Flexibility Council from approving a plan which would result in any increase in the total amount of obligations or outlays of discretionary appropriations or direct spending under Federal financial assistance programs included in the plan. The Council shall also specify the period during with the plan is effective, not to exceed beyond the termination of this Act which is five years after enactment. This section also states that disapproval for all, or any part of the plan, shall not affect the eligibility of an applicant for benefits under any Federal program.

SECTION 8. IMPLEMENTATION OF APPROVED LOCAL FLEXIBILITY PLANS; WAIVER OF REQUIREMENTS

Section 8 requires that any funds included in a local flexibility plan be paid and administered in the manner specified in the approved local flexibility plan. This section also states that the Flexibility Council may waive any requirement applicable under Federal law to the administration of, or provision of benefits under, any covered Federal assistance program included in an approved plan if that waiver is reasonably necessary for the implementation of the plan. The Flexibility Council may not waive any requirement that does result in a qualitative reduction in services or benefits for any individual or family that is eligible for benefits under a covered Federal financial assistance program.

Section 8 forbids the Flexibility Council from waiving any requirement under title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, or the Americans with Disabilities Act of 1990.

Section 8 also calls for the head of each Federal agency to seek to provide special assistance to applicants to support implementation of an approved local flexibility plan, including expedited processing, priority funding, and technical assistance.

Section 8 states that no later than 90 days after the end of the one year period of the approval of a local flexibility plan, the local government shall submit to the Flexibility Council a report on the principal activities and achievements under the plan during the period covered by the report. The Flexibility Council may terminate a local flexibility plan if it determines that the goals and performance criteria included in the plan have not been met.

SECTION 9. COMMUNITY ADVISORY COMMITTEES

Section 9 establishes the composition and function of the Community Advisory Committees. The Community Advisory Committees shall advise the local government in developing local flexibility plans by conducting public hearings and reviewing and commenting on all actions under the plan. The composition of the committee shall consist of persons from the private and voluntary sectors, local elected officials, representatives of participating organizations, and the general public.

SECTION 10. TECHNICAL AND OTHER ASSISTANCE

Section 10 states that the Flexibility Council may provide or direct that the head of a Federal agency provide technical assistance to an applicant of a local flexibility plan.

SECTION 11. FLEXIBILITY COUNCIL

Section 11 describes the functions of the Flexibility Council. The Council shall receive, review, and approve or disapprove local flexibility plans. The Council shall also monitor the progress of development and implementation of local flexibility plans and issue regulations to implement this Act within 180 days after the date of its enactment. No later than 18 months after the date of the enactment of this Act, and annually thereafter, the Flexibility Council shall submit a report on the five Federal regulations that are most frequently waived by the Flexibility Council to the President and the Congress.

SECTION 12. REPORT

Section 12 states that no later than 54 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Congress, a report that; (1) describe the extent to which local governments have established and implemented approved local flexibility plans; (2) evaluates the effectiveness of covered Federal assistance programs included in approved local flexibility plans; and (3) includes recommendations with respect to local flexibility.

SECTION 13. CONDITIONAL TERMINATION

Section 13 repeals this Act five years after the date of enactment unless it is extended by Congress through the enactment of the resolution described in section 14.

SECTION 14. JOINT RESOLUTION FOR THE CONTINUATION AND EXPANSION OF LOCAL FLEXIBILITY PROGRAMS

Section 14 describes the resolution that shall be introduced 30 days after the Comptroller General's report is submitted which is 54 months after enactment of this Act. The resolution would continue this Act as if section 13 of this Act had been repealed.

THE OREGON OPTION

Mr. HATFIELD. Mr. President, recently the State of Oregon and several federal agencies signed a unique memorandum of understanding to create a new partnership designed to deliver government services in a better and more efficient manner. When this revolutionary partnership, called the Oregon Option, is fully implemented, Federal grants or transfers to State and local governments in Oregon will be based on results rather than compliance with regulatory procedures. Because I believe that this project has the potential to vastly improve the delivery of government services in my state and may well prove to be a national model for future partnerships between state and federal agencies, I am today introducing a sense of the Senate resolution highlighting the Federal Government's partnership in this effort.

As we all know, a great deal of time and energy is spent by our local and State agencies trying to comply with regulations set forth by all levels of government. Billions of dollars are spent on compliance rather than on providing better services to improve people's lives. The new partnership set forth in the Oregon Option will dramatically streamline and coordinate Federal, State and local regulations so that local and State governments can respond to specific problems flexibly. This flexibility will be exchanged for a transformed measurement of accountability—progress towards meeting performance goals.

In 1991, the Oregon legislature endorsed various performance goals which had been developed over several years and have become known as the Oregon Benchmarks. Benchmarks do not measure progress by such standards as the number of programs created, money expended or people served, rather, Oregon's benchmarks focus on the outcomes and goals in literally dozens of specific areas. For example, one benchmark is to increase the immunization rate for 2-year-olds in Oregon from 47 percent in 1992 to 100 percent by the year 2000. Our state agencies are judged on their ability to move towards this goal and their budget submissions reflect targeting towards this as one of the ''key'' benchmarks identified as a state priority.

Under the Oregon Option project, Federal departments will coordinate and streamline the Administration of their programs, develop an expedited waiver process with a single point of application and response, support state and local efforts to measure outcomes, provide technical assistance and develop a data system necessary to assess progress toward benchmarks. The State's role will be to deliver Federal, State, and local services in a coordinated way, in tandem with local governments. Services will be delivered at the local level, and progress towards achieving the benchmarks will be measured locally.

The initial work of the Oregon Option will focus on three clusters of human investment benchmarks: family stability, early childhood development, and workforce preparation. Immediate focuses will be reducing childhood poverty, improving access to prenatal care and increasing employment and employability of Oregonians through a statewide community based model.

The Oregon Option builds on the strengths of Federal, State, and local government. The Federal Government plays an important role in setting national goals and protecting our Nation's most needy people. However, States and local governments, I believe, are better at knowing how to develop programs to meet these goals that fit their local situation. By using policy goals and shifting success from compliance to results, the Oregon Option creates a good balance between protecting the intent and goals of Federal policy and allowing States the freedom and flexibility to find appropriate solutions to their own community problems.

My resolution is a simple endorsement of this project, for I believe it has the potential to redefine how the federal government interacts with the states. I urge my colleagues to become familiar with this model.

I ask unanimous consent that the text of the bill, as well as the memorandum of understanding and letters of support, be included in the RECORD.

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

S. 90

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 ''Worker Retraining Flexibility Act of 1995''.

SEC. 2. RETRAINING SERVICES.

Section 315(a)(2) of the Job Training Partnership Act (29 U.S.C. 1661d(a)(2)) is amended—

(1) by striking ''(2)'' and inserting ''(2)(A)''; and

(2) by striking the last 2 sentences and inserting the following new subparagraph:

''(B)(i) The Governor may grant the waiver, in whole or in part, if the substate grantee demonstrates that the waiver—

''(I) is appropriate due to the availability of low-cost retraining services;

''(II) is necessary to facilitate the provision of needs-related payments to accompany long-term training; or

''(III) is necessary to facilitate the provision of appropriate basic readjustment services.

''(ii) The Governor shall prescribe criteria for the demonstration required by clause (i).''.

SEC. 3. NEEDS-RELATED PAYMENTS AND OTHER SUPPORTIVE SERVICES.

Section 315 of the Job Training Partnership Act (29 U.S.C. 1661d) is amended—

(1) by striking subsection (b); and

(2) by redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d).

SEC. 4. NEEDS-RELATED PAYMENTS FOR FEDERAL DELIVERY OF DISLOCATED WORKER SERVICES.

Section 323 of the Job Training Partnership Act (29 U.S.C. 1662b) is amended by adding at the end the following new subsection:

''(e) NEEDS-RELATED PAYMENTS.—In making funds available from the amounts reserved for this part under section 302(a)(2) to carry out programs and activities, the Secretary may make funds available for needs-related payments described in section 314(e).

The Secretary may make such a payment to a participant in such a program or activity who, in lieu of meeting the requirements relating to enrollment in training specified in the last sentence of section 314(e)(1), is enrolled in training by the end of the sixth week after the Secretary makes the funds available for the program or activity.''.

SEC. 5. NORTHWEST ECONOMIC ADJUSTMENT INITIATIVE.

Section 323 of the Job Training Partnership Act (29 U.S.C. 1662b) (as amended by section 4) is further amended by adding at the end the following new subsection:

''(f) NORTHWEST ECONOMIC ADJUSTMENT INITIATIVE.—From the amount reserved for this part under section 302(a)(2) for each of fiscal years 1996 and 1997, the Secretary shall expend, on the basis of need as demonstrated by a State, not less than $12,000,000 to carry out the retraining of eligible dislocated workers, as described in the Interagency Memorandum of Understanding for Economic Adjustment and Community Assistance (relating to the Northwest Economic Adjustment Initiative).''.

DECEMBER 30, 1994.

Senator MARK O. HATFIELD,
U.S. Senate,
Washington, DC.

Subject: Proposed legislation: Worker Retraining Flexibility Act of 1995.

DEAR SENATOR HATFIELD: It is my great pleasure to endorse the ''Worker Retraining Flexibility Act of 1995'' which you will introduce on January 4, 1995. This legislation places the focus where it needs to be—on the dislocated worker. Too often the constraints in Federal laws and regulation hamper our ability to concentrate efforts on the person rather than on administrative requirements.

When the objective becomes the amount of funds expended for retaining as opposed to readjustment services rather than the type of service that is needed, then we must ask if we are pursuing the right purpose. These amendments to Title III of the Job Training Partnership Act will allow State and local programs to concentrate on providing the right mix of retraining and readjustment services that are indicated through individual assessment.

We have found that providing services to dislocated workers requires the ability to quickly respond to a variety of factors, e.g., timing of dislocation, the economic environment, etc., This bill goes a loan way toward building flexibility into the law and freeing up programs to provide the services necessary for the dislocated worker to succeed in reentering the workforce.

Thank you, Senator Hatfield, for your continuing interest and concern for the citizens of Oregon, in particular for those who have suffered the loss of their jobs through no fault of their own.

Sincerely,

BILL EASLY,
Program Manager, Job Training Partnership Act Administration—OEDD.

THE BONNEVILLE POWER ADMINISTRATION APPROPRIATIONS REFINANCING ACT OF 1995

Mr. HATFIELD. Mr. President, today I am introducing legislation which will end the decade-long battle to increase the electric power rates of the Bonneville Power Administration [BPA] in the Pacific Northwest. This legislation is a realistic, sensible, achievable, and scoreable deficit reduction alternative to the recently discussed absurdity of selling the Bonneville Power Administration. The legislation will resolve, once and for all, the perception by some that electric rates in the Pacific Northwest are subsidized by the Federal Government, and will discourage future proposals to raise electric rates to levels which would injure the region's economy.

The legislation is comprised of two primary elements: First, it provides for the refinancing of approximately $6.7 billion of Bonneville's low interest, appropriated debt, and replaces it with new debt that carries current market interest rates. Second, it provides an additional $100 million to the Federal Treasury, money that will be raised by BPA from its electrical customers.

In return for this arrangement, the Northwest's electrical ratepayers seek a permanent guarantee that the costs of repaying the Federal investment in the Columbia River hydroelectric system will not be altered further in the future. This is a proposal which is fair to both taxpayers and ratepayers and should be considered favorably by the Senate.

This legislation has its roots in a decade of proposals made by successive administrations to alter the repayment of the Federal investment in the nation's hydroelectric system. As budget deficits grew, a cash-starved Federal Government looked to all sources of revenue generation to produce more dollars. The power marketing administrations, which produce large sums of annual revenues, became easy targets for those who look only at the bottom line. Little or no consideration was given to the impacts on local economies or the overall impact on Federal revenues.

As each of these proposals was made, uncertainty over the future cost of electricity was created. In the Pacific Northwest, where over half the electric power consumed is marketed by the Bonneville Power Administration, these proposals cast a cloud of uncertainty over future electric power prices. Rate increases of the magnitude contemplated by the proposals would devastate the economy of the region by discouraging investment in infrastructure, including modernization of new plants and equipment, and close factories and businesses which operate on the margin, many of which were attracted to the availability of low cost hydroelectric power in the region.

I have vigorously opposed each and every one of these proposals over the years, and believe that they were, at best, misguided, if not hypocritical. Water projects throughout this country have been built with no expectation of payback by the users of the facilities. Unlike these other situations, however, in the case of hydroelectric generation, the users are paying back the investment, with interest, based on the terms agreed to at the time the investment was made. Accordingly, there is no subsidy associated with the federal power marketing program. This situation is often compared to a home mortgage. Attempting to alter unilaterally the terms of these financial arrangements years after the investment was made, based on current financial conditions, is predatory and unfair.

But, Mr./Madam President, this is politics and not business. The lure of short-term fixes to generate cash during periods of huge budget deficits will not vanish in the night. It is time, therefore, to resolve this matter and put it behind us.

A significant opportunity to ensure the stability of BPA occurred with the release of Vice-President Gore's ''National Performance Review'' [NPR]. To the Vice President's credit, the Department of Energy and others in the administration recognized that a new and realistic approach to repayment reform could be formulated. The NPR took the dramatic step of recommending the BPA debt refinancing proposal originally identified in the study developed by Bonneville and its customers. The NPR, however, also included a $100 million premium as an additional cost the BPA ratepayers would be required to pay—over and above the annual principal and interest payments on the appropriated debt.

While this premium is distasteful, it will, over the long-term, benefit the Pacific Northwest ratepayers, and is a price worth paying. In my opinion, however, the $100 million price tag is analogous to the costs a business might experience when settling litigation. But, this transfer of wealth from Pacific Northwest ratepayers to U.S. taxpayers is supportable only if it is accompanied by a long-term guarantee that there will be no future increases in the cost of repaying the federal investment in the Northwest hydroelectric system. The NPR initiative included such a guarantee.

Let me take a moment to describe the specifics of the proposal I am introducing today. The legislation will require that BPA's outstanding repayment obligations on appropriations be reconstituted by re-setting outstanding principal at the present value of the current principal and annual interest that BPA would owe to the Federal Treasury, plus $100 million. Enactment of the bill will represent agreement between Northwest ratepayers and the U.S. Government that the subsidy criticisms are resolved permanently. Interest rates on the new principal will be reassigned by using the Treasury Department's yield curve calculation. Interest rates on new investments financed by appropriations, which are now administratively set equivalent to long-term Treasury financing costs, will be required by law.

The legislation also proposes that certain credits be granted to BPA's cash transfers to the Treasury in connection with payments BPA will make under the recently enacted Confederated Tribes of the Colville Reservation Grand Coulee Settlement Act of 1994—Public Law 103–436. The United States and the Confederated Tribes of the Colville Reservation have settled

the Tribes' claims that they are entitled to a share of the power production revenues of the Grand Coulee Dam. It is my understanding that it is the administration's view that these credits, taken together with the one-time Judgment Fund payment, represent an equitable allocation of the costs of litigation settlement between BPA ratepayers and federal taxpayers. Section 9 of the legislation Public Law 103–436. This new legislation contains repayment credit provisions that are different in timing than Public Law 103–436 but would achieve the same results in terms of the present value cost to ratepayers and taxpayers. This new timing was proposed by the administration at the end of the 103d Congress.

Mr. President, the administration was exceptionally helpful in developing this legislation, and I especially appreciate the assistance provided by the Office of Management and Budget and the Department of Energy.

I ask unanimous consent that a letter, dated September 15, 1994, through which Energy Secretary Hazel O'Leary officially communicated this legislation to the Senate after months of negotiations, be placed in the RECORD along with the text of the bill and a section-by-section analysis.

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

S. 92

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 ''Bonneville Power Administration Appropriations Refinancing Act''.

SEC. 2. DEFINITIONS.

For the purposes of this Act—

(1) ''Administrator'' means the Administrator of the Bonneville Power Administration;

(2) ''capital investment'' means a capitalized cost funded by Federal appropriations that—

(A) is for a project, facility, or separable unit or feature of a project or facility;

(B) is a cost for which the Administrator is required by law to establish rates to repay to the United States Treasury through the sale of electric power, transmission, or other services;

(C) excludes a Federal irrigation investment; and

(D) excludes an investment financed by the current revenues of the Administrator or by bonds issued and sold, or authorized to be issued and sold, by the Administrator under section 13 of the Federal Columbia River Transmission System Act (16 U.S.C. 838(k));

(3) ''new capital investment'' means a capital investment for a project, facility, or separable unit or feature of a project or facility, placed in service after September 30, 1995;

(4) ''old capital investment'' means a capital investment whose capitalized cost—

(A) was incurred, but not repaid, before October 1, 1995, and

(B) was for a project, facility, or separable unit or feature of a project or facility, placed in service before October 1, 1995;

(5) ''repayment date'' means the end of the period within which the Administrator's rates are to assure the repayment of the principal amount of a capital investment; and

(6) ''Treasury rate'' means—

(A) for an old capital investment, a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding October 1, 1995, on outstanding interest-bearing obligations of the United States with periods to maturity comparable to the period between October 1, 1995, and the repayment date for the old capital investment; and

(B) for a new capital investment, a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding the beginning of the fiscal year in which the related project, facility, or separable unit or feature is placed in service, on outstanding interest-bearing obligations of the United States with periods to maturity comparable to the period between the beginning of the fiscal year and the repayment date for the new capital investment.

SEC. 3. NEW PRINCIPAL AMOUNTS.

(a) Effective October 1, 1995, an old capital investment has a new principal amount that is the sum of—

(1) the present value of the old payment amounts for the old capital investment, calculated using a discount rate equal to the Treasury rate for the old capital investment; and

(2) an amount equal to $100,000,000 multiplied by a fraction whose numerator is the principal amount of the old payment amounts for the old capital investment and whose denominator is the sum of the principal amounts of the old payment amounts for all old capital investments.

(b) With the approval of the Secretary of the Treasury based solely on consistency with this Act, the Administrator shall determine the new principal amounts under section 3 and the assignment of interest rates to the new principal amounts under section 4.

(c) For the purposes of this section, ''old payment amounts'' means, for an old capital investment, the annual interest and principal that the Administrator would have paid to the United States Treasury from October 1, 1995, if this Act were not enacted, assuming that—

(1) the principal were repaid—

(A) on the repayment date the Administrator assigned before October 1, 1993, to the old capital investment, or

(B) with respect to an old capital investment for which the Administrator has not assigned a repayment date before October 1, 1993, on a repayment date the Administrator shall assign to the old capital investment in accordance with paragraph 10(d)(1) of the version of Department of Energy Order RA 6120.2 in effect on October 1, 1993; and

(2) interest were paid—

(A) at the interest rate the Administrator assigned before October 1, 1993, to the old capital investment, or

(B) with respect to an old capital investment for which the Administrator has not assigned an interest rate before October 1, 1993, at a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding the beginning of the fiscal year in which the related project, facility, or separable unit or feature is placed in service, on outstanding interest-bearing obligations of the United States with periods to maturity comparable to the period between the beginning of the fiscal year and the repayment date for the old capital investment.

SEC. 4. INTEREST RATE FOR NEW PRINCIPAL AMOUNTS.

As of October 1, 1995, the unpaid balance on the new principal amount established for an old capital investment under section 3 bears interest annually at the Treasury rate for the old capital investment until the earlier of the date that the new principal amount is repaid or the repayment date for the new principal amount.

SEC. 5. REPAYMENT DATES.

As of October 1, 1995, the repayment date for the new principal amount established for an old capital investment under section 3 is no earlier than the repayment date for the old capital investment assumed in section 3(c)(1).

SEC. 6. PREPAYMENT LIMITATIONS.

During the period October 1, 1995, through September 30, 2000, the total new principal amounts of old capital investments, as established under section 3, that the Administrator may pay before their respective repayment dates shall not exceed $100,000,000.

SEC. 7. INTEREST RATES FOR NEW CAPITAL INVESTMENTS DURING CONSTRUCTION.

(a) The principal amount of a new capital investment includes interest in each fiscal year of construction of the related project, facility, or separable unit or feature at a rate equal to the one-year rate for the fiscal year on the sum of—

(1) construction expenditures that were made from the date construction commenced through the end of the fiscal year, and

(2) accrued interest during construction.

(b) The Administrator is not required to pay, during construction of the project, facility, or separable unit or feature, the interest calculated, accrued, and capitalized under subsection (a).

(c) For the purposes of this section, ''one-year rate'' for a fiscal year means a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding the beginning of the fiscal year, on outstanding interest-bearing obligations of the United States with periods to maturity of approximately one year.

SEC. 8. INTEREST RATES FOR NEW CAPITAL INVESTMENTS.

The unpaid balance on the principal amount of a new capital investment bears interest at the Treasury rate for the new capital investment from the date the related project, facility, or separable unit or feature is placed in service until the earlier of the date the new capital investment is repaid or the repayment date for the new capital investment.

SEC. 9. APPROPRIATED AMOUNTS.

The Confederated Tribe of the Colville Reservation Grand Coulee Dam Settlement Act (Pub. L. No. 103–436) is amended by striking section 6 and its catchline and inserting the following:

''SEC. 6. APPROPRIATED AMOUNTS.

* * * * *

''(b) For the purposes of this section—

(1) ''Settlement agreement'' means that settlement agreement between the United States of America and the Confederated Tribes of the Colville Reservation signed by the Tribes on April 16, 1994, and by the United States of America on April 21, 1994, which settlement agreement resolves claims of the Tribes in Docket 181–D of the Indian Claims Commission, which docket has been transferred to the United States Court of Federal Claims; and

(2) ''Tribes'' means the Confederated Tribes of the Colville Reservation, a federally recognized Indian Tribe.

SEC. 10. CONTRACT PROVISIONS.

In each contract of the Administrator that provides for the Administrator to sell electric power, transmission, or related services, and that is in effect after September 30, 1995, the Administrator shall offer to include, or as the case may be, shall offer to amend to

include, provisions specifying that after September 30, 1995—

(1) the Administrator shall establish rates and charges on the basis that—

(A) the principal amount of an old capital investment shall be no greater than the new principal amount established under section 3 of this Act;

(B) the interest rate applicable to the unpaid balance of the new principal amount of an old capital investment shall be no greater than the interest rate established under section 4 of this Act;

(C) any payment of principal of an old capital investment shall reduce the outstanding principal balance of the old capital investment in the amount of the payment at the time the payment is tendered; and

(D) any payment of interest on the unpaid balance of the new principal amount of an old capital investment shall be a credit against the appropriate interest account in the amount of the payment at the time the payment is tendered;

(2) apart from charges necessary to repay the new principal amount of an old capital investment as established under section 3 of this Act and to pay the interest on the principal amount under section 4 of this Act, no amount may be charged for return to the United States Treasury as repayment for or return on an old capital investment, whether by way of rate, rent, lease payment, assessment, user charge, or any other fee;

(3) amounts provided under section 1304 of title 31, United States Code, shall be available to pay, and shall be the sole source for payment of, a judgment against or settlement by the Administrator or the United States on a claim for a breach of the contract provisions required by this Act; and

(4) the contract provisions specified in this Act do not—

(A) preclude the Administrator from recovering, through rates or other means, any tax that is generally imposed on electric utilities in the United States, or

(B) affect the Administrator's authority under applicable law, including section 7(g) of the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839e(g)), to—

(i) allocate costs and benefits, including but not limited to fish and wildlife costs, to rates or resources, or

(ii) design rates.

SEC. 11. SAVINGS PROVISIONS.

(a) This Act does not affect the obligation of the Administrator to repay the principal associated with each capital investment, and to pay interest on the principal, only from the ''Administrator's net proceeds,'' as defined in section 13 of the Federal Columbia River Transmission System Act (16 U.S.C. 838k(b)).

(b) Except as provided in section 6 of this Act, this Act does not affect the authority of the Administrator to pay all or a portion of the principal amount associated with a capital investment before the repayment date for the principal amount.

THE SECRETARY OF ENERGY,
Washington, DC, September 15, 1994.

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

DEAR MR. PRESIDENT: Enclosed is proposed legislation entitled the ''Bonneville Power Administration Appropriations Refinancing Act.''

Since the early 1980's, criticism has been directed at the relatively low interest rates outstanding on many of the Federal Columbia River Power System investments funded by Federal appropriations and the flexible method used by the Bonneville Power Administration to schedule principal payments on its Federal obligations. This legislation addresses long-standing subsidy criticisms in a way that benefits the taxpayer while minimizing the impact on Bonneville's power and transmission rates.

Last fall, as part of the President's National Performance Review initiative, the Administration proposed legislation that called for Bonneville to buy out its outstanding, low interest repayment obligations on appropriations with debt that Bonneville would issue in the open market. Although the proposed legislation would have increased the present value of Bonneville's debt service payments to the U.S. Treasury, it was scored as adding to the Federal deficit because Bonneville would have incurred issuance costs and a higher rate of interest than if the buy-out were financed through the U.S. Treasury. That legislation also raised concerns that Bonneville open-market access could conflict with the Treasury's overall debt management plans.

Since last fall, Bonneville has collaborated with its customers and with other agencies in the Executive Branch to develop revised legislation that avoids the issues raised by Bonneville open-market access. The enclosed legislation calls for Bonneville's outstanding repayment on appropriations to be reconstituted by re-setting outstanding principal at the present value of the principal and annual interest that Bonneville would pay to the U.S. Treasury, plus $100 million. Interest rates on the new principal would be reassigned at current Treasury interest rates. The bill also restricts prepayments of reconstituted obligations to $100 million in the period from October 1, 1995 through September 30, 2000. Other repayment terms and conditions would remain unaffected.

Benefits to the Government of this legislation are that it provides a minimum $100 million increase in the present value of Bonneville's debt service payments to the U.S. Treasury. This increase represents agreement between ratepayers and the Government to resolve the subsidy criticisms for outstanding appropriation repayment obligations. It would reduce the Federal deficit by an estimated $45 million because Bonneville cash transfers to Treasury and rates will increase. Bonneville's customers recognize that recurring subsidy criticisms must be addressed once and for all because of the risk they pose to Bonneville's financial stability and rate competitiveness. The legislation includes assurances to ratepayers that the Government will not increase the repayment obligations in the future. The legislation will enhance the ability of Bonneville to maintain its customer base, improve its competitive position, and strengthen its ability to meet future payments to the U.S. Treasury on time and in full.

The legislation also proposes that certain appropriations be provided to Bonneville in connection with payments Bonneville would make under a proposed litigation settlement. The United States and the Confederated Tribes of the Colville Reservation propose to settle the Tribes' claims that they are entitled to a share of the power production revenues of Grand Coulee Dam. The settlement would have the Tribes dismiss the claims in return for a one-time cash payment of $53 million payable from the Judgment Fund (authorized in section 1304 of title 31, United States Code), and annual payments from Bonneville through the revenue-generating life of Grand Coulee Dam. The annual payments from Bonneville would begin at approximately $15 million in FY 1996, and escalate under provisions in the settlement. Bonneville would receive appropriations equal to 100 percent of the annual payments in each of fiscal years 1996 through 2000. In fiscal years thereafter, Bonneville would receive an appropriation equal to approximately $4 million per year. These appropriations, together with the one-time Judgment Fund payment, represent an equitable allocation of the costs of the settlement between Bonneville ratepayers and Federal taxpayers.

The Administration recently submitted Colville Settlement legislation that contains repayment credit provisions rather than the appropriation that is in the legislation being forwarded here. The appropriations in section 9 of the enclosed Bonneville Power Administration Appropriations Refinancing legislation supersede those in the Administration's Colville Settlement legislative proposal. The Administration is open to the concept of merging these two proposals in the legislative process. By the same token, because the same results associated with implementing the settlement agreement are achieved with respect to the Tribes, the Treasury, and the rate payers, we are comfortable with proceeding with the Colville debt repayment concept at this time and then enacting the Bonneville Power Administration Appropriations Refinancing Act subsequently.

The Omnibus Budget Reconciliation Act of 1990 requires that all revenue and direct spending legislation meet a pay-as-you-go requirement through fiscal year 1998. That is, no revenue and direct spending bill should result in an increase in the deficit, and if it does, it will trigger a sequester if it is not fully offset. The provisions of this legislation taken together would decrease net Federal outlays by approximately $45 million over fiscal year 1996 through fiscal year 1998.

The Office of Management and Budget advises that the enactment of this legislative proposal would be in accord with the program of the President.

Sincerely,

HAZEL R. O'LEARY.

Enclosure.

BONNEVILLE POWER ADMINISTRATION APPROPRIATIONS REFINANCING ACT SECTION-BY-SECTION ANALYSIS

INTRODUCTION

The Bonneville Power Administration (BPA) markets electric power produced by federal hydroelectric projects in the Pacific Northwest and provides electric power transmission services over certain federally-owned transmission facilities. Among other obligations, BPA establishes rates to repay to the U.S. Treasury the federal taxpayers' investments in these hydroelectric projects and transmission facilities made primarily through annual and no-year appropriations. Since the early 1980's, subsidy criticisms have been directed at the relatively low interest rates applicable to many of these Federal Columbia River Power System (FCRPS) investments. The purpose of this legislation is to resolve permanently the subsidy criticisms in a way that benefits the taxpayer while minimizing the impact of BPA's power and transmission rates.

The legislation accomplishes this purpose by resetting the principal of BPA's outstanding repayment obligations at an amount that is $100 million greater than the present value of the principal and interest BPA would have paid in the absence of this Act on the outstanding appropriated investments in the FCRPS. The interest rates applicable to the reset principal amounts are based on the U.S. Treasury's borrowing costs in effect at the time the principal is reset. The resetting of the repayment obligations is effective October 1, 1995, coincident with the beginning of BPA's next rate period.

While the Act increases BPA's repayment obligations, and consequently will increase

the rates BPA charges its ratepayers, it also provides assurance to BPA ratepayers that the Government will not further increase these obligations in the future. By eliminating the exposure to such increases, the legislation substantially improves the ability of BPA to maintain its customer base, and to make future payments to the U.S. Treasury on time and in full. Since the Act will cause both BPA's rates and its cash transfers to the U.S. Treasury to increase, it will aid in reducing the Federal budget deficit by an estimated $45 million over the current budget window.

SECTION 1. SHORT TITLE

This section sets the short title of this Act as the ''Bonneville Power Administration Appropriations Refinancing Act.''

SECTION 2. DEFINITIONS

This section contains definitions that apply to this Act.

Paragraph (1) is self-explanatory.

Paragraph (2) clarifies the repayment obligations to be affected under this Act by defining ''capital investment'' to mean a capitalized cost funded by a Federal appropriation for a project, facility, or separable unit or feature of a project or facility, provided that the investment is one for which the Administrator of the Bonneville Power Administration (Administrator or BPA) is required by law to establish rates to repay to the U.S. Treasury. The definition excludes Federal irrigation investments required by law to be repaid by the Administrator through the sale of electric power, transmission or other services, and, investments financed either by BPA current revenues or by bonds issued and sold, or authorized to be issued and sold, under section 13 of the Federal Columbia River Transmission System Act.

Paragraph (3) defines new capital investments as those capital investments that are placed in service after September 30, 1995.

Paragraph (4) defines those capital investments whose principal amounts are reset by this Act. ''Old capital investments'' are capital investments whose capitalized costs were incurred but not repaid before October 1, 1995, provided that the related project, facility, or separable unit or feature was placed in service before October 1, 1995. Thus, the capital investments whose principal amounts are reset by this Act do not include capital investments placed in service after September 30, 1995. The term ''capital investments'' is defined in section 2(2).

Paragarph (5) defines ''repayment date'' as the end of the period that the Administrator is to establish rates to repay the principal amount of a capital investment.

Paragraph (6) defines the term ''Treasury rate.'' The term Treasury rate is used to establish both the discount rates for determining the present value of the old capital investments (section 3(a)) and the interest rates that will apply to the new principal amounts of the old capital investments (section 4). The term Treasury rate is also used under section 8 in determining the interest rates that apply to new capital investments, as that term is defined.

In the case of each old capital investment, Treasury rate means a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding October 1, 1995, on outstanding interest-bearing obligations of the United States with periods to maturity comparable to the period between October 1, 1995, and the repayment date for the old capital investment. Thus, the interest rates and discount rates for old capital investments reflect the Treasury yield curve proximate to October 1, 1995. Likewise, in the case of each new capital investment, the Treasury rate means a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields during the month preceding the beginning of the fiscal year in which the related facilities are placed in service, on outstanding interest-bearing obligations of the United States with periods to maturity comparable to the period between the beginning of the fiscal year in which the related facilities are placed in service and the repayment date for the new capital investment. Thus, the interest rates for new capital investments reflect the Treasury yield curve proximate to beginning of the fiscal year in which the facilities the new capital investment concerns are placed in service.

The term Treasury rate is not to be confused with other interest rates that this Act directs the Secretary of the Treasury to determine, specifically, the short-term (one-year) interest rates to be used in calculating interest during construction of new capital investments (section 7) and the interest rates for determining the interest that would have been paid in the absence of this Act on old capital investments that are placed in service after the date of this Act but prior to October 1, 1995 (section 3(b)(2)). These latter interest rates reflect rate methodologies very similar to those specified by the term Treasury rate, but apply to different features of this Act.

It is expected that the Secretary of the Treasury will use an interest rate formulation that the Secretary uses to determine rates for federal lending and borrowing programs generally.

SECTION 3. NEW PRINCIPAL AMOUNTS

Section 3 establishes new principal amounts of the old capital investments, which the Administrator is obligated by law to establish rates to repay. These investments were made by Federal taxpayers primarily through annual appropriations and include investments financed by appropriations to the U.S. Army Corps of Engineers, the U.S. Bureau of Reclamation, and to BPA prior to implementation of the Federal Columbia River Transmission System Act. In general, the new principal amount associated with each such investment is determined (regardless of whether the obligation is for the transmission or generation function of the FCRPS) by (a) calculating the present value of the stream of principal and interest payments on the investment that the Administrator would have paid to the U.S. Treasury absent this Act and (b) adding to the principal of each investment a pro rata portion of $100 million. The new principal amount is established on a one-time-only basis. Although the new principal amounts become effective on October 1, 1995, the actual calculation of the reset principal will not occur until after October 1, 1995, because the discount rate will not be determined, and BPA's final audited financial statements will not become available, until later in that fiscal year.

As prescribed by the term ''old capital investments,'' the new principal amount is not set for appropriations-financed FCRPS investments the related facilities of which are placed in service in or after fiscal year 1996; for Federal irrigation investments required by law to be recovered by the Administrator for the sale of electric power, transmission or other services; or for investments financed by BPA current revenues or by bonds issued or sold, or authorized to be issued and sold, under section 13 of the Federal Columbia River Transmission System Act.

The discount rate used to determine the present value is the Treasury rate for the old capital investment and is identical to the interest rate that applies to the new principal amounts of the old capital investments. Thus, the Secretary of the Treasury is responsible for determining the interest rate and the discount rate assigned to each old capital investment.

The discount period for a principal amount begins on the date that the principal amount associated with an old capital investment is reset (October 1, 1995) and ends, for purposes of making the present value calculation, on the repayment dates provided in this section. The repayment dates for purposes for making the present value calculation are already assigned to almost all of the old capital investments. For old capital investments that will be placed in service after October 1, 1993, but before October 1, 1995, no such dates have been assigned. The Administrator will establish the dates for these latter investments in accordance with U.S. Department of Energy Order RA 6120.2—''Power Marketing Administration Financial Reporting,'' as in effect at the beginning of fiscal year 1994. These ideas are captured in the definition of the term ''old payment amounts.''

The interest portion of the old payment amounts is determined on the basis that the principal amount would bear interest annually until repaid at interest rates assigned by the Administrator. For almost all old capital investments, these interest rates were assigned to the capital investments prior to the effective date of this Act. (For old capital investments that are placed in service after September 30, 1993, the interest rates to be used in determining the old payment amounts will be a rate determined by the Secretary of the Treasury proximate to the beginning of the fiscal year in which the related project or facility, or the separable unit or feature of a project or facility, was placed in service. Section 3(c)(2)(B) provides the manner in which these interest rates are established.) Thus, for purposes of determining the present value of a given interest payment on a capital investment, the discount period for the payment is between October 1, 1995, and the date the interest payment would have been made.

The pro rata allocation of $100,000,000 is based on the ratio that the nominal principal amount of the old capital investment bears to the sum of the nominal principal amounts of all old capital investments. This added amount fulfills a key financial objective of the Act to provide the U.S. Treasury and Federal taxpayers with a $100,000,000 increase in the present value of BPA's principal and interest payments with respect to the old capital investments. Since the $100,000,000 is a nominal amount that bears interest at a rate equal to the discount rate, the present value of the stream of payments is necessarily increased by $100,000,000.

Paragraph (b) of section 3 provides that with the approval of the Secretary of the Treasury based solely on consistency with this Act, the Administrator shall determine the new principal amounts under section 3 and the assignment of interest rates to the new principal amounts under section 4. The Administrator will calculate the new principal amount of each old capital investment in accord with section 3 on the basis of (i) the outstanding principal amount, the interest rate and the repayment date of the related old capital investment, (ii) the discount rate provided by the Secretary of the Treasury, and (iii) for purposes of calculating the pro rata share of $100 million in each new principal amount under section 3(a)(2), the total principal amount of all old capital investments. The Administrator will provide this data to the Secretary of the Treasury so that the Secretary can approve that the calculation of each new principal amount is consistent with this section and that the assignment of the interest rate to each new

principal amount is consistent with section 4.

The approval by the Secretary of the Treasury will be completed as soon as practicable after the data on the new principal amounts and the interest rates are provided by the Administrator. It is expected that the approval by the Secretary will not require substantial time.

SECTION 4. INTEREST RATES FOR NEW PRINCIPAL AMOUNTS

Section 4 provides that the unpaid balance of the new principal amount of each old capital investment shall bear interest at the Treasury rate for the old capital investment, as determined by the Secretary of the Treasury under section 2(6)(A). The unpaid balance of each new principal amount shall bear interest at that rate until the earlier of the date the principal is repaid or the repayment date for the investment.

SECTION 5. REPAYMENT DATES

Section 5, in conjunction with the term ''repayment date'' as that term is defined in section 2(5), provides that the end of the repayment period for each new principal amount for an old capital investment shall be no earlier than the repayment date in making the present value calculations in section 3. Under existing law, the Administrator is obligated to establish rates to repay capital investments within a reasonable number of years. Section 5 confirms that the Administrator retains this obligation notwithstanding the enactment of this Act.

SECTION 6. PREPAYMENT LIMITATIONS

Section 6 places a cap on the Administrator's authority to prepay the new principal amounts of old capital investments. During the period October 1, 1995 through September 30, 2000, the Administrator may pay the new principal amounts of old capital investments before their respective repayment dates provided that the total of the prepayments during the period does not exceed $100,000,000.

SECTION 7. INTEREST RATES FOR NEW CAPITAL INVESTMENTS DURING CONSTRUCTION

Section 7 establishes in statute a key element of the repayment practices relating to new capital investments. Section 7 provides the interest rates for determining the interest during construction of these facilities. For each fiscal year of construction, the Secretary of the Treasury determines a short-term interest rate upon which that fiscal year's interest during construction is based. The short-term interest rate for a given fiscal year applies to the sum of (a) the cumulative construction expenditures made from the start of construction through the end of the subject fiscal year, and (b) interest during construction that has accrued prior to the end of the subject fiscal year. The short-term rate for the subject fiscal year is set by the Secretary of the Treasury taking into consideration the prevailing market yields on outstanding obligations of the United States with periods to maturity of approximately one year. These ideas are included in the definition of the term ''one-year rate.''

This method of calculating interest during construction equates to common construction financing practice. In this practice, construction is funded by rolling, short-term debt which, upon completion of construction, is finally rolled over into long-term debt that spans the expected useful life of the facility constructed. Accordingly, section 7 provides that amounts for interest during construction shall be included in the principal amount of a new capital investment. Thus, the Administrator's obligation with respect to the payment of this interest arises when construction is complete, at which point the interest during construction is included in the principal amount of the capital investment.

SECTION 8. INTEREST RATES FOR NEW CAPITAL INVESTMENTS

Section 8 establishes in statute an important component of BPA's repayment practice, that is, the methodology for determining the interest rates for new capital investments. Heretofore, administrative policies and practice established the interest rates applicable to capital investments as a long-term Treasury interest rate in effect at the time construction commenced on the related facilities. By contrast, section 8 provides that the interest rate assigned to capital investments made in a project, facility, or separable unit or feature of a project or facility, provided it is placed in service after September 30, 1995, is a rate that more accurately reflects the repayment period for the capital investment and interest rates at the time the related facility is placed in service. The interest rate applicable to these capital investments is the Treasury rate, as defined in section 2(6)(B). Each of these investments would bear interest at the rate as assigned until the earlier of the date it is repaid or the end of its repayment period.

SECTION 9. APPROPRIATED AMOUNTS

Pursuant to the settlement agreement with the Tribes, the Administrator is obligated to pay amounts to the Tribes so long as Grand Coulee Dam produces electric power. Section 9 appropriates certain amounts to the Administrator. (The definitions of Tribes and Settlement Agreements are found in paragraph (b) of section 9). In effect, the appropriations partially offset the Bonneville rate impacts of the annual payments by the Administrator to the Tribes under the settlement agreement. Thus, the taxpayers, through the appropriated amounts under section 9 and amounts that are to be paid from the judgment fund to the Tribes under the settlement agreement, and Bonneville's ratepayers, through the Administrator's obligation to pay annual amounts under the settlement agreement, each bear an equitable share of the costs of the settlement.

Although the amounts appropriated to the Administrator in section 9 are made in connection with the settlement agreement, the Administrator may obligate against these amounts for any authorized purpose of the Administrator. In addition, these amounts are made available without fiscal year limitation, meaning that the amounts remain available to the Administrator until expended. In this manner the amounts appropriated under section 9 are the equivalent of other amounts available in the Bonneville fund and constitute an ''appropriation by Congress for the fund'' within the meaning of section 11(a)(3) of the Federal Columbia River Transmission System Act (16 U.S.C.S. 838i(a)(3)).

SECTION 10. CONTRACT PROVISIONS

Section 10 is intended to capture in contract the purpose of this legislation to permanently resolve issues relating to the repayment obligations of BPA's customers associated with an old capital investment. With regard to such investments, paragraph (1) of section 10 requires that the Administrator offer to include in power and transmission contracts terms that prevent the Administrator from recovering and returning to the U.S. Treasury any return of the capital investments other than the interest payments or principal repayments authorized by this Act. Paragraph (1) of section 10 also provides assurance to ratepayers that outstanding principal and interest associated with each old capital investment, the principal of which is reset in this legislation, shall be credited in the amount of any payment in satisfaction thereof at the time the payment is tendered. This provision assures that payments of principal and interest will in fact satisfy principal and interest payable on these capital investments.

Whereas paragraph (1) of section 10 limits the return to the U.S. Treasury of the Federal investments in the designated projects and facilities, together with interest thereon, paragraph (2) of section 10 requires the Administrator to offer to include in contracts terms that prevent the Administrator from recovering and returning to the U.S. Treasury any additional return on those old capital investments. Thus, the Administrator may not impose a charge, rent or other fee for such investments, either while they are being repaid or after they have been repaid. Paragraph (2) of section 10 also contractually fixes the interest obligation on the new principal obligation at the amount determined pursuant to section 4 of this Act.

Paragraph (3) of section 10 is intended to assure BPA ratepayers that the contract provisions described in paragraphs (1) and (2) of section 10 are not indirectly circumvented by requiring BPA ratepayers to bear through BPA rates the cost of a judgment or settlement for breach of the contract provisions. The subsection also confirms that the judgment fund shall be available to pay, and shall be the sole source for payment of, a judgment against or settlement by the Administrator or the United States on a claim for a violation of the contract provisions required by section 10. Section 1304 of title 31, United States Code, is a continuing, indefinite appropriation to pay judgments rendered against the United States, provided that payment of the judgment is ''not otherwise provided for.'' Paragraph 3 of section 10 of this Act assures both that the Bonneville fund, described in section 838 of title 16, United States Code, shall not be available to pay a judgment or settlement for breach by the United States of the contract provisions required by section 10 of this Act, and that no appropriation, other than the judgment fund, is available to pay such a judgment.

Paragraph (4)(A) of section 10 establishes that the contract protections required by section 10 of this Act do not extend to Bonneville's recovering a tax that is generally applicable to electric utilities, whether the recovery by Bonneville is made through its rates or by other means.

Paragraph (4)(B) of section 10 makes clear that the contract terms described above are in no way intended to alter the Administrator's current rate design discretion or ratemaking authority to recover other costs or allocate costs and benefits. This Act, including the contract provisions under section 10, does not preclude the Administrator from recovering any other costs such as general overhead, operations and maintenance, fish and wildlife, conservation, risk mitigation, modifications, additions, improvements, and replacements to facilities, and other costs properly allocable to a rate or resource.

SECTION 11. SAVINGS PROVISIONS

Subsection (a) of this section assures that the principal and interest payments by the Administrator as established in this Act shall be paid only from the Administrator's net proceeds.

Subsection (b) confirms that the Administrator may repay all or a portion of the principal associated with a capital investment before the end of its repayment period, except as limited by section 6 of this Act.

THE ECOSYSTEM MANAGEMENT ACT OF 1995

Mr. HATFIELD. Mr. President, the last proposal I will introduce today relates to the ecosystem management

and watershed protection. These are the ''buzz words'' for a new generation of land management philosophies and techniques. A number of federal land management agencies are now working to implement ecosystem management on a landscape levels, including the Bureau of Land Management, the Forest Service and the Bureau of Reclamation.

In 1992 the BLM released its Resource Management Plans for Western Oregon which developed the first comprehensive strategy for management of forest ecosystems and watersheds in the nation. Since that time, the Forest Service and Interior Department joined in the act with the development of the Forest Ecosystem Management Assessment Team report, better known as Option 9, for the forest ecosystems of the Pacific Northwest. In addition, Interior is continually working on Ecosystem management plans for other areas of the nation, such as the Florida Everglades and the area inhabited by the Southern California gnatcatcher.

While this work is admirable and perhaps necessary in the evolution of land management policy, a great deal of apprehension and concern still surrounds this method of managing our water, air, land and fish and wildlife resources on a comprehensive scale. As keepers of the taxpayers' purse strings, Congress is required to provide the funding to allow the agencies to engage in this type of management.

Unfortunately, we as legislators and appropriators understand little about this new and innovative land management technique. Each federal government agency, state agency, interest group and Congress-person has his or her own idea of what ecosystem management means for the people and ecology of their particular state or region. As appropriators, we are required to fund these actions with little more than faith that the agencies' recommendations are based on sound science and a firm understanding of the needs of ecosystems and the people who live there.

Numerous additional questions surround not only the integrity but the functionality of the ecosystem management boat we have already launched. For example, what is ecosystem management, how should it be implemented and who should be implementing it? How does the ecosystem oriented work of the federal agencies, states, municipalities, counties, and interest groups mesh? And is the existing structure of our government agencies adequate to meet the requirements of managing land across which state and county lines have been drawn? Finally, with a decreasing resource production receipt base, how shall we pay for ecosystem management? Direct federal appropriations? Consolidation of federal, state, local and private funds? And if we determine how to pay for ecosystem management, who coordinates collection of these funds and how are they distributed?

I do not disagree with the theory that holistic, coordinated management of our natural resources is necessary. On the contrary, I and many of my Senate colleagues are prepared to move in that direction. It makes eminent sense to manage resources by the natural evolution of river basins and watersheds rather than according to the artificial boundaries established by counties, states and nations. Nevertheless, as our nation's funding resources become more scarce and our government agencies, states, localities and private interests seek to coordinate their ecosystem restoration efforts, Congress and the Executive Branch need to avail themselves of the best information in order to make educated, informed decisions about how ecosystem management will affect our nation's people environment and federal budget.

To help answer these questions, I am introducing legislation today to create an Ecosystem Management Study Commission. This bipartisan Commission will be composed of the Chairman and Ranking Minority members of following Senate committees: Energy and Natural Resources; Appropriations; Interior and Related Agencies Subcommittee of Appropriations; and the Public Lands, National Parks and Forests Subcommittee of Energy and Natural Resources. In addition, Chairman and Ranking Members from the following House committees will also serve: Committee on Resources; Appropriations; Interior Subcommittee of Appropriations; and the National Parks, Forests and Public Lands Subcommittee of the Committee on Resources.

The Commission will submit a report to Congress 1 year after enactment which: Defines ecosystem management; Identifies constraints and opportunities for coordinated ecosystem planning; examines existing laws and Federal agency budgets to determine whether any changes are necessary to facilitate ecosystem management; Identifies incentives, such as trust funds, to encourage parties to engage in the development of ecosystem management strategies; and identifies, through case studies representing different regions of the United States, opportunities for and constraints on ecosystem management.

To assist the Ecosystem Study Commission with its report, a 13-member Advisory Committee will be appointed by the Secretary of the Interior, and would include 2 tribal nominees, 3 nominees from the Western Governors Association, 2 members of conservation groups, 2 members from industry, 2 members from professional societies familiar with ecosystem management, and 2 members of the legal community.

I expect this Commission and its Advisory Committee to build the base of knowledge and data surrounding ecosystem management that we in Congress so desperately need in order to make intelligent, informed decisions on legislative and funding issues relating to ecosystem management. At the very least, this exercise will bring people and groups together who often find themselves in adversarial positions on natural resource management issues, much as the Northwest Salmon Summit did back in 1990 with environmental, State, and industry interests.

It is time to look beyond the polarized positions of ''economic growth'' and ''environmental protection'' which have crippled our system of land management planning and implementation in recent years. Instead we must work toward the creation of cooperative, regionally-based, incentive-driven planning for the management of our water, air, land and fish and wildlife resources in perpetuity.

The quest for ecosystem management becomes even more urgent as we realize that the world's population will double from 5.5 to 11 billion people over the next 40 years, and the resources to support those people will come under increasing demand, especially as they become more scarce. We have learned since childhood that food, water, shelter, and clothing are basic to human survival on this planet. Equally important is a clean environment, healthy ecosystems and an understanding of their interdependence and integrated nature. This knowledge is crucial for the de-polarization of our current land management framework and to the re-empowerment of our citizens with the task of preserving the health and welfare of the river basins and watersheds in which the future generations of their families will live and work.

I urge my colleagues to join me in paving the way for a greater understanding of ecosystems, their dependent parts and the tools necessary to implement true, on-the-ground ecosystem management for the good of both our human and our natural resources. I am not wedded to this particular approach of accomplishing a greater understanding of ecosystems. My purpose in introducing this legislation today is to underscore the importance of this issue and to foster much needed debate in relation to it. I look forward to working with my colleagues here in Congress, the Administration, and private groups on constructive proposals to enhance our understanding of ecosystem management.

I ask unanimous consent that the text of the bill and a section-by-section analysis be printed in the RECORD.

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

S. 93

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 ''Ecosystem Management Act of 1995''.

SEC. 2. ECOSYSTEM MANAGEMENT.

(a) DEFINITIONS.—Section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702) is amended by adding at the end the following new subsections:

''(q) The term 'Indian tribe' means any Indian tribe, band, nation, or other organized

group or community (including any Alaska Native village or Regional Corporation established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)) that is recognized as eligible for the special services provided by the United States to Indians because of their status as Indians.

''(r) The term 'systems approach', with respect to an ecosystem, means an interdisciplinary scientific method of analyzing the ecosystem as a whole that takes into account the interconnections of the ecosystem.

''(s) The term 'tribal organization' has the meaning given such term in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(l)).''.

(b) ECOSYSTEM MANAGEMENT.—Title II of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1711 et seq.) is amended by adding at the end the following new sections:

''ECOSYSTEM MANAGEMENT

''SEC. 216. It is the policy of the Federal Government to carry out ecosystem management with respect to public lands in accordance with the following principles:

''(1) Human populations form an integral part of ecosystems.

''(2) It is important to address human needs in the context of other environmental attributes—

''(A) in recognition of the dependency of human economies on viable ecosystems; and

''(B) in order to ensure diverse, healthy, productive, and sustainable ecosystems.

''(3) A systems approach to ecosystem management furthers the goal of conserving biodiversity.

''(4) Ecosystem management provides for the following:

''(A) The promotion of the stewardship of natural resources.

''(B) The formation of partnerships of public and private interests to achieve shared goals for the stewardship of natural resources.

''(C) The promotion of public participation in decisions and activities related to the stewardship of natural resources.

''(D) The use of the best available scientific knowledge and technology to achieve the stewardship of natural resources.

''(E) The establishment of cooperative planning and management activities to protect and manage ecosystems that cross jurisdictional boundaries.

''(F) The implementation of cooperative, coordinated planning activities among Federal, tribal, State, local, and private landowners.

''ECOSYSTEM MANAGEMENT COMMISSION

''SEC. 217. (a) ESTABLISHMENT.—There is established an Ecosystem Management Commission (referred to in this section as the 'Commission').

''(b) PURPOSES OF THE COMMISSION.—The purposes of the Commission are as follows:

''(1) To advise the Secretary and Congress concerning policies relating to ecosystem management on public lands.

''(2) To examine opportunities for and constraints on achieving cooperative and coordinated ecosystem management strategies that provide for cooperation between the Federal Government and Indian tribes, States and political subdivisions of States, and private landowners to incorporate a multijurisdictional approach to ecosystem management.

''(c) MEMBERS.—The Commission shall consist of the following 16 individuals:

''(1) From the Committee on Energy and Natural Resources of the Senate:

''(A) The Chairman (or a designee of the Chairman) and the Ranking Minority Member (or a designee of the Member).

''(B) The Chairman (or a designee of the Chairman) and the Ranking Minority Member (or a designee of the Member) of the Subcommittee on Public Lands, National Parks and Forests.

''(2) From the Committee on Appropriations of the Senate:

''(A) The Chairman (or a designee of the Chairman) and the Ranking Minority Member (or a designee of the Member).

''(B) The Chairman (or a designee of the Chairman) and the Ranking Minority Member (or a designee of the Member) of the Subcommittee on Interior and Related Agencies.

''(3) From the Committee on Natural Resources of the House of Representatives:

''(A) The Chairman (or a designee of the Chairman) and the Ranking Minority Member (or a designee of the Member).

''(B) The Chairman (or a designee of the Chairman) and the Ranking Minority Member (or a designee of the Member) of the Subcommittee on National Parks, Forests, and Public Lands.

''(4) From the Committee on Appropriations of the House of Representatives:

''(A) The Chairman (or a designee of the Chairman) and the Ranking Minority Member (or a designee of the Member).

''(B) The Chairman (or a designee of the Chairman) and the Ranking Minority Member (or a designee of the Member) of the Subcommittee on Interior.

''(d) CHAIRMAN.—The Commission shall elect a Chairman from among the members of the Commission.

''(e) DUTIES OF THE COMMISSION.—The duties of the Commission are as follows:

''(1) To conduct studies to accomplish the following:

''(A) To develop, in a manner consistent with section 216, a definition of the term 'ecosystem management'.

''(B) To identify appropriate geographic scales for coordinated ecosystem-based planning.

''(C) To identify, with respect to the Federal Government, the governments of Indian tribes, States and political subdivisions of States, and private landowners, constraints on, and opportunities for, ecosystem management in order to facilitate the coordination of planning activities for ecosystem management among the governments and private landowners.

''(D) To identify strategies for implementing ecosystem management that recognize the following:

''(i) The role of human populations in the operation of ecosystems.

''(ii) The dependency of human populations on sustainable ecosystems for the production of goods and the provision of services.

''(E) To examine this Act, and each other Federal law or policy that directly or indirectly affects the management of public lands, including Federal lands that have been withdrawn from the public domain, to determine whether any legislation or changes to administrative policies, practices, or procedures are necessary to facilitate ecosystem management by the Federal Government in accordance with section 216.

''(F) To examine the budget and operation of each Federal department or agency with responsibilities related to ecosystem management to determine whether changes are needed to facilitate ecosystem management.

''(G) To identify incentives, such as trust funds, to encourage Indian tribes, States and political subdivisions of States, and private landowners to assist the Federal Government in the development of ecosystem management strategies.

''(H) To identify disincentives that may be used to discourage the entities described in subparagraph (G) from refusing to assist the Federal Government in the development of ecosystem management strategies.

''(I) To determine the necessity for one or more governmental entities—

''(i) to establish a new river basin commission or other regional entity,

''(ii) to enter into a new interstate compact, or

''(iii) to take any other related action,

in order to facilitate the implementation of ecosystem management and to ensure the coordination of planning activities with other governmental entities in a manner consistent with section 216 and this section.

''(J) To identify, through the use of case studies that represent different regions of the United States (including the Columbia River Basin in the Western United States and the New York-New Jersey Highlands area in the Eastern United States), opportunities for and constraints on the coordination of planning activities of the Federal Government, Indian tribes, State governments, and the governments of political subdivisions of States, and private landowners to accomplish the following:

''(i) To implement ecosystem management.

''(ii) To serve as a framework for cooperative planning efforts across the United States.

''(2) To develop recommendations concerning the findings of the studies described in paragraph (1).

''(3) To submit to Congress and the Secretary, not later than 1 year after the date of enactment of this section, a report that contains the findings of the studies conducted pursuant paragraph (1) and the recommendations developed pursuant to paragraph (2).

''(f) MEETINGS.—

''(1) Not later than 180 days after the date of enactment of this section, the Commission shall hold its initial meeting.

''(2) Subsequent meetings shall be held at the call of the Chairman.

''(g) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

''(h) POWERS OF THE COMMISSION .—(1) The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers appropriate to carry out this section.

''(2) The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the duties of the Commission, specified in subsection (e). Upon request of the Chairman of the Commission, the head of such Federal department or agency shall furnish such information to the Commission.

''(3) The Commission may use the United States mails in the same manner and under the same conditions as other Federal departments or agencies.

''(4) The Commission may accept, use, and dispose of gifts or donations of services or property.

''(i) PERSONNEL AND SERVICES.—The Secretary shall detail without reimbursement such personnel, and provide such services without reimbursement to the Commission as the Commission may require to carry out the duties specified in subsection (e). An employee of the Federal Government detailed to the Commission under this subsection shall serve without interruption or loss of civil service status or privilege.

''(j) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from

their homes or regular places of business in the performance of services for the Commission.

''(k) ADVISORY COMMITTEE.—(1) Not later than 90 days after the date of enactment of this section, the Secretary shall establish an Ecosystem Management Advisory Committee (referred to in this section as the 'Advisory Committee') to assist the Commission in preparing and reviewing the report required by subsection (e)(3).

''(2) The Secretary shall appoint 13 members to the Advisory Committee by the date specified in paragraph (1) as follows:

''(A) Two members shall be selected from nominations submitted by tribal organizations located in States that have a significant amount of public lands (as determined by the Secretary).

''(B) Three members shall be officials of a government of a State or political subdivision of a State or a community organization (as determined by the Secretary) selected from nominations from the Governors of States described in subparagraph (A) or from the Western Governors Association.

''(C) Two members shall be representatives of conservation groups who have substantial experience and expertise in public land policies.

''(D) Two members shall be representatives of industrial concerns who have substantial experience and expertise in public land policies.

''(E) Two members shall be representatives of scientific or professional societies who are familiar with the concept of ecosystem management.

''(F) Two members shall be representatives from the legal community with recognized legal expertise in the areas of—

''(i) constitutional or land use law; and

''(ii) public land policy.

''(3) The Advisory Committee shall select a Chairman from among the members of the Advisory Committee.

''(4) The Advisory Committee shall hold an initial meeting not later than 30 days after the Commission holds its initial meeting pursuant to subsection (f)(1). Subsequent meetings shall be held at the call of the Chairman.

''(5) The Advisory Committee shall have same authorities granted to the Commission under paragraphs (1) through (4) of subsection (h).

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

''(l) TERMINATION OF COMMISSION AND ADVISORY COMMITTEE.—The Commission and Advisory Committee shall terminate on the date that is 30 days after the Commission submits a report to the Secretary and to Congress under subsection (e)(3).

''(m) EXEMPTION FROM FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission or to the Advisory Committee.

''(n) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of the Interior $3,000,000 to carry out this section.''.

SEC. 3. CONFORMING AMENDMENTS.

(a) AMENDMENT TO TABLE OF CONTENTS.—The table of contents at the beginning of the Federal Land Policy and Management Act of 1976 is amended by adding at the end of the items relating to title II the following new items:

''Sec. 215. Authority with respect to certain withdrawals.
''Sec. 216. Ecosystem management.
''Sec. 217. Ecosystem Management Commission.''.

(b) TECHNICAL AMENDMENT.—Before section 215 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1723) insert the following new heading:

''AUTHORITY WITH RESPECT TO CERTAIN WITHDRAWALS''.

OUTLINE AND SECTION-BY-SECTION ANALYSIS

AMENDS TITLE II OF THE FEDERAL LANDS AND POLICY MANAGEMENT ACT OF 1976

I. PRINCIPLES: Set Ecosystem Management principles, including: A recognition of human needs; The need for partnerships and cooperation between public and private interests; The importance of resource stewardship; The importance of public participation; The need for the use of the best available science.

II. COMMISSION: Establish an Ecosystem Management Commission to:

A. Advise the Secretary and Congress concerning policies relating to ecosystem management on public lands;

B. Examine opportunities for and constraints on achieving cooperative and coordinated ecosystem management strategies between the Federal Government, Indian tribes, states, and private landowners.

III. MEMBERSHIP: Membership of the Commission includes the Chairman and Ranking Members from the following Congressional committees:

SENATE: Energy and Natural Resources Committee; Public Lands, National Parks and Forests Subcommittee of the Senate Energy Committee; Appropriations Committee; Interior and Related Agencies Subcommittee of the Appropriations Committee.

HOUSE: Natural Resources Committee; Subcommittee on National Parks, Forests and Public Lands of the Natural Resources Committee; Appropriations Committee; Interior Subcommittee of the Appropriations Committee.

IV. REPORT: The Commission shall submit a report to Congress with recommendations one year after enactment which:

1. Defines ''ecosystem management;''

2. Identifies constraints on and opportunities for coordinated ecosystem planning;

3. Examines existing laws and federal agency budgets affecting public lands management to determine whether any changes are necessary to facilitate ecosystem management;

4. Identifies incentives, such as trust funds, to encourage parties to engage in the development of ecosystem management strategies;

5. Identifies, through case studies that represent different regions of the U.S., opportunities for and constraints on ecosystem management.

V. ADVISORY COMMITTEE: An Advisory Committee shall be appointed to assist the Commission not later than 90 days after enactment. Members of the Advisory Committee shall include 13 members appointed by the Secretary of the Interior:

Two tribal nominees;

Three nominees from the Western Governors Association;

Two members of conservation groups;

Two members from industry with public lands concerns;

Two members professional societies familiar with the concept of ecosystem management;

Two members of the legal community.

VI. APPROPRIATIONS: Authorized appropriations are $3 million.

HEALTH CARE

Mr. HATFIELD. Finally Mr. President, I would like to take this opportunity to remind my colleagues of where we ended the 103d Congress—on an issue near and dear to all of us,—health care. At the end of last session, when it became apparent that comprehensive health care reform would not pass, I joined my colleague Senator GRAHAM of Florida in introducing a health care reform proposal with a different approach—the Health Innovation Partnership Act. Rather than federalizing health care, this bill would encourage the States to innovate and help build the best approaches to addressing our health care problems—a return to federalism.

The purpose of this bill is to give States incentives to innovate in the area of health care by simplifying and expediting the waiver process and providing limited Federal funding to assist them in meeting three Federal goals. These goals are: expanding access, controlling costs, and maintaining quality health care.

I mention this today because I see the Health Innovation Partnership Act as the cornerstone of my flexibility agenda and I intend to join Senator GRAHAM in introducing this bill again by the end of the month. Also included within this bill is another of my major priorities which I will reintroduce—the national fund for health research. With the focus now on other issues, the problems of our health care system have fallen from attention. However, the problems have not gone away. Now more than ever, it is critical for us to lift the roadblocks to State reform and allow States to continue to build the database for appropriate national reform. I will continue to push for reform at every possible opportunity.

Mr. President, let me close my remarks with simple note—anything worth achieving is worth working for. Meaningful policy change is difficult and yet, once accomplished, well worth every ounce of effort. I hope this Congress will nurture a reasoned dialogue about the many policy challenges which face our country. I come from a State with a long tradition of involving its citizens in their Government—as long as I continue to stand as their representative, I will do all that I can to insure that this Congress is one of the most productive in history.

And that is building from the people up rather than trying to impose the will of Congress and the Federal Government down on the people.

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

S. 96. A bill to amend the Public Health Service Act to provide for the conduct of expanded studies and the establishment of innovative programs with respect to traumatic brain injury, and for other purposes; to the Committee on Labor and Human Resources.

THE TRAUMATIC BRAIN INJURY ACT

Mr. HATCH. Mr. President, as we begin the 104th Congress I feel it is imperative that we complete the process of approving the Traumatic Brain Injury Act, S. 725 during the previous Congress. I regret that we were unable to pass this important legislation in the 103d Congress. I have the pleasure of reintroducing this legislation with Senator KENNEDY. Our colleague Representative GREENWOOD is introducing a companion measure on the House side today.

Sustaining a traumatic brain injury can be both catastrophic and devastating. The financial and emotional costs to the individual, family, and community are enormous. Traumatic brain injury is the leading cause of death and disability among Americans under the age of 35. In the State of Utah, for example, the mean affected age is 28, which often is the beginning of an individual's maximum productivity.

There are 8 million Americans who currently suffer form traumatic brain injuries with an annual incidence rate of over 2 million. Over 500,000 individuals require hospitalization for such injuries and resultant medical and surgical complications. The statistics are even more revealing when you consider that every 15 seconds someone receives a head injury in the U.S.; every 5 minutes, one of these people will die and another will become permanently disabled. Of those who survive, each year, approximately 70,000 to 90,000 will endure lifelong debilitating loss of function. An additional 2,000 will exist in a persistent vegetative state.

With the passage of the Traumatic Brian Injury Act will come the authorization for research, not only for the treatment of TBI, but also for prevention and awareness programs which will help decrease the occurrence of traumatic brain injury and improve the long-term outcome.

This measure will authorize the Centers for Disease Control and Prevention to conduct projects to reduce the incidence of traumatic brain injury.

It will provide matching grants to the states through the Health Resources and Services Administration for demonstration projects to improve access to health and other services regarding traumatic brain injury.

The bill will provide for an HHS study evaluating the number of factors relating to traumatic brain injury and for a national consensus conference on traumatic brain injury.

Additionally, the bill will address the causes, consequences, and costs of the sequelae for traumatic brain injury. A comprehensive uniformed reporting system will be developed for hospitals, State and local health-related agencies. Practice guidelines, prevention projects, and outcome studies are all integral parts of the TBI Act.

A survivor of a severe brain injury typically faces 5 to 10 years of intensive services and estimated lifetime costs can exceed $4 million. The economic costs for traumatic brain injury alone approach $25 billion per year.

Mr. President, this legislation can provide the mechanism for the prevention, treatment and the improvement of the quality of life for those Americans and their families who may sustain such a devastating disability. I ask my colleagues' support in speedily enacting the Traumatic Brain Injury Act.

Mr. KENNEDY. Mr. President. Each year 2 million persons suffer serious head injuries, and nearly one hundred thousand die. Such injuries are the leading cause of death and disability among young Americans in the 15–24 year age group. For survivors, the picture is often grim. Tens of thousands suffer irreversible, debilitating lifelong impairments.

Medical treatment, rehabilitative efforts and disability payments for such injuries are as high as $25 billion a year. The cost to society is heavy, and emotional and financial burden for families is often unbearable.

In 1988, Congress recommended that the Secretary of Health and Human Services establish an Interagency Head Injury Task Force to identify gaps in research, training, medical management, and rehabilitation. This legislation responds to the prevention, research, and service needs identified by the Task Force.

This bill will promote coordination in the delivery system and assure greater access to services for victims suffering from the disabling consequences of these injuries. By improving the quality of care, we can reduce severely the disabling effects and reduce the heavy toll from these injuries.

The best treatment, however, is still prevention. More effective strategies to avert these injuries are critical. The community education programs established under this bill, will broaden public awareness and encourage prevention.

Finally, other provisions in this legislation will authorize the Centers for Disease Control and Prevention to develop effective strategies for reducing the incidence of traumatic brain injury and to expand biomedical research activities at the National Institutes of Health.

This measure has great potential for saving lives, reducing disabilities and reducing health care costs and I urge my colleagues to support Traumatic Brain Injury Act.

I ask that the text of this bill be included in the RECORD.

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

S. 96

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

SECTION 1. PROGRAMS OF CENTERS FOR DISEASE CONTROL AND PREVENTION.

Part B of title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by inserting after section 317F the following section:

''PREVENTION OF TRAUMATIC BRAIN INJURY

''SEC. 317G. The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may carry out projects to reduce the incidence of traumatic brain injury. Such projects may be carried out by the Secretary directly or through awards of grants or contracts to public or nonprofit private entities. The Secretary may directly or through such awards provide technical assistance with respect to the planning, development, and operation of such projects.

''(b) CERTAIN ACTIVITIES.—Activities under subsection (a) may include—

''(1) the conduct of research into identifying effective strategies for the prevention of traumatic brain injury; and

''(2) the implementation of public information and education programs for the prevention of such injury and for broadening the awareness of the public concerning the public health consequences of such injury.

''(c) COORDINATION OF ACTIVITIES.—The Secretary shall ensure that activities under this section are coordinated as appropriate with other agencies of the Public Health Service that carry out activities regarding traumatic brain injury.

''(d) DEFINITION.—For purposes of this section, the term 'traumatic brain injury' means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to near drowning. The Secretary may revise the definition of such term as the Secretary determines necessary.''.

SEC. 2. PROGRAMS OF NATIONAL INSTITUTES OF HEALTH.

Section 1261 of the Public Health Service Act (42 U.S.C. 300d-61) is amended—

(1) in subsection (d)—

(A) in paragraph (2), by striking ''and'' after the semicolon at the end;

(B) in paragraph (3), by striking the period and inserting ''; and''; and

(C) by adding at the end the following paragraph:

''(4) the authority to make awards of grants or contracts to public or nonprofit private entities for the conduct of basic and applied research regarding traumatic brain injury, which research may include—

''(A) the development of new methods and modalities for the more effective diagnosis, measurement of degree of injury, post-injury monitoring and prognostic assessment of head injury for acute, subacute and later phases of care;

''(B) the development, modification and evaluation of therapies that retard, prevent or reverse brain damage after acute head injury, that arrest further deterioration following injury and that provide the restitution of function for individuals with long-term injuries;

''(C) the development of research on a continuum of care from acute care through rehabilitation, designed, to the extent practicable, to integrate rehabilitation and long-term outcome evaluation with acute care research; and

''(D) the development of programs that increase the participation of academic centers of excellence in head injury treatment and rehabilitation research and training.''; and

(2) in subsection (h), by adding at the end the following paragraph:

''(4) The term 'traumatic brain injury' means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to near drowning. The Secretary may revise the definition of such term as the Secretary determines necessary.''.

SEC. 3. PROGRAMS OF HEALTH RESOURCES AND SERVICES ADMINISTRATION.

Part E of title XII of the Public Health Service Act (42 U.S.C. 300d-51 et seq.) is amended by adding at the end the following section:

"SEC. 1252. STATE GRANTS FOR DEMONSTRATION PROJECTS REGARDING TRAUMATIC BRAIN INJURY.

''(a) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may make grants to States for the purpose of carrying out demonstration projects to improve access to health and other services regarding traumatic brain injury.

''(b) STATE ADVISORY BOARD.—

''(1) IN GENERAL.—The Secretary may make a grant under subsection (a) only if the State involved agrees to establish an advisory board within the appropriate health department of the State or within another department as designated by the chief executive officer of the State.

''(2) FUNCTIONS.—An advisory board established under paragraph (1) shall advise and make recommendations to the State on ways to improve services coordination regarding traumatic brain injury. Such advisory boards shall encourage citizen participation through the establishment of public hearings and other types of community outreach programs.

''(3) COMPOSITION.—An advisory board established under paragraph (1) shall be composed of—

''(A) representatives of—

''(i) the corresponding State agencies involved;

''(ii) public and nonprofit private health related organizations;

''(iii) other disability advisory or planning groups within the State;

''(iv) members of an organization or foundation representing traumatic brain injury survivors in that State; and

''(v) injury control programs at the State or local level if such programs exist; and

''(B) a substantial number of individuals who are survivors of traumatic brain injury, or the family members of such individuals.

''(c) MATCHING FUNDS.—

''(1) IN GENERAL.—With respect to the costs to be incurred by a State in carrying out the purpose described in subsection (a), the Secretary may make a grant under such subsection only if the State agrees to make available, in cash, non-Federal contributions toward such costs in an amount that is not less than $1 for each $2 of Federal funds provided under the grant.

''(2) DETERMINATION OF AMOUNT CONTRIBUTED.—In determining the amount of non-Federal contributions in cash that a State has provided pursuant to paragraph (1), the Secretary may not include any amounts provided to the State by the Federal Government.

''(d) APPLICATION FOR GRANT.—The Secretary may make a grant under subsection (a) only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

''(e) COORDINATION OF ACTIVITIES.—The Secretary shall ensure that activities under this section are coordinated as appropriate with other agencies of the Public Health Service that carry out activities regarding traumatic brain injury.

''(f) REPORT.—Not later than 2 years after the date of the enactment of this section, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings and results of the programs established under this section, including measures of outcomes and consumer and surrogate satisfaction.

''(g) DEFINITION.—For purposes of this section, the term 'traumatic brain injury' means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to near drowning. The Secretary may revise the definition of such term as the Secretary determines necessary.

''(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1995 through 1997.''.

SEC. 4. STUDY; CONSENSUS CONFERENCE.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the ''Secretary''), acting through the appropriate agencies of the Public Health Service, shall conduct a study for the purpose of carrying out the following with respect to traumatic brain injury:

(1) In collaboration with appropriate State and local health-related agencies—

(A) determine the incidence and prevalence of traumatic brain injury; and

(B) develop a uniform reporting system under which States report incidents of traumatic brain injury, if the Secretary determines that such a system is appropriate.

(2) Identify common therapeutic interventions which are used for the rehabilitation of individuals with such injuries, and shall, subject to the availability of information, include an analysis of—

(A) the effectiveness of each such intervention in improving the functioning of individuals with brain injuries;

(B) the comparative effectiveness of interventions employed in the course of rehabilitation of individuals with brain injuries to achieve the same or similar clinical outcome; and

(C) the adequacy of existing measures of outcomes and knowledge of factors influencing differential outcomes.

(3) Develop practice guidelines for the rehabilitation of traumatic brain injury at such time as appropriate scientific research becomes available.

(2) DATES CERTAIN FOR REPORTS.—

(A) Not later than 18 months after the date of the enactment of this Act, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings made as a result of carrying out paragraph (1)(A).

(B) Not later than 3 years after the date of the enactment of this Act, the Secretary shall submit to the Committees specified in subparagraph (A) a report describing the findings made as a result of carrying out subparagraphs (B) and (C) of paragraph (1).

(b) CONSENSUS CONFERENCE.—The Secretary, acting through the Director of the National Center for Medical Rehabilitation Research within the National Institute for Child Health and Human Development, shall conduct a national consensus conference on managing traumatic brain injury and related rehabilitation concerns.

(c) DEFINITION.—For purposes of this section, the term ''traumatic brain injury'' means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to near drowning. The Secretary may revise the definition of such term as the Secretary determines necessary.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1995 through 1997.

THE TRAUMATIC BRAIN INJURY ACT OF 1994

GOALS OF THE BILL

1. To expand efforts to identify methods to prevent traumatic brain injury.

2. To expand biomedical research efforts to prevent or minimize the extent, severity and progression of dysfunction as a result of traumatic brain injury.

3. To develop initiatives to improve the quality of care.

SUMMARY OF TRAUMATIC BRAIN INJURY ACT

Prevention of Traumatic Brain Injury

Authorizes CDC to identify effective strategies for prevention of TBI; and to implement public information and education programs. The Secretary will ensure that the CDC will coordinate their TBI activities with other agencies of the Public Health Service.

Basic and Applied Research at NIH

Authorizes NIH to conduct basic and applied research on limiting primary and secondary mechanical, biochemical, and metabolic injury to the brain and minimize the severity of the injury.

Traumatic Brain Injury Services Coordination at HRSA

Authorizes HRSA to make grants to States for demonstration projects to improve access to health and other services for individuals with traumatic brain injury. Each project would have an advisory board, a patient advocacy and service coordination system, a traumatic brain injury registry and develop standards for the marketing of rehabilitation services to individuals with traumatic brain injury or their family members.

By Mr. INOUYE:

S. 97. A bill to amend the Job Training Partnership Act to provide authority for the construction of vocational education and job training centers for Native Hawaiians and Native American Samoans, and for other purposes; to the Committee on Labor and Human Resources.

THE JOB TRAINING PARTNERSHIP ACT AMENDMENT ACT OF 1995

Mr. INOUYE. Mr. President, I rise to introduce a bill to provide much needed centers of job training assistance for Native Hawaiians and Native American Samoans. These populations, facing unemployment rates far above the state and national averages, are in desperate need of accessible, effective, and culturally sensitive programs to gain the skills necessary to compete in today's workplace.

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. 97

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

SECTION 1. CONSTRUCTION OF VOCATIONAL EDUCATION AND JOB TRAINING CENTERS FOR NATIVE HAWAIIANS AND NATIVE AMERICAN SAMOANS.

Title IV of the Job Training Partnership Act is amended by inserting after section 401 (29 U.S.C. 1671) the following new section:

''SEC. 401A. CONSTRUCTION OF VOCATIONAL EDUCATION AND JOB TRAINING CENTERS FOR NATIVE HAWAIIANS AND NATIVE AMERICAN SAMOANS.

''(a) DEFINITION.—As used in this section, the term 'Native American Samoan' means a person who is a citizen or national of the United States and who is a lineal descendant of an inhabitant of the Samoan Islands on April 18, 1900. For purposes of this section. Swains Island shall be considered part of the Samoan Islands.

''(b) CONTRACTS.—The Secretary shall enter into contracts with appropriate entities for the construction of education and training centers for Hawaiian Natives and Native American Samoans. Each such center shall provide comprehensive vocational education and employment and training services through programs authorized under other provisions of this Act and the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.).''.

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

Section 3(c)(2)(A)(i) of the Job Training Partnership Act (29 U.S.C. 1502(c)(2)(A)(i)) is amended by striking ''section 401'' and inserting ''sections 401 and 401A, from which the Secretary shall reserve not less than $5,000,000 for fiscal year 1996 to carry out section 401A''.

By Mr. BRADLEY (for himself, Mr. DASCHLE and Mr. KERRY):

S. 98. A bill to amend the Congressional Budget Act of 1974 to establish a process to identify and control tax expenditures; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

TAX EXPENDITURE AND LEGISLATIVE APPROPRIATIONS LINE ITEM VETO ACT

Mr. BRADLEY. Mr. President, today, on the first day the Senate is convened, I have introduced the Tax Expenditure and Legislative Appropriations Line-Item Veto Act of 1995.

The short explanation of what I am proposing is that the Congress this year enact a line-item veto. Last Congress, I introduced the same bill. We got 53 votes on the floor of the U.S. Senate at that time. It was the highest number of votes ever for a line-item veto. We were in a parliamentary situation where we needed 60 votes, so it did not pass.

Today, I am reintroducing the same piece of legislation in hopes that the Congress will pass the line-item veto this year.

Mr. President, we begin this Congress with two obligations: first, to change the way we do business, and, second, to cut government spending. Reforms that have been bottled up for years in partisan finger-pointing need to be released and must become our first priorities. Both the Congress and White House must learn to say no: no to unnecessary programs, no to those Members who would build monuments to themselves, and a firm no to those lobbyists who would work every angle to slip special provisions into the tax code that benefit the fortunate few and cost every other American millions. For decades, Presidents of both parties have insisted that the deficit would be lower if they had the power to say no, in the form of the line-item veto.

This legislation, if enacted, would grant the President the power to say no. In sponsoring this legislation, I urge our colleagues in both the Senate and House of Representatives to pass a line-item veto that covers spending in both appropriations and tax bills. Any line-item veto that fails to give the President the ability to prevent additional loopholes from entering the tax code only does half the job.

Although I did not support the line-item veto when I initially joined the Senate, I watched for 12 years as the deficit quintupled, shameless pork-barrel projects persisted in appropriations and tax bills, and our Presidents again and again denied responsibility for the decisions that led to these devastating trends. Therefore, in 1992, I decided that it was time to change the rules.

Rather than simply joining one of the appropriations line-item veto bills then in existence, I felt that we needed to be honest about the fact that for each example of unnecessary, special-interest pork-barrel spending through an appropriations bill, there are similar examples of such spending buried in tax bills. The tax code provides special exceptions from taxes that total over $400 billion a year, more than the entire federal deficit.

For every $2.48 million, earmarked in an appropriations bill, to teach civilian marksmanship skills, there is a $300 million special provision allowing taxpayers to rent their homes for two weeks without having to report any income. For every $150,000 appropriated for acoustical pest control studies in Oxford, MS, there is a $2.9 billion special tax exemption for ethanol fuel production. As a member of the Finance Committee, I have seen an almost endless stream of requests for preferential treatment through the tax code, including special depreciation schedules for rental tuxedos, an exemption from fuel excise taxes for crop dusters, and tax credits for clean-fuel vehicles. In singling out these pork-barrel projects, I do not mean to pass judgment on their merits.

Because many of these tax code provisions single out narrow subclasses for benefit, the rest of us must pay more in taxes. Therefore, I have developed an alternative that would authorize the President to veto wasteful spending not just in appropriations bills but also in the tax code.

If the President had the power to excise special interest spending, but only in appropriations, we would simply find the special interest lobbyists who work appropriations turning themselves into tax lobbyists, pushing for the same spending in the Tax Code. Spending is spending whether it comes in the form of a government check, or in the form of a special exception from the tax rates that apply to everyone else. Tax spending does not, as some pretend, simply allow people to keep more of what they have earned. It gives them a special exception from the rules that oblige everyone to share in the responsibility of our national defense and protecting the young, the aged, and the infirm. The only way to let everyone keep more of what they have earned is to minimize these tax expenditures along with appropriated spending and the burden of the national debt so that we can bring down tax rates fairly, for everyone. Therefore, Mr. President, I urge all of our colleagues, particularly those in leadership positions in the Senate and House of Representatives, to pass a line-item veto bill that includes both appropriations and tax provisions.

Although it is true that the line-item veto would give the President more power than our founders probably envisioned, there is also truth in the conclusion of the National Economic Commission in 1989 that ''the balance of power on budget issues has swung too far from the Executive toward the Legislative branch.'' There is no tool to precisely calibrate this balance of power, but if we have to swing a little too far in one direction or another, at this critical moment, we should lean toward giving the President the power that he, and other Presidents, have said they need to control wasteful spending. We have a right to expect that the President will use this power for the good of all.

I also agree with the more recent economic commission chaired by my colleagues Senators DOMENICI and NUNN that a line-item veto is not in itself deficit reduction. But if the President is willing to use it, it is the appropriate tool to cut a certain kind of wasteful spending—the pork-barrel projects that tend to crop up in appropriations and tax bills. Presidential leadership can eliminate these projects when Congress, for institutional reasons, usually cannot. Individual Senators and Representatives, who must represent their own local interests, find it difficult to challenge their colleagues on behalf of the general interest. The line-item veto will allow the President to juxtapose the narrow special interests with the broad public interest.

Pork-barrel spending on appropriations and taxes is only one of the types of spending that drive up the deficit, and is certainly not as large as the entitlements for broad categories of the population that we are starting to tackle. But until we control these expenditures for the few, we cannot ask for shared sacrifice from the many who benefit from entitlements, or the many who pay taxes.

The particular legislation that I am introducing today is identical to a bill I introduced in the 103d Congress and is modeled on a bill my colleague Senator HOLLINGS has introduced in several Congresses. I want to thank and commend Senator HOLLINGS for working so hard to develop a workable line-item

veto strategy, one that goes beyond political demagoguery to the real question of how to limit spending. This bill will require that each line item in any appropriations bill and any bill affecting revenues be enrolled as a separate bill after it is passed by Congress, so that the President can sign the full bill or single out individual items to sign and veto. It differs from other bills in that it avoids obvious constitutional obstacles and in that it applies to spending through the tax code as well as appropriated spending.

Although I acknowledge that separate enrollment, especially separate enrollment of appropriations provisions, may prove difficult at times, in the face of a debt rapidly approaching $5 trillion, I do not believe that we have the luxury of shying away from making difficult decisions. If, because of our appropriations process, we are unable to easily disaggregate appropriations into individual spending items for the President's consideration, then, rather than throw out this line-item veto proposal, I believe that we should reconsider how we appropriate the funds that are entrusted to us.

As I noted previously, the legislation that I am proposing would remain in effect for just 2 years. That period should constitute a real test of the idea. First, it will provide enough time for the Federal courts to address any questions about whether this approach is constitutionally sound, or if a constitutional amendment is necessary. Only courts can answer this question, which is in dispute among legal scholars. Second, we should have a formal process to determine whether the line-item veto works as intended: did it contribute to significant deficit reduction? Did the President use it judiciously to cut special-interest spending, or, as some worry, did he use it to blackmail Members of Congress into supporting his own special interest expenditures? Did it alter the balance of power over spending, either restoring the balance or shifting it too far in the other direction?

As the recent elections amply demonstrated, the American people have no more patience for finger-pointing or excuses. We can no longer tolerate a deficit that saps our economic strength while politicians in Washington insist that it's someone else who really has the power to spend or cut spending. This President or any other must have no excuses for failing to lead.

I list Mr. CAMPBELL, Mr. COATS, and Mr. ROBB as original sponsors of this legislation.

Mr. President, I ask unanimous consent that the full 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. 98

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 ''Tax Expenditure Control Act of 1995''.

SEC. 2. TAX EXPENDITURES INCLUDED IN BUDGET RESOLUTION.

Section 301 of the Congressional Budget Act of 1974 is amended—

(1) in subsection (a)(2) by inserting after ''Federal revenues'', both places it appears, the following: ''and tax expenditures (including income tax expenditures or other equivalent base narrowing tax provisions applying to other Federal taxes)''; and

(2) in subsection (a)(4) by inserting after ''budget outlays,'' the following: ''tax expenditures (including income tax expenditures or other equivalent base narrowing tax provisions applying to other Federal taxes),''.

SEC. 3. TAX EXPENDITURE ANALYSIS IN REPORT ACCOMPANYING BUDGET RESOLUTION.

Section 301(e)(1) of the Congressional Budget Act of 1974 is amended by inserting after ''revenues'' the following: ''and tax expenditures''.

SEC. 4. RECONCILIATION MAY INCLUDE TAX EXPENDITURE CHANGES.

Section 310(a)(2) of the Congressional Budget Act of 1974 is amended by inserting after ''revenues'' the following: ''and tax expenditures''.

SEC. 5. CONGRESSIONAL BUDGET OFFICE REPORT.

Section 202(f)(1) of the Congressional Budget Act of 1974 is amended in the matter following subparagraph (B) by striking ''and budget outlays'' and inserting '', budget outlays, and tax expenditures''.

SEC. 6. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on the date of enactment of this Act.

Mr. DASCHLE. Mr. President, my distinguished colleague from New Jersey, Senator BRADLEY, and I are introducing today a bill that I believe should be an important item on our agenda for the 104th Congress.

For nearly a decade now, one of our primary tasks has been to leash the burgeoning budget deficit and keep it under control. One of our more recent efforts in this regard, the Ominbus Budget Reconciliation Act of 1993, went a long way toward that goal, setting in motion nearly $500 billion in spending cuts as well as tax increases on those who could afford it most. In crafting last year's budget, we took further steps to cut unnecessary spending.

But we are by no means out of the woods yet. Deficits are expected to begin rising again in the near future, spurred mainly by increases in health care costs.

The process of reducing the budget deficit is a painstaking one, during which every item of direct spending is scrutinized. Even entitlements have faced the budget ax in recent years, as we have tried to balance the costs and benefits of spending in one area or another.

As part of this process, programs are reviewed by the President in submitting his budget, and cuts are suggested in an array of programs across the board. Thereafter, the Budget Committee prepares it annual budget resolution in which every item of direct spending, including entitlements, is divided into budget function groups. Spending targets are set for each budget category, with instructions to the committees of jurisdiction to attempt to reach those targets.

The intense scrutiny, however, is reserved for direct spending items. Yet, one of our largest areas of spending in the Federal budget is tax expenditures—exclusions, exemptions, deductions, credits, preferential rates, and deferrals of tax liability. While, at the margin, we can debate exactly what constitutes a tax expenditure, these items drain about $400 billion from Federal revenues every year.

Make no mistake, I am not advocating that there be massive elimination of tax expenditures, just as I would not suggest cutting discretionary programs and entitlements in half without regard to merit.

What I am saying is that this very large and important part of Federal spending—for, clearly, that is what it is—deserves the same scrutiny as direct spending.

Currently tax expenditures receive only minimal attention on an annual basis. First, the President must submit a list of these expenditures in his annual budget submission to Congress. Second, levels of tax expenditures are included in an annual report released by the Congressional Budget Office. And third, the report accompanying the annual budget resolution must include estimated levels of tax expenditures by major functional category.

The scrutiny stops there.

Nowhere is this information incorporated in the budget process in a meaningful way—a way that spurs action to limit this form of spending. There are no targets for tax expenditures called for in the budget resolution, and there is nothing to force Members to view tax expenditures by budget function, comparing aggregate spending in any given area through both direct spending and tax expenditures.

Frankly, there is no reason to require the President, CBO, or the budget committees to list or estimate levels of tax expenditures if, thereafter, we may simply ignore them.

The bill that Senator BRADLEY and I am introducing today would incorporate consideration of tax expenditures in the budget process in a responsible and more effective way. Essentially, it would subject tax expenditures to the same annual scrutiny that entitlement spending currently receives. That should be the minimum.

The bill would require setting targets for tax expenditures in the annual budget resolution and would require that the total level of tax expenditures be broken down according to functional category in the budget resolution itself. With this information, Congress and the public could compare how much is being spend on a particular budget function both through direct spending and through tax expenditures. These and other changes contained in

the legislation, which has been discussed in detail by my colleague from New Jersey, will help translate awareness into action.

As we tackle other important budget issues in this session of Congress, I urge my colleagues to review our legislation carefully and consider lending their support for its passage.

By Mrs. FEINSTEIN:

S. 99. A bill to provide for the conveyance of lands to certain individuals in Butte County, CA; to the Committee on Energy and Natural Resources.

THE BUTTE COUNTY ACT OF 1995

● Mrs. FEINSTEIN. Mr. President, today I am introducing a bill to resolve a title problem on the Plumas National Forest in Butte County, CA. The bill would provide for the conveyance of approximately 30 acres of land to 13 individuals who have had a cloud on the title of their property as a result of a 1992 Bureau of Land Management survey.

The legislation is identical to S. 399 which I sponsored and H.R. 457 which Congressman WALLY HERGER sponsored in the 103d Congress. The House passed H.R. 457 and the Senate Energy and Natural Resources Committee approved the legislation, but Congress adjourned before we could complete action.

Mr. President, this legislation is essential to resolve a hardship to individuals that was caused by an error on the part of the Federal Government.

The problem stems from 1961 when the Forest Service accepted what now appears to be an incorrect survey of the Plumas National Forest boundary. The surveyor could not locate the original survey corner established in 1869 so he established a new corner. Since then, private landowners used the 1961 corner to establish boundaries and build improvements. In 1992 the Bureau of Land Management conducted a new survey which showed that land previously thought to be outside the boundaries of the Plumas National Forest is actually within the forest boundaries, and thus is Federal property. The property owners relied upon the earlier erroneous survey which they believed to be accurate and have occupied and improved their property in good faith.

I believe the property owners should be granted relief as this legislation provides. The bill authorizes and directs the Secretary of Agriculture to convey without consideration all right, title, and interest in the Federal lands, consisting of less than 30 acres, to the 13 claimants. The bill describes the property in question and the claimants who are entitled to relief. The bill also describes the process to be followed and assigns to the Federal Government the responsibility to provide for a survey to monument and mark the lands to be conveyed.

Mr. President, there is no Federal interest in this property and the Department of Agriculture has repeatedly testified favorably on this legislation. Thus, I hope the 104th Congress will more quickly to enact this measure.

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. 99

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

SECTION 1. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds and declares that—

(1) certain landowners in Butte County, California who own property adjacent to the Plumas National Forest have been adversely affected by certain erroneous surveys;

(2) these landowners have occupied or improved their property in good faith and in reliance on erroneous surveys of their properties that they believed were accurate; and

(3) the 1992 Bureau of Land Management dependent resurvey of the Plumas National Forest will correctly establish accurate boundaries between such forest and private lands.

(b) PURPOSE.—It is the purpose of this Act to authorize and direct the Secretary of Agriculture to convey, without consideration, certain lands in Butte County, California, to persons claiming to have been deprived of title to such lands.

SEC. 2. DEFINITIONS.

For the purpose of this Act—

(1) the term ''affected lands'' means those Federal lands located in the Plumas National Forest in Butte County, California, in sections 11, 12, 13, and 14, township 21 north, range 5 east, Mount Diablo Meridian, as described by the dependent resurvey by the Bureau of Land Management conducted in 1992, and subsequent Forest Service land line location surveys, including all adjoining parcels where the property line as identified by the 1992 BLM dependent resurvey and National Forest boundary lines before such dependent resurvey are not coincident;

(2) the term ''claimant'' means an owner of real property in Butte County, California, whose real property adjoins Plumas National Forests lands described in subsection (a), who claims to have been deprived by the United States of title to property as a result of previous erroneous surveys; and

(3) the term ''Secretary'' means the Secretary of Agriculture.

SEC. 3. CONVEYANCE OF LANDS.

Notwithstanding any other provision of law, the Secretary is authorized and directed to convey, without consideration, all right, title, and interest of the United States in and to affected lands as described in section 2(1), to any claimant or claimants, upon proper application from such claimant or claimants, as provided in section 4.

SEC. 4. TERMS AND CONDITIONS OF CONVEYANCE.

(a) NOTIFICATION.—Not later than 2 years after the date of enactment of this Act, claimants shall notify the Secretary, through the Forest Supervisor of the Plumas National Forest, in writing of their claim to affected lands. Such claim shall be accompanied by—

(1) a description of the affected lands claimed;

(2) information relating to the claim of ownership of such lands; and

(3) such other information as the Secretary may require.

(b) ISSUANCE OF DEED.—(1) Upon a determination by the Secretary that issuance of a deed for affected lands is consistent with the purpose and requirements of this Act, the Secretary shall issue a quitclaim deed to such claimant for the parcel to be conveyed.

(2) Prior to the issuance of any such deed as provided in paragraph (1), the Secretary shall ensure that—

(A) the parcel or parcels to be conveyed have been surveyed in accordance with the Memorandum of Understanding between the Forest Service and the Bureau of Land Management, dated November 11, 1989;

(B) all new property lines established by such surveys have been monumented and marked; and

(C) all terms and conditions necessary to protect third party and Government Rights-of-Way or other interests are included in the deed.

(3) The Federal Government shall be responsible for all surveys and property line markings necessary to implement this subsection.

(c) NOTIFICATION TO BLM.—The Secretary shall submit to the Secretary of the Interior an authenticated copy of each deed issued pursuant to this Act no later than 30 days after the date such deed is issued.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as necessary to carry out the purposes of this Act.●

By Mr. GLENN:

S. 100. A bill to reduce Federal agency regulatory burdens on the public, improve the quality of agency regulations, increase agency accountability for regulatory actions, provide for the review of agency regulations, and for other purposes; to the Committee on Governmental Affairs.

REGULATORY ACCOUNTABILITY ACT

Mr. GLENN. Mr. President, I rise today to address the issue of regulations and the need to improve regulatory decision-making—to improve their quality and reduce their burdens.

In our system of government, we the lawmakers rely on administrative agencies to issue regulations to implement our laws. The rulemaking process is an open one compared to many countries—agencies must consider the views of the public, make their decisions on the basis of a rulemaking record, and be prepared to defend their decisions in court. These are the strengths of our administrative process. Unfortunately, there are also weaknesses. General rulemaking principles have not proven rigorous enough—agencies too often promulgate rules whose costs outweigh the benefits, where the regulated risks are insignificant compared to other societal risks, and where State and local governments or the private sector are unnecessarily burdened with overly detailed red-tape. The list can go on and on.

The problem is not that the Government is trying to fix something that ''ain't broke.'' The Government has been responding to the call of the people to address public issues and concerns. In the area of environmental protection, for example, the American people continue to want Government

to do more to protect our natural environment. The problem is more complicated. The problem is that the Government is not working well enough, it is not delivering on its promises to solve problems efficiently and effectively. The American public and Members of Congress know that we simply are not getting enough results for all the legislation, regulation, and expenditure of taxpayer dollars.

Programmatically, each agency and each congressional committee must examine their policies and programs to determine what works and eliminate what doesn't work. The administration has made impressive strides in this area through the continuing work of the National Performance Review. This effort also will be helped in the coming years as agencies begin performance reporting under the Government Performance and Results Act of 1993, which I co-sponsored with my friend and colleague on the Governmental Affairs Committee, Senator ROTH. This law blinds agencies to performance goals and reporting on results, which will help us answer basic questions about how well Government programs are working. In this new Congress, our committee will continue our bi-partisan oversight of the implementation of this important law.

On the process side of the equation, we can and should put into place analytic requirements to guide Federal rulemaking. It may sound simplistic, but most of the complaints about Federal regulation can be addressed just by ensuring that agencies stop and think before regulating. In this Congress, I know that several different approaches are already being considered. Most address single problem areas. I believe that it is our responsibility to design a comprehensive regulatory analysis and review process that is straightforward, understandable by agencies and the public, and can lead to better and fewer regulations. For this purpose, I am today introducing the Regulatory Accountability Act of 1995. I ask unanimous consent that a summary of this legislation be included with my remarks.

This legislation requires Federal agencies, as I have said, to stop and think before regulating. Agencies would have to involve affected members of the public, spell out the need for and desired outcome of a regulatory proposal, analyze its costs and benefits, assess the risks of the behavior or substance proposed for regulation, consider alternatives to the proposed rule, weigh the effects on other governmental action—including State and local governments—and analyze any issues that might affect private property rights under the fifth amendment to the Constitution. These analytic requirements would apply to all proposed regulations, with more in-depth analyses required for major rules.

In addition to the agency requirements, this legislation would place into law a Presidential regulatory review process to be run by the Office of Management and Budget [OMB]. While President Clinton's regulatory review Executive order has been generally well received, continuing calls for farther reaching controls strongly suggest that Congress put into place a workable regulatory review process to ensure integrity and accountability in rulemaking, and relief from overly burdensome and unnecessary regulations.

Under this act, OMB would oversee all agency regulatory analyses, review agency rules before they are issued, and supervise an annual regulatory planning process that would include the review of existing rules. To ensure accountability for this review process, there would be a 90-day time limit on review—with public notice of extensions, the resolution of disputes at Presidential direction, disclosure of the status of actions undergoing review, and after-the-fact disclosure of regulatory review communications.

Over the years, there has been much controversy about the propriety of Presidential regulatory review. I have always supported such review. But I have opposed its use as a secret backdoor channel for special interests. I believe that my legislation appropriately formalizes the President's responsibility to ensure effective and efficient regulatory decisionmaking and establishes sufficient protections to provide for the integrity of and accountability for those decisions.

These regulatory issues have been a major concern of the Governmental Affairs Committee during the four Congresses in which I was committee Chair. I know that my good friend, Senator ROTH, who is now chairing the committee, shares this commitment and will continue the committee's leadership in this area. I look forward to our committee's work on these issues and trust that we will soon report out legislation and bring the debate back to the floor of the Senate.

I ask unanimous consent that a summary of the legislation be printed in the RECORD.

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

SUMMARY OF THE REGULATORY ACCOUNTABILITY ACT OF 1995

1. AGENCY REGULATORY ANALYSIS (SEC. 4)

For every regulatory action, Federal agencies must consider:

The need for and desired outcome of the rule;

Costs and benefits;

Regulated risks and their relation to other relevant risks;

Alternatives to the proposed action;

Effects on other governmental action (e.g., duplication of other rules, and impact on State and local governments);

Takings impacts on constitutional private property rights.

Major rules (e.g., $100 million annual economic effect) require more in-depth formal analysis and certification that:

Benefits justify costs;

Regulatory analysis supported by best available scientific and technical information;

Rule will substantially advance protections of public health and safety or the environment.

2. PRESIDENTIAL REGULATORY REVIEW (SEC. 5)

Regulatory review by OMB to:

Oversee agency regulatory analysis;

Review agency proposals before publication (including authority to return proposals for agency reconsideration);

Oversee annual regulatory planning process (including review of existing regulations).

Regulatory review time limit of 90 days, subject to extension for good cause and with public notice. Disagreements among agencies and OMB to be resolved by the President or by a designated reviewing entity (such reviewer would also be subject to the Act, e.g., time limits and public disclosure).

3. PUBLIC PARTICIPATION AND ACCOUNTABILITY (SEC. 6)

Agencies must improve public participation in rulemaking:

Seek involvement of those benefited and burdened by the regulatory action;

Publish summaries of regulatory analyses and regulatory review results in Federal Register notices;

Place regulatory review-related communications in the rulemaking record.

OMB must provide public and agency access to regulatory review information:

Disclose to the public information about the status of regulatory actions undergoing review;

Disclose to the public (no later than the date of publication of the rule) written communications between OMB and the regulatory agency or any person outside of the executive branch, and a record of oral communications between OMB and any person outside of the executive branch.

Disclose to the public (no later than the date of publication of the rule) a written explanation of the review decision;

Disclose to the agency on a timely basis written communications and a record of oral communications between OMB and any person outside of the executive branch, and a written explanation of any review decision.

4. RULES OF CONSTRUCTION (SEC. 7)

Nothing in the Act alters an agency's statutory rulemaking authority or any mandated criteria or deadline for rulemaking.

5. JUDICIAL REVIEW (SEC. 8)

There would be no judicial review of compliance with the Act. If judicial review of a rule is otherwise undertaken, any regulatory analysis and regulatory review information would constitute part of the record undergoing review.

By Mr. LEVIN (for himself, Mr. COHEN, Mr. GLENN, Mr. WELLSTONE, Mr. LAUTENBERG, and Mr. FEINGOLD):

S. 101. A bill to provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes; to the Committee on Governmental Affairs.

THE LOBBYING DISCLOSURE ACT OF 1995

● Mr. LEVIN. Mr. President, I introduce the Lobbying Disclosure Act of 1995. Our existing lobbying registration laws have been characterized by the Department of Justice as ineffective, inadequate, and unenforceable; they breed disrespect for the law because they are so widely ignored; they have been a sham and a shambles since they were first enacted almost 50 years ago. At a time when the American public is

increasingly skeptical that their Government really belongs to them, our lobbying registration laws have become a joke, leaving more professional lobbyists unregistered than registered.

The Lobbying Disclosure Act of 1995 would change all of that and ensure that we finally know who is paying how much to whom, to lobby what Federal agencies and congressional committees on what issues. This bill would close the loopholes in existing lobbying registration laws. It would cover all professional lobbyists, whether they are lawyers or nonlawyers, in-house or independent, whether they lobby Congress or the executive branch, and whether their clients are for-profit or non-profit. It would streamline reporting requirements and eliminate unnecessary paperwork. And it would provide, for the first time, effective administration and enforcement of disclosure requirements by an independent office.

Mr. President, this bill would also enhance public confidence by fixing the congressional gift rules. These rules currently permit Members and staff to accept unlimited meals from lobbyists or anybody else. They permit the acceptance of football tickets, baseball tickets, opera tickets, and theater tickets. They permit Members and staff to travel to purely recreational events, such as charitable golf and tennis tournaments, at the expense of special interest groups. To a cynical public, these rules reinforce an image of a Congress more closely tied to the special interests than to the public interest. That isn't good for the Congress and it isn't good for the country.

The bill before us would tighten the gift rules, and it would tighten them dramatically. Under this bill, lobbyists would be prohibited from providing meals, entertainment, travel, or virtually anything else of value to Members of Congress and congressional staff. Acceptance of gifts from others would also be restricted significantly. To give just one example, this bill would prohibit private interests from paying for any recreational expenses, such as green fees, for Members of Congress, whether in Washington or in the course of travel outside Washington. In fact, private interests would be prohibited from paying for congressional travel to any event, the activities of which are substantially recreational in nature. If this bill passes, recreational activities paid for by interest groups will be a thing of the past.

Make no mistake about this: the enactment of this bill would fundamentally change the way business is conducted on Capitol Hill. The proposed rules are not perfect, because these issues are complicated and no rule can anticipate the proper outcome of every individual case. Much is left to the judgment of individual Members and to guidance to be provided by the congressional ethics Committees. However, the proposed rules are strong, they are clear, and I believe they will go a long way toward rebuilding public confidence in this institution.

Mr. President, we hear again and again that the American people have lost confidence in their elected officials. There is a widespread belief that Government today is too susceptible to the influence of well-connected and well-heeled lobbyists. In one recent poll more than 70 percent of Americans said they believe that our Government is controlled by special interests, rather than the public interest. Part of the gridlock so prevalent in Washington is attributed to special interests and their ability to block needed legislation.

The election of a new congressional majority cannot change that unless real reform measures are actually enacted, and we cannot pretend that we have enacted comprehensive congressional reform until we enact this bill. For 50 years, the lobbying laws have been a patchwork of loopholes and exceptions in need of reform. For 50 years, Congress has failed to overhaul those laws. This Congress can be different, but only if we act where other Congresses have failed to act.

Mr. President, the right to petition the Federal Government is a constitutionally protected right. Lobbying is as much a part of our Government process today as on-the-record rulemakings or public hearings. But we cannot expect the public to have confidence in our actions unless we conduct our business in the sunshine. The public has a right to know, and the public should know, who is being paid how much by whom to lobby on what issues. This bill is designed to meet that objective, while imposing minimal paperwork and the least possible burden on even those who are paid to lobby.

Mr. President, this bill is not intended to, and should not, create any significant new paperwork burdens on the private sector. Indeed, the bill would significantly streamline lobbying disclosure requirements by consolidating filing in a single form and a single location—one-stop shopping—instead of the multiple filings required by current law. It would replace quarterly reports with semiannual reports and it would authorize the development of computer-filing systems and simplified forms.

This bill would substantially reduce paperwork burdens associated with lobbying registration by requiring a single registration by each organization whose employees lobby, instead of separate registrations by each employee-lobbyist—as are required by current law. The names of the employee-lobbyists—and any high-ranking Government position in which they served in the previous 2 years—would simply be listed in the employer's registration forms.

In addition, this bill would simplify reporting of receipts and expenditures by substituting estimates of total, bottom-line lobbying income (by category of dollar value) for the current requirement to provide 29 separate lines of financial information with supporting data, most of it meaningless. To further ensure that the statute will not impose new burdens on the private sector, the bill includes specific provisions allowing entitles that are already required to account for lobbying expenditures under the Internal Revenue Code to use data collected for the IRS for disclosure purposes as well.

The bill also includes de minimis rules, exempting from registration any individual who spends less than 10 percent of his or her time on lobbying activities and any organization whose lobbying expenditures do not exceed $5,000 in a semi-annual period. Most small local organizations and entities located outside Washington are likely to be exempt from registration under these provisions, even if their employees make occasional lobbying contacts. Because the lobbying registration requirements in the bill apply separately to local chapters of national organizations if the local chapters are separate legal entities, many such local chapters may be exempt from registration as well.

In short, we have exempted small organizations from registration requirements, even if those organizations have paid employees who lobby, as long as those paid lobbying activities are minimal. We have scrupulously avoided imposing any burden at all on citizens who are not professional lobbyists, but merely contact the Federal Government to express their personal views.

Mr. President, while we want to avoid any unnecessary burdens on the private sector with this legislation, we must ensure that the public gets basic information about who is paying how much to whom to lobby on what issues. Effective public disclosure of lobbying activities can ensure that the public, Federal officials, and other interested parties are aware of the pressures that are brought to bear on public policy by paid lobbyists. Such public awareness should inform the public of the broad array of lobbying efforts on all sides of an issue. In some cases, it may alert other interested parties of the need to provide their own views to decisionmakers. It also may encourage lobbyists and their clients to be sensitive to even the appearance of improper influence.

One of the reasons why the public is suspicious and distrustful of the relationship between lobbyists and government officials is the cloak of secrecy that currently covers too many lobbyists and their activities. Current law simply does not ensure even the most basic disclosure. For example, we have learned that:

Fewer than 4,000 of the 13,500 individuals and organizations listed in the book ''Washington Representatives'' were registered as lobbyists. Three-quarters of the unregistered representatives interviewed by the GAO said that they contact Members of Congress

their staffs, deal with Federal legislation, and seek to influence actions of either Congress or the executive branch.

Only 825 persons were registered as active foreign agents, i.e., persons employed to conduct political activities on behalf of a foreign principal under the Foreign Agents Registration Act. In one case examined by the subcommittee, we found that 42 of 48 lobbyists for foreign manufacturers and their domestic subsidiaries were not registered under FARA.

Lobbyists who do register disclose expenditures as trivial as $27 lunch bills, $45 phone bills, $6 cab fares, and $16 messenger fees. One lobbyist even disclosed quarterly lobbying payments of $1.31 to one of its employees. Because of the way these costs are calculated, however, it is impossible to reach any accurate conclusion as to total lobbying expenditures.

Under existing statutes, there is no disclosure requirement when White House and other executive branch officials are lobbied, and only sporadic disclosure of lobbying by lawyers.

If enacted, the Lobbying Disclosure Act would replace existing lobbying disclosure laws with a single, uniform statute, covering the paid lobbying of Congress and the executive branch on behalf of both domestic and foreign persons. The new statute would replace the Federal Regulation of Lobbying Act; the disclosure requirements of the so-called Byrd amendment; the provisions of the Foreign Agents Registration Act (FARA) which apply to private persons and companies; and the HUD disclosure statues. The provisions of the Byrd amendment prohibiting lobbying with appropriated funds would be left intact, as would the FARA provisions applicable to representatives of foreign governments and political parties.

The bill has three essential features: It would broaden the coverage of existing disclosure statutes to ensure that all professional lobbyists are registered; streamline disclosure requirements to make sure that only meaningful information is disclosed and needless burdens are avoided; and create a new, more effective and equitable system for administering and enforcing these requirements.

On the first point, the bill would require registration of all professional lobbyists, i.e., anyone who is paid to make lobbying contacts with either the legislative or the executive branch of the Federal Government. People who spend less than 10 percent of their time lobbying, and organizations that spend less than $5,000 on lobbying in a semiannual period, would not be covered.

The bill would define lobbying contacts to include communications with Members of Congress and their staff, officers and employees in the Executive Office of the President, and ranking officials in other Federal agencies. Activities that don't constitute lobbying—such as communications by public officials and media organizations; requests for appointments or for the status of an action and other ministerial communications; communications with regard to ongoing judicial or law enforcement proceedings; testimony before congressional committees and public meetings; participation in agency adjudicatory proceedings; the filing of written comments in rulemaking proceedings; and routine negotiations of contracts, grants, loans, and other federal assistance would be exempt from coverage.

On the second point, the bill would significantly streamline lobbying disclosure requirements by consolidating filing in a single form and a single location; replacing quarterly reports with semi-annual reports; and authorizing the development of computer-filing systems and simplified forms. The bill would require a single registration by each organization whose employees lobby, instead of separate registrations by each employee-lobbyist. It would simplify reporting of receipts and expenditures by substituting estimates of total receipts or expenditures (by category of dollar value) for the current requirement to provide a detailed accounting of all receipts and expenditures. The bill would also replace the requirement of FARA and the Byrd Amendment to list each official contacted with a simpler requirement to identify the executive branch agencies, and the Houses and Committees of Congress, that were contacted.

At the same time, the bill would close a loophole in existing law by requiring the disclosure of the identity of coalition members who both pay for and supervise the lobbying activities. The bill would also enhance the effectiveness of public disclosure by requiring the disclosure of any foreign entity which supervises, directs, or controls the client, or which has a direct interest in the outcome of the lobbying activity. Any foreign entity with a 20 percent equitable ownership of a client would have to be disclosed.

Finally, the bill would improve the administration of the lobbying disclosure laws by creating a new Office of Lobbying Registration and Public Disclosure to administer the statute; requiring the issuance of new rules, forms, and procedural regulations after notice and an opportunity for public comment; making guidance and assistance (including published advisory opinions) available to the public for the first time; authorizing the creation of computer systems to enhance public access to filed materials; avoiding intrusive audits or inspections through an informal dispute resolution process; and substituting a system of administrative fines (subject to judicial review) for the existing criminal penalties for non-compliance.

Mr. President, in the last Congress, the Lobbying Disclosure Act was passed by the Senate on a 95–2 vote. The gift portion of the bill was passed on a 95–4 vote. A conference report was then passed by the House and sent to the Senate for final consideration. Unfortunately, objections by a number of Senators to certain provisions related to grass roots lobbying made it impossible to enact the bill at that time.

That failure, however, cannot change the fact that 95 Members of this body are in record as favoring the enactment of this measure. If we act quickly, we can still have new congressional gift rules in place by the May 31, 1995, deadline provided by the legislation considered by the Senate last year.

The so-called grass roots lobbying provisions in the conference report to S. 349, to which some objected in the last Congress, are no longer in this bill. We have instead returned to the original Senate provisions on these points. In particular, the bill has been revised to make the following changes:

The definition of grass roots communications has been deleted;

The requirement to disclose persons paid to conduct grass roots lobbying communications has been deleted;

The requirement to separately disclose grass roots lobbying expenses has been deleted;

The original Senate provision with regard to the treatment of lobbyists' efforts to stimulate grass roots lobbying in the definition of lobbying activities has been restored;

The requirement to disclose when somebody other than the client pays for the lobbying activities has been deleted;

All references to individual members of a coalition or association as clients have been deleted;

The descriptive language in the religious organizations exemption has been deleted;

The maximum penalty for violations has been reduced from $200,000 to $100,000 (as originally reported by the Senate Governmental affairs Committee); and

Provisions authorizing registrants who are covered by IRS lobbying provisions to use IRS numbers and definitions for the purpose of reporting under the Lobbying Disclosure Act (to avoid double-bookkeeper) have been clarified and strengthened.

Mr. President, I have been working on this legislation for more than 4 years now. The two major elements of the bill have already passed the Senate, in this Congress, on votes of 95–2 and 95–4. This bill has strong support of the President and it has the strong support of the public. The need for reform of our outdated and loophole-ridden lobbying registration and laws and gift rules could not be more clear. We should enact this bill this year.●

By Mr. GLENN:

S. 102. A bill to amend the Nuclear Non-Proliferation Act of 1978 and the Atomic Energy Act of 1954 to improve the organization and management of the United States nuclear export controls, and for other purposes; to the Committee on Governmental Affairs.

NUCLEAR EXPORT REORGANIZATION ACT

Mr. GLENN. In remarks at the White House on October 18, 1994, President Clinton stated the following:

There is nothing more important to our security and to the world's stability than preventing the spread of nuclear weapons and ballistic missiles.

And I certainly agree with that. That statement echoes the national security goal that was established a half century ago, and yet much of our nuclear proliferation effort is so scattered and so uncoordinated that it too often is ineffective, as I view it. This bill would help correct a lot of that. It is the Nuclear Export Reorganization Act. It deals largely with those areas of dual-use items—those items that may have a regular civilian use but which may be also key to the development of nuclear weapons. We have not monitored these carefully enough, and this act would take care of that, I think, and make a better, more coordinate effort.

By all indications, our Government will in the years ahead have to accomplish a lot more with a lot fewer resources. As the budgetary belt tightens, it becomes all the more vital that we get our priorities straight and that we use these resources much more efficiently and effectively than they have been used in the past. Our civil servants and diplomats who administer our foreign and defense policies need unambiguous guidance as to what needs to be done to advance the national interest.

I am certain that this specific Presidential priority is strongly shared by an overwhelming bipartisan majority in the Congress. I am sure the Congress will be able to work with the President in pursuit of measures to address this dangerous threat to our Nation.

By all indications, there is a lot of work for us all to do. Now that the President has so clearly articulated the challenge that lies ahead, it is important for Congress to have an equally clear statement of what needs to be done to address that challenge. A key question facing the new Congress must be this: is our Government organized today to meet this challenge?

I believe the answer to this question is decidedly, no, especially with respect to the organization of our national system for processing export licenses for what are called nuclear dual-use goods—items that can be used for civilian purposes or for building nuclear weapons.

To illustrate the problem, I will refer to a major report prepared by the Offices of the Inspector General in the Departments of Commerce, Defense, Energy, and State, dated September 1993, and another study prepared at my request by the General Accounting Office and released by the Committee on Governmental Affairs in May 1994.

Mr. President, I ask unanimous consent to insert at the end of my remarks two detailed committee staff summaries of these reports.

Quoting from the report by the four Inspectors General, here is what they had to say about our system for administering nuclear dual-use export controls:

NO ACCOUNTABILITY

The Energy IG found that Energy's recordkeeping was not in compliance with the Export Administration Act and that Energy's degree of compliance with the Nuclear Non-Proliferation Act could not be determined. The IG report found licensing authorities using their own unwritten criteria to make decisions. They found documentation of the grounds of these decisions to be poor to nonexistent.

SEVERE INTERAGENCY COMMUNICATION PROBLEMS

Defense once had to get Customs to block a shipment of goods that had been licensed by Commerce. The Energy IG found that communications between the export control and intelligence shops at Energy were poor—at one point, an outside facilitator had to be brought in to patch up relations. Some key national security offices have no idea what the Commerce Department is approving for export.

LACK OF FOLLOWUP ON LICENSING DECISIONS

The State IG found that considerable disarray exists in the operation of pre-license and post-shipment checks; the system was haphazard and often ineffective; and the program suffered from insufficient historical records and program tracking. Commerce lacks a strategic plan to conduct such checks; its database is erroneous and misleading and contains numerous errors and misrepresentations. The report documents numerous other problems surrounding the lack of followup on licensing decisions.

SKELETON STAFFS

The reports noted that staffing was thin in the respective agencies, despite the high priority that was supposed to be given to nonproliferation issues.

GRIDLOCK ON THE INFORMATION HIGHWAY

When asked what intelligence database was used in Energy's export control office, a supervisor said, himself; he added that Energy had no structured intelligence data base for licensing use. There are inconsistencies—about 25 percent of licenses surveyed—in the databases of Energy and Commerce, which the Energy IG said call into question the integrity of the export licensing process. Disorganized files at State made information on export trends almost impossible to ascertain.

[Source: The Federal Government's Export Licensing Processes for Munitions and Dual-Use Commodities, Final Report, Offices of the Inspector General at the U.S. Departments of Commerce, Defense, Energy, and State, September 1993, available from Office of the Inspector General, Department of Commerce, (202) 482–1243.]

As for the GAO, here is a summary of what they found about U.S. exports of nuclear dual-use goods:

The U.S. issued 336,000 export licenses between FY 1985–92 for nuclear-related dual-use items—valued at $264 billion; 54,862 licenses (worth over $29 billion) were approved for exports to 36 countries of proliferation concern; 24,048 of these licenses were approved for goods going to 8 countries that have sought or are now seeking nuclear weapons. Over 1,500 licenses covered items (worth over $350 million) going specifically to key players in these bomb programs. (FY 1988–92)

U.S. license approvals have covered goods with uses in nuclear weapons development, weapons testing, uranium enrichment, implosion systems development, and weapons detonation.

Commerce approved 87 percent of dual-use licenses going to controlled countries turning down only 1 in a hundred licenses. (FY 1988–92)

Licenses are being required for fewer and fewer goods: the number of licenses for nuclear dual-use goods dropped 81 percent from FY 1987 to 1992.

The most popular item is computer equipment, which made up 86 percent of all U.S. nuclear dual-use exports between FY 1985–92. Citing new liberalized controls, GAO predicts a substantial decline in license requirements for computers.

Commerce has unilaterally approved the export of dual-use items without referral to other agencies—of licenses sent to Energy, 80 percent are not forwarded for further interagency review. Only Energy and Commerce have full access to all nuclear dual-use license applications.

The U.S. often uses foreign nationals to conduct pre-license and post-export licensing activities. On-site inspections, which are rarely done, also tend to focus on less dangerous items. Inspectors typically lack technical expertise. Commerce has not given inspectors ''specific guidance'' for conducting inspections.

The U.S. does not systematically verify compliance with government-to-government assurances on the use of nuclear-related dual-use items—GAO.

[Source: ''Export Licensing Procedures for Dual-Use Items Need to Be Strengthened,'' Report to Sen. John Glenn, Chairman of the Committee on Governmental Affairs, U.S. Senate, April 1994, GAO/NSIAD–94–119, available from GAO at (212) 512–6000.]

There is precious little in either of these reports to reassure members of Congress that our system for licensing nuclear dual-use items is up to par. At the very least, the system falls far short of reflecting the high priority that the President has determined should be accorded to halting the proliferation of nuclear weapons, a problem that is constantly aggravated by dangerous exports.

As author of the Nuclear Non-Proliferation Act of 1978, I have long been aware that our nuclear export control process was in need of reform. On May 27, 1993, I introduced S. 1055, a bill that contained many of the proposals I am

introducing today in the Nuclear Export Reorganization Act of 1995. It is useful to note that the reports by the Inspectors General and the GAO were prepared well after I introduced my original bill in 1993—the reports nevertheless underscore the obvious need for major reforms in the nuclear dual-use export licensing process.

In summary, the bill I am introducing today—the Nuclear Export Reorganization Act of 1995—includes improvements in export controls and measures to face up to the challenge of the global plutonium economy.

First, as I have said before on several occasions, we must do more to take the profits out of proliferation. Specifically, I believe the President should have clear and unambiguous authority to impose sanctions against companies that engage in illicit sales of nuclear technology and to require new sanctions against countries that traffic specifically in bomb parts or critical bomb design information. The sanctions provisions—which include a ban on government contracting with firms that materially and knowingly assist other nations to acquire the bomb, and additional severe penalties against nations that traffic in bomb parts or critical bomb design information—were enacted last year as an amendment to the State Department authorization bill. My bill today will remove a sunset clause that was added to this sanctions authority in the last Congress.

Second, I am proposing some significant improvements in the export licensing process. My proposal is designed to be responsive both to the legitimate needs of the exporting community for an efficient and effective licensing process and to the compelling interest of all citizens in protecting our national security.

In particular, the export control reforms would accomplish the following:

1. It would vest authority to issue dual-use export licenses in the Commerce Department, while ensuring that key agencies with national security responsibilities have full rights to review license applications and to oppose approvals when they would be contrary to the country's nuclear nonproliferation interests.

2. It would establish the interagency Subgroup on Nuclear Export Coordination—which has existed in regulatory form for about a decade—as a formal statutory entity within the National Security Council and would endow it with a clear structure and mission.

3. It would ensure timely access by relevant agencies to export licensing data and expand information available to the public about dual-use nuclear exports.

4. It would clarify in law the terms for denying export licenses by adopting a standard that is now applied by 26 major nuclear supplier nations, not just the United States. And consistent with this multilateral standard, there are no loopholes or special country exemptions in the legislation I am introducing today.

5. It would encourage the basic goal of developing in the United States a domestic industry capable of competing in international markets to sell energy technologies that do not contribute to nuclear weapons proliferation.

6. It would establish a mechanism by which private U.S. industry can assist the Government in identifying foreign competitors that are engaging in illicit nuclear sales, and by so doing, assist in the implementation of appropriate sanctions.

7. It would encourage private firms to adopt voluntary codes of conduct to regulate sales activities without active Government intervention.

8. It would upgrade the role of the Department of Defense in reviewing and approving proposed U.S. agreement for nuclear cooperation and proposed exports of U.S. nuclear technology.

9. It would defined in law for the first time in U.S. history a term that lies at the heart of all our nuclear nonproliferation efforts, namely, a ''nuclear explosive device.''

10. It would establish in law specific deadlines on the processing of licenses to export dual-use nuclear items.

11. It would establish an Export Control Bulletin to address the needs of exporters for more detailed information both about the evolution of U.S. nuclear regulations and the nature of the global threat of nuclear weapons proliferation.

12. It would provide a means by which potential exporters can obtain advisory opinions from the Subgroup with respect to activities that may subject exporters to possible sanctions under existing nuclear export control laws.

The bill also includes several findings and declarations by the Congress with respect to growing international commercial uses of plutonium, and a requirement for the President to review and modify, as appropriate, a 1981 policy that served to promote such uses. Ever since 1981, America has been turning a blind eye toward the global proliferation and environmental risks from large-scale commercial uses of weapons-usable plutonium in Europe, Russia, and Japan. It is time for that policy to be reviewed and brought into line with the high priority our country is supposed to be giving to the goal of reducing the risks of nuclear weapons proliferation.

CONCLUSION

Bernard Baruch once said over 45 years ago that ''we are here to make a choice between the quick and the dead.'' Today, I can say that we have several new choices to make, each one potentially affecting the future of this planet. We must choose between leadership and acquiescence, between quick profits and the defense of our national security interests, and between the rule of law and the law of the jungle. The security threat we must collectively address—both politically here at home and in partnership with other nations—is nuclear war. We have an obligation to do all we can to prevent all forms of nuclear weapons proliferation, and—as in the recent cases of South Africa and Brazil—to work to roll back existing bomb programs wherever they may be.

Mr. President, I will have more to say about the proposed legislation in the months ahead and look forward to working with the new congressional majority and the Administration in ensuring its early enactment. These reforms are long overdue. I encourage my colleagues to join me in this effort to revitalize these key elements of our nonproliferation strategy.

I ask unanimous consent that additional material be printed in the RECORD.

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

SUMMARY OF IG REPORT

The Federal Government's Export Licensing Processes for Munitions and Dual-Use Commodities, Final Report, Offices of the Inspector General at the U.S. Departments of Commerce, Defense, Energy, and State, September 1993, available from Office of the Inspector General, Department of Commerce, (202) 482–1243.

NO ACCOUNTABILITY

The Energy IG found that Energy's record-keeping ''was not in compliance'' with the Export Administration Act and that Energy's ''degree of compliance'' with the Nuclear Non-Proliferation Act ''could not be determined.'' Neither Energy nor Defense has written procedures for processing licenses or resolving internal disputes over licenses. There is ''no reliable audit trail'' at Energy on license decisions. Energy officials used unwritten criteria to review cases, such as the official's own views on foreign policy issues; one Energy analyst said ''he conducted a mental examination and did not record the thought processes that he used'' in making licensing decisions. Energy IG investigators were told that key documents would be ''almost impossible'' to find due to the ''poor organization'' of Energy's files. Such documents ''could not be produced'' when requested by these investigators. Some referral policies are worked out in an informal interagency group that ''does not maintain formal records of its meetings or policies.'' Commerce computer records are ''sometimes changed'' with no ''reliable record of who made these changes and when they were made.''

COMMUNICATION PROBLEMS

Defense once had to get Customs to block a shipment of goods that had been licensed by Commerce. The Energy IG found that ''communications'' between the export control and intelligence shops at Energy ''were poor''—at one point, an outside ''facilitator'' had to be brought in to patch up relations. Commerce's Census Bureau will not share export data with Commerce's export licensing office. Commerce will not show its licensing manual to other agencies. State IG found State's internal license review procedures ''scattered'' and ''an awkward mechanism.'' Energy refers most of its licenses to the weapons labs with the least intelligence resources, and the fewest of licenses went to the lab (Livermore) with the most resources. Commerce still does not grant full access to its licensing database to other agencies handling nuclear dual-use exports. The Defense

IG found that DoD licensing officers ''need to communicate'' more with relevant offices in Defense. State gets a total of 3,000 licenses annually from Commerce, while Energy gets about 6,700 referrals (dealing just with nuclear dual-use items).

LACK OF FOLLOW-UP

The State IG found that ''considerable disarray exists'' in the operation of pre-license and post-shipment checks; the system was ''haphazard and often ineffective''; and the program suffered from ''insufficient historical records and program tracking.'' Commerce lacks a ''strategic plan'' to conduct such checks; its database in ''erroneous and misleading'' and contains ''numerous errors and misrepresentations.'' Foreign US posts complain about the lack of information to do the checks, which are sometimes performed by telephone because of a lack of funds. Checks are often done using foreign nationals—at times without even a U.S. escort. While Commerce officials complain of a ''dwindling budget'' and ''budget constraints,'' some checks have been canceled due to ''a lack of funds.'' Foreign US posts either have not seen or read Commerce's guide on ''How To'' perform such checks. Several posts kept ''very disorganized files'' and one kept ''no files at all.'' Checks are typically performed by US officials sent abroad to promote US trade (the Foreign Commercial Service). The Commerce IG found a mere ''four percent compliance rate'' by exporters with conditions placed on licenses and, due to scarce resources, Commerce ''was not taking action'' to fix the problem.

THIN STAFFS

Respondents told the Energy IG that Energy's export control staff was ''awfully thin''—the IG report said Energy's export control office had ''only two individuals'' experienced in processing cases . . . and one was leaving. The Defense IG found that Defense's nonproliferation office had just two persons working nuclear export issues. An Oak Ridge manager said his office was often staffed by only two persons due to heavy travel demands. For Energy, the IG estimated that the average time analysis had per license was ''substantially less than 40 minutes.''

GRIDLOCK ON THE INFORMATION HIGHWAY

When asked what intelligence database was used in Energy's export control office, a supervisor said, ''himself''; he added that Energy ''had no structured intelligence data base'' for licensing use. Energy's information system has a field category for intelligence, but it is always marked ''no information.'' Energy's database is cleared to store very limited classified data—Commerce's system is unclassified. There are ''inconsistencies'' (about 25% of licenses surveyed) in the databases of Energy and Commerce, which the Energy IG said ''call into question the integrity of the export licensing process.'' One lab scientist called licensing information ''a gold mine that's not being mined.'' Defense's database does not log final agency positions on licenses. Neither of the license databases of Energy and Commerce shows whether or not a good was ever shipped; the Energy database does not even show if licenses were finally approved. Disorganized files at State made information on export trends ''almost impossible to ascertain.''

FOUR U.S. INSPECTORS GENERAL IDENTIFY SERIOUS PROBLEMS IN U.S. DUAL-USE EXPORT CONTROLS

KEY FINDINGS OF

The Federal Government's Export Licensing Processes for Munitions and Dual-Use Commodities, Final Report, Offices of the Inspector General at the U.S. Departments of Commerce, Defense, Energy, and State, September 1993, available from Office of the Inspector General, Department of Commerce, (202) 482–1243.

[Note:—SNEC=Subgroup on Nuclear Export Coordination; ECOD=Energy's Export Control Operations Division; EIS=Energy's Export Information System; EAA=Export Administration Act; Energy's ECASS=Export Control Automated Support System; NNPA=Nuclear Non-Proliferation Act; EAR=Export Administration Regulations; LANL=Los Alamos National Laboratory; ORNL=Oak Ridge National Laboratory; FORDTIS=Foreign Disclosure and Technical Information System (the Pentagon's export license database); DTSA=Defense Technology Security Administration; DTC=State's Office of Defense Trade Controls.]

LICENSING PROCEDURE AND POLICY

The Energy IG report ''found that the ECOD did not have current written procedures for processing export cases . . . [and] that the ECOD did not retain records documenting the bases for its advice, recommendations, or decisions regarding its reviews of export license cases or revisions to lists of controlled commodities and, therefore, was not in compliance with certain provisions of the Export Administration Act . . . and Energy records management directives.'' The report also ''found that the degree of compliance by Energy with the export licensing review criteria contained in the Export Administration Regulations and the Nuclear Non-Proliferation Act of 1978 could not be determined because ECOD did not retain records documenting the bases for its advice and recommendations on export cases.'' [C–35]

The Defense IG found that ''the DTSA License Directorate uses no formal, written criteria to resolve differences between Component positions . . . licensing officers consistently use . . . informal, unwritten criteria . . .''. [B–13]

''This interagency review identified numerous areas in the export licensing processes that could be improved.'' [5]

''Energy's intelligence capability may not be fully utilized in support of export case reviews.'' [5]

''The number of dual-use license applications has decreased dramatically over the past five years, from 98,233 in 1988 to 24,068 in 1992.'' [1]

[On interagency license referrals] ''. . . Export Administration officials were unable to provide a master file of the various delegations of authority, nor was there a central location that could be checked to confirm their existence.'' [15] ''While the [internal Commerce] operating manual that is used for referral decisions is to incorporate these delegations and informal decisions, it is not reviewed by the other federal agencies, and the other agencies do not participate in its development . . . various officials of the other agencies had differing opinions in certain instances as to whether there was an agreed to referral policy.''[15] ''. . . it is clear that there is not full accord among the agencies on the referral criteria.''[17] ''. . . it is obvious that significant differences on referral procedures still exist between the various federal agencies.''[17]

Based on statistics for the nine-month period ending September 30, 1992, the average time to process a non-referred application is nine calendar days. The average time to process referred applications is 50 calendar days. This six-week difference . . . puts pressure on the process to avoid referring cases unnecessarily.''[15]

''Resolution of referral issues is important to avoid situations such as occurred in October 1992 when Defense found it necessary to request the U.S. Customs Service to stop shipment of a commodity for national security reasons even though the shipment had been licensed by Commerce.''[16]

''Our [Energy IG] analysis indicted that Commerce may have improperly referred eight percent . . . of the cases to Energy.'' [C–13]

The State IG report found that ''the State Department receives for review and comment approximately 3,000 export license applications annually from Commerce''[D–8]; in contrast, the Energy IG report found that ''Commerce currently refers approximately 6,700 nuclear dual-use export cases annually to Energy for review.''[C–6] In its description of the referral process for nuclear licenses, the State IG report said that ''License applications involving nuclear technology and technical assistance requests are sent by Commerce to the Bureau [of Oceans and International Environmental and Scientific Affairs at State] as chair of the Subgroup on Nuclear Export Coordination.''[D–9] Note: The contrast between the 6,700 nuclear dual-use licenses sent by Commerce to Energy vs. the grand total of 3,000 licenses (not just nuclear) referred to State is not explained in the IG reports.

The State IG ''discovered that the scattered referral process [inside State] is an awkward mechanism for processing and tracking dual-use license applications. . . three bureaus maintain their own files, two of which are manual systems and, as a result, tracking referred license applications at State is difficult. Moreover, information on overall export trends is almost impossible to ascertain.''[D–12]

''In two other cases, Commerce determined—without consulting other agencies—that an exporter did not need an individual validated license for the shipment of specified commodities to a proscribed destination. Upon learning of the decisions, Defense disputed the shipment of the goods, and the general license determinations were revoked.''[16]

The Defense IG found that the Pentagon's Office of Non-Proliferation Policy''. . . has two managers, one action officer for missile technology, two for nuclear issues, and two for chemical and biological issues.''[B–7]

''In view of the number [about 6700] of nuclear dual-use export cases that were referred to ECOD annually and the relatively small staff assigned to review them, the average amount of time that would be available for an analyst to review a case is very limited. Not taking into account time off for annual leave, sick leave, training, travel, or other activities, we estimated that a maximum of 40 minutes per case would be available.''[C–11] ''. . . the ECOD export control analysts had, on the average, a maximum of 40 minutes to review each nuclear dual-use export case. The actual average time spent on a case is probably substantially less than 40 minutes.''[C–20]

''. . . according to ECOD and Energy national laboratory personnel, the ECOD is awfully thin' in terms of experienced export analysts who can process export cases in an effective and timely fashion. ECOD and laboratory personnel told us that the loss of two of the key export analysts in the ECOD would cause the Department 'severe problems'.''[C–20]

The Energy IG report found that: ''At the time of our review, only two individuals in ECOD, the Export Control Supervisor and an export control analyst, were experienced in processing export cases. We learned that the Supervisor was subsequently detailed from

ECOD, leaving only one individual experienced in processing cases. We believe that the lack of experienced analysts in ECOD and the lack of current procedures on 'how to' process export cases could possibly lead to errors in the processing of export cases and a longer review cycle for cases referred to Energy.'' [C–36]

''The Export Control Supervisor [at Energy] also used considerations in his review that had not been formally established at ECOD as criteria for the review of export cases. For example, the Supervisor said that he included available intelligence in his review . . . [and] he also considered foreign policy and national security issues. According to the Supervisor, he had training and expertise in those two areas.'' [C–12]

''Regarding the Letters Delegating Authority, an ECOD export control analyst said that the ECOD did not have a central file of the letters in the office's administrative files. When asked to provide us copies of the letters from other files in the office, the export control analyst said that the task to retrieve the letters would be 'almost impossible' given the poor organization of the ECOD's files.'' [C–17]

''. . . an analyst at LANL explained that the Critical Technology Group (IT–3) had only one individual with time available to read all the intelligence information received . . . [an ORNL manager] explained that his office at times was staffed with only two individuals because personnel were required to travel frequently. He added that even when the office was fully staffed, the personnel were not able to process all the available intelligence information.'' [C–25] Analysts at both LANL and ORNL told Energy IG investigators that they ''did not have the necessary resources to analyze all the intelligence information'' they received from Energy. [C–25]

The Energy IG found that although ''LLNL had the most intelligence resources,'' of the 500 cases that Energy referred to the labs, 200 went each to ORNL and LANL, and only 12 went to LLNL (with the rest going to other labs). ''Although LLNL, we believe, has resources to conduct the most complete intelligence analysis, LLNL received the fewest number of export cases. In contrast, LANL and ORNL received the bulk of the cases referred to the laboratories, but had fewer resources to analyze proliferation intelligence.'' [C–25]

''An analyst in IN–10 [Energy intelligence office] discussed additional problems in providing intelligence support to AN–30 [license review office]. The analyst said that IN–10's limited resources at Energy Headquarters and broader mission of proliferation analysis prevented IN–10 from being involved specifically with export control analysis.'' [C–28]

The State IG report found that ''. . . problems still exist regarding procedures for coordinating referred dual-use cases from the Commerce Department and the management of the Blue Lantern program for end-use checks . . . Although the Blue Lantern program for prelicense and postshipment end-use checks has improved steadily since its inception in September 1990, considerable disarray exists in its operations at most of the 11 posts visited during the review.'' [D–2]

INFORMATION/COMMUNICATION PROBLEMS

''When asked upon what intelligence 'data base' the ECOD depended, the ECOD Export Control Supervisor said 'himself'.'' The Energy IG investigators further reported that this supervisor ''believed that talking with . . . three or four people whom he usually contacted for intelligence 'had no . . . substitute'. Additionally, he said that these contacts were the 'only people whom he trusted' to provide export-related intelligence.'' [C–27]

''The ECOD Export Control Supervisor . . . [told Energy IG investigators] that ECOD had no structured intelligence data base to use in support of export case reviews. He said that Energy's automated Export Information System (EIS) had a field for intelligence, but the field always reflected ''no information'' available. He explained that ECOD had no process in place or no dedicated employee to update the intelligence field in the EIS. He also said that the EIS was only authorized to process information classified SECRET and below. Furthermore, he said that most of the intelligence useful to the ECOD for export cases had a higher classification than SECRET, or was subject to limited distribution.'' [C–27]

''Currently, each agency now has on-line access [to the ECASS] to a limited degree. Each agency's access to the ECASS system varies as to which cases they can view, what information is available, and when they can view it. Consequently, it would seem desirable that in the long term, expanded access to and use of the ECASS system by all involved agencies could enhance the effectiveness of the licensing review process. In addition to providing greater assurance that the most current data is being reviewed, increased access by the agencies can enhance their ability to effectively review applications. For example, it would permit agencies to identify patterns and other trends of exporting which might have a significant bearing on their decisions.'' [20]

''. . . the databases at Commerce and Energy showed inconsistencies in almost a quarter of the dual-use nuclear export cases in our sample (14 of 60).'' [5]

The Defense IG found that ''Even through the DTSA had the information available, it did not update the FORDTIS with the final U.S. Government decision on munition and dual-use applications . . . We did not find a final U.S. Government position in any of the FORDTIS files for our sample of 60 dual-use applications.'' [B–16]

The Defense IG found that ''The DTSA licensing officers need to communicate to affected DoD Components the results of unilateral actions taken on applications.'' [B–18]

According to the Energy IG report, several analysts noted a ''lack of cooperation'' between the export control and intelligence offices at Energy; according to the report, ''the analysts' general consensus was that communications between AN and IN were poor.'' [C–27]

''We found that, because most of the Energy national laboratories lack access to information available on all export cases reviewed by Energy, Energy may not be receiving the maximum benefit of the technical and analytical capabilities of the laboratories in the review of export cases.'' [C–21]

The Chief Scientist of the Livermore National Laboratory's Z Division told Commerce IG investigators that export licensing information was a ''. . . a gold mine that's not being mined.'' [C–22]

''The EIS . . . currently does not include information on whether a commodity was approved/disapproved, and if approved, was purchased and shipped.'' [C–23–24]

The Energy IG report stated that ''According to the Director, Office of Information Resources Management, Commerce, the ECASS did not contain information concerning the purchase and shipment of commodities approved for export. The Director said that the Bureau of Census, Commerce, received the 'Shippers Export Declaration' from the U.S. Customs Service, Department of Treasury, which contained purchasing and shipment information. He said that the Bureau of Census, Commerce, however, did not provide this information to the Bureau of Export Administration, Commerce, which managed the ECASS.''[C–31]

The Energy IG investigators stated that they believe ''. . . that the lack of information concerning the final disposition of export license applications may limit Energy's ability to provide assessments and analyses . . . the lack of information may limit Energy's ability to provide expert technical and analytical capability to other agencies within the intelligence community and to produce and disseminate foreign intelligence in support of the Department.'' [C–31]

We found inconsistencies in license application data for the same cases in the separate export licensing data bases maintained by Commerce and Energy. Specifically, we found differences in the data bases for 23 percent (14 of 60 export license cases) of the sample nuclear dual-use export cases that we reviewed.'' [C–32] The Energy IG report concluded that ''we believe that inconsistencies in agency records . . . could be detrimental to the government's position in responding to an appeal of a license application decision or a court challenge of the government's decision. We also believe that differences in the records maintained by the agencies involved in a license application decision call into question the integrity of the export licensing process. We believe that changes in licensing data, which are not passed by Commerce to agencies reviewing license applications, could potentially result in improper referrals and erroneous licensing decisions, as well as lessen the value of any analyses and reports based upon the records.'' [C–34]

VERIFICATION AND ENFORCEMENT

''Energy does not have the information maintained by Commerce and State regarding the final disposition of export cases referred to Energy.'' [5]

''Pre-license checks are used to verify end-user information prior to the issuance of a license; post-shipment verifications are used to verify compliance with the terms of a license. Both programs at Commerce lack a strategic plan for carrying out the programs' objectives. We also identified problems with the way the checks are being conducted.'' [3] ''Many of the overseas posts believe they need more information to effectively perform checks and verifications. Finally, the database information for both activities was often erroneous and misleading. As a result, there is no assurance that either the pre-license checks or the post-shipment verifications are as effective as they should be.'' [A–2] Commerce officials ''expressed concern that they did not have the needed resources to fully accomplish'' the report's recommendations on improving compliance with conditions on licenses; Commerce officials agreed to seek improvements ''within their budget constraints'' and ''in light of their dwindling budget.'' [A–2]

''Export Administration's database tracks the progress and status of pre-license checks. Our review found numerous errors and misrepresentations with the pre-license check information contained in the database. This is due to a combination of initial mistakes by Enforcement Support staff and the inability to correct errors once they are identified . . . there is no assurance that statistics and information derived from the database are reliable.'' [A–16] ''For three countries we visited, 64 pre-license checks were requested from January 1, 1992 to September 30, 1992. For 12 (19 percent), the status of the check (favorable, unfavorable, canceled, pending) was misidentified. Several checks that had been canceled and never performed were listed on the printout as 'favorable' . . . The relative high error rate calls into question the reliability of any statistics generated from

this system and provides misleading information for licensing decisions.'' [A–16] The Commerce IG found that ''. . . canceled checks are counted as completed checks.'' [A–16]

''Post-shipment verification information maintained in a separate database also contained errors . . . [the cases reviewed by the Commerce IG] represent an error rate of 21 percent.'' [A–16, 17]

''There is no strategic plan with stated objectives and priorities for conducting random testing within the checks and verification programs. Without such a plan, there is no assurance that the random checks and verifications are obtaining the maximum benefits for the programs. Without stated objectives, the effectiveness of the programs is difficult to measure. In fiscal year 1992, 132 requested pre-license checks were canceled for a variety of reasons, including a lack of funds. There is no assurance that these were low priority cases.'' [A–14]

''Enforcement Support [at Commerce] published the guide ''How to Conduct Pre-License Checks and Post-Shipment Verifications'' in August 1992. However, almost all the posts we visited had either not received it or not read it at the time of our visit . . .''. [A–14]

'' Six of the 11 posts used foreign . . . nationals (Commerce employees who are not U.S. citizens) to conduct pre-license checks even though Export Administration guidance strongly discourages it. Five of the posts used foreign . . . nationals for post-shipment verifications. The new Export Administration guidance prohibits foreign service nationals from performing these verifications except under extraordinary circumstances.'' [A–15]

''Five posts conducted pre-license checks by telephone because they lacked funds for on-site visits.'' [A–15]

''Three posts kept very disorganized files for pre-license checks and post-shipment verifications (all papers were filed in one folder), and one post kept no files at all.'' [A–15]

''The commercial officers also wanted to know how they could recognize potential or actual improper usage of the particular product they were to review. For example, one of the commercial officers indicated that performing post-shipment verifications on chemicals is very difficult; the barrels shown could be full of water, and the officers would never be able to tell the difference.'' [A–15]

''The lack of detailed information contained in the cables requesting pre-licensing checks and post-shipment verifications makes the program less effective and results in wasted time and money.'' [A–16]

''The team found that Commerce does not maintain sufficient documentation to provide a reliable audit trail of the actions taken on applications.'' [2] ''. . . there is no reliable audit trail for the actions taken on the applications.'' [A–8] ''[A–14]

''Checks and verifications are usually performed by Commerce's U.S. and Foreign Commercial Service.'' [A–13] [Note: This enforcement role contrasts with the export promotion role of the FCS as highlighted in the United States Government Manual of 1993/4; according to this manual, the Director General of the FCS ''. . . supports overseas trade promotion events; manages a variety of export promotion services and products; promotes U.S. products and services throughout the world market; conducts conferences and seminars in the United States; assists State and private-sector organizations on export financing; and promotes the export of U.S. fish . . .''.]

''Individual validated dual-use licenses are frequently issued with conditions that exporters must comply with for the license to be valid . . . Our review of documentation sent in by exporters disclosed only a four-percent compliance rate with that requirement. In addition, Commerce was not taking any action to contact exporters who failed to submit the required information. Consequently, Commerce officials cannot assure that exporters have complied with conditions placed on licenses.'' [3] ''Furthermore, not all licenses that required follow-up action to monitor compliance with conditions were included in Export Administration's tracking system. As a result, Export Administration's management does not have reasonable assurance that exporters have complied with conditions placed on licenses.'' [A–2] [and A–10] ''. . . Export Administration officials do not have reasonable assurance that exporters have complied with the conditions placed on licenses. Equally troubling is the likelihood that a substantial number of licenses requiring exporter follow up are not even in the tracking system.'' [A–12]

In response to Commerce IG concerns about the lack of follow-up on license conditions, Commerce licensing officials ''expressed concern that they did not have the needed resources to follow up on all conditions as the report suggests inasmuch as 100 percent auditing is extremely difficult and not cost effective.'' [A–12]

''Although there are currently 36 standard conditions [applied to licenses], only 11 require the exporter to provide information to Export Administration. These 11 conditions are the only ones to appear in the follow-up system . . . [the rest] are not monitored [by Commerce].'' [A–10, 11]

The NRC ''. . . must be informed about applications for exporting certain nuclear-related commodities to specific countries. Our review [by the Commerce IG] identified two cases that were not processed in accordance with this policy.'' [A–19]

Of the 3,133 ''outstanding licenses'' in the ''follow-up queue'' of licenses requiring monitoring by Commerce, ''only 123 (4 percent) of the cases had exporters provided documentation to confirm that they had complied with the license's conditions. In addition, exporters submitted information on 313 cases that were not on the list. This may imply that the follow-up queue should contain substantially more than the 3,133 cases in our printout.'' [A–11] The Commerce Operations Branch director ''contended that the branch was never officially assigned the responsibility for following up on conditions'' attached to licenses. [A–11]

''Export Administration officials agreed that our findings [i.e., Commerce IG's findings on pre-license and post-shipment activities] address an import issue in light of their dwindling budget.'' [A–17]

Concerning the State Department's Blue Lantern program [verifying the bona fides of customers of goods licensed by State, including nuclear-related items on the Munitions List], the State IG ''. . . found that improvement are still needed in program management and implementation, especially in conducting end-use checks. DTC is unable to evaluate the effectiveness of Blue Lantern operations overseas or even to identify all the designated Blue Lantern officials because of insufficient historical records and program tracking. We found that the overseas operations are haphazard and often ineffective, largely because of uncertainty about the role of various post officials and inadequate record keeping . . . DTC was unable to provide us with a current and complete list of Blue Lantern officials in preparation for fieldwork overseas'' [D–14, 15]

The State IG found that the State Department (like the Commerce Department) uses foreign nationals to conduct export verification activities. The IG's report found that ''Blue Lantern checks at many of the posts we visited were being conducted inefficiently . . . [U.S. Customs] has generally been delegated the Blue Lantern responsibility. In response to a Blue Lantern request, Customs officials most often relay the request to the foreign government customs officials who would then investigate the transaction and inform U.S. Customs of the result.'' [D–15]

ACCOUNTABILITY

''ECOD personnel *could not provide us documentation that they followed the written procedures* in the EAR, NNPA, and Energy guidelines regarding export licensing activities.'' [C–20]

''While we found no evidence of inappropriate or incorrect recommendations by Energy, the Export Control Operation Division *does not retain records* to show the basis for its advice, recommendations, or decisions or to justify its changes to the lists of controlled commodities. *The division is therefore not in compliance with certain provisions of the Export Administration Act of 1979 . . . and with records management directives from Energy*. As a result, *it was not possible to determine the extent to which Energy used the criteria in the Export Administration Regulations and the Nuclear Non-Proliferation Act of 1978 in making licensing recommendations.* In addition, the Export Control Operation Division *did not have current written procedures* for processing export cases.'' [5] [Also see C–14]

''. . . Energy maintains its records of export cases processed by the ECOD in the Export Information System (EIS). We determined, however, that *the EIS does not contain information concerning the factual or analytical bases for Energy's advice, recommendations, or decisions regarding export cases.* We further found that the ECOD *did not have current written procedures* for processing export cases.'' [C–18]

The Commerce IG investigators ''. . . believe that the records [in Energy's Export Information System (EIS)] lack certain required information. Specifically, the *EIS did not contain information concerning the 'factual and analytical basis' for Energy's 'advice, recommendations or decisions'* regarding the export cases.'' [C–15] ''An ECOD [Energy] export control analyst said that *he destroyed paper copies of information that he received or wrote pertaining to export cases* . . . He also said that he lacked the time and space to file and retain documents regarding the cases. He said that *technical specifications* . . . were *examples of paper records that he destroyed*.'' [C–16]

We could not conclusively determine if the ECOD export control analysts considered the Part 778.4 factors in their review of export cases. ECOD analysts said that they had no records to document that they applied the Part 778.4 factors to their analyses of export cases in determining the significance of the commodities for nuclear explosive purposes. One ECOD export control analyst said that, although he considered the Part 778.4 factors in processing export cases, *he conducted a mental examination and did not record the thought process that he used in making his determinations*.'' [C–18, 19]

''We also *could not determine conclusively if the Energy national laboratories considered the Part 778.4 factors in reviewing export cases* . . . According to an ECOD export control analyst, the laboratories are not required to address the Part 778.4 factors for their technical reviews of export cases . . . Laboratory personnel . . . told us that they use the export factors in Part 778.4 of the EAR to review the cases . . . Personnel at two of the three Energy national laboratories that we visited said that they probably did not retain documentation regarding the bases of the advice and recommendations that they provided to the ECOD on export cases.'' [C–19]

''We could not conclusively determine if ECOD personnel considered the NNPA criteria in their decisions to refer export cases to the SNEC. Based on a limited review of records in the EIS, we determined that the EIS did not contain records regarding the factual or analytical bases for recommendations to refer export cases to the SNEC. The ECOD Export Control Supervisor said that he made a mental determination whether a case should be referred to the SNEC by applying the criteria cited above . . . He said that no record was generated by the EIS regarding the basis for his referral [to the SNEC] and that he made no paper copy of his analysis.'' [C–19]

The Commerce IG investigators found that Energy's record-keeping procedure which only requires retention of relevant export licensing records for two months ''is not consistent with'' the requirements of the Export Administration Act (EAA), which requires Energy to retain the ''analytical basis'' for its license recommendations. [C–16]

One ECOD [Energy] export control analyst, according to Commerce IG investigators, said that he obtained recommendations on licenses from the national laboratories but that ''he did not enter the bases for the laboratories' recommendations'' into the Energy license database; after entering the labs' recommendations, the analyst ''destroyed any documentation that the laboratories provided'' and the analyst ''did not retain records'' of telephonic responses by the labs. [C–16]

''During an interview with the Director, ECOD [Energy's Export Control Operations Division], we asked for a copy of the Division's Records Inventory and Disposition Schedule. The Director, ECOD, was not aware that ECOD had a Records Inventory and Disposition Schedule.'' [C–16]

''We asked ECOD personnel to provide specific documents [e.g., memos pertaining to letters delegating review authority, National Security Directive 53 on procedures for processing cases, and the latest revisions of commodity control lists] that, in our opinion, should have been retained in accordance with the provisions of the EAA . . . [several] ''could not be produced by ECOD personnel from their records.'' [C–16]

''We could not determine the degree of compliance by Energy with the export licensing review criteria contained in the Export Administration Regulations (EAR) and the Nuclear Non-Proliferation Act of 1978 (NNPA) because the Export Control Operations Division (ECOD) did not retain records documenting the bases for its advice and recommendations on export cases.''

''Agency officials also advised us that some of the referral policy [for interagency reviews of licenses] incorporated in the manual is based on the decisions of an informal interagency working group consisting of representatives of Commerce, Defense, Energy, State, the National Security Agency, and the Arms Control and Disarmament Agency. We were informed that this working group does not maintain formal records of its meetings or policies.'' [15]

''[Commerce IG found that] Commerce does not maintain sufficient documentation for the export license applications received and for subsequent licensing actions taken. As a result, audit trails for the actions taken on applications are often incomplete.'' [A–1]

''The team found that Commerce does not maintain sufficient documentation to provide a reliable audit trail of the actions taken on applications.'' [2] ''. . . thee is no reliable audit trail for the actions taken on the applications.'' [A–8]

''The computer record of the application is sometimes changed by Export Administration during the review process . . . While there may be valid reasons for these changes, the current documentation of the process does not provide a reliable record of who made these changes and when they were made. There is no permanent record of what was originally submitted by the applicant or of daily transactions by Export Administration officials.'' [A–8]

''The Blue Lantern process at a number of the posts we visited was haphazard and inadequately documented. Blue Lantern officials at three of the posts visited did not keep files or records of their Blue Lantern checks or other program activities. In addition, most of the posts did not have complete sets of the DTC Blue Lantern guidance readily available.'' [D–16]

WEAKNESSES IN THE LAWS AND REGULATIONS

''While the Export Administration Act gives decision-making authority for dual-use license applications to Commerce and seems to encourage that this be done with limited referral to other agencies, certain sections of the act impact on this authority. At best, the statute is somewhat ambiguous . . . we recommend that the respective roles of the various agencies involved in the dual-use export licensing process be clarified in reauthorizing the Export Administration Act.'' [6]

''. . . there is still disagreement among most of the agencies regarding which applications should be referred for comments. Until this issue is resolved, the agencies will not have adequate assurance that the license review process is working as efficiently and effectively as it should . . . the underlying problem is the unclear and apparently conflicting guidance given to the process by legislative mandates and Presidential directives . . . there is no ongoing process to resolve the differing views on what to refer.'' [2]

[Commerce should] ''Report to the Congress the cases referred to the Sub-Group on Nuclear Export Coordination when the cases are delayed more than 120 days.'' [A–7]

''Part 778.4 of the EAR does not specifically direct Energy to consider these factors.'' [C–10] [Note: This pertains to specific nonproliferation-related ''factors'' that licensing officials are supposed to consider when reviewing applications to export nuclear dual-use goods.] ''Part 778.4 does not specifically identify what agency will use the factors in reviewing export cases.'' [C–18]

''. . . we asked each individual in ECOD who we interviewed if ECOD had formal procedures for processing export cases. None of the ECOD personnel replied that ECOD had such procedures . . .''. [C–20]

After reviewing deficiencies in Energy's use of intelligence information in reviewing licenses at Energy Headquarters, the Energy IG report concluded that ''if AN [Energy's export license review office] is reducing its emphasis on intelligence in reviewing export cases, we believe that AN management should clearly state this policy.'' [C–29]

SUMMARY OF GAO REPORT

''Export Licensing Procedures for Dual-Use Items Need to Be Strengthened,'' Report to Sen. John Glenn, Chairman of the Committee on Governmental Affairs, U.S. Senate, April 1994, GAO/NSIAD–94–119, available from GAO at (212) 512–6000.

The U.S. issued 336,000 export licenses between FY 1985–92 for nuclear-related dual-use items—valued at $264 billion.

54,862 licenses (worth over $29 billion) were approved for exports to 36 ''countries of proliferation concern.''

24,048 of these licenses were approved for goods going to 8 countries that have sought or are now seeking nuclear weapons . . . over 1,500 licenses covered items (worth over $350 million) going specifically to ''key players' in these bomb programs. (FY 1988–92)

U.S. license approvals have covered goods with uses in nuclear weapons development, weapons testing, uranium enrichment, implosion systems development, and weapons detonation.

Commerce approved 87% of dual-use licenses going to controlled countries . . . turning down only 1 in a hundred licenses. (FY 1988–92)

Licenses are being required for fewer and fewer goods: the number of licenses for nuclear dual-use goods dropped 81% from FY 1987 to 1992.

The most popular item is computer equipment, which made up 86% of all U.S. nuclear dual-use exports between FY 1985–92. Citing new liberalized controls, GAO predicts ''a substantial decline'' in license requirements for computers.

Commerce has ''unilaterally approved'' the export of dual-use items without referral to other agencies—of licenses sent to Energy, 80% are not forwarded for further interagency review. Only Energy and Commerce have full access to all nuclear dual-use license applications.

The U.S. often uses foreign nationals to conduct pre-license and post-export licensing activities. On-site inspections, which are rarely done, also tend to focus on less dangerous items. Inspectors ''typically lack technical expertise.'' Commerce has not given inspectors ''specific guidance'' for conducting inspections.

The U.S. ''does not systematically verify compliance with government-to-government assurances on the use of nuclear-related dual-use items''—GAO.

WEAKNESSES IN U.S. NUCLEAR EXPORT CONTROLS

KEY FINDINGS OF

''Export Licensing Procedures for Dual-Use Items Need to Be Strengthened,'' Report to Sen. John Glenn, Chairman of the Committee on Government Affairs, U.S. Senate, April 1994, GAO/NSIAD–94–119, available from GAO at (212) 512–6000.

SUMMARY: U.S. EXPORTS OF NUCLEAR DUAL-USE GOODS

Total Nuclear Dual-Use items approved in 336,000 licenses issued (in FY 1985–92): $264 billion.

Items going *to controlled countries* (FY 1985–1992): $29,046,890,812.

Items going *to sensitive facilities in 8 countries* (FY 1988–1992): $350,010,337.

In 1,508 licenses approved by the U.S. Government, for items going to: Argentina—$12.9 million; Brazil—$109 million; India—$19.7 million; Iran—$0.9 million; Iraq—$4.1 million; Israel—$193 million; Pakistan—$2.1 million; and South Africa—$6.7 million.

SPECIFIC EXAMPLES OF U.S. LICENSE APPROVALS

[Note.—SNEC=Subgroup on Nuclear Export Coordination, an interagency forum for reviewing nuclear dual-use goods; members are State, ACDA, Defense, Energy, Commerce, and the NRC; NRL=Nuclear Referral List, which identifies nuclear dual-use goods that require an export license; PLC=''pre-license check'' on bona fides of end users; PSV=''post-shipment verification'' of peaceful end use.]

''In late 1989, the U.S. government approved a license to a military end user in Pakistan for two four-axis grinding machines capable of manufacturing critical nuclear weapons components. According to the Department of Energy's Nuclear Proliferation Watch List, the end user is involved, among other things, in sensitive nuclear activities, such as the design, manufacture, or

testing of nuclear weapons or production of special nuclear materials.'' [29] ''The decision to approve the grinding machines, valued at $1.5 million, came after the SNEC had recommended denial of less valuable NRL licenses to the same end user . . . The SNEC had recommended denial of these licenses on grounds that there was an unacceptable risk of diversion to nuclear proliferation activities.'' [29] The license was approved ''on the condition that the exporter provide the SNEC with periodic reports of the status of the item; however, according to Commerce officials, no such reports have ever been provided.'' [29]

''During fiscal years 1988 to 1992, the United States issued 238 licenses for computers to certain Israeli end users linked to the unsafeguarded Israeli nuclear program . . . [including some that] were also more powerful than those used to develop many of the weapons in the U.S. nuclear arsenal.'' [30] ''For 62 of the 238 licenses, the United States received government-to-government assurances against nuclear use . . . although the U.S. government has not verified compliance.'' [30]

''The U.S. government approved 23 licenses during fiscal years 1988 and 1989 for computer equipment to end users later determined by the United Nations to be involved in Iraq's nuclear weapons program . . . [specifically including] Iraqi state establishments involved in uranium enrichment activities. According to a U.S. government assessment, Iraq may have made use of such computers to perform nuclear weapons design work, as well as to operate machine tools which may have been used in fabricating nuclear weapons, centrifuges, and electromagnetic uranium enrichment components . . . At the time these licenses were approved, only the Iraqi Atomic Energy Commission was identified as a sensitive end user; other Iraqi state establishments were not identified as potentially involved in nuclear weapons activities.'' [30–31]

''The United States approved 33 licenses to a nuclear research center in India that operates an unsafeguarded reactor and unsafeguarded isotopic separation facilities . . . [according to the CIA director] the center is also involved in thermonuclear weapons design work . . . [The US] also approved six licenses involving NRL items such as computers and equipment for ammonia production for Indian fertilizer factories [that] make heavy water as a by-product. . .''.[31]

Between fiscal years 1988 and 1991, GAO identified ''two cases were Commerce approved licenses even though a majority of other SNEC agencies had voted that they be denied.'' [36–37] The cases involved a flash X-ray system going to an ''end user suspected of engaging in proscribed nuclear activities'' and a computer ''to an end user which at the time was a known diverter.'' [37]

SCOPE OF U.S. SALES

''During the past several years, the Department of Commerce approved a significant number of nuclear-related dual-use export licenses for countries that pose a proliferation concern—the 36 countries on the Special Country List.'' [17]

''From fiscal years 1985 to 1992, the United States issued about 336,000 nuclear-related dual-use licenses for exports valued at $264 billion. Of these, about 55,000 (16 percent) were for items valued at $29 billion exported to the 36 countries that the United States has identified as posing a potential proliferation concern.'' [3] ''Computers accounted for 86 percent on nuclear-related dual-use licenses to these 36 countries.'' [3]

''During the 8-year period, Commerce approved 87 percent of such [nuclear-related dual-use] licenses to Special Country List destinations, denied 1.2 percent, and returned 11.8 percent without action (meaning that the exporter failed to provide sufficient information or withdrew the application, or Commerce determined that the item did not require a validated license).'' [18] ''This approval rate was only slightly lower than that for all countries—on average, Commerce approved 89.1 percent of nuclear-related dual-use licenses during this period, denied 1.5 percent, and returned 8.9 without action.'' [18]

''Of the 92 categories of items listed in the Export Administration Regulations since fiscal year 1985 as controlled for nuclear proliferation reasons, 59 were licensed to Special Country List destinations between fiscal years 1985 and 1992. Worldwide, 67 of the 92 NRL items were licensed during this period.'' [19]

''. . . over 1,500 nuclear-related dual-use licenses were approved by the U.S. government to end users in these countries involved or suspected of being involved in nuclear proliferation acitivies. Some licenses involved technically significant items or facilities that have been denied licenses in other cases because of the risk of diversion to nuclear proliferation purposes. These approvals, although generally consistent with U.S. policy implementation guidelines, do present a relatively greater risk that U.S. exports could contribute to nuclear weapons proliferation.'' [24]

[U.S. nuclear-related dual-use goods were approved for export to]'' . . . end users [that] have been or are suspected to be key players in their countries' nuclear weapons programs.'' [29] ''Although most of the licensing decisions for the eight countries we reviewed were in accord with the goal of minimizing proliferation risk, we did identify a number of licenses that were approved for exports to end users engaged in, or suspected of being engaged in, nuclear weapons proliferation.'' [27]

''. . . of the 24,048 licenses approved for these eight countries [Argentina, Brazil, India, Iran, Iraq, Israel, Pakistan, and South Africa], 1,508 (6 percent) were for end users involved in or suspected of being involved in nuclear weapons development or the manufacture of special nuclear materials . . . [including] sensitive end users that have played key roles in their countries' nuclear weapons development programs and for which U.S. officials have denied a large number of dual-use licenses.'' [4] [Also see table on page 28.] ''Generally, the end users for these 1,508 licenses were government agencies, research organizations, universities, and defense companies that, while participating in proscribed and/or unsafeguarded nuclear activities, are also engaged in other activities.'' [28]

''During this period [fiscal years 1988 to 1992], the United States reviewed 27,567 nuclear-related dual-use license applications for the eight countries [Argentina, Brazil, India, Iran, Iraq, Israel, Pakistan, and South Africa] and approved 24,048 or approximately 87 percent . . .''. [25] [Note: according to data on page 25, only one percent—one license in a hundred—were officially denied.]

''The volume of licenses of NRL items has declined since fiscal year 1987 . . . License applications for computer exports should further decline in the future because of additional liberalization steps.'' [17] ''The number of NRL licenses worldwide declined 81 percent from fiscal years 1987 to 1992, compared with a 65-percent drop in NRL licenses to Special Country List destinations . . .''. [21]

''. . . the liberalization in computer licensing requirements has had the greatest impact [on the drop in licensing requirements]: computers represented 92 percent of the decline in licenses for NRL items to Special Country List destinations and 86 percent of the decline for all countries.'' [23]

''On October 6, 1993, the Commerce Department published an interim rule further easing licensing requirements for computer exports . . . This new policy will almost certainly result in a substantial decline in the number of computer license applications. We estimate that if these policy changes had been in effect in fiscal year 1992, there would have been approximately 86 percent fewer license applications for computer exports to counties on the Special Country List.'' [23]

''Computers account for the largest share of nuclear-related dual-use licenses. Between fiscal years 1985 and 1992, 86 percent of such licenses approved to Special Country List destinations involved computers and computer-related equipment, compared with 77 percent for all countries.'' [18]

''The NRL items most commonly licensed have a variety of applications for nuclear weapons development, including weapons testing, uranium enrichment (isotopic separation), implosion systems development, and weapons detonation. According to Energy officials, these items are in greater demand than the rest of the NRL because they have wide civilian applications.'' [20] ''In contrast, NRL items with relatively few nonnuclear uses were approved in small numbers or not at all, especially to Special County List destinations.'' [20]

LICENSING PROCEDURES AND POLICIES

''The Commerce Department did not always refer nuclear-related dual-use license applications to the Department of Energy as required by regulations. From fiscal years 1988 to 1992, *Commerce unilaterally approved the export of computers and other nuclear-related items to countries of proliferation concern*, even though these licenses should have been referred to Energy. Commerce also approved without Energy consultation numerous licenses for other items going to end users engaged in nuclear weapons activities, despite regulations requiring referral of such licenses.'' [4]

''[From fiscal years 1988 to 1992], *Energy did not forward to the Subgroup on Nuclear Export Coordination about 80 percent of the licenses it received from Commerce for end users of nuclear proliferation concern* . . . [including goods] intended for end users suspected of developing nuclear explosives or special nuclear materials.''[4–5] ''We found that the Commerce Department did not always send to Energy all those licenses requiring referral and that Energy recommended approval of a majority of licenses for end users engaged in nuclear weapons activities without subjecting them to interagency review.''[33]

''From fiscal years 1988 to 1992, Commerce decided without Energy consultation about 50 percent of the 34,281 nuclear-related dual-use license applications to Special Country List destinations. Of the licenses Commerce referred, *Energy made recommendations to Commerce on about 93 percent without subjecting them to interagency review.''[36]*

From October 1987 to May 1992, ''Commerce approved about 130 licenses for NRL items going to Special Country List destinations without obtaining Energy review, even though no Energy delegations of authority applied.''[37] ''In addition to the NRL licenses, Commerce approved without Energy review nearly 1,500 licenses for non-NRL items going to end users on Energy's Watch List, even though regulations require Energy review of non-NRL licenses involving nuclear end users.''[37] ''*Of these licenses, about 500 were for sensitive end users.*'' [37]

''. . . Defense and Arms Control and Disarmament Agency representatives to the Subgroup identified a number of licenses that they believed warranted interagency review but were not placed on the Subgroup's agenda.'' [5] [See also p. 33.] ''Defense and ACDA officials stated that not all nuclear-related dual-use licenses that could be of concern to various SNEC agencies are being referred to the SNEC. In addition, Defense and ACDA officials said they have only a limited ability to hold Energy accountable for its licensing recommendations because they lack access to licensing information.'' [40] ''*They believe Energy has a policy perspective that could lead it to recommend approval of some licenses that Defense and ACDA want denied.*'' [40]

Of the licenses between March 1991 and July 1992 that involved interagency disagreements, ''Defense and ACDA voted at the SNEC for denial 63 and 50 percent of the time, respectively, while Energy voted for denial 47 percent of the time, Commerce 13 percent, and State 8 percent.'' [40] *Energy and Commerce ''. . . are the only agencies with access to all nuclear-related dual-use license applications.''* [41] Other agencies are ''limited in their ability to hold Commerce and Energy accountable for their licensing decisions because they rarely are given information on licenses decided without interagency review.'' [41]

Energy cites ''*resource constraints*'' as a reason why it does not regularly notify the SNEC about licenses the Department has approved—''*Energy has not provided the NSEC with information on licenses approved without SNEC review since October 1991.*'' [41]

From fiscal years 1988 to 1992, ''Energy referred to the SNEC only 26 percent of the license applications it received from Commerce for end users listed as sensitive on its Nuclear Proliferation Watch List. Of the licenses not referred by Energy, 79 percent were ultimately approved, less than 1 percent were denied, and the remainder were generally returned without action.'' [39]

''. . . [SNEC agencies] are limited in their ability to influence which licenses Energy selects for interagency review and are unable to hold Commerce and Energy accountable for their review decisions because they lack consistent access to licensing information.'' [5]

In February 1992, Defense proposed in the SNEC that Energy should refer to the SNEC all licenses involving goods controlled under the Nuclear Suppliers Group guidelines going to certain countries not in the Group; the SNEC, however, did not accept this proposal, due to opposition from Commerce, State, and Energy. Defense also proposed that Energy share with the SNEC information on all approved licenses that were not reviewed by the SNEC—but SNEC rejected this proposal as well. [41]

Commerce opposes ACDA's proposal to refer to the SNEC all licenses that Commerce refers to Energy. [41]

''. . . in certain circumstances licenses will be approved for Special Country List destinations even if the end user is involved in proscribed or unsafeguarded nuclear activities . . .'' [25]

''In some instances, decisions to approve licenses for sensitive end users were also influenced by special country considerations—for example, the close bilateral relationship between the United States and Israel.'' [28]

VERIFICATION AND ENFORCEMENT ISSUES

''During fiscal years 1991 and 1992, Commerce selected a number of cases for inspection involving items of low technical significance . . . approximately 63 percent of nuclear-related prelicense checks in the eight countries of proliferation concern . . . were [for items] of lesser proliferation concern . . . about 39 percent of nuclear-related pre-license checks in the eight countries were conducted for end users that had already been identified by the Department of Energy as posing a nuclear proliferation concern.'' [5]

''GAO . . . found that (1) U.S. embassy officials who perform the pre-license checks and post-shipment verifications typically lack technical expertise in how nuclear-related dual-use items could be diverted; (2) Commerce's requests for inspections frequently omitted vital information, such as the reason for the inspection or licensing conditions; and (3) embassy officials frequently sent foreign . . . nationals to conduct inspections of their own countries' facilities.'' [5–6]

''The U.S. government does not systematically verify compliance with government-to-government assurances on the use of nuclear-related dual-use items . . . Thus, the U.S. government cannot be certain that exports licensed with government-to-government assurances are being used for their intended purposes.'' [6]

''Only a small proportion of the nuclear-related dual-use licenses referred to the Department of Energy have been subjected to PLCs and PSVs. During fiscal years 1991 and 1992, Commerce conducted PLCs for 221 (2.6 percent) of the 8,370 nuclear-related dual-use licenses referred to Energy.'' [44] ''Over 60 percent of these inspections related to computers.'' [45]

''A total of 47 of these PLCs and PSVs involved end users on the Department of Energy's Watch List, and 35 of these had favorable results.'' [46]

Between fiscal years 1991 and 1992, seven licenses were approved despite unfavorable PLCs; of these two involved end users on the Watch List. [46–47]

A Commerce official told GAO that the department did not have specific criteria for conducting PLCs and PSVs involving nuclear dual-use goods. [47] Current guidelines apply more generally to all export controlled items. ''Without this focus,'' GAO found, ''Commerce cannot be certain that the licenses presenting the greatest nuclear proliferation risk are selected for inspection.'' [47] The selection criteria for conducting PLCs and PSVs do not highlight the most sensitive nuclear-related dual-use items ''or even distinguish the relative importance of items having uses in nuclear, chemical, or biological weapons, or with military or missile technology applications.'' [48] GAO found that *Commerce ''has developed specific guidance for conducting nuclear-related dual-use inspections.'' [49]*

GAO found that ''about 39 percent of nuclear-related PLCs [designed to check the bona fides of end users] in the eight countries of proliferation concern were performed on Department of Energy Watch List end users.'' [49]

Problems in specific cases:

Pakistan:—In March 1988, ''the U.S. embassy in Pakistan conducted a PLC for the proposed export of a computer to an end user located on the premises of a military facility in Pakistan. Although embassy officials did not visit the end user, citing time and budget constraints, the reply cable stated that the end user was a reliable recipient of U.S. technology. A subsequent PLC conducted during fiscal year 1991 reported the same finding for an oscilloscope export. The Energy Watch List, however, indicates that the military facility is involved in sensitive nuclear activities.'' [50]

Iraq:—May 1989, ''the U.S. embassy in Iraq conducted a PLC for the proposed export of a machine tool to Bader General Establishment. Inspectors toured the facility and viewed the plant where the machine tool would be used. The *reply cable stated that Bader General Establishment was a reliable recipient of U.S. technology*. However, after the Persian Gulf War, U.N. inspectors revealed that the facility was a primary contributor to Iraq's nuclear weapons program.'' [50]

Israel:—In December, ''the U.S. embassy in Israel conducted a PLC at a government commission for a proposed export to an end user involved in Israel's unsafeguarded nuclear program. *The inspecting official, an Israeli national, interviewed the commission's public relations official as well as a representative of the end user.* The U.S. embassy subsequently recommended approval of the application based on the results of the PLC.'' [50] GAO also found that ''According to U.S. officials at the U.S. embassy in Israel, *a foreign service national who was a former employee of the Israeli Foreign Service has been primarily responsible for conducting inspections.* Officials said that until the beginning of 1992, this individual conducted the majority of inspections without an accompanying U.S. official.'' [52] ''One laboratory official noted that 15 licenses were approved for exports of fibrous material to Israel in fiscal year 1991. However, no PLCs were conducted on license applications involving this item.'' [48]

India:—In another example, ''26 licenses were approved for corrosion-resistant sensing elements to India in fiscal year 1992. However, only three PLCs were conducted on these license applications.'' [48]

GAO found that ''at the U.S. consulate in Hong Kong, a foreign service national has been responsible for performing, without direct supervision, all nuclear-related dual-use inspections for the past 17 years.'' [52]

A recent Commerce Department guideline concerning the use of foreign nationals in the conduct of inspections ''*leaves the decision on who should perform the inspections to the discretion of the posts.*'' *[52]*

GAO found that *inspecting officials ''lack technical expertise in how nuclear-related dual-use items may be diverted*''; Commerce's requests for inspections ''omit vital information''; foreign nationals ''conduct many inspections''; ''some inspection reports do not provide an assessment of the end user's reliability''; and ''U.S. embassy and consulate officials may have difficulty gaining access to end-user facilities.'' GAO found that ''without such expertise and training, it is difficult for them [inspectors] to effectively detect potential or actual attempts to divert these items to a nuclear weapons program.'' [51] GAO also found that ''Embassy officials do not always report on the reliability of end users as required by Commerce.'' [52]

GAO found that ''Embassy officials in some countries have difficulty obtaining immediate access to foreign facilities or cannot obtain access at all because the host government is sensitive about inspections infringing on its sovereignty.'' GAO cited India and Germany as two such countries.

According to GAO, ''At several posts, including Hong Kong, India, Pakistan, Germany, and Israel, foreign service nationals were conducting nuclear-related dual-use inspections.'' [52] in some cases, these foreign nationals were not even accompanied by U.S. embassy officials, GAO found.

GAO found that ''there are no formal criteria for determining when to seek an end-use assurance . . .''. [54]

''According to State, Defense, and ACDA officials, the U.S. government does not systematically verify compliance with these [government-to-government] assurances because they are diplomatically negotiated agreements intended to carry the weight of an official commitment by a foreign government. Thus, it cannot be certain that the licensed exports are being used only for their intended purposes.'' [53]

According to U.S. officials, there is no evidence of cases where end-use assurances have been violated; however, officials also said there is no systematic effort to verify compliance with such assurances because they constitute an official commitment by a foreign government. According to State Department officials, most end-use assurances have no provisions for verifying compliance.'' [55]

GAO found that Israel and South Africa accounted for over 88 percent of all government-to-government assurances obtained during fiscal years 1988 to 1992 that prohibited specified nuclear end uses. [Table on page 54] ''For Israel, the majority of nuclear assurances involved military end users. The United States obtains end-use assurances for certain exports to Israeli military end users in lieu of conducting inspections of these end users.'' [55]

By Mr. D'AMATO:

S. 104. A bill to establish the position of Coordinator for Counter-Terrorism within the office of the Secretary State; to the Committee on Foreign Relations.

THE COORDINATOR FOR COUNTER-TERRORISM POSITION ACT OF 1995

● Mr. D'AMATO. Mr. President, I introduce a bill to permanently establish by statute the position of the Coordinator of Counter-Terrorism within the office of the Secretary of State. If the State Department had its way it would downgrade the day-to-day responsibilities of the office, from an Assistant Secretary level, to one among several Deputy Assistant Secretaries under a new Assistant Secretary responsible for narcotics and international crime as well as terrorism. I am pleased that my colleague from New York, Representative BEN GILMAN will be introducing identical legislation in the House of Representatives.

Under my amendment, the Coordinator shall have the rank of ''Ambassador-at-Large,'' a position that will require Senate confirmation, thereby giving the office an enhanced position in its relations with the other federal agencies that flight terrorism, and equal rank with similar officials of other nations.

Last year, the administration proposed to downgrade the position—a decision that was wrong then and is still wrong today, for a number of important reasons. Let me explain.

First, now is not the time to lower our guard against terrorism. Nearly 2 years ago, terrorism struck our shores when terrorists bombed the World Trade Center and planned additional bombings. Acts of terrorism have not lessened, but gotten more dangerous. We need look no farther then the heinous bombings in Buenos Aires, Panama, Tel Aviv, and the continuing Hamas campaign to disrupt the ongoing peace process, to see that the worldwide threat of terrorism is not receding but expanding.

Second, downgrading the position sends a message that we are not serious about fighting terrorism and that we don't consider it a priority. What will the terrorists think if we downgrade an office designed to thwart their attacks on American targets? I think they will become emboldened. This move cannot have a positive effect on our counter-terrorism efforts.

Third, downgrading the Counter-Terrorism office and placing it under a larger, more cumbersome portfolio that includes drugs and international crime, means that counter-terrorism will have a lower priority. The State Department contends that terrorism is explicitly tied to drug trafficking. This is a overly broad generalization and not a fact.

Finally, downgrading the position makes it harder for the Coordinator to organize a coherent counter-terrorism policy because he or she will not be able to deal effectively with the other members of the Federal bureaucracy in the fight against terrorism.

Mr. President, I would like to point out that according to the Congressional Research Service, between 1968 and 1993, including the attack on the World Trade Center, 769 Americans died in terrorist acts, worldwide. Moreover, in the World Trade Center bombing of February 26, 1993, in which six people died, over 1,000 others were injured. Losses incurred in that bombing surpassed $1 billion. As we all know, the terrorists planned more elaborate and dangerous operations. Fortunately, they were caught before more damage could be done.

Is now the time to put fight against terrorism on the backburner? Is now the time to tell the world that we don't consider terrorism important? I don't think so. Nor do I think that we, as a nation, can tell the families of these 769 people that the death of their loved ones are going to be forgotten. I don't think that anyone in this Chamber would want to tell them that we should relent in our fight against terrorism either. But, if we allow the administration plan to downgrade the Counter-Terrorism position to go forward, we will be doing just that.

The 1990 Report of the President's Commission on Aviation Security and Terrorism, following the bombing of Pan Am Flight 103, called for the creation of such a position. Interestingly, four former counter-terrorism and international narcotics control officials, in a letter to me begged, ''Don't gut our counter-terrorism capability.''

In another letter to me, Lisa and Ilsa Klinghoffer, daughters of Leon Kinghoffer who was murdered by terrorist on the *Achille Lauro* in October 1985, urged that a separate and independent office be kept at the State Department as ''the most effective implementation of the administration's counter-terrorism policies and initiatives.''

If we are going to be serious about the fight against terrorism, we must have the right resources. One of those resources is an Ambassador-at-large for Counter-Terrorism. This Ambassador will act as the sole voice and have direct access to the Secretary of State and will coordinate our nation's fight against this scourge that we must stand up to, and that we must defeat.

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. 104

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

SECTION 1. COORDINATOR FOR COUNTER-TERRORISM.

(a) ESTABLISHMENT.—There shall be within the office of the Secretary of State a Coordinator for Counter-Terrorism (hereafter in this section referred to as the ''Coordinator'') who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—(1) The Coordinator shall perform such duties and exercise such power as the Secretary of State shall prescribe.

(2) The Coordinator shall have as his principal duty the overall supervision (including policy oversight of resources) of international counterterrorism activities. The Coordinator shall be the principal advisor to the Secretary of State on international counterterrorism matters. The Coordinator shall be the principal counterterrorism official within the senior management of the Department of State and report directly to the Secretary of State.

(c) RANK AND STATUS.—The Coordinator shall have the rank and status of Ambassador-at-Large. The Coordinator shall be compensated at the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5314 of title 5, United States Code, or, if the Coordinator is appointed from the Foreign Service, the annual rate of pay which the individual last received under the Foreign Service Schedule, whichever is greater.

(d) DIPLOMATIC PROTOCOL.—For purposes of diplomatic protocol among officers of the Department of State, the Coordinator shall take precedence after the Secretary of State, the Deputy Secretary of State, and the Under Secretaries of State and shall take precedence among the Assistant Secretaries of State in the order prescribed by the Secretary of State.●

By Mr. DASCHLE (for himself, Mr. CONRAD, Mr. DORGAN, Mrs. KASSEBAUM, and Mr. BAUCUS):

S. 105. A bill to amend the Internal Revenue Code of 1986 to provide that certain cash rentals of farmland will not cause recapture of special estate tax valuation; to the Committee on Finance.

THE SPECIAL USE VALUATION FOR FAMILY FARMS ACT OF 1995

Mr. DASCHLE. Mr. President, since 1988, I have studied the effects on family farmers of a provision in the estate tax law—section 2032A. While section 2032A may seem a minor provision to some, it is critically important to family-run farms. A problem with respect to the Internal Revenue Service's interpretation of this provision has been festering for a number of years and threatens to force the sale of many family farms.

Section 2032A, which bases the estate tax applicable to a family farm on its

use as a farm, rather than on its market value, reflects the intent of Congress to help families keep their farms. A family that has worked hard to maintain a farm should not have to sell it to a third party solely to pay stiff estate taxes resulting from increases in the value of the land. Under section 2032A, inheriting family members are required to continue farming the property for at least 15 years, in order to avoid having the IRS ''recapture'' the tax savings.

At the time section 2032A was enacted, it was common practice for one or more family members to cash lease the farm from the other members of the family. This practice made sense where one family member was more involved than the other family members in the day-to-day farming of the land. Typically, however, the other family members would continue to be at risk as to the value of the farm and to participate in decisions affecting the farm's operation. Cash leasing among family members remained a common practice after the enactment of section 2032A. An inheriting child would cash lease from his or her siblings, with no reason to suspect from the statute or otherwise that the cash leasing arrangement might jeopardize the farm's qualification for special use valuation.

Based at least in part on some language that I am told was included in a Joint Committee on Taxation publication in early 1982, the Internal Revenue Service has taken the position that cash leasing among family members will disqualify the farm for special use valuation. The matter has since been the subject of numerous audits and some litigation, though potentially hundreds of family farmers may yet be unaware of the change of events. Cases continue to arise under this provision.

In 1988, Congress provided partial clarification of this issue for surviving spouses who cash lease to their children. Due to revenue concerns, however, no clarification was made of the situation where surviving children cash lease among themselves.

My concern is that many families in which inheriting children or other family members have cash leased to each other may not even be aware of the IRS's position on this issue. At some time in the future, they are going to be audited and find themselves liable for enormous amounts in taxes, interest and penalties. For those who cash leased in the late 1970s, this could be devastating because the taxes they owe are based on the inflated land values that existed at that time.

A case that arose in my State of South Dakota illustrates the unfairness and devastating impact of the IRS interpretation of section 2032A. Janet Kretschmar, who lives with her husband, Craig, in Cresbard, SD, inherited her mother's farm along with her two sisters in 1980. Because the property would continue to be farmed by the family members, estate taxes were paid on it pursuant to section 2032A, saving over $50,000 in estate tax.

Janet and Craig continued to farm the land and have primary responsibility for its day-to-day operation. They set up a simple and straightforward arrangement with the other two sisters whereby Janet and Craig would lease the sisters' interests from them.

Seven years later, the IRS told the Kretschmars that the cash lease arrangement had disqualified the property for special use valuation and that they owed $54,000 to the IRS. According to the IRS, this amount represented estate tax that was being ''recaptured'' as a result of the disqualification. This came as an enormous surprise to the Kretschmars, as they had never been notified of the change in interpretation of the law and had no reason to believe that their arrangement would no longer be held valid by the IRS for purposes of qualifying for special use valuation. The fact is that, if they had known this, they would have organized their affairs in one of several other acceptable, though more complicated, ways.

For many years, I have sought inclusion in tax legislation of a provision that would clarify that cash leasing among family members will not disqualify the property for special use valuation. In 1992, such a provision was successfully included in H.R. 11, the Revenue Act of 1992 and passed by Congress. Unfortunately, H.R. 11 was subsequently vetoed.

Today, I am introducing a bill the language of which is identical to the section 2032A measure that was passed in the Revenue Act of 1992. I am joined in this effort by my two colleagues from North Dakota, Senators DORGAN and CONRAD, whose background and expertise on tax issues are well known, as well as by my distinguished colleagues Senators KASSEBAUM and BAUCUS.

I must emphasize that there may be many other cases in other agricultural states where families are cash leasing the family farm among each other unaware that the IRS could come knocking at their door at any minute. I urge my colleagues in the Senate who may have such cases in their State to work with us and support this important clarification of the law.

I intend to request the Joint Committee on Taxation to estimate the revenue impact of this proposal. At an appropriate time thereafter, I will recommend any necessary offsets over a 10-year period as required by the Budget Act.

Mr. President, I ask that the full 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. 105

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

SECTION 1. CERTAIN CASH RENTALS OF FARMLAND NOT TO CAUSE RECAPTURE OF SPECIAL ESTATE TAX VALUATION.

(a) IN GENERAL.—Subsection (c) of section 2032A of the Internal Revenue Code of 1986 (relating to tax treatment of dispositions and failures to use for qualified use) is amended by adding at the end the following new paragraph:

''(8) CERTAIN CASH RENTAL NOT TO CAUSE RECAPTURE.—For purposes of this subsection, a qualified heir shall not be treated as failing to use property in a qualified use solely because such heir rents such property on a net cash basis to a member of the decedent's family, but only if, during the period of the lease, such member of the decedent's family uses such property in a qualified use.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to rentals occurring after December 31, 1976.

By Mr. DASCHLE:

S. 106. A bill to amend the Internal Revenue Code of 1986 to increase the standard mileage rate deduction for charitable use of passenger automobiles; to the Committee on Finance.

THE DEDUCTION FOR CHARITABLE USE OF PASSENGER AUTOMOBILES ACT OF 1995

Mr. DASCHLE. Mr. President, today I am introducing legislation that addresses a small, but important, concern regarding the deduction of mileage expenses by individuals who volunteer their services to help carry out the activities of charitable organizations.

Many individuals who volunteer for charitable organizations incur out-of-pocket expenses that are not reimbursed by the charity. One such expense occurs where an individual uses his or her own car to carry out charitable purpose activities. Examples of this are when an individual provides transportation to a hospital for veterans, delivers meals to the homeless or elderly on behalf of a charity, or transports children to scouting and other youth activities.

In 1984, Congress set a standard mileage expense deduction rate of 12 cents per mile for individuals who use their vehicles to carry out the tax-exempt goals of charitable organizations. The express purpose of the deduction was to support the efforts of volunteers, who do not receive any charitable deduction for the value of their contributed services, and to take into account the additional out-of-pocket costs of operation of a vehicle in doing so.

At the time that Congress codified the standard charitable mileage deduction at 12 cents per mile, the standard deduction for mileage expenses incurred in connection with one's trade or business was 20.5 cents for the first 15,000 miles and 11 cents for each mile thereafter. Since that time, the U.S. Department of the Treasury, through the Internal Revenue Service, has increased the standard mileage rate for business travel expenses to 28 cents per mile for unlimited mileage.

Unfortunately, due to an anomaly in the tax code, the Secretary of the Treasury does not have the authority to make corresponding increases in the

standard mileage rate for charitable use of one's vehicle. Thus, the standard charitable mileage rate remains today at 12 cents per mile.

The legislation I am introducing, which is identical to bills I have introduced in previous Congresses on this matter, would address this inconsistency in two ways. First, it would increase the standard charitable mileage expense deduction rate to 16 cents per mile. This would restore the ratio that existed in 1984 between the charitable mileage rate and the business mileage rate.

Second, the legislation would give the Secretary of the Treasury the authority to make subsequent increases in the charitable mileage rate without further permission from Congress, just as it currently does with the mileage rate for business use of a vehicle. The intent of this provision of the legislation is to ensure that, as increases are made in the future to the standard business mileage rate, the charitable mileage deduction will be increased, as well, so as to maintain the ratio that existed between these two mileage rates in 1984.

In 1993, the Joint Committee on Taxation estimated the cost of this proposal at $327 million over a five-year period. This amount is not insignificant despite the merits of this measure. Therefore, at an appropriate time, I intend to recommend offsets for the proposal over a ten-year period as required by the Budget Act.

Mr. President, many charitable organizations today are being forced to take on a greater burden than ever before, due to cut-backs, especially in the 1980s, in federal programs for veterans, the elderly and other groups in need. As a result, these organizations must increasingly rely on volunteer assistance to provide the services that are central to their tax-exempt purposes. If we can do no more, at the very least we in Congress should ensure that helpful measures remaining in the law are not allowed to erode.

On behalf of volunteers of every stripe, I urge my colleagues to support this legislation.

Mr. President, I ask unanimous consent that the full 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. 106

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

SECTION 1. INCREASE IN STANDARD MILEAGE RATE EXPENSE DEDUCTION FOR CHARITABLE USE OF PASSENGER AUTOMOBILE.

(a) IN GENERAL. Subsection (i) of section 170 of the Internal Revenue Code of 1986 (relating to standard mileage rate for use of passenger automobile) is amended to read as follows:

''(i) STANDARD MILEAGE RATE FOR USE OF PASSENGER AUTOMOBILE.—

''(1) GENERAL RULE.—Except as provided in paragraph (2), for purposes of computing the deduction under this section for use of passenger automobile, the standard mileage rate shall be 16 cents per mile.

''(2) TAXABLE YEARS BEGINNING AFTER 1993.— Not later than December 15 of 1995, and each subsequent calendar year, the Secretary may prescribe an increase in the standard mileage rate allowed under this section with respect to taxable years beginning in the succeeding calendar year.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1994.

By Mr. DASCHLE:

S. 107. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for travel expenses of certain loggers; to the Committee on Finance.

THE TRAVEL EXPENSE DEDUCTION FOR CERTAIN LOGGERS ACT OF 1995

Mr. DASCHLE. Mr. President, today I am introducing legislation in my continuing effort to address what I feel is an unfair ruling by the Internal Revenue Service that severely affects a certain segment of American workers. It is a situation where pure tax policy simply is not practical in its application to everyday life.

In my state of South Dakota, the Black Hills National Forest spreads over some 6,000 square miles. Many of my colleagues may be familiar with it.

In this forest, there is a thriving logging industry that employs many South Dakotans. The logging companies that have operations there would not be able to do their business without the assistance of those who cut the logs and haul or ''skid'' them to the trucks on which they are carried to the mill. These workers—known as ''cutters'' and ''skidders,'' and the contractors who employ them, are collectively referred to as ''loggers.''

For a logger, traveling to work every day is very different from the experience of the average commuter. Loggers often travel as much as a couple of hours one way to the site where cutting is taking place. This may involve driving along miles of unpaved forest roads. It is impossible for them to live closer to their work site, not only because of its location, but also because that site may change from month to month. In addition, loggers must have vehicles that are capable of traversing rough forest terrain.

Despite the number of miles the loggers must travel to work each day and the rough terrain, the IRS has said that their expenses of traveling from home to the work site and back again are non-deductible commuting expenses. This is true regardless of the location of the work site within the forest or its distance form the individual logger's home. For, according to the IRS, the entire 6,000-square-mile forest is the loggers' ''tax home'' or ''regular place of business'' for purposes of deducting mileage expenses.

Despite the IRS's reasons for taking this position, the effect of the rule on loggers in the Black Hills is unfair. It imposes a hardship on them and fails to recognize the special circumstances of their jobs. True, other taxpayers are not permitted to deduct commuting mileage expenses. But other taxpayers generally are not forced to travel such long distances to and from work each day or to drive along dirt forest roads. Indeed, several loggers who challenged the IRS on this issue initially won their cases, only to be overturned on appeal.

To rectify this situation, I introduced legislation in the 102d and 103d Congresses that would have allowed loggers, in the Black Hills or elsewhere, to deduct their mileage expenses incurred while traveling between their homes and the cutting site, so long as the mileage is legitimately related to their business. Although that measure was not included in tax legislation last year primarily due to revenue concerns, in the 102d Congress a provision requiring the U.S. Department of the Treasury to study the issue was passed in H.R. 11, the Revenue Act of 1992, which ultimately was vetoed.

Today I am reintroducing the bill that I introduced previously allowing loggers to deduct their mileage expenses incurred while traveling between their homes and the cutting site. I urge my colleagues, particularly those who have loggers in their state, to take a close look at it. To some, this may seem a small matter in the scheme of what we do here in the Senate, but it would restore a measure of fairness to loggers who currently are subject to the IRS's whims.

Finally, I recognize that there will be some cost associated with this measure, and, at the appropriate time, I intend to recommend offsets to cover the cost of the measure over a 10-year period as required by the Budget Act.

Mr. President, I ask that the full 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. 107

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

SECTION 1. DEDUCTION FOR TRAVEL EXPENSES OF CERTAIN LOGGERS.

(a) IN GENERAL.—Section 162 of the Internal Revenue Code of 1986 (relating to trade or business expenses) is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

''(o) SPECIAL TRAVEL EXPENSE RULES FOR LOGGERS.—

''(1) IN GENERAL.—Notwithstanding subsection (a)(2) and section 262, in the case of an individual, there shall be allowed as a deduction under this section an amount equal to the travel expenses of such individual in connection with the trade or business of logging (including the miles to and from such individual's home).

''(2) TRADE OR BUSINESS OF LOGGING.—For purpose of this section, the term 'trade or business of logging' means the trade or business of the cutting and skidding of timber.''

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1994.

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

S. 108. A bill to amend the Internal Revenue Code of 1986 to allow the energy investment credit for solar energy and geothermal property against the entire regular tax and the alternative minimum tax; to the Committee on Finance.

THE PROMOTING SOLAR AND GEOTHERMAL TECHNOLOGIES ACT OF 1995

Mr. DASCHLE. Mr. President, a successful national energy policy requires that we shift our reliance away from finite fossil fuels toward the infinite supply of renewable alternative technologies.

To that end, in the 102d Congress I introduced legislation that would have extended for 5 years the business energy tax credits set forth in section 46 of the Internal Revenue Code for investments in solar and geothermal energy facilities. At the time, those credits were scheduled to expire at the end of 1992. In addition, I introduced a bill that would have allowed the credits to be taken against the alternative minimum tax or ''AMT'' for those businesses subject to its provisions.

After much hard work, a provision making the solar and geothermal energy tax credits permanent was incorporated into the Energy Policy Act enacted into law last year. The proposal to allow the credits against the AMT, however, was not included in that legislation. Therefore, today I am re-introducing the bill that would permit businesses subject to the AMT to take advantage of the credits for investment in solar and geothermal energy facilities. I am joined by my distinguished colleague from Vermont, Senator JEFFORDS.

These energy credits represent a small but important contribution to developing a broader, more sensible, and more reliable national energy strategy. To be sure, we must be careful of enacting provisions that threaten to erode the alternative minimum tax, but there are situations in which other policies should override this concern. In my view, the promotion of renewable energy sources is just such a situation.

The promotion of renewable energy sources is more important now than ever before. This was demonstrated in the recent past by the events in the Persian Gulf. We should have learned from those events that we cannot continue to ignore our increasing dependence on imported oil. The world's oil supply will run out. Nothing can change that. To the extent that we foster and encourage the development of solar, geothermal and other new technologies, we can reduce our reliance on imported oil.

The need to slow the detrimental effects on our environment of traditional sources of energy is as important as energy supply and security. Renewable energy sources are the answer to this need. I have often spoken on the merits of alcohol fuels in this regard. Solar and geothermal energy have similar potential for the environment. For example, in the solar mode of operation, solar technology has no combustion-related emissions at all. Even when using back-up fossil fuel to assure reliability, present generation solar technology produces far less carbon dioxide than natural gas, the cleanest fossil fuel alternative. Geothermal plants also emit substantially less carbon dioxide than gas, oil, or coal-fired plants for the same electrical output.

Recent investment in solar and geothermal technologies is just beginning to yield potential return in the form of energy security and an improved environment. These technologies are not yet at the point, however, where they are commercially viable. The tax credits provide the margin needed to keep renewable projects in operation. It would be counterproductive not to extend the credits to those businesses falling under the AMT, in view of our national investment to date and our desire to lessen our dependence on imported oil.

Finally, in the 103d Congress, the Joint Committee on Taxation estimated the cost of this measure at $212 million over 5 years. At the appropriate time, I intend to recommend offsets for the cost of the proposal over a 10-year period as required by the Budget Act.

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

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

S. 108

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

SECTION 1. CHANGES RELATING TO ENERGY CREDIT.

(a) ENERGY CREDIT ALLOWABLE AGAINST ENTIRE REGULAR TAX AND ALTERNATIVE MINIMUM TAX.—

(1) Subsection (c) of section 38 of the Internal Revenue Code of 1986 (relating to limitation based on amount of tax) is amended by redesignating paragraph (3) as paragraph (4) and adding after paragraph (2) the following new paragraph:

''(3) SPECIAL RULES FOR ENERGY CREDIT.—

''(A) IN GENERAL.—In the case of a C corporation—

''(i) this section and section 39 shall be applied separately with respect to the energy credit, and

''(ii) in applying paragraph (1) to such credit—

''(I) subparagraph (A) of paragraph (1) shall not apply, and

''(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the energy credit).

''(B) ENERGY CREDIT.—For purposes of this paragraph and paragraph (2), the term 'energy credit' means the credit allowable under subjection (a) by reason of section 48(a).''

(2) Subclause (II) of section 38(c)(2)(A)(ii) of such Code is amended by inserting ''or the energy credit'' after ''employment credit''.

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

By Mr. DASCHLE (for himself, Mr. CONRAD, Mr. DORGAN, Mr. PRESSLER, Mr. GRASSLEY, Mr. BAUCUS, Mr. BURNS and Mr. HARKIN):

S. 109. A bill to amend the Internal Revenue Code of 1986 relating to the treatment of livestock sold on account of weather-related conditions; to the Committee on Finance.

THE TAX TREATMENT OF INCOME FROM INVOLUNTARY CONVERSION OF LIVESTOCK ACT OF 1995

Mr. DASCHLE. Mr. President, today I am introducing legislation to provide equitable treatment under the tax law for farmers and ranchers who are forced to sell their livestock prematurely due to extreme weather conditions. I am joined in this effort by Senators CONRAD, DORGAN, PRESSLER, GRASSLEY, BAUCUS, BURNS and HARKIN.

A couple summers ago, Midwestern States suffered severe floods, which devastated lives and property along these states rivers and shorelines. President Clinton responded quickly by providing disaster assistance, $2.5 billion, including $1 billion for agriculture, in emergency aid to flooded areas in the Midwest.

In addition to receiving disaster payments, many farmers were able to take advantage of provisions in the Internal Revenue Code designed primarily to spread out the impact of taxes on farmers in these situations. Ironically, however, while farmers who lose their crops due to floods are covered under these provisions, farmers who must involuntarily sell livestock due to flood conditions are not.

Normally, a taxpayer who uses the cash method of accounting, as most farmers do, must report income in the year in which he or she actually receives the income. The Tax Code, however, outlines certain exceptions to this rule where disaster conditions generate income to the farmer that otherwise would not have been received at that time. For example, one exception allows farmers who receive insurance proceeds or disaster payments when crops are destroyed or damaged due to drought, flood or any other natural disaster to include those proceeds in income in the year following the disaster, if that is when the income from the crops otherwise would have been received.

Two other provisions deal with involuntary conversion of livestock. The first provision enables livestock producers who are forced to sell herds due to drought conditions to defer tax on any gain from these sales by reinvesting the proceeds in similar property within a 2-year period. The second provision allows livestock producers who choose not to reinvest in similar property to elect to include proceeds from the sale of the livestock in taxable income in the year following the sale.

For no apparent reason, the two provisions dealing with livestock do not

mention the situation where livestock is involuntarily sold due to flooding. Thus, floods and flood conditions do not trigger the benefits of those provisions. Yet, many livestock producers during the recent floods had no choice but to sell livestock because floods had destroyed crops needed to feed the livestock, fences for containing livestock were washed out, or other similar circumstances had occurred.

Our proposal would expand the availability of the existing livestock tax provisions to include involuntary conversions of livestock due to flooding and other weather-related conditions. This would conform the treatment of crops and livestock in this respect.

A provision similar to our bill was passed by Congress as part of the Revenue Act of 1992. Unfortunately, that legislation was subsequently vetoed.

Let me emphasize that the tax provisions we are dealing with here affect the timing of tax payments, not forgiveness of tax liability. Nonetheless, I intend to request the Joint Committee on Taxation to prepare an estimate of the cost of this measure. At the appropriate time after that estimate is completed, I will recommend offsets over a 10-year period as required by the Budget Act.

We should not shut out some farmers—livestock producers—from the disaster-related provisions of the Tax Code simply because the natural disaster involved was a flood, instead of a drought. That just doesn't make sense, and I urge my colleagues to give this bill favorable consideration.

Mr. President, I ask 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. 109

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

SECTION 1. TREATMENT OF LIVESTOCK SOLD ON ACCOUNT OF WEATHER-RELATED CONDITIONS.

(a) DEFERRAL OF INCOME INCLUSION.—Subsection (e) of section 451 of the Internal Revenue Code of 1986 (relating to special rules for proceeds from livestock sold on account of drought) is amended—

(1) by striking ''drought conditions, and that these drought conditions'' in paragraph (1) and inserting ''drought, flood, or other weather-related conditions, and that such conditions''; and

(2) by inserting '', FLOOD, OR OTHER WEATHER-RELATED CONDITIONS' after ''DROUGHT'' in the subsection heading.

(b) INVOLUNTARY CONVERSIONS.—Subsection (e) of section 1033 of such code (relating to livestock sold on account of drought) is amended—

(1) by inserting '', flood, or other weather-related conditions'' before the period at the end thereof; and

(2) by inserting '', FLOOD, OR OTHER WEATHER-RELATED CONDITIONS'' AFTER ''DROUGHT'' in the subsection heading.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and exchanges after December 31, 1994.

By Mr. DASCHLE (for himself, Mr. GRASSLEY, Mr. HARKIN, Mr. BREAUX, Mr. BAUCUS, Mr. PRESSLER, Mr. CONRAD, Mr. BURNS, and Mr. DORGAN):

S. 110. A bill to amend the Internal Revenue Code of 1986 to provide that a taxpayer may elect to include in income crop insurance proceeds and disaster payments in the year of the disaster or in the following year; to the Committee on Finance.

THE TAX TREATMENT OF CROP DISASTER ASSISTANCE ACT OF 1995

Mr. DASCHLE. Mr. President, I am introducing legislation today to address unnecessary inflexibility in a Tax Code provision that affects farmers who receive crop disaster assistance. I am joined by my distinguished colleagues Senators GRASSLEY, HARKIN, BREAUX, BAUCUS, PRESSLER, CONRAD, BURNS, and DORGAN.

Last year, a number of my colleagues in the Senate and I, as well as many members of the House of Representatives, introduced similar legislation to address a concern arising out of disaster payments received after the 1993 floods in the Midwest. While it may be too late to rectify this problem for some of the farmers who received those payments, this legislation would provide them the option to go back and amend their 1993 returns. Moreover, the measure is prospective, as it is nonetheless important to ensure fairness to farmers who suffer crop damage as result of future disasters.

The legislation would make a permanent change to the Tax Code and impact farmers who receive disaster payments as a result of losses sustained from natural disasters. Due to any number of factors, farmers may not receive disaster assistance payments until the year following the disaster. This may have serious tax consequences for them if they normally would have recognized the income from the crops that were destroyed in the year of the disaster. Receipt of the disaster payment in the following year may prevent them from reporting it as income on the previous year's return. This, in turn, will result in a ''bunching'' of income in the later year, possibly pushing them into a higher tax bracket than would otherwise be the case. It may also cause them to lose the benefit of personnel exemptions and certain nonbusiness itemized deductions.

Ironically, Internal Revenue Code section 451(d) permits a farmer who happened to receive his disaster payment in, for example, 1993 to defer recognition of that income for tax purposes until 1994, if that is the year in which he otherwise would have recognized the income from the crops that were destroyed. But it does not allow a farmer who did not actually receive the payment until 1994 to recognize the payment as income on his 1993 return if that is when he normally would have received the income.

The legislation we are introducing today would simply permit section 451(d) to operate in either direction, so long as the farmer recognizes the disaster payment in the year in which he would otherwise have recognized the income from the crops that were destroyed.

Let me emphasize again that the change made by this legislation would apply to future disasters and disaster payments, not just those arising out of the 1993 flooding. Last year, the Joint Committee on Taxation estimated the cost of this proposal at $9 million over a 6-year period. At the appropriate time, I intend to recommend offsets covering the cost over a 10-year period as required by the Budget Act.

Mr. President, there really is no reason why the Tax Code should allow flexibility for farmers who want to recognize disaster payments in the year following the disaster, but not for those who receive their payments in the latter year and want to recognize them as income in the year of the disaster. In either case, the farmer would be required to show that he would have received the income from the destroyed crops in the year he is choosing to report the disaster assistance income. Without this two way rule, we will be imposing significant financial burdens on the very people we seek to help in passing disaster assistance legislation.

I would also like to make clear that no one is pointing fingers here. The fact is that this situation can arise circumstantially, without fault on anyone's part. The timing of the disaster, the volume of applicants for disaster assistance, and many other factors could result in farmers receiving disaster assistance payments the year after the disaster. This situation was bound to arise sooner or later, and it makes sense to correct it as soon as possible for those who are affected.

It is my intention to pursue passage of this measure at the earliest opportunity this year. I hope my colleagues will join me by supporting it.

Mr. President, I ask that a copy of this legislation be printed in the RECORD.

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

S. 110

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

SECTION 1. SPECIAL RULE FOR CROP INSURANCE PROCEEDS AND DISASTER PAYMENTS.

(a) IN GENERAL.—Section 451(d) of the Internal Revenue Code of 1986 (relating to special rule for crop insurance proceeds and disaster payments) is amended to read as follows:

''(d) SPECIAL RULE FOR CROP INSURANCE PROCEEDS AND DISASTER PAYMENTS.—

''(1) GENERAL RULE.—In the case of any payment described in paragraph (2), a taxpayer reporting on the cash receipts and disbursements method of accounting—

''(A) may elect to treat any such payment received in the taxable year of destruction or damage of crops as having been received in the following taxable year if the taxpayer establishes that, under the taxpayer's practice,

income from such crops involved would have been reported in a following taxable year, or

''(B) may elect to treat any such payment received in a taxable year following the taxable year of the destruction or damage of crops as having been received in the taxable year of destruction or damage, if the taxpayer establishes that, under the taxpayer's practice, income from such crops involved would have been reported in the taxable year of destruction or damage.

''(2) PAYMENTS DESCRIBED.—For purposes of this subsection, a payment is described in this paragraph if such payment—

''(A) is insurance proceeds received on account of destruction or damage to crops, or

''(B) is disaster assistance received under any Federal law as a result of—

''(i) destruction or damage to crops caused by drought, flood, or other natural disaster, or

''(ii) inability to plant crops because of such a disaster.''.

(b) EFFECTIVE DATE.—The amendment made by this section applies to payments received after December 31, 1992, as a result of destruction or damage occurring after such date.

By Mr. DASCHLE (for himself, Mr. BREAUX, Mr. CAMPBELL, Mr. GLENN, Mr. HARKIN, Mr. JOHNSTON, and Mr. PRYOR):

S. 111. A bill to amend the Internal Revenue Code of 1986 to make permanent, and to increase to 100 percent, the deduction of self-employed individuals for health insurance costs; to the Committee on Finance.

THE TAX TREATMENT OF SELF-EMPLOYED HEALTH INSURANCE COSTS ACT OF 1995

Mr. DASCHLE. Mr. President, I have long been aware of an inequity imposed on small businesses in our Federal Tax Code. Our tax system discriminates against small businesses by denying the self-employed a full deduction for the expenses they incur to obtain health insurance for themselves and their families.

Corporations may deduct 100 percent of the costs of providing health insurance for their employees, but the self-employed, whether they operate as sole proprietorships or as partnerships, have been permitted to deduct only 25 percent of the cost of health insurance for themselves and their families. Furthermore, the 25 percent deduction has been extended on a piecemeal basis only and last expired on December 31, 1993. Unless we reinstate the deduction, the self-employed, most of whom are hard-working middle-income taxpayers, will have to shoulder the full cost of their health insurance or forgo health insurance altogether.

The importance of the deduction has grown substantially in recent years due to tremendous increases in health care costs generally. The annual double-digit increases in health care costs have far outstripped the rate of inflation and led to similar increases in the cost of health insurance. Corporations, which frequently are in a better position to absorb cost increases, may fully deduct the higher insurance expenses, while the self-employed must pay these costs with after-tax dollars. In some cases, this may mean forfeiting health insurance altogether.

Last year, Congress attempted to pass comprehensive health care legislation which could have resolved this inequity on a permanent basis. Many of us deeply regretted the failure of health care reform efforts last year. The self-employed health insurance deduction was one of the many casualties of that failure.

I remain committed to passing a health reform bill and hope my colleagues in the majority will join me in this effort. But, regardless of the success of that effort, I think it is time we put the self-employed on an equal footing with corporations.

I am reintroducing today legislation I have offered in past Congresses that would establish a full 100 percent deduction for health insurance costs paid by the self-employed. In addition, this legislation, which is identical to the bills I introduced previously, would make the deduction permanent, as it is for corporations. If this bill is enacted, the self-employed no longer will have to worry each year that their deduction for health insurance costs may be completely eliminated.

My distinguished colleagues Senators BREAUX, CAMPBELL, GLENN, HARKIN, JOHNSTON, and PRYOR have joined me in introducing this legislation.

The cost of this measure is not insignificant, and I intend to work with my colleagues in the Senate who favor extension and expansion of the deduction to find an appropriate and adequate offset elsewhere in the budget to cover the cost of this measure over the 10-year period required under the Budget Act.

Of course, consideration of this measure should in no way diminish the importance of or divert our attention away from the ultimate goal of reforming our health care system. Only through such reforms can we hope to rein in skyrocketing health care costs and provide health security to families that currently cannot afford insurance or live in fear of losing their coverage.

I encourage my colleagues to cosponsor the legislation I am introducing today. In so doing, they not only will help restore fairness to the Tax Code with respect to small businesses, but they also will be supporting substantial tax relief for a large group of middle-income Americans.

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

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

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

S. 111

SECTION 1. HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) DEDUCTION MADE PERMANENT.—

(1) IN GENERAL.—Section 162(l) of the Internal Revenue Code of 1986 (relating to special rules for health insurance costs of self-employed individuals) is amended by striking paragraph (6).

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1993.

(b) INCREASE IN AMOUNT OF DEDUCTION.—

(1) IN GENERAL.—Paragraph (1) of section 162(l) of such Code is amended by striking ''25 percent of''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning after December 31, 1994.

By Mr. DASCHLE (for himself, Mr. GRASSLEY, Mr. HARKIN, Mr. CONRAD, and Mr. DORGAN):

S. 112. A bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain amounts received by a cooperative telephone company; to the Committee on Finance.

THE TAX TREATMENT OF TELEPHONE COOPERATIVES ACT OF 1995

Mr. DASCHLE. Mr. President, today I am introducing legislation that reaffirms the intent of the U.S. Congress, originally expressed in 1916, to grant tax-exempt status to telephone cooperatives. This exemption is now set forth in section 501(c)(12) of the Internal Revenue Code.

I am joined by my distinguished colleagues Senators GRASSLEY, HARKIN, CONRAD, and DORGAN.

This legislation is identical to a bill I introduced in the 103d Congress and to a measure that was included in the Revenue Act of 1992, which ultimately was vetoed.

Congress has always understood that tax exemption is necessary to ensure that reliable, universal telephone service is available in rural America at a cost that is affordable to the rural consumer. Telephone cooperative are non-profit entities that provide this service where it might otherwise not exist due to the high cost of reaching remote, sparsely populated areas.

The facilities of a telephone cooperative are used to provide both local and long distance communications services. Perhaps the most important of these for rural users is long distance. Without these services, both local and long distance, people in rural areas could not communicate with their own neighbors, much less with the world. While telephone cooperative comprise only a small fraction of the U.S. telephone industry—about 1 percent—their services are vitally important to those who must rely upon them.

Under Internal Revenue Code section 501(c)(12), a telephone cooperative qualifies for tax exemption only if at least 85 percent of its gross income consists of amounts collected from members for the sole purpose of meeting losses and expenses. Thus, the bulk of the revenues must be related to providing services needed by members of the cooperative, that is, rural consumers. No more than 15 percent of the cooperative's gross income may come from non-member sources, such as property rentals or interest earned on funds on deposit in a bank. For purposes of the 85 percent test, certain

categories of income are deemed neither member nor non-member income and are excluded from the calculation. The reason for the 85 percent test is to ensure that cooperatives do not abuse their tax-exempt status.

A Technical Advise Memorandum [TAM] released by the Internal Revenue Service a few years ago threatens to change the way telephone cooperatives characterize certain expenses for purposes of the 85 percent test. If the rationale set forth in the TAM is applied to all telephone cooperatives, the majority could lose their tax-exempt status.

Specifically, the IRS now appears to take the position that all fees received by telephone cooperatives from long-distance companies for use of the local lines must be excluded from the 85 percent test and that fees received for billing and collection services performed by cooperatives on behalf of long-distance companies constitute non-member income to the cooperative.

The legislation I am introducing today would clarify that access revenues paid by long distance companies to telephone cooperatives are to be counted as member revenues, so long as they are related to long distance calls paid for by members of the cooperative. In addition, the legislation would indicate that billing and collection fees are to be excluded entirely from the 85 percent test calculation.

Mr. President, it is not secret that mere distance is the single most important obstacle to rural development. In the telecommunications industry today, we have the ability to bridge distances more effectively than ever before. Technology in this area has advanced at an incredible pace. But, maintaining and upgrading the rural telecommunications infrastructure is an exceedingly expensive proposition, and we must do all we can to encourage this development.

Ensuring that telephone cooperatives may retain their legitimate tax-exempt status is one vital step we can take. I believe that providing access to customers for long distance calls and billing and collecting for those calls on behalf of the cooperative's members and the long distance companies are indisputably part of the exempt function of providing telephone service, especially to rural communities. The nature and function of telephone cooperatives have not materially changed since 1916, and neither should the formula upon which they rely to obtain tax-exempt status.

In the 103d Congress, the Joint Committee on Taxation estimated the cost of this legislation to be $59 million over a 5-year period. At the appropriate time, I will recommend appropriate offsets to cover the cost of this measure over the 10-year period required under the Budget Act.

Mr. President, I ask 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. 112

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

SECTION 1. TREATMENT OF CERTAIN AMOUNTS RECEIVED BY A COOPERATIVE TELEPHONE COMPANY.

(a) NONMEMBER INCOME.—

(1) IN GENERAL.—Paragraph (12) of section 501(c) of the Internal Revenue Code of 1986 (relating to list of exempt organizations) is amended by adding at the end the following new subparagraph:

''(E) In the case of a mutual or cooperative telephone company (hereafter in this subparagraph referred to as the 'cooperative'), 50 percent of the income received or accrued directly or indirectly from a nonmember telephone company for the performance of communication services by the cooperative shall be treated for purposes of subparagraph (A) as collected from members of the cooperative for the sole purpose of meeting the losses and expenses of the cooperative.''

(2) CERTAIN BILLING AND COLLECTION SERVICE FEES NOT TAKEN INTO ACCOUNT.—Subparagraph (B) of section 501(c)(12) of such Code is amended by striking ''or'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', or'', and by adding at the end the following new clause:

''(v) from billing and collection services performed for a nonmember telephone company.''

(3) CONFORMING AMENDMENT.—Clause (i) of section 501(c)(12)(B) of such Code is amended by inserting before the comma at the end thereof '', other than income described in subparagraph (E)''.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts received or accrued after December 31, 1994.

(5) NO INFERENCE AS TO UNRELATED BUSINESS INCOME TREATMENT OF BILLING AND COLLECTION SERVICE FEES.—Nothing in the amendments made by this subsection shall be construed to indicate the proper treatment of billing and collection service fees under part III of subchapter F of chapter 1 of the Internal Revenue Code of 1986 (relating to taxation of business income of certain exempt organizations).

(b) TREATMENT OF CERTAIN INVESTMENT INCOME OF MUTUAL OR COOPERATIVE TELEPHONE COMPANIES.—

(1) IN GENERAL.—Paragraph (12) of section 501(c) of such Code (relating to list of exempt organizations) is amended by adding at the end the following new subparagraph:

''(F) In the case of a mutual or cooperative telephone company, subparagraph (A) shall be applied without taking into account reserve income (as defined in section 512(d)(2)) if such income, when added to other income not collected from members for the sole purpose of meeting losses and expenses, does not exceed 35 percent of the company's total income. For the purposes of the preceding sentence, income referred to in subparagraph (B) shall not be taken into account.''

(2) PORTION OF INVESTMENT INCOME SUBJECT TO UNRELATED BUSINESS INCOME TAX.—Section 512 of such Code is amended by adding at the end the following new subsection:

''(d) INVESTMENT INCOME OF CERTAIN MUTUAL OR COOPERATIVE TELEPHONE COMPANIES.—

''(1) IN GENERAL.—In determining the unrelated business taxable income of a mutual or cooperative telephone company described in section 501(c)(12)—

''(A) there shall be included, as an item of gross income derived from an unrelated trade or business, reserve income to the extent such reserve income, when added to other income not collected from members for the sole purpose of meeting losses and expenses, exceeds 15 percent of the company's total income, and

''(B) there shall be allowed all deductions directly connected with the portion of the reserve income which is so included.

For purposes of the preceding sentence, income referred to in section 501(c)(12)(B) shall not be taken into account.

''(2) RESERVE INCOME.—For purposes of paragraph (1), the term 'reserve income' means income—

''(A) which would (but for this subsection) be excluded under subsection (b), and

''(B) which is derived from assets set aside for the repair or replacement of telephone system facilities of such company.''

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts received or accrued after December 31, 1994.

By Mr. DASCHLE:

S. 113. A bill to amend the Internal Revenue Code of 1986 to allow Indian tribes to receive charitable contributions of inventory; to the Committee on Finance.

THE CHARITABLE CONTRIBUTIONS OF INVENTORY TO INDIAN TRIBES

Mr. DASCHLE. Mr. President, I am introducing legislation that would expand the current inventory charitable donation rule to include Indian tribes. This proposal is short and simple.

Under current law, companies may obtain a special charitable donation tax deduction under Internal Revenue Code Section 170(e)(3) for contributing their excess inventory to ''the ill, the needy, or infants.'' While not limited to any particular type of company or inventory, this deduction commonly is used by food processing companies whose excess food inventories otherwise would spoil. Indian tribes have had difficulty obtaining these donations, however, because of an ambiguity in the law as to whether or not donating companies may deduct donations to organizations on Indian reservations.

The current language in Section 170(e)(3) requires charitable donations of excess inventory to be made to organizations that are described in Section 501(c)(3) of the Code and exempt from taxation under Section 501(a). While Indian tribes are exempt from taxation, they are not among the organizations described in Section 501(c)(3). Accordingly, it is not clear that a direct donation of excess inventory to an Indian tribe would qualify for the charitable donation deduction under Section 170(e)(3).

Ironically, the Indian Tribal Government Tax Status Act found in Section 7871 provides that an Indian tribal government shall be treated as a state for purposes of determining tax deductibility of charitable contributions made pursuant to Section 170. Unfortunately, the Act does not expressly extend to donations made under Section 170(e)(3) because that provision technically does not include states as eligible donees, either.

Mr. President, it is well documented that Native Americans, like other citizens, may meet the qualifications for this special charitable donation. No one would argue that it is not within the intent of Section 170(e)(3) to allow contributions to Native American organizations to qualify for the special charitable donation deduction in that section of the code. The bill I am introducing today simply would allow those contributions to qualify for the deduction. By allowing companies to make qualified contributions to Indian tribes under Section 170(e)(3), the bill would clearly further the intended purpose of both Internal Revenue Code Section 170(e)(3) and the Indian Tribal Government Tax Status Act.

The appropriateness of the measure is exhibited by the fact that it was included in the Revenue Act of 1992 (H.R. 11,), which, unfortunately, was vetoed, Moreover, at the time it was passed, the measure was supported on policy grounds by the Joint Committee on Taxation and Finance Committee staffs. Finally, in 1994, the Joint Committee on Taxation estimated that the proposal would have only a negligible effect on Treasury Receipts.

I strongly encourage my colleagues to take a close look at this bill and consider supporting this worthy and reasonable measure.

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

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

S. 113

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

SECTION 1. CHARITABLE CONTRIBUTIONS OF INVENTORY TO INDIAN TRIBES.

(a) IN GENERAL.—Section 170(e)(3) of the Internal Revenue Code of 1986 (relating to a special rule for certain contributions of inventory or other property) is amended by adding at the end the following new subparagraph:

''(D) SPECIAL RULE FOR INDIAN TRIBES.—

''(i) IN GENERAL.—An Indian tribe (as defined in section 7871(c)(3)(E)(ii)) shall be treated as an organization eligible to be a donee under subparagraph (A).

''(ii) USE OF PROPERTY.—For purposes of subparagraph (A)(i), if the use of the property donated is related to the exercise of an essential governmental function of the Indian tribal government, such use shall be treated as related to the purpose or function constituting the basis for the organization's exemption.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1994.

By Mrs. BOXER:

S. 114. A bill to authorize the Securities and Exchange Commission to require greater disclosure by municipalities that issue securities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

THE MUNICIPAL SECURITIES DISCLOSURE ACT OF 1995

Mrs. BOXER. Mr. President, I am introducing today The Municipal Securities Disclosure Act of 1995. This bill would give the Securities and Exchange Commission [SEC] the authority to require registration and disclosure by municipalities that issue securities. This bill will ensure that municipal securities investors are provided with more complete and comprehensive information about municipal issuers and their interests and obligations. The recent events in Orange County underscore the importance of providing municipal bond purchasers with this complete and comprehensive information.

Municipal securities are currently exempt from the registration and disclosure requirements of the Securities Act of 1933 and the Exchange Act of 1934. Because of these regulatory exemptions, disclosure by issuers of municipal securities is voluntary. The quality and scope of information that is provided to municipal securities investors depends on the judgment of the issuing municipality. As a result, the information provided by municipalities varies enormously in extent and detail—from municipalities that provide comprehensive documents revealing information about the issuer, its revenue sources, the use of the funds raised, and the characteristics of the bonds being issued, to those that offer only limited and sketchy information.

Municipal issuers are also not subject to any continuing disclosure requirements. As circumstances change or situations arise, municipalities are under no obligation to disclose the information to the market. Again, this limits the ability of investors to acquire necessary information to allow them to make intelligent and informed investment decisions.

Complete and comprehensive disclosure is especially important for individual and smaller investors, who now represent a large and growing segment of municipal bond owners. Banks, insurance companies and other institutions once were the primary holders of municipal bonds. Today, households—both directly and through mutual funds—account for the largest ownership share of any investor group in the market. The growing importance of individuals in this market and their inevitable reliance on the recommendations of municipal dealers underscores the need for broad and detailed information so that these investors can make sound judgments about their municipal securities purchases.

Complete and comprehensive disclosure is also important as new and more complex forms of municipal securities become more common. Investors in these more complex instruments need continuing and complete information in order to monitor and manage their interests in these securities.

Corporations must register with the SEC and comply with a range of disclosure obligations. They must disclose detailed information about the company's business, management, debts and assets. A company must disclose information about its other securities and information about legal proceedings in which it may be involved. A company must also meet standards for accuracy in reporting of financial data. The company's books must be submitted to independent accountants and this information must be supplied in the formal registration filed with the SEC. This registration and disclosure regime serves investors by ensuring that the information on which they are relying to make their investment decision is accurate and comprehensive and complete.

To protect investors and ensure a sound municipal securities system, municipal issuers must be subject to a similar disclosure regime. Comprehensive and accurate disclosure by issuers on an initial and ongoing basis is critical to investors in assessing prices at the offering, in making decisions as to which bonds to buy, and in deciding when to get out.

The recent events on Orange County are an illustration of the kinds of disclosure problems that a municipal securities investor faces. It is unclear whether purchasers of bonds issued by Orange County or other governmental entities who had invested in the Orange County investment fund knew of the fact that the Orange County investment fund was experiencing serious losses. It is not clear whether they knew of the fund's investments in complex derivatives. It is not clear whether the risks of the funds's highly leveraged investment strategy were disclosed. What is clear is that the SEC was not given the opportunity to review offerings before sale to the public in order to raise appropriate questions or solicit more information.

The Municipal Securities Disclosure Act of 1995 would give the SEC the flexibility and authority to require registration by municipal issuers and disclosure of relevant information. This legislation does not dictate what municipalities must disclose, but rather, it grants the SEC the power to be employed with the proper and appropriate scope.

The goal is more information. More information about the issuers of municipal securities will allow investors to better evaluate the value of their securities and the possible risks. More information will mean that regulators can better ensure a safe and sound municipal securities market.

I ask unanimous consent that the bill be printed in the RECORD.

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

S. 114

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 ''Municipal Securities Disclosure Act of 1995''.

SEC. 2. MUNICIPAL SECURITIES TREATMENT UNDER SECURITIES EXCHANGE ACT OF 1934.

(a) EXEMPTION AUTHORITY.—Section 15B of the Securities Exchange Act of 1934 (15 U.S.C. 78*o*–4) is amended by striking subsection (d) and inserting the following:

''(d) The Commission may, by rule or regulation, and subject to such terms and conditions as may be prescribed in accordance with those rules and regulations, add municipal securities to the classes of securities exempted from the application of any provision of this title, if the Commission finds that the enforcement of such provision with respect to such securities is not necessary in the public interest and for the protection of investors.''.

(b) AMENDMENT TO DEFINITION OF ''EXEMPTED SECURITY''.—Section 3(a)(12) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(12)) is amended—

(1) in subparagraph (A)—

(A) by striking clause (ii); and

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

(2) in subparagraph (B)—

(A) by striking ''(i)''; and

(B) by striking clause (ii).

SEC. 3. MUNICIPAL SECURITIES TREATMENT UNDER SECURITIES ACT OF 1933.

(a) REPEAL OF EXEMPTION FOR MUNICIPAL SECURITIES.—Section 3(a)(2) of the Securities Act of 1933 (15 U.S.C. 77c(a)(2)) is amended in the first sentence—

(1) by striking ''or any Territory thereof, or by the District of Columbia, or by any State of the United States, or by any political subdivision of a State or Territory, or by any public instrumentality of one or more States or Territories''; and

(2) by striking ''or any security which is an industrial'' and all that follows through ''does not apply to such security;''.

(b) COMMISSION AUTHORITY TO EXEMPT.—Section 3 of the Securities Act of 1933 (15 U.S.C. 77c) is amended by adding at the end the following new subsection:

''(d) EXEMPTION AUTHORITY.—The Commission may, by rule or regulation, and subject to such terms and conditions as may be prescribed in accordance with those rules and regulations, add to the securities exempted as provided in this section, any class of securities issued by a State of the United States or by any political subdivision of a State or by any Territory of the United States or political subdivision of a Territory or by any public instrumentality of one or more States or Territories, if the Commission finds that the enforcement of this title with respect to such securities is not necessary in the public interest and for the protection of investors.''.

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall become effective 6 months after the date of enactment of this Act.

SEC. 5. FUNDING.

There are authorized to be appropriated to the Securities and Exchange Commission such sums as may be necessary to carry out this Act and the amendments made by this Act.

By Mr. WARNER (for himself and Mr. ROBB):

S. 115. A bill to authorize the Secretary of the Interior to acquire and to convey certain lands or interests in lands to improve the management, protection, and administration of Colonial National Historical Park, and for other purposes; to the Committee on Energy and Natural Resources.

THE COLONIAL PARKWAY ACT OF 1995

Mr. WARNER. Mr. President, today I rise to reintroduce legislation which would authorize the Secretary of the Interior to acquire and to convey certain lands or interests in lands to improve the management, protection, and administration of the Colonial National Historical Park. While this bill passed the Senate in the 102d Congress and passed the House in the 103d Congress, it was not considered by the Senate prior to the October adjournment.

This bill would authorize the Secretary of the Interior to convey land or interests in land and sewer lines, buildings, and equipment used for sewer system purposes to the County of York, VA, and to authorize the necessary funding to rehabilitate the Moore House sewer system to meet current Federal standards.

The necessity for this legislation is evident based on the growing needs of the county and the limitations of the National Park Service's ability to continue to provide sewer services to the local community.

In 1948 and 1956 Congress passed legislation which directed the National Park Service to design and construct sewer systems to serve Federal and non-Federal properties in the area of Yorktown, VA. In 1956, the National Park Service acquired easements from the Board of Supervisors of York County and the town trustees of the Town of York. At that time York County was a rural area with limited financing and population. Now York County has a fully functioning Department of Environmental Services which operates sewer systems throughout York County.

York County has the personnel, the expertise, and the equipment to better administer, maintain, and operate the sewer system than National Park Service staff. Negotiations to transfer the Yorktown and Moore House systems have been ongoing since the 1970's when York County took over operation of the Yorktown system through written agreement between York County and the National Park Service and a grant of approximately $73,500 to improve the Yorktown system.

The purpose of this legislation is to fulfill the commitments made between the Park Service and York County to provide for the full transfer of ownership to York County.

Mr. President, this legislation would also authorize the acquisition of a small parcel of land along the Colonial Parkway near Jamestown which is needed to protect the scenic integrity of the parkway. This area has the narrowest right-of-way of any portion of the parkway; the park boundary in this area is only 100 feet from the centerline of the parkway.

The proposed acquisition would include one row of lots adjoining the parkway in a rapidly developing residential subdivision known as Page Landing. Development of those lots would have a severe impact on the scenic qualities of the Colonial Parkway. In order to deter development of Page Landing, the Conservation Fund has acquired the 20-acre parcel along the Colonial National Parkway from the developer to prevent the imminent construction on these lots. The Park Service identified this property as a high priority and the Conservation Fund would like to transfer the land to the National Park Service.

The Colonial Parkway was authorized by Congress as part of Colonial National Historical Park in the 1930's to connect Jamestown, Williamsburg, and Yorktown with a scenic limited-access motor road. According to the 1938 Act of Congress, the parkway corridor is to be an average of 500 feet in width, and in most areas the roadway was built in the middle of this corridor. In the area between Mill Creek and Neck 'O Land Road, however, the parkway was built closer to the northern boundary to avoid wetlands, placing the roadway very close to the adjoining private property in that location.

This is the only area along the parkway where the National Park Service owns only 100 feet back from the centerline of the road. The National Park Service owns 250 feet or more from the centerline in all other areas of the 23-mile parkway in James City County and York County. The existing 100 feet is not sufficient to provide proper landscaping and screening from development on the adjacent property, especially during portions of the year when leaves are off the shrubs and trees.

Mr. President, to ensure that the Colonial Parkway meets the same high scenic standards of the rest of the parkway it is imperative that this land should be purchased.

By Mr. WELLSTONE:

S. 116. A bill to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate primary and general election campaigns, to prohibit participation in Federal elections by multicandidate political committees, to establish a $100 limit on individual contributions to candidates, and for other purposes; to the Committee on Governmental Affairs.

SENATE FAIR ELECTIONS AND GRASSROOTS DEMOCRACY ACT

By Mr. WELLSTONE (for himself and Mr. FEINGOLD):

S.117. A bill to amend rule XXXV of the Standing Rules of the Senate; to the Committee on Rules and Administration.

Mr. WELLSTONE. Mr. President, as the 104th Congress begins today, I am reintroducing two key pieces of reform legislation that I had pushed hard to enact during the last Congress. The first is a bill which I believe should serve as a benchmark for profound and far-reaching reform of the way we finance our election campaigns here in Congress. According to the Federal

Election Commission, House and Senate candidates spent a record $589.5 million on their 1994 campaigns through November 28. Final totals for the 1994 elections will be available next month, and are expected to be much higher. This out-of-control spending must be controlled, and thorough reform of our campaign laws is the only way to do it. The second initiative I am introducing is my bill to ban gifts, meals, lobbyist-sponsored vacation travel, and other perks to Members of Congress and staffers, which was killed at the end of last year by a Republican-led filibuster. I intend to work with Senator LEVIN and others to make sure that the lobbying and gift ban bill is enacted into law as a part of the Congressional Accountability Act to be considered by the Senate later this week.

This year's election returns sent a signal to Congress loud and clear: Americans want us to clean up the political system, and rid it of the influence of special interests. They know that these huge amounts of money and special interest perks have an effect on the decisionmaking process here in Washington, because they give special access and undue influence to those who are well-heeled and well-positioned to lobby Members of Congress directly. They continue to have grave and justifiable concerns about the rules under which we finance campaigns, and are demanding that we do something to radically reform this system. My campaign reform bill is an attempt to finally address that concern.

I have been frustrated that for so many years real campaign reform has been killed in this body by those who prefer the status quo. Last year, even the modest reform package that had been agreed to, which was less far-reaching than my bill, was killed by a Republican filibuster in the final days of the session. Tough, sweeping reforms are needed if we are to begin to restore the confidence of Americans in the legislative process. We ought to enact it this year.

In addition to real campaign reform, another means of special interest influence must be curbed, and that is the giving of gifts, lobbyist-sponsored vacation travel, and other perks to Members of Congress by lobbyists and others. That is why I am re-introducing today tough, comprehensive gift ban legislation similar to the bill I coauthored last year which was killed by Republican objections raised against S. 349, the underlying lobby disclosure bill to which it was attached. These objections were baseless; a frenzied campaign of lies, distortions, and misrepresentations about the impact of the bill on grassroots organizations who hire lobbyists to lobby Congress; some call these people astroturf lobbyists, to distinguish them from true grassroots political organizations. This campaign was generated by the House Republican leadership and rightwing radio talk show hosts, and was widely condemned by reporters and others who had followed closely the details of the debate.

This bill would help to significantly change the Washington culture of special interest perks, favors, meals, travel, and gifts being provided to Members of Congress. These bills combined, and other similar reform initiatives such as that offered by the minority leader to extend coverage of certain Federal laws to Congress, are the kind of tough, comprehensive congressional reform that Americans have been demanding for years.

I intend to work with my colleagues in the coming days to ensure that gift reform legislation is enacted as soon as possible. There is no doubt that these kinds of gifts and other favors from lobbyists have contributed to Americans' deepening distrust of government. They give the appearance of special access and influence, eroding public confidence in Congress as an institution and in each Member individually as a representative of his or her constituents. This bill imposes a sweeping ban on gifts, meals, entertainment, and lobbyist-sponsored vacation travel, and imposes tough new restrictions on nonlobbyists. Its provisions should be passed this week, if necessary over the objections of those would-be reformers who have talked so much about reform out of one side of their mouths, while opposing it out of the other.

It is not by chance that the so-called Contract with America contains not a word about real reforms like these that would clean up the way Washington works. I noticed to my surprise that the majority leader said this past Sunday on one of the talk shows that he would make an effort to kill any lobbying and gift reform amendments to the Congressional Accountability Act. I say I was surprised because it was only a couple of months ago that he and 36 or 37 of his Republican colleagues had introduced a virtually identifical gift ban bill, Senate Resolution 274, when they saw that the tough, comprehensive, Democratically sponsored bill that had come out of a bipartisan House-Senate conference included the gift ban provisions for which we had pushed so hard.

Whatever the ostensible Republican arguments were against the underlying lobby registration bill, one thing is clear—the gift provisions which I have long fought for should now have the support of virtually every Member of this body, since almost all of us have already voted for these same restrictions. In fact, as I said, Majority Leader DOLE, Senators MCCONNELL, STEVENS, and 35 others on the now majority side cosponsored virtually identical gift provisions during the last days of the 103d Congress, in an attempt to inoculate themselves politically from media criticism for opposing the lobby ban/gift reform bill. This year, I will be fighting to get these new rules enacted as soon as possible, including on the Congressional coverage bill. There is no reason for further delay or obstruction on gift and lobby reform. When Americans are clamoring for real change which reduces the influence of special interests, it would be bitterly ironic if we voted to exempt ourselves from conflict-of-interest gift rules under which the executive branch has lived for years—especially in a reform bill that extends coverage of many Federal laws to Congress. There is no way to justify that kind of exemption. That is why we must include the gift ban in the congressional coverage bill.

The same kind of Republican opposition to and obstruction of the reform agenda could also be seen on campaign finance reform. Last year, after long and hard-fought battles in both the House and Senate, our Republican colleagues killed a compromise proposal that had been made by the Democratic House-Senate leadership, refusing even to allow a formal House-Senate conference to meet and discuss the measure.

While I had hoped for even more far-reaching reforms than were contained in that compromise proposal, I was frustrated and angry that, again, those who had presented themselves to the American people as reformers of the political system were able to block real reform in the form of campaign finance reform legislation—and to get away with it. Let us make one thing crystal clear: more than any of the institutional changes being proposed—some cosmetic, some real—in congressional caucuses, committees, congressional staff, and the like, efforts to combat special interest influence in the form of real campaign finance and lobby reform are what would really change the way business is done here in Washington.

But these reforms are being resisted by the Republican congressional leadership; in fact they apparently will be opposed. They will refuse to accept these immediate steps to limit the influence of wealthy special interests in the legislative process. This year, while the new majority leader and others in the House Republican leadership have made it clear that campaign finance reform is not on their agenda for this Congress, I want to make it equally clear that it will be at the top of the Democratic agenda. They have said political reform is off the table. I am going to ensure it gets back on the table—and stays there.

That is why today I am re-introducing the Senate Fair Elections and Grassroots Democracy Act of 1995, legislation which I believe should serve as a benchmark for true campaign finance reform for U.S. Senate campaigns.

As I worked on this bill, I had one goal in mind: to develop legislation designed to address the central ethical issue of politics in our time—the way in which big money special interests have come to dominate governmental decisionmaking. Last year's election continued the trend of vast amounts of

money being poured into congressional campaigns from special interests.

Perhaps nowhere can the connection between moneyed special interests and the legislative process be demonstrated more starkly than in the widely reported upon threats by the new House leadership to the corporate PAC's and other wealthy special interests here in Washington: pony up now before the elections with your huge contributions, or you will be iced out of the legislative process. For those PAC directors who refused to contribute to Republican coffers, there was a promise of two long, cold years. That, Mr. President, perhaps more than any other single recent event, reveals the breathtaking hypocrisy of these so-called reformers. That the incoming House leadership would publicly threaten PAC directors and others with retribution or retaliation through the lawmaking process is unprecedented, and signals how far down the road of special interest control we have come. And how desperately the system cries out for reform.

And what should be our measure of true reform? The essential standard of a truly representative democracy is this: every person should count as one, and no more than one. I believe my bill squarely meets that standard. For years, Americans have pressed for a complete overhaul of the way we finance and conduct Federal elections—not a set of modest, incremental changes. People feel ripped off by our political system, unrepresented, angry, and frustrated by gridlock. They are demanding change, we have promised change, and I intend to do whatever I can to ensure that the Senate delivers on that promise.

They know that without real campaign reform, attempts to restructure America's health care system, create jobs and rebuild our cities, reduce defense spending, and solve other pressing problems will remain frustrated by the pressures of special interest, big-money politics. And they know that too often, their families get outbid in the bidding wars over Federal tax breaks that we seem to be about to embark upon, with virtually all of the tax benefits going to wealthy individuals with large stock portfolios, and wealthy corporations.

The American people have demanded fundamental political reform, and they deserve nothing less. If we in the Congress are to earn back the trust of the American people, we must enact sweeping reform now.

The Senate Fair Elections and Grassroots Democracy Act provides for individual limits of $100 on contributions to Senate candidates, a total ban on Political Action Committee [PAC] contributions, lower spending limits than in last year's S. 3 based on State voting-age population, a 90 percent reduction in the amount wealthy candidates can contribute to their own campaigns, to eliminate the problem of candidates spending millions of their own money to buy seats in Congress, a prohibition on soft money, plus free broadcast time, reduced mail rates for eligible candidates, and prohibitions of contributions from certain lobbyists—all within a comprehensive system of voluntary public financing of primary and general Senate campaigns patterned after the Presidential system. I believe these elements are key to true reform.

This is the best time in two decades for fundamental reform, despite Republican attempts to sweep these much-needed changes under the rug. We must restore the basic democratic principle of one person, one vote by enacting true campaign reform, and ban outright the practice of Members of Congress being lavished with gifts and other perks and special favors from lobbyists. I urge my colleagues to support these bills. I ask unanimous consent that summaries of my comprehensive campaign finance reform bill, and of the lobbyist gift ban provisions from last year's conference report after which my bill is patterned, be printed in the RECORD at the end of my statement, and in addition, that a copy of a letter from Fred Werthiemer, executive director of Common Cause, to all Members of the Senate urging the prompt passage of these important reforms in both the House and the Senate be printed because I think it speaks to all of us about the need for strong campaign reform and lobbyist gift ban legislation. I ask further unanimous consent that a copy of my gift rule amendment, and the copy of my gift ban bill be printed in the RECORD following my statement.

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

S. 116

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

SECTION 1. SHORT TITLE; AMENDMENT OF CAMPAIGN ACT; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Senate Fair Elections and Grassroots Democracy Act of 1995''.

(b) AMENDMENT OF FECA.—When used in this Act, the term ''FECA'' means the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.).

(c) TABLE OF CONTENTS.—

SEC. 2. FINDINGS AND DECLARATIONS OF THE SENATE.

(a) NECESSITY FOR SPENDING LIMITS.—The Senate finds and declares that—

(1) the current system of campaign finance has led to public perceptions that political contributions and their solicitation have unduly influenced the official conduct of elected officials;

(2) permitting candidates for Federal office to raise and spend unlimited amounts of

money constitutes a fundamental flaw in the current system of campaign finance; it has undermined public respect for the Congress as an institution and has given large private contributors undue influence with respect to public policymaking by the Congress;

(3) the failure to limit campaign expenditures has driven up the cost of election campaigns and made it difficult for qualified candidates without personal fortunes or access to large contributors to mount competitive congressional campaigns;

(4) the failure to limit campaign expenditures has caused individuals elected to the Senate to spend an increasing proportion of their time in office as elected officials raising funds, interfering with the ability of the Senate to carry out its constitutional responsibilities;

(5) the failure to limit campaign expenditures has damaged the Senate as an institution, due to the time lost to raising funds for campaigns;

(6) to prevent the appearance of corruption and to restore public trust in the Senate as an institution, it is necessary to limit campaign expenditures, through a system that provides substantial public benefits to candidates who agree to limit campaign expenditures; and

(7) serious and thoroughgoing reform of Federal election law that imposes strict new rules on spending and contributions would—

(A) help eliminate access to wealth as a determinant of a citizen's influence in the political process;

(B) help to restore meaning to the principle of ''one person, one vote'';

(C) produce more competitive Federal elections; and

(D) halt and reverse the escalating cost of Federal elections.

(b) NECESSITY FOR PROHIBITION OF POLITICAL ACTION COMMITTEES.—The Senate finds and declares that—

(1) contributions by political action committees to individual candidates have created the perception that candidates are beholden to special interests, and leave candidates open to charges of corruption;

(2) contributions by political action committees to individual candidates have undermined the Senate as an institution; and

(3) to prevent the appearance of corruption and to restore public trust in the Senate as an institution, it is necessary to ban participation by political action committees in Federal elections.

(c) NECESSITY FOR ATTRIBUTING COOPERATIVE EXPENDITURES TO CANDIDATES.—The Senate finds and declares that—

(1) public confidence and trust in the system of campaign finance would be undermined should any candidate be able to circumvent a system of caps on expenditures through cooperative expenditures with outside individuals, groups, or organizations;

(2) cooperative expenditures by candidates with outside individuals, groups, or organizations would severely undermine the effectiveness of caps on campaign expenditures, unless they are included within such caps; and

(3) to maintain the integrity of the system of campaign finance, expenditures by any individual, group, or organization that have been made in cooperation with any candidate, authorized committee, or agent of any candidate must be attributed to that candidate's cap on campaign expenditures.

(d) NECESSITY FOR PROVIDING SUBSTANTIAL PUBLIC FINANCING FOR SENATE ELECTIONS.—The Senate finds and declares that the replacement of private campaign contributions with partial or complete public financing for Senate elections would enhance American democracy by eliminating real and potential conflicts of interest and increasing the accountability of Members of Congress, thereby helping to restore public confidence in the fairness of the electoral and policymaking processes.

TITLE I—CONTROL OF CONGRESSIONAL CAMPAIGN SPENDING

Subtitle A—Senate Election Campaign Spending Limits and Benefits

SEC. 101. SENATE SPENDING LIMITS AND BENEFITS.

(a) IN GENERAL.—FECA is amended by adding at the end the following new title:

TITLE I—CONTROL OF CONGRESSIONAL CAMPAIGN SPENDING

Subtitle A—Senate Election Campaign Expenditure Limits and Benefits

SEC. 101. SENATE EXPENDITURE LIMITS AND BENEFITS.

(a) IN GENERAL.—FECA is amended by adding at the end the following new title:

''TITLE V—EXPENDITURE LIMITS AND BENEFITS FOR SENATE ELECTION CAMPAIGNS

''SEC. 501. ELIGIBILITY.

''(a) IN GENERAL.—For purposes of this title, a candidate is an eligible Senate candidate if—

''(1) the candidate and the candidate's authorized committees meet the threshold contribution and ballot access requirements of subsection (b);

''(2) the candidate and the candidate's authorized committees do not make expenditures from personal funds in an amount that exceeds the personal funds expenditure limit except as permitted under section 502(e);

''(3) the candidate and the candidate's authorized committees do not make expenditures in excess of the primary election expenditure limit, the runoff election expenditure limit, or the general election expenditure limit except as permitted under section 502(e);

''(4) the candidate and the candidate's authorized committees—

''(A) do not accept contributions for the primary or runoff election in an amount that exceed the primary election expenditure limit or the runoff election expenditure limit except as permitted under section 503(e); and

''(B) do not accept contributions for the general election except as permitted under section 503(e); and

''(5) the candidate's authorized committees do not accept contributions from multicandidate political committees for the primary election or runoff election in an amount that exceeds the primary election multicandidate political committee contribution limit or the runoff election multicandidate political committee contribution limit that may be in effect in accordance with section 502(f);

''(6)(A) with respect to a primary election, at least one other candidate has qualified for the same primary election ballot under the law of the candidate's State;

''(B) with respect to a general election, at least one other candidate has qualified for the same general election ballot under the law of the candidate's State;

''(7) the candidate and the candidate's authorized committees do not accept any contribution in violation of section 315;

''(8) the candidate and the candidate's authorized committees deposit all payments received under this title in an account insured by the Federal Deposit Insurance Corporation from which funds may be withdrawn by check or similar means of payment to third parties;

''(9) the candidate and the candidate's authorized committees furnish campaign records, evidence of contributions, and other appropriate information to the Commission;

''(10) the candidate and the candidate's authorized committees cooperate in the case of any examination and audit by the Commission under section 505;

''(11) the candidate and the candidate's authorized committees comply with all of the requirements of this Act that apply to eligible candidates; and

''(12) the candidate, not later than 7 days after becoming a candidate, files with the Commission a declaration that the candidate and the candidate's authorized committees have complied with and will continue to comply with all of the requirements of this Act that apply to eligible Senate candidates and their authorized committees.

''(b) THRESHOLD CONTRIBUTION AND BALLOT ACCESS REQUIREMENTS.—

(1) IN GENERAL.—The requirements of this subsection are met if—

''(A) the candidate and the candidate's authorized committees have received allowable contributions during the applicable period in an amount at least equal to 5 percent of the general election expenditure limit from contributors at least 60 percent of whom are residents of the candidate's State; and

''(B) the candidate has qualified for the ballot for a primary election, runoff election, or general election, respectively, under State law.

''(2) DEFINITIONS.—For purposes of this section—

''(A) the term 'allowable contributions'—

''(i) means contributions that are made as gifts of money by an individual pursuant to a written instrument identifying the individual as the contributor; and

''(ii) does not include—

''(I) contributions made directly or indirectly through an intermediary or conduit that are treated as being made by the intermediary or conduit under section 315(a)(8)(B); or

''(II) contributions from any individual during the applicable period to the extent that such contributions exceed $100; and

''(B) the term 'applicable period' means—

''(i) with respect to a candidate who is or who is seeking to become a candidate in a general election, the period beginning on January 1 of the calendar year preceding the calendar year of the general election and ending on the date on which a candidate submits a first request to receive benefits under section 503; or

''(ii) with respect to a candidate who is or who is seeking to become a candidate in a special election, the period beginning on the date the vacancy occurs in the office for which the election is held and ending on the date of the general election.

''SEC. 502. EXPENDITURE AND CONTRIBUTION LIMITS.

''(a) PERSONAL FUNDS EXPENDITURE LIMIT.—

''(1) IN GENERAL.—The personal funds expenditure limit applicable to an eligible Senate candidate is an aggregate amount of expenditures equal to $25,000 made during an election cycle by an eligible Senate candidate and the candidate's authorized committees from the sources described in paragraph (2).

''(2) SOURCES.—A source is described in this paragraph if it is—

''(A) personal funds of the candidate and members of the candidate's immediate family; or

''(B) personal debt incurred by the candidate and members of the candidate's immediate family.

''(b) PRIMARY ELECTION EXPENDITURE LIMIT.—The primary election expenditure limit applicable to an eligible Senate candidate is an amount equal to the lesser of—

''(1) 67 percent of the general election expenditure limit; or

''(2) $2,500,000.

''(c) RUNOFF ELECTION EXPENDITURE LIMIT.—The expenditure limit applicable to an eligible Senate candidate is 20 percent of the general election expenditure limit.

''(d) GENERAL ELECTION EXPENDITURE LIMIT.—

''(1) IN GENERAL.—The general election expenditure limit applicable to an eligible Senate candidate is an amount equal to the lesser of—

''(A) $4,500,000; or

''(B) the greater of—

''(i) $775,000; or

''(ii) $325,500, plus—

''(I) 30 cents multiplied by the voting age population not in excess of 4,000,000; and

''(II) 25 cents multiplied by the voting age population in excess of 4,000,000.

''(2) STATE WITH ONE TELEVISION TRANSMITTER.—In the case of an eligible Senate candidate in a State that has no more than 1 transmitter for a commercial Very High Frequency (VHF) television station licensed to operate in the State, paragraph (1)(B)(ii) shall be applied by substituting—

''(A) '60 cents' for '30 cents' in subclause (I); and

''(B) '50 cents' for '25 cents' in subclause (II).

''(e) EXCEPTIONS.—

''(1) LEGAL AND ACCOUNTING COMPLIANCE FUND.—(A) An eligible Senate candidate and the candidate's authorized committees may accept contributions and make expenditures without regard to the primary election expenditure limit, runoff expenditure limit, or general election expenditure limit for the purpose of maintaining a legal and accounting compliance fund meeting the requirements of subparagraph (B), out of which fund qualified legal and accounting expenditures may be made.

''(B) A legal and accounting compliance fund meets the requirements of this subparagraph if—

''(i) the only amounts transferred to the fund are amounts received in accordance with the limitations, prohibitions, and reporting requirements of this Act;

''(ii) the aggregate amounts transferred to, and expenditures made from, the fund do not exceed the sum of—

''(I) the lesser of—

''(aa) 10 percent of the general election expenditure limit for the general election for which the fund was established; or

''(bb) $300,000, plus—

''(II) the amount determined under subparagraph (D); and

''(iii) no funds received by the candidate pursuant to section 503(a)(3) are transferred to the fund.

''(C) For purposes of this paragraph, the term 'qualified legal and accounting expenditure' means the following:

''(i) An expenditure for costs of a legal or accounting service provided in connection with—

''(I) any administrative or court proceeding initiated pursuant to this Act during the election cycle for the primary election, runoff election, or general election; or

''(II) the preparation of any documents or reports required by this Act or the Commission.

''(ii) An expenditure for a legal or accounting service provided in connection with the primary election, runoff election, or general election for which the legal and accounting compliance fund was established to ensure compliance with this Act with respect to the election cycle for the primary election, runoff election, or general election.

''(D)(i) If, after a general election, a candidate determines that the qualified legal and accounting expenditures will exceed the limitation under subparagraph (B)(ii)(I), the candidate may petition the Commission by filing with the Secretary of the Senate a request for an increase in such limitation. The Commission shall authorize an increase in such limitation in the amount (if any) by which the Commission determines the qualified legal and accounting expenditures exceed that limitation. The Commission's determination shall be subject to judicial review under section 507.

''(ii) Except as provided in section 315, any contribution received or expenditure made pursuant to this paragraph shall not be taken into account for any contribution or expenditure limit applicable to the candidate under this title.

''(E)(i) A candidate shall terminate a legal and accounting compliance fund as of the earlier of—

''(I) the date of the first primary election for the office following the general election for the office for which the fund was established; or

''(II) the date specified by the candidate.

''(ii) Any amount remaining in a legal and accounting compliance fund as of the date determined under clause (i) shall be transferred—

''(I) to a legal and accounting compliance fund for the election cycle for the next primary election, runoff election, or general election; or

''(II) to the Senate Election Campaign Fund.

''(2) PAYMENT OF TAXES.—An eligible Senate candidate and the candidate's authorized committees may accept contributions and make expenditures without regard to the primary election expenditure limit, runoff expenditure limit, or general election expenditure limit for the purpose of funding and making expenditures for Federal, State, or local income taxes with respect to the candidate's authorized committees.

''(3) INDEPENDENT EXPENDITURE AMOUNT AND EXCESS EXPENDITURE AMOUNT.—An eligible Senate candidate who receives payment of an independent expenditure amount under section 503(b)(1)(B) or an excess expenditure amount under section 503(b)(1)(C) may make expenditures from such payments to defray expenditures for the primary election, runoff election, or general election, respectively, without regard to the primary expenditure limit, runoff election expenditure limit, or general election expenditure limit.

''(4) UNMATCHED EXCESS EXPENDITURES.—(A) An eligible Senate candidate and the candidate's authorized committees may accept contributions and make expenditures without regard to the personal funds expenditure limit, primary election expenditure limit, runoff election expenditure limit, or general election expenditure limit if any one of the eligible Senate candidate's opponents who is not an eligible Senate candidate raises aggregate contributions or makes or becomes obligated to make aggregate expenditures that exceed 200 percent of the primary election expenditure limit, runoff expenditure limit, or general election expenditure limit, respectively, applicable to the eligible Senate candidate.

''(B) An eligible Senate candidate and the candidate's authorized committees may accept contributions without regard to the primary election expenditure limit, runoff expenditure limit, or general election expenditure limit in anticipation of their being needed for the purpose of making expenditures under subparagraph (A) if—

''(i) any opposing candidate in the primary election, runoff election, or general election who is not an eligible Senate candidate raises aggregate contributions or makes or becomes obligated to make aggregate expenditures for the primary election, runoff election, or general election that exceed 75 percent of the primary election expenditure limit, runoff election expenditure limit, or general election expenditure limit applicable to the candidate; or

''(ii) any opposing candidate in the general election who is the nominee of a major party is not an eligible Senate candidate.

''(C) The amount of the contributions that may be accepted and expenditures that may be made by reason of subparagraphs (A) and (B) shall not exceed 100 percent of the primary election expenditure limit, runoff election expenditure limit, or general election expenditure limit, respectively.

''(f) MULTICANDIDATE POLITICAL COMMITTEE CONTRIBUTION LIMITS.—

''(1) MULTICANDIDATE POLITICAL COMMITTEE PRIMARY ELECTION CONTRIBUTION LIMIT.—The multicandidate political committee primary election contribution limit applicable to an eligible Senate candidate is an amount equal to 10 percent of the primary election spending limit.

''(2) MULTICANDIDATE POLITICAL COMMITTEE RUNOFF ELECTION CONTRIBUTION LIMIT.—The multicandidate political committee runoff election contribution limit applicable to an eligible Senate candidate is an amount equal to 10 percent of the runoff election spending limit.

''(3) PERIODS WHEN PROVISIONS ARE IN EFFECT.—This subsection and other provisions in this title relating to multicandidate political committees shall be of no effect except during any period in which the prohibition under section 324 is not in effect.

''(g) INDEXING.—The $2,500,000 amount under subsection (b)(2) and the amount otherwise determined under subsection (d)(1) shall be increased as of the beginning of each calendar year based on the increase in the price index determined under section 315(c), except that, for purposes of those provisions, the base period shall be calendar year 1995.

''(h) EXPENDITURES.—For purposes of this title, the term 'expenditure' has the meaning stated in section 301(9), except that in determining any expenditures made by, or on behalf of, a candidate or a candidate's authorized committees, section 301(9)(B) shall be applied without regard to clause (ii) or (vi) thereof.

''SEC. 503. BENEFITS.

''(a) IN GENERAL.—An eligible Senate candidate shall be entitled to—

''(1) free broadcast time under title VI;

''(2) the mailing rates provided in section 3626(e) of title 39, United States Code; and

''(3) payments in the amounts determined under subsection (b).

''(b) AMOUNT OF PAYMENTS.—

''(1) IN GENERAL.—For purposes of subsection (a)(3), the amounts determined under this subsection are—

''(A) the public financing amount;

''(B) the independent expenditure amount; and

''(C) the excess expenditure amount.

''(2) PUBLIC FINANCING AMOUNT.—For purposes of paragraph (1), the public financing amount is—

''(A) in the case of an eligible Senate candidate who is a major party candidate—

''(i) during the primary election period, an amount equal to the amount of contributions received during that period from individuals residing in the candidate's State (other than the candidate and members of the candidate's immediate family) in the aggregate amount of $100 or less, up to 50 percent of the primary election spending limit;

''(ii) during the runoff election period, an amount equal to the amount of contributions received during that period from individuals residing in the candidate's State (other than the candidate and members of

the candidate's immediate family) in the aggregate amount of $100 or less, up to 50 percent of the runoff election spending limit, less the amount of any unexpended campaign funds from the primary election, which the candidate shall transfer to the runoff election; and

''(iii) during the general election period, an amount equal to the general election expenditure limit applicable to the candidate, less the amount of any unexpended campaign funds from the primary election or runoff election, which the candidate shall transfer to the general election; and

''(B) in the case of an eligible Senate candidate who is not a major party candidate—

''(i) during the primary election period, an amount equal to the amount of contributions received during that period from individuals residing in the candidate's State (other than the candidate and members of the candidate's immediate family) in the aggregate amount of $100 or less, up to 50 percent of the primary election expenditure limit;

''(ii) during the runoff election period, an amount equal to the amount of contributions received during that period from individuals residing in the candidate's State (other than the candidate and members of the candidate's immediate family) in the aggregate amount of $100 or less, up to 50 percent of the runoff election expenditure limit, less the amount of any unexpended campaign funds from the primary election, which the candidate shall transfer to the runoff election; and

''(iii) during the general election period, an amount equal to the amount of contributions received during that period from individuals residing in the candidate's State (other than the candidate and members of the candidate's immediate family) in the aggregate amount of $100 or less, up to 50 percent of the general election expenditure limit, less the amount of any unexpended campaign funds from the primary election or runoff election, which the candidate shall transfer to the general election.

''(3) INDEPENDENT EXPENDITURE AMOUNT.—For purposes of paragraph (1), the independent expenditure amount is the total amount of independent expenditures made, or obligated to be made, during the primary election period, runoff election period, or general election period, respectively, by 1 or more persons in opposition to, or on behalf of an opponent of, an eligible Senate candidate that are required to be reported by such persons under section 304(c) with respect to each such period, respectively, and are certified by the Commission under section 304(c).

''(4) EXCESS EXPENDITURE AMOUNT.—For purposes of paragraph (1), the excess expenditure amount is the amount determined as follows:

''(A) In the case of an eligible Senate candidate of an eligible Senate candidate of major party who has an opponent in the primary election, runoff election, or general election, respectively, who receives contributions, or makes (or obligates to make) expenditures, for such election in excess of the primary election expenditure limit, the runoff election expenditure limit, or the general election expenditure limit, respectively, an amount equal to the sum of—

''(i) if the excess is not greater than 133⅓ percent of the primary election expenditure limit, the runoff election expenditure limit, or the general election expenditure limit, respectively, an amount equal to one-third of such limit applicable to the eligible Senate candidate for the election; plus

''(ii) if the excess equals or exceeds 133⅓ percent but is less than 166⅔ percent of such limit, an amount equal to one-third of such limit; plus

''(iii) if the excess equals or exceeds 166⅔ percent of such limit, an amount equal to one-third of such limit.

''(B) In the case of an eligible Senate candidate who is not a candidate of a major party who has an opponent in the primary election, runoff election, or general election, respectively, who receives contributions, or makes (or obligates to make) expenditures, for such election in excess of the primary election expenditure limit, the runoff election expenditure limit, or the general election expenditure limit, respectively, an amount equal to 50 percent of the amount of the excess of the contributions received or expenditures made or obligated to be made by an opponent over the primary election expenditure limit, the runoff election expenditure limit, or the general election expenditure limit, respectively, but not exceeding the amount of contributions received by the eligible Senate candidate during the primary election period, runoff election period, or general election period, respectively, from individuals residing in the candidate's State (other than the candidate and members of the candidate's immediate family) in the aggregate amount of $100 or less, up to 50 percent of the excess primary election expenditure limit, the runoff election expenditure limit, or the general excess expenditure limit, respectively.

''(c) USE OF PAYMENTS.—

''(1) PERMITTED USE.—Payments received by an eligible Senate candidate under subsection (a)(3) shall be used to defray expenditures incurred with respect to the general election primary election period, runoff election period, and period for the candidate.

''(2) PROHIBITED USE.—Payments received by an eligible Senate candidate under subsection (a)(3) shall not be used—

''(A) except as provided in subparagraph (D), to make any payments, directly or indirectly, to such candidate or to any member of the immediate family of the candidate;

''(B) to make any expenditure other than expenditures to further the primary election, runoff election, or general election of the candidate;

''(C) to make any expenditures that constitute a violation of any law of the United States or of the State in which the expenditure is made; or

''(D) subject to section 315(i), to repay any loan to any person except to the extent the proceeds of such loan were used to further the primary election, runoff election, or general election of the candidate.

''SEC. 504. CERTIFICATION BY COMMISSION.

''(a) IN GENERAL.—

''(1) IN GENERAL.—The Commission shall certify to any candidate that meets the eligibility requirements of section 501 that the candidate is an eligible Senate candidate entitled to benefits under this title. The Commission shall revoke such a certification if it determines that a candidate fails to continue to meet those requirements.

''(2) REQUESTS TO RECEIVE BENEFITS.—(A) A candidate to whom a certification has been issued may from time to time file with the Commission a request to receive benefits under section 503.

''(B) A request under subparagraph (A) shall—

''(i) contain such information and be made in accordance with such procedures as the Commission may provide by regulation; and

''(ii) contain a verification signed by the candidate and the treasurer of the principal campaign committee of the candidate stating that the information furnished in support of the request, to the best of their knowledge, is correct and fully satisfies the requirements of this title.

''(C) Not later than 3 business days after a candidate files a request under subparagraph (A), the Commission shall certify to the Secretary of the Treasury the amount of benefits to which the candidate is entitled.

''(b) DETERMINATIONS BY COMMISSION.—All determinations (including certifications under subsection (a)) made by the Commission under this title shall be final and conclusive, except to the extent that they are subject to examination and audit by the Commission under section 505 and judicial review under section 507.

''SEC. 505. EXAMINATION AND AUDITS; REPAYMENTS; CIVIL PENALTIES.

''(a) EXAMINATION AND AUDITS.—

''(1) RANDOM AUDITS.—After each general election, the Commission shall conduct an examination and audit of the campaign accounts of 10 percent of all candidates for the office of United States Senator to determine, among other things, whether such candidates have complied with the expenditure limits and conditions of eligibility of this title, and other requirements of this Act. Such candidates shall be designated by the Commission through the use of an appropriate statistical method of random selection. If the Commission selects a candidate, the Commission shall examine and audit the campaign accounts of all other candidates in the general election for the office the selected candidate is seeking.

''(2) REASON TO INVESTIGATE.—The Commission may conduct an examination and audit of the campaign accounts of any candidate in a general election for the office of United States Senator if the Commission determines that there exists reason to investigate whether the candidate may have violated any provision of this title.

''(b) EXCESS PAYMENTS; REVOCATION OF STATUS.—

''(1) EXCESS PAYMENTS.—If the Commission determines that payments were made to an eligible Senate candidate under this title in excess of the aggregate amounts to which such candidate was entitled, the Commission shall so notify such candidate, and such candidate shall pay an amount equal to the excess.

''(2) REVOCATION OF STATUS.—If the Commission revokes the certification of a candidate as an eligible Senate candidate under section 504(a)(1), the Commission shall notify the candidate, and the candidate shall pay an amount equal to the payments received under this title.

''(c) MISUSE OF BENEFITS.—If the Commission determines that any amount of any benefit made available to an eligible Senate candidate under this title was not used as provided for in this title, the Commission shall so notify such candidate and such candidate shall pay the amount of such benefit.

''(d) EXCESS EXPENDITURES.—If the Commission determines that any eligible Senate candidate who has received benefits under this title has made expenditures (except as permitted under section 502(e)) that in the aggregate exceed—

''(1) the primary election expenditure limit;

''(2) the runoff election expenditure limit; or

''(3) the general election expenditure limit,

the Commission shall so notify the candidate and the candidate shall pay an amount equal to the amount of the excess expenditures.

''(e) CIVIL PENALTIES FOR EXCESS EXPENDITURES AND CONTRIBUTIONS.—

''(1) IN GENERAL.—If the Commission determines that a candidate has committed a violation described in subsection (c), the Commission may assess a civil penalty against the candidate in an amount not greater than 200 percent of the amount involved.

''(2) LOW AMOUNT OF EXCESS EXPENDITURES.—An eligible Senate candidate who makes expenditures that exceed the primary

election expenditure limit, runoff election expenditure, or general election expenditure limit by 2.5 percent or less shall pay an amount equal to the amount of the excess expenditures.

''(3) MEDIUM AMOUNT OF EXCESS EXPENDITURES.—An eligible Senate candidate who makes expenditures that exceed the primary election expenditure limit, runoff election expenditure, or general election expenditure limit by more than 2.5 percent and less than 5 percent shall pay an amount equal to 3 times the amount of the excess expenditures.

''(4) LARGE AMOUNT OF EXCESS EXPENDITURES.—Any eligible Senate candidate who makes expenditures that exceed the primary election expenditure limit, runoff election expenditure, or general election expenditure limit by 5 percent or more shall pay an amount equal to 3 times the amount of the excess expenditures plus a civil penalty in an amount determined by the Commission.

''(f) UNEXPENDED FUNDS.— Any amount received by an eligible Senate candidate under this title may be retained for a period not exceeding 120 days after the date of the primary election, runoff election, or general election for the liquidation of all obligations to pay expenditures for the primary election, runoff election, or general election incurred during the primary election period, runoff election period, or general election period. At the end of such 120-day period, any unexpended funds received under this title, except those that are transferred as required by section 503(b)(2) (A) (ii) or (iii) or (B) (ii) or (iii), shall be promptly repaid.

''(g) LIMIT ON PERIOD FOR NOTIFICATION.—No notification shall be made by the Commission under this section with respect to an election more than 3 years after the date of such election.

''(h) DEPOSITS.—The Secretary of the Treasury shall deposit all payments received under this section into the Senate Election Campaign Fund.

"SEC. 506. CRIMINAL PENALTIES.

''(a) ACCEPTANCE OR USE OF BENEFITS EXPENDITURES IN EXCESS OF LIMITS.—

''(1) OFFENSE.—No person shall knowingly and willfully—

''(A) accept benefits under this title in excess of the aggregate benefits to which the candidate on whose behalf such benefits are accepted is entitled;

''(B) use such benefits for any purpose not provided for in this title; or

''(C) make expenditures in excess of—

''(i) the primary election expenditure limit;

''(ii) the runoff election expenditure limit; or

''(iii) the general election expenditure limit,

except as permitted under section 502(e).

''(2) PENALTY.—A person who violates paragraph (1) shall be fined not more than $25,000, imprisoned not more than 5 years, or both. An officer, employee, or agent of a political committee who knowingly consents to any expenditure in violation of paragraph (1) shall be fined not more than $25,000, imprisoned not more than 5 years, or both.

''(b) USE OF BENEFITS.—

''(1) OFFENSE.—It is unlawful for a person who receives any benefit under this title, or to whom any portion of any such benefit is transferred, knowingly and willfully to use, or to authorize the use of, the benefit or such portion other than in the manner provided in this title.

''(2) PENALTY.—A person who violates paragraph (1) shall be fined not more than $10,000, imprisoned not more than 5 years, or both.

''(c) FALSE INFORMATION.—

''(1) OFFENSE.—It is unlawful for a person knowingly and willfully—

''(A) to furnish any false, fictitious, or fraudulent evidence, books, or information (including any certification, verification, notice, or report) to the Commission under this title, or to include in any evidence, books, or information so furnished any misrepresentation of a material fact, or to falsify or conceal any evidence, books, or information relevant to a certification by the Commission or an examination and audit by the Commission under this title; or

''(B) to fail to furnish to the Commission any records, books, or information requested by it for purposes of this title.

''(2) PENALTY.—A person who violates paragraph (1) shall be fined not more than $10,000, imprisoned not more than 5 years, or both.

''(d) KICKBACKS AND ILLEGAL PAYMENTS.—

''(1) OFFENSE.—It is unlawful for a person knowingly and willfully to give or to accept any kickback or any illegal payment in connection with any benefits received under this title by an eligible Senate candidate.

''(2) PENALTY.—(A) A person who violates paragraph (1) shall be fined not more than $10,000, imprisoned not more than 5 years, or both.

''(B) In addition to the penalty provided by subparagraph (A), a person who accepts any kickback or illegal benefit in connection with any benefits received by an eligible Senate candidate pursuant to the provisions of this title, or received by the authorized committees of such a candidate, shall pay to the Secretary, for deposit into the Senate Election Campaign Fund, an amount equal to 125 percent of the kickback or benefit received.

"SEC. 507. JUDICIAL REVIEW.

''(a) JUDICIAL REVIEW.—Any agency action by the Commission made under the provisions of this title shall be subject to review by the United States Court of Appeals for the District of Columbia Circuit upon petition filed in such court within 30 days after the agency action by the Commission for which review is sought. It shall be the duty of the Court of Appeals to expeditiously take action on all petitions filed pursuant to this title.

''(b) APPLICATION OF TITLE 5.—Chapter 7 of title 5, United States Code, shall apply to judicial review of any agency action by the Commission.

''(c) AGENCY ACTION.—For purposes of this section, the term 'agency action' has the meaning stated in section 551(13) of title 5, United States Code.

"SEC. 508. PARTICIPATION BY COMMISSION IN JUDICIAL PROCEEDINGS.

''(a) APPEARANCES.—The Commission may appear in and defend against any action instituted under this section and under section 507 either by attorneys employed in its office or by counsel whom it may appoint without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation it may fix without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title.

''(b) INSTITUTION OF ACTIONS.—The Commission may, through attorneys and counsel described in subsection (a), institute actions in the district courts of the United States to seek recovery of any amounts determined under this title to be payable to the Secretary.

''(c) INJUNCTIVE RELIEF.—The Commission may, through attorneys and counsel described in subsection (a), petition the courts of the United States for such injunctive relief as is appropriate in order to implement any provision of this title.

''(d) APPEALS.—The Commission may, on behalf of the United States, appeal from, and to petition the Supreme Court for certiorari to review, judgments, or decrees entered with respect to actions in which it appears pursuant to the authority provided in this section.

"SEC. 509. REPORTS TO CONGRESS; REGULATIONS.

''(a) REPORTS.—The Commission shall, as soon as practicable after each election, submit a full report to the Senate setting forth—

''(1) the expenditures (shown in such detail as the Commission determines appropriate) made by each eligible Senate candidate and the authorized committees of such candidate;

''(2) the amounts certified by the Commission under section 504 as benefits available to each eligible Senate candidate;

''(3) the amount of repayments, if any, required under section 505 and the reasons for each repayment required; and

''(4) the balance in the Senate Election Campaign Fund, and the balance in any account maintained the Fund.

Each report submitted pursuant to this section shall be printed as a Senate document.

''(b) REGULATIONS.—The Commission may prescribe regulations, conduct such examinations and investigations, and require the keeping and submission of such books, records, and information, as it deems necessary to carry out its functions and duties under this title.

''(c) STATEMENT TO SENATE.—Thirty days before prescribing a regulation under subsection (b), the Commission shall transmit to the Senate a statement setting forth the proposed regulation and containing a detailed explanation and justification of the regulation.

"SEC. 510. PAYMENTS RELATING TO ELIGIBLE CANDIDATES.

''(a) ESTABLISHMENT OF CAMPAIGN FUND.—

''(1) IN GENERAL.—There is established on the books of the Treasury of the United States a special fund to be known as the 'Senate Election Campaign Fund'.

''(2) APPROPRIATIONS.—(A) There are appropriated to the Fund for each fiscal year, out of amounts in the general fund of the Treasury not otherwise appropriated, amounts equal to—

''(i) any contributions by persons which are specifically designated as being made to the Fund;

''(ii) amounts collected under section 505(h); and

''(iii) any other amounts that may be appropriated to or deposited into the Fund under this title.

''(B) The Secretary of the Treasury shall, from time to time, transfer to the Fund an amount not in excess of the amounts described in subparagraph (A).

''(C) Amounts in the Fund shall remain available without fiscal year limitation.

''(3) AVAILABILITY.—Amounts in the Fund shall be available only for the purposes of—

''(A) making payments required under this title; and

''(B) making expenditures in connection with the administration of the Fund.

''(4) ACCOUNTS.—The Secretary shall maintain such accounts in the Fund as may be required by this title or which the Secretary determines to be necessary to carry out the provisions of this title.

''(b) PAYMENTS UPON CERTIFICATION.—Upon receipt of a certification from the Commission under section 504, the Secretary shall promptly pay the amount certified by the Commission to the candidate out of the Senate Election Campaign Fund.

"SEC. 511. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to the Commission such sums as are necessary for the purpose of carrying out its functions under this title.''.

(b) EFFECTIVE DATES.—(1) Except as provided in this subsection, the amendment made by subsection (a) shall apply to elections occurring after December 31, 1995.

(2) For purposes of any expenditure or contribution limit imposed by the amendment made by subsection (a)—

(A) no expenditure made before January 1, 1994, shall be taken into account, except that there shall be taken into account any such expenditure for goods or services to be provided after such date; and

(B) all cash, cash items, and Government securities on hand as of January 1, 1994, shall be taken into account in determining whether the contribution limit is met, except that there shall not be taken into account amounts used during the 60-day period beginning on January 1, 1994, to pay for expenditures which were incurred (but unpaid) before such date.

(c) EFFECT OF INVALIDITY ON OTHER PROVISIONS OF ACT.—If section 501, 502, or 503 of title V of FECA (as added by this section), or any part thereof, is held to be invalid, all provisions of, and amendments made by, this Act shall be treated as invalid.

SEC. 102. BAN ON ACTIVITIES OF POLITICAL ACTION COMMITTEES IN FEDERAL ELECTIONS.

(a) IN GENERAL.—Title III of FECA (2 U.S.C. 301 et seq.) is amended by adding at the end the following new section:

''BAN ON FEDERAL ELECTION ACTIVITIES BY POLITICAL ACTION COMMITTEES

''SEC. 324. (a) Notwithstanding any other provision of this Act, no person other than an individual or a political committee may make contributions, solicit or receive contributions, or make expenditures for the purpose of influencing an election for Federal office.

''(b) In the case of individuals who are executive or administrative personnel of an employer—

''(1) no contributions may be made by such individuals—

''(A) to any political committees established and maintained by any political party; or

''(B) to any candidate for election to the office of United States Senator or the candidate's authorized committees,

unless such individuals certify that such contributions are not being made at the direction of, or otherwise controlled or influenced by, the employer; and

''(2) the aggregate amount of such contributions by all such individuals in any calendar year shall not exceed—

''(A) $20,000 in the case of such political committees; and

''(B) $5,000 in the case of any such candidate and the candidate's authorized committees.''.

(b) DEFINITION OF POLITICAL COMMITTEE.—(1) Paragraph (4) of section 301 of FECA (2 U.S.C. 431(4)) is amended to read as follows:

''(4) The term 'political committee' means—

''(A) the principal campaign committee of a candidate;

''(B) any national or State committee of a political party; and

''(C) any local committee of a political party which—

''(i) receives contributions aggregating in excess of $5,000 during a calendar year;

''(ii) makes payments exempted from the definition of contribution or expenditure under paragraph (8) or (9) aggregating in excess of $5,000 during a calendar year; or

''(iii) makes contributions or expenditures aggregating in excess of $1,000 during a calendar year.''

(2) Section 316(b)(2) of FECA (2 U.S.C. 441b(b)(2)) is amended by striking subparagraph (C).

(c) CANDIDATE'S COMMITTEES.— Section 315(a) of FECA (2 U.S.C. 441a(a)) is amended by adding at the end the following new paragraph:

''(9) For the purposes of the limitations provided by paragraphs (1) and (2), any political committee which is established or financed or maintained or controlled by any candidate or Federal officeholder shall be deemed to be an authorized committee of such candidate or officeholder.''.

(d) RULES APPLICABLE WHEN BAN NOT IN EFFECT.—For purposes of the Federal Election Campaign Act of 1971, during any period beginning after the effective date in which the prohibition under section 324 of such Act (as added by subsection (a)) is not in effect—

(1) the amendments made by subsections (a), (b), and (c) shall not be in effect;

(2) in the case of a candidate for election, or nomination for election, to the United States Senate (and such candidate's authorized committees), section 315(a)(2)(A) of FECA (2 U.S.C. 441a(a)(2)(A)) shall be applied by substituting ''$250'' for ''$5,000''; and

(3) it shall be unlawful for a multicandidate political committee to make a contribution to a candidate for election, or nomination for election, to the United States Senate (or an authorized committee) to the extent that the making of the contribution will cause the amount of contributions received by the candidate and the candidate's authorized committees from multicandidate political committees to exceed the lesser of—

(A) $825,000; or

(B) the greater of—

(i) $375,000; or

(ii) 20 percent of the sum of the general election expenditure limit under section 502(b) of FECA plus the primary election spending limit under section 502(d)(1)(A) of FECA (without regard to whether the candidate is an eligible Senate candidate (as defined in section 301(19)) of FECA).

In the case of an election cycle in which there is a runoff election, the limit determined under paragraph (3) shall be increased by an amount equal to 20 percent of the runoff election expenditure limit under section 501(d)(1)(A) of FECA (without regard to whether the candidate is such an eligible candidate). The $825,000 and $375,000 amounts in paragraph (3) shall be increased as of the beginning of each calendar year based on the increase in the price index determined under section 315(c) of FECA, except that for purposes of paragraph (3), the base period shall be the calendar year in which the first general election after the date of the enactment of paragraph (3) occurs. A candidate or authorized committee that receives a contribution from a multicandidate political committee in excess of the amount allowed under paragraph (3) shall return the amount of such excess contribution to the contributor.

(e) EFFECTIVE DATES.—(1) Except as provided in paragraph (2), the amendments made by this section shall apply to elections (and the election cycles relating thereto) occurring after December 31, 1995.

(2) In applying the amendments made by this section, there shall not be taken into account—

(A) contributions made or received on or before the date of the enactment of this Act; or

(B) contributions made to, or received by, a candidate after such date, to the extent such contributions are not greater than the excess (if any) of—

(i) such contributions received by any opponent of the candidate on or before such date, over

(ii) such contributions received by the candidate on or before such date.

SEC. 103. REPORTING REQUIREMENTS.

Title III of FECA is amended by adding after section 304 the following new section:

''REPORTING REQUIREMENTS FOR SENATE CANDIDATES

''SEC. 304A. (a) CANDIDATE OTHER THAN ELIGIBLE SENATE CANDIDATE.—(1) Each candidate for the office of United States Senator who does not file a certification with the Secretary of the Senate under section 501(c) shall file with the Secretary of the Senate a declaration as to whether such candidate intends to make expenditures for the general election in excess of the general election expenditure limit applicable to an eligible Senate candidate under section 502(b). Such declaration shall be filed at the time provided in section 501(c)(2).

''(2) Any candidate for the United States Senate who qualifies for the ballot for a general election—

''(A) who is not an eligible Senate candidate under section 501; and

''(B) who either raises aggregate contributions, or makes or obligates to make aggregate expenditures, for the general election which exceed 75 percent of the general election expenditure limit applicable to an eligible Senate candidate under section 502(b),

shall file a report with the Secretary of the Senate within 1 business day after such contributions have been raised or such expenditures have been made or obligated to be made (or, if later, within 1 business day after the date of qualification for the general election ballot), setting forth the candidate's total contributions and total expenditures for such election as of such date. Thereafter, such candidate shall file additional reports (until such contributions or expenditures exceed 200 percent of such limit) with the Secretary of the Senate within 1 business day after each time additional contributions are raised, or expenditures are made or are obligated to be made, which in the aggregate exceed an amount equal to 10 percent of such limit and after the total contributions or expenditures exceed 133⅓, 166⅔, and 200 percent of such limit.

''(3) The Commission—

''(A) shall, within 2 business days of receipt of a declaration or report under paragraph (1) or (2), notify each eligible Senate candidate in the election involved about such declaration or report; and

''(B) if an opposing candidate has raised aggregate contributions, or made or has obligated to make aggregate expenditures, in excess of the applicable general election expenditure limit under section 502(b), shall certify, pursuant to the provisions of subsection (d), such eligibility for payment of any amount to which such eligible Senate candidate is entitled under section 503(a).

''(4) Notwithstanding the reporting requirements under this subsection, the Commission may make its own determination that a candidate in a general election who is not an eligible Senate candidate has raised aggregate contributions, or made or has obligated to make aggregate expenditures, in the amounts which would require a report under paragraph (2). The Commission shall, within 2 business days after making each such determination, notify each eligible Senate candidate in the general election involved about such determination, and shall, when such contributions or expenditures exceed the

general election expenditure limit under section 502(b), certify (pursuant to the provisions of subsection (d)) such candidate's eligibility for payment of any amount under section 503(a).

''(b) REPORTS ON PERSONAL FUNDS.—(1) Any candidate for the United States Senate who during the election cycle expends more than the limitation under section 502(a) during the election cycle from his personal funds, the funds of his immediate family, and personal loans incurred by the candidate and the candidate's immediate family shall file a report with the Secretary of the Senate within 1 business day after such expenditures have been made or loans incurred.

''(2) The Commission within 2 business days after a report has been filed under paragraph (1) shall notify each eligible Senate candidate in the election involved about each such report.

''(3) Notwithstanding the reporting requirements under this subsection, the Commission may make its own determination that a candidate for the United States Senate has made expenditures in excess of the amount under paragraph (1). The Commission within 2 business days after making such determination shall notify each eligible Senate candidate in the general election involved about each such determination.

''(c) CANDIDATES FOR OTHER OFFICES.—(1) Each individual—

''(A) who becomes a candidate for the office of United States Senator;

''(B) who, during the election cycle for such office, held any other Federal, State, or local office or was a candidate for such other office; and

''(C) who expended any amount during such election cycle before becoming a candidate for the office of United States Senator which would have been treated as an expenditure if such individual had been such a candidate, including amounts for activities to promote the image or name recognition of such individual,

shall, within 7 days of becoming a candidate for the office of United States Senator, report to the Secretary of the Senate the amount and nature of such expenditures.

''(2) Paragraph (1) shall not apply to any expenditures in connection with a Federal, State, or local election which has been held before the individual becomes a candidate for the office of United States Senator.

''(3) The Commission shall, as soon as practicable, make a determination as to whether the amounts included in the report under paragraph (1) were made for purposes of influencing the election of the individual to the office of United States Senator.

''(d) CERTIFICATIONS.—Notwithstanding section 505(a), the certification required by this section shall be made by the Commission on the basis of reports filed in accordance with the provisions of this Act, or on the basis of such Commission's own investigation or determination.

''(e) COPIES OF REPORTS AND PUBLIC INSPECTION.—The Secretary of the Senate shall transmit a copy of any report or filing received under this section or of title V as soon as possible (but no later than 4 working hours of the Commission) after receipt of such report or filing, and shall make such report or filing available for public inspection and copying in the same manner as the Commission under section 311(a)(4), and shall preserve such reports and filings in the same manner as the Commission under section 311(a)(5).

''(f) DEFINITIONS.—For purposes of this section, any term used in this section which is used in title V shall have the same meaning as when used in title V.''.

SEC. 104. DISCLOSURE BY NONELIGIBLE CANDIDATES.

Section 318 of FECA (2 U.S.C. 441d), as amended by section 133, is amended by adding at the end the following:

''(e) If a broadcast, cablecast, or other communication is paid for or authorized by a candidate in the general election for the office of United States Senator who is not an eligible Senate candidate, or the authorized committee of such candidate, such communication shall contain the following sentence: 'This candidate has not agreed to voluntary campaign spending limits.'.''.

SEC. 105. FREE BROADCAST TIME.

(a) AMENDMENT OF COMMUNICATIONS ACT.—Title III of the Communications Act of 1934 (47 U.S.C. 301 et seq.) is amended by inserting after section 315 the following new section:

''FREE BROADCAST TIME FOR ELIGIBLE SENATE CANDIDATES

''SEC. 315A. (a) IN GENERAL.—In addition to broadcast time that a licensee makes available to a candidate under section 315(a), a licensee shall make available at no charge, to each eligible Senate candidates in each State within its broadcast area, 90 minutes of broadcast time during a prime time access period (as defined in section 601 of the Federal Election Campaign Act of 1971).

''(b) APPEARANCES ON NEWS OR PUBLIC SERVICE PROGRAMS.—An appearance by a candidate on a news or public service program at the invitation of a broadcasting station or other organization that presents such a program shall not be counted toward time made available pursuant to subsection (a).''.

(b) AMENDMENT OF FECA.—FECA, as amended by section 101, is amended by adding at the end the following new title:

''TITLE VI—DISSEMINATION OF POLITICAL INFORMATION

''SEC. 601. DEFINITIONS.

''In this title—

''(1) The term 'free broadcast time' means time provided by a broadcasting station during a prime time access period pursuant to section 315A of the Communications Act of 1934.

''(2) The term 'minor party' means a political party other than a major party—

''(A) whose candidate for the Senate in a State received more than 5 percent of the popular vote in the most recent general election; or

''(B) which files with the Commission, not later than 90 days before the date of a general or special election in a State, the number of signatures of registered voters in the State that is equal to 5 percent of the popular vote for the office of Senator in the most recent general or special election in the State.

''(3) The term 'prime time access period' means the time between 6:00 p.m. and 8:00 p.m. of a weekday during the period beginning on the date that is 60 days before the date of a general election or special election for the Senate and ending on the day before the date of the election.

''SEC. 602. USE OF FREE BROADCAST TIME.

''An eligible Senate candidate shall ensure that—

''(1) free broadcast time is used in a manner that promotes a rational discussion and debate of issues with respect to the elections involved;

''(2) in programs in which free broadcast time is used, not more than 25 percent of the time of the broadcast consists of presentations other than a candidate's own remarks;

''(3) free broadcast time is used in segments of not less than 1 minute; and

''(4) not more than 15 minutes of free broadcast time is used by the candidate in a 24-hour period.

''SEC. 603. REPORTS.

''(a) CANDIDATE REPORTS TO THE COMMISSION.—An eligible Senate candidate that uses free broadcast time under section 602 shall include with the candidate's post-general election report under section 304(a)(2)(A)(ii) or, in the case of a special election, with the candidate's first report under section 304(a)(2) filed after the special election, a statement of the amount of free broadcast time that the candidate used during the general election period or special election period.

''(b) COMMISSION REPORTS TO CONGRESS.—The Commission shall submit to Congress, not later than June 1 of each year that follows a year in which a general election for the Senate is held, a report setting forth the amount of free broadcast time used by eligible Senate candidates under section 602.

''SEC. 604. JUDICIAL PROCEEDINGS.

''(a) IN GENERAL.—The Commission may appear in any action filed under this section, either by attorneys employed in its office or by counsel whom it may appoint without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation it may fix without regard to the provisions of chapter 51 and title III of chapter 53 of that title.

''(b) ENFORCEMENT.—At its own instance or on the complaint of any person, and whether or not proceedings have been commenced or are pending under section 309, the Commission may petition a district court of the United States for declaratory or injunctive relief concerning any civil matter arising under this title, through attorneys and counsel described in subsection (a).

''(c) APPEALS.—The Commission may, on behalf of the United States, appeal from, and petition the Supreme Court of the United States for certiorari to review, a judgment or decree entered with respect to an action in which it appeared pursuant to this section.''.

Subtitle B—General Provisions

SEC. 131. EXTENSION OF REDUCED THIRD-CLASS MAILING RATES TO ELIGIBLE SENATE CANDIDATES.

Section 3626(e) of title 39, United States Code, is amended—

(1) in paragraph (2)(A)—

(A) by striking ''and the National'' and inserting ''the National''; and

(B) by striking ''Committee;'' and inserting ''Committee, and, subject to paragraph (3), the principal campaign committee of an eligible Senate candidate;'';

(2) in paragraph (2)(B), by striking ''and'' after the semicolon;

(3) in paragraph (2)(C), by striking the period and inserting ''; and'';

(4) by adding after paragraph (2)(C) the following new subparagraph:

''(D) The terms 'eligible Senate candidate' and 'principal campaign committee' have the meanings given those terms in section 301 of the Federal Election Campaign Act of 1971.''; and

(5) by adding after paragraph (2) the following new paragraph:

''(3) The rate made available under this subsection with respect to an eligible Senate candidate shall apply only to—

''(A) the general election period (as defined in section 301 of the Federal Election Campaign Act of 1971); and

''(B) that number of pieces of mail equal to the number of individuals in the voting age population (as certified under section 315(e) of such Act) of the State.''.

SEC. 132. REPORTING REQUIREMENTS FOR CERTAIN INDEPENDENT EXPENDITURES.

Section 304(c) of FECA (2 U.S.C. 434(c)) is amended—

(1) in paragraph (2), by striking out the undesignated matter after subparagraph (C);

(2) by redesignating paragraph (3) as paragraph (5); and

(3) by inserting after paragraph (2), as amended by paragraph (1), the following new paragraphs:

''(3)(A) Any independent expenditure (including those described in subsection (b)(6)(B)(iii) of this section) aggregating $1,000 or more made after the 20th day, but more than 24 hours, before any election shall be reported within 24 hours after such independent expenditure is made.

''(B) Any independent expenditure aggregating $5,000 or more made at any time up to and including the 20th day before any election shall be reported within 48 hours after such independent expenditure is made. An additional statement shall be filed each time independent expenditures aggregating $5,000 are made with respect to the same election as the initial statement filed under this section.

''(C) Such statement shall be filed with the Secretary of the Senate and the Secretary of State of the State involved and shall contain the information required by subsection (b)(6)(B)(iii) of this section, including whether the independent expenditure is in support of, or in opposition to, the candidate involved. The Secretary of the Senate shall as soon as possible (but not later than 4 working hours of the Commission) after receipt of a statement transmit it to the Commission. Not later than 48 hours after the Commission receives a report, the Commission shall transmit a copy of the report to each candidate seeking nomination or election to that office.

''(D) For purposes of this section, the term 'made' includes any action taken to incur an obligation for payment.

''(4)(A) If any person intends to make independent expenditures totaling $5,000 during the 20 days before an election, such person shall file a statement no later than the 20th day before the election.

''(B) Such statement shall be filed with the Secretary of the Senate and the Secretary of State of the State involved, and shall identify each candidate whom the expenditure will support or oppose. The Secretary of the Senate shall as soon as possible (but not later than 4 working hours of the Commission) after receipt of a statement transmit it to the Commission. Not later than 48 hours after the Commission receives a statement under this paragraph, the Commission shall transmit a copy of the statement to each candidate identified.

''(5) The Commission may make its own determination that a person has made, or has incurred obligations to make, independent expenditures with respect to any Federal election which in the aggregate exceed the applicable amounts under paragraph (3) or (4). The Commission shall notify each candidate in such election of such determination within 24 hours of making it.

''(6) At the same time as a candidate is notified under paragraph (3), (4), or (5) with respect to expenditures during a general election period, the Commission shall certify eligibility to receive benefits under section 503(a).

''(7) The Secretary of the Senate shall make any statement received under this subsection available for public inspection and copying in the same manner as the Commission under section 311(a)(4), and shall preserve such statements in the same manner as the Commission under section 311(a)(5).''.

SEC. 133. CAMPAIGN ADVERTISING AMENDMENTS.

Section 318 of FECA (2 U.S.C. 441d) is amended—

(1) in the matter before paragraph (1) of subsection (a), by striking ''an expenditure'' and inserting ''a disbursement'';

(2) in the matter before paragraph (1) of subsection (a), by striking ''direct'';

(3) in paragraph (3) of subsection (a), by inserting after ''name'' the following ''and permanent street address''; and

(4) by adding at the end the following new subsections:

''(c) Any printed communication described in subsection (a) shall be—

''(1) of sufficient type size to be clearly readable by the recipient of the communication;

''(2) contained in a printed box set apart from the other contents of the communication; and

''(3) consist of a reasonable degree of color contrast between the background and the printed statement.

''(d)(1) Any broadcast or cablecast communication described in subsection (a)(1) or subsection (a)(2) shall include, in addition to the requirements of those subsections an audio statement by the candidate that identifies the candidate and states that the candidate has approved the communication.

''(2) If a broadcast or cablecast communication described in paragraph (1) is broadcast or cablecast by means of television, the statement required by paragraph (1) shall—

''(A) appear at the end of the communication in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds; and

''(B) be accompanied by a clearly identifiable photographic or similar image of the candidate.

''(e) Any broadcast or cablecast communication described in subsection (a)(3) shall include, in addition to the requirements of those subsections, in a clearly spoken manner, the following statement—

' is responsible for the content of this advertisement.'

with the blank to be filled in with the name of the political committee or other person paying for the communication and the name of any connected organization of the payor; and, if broadcast or cablecast by means of television, shall also appear in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds.''.

SEC. 134. DEFINITIONS.

(a) IN GENERAL.—Section 301 of FECA (2 U.S.C. 431) is amended by striking paragraph (19) and inserting the following new paragraphs:

''(19) The term 'eligible Senate candidate' means a candidate who is eligible under section 502 to receive benefits under title V.

''(20) The term 'general election' means any election which will directly result in the election of a person to a Federal office, but does not include an open primary election.

''(21) The term 'general election period' means, with respect to any candidate, the period beginning on the day after the date of the primary or runoff election for the specific office the candidate is seeking, whichever is later, and ending on the earlier of—

''(A) the date of such general election; or

''(B) the date on which the candidate withdraws from the campaign or otherwise ceases actively to seek election.

''(22) The term 'immediate family' means—

''(A) a candidate's spouse;

''(B) a child, stepchild, parent, grandparent, brother, half-brother, sister or half-sister of the candidate or the candidate's spouse; and

''(C) the spouse of any person described in subparagraph (B).

''(23) The term 'major party' has the meaning given such term in section 9002(6) of the Internal Revenue Code of 1986, except that if a candidate qualified under State law for the ballot in a general election in an open primary in which all the candidates for the office participated and which resulted in the candidate and at least one other candidate qualifying for the ballot in the general election, such candidate shall be treated as a candidate of a major party for purposes of title V.

''(24) The term 'primary election' means an election which may result in the selection of a candidate for the ballot in a general election for a Federal office.

''(25) The term 'primary election period' means, with respect to any candidate, the period beginning on the day following the date of the last election for the specific office the candidate is seeking and ending on the earlier of—

''(A) the date of the first primary election for that office following the last general election for that office; or

''(B) the date on which the candidate withdraws from the election or otherwise ceases actively to seek election.

''(26) The term 'runoff election' means an election held after a primary election which is prescribed by applicable State law as the means for deciding which candidate will be on the ballot in the general election for a Federal office.

''(27) The term 'runoff election period' means, with respect to any candidate, the period beginning on the day following the date of the last primary election for the specific office such candidate is seeking and ending on the date of the runoff election for such office.

''(28) The term 'voting age population' means the resident population, 18 years of age or older, as certified pursuant to section 315(e).

''(29) The term 'election cycle' means—

''(A) in the case of a candidate or the authorized committees of a candidate, the term beginning on the day after the date of the most recent general election for the specific office or seat which such candidate seeks and ending on the date of the next general election for such office or seat; or

''(B) for all other persons, the term beginning on the first day following the date of the last general election and ending on the date of the next general election.

''(30) The term 'personal funds expenditure limit' means the limit applicable to an eligible Senate candidate under section 502(a).

''(31) The term 'primary election expenditure limit' means the limit applicable to an eligible Senate candidate under section 502(b).

''(32) The term 'runoff election expenditure limit' means the limit applicable to an eligible Senate candidate under section 502(c).

''(33) The term 'general election expenditure limit' means the limit applicable to an eligible Senate candidate under section 502(d).

''(34) The term 'multicandidate political committee primary election contribution limit' means the limit applicable to an eligible Senate candidate under section 502(e)(1).

''(35) The term 'multicandidate political committee runoff election contribution limit' means the limit applicable to an eligible Senate candidate under section 502(e)(2).

''(36) The terms 'Senate Election Campaign Fund' and 'Fund' mean the Senate Election Campaign Fund established under section 510.''.

(b) IDENTIFICATION.—Section 301(13) of FECA (2 U.S.C. 431(13)) is amended by striking ''mailing address'' and inserting ''permanent residence address''.

SEC. 135. PROVISIONS RELATING TO FRANKED MASS MAILINGS.

Section 3210(a)(6) of title 39, United States Code, is amended—

(1) in subparagraph (A), by striking ''It is the intent of Congress that a Member of, or a Member-elect to, Congress'' and inserting ''A Member of, or Member-elect to, the House''; and

(2) in subparagraph (C)—

(A) by striking ''if such mass mailing is postmarked fewer than 60 days immediately before the date'' and inserting ''if such mass mailing is postmarked during the calendar year''; and

(B) by inserting ''or reelection'' immediately before the period.

TITLE II—INDEPENDENT EXPENDITURES

SEC. 201. CLARIFICATION OF DEFINITIONS RELATING TO INDEPENDENT EXPENDITURES.

(a) INDEPENDENT EXPENDITURE DEFINITION AMENDMENT.—Section 301 of FECA (2 U.S.C. 431) is amended by striking paragraphs (17) and (18) and inserting the following:

''(17)(A) The term 'independent expenditure' means an expenditure for an advertisement or other communication that—

''(i) contains express advocacy; and

''(ii) is made without the participation or cooperation of a candidate or a candidate's representative.

''(B) The following shall not be considered an independent expenditure:

''(i) An expenditure made by a political committee of a political party.

''(ii) An expenditure made by a person who, during the election cycle, has communicated with or received information from a candidate or a representative of that candidate regarding activities that have the purpose of influencing that candidate's election to Federal office, where the expenditure is in support of that candidate or in opposition to another candidate for that office.

''(iii) An expenditure if there is any arrangement, coordination, or direction with respect to the expenditure between the candidate or the candidate's agent and the person making the expenditure.

''(iv) An expenditure if, in the same election cycle, the person making the expenditure is or has been—

''(I) authorized to raise or expend funds on behalf of the candidate or the candidate's authorized committees; or

''(II) serving as a member, employee, or agent of the candidate's authorized committees in an executive or policymaking position.

''(v) An expenditure if the person making the expenditure has advised or counseled the candidate or the candidate's agents at any time on the candidate's plans, projects, or needs relating to the candidate's pursuit of nomination for election, or election, to Federal office, in the same election cycle, including any advice relating to the candidate's decision to seek Federal office.

''(vi) An expenditure if the person making the expenditure retains the professional services of any individual or other person also providing services in the same election cycle to the candidate in connection with the candidate's pursuit of nomination for election, or election, to Federal office, including any services relating to the candidate's decision to seek Federal office.

''(vii) An expenditure if the person making the expenditure has consulted at any time during the same election cycle about the candidate's plans, projects, or needs relating to the candidate's pursuit of nomination for election, or election, to Federal office, with—

''(I) any officer, director, employee or agent of a party committee that has made or intends to make expenditures or contributions, pursuant to subsections (a), (d), or (h) of section 315 in connection with the candidate's campaign; or

''(II) any person whose professional services have been retained by a political party committee that has made or intends to make expenditures or contributions pursuant to subsections (a), (d), or (h) of section 315 in connection with the candidate's campaign.

For purposes of this subparagraph, the person making the expenditure shall include any officer, director, employee, or agent of such person.

''(18) The term 'express advocacy' means, when a communication is taken as a whole, an expression of support for or opposition to a specific candidate, to a specific group of candidates, or to candidates of a particular political party, or a suggestion to take action with respect to an election, such as to vote for or against, make contributions to, or participate in campaign activity.''.

(b) CONTRIBUTION DEFINITION AMENDMENT.—Section 301(8)(A) of FECA (2 U.S.C. 431(8)(A)) is amended—

(1) in clause (i), by striking ''or'' after the semicolon at the end;

(2) in clause (ii), by striking the period at the end and inserting ''; or''; and

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

''(iii) any payment or other transaction referred to in paragraph (17)(A)(i) that does not qualify as an independent expenditure under paragraph (17)(A)(ii).''.

TITLE III—EXPENDITURES

Subtitle A—Personal Loans; Credit

SEC. 301. PERSONAL CONTRIBUTIONS AND LOANS.

Section 315 of FECA (2 U.S.C. 441a) is amended by adding at the end the following new subsection:

''(i) LIMITATIONS ON PAYMENTS TO CANDIDATES.—(1) If a candidate or a member of the candidate's immediate family made any loans to the candidate or to the candidate's authorized committees during any election cycle, no contributions received after the date of the general election for such election cycle may be used to repay such loans.

''(2) No contribution by a candidate or member of the candidate's immediate family may be returned to the candidate or member other than as part of a pro rata distribution of excess contributions to all contributors.''.

SEC. 302. EXTENSIONS OF CREDIT.

Section 301(8)(A) of FECA (2 U.S.C. 431(8)(A)), as amended by section 201(b), is amended—

(1) by striking ''or'' at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting ''; or''; and

(3) by inserting at the end the following new clause:

''(iv) with respect to a candidate and the candidate's authorized committees, any extension of credit for goods or services relating to advertising on broadcasting stations, in newspapers or magazines, or by mailings, or relating to other types of general public political advertising, if such extension of credit is—

''(I) in an amount of more than $500; and

''(II) for a period greater than the period, not in excess of 60 days, for which credit is generally extended in the normal course of business after the date on which such goods or services are furnished or the date of the mailing in the case of advertising by a mailing.''.

Subtitle B—Provisions Relating to Soft Money of Political Parties

SEC. 311. CONTRIBUTIONS TO POLITICAL PARTY COMMITTEES FOR GRASSROOTS FEDERAL ELECTION CAMPAIGN ACTIVITIES.

(a) IN GENERAL.—Section 315(a)(1)(C) of FECA (2 U.S.C. 441a(a)(1)(C)) is amended by striking ''$5,000.'' and inserting ''5,000, plus an additional $5,000 that may be contributed to a political committee established and maintained by a State political party for the sole purpose of conducting grassroots Federal election campaign activities coordinated by the Congressional Campaign Committee and Senatorial Campaign Committee of the party.''.

(b) INCREASE IN OVERALL LIMIT.—Paragraph (3) of section 315(a) of FECA (2 U.S.C. 441a(a)(3)) is amended by adding at the end the following new sentence: ''The limitation under this paragraph shall be increased (but not by more than $5,000) by the amount of contributions made by an individual during a calendar year to political committees which are taken into account for purposes of paragraph (1)(C).''.

(c) DEFINITION.—Section 301(a) of FECA (2 U.S.C. 431(a)), as amended by section 134, is amended by adding at the end the following new paragraph:

''(37) The term 'grassroots Federal election campaign activity' means—

''(A) voter registration and get-out-the-vote activities;

''(B) campaign activities, including broadcasting, newspaper, magazine, billboard, mass mail, and newsletter communications, and similar kinds of communications or public advertising that—

''(i) are generic campaign activities; or

''(ii) identify a Federal candidate regardless of whether a State or local candidate is also identified;

''(C) the preparation and dissemination of campaign materials that are part of a generic campaign activity or that identify a Federal candidate, regardless of whether a State or local candidate is also identified;

''(D) development and maintenance of voter files;

''(E) any other activity affecting (in whole or in part) an election for Federal office; and

''(F) activities conducted for the purpose of raising funds to pay for activities described in subparagraphs (A), (B), (C), (D), and (E),

to the extent that any such activity is allocable to Federal elections under a regulation issued by the Commission.''.

SEC. 312. PROVISIONS RELATING TO NATIONAL, STATE, AND LOCAL PARTY COMMITTEES.

(a) EXPENDITURES BY STATE COMMITTEES IN CONNECTION WITH PRESIDENTIAL CAMPAIGNS.—Section 315(d) of FECA (2 U.S.C. 441a(d)) is amended by inserting at the end the following new paragraph:

''(4) A State committee of a political party, including subordinate committees of that State committee, shall not make expenditures in connection with the general election campaign of a candidate for President of the United States who is affiliated with such party which, in the aggregate, exceed an amount equal to 4 cents multiplied by the voting age population of the State, as certified under subsection (e). This paragraph shall not authorize a committee to make expenditures for audio broadcasts (including television broadcasts) in excess of the amount which could have been made without regard to this paragraph.''.

(b) CONTRIBUTION AND EXPENDITURE EXCEPTIONS.—(1) Section 301(8)(B) of FECA (2 U.S.C. 431(8)(B)) is amended—

(A) in clause (xi), by striking ''direct mail'' and inserting ''mail''; and

(B) by repealing clauses (x) and (xii).

(2) Section 301(9)(B) of FECA (2 U.S.C. 431(9)(B)) is amended by repealing clauses (viii) and (ix).

(c) SOFT MONEY OF COMMITTEES OF POLITICAL PARTIES.—(1) Title III of FECA, as amended by section 102(a), is amended by inserting after section 324 the following new section:

''POLITICAL PARTY COMMITTEES

''SEC. 325. (a) Any amount solicited, received, or expended directly or indirectly by a national, State, district, or local committee of a political party (including any subordinate committee) with respect to an activity which, in whole or in part, is in connection with an election to Federal office shall be subject in its entirety to the limitations, prohibitions, and reporting requirements of this Act.

''(b) For purposes of subsection (a):

''(1) Any activity which is solely for the purpose of influencing an election for Federal office is in connection with an election for Federal office.

''(2) A grassroots Federal election campaign activity shall be treated as in connection with an election for Federal office.

''(3) The following shall not be treated as in connection with a Federal election:

''(A) Any amount described in section 301(8)(B)(viii).

''(B) Any amount contributed to a candidate for other than Federal office.

''(C) Any amount received or expended in connection with a State or local political convention.

''(D) Campaign activities, including broadcasting, newspaper, magazine, billboard, mass mail, and newsletter communications, and similar kinds of communications or public advertising that are exclusively on behalf of State or local candidates and are conducted in a year that is not a Presidential election year.

''(E) Research pertaining solely to State and local candidates and issues.

''(F) Any other activity which is solely for the purpose of influencing, and which solely affects, an election for non-Federal office.

''(4) For purposes of this subsection, the term 'Federal election period' means the period—

''(A) beginning on January 1 of any even-numbered calendar year; and

''(B) ending on the date during such year on which regularly scheduled general elections for Federal office occur.

In the case of a special election, the Federal election period shall include at least the 60-day period ending on the date of the election.

''(c) SOLICITATION BY COMMITTEES.—A Congressional or Senatorial Campaign Committee of a political party may not solicit or accept contributions not subject to the limitations, prohibitions, and reporting requirements of this Act.

''(d) AMOUNTS RECEIVED FROM STATE AND LOCAL CANDIDATE COMMITTEES.—(1) For purposes of subsection (a), any amount received by a national, State, district, or local committee of a political party (including any subordinate committee) from a State or local candidate committee shall be treated as meeting the requirements of subsection (a) and section 304(d) if—

''(A) such amount is derived from funds which meet the requirements of this Act with respect to any limitation or prohibition as to source or dollar amount, and

''(B) the State or local candidate committee—

''(i) maintains, in the account from which payment is made, records of the sources and amounts of funds for purposes of determining whether such requirements are met, and

''(ii) certifies to the other committee that such requirements were met.

''(2) Notwithstanding paragraph (1), any committee receiving any contribution described in paragraph (1) from a State or local candidate committee shall be required to meet the reporting requirements of this Act with respect to receipt of the contribution from such candidate committee.

''(3) For purposes of this subsection, a State or local candidate committee is a committee established, financed, maintained, or controlled by a candidate for other than Federal office.''.

(2) Section 315(d) of FECA (2 U.S.C. 441a(d)), as amended by subsection (a), is amended by adding at the end the following new paragraph:

''(5)(A) The national committee of a political party, the congressional campaign committees of a political party, and a State or local committee of a political party, including a subordinate committee of any of the preceding committees, shall not make expenditures during any calendar year for activities described in section 325(b)(2) with respect to such State which, in the aggregate, exceed an amount equal to 30 cents multiplied by the voting age population of the State (as certified under subsection (e)).

''(B) Expenditures authorized under this paragraph shall be in addition to other expenditures allowed under this subsection, except that this paragraph shall not authorize a committee to make expenditures to which paragraph (3) or (4) applies in excess of the limit applicable to such expenditures under paragraph (3) or (4).

''(C) No adjustment to the limitation under this paragraph shall be made under subsection (c) before 1992 and the base period for purposes of any such adjustment shall be 1990.

''(D) For purposes of this paragraph—

''(i) a local committee of a political party shall only include a committee that is a political committee (as defined in section 301(4)); and

''(ii) a State committee shall not be required to record or report under this Act the expenditures of any other committee which are made independently from the State committee.''.

(3) Section 301(4) of FECA (2 U.S.C. 431(4)) is amended by adding at the end the following new sentence:

''For purposes of subparagraph (C), any payments for get-out-the-vote activities on behalf of candidates for office other than Federal office shall be treated as payments exempted from the definition of expenditure under paragraph (9) of this section.''.

(d) GENERIC ACTIVITIES.—Section 301 of FECA (2 U.S.C. 431), as amended by section 311(c), is amended by adding at the end the following new paragraph:

''(38) The term 'generic campaign activity' means a campaign activity the purpose or effect of which is to promote a political party rather than any particular Federal or non-Federal candidate.''.

SEC. 313. RESTRICTIONS ON FUNDRAISING BY CANDIDATES AND OFFICEHOLDERS.

(a) STATE FUNDRAISING ACTIVITIES.—Section 315 of FECA (2 U.S.C. 441a), as amended by section 301, is amended by adding at the end the following new subsection:

''(k) LIMITATIONS ON FUNDRAISING ACTIVITIES OF FEDERAL CANDIDATES AND OFFICEHOLDERS AND CERTAIN POLITICAL COMMITTEES.—(1) For purposes of this Act, a candidate for Federal office (or an individual holding Federal office) may not solicit funds to, or receive funds on behalf of, any Federal or non-Federal candidate or political committee—

''(A) which are to be expended in connection with any election for Federal office unless such funds are subject to the limitations, prohibitions, and requirements of this Act; or

''(B) which are to be expended in connection with any election for other than Federal office unless such funds are not in excess of amounts permitted with respect to Federal candidates and political committees under this Act, and are not from sources prohibited by this Act with respect to elections to Federal office.

''(2)(A) The aggregate amount which a person described in subparagraph (B) may solicit from a multicandidate political committee for State committees described in subsection (a)(1)(C) (including subordinate committees) for any calendar year shall not exceed the dollar amount in effect under subsection (a)(2)(B) for the calendar year.

''(B) A person is described in this subparagraph if such person is a candidate for Federal office, an individual holding Federal office, or any national, State, district, or local committee of a political party (including subordinate committees).

''(3) The appearance or participation by a candidate or individual in any activity (including fundraising) conducted by a committee of a political party or a candidate for other than Federal office shall not be treated as a solicitation for purposes of paragraph (1) if—

''(A) such appearance or participation is otherwise permitted by law; and

''(B) such candidate or individual does not solicit or receive, or make expenditures from, any funds resulting from such activity.

''(4) Paragraph (1) shall not apply to the solicitation or receipt of funds, or disbursements, by an individual who is a candidate for other than Federal office if such activity is permitted under State law.

''(5) For purposes of this subsection, an individual shall be treated as holding Federal office if such individual—

''(A) holds a Federal office; or

''(B) holds a position described in level I of the Executive Schedule under section 5312 of title 5, United States Code.''.

(b) TAX-EXEMPT ORGANIZATIONS.—Section 315 of FECA (2 U.S.C. 441a), as amended by subsection (a), is amended by adding at the end the following new subsection:

''(l) TAX-EXEMPT ORGANIZATIONS.—(1) If during any period an individual is a candidate for, or holds, Federal office, such individual may not during such period solicit contributions to, or on behalf of, any organization which is described in section 501(c) of the Internal Revenue Code of 1986 if a significant portion of the activities of such organization include voter registration or get-out-the-vote campaigns.

''(2) For purposes of this subsection, an individual shall be treated as holding Federal office if such individual—

''(A) holds a Federal office; or

''(B) holds a position described in level I of the Executive Schedule under section 5312 of title 5, United States Code.''.

SEC. 314. REPORTING REQUIREMENTS.

(a) REPORTING REQUIREMENTS.—Section 304 of FECA (2 U.S.C. 434) is amended by adding at the end the following new subsection:

''(d) POLITICAL COMMITTEES.—(1) The national committee of a political party and any congressional campaign committee, and any subordinate committee of either, shall report all receipts and disbursements during the reporting period, whether or not in connection with an election for Federal office.

''(2) A political committee (not described in paragraph (1)) to which section 325 applies shall report all receipts and disbursements in connection with a Federal election (as determined under section 325) and all payments for combined activities under 326;

''(3) Any political committee to which paragraph (1) or (2) does not apply shall report any receipts or disbursements which are used in connection with a Federal election or for combined activities.

''(4) If any receipt or disbursement to which this subsection applies exceeds $50, the political committee shall include identification of the person from whom, or to whom, such receipt or disbursement was made.

''(5) Reports required to be filed by this subsection shall be filed for the same time periods required for political committees under subsection (a).''.

(b) REPORT OF EXEMPT CONTRIBUTIONS.—Section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)) is amended by inserting at the end the following:

''(C) The exclusions provided in clauses (v) and (viii) of subparagraph (B) shall not apply for purposes of any requirement to report contributions under this Act, and all such contributions in excess of $50 shall be reported.''.

(c) REPORTING OF EXEMPT EXPENDITURES.—Section 301(9) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(9)) is amended by inserting at the end the following:

''(C) The exclusions provided in clause (iv) of subparagraph (B) shall not apply for purposes of any requirement to report expenditures under this Act, and all such expenditures in excess of $50 shall be reported.''.

(d) CONTRIBUTIONS AND EXPENDITURES OF POLITICAL COMMITTEES.—Section 301(4) of FECA (2 U.S.C. 431(4)) is amended by adding at the end the following: ''For purposes of this paragraph, the receipt of contributions or the making of, or obligating to make, expenditures shall be determined by the Commission on the basis of facts and circumstances, in whatever combination, demonstrating a purpose of influencing any election for Federal office, including, but not limited to, the representations made by any person soliciting funds about their intended uses; the identification by name of individuals who are candidates for Federal office or of any political party, in general public political advertising; and the proximity to any primary, runoff, or general election of general public political advertising designed or reasonably calculated to influence voter choice in that election.''.

(e) REPORTS BY STATE COMMITTEES.—Section 304 of FECA (2 U.S.C. 434), as amended by subsection (a), is amended by adding at the end the following new subsection:

''(e) FILING OF STATE REPORTS.—In lieu of any report required to be filed by this Act, the Commission may allow a State committee of a political party to file with the Commission a report required to be filed under State law if the Commission determines such reports contain substantially the same information.''.

SEC. 315. LIMITATIONS ON COMBINED POLITICAL ACTIVITIES OF POLITICAL COMMITTEES OF POLITICAL PARTIES.

Title III of FECA (2 U.S.C. 431 et seq.), as amended by section 312(c), is amended by adding at the end the following new section:

''LIMITATIONS ON COMBINED POLITICAL ACTIVITIES OF POLITICAL COMMITTEES OF POLITICAL PARTIES

''SEC. 326. (a)(1) Political party committees that make payments for combined political activity shall allocate a portion of such payments to Federal accounts containing contributions subject to the limitations and prohibitions of this Act, as provided for in this section.

''(2) National party committees shall allocate as follows:

''(A) At least 65 percent of the costs of voter registration drives, development and maintenance of voter files, get-out-the-vote activities, and administrative expenses shall be paid from a Federal account in Presidential election years. At least 60 percent of the costs of voter drives and administrative expenses shall be paid from a Federal account in all other years.

''(B) The costs of fundraising activities which shall be paid from a Federal account shall equal the ratio of funds received into the Federal account to the total receipts from each fundraising program or event.

''(C) The costs of activities subject to limitation under section 315(d) which involve both Federal and non-Federal candidates, shall be paid from a Federal account according to the time or space devoted to Federal candidates.

''(3) State and local party committees shall allocate as follows:

''(A) At least 50 percent of the costs of voter registration drives, development and maintenance of voter files, get-out-the-vote activities, and administrative expenses shall be paid from a Federal account in Presidential election years. In all other years, the costs of voter drives and administrative expenses which shall be paid from a Federal account shall be determined by the ballot composition for the election cycle, but, in no event, shall the amount paid from the Federal account be less than 33 percent.

''(B) The costs of fundraising activities which shall be paid from a Federal account shall equal the ratio of funds received into the Federal account to the total receipts from each fundraising program or event.

''(C) The costs of activities exempt from the definition of 'contribution' or 'expenditure' under section 301, when conducted in conjunction with both Federal and non-Federal elections, shall be paid from a Federal account according to the time or space devoted to Federal candidates or elections.

''(D) The costs of activities subject to limitation under section 315 (a) or (d) which involve both Federal and non-Federal candidates, shall be paid from a Federal account according to the time or space devoted to Federal candidates.

''(b) For purposes of this subsection—

''(1) the term 'combined political activity' means any activity that is both—

''(A) in connection with an election for Federal office; and

''(B) in connection with an election for any non-Federal office.

''(2) Any activity which is undertaken solely in connection with a Federal election is not combined political activity.

''(3) Except as provided in paragraph (4), combined political activity shall include—

''(A) State and local party activities exempt from the definitions of 'contribution' and 'expenditure' under section 301 and activities subject to limitation under section 315 which involve both Federal and non-Federal candidates, except that payments for activities subject to limitation under section 315 are not subject to the limitation of subsection (a)(1);

''(B) voter drives including voter registration, voter identification and get-out-the-vote drives or any other activities that urge the general public to register, vote for or support non-Federal candidates, candidates of a particular party, or candidates associated with a particular issue, without mentioning a specific Federal candidate;

''(C) fundraising activities where both Federal and non-Federal funds are collected through such activities; and

''(D) administrative expenses not directly attributable to a clearly identified Federal or non-Federal candidate, except that payments for administrative expenses are not subject to the limitation of subsection (a)(1).

''(4) The following payments are exempt from the definition of combined political activity:

''(A) Any amount described in section 301(8)(B)(viii).

''(B) Any payments for legal or accounting services, if such services are for the purpose of ensuring compliance with this Act.

''(5) The term 'ballot composition' means the number of Federal offices on the ballot compared to the total number of offices on the ballot during the next election cycle for the State. In calculating the number of offices for purposes of this paragraph, the following offices shall be counted, if on the ballot during the next election cycle: President, United States Senator, United States Representative, Governor, State Senator, and State Representative. No more than three additional statewide partisan candidates shall be counted, if on the ballot during the next election cycle. No more than three additional local partisan candidates shall be counted, if such offices are on the ballot in the majority of the State's counties during the next election cycle.

''(6) The term 'time or space devoted to Federal candidates' means with respect to a particular communication, the portion of the communication devoted to Federal candidates compared to the entire communication, except that no less than one-third of any communication shall be considered devoted to a Federal candidate.''.

TITLE IV—CONTRIBUTIONS

SEC. 401. REDUCTION OF CONTRIBUTION LIMITS.

Section 315(a)(1)(A) of FECA (2 U.S.C. 441a(a)(1)(A)) is amended by striking ''$1,000'' and inserting ''$100''.

SEC. 402. CONTRIBUTIONS THROUGH INTERMEDIARIES AND CONDUITS; PROHIBITION OF CERTAIN CONTRIBUTIONS BY LOBBYISTS.

(a) IN GENERAL.—Section 315(a)(8) of FECA (2 U.S.C. 441a(a)(8)) is amended to read as follows:

''(8) For the purposes of this subsection:

''(A) Contributions made by a person, either directly or indirectly, to or on behalf of a particular candidate, including contributions that are in any way earmarked or otherwise directed through an intermediary or conduit to a candidate, shall be treated as contributions from the person to the candidate.

''(B) Contributions made directly or indirectly by a person to or on behalf of a particular candidate through an intermediary or conduit, including contributions made or arranged to be made by an intermediary or conduit, shall be treated as contributions from the intermediary or conduit to the candidate if—

''(i) the contributions made through the intermediary or conduit are in the form of a check or other negotiable instrument made payable to the intermediary or conduit rather than the intended recipient; or

''(ii) the intermediary or conduit is—

''(I) a political committee;

''(II) an officer, employee, or agent of such a political committee;

''(III) a political party;

''(IV) a partnership or sole proprietorship;

''(V) a lobbyist; or

''(VI) an organization prohibited from making contributions under section 316, or an officer, employee, or agent of such an organization acting on the organization's behalf.

''(C)(i) The term 'intermediary or conduit' does not include—

''(I) a candidate or representative of a candidate receiving contributions to the candidate's principal campaign committee or authorized committee;

''(II) a professional fundraiser compensated for fundraising services at the usual and customary rate;

''(III) a volunteer hosting a fundraising event at the volunteer's home, in accordance with section 301(8)(B); or

''(IV) an individual who transmits a contribution from the individual's spouse.

''(ii) The term 'representative' means an individual who is expressly authorized by the candidate to engage in fundraising, and who occupies a significant position within the candidate's campaign organization, provided that the individual is not described in subparagraph (B)(ii).

''(iii) The term 'contributions made or arranged to be made' includes—

''(I) contributions delivered to a particular candidate or the candidate's authorized committee or agent; and

''(II) contributions directly or indirectly arranged to be made to a particular candidate or the candidate's authorized committee or agent, in a manner that identifies directly or indirectly to the candidate or authorized committee or agent the person who arranged the making of the contributions or the person on whose behalf such person was acting.

''(iv) The term 'acting on the organization's behalf' includes the following activities by an officer, employee or agent of a person described in subparagraph (B)(ii)(IV):

''(I) Soliciting or directly or indirectly arranging the making of a contribution to a particular candidate in the name of, or by using the name of, such a person.

''(II) Soliciting or directly or indirectly arranging the making of a contribution to a particular candidate using other than incidental resources of such a person.

''(III) Soliciting contributions for a particular candidate by substantially directing the solicitations to other officers, employees, or agents of such a person.

''(D) Nothing in this paragraph shall prohibit—

''(i) bona fide joint fundraising efforts conducted solely for the purpose of sponsorship of a fundraising reception, dinner, or other similar event, in accordance with rules prescribed by the Commission, by—

''(I) 2 or more candidates;

''(II) 2 or more national, State, or local committees of a political party within the meaning of section 301(4) acting on their own behalf; or

''(III) a special committee formed by 2 or more candidates, or a candidate and a national, State, or local committee of a political party acting on their own behalf; or

''(ii) fundraising efforts for the benefit of a candidate that are conducted by another candidate.

''(iii) bona fide fundraising efforts conducted by and solely on behalf of an individual for the purpose of sponsorship of a fundraising reception, dinner, or other similar event, but only if all contributions are made directly to a candidate or a representative of a candidate.

When a contribution is made to a candidate through an intermediary or conduit, the intermediary or conduit shall report the original source and the intended recipient of the contribution to the Commission and to the intended recipient.''.

(b) PROHIBITION OF CERTAIN CONTRIBUTIONS BY LOBBYISTS.—Section 315 of FECA (2 U.S.C. 441a), as amended by section 313(b), is amended by adding at the end the following new subsection:

''(m)(1) A lobbyist shall not make a contribution to or solicit a contribution on behalf of a legislative branch official before whom the lobbyist has appeared or with whom the lobbyist has made a lobbying contact, in the lobbyist's representational capacity, during the 12-month period preceding the date on which the contribution is made or solicited.

''(2) A lobbyist who makes a contribution to or solicits a contribution on behalf of a legislative branch official shall not appear before or make a lobbying contact with that legislative branch official, in the lobbyist's representational capacity, during the 12-month period after the date on which the contribution is made or solicited.''.

(c) DEFINITIONS.—Section 301(a) of FECA (2 U.S.C. 431(a)), as amended by section 312(d), is amended by adding at the end the following new paragraphs:

''(39) The term 'lobbyist' means—

''(A) a person required to register under section 308 of the Federal Regulation of Lobbying Act (2 U.S.C. 267) or the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.);

''(B) a person required under any other law to register as a lobbyist (as the term 'lobbyist' may be defined in any such law); and

''(C) any other person that receives compensation in return for making a lobbying contact with Congress on any legislative matter, including a member, officer, or employee of any organization that receives such compensation.

''(40)(A) The term 'lobbying contact'—

''(i) means an oral or written communication with a legislative branch official made by a lobbyist on behalf of another person with regard to—

''(I) the formulation, modification, or adoption of Federal legislation (including a legislative proposal);

''(II) the formulation, modification, or adoption of a Federal rule, regulation, Executive order, or any other program, policy or position of the United States Government; or

''(III) the administration or execution of a Federal program or policy (including the negotiation, award, or administration of a Federal contract, grant, loan, permit, or license) but—

''(ii) does not include a communication that is—

''(I) made by a public official acting in an official capacity;

''(II) made by a representative of a media organization who is primarily engaged in gathering and disseminating news and information to the public;

''(III) made in a speech, article, publication, or other material that is widely distributed to the public or through the media;

''(IV) a request for an appointment, a request for the status of a Federal action, or another similar ministerial contact, if there is no attempt to influence a legislative branch official at the time of the contact;

''(V) made in the course of participation in an advisory committee subject to the Federal Advisory Committee Act (5 U.S.C. App.);

''(VI) testimony given before a committee, subcommittee, or office of Congress, or submitted for inclusion in the public record of a hearing conducted by the committee, subcommittee, or office;

''(VII) information provided in writing in response to a specific written request from a legislative branch official;

''(VIII) required by subpoena, civil investigative demand, or otherwise compelled by statute, regulation, or other action of Congress or a Federal agency;

''(IX) made to an agency official with regard to a judicial proceeding, criminal or civil law enforcement inquiry, investigation, or proceeding, or filing required by law;

''(X) made in compliance with written agency procedures regarding an adjudication conducted by the agency under section 554 of title 5, United States Code, or substantially similar provisions;

''(XI) a written comment filed in a public docket and other communication that is made on the record in a public proceeding;

''(XII) a formal petition for agency action, made in writing pursuant to established agency procedures; or

''(XIII) made on behalf of a person with regard to the person's benefits, employment, other personal matters involving only that person, or disclosures pursuant to a whistleblower statute.

''(39) The term 'legislative branch official' means—

''(A) a member of Congress;

''(B) an elected officer of Congress;

''(C) an employee of a member of the House of Representatives, of a committee of the House of Representatives, or on the leadership staff of the House of Representatives, other than a clerical or secretarial employee;

''(D) an employee of a Senator, of a Senate committee, or on the leadership staff of the Senate, other than a clerical or secretarial employee; and

''(E) an employee of a joint committee of the Congress, other than a clerical or secretarial employee.''.

SEC. 403. CONTRIBUTIONS BY DEPENDENTS NOT OF VOTING AGE.

(a) IN GENERAL.—Section 315 of FECA (2 U.S.C. 441a), as amended by section 402(b), is amended by adding at the end the following new subsection:

''(n) For purposes of this section, any contribution by an individual who—

''(1) is a dependent of another individual; and

''(2) has not, as of the time of such contribution, attained the legal age for voting for elections to Federal office in the State in which such individual resides,

shall be treated as having been made by such other individual. If such individual is the dependent of another individual and such other individual's spouse, the contribution shall be allocated among such individuals in the manner determined by them.''.

SEC. 404. CONTRIBUTIONS TO CANDIDATES FROM STATE AND LOCAL COMMITTEES OF POLITICAL PARTIES TO BE AGGREGATED.

(a) IN GENERAL.—Section 315(a) of FECA (2 U.S.C. 441a(a)) is amended by adding at the end the following new paragraph:

''(9) A candidate for Federal office may not accept, with respect to an election, any contribution from a State or local committee of a political party (including any subordinate committee of such committee), if such contribution, when added to the total of contributions previously accepted from all such committees of that political party, exceeds a limitation on contributions to a candidate under this section.''.

(b) CONFORMING AMENDMENT.—Section 315(a)(5) of FECA (2 U.S.C. 441a(a)(5)) is amended—

(1) by adding ''and'' at the end of subparagraph (A);

(2) by striking subparagraph (B); and

(3) by redesignating subparagraph (C) as subparagraph (B).

SEC. 405. LIMITED EXCLUSION OF ADVANCES BY CAMPAIGN WORKERS FROM THE DEFINITION OF THE TERM "CONTRIBUTION".

Section 301(8)(B) of FECA (2 U.S.C. 431(8)(B)) is amended—

(1) in clause (xiii), by striking ''and'' after the semicolon at the end;

(2) in clause (xiv), by striking the period at the end and inserting: ''; and''; and

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

''(xv) any advance voluntarily made on behalf of an authorized committee of a candidate by an individual in the normal course

of such individual's responsibilities as a volunteer for, or employee of, the committee, if the advance is reimbursed by the committee within 10 days after the date on which the advance is made, and the aggregate value of advances on behalf of a committee does not exceed $500 with respect to an election.''.

TITLE V—REPORTING REQUIREMENTS

SEC. 501. CHANGE IN CERTAIN REPORTING FROM A CALENDAR YEAR BASIS TO AN ELECTION CYCLE BASIS.

Paragraphs (2) through (7) of section 304(b) of FECA (2 U.S.C. 434(b)(2)–(7)) are amended by inserting after ''calendar year'' each place it appears the following: ''(election cycle, in the case of an authorized committee of a candidate for Federal office)''.

SEC. 502. PERSONAL AND CONSULTING SERVICES.

Section 304(b)(5)(A) of FECA (2 U.S.C. 434(b)(5)(A)) is amended by adding before the semicolon at the end the following: '', except that if a person to whom an expenditure is made is merely providing personal or consulting services and is in turn making expenditures to other persons (not including employees) who provide goods or services to the candidate or his or her authorized committees, the name and address of such other person, together with the date, amount and purpose of such expenditure shall also be disclosed''.

SEC. 503. REDUCTION IN THRESHOLD FOR REPORTING OF CERTAIN INFORMATION BY PERSONS OTHER THAN POLITICAL COMMITTEES.

Section 304(b)(3)(A) of FECA (2 U.S.C. 434(b)(3)(A)) is amended by striking ''$200'' and inserting ''$50''.

SEC. 504. COMPUTERIZED INDICES OF CONTRIBUTIONS.

Section 311(a) of FECA (2 U.S.C. 438(a)) is amended—

(1) by striking ''and'' at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting ''; and''; and

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

''(11) maintain computerized indices of contributions of $50 or more.''.

TITLE VI—PRESIDENTIAL DEBATES

SEC. 601. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) American voters are increasingly frustrated with the lack of significant political debate in presidential elections in the United States, and voting participation in the United States is lower than in any other advanced industrialized country, due in part to such frustration;

(2) the right of eligible citizens to participate in the election process as informed voters, provided in and derived from the first and fourteenth amendments to the Constitution, has consistently been protected and promoted by the Federal Government;

(3) United States presidential debates sponsored by nonpartisan organizations offer important fora for free, open, and substantive exchanges of candidates' ideas, and should include all significant candidates, including non-major and independent candidates; and

(4) throughout United States history, significant minor party and independent candidates have often been a source for new ideas and new programs, offering American voters an opportunity to engage in a diverse and open political discourse on critical issues of the day.

(b) PURPOSES.—The purposes of this title are to make participation in presidential debates a requirement for receipt of Federal general election campaign funds and to allow all candidates who meet the criteria outlined in this Act to participate in such debates.

SEC. 602. PRESIDENTIAL AND VICE PRESIDENTIAL CANDIDATE DEBATES.

Section 9003 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(e) PRESIDENTIAL AND VICE PRESIDENTIAL CANDIDATE DEBATES.—

''(1) AGREEMENT TO DEBATE.—In addition to meeting the requirements of subsection (a), (b), or (c), in order to be eligible to receive any payments under section 9006, the candidates for the office of President and Vice President in a Presidential election shall agree in writing that—

''(A) the Presidential candidate, if eligible under paragraph (3), will participate in not less than 3 Presidential candidate debates, which shall be held in the September and October preceding a Presidential general election at least 2 weeks before the election; and

''(B) the Vice Presidential candidate, if eligible under paragraph (3), will participate in not less than 1 Vice Presidential candidate debate, which shall be held prior to the third Presidential candidate debate.

''(2) DEBATE REQUIREMENTS.—

''(A) IN GENERAL.—Each debate under paragraph (1) shall—

''(i) be sponsored by a nonpartisan organization that has no affiliation with any political party;

''(ii) include all candidates that meet the criteria stated in paragraph (3) (except any such candidate who elects not to receive payments under section 9006), who shall appear and participate in a regulated exchange of questions and answers on political, social, economic, and other issues; and

''(iii) be of at least 90 minutes' duration, of which not less than 30 minutes are devoted to questions and answers or discussion directly between the candidates, as determined by the sponsor of the debate.

''(B) ANNOUNCEMENT OF TIME, LOCATION, AND FORMAT.—The sponsor of debates shall announce the time, location, and format of the debate prior to the first Monday in September before the Presidential election.

''(3) CRITERIA FOR PARTICIPATION IN PRESIDENTIAL CANDIDATE DEBATES.—A candidate is eligible to participate in a debate under paragraph (1) if—

''(A) the candidate has qualified for the election ballot as the candidate of a political party or as an independent candidate to the office of President or Vice President in not less than 40 States;

''(B) the candidate met the requirements of section 9033(b) (3) and (4); or

''(C) the candidate raised not less than $500,000 on or after January 1 of the calendar year immediately preceding the calendar year of the Presidential election, as disclosed in a report filed pursuant to section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434).

''(4) ENFORCEMENT.—If the Commission, acting on its own or at the complaint of any person, determines that a Presidential or Vice Presidential candidate that has received payments under section 9006 failed to participate in a debate under paragraph (1) and was responsible at least in part for that failure, the candidate shall pay to the Secretary an amount equal to the amount of the payments made to the candidate under section 9006.''.

TITLE VII—MISCELLANEOUS

SEC. 701. PROHIBITION OF LEADERSHIP COMMITTEES.

Section 302(e) of FECA (2 U.S.C. 432(e)) is amended—

(1) by amending paragraph (3) to read as follows:

''(3)(A) No political committee that supports or has supported more than one candidate may be designated as an authorized committee, except that—

''(i) a candidate for the office of President nominated by a political party may designate the national committee of such political party as the candidate's principal campaign committee, but only if that national committee maintains separate books of account with respect to its functions as a principal campaign committee; and

''(ii) a candidate may designate a political committee established solely for the purpose of joint fundraising by such candidates as an authorized committee.

''(B) As used in this paragraph, the term 'support' does not include a contribution by any authorized committee in amounts of $1,000 or less to an authorized committee of any other candidate.''; and

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

''(6)(A) A candidate for Federal office or any individual holding Federal office may not establish, maintain, or control any political committee other than a principal campaign committee of the candidate, authorized committee, party committee, or other political committee designated in accordance with paragraph (3). A candidate for more than one Federal office may designate a separate principal campaign committee for each Federal office.

''(B) For one year after the effective date of this paragraph, any such political committee may continue to make contributions. At the end of that period such political committee shall disburse all funds by one or more of the following means: making contributions to an entity qualified under section 501(c)(3) of the Internal Revenue Code of 1986; making a contribution to the treasury of the United States; contributing to the national, State or local committees of a political party; or making contributions not to exceed $250 to candidates for elective office.''.

SEC. 702. POLLING DATA CONTRIBUTED TO CANDIDATES.

Section 301(8) of FECA (2 U.S.C. 431(8)), as amended by section 314(b), is amended by inserting at the end the following new subparagraph:

''(D) A contribution of polling data to a candidate shall be valued at the fair market value of the data on the date the poll was completed, depreciated at a rate not more than 1 percent per day from such date to the date on which the contribution was made.''.

TITLE VIII—EFFECTIVE DATES; AUTHORIZATIONS

SEC. 801. EFFECTIVE DATE.

Except as otherwise provided in this Act, the amendments made by, and the provisions of, this Act shall take effect on the date of the enactment of this Act but shall not apply with respect to activities in connection with any election occurring before January 1, 1994.

SEC. 802. SENSE OF THE SENATE REGARDING FUNDING OF SENATE ELECTION CAMPAIGN FUND.

It is the sense of the Senate that—

(1) the current Presidential checkoff should be increased to $5.00, its designation changed to the ''Federal Election Campaign Checkoff'', and individuals should be permitted to contribute an additional $5.00 to the fund in additional taxes if they so desire;

(2) the Internal Revenue Service and the Federal Election Commission should be required to develop and implement a plan to publicize the fund and the checkoff to increase citizen participation; and

(3) funds to pay for the increase in the checkoff to $5.00 should come from the repeal of the tax deduction for business lobbying activity.

SEC. 803. SEVERABILITY.

Except as provided in sections 101(c) and 121(b), if any provision of this Act (including

any amendment made by this Act), or the application of any such provision to any person or circumstance, is held invalid, the validity of any other provision of this Act, or the application of such provision to other persons and circumstances, shall not be affected thereby.

SEC. 804. EXPEDITED REVIEW OF CONSTITUTIONAL ISSUES.

(a) DIRECT APPEAL TO SUPREME COURT.—An appeal may be taken directly to the Supreme Court of the United States from any interlocutory order or final judgment, decree, or order issued by any court ruling on the constitutionality of any provision of this Act or amendment made by this Act.

(b) ACCEPTANCE AND EXPEDITION.—The Supreme Court shall, if it has not previously ruled on the question addressed in the ruling below, accept jurisdiction over, advance on the docket, and expedite the appeal to the greatest extent possible.

SUMMARY OF SENATE FAIR ELECTIONS AND GRASSROOTS DEMOCRACY ACT

CONTRIBUTION LIMITS

Political Action committees—prohibited from making contributions or expenditures to influence federal elections. If ban declared unconstitutional: (1) lowers PAC contribution limit to $250 per candidate, and (2) imposes aggregate PAC receipts limit on Senate candidates.

Individual contribution Limits—lowered to $100 for donations to Senate candidates, per election cycle.

VOLUNTARY CAMPAIGN EXPENDITURE LIMITS

General election period: Formula-based, from $775,000 (small states) to $4.5 million (large states).

Primary election period: 67% of general election limit ($2.5 million max.).

Runoff election: 20% of general election limit.

Candidate's personal funds limit: $25,000.

Limits increased if opponent raises or spend more than 200% of general election limit.

BENEFITS FOR CANDIDATES ABIDING BY VOLUNTARY EXPENDITURE LIMITS

Public funding—Primary (and Runoff): match for individual in-State donations of $100 or less, up to 50% of spending limit.

General: Major party candidates given subsidy equal to spending limit.

Minor party candidates: provided match for individual in-State donations of $100 or less, up to 50% of spending limit.

Contingent funding: payments to particapating candidates to compensate for and in amount of (1) opponents' expenditures in excess of spending limit, and (2) independent expenditures made against participant or for opponent.

Free Broadcast Time—broadcasters must provide 90 min. of prime access time to eligible candidates within broadcast area, in segments of at least 1 min., with no more than 15 min. within a 24-hr. period and no more than 25% of a broadcast consisting of other than candidate remarks.

Reduced Postal Rate—1 mailing per eligible voter during general election period, at lowest non-profit third-class rate.

Eligibility threshold for benefits—candidate must raise 5% of general election limit in amounts of $100 or less (at least 60% within-state).

Funding source—appropriated funds, financed by increase in dollar checkoff to $5 and elimination of tax deduction for lobbying.

SOFT MONEY

Prohibits all ''soft'' money in federal elections; requires that all federal election expenditures be from sources allowed by federal law.

Establishes Grassroots Federal Election Fund to be maintained by state political parties for grassroots political activities that benefit federal candidates exclusively. Contributions to these funds must be raised and disclosed under federal limits, and may not exceed $5,000.

BUNDLING

Prohibits bundling by all PACs; parties; unions, corporations, trade associations, and national banks; partnerships or sole proprietorships; and lobbyists.

Prohibits lobbyists from contributing funds to, or soliciting funds for Members of Congress if they have lobbied those Members or their staff within the last twelve months.

INDEPENDENT EXPENDITURES

Tightens definition to ensure proper distance from candidates; augments disclosure and disclaimer requirements.

CONFERENCE REPORT ON GIFTS PORTION OF LOBBYING DISCLOSURE BILL (AS COMPARED TO SENATE-PASSED BILL)

The conference report on gifts to Members, officers and employees of Congress is the same as the Senate-passed bill on gifts, S. 1935, with a few exceptions as shown in italic. As with the Senate-passed bill, gifts are prohibited except as described below:

FROM LOBBYISTS

Food/refreshments of nominal value not part of a meal.

Campaign contributions/*attendance at fundraising events sponsored by political organizations.*

Informational materials like books, videotapes.

Gifts from close personal friends and family members.

Pension/other employment benefits earned while serving as an employee of lobbying firm.

FROM NONLOBBYISTS

Food/refreshments/entertainment in Member's home state. They remain subject to current rules until and unless changed by Rules Committee.

Food/refreshments of minimal value (less than $20).

Personal and family relationship. (Changed from personal friendship to personal relationship to cover situations where the gift is unrelated to Member's official position.)

Campaign contribution/attendance at fundraising events sponsored by political organizations.

Attendance/food/refreshments/entertainment at widely attended events where Member is either speaking or event is related to Member's official duties or representational function.

Anything for which Member pays market value or doesn't use and promptly returns.

Contributions to a legal expense fund (pursuant to limits already set by resolution).

Gifts from other Members or employees of Senate/House.

Anything of value resulting from outside business activities not connected to duties of Member.

Anything customarily given by a prospective employer.

Pension and other benefits.

Informational materials like books, videotapes.

Awards/prizes given to the public.

Honorary degrees (*including associated travel*) and other bona fide nonmonetary awards presented in recognition of public service.

Homestate products of minimal value for display or distribution.

Items of little intrinsic value, such as baseball caps, greeting cards.

Training, if the training is in the interest of the Senate.

Bequests, inheritances.

Any item authorized by Foreign Gifts Act.

Anything paid by state or local or federal government.

Personal hospitality.

Items available to all federal employees/comparable class of individuals.

Plaque/trophy of modest value.

Anything for which, in unusual case, a waiver is granted by Ethics Committee.

As with current rule, gifts based on personal relationship over $250 must be approved by Ethics Committee and must be disclosed on financial disclosure form.

TRAVEL

Travel to a meeting, speaking engagement, factfinding trip or similar event in connection with the duties of the Member is permitted. Gifts of travel related to charity events or which is substantially recreational is prohibited. Disclosure of expenses for trips where reimbursement is permitted must be filed with Secretary of Senate within 30 days of travel.

SPOUSES

Current rules and Senate-passed bill apply to spouses and dependents as well as Members. Conference report doesn't restrict gifts to spouses and dependents unless the Member has reason to believe gift was given because of the Members's official position and where gift is given with the knowledge and acquiescence of the Member. Such gifts are then treated as gifts to the Member.

Also conference report explicitly allows a spouse or dependent to travel with a Member at the expense of the private party if other spouses/dependents are expected to do so or there is a representational purpose.

Spouses/dependents are also allowed to accompany Members to widely attended events.

COMMON CAUSE,
Washington, DC, January 4, 1995.

DEAR SENATOR: Enclosed for your information is a copy of a letter delivered today to House Speaker Newt Gingrich from Common Cause.

In a 1990 speech, Speaker Gingrich stated: ''The first duty of our generation is to reestablish integrity and a bond of honesty in the political process'' and called for the passage of ''reform laws to clean up the election and lobbying system''.

''We must insure that citizen politics defeats money politics.'' Speaker Gingrich said.

The Common Cause letter urges Speaker Gingrich to make good on his words and lead an effort to reform the corrupt influence money system in Congress.

Sincerely,

FRED WERTHEIMER,
President.

COMMON CAUSE,
Washington, DC, January 4, 1995.

House Speaker NEWT GINGRICH,
U.S. Capitol H—230,
Washington, DC,

DEAR SPEAKER GINGRICH: On August 22, 1990, in a speech to The Heritage Foundation, you said:

''The first duty of our generation is to reestablish integrity and a bond of honesty in the political process. We should punish wrongdoers in politics and government and pass reform laws to clean up the election and lobbying systems. We must insure that citizen politics defeats money politics. This is the only way our system can regain its integrity. Every action should be measured against that goal, and every American

should be challenged to register and vote to achieve that goal.''

We agree,

As you become Speaker of the House of Representatives today, you have a unique moment in history in which to make good on your words. You have a unique opportunity to lead an effort to reform the corrupt system in Congress which you have criticized throughout your House career.

As you also stated in your speech before The Heritage Foundation:

''Congress is a broken system. It is increasingly a system of corruption in which money politics is defeating and driving out citizen politics. * * * [H]onesty and integrity are at the heart of a free society. Corruption, special favors, dishonesty and deception corrode the very process of freedom and alienate citizens from their country.''

I am enclosing other examples of statements you have made over the years about the importance of integrity in government and the need for political reform.

You and the newly elected Republicans in the House have told the country that you are committed to changing the way Washington works.

But citizens throughout this nation clearly understand that there is no way to change the way Washington works without fundamental reform of the corrupt influence money system. This requires effective campaign finance reform and a tough gift ban for Members of Congress.

In your words, ''The first duty of our generation is to reestablish integrity and a bond of honesty in the political process.''

In your words, ''We should punish wrongdoers in politics and government and pass reform laws to clean up the election and lobbying systems.''

In your words, ''We must insure that citizen politics defeats money politics. This is the only way our system can regain its integrity.''

In your new position of leadership, you now face a clear choice. You can make good on your words and lead the effort to clean up Congress. Or you can ignore your words and become the chief protector of the corrupt influence money system in Washington.

Common Cause strongly urges you to make good on your words by supporting and scheduling early action on effective and comprehensive campaign finance reform legislation, a strong gift ban and lobby reform legislation.

Sincerely,

FRED WERTHEIMER,
President.

S. 117

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

SECTION 1. SENATE GIFT RULE.

The text of rule XXXV of the Standing Rules of the Senate is amended to read as follows:

''1. No member, officer, or employee of the Senate shall accept a gift, knowing that such gift is provided by a lobbyist, a lobbying firm, or an agent of a foreign principal registered under the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.) in violation of this rule.

''2. (a) In addition to the restriction on receiving gifts from registered lobbyists, lobbying firms, and agents of foreign principals provided by paragraph 1 and except as provided in this rule, no member, officer, or employee of the Senate shall knowingly accept a gift from any other person.

''(b)(1) For the purpose of this rule, the term 'gift' means any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. The term includes gifts of services, training, transportation, lodging, and meals, whether provided in kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred.

''(2) A gift to the spouse or dependent of a member, officer, or employee (or a gift to any other individual based on that individual's relationship with the member, officer, or employee) shall be considered a gift to the member, officer, or employee if it is given with the knowledge and acquiescence of the member, officer, or employee and the member, officer, or employee has reason to believe the gift was given because of the official position of the member, officer, or employee.

''(c) The restrictions in subparagraph (a) shall apply to the following:

''(1) Anything provided by a lobbyist or a foreign agent which is paid for, charged to, or reimbursed by a client or firm of such lobbyist or foreign agent.

''(2) Anything provided by a lobbyist, a lobbying firm, or a foreign agent to an entity that is maintained or controlled by a member, officer, or employee of the Senate.

''(3) A charitable contribution (as defined in section 170(c) of the Internal Revenue Code of 1986) made by a lobbyist, a lobbying firm, or a foreign agent on the basis of a designation, recommendation, or other specification of a member, officer, or employee of the Senate (not including a mass mailing or other solicitation directed to a broad category of persons or entities).

''(4) A contribution or other payment by a lobbyist, a lobbying firm, or a foreign agent to a legal expense fund established for the benefit of a member, officer, or employee of the Senate.

''(5) A charitable contribution (as defined in section 170(c) of the Internal Revenue Code of 1986) made by a lobbyist, a lobbying firm, or a foreign agent in lieu of an honorarium to a member, officer, or employee of the Senate.

''(6) A financial contribution or expenditure made by a lobbyist, a lobbying firm, or a foreign agent relating to a conference, retreat, or similar event, sponsored by or affiliated with an official congressional organization, for or on behalf of members, officers, or employees of the Senate.

''(d) The restrictions in subparagraph (a) shall not apply to the following:

''(1) Anything for which the member, officer, or employee pays the market value, or does not use and promptly returns to the donor.

''(2) A contribution, as defined in the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) that is lawfully made under that Act, or attendance at a fundraising event sponsored by a political organization described in section 527(e) of the Internal Revenue Code of 1986.

''(3) Anything provided by an individual on the basis of a personal or family relationship unless the member, officer, or employee has reason to believe that, under the circumstances, the gift was provided because of the official position of the member, officer, or employee and not because of the personal or family relationship. The Select Committee on Ethics shall provide guidance on the applicability of this clause and examples of circumstances under which a gift may be accepted under this exception.

''(4) A contribution or other payment to a legal expense fund established for the benefit of a member, officer, or employee, that is otherwise lawfully made, if the person making the contribution or payment is identified for the Select Committee on Ethics.

''(5) Any food or refreshments which the recipient reasonably believes to have a value of less than $20.

''(6) Any gift from another member, officer, or employee of the Senate or the House of Representatives.

''(7) Food, refreshments, lodging, and other benefits—

''(A) resulting from the outside business or employment activities (or other outside activities that are not connected to the duties of the member, officer, or employee as an officeholder) of the member, officer, or employee, or the spouse of the member, officer, or employee, if such benefits have not been offered or enhanced because of the official position of the member, officer, or employee and are customarily provided to others in similar circumstances;

''(B) customarily provided by a prospective employer in connection with bona fide employment discussions; or

''(C) provided by a political organization described in section 527(e) of the Internal Revenue Code of 1986 in connection with a fundraising or campaign event sponsored by such an organization.

''(8) Pension and other benefits resulting from continued participation in an employee welfare and benefits plan maintained by a former employer.

''(9) Informational materials that are sent to the office of the member, officer, or employee in the form of books, articles, periodicals, other written materials, audio tapes, videotapes, or other forms of communication.

''(10) Awards or prizes which are given to competitors in contests or events open to the public, including random drawings.

''(11) Honorary degrees (and associated travel, food, refreshments, and entertainment) and other bona fide, nonmonetary awards presented in recognition of public service (and associated food, refreshments, and entertainment provided in the presentation of such degrees and awards).

''(12) Donations of products from the State that the member represents that are intended primarily for promotional purposes, such as display or free distribution, and are of minimal value to any individual recipient.

''(13) An item of little intrinsic value such as a greeting card, baseball cap, or a T shirt.

''(14) Training (including food and refreshments furnished to all attendees as an integral part of the training) provided to a member, officer, or employee, if such training is in the interest of the Senate.

''(15) Bequests, inheritances, and other transfers at death.

''(16) Any item, the receipt of which is authorized by the Foreign Gifts and Decorations Act, the Mutual Educational and Cultural Exchange Act, or any other statute.

''(17) Anything which is paid for by the Federal Government, by a State or local government, or secured by the Government under a Government contract.

''(18) A gift of personal hospitality of an individual, as defined in section 109(14) of the Ethics in Government Act.

''(19) Free attendance at a widely attended event permitted pursuant to subparagraph (e).

''(20) Opportunities and benefits which are—

''(A) available to the public or to a class consisting of all Federal employees, whether or not restricted on the basis of geographic consideration;

''(B) offered to members of a group or class in which membership is unrelated to congressional employment;

''(C) offered to members of an organization, such as an employees' association or congressional credit union, in which membership is related to congressional employment

and similar opportunities are available to large segments of the public through organizations of similar size;

''(D) offered to any group or class that is not defined in a manner that specifically discriminates among Government employees on the basis of branch of Government or type of responsibility, or on a basis that favors those of higher rank or rate of pay;

''(E) in the form of loans from banks and other financial institutions on terms generally available to the public; or

''(F) in the form of reduced membership or other fees for participation in organization activities offered to all Government employees by professional organizations if the only restrictions on membership relate to professional qualifications.

''(21) A plaque, trophy, or other memento of modest value.

''(22) Anything for which, in an unusual case, a waiver is granted by the Select Committee on Ethics.

''(e)(1) Except as prohibited by paragraph 1, a member, officer, or employee may accept an offer of free attendance at a widely attended convention, conference, symposium, forum, panel discussion, dinner, viewing, reception, or similar event, provided by the sponsor of the event, if—

''(A) the member, officer, or employee participates in the event as a speaker or a panel participant, by presenting information related to Congress or matters before Congress, or by performing a ceremonial function appropriate to the member's, officer's, or employee's official position; or

''(B) attendance at the event is appropriate to the performance of the official duties or representative function of the member, officer, or employee.

''(2) A member, officer, or employee who attends an event described in clause (1) may accept a sponsor's unsolicited offer of free attendance at the event for an accompanying individual if others in attendance will generally be similarly accompanied or if such attendance is appropriate to assist in the representation of the Senate.

''(3) Except as prohibited by paragraph 1, a member, officer, or employee, or the spouse or dependent thereof, may accept a sponsor's unsolicited offer of free attendance at a charity event, except that reimbursement for transportation and lodging may not be accepted in connection with the event.

''(4) For purposes of this paragraph, the term 'free attendance' may include waiver of all or part of a conference or other fee, the provision of local transportation, or the provision of food, refreshments, entertainment, and instructional materials furnished to all attendees as an integral part of the event. The term does not include entertainment collateral to the event, or food or refreshments taken other than in a group setting with all or substantially all other attendees.

''(f)(1) No member, officer, or employee may accept a gift the value of which exceeds $250 on the basis of the personal relationship exception in subparagraph (d)(3) or the close personal friendship exception in clause (2) unless the Select Committee on Ethics issues a written determination that one of such exceptions applies.

''(2)(A) A gift given by an individual under circumstances which make it clear that the gift is given for a nonbusiness purpose and is motivated by a family relationship or close personal friendship and not by the position of the member, officer, or employee of the Senate shall not be subject to the prohibition in clause (1).

''(B) A gift shall not be considered to be given for a nonbusiness purpose if the individual giving the gift seeks—

''(i) to deduct the value of such gift as a business expense on the individual's Federal income tax return, or

''(ii) direct or indirect reimbursement or any other compensation for the value of the gift from a client or employer of such lobbyist or foreign agent.

''(C) In determining if the giving of a gift is motivated by a family relationship or close personal friendship, at least the following factors shall be considered:

''(i) The history of the relationship between the individual giving the gift and the recipient of the gift, including whether or not gifts have previously been exchanged by such individuals.

''(ii) Whether the gift was purchased by the individual who gave the item.

''(iii) Whether the individual who gave the gift also at the same time gave the same or similar gifts to other members, officers, or employees of the Senate.

''(g)(1) The Committee on Rules and Administration is authorized to adjust the dollar amount referred to in subparagraph (d)(5) on a periodic basis, to the extent necessary to adjust for inflation.

''(2) The Select Committee on Ethics shall provide guidance setting forth reasonable steps that may be taken by members, officers, and employees, with a minimum of paperwork and time, to prevent the acceptance of prohibited gifts from lobbyists.

''(3) When it is not practicable to return a tangible item because it is perishable, the item may, at the discretion of the recipient, be given to an appropriate charity or destroyed.

''3. (a)(1) Except as prohibited by paragraph 1, a reimbursement (including payment in kind) to a member, officer, or employee for necessary transportation, lodging and related expenses for travel to a meeting, speaking engagement, factfinding trip or similar event in connection with the duties of the member, officer, or employee as an officeholder shall be deemed to be a reimbursement to the Senate and not a gift prohibited by this rule, if the member, officer, or employee—

''(A) in the case of an employee, receives advance authorization, from the member or officer under whose direct supervision the employee works, to accept reimbursement, and

''(B) discloses the expenses reimbursed or to be reimbursed and the authorization to the Secretary of the Senate within 30 days after the travel is completed.

''(2) For purposes of clause (1), events, the activities of which are substantially recreational in nature, shall not be considered to be in connection with the duties of a member, officer, or employee as an officeholder.

''(b) Each advance authorization to accept reimbursement shall be signed by the member or officer under whose direct supervision the employee works and shall include—

''(1) the name of the employee;

''(2) the name of the person who will make the reimbursement;

''(3) the time, place, and purpose of the travel; and

''(4) a determination that the travel is in connection with the duties of the employee as an officeholder and would not create the appearance that the employee is using public office for private gain.

''(c) Each disclosure made under subparagraph (a)(1) of expenses reimbursed or to be reimbursed shall be signed by the member or officer (in the case of travel by that Member or officer) or by the member or officer under whose direct supervision the employee works (in the case of travel by an employee) and shall include—

''(1) a good faith estimate of total transportation expenses reimbursed or to be reimbursed;

''(2) a good faith estimate of total lodging expenses reimbursed or to be reimbursed;

''(3) a good faith estimate of total meal expenses reimbursed or to be reimbursed;

''(4) a good faith estimate of the total of other expenses reimbursed or to be reimbursed;

''(5) a determination that all such expenses are necessary transportation, lodging, and related expenses as defined in this paragraph; and

''(6) in the case of a reimbursement to a member or officer, a determination that the travel was in connection with the duties of the member or officer as an officeholder and would not create the appearance that the member or officer is using public office for private gain.

''(d) For the purposes of this paragraph, the term 'necessary transportation, lodging, and related expenses'—

''(1) includes reasonable expenses that are necessary for travel for a period not exceeding 3 days exclusive of traveltime within the United States or 7 days exclusive of traveltime outside of the United States unless approved in advance by the Select Committee on Ethics;

''(2) is limited to reasonable expenditures for transportation, lodging, conference fees and materials, and food and refreshments, including reimbursement for necessary transportation, whether or not such transportation occurs within the periods described in clause (1);

''(3) does not include expenditures for recreational activities, or entertainment other than that provided to all attendees as an integral part of the event; and

''(4) may include travel expenses incurred on behalf of either the spouse or a child of the member, officer, or employee, subject to a determination signed by the member or officer (or in the case of an employee, the member or officer under whose direct supervision the employee works) that the attendance of the spouse or child is appropriate to assist in the representation of the Senate.

''(e) The Secretary of the Senate shall make available to the public all advance authorizations and disclosures of reimbursement filed pursuant to subparagraph (a) as soon as possible after they are received.

''4. In this rule:

''(a) The term 'client' means any person or entity that employs or retains another person for financial or other compensation to conduct lobbying activities on behalf of that person or entity. A person or entity whose employees act as lobbyists on its own behalf is both a client and an employer of such employees. In the case of a coalition or association that employs or retains other persons to conduct lobbying activities, the client is—

''(1) the coalition or association and not its individual members when the lobbying activities are conducted on behalf of its membership and financed by the coalition's or association's dues and assessments; or

''(2) an individual member or members, when the lobbying activities are conducted on behalf of, and financed separately by, 1 or more individual members and not by the coalition's or association's dues and assessments.

''(b) The term 'lobbying firm'—

''(A) means a person or entity that has 1 or more employees who are lobbyists on behalf of a client other than that person or entity; and

''(B) includes a self-employed individual who is a lobbyist.

''(c) The term 'lobbyist' means a person registered under section 308 of the Federal Regulation of Lobbying Act (2 U.S.C. 267) or

required to be registered under any successor statute.

''(d) The term 'State' means each of the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States.''.

SEC. 2. MISCELLANEOUS PROVISIONS.

(a) AMENDMENTS TO THE ETHICS IN GOVERNMENT ACT.—Section 102(a)(2)(B) of the Ethics in Government Act (5 U.S.C. 102, App. 6) is amended by adding at the end thereof the following: ''Reimbursements deemed accepted by the Senate pursuant to Rule XXXV of the Standing Rules of the Senate shall be reported as required by such rule and need not be reported under this section.''.

(b) REPEAL OF OBSOLETE PROVISION.—Section 901 of the Ethics Reform Act of 1989 (2 U.S.C. 31–2) is repealed.

(c) GENERAL SENATE PROVISIONS.—The Senate Committee on Rules and Administration, on behalf of the Senate, may accept gifts provided they do not involve any duty, burden, or condition, or are not made dependent upon some future performance by the United States. The Committee on Rules and Administration is authorized to promulgate regulations to carry out this section.

SEC. 3. EXERCISE OF SENATE RULEMAKING POWERS.

Sections 1 and 2(c) are enacted by the Senate—

(1) as an exercise of the rulemaking power of the Senate and pursuant to section 7353(b)(1) of title 5, United States Code, and accordingly, they shall be considered as part of the rules of the Senate, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of the Senate to change such rules at any time and in the same manner and to the same extent as in the case of any other rule of the Senate.

SEC. 4. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on May 31, 1995.

Mr. FEINGOLD. Mr. President, today I am pleased to join my colleagues, Senators LAUTENBERG and WELLSTONE, in once again introducing legislation that will fundamentally reform the way Congress deals with the thousands and thousands of gifts and other perks that are offered by Members each year from individuals, lobbyists and associations that seek special access and influence on Capitol Hill.

Last year, this body approved a strong gift ban bill by a resounding vote of 95 to 4. The provisions of that bill, which would have strictly prohibited the acceptance of gifts from lobbyists and which provided only a few exceptions for nonlobbylists, were retained in a conference report that not only would have clamped down on this outrageous perk, but would have closed the gaping loopholes that riddle our current lobbying disclosure laws. That conference report failed to pass in the closing days of the 103d Congress, but we are introducing this bill today because we are unwilling to allow such an important and fundamental issue to be forgotten merely because we were unable to obtain final passage in the waning moments of the last Congress. This legislation is needed to help restore the lost faith of people in their Government, and to reverse the strong negative view of the American people harbor for this institutions. We have to recognize that the American people want their representatives to fundamentally change the way they do business, and passing meaningful gift ban legislation would represent an important first step towards extinguishing the firestorm of cynicism and distrust that has swept across the political landscape. It would send a strong message to our constituents that we are prepared to take foreceful steps to allay any perceived conflicts of interests between the acceptance of such gifts and our responsibilities as elected representatives.

Let me illustrate this point by referring to a TIME/CNN poll taken late last year. Like many polls before it, this poll showed that public approval of the performance of Congress as an institution is embarrassingly low. This poll also found that 84 percent, 84 percent of the American people believe that officials in Washington are heavily influenced by special interests and out of touch with the average person. The issue here, is not whether Members of Congress are indeed for sale or susceptible to pressure from special interests. We know that this is largely invalid. But it is the perception of impropriety that must be changed. We must identify what has fueled this perception, and pass reforms that will regain the lost trust and faith the American people have in their Government.

The number and types of gifts delivered to congressional offices each and every day is astonishing, and frankly, we should be thankful that most of our constituents are spared the imagery that has become a frequent sight on Capitol Hill of flatbed carts moving through the hallways of Congress, stacked with gifts. Though I have adopted a strict policy for myself and my staff that prohibits the acceptance of virtually anything of value, my office has received—and declined—close to 800 gifts since I joined the U.S. Senate 2 years ago. I have had some unusual gifts come into my office, including, for the second consecutive year, a Christmas tree. It may strike some of our constituents as odd that there is a lobbying firm out there that is committed to leveling a small forest every year to provide Christmas trees to Members of Congress. But it is not only the gifts themselves that anger the American people, it is also the source of these gifts that sparks the greatest resentment among our constituents, and this is reflected in the same TIME/CNN poll I referred to earlier.

In this poll, the following question was posed: ''Which one of these groups do you think have too much influence in government?''. A list of choices were provided, and which groups did respondents believe have too much influence in public policy decisions? The wealthy, large corporations, foreign governments and special interest groups. The gifts that we receive—and, again, that I personally decline—range from fruit baskets to artwork to fine wine—you name it. The sources of these gifts? The wealthy, large corporations, foreign governments and special interest groups. In other words, the exact same groups cited by a majority of poll respondents as having special influence and access with the Federal Government are the exact same groups that provide most of the free gifts and meals to Members of Congress. The connection is clear, and I am convinced that if we eliminate such unnecessary gifts we can convince the American people that we are not beholden to any special interests and we can begin to break down the walls of distrust between the American people and their Government.

The bill we are introducing today will strictly prohibit the lobbying community from providing free meals, travel and entertainment to Members of Congress and their staffs. Most of these stringent rules will apply to nonlobbyists as well. The legislation also includes exceptions to these tight restrictions that will allow legislators and staff to carry out the day to day official responsibilities of a Member of Congress. For example, these exceptions do allow Members to be reimbursed for certain expenses incurred in the attendance of programs, seminars and conferences related to official business. Those exceptions aside, the gift ban provisions contained in this legislation will take a hard line against those offered items that are completely unrelated to official business and serve only to fuel the negative perceptions of Congress that have permeated our society.

The current gift rules, which allow Members of Congress and their staff to accept gifts worth up to $250 from any one source during a year and does not include toward that limit any gifts under $100, are simply unacceptable. When the U.S. Senate first debated this issue last year, differing objections were raised to our effort to prohibit the acceptance of these gifts. Some argued that the gifts provided to Members and staff do not translate into special access for anyone, nor do they have any influence on the legislative process. Maybe, maybe not. But it is the mere appearance of impropriety that has so sharply turned the American people against this institution. For our constituents who may view a television news report of some special interest group picking up the tab for a lawmaker's trip to Florida, it appears to be a clear quid pro quo arrangement. But there was another interesting argument raised during last year's debate on this issue—the argument that strict gift rules were unworkable and would hinder the work of Members and their staffs. I would ask my colleagues who genuinely believe this to look at the experience of my home State, Wisconsin.

I served for 10 years in the Wisconsin State Legislature as a State senator.

For over 20 years, the Wisconsin Legislature has lived under rules that prohibit the acceptance of anything of value, even a cup of coffee, from a lobbyist or a lobbying organization. These rules, which have had virtually no impact on that legislative body's ability to perform, have earned the State of Wisconsin a well-deserved reputation for clean government, a term that few people, unfortunately, would apply to the U.S. Congress. My experience in the Wisconsin Legislature led me 2 years ago to adopt a strict ethics policy for my U.S. Senate office that combines the most restrictive elements of the existing ethics policy for the U.S. Senate and the ethics rules of the Wisconsin State Legislature. Specifically, I and the individuals employed in my office cannot accept food, drink, lodging, transportation, or any item or service from a lobbyist or any item of more than a nominal value from any person offered because of public position.

Like the Wisconsin rules, there are exceptions provided that allow me and my staff to fulfill our legislative responsibilities. For example, these restrictions do not apply to the offering of educational or information materials; lodging, food, or beverage offered coincidentally with the presentation of a talk or participation in a meeting, program, or conference related to official business. The restrictions also do not apply to functions sponsored by, or items provided by, Federal agencies or Federal officials or diplomatic functions sponsored by foreign governments where attendance at such events is part of the individual's official responsibilities.

In short, the strict rules governing the acceptance of gifts that have been adopted by both my office and the Wisconsin Legislature have worked while allowing those abiding by them to fulfill their official obligations and responsibilities.

Acting on this legislation that will fundamentally reform the way Congress deals with the many gifts and other perks that are offered to Members each year would mark a significant change in the way Washington, DC, does business, as well as a strong first step toward restoring the voters' confidence in their elected representatives. But we need to do more than simply pass tough gift ban legislation. We need to strengthen our current lobbying disclosure laws that are riddled with gaping loopholes. We need to pass comprehensive campaign finance reform that will level the playing field between incumbents and challengers, and diminish the role of special interest money that has dominated our election system. It is my sincere hope that this body will begin this process of reform by acting on this measure at the earliest possibility. Once again, I thank my colleagues from Minnesota and New Jersey for their persistence on this issue, and I yield the floor.

By Mr. MOYNIHAN.

S. 118. A bill to amend chapter 44 of title 18, United States Code, to prohibit the manufacture, transfer, or importation of .25 caliber and .32 caliber and 9 millimeter ammunition; to the Committee on the Judiciary.

S. 119. A bill to tax 9 millimeter, .25 caliber, and .32 caliber bullets; to the Committee on Finance.

VIOLENT CRIME REDUCTION ACT AND REAL COST OF HANDGUN AMMUNITION ACT

• Mr. MOYNIHAN. Mr. President, I introduce two bills: the Violent Crime Reduction Act of 1995 and the Real Cost of Handgun Ammunition Act of 1995. Their purposes are to ban or heavily tax .25 caliber, .32 caliber, and 9 mm ammunition. These calibers of bullets are used disproportionately in crime. They are not sporting or hunting rounds, but instead are the bullets of choice for drug dealers and violent felons. Every year they contribute overwhelmingly to the pervasive loss of life caused by bullet wounds.

Today marks the third time in as many Congresses that I have introduced legislation to ban or tax these pernicious bullets. As the terrible gunshot death toll in the United States continues unabated, so too does the need for these bills, which, by keeping these bullets out of the hands of criminals, would save a significant number of lives.

The number of Americans killed or wounded each year by bullets demonstrates their true cost to American society. Just look at the data:

In 1993, 16,189 people were murdered by gunshot. An even greater number lost their lives to bullets by shooting themselves, either purposefully or accidentally. And although no national statistics are kept on bullet-related injuries, studies suggest they occur 2 to 5 times more frequently than do deaths. This adds up to 184,000 bullet-related injuries per year.

Homicide is the second leading cause of death in the 15 to 34-year-old age bracket. It is the leading cause of death for black males aged 15 to 34. The lifetime risk of death from homicide in U.S. males is 1 in 164, about the same as the risk of death in battle faced by U.S. servicemen in the Vietnam War. For black males, the lifetime risk of death from homicide is 1 in 28, twice the risk of death in battle faced by Marines in Vietnam.

As noted by Susan Baker and her colleagues in the book ''Epidemiology and Health Policy,'' edited by Sol Levine and Abraham Lilienfeld:

> There is a correlation between rates of private ownership of guns and gun-related death rates; guns cause two-third of family homicides; and small easily concealed weapons comprise the majority of guns used for homicides, suicides and unintentional death.

Baker states that:

> . . . these facets of the epidemiology of firearm-related deaths and injuries have important implications. Combined with their lethality, the widespread availability of easily concealed handguns for impetuous use by people who are angry, drunk, or frightened appears to be a major determinant of the high firearm death rate in the United States. Each contributing factor has implications for prevention. Unfortunately, issues related to gun control have evoked such strong sentiments that epidemiologic data are rarely employed to good advantage.

Strongly held views on both sides of the gun control issue have made the subject difficult for epidemiologists. I would suggest that a good deal of energy is wasted in this never-ending debate, for gun control as we know it misses the point. We ought to focus on the bullets and not the guns.

I would remind the Senate of our experience in controlling epidemics. Although the science of epidemiology traces its roots to antiquity—Hippocrates stressed the importance of considering environmental influences on human diseases—the first modern epidemiological study was conducted by James Lind in 1747. His efforts led to the eventual control of scurvy. It wasn't until 1795 that the British Navy accepted his analysis and required limes in shipboard diets. Most solutions are not perfect. Disease is rarely eliminated. But might epidemiology be applied in the case of bullets to reduce suffering? I believe so.

In 1854 John Snow and William Farr collected data that clearly showed cholera was caused by contaminated drinking water. Snow removed the handle of the Broad Street pump in London to prevent people from drawing water from this contaminated water source and the disease stopped in that population. His observations led to a legislative mandate that all London water companies filter their water by 1857. Cholera epidemics subsided. Now treatment of sewage prevents cholera from entering our rivers and lakes, and the disinfection of drinking water makes water distribution systems uninhabitable for cholera vibrio, identified by Robert Kock as the causative agent 26 years after Snow's study.

In 1900, Walter Reed identified mosquitos as the carriers of yellow fever. Subsequent mosquito control efforts by another U.S. Army doctor, William Gorgas, enabled the United States to complete the Panama Canal. The French failed because their workers were too sick from yellow fever to work. Now that it is known that yellow fever is caused by a virus, vaccines are used to eliminate the spread of the disease.

These pioneering epidemiology success stories showed the world that epidemics require an interaction between three things: The host (the person who becomes sick or, in the case of bullets, the shooting victim); the agent (the cause of sickness, or the bullet); and the environment (the setting in which the sickness occurs or, in the case of bullets, violent behavior). Interrupt this epidemiological triad and you reduce or eliminate disease and injury.

How might this approach apply to the control of bullet-related injury and

death? Again, we are contemplating something different from gun control. There is a precedent here. In the middle of this century it was recognized that epidemiology could be applied to automobile death and injury. From a governmental perspective, this hypothesis was first adopted in 1959, late in the administration of Gov. Averell Harriman of New York State. In the 1960 Presidential campaign, I drafted a statement on the subject which was released by Senator John F. Kennedy as part of a general response to enquiries from the American Automobile Association. Then Senator Kennedy stated:

Traffic accidents constitute one of the greatest, perhaps the greatest of the nation's public health problems. They waste as much as 2 percent of our gross national product every year and bring endless suffering. The new highways will do much to control the rise of the traffic toll, but by themselves they will not reduce it. A great deal more investigation and research is needed. Some of this has already begun in connection with the highway program. It should be extended until highway safety research takes its place as an equal of the many similar programs of health research which the federal government supports.

Experience in the 1950's and early 1960's, prior to passage of the Motor Vehicle Safety Act, showed that traffic safety enforcement campaigns designed to change human behavior did not improve traffic safety. In fact, the death and injury toll mounted. I was Assistant Secretary of Labor in the mid-1960's when Congress was developing the Motor Vehicle Safety Act, and I was called to testify.

It was clear to me and others that motor vehicle injuries and deaths could not be limited by regulating driver behavior. Nonetheless, we had an epidemic on our hands and we needed to do something about it. My friend William Haddon, the first Adminstrator of the National Highway Traffic Safety Administration, recognized that automobile fatalities were caused not by the initial collision, when the automobile strikes some object, but by a second collision, in which energy from the first collision is transferred to the interior of the car, causing the driver and occupants to strike the steering wheel, dashboard, or other structures in the passenger compartment. The second collision is the agent of injury to the hosts (the car's occupants).

Efforts to make automobiles crashworthy follow examples used to control infectious disease epidemics. Reduce or eliminate the agent of injury. Seat belts, padded dashboards, and air bags are all specifically designed to reduce, if not eliminate, injury caused by the agent of automobile injuries, energy transfer to the human body during the second collision. In fact, we've done nothing revolutionary. All of the technology use to date to make cars crashworthy, including air bags, was developed prior to 1970.

Experience shows the approach worked. Of course it could have worked better, but it worked. Had we been able to totally eliminate the agent (the second collision) the cure would have been complete. Nonetheless, merely by focusing on simple, achievable remedies, we reduced the traffic death and injury epidemic by 30 percent. Motor vehicle deaths declined in absolute terms by 13 percent from 1980 to 1990, despite significant increases in the number of drivers, vehicles, and miles driven. Driver behavior is changing, too. National seat belt usage is up dramatically, 60 percent now compared to 14 percent in 1984. These efforts have resulted in some 15,000 lives saved and 100,000 injuries avoided each year.

We can apply that experience to the epidemic of murder and injury from bullets. The environment in which these deaths and injuries occur is complex. Many factors likely contribute to the rise in bullet-related injury. Here is an important similarity with the situation we faced 25 years ago regarding automobile safety. We found we could not easily alter the behavior of millions of drivers, but we could easily change the behavior of three or four automobile manufacturers. Likewise, we simply cannot do much to change the environment (violet behavior) in which gun-realted injury occurs, nor do we know how. We can, however, do something about the agent causing the injury: bullets. Ban them! At least the round used disproportionately to cause death and injury. That is, the .25 caliber, .32 caliber, and 9 millimeter bullets. These three rounds account for the ammunition used in about 13 percent of licensed guns in New York City, yet they are involved in one-third of all homicides. They are not, as I have said, useful for sport or hunting. They are used for violence. If we fail to confront the fact that these rounds are used disproportionately in crimes, innocent people will continue to die.

I have called on Congress during the past several sessions to ban or heavily tax these bullets. This would not be the first time that Congress has banned a particular round of ammunition. In 1986, it passed legislation written by the Senator from New York banning the so-called cop-killer bullet. This round, jacketed with tungsten alloys, steel, brass, or any number of other metals, had been demonstrated to penetrate no fewer than four police flak jackets and an additional five Los Angeles County phone books at one time. In 1982, the New York Police Benevolent Association came to me and asked me to do something about the ready availability of these bullets. The result was the Law Enforcement Officers Protection Act, which we introduced in 1982, 1983, and for the last time during the 99th Congress. In the end, with the tacit support of of the National Rifle Association, the measure passed the Congress and was signed by the President as Public Law 99–408 on August 28, 1986. In the 1994 crime bill, we enacted my amendment to broaden the ban to include new thick steel-jacketed armor-piercing rounds.

There are some 200 million firearms in circulation in the United States today. They are, in essence, simple machines, and with minimal care, remain working for centuries. However, estimates suggest that we have only a 4-year supply of bullets. Some two billion cartridges are used each year. At any given time there are some 7.5 billion rounds in factory, commercial, or household inventory.

In all cases, with the exception of pistol whipping, gun-related injuries are caused not by the gun, but by the agents involved in the second collision: the bullets. Eliminating the most dangerous rounds would not end the problem of handgun killings. But it would reduce it. A 30-percent reduction in bullet-related deaths, for instance, would save over 10,000 lives each year and prevent up to 50,000 wounds.

Water treatment efforts to reduce typhoid fever in the United States took about 60 years. Slow sand filters were installed in certain cities in the 1880's, and water chlorination treatment began in the 1910's. The death rate from typhoid in Albany, NY, prior to 1889, when the municipal water supply was treated by sand filtration, was about 100 fatalities per 100,000 people each year. The rate dropped to about 25 typhoid deaths per year after 1889, and dropped again to about 10 typhoid deaths per year after 1915, when chlorination was introduced. By 1950, the death rate from typhoid fever had dropped to zero. It will take longer than 60 years to eliminate bullet-related death and injury, but we need to start with achievable measures to break the deadly interactions between people, bullets, and violent behavior.

The bills I introduce today would begin the process. They would begin to control the problem by banning or taxing those rounds used disproportionately in crime—the .25-caliber, .32-caliber, and 9-millimeter rounds. The bills recognize the epidemic nature of the problem, building on findings contained in the June 10, 1992, issue of the Journal of the American Medical Association which was devoted entirely to the subject of violence, principally violence associated with firearms.

Mr. President, it is time to confront the epidemic of bullet-related violence. I urge my colleagues to support these bills and ask unanimously consent that their texts be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 118

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the ''Violent Crime Reduction Act of 1995''.

SEC. 2. Section 922(a) of title 18, United States Code, is amended by—

(1) striking out ''and'' at the end of paragraph (7);

(2) striking out the period at the end of paragraph (8) and inserting in lieu thereof a semicolon; and

(3) adding at the end thereof the following:

''(9) for any person to manufacture, transfer, or import .25 or .32 caliber or 9 millimeter ammunition, except that this paragraph shall not apply to—

''(A) the manufacture or importation of such ammunition for the use of the United States or any department or agency thereof or any State or any department, agency, or political subdivision thereof; and

''(B) any manufacture or importation for testing or for experimenting authorized by the Secretary; and

''(10) for any manufacturer or importer to sell or deliver .25 or .32 caliber or 9 millimeter ammunition, except that this paragraph shall not apply to—

''(A) the sale or delivery by a manufacturer or importer of such ammunition for the use of the United States or any department or agency thereof or any State or any department, agency, or political subdivision thereof; and

''(B) the sale or delivery by a manufacturer or importer of such ammunition for testing or for experimenting authorized by the Secretary.''.

SEC. 3. Section 923(a)(1)(A) of title 18, United States Code, is amended to read as follows:

''(A) of destructive devices, ammunition for destructive devices, armor piercing ammunition, or .25 or .32 caliber or 9 millimeter ammunition, a fee of $1,000 per year;''.

SEC. 4. Section 923(a)(1)(C) of title 18, United States Code, is amended to read as follows:

''(C) of ammunition for firearms other than destructive devices, or armor piercing or .25 or .32 caliber or 9 millimeter ammunition for any firearm, a fee of $10 per year.''.

SEC. 5. Section 923(a)(2) of title 18, United States Code, is amended to read as follows:

''(2) If the applicant is an importer—

''(A) of destructive devices, ammunition for destructive devices, or armor piercing or .25 or .32 caliber or 9 millimeter ammunition for any firearm, a fee of $1,000 per year; or

''(B) of firearms other than destructive devices or ammunition for firearms other than destructive devices, or ammunition other than armor piercing or .25 or .32 caliber or 9 millimeter ammunition for any firearm, a fee of $50 per year.''.

SEC. 6. Section 923 of title 18, United States Code, is amended by adding at the end thereof the following:

''(l) Licensed importers and licensed manufacturers shall mark all .25 and .32 caliber and 9 millimeter ammunition and packages containing such ammunition for distribution, in the manner prescribed by the Secretary by regulation.''.

SEC. 7. Section 929(a)(1) of title 18, United States Code, is amended by—

(1) inserting '', or with .25 or .32 caliber or 9 millimeter ammunition'' after ''possession of armor piercing ammunition''; and

(2) inserting '', or .25 or .32 caliber or 9 millimeter ammunition,'' after ''armor-piercing handgun ammunition''.

SEC. 8. This Act and the amendments made by this Act shall take effect on the first day of the first calendar month which begins more than 90 days after the date of enactment of this Act.

S. 119

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the ''Real Cost of Handgun Ammunition Act of 1995.''

SEC. 101. INCREASE IN TAX ON CERTAIN BULLETS.

(a) IN GENERAL.—Section 4181 of the Internal Revenue Code of 1986 (relating to the imposition of tax on firearms, etc.) is amended by adding at the end the following new flush sentence:

''In the case of 9 millimeter, .25 caliber, or .32 caliber ammunition, the rate of tax under this section shall be 1,000 percent.''.

(b) EXEMPTION FOR LAW ENFORCEMENT PURPOSES.—Section 4182 of the Internal Revenue Code of 1986 (relating to exemptions) is amended by adding at the end the following new subsection:

''(d) LAW ENFORCEMENT.—The last sentence of section 4181 shall not apply to any sale (not otherwise exempted) to, or for the use of, the United States (or any department, agency, or instrumentality thereof) or a State or political subdivision thereof (or any department, agency, or instrumentality thereof).''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after December 31, 1997.●

By Mr. MOYNIHAN:

S. 120. A bill to provide for the collection and dissemination of information on injuries, death, and family dissolution due to bullet-related violence, to require the keeping of records with respect to dispositions of ammunition, and to increase taxes on certain bullets; to the Committee on Finance.

VIOLENT CRIME CONTROL ACT

● Mr. MOYNIHAN. Mr. President, I introduce a bill that comprehensively seeks to control the epidemic proportions of violence in America. This legislation, the Violent Crime Control Act of 1995, combines most of the provisions of two other crime-related bills I am introducing today as well.

By including two different crime-related provisions, my bill attacks the crime epidemic on more than just one front. If we are truly serious about confronting our Nation's crime problem, we must learn more about the nature of the epidemic of bullet-related violence and ways to control it. To do this, we must require records to be kept on the disposition of ammunition.

In October 1992, the Senate Finance Committee received testimony that public health and safety experts have, independently, concluded that there is an epidemic of bullet-related violence. The figures are staggering.

In 1992, 37,776 people lost their lives in the United States from bullets. Of these, 17,790 were murdered, 18,169 committed suicide, and 1,409 accidentally shot themselves. By focusing on bullets, and not guns, we recognize that much like nuclear waste, guns remain active for centuries. With minimum care, they do not deteriorate. However, bullets are consumed. Estimates suggest we have only a 4-year supply of them.

Not only am I proposing that we tax bullets used disproportionately in crimes, that is, 9 millimeter, .25 and .32 caliber bullets, I also believe we must set up a Bullet Death and Injury Control Program within the Centers for Disease Control's National Center for Injury Prevention and Control. This center will enhance our knowledge of the distribution and status of bullet-related death and injury and subsequently make recommendations about the extent and nature of bullet-related violence.

So that the center would have substantive information to study and analyze, this bill also requires importers and manufacturers of ammunition to keep records and submit an annual report to the Bureau of Alcohol, Tobacco and Firearms [BATF] on the disposition of ammunition. Currently, importers and manufacturers of ammunition are not required to do so.

Clearly, it will take intense effort on all of our parts to reduce violent crime in America. We must confront this epidemic from several different angles, recognizing that there is no simple solution.

I ask unanimous consent that the text of this bill be printed in the RECORD at this time.

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

S. 120

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 ''Violent Crime Control Act of 1995''.

SEC. 2. FINDINGS.

The Congress finds that—

(1) there is no reliable information on the amount of ammunition available;

(2) importers and manufacturers of ammunition are not required to keep records to report to the Federal Government on ammunition imported, produced, or shipped;

(3) the rate of bullet-related deaths in the United States is unacceptably high and growing;

(4) three calibers of bullets are used disproportionately in crime: 9 millimeter, .25 caliber, and .32 caliber bullets;

(5) injury and death are greatest in young males, and particularly young black males;

(6) epidemiology can be used to study bullet-related death and injury to evaluate control options;

(7) bullet-related death and injury has placed increased stress on the American family resulting in increased welfare expenditures under title IV of the Social Security Act;

(8) bullet-related death and injury have contributed to the increase in Medicaid expenditures under title XIX of the Social Security Act;

(9) bullet-related death and injury have contributed to increased supplemental security income benefits under title XVI of the Social Security Act;

(10) a tax on the sale of bullets will help control bullet-related death and injury;

(11) there is no central responsible agency for trauma, there is relatively little funding available for the study of bullet-related death and injury, and there are large gaps in research programs to reduce injury;

(12) current laws and programs relevant to the loss of life and productivity from bullet-related trauma are inadequate to protect the citizens of the United States; and

(13) increased research in bullet-related violence is needed to better understand the causes of such violence, to develop options for controlling such violence, and to identify and overcome barriers to implementing effective controls.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to increase the tax on the sale of 9 millimeter, .25 caliber, and .32 caliber bullets

(except with respect to any sale to law enforcement agencies) as a means of reducing the epidemic of bullet-related death and injury;

(2) to undertake a nationally coordinated effort to survey, collect, inventory, synthesize, and disseminate adequate data and information for—

(A) understanding the full range of bullet-related death and injury, including impacts on the family structure and increased demands for benefit payments under provisions of the Social Security Act;

(B) assessing the rate and magnitude of change in bullet-related death and injury over time;

(C) educating the public about the extent of bullet-related death and injury; and

(D) expanding the epidemiologic approach to evaluate efforts to control bullet-related death and injury and other forms of violence;

(3) to develop options for controlling bullet-related death and injury;

(4) to build the capacity and encourage responsibility at the individual, group, community, State and Federal levels for control and elimination of bullet-related death and injury;

(5) to promote a better understanding of the utility of the epidemiologic approach for evaluating options to control or reduce death and injury from nonbullet-related violence.

TITLE I—BULLET DEATH AND INJURY CONTROL PROGRAM

SEC. 101. BULLET DEATH AND INJURY CONTROL PROGRAM.

(a) ESTABLISHMENT.—There is established within the Centers for Disease Control's National Center for Injury Prevention and Control (referred to as the ''Center'') a Bullet Death and Injury Control Program (referred to as the ''Program'').

(b) PURPOSE.—The Center shall conduct research into and provide leadership and coordination for—

(1) the understanding and promotion of knowledge about the epidemiologic basis for bullet-related death and injury within the United States;

(2) developing technically sound approaches for controlling, and eliminating, bullet-related deaths and injuries;

(3) building the capacity for implementing the options, and expanding the approaches to controlling death and disease from bullet-related trauma; and

(4) educating the public about the nature and extent of bullet-related violence.

(c) FUNCTIONS.—The functions of the Program shall be—

(1) to summarize and to enhance the knowledge of the distribution, status, and characteristics of bullet-related death and injury;

(2) to conduct research and to prepare, with the assistance of State public health departments—

(A) statistics on bullet-related death and injury;

(B) studies of the epidemic nature of bullet-related death and injury; and

(C) status of the factors, including legal, socioeconomic, and other factors, that bear on the control of bullets and the eradication of the bullet-related epidemic;

(3) to publish information about bullet-related death and injury and guides for the practical use of epidemiological information, including publications that synthesize information relevant to national goals of understanding the bullet-related epidemic and methods for its control;

(4) to identify socioeconomic groups, communities, and geographic areas in need of study, develop a strategic plan for research necessary to comprehend the extent and nature of bullet-related death and injury, and determine what options exist to reduce or eradicate such death and injury;

(5) to provide for the conduct of epidemiologic research on bullet-related death and injury through grants, contracts, cooperative agreements, and other means, by Federal, State, and private agencies, institutions, organizations, and individuals;

(6) to make recommendations to Congress, the Bureau of Alcohol, Tobacco, and Firearms, and other Federal, State, and local agencies on the technical management of data collection, storage, and retrieval necessary to collect, evaluate, analyze, and disseminate information about the extent and nature of the bullet-related epidemic of death and injury as well as options for its control;

(7) to make recommendations to the Congress, the Bureau of Alcohol, Tobacco, and Firearms, and other Federal, State and local agencies, organizations, and individuals about options for actions to eradicate or reduce the epidemic of bullet-related death and injury;

(8) to provide training and technical assistance to the Bureau of Alcohol, Tobacco, and Firearms and other Federal, State, and local agencies regarding the collection and interpretation of bullet-related data; and

(9) to research and explore bullet-related death and injury and options for its control.

(d) ADVISORY BOARD.—

(1) IN GENERAL.—The Center shall have an independent advisory board to assist in setting the policies for and directing the Program.

(2) MEMBERSHIP.—The advisory board shall consist of 13 members, including—

(A) 1 representative from the Centers for Disease Control;

(B) 1 representative from the Bureau of Alcohol, Tobacco and Firearms;

(C) 1 representative from the Department of Justice;

(D) 1 member from the Drug Enforcement Agency;

(E) 3 epidemiologists from universities or nonprofit organizations;

(F) 1 criminologist from a university or nonprofit organization;

(G) 1 behavioral scientist from a university or nonprofit organization;

(H) 1 physician from a university or nonprofit organization;

(I) 1 statistician from a university or nonprofit organization;

(J) 1 engineer from a university or nonprofit organization; and

(K) 1 public communications expert from a university or nonprofit organization.

(3) TERMS.—Members of the advisory board shall serve for terms of 5 years, and may serve more than 1 term.

(4) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(5) TRAVEL EXPENSES.—A member of the advisory board that is not otherwise in the Federal Government service shall, to the extent provided for in advance in appropriations Acts, be paid actual travel expenses and per diem in lieu of subsistence expenses in accordance with section 5703 of title 5, United States Code, when the member is away from the member's usual place of residence.

(6) CHAIR.—The members of the advisory board shall select 1 member to serve as chair.

(e) CONSULTATION.—The Center shall conduct the Program required under this section in consultation with the Bureau of Alcohol, Tobacco, and Firearms and the Department of Justice.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 for fiscal year 1996, $2,500,000 for fiscal year 1997, and $5,000,000 for each of fiscal years 1998, 1999, and 2000 for the purpose of carrying out this section.

(g) REPORT.—The Center shall prepare an annual report to Congress on the Program's findings, the status of coordination with other agencies, its progress, and problems encountered with options and recommendations for their solution. The report for December 31, 1996, shall contain options and recommendations for the Program's mission and funding levels for the years 1996–2000, and beyond.

TITLE II—INCREASE IN EXCISE TAX ON CERTAIN BULLETS

SEC. 201. INCREASE IN TAX ON CERTAIN BULLETS.

(a) IN GENERAL.—Section 4181 of the Internal Revenue Code of 1986 (relating to the imposition of tax on firearms, etc.) is amended by adding at the end the following new flush sentence:

''In the case of 9 millimeter, .25 caliber, or .32 caliber ammunition, the rate of tax under this section shall be 1,000 percent.''.

(b) EXEMPTION FOR LAW ENFORCEMENT PURPOSES.—Section 4182 of the Internal Revenue Code of 1986 (relating to exemptions) is amended by adding at the end the following new subsection:

''(d) LAW ENFORCEMENT.—The last sentence of section 4181 shall not apply to any sale (not otherwise exempted) to, or for the use of, the United States (or any department, agency, or instrumentality thereof) or a State or political subdivision thereof (or any department, agency, or instrumentality thereof).''.

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

TITLE III—USE OF AMMUNITION

SEC. 301. RECORDS OF DISPOSITION OF AMMUNITION.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Section 923(g) of title 18, United States Code, is amended—

(1) in paragraph (1)(A) by inserting after the second sentence ''Each licensed importer and manufacturer of ammunition shall maintain such records of importation, production, shipment, sale, or other disposition of ammunition at the licensee's place of business for such period and in such form as the Secretary, in consultation with the Director of the National Center for Injury Prevention and Control of the Centers for Disease Control (for the purpose of ensuring that the information that is collected is useful for the Bullet Death and Injury Control Program), may by regulation prescribe. Such records shall include the amount, caliber, and type of ammunition.''; and

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

''(6) Each licensed importer or manufacturer of ammunition shall annually prepare a summary report of imports, production, shipments, sales, and other dispositions during the preceding year. The report shall be prepared on a form specified by the Secretary, in consultation with the Director of the National Center for Injury Prevention

and Control of the Centers for Disease Control (for the purpose of ensuring that the information that is collected is useful for the Bullet Death and Injury Control Program), shall include the amounts, calibers, and types of ammunition that were disposed of, and shall be forwarded to the office specified thereon not later than the close of business on the date specified by the Secretary.''.

(b) STUDY OF CRIMINAL USE AND REGULATION OF AMMUNITION.—The Secretary of the Treasury shall request the Centers for Disease Control to—

(1) prepare, in consultation with the Secretary, a study of the criminal use and regulation of ammunition; and

(2) submit to Congress, not later than July 31, 1996, a report with recommendations on the potential for preventing crime by regulating or restricting the availability of ammunition.●

By Mr. GRAMM:

S. 121. A bill to guarantee individuals and families continued choice and control over their doctors and hospitals, to ensure that health coverage is permanent and portable, to provide equal tax treatment for all health insurance consumers, to control medical cost inflation through medical savings accounts, to reform medical liability litigation, to reduce paperwork, and for other purposes; to the Committee on Finance.

FAMILY HEALTH CARE PRESERVATION ACT

Mr. GRAMM. Mr. President, I ask unanimous consent that an outline of S. 121 be printed in the RECORD.

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

OUTLINE OF THE FAMILY HEALTH CARE PRESERVATION ACT

I. ENHANCE SECURITY FOR THOSE PRESENTLY INSURED BY MAKING PRIVATE INSURANCE PORTABLE AND PERMANENT:

Portability:

To enhance the capacity of American workers to change jobs without losing their health insurance coverage, existing law under COBRA (which allows individuals temporarily to continue their health insurance coverage after leaving their place of employment by paying their premiums directly) would be modified to allow individuals two additional lower-cost options to keep their health insurance coverage during their transition between jobs. Workers could:

(A) Continue their current insurance coverage during the 18 months covered by COBRA by paying their insurance premiums directly;

(B) Continue their current insurance coverage during the 18 months covered by COBRA by paying their insurance premiums directly, but with a lower premium reflecting a $1,000 deductible; or

(C) Continue their current insurance coverage during the 18 months covered by COBRA by paying their insurance premiums directly, but with a lower premium reflecting a $3,000 deductible.

With these options, the typical monthly premium paid for a family of four would drop by as much as 20 percent when switching to a $1,000 deductible and as much as 52 percent when switching to a $3,000 deductible. Also, premium payments made by families would now be deducted from income in the manner described in title II of this bill.

In addition, individuals would be permitted to make penalty-free withdrawals from their Individual Retirement Accounts and 401(k)s to pay for health insurance coverage during the transition period. The transition period of coverage would end once a person is in a position to get coverage from another employer.

Permanence:

Health insurance would be made permanent (belonging to the family or individual by these three reforms:

Those with Individual Coverage:

(A) No existing health insurance policy can be canceled due to the state of health of any person covered by the policy. Insurance companies must offer each policy holder the option to purchase a new policy under the conditions of part B of this section with the terms to be negotiated between the buyer and seller of the policy.

(B) All individual health insurance policies written after the enactment of this legislation must be guaranteed renewable, and premiums cannot be increased based on the occurrence of illness.

Those with Group Coverage:

(A) Existing group policies must provide each member of the group the right to convert to an individual policy when leaving the group. This individual policy will be rated based on actuarial data, but cannot be canceled due to the state of health of those covered by the policy. In addition, any group policy holder (ie. employer obtaining coverage on employees' behalf) will have the right to purchase a new group policy under the conditions stated under part B of this section with the terms to be negotiated between the group's benefactor or representative and the seller of the group policy.

(B) All group policies issued after enactment of this legislation must be permanent, and premiums cannot be increased based on the health of the members covered under the group policy. In addition, similar to part A of this section, new group policies must provide each member of the group the right to convert to an individual policy when leaving the group. However, the premium charges of the individual leaving the new group plan cannot be based on the individual's state of health and cannot be canceled except for nonpayment of premiums.

Those with Employer-provided Self-funded Coverage:

(A) Companies currently operating self-funded plans must make arrangements with one or more private insurers to offer individuals leaving the self-funded plan individual coverage. The individual policy will be rated based on actuarial data, but cannot be canceled due to the state of health of those covered by the policy.

(B) All self-funded plans created after enactment of this legislation must (like part A of this section) make arrangements with one or more private insurers to offer individuals leaving the self-funded plan individual coverage. However, the premium charge of the individual leaving the self-funded plan cannot be based on the individual's state of health and cannot be canceled except for nonpayment of premiums.

II–A. PROVIDE EQUAL TAX TREATMENT FOR THE SELF-EMPLOYED AND UNINSURED:

Self-employed workers and individuals without employer-provided health insurance coverage will now be allowed to deduct from taxable income their medical insurance coverage costs. The 25% deduction will be retroactively restored and phased up to 100% over the next five years. The tax deduction will apply to the individual purchase of conventional health insurance, HMO coverage, Medical Savings Account contributions, or any other prepaid medical plan.

II–B. ESTABLISH MEDICAL SAVINGS ACCOUNTS TO PROMOTE COMPETITION AND CONTROL COSTS:

In combination with the purchase of a $3,000 deductible catastrophic insurance policy, contributions to the Medical Savings Account of up to $3,000 per year by either the employer or employee shall be tax deductible. The catastrophic policy will cover expenses such as physician services, hospital care, diagnostic tests, and other major medical expenses once the policy holder meets the $3,000 annual deductible. Tax-free withdrawals from the Medical Savings Account could be made to pay for qualifying out-of-pocket medical expenses which apply toward the insurance policy's deductible. If the funds in the Medical Savings Account are not spent so that as new deposits are made, the sum grows beyond the $3,000 deductible, the individual can invest excess tax-free in a long-term care package or withdraw the excess and treat it as income.

III. ENHANCE EFFICIENCY THROUGH PAPERWORK REDUCTION:

(A) Medicaid, Medicare, and all other Federal entities involved in the funding or delivery of health care shall standardize their health care forms and must reduce their total health care paperwork burden by 50 percent within two years of enactment of this legislation. The paperwork burden must be reduced by another 50 percent over the following three years, achieving a total paperwork reduction of 75 percent over a 5-year period.

(B) State agencies involved in the funding or delivery of health care, like federal entities, shall standardize their health care forms. Also like federal entities, within five years of enactment, states must reduce their total health care paperwork burden by 75 percent in order to remain eligible for federal health assistance.

IV. PROVIDE MEANINGFUL MEDICAL LIABILITY REFORM:

(A) Any claim of negligence not ''substantially justified'' or which has been improperly advanced will result in an automatic judgment against the plaintiff rendering the plaintiff liable for the legal fees incurred by the health care provider, as well as any losses as a result of being away from the practice.

(B) The liability of any malpractice defendant will be limited to the proportion of damages attributable to such defendent's conduct.

(C) A health care provider can negotiate limits on medical liability with the buyer of health care in return for lower fees.

(D) Non-economic damages cannot exceed $250,000 adjusted annually for inflation.

(E) Lawyer's contingency fees will be capped at 25 percent.

(F) Malpractice awards will be reduced for any collateral source payments to which the claimant is entitled, and the claimant will be required to accept periodic payment as opposed to lump sum on awards in excess of $100,000 adjusted annually for inflation.

(G) No malpractice action can be initiated more than two years from the date the alleged malpractice was discovered or should have been discovered, and no more than four years after the date of the occurrence.

(H) No punitive damages will be awarded against manufacturers of a drug or medical device if such drug or medical device has been approved by the Food and Drug Administration as safe and effective.

By Mr. MOYNIHAN:

S. 122. A bill to prohibit the use of certain ammunition, and for other purposes; to the Committee on the Judiciary.

S. 124. A bill to amend the Internal Revenue Code of 1986 to increase the tax on handgun ammunition, to impose the special occupational tax and registration requirements on importers

and manufacturers of handgun ammunition, and for other purposes; to the Committee on Finance.

LEGISLATION TO CONTROL DESTRUCTIVE AMMUNITION

● Mr. MOYNIHAN. Mr. President, I introduced two measures to help fight the epidemic of bullet-related violence in America: the Real Cost of Destructive Ammunition Act and the Destructive Ammunition Prohibition Act of 1995. The purpose of these bills is to prevent from reaching the marketplace some of the most deadly rounds of ammunition ever produced.

Some of my colleagues may remember the Black Talon. It is a hollow-tipped bullet, singular among handgun ammunition in its capacity for destruction. Upon impact with human tissue, the bullet produces razor-sharp radial petals that produce a devastating wound. It is the vary same bullet that a crazed gunman fired at unsuspecting passengers on a Long Island Rail Road train last winter. That same month, it was also used in the shooting of Officer Jason E. White of the District of Columbia Metropolitan Police Department, just fifteen blocks from the Capitol.

I first learned of the Black Talon in a letter I received from Dr. E.J. Gallagher, Director of Emergency Medicine at Albert Einstein College of Medicine at the Municipal Hospital Trauma Center in the Bronx. Dr. Gallagher wrote that he has ''never seen a more lethal projectile.'' On November 3, 1993, I introduced a bill to tax the Black Talon at 10,000 percent. Nineteen days later, Olin Corporation, the manufacturer of the Black Talon, announced that it would withdraw sale of the bullet to the general public. Unfortunately, the 103d Congress came to a close without the bill having won passage.

As a result, there is nothing in law to prevent the reintroduction of this pernicious bullet, nor is there any existing impediment to the sale of similar rounds that might be produced by another manufacturer. So today I reintroduce the bill to tax the Black Talon, and introduce for the first time a bill to prohibit the sale of the Black Talon to the public. Both bills would apply to any bullet with the same physical characteristics as the Black Talon. These bullets have no place in the armory of criminals.

It has been estimated that the cost of hospital services for treating bullet-related injuries is $1 billion per year, with the total cost to the economy of such injuries approximately $14 billion. We can ill afford further increases in this number, but this would surely be the result if bullets with the destructive capacity of the Black Talon are allowed onto the streets.

Mr. President, we are facing an unrivaled epidemic of violence in this country and it is disproportionately the result of deaths and injuries caused by bullet wounds. It is time we took meaningful steps to put an end to the massacres that occur daily as a result of gunshots. How better a beginning than to go after the most insidious culprits of this violence? I urge my colleagues to support these measures and to prevent these bullets from appearing on the market, and I ask unanimous consent that the bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 122

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that this Act may be cited as the ''Destructive Ammunition Prohibition Act of 1995''.

SECTION 1. DEFINITION.

Section 921(a)(17) of title 18, United States Code, is amended by adding at the end the following new subparagraph:

''(D) The term 'destructive ammunition' means—

''(1) any jacketed, hollow point projectile that may be used in a handgun and the jacket of which is designed to produce, upon impact, sharp-tipped, barb-like projections that extend beyond the diameter of the unfired projectile.

SEC. 2. PROHIBITION.

Section 922(a) of title 18, United States Code, is amended—

(1) in paragraph (7), by inserting ''or destructive'' after ''armor piercing''; and

(2) in paragraph (8), by inserting ''or destructive'' after ''armor piercing''.

S. 124

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 ''Real Cost of Destructive Ammunition Act''.

SEC. 2. INCREASE IN TAX ON HANDGUN AMMUNITION.

(a) INCREASE IN MANUFACTURERS TAX.—

(1) IN GENERAL.—Section 4181 of the Internal Revenue Code of 1986 (relating to imposition of tax on firearms) is amended—

(A) by striking ''Shells, and cartridges'' and inserting ''Shells and cartridges not taxable at 10,000 percent.''

''ARTICLES TAXABLE AT 10,000 PERCENT.—

''Any jacketed, hollow point projectile which may be used in a handgun and the jacket of which is designed to produce, upon impact, evenly-spaced sharp or barb-like projections that extend beyond the diameter of the unfired projectile.

(2) ADDITIONAL TAXES ADDED TO THE GENERAL FUND.—Section 3(a) of the Act of September 2, 1937 (16 U.S.C. 669b(a)), commonly referred to as the ''Pittman-Robertson Wildlife Restoration Act'', is amended by adding at the end the following new sentence: ''There shall not be covered into the fund the portion of the tax imposed by such section 4181 that is attributable to any increase in amounts received in the Treasury under such section by reason of the amendments made by section 2(a)(1) of the Real Cost of Handgun Ammunition Act, as estimated by the Secretary.''.

SEC. 3. SPECIAL TAX FOR IMPORTERS, MANUFACTURERS, AND DEALERS OF HANDGUN AMMUNITION.

(a) IN GENERAL.—

(1) IMPOSITION OF TAX.—Section 5801 of the Internal Revenue Code of 1986 (relating to special occupational tax on importers, manufacturers, and dealers of machine guns, destructive devices, and certain other firearms) is amended by adding at the end the following new subsection:

''(c) SPECIAL RULE FOR HANDGUN AMMUNITION.—

''(1) IN GENERAL.—On first engaging in business and thereafter on or before July 1 of each year, every importer and manufacturer of handgun ammunition shall pay a special (occupational) tax for each place of business at the rate of $10,000 a year or fraction thereof.

''(2) HANDGUN AMMUNITION DEFINED.—For purposes of this part, the term 'handgun ammunition' shall mean any centerfire cartridge which has a cartridge case of less than 1.3 inches in length and any cartridge case which is less than 1.3 inches in length.''.

(2) REGISTRATION OF IMPORTERS AND MANUFACTURERS OF HANDGUN AMMUNITION.—Section 5802 of the Internal Revenue Code of 1986 (relating to registration of importers, manufacturers, and dealers) is amended—

(A) in the first sentence, by inserting '', and each importer and manufacturer of handgun ammunition,'' after ''dealer in firearms'', and

(B) in the third sentence, by inserting '', and handgun ammunition operations of an importer or manufacturer,'' after ''dealer''.

(b) CONFORMING AMENDMENTS.—

(1) CHAPTER HEADING.—Chapter 53 of the Internal Revenue Code of 1986 (relating to machine guns, destructive devices, and certain other firearms) is amended in the chapter heading by inserting ''**HANDGUN AMMUNITION,**'' after ''**CHAPTER 53—**''.

(2) TABLE OF CHAPTERS.—The heading for chapter 53 in the table of chapters for subtitle E of such Code is amended to read as follows:

''Chapter 53—Handgun ammunition, machine guns, destructive devices, and certain other firearms.''

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on July 1, 1995.

(2) ALL TAXPAYERS TREATED AS COMMENCING IN BUSINESS ON JULY 1, 1995.—Any person engaged on July 1, 1995, in any trade or business which is subject to an occupational tax by reason of the amendment made by subsection (a)(1) shall be treated for purposes of such tax as having first engaged in a trade of business on such date.●

By Mr. MOYNIHAN (for himself and Mr. LIEBERMAN):

S. 123. A bill to require the Administrator of the Environmental Protection Agency to seek advice concerning environmental risks, and for other purposes; to the Committee on Environment and Public Works.

ENVIRONMENTAL RISK EVALUATION ACT

● Mr. MOYNIHAN. Mr. President, Nearly 2 years ago today I addressed the Senate about the impending ''revolution'' over the Nation's approach to environmental protection. I noted that Federal environmental laws were being questioned and that State and local governments were signaling that their resources are finite and that compliance with additional environmental laws while still adequately maintaining roads and buildings and providing social services and education was fast becoming unaffordable. At least not without Federal support.

I suggested that we might better use the results of risk assessments to help set environmental priorities and make decisions, and I quoted an editorial in the January 8, 1992, issue of Science

alerting us to the ''growing questioning of the factual basis for Federal command and control actions'' largely due to concerns over regulatory costs. I concluded that ''The message is clear. State and local governments will hold the Congress and EPA more accountable in the future about obligating them to spend their resources on Federal requirements. They will want 'proof' that there is a problem and confidence that the legislated 'solutions' will solve it.'' And finally, I noted that ''the Science editorial suggests that we are seeing the 'beginning of a revolt.'''

How quickly times change. Less than 2 years later, the revolt is fully underway. Yet just 4 months before the Science editorial appeared, my colleagues from both sides of the aisle expressed incredulity when in September 1992 I held my first hearing as chairman of the Environment and Public Works Committee on S. 2132, the ''Environmental Risk Reduction Act,'' a bill I introduced earlier in the 102d Congress. One of the witnesses was Dr. Edward Hayes of the Ohio State University who testified for the city of Columbus, OH. He noted that the mayor of Columbus and other city leaders had set out to analyze with as much precision as possible the impact of Federal environmental laws during recent years. They wanted to know what effect those changes would have on the city's budget. The findings were reported in ''Environmental Legislation: The Increasing Costs of Regulatory Compliance to the City of Columbus.'' It turned out that new environmental initiatives were estimated to cost the city of Columbus an additional $1.6 billion over the next decade—an extra $856 per year of increased local fees or taxes for every household in the city by the year 2000. A followup study, ''Ohio Metropolitan Area Cost Report for Environmental Compliance,'' showed a similar impact in eight other Ohio cities. As we have heard over the past 2 years, this pattern is being repeated in other places. The social change has matured, Congress has changed, and the new Congress will experiment to find a more workable way of protecting the environment.

To help with this effort, I rise again, as I did in both the 102d and 103d Congresses, to introduce the ''Environmental Risk Evaluation Act.'' The primary goal of this legislation is to place risk assessment in the proper perspective. Strange as it may seem, environmental legislation doesn't use science effectively precisely because it places too much emphasis on risk assessment. This perverse situation stems from the requirements in current environmental legislation, stated or implied, that the Environmental Protection Agency—EPA—must regulate environmental pollutants to ''safe levels of exposure'' and in so doing that EPA use science to determine what is ''safe.'' The problem is simple: the premise is false, science cannot define ''safety.'' Consider first the definition. Webster says ''safety'' is the feeling of absence of harm. Decisions about what is ''safe'' are based very much on personal or societal feelings, informed by science yes, but based on feelings. Next consider the nature of science. It is very much about uncertainty, because our knowledge is far from perfect and because new scientific findings often disprove that which we thought we knew.

Thus, to the extent they force agencies to use science to determine ''safe'' exposure levels, current environmental laws set EPA and other agencies up for failure. Risk managers have no incentive to take any action other than to err on the side of safety. This is not necessarily bad as a general policy, but in practice the belief is that it has led to layer upon layer of safety factors and excessive cost. This is because risk managers require the use of conservative assumptions in risk assessment models when the information needed to assess risk is missing or incomplete, as it invariably is, causing large costs to be incurred to meet the low exposure levels estimated to be ''safe.''

This weakens citizens' faith in Government. There is a growing perception that many decisions are not based on common sense and that regulations cost too much. Risk assessments, which use scientific information, have become the outward and visible sign of the regulatory process. Those who question the philosophy underlying the current legislative and regulatory approach attack the risk assessment process, especially the assumptions used in place of knowledge about what we are exposed to and what are the resulting effects.

Given the benefit of our experience with EPA and with environmental legislation over the past 24 years, it is clear that we are asking the wrong question. Marc Landy and his colleagues first noted this in their book EPA: Asking the Wrong Questions. A far better legislative question to ask EPA to address when setting environmental regulations is ''How much are we willing to pay to reduce risk by what amount, given all the uncertainties about risks, costs and benefits of control'' rather than ''What is the Safe Level of Exposure.'' Far better because it reflects the strengths and limits of science to inform decision-making and to set technically sound regulations. Far better too because it can increase the capacity of Government to govern in the future by informing the citizenry. And far better if it reflects the will of the people as evidenced by continued support for Government policies over time.

The Republican ''Contract With America'' seems to have a good deal of support from the citizenry, at least for now. Its call for transparency in the way regulations are set, including the methods and assumptions used in assessing risks and costs are in keeping with what I had in mind when I introduced my ''Environmental Risk Reduction Act'' in the last two Congresses. Let me note that the American public views the contract as being full of fresh new ideas and approaches to governing, something they believe the Democrats have lost the ability to generate in the recent past. But let us not make improvements to the way we encourage and regulate environmental protection a partisan issue. Good Government policies cut across party lines and live beyond any given administration. And, as I have noted above, improving the use of risk assessment and cost benefit analyses for environmental decisionmaking is something I have been pursuing for several Congresses. Rather, let us take a bipartisan approach.

As a first step, let us freely acknowledge that environmental decisions can be informed by science, but that they cannot be made based on science alone. In fact, truth be known, such decisions are based more on policy, economic and social considerations than they are on science. This does not mean that science is not useful for environmental decisions or that we shouldn't vigorously pursue research to better understand what contaminants are released into the environment, what we are exposed to, what gets into our bodies, and what happens to it there. We spend upwards of $185 billion per year to comply with environmental regulations, and while this is not necessarily too much to spend on environmental protection, it is too much to spend unwisely. Better knowledge about whether effects actually occur at the very low levels encountered in the environment could help frame the debates on environmental protection more sharply.

Don't forget that social concerns, public preference, basic fairness, and yes, even outrage, must be considered too. But, let us make clear that health effects don't have to occur for us to be outraged. For instance, if it were shown that habitation near a Superfund site did not pose a major health risk, as a country we may still decide to clean up the site because we find the contamination to be offensive. We may decide to compensate homeowners at the site for the fair value of their land so they can move away, even if there have been no site-related health problems. Consider that we may be concerned that the economically disadvantaged people who tend to live near such sites would be further disadvantaged by loss of equity in home or land values. Such actions are not possible under the current Superfund law. As it now stands, those who favor compensation to land holders at Superfund sites must act indirectly and press for findings of health effects from the chemicals found at those sites. The responsible parties who must pay to clean up the sites must also act indirectly and respond to findings of likely health problems by attacking the assumptions needed to assess risk and contend that effects are exaggerated or that there are no effects. No one addresses the problem realistically

because there is no direct way to address any consideration but risk.

Let us question whether the ''Emperor Has Clothes,'' at least when it comes to how assessments of risk are used. Let's put risk in its proper place as one tool of many in the decisionmaking toolbox and let us face the issue honestly by broadening the range of issues and tools that can be used in making environmental decisions. Let's make the debate over environmental protection more realistic and relevant to our citizens. Let's not pass any law that requires or implies that EPA should determine the ''safe'' level when setting regulations. Rather, let us ask how much are we willing to pay to reduce risk by what amount given all the uncertainties in estimating costs and benefits and let us identify factors other than risk that make sense to consider when making decisions.

The bill I offer today addresses the risk assessment and cost/benefit assessment components of the decisionmaking process, focusing on its use for priority setting, something not addressed in the Republican ''Contract With America.'' My bill recognizes that values, social concerns—who should bear the risk for whose benefit—and basic fairness must be considered in addition to risks and costs. It does not prescribe how to conduct risk and cost/benefit assessments because of the evolving nature of these fields of inquiry and because of my desire to avoid freezing technology.

I am introducing ''The Environmental Risk Evaluation Act,'' to help us learn how best to practice the trades of environmental risk assessment and cost/benefit analyses. The bill will put into law the major findings of the 1990 ''Reducing Risk'' report by EPA's Science Advisory Board—SAB. I agree with former EPA Administrator William Reilly's belief that science can lend much needed coherence, order, and integrity to costly and controversial decisions.

America's environmental laws are a large and diverse lot. We have only two decades of experience on this subject, and we are still learning, feeling our way. The relative risk ranking and cost/benefit analyses called for in this bill provide some common ground for looking at our environmental laws. The bill also provides the public and Congress with access to the findings. The ''Reducing Risk'' report states that ''relative risk data and risk assessment techniques should inform—the public—judgment as much as possible.'' Not dictate it, but inform it.

All this will take time, decades perhaps. But let us take heart. Questions that seem difficult now can with a certain amount of effort yield to the scientific method. I urge my colleagues to support this bill and ask unanimous consent that it be printed in the RECORD.

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

S. 123

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 ''Environmental Risk Evaluation Act of 1995''.

SEC. 2. FINDINGS AND POLICY.

(a) DEFINITIONS.—As used in this section:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) ADVERSE EFFECT ON HUMAN HEALTH.—The term ''adverse effect on human health'' includes any increase in the rate of death or serious illness, including disease, cancer, birth defects, reproductive dysfunction, developmental effects (including effects on the endocrine and nervous systems), and other impairments in bodily functions.

(3) RISK.—The term ''risk'' means the likelihood of an occurrence of an adverse effect on human health, the environment, or public welfare.

(4) SOURCE OF POLLUTION.—The term ''source of pollution'' means a category or class of facilities or activities that alter the chemical, physical, or * * *.

(b) FINDINGS.—Congress finds that—

(1) cost-benefit analysis and risk assessment are useful but imperfect tools that serve to enhance the information available in developing environmental regulations and programs;

(2) cost-benefit analysis and risk assessment can also serve as useful tools in setting priorities and evaluating the success of environmental protection programs;

(3) cost and risk are not the only factors that need to be considered in evaluating environmental programs as other factors, including values and equity, must also be considered.

(4) current methods for valuing ecological resources and assessing intergenerational effects of sources of pollution need further development before integrated rankings of sources of pollution based on the factors referred to in paragraph (3) can be used with high levels of confidence;

(5) methods to assess and describe the risks of adverse human health effects, other than cancer, need further development before integrated rankings of sources of pollution based on the risk to human health can be used with high levels of confidence;

(6) periodic reports by the Administrator on the costs and benefits of regulations promulgated under Federal environmental laws, and other Federal actions with impacts on human health, the environment, or public welfare, will provide Congress and the general public with a better understanding of—

(A) national environmental priorities; and

(B) expenditures being made to achieve reductions in risk to human health, the environment, and public welfare; and

(7) periodic reports by the Administrator on the costs and benefits of environmental regulations will also—

(A) provide Congress and the general public with a better understanding of the strengths, weaknesses, and uncertainties of cost-benefit analysis and risk assessment and the research needed to reduce major uncertainties; and

(B) assist Congress and the general public in evaluating environmental protection regulations and programs, and other Federal actions with impacts on human health, the environment, or public welfare, to determine the extent to which the regulations, programs, and actions adequately and fairly protect affected segments of society.

(c) REPORT ON ENVIRONMENTAL PRIORITIES, COSTS, AND BENEFITS.—

(1) RANKING.—

(A) IN GENERAL.—The Administrator shall identify and, taking into account available data, to the extent practicable, rank sources of pollution with respect to the relative degree of risk of adverse effects on human health, the environment, and public welfare.

(B) METHOD OF RANKING.—In carrying out the rankings under subparagraph (A), the Administrator shall—

(i) rank the sources of pollution considering the extent and duration of the risk; and

(ii) take into account broad societal values, including the role of natural resources in sustaining economic activity into the future.

(2) EVALUATION OF REGULATORY AND OTHER COSTS.—In addition to carrying out the rankings under paragraph (1), the Administrator shall evaluate—

(A) the private and public costs associated with each source of pollution and the costs and benefits of complying with regulations designed to protect against risks associated with the sources of pollution; and

(B) the private and public costs and benefits associated with other Federal actions with impacts on human health, the environment, or public welfare, including direct development projects, grant and loan programs to support infrastructure construction and repair, and permits, licenses, and leases to use natural resources or to release pollution to the environment, and other similar actions.

(3) RISK REDUCTION OPPORTUNITIES.—In assessing risks, costs, and benefits as provided in paragraphs (1) and (2), the Administrator shall also identify reasonable opportunities to achieve significant risk reduction through modifications in environmental regulations and programs and other Federal actions with impacts on human health, the environment, or public welfare.

(4) UNCERTAINTIES.—In evaluating the risks referred to in paragraphs (1) and (2), the Administrator shall—

(A) identify the major uncertainties associated with the risks;

(B) explain the meaning of the uncertainties in terms of interpreting the ranking and evaluation; and

(C) determine—

(i) the type and nature of research that would likely reduce the uncertainties; and

(ii) the cost of conducting the research.

(5) CONSIDERATION OF BENEFITS.—In carrying out this section, the Administrator shall consider and, to the extent practicable, estimate the monetary value, and such other values as the Administrator determines to be appropriate, of the benefits associated with reducing risk to human health and the environment, including—

(A) avoiding premature mortality;

(B) avoiding cancer and noncancer diseases that reduce the quality of life;

(C) preserving biological diversity and the sustainability of ecological resources;

(D) maintaining an aesthetically pleasing environment;

(E) valuing services performed by ecosystems (such as flood mitigation, provision of food or material, or regulating the chemistry of the air or water) that, if lost or degraded, would have to be replaced by technology;

(F) avoiding other risks identified by the Administrator; and

(G) considering the benefits even if it is not possible to estimate the monetary value of the benefits in exact terms.

(6) REPORTS.—

(A) PRELIMINARY REPORT.—Not later than 1 year after the date of enactment of this Act, the Administrator shall report to Congress on the sources of pollution and other Federal actions that the Administrator will address,

and the approaches and methodology the Administrator will use, in carrying out the rankings and evaluations under this section. The report shall also include an evaluation by the Administrator of the need for the development of methodologies to carry out the ranking.

(B) PERIODIC REPORT.—

(i) IN GENERAL.—On completion of the ranking and evaluations conducted by the Administrator under this section, but not later than 3 years after the date of enactment of this Act, and every 3 years thereafter, the Administrator shall report the findings of the rankings and evaluations to Congress and make the report available to the general public.

(ii) EVALUATION OF RISKS.—Each periodic report prepared pursuant to this subparagraph shall, to the extent practicable, evaluate risk management decisions under Federal environmental laws, including title XIV of the Public Health Service Act (commonly known as the ''Safe Drinking Water Act'') (42 U.S.C. 300f et seq.), that present inherent and unavoidable choices between competing risks, including risks of controlling microbial versus disinfection contaminants in drinking water. Each periodic report shall address the policy of the Administrator concerning the most appropriate methods of weighing and analyzing the risks, and shall incorporate information concerning—

(I) the severity and certainty of any adverse effect on human health, the environment, or public welfare;

(II) whether the effect is immediate or delayed;

(III) whether the burden associated with the adverse effect is borne disproportionately by a segment of the general population or spread evenly across the general population; and

(IV) whether a threatened adverse effect can be eliminated or remedied by the use of an alternative technology or a protection mechanism.

(d) IMPLEMENTATION.—In carrying out this section, the Administrator shall—

(1) consult with the appropriate officials of other Federal agencies and State and local governments, members of the academic community, representatives of regulated businesses and industry, representatives of citizen groups, and other knowledgeable individuals to develop, evaluate, and interpret scientific and economic information;

(2) make available to the general public the information on which rankings and evaluations under this section are based; and

(3) establish methods for determining costs and benefits of environmental regulations and other Federal actions, including the valuation of natural resources and intergenerational costs and benefits, by rule after notice and opportunity for public comment.

(e) REVIEW BY THE SCIENCE ADVISORY BOARD.—Before the Administrator submits a report prepared under this section to Congress, the Science Advisory Board, established by section 8 of the Environmental Research, Development, and Demonstration Act of 1978 (42 U.S.C. 4365), shall conduct a technical review of the report in a public session.●

By Mr. MOYNIHAN:

S. 125. A bill to authorize the minting of coins to commemorate the 50th anniversary of the founding of the United Nations in New York City, New York; to the Committee on Banking, Housing, and Urban Affairs.

THE UNITED NATIONS 50TH ANNIVERSARY COMMEMORATIVE COIN ACT OF 1995

Mr. MOYNIHAN. Mr. President, I rise to introduce a bill to authorize the minting of gold and silver coins commemorating the 50th anniversary of the United Nations. It was October 23, 1945, that the United Nations Charter went into effect, as a majority of the 50 nations that had met at the San Francisco Conference earlier that year finally ratified the charter. the 51-member General Assembly first met the following January 10 in London.

The ratification of the charter was a mementous occasion, a milestone in international relations. The charter begins, ''We the Peoples of the United Nations.'' The reference is clearly to our Constitution and the still-revolutionary idea that a people is defined by belief, rather than blood. The charter provides authority to organize world trade, finance, and democratization. Under it the use of force assumes a collective aspect that seeks to deter aggression.

Measured against the lofty ambitions of its drafters, the charter has in reality fallen short too often, but measured against the bloody and lawless conduct of sovereigns over the millennia its accomplishments are clear. The charter is recognized today as the cornerstone of international law. If it cannot solve every problem, when there is substantial agreement among the Security Council it does provide a framework for the legal use of force against aggressors, as was the recent case with Iraq.

In observance of the 50th anniversary, I propose that Congress authorize the design and minting of gold and silver commemorative coins. No more than 100,000 gold coins would be minted, and no more than 500,000 $1 silver coins. This is a modest amount by current standards for commemorative coins, enough to satisfy numismatists and those around the world who support the United Nations and its ideals and would like to join in its commemoration. The number of coins is not so great as to overwhelm the market for them.

The surcharges on these coins will benefit the United Nations Association of the United States, whose educational programs such as the Model United Nations for both high school and college students are most successful. The U.N. Association is a worthy beneficiary.

Mr. President, the 50th anniversary of the United Nations deserves our observance. I ask my colleagues for their support, and I ask that the text of the bill be printed following my remarks.

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

S. 125

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 ''United Nations 50th Anniversary Commemorative Coin Act of 1995''.

SEC. 2. COIN SPECIFICATIONS.

(a) DENOMINATIONS.—The Secretary of the Treasury (hereafter in this Act referred to as the ''Secretary'') shall mint and issue the following coins:

(1) $5 GOLD COINS.—Not more than 100,000 $5 coins, which shall—

(A) weigh 8.359 grams;

(B) have a diameter of 0.850 inches; and

(C) contain 90 percent gold and 10 percent alloy.

(2) $1 SILVER COINS.—Not more than 500,000 $1 coins, which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and

(C) contain 90 percent silver and 10 percent copper.

(b) LEGAL TENDER.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

(c) NUMISMATIC ITEMS.—For purposes of section 5134 of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

SEC. 3. SOURCES OF BULLION.

(a) GOLD.—The Secretary shall obtain gold for minting coins under this Act pursuant to the authority of the Secretary under other provisions of law.

(b) SILVER.—The Secretary shall obtain silver for minting coins under this Act only from stockpiles established under the Strategic and Critical Materials Stock Piling Act.

SEC. 4. DESIGN OF COINS.

(a) DESIGN REQUIREMENTS.—

(1) IN GENERAL.—The design of the coins minted under this Act shall—

(A) be emblematic of the United Nations and the ideals for which it stands; and

(B) include the 3 opening words of the United Nations Charter—''We the peoples''.

(2) DESIGNATION AND INSCRIPTIONS.—On each coin minted under this Act there shall be—

(A) a designation of the value of the coin;

(B) an inscription of the year; and

(C) inscriptions of the words ''Liberty'', ''In God We Trust'', ''United States of America'', and ''E Pluribus Unum''.

(b) SELECTION.—The design for the coins minted under this Act shall be—

(1) selected by the Secretary after consultation with the United Nations Association of the United States of America and the Commission of Fine Arts; and

(2) reviewed by the Citizens Commemorative Coin Advisory Committee.

SEC. 5. ISSUANCE OF COINS.

(a) QUALITY AND MINT FACILITY.—The coins authorized under this Act may be issued in uncirculated and proof qualities and shall be struck at the United States Bullion Depository at West Point.

(b) PERIOD FOR ISSUANCE.—The Secretary may issue coins minted under this Act only during the period beginning on June 26, 1995, and ending on December 31, 2002.

SEC. 6. SALE OF COINS.

(a) SALE PRICE.—The coins issued under this Act shall be sold by the Secretary at a price equal to the sum of—

(1) the face value of the coins;

(2) the surcharge provided in subsection (d) with respect to such coins; and

(3) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) BULK SALES.—The Secretary shall make bulk sales of the coins issued under this Act at a reasonable discount.

(c) PREPAID ORDERS.—

(1) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) DISCOUNT.—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.

(d) SURCHARGES.—All sales shall include a surcharge of—

(1) $25 per coin for the $5 coin; and

(2) $5 per coin for the $1 coin.

SEC. 7. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this Act.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

SEC. 8. DISTRIBUTION OF SURCHARGES.

(a) IN GENERAL.—All surcharges received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the United Nations Association of the United States of America for the purpose of assisting with educational activities, such as high school and college Model United Nations programs and other grassroots activities, that highlight the United Nations and the United States' role in that world body.

(b) AUDITS.—The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of United Nations Association of the United States of America as may be related to the expenditures of amounts paid under subsection (a).

SEC. 9. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this Act will not result in any net cost to the United States Government.

(b) PAYMENT FOR COINS.—A coin shall not be issued under this Act unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

By Mr. MOYNIHAN:

S. 126. A bill to unify the formulation and execution of United States diplomacy; to the Select Committee on Intelligence.

THE CENTRAL INTELLIGENCE AGENCY ABOLITION ACT OF 1995

Mr. MOYNIHAN. Mr. President, it is no secret that a serious re-examination of our intelligence needs is in order. Since 1991, when I introduced the End of the Cold War Act, I have endeavored to bring the shortcomings of the intelligence community to public light. Not to denigrate our intelligence efforts, but to improve them. Despite resistance to change, much of the End of the Cold War Act has been implemented. We have eliminated ''Lookout Lists,'' which excluded persons who merely expressed ''unacceptable'' opinions from entry into the United States. One aspect of the bill yet to be implemented brings me to the floor today: the transfer of the functions of the Central Intelligence Agency to the Department of State.

The scrutiny that has now visited the intelligence community in the aftermath of the exposure of Aldrich Ames, the man whose treason caused the deaths of at least 10 American agents, increases the likelihood that some long needed reassessments will be made. I do not relish these circumstances, for to a great extent the Ames case merely distracts from some of the most fundamental defects of the CIA. While the Ames affair brings attention to the Directorate of Operations, it takes scrutiny away from the Directorate of Intelligence.

What of operations? Speaking before the Boston Bar Association in 1993, John le Carré, the man who provided us with a window into the world of a spy, questioned the contributions of spies to the winning of the cold war. In his remarks he stated:

> You see, it wasn't the spies who won the cold war. I don't believe that in the end the spies mattered very much at all. Their capsuled isolation and their remote theorizing actually prevented them from seeing, as late as 1987 or 8, what anybody in the streets could have told them:
>
> ''It's over. We've won. The Iron Curtain is crashing down! The monolith we fought is a bag of bones! Come out of your trenches and smile!''
>
> Even the victory, for them, was a cunning Bolshevik Trick.
>
> And anyway, what had they got to smile about? It was a victory achieved by openness, not secrecy. By frankness, not intrigue.
>
> The Soviet Empire did not fall apart because the spooks had bugged the men's room in the Kremlin or put broken glass in Mrs. Brezhnev's bath, but because running a huge closed repressive society in the 1980s had become—economically, socially and militarily, and technologically—impossible.

The collapse of the Soviet Union was therefore the very denial of secrecy. Mr. le Carré is not alone. Recently William Pfaff in an article in the International Herald Tribune posed the question, ''what positive things do [spies] accomplish?'' He reached much the same conclusion as le Carré and added that ''the useful information today is that supplied by area specialists, historians and ethnologists, and through conventional diplomatic observation and journalism.''

If covert operations failed to have an impact as suggested by le Carré and Pfaff, what of our intelligence analysis? How did that serve us in the cold war? I believe I have fully laid out to the Senate on previous occasions my assessment and those of numerous respected individuals on the performance of the CIA in this regard. The defining failure of the CIA was their inability to predict the collapse of the Soviet Union.

In 1975, along with my daughter Maura, I visited China as a guest of George Bush, who was then Chief of our U.S. Liaison Office of Peking. By this time, I was persuaded the Soviet Union would break up along ethnic lines. In a ''Letter From Peking'' dated January 26, 1975, which I wrote and submitted to The New Yorker, the closing passage reads:

> While it is agreed that few Marxist-Leninist predictions have come true in the twentieth century, it is perhaps not sufficiently noticed that certain predictions about Marxist-Leninist regimes have proved durable enough. Lincoln Steffens returned from Moscow in the early years, pronouncing that he had seen the future, and it worked. Well, it was one future, and it has worked for a half century, and may have considerable time left before ethnicity breaks it up. Red China works, too, and is likely to last even longer.

I believe this is the first time in my writing that I stated the belief then forming that the Soviet Union would not conquer the world, but rather, would one day break up along ethnic lines. A no longer brief acquaintance with Central Asia and its history had about convinced me. I thought then, at mid-decade, that this might require considerable time. By the end of the decade, I had decided it would be upon us sooner. In 1979, in an issue of Newsweek devoted to predictions of what would happen in the eighties, I submitted it was likely that the Soviet Union would break up.

Former Director of Central Intelligence, Adm. Stansfield Turner, writing in Foreign Affairs in 1991, confirms that such a possibility had not penetrated the intelligence community when he stated.

> Today we hear some revisionist rumblings that the CIA did in fact see the Soviet collapse emerging after all. If some individual CIA analyst were more prescient than the corporate view, their ideas were filtered out in the bureaucratic process; and it is the corporate view that counts because that is what reaches the president and his advisers. On this one, the corporate view missed by a mile.

And there were others. Several months ago, the Deputy Director for Intelligence [DDI] at the Central Intelligence Agency, Douglas MacEachin, released a report entitled ''The Tradecraft of Analysis: Challenge and Change in the CIA.'' In this report he outlines what he regards as some of the major known failures of the intelligence community. He attributes these failures to analysis which rested on faulty assumptions—he called these assumptions ''linchpins.'' In the report he states:

> A review of the record of famous wrong forecasts nearly always reveals at least one ''linchpin'' that did not hold up: the Soviets will not invade Czechoslovakia because they will not want to pay the political costs, especially after having signed the Rejkavik Declaration the previous year; the Soviets will not invade Afghanistan because they do not want to sink SALT–II which at that moment is being debated by the U.S. Senate; Saddam Hussein needs about two years to refurbish his military forces after the debilitating war with Iran and, therefore, will not, despite evidence of motives for doing so, invade Kuwait in the foreseeable future.

He concludes, ''In each case, the sin was less in the fact that the linchpins

did not hold than in the failure of the intelligence products to highlight the extent to which they were assumptions.'' Surely intelligence products could benefit from highlighting assumptions. However, a more rigorous scrutiny provided by greater openness would give an opportunity for facts, assumptions, and conclusions to be challenged.

Scientists have long understood that secrecy keeps mistakes secret. In the early 1960's, Jack Ruina, an MIT professor who had been head of the Defense Advance Research Projects Agency at the Department of Defense during the Kennedy administration, told me after visiting the Soviet Union that it was plain it just wasn't working. In particular he noticed something which someone without scientific training might not have. The Soviets did not know who their best people were. Promising young scientists in Russia were locked in a room and had no knowledge about the activities of their colleagues around the country. As anyone who has visited the fine research hospitals of New York can tell you, the free flow of ideas is vital to advancement. Openness of information is essential for great science.

This is no secret. Indeed, in 1970 a Task Force organized by the Defense Science Board and headed by Dr. Frederick Seitz concluded that ''more might be gained that lost if our nation were to adopt—unilaterally, if necessary—a policy of complete openness in all areas of information.''

Yet the secrecy system is still in place. The information Security Oversight Office keeps a tally of the number of secrets classified each year. They reported that in 1993 the United States created 6,408,688 secrets. Absurd. While each agency has different procedures and criteria for classifying documents, all seem to operate under the assumption that classification is preferable to disclosure.

Secrecy is a disease. It causes hardening of the arteries of the mind. It hinders true scholarship and hides mistakes. William Pfaff has suggested that we ought not rely on spies, but rather on journalists, historians, ethnologists; those who do not operate under the cloak of secrecy but publish their work for all to read and comment upon.

After World War II, it was originally intended that intelligence would be coordinated by the Secretary of State. The maneuvering of some of the more powerful Assistant Secretaries in the State Department at the time prevented that from being implemented and the independent Central Intelligence Agency was soon formed. Dean Acheson, who was present at the creation, doubted the wisdom of such a move. ''I had the gravest forebodings about this organization and warned the President that as set up neither he, the National Security Council, nor anyone else would be in a position to know what it was doing or to control it.'' The State Department must function as the primary agency in formulating and conducting foreign policy. Any other arrangement invites confusion.

In the last 4 years, this proposal has generated considerable debate—some positive, some negative. Reform of United States foreign policy institutions will continue to occupy the attentions of Congress, and if for nothing else, this proposal contributes to the debate. So I am today introducing the Abolition of the Central Intelligence Agency Act.

By Mr. MOYNIHAN:

S. 127. A bill to improve the administration of the Women's Rights National Historical Park in the State of New York, and for other purposes; to the Committee on Energy and Natural Resources.

THE NATIONAL HISTORIC PARK ACT OF 1995

Mr. MOYNIHAN. Mr. President, I rise to introduce a bill that will add several important properties to the Women's Rights National Historic Park in Seneca Falls, NY. In 1980 I introduced legislation to commemorate an idea, that of equal rights for women. It is commemorated in Seneca Falls because that is where in 1848 the Declaration of Sentiments was signed, stating that ''all men and women are created equal'' and that women should have equal political rights with men. From this beginning sprang the 19th amendment and all that other advances for women this century and last.

With the historic park authorized in 1980, we began the planning, held a design competition for the visitors center, and paid for the construction. The park is now in operation and a tremendous success. Visitorship increased 50 percent in fiscal year 1993 to 30,000. However, the park is not complete. As can be expected when starting such a venture from zero, not all the important properties could be acquired at the outset. Several remain in private hands or under the control of the Trust for Public Land, and this bill authorizes their addition to the park.

These properties include the last remaining parcel of the original Elizabeth Cady Stanton property, necessary so that the Stanton House can be restored to its original condition, and the Young House in Waterloo, important for safety, resource preservation, and preserving the historic scene at the M'Clintock House. The other two are the Baldwin property, which would provide a visitor contact facility, restrooms, and boat docking facilities, and a maintenance facility now being rented by the Park Service.

These additions to Women's Rights National Historic Park will add tremendously to the enjoyment and value of a visit. The National Park Service supports them, and in fact I understand that this legislation is the top priority for the North Atlantic Region. We must pass it promptly, for time is not a luxury; the Nies property is in the early stages of foreclosure. I urge my colleagues to support this bill, and to come to the Women's Rights Park themselves. It is a trip well worth making.

I further ask 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. 127

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

SECTION 1. COMPOSITION.

The second sentence of section 1601(c) of Public Law 96–607 (16 U.S.C. 410ll) is amended—

(1) by striking ''initially'';

(2) by striking paragraph (7);

(3) by redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively;

(4) in paragraph (7) (as redesignated), by striking ''and'' at the end;

(5) in paragraph (8) (as redesignated), by striking the period at the end and inserting a semicolon; and

(6) by adding at the end the following:

''(9) not to exceed 1 acre, plus improvements, as determined by the Secretary, in Seneca Falls for development of a maintenance facility;

''(10) dwelling, 1 Seneca Street, Seneca Falls;

''(11) dwelling, 10 Seneca Street, Seneca Falls;

''(12) parcels adjacent to Wesleyan Chapel Block, including Clinton Street, Fall Street, and Mynderse Street, Seneca Falls; and

''(13) dwelling, 12 East Williams Street, Waterloo.''.

SEC. 2. MISCELLANEOUS AMENDMENTS.

Section 1601 of Public Law 96–607 (16 U.S.C. 410ll) is amended—

(1) in subsection (h)(5), by striking ''ten years'' and inserting ''25 years''; and

(2) in subsection (i)—

(A) by inserting ''(1)'' after ''(i)'';

(B) by striking ''$700,000'' and inserting ''$1,500,000'';

(C) by striking ''$500,000'' and inserting ''$15,000,000''; and

(D) by adding at the end the following:

''(2) In addition to the sums appropriated before the date of enactment of this paragraph for land acquisition and development to carry out this section, there are authorized to be appropriated for fiscal years beginning after September 30, 1994, $2,000,000.''.

By Mr. MOYNIHAN:

S. 128. A bill to establish the Thomas Cole National Historic Site in the State of New York, and for other purposes; to the Committee on Energy and Natural Resources.

THE THOMAS COLE NATIONAL HISTORIC SITE ACT OF 1995

Mr. MOYNIHAN. Mr. President, I rise to introduce a bill which would place the home and studio of Thomas Cole under the care of the National Park Service as a National Historic Site. Thomas Cole founded the American artistic tradition known as the Hudson River School. He painted landscapes of the American wilderness as it never had been depicted, untamed and majestic, the way Americans saw it in the 1830's and 1840's. His students and followers included Frederick Church, Alfred Bierstadt, Thomas Moran, and John Frederick Kennesett.

No description of Cole's works would do them justice, but let me say that

their moody, dramatic style and subject matter were in sharp contrast to the pastoral European landscapes that Americans had previously admired. The new country was just settled enough that some people had time and resources to devote to collecting art. Cole's new style coincided with this growing interest, to the benefit of both.

Cole had begun his painting career in Manhattan, but one day took a steamboat up the Hudson for inspiration. It worked. The landscapes he saw set him on the artistic course that became his life's work. He eventually moved to a house up the river in Catskill, where he in turn boarded, owned, married, and raised his family. That house, known as Cedar Grove, remained in the Cole family until 1979, when it was put up for sale.

Three art collectors saved Cedar Grove from developers, and now the Thomas Cole Foundation is offering to donate the house to the Park Service. This would be only the second site in the Park Service dedicated to interpreting the life and work of an American painter.

Olana, Church's home, sits immediately across the Hudson, so we have the opportunity to provide visitors with two nearby destinations that show the inspiration for two of America's foremost nineteenth century painters. Visitors could walk, hike, or drive to the actual spots where masterpieces were painted and see the landscape much as it was then.

Mr. President, the home of Thomas Cole is being offered as a donation. I believe we owe it to him, and to the many people who admire the Hudson River School and explore its origins, to accept this offer and designate it a National Historic Site.

I regret that none of Thomas Cole's work hangs in the Capitol, although two works by Bierstadt can be found in the stairwell outside the Speaker's Lobby. Perhaps Cole's greatest work is the four-part Voyage of Life, an allegorical series that depicts man in the four stages of life. It can be found in the National Gallery, along with two other Cole paintings. Another work of Cole's that we would be advised to remember is The Course of Empire, which depicts the rise of a great civilization from the wilderness, and its return.

Last year the first major Cole exhibition in decades was held at the National Museum of American Art. The exhibition was all the evidence needed of Cole's importance and the merit of adding his home to the list of National Historic Sites. I should add that this must happen soon. The house needs work, and will not endure many more winters in its present state.

I ask that my colleagues support this legislation, and 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. 128

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 ''Thomas Cole National Historic Site Act of 1995''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the Hudson River school of landscape painting was inspired by Thomas Cole and was characterized by a group of 19th century landscape artists who recorded and celebrated the landscape and wilderness of America, particularly in the Hudson River Valley region in the State of New York;

(2) Thomas Cole has been recognized as America's most prominent landscape and allegorical painter in the mid-19th century;

(3) the Thomas Cole House in Greene County, New York is listed on the National Register of Historic Places and has been designated as a National Historic Landmark;

(4) within a 15 mile radius of the Thomas Cole House, an area that forms a key part of the rich cultural and natural heritage of the Hudson River Valley region, significant landscapes and scenes painted by Thomas Cole and other Hudson River artists survive intact;

(5) the State of New York has established the Hudson River Valley Greenway to promote the preservation, public use, and enjoyment of the natural and cultural resources of the Hudson River Valley region; and

(6) establishment of the Thomas Cole National Historic Site will provide opportunities for the illustration and interpretation of cultural themes of the heritage of the United States and unique opportunities for education, public use, and enjoyment.

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

(1) to preserve and interpret the home and studio of Thomas Cole for the benefit, inspiration, and education of the people of the United States;

(2) to help maintain the integrity of the setting in the Hudson River Valley region that inspired artistic expression;

(3) to coordinate the interpretive, preservation, and recreational efforts of Federal, State, and other entities in the Hudson Valley region in order to enhance opportunities for education, public use, and enjoyment; and

(4) to broaden understanding of the Hudson River Valley region and its role in American history and culture.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) HISTORIC SITE.—The term ''historic site'' means the Thomas Cole National Historic Site established by section 4.

(2) HUDSON RIVER ARTISTS.—The term ''Hudson River artists'' means artists who belonged to the Hudson River school of landscape painting.

(3) PLAN.—The term ''plan'' means the general management plan developed pursuant to section 6(d).

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

SEC. 4. ESTABLISHMENT OF THOMAS COLE NATIONAL HISTORIC SITE.

(a) IN GENERAL.—There is established, as a unit of the National Park System, the Thomas Cole National Historic Site, in the State of New York.

(b) DESCRIPTION.—The historic site shall consist of the home and studio of Thomas Cole, comprising approximately 3.4 acres, located at 218 Spring Street, in the village of Catskill, New York, as generally depicted on the boundary map numbered TCH/80002, and dated March 1992.

SEC. 5. ACQUISITION OF PROPERTY.

(a) REAL PROPERTY.—The Secretary is authorized to acquire lands, and interests in lands, within the boundaries of the historic site by donation, purchase with donated or appropriated funds, or exchange.

(b) PERSONAL PROPERTY.—The Secretary may also acquire by the same methods as provided in subsection (a), personal property associated with, and appropriate for, the interpretation of the historic site, *Provided*, That the Secretary may acquire works of art associated with Thomas Cole and other Hudson River artists only by donation or purchase with donated funds.

SEC. 6. ADMINISTRATION OF SITE.

(a) IN GENERAL.—The Secretary shall administer the historic site in accordance with this Act and all laws generally applicable to units of the National Park System, including the Act entitled ''An Act To establish a National Park Service, and for other purposes'', approved August 25, 1916 (16 U.S.C. 1, 2–4), and the Act entitled ''An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes'', approved August 21, 1935 (16 U.S.C. 461 et seq.).

(b) COOPERATIVE AGREEMENTS.—

(1) IN GENERAL.—To further the purposes of this Act, the Secretary may consult with and enter into cooperative agreements with the State of New York, the Thomas Cole Foundation, and other public and private entities to facilitate public understanding and enjoyment of the lives and works of the Hudson River artists through the development, presentation, and funding of art exhibits, resident artist programs, and other appropriate activities related to the preservation, interpretation, and use of the historic site.

(2) LIBRARY AND RESEARCH CENTER.—The Secretary may enter into a cooperative agreement with the Greene County Historical Society to provide for the establishment of a library and research center at the historic site.

(c) EXHIBITS.—The Secretary may display, and accept for the purposes of display, works of art associated with Thomas Cole and other Hudson River artists, as may be necessary for the interpretation of the historic site.

(d) GENERAL MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 2 complete fiscal years after the date of enactment of this Act, the Secretary shall develop a general management plan for the historic site.

(2) SUBMISSION TO CONGRESS.—On the completion of the plan, the plan shall be submitted to the Committee on Energy and Natural Resources of the Senate and the Committee on Public Lands and Resources of the House of Representatives.

(3) REGIONAL WAYSIDE EXHIBITS.—The plan shall include recommendations for regional wayside exhibits, to be carried out through cooperative agreements with the State of New York and other public and private entities.

(4) PREPARATION.—The plan shall be prepared in accordance with section 12(b) of the Act entitled ''An Act to improve the administration of the national park system by the Secretary of the Interior, and to clarify the authorities applicable to the system, and for other purposes'', approved August 18, 1970 (16 U.S.C. 1a–1 through 1a–7).

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

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

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

S. 129. A bill to amend section 207 of title 18, United States Code, to tighten

the restrictions on former executive and legislative branch officials and employees; to the Committee on Governmental Affairs.

THE ETHICS IN GOVERNMENT REFORM ACT OF 1995

Mr. MCCAIN. 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. 129

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 ''Ethics in Government Reform Act of 1995''.

SEC. 2. SPECIAL RULES FOR HIGHLY PAID EXECUTIVE APPOINTEES AND MEMBERS OF CONGRESS AND HIGHLY PAID CONGRESSIONAL EMPLOYEES.

(a) In General.—

(1) Appearances before agency.—(A) Section 207(d) of title 18, United States Code, is amended by adding at the end thereof the following:

''(3) Restrictions on political appointees.—(A) In addition to the restrictions set forth in subsections (a), (b), and (c) and paragraph (1) of this subsection, any person who—

''(i) serves in the position of Vice President of the United States; or

''(ii) is a full-time, noncareer Presidential, Vice Presidential, or agency head appointee in an executive agency whose rate of basic pay is not less than $80,000 (adjusted for any COLA after the date of enactment of the Ethics in Government Reform Act of 1995) and is not an appointee of the senior foreign service or solely an appointee as a uniformed service commissioned officer,

and who, after the termination of his or her service or employment as such officer or employee, knowingly makes, with the intent to influence, any communication to or appearance before any officer or employee of a department or agency in which such person served within 5 years before such termination, during a period beginning on the termination of service or employment as such officer or employee and ending 5 years after the termination of service in the department or agency, on behalf of any other person (except the United States), in connection with any matter on which such person seeks official action by any officer or employee of such department or agency, shall be punished as provided in section 216 of this title.

''(B) In addition to the restrictions set forth in subsections (a), (b), and (c) and paragraph (1) of this subsection, any person who is listed in Schedule I under section 5312 of title 5, United States Code, or is employed in a position in the Executive Office of the President and is a full-time, noncareer Presidential, Vice Presidential, or agency head appointee in an executive agency whose rate of basic pay is not less than $80,000 (adjusted for any COLA after the date of enactment of the Ethics in Government Reform Act of 1995) and is not an appointee of the senior foreign service or solely an appointee as a uniformed service commissioned officer, and who—

''(i) after the termination of his or her service or employment as such employee, knowingly makes, with the intent to influence, any communication to or appearance before any officer or employee of a department or agency with respect to which the person participated personally and substantially within 5 years before such termination, during a period beginning on the termination of service or employment as such employee and ending 5 years after the termination of substantial personal responsibility with respect to the department or agency, on behalf of any other person (except the United States), in connection with any matter on which such person seeks official action by any officer or employee of such department or agency; or

''(ii) within 2 years after the termination of his or her service or employment as such employee, knowingly makes, with the intent to influence, any communication to or appearance before any person described in paragraph (2)(B) on behalf of any other person (except the United States), in connection with any matter on which such person seeks official action by the person described in paragraph (2)(B),

shall be punished as provided in section 216 of this title.''.

(B) The first sentence of section 207(h)(1) of title 18, United States Code, is amended by inserting after ''subsection (c)'' the following: ''and subsection (d)(3)''.

(2) Foreign agents.—Section 207(f) of title 18, United States Code, is amended by—

(A) redesignating paragraph (2) as paragraph (4);

(B) adding after paragraph (1) the following:

''(2) Special restrictions.—Any person who—

''(A)(i) serves in the position of Vice President of the United States;

''(ii) is a full-time, noncareer Presidential, Vice Presidential, or agency head appointee in an executive agency whose rate of basic pay is not less than $80,000 (adjusted for any COLA after the date of enactment of the Ethics in Government Reform Act of 1995) and is not an appointee of the senior foreign service or solely an appointee as a uniformed service commissioned officer;

''(iii) is employed in a position in the Executive Office of the President and is a full-time, noncareer Presidential, Vice Presidential, or agency head appointee in an executive agency whose rate of basic pay is not less than $80,000 (adjusted for any COLA after the date of enactment of the Ethics in Government Reform Act of 1995) and is not an appointee of the senior foreign service or solely an appointee as a uniformed service commissioned officer; or

''(iv) is a Member of Congress or employed in a position by the Congress at a rate of pay equal to or greater than $80,000 (adjusted for any COLA after the date of enactment of the Ethics in Government Reform Act of 1995); and

''(B) knowingly after such service or employment—

''(i) represents a foreign national (as defined in section 319(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e(b)) before any officer or employee of any department or agency of the United States with the intent to influence a decision of such officer or employee in carrying out his or her official duties; or

''(ii) aids or advises a foreign national (as defined in section 319(b) of the Federal Election Campaign Act of 1971) with the intent to influence a decision of any officer or employee of any department or agency of the United States, in carrying out his or her official duties,

shall be punished as provided in section 216 of this title.''.

''(3) GIFTS FROM A FOREIGN GOVERNMENT OR FOREIGN POLITICAL PARTY.—Any person who—

''(A)(i) serves in the position of President or Vice President of the United States;

''(ii) is a full-time, noncareer Presidential, Vice Presidential, or agency head appointee in an executive agency whose rate of basic pay is not less than $80,000 (adjusted for any COLA after the date of enactment of the Ethics in Government Reform Act of 1995) and is not an appointee of the senior foreign service or solely an appointee as a uniformed service commissioned officer;

''(iii) is employed in a full-time, noncareer position in the Executive Office of the President whose rate of basic pay is not less than $80,000 (adjusted for any COLA after the date of enactment of the Ethics in Government Reform Act of 1995) and is not an appointee of the senior foreign service or solely an appointee as a uniformed service commissioned officer;

''(iv) is a Member of Congress; or

''(v) is employed in a position by the Congress at a rate of pay equal to or greater than $80,000 (adjusted for any COLA after the date of enactment of the Ethics in Government Reform Act of 1995); and

''(B) after such service or employment terminates, receives a gift from a foreign government or foreign political party;

shall be punished as provided in section 216 of this title.

''(4) DEFINITIONS.—For purposes of this subsection—

''(A) the term 'foreign national' means—

''(i) a government of a foreign country as defined in section 1(e) of the Foreign Agents Registration Act of 1938, as amended or a foreign political party as defined in section 1(f) of that Act;

''(ii) a person outside of the United States, unless such person is an individual and a citizen of the United States, or unless such person is not an individual and is organized under or created by the laws of the United States or of any state or other place subject to the jurisdiction of the United States and has its principal place of business within the United States;

''(iii) a partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country; and

''(iv) a person any of whose activities are directly or indirectly supervised, directed, controlled, financed, or subsidized in whole or in major part by an entity described in clause (i), (ii), or (iii); and

''(B) the term 'gift'—

''(i) includes any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value greater than $20; and

''(ii) does not include—

''(I) modest items of food and refreshments offered other than as part of a meal;

''(II) greeting cards and items of little intrinsic value which are intended solely for presentation;

''(III) loans from banks and other financial institutions on terms generally available to the public;

''(IV) opportunities and benefits, including favorable rates and commercial discounts, available to the public; or

''(V) travel, subsistence, and related expenses in connection with the person's rendering of advice or aid to a government of a foreign country or foreign political party, if the Secretary of State certifies in advance that such activity is in the best interests of the United States.''.

(3) Trade negotiators.—Section 207(b)(1) of title 18, United States Code, is amended by—

(A) inserting ''(A)'' after ''In general.—''; and

(B) adding at the end thereof the following:

''(B) For any person who—

''(i) is a full-time, noncareer Presidential, Vice Presidential, or agency head appointee in an executive agency whose rate of basic pay is not less than $80,000 (adjusted for any

COLA after the date of enactment of the Ethics in Government Reform Act of 1995) and is not an appointee of the senior foreign service or solely an appointee as a uniformed service commissioned officer;

''(ii) is employed in a position in the Executive Office of the President, and is a full-time, noncareer Presidential, Vice Presidential, or agency head appointee in an executive agency whose rate of basic pay is not less than $80,000 (adjusted for any COLA after the date of enactment of the Ethics in Government Reform Act of 1995) and is not an appointee of the senior foreign service or solely an appointee as a uniformed service commissioned officer; or

''(iii) is a Member of Congress or employed in a position by the Congress at a rate of pay equal to or greater than $80,000 (adjusted for any COLA after the date of enactment of the Ethics in Government Reform Act of 1995).

the restricted period after service referred to in subparagraph (A) shall be permanent.''.

(4) Congress.—Section 207(e) of title 18, United States Code, is amended—

(A) in paragraph (1)(A) by striking ''within 1 year'' and inserting ''within 2 years'';

(B) in paragraph (1) by adding at the end thereof the following:

''(D) Any person who is a Member of Congress and who, within 5 years after leaving the position, knowingly makes, with intent to influence, any communication to or appearance before any committee member or a staff member of any committee over which the Member had jurisdiction, on behalf of any other person (except the United States) in connection with any matter on which such former Member seeks action by the committee member or a staff member of the committee in his or her official capacity, shall be punished as provided in section 216 of this title.'';

(C) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(D) by inserting after paragraph (5) the following new paragraph:

''(6) Highly paid staffers.—For any person described in paragraph (2), (3), (4), or (5), employed in a position at a rate of pay equal to or greater than $80,000 (adjusted for any COLA after the date of enactment of the Ethics in Government Reform Act of 1995)—

''(A) the restriction provided in paragraph (1)(A) shall apply; and

''(B) the restricted period after termination in paragraph (2), (3), (4), or (5), applicable to such person shall be 5 years.''.

(b) Penalties.—

(1) Future activities.—Section 216 of title 18, United States Code, is amended by adding at the end thereof the following:

''(d) In addition to the penalties provided in subsections (a), (b), and (c), the punishment for violation of section 207 may include a prohibition on the person knowingly, with the intent to influence, communicating to or appearing before any employee of the executive or legislative branch, for a period of not to exceed 5 years.''.

(2) Use of profits.—Section 216(b) of title 18, United States Code, is amended by inserting after the first sentence the following: ''Any amount of compensation recovered pursuant to the preceding sentence for a violation of section 207 shall be deposited in the general fund of the Treasury to reduce the deficit.''

(c) Exceptions.—Section 207(j) of title 18, United States Code, is amended by adding at the end thereof the following:

''(7) Non-influential contracts.—Nothing in this section shall prevent an individual from making requests for appointments, requests for the status of Federal action, or other similar ministerial contacts, if there is no attempt to influence an officer or employee of the legislative or executive branch.

''(8) Testimony to the Congress.—Nothing in this section shall prevent an individual from testifying or submitting testimony to any committee or instrumentality of the Congress.

''(9) Comments.—Nothing in this section shall prevent an individual from making communications in response to a notice in the Federal Register, Commerce Business Daily, or other similar publication soliciting communications form the public and directed to the agency official specifically designated in the notice to receive such communications.

''(10) Adjudication.—Nothing in this section shall prevent an individual from making communications or appearances in compliance with written agency procedures regarding an adjudication conducted by the agency under section 554 of title 5, United States Code or substantially similar provisions.

''(11) Comments for the record.—Nothing in this section shall prevent an individual from submitting written comments filed in a public docket and other communications that are made on the record.''.

SEC. 3. EFFECTIVE DATE.

The restrictions contained in section 207 of title 18, United States Code, as added by section 2 of this Act—

(1) shall apply only to persons whose service as officers or employees of the Government, or as Members of Congress terminates on or after the date of the enactment of this Act; and

(2) in the case of officers, employees, and Members of Congress described in section 207(b)(1)(B) of title 18, United States Code (as added by section 2 of this Act), shall apply only with respect to participation in trade negotiations or treaty negotiations, and with respect to access to information, occurring on or after such date of enactment.

SEC. 4. SEVERABILITY.

If any provision of this Act, or the application thereof, is held invalid, the validity of the remainder of this Act and the application of such provision to other persons and circumstances shall not be affected thereby.

Mr. FEINGOLD. Mr. President, I am pleased to join with my colleague, Senator McCain, in introducing this legislation that will strengthen our current laws that restrict certain movements between public and private sector employment—the so-called revolving door. The Senator from Arizona has been a strong and consistent voice on efforts to reform our government and I know that his expertise on this issue in particular during the 103d Congress was critical to efforts to move forward in this area.

The proposal that we are offering today is yet another attempt to improve the standing of Congress and the federal government with our constituents. We know, as reflected by the last two election cycles, that voters are fed up with a political system that seems to encourage personal gain and profit rather than what is in the best interests of the American people. The time has come for a bit of self-examination, and for us as representatives of the people to identify why the public has grown so disenchanted with their government.

There was a time, Mr. President, when those in public service were looked upon with high admiration and esteem. Politics was once, as Robert Kennedy called it, an honorable profession. But the admiration and esteem has been replaced with perceptions of an institution that meets the concerns and demands of special interests to the exclusion of the interests of the American people. Mr. President, one can read many messages coming from the electorate during the 1992 and 1994 elections. Some might argue that those elections were calls for fiscal responsibility, or for ensuring that our communities are safer and our families healthier. We can have an endless discussion about those issues. But I do not think there could have been a clearer message from the last two elections than the message that the American people are not necessarily fed up with Republicans or Democrats, but that they are fed up with a system here in Washington that both parties are forced to operate within.

The revolving door between public and private employment has generated much of this anger and cynicism. But by putting a lock on this door for meaningful periods of time, we can send a message that those entering government employment should view public service as an honor and a privilege—not as another rung on the ladder to personal gain and profit. Some may suggest that we are seeking to alleviate meritless concerns of an overreacting public. But the facts show that on this issue the public is right on target. For example, since 1974 according to the Center for Public Integrity, 47 percent of all former senior U.S. trade officials have registered with the Justice Department as lobbyists for foreign agents. In other words, nearly half of our former high-ranking trade representatives, who played active roles in our trade negotiations and have direct knowledge of confidential information of U.S. trade and business interests, are now lobbying on behalf of foreign agents. In many cases, these individuals are representing these foreign interests at the negotiating table opposite of the United States. Whether you supported or opposed recent trade agreements such as the North American Free Trade Agreement and the General Agreement on Trade and Tariffs, one can only speculate as to how such revolving door practices influenced the outcome of those negotiations.

And that is just our trade officials. Such revolving door problems are just as prevalent in the legislative branch. Former members of Congress who once chaired or served on committees with jurisdiction over particular industries or special interests, are now lobbying their former colleagues on behalf of those industries or special interests. Former committee staff directors are using their contacts and knowledge of their former committees to secure lucrative positions in lobbying firms and associations with interests related to those committees. How can we blame our constituents for looking upon this institution with cynicism and disdain when they hear about a former member

of the House Foreign Affairs Committee registering as a lobbyist on behalf of a foreign country? How can we ensure that the trade agreements we enter into are indeed fair when individuals who have recently represented the United States are now on the other side of the bargaining table? Or how about the former chairman of the House subcommittee with jurisdiction over the Rural Electrification Administration retiring last year to head the National Rural Electric Cooperative Association. Are our constituents to believe that this former chairman has no special access or influence with his former committee that may benefit his new employer?

It seems that since the election last November that the print media has been filled with announcements of government officials leaving the public sector to work for lobbying firms. One recent article announced that a staff assistant leaving her position on the House Subcommittee on Energy and Power will be working for the government relations, i.e. lobbying, department of the American Public Power Association. Another one announced that a recently retired former member of the House Ways and Means Subcommittee on Select Revenue Measures is joining a Washington lobbying firm. According to this announcement, he will specialize in tax policy. Mr. President, the problem of revolving door lobbying is quite clear, and in our review, so is the solution.

The bill we are introducing today will strengthen the post-employment restrictions that are already in place. There is currently a one year ban on former members of Congress lobbying the entire Congress as well as senior congressional staff lobbying their former employing entity. Members and senior staff are also prohibited from lobbying on behalf of a foreign entity for one year. Our bill will prohibit members of Congress and senior staff from lobbying the entire Congress for two years, and their former committees and employing entities for five years. The one year ban on lobbying on behalf of a foreign entity will become a lifetime ban. In early 1993, President Clinton issued a strong executive order which bars senior executive branch officials from lobbying their former agencies for five years, and prohibits employees of the Executive Office of the President from lobbying on a matter they had substantial involvement in for five years. It also includes a lifetime ban on lobbying on behalf of a foreign entity. Our bill codifies these regulations for the executive branch, and also imposes a two year ban on political appointees and senior executive branch staff from lobbying other executive branch officials. Finally, our bill will impose a lifetime ban on our senior trade officials either lobbying on behalf of a foreign entity, or advising for compensation a foreign entity on how best to lobby the U.S. government.

This bill is targeted in two ways: First, it only affects legislative and executive branch staff members who earn over 80,000 dollars a year—in other words, senior level employees who are most heavily recruited by Washington lobbying firms. Second, our bill has a longer ban on a former senior level official or staffer lobbying their former agency or employing entity. This five-year ban is necessary because as we all know, and exhibited by the examples I just cited, the Washington lobbying firms thrive on hiring former officials to lobby their former employer. That is exactly why a lobbying firm that specializes in taxes hires a former member of the Ways and Means Committee. And finally, the bill's toughest provisions focus on former U.S. trade officials who decide to switch sides and negotiate for our competitors, as well as on those who wish to lobby on behalf of foreign entities. These provisions, in my view, need no explanation.

Now some might argue that we are inhibiting these talented individuals from pursuing careers in policy matters that they have become extremely proficient. These critics ask why a former high-level staffer on the Senate Subcommittee on Communications cannot accept employment with a telecommunications company? After all, they argue, this person has accumulated years of knowledge of our communication laws and technology. Why should this individual be prevented from accepting private sector employment in the communications field? But that is not what our amendment prevents. They can take the job with the telecommunications company, but what they cannot do is lobby their former subcommittee for five years, and they cannot lobby the rest of Congress for two years. We are only limiting an individual's employment opportunity if they are seeking to use their past employment with the federal government to gain special access or influence with the government in return for personal gain.

Mr. President, we are not here to outlaw the profession of lobbying. Not only would that be unconstitutional, but I do not think it would be addressing the true flaws of our political system. Lobbying is merely an attempt to present the views and concerns of a particular group and there is nothing inherently wrong with that. In fact, lobbyists, whether they are representing Common Cause or Wall Street, can present important information to public representatives that may not otherwise be available. But there are important steps that we should take to ensure that lobbyists do not hold any special advantage or influence with the officials they are lobbying. We should improve our lobbying disclosure laws so that our constituents have accurate and available information as to who is lobbying us and who they represent. We should make sure that lobbyists are no longer able to buy Members of Congress expensive meals and all-expense paid vacation trips. We came close to passing strong gift ban legislation last year, and I hope that we can address that issue as soon as possible. But there is another very important step that this Congress needs to take if we are to recapture the trust of the American electorate and extinguish the firestorm of cynicism and skepticism with which the public views their government. We must clamp down on the widespread custom of entering public service and then trading knowledge and influence gained during that service for personal wealth and gain.

Mr. President, there are those who will argue that our proposal will make it more difficult for the federal government to recruit and attract quality employees. These critics ask, why should a well-educated and knowledgeable individual enter government service if that individual will have difficulty using that service to attain prosperous employment after they leave the federal government? And this question, Mr. President, brings us to the heart of this debate. I believe that this debate, more than anything else, is what we as individual Senators believe the meaning of public service should be.

Quite frankly, I find this sort of suggestion, that we almost need to ''bribe'' or ''lure'' people into public service, a telling example of why the American people have lost faith in us. It is also an insult to the thousands of government employees who are in public service for the right reasons. The principal reason why an individual would accept employment as a United States Senator, as an assistant secretary in the Commerce Department or as a negotiator in the Office of the U.S. Trade Representative, should not be to use that service as a stepping stone to personal wealth and gain. The principal reason should be a wish to represent the citizens of your state, or to improve our economic base or to pry open foreign markets for our domestic products. It is essential that we and those considering entering government service recognize that public service is a good within itself. Such service and participation is a cornerstone of our representative form of government, and the fact that our constituents so negatively perceive public service compels us to take forceful action to recapture the prestige that government service once carried.

I am reminded of our former majority leader, Senator Mitchell, who characterized the meaning of government service at a reception that was given in his honor last fall. Senator Mitchell said: ''Public service gives work a value and a meaning greater than mere personal ambition and private goals. Public service must be, and is, its own reward. For it does not guarantee wealth, or popularity or respect. It's difficult and often frustrating. But when you do something that will

change the lives of people for the better, then it is worth all of the difficulty and all of the frustration.''

In conclusion, Mr. President, I would like to again commend Senator MCCAIN for his leadership on this issue. I strongly believe that there is no more noble endeavor than to serve in government. But we need to take immediate action to restore the public's confidence in their government, and to rebuild the lost trust between members of Congress and the electorate. Passing this legislation and curbing the practice of revolving door lobbying is a forceful first step in this much-needed direction. We need to enact legislation that will finally reform the way we finance congressional campaigns and that will level the playing field between incumbents and challengers. We need to enact comprehensive lobbying reform legislation, so that our constituents know exactly whose interests are being represented. And long overdue, Mr. President, is the need to act on legislation that will reform the way Congress deals with the thousands and thousands of gifts and other perks that are offered to Members each year from individuals, lobbyists and associations that seek special access and influence on Capitol Hill.

The notion of public service has been battered and tarnished in recent years. Serving in government is an honorable profession and it deserves to be perceived as such by the people we represent.

By Mr. LIEBERMAN (for himself, Mr. JEFFORDS, Mr. MOYNIHAN, and Mr. LAUTENBERG):

S. 130. A bill to amend title 13, United States Code, to require that any data relating to the incidence of poverty produced or published by the Secretary of Commerce for subnational areas is corrected for differences in the cost of living in those areas; to the Committee on Governmental Affairs.

THE POVERTY DATA CORRECTION ACT OF 1995

Mr. LIEBERMAN. Mr. President. I rise to introduce a bill which will improve the quality of our information on persons and families in poverty, and which will make more equitable the distribution of Federal funds. The Poverty Data Correction Act of 1995 is cosponsored by Senators JEFFORDS, MOYNIHAN, and LAUTENBERG. This bill requires the Bureau of the Census to adjust for differences in the cost of living, on a State-by-State basis, when providing information on persons or families in poverty.

The current method for defining the poverty population is woefully antiquated. The definition was developed in the late 1960's based on data collected in the late 1950's and early 1960's. The assumptions used then about what proportion of a family's income is spent on food is no longer valid. The data used to calculate what it costs to provide for the minimum nutritional needs, not to mention what minimum nutritional needs are, no longer applies. Nearly everyone agrees that it is time for a new look at what constitutes poverty. And, I am pleased to be able to report that the National Academy of Science, through its Committee on National Statistics, is studying this issue.

But there is a more serious problem with out information on poverty than old data and outdated assumptions. In calculating the number of families in poverty, the Census Bureau has never taken into account the dramatic differences in the cost of living from state to state. Recent calculations from the academic community show that the difference can be as much as 50 percent.

Let me give you an example. Let's say that the poverty level is $15,000 for a family of four. That is, it takes $15,000 to provide the basic necessities for the family. In some States, where the cost of living is high, it really takes $18,750 to provide those basics. In other States, where the cost of living is low, it takes only $11,250 to provide those necessities. But when the Census Bureau counts the number of poor families, they don't take those differences into account.

But this is more than just an academic problem of definition. These Census numbers are used to distribute millions of Federal dollars. Chapter 1 of the elementary and Secondary Act allocates Federal dollars to school districts based on the number of children in poverty. States like Connecticut, where the cost of living is high, get fewer Federal dollars than they deserve because cost differences are ignored. Other States, where the cost of living is low, get more funds than they deserve.

It is important that we act now to correct this inequity. This bill provides a mechanism for that correction. Thank you Mr. President, I ask unanimous consent that the full text of this bill be included in the record.

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

S. 130

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 ''Poverty Data Correction Act of 1995''.

SEC. 2. REQUIREMENT.

(a) IN GENERAL.—Chapter 5 of title 13, United States Code, is amended by adding after subchapter V the following:

''Subchapter VI—Poverty Data

''SEC. 197. CORRECTION OF SUBNATIONAL DATA RELATING TO POVERTY.

''(a) Any data relating to the incidence of poverty produced or published by or for the Secretary for subnational areas shall be corrected for differences in the cost of living, and data produced for State and sub-State areas shall be corrected for differences in the cost of living for at least all States of the United States.

''(b) Data under this section shall be published in 1995 and at least every second year thereafter.

''SEC. 198. DEVELOPMENT OF STATE COST-OF-LIVING INDEX AND STATE POVERTY THRESHOLDS.

''(a) To correct any data relating to the incidence of poverty for differences in the cost of living, the Secretary shall—

''(1) develop or cause to be developed a State cost-of-living index which ranks and assigns an index value to each State using data on wage, housing, and other costs relevant to the cost of living; and

''(2) multiply the Federal Government's statistical poverty thresholds by the index value for each State's cost of living to produce State poverty thresholds for each State.

''(b) The State cost-of-living index and resulting State poverty thresholds shall be published prior to September 30, 1996, for calendar year 1995 and shall be updated annually for each subsequent calendar year.''.

(b) CONFORMING AMENDMENT.—The table of subchapters of chapter 5 of title 13, United States Code, is amended by adding at the end the following:

''SUBCHAPTER VI—POVERTY DATA

''Sec. 197. Correction of subnational data relating to poverty.

''Sec. 198. Development of State cost-of-living index and State poverty thresholds.''.

By Mr. LIEBERMAN:

S. 131. A bill to specifically exclude certain programs from provisions of the Electronic Funds Transfer Act; to the Committee on Banking, Housing, and Urban Affairs.

THE ELECTRONIC FUNDS TRANSFER ACT

Mr. LIEBERMAN. Mr. President, I rise to introduce the Electronic Benefits Regulatory Relief Act of 1994. This bill is also cosponsored by Senators BREAUX, DOMENICI, FEINSTEIN, PRESSLER, and HATFIELD. When passed, this bill will eliminate one of the major barriers to making the banking system more accessible to those receiving government benefits like Aid to Families with Dependent Children or Food Stamps. If this bill is not passed, we will have missed an opportunity to reduce the cost of government services, and an opportunity to make the delivery of government services, more efficient and humane.

This legislation is necessary to reverse a regulation issued by the Federal Reserve Board. That ruling, issued last March, said that the Electronic Benefit Transfer [EBT] cards issued by States are subject to the same liability limits as ATM or credit cards. On the surface that seems reasonable—a card is a card and there seems little reason to differentiate between cards to withdraw government benefits from a bank and cards to withdraw earnings or savings from a bank. But, as is often the case with regulations, what appears on the surface isn't necessarily the whole story.

With the simple extension of this regulation to EBT cards, the Federal Reserve has dramatically altered social benefits legislation, extended the Electronic Funds Transfer Act into a realm it was not intended to cover, and created for states a new liability of unpredictable size. This bill seeks to reestablish the legislative intent governing

Food Stamps, the legislative intent of the Electronic Funds Transfer Act, and at the same time limit a State's exposure to liability if they choose EBT over checks and coupons.

Electronic Benefit Transfer Cards are simply an extension of current technology into the delivery of government benefits. Instead of receiving checks or coupons, recipients receive an EBT card. With that card they can access the cash benefits whenever and wherever they choose. They can withdraw as little as five dollars, or as much as the system will allow in a single transaction. Recipients can use their card at the supermarket instead of food stamps the way millions of Americans now use credit or debit cards to pay for food.

EBT cards offer recipients greater protection from theft than current methods of payment. Without the associated pin number, the EBT card is useless. Checks are easily stolen and forged. Food Stamp coupons, once stolen, can be used by anyone and can even be used to buy drugs on the black market.

EBT cards provide recipients access to a banking system that is frequently criticized for shunning them. It is often the case that the only way a recipient can get his or her check cashed is by paying an exorbitant fee to some nonbanking facility. Several Senators have introduced or supported bills requiring banks to cash government checks. Their goal was to provide these individuals access to the same services most Americans enjoy. Those bills will be unnecessary when EBT cards replace checks. EBT cards can be used at a number of locations at any hour of the day or night and no fee is charged to the recipient for transactions.

The action by the Federal Reserve will stop all of these benefits from happening. State and local governments have indicated that if Regulation E is enforced they will not go forward with EBT. John Michaelson, the director of social services in San Bernardino County, CA, points out that while San Bernardino County was selected as the pilot site for the California EBT development, that project will not go forward as long as Regulation E applies. Similarly, Governor Carlson of Minnesota recently wrote to me indicating that the plans to expand EBT statewide in Minnesota will be halted by the application of Regulation E. Letters of support for this legislation have come from Governor Pete Wilson of California, Governor David Walters of Oklahoma, Governor Mike Sullivan of Wyoming, Governor Edwin W. Edwards of Louisiana, Governor Arne H. Carlson of Minnesota, the National Association of State Auditors, Comptrollers and Treasurers, the American Public Welfare Association, the National Association of Counties the National Governors Association, and the Electronic Funds Transfer Association. I ask unanimous consent that these letters, along with the letter from Mr. Michaelson, be printed in the RECORD immediately following my statement.

The dilemma that faces States is that simply switching from checks and coupons to EBT cards, because of Regulation E, creates a new liability. Stolen benefit checks and coupons are not replaced except in extreme circumstances. Regulation E requires that all but $50 of any benefits stolen through an EBT card must be replaced. The effect of the Federal Reserve's action is that the simple act of changing the method of delivery imposes on the States a liability of unknown magnitude.

This action by the Federal Reserve is inconsistent with the legislative intent that created the benefit programs. The legislation for both Food Stamps and Aid to Families with Dependent Children—the two largest programs included in EBT—are quite clear in specifying that lost or stolen benefits will be replaced only in extreme circumstances. We should not allow that legislation to be changed through regulation.

This action is also inconsistent with the legislative intent of the Electronic Funds Transfer Act. The EFTA is about the relationship between an individual and his or her bank. It is designed to protect the individual in that relationship because of the dramatic disparity in power between the individual and the bank. In EBT, any relationship between the bank and the individual is mediated by the State. The State sets up a single account which all recipients draw upon. If there is a mistake, either in the bank's favor or the recipient's, the bank goes to the State, and it is the State's responsibility to contact the individual. It is difficult to accept that the same disparity in bargaining power exists between the State and the bank.

The differences between EBT and other electronic transfers were carefully documented in a letter from Dr. Alice Rivlin, deputy director of OMB, to the Board of Governors of the Federal Reserve. I ask unanimous consent that Dr. Rivlin's letter be included in the RECORD at this point.

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, May 21, 1993.

MR. WILLIAM W. WILES,
Secretary, Board of Governors of the Federal Reserve System, Washington, DC.

DEAR MR. WILES: This letter responds to the proposal, published for comment on February 8, 1993, to revise Regulation E to cover electronic benefit transfer (EBT) programs. Please refer to Docket No. R–0796. This letter contains our endorsement of the EBT Steering Committee proposal for modifying Reg E, our views on the differences between program beneficiaries and the consumers with bank accounts, and our recommendations for your consideration.

EBT STEERING COMMITTEE VIEW

We strongly support the recommendations of the Electronic Benefit Steering Committee, which were submitted to the Board on May 11, 1992. The EBT Steering Committee recommended that EBT be treated differently from other electronic fund transfers, that specific minimum standards be established for EBT programs, and that agencies be allowed to implement Regulation E fully on a voluntary basis, if appropriate. A copy of the Steering Committee recommendation is enclosed.

In an analysis that is being prepared for the Steering Committee, preliminary data from a study for the Department of the Treasury indicate that the additional cost to government of compliance with Regulation E as proposed could be between $120 million to $826 million annually, with the most likely costs of $498 million. Such cost increases would preclude State and Federal expansion of current EBT programs an could cause termination of some, if not all, programs.

We oppose implementation of Regulation E as proposed by the Board on February 16, 1993 based on the recommendations of the EBT Steering Committee which is composed of senior Federal program policy officials who have given a great deal of deliberation to the issue and who are accountable for the management of federal programs. We believe that the preliminary data shows that States and the Federal government would be exposed to an expense that will seriously limit the potential for EBT in the future. In addition we believe there are significant differences between program beneficiaries and a regular bank customer. OMB urges the Board to exercise its authority under the Electronic Funds Transfer Act (EFTA) to prescribe regulations that consider the economic impact on beneficiaries, State and Federal governments, and other participants.

DIFFERENCES BETWEEN BENEFICIARIES AND BANKED CONSUMERS

The EFTA is intended to protect consumers when EFT services are made available to them. The plastic EBT card gives the beneficiary more choices on where and when to withdraw cash. However, they are not ''shopping'' for benefits as a customer would shop for a bank card. Benefits are only received from one payment source. Furthermore, regular banking EFT services are not necessarily being ''made available'' to them. In fact, these beneficiaries may be required to access benefits through EBT in the future. These differences make necessary protections that are different from, and in many ways, greater than, those afforded by Regulation E. The EFTA assumes a contractual relationship between the consumer and the bank, as evident in the provisions for disclosure of terms and conditions of electronic funds transfers (15 USC 1693c(a)). Under EBT, beneficiaries do not enter into contracts with either banks or agencies governing terms and conditions of transfers.

EBT offers great potential benefits to recipients—alleviating the stigma of welfare experienced in grocery checkout lines when presenting food coupons, eliminating check cashing fees, allowing beneficiaries to become proficient with a technology useful in the working world, and eliminating the hazard of carrying cash after cashing a check. Surveys of beneficiaries show overwhelming preference for EBT over checks. The desire to access benefits through this technology is so strong that in at least one locality individual beneficiaries and the private sector are working, without government assistance, to implement EBT.

Individual benefit programs also offer significant protections to beneficiaries that are far greater than any protections afforded by financial institutions to consumers:

Access to funds by eligible beneficiary is a right guaranteed by law and is not conditioned on any prior abuses. Eligibility is based on need.

Improper withdrawals can only be recouped in a way that protects economic interest of beneficiary. For example, reductions of future benefits are strictly limited to 10 percent per month in AFDC.

If beneficiary contests an adverse action, extensive administrative apparatus supports the appeal at no cost to the beneficiary.

OMB RECOMMENDATIONS

The Federal Reserve Board has requested comment on whether modifications to Regulation E for EBT beyond those proposed should be considered. OMB specific recommendations are enclosed.

We recommend that the Board create some exceptions in Regulation E for EBT programs. In summary, we believe the Board has authority under the EFTA to prescribe regulations that provide exceptions for any class of electronic funds transfer that would effectuate the purposes of the EFTA. We believe that the Steering Committee proposal, taken together with existing protections in individual program requirements, establish the rights, liabilities, and responsibilities of participants in EBT programs and are primarily directed to protecting and enhancing the rights of individual beneficiaries.

OMB joins with the Federal Reserve Board in its commitment to protect the rights of individuals in this emerging technology. We look forward to continued progress on this governmentwide initiative.

Sincerely,

ALICE M. RIVLIN,
Deputy Director.

Opponents of this action argue that by exempting EBT cards from the electronic Funds Transfer Act discriminates against the poor. This argument misses two important differences between EBT and ATM cards. First, ATM access is a service that banks give with discretion, and can withdraw. States cannot deny recipients access to benefits. If there is abuse of the system, the State's only alternative is to operate dual systems, thus decreasing the efficiency gains of EBT. Second, EBT extends to recipients greater protection of their benefits than checks or coupons. If stolen, the card can't be used without the pin number. And, recipients are less likely to have all their cash stolen. With checks they must receive all the cash at once, and usually pay a fee for cashing the check. With EBT cards they can withdraw only what they need, and transaction costs are covered by the contract between the State and the bank.

Others suggest that the concern with fraud if EBT is covered by Regulation E unfairly impugns the character of the recipients. That is not so. It only says that they are like everyone else—a small portion will participate in fraudulent activities to the expense of all the rest. One of the major criminal problems with ATM cards, according to the Secret Service, is fraud involving Regulation E protection. An individual can sell his or her ATM card, and as long as the price is greater than $50, everyone wins but the bank. The Secret Service knows this type of fraud occurs, but proving it is very difficult. States rightly fear that similar fraud will occur with EBT.

Earlier this month the Vice President issued the first report from the EBT task force and called for nationwide implementation. Without passage of this legislation, that goal will never be reached. When the Federal Reserve was considering this issue, 40 governors wrote in opposition. The National Association of State Auditors, Comptrollers, and Treasurers; The American Public Welfare Association, the National Association of Counties, the National Conference of State Legislatures, and the National Governors' Association wrote jointly to Vice President GORE and to Chairman Greenspan opposing the application of Regulation E to EBT.

The Federal Reserve has made a mistake. We in Congress now need to act to ensure that benefits cards can become a reality. I urge my colleagues to enact this bill promptly.

I ask unanimous consent that a copy of the bill and letters be printed in the RECORD.

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

S. 131

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

SECTION 1. ELECTRONIC BENEFIT TRANSFERS.

Section 904(d) of the Electronic Fund Transfer Act (15 U.S.C. 1693(d)) is amended—

(1) by inserting ''(1)'' after ''(d)''; and

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

''(2)(A) The disclosures, protections, responsibilities, and remedies created by this title or any rules, regulations, or orders issued by the Board in accordance with this title, do not apply to an electronic benefit transfer program established under State or local law, or administered by a State or local government, unless payment under such program is made directly into a consumer's account held by the recipient.

''(B) Subparagraph (A) does not apply to employment related payments, including salaries, pension, retirement, or unemployment benefits established by Federal, State, or local governments.

''(C) Nothing in subparagraph (A) alters the protections of benefits established by any Federal, State, or local law, or preempts the application of any State or local law.

''(D) For purposes of subparagraph (A), an electronic benefit transfer program is a program under which a Federal, State, or local government agency distributes needs-tested benefits by establishing accounts to be accessed by recipients electronically, such as through automated teller machines, or point-of-sale terminals. A program established for the purpose of enforcing the support obligations owed by absent parents to their children and the custodial parents with whom the children are living is not an electronic benefit transfer program.''.

GOVERNOR PETE WILSON,
September 15, 1994.

Hon. JOSEPH I. LIEBERMAN,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR JOE LIEBERMAN: I am writing to give my support to your proposed legislation to exempt Electronic Benefit Transfer (EBT) programs from the Electronic Funds Transfer Act, Specifically from the Federal Reserve's Regulation E.

California cannot assume the unknown fiscal liability that accompanies subjecting EBT programs to Regulation E, which includes a requirement to replace lost or stolen benefits. The State has begun development of a pilot EBT project, but Regulation E greatly increases our potential liability, jeopardizing our ability to meet federal cost neutrality requirements and making EBT economically infeasible, thus, thwarting further development within our state.

I recognize EBT as a tool to help the states provide efficient and effective social welfare programs, and am committed to working with you to resolve the concerns raised by the application of Regulation E to EBT programs.

Sincerely,

PETE WILSON.

STATE OF OKLAHOMA,
OFFICE OF THE GOVERNOR,
June 10, 1994.

Hon. JOSEPH LIBERMAN,
Chairman, Governmental Affairs Subcommittee on Regulation and Governmental Information, U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR LIEBERMAN: I am writing in support of your legislation to exempt electronic benefits transfer (EBT) from the Electronic Funds Transfer Act (EFTA). The prompt passage of this legislation is needed to ensure that EBT becomes a reality in Oklahoma.

Electronic benefits transfer is the future of government benefit distribution. The advantages for recipients and government entities have been studied and validated. The pending implementation of Regulation E in March 1997, will be an irresponsible act in light of the consequences anticipated in liability costs to the states. If Regulation E is implemented, the nationwide costs for replacing food stamps is estimated in excess of $800 million a year. Estimates are not available for the numerous money payments anticipated for EBT distribution. Current federal regulations provide ample protection to the consumer recipients, in addition to the known advantages of receiving benefits electronically.

Oklahoma is leading a multi-state southwest regional team in procuring an EBT system to distribute food stamps and money payments. This month, the Oklahoma Department of Human Services will publish a Request for Information to be distributed to potential bidders to inform them of our unique approach to procurement, and to provide the opportunity to comment on the proposed system design. We plan to publish a Request for Bids in September 1994 to hire a vendor to provide EBT services. Oklahoma has been working toward this goal for five years. Our investment in EBT is an investment in fiscal responsibility. Please feel free to call Dee Fones (405) 521–3533 if you have any questions or if we can be of further assistance in helping to pass this legislation.

Sincerely,

DAVID WALTERS.

STATE OF WYOMING,
OFFICE OF THE GOVERNOR,
June 21, 1994.

Hon. JOSEPH LIEBERMAN,
Chairman, Government Affairs Subcommittee on Regulation and Government Information, U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR LIEBERMAN: We are writing to you to express full support for your leadership in proceeding with legislation to exempt electronic benefits transfer (EBT) from the Electronic Funds Transfer Act (EFTA), including exception from the Regulation E (Reg E) provision.

Wyoming is developing an off-line smart card system solution to deliver state and federal benefits. Wyoming's first phase is to

conduct a federally approved combined Food Stamp and WIC Supplemental Food Program Demonstration Pilot. As this approach uses off-line distributive technology in contrast to traditional on-line magnetic stripe banking technology, we propose that smart card technology should be exempt as benefits are in the hands of the client/user and not controlled by a mainframe bank processor.

The application of Reg E to EBT represents a major transfer of liability that states are not prepared to embrace. One estimate suggests that for Food Stamps alone, the liability losses could be $800 million each year.

Of greatest concern is the faulty premise of the Federal Reserve Board. The assumption in applying EFTA to EBT is that the bank/customer relationship in the private sector is analogous to the government/recipient relationship in the public sector. This assumption is false because public assistance recipients are entitled to benefit and must be served. Banks market their services for profits. They get to choose the customers they serve.

Second, customers of government benefit programs are given a card to access and manage their benefits, but they do not own the account and cannot deposit additional resources to the account. Further, banks charge fees to cover the costs of maintaining bank accounts, including complying with Regulation E.

Finally, Congress set up benefit programs like Food Stamps, AFDC and WIC to achieve a public safety net to assure health and welfare for all citizens. States will never be able to apply Regulation E to these programs like banks apply the Regulation because the goals of the relationship with the client/user are fundamentally different.

Once again, thank you for your leadership on this important issue.

Sincerely,

MIKE SULLIVAN,
Governor.

DAVE FERRARI,
State Auditor.

STATE OF LOUISIANA,
OFFICE OF THE GOVERNOR,
June 28, 1994.

Hon. JOSEPH LIEBERMAN,
Chairman, Governmental Affairs Subcommittee on Regulation and Government Information, U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR LIEBERMAN: I am writing in support of your legislation to exempt electronic benefits transfer (EBT) from the Electronic Funds Transfer Act (EFTA). This legislation is needed to ensure the future electronic delivery of governmental entitlement benefits in Louisiana.

Electronic benefits transfer as a method of distribution of government benefits has proven to be viable and secure. Although entitlement programs have been granted exemption from Regulation E until 1997, this regulation threatens the development and growth of EBT because of anticipated liability to the states. Estimated losses to the states could exceed $1.5 billion a year if Regulation E is implemented in March 1997.

Louisiana is participating in a joint venture with other states in the southwest region in procuring an EBT system to distribute AFDC and food stamp benefits. Proposals from bidders will be solicited in September 1994. Implementation of EBT is an investment that is responsible administratively in addition to being beneficial to recipients. Your efforts in securing the future of EBT are appreciated.

Sincerely,

EDWIN W. EDWARDS.

STATE OF MINNESOTA,
WASHINGTON OFFICE,
Washington, DC, June 29, 1994.

Hon. JOSEPH I. LIEBERMAN,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR LIEBERMAN: I am writing in support of legislation you plan to introduce which would exempt welfare benefit programs from provisions of the Electronic Funds Transfer Act. Without such an exemption, plans to expand Minnesota's statewide Electronic Benefits System (EBS) would be halted.

As you know, the Federal Reserve Board recently ruled that welfare programs using electronic benefit issuance are subject to the consumer protection provisions of Regulation E under the Electronic Funds Act. Welfare programs have been exempted from Regulation E since 1987. Under the new Federal Reserve Board ruling, as of March, 1997, the regulation will be applied.

Minnesota cannot accept the unknown liability inherent in applying Regulation E to benefit programs. The cost of replacing benefits should a card become lost or stolen would fall strictly on the state under this rule, even for the share of the benefit which is federally funded.

Your legislation, if enacted, would permit Minnesota and other states to move forward with developing electronic benefit transfer (EBT) systems which will help state and federal government improve service delivery of welfare benefits to the client.

Warmest regards,

ARNE H. CARLSON,
Governor.

NATIONAL ASSOCIATION OF STATE AUDITORS, COMPTROLLERS AND TREASURERS,
May 20, 1994.

Hon. JOSEPH I. LIEBERMAN,
Chairman, Subcommittee on Regulation and Government Information, Committee on Governmental Affairs, U.S. Senate, Hart Senate Office Building, Washington DC.

DEAR SENATOR LIEBERMAN: I am writing in support of your legislation to exclude Electronic Benefit Transfer (EBT) programs from the Electronic Fund Transfer Act. The National Association of State Auditors, Comptrollers and Treasurers (NASACT) supports the establishment of EBT programs, but opposes the decisions of the Board of Governors of the Federal Reserve of March 1994 to apply the liability provisions of Regulation E, which implements the Electronic Fund Transfer Act, to these programs.

Regulation E governs the relationship between a financial institution and its customers. This is a decidedly different relationship from that which exists between a government and benefit recipients. Regulation E is a ''show stopper'' for EBT. By requiring governments to replace all but $50 of a benefit that a recipient claims has been lost or stolen, it would change the current policy for benefit replacement and make EBT too expensive to implement. While we support consumer protection and training programs for recipients participating in EBT programs, we believe that the protections provided under Regulation E are inappropriate in a government EBT environment.

Simply stated, governments are not banks. Banks market their services to specific customers whose business will generate increased profits. Banks can choose not to serve customers. Governments, on the other hand, must serve recipients that are entitled to benefits. While banks charge fees or surcharges to cover the cost of maintaining bank accounts—including the cost of Regulation E—governments do not charge recipients to participate in public assistance programs. In addition, unlike banking customers, government benefit recipients do not establish individual accounts, they do not own the accounts, they cannot deposit funds into the accounts and they cannot write checks against the accounts.

I want to commend you for introducing legislation addressing this important issue. Your legislation will help assure that governments can improve service delivery without experiencing undue liability. As the legislation progresses, you may want to consider a technical amendment to clarify the scope of the bill. For instance, it might be helpful to more fully explain the meaning of the term ''general assistance.'' NASACT will, of course, be happy to assist you and your staff in any way possible.

Sincerely,

DOUGLAS R. NORTON,
President.

AMERICAN PUBLIC WELFARE ASSOCIATION,
May 25, 1994.

Hon. JOSEPH LIEBERMAN,
Chairman, Governmental Affairs Subcommittee on Regulation and Government Information, U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR LIEBERMAN: I am writing to give full support to your legislation to exempt electronic benefits transfer (EBT) from the Electronic Funds Transfer Act (EFTA), including from its Regulation E (Reg E) provision.

Across the country, human service agencies are moving toward making EBT a reality for the people they serve. Unfortunately, as you know, the Federal Reserve Board decided on March 7, 1994 to apply Reg E to EBT starting in March, 1977, requiring the issuer of an electronic transfer card to replace all but $50 of any benefits that are lost or stolen. The Board's decision to apply banking law to EBT expands the liability of government and taxpayers regarding benefit replacement, creating a drastic change in current social policy. Furthermore, making card issuers responsible for benefit replacement shifts costs from the federal domain to the states, creating a new unfunded mandate. Financial estimates conclude that the costs to government and taxpayers for replacing food stamps alone under this ruling could run in excess of $800 million a year. This estimate does not include the potential costs associated with replacing other benefits that can be transferred electronically, such as AFDC, child support, General Assistance, WIC, and SSI.

Indeed, the Federal Reserve Board's decision effectively will impede state EBT activity due to the prohibitive costs associated with replacing lost or unauthorized transfers of government benefits. Currently, the regulations of the Food Stamp Program (a 100% federally-funded program) prohibit replacing food coupons, unless coupons were not received in the mail, were stolen from the mail, or were destroyed in a ''household misfortune.'' Current AFDC regulations prohibit replacing the federal portion of the amount of an AFDC benefit check unless the initial check has been voided or, if cashed, the federal portion has been refunded (AFDC is jointly funded by federal and state governments). These policies have provided adequate client protection in the past, and when combined with the added safeguard of a properly-used EBT card with a PIN number, would continue offering adequate protections.

In an era when government is striving—both due to necessity and public demand—to deliver services that cut or contain costs rather than provide opportunities for increased costs, Regulation E not only

dampens but may thwart state efforts to benefit from EBT. In fact, in a federal government attempt to have states or localities currently operating EBT programs test the costs associated with the regulation, no state has yet come forward to volunteer for the pilot test due to the financial and political risk.

As the national representative of the 50 cabinet-level state human service departments, hundreds of local public welfare agencies, and thousands of individuals concerned about achieving efficient and effective social welfare policy, APWA is quite concerned about finding a solution that will allow progress on EBT. Our members are the innovators and visionaries bringing EBT to clients at the state and local levels. They are the people who deliver the government benefits such as food stamps, AFDC, child support, and medicaid and are committed to working with you to find a solution to the barrier Reg E presents.

Sincere thanks to you for taking the critical steps needed to mitigate the impact of the Board's decision. We look forward to working with you to help pass this legislation quickly. Please feel free to call either me or Kelly Thompson at 202–682–0100.

Sincerely,

A. SIDNEY JOHNSON III,
Executive Director.

NATIONAL ASSOCIATION
OF COUNTIES,
Washington, DC, June 29, 1994.

Hon. JOSEPH I. LIEBERMAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR LIEBERMAN: The National Association of Counties (NACo) strongly supports the draft legislation that you have recently released exempting electronic funds and benefits delivery system programs established by federal, state or local government agencies from the provisions of Regulation E of the Electronic Fund Transfer Act.

EBT/EFT offers numerous advantages to both the issuing agency and the recipient. Government agencies will save substantial administrative and production costs, as well as costs associated with fraud. Recipients will have the benefit of a secure delivery system, and a more dignified method of receiving public assistance. Also, retail establishments would save the time and money involved in manually processing Food Stamps and vouchers. In all, EBT/EFT benefits everyone, especially the taxpayers.

Presently, numerous counties in six states are operating EBT/EFT programs in various stages of development. Many other counties are considering EBT/EFT implementation, but are reserving initiating a system until the issue of liability under Regulation E of the EFTA is resolved. For many counties, the application of Regulation E would effectively make initiating an electronic delivery system economically unfeasible through the violation of the cost neutrality requirement.

It is also the position of NACo that the consumer rights of welfare and Food Stamp recipients, which appears to be the major concern of the Federal Reserve Board of Governor's and the driving force behind their push for Regulation E's application, are protected under extensive federal rules in the authorizing statutes and program regulations. Application of Regulation E would be duplicative in some cases, and costly in all cases.

For these reasons, NACo supports your draft bill excluding government EBT/EFT programs and looks forward to working with you as this bill moves through the legislative process. Please do not hesitate to contact Marilina Sanz, Associate Legislative Director for Human Services and Education at NACo on 202–942–4260 should you have any questions.

Sincerely,

LARRY E. NAAKE,
Executive Director.

NATIONAL GOVERNORS' ASSOCIATION,
October 4, 1994.

Hon. JOSEPH I. LIEBERMAN,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR LIEBERMAN: We are writing in strong support of legislation that you are introducing to exempt certain electronic benefit transfer programs from the Electronic Funds Transfer Act.

As you know, Governors have been leaders in using technology to improve the delivery of services to the public through such initiatives as distance learning, telemedicine, and electronic benefit transfer (EBT). States and localities have been exploring for over a decade the potential of EBT for providing clients with more convenient and safer access to benefits and for improving the ability of states to manage programs and prevent fraud. More recently, Vice President Albert Gore has promoted nationwide EBT for some federal benefit programs in the near future as part of his Reinventing Government initiative.

Progress toward wider use of EBT has been slowed, however, by the Federal Reserve Board's decision last March to apply Regulation E of the Electronic Funds Transfer Act to EBT programs. This Federal Reserve decision essentially changed federal social policy by creating a new entitlement to replacement of lost or stolen welfare benefits for EBT clients—a new entitlement benefit that clients who receive those same welfare benefits in cash or coupons do not have. Estimates of the cost of this new benefit vary widely but range as high as $800 million annually.

While the Board's decision created this new entitlement benefit, it did not address how this benefit would be financed. To date the federal government has refused to commit to reimburse states for the EBT benefit replacement costs of even those welfare benefits that are entirely federally financed, such as food stamps. This is true despite the fact that most of the administrative savings from EBT accrue to the federal government, not to the states.

Governors are not opposed to consumer protections for EBT clients. If the consumer protections of Regulation E are applied to EBT programs, however, we believe that Congress must recognize that this is a new entitlement benefit and act accordingly to fund it. Otherwise it will become an unfunded mandate on the states, and Governors will have little choice but to halt their efforts toward creating EBT systems for welfare clients.

If Congress is not able to fund this new entitlement benefit, then we believe that the only alternative is to make it clear that clients who receive welfare benefits through EBT are entitled to the same protections as clients who receive benefits in cash or in coupons—no more, no less. That is exactly what your legislation would do. We believe your bill addresses the following problems created by the Federal Reserve Board decision:

Inequitable treatment of clients—The bill ensures that clients have the same rights and responsibilities regardless of whether their welfare benefits are delivered by check, by coupon or electronically.

Unfunded mandates on states and localities—The bill eliminates the unfunded mandate for states and localities to replace lost or stolen EBT benefits even when the original benefit was entirely federally funded.

Loss of EBT as a viable means of delivering welfare benefits—The bill will remove the Regulation E roadblock to nationwide EBT by making it financially possible for Governors to proceed with EBT to the benefit of clients and federal, state and local governments.

We recognize that there may be other ways to address these problems but all of these other means would necessarily involve some unknown new cost because they would create some level of new entitlement to benefit replacement. Until Governors have a commitment from the federal government to assume the costs of any new EBT entitlement benefits, your bill's exemption approach is the only solution that we can support.

Sincerely,

GOV. MEL CARNAHAN,
Chair, Human Resources Committee.
GOV. ARNE H. CARLSON,
Vice Chair, Human Resources Committee.

ELECTRONIC FUNDS
TRANSFER ASSOCIATION,
October 4, 1994.

Hon. JOSEPH LIEBERMAN,
Chairman, Governmental Affairs Subcommittee on Regulation and Government Information, U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR LIEBERMAN: On behalf of the Board of Directors of the Electronic Funds Transfer Association (EFTA), I wish to express support for your legislation to exempt electronic benefits transfer (EBT) from Regulation E (Reg E) of the Electronic Funds Transfer Act (EFT Act).

The Federal Reserve Board has declared its intention to apply Reg E to EBT starting in March 1997. Under the provisions of the regulation, the issuer of an EBT card will be required to replace all but $50 of any benefits that are lost or stolen. The replacement costs have delayed indefinitely the implementation of EBT programs in several states, including California. States cannot pass their fraud costs to benefits recipients; they must be borne by taxpayers, who are looking to EBT to cut delivery costs, not increase them. Financial estimates conclude that costs to government and taxpayers for replacing benefits may run as high as $800 million per year. Currently, the state of Maryland (and possibly others) is considering pursuing legal action against the Federal Reserve Board for regulating a matter that is not within its purview. EFTA agrees with this assessment and believes the three year delay in implementation provides the opportunity for Congress to resolve this matter.

On August 1, 1994, EFTA filed comments with the Federal Reserve Board of Governors in response to the proposed revisions of Reg E. We indicated that the imposition of Reg E's liability and error resolution rules will terminate EBT programs in may states and will substantially delay progress of many other important EBT initiatives. As a fiscal and political matter, states are unwilling to undertake responsibility for liabilities of an undetermined value. If EBT fails to develop, benefits recipients will be substantially disadvantaged. They will not obtain the advantages of convenience, security, speed and dignity that EBT can offer.

EFTA has become a strong advocate of EBT over the past several years, advising the Office of Technology Assessment (OTA) and the Federal EBT Task Force of the myriad benefits associated with EBT. Like Vice President Gore, EFTA's goal is to utilize the current ATM/POS infrastructure in order to facilitate the electronic delivery of federal and state benefits nationwide. However, as Dale Brown, Director of the Maryland statewide EBT project indicated, applying the regulation would be a ''show stopper.'' Ms.

Brown estimates that Maryland could inherit a potential liability of several million dollars. EFTA members include government agencies, EFT processors and networks, card issuers and manufacturers, as well as financial institutions. With a significant increase in costs due to benefit replacement, EBT would no longer be a viable venture for these stakeholders.

EFTA would be pleased to work with you to help pass this legislation. In addition, we offer our assistance in crafting language that would further protect recipients whose benefits have been lost or stolen, while minimizing the opportunities for fraud that currently threaten fledgling EBT programs across the country.

We thank you for your thoughtful analysis and interest in such a significant issue. If EFTA can be of any help in this matter please do not hesitate to call at 703–435–9800.

Sincerely,

H. KURT HELWIG,
Acting President & CEO,
Director, Government Relations.

DEPARTMENT OF PUBLIC SOCIAL SERVICES,
April 15, 1994.

MR. WILLIAM LUDWIG,
Administrator, Food and Nutrition Service,
Alexandria, VA.

DEAR BILL: For more than 4 years San Bernardino County has attempted to bring Electronic Benefit Transfer (EBT), not only to our County, but to the entire State of California. Now, as we submit the attached Request for Proposal (RFP), after overcoming many hurdles and after finally being named as the EBT Pilot County for California, yet another mountain stands in our way. That mountain is the Federal Reserve Board's ruling that Regulation E does apply to EBT.

The San Bernardino County Board of Supervisors and I have made EBT a high priority. Besides being a cost-effective use of new technology, it is the best of all worlds (an occurrence not often seen in todays' world of government bureaucracy). EBT holds the promise of being more cost effective than our current Food Stamp distribution system, it is also less costly for grocers and is generally viewed favorably by recipients for a number of reasons, not the least of which is having to access their benefits only as they use them.

REGULATION E IMPACT

First, I am not aware of any written definitive statement of shares of cost of Regulation E by any federal agency, in particular FNS or ACF. I have heard verbal statements from FNS that our County Cost cap, which EBT can not exceed, may dictate that all Regulation E costs above that cap must be borne 100% by the state or local government—in our case San Bernardino County.

I cannot, in good conscience, recommend to my Board of Supervisors, a contract which includes an unknown liability for Regulation E. To do so is tantamount to asking them to sign a blank check.

Therefore, with the concurrence of the California Welfare Director's Association, the County of San Diego and the California Department of Social Service, I must put you on notice that our EBT RFP will not be released until we receive a written Federal commitment for relief from the unknown liability of Regulation E, such as assurance that we will not be responsible for any Regulation E costs above our cap.

As you are aware, San Bernardino, a number of other California counties and the State have been committed to bringing EBT to California and, therefore, the above statement was arrived at only after a great deal of debate and discussion with all affected parties. However, an immediate resolution to the Regulation E cost-sharing issue could resolve this and allow us to move forward.

As always, I and my staff will make ourselves available for any discussion that you think will be helpful in our pursuit of EBT for San Bernardino County and, therefore, California.

Sincerely

JOHN F. MICHAELSON,
Director.

By Mr. MOYNIHAN (for himself and Mr. INOUYE):

S. 132. A bill to require a separate, unclassified statement of the aggregate amount of budget outlays for intelligence activities; to the Committee on Governmental Affairs.

THE DISCLOSURE OF THE AGGREGATE INTELLIGENCE BUDGET ACT OF 1995

Mr. MOYNIHAN. Mr. President, Congress has never met its obligation under the ''Statement of Account Clause'' of the Constitution (Article I, Section 9, Clause 7) which states:

No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

I rise to point out that Congress has failed to provide the American public with any account of expenditures on intelligence activities. I stress that Congress has failed to satisfy this clause because, although the Executive may have an opinion as to the desirability of disclosing the aggregate amount spent on intelligence, the Supreme Court decided in *United States* v. *Richardson*, (418 U.S. 166, 178 n. 11) that ''it is clear that Congress has plenary power to exact any reporting and accounting it considers appropriate in the public interest.'' Thus it falls to us to provide a proper accounting of the disbursements of Government funds spent on intelligence activities.

The Framers of the Constitution were no strangers to intelligence work and the importance of secrecy in carrying out certain functions of the State. During the Revolutionary War the Colonies formed Committees of Safety which were charged with security and counterintelligence, and separate Committees of Correspondence which were responsible for securing communication between the Colonies and our allies in Europe. At the end of the War, George Washington submitted a bill for reimbursement of $17,617 for intelligence expenses incurred during the war. No small sum at that time.

The first part of the Statement and Account Clause, ''No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law;'' was part of an early draft of the Constitution. The second part of the clause was proposed in the final week of the Constitutional Convention (September 14, 1787) by George Mason, who sought an annual account of expenditures. The debate focused on how often was practicable to require such an account, not whether full disclosure was desirable. James Madison argued that if the Constitution were to ''Require too much * * * the difficulty will beget a habit of doing nothing.'' He then proposed to substitute ''from time to time'' for ''annually'' which was then adopted. Thus we have ''and a regular Statement and Account of the Receipts and Expenditures of all Public Money shall be published from time to time.''

Obviously such an ambiguous formulation of the clause gives Congress a good deal of flexibility. This was exercised from time to time to conceal military and intelligence activities when deemed necessary. Clearly it is vital that some discretion is in order. However, it is also clear that secrecy was not intended to be the norm. The clarity with which Madison understood this is expressed in a letter he wrote to Jefferson in 1793, ''Perhaps it is a universal truth that the loss of liberty at home is to be charged to provisions against danger, real or pretended, from abroad.''

I do not think that Justice Douglas overstated the case in his dissenting opinion in *United States* v. *Richardson* where he stated ''Secrecy was the evil at which Article I, Section 9, Clause 7 was aimed.'' Since World War II and throughout the cold war we have chosen not to publish the intelligence budget.

We have won the cold war. The Soviet Union no longer exists. One then might ask, whom are we keeping the aggregate intelligence figure from? In fact, we are not keeping it from anyone and this bill will only codify what in fact has been public knowledge for several years now.

Intelligence budget figures are regularly disclosed. Often the information is leaked to the press, or inferred by close scrutiny of budget figures, and in a few cases numbers will slip out accidentally. Tim Weiner, who reports such matters for the New York Times, called the intelligence budget figure the worst-kept secret in the capital. The latest episode occurred only 2 months ago when the House Appropriations Committee mistakenly published the President's fiscal year 95 intelligence budget request. Not just the aggregate amount, mind, but a detailed account of the requested budgets for the CIA, National Foreign Intelligence Program (NFIP), and Tactical Intelligence and Related Activities (TIARA). This event underscores the point that if only if a smaller amount of truly sensitive information were classified, the information could be held more securely. The aggregate intelligence budget clearly is not in that category, for we now see that the figure has been released and we are still waiting for the barbarians to storm the gates.

While we are waiting we might do well to consider how much like the barbarians we have become. James Q. Wilson, the eminent political scientist who has provided many insights into

the study of bureaucracy and its various adversarial modes, holds that organizations come to resemble the organizations they are in conflict with. This is the Iron Law of Emulation. Not an encouraging situation considering our adversary was the Kremlin for so long. We now have an opportunity to reverse some of the emulation of the closed society that was the Soviet Union by shedding some light on our own vast secrecy system.

This is vitally important given that the 104th Congress which convenes today will carefully consider and debate our budget priorities. We cannot afford to fund all we might want to. In fact Mr. President, we are broke. And so publishing the aggregate amount of intelligence expenditures becomes necessary for a truly informed public debate. We then could weigh the importance of Head Start Programs in Topeka and consider the need for agents in Tabriz. Such a debate is already difficult enough given the indications of a recent joint Kaiser/Harvard study which asked voters their impressions of the largest Federal expenses today. Apparently there is the idea that foreign aid is the second largest expense and consumes over a quarter of our budget. In fact the Congressional Budget Office tells us that foreign aid amounts to only two percent of the budget. Clearly there is enough disinformation going around. It is time for use to set the record straight when it comes to the intelligence budget. The Constitution demands it.

By Mr. MOYNIHAN;

S. 133. A bill to establish the Lower East Side Tenement Museum National Historic Site, and for other purposes; to the Committee on Energy and Natural Resources.

THE LOWER EAST SIDE TENEMENT MUSEUM NATIONAL HISTORIC SITE ACT OF 1995

Mr. MOYNIHAN. Mr. President, I rise to introduce a bill that will authorize a small but most significant addition to the National Park system. For 150 years New York City's Lower East Side has been the most vibrant, populous, and famous immigrant neighborhood in the Nation. From the first waves of Irish and German immigrants to Italians and Eastern European Jews to the Asian, Latin, and Caribbean immigrants arriving today, the Lower East Side has provided millions their first American home.

For many of them that home was a brick tenement; six or so stories, no elevator, maybe no plumbing, maybe no windows, a business on the ground floor, and millions of our forbearers upstairs. The Nation has with great pride preserved log cabins, farm houses, and other symbols of our agrarian roots. We have recently reopened Ellis Island to commemorate and display the first stop for 12 million immigrants who arrived in New York City. Until now we have not preserved a sample of urban, working class life as part of the immigrant experience. For many of those who disembarked on Ellis Island the next stop was a tenement on the Lower East Side, such as the one at 97 Orchard Street. It is here that the lower East Side Tenement Museum will show us what that next stop was like.

The tenement at 97 Orchard was built in the 1860s, during the first phase of tenement construction. It provided housing for 20 families on a plot of land planned for a single family residence. Each floor has four three—room apartments, each of which had two windows in one of the rooms and none in the others. The privies were out back, as was the spigot that provided water for everyone. The public bathhouse was down the street.

In 1900 this block was the most crowded per acre on earth. Conditions improved after the passage of the New York Tenement House Act of 1901, though the crowding remained. Two toilets were installed on each floor. A skylight was installed over the stairway and interior windows were cut in the walls to allow some light throughout each apartment. For the first time the ground floor became commercial space. In 1918 electricity was installed. Further improvements were mandated in 1935, but the owner chose to board the building up rather than follow the new regulations. It remained boarded up for 60 years until the idea of a museum took hold.

The Tenement Museum will keep at least one apartment in the dilapidated condition in which it was found when reopened, to show visitors the process of urban archaeology. Others will be restored to show how real families lived at different periods in the building's history. At a nearby site there will be interpretive programs to better explain the larger experience of gaining a foothold on America in the Lower East Side of New York.

There are also plans for programmatic ties with Ellis Island and its precursor, Castle Clinton. And the museum plans to play an active role in the immigrant community around it, further integrating the past and present immigrant experience on the Lower East Side.

This bill designates the Tenement Museum a national historic site. It authorizes the Secretary of the Interior to acquire the site or to enter into cooperative agreements with the museum. Such agreements could include technical or financial assistance to help restore, operate, maintain, or interpret the site. Agreements can also be made with the Statute of Liberty/Ellis Island and Castle Clinton to help with the interpretation of life as an immigrant. It will be a productive partnership.

Mr. President, I believe the Tenement Museum provides an outstanding opportunity to preserve and present an important stage of the immigrant experience and the move for social change in our cities at the turn of the century. I know of no better place than 97 Orchard Street to do so, and no other place in the National Park system doing so already. I look forward to the realization of this grand idea, and I ask my colleagues for their support.

I ask that the bill be printed in the RECORD.

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

S. 133

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 ''Lower East Side Tenement Museum National Historic Site Act of 1995''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the Lower East Side Tenement Museum at 97 Orchard Street is an outstanding survivor of the vast number of humble buildings that housed immigrants to New York City during the greatest wave of immigration in American history;

(2) the Museum is well suited to represent a profound social movement involving great numbers of unexceptional but courageous people;

(3) no single identifiable neighborhood in the United States absorbed a comparable number of immigrants;

(4) the Lower East Side Tenement Museum is dedicated to interpreting immigrant life on the Lower East Side and its importance to United States history, within a neighborhood long associated with the immigrant experience in America; and

(5) the National Park Service found the Lower East Side Tenement Museum to be nationally significant, suitable, and feasible for inclusion in the National Park System.

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

(1) to ensure the preservation, maintenance, and interpretation of this site and to interpret in the site and in the surrounding neighborhood, the themes of early tenement life, the housing reform movement, and tenement architecture in the United States;

(2) to ensure the continuation of the Museum at this site, the preservation of which is necessary for the continued interpretation of the nationally significant immigrant phenomenon associated with the New York City's Lower East Side, and its role in the history of immigration to the United States; and

(3) to enhance the interpretation of the Castle Clinton National Historic Monument and Ellis Island National Historic Monument through cooperation with the Museum.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) HISTORIC SITE.—The term ''historic site'' means the Lower East Side Tenement Museum designated as a national historic site by section 4.

(2) MUSEUM.—The term ''Museum'' means the Lower East Side Tenement Museum at 97 Orchard Street, New York City, in the State of New York, and related facilities owned or operated by the Museum.

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

SEC. 4. ESTABLISHMENT OF HISTORIC SITE.

To further the purposes of this Act and the Act entitled ''An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes'', approved August 21, 1935 (16 U.S.C. 461 et seq.), the Lower East Side Tenement Museum at 97 Orchard Street, in the city of New York, State of New York, is designated as a national historic site.

SEC. 5. ACQUISITION OR COOPERATIVE AGREEMENT.

(a) IN GENERAL.—The Secretary may—

(1) acquire the historic site with donated or appropriated funds; or

(2) enter into a cooperative agreement with the Lower East Side Tenement Museum to carry out this Act.

(b) TECHNICAL AND FINANCIAL ASSISTANCE.—The agreement may include provisions by which the Secretary will provide—

(1) technical assistance to mark, restore, interpret, operate, and maintain the historic site; and

(2) financial assistance to the Museum to acquire ownership of and to maintain the historic site, or to mark, interpret, and restore the historic site, including the making of preservation-related capital improvements and repairs.

(c) ADDITIONAL PROVISIONS.—The agreement may also contain provisions that—

(1) permit the Secretary, acting through the National Park Service, to have a right of access at all reasonable times to all public portions of the property covered by the agreement for the purpose of conducting visitors through the properties and interpreting the portions to the public; and

(2) prohibit changes or alterations in the properties except by mutual agreement between the Secretary and the other parties to the agreement.

SEC. 6. LAND ACQUISITION.

The Secretary may acquire properties owned, occupied, or used by the Museum, or assist the Museum in acquiring properties that the Museum occupies or uses, through the use of appropriated funds, donation, or purchase with donated funds.

SEC. 7. APPROPRIATIONS.

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

By Mr. MOYNIHAN:

S. 134. A bill to provide for the acquisition of certain lands formerly occupied by the Franklin D. Roosevelt family, and for other purposes; to the Committee on Energy and Natural Resources.

THE HYDE PARK ACT OF 1995

Mr. MOYNIHAN Mr. President, I rise to introduce a bill which would authorize the Secretary of the Interior to purchase land that belonged to President Roosevelt and his family members at the time of his death. His estate at Hyde Park was declared a National Historic Site in 1944. At the time it included some 1,200 acres. Since then some parcels have been sold, and currently the site has only 480 acres.

Hyde Park was the lifelong residence of President Roosevelt. It is inextricably linked with his place in history and his legacy. The list of prominent Americans and foreign leaders who visited there is enormous. That the National Park Service has been preserving and protecting Hyde Park for us is a great blessing. Now there is the opportunity to acquire 40 acres known as Roosevelt Cove, the land between the estate and the Hudson. It was the only view of the river and its bluffs from the estate, though years of inattention have allowed the view to be obscured, by trees.

This bill would allow the Park Service to purchase the tract, to restore the integrity of the view towards the river for visitors to Hyde Park. This would be a significant addition to the site, a great improvement over the current situation. The parcel is now threatened with development, which would spoil the setting irrevocably. We need this authorization while the opportunity exists. Dutchess County is growing, and the pressure on such a river location will only increase.

Mr. President, I ask that my fellow Senators support this bill in recognition of its importance to Hyde Park. Roosevelt Cove was an integral part of FDR's estate, and should be part of it once again. The Park Service is now authorized to acquire the land only through donation. This is not likely to happen. But the cost of the parcel is not great. Neither is our window of opportunity. I ask your support for the restoration of a crucial part of FDR's home for the thousands of visitors that come each year. We will have their thanks.

I ask 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. 134

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

SECTION 1. ACQUISITION OF ROOSEVELT FAMILY LANDS.

(a) IN GENERAL.—

(1) GENERAL AUTHORITY.—The Secretary of the Interior (referred to in this section as the ''Secretary'') may acquire, by purchase with donated or appropriated funds, donation, or otherwise, lands and interests in land (including development rights and easements) in the properties located at Hyde Park, New York, that were owned by Franklin D. Roosevelt or his family at the time of his death, as depicted on the map entitled ''Roosevelt Family Estate'' and dated November 19, 1993.

(2) LIMITATIONS.—

(A) RESIDENTIAL PROPERTY.—The Secretary may only acquire those residential properties on the lands and interests in land depicted on the map referred to in subsection (a) that were owned or occupied by Franklin D. Roosevelt or his family, including his parents, siblings, wife, and children.

(B) STATE LANDS.—Lands and interests in land depicted on the map referred to in subsection (a) that are owned by the State of New York, or a political subdivision of the State, may only be acquired by donation.

(3) *Priority*.—In acquiring lands and interests in land pursuant to this section, the Secretary shall, to the extent practicable, give priority to acquiring the tract of lands commonly known as the ''Open Park Hodhome Tract'', as generally depicted on the map referred to in subsection (a).

(4) COSTS.—The Secretary may pay the costs, including the costs of title searches and surveys, associated with the acquisition of lands and interests in land pursuant to this section.

(b) ADMINISTRATION.—Lands and interests in land acquired by the Secretary pursuant to this section shall be added to, and administered as part of, the Franklin Delano Roosevelt National Historic Site or the Eleanor Roosevelt National Historic Site, as appropriate.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this Act.

By Mr. HATCH:

S. 135. A bill to establish a uniform and more efficient Federal process for protecting property owners' rights guaranteed by the fifth amendment; to the Committee on the Judiciary.

THE PROPERTY RIGHTS LITIGATION RELIEF ACT OF 1995

Mr. HATCH. Mr. President, I am pleased today to introduce the ''Property Rights Litigation Relief Act of 1995.'' This Act is designed to protect private property from Federal Government intrusion. The citizens of Utah understand that the right to own property is a precious fundamental right, one which is vulnerable to an overbearing Federal Government.

This bill encompasses property rights litigation reform and establishes a distinct Federal fifth amendment ''takings'' claim against Federal agencies by aggrieved property owners, thus clarifying the sometimes incoherent and contradictory constitutional property rights case law. It also resolves the jurisdictional dispute between the Federal district courts and the Court of Federal Claims over fifth amendment ''takings'' cases. The bill is a refinement of a proposal I placed in the CONGRESSIONAL RECORD on October 7, 1994.

IMPORTANCE OF PRIVATE PROPERTY

The private ownership of property is essential to a free society and is an integral part of our Judeo-Christian culture and the Western tradition of liberty and limited government. Private ownership of property and the sanctity of property rights reflects the distinction in our culture between a preexisting civil society and the State that is consequently established to promote order. Private property creates the social and economic organizations that counterbalance the power of the State by providing an alternative source of power and prestige to the State itself. It is therefore a necessary condition of liberty and prosperity.

While government is properly understood to be instituted to protect liberty within an orderly society and such liberty is commonly understood to include the right of free speech, assembly, religious exercise and other rights such as those enumerated in the Bill of Rights, it is all too often forgotten that the right of private ownership of property is also a critical component of liberty. To the 17th century English political philosopher, John Locke, who greatly influenced the Founders of our Republic, the very role of government is to protect property: ''The great and chief end therefore, on Men uniting into Commonwealths, and putting themselves under Government, is the preservation of their property.'' [J. Locke, Second Treatise ch. 9, §124, in J. Locke, Two Treatises of Government (1698)]. the Framers of our Constitution likewise viewed the function of government as one of fostering individual liberties through the protection of property interests. James Madison, termed the ''Father of the Constitution,'' unhesitantly endorsed this Lockean

viewpoint when he wrote in The Federalist No. 54 that ''[government] is instituted no less for the protection of property, than of the persons of individuals.'' Indeed, to Madison, the private possession of property was viewed as a natural and individual right both to be protected against government encroachment and to be protected by government against others.

To be sure, the private ownership of property was not considered absolute. Property owners could not exercise their rights as a nuisance that harmed their neighbors, and government could use, what was termed in the 18th century, its ''despotic power'' of eminent domain to seize property for public use. Justice, it became to be believed, required compensation for the property taken by government. The earliest example of a compensation requirement is found in chapter 28 of the Magna Carta of 1215, which reads, ''No constable or other baliff of ours shall take corn or other provisions from anyone without immediately tendering money therefor unless he can have postponement thereof by permission of the seller.'' But the record of English and colonial compensation for taken property was spotty at best, although it has been argued by some historians and legal scholars that compensation for takings of property became recognized as customary practice during the American colonial period. [See W. Stoebuck, ''A General Theory of Eminent Domain,'' 47 Wash. L. Rev. 53 (1972)].

Nevertheless, by American independence the compensation requirement was considered a necessary restraint on arbitrary governmental seizures of property. The Vermont Constitution of 1777, the Massachusetts Constitution of 1780, and the Northwest Ordinance of 1787, recognized that compensation must be paid whenever property was taken for general public use or for public exigencies. And although accounts of the 1791 congressional debate over the Bill of Rights provide no evidence over why a public use and just compensation requirement for takings of private property was eventually included in the fifth amendment, James Madison, the author of the fifth amendment, reflected the views of other supporters of the new Constitution who feared the example to the new Congress of uncompensated seizures of property for building of roads and forgiveness of debts by radical state legislatures. Consequently, the phrase ''[n]or shall private property be taken for public use, without just compensation'' was included within the fifth amendment to the Constitution.

THE MODERN THREAT TO PROPERTY RIGHTS

Despite this historical pedigree and the constitutional requirement for the protection of property rights, the America of the mid and late 20th century has witnessed an explosion of Federal regulation of society that has jeopardized the private ownership of property with the consequent loss of individual liberty. Indeed, the most recent estimate of the direct (that is, not counting indirect costs such as higher consumer prices) cost of Federal regulation was $857 billion for 1992. Today, the cost to the society probably is approaching $1 trillion. According to economist Paul Craig Roberts, the number of laws Americans are forced to endure has risen a staggering 3000 percent since the turn of the century. Every day the Federal Register grows by an incredible 200 pages, containing new rules and obligations imposed on the American people by supposedly their government.

Furthermore, even the very concept of private property is under attack. Indeed, certain environmental activists have termed private property an ''outmoded concept'' which presents an ''impediment'' to the Federal Government's resolution of society's problems. It is this type of thinking that has led regulators, in the rush of governmental social engineering, to ignore individual rights. Here are just a few of the hundreds—if not thousands—of examples that occur nationwide:

Ocie Mills, a Florida builder, and his son were sent to prison for 2 years for violating the Clean Water Act for placing sand on a quarter-acre lot he owned;

Under this same Act, a small Oregon school district faced a Federal lawsuit for dumping clean fill to build a baseball-soccer field for its students and had to spend thousands of dollars to remove the fill;

Ronald Angelocci was jailed for violating the Clean Water Act for dumping several truckloads of dirt in the backyard of his Michigan home to help a family member who had acute asthma and allergies aggravated by plants in the backyard; and

A retired couple in the Poconos, after obtaining the necessary permits to build their home was informed by the Army Corps of Engineers—4 years later—that they built their home on wetlands and faced penalties of $50,000 a day if they did not restore most of the land to its natural state.

[See B. Bovard, Lost Rights, 35 (1994); N. Marzulla, ''The Government's War on Property Rights,'' Defenders of Property Rights (1994)].

CURRENT PROTECTION OF PROPERTY RIGHTS FALL SHORT

Judicial protection of property rights against the regulatory state has been both inconsistent and ineffective. Physical invasions and government seizures of property have been fairly easy for courts to analyze as a species of eminent domain, not so the effect of regulations which either diminish the value of the property or appropriate a property interest. This key problem to the regulatory takings dilemma was recognized by Justice Oliver Wendell Holmes in *Pennsylvania Coal Co.* v. *Mahon*, 260 U.S. 393 (1922). Just how do courts determine when regulation amounts to a taking? Holmes' answer, ''if regulation goes too far it will be recognized as a taking,'' 260 U.S. at 415, is nothing more than an *ipse dixit*. In the 73 years since *Mahon*, the Court has eschewed any set formula for determining how far is too far, preferring to engage in ad hoc factual inquiries, such as the three-part test made famous by *Penn Central Transportation Co.* v. *City of New York*, 438 U.S. 104 (1978), which balances the economic impact of the regulation on property and the character of the regulation against specific restrictions on investment-backed expectations of the property owner.

Despite the valiant attempt by the Rehnquist Court to clarify regulatory takings analysis in *Nollan* v. *California Coastal Comm'n*, 483 U.S. 825 (1987), *Lucas* v. *South Carolina Coastal Council*, 112 S.Ct. 2886 (1992), and in its recent decision of *Dolan* v. *City of Tigard*, No. 93–518 (June 24, 1994), takings analysis is basically incoherent and confusing and applied by lower courts haphazardly. The incremental, fact-specific approach that courts now must employ in the absence of adequate statutory language to vindicate property rights under the fifth amendment thus has been ineffective and costly. There is, accordingly, a need for Congress to clarify the law by providing ''bright line'' standards and an effective remedy. As Chief Judge Loren A. Smith of the Court of Federal Claims, the court responsible for administering takings claims against the United States, opined in *Bowles* v. *United States*, 31 Fed. Cl. 37 (1994), ''[j]udicial decisions are far less sensitive to societal problems than the law and policy made by the political branches of our great constitutional system. At best courts sketch the outlines of individual rights, they cannot hope to fill in the portrait of wise and just social and economic policy.''

This incoherence and confusion over the substance of takings claims is matched by the muddle over jurisdiction of property rights claims. The ''Tucker Act,'' which waives the sovereign immunity of the United States by granting the Court of Federal Claims jurisdiction to entertain monetary claims against the United States, actually complicates the ability of a property owner to vindicate the right to just compensation for a government action that has caused a taking. The law currently forces a property owner to elect between equitable relief in the Federal district and monetary relief in the Court of Federal Claims. Further difficulty arises when the law is used by the government to urge dismissal in the district court on the ground that the plaintiff should seek just compensation in the Court of Federal Claims, and is used to urge dismissal in the Court of Federal Claims on the ground that plaintiff should first seek equitable relief in the district court. This ''Tucker Act shuffle'' is aggravated by section 1500 of the Tucker Act, which denies the Court of Federal Claims jurisdiction to entertain a suit which is pending in another court and

brought by the same plaintiff. Section 1500 is so poorly drafted and has brought so many hardships, that Justice Stevens, in *Keene Corporation* v. *United States*, 113 S.Ct. 2035, 2048 (1993), has called for its repeal or amendment.

The Property Rights Litigation Relief Act addresses these problems. In terms of classifying the substance of takings claims, it first clearly defines property interests that are subject to the Act's takings analysis. In this way a ''floor'' definition of property is established by which the Federal Government may not eviscerate. This Act also establishes the elements of a takings claim by codifying and clarifying the holdings of the *Nollan*, *Lucas*, and *Dolan* cases. For instance, *Dolan*'s ''rough proportionality'' test is interpreted to apply to all exaction situations whereby an owner's otherwise lawful right to use property is exacted as a condition for granting a Federal permit. And a distinction is drawn between a noncompensable mere diminution of value of property as a result of Federal regulation and a compensable ''partial'' taking, which is defined as any agency action that diminishes the fair market value of the affected property by the lesser of either 20 percent or more, or $10,000 or greater. The result of drawing these ''bright lines'' will not end fact specific litigation, which is endemic to all law suits, but it will ameliorate the ever increasing ad hoc and arbitrary nature of takings claims.

The Act also resolves the jurisdictional confusion over takings claims. Because property owners should be able fully to recover for a taking in one court, the Tucker Act is amended giving both the district courts and the Court of Federal Claims concurrent jurisdiction to hear all claims relating to property rights. Furthermore, to resolve any further jurisdictional ambiguity, section 1500 of the Tucker Act is repealed.

Finally, I want to respond to any suggestion that may arise that this Act will impede Government's ability to protect the environment or promote health and safety through regulation. This legislation does not emasculate the government's ability to prevent individuals or businesses from polluting. It is well established that the Constitution only protects a right to reasonable use of property. All property owners are subject to prior restraints on the use of their property, such as nuisance laws which prevents owners from using their property in a manner that interferes with others. The government has always been able to prevent harmful or noxious uses of property without being obligated to compensate the property owner, as long as the limitations on the use of property inhere in the title itself. In other words, the restrictions must be based on background principles of State property and nuisance law already extant. The Act codifies this principle in a nuisance exception to the requirement of the Government to pay compensation.

Nor does the Act hinder the Government's ability to protect public health and safety. The Act simply does not obstruct the Government from acting to prevent imminent harm to the public safety or health or diminish what would be considered a public nuisance. Again, this is made clear in the provisions of the Act that exempts nuisance from compensation. What the Act does is force the Federal Government to pay compensation to those who are singled out to pay for regulation that benefits the entire public. In other words, it does not prevent regulation, but fulfills the promise of the fifth amendment, which the Supreme Court in *Armstrong* v. *United States*, 364 U.S. 40, 49 (1960), opined is ''to bar Government from forcing some people alone to bear public burdens, which in all fairness and justice, should be borne by the public as a whole.''

I invite all Senators to join me in sponsoring this legislation.

By Mr. THURMOND:

S. 136. A bill to amend title 1 of the United States Code to clarify the effect and application of legislation; to the Committee on the Judiciary.

THE EFFECT AND APPLICATION OF LEGISLATION ACT OF 1995

Mr. THURMOND. Mr. President, I introduce S. 136 today and ask unanimous consent to have it printed in the RECORD.

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

S. 136

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

SECTION 1. CLARIFICATION OF THE EFFECT AND APPLICATION OF LEGISLATION.

(a) IN GENERAL.—Chapter 1 of title 1 of the United States Code is amended by adding at the end thereof the following;

''§ 7. Rules of application and effect of legislation

''Any Act of Congress enacted after the effective date of this section—

''(1) shall be prospective in application only;

''(2) shall not create a private claim or cause of action; and

''(3) shall not preempt the law of any State,

unless a provision of the Act specifies otherwise by express reference to the paragraph of this section intended to be negated.''.

(b) CHAPTER ANALYSIS.—The chapter analysis for chapter 1 of title 1, United States Code, is amended by adding at the end thereof the following:

''7. Rules for application and effect of legislation.''.

(c) EFFECTIVE DATE.—The amendments made by this Act shall take effect 180 days after the date of enactment of this Act.

Mr. President, I rise today to introduce an act to clarify the application and effect of legislation in order to reduce uncertainty and confusion which is often caused by congressional enactments. This act would provide that unless future legislation specified otherwise, new enactments would be applied prospectively, would not create private rights of action, and would not preempt existing State law. This would significantly reduce unnecessary litigation and court costs, and would benefit both the public and the judicial system.

The purpose of this legislation is quite simple. Many congressional enactments do not expressly state whether the legislation is to be applied retroactively, whether it creates private rights of action, or whether it preempts existing State law. The failure or inability of the Congress to address these issues in each piece of legislation results in unnecessary confusion and litigation and contributes to the high cost of litigation in this country.

In the absence of action by the Congress on these critical threshold questions of retroactivity, private rights of action and preemption, the outcome is left up to the courts. The courts are frequently required to resolve these matters without any guidance from the legislation itself. Although these issues are generally raised early in the litigation, a decision that the litigation can proceed generally cannot be appealed until the end of the case. If the appellate court eventually rules that one of these issues should have prevented the trial, the litigants have been put to substantial burden and unnecessary expense which could have been avoided.

Trial courts around the country often reach conflicting and inconsistent results on these issues, as do appellate courts when the issues are appealed. As a result, many of these cases are eventually resolved by the Supreme Court. This problem was dramatically illustrated after the passage of the Civil Rights Act of 1991. District courts and courts of appeal all over this Nation were required to resolve whether the 1991 Act should be applied retroactively, and the issue was ultimately considered by the United States Supreme Court. But by the time the Supreme Court resolved the issue in 1994, well over 100 lower courts had ruled on this question, and their decisions were split. Countless litigants across the country expended substantial resources debating this threshold procedural issue.

In the same way, the issues of whether new legislation creates a private right of action or preempts State law are frequently presented in courts around the country, yielding expensive litigation and conflicting results.

The bill I am introducing today would eliminate this problem by providing a presumption that, unless future legislation specifies otherwise, new legislation is not to be applied retroactively, does not create a private right of action, and does not preempt State law. Of course, my bill does not in any way restrict the Congress on these important issues. The Congress may override this presumption by simply referring to this act when it wishes legislation to be retroactive, create

new private rights of action or preempt existing State law.

My act will eliminate uncertainty and provide rules which are applicable when the Congress fails to specify its position on these important issues in legislation it passes. Although it is difficult to obtain statistics on this issue, one United States District judge in my State informs me that he spends up to 10 to 15 percent of his time on these issues. Regardless of the precise figure, it is clear that this legislation would save litigants and our judicial system millions and millions of dollars by avoiding much uncertainty and litigation which currently exists over these issues.

Mr. President, if we are truly concerned about reducing the costs of litigation and relieving the backlog of cases in our courts, we should help our judicial system to spend its limited resources, time and effort on resolving the merits of disputes, rather than deciding these preliminary matters.

I sent the bill to the desk and ask unanimous consent that it be printed in the RECORD in its entirety immediately following my remarks.

By Mr. BRADLEY (for himself, Mr. CAMPBELL, Mr. COATS and Mr. ROBB):

S. 137. A bill to create a legislative item veto by requiring separate enrollment of items in appropriations bills and tax expenditure provisions in revenue bills; to the Committee on Rules and Administration.

THE TAX EXPENDITURE AND LEGISLATIVE APPROPRIATIONS LINE-ITEM VETO ACT OF 1995

Mr. BRADLEY. Mr. President, we begin this Congress with two obligations: first, to change the way we do business, and, second, to cut government spending. Reforms that have been bottled up for years in partisan finger-pointing need to be released and must become our first priorities. Both the Congress and White House must learn to say no: no to unnecessary programs, no to those Members who would build monuments to themselves, and a firm no to those lobbyists who would work every angle to slip special provisions into the tax code that benefit a wealthy few and cost every other American millions. For decades, Presidents of both parties have insisted that the deficit would be lower if they had the power to say no, in the form of the line item veto.

I rise to introduce the Tax Expenditure and Legislative Appropriations Line Item Veto Act of 1995, legislation that, if enacted, would grant the President the power to say no. In sponsoring this legislation, I urge our colleagues in both the Senate and House of Representatives to pass a line item veto that covers spending in both appropriations and tax bills. Any line item veto that fails to give the President the ability to prevent additional loopholes from entering the tax code only does half the job.

Although I did not support the line item veto when I initially joined the Senate, I watched for twelve years as the deficit quintupled, shameless porkbarrel projects persisted in appropriations and tax bills, and our Presidents again and again denied responsibility for the decisions that led to these devastating trends. Therefore, in 1992, I decided that it was time to change the rules.

Rather than simply joining one of the appropriations line item veto bills then in existence, I felt that we needed to be honest about the fact that for each example of unnecessary, special-interest pork-barrel spending through an appropriations bill, there are similar examples of such spending buried in tax bills. The tax code provides special exceptions from taxes that total over $400 billion a year, more than the entire federal deficit. For every $2.48 million, earmarked in an appropriations bill, to teach civilian marksmanship skills, there is a $300 million special provision allowing wealthy taxpayers to rent their homes for two weeks without having to report any income. For every $150,000 appropriated for acoustical pest control studies in Oxford, Mississippi, there is a $2.9 billion special tax exemption for ethanol fuel production. As a member of the Finance Committee, I have seen an almost endless stream of requests for preferential treatment through the tax code, including special depreciation schedules for rental tuxedos, an exemption from fuel excise taxes for crop-dusters, and tax credits for clean-fuel vehicles.

In singling out these pork-barrel projects, I do not mean to pass judgment on their merits. However, because these provisions single out narrow subclasses for benefit, the rest of us must pay more in taxes. Therefore, I have developed an alternative that would authorize the President to veto wasteful spending not just in appropriations bills but also in the tax code.

If the President had the power to excise special interest spending, but only in appropriations we would simply find the special interest lobbyists who work appropriations turning themselves into tax lobbyists, pushing for the same spending in the tax code. Spending is spending whether it comes in the form of a government check, or in the form of a special exception from the tax rates that apply to everyone else. Tax spending does not, as some pretend, simply allow people to keep more of what they have earned. It gives them a special exception from the rules that oblige everyone to share in the responsibility of our national defense and protecting the young, the aged, and the infirm. The only way to let everyone keep more of what they have earned is to minimize these tax expenditures along with appropriated spending and the burden of the national debt so that we can bring down tax rates fairly, for everyone. Therefore, Mr. President, I urge all of our colleagues, particularly those in leadership positions in the Senate and House of Representatives, to pass a line item veto bill that includes both appropriations and tax provisions.

Although it is true that the line-item veto would give the President more power than our founders probably envisioned, there is also truth in the conclusion of the National Economic Commission in 1989 that the balance of power on budget issues has swung too far from the Executive toward the Legislative branch. There is no tool to precisely calibrate this balance of power, but if we have to swing a little too far in one direction or another, at this critical moment, we should lean toward giving the President the power that he, and other Presidents, have said they need to control wasteful spending. We have a right to expect that the President will use this power for the good of all.

I also agree with the more recent economic commission chaired by my colleagues, Senators DOMENICI and NUNN, that a line-item veto is not in itself deficit reduction. But if the President is willing to use it, it is the appropriate tool to cut a certain kind of wasteful spending—the pork-barrel projects that tend to crop up in appropriations and tax bills. Presidential leadership can eliminate these projects when Congress, for institutional reasons, usually cannot. Individual Senators and Representatives, who must represent their own local interests, find it difficult to challenge their colleagues on behalf of the general interest.

Pork-barrel spending on appropriations and taxes is only one of the types of spending that drive up the deficit, and is certainly not as large as the entitlements for broad categories of the population that we are starting to tackle. But until we control these expenditures for the few, we cannot ask for shared sacrifice from the many who benefit from entitlements, or the many who pay taxes.

The particular legislation that I am introducing today is identical to a bill I introduced in the 103d Congress and is modeled on a bill my colleague Senator HOLLINGS has introduced in several Congresses. I want to thank and commend Senator HOLLINGS for working so hard to develop a workable line item veto strategy, one that goes beyond political demagoguery to the real question of how to limit spending. This bill will require that each line item in any appropriations bill and any bill affecting revenues be enrolled as a separate bill after it is passed by Congress, so that the President can sign the full bill or single out individual items to sign and veto. It differs from other bills in that it avoids obvious constitutional obstacles and in that it applies to spending through the tax code as well as appropriated spending.

Although I acknowledge that separate enrollment, especially separate

enrollment of appropriations provisions, may prove difficult at times, in the face of a debt rapidly approaching $5 trillion, I do not believe that we have the luxury of shying away from making difficult decisions. If, because of our appropriations process, we are unable to easily disaggregate appropriations into individual spending items for the President's consideration, then, rather than throw out this line item veto proposal, I believe that we should reconsider how we appropriate the funds that are entrusted to us.

The legislation that I am proposing would remain in effect for just 2 years. That period should constitute a real test of the idea. First, it will provide enough time for the Federal courts to address any questions about whether this approach is constitutionally sound, or if a constitutional amendment is necessary. Only courts can answer this question, which is in dispute among legal scholars. Second, we should have formal process to determine whether the line item veto works as intended: Did it contribute to significant deficit reduction? Did the President use it judiciously to cut special-interest spending, or, as some worry, did he use it to blackmail members of Congress into supporting his own special interest expenditures? Did it alter the balance of power over spending, either restoring the balance or shifting it too far in the other direction?

As the recent elections amply demonstrated, the American people have no more patience for finger-pointing or excuses. We can no longer tolerate a deficit that saps our economic strength while politicians in Washington insist that it's someone else who really has the power to spend or cut spending. This President or any other must have no excuses for failing to lead.

I list Mr. CAMPBELL, Mr. COATS, and Mr. ROBB as original sponsors of this legislation.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 138. A bill to amend the Act commonly referred to as the ''Johnson Act'' to limit the authority of States to regulate gambling devices on vessels; to the Committee on Commerce, Science, and Transportation.

LEGISLATION AMENDING THE ''JOHNSON ACT'' RELATING TO CRUISE SHIPS

● Mrs. BOXER. Mr. President, today Senator FEINSTEIN and I are introducing legislation to make a technical amendment to the law passed by the 102d Congress to allow gambling on U.S.-flag cruise ships and to allow States to permit or prohibit gambling on ships involved in intrastate cruises only.

This bill is essential to restoring California's cruise ship industry which has lost more than $250 million in tourist revenue last year and hundreds of jobs. Many California cruise ship companies have bypassed second and third ports of call within California. Ships which used to call at Catalina and San Diego after departing Los Angeles en route to Mexico no longer make those interim stops. According to industry estimates, San Diego alone has lost more than 104 cruise ship port calls last year—66 percent of its cruise ship business. The State's share of the global cruise ship business has dropped from 10 percent to 7 percent at the same time growth in the cruise ship business overall has climbed 10 percent a year.

Historically, gambling has been prohibited aboard U.S.-flag cruise ships, putting them in a competitive disadvantage in the growing and lucrative cruise ship business where foreign-flagged vessels calling at U.S. ports have had no such restriction. In order to level the playing field, Congress in 1992 amended the Johnson Act, the 1951 law outlawing the transportation of gambling devices from State to State, to allow gambling on U.S.-flag cruise ships. At the same time, Congress provided that States could pass their own laws allowing or prohibiting gambling on intrastate cruises.

The California Legislature, in an effort to prohibit gambling-only type cruises, subsequently passed legislation prohibiting ships with gambling devices from making multiple ports of call within the State. The legislature also was concerned that without such action to expressly prohibit gambling on intrastate cruises, the State could be required to permit certain gambling enterprises by Indian tribes under the Indian Gaming Act. Some Indian tribes contended that if the State permitted casino gambling on the high seas between State ports of call, then it should also permit full-fledged casino gambling within the State. California's efforts to prohibit gambling ''cruises to nowhere'' have had the effect of prohibiting gambling on cruise ships traveling between California ports, even if part of an interstate or international journey. In effect, a cruise ship traveling from Los Angeles to San Diego could no longer open its casinos, even in international waters. But if the ship bypassed San Diego and sailed directly to a foreign port, it could open its casinos as soon as it was in international waters.

My legislation would resolve this problem by allowing a cruise ship with gambling devices to make multiple ports of call in one state and still be considered to be on an interstate or international voyage for purposes of the Johnson Act, if the ship reaches out-of-State or foreign port within 3 days. The legislation should alleviate California's concern regarding the Indian gaming law by removing such voyages from its jurisdiction and it should allow the California cruise ship industry to continue to make multiple ports of call in the State.

Gambling operations still would only be permitted in international waters. The effect would expand only the nongambling aspects of cruise ship tourism by permitting more ports of call within the State. California is the only State affected by this bill because it is the only State which responded to the 1992 changes to the Johnson Act and enacted a State law to prohibit gambling.

Specifically, my legislation adds a new subparagraph to the Johnson Act, providing that a state prohibition does not apply on a voyage or segment of a voyage that: first, begins and ends in the same State; second, is part of a voyage to another State or country; and third, reaches the other State or country within 3 days after leaving the State in which it begins. The legislation does not affect a voyage or segment of a voyage that occurs within the boundaries of the State of Hawaii.

I urge my colleagues to support this legislation to overcome this serious impediment to California's tourism industry, the top industry of the State. I also urge prompt consideration of this bill in order to forestall further loss of jobs and revenue to California in the coming cruise ship season.

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

S. 138

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

SECTION 1. LIMITATION ON AUTHORITY OF STATES TO REGULATE GAMBLING DEVICES ON VESSELS.

Subsection (b)(2) of section 5 of the Act of January 2, 1951 (commonly referred to as the ''Johnson Act'') (64 Stat. 1135, chapter 1194; 15 U.S.C. 1175), is amended by adding at the end the following new subparagraph:

''(C) EXCLUSION OF CERTAIN VOYAGES AND SEGMENTS.—Except for a voyage or segment of a voyage that occurs within the boundaries of the State of Hawaii, a voyage or segment of a voyage is not described in subparagraph (B) if such voyage or segment includes or consists of a segment—

''(i) that begins and ends in the same State;

''(ii) that is part of a voyage to another State or to a foreign country; and

''(iii) in which the vessel reaches the other State or foreign country within 3 days after leaving the State in which such segment begins.''.●

● Mrs. FEINSTEIN. Mr. President, I am pleased to cosponsor Senator BOXER's legislation that is critical to the ports of California. Ports are a vital component of the infrastructure of those States located along the coasts of this country. Commercial cruises are an important contributor to the well-being of our ports, and are critical to the economies of a number of port cities in California.

In 1993, the Johnson Act was amended to allowing gaming on U.S.-flag cruise ships with the provision that States could regulate gambling on intrastate cruises. Since that time, California has passed a law prohibiting gambling on intrastate cruises for reasons that were in fact unrelated to the cruise industry. Because of California's coast line is so long, cruise ships with onboard gaming are unable to make

more than one port of call in the state without being subject to State regulation.

Consequently, cruise ships bypass cities where they would otherwise stop, with a detrimental impact resulting to those ports that are passed over. The San Diego Port of Port Commissioners estimate that San Diego alone has lost 77 cruise line calls, and $30 million in tourism benefit. Smaller port cities such as Eureka are struggling to attract cruise vessels to bolster its economy, but will likely be bypassed by cruise lines if the lines are limited to one stop within the State.

This legislation in no way promotes the proliferation of gaming cruises. It simply allows interstate cruises with onboard gaming, that would otherwise be allowed to make one stop within a State's borders, to make additional stops within that State as part of a longer voyage.

What this legislation will do is provide an important economic boost to port cities in California, and we urge its quick consideration and passage.●

By Ms. SNOWE:

S. 139. A bill to provide that no State or local government shall be obligated to take any action required by Federal law enacted after the date of the enactment of this Act unless the expenses of such government in taking such action are funded by the United States; to the Committee on Governmental Affairs.

UNFUNDED MANDATES LEGISLATION

● Ms. SNOWE. Mr. President, today marks a day of historic opportunity for all Americans. On November 8th, a message was delivered to Congress by the citizens of Bangor, ME and San Luis Obispo, CA—residents of International Falls, MN and Corpus Christi, TX. The message was simple: change the manner in which Congress does business and change the course our nation has taken.

Ironically, many people thought this same message delivered in 1992—but most Americans believe it fell on deaf ears once it reached the Beltway. Congress continued to pursue legislative efforts that were either out of sync with the American people or ran in direct opposition to their demands. I heard the message from the citizens of Maine loud and clear and recognize that my election is revocable trust. If we fail to respond to the message of the electorate now, the trust which has been placed in our hands will be taken away from us and placed in the hands of others. I intend to treat that trust with humility and respect.

The legislation which I first introduced in 1991 and am introducing again today strikes at the heart of what it is Americans don't like about the way Congress does business and it is a necessary step toward regaining the trust of the American people. The people are tired of a Government that shows reckless disregard for responsibility and accountability—the people are tired of unfunded mandates.

In recent years, Congress has approved measures that require State and local governments to provide certain services and meet certain standards. At the same time it has approved this legislation, Congress has neglected to provide adequate federal funds for States and localities to meet these mandates. We must, as a fundamental matter of responsibility, ensure that the costs of mandates are reasonably capable of being met by other levels of government. Assuming that the State and local governments have the funds to foot the bill is not responsible policy.

The costs of existing mandates are staggering. In the State of Maine, the two most intrusive and expensive mandates are the Safe Drinking Water Act and Clean Water Act. It is estimated that the citizens of my state will be forced to pay $1.5 billion to comply with these two mandates alone. While the intentions of these laws are not malicious—the effects of these unfunded mandates are devastating to local communities.

The Combined Sewer Overflow (CSO) mandate contained in the Clean Water Act will cost the communities of Maine more that $960 million to correct. In the City of Lewiston, $35 million will buy a small improvement in water quality, while Auburn will spend $10 million for the same limited end. The CSO requirement in Augusta, Maine may cost as must as $100 million and would produce an average sewer bill of more than $1,500 annually for 30 years. Finally, the residents of Oakland, Maine will see their water rates increase by 174 percent in 1995—all as a result of the Act.

My bill directly addresses the essence of the problem. It would prohibit the Government from imposing requirements on States and local governments that did not include funding to meet the costs. Quite simply, it would end unfunded mandates. This legislation represents a comprehensive and straight-forward effort on the part of the Federal Government to live up to its responsibility to provide resources for programs it requires States and municipalities to implement.

Mr. President, the impression exists among many State and local officials that the Federal Government, no longer satisfied with simply bankrupting itself, is determined to bankrupt their governments. We know that is not our goal, and we can take a simple step to make that clear: end unfunded mandates. We have it within our prerogative to do so. And I hope that Congress will see fit now to end these unfair requirements.

I urge my colleagues to join me in cosponsoring this vital legislation. The American people demand responsibility and accountability—now, we need to recommit ourselves to the task of accomplishing it.●

By Mrs. KASSEBAUM (for herself, Mr. BENNETT and Mr. BROWN):

S. 140. A bill to shift financial responsibility for providing welfare assistance to the States and shift financial responsibility for providing medical assistance under title XIX of the Social Security Act to the Federal Government, and for other purposes; to the Committee on Finance.

THE WELFARE AND MEDICAID RESPONSIBILITY EXCHANGE ACT OF 1995

Mrs. KASSEBAUM. Mr. President, I rise today to introduce the Welfare and Medicaid Responsibility Exchange Act of 1995 with Senator BENNETT and Senator BROWN. When I introduced this legislation last year, debate about welfare reform was just beginning. That debate has moved to the top of the charts in both congress and the media.

The history of our repeated attempts to reform welfare demonstrates that good intentions never guarantee success. If we want to succeed this time, and I believe we must, then we must go beyond patchwork, piecemeal change and fundamentally rethink our approach to helping families with children.

For me, the first basic question to be addressed is not how to reform welfare but who should do the reforming. I believe a critical flaw in the present system is not only a lack of personal responsibility—it is a lack of responsibility at every level of Government.

Our largest welfare programs today are hybrids of State and Federal funding and management. The States do most of the administration, within a basic framework of Federal regulation, while the Federal Government provides most of the money. The result is a hodgepodge of State and Federal rules and regulations, conflicting eligibility and benefit standards, and constant push-and-pull between State and Federal bureaucracies.

This may suit the needs of Government bureaucracy. It clearly is not meeting the needs of children in poverty.

The first step toward real welfare reform, I believe, is to make a clear-cut decision about who will run the plan, who will have the power to make key decisions, and who will be held responsible for the outcome.

The legislation we are introducing answers that question: It would give the States complete control and responsibility for Aid to Families with Dependent Children, the Food Stamp Program, and the Women, Infants and Children Nutrition Program. In order to free State funding to meet these needs, I would have the Federal Government assume a greater share of the Medicaid Program.

This idea is fundamentally different from the block grant proposals which have been put forward. A block grant would continue to utilize Federal money with corresponding rules and regulations with which the States must comply—albeit fewer rules and more flexibility than the present system provides. But in the end it will

still be Federal funds with Federal strings.

With this legislation, the States will use their own money, and will carry the full responsibility for designing and operating a system which provides a safety net for low-income individuals and families. This draws a clear distinction between the role of the Federal Government and the States—a distinction which makes sense for two reasons:

First, giving states both the power and the responsibility for welfare—with their own money at stake—would create powerful incentives for finding more effective ways to assist families in need. Nearly half the states already are experimenting with welfare reforms. This would give them broad freedom to test new ideas.

Second, I do not think Washington can reform welfare in any meaningful, lasting way. The reality is that we cannot write a single welfare plan that makes sense for five million families in fifty different and very diverse states.

Washington does not have a magic answer to the welfare problem. The Governors and State legislators have no magic solutions either, but they have the potentially critical advantage of being closer to the people involved, closer to the problems, and closer to the day-to-day realities of making welfare work.

In this case, I believe proximity does matter, perhaps powerfully so. One of the most important factors in whether families succeed or fail is their connection to a community, to a network of support.

For some families, this is found in relatives or friends. For others, it might be a caring caseworker, a teacher or principal, a local church, a city or county official. These human connections are not something we can legislate, and they are not something that money can buy.

True welfare reform will require a renewal of local and state responsibilities for children and families in need. I believe that can only happen if the Federal Government steps aside and allows the States to get on with this work.

At the same time, the Medicaid Program is badly in need of reform. Like the largest welfare programs, responsibility for both financing and administration of Medicaid is split between the State and Federal Governments.

As a result, Medicaid is now a baffling maze of inconsistent standards and dramatic variations from State to State. The system sometimes leads to illogical, or even unfair, results. Some States will cover an infant up to 185 percent of poverty, while leaving his penniless father with no coverage at all. While most people believe that Medicaid provides a safety net for the poor, in reality it covers only half of those Americans living in poverty.

Medicaid's design has also encouraged the Federal Government to heap costly benefit and eligibility mandates on the States. These mandates have added fuel to Medicaid costs that were already burning out of control. Medicaid costs doubled between 1989 and 1992, and have become the fastest-growing component of State budgets. The share of State revenue devoted to Medicaid has jumped from 9 percent in 1980 to nearly 20 percent today, and is expected to double again by the end of the decade.

In addition, Medicaid is virtually the only source of long-term care protection in a society that is now aging faster than at any time in its history. While elderly and disabled Americans make up only 27 percent of Medicaid beneficiaries, they consume nearly 70 percent of all Medicaid costs. these 9 million Americans represent an irreducible—and rapidly growing—group of patients whose medical expenses are often too large, and of too long duration, for anyone other than the Government to pay the bill.

The legislation I am introducing today will immediately begin addressing these problems. Later this year, I plan to introduce legislation to simplify the crazy-quilt of Medicaid eligibility standards, streamline the scope of benefits offered, and bring costs under control by transforming Medicaid into a more market-based system.

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

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

S. 140

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 ''Welfare and Medicaid Responsibility Exchange Act of 1995''.

SEC. 2. EXCHANGE OF FINANCIAL RESPONSIBILITIES FOR CERTAIN WELFARE PROGRAMS AND THE MEDICAID PROGRAM.

(a) IN GENERAL.—In exchange for the Federal funds received by a State under section 3 for fiscal years 1997, 1998, 1999, 2000, and 2001 such State shall provide cash and non-cash assistance to low income individuals in accordance with subsection (b).

(b) REQUIREMENT TO PROVIDE A CERTAIN LEVEL OF LOW INCOME ASSISTANCE.—

(1) IN GENERAL.—The amount of cash and non-cash assistance provided to low income individuals by a State for any quarter during fiscal years 1997, 1998, 1999, 2000, and 2001 shall not be less than the sum of—

(A) the amount determined under paragraph (2); and

(B) the amount determined under paragraph (3).

(2) MAINTENANCE OF EFFORT WITH RESPECT TO FEDERAL PROGRAMS TERMINATED.—

(A) QUARTER BEGINNING OCTOBER 1, 1996.—The amount determined under this paragraph for the quarter beginning October 1, 1996, is an amount equal to the sum of—

(i) one-quarter of the base expenditures determined under subparagraph (C) for the State,

(ii) the product of the amount determined under clause (i) and the estimated increase in the consumer price index (for all urban consumers, United States city average) for the preceding quarter, and

(iii) the amount that the Federal Government and the State would have expended in the State in the quarter under the programs terminated under section 4 solely by reason of the increase in recipients which the Secretary of Health and Human Services and the Secretary of Agriculture estimate would have occurred if such programs had not been terminated.

(B) SUCCEEDING QUARTERS.—The amount determined under this paragraph for any quarter beginning on or after January 1, 1997, is an amount equal to the sum of—

(i) the amount expended by the State under subsection (a) in the preceding quarter,

(ii) the product of the amount determined under clause (i) and the estimated increase in the consumer price index (for all urban consumers, United States city average) for the preceding quarter, and

(iii) the amount that the Federal Government and the State would have expended in the State in the quarter under the programs terminated under section 4 solely by reason of the increase in recipients which the Secretary of Health and Human Services and the Secretary of Agriculture estimate would have occurred if such programs had not been terminated.

(C) DETERMINATION OF BASE AMOUNT.—The Secretary of Health and Human Services, in cooperation with the Secretary of Agriculture, shall calculate for each State an amount equal to the total Federal and State expenditures for administering and providing—

(i) aid to families with dependent children under a State plan under title IV of the Social Security Act (42 U.S.C. 601 et seq.),

(ii) benefits under the food stamp program under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), including benefits provided under section 19 of such Act (7 U.S.C. 2028), and

(iii) benefits under the special supplemental program for women, infants, and children established under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786),

for the State during the 12-month period beginning on July 1, 1995.

(3) MAINTENANCE OF EFFORT WITH RESPECT TO STATE PROGRAMS.—The amount determined under this paragraph for a quarter is the amount of State expenditures for such quarter required to maintain State programs providing cash and non-cash assistance to low income individuals as such programs were in effect during the 12-month period beginning on July 1, 1995.

SEC. 3. PAYMENTS TO STATES.

(a) IN GENERAL.—The Secretary of Health and Human Services shall make quarterly payments to each State during fiscal years 1997, 1998, 1999, 2000, and 2001 in an amount equal to one-quarter of the amount determined under subsection (b) for the applicable fiscal year and such amount shall be used for the purposes described in subsection (c).

(b) PAYMENT EQUIVALENT TO FEDERAL WELFARE SAVINGS.—

(1) IN GENERAL.—The amount available to be paid to a State for a fiscal year shall be an amount equal to the amount calculated under paragraph (2) for the State.

(2) AMOUNTS AVAILABLE.—

(A) FISCAL YEAR 1997.—In fiscal year 1997, the amount available under this subsection for a State is equal to the sum of—

(i) the base amount determined under paragraph (3) for the State,

(ii) the product of the amount determined under clause (i) and the increase in the consumer price index (for all urban consumers, United States city average) for the 12-month period described in paragraph (3), and

(iii) the amount that the Federal Government and the State would have expended in

the State in fiscal year 1997 under the programs terminated under section 4 solely by reason of the increase in recipients which the Secretary of Health and Human Services and the Secretary of Agriculture estimate would have occurred if such programs had not been terminated.

(B) SUCCEEDING FISCAL YEARS.—In any succeeding fiscal year, the amount available under this subsection for a State is equal to the sum of—

(i) the amount determined under this paragraph for the State in the previous fiscal year,

(ii) the product of the amount determined under clause (i) and the estimated increase in the consumer price index (for all urban consumers, United States city average) during the previous fiscal year, and

(iii) the amount that the Federal Government and the State would have expended in the State in the fiscal year under the programs terminated under section 4 solely by reason of the increase in recipients which the Secretary of Health and Human Services and the Secretary of Agriculture estimate would have occurred if such programs had not been terminated.

(3) DETERMINATION OF BASE AMOUNT.—The Secretary of Health and Human Services, in cooperation with the Secretary of Agriculture, shall calculate the amount that the Federal Government expended for administering and providing—

(A) aid to families with dependent children under a State plan under title IV of the Social Security Act (42 U.S.C. 601 et seq.),

(B) benefits under the food stamp program under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), including benefits provided under section 19 of such Act (7 U.S.C. 2028), and

(C) benefits under the special supplemental program for women, infants, and children established under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786),

in each State during the 12-month period beginning on July 1, 1995.

(c) PURPOSES FOR WHICH AMOUNTS MAY BE EXPENDED.—

(1) MEDICAID PROGRAM.—

(A) IN GENERAL.—Notwithstanding any other provision of law, during fiscal years 1997, 1998, 1999, 2000, and 2001 a State shall—

(i) except as provided in subparagraph (B), provide medical assistance under title XIX of the Social Security Act in accordance with the terms of the State's plan in effect on January 1, 1995, and

(ii) use the funds it receives under this section toward the State's financial participation for expenditures made under the plan.

(B) CHANGES IN ELIGIBILITY.—A State may change State plan requirements relating to eligibility for medical assistance under title XIX of the Social Security Act if the aggregate expenditures under such State plan for the fiscal year do not exceed the amount that would have been spent if a State plan described in subparagraph (A)(i) had been in effect during such fiscal year.

(C) WAIVER OF REQUIREMENTS.—The Secretary of Health and Human Services may grant a waiver of the requirements under subparagraphs (A)(i) and (B) if a State makes an adequate showing of need in a waiver application submitted in such manner as the Secretary determines appropriate.

(2) EXCESS.—A State that receives funds under this section that are in excess of the State's financial participation for expenditures made under the State plan for medical assistance under title XIX of the Social Security Act shall use such excess funds to provide cash and non-cash assistance for low income families.

(d) DENIAL OF PAYMENTS FOR FAILURE TO MAINTAIN EFFORT.—No payment shall be made under subsection (a) for a quarter if a State fails to comply with the requirements of section 2(b) for the preceding quarter.

(e) ENTITLEMENT.—This section constitutes budget authority in advance of appropriations Acts, and represents the obligation of the Federal Government to provide the payments described in subsection (a).

SEC. 4. TERMINATION OF CERTAIN FEDERAL WELFARE PROGRAMS.

(a) TERMINATION.—

(1) AFDC.—Part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) is amended by adding at the end the following new section:

''TERMINATION OF AUTHORITY

''SEC. 418. The authority provided by this part shall terminate on October 1, 1996.''.

(2) JOBS.—Part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.) is amended by adding at the end the following new section:

''TERMINATION OF AUTHORITY

''SEC. 488. The authority provided by this part shall terminate on October 1, 1996.''.

(3) SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC).—Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) is amended by adding at the end the following new subsection:

''(q) The authority provided by this section shall terminate on October 1, 1996.''.

(4) FOOD STAMP PROGRAM.—The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) is amended by adding at the end the following new section:

''SEC. 24. TERMINATION OF AUTHORITY.

''The authority provided by this Act shall terminate on October 1, 1996.''.

(b) REFERENCES IN OTHER LAWS.—

(1) IN GENERAL.—Any reference in any law, regulation, document, paper, or other record of the United States to any provision that has been terminated by reason of the amendments made in subsection (a) shall, unless the context otherwise requires, be considered to be a reference to such provision, as in effect immediately before the date of the enactment of this Act.

(2) STATE PLANS.—Any reference in any law, regulation, document, paper, or other record of the United States to a State plan that has been terminated by reason of the amendments made in subsection (a), shall, unless the context otherwise requires, be considered to be a reference to such plan as in effect immediately before the date of the enactment of this Act.

SEC. 5. FEDERALIZATION OF THE MEDICAID PROGRAM.

Beginning on October 1, 2001—

(1) each State with a State plan approved under title XIX of the Social Security Act shall be relieved of financial responsibility for the medicaid program under such title of such Act,

(2) the Secretary of Health and Human Services shall assume such responsibilities and continue to conduct such program in a State in any manner determined appropriate by the Secretary that is in accordance with the provisions of title XIX of the Social Security Act, and

(3) all expenditures for the program as conducted by the Secretary shall be paid by Federal funds.

SEC. 6. SECRETARIAL SUBMISSION OF LEGISLATIVE PROPOSAL FOR TECHNICAL AND CONFORMING AMENDMENTS.

The Secretary of Health and Human Services shall, within 90 days after the date of enactment of this Act, submit to the appropriate committees of Congress, a legislative proposal providing for such technical and conforming amendments in the law as are required by the provisions of this Act.

WELFARE AND MEDICAID RESPONSIBILITY EXCHANGE ACT

Mr. BROWN. Mr. President, today, the first day of the 104th Congress, Senators KASSEBAUM, BENNETT and I are introducing our bill to reform our welfare system. This bill adheres to two fundamental principles: First, welfare programs designed and administered by Washington, D.C. do not meet the needs of our citizens, and second, Federal mandates on our States cost money, create huge bureaucracies and grow without solving the problems. This bill returns to the States the responsibility to design and administer welfare programs, but it does so without Federal strings.

As Senator KASSEBAUM has described, our bill gives States complete control and responsibility for three of the largest welfare programs: Aid to Families with Dependent Children [AFDC], Food Stamps, and the Women, Infants and Children [WIC] Nutrition Program. Currently, States administer these programs under an impossibly complex, and often conflicting and contradictory, set of Federal and State rules.

To free up State funds to assume full responsibility for these programs, this proposal has the Federal Government assume more of the cost of the Medicaid Program. In the past several years, Federal mandates in the Medicaid Program have created substantial draws on State treasuries and have created a true patchwork of eligibility, benefits and administration. This bill would have the Federal Government take back more of the funding and administration of the Medicaid Program.

Under this bill, States can design their own programs to help low-income people out of poverty and off of welfare. States can develop programs to stem rising illegitimacy and encourage parental responsibility. They can set eligibility criteria to meet the needs of their State and its citizens. They can strengthen work or education requirements in their welfare programs without having to come to Washington, DC for a waiver of Federal requirements. States want this flexibility, 22 states have already gotten waivers and 26 more waivers have been requested.

My own State of Colorado has obtained one of the waivers, though it took a year for the bureaucracies here in Washington to grant it. Before Colorado came to Washington, a Republican state legislature and a Democrat governor developed the welfare reform program. The bipartisan Colorado program: limits welfare benefits for able-bodied adults after two years unless they are employed or participating in the Colorado's JOBS program; provides incentives for welfare recipients to get a high school diploma; requires AFDC parents to have their toddlers immunized against childhood diseases; and eliminates earned income and asset restrictions which have hampered AFDC recipients to become self sufficient.

The Kassebaum/Brown welfare reform bill lets States do just what Colorado did—reform their welfare system, but without the seemingly endless delays by the Washington bureaucracy before the reforms can be implemented. Under the Kassebaum/Brown bill, States like mine would no longer have to come begging to Washington for a welfare program waiver. With this bill, we can allow states to continue what they've already started—actually reforming welfare.

This approach makes sense. States do not need Federal money with lots of strings attached, as is likely under a block grant approach. You've heard of the uncola—well, this is the unmandate. The Kassebaum/Brown bill takes seriously our commitment to end unfunded Federal mandates.

By Mrs. KASSEBAUM (for herself, Mr. JEFFORDS, Mr. CHAFEE, Mr. COATS, Mr. GREGG, Mr. BROWN, Mr. CRAIG, Mr. NICKLES, Mr. COCHRAN, Mr. DOMENICI, Mr. GRASSLEY, Mr. SIMPSON, Mr. WARNER, Mr. PRESSLER, and Mr. GRAMS):

S. 141. A bill to repeal the Davis-Bacon Act of 1931 to provide new job opportunities, effect significant cost savings on Federal construction contracts, promote small business participation in Federal contracting, reduce unnecessary paperwork and reporting requirements, and for other purposes; to the Committee on Labor and Human Resources.

THE DAVIS-BACON REPEAL ACT

Mrs. KASSEBAUM. Mr. President, today I am introducing a bill, along with my colleagues, Senators JEFFORDS, CHAFEE, COATS, GREGG, BROWN, CRAIG, NICKLES, COCHRAN, DOMENICI, GRASSLEY, SIMPSON, WARNER, PRESSLER, and GRAMS, to repeal the Davis-Bacon Act of 1931, an outmoded law that requires contractors performing Federal public works projects to meet prevailing wage conditions and work rules. This legislation is long overdue.

Congress enacted the Davis-Bacon Act during the Depression amid concern that bidding for large Federal construction projects would lead to cutthroat competition from out-of-state contractors that would drive down local wage rates. That might have been a valid concern during the Depression, but it is no longer the case.

Due to the Department of Labor's method of computing the ''prevailing'' wage, Davis-Bacon often requires Federal contractors to pay their workers at a rate considerably higher than the market rate. In addition, Davis-Bacon requires contractors to follow work rules that prevail in the locality.

The public is ill-served by these wage rate and work rule restrictions. We lose the benefit of workplace innovations that improve quality and productivity, and we raise the cost of completing construction projects. Numerous studies have shown that Davis-Bacon wage inflation and work rule requirements raise Federal construction costs by 5 to 25 percent. As a result, the Davis-Bacon Act exacerbates our budget deficit by increasing Federal contracting costs by $3 billion over the 5-year budget cycle.

Mr. President, construction is one of the last sectors of our economy where low-skill individuals can be trained on the job for a few months and then earn a decent living. Young men and women in the inner city, many of whom are minorities, eagerly seek this work.

But Davis-Bacon's prevailing wage and work rule restrictions prevent contractors from hiring and training these young men and women, in direct contradiction to our national goal of expanding inner-city employment opportunities. This is one reason why the National League of Cities endorses Davis-Bacon repeal.

Mr. President, Davis-Bacon decreases competition, raises construction costs, and diminishes employment opportunities. I urge my colleagues to support Davis-Bacon repeal, and ask unanimous consent that the text of the bill appear in the RECORD.

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

S. 141

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 maybe cited as the ''Davis-Bacon Repeal Act''.

SEC. 1. DAVIS-BACON ACT OF 1931 REPEALED.

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

SEC. 3. REPORTING REQUIREMENTS.

Section 2 of the Act of June 13, 1934 (42 U.S.C. 276c) (commonly known as the Copeland Act) is repealed.

SEC. 4. EFFECTIVE DATE.

The provisions of this Act shall take effect 30 days after the date of enactment of this Act but shall not affect any contract in existence on that date or made pursuant to invitations for bids outstanding on that date.

NSBA,
January 4, 1995.

Hon. NANCY LANDON KASSEBAUM,
United States Senate,
Washington, DC.

DEAR SENATOR KASSEBAUM: The National School Boards Association (NSBA) supports repeal of the Davis-Bacon Act. NSBA represents 95,000 locally elected school board members in nearly 16,000 school districts nationwide. The Davis-Bacon Act has resulted in enormous cost differentials from state to state in the new construction and renovation of school buildings. The Act has skewed local decision-making regarding the school district's ability to accept federal funds to meet their construction needs. NSBA understands between your own state of Kansas and the neighboring state of Missouri, school construction is 20 percent higher in Missouri because of the state Davis-Bacon Act.

The Davis-Bacon Act requires contractors of federally-funded construction projects to pay the ''prevailing local wage,'' which is usually the union rate, often 10 to 25 percent higher wages than the non-union private sector pays. This depression-era statute was intended to prevent big construction companies from hiring low-wage, itinerant workers and underbidding local companies for coveted government contracts during the Depression. The Act has outlived its usefulness.

The National School Boards Association calls for the repeal of the Davis-Bacon Act. We appreciate your interest in this costly problem for many school districts.

Sincerely,

BOYD W. BOEHLJE,
President.

THOMAS A. SHANNON,
Executive Director.

Mr. CHAFEE. Mr. President, I am pleased to join the distinguished Chair of the Labor and Human Resources Committee, Senator NANCY KASSEBAUM, in introducing the Davis-Bacon Repeal Act. I wish to commend the Senator from Kansas for her leadership in advancing this important initiative, which the Congressional Budget Office estimates would save $3.3 billion over 5 years. The Davis-Bacon Act requires that minimum wage rates paid on all federally-financed construction projects valued at more than $2,000 be based upon ''prevailing'' rates established by the Department of Labor.

The time has come to do away with this antiquated Depression-era statute. The act significantly increases the cost of Federal construction, restricts competition, and discourages the hiring of women, minorities, dislocated workers, and job trainees.

Through my tenure on the Environment and Public Works Committee, I have become all too familiar with the negative toll this statute exacts on our Federal highway program. Of the $3 billion per year in added federal construction costs resulting from the Davis-Bacon Act, $300 to $500 million comes from the Federal highway program. So-called ''little'' Davis-Bacon laws, which exist in some 37 States and the District of Columbia, exact a further toll on Federal highway funds of approximately $60 million per year.

The inflationary impact of Davis-Bacon means the funds we have dedicated to modernizing our critical highway infrastructure are building fewer roads, replacing fewer deficient bridges and reducing overall productivity. The Federal Highway Administration estimates that the act inflates highway construction wages by 8–10 percent, with increased administrative burdens on contractors and contracting agencies amounting to over $100 million annually.

The motoring public, which pays into our Highway Trust Fund in the form of Federal fuel excise taxes, deserves competitive contracting to ensure the most prudent use of these critical resources. While there was a time when the David-Bacon Act helped to ensure fair wages, the sad truth today is that its primary purpose is to guarantee non-competitive wages to union contractors.

Though the act is intended to help smaller contractors, including minority-owned firms, the Federal paperwork requirements to comply with Davis-Bacon are so daunting most elect not to seek such business. Instead,

large multistate union contractors remain the primary beneficiaries. Tragically, the restrictive requirements associated with the Davis-Bacon Act have had the effect of hurting women, minorities, trainees, and others who are most often hired by small and minority firms.

For these reasons, I will press for the expeditious consideration and enactment of the Davis-Bacon Repeal Act over the coming months. Thank you.

By Mrs. KASSEBAUM:

S. 142. A bill to strengthen the capacity of State and local public health agencies to carry out core functions of public health, by eliminating administrative barriers and enhancing State flexibility, and for other purposes; to the Committee on Labor and Human Resources.

THE PUBLIC HEALTH ENHANCEMENT ACT OF 1995

Mrs. KASSEBAUM. Mr. President, I rise today to introduce legislation aimed at consolidating the numerous grant programs of the Centers for Disease Control and Prevention—CDC. A second goal is to examine the Federal role in disease prevention and control.

The two central provisions of this proposal would strengthen our Nation's public health system by increasing Federal and State flexibility and reducing administrative costs. The primary provision would consolidate 12 different grant programs into a core functions of public health block grant. Core functions of public health are those activities which any public health department should undertake to protect and ensure the health of the public.

The other key provision would combine 28 demonstration project funding streams into one flexible authority. Under this authority, CDC would address public health needs of regional and national significance through technical assistance to States and time-limited research and development projects.

As many of my colleagues remember, the last legislative reorganization of the CDC grant programs occurred in 1981. At that time, the current preventive health and health services block grant was created through the combination of seven categorical grant programs. The CDC also retained its authority to conduct three categorical programs for immunizations, sexually transmitted diseases, and diabetes.

Since then, Congress has acted eight different times to create narrowly defined grant programs. The risk of such narrow funding authorities is that States respond to federally legislated public health priorities rather than the actual needs of their own citizens.

Fortunately, the CDC is considering how to simplify the grant making process and to consolidate many of its grant programs. Primarily, this is in response to State public health officers. They have voiced concerns about the administrative burdens and limited flexibility afforded by the 12 current funding streams. I am encouraged by the CDC's internal review of its own programs. However, I remain concerned that it will not go far enough in its attempt to consolidate these programs. As such, I offer this legislation today as one example of program consolidation which I would encourage the CDC to consider.

Mr. President, to examine the Federal role in disease prevention and control, this legislation contains a provision which would have the CDC report to Congress on the benefits of its activities. Such a report would foster a review of the CDC programs. Given the changes created by this legislation, I believe this is important. Additionally, I believe such a review of CDC activities is in order given the broad mandate CDC has for both disease control and disease prevention.

Historically, CDC has a role in disease prevention. This dates back to the administration of this agency by Dr. Foege. In the late 1970's he redirected CDC activities into disease prevention. This mission was again reconfirmed by the CDC under the leadership of Dr. Roper when it developed its vision statement in 1992: ''The vision of the CDC is healthy people in healthy world: through prevention.''

However, I am concerned as it carriers out its vision that CDC risks losing sight of its historic charge to combat and prevent infectious diseases. This charge dates back to the establishment of the CDC originally as the Malaria Control in War Times Area Program during the World War II. My cause for concern lies in our problem of emerging infections. This is evidenced by the tuberculosis outbreak in many of our cities and the national HIV epidemic.

Concerns have been raised about my approach which I would like to address. First, some suggest that States will not use their core functions of public health block grant to address their most pressing public health problems. For instance, those involved with the current CDC community-based HIV prevention initiative question if States would continue to carry out HIV prevention programs.

My legislation ensures that States would address their most pressing public health problems including HIV prevention. Under it, each State would conduct a community-based needs assessment and develop a plan. Such an assessment and the plan would be tied to the goals of Healthy People 2000 and a set of core public health indicators. I believe such a process would assure both State flexibility and accountability.

Others have expressed concern that the intention of this proposal is to reduce public health funding. Although I cannot guarantee the outcome of the appropriations process, this is not my intention. In fact, the authorization of $1.1 billion for the core functions of public health block grant is consistent with the current appropriation for each of the consolidated categorical programs.

Mr. President, the introduction of this proposal today should serve as the staring point for a discussion on the issue of consolidating the CDC grant programs. I intend to develop this proposal further. This legislation represents one consolidation option, there are others. I welcome a vigorous debate about the merits and flaws of the Public Health Enhancement Act of 1995.

As discussion of these issues develops, I would welcome any suggestions my colleagues or others may have for improving this legislation. I ask unanimous consent that my statement, a summary of this bill, and the text of the legislation be made a part of the Record.

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

S. 142

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 ''Public Health Enhancement Act of 1995''.

TITLE I—FORMULA GRANTS FOR STATE CORE FUNCTIONS OF PUBLIC HEALTH

SEC. 101. PURPOSE.

It is the purpose of this title to strengthen the capacity of State and local public health agencies to carry out core functions of public health, by eliminating administrative barriers, and enhancing State flexibility.

SEC. 102. FORMULA GRANTS TO STATES FOR CORE FUNCTIONS OF PUBLIC HEALTH.

Part A of title XIX of the Public Health Service Act (42 U.S.C. 300w et seq.) is amended—

(1) by striking the part heading and inserting the following:

''PART A—FORMULA GRANTS TO STATES FOR CORE FUNCTIONS OF PUBLIC HEALTH'';

(2) by repealing sections 1901 through 1907;

(3) by inserting after the part heading the following new sections:

''SEC. 1901. GRANTS.

''(a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall make grants to States in accordance with the formula described in subsection (d) for the purpose of carrying out the functions described in subsection (b).

''(b) CORE FUNCTIONS OF PUBLIC HEALTH PROGRAMS.—For purposes of subsection (a) and subject to the funding agreement described in subsection (c), the functions described in this subsection are as follows:

''(1) Data collection and activities related to population health measurement and outcomes monitoring (including gender differences, ethnic identifiers, and health differences between racial and ethnic groups), and analysis for planning and needs assessment.

''(2) Activities to protect the environment and to assure the safety of housing, workplaces, food and water, and the public health of communities (including support for poison control centers and preventive health services programs to reduce the prevalence of chronic diseases and to prevent intentional and unintentional injuries).

''(3) Investigation and control of adverse health conditions.

''(4) Public information and education programs to reduce risks to health.

''(5) Accountability and quality assurance activities, including quality of personal health services and any communities' overall access to health services.

''(6) Provision of public health laboratory services.

''(7) Training and education with special emphasis placed on the training of public health professions and occupational health professionals.

''(8) Leadership, policy development and administration activities.

''(c) RESTRICTIONS ON USE OF GRANT.—

''(1) IN GENERAL.—A funding agreement for a grant under subsection (a) for a State is that the grant will not be expended—

''(A) to provide inpatient services;

''(B) to make cash payments to intended recipients of health services;

''(C) to purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment; or

''(D) to satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds.

''(2) LIMITATION ON ADMINISTRATIVE EXPENSES.—A funding agreement for a grant under subsection (a) is that the State involved will not expend more than 10 percent of the grant for administrative expenses with respect to the grant.

''(d) FORMULA.—

''(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall develop and implement a formula to distribute funds, which would have otherwise been distributed under the provisions of law described in paragraph (2)(B) in effect on January 1, 1995, to each State under this title. Such formula shall incorporate measures of population, health status of the population, and financial resources of the various States. The Secretary shall submit the suggested formula and an accompanying report describing the estimated funding impact on States to the appropriate Congressional authorizing committees not later than January 1, 1996.

''(2) TRANSITION FORMULA.—

''(A) IN GENERAL.—With respect to each of the fiscal years 1997, 1998, and 1999, the Secretary shall ensure that a State under this title receives an allotment that is equal to not less than 90 percent of the amount of the allotments the State received in fiscal year 1996 under the provisions of law described in subparagraph (B). If the total allotment for all States under this subparagraph is less than the total allotment for all States for the previous year under such provisions, the Secretary shall establish a formula for the proportional reduction in each State's allotment.

''(B) PROVISIONS OF LAW.—The provisions of law referred to in subparagraph (A) are the following:

''(i) Section 1902, preventive health and health services block grant.

''(ii) Section 318(e), prevention and control of sexually transmitted disease.

''(iii) Section 318A(q), infertility and sexually transmitted diseases.

''(iv) Section 317(j), immunization grant program.

''(v) Section 317E(g), prevention health services regarding tuberculosis.

''(vi) Section 399L(a), cancer registries.

''(vii) The authority for grants under section 317 for preventive health services programs for diabetes.

''(viii) The authority for grants under section 317 for preventive health services programs for tobacco use prevention.

''(ix) The authority for grants under section 317 for preventive health services programs for disabilities prevention.

''(x) Section 317A(1), lead poisoning prevention.

''(xi) Section 1510(a), breast and cervical cancer.

''(xii) The authority for grants under section 317 for preventive health services programs for human immunodeficiency virus prevention.

''(3) WITHHOLDING.—

''(A) IN GENERAL.—The Secretary shall, after adequate notice and an opportunity for a hearing conducted within the affected State, withhold funds from any State which does not use its allotment in accordance with the requirements of this section. The Secretary shall withhold such funds until the Secretary finds that the reason for the withholding has been removed and there is reasonable assurance that it will not recur.

''(B) PROCEEDINGS.—The Secretary may not institute proceedings to withhold funds under this paragraph unless the Secretary has conducted an investigation concerning whether the State has used its allotment in accordance with the requirements of this section. Investigations required under this subparagraph shall be conducted within the affected State by qualified investigators.

''(C) RESPONSE TO COMPLAINTS.—The Secretary shall respond in an expeditious manner to complaints of a substantial or serious nature that a State has failed to use funds in accordance with the requirements of this section.

''(D) LIMITATION.—The Secretary may not withhold funds under this paragraph from a State for a minor failure to comply with the requirements of this section.

''(4) INVESTIGATIONS.—

''(A) IN GENERAL.—The Secretary shall conduct in several States in each fiscal year investigations of the use of funds received by the States under this section in order to evaluate compliance with the requirements of this section.

''(B) COMPTROLLER GENERAL.—The Comptroller General of the United States may conduct investigations of the use of funds received under this section by a State in order to insure compliance with the requirements of this section.

''(5) AVAILABILITY OF BOOKS AND RECORDS.—Each State, and each entity which has received funds from an allotment made to a State under this section, shall make appropriate books, documents, papers, and records available to the Secretary or the Comptroller General of the United States, or any of their duly authorized representatives, for examination, copying, or mechanical reproduction on or off the premises of the appropriate entity upon a reasonable request therefore.

''(6) REQUEST FOR INFORMATION.—

''(A) IN GENERAL.—In conducting any investigation in a State under this subsection, the Secretary or the Comptroller General of the United States may not make a request for any information not readily available to such State or an entity which has received funds from an allotment made to the State under this section or make an unreasonable request for information to be compiled, collected, or transmitted in any form not readily available.

''(B) LIMITATION.—Subparagraph (A) shall not apply to the collection, compilation, or transmittal of data in the course of a judicial proceeding.

''(e) INDIAN TRIBES OR TRIBAL ORGANIZATIONS.—

''(1) IN GENERAL.—If the Secretary—

''(A) receives a request from the governing body of an Indian tribe or tribal organization within any State that funds under this title be provided directly by the Secretary to such tribe or organization; and

''(B) determines that the members of such tribe or tribal organization would be better served by means of grants made directly by the Secretary under this section,

the Secretary shall reserve from amounts which would otherwise be allotted to such State under the formula under subsection (d) for the fiscal year the amount determined under paragraph (2).

''(2) RESERVATION.—The Secretary shall reserve, for the purposes of paragraph (1), from amounts that would otherwise be allotted to such State under the formula under subsection (d), an amount equal to the amount which bears the same ratio to the State's allotment for the fiscal year involved as the total amount provided or allotted for fiscal year 1996 by the Secretary to such tribe or tribal organization under the provisions of law referred to in subsection (d)(2)(B) bore to the total amount provided or allotted for such fiscal year by the Secretary to the State and entities (including Indian tribes and tribal organizations) in the State under such provisions of law.

''(3) GRANTS.—The amount reserved by the Secretary on the basis of a determination under this subsection shall be granted to the Indian tribe or tribal organization serving the individuals for whom such a determination has been made.

''(4) PLAN.—In order for an Indian tribe or tribal organization to be eligible for a grant for a fiscal year under this subsection, it shall submit to the Secretary a plan for such fiscal year in accordance with section 1902.

''(5) DEFINITIONS.—As used in this subsection, the terms 'Indian tribe' and 'tribal organization' have the same meaning given such terms in section 4(b) and section 4(c) of the Indian Self-Determination and Education Assistance Act.

''(6) ACCOUNTABILITY.—The provisions of subsection (d)(3) relating to accountability shall apply to this subsection.

''(f) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—For the purpose of making grants under this section, there are authorized to be appropriated, $1,100,000,000 for fiscal year 1997, and such sums as may be necessary for each of the fiscal years 1998 through 2000.

''(2) ADMINISTRATIVE EXPENSES.—The Secretary may use not more than 5 percent of the amounts appropriated in any fiscal year under paragraph (1) for expenses related to the administration of this part.

''(3) REDUCTION IN PAYMENTS.—The Secretary, at the request of a State or Indian Tribe, may reduce the amount of payments under subsection (a) by—

''(A) the fair market value of any supplies or equipment furnished the State; and

''(B) the amount of the pay, allowances, and travel expenses of any officer, fellow, or employee of the Federal Government when detailed to the State or Indian Tribe and the amount of any other costs incurred in connection with the detail of such officer, fellow, or employee;

when the furnishing of supplies or equipment or the detail of an officer, fellow, or employee is for the convenience of and at the request of the State or Indian Tribe and for the purpose of conducting activities described in this section. The amount by which any payment may be reduced under this paragraph shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment or in detailing the personnel, on which the reduction of the payment is based, and the amount shall be deemed to be part of the payment and shall be deemed to have been paid to the State or Indian Tribe.

''(g) MAINTENANCE OF EFFORT.—

''(1) CURRENT CORE FUNCTIONS OF PUBLIC HEALTH EXPENDITURES.—A funding agreement for a grant under subsection (a) is that the State involved will maintain expenditures of non-Federal amounts for core health functions at a level that is not less than the level of such expenditures, adjusted for changes in the Consumer Price Index, maintained by the State for the fiscal year preceding the first fiscal year for which the State receives such a grant. The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall develop uniform criteria to help States identify their public health department expenditures that shall be used in calculating core public health function expenditures.

''(2) REDUCTIONS.—The Secretary may reduce the amount of any grant awarded to a State under this section by an amount that equals the amount by which the Secretary determines that the State has reduced State expenditures for core public health functions.

''SEC. 1902. APPLICATION.

''(a) DEVELOPMENT OF UNIFORM APPLICATION.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall develop a uniform application that States shall use to apply for grants under this part. In developing such uniform application, the Secretary shall require the provision of information consistent with data on the interventions comprising and the outcomes attributable to, core public health functions as such data is included in the uniform reporting system in section 1903. Such a uniform application shall be developed to take into account the requirements in of subsection (b).

''(b) STATE ASSURANCES.—An application submitted under this part shall include the following:

''(1) A description of the existing deficiencies and successes in the public health system of the State based upon indicators included in the uniform application data set.

''(2) A plan to improve such deficiencies and to continue successes. Such plan shall have been developed with the broadest possible input from State and local health departments and public and non-profit private entities performing core functions of public health in that State. In compiling such plan the State shall describe why funding for a successful intervention continues to be needed, including a description of the detriment that would occur if such funding were not to occur using the indicators found in the uniform application data set.

''(3) A description of the activities of the State for the previous year, including the problems addressed and changes made in the relevant health indicators included in the uniform application data set.

''(4) Information concerning the maintenance of effort requirements described in section 1901(h).

''SEC. 1903. UNIFORM CORE PUBLIC HEALTH FUNCTIONS REPORTING SYSTEM.

''(a) IN GENERAL.—

''(1) DEVELOPMENT.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall develop and implement a Uniform Core Public Health Functions Reporting System to collect program and fiscal data concerning the interventions comprising, and the outcomes attributable to, core functions of public health.

''(2) REQUIREMENTS.—The system developed under paragraph (1) shall—

''(A) use outcomes consistent with the goals of Healthy People 2000;

''(B) be designed so that information collected will be relevant to the requirements of this part; and

''(C) be designed and implemented not later than 2 years after the date of enactment of this section.

''(b) STATE PUBLIC HEALTH OFFICERS.—In developing the data set to be used under the Uniform Core Public Health Functions Reporting System the Secretary shall consult with State public health officers.'';

(4) in section 1908(b) (42 U.S.C. 300w-7(b)), by striking ''1902'' and inserting ''1901''; and

(5) in section 1910(a) (42 U.S.C. 300w-9(a)), by striking ''1904(a)(1)(F)'' and inserting ''1901''.

TITLE II—CENTERS FOR DISEASE CONTROL AND PREVENTION ACTIVITIES

SEC. 201. REPORT OF DIRECTOR OF CENTERS FOR DISEASE CONTROL AND PREVENTION.

(a) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control and Prevention, shall prepare and submit to the President and to the appropriate committees of Congress a report that shall contain—

(1) a description of the activities carried out by and through the Centers for Disease Control and Prevention and the policies with respect to such programs and such recommendations concerning such policies and proposals for legislative changes in the Public Health Service Act as the Secretary considers appropriate; and

(2) a description of the activities undertaken to improve and streamline grants and contracting accountability within such Centers.

(b) TIME FOR REPORTING.—Not later than July 1, 1996, the Secretary shall submit the report required under subsection (a). Such report shall relate to fiscal year 1995, to the implementation of part A of title XIX of the Public Health Service Act (as amended by section 101), and to the implementation of a program of the type described in section 301(e) of such Act (as added by section 202).

SEC. 202. PRIORITY PUBLIC HEALTH NEEDS OF REGIONAL AND NATIONAL SIGNIFICANCE.

Section 301 of the Public Health Service Act (42 U.S.C. 241) is amended by adding at the end thereof the following new subsection:

''(e)(1) The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall address priority public health needs of regional and national significance through the provision of—

''(A) training and technical assistance to States, political subdivisions of States, and public or private nonprofit entities through direct assistance or grants or contracts;

''(B) applied research into the prevention and control of diseases and conditions; or

''(C) demonstration projects for the prevention and control of diseases.

In carrying out subparagraphs (B) and (C), the Secretary may make grants to, or enter into cooperative agreements with, States, political subdivisions of States, and public or private nonprofit entities.

''(2) Priority public health needs of regional and national significance may include, emerging infectious diseases, environmental and occupational threats, chronic diseases, injuries, and other priority diseases and conditions as determined appropriate by the Secretary.

''(3)(A) Recipients of grants, cooperative agreements, and contracts under this subsection shall comply with information and application requirements determined appropriate by the Secretary.

''(B) With respect to a grant, cooperative agreement, or contract awarded under this subsection, the period during which payments under such award are made to the recipient may not exceed 5 years. The provision of such payments shall be subject to annual approval by the Secretary and the availability of appropriations for the fiscal year involved. This subparagraph may not be construed as limiting the number of awards under the program involved that may be made to an entity.

''(C) The Secretary may require that an entity that applies for a grant, contract, or cooperative agreement under this subsection provide non-Federal matching funds, as determined appropriate by the Secretary, to ensure the institutional commitment of the entity to the projects funded under the grant, contract, or cooperative agreement. Such non-Federal matching funds made be provided directly or through donations from public or private entities and may be in cash or in kind, fairly evaluated, including plant, equipment, or services.

''(D) With respect to activities for which a grant, cooperative agreement, or contract is awarded under this subsection, the recipient shall agree to maintain expenditures of non-Federal amounts for such activities at a level that is not less than the level of such expenditures maintained by the entity for such fiscal year preceding the fiscal year for which the entity receives such a grant, contract, or cooperative agreement.

''(E)(i) An application for a grant, contract, or cooperative agreement under this subsection shall ensure that amounts received under such grant, contract, or agreement will not be expended—

''(I) to provide inpatient services;

''(II) to make cash payments to intended recipients of health services;

''(III) to purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment; or

''(IV) to satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds.

''(ii) A funding agreement for a grant, contract, or cooperative agreement under this subsection is that the entity involved will not expend more than 10 percent of the grant, contract, or agreement for administrative expenses with respect to the grant, contract, or agreement.

''(4) The Secretary, at the request of a State or a political subdivision of a State, or a public or private nonprofit entity, may reduce the amount of payments under this subsection by—

''(A) the fair market value of any supplies or equipment furnished the State, political subdivision of the State, or a public of private nonprofit entity; and

''(B) the amount of the pay, allowances, and travel expenses of any officer, fellow, or employee of the Government when detailed to the State, a political subdivision of the State, or a public or private non-profit entity, and the amount of any other costs incurred in connection with the detail of such officer, fellow, or employee;

when the furnishing of such officer, fellow, or employee is for the convenience of and at the request of the State, political subdivision of the State, or public or private nonprofit entity and for the purpose of conducting activities described in this subsection. The amount by which any payment is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment or in detailing the personnel, on which the reduction of the payment is based, and the amount shall be deemed to have been paid to the State, political subdivision of the State, or public or private non-profit entity.''.

''(5)(A) The Director of the Centers for Disease Control and Prevention shall establish

information and education programs to disseminate the findings of the research, demonstration, and training programs under this section to the general public and to health professionals.

''(B) The Director shall take such action as may be necessary to insure that all methods of dissemination and exchange of scientific knowledge and public health information are maintained between the Centers and the public, and the Centers and other scientific organizations, both nationally and internationally.

''(6) There are authorized to be appropriated to carry out this subsection, $327,000,000 for fiscal year 1997, and such sums as may be necessary for each of the fiscal years 1998 through 2000.''.

TITLE III—REPEALS

SEC. 301. REPEALS.

(a) IN GENERAL.—The following provisions of the Public Health Service Act are repealed:

(1) Subparagraph (A) of section 317(j)(1) (42 U.S.C. 247b(j)(1)(A))

(2) Section 317A (42 U.S.C. 247b–1).

(3) Subsection (g) of section 317E (42 U.S.C. 247b–6(g)).

(4) Subsection (e) of section 318 (42 U.S.C. 247c(e)).

(5) Subsection (q) of section 318A (42 U.S.C. 247c–1(q)).

(6) Section 1510 (42 U.S.C. 300n–5).

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 317(j)(1) (42 U.S.C. 247b(j)(1)(A)) is amended by striking the subparagraph designation.

PUBLIC HEALTH ENHANCEMENT ACT OF 1995—SUMMARY

CORE FUNCTIONS OF PUBLIC HEALTH BLOCK GRANT

1. Each state or tribal organization would perform eight core functions of public health to address their unique public health problems in order to receive funding through the block grant. Each of these activities are recognized as functions any public health department should undertake to protect the health of the public. The eight core functions are:

Data collection and analysis for planning and needs assessment;

Activities to protect the environment and to assure the safety of housing, work-places, food and water, and the public health of communities;

Investigation and control of adverse health conditions;

Public information and education programs to reduce risks to health;

Accountability and quality assurance activities;

Provision of public health laboratory services;

Training and education of public health professionals; and

Leadership, policy development, and administration activities.

2. The Secretary would develop and implement a formula, which incorporates measures of population, health status of the population, and financial resources, to distribute funds to the states. Tribal organizations could also receive a portion of the state grant directly from the Centers for Disease Control and Prevention (CDC). Although the Secretary would implement the formula, Congressional authorizing committees could change it after receiving a required report on the impact to states of the formula. States would receive the block grant directly. In addition, tribal organizations would have the option to receive a proportionate amount of the state block grant directly from the CDC. This amount would be no less than a proportionate amount each currently receives from the CDC relative to all funds given to a state by the CDC.

3. Through its application, each state would show that it is using its funds to address public health problems unique to its population and would be held accountable by the Secretary. Under this provision, each state would apply to receive the block grant. In its application, it would show, using public health indicators, what its most pressing problems are. This needs assessment would be conducted with wide community-based input. The public health indicators would be based on Healthy People 2000 goals. If it is determined that the state is not making a good faith effort to address its leading public health problems, the Secretary could reduce the grant award.

4. The Core Functions of Public Health Block Grant program would be authorized at $1.1 billion in 1997. The funds for the block grant are those which otherwise would be appropriated for the current twelve CDC grant programs. These are:

Preventive health and health services block grant prevention and control of sexually transmitted disease;

Infertility and sexually transmitted diseases immunization grant program;

Preventive health services regarding tuberculosis cancer registries;

Preventive health service programs for diabetes;

Preventive health services programs for tobacco use prevention;

Preventive health services programs for disabilities prevention;

Lead poisoning prevention;

Breast and cervical cancer detection; and

Preventive health services programs for human immunodeficiency virus.

5. Each state would be required to maintain its current funding for core functions of public health. To avoid an unfunded mandate, states could reduce the amount they spend on core public health functions, but would face a dollar for dollar reduction in the amount they receive from the federal government.

CENTERS FOR DISEASE CONTROL AND PREVENTION ACTIVITIES

1. The CDC would report to the Congress on the benefits of its activities by July of 1996. Such a report would foster a review of the CDC programs given the changes created by this legislation. The report would also include legislative recommendations.

2. An initiative to address priority public health needs of regional and national significance is authorized at $327 million for fiscal year 1997. Through this authority, the CDC could provide technical assistance, conduct applied research, or conduct demonstration projects to address pressing public health needs of regional and national significance. All support for a specific problem would be time-limited to five years. Once successful solutions are developed, the CDC would work with states to incorporate these solutions through the use of the State's block grant. The authorized amount is transferred from a consolidation of the 28 different research and development funding streams at the CDC.

3. Authorize the Public Health Service to continue developing a uniform core public health functions reporting system which would measure outcomes attributable to the performance of core public health functions. this system would be used in the state application for the block grant. It would also be used to hold states accountable for their use of the block grant. The indicators would be tied to the goals of Healthy People 2000.

By Mrs. KASSEBAUM:

S. 143. A bill to consolidate Federal employment training programs and create a new process and structure for funding the programs, and for other purposes; to the Committee on Labor and Human Resources.

THE JOB TRAINING CONSOLIDATION ACT OF 1995

Mrs. KASSEBAUM. Mr. President, today I am reintroducing legislation designed to revamp our current Federal job training programs. From the viewpoint of both the taxpayer and the trainee, there can be little doubt that a comprehensive overhaul is long overdue.

Many Americans spoke clearly in the recent elections and said that they do not believe that the Federal Government is spending their money wisely. One of the most glaring examples of wasteful Government spending are Federal job training programs. According to the General Accounting Office, the Federal Government currently oversees 154 separate job training programs, administered by 14 different agencies, at a total cost to the taxpayers of almost $25 billion a year. These programs are hamstrung by duplication, waste, and conflicting regulations that too often leave program trainees no better off than when they started.

We simply cannot keep pumping Federal dollars into this confusing maze of programs. People across the country are fed up with spending money on Government programs that make promises and then do not deliver. With a few notable exceptions, the evidence on job training failures far exceeds the successes.

Last year the GAO released a report indicating that fewer than half of the 62 job training programs selected for study even bothered to check to see if participants obtained jobs after training. During the past decade, only seven of those programs were evaluated to find out whether trainees would have achieved the same outcomes without Federal assistance.

There is general acknowledgement in Congress that we must act now to reform these programs. The administration has also spoken to this need, as have many of my colleagues.

Last year I introduced bipartisan legislation designed to overhaul completely job training programs by essentially wiping the slate clean and starting over. The bill I am reintroducing today incorporates one of the two basic pieces of that original bill. The Job Training Consolidation Act of 1995 would grant broad waivers immediately to allow States and localities maximum flexibility to coordinate the largest Federal job training programs at the local level.

This would have the immediate effect of allowing States and localities the opportunity to combine resources and tailor programs to meet current needs. For example, resources could be combined to address high priority needs of unemployed persons in a State or local community. In addition, where there is overlap, some programs could be eliminated to increase funding in other

areas and improve efficiencies in the delivery of services.

What I am not proposing, which was the second piece of last year's bill, is to create a national commission to study and make recommendations to Congress on consolidating all existing programs. I no longer believe that it is necessary for Congress to wait another 2 years before taking decisive action to reform these programs.

Instead, the Senate Committee on Labor and Human Resources will hold hearings on January 10, 11, and 12 on the need to overhaul Federal job training programs. The hearings will outline the current state of the programs, provide state, local and private sector perspectives on job training, and elicit the opinions of a variety of experts on how to reform our scattershot array of training program into a system that will serve all individuals more effectively.

As a result, I believe we will have the information necessary to make sendible determinations about the elimination or consolidation of specific programs. I intend to build upon this legislation in the next few months by introducing a comprehensive proposal to replace existing programs with a new employment and training strategy.

However, I believe it is first necessary for the Committee to conduct a through review of existing programs, before a final proposal is made.

The goal is a single, coherent approach to employment and training—to assist all job-seekers in entering the workforce, gaining basic skills, or retraining for new jobs. We do not have that kind of a system today and our workers and our economy both pay the price. We need to start over, think boldly, and create a system that works for everyone.

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

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

S. 143

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 ''Job Training Consolidation Act of 1995''.

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

SEC. 2. FINDINGS.

Congress finds that—

(1) according to the General Accounting Office—

(A) there are currently 154 Federal employment training programs; and

(B) these programs cost nearly $25,000,000,000 annually and are administered by 14 different Federal agencies;

(2) these programs target individual populations such as economically disadvantaged persons, dislocated workers, youth, and persons with disabilities;

(3) many of these programs provide similar services, such as counseling, assessment, and literacy skills enhancement, resulting in overlapping services, wasted funds, and confusion on the part of local service providers and individuals seeking assistance;

(4) the Federal agencies administering these programs fail to collect enough performance data to know whether the programs are working effectively;

(5) the additional cost of administering overlapping employment training programs at the Federal, State, and local levels diverts scarce resources that could be better used to assist all persons in entering the work force, gaining basic skills, or retraining for new jobs;

(6) the conflicting eligibility requirements, and annual budgeting or operating cycles, of employment training programs create barriers to coordination of the programs that may restrict access to services and result in inefficient use of resources;

(7) despite more than 30 years of federally funded employment training programs, the Federal Government has no single, coherent policy guiding its employment training efforts;

(8) the Federal Government has failed to adequately maximize the effectiveness of the substantial public and private sector resources of the United States for training and work-related education; and

(9) the Federal Government lacks a national labor market information system, which is needed to provide current data on jobs and skills in demand in different regions of the country.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) COVERED ACT.—The term ''covered Act'' means an Act described in paragraph (3).

(2) COVERED ACTIVITY.—The term ''covered activity'' means an activity authorized to be carried out under a covered provision.

(3) COVERED PROVISION.—The term ''covered provision'' means a provision of—

(A) the Job Training Partnership Act (29 U.S.C. 1501 et seq.);

(B) the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.);

(C) part B of title III of the Adult Education Act (20 U.S.C. 1203 et seq.);

(D) part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.);

(E) section 235 or 236, or paragraph (1) or (2) of section 250(d), of the Trade Act of 1974 (19 U.S.C. 2295, 2296, or 2331(d));

(F) the Wagner-Peyser Act (29 U.S.C. 49 et seq.);

(G) title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.);

(H) section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4));

(I) the Refugee Education Assistance Act of 1980 (8 U.S.C. 1522 note);

(J) section 204 of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1255a note);

(K) title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11421 et seq.);

(L) title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.); and

(M) the School-to-Work Opportunities Act of 1994 (20 U.S.C. 6101 et seq.).

(4) LOCAL ENTITY.—The term ''local entity'' includes public and private entities.

TITLE I—USE OF FEDERAL FUNDS FOR STATE EMPLOYMENT TRAINING ACTIVITIES

SEC. 101. FORMULA ASSISTANCE.

(a) USE OF FUNDS.—Notwithstanding any other provision of Federal law, a State that receives State formula assistance for a covered activity for a fiscal year may use the assistance to carry out activities as described in section 104 for the fiscal year. Notwithstanding any other provision of Federal law, a local entity that receives local formula assistance for a covered activity for a fiscal year may use the assistance to carry out activities as described in section 104 for the fiscal year.

(b) REQUIREMENTS.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, a State may use such State formula assistance, and a local entity may use such local formula assistance, to carry out activities as described in section 104, without regard to the requirements of any covered Act.

(2) REMAINING PROGRAM REQUIREMENTS.—

(A) ALLOCATION AND ENFORCEMENT.—Any head of a Federal agency that allocates State formula assistance, and any State that allocates local formula assistance, for a covered activity—

(i) shall allocate such assistance in accordance with allocation requirements that are specified in the covered Acts and that relate to the covered activity, including provisions relating to minimum or maximum allocations; and

(ii)(I) if the State or local entity uses such assistance to carry out the covered activity, shall exercise the enforcement and oversight authorities that are specified in the covered Acts and that relate to the covered activity; and

(II) if the State or local entity does not use such assistance to carry out the covered activity, shall exercise such authorities solely for the purpose of ensuring that the assistance is used to carry out activities as described in section 104, and in accordance with the applicable requirements of this title.

(B) ADMINISTRATIVE EXPENSE LIMITS.—Each State that receives State formula assistance, and each local entity that receives local formula assistance, for a covered activity—

(i) shall comply with any limits on administrative expenses that are specified in the covered Acts and that relate to the covered activity; and

(ii) for any fiscal year, may not use a greater percentage of the State formula assistance or local formula assistance to pay for the administrative expenses of activities carried out under section 104 than the State or entity used to pay for such administrative expenses relating to the covered activity for fiscal year 1995.

(C) CONDITIONAL BENEFITS.—Any State that receives State formula assistance to carry out a covered activity described in a covered provision specified in subparagraph (D) or (H) of section 3(3) and that uses the assistance to carry out activities as described in section 104 shall carry out an activity that is appropriate for persons who would otherwise be eligible to participate in the covered activity. Any person in the State who would otherwise be required to participate in the covered activity in order to obtain Federal assistance under a covered Act shall be eligible to receive the assistance by participating in such appropriate activity.

(D) AVAILABILITY OF APPROPRIATIONS.—Nothing in this section shall affect the period for which any appropriation under a covered Act remains available.

(c) DEFINITIONS.—As used in this section:

(1) LOCAL FORMULA ASSISTANCE.—The term ''local formula assistance'' means assistance made available by a State to a local entity under—

(A)(i) subsections (a)(2) and (b) of section 202 of the Job Training Partnership Act (29 U.S.C. 1602);

(ii) section 252(b) of such Act (29 U.S.C. 1631(b)) in accordance with subsections (a)(2) and (b) of section 262 of such Act (29 U.S.C. 1642);

(iii) subsections (a)(2) and (b) of section 262 of such Act (29 U.S.C. 1642); or

(iv) subsections (a)(1), (b), and (d) of section 302 of such Act (29 U.S.C. 1652); or

(B)(i) section 102(a)(1), and section 231(a) or 232 of the Carl D. Perkins Vocational Education Act (20 U.S.C. 2312(a)(1), and 2341(a) or 2341a); or

(ii) section 353(b) of such Act (20 U.S.C. 2395b(b)).

(2) STATE FORMULA ASSISTANCE.—The term ''State formula assistance'' means assistance made available by an agency of the Federal Government to a State under—

(A)(i) subsections (a)(2) and (c) of section 202 of the Job Training Partnership Act (29 U.S.C. 1602);

(ii) subsections (a)(2) and (c) of section 262 of such Act (29 U.S.C. 1642);

(iii) subsections (a)(1), (b), and (c)(1) of section 302 of such Act (29 U.S.C. 1652); or

(iv) sections 502(d) and 503 of such Act (29 U.S.C. 1791a(d));

(B)(i) section 101(a)(2) of the Carl D. Perkins Vocational Education Act (20 U.S.C. 2311(a)(2)) (other than assistance made available under section 231(a) or 232 of such Act (20 U.S.C. 2341(a) or 2341a) to local educational agencies or other local entities within the State);

(ii) section 112(f) of such Act (20 U.S.C. 2322(f)); or

(iii) section 343(b)(1) of such Act (20 U.S.C. 2394a(b)(1));

(C) section 313(b) of the Adult Education Act (20 U.S.C. 1201b(b)) (other than assistance reserved to carry out part D of title III of such Act (20 U.S.C. 1213 et seq.));

(D) subsection (k) or (l) of section 403 of the Social Security Act (42 U.S.C. 603);

(E) section 6(b)(1) of the Wagner-Peyser Act (29 U.S.C. 49e(b)(1));

(F)(i) subsection (a) or (b) of section 110 of the Rehabilitation Act of 1973 (29 U.S.C. 730) (less any amount reserved under subsection (d) of such section);

(ii) section 112(e) of such Act (29 U.S.C. 732(e)); or

(iii) section 124 of such Act (29 U.S.C. 744);

(G) section 16(h)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2025(h)(1)) (other than funds made available under subparagraph (B) of such section);

(H)(i) section 201(b) of the Refugee Education Assistance Act of 1980 (8 U.S.C. 1522 note);

(ii) section 301(b) of such Act (8 U.S.C. 1522 note); or

(iii) section 401(b) of such Act (8 U.S.C. 1522 note);

(I) section 204(b) of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1255a note);

(J)(i) section 722(c) of the Stewart B. McKinney Homeless Assistance Act; or

(ii) section 752(a) of such Act (42 U.S.C. 11462(a)); or

(K) section 506(a)(3) of the Older Americans Act of 1965 (42 U.S.C. 3056d(a)(3)).

SEC. 102. DISCRETIONARY ASSISTANCE.

(a) IN GENERAL.—

(1) PRIOR ASSISTANCE.—Notwithstanding any other provision of Federal law, a State or local entity that received, prior to the date of enactment of this Act, discretionary assistance for a covered activity for a fiscal year may use the assistance to carry out activities as described in section 104 for the fiscal year.

(2) FUTURE ASSISTANCE.—Notwithstanding any other provision of Federal law, a State or local entity that is eligible to apply for discretionary assistance for a covered activity for a fiscal year may apply, as described in subsection (c), for the assistance to carry out activities as described in section 104 for the fiscal year.

(b) USE OF FUNDS.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, a State or local entity that receives discretionary assistance prior to the date of enactment of this Act or on approval of an application submitted under subsection (c) may use the discretionary assistance to carry out activities as described in section 104, without regard to the requirements of any covered Act.

(2) REMAINING PROGRAM REQUIREMENTS.—A State or local entity that uses discretionary assistance to carry out such activities shall use the assistance in accordance with the requirements of subparagraphs (A), (B), and (D) of section 101(b)(2), which shall apply to such assistance in the same manner and to the same extent as the requirements apply to State formula assistance or local formula assistance, as appropriate, used under section 101.

(c) ADDITIONAL INFORMATION IN APPLICATION.—A State or local entity seeking to use discretionary assistance as described in subsection (a)(2) shall include in the application (under the covered provision involved) of the State or local entity for the assistance (in lieu of any information otherwise required to be submitted)—

(1) a description of the funds the State or local entity proposes to use to carry out activities as described in section 104;

(2) a description of the activities to be carried out with such funds;

(3) a description of the specific outcomes expected of participants in the activities; and

(4) such other information as the head of the agency with responsibility for evaluating the application may require.

(d) EVALUATION OF APPLICATION.—In evaluating an application described in subsection (c), the agency with responsibility for evaluating the application shall evaluate the application by determining the likelihood that the State or local entity submitting the application will be able to carry out activities as described in section 104. In evaluating applications for discretionary assistance, the agency shall not give preference to applications proposing covered activities over applications proposing activities described in section 104.

(e) DEFINITION.—As used in this section, the term ''discretionary assistance'' means assistance that—

(1) is not State formula assistance or local formula assistance, as defined in section 101(c);

(2) is not Federal assistance available to provide services described in section 235 or 236, or paragraph (1) or (2) of section 250(d), of the Trade Act of 1974 (19 U.S.C. 2295, 2296, or 2331(d)); and

(3) is made available by an agency of the Federal Government, or by a State, to a State or local entity to enable the State or local entity to carry out an activity under a covered provision.

SEC. 103. TRADE ADJUSTMENT ASSISTANCE SERVICES.

(a) USE OF ASSISTANCE.—

(1) IN GENERAL.—Notwithstanding any other provision of Federal law, if the Secretary of Labor initiates efforts under section 235 of the Trade Act of 1974 (19 U.S.C. 2295) to secure services described in such section 235 (including services that are provided under section 250(d)(1) of such Act (19 U.S.C. 2331(d)(1))) for a worker, or if the Secretary makes a determination under section 236(a) of the Trade Act of 1974 (19 U.S.C. 2296(a)) that entitles a worker to payments described in such section for services (including services for which payment is provided under section 250(d)(2) of such Act), the Secretary shall notify the State in which the worker is located.

(2) ACTIVITIES.—A State that receives such notification may apply under subsection (c) for the Federal assistance that would otherwise have been expended to provide services described in paragraph (1) to the worker, to enable the State to carry out activities as described in section 104 for the fiscal year. If the State has received such assistance in advance, the State may apply under subsection (c) to use such assistance to enable the State to carry out activities as described in section 104 for the fiscal year.

(b) REQUIREMENTS.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, a State that receives such Federal assistance and receives approval of an application submitted under subsection (c) may use the assistance to carry out activities as described in section 104, without regard to the requirements of any covered Act.

(2) REMAINING PROGRAM REQUIREMENTS.—A State that uses such Federal assistance to carry out such activities shall use the assistance in accordance with the requirements of subparagraphs (A)(ii), (B), and (D) of section 101(b)(2), which shall apply to such assistance in the same manner and to the same extent as the requirements apply to State formula assistance or local formula assistance, as appropriate, used under section 101.

(3) CONDITIONAL BENEFITS.—Any State that receives Federal assistance that would otherwise have been expended to provide services described in subsection (a)(1) to a worker, and that uses the assistance to carry out activities as described in section 104, shall carry out eligible alternative activities that are appropriate for the worker. If the worker would otherwise be required to receive such services in order to obtain Federal funds under another provision of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2291 et seq.), the worker shall be eligible to receive the funds by participating in such eligible alternative activities.

(c) ADDITIONAL INFORMATION IN APPLICATION.—A State seeking to use Federal assistance that would otherwise have been expended to provide services described in subsection (a)(1) to a worker shall submit an application to the Secretary of Labor, at such time and in such manner as the Secretary may require, that contains—

(1) a description of the Federal assistance the State proposes to use to carry out activities as described in section 104;

(2) a description of the activities to be carried out with such assistance;

(3) a description of the specific outcomes expected of participants in the activities; and

(4) such other information as the Secretary of Labor may require.

(d) EVALUATION OF APPLICATION.—In evaluating an application described in subsection (c), the Secretary of Labor shall evaluate the application by determining the likelihood that the State submitting the application

will be able to carry out activities as described in section 104. In evaluating applications for such Federal assistance, the Secretary of Labor shall not give preference to applications proposing covered activities over applications proposing activities described in section 104.

SEC. 104. EMPLOYMENT TRAINING ACTIVITIES.

A State or local entity that receives State formula assistance or local formula assistance as described in section 101(a), receives discretionary assistance as described in section 102(b), or receives Federal assistance as described in section 103(b), may—

(1) use the assistance to carry out activities to develop a comprehensive statewide employment training system that—

(A) is primarily designed and implemented by communities to serve local labor markets in the State involved;

(B) requires the participation and involvement of private sector employers in all phases of the planning, development, and implementation of the system, including—

(i) determining the skills to be developed by each employment training program carried out through the system; and

(ii) designing the training to be provided by each such program;

(C) assures that State and local training efforts are linked to available employment opportunities;

(D) includes standards for determining the effectiveness of such programs; and

(E) is an integrated system that assures that individuals seeking employment in the State will receive information about all available employment training services provided in the State, regardless of where the individuals initially enter the system; or

(2) may use the assistance that would otherwise have been used to carry out 2 or more covered activities—

(A) to address the high priority needs of unemployed persons in the State or community involved for employment training services;

(B) to improve efficiencies in the delivery of the covered activities; or

(C) in the case of overlapping or duplicative activities—

(i) by combining the covered activities and funding the combined activities; or

(ii) by eliminating one of the covered activities and increasing the funding to the remaining covered activity.

SEC. 105. REPORTS.

(a) STATE REPORTS.—

(1) PREPARATION.—A State that receives State formula assistance as described in section 101(a), receives discretionary assistance as described in section 102(b), or receives Federal assistance as described in section 103(b), and that uses the assistance to carry out activities as described in section 104 shall annually prepare a report containing—

(A) information on the amount and origin of such assistance;

(B) information on the activities carried out with such assistance;

(C) information regarding the populations to be served with such assistance, such as economically disadvantaged persons, dislocated workers, youth, and individuals with disabilities;

(D) a summary of the reports received by the State under subsection (b); and

(E) such other information as the committees described in paragraph (2) may require.

(2) SUBMISSION.—The State shall submit the report described in paragraph (1) to the Committee on Education and Labor of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, not later than 60 days after the end of each year.

(b) LOCAL ENTITY REPORTS.—

(1) PREPARATION.—A local entity that receives local formula assistance as described in section 101(a), or that receives discretionary assistance as described in section 102(b), and uses the assistance to carry out activities as described in section 104 shall annually prepare a report containing—

(A) information on the amount and origin of such assistance;

(B) information on the activities carried out with such assistance;

(C) information regarding the populations to be served with such assistance, such as economically disadvantaged persons, dislocated workers, youth, and individuals with disabilities; and

(D) such other information as the State that allocated the assistance may require.

(2) SUBMISSION.—The local entity shall submit the report described in paragraph (1) to the State not later than 30 days after the end of each year.

TITLE II—CONSOLIDATION OF EMPLOYMENT TRAINING PROGRAMS

SEC. 201. REPEALS OF EMPLOYMENT TRAINING PROGRAMS.

(a) IN GENERAL.—The following provisions are repealed:

(1) The Job Training Partnership Act (29 U.S.C. 1501 et seq.).

(2) The Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.).

(3) Part B of title III of the Adult Education Act (20 U.S.C. 1203 et seq.).

(4) Part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.).

(5) Sections 235 and 236 of the Trade Act of 1974 (19 U.S.C. 2295 and 2296), and paragraphs (1) and (2) of section 250(d) of such Act (19 U.S.C. 2331(d)).

(6) The Wagner-Peyser Act (29 U.S.C. 49 et seq.).

(7) Title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.).

(8) Section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4)).

(9) The Refugee Education Assistance Act of 1980 (8 U.S.C. 1522 note).

(10) Section 204 of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1255a note).

(11) Title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11421 et seq.).

(12) Title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.).

(13) The School-to-Work Opportunities Act of 1994 (20 U.S.C. 6101 et seq.).

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 250(d) of the Trade Act of 1974 (as amended by subsection (a)(5)) is amended by redesignating paragraphs (3), (4), and (5) as paragraphs (1), (2), and (3), respectively.

(c) EFFECTIVE DATE.—The repeals made by subsection (a), and the amendments made by subsection (b), shall take effect 24 months after the date of enactment of this Act.

By Mr. LOTT (for Mr. HATCH):

S. 144. A bill to amend section 526 of title 28, United States Code, to authorize awards of attorney's fees; read the first time.

THE ATTORNEY'S FEES EQUITY ACT OF 1995

Mr. HATCH. Mr. President, I rise today to introduce what some might consider a minor bill, but one that is nonetheless the right and compelling thing to do for Department of Justice employees and Federal public defenders who serve their government diligently.

Most of my colleagues, I believe, are familiar with this legislation, which we have been working on for several years. The same, or a similar bill, has in recent years twice passed the Senate and once been added to a crime bill conference report. Nonetheless, for reasons unrelated to this bill, it has never been signed into law. I sincerely hope that by moving this bill separately this year we can get it done.

This legislation provides that current or former attorneys or agents employed by the Department of Justice or by a Federal public defender subjected to criminal or disciplinary investigations arising out of their employment duties shall be entitled to reasonable attorney's fees if such investigations do not result in adverse action.

In reality, this bill is simply a matter of fundamental fairness. The Independent Counsel Reauthorization Act has for some time provided for full reimbursement of counsel's fees incurred by high level Federal officials subject to investigation for possible violations of Federal criminal law.

Providing legal fees to high-ranking government officials subject to investigation for violation of criminal law, but not to working level employees such as Assistant U.S. Attorneys is simply unfair. High ranking officials obviously receive larger government salaries than their working level colleagues, and not infrequently have opportunities to earn lucrative salaries once they leave. Moreover, they are often less vulnerable to the chilling effect misconduct or criminal investigations can have on employees on the front line of prosecution.

The reimbursement provisions of the Independent Counsel Act demonstrate that the public interest in assisting government officials with the staggering cost and devastating impact of investigations can outweigh any real or perceived conflict of interest, which I understand is the principal rationale for not providing such assistance to lower level employees.

The Independent Counsel Act, however, correctly provides reimbursement for attorney's fees only if the person under investigation is vindicated. By limiting government assistance only to such circumstances—which my bill does as well—the public interest is clearly served. Any conflict attributable to the government arguing with the government is rendered void. By providing reimbursement only for a successful defense, any incentive to defending private counsel to go easy with the Government because it will reimburse his or her fees is removed. Also, by providing the means for an adequate defense for its employees, the U.S. Government ensures that frivolous or vindictive investigations are terminated quickly. At the same time, there is no incentive under such an arrangement for the Government to prosecute less zealously; indeed, a successful prosecution saves costs since there then would be no obligation to pay legal fees.

If no reimbursement is available, however, the possibility of serious conflicts is great. If an Assistant U.S. Attorney must retain private defense counsel, it is likely that the defense counsel would have to provide the U.S. Attorney with a fee discount or pro bono representation. This situation obviously might create at least the appearance of, if not a real conflict of interest in the future.

The limited legislation I am introducing, which provides for reimbursement of private attorneys fees to certain Department of Justice and Federal public defender employees under specified circumstances, can be fully justified. Covered employees, because of their duties, are far more often subject to allegations of misconduct, usually by defendants and less often by courts. In either event, the reality is that these employees—both lawyers and agents—are in a position of constant adversity. In order to prevent the need for self-defense from becoming a disincentive to government service or to force Assistant U.S. Attorneys to roam the defense bar looking for handouts in the form of free, legal service—a disagreeable situation to say the least—some legislative relief is appropriate. I believe that the legislation I am introducing today provides a limited and rational solution to this problem, and I hope the Senate will move swiftly to pass it.

By Mr. GRAMM (for himself, Mr. LOTT, Mr. BURNS, Mrs. HUTCHISON, Mr. CRAIG THOMAS, and Mr. INHOFE):

S. 145. A bill to provide appropriate protection for the Constitutional guarantee of private property rights, and for other purposes; to the Committee on Governmental Affairs.

THE PRIVATE PROPERTY RIGHTS RESTORATION ACT

● Mr. GRAMM. Mr. President, we see no reason why the takings clause of the Fifth Amendment, as much a part of the Bill of Rights as the First Amendment or Fourth Amendment, should be relegated to the status of a poor relation. With these words in the recent landmark Supreme Court decision Dolan versus City of Tigard, Chief Justice Rehnquist correctly points out the evisceration of one of the most fundamental rights protected by our Constitution. Sadly, with all the talk about rights in America today, the fundamental freedom to acquire, use, and dispose of private property has become a poor relation. In fact, it has very nearly been drummed out of the family because of the Federal Government's relentless assault on private property.

The Founding Fathers were keenly aware of the need to protect private property rights, so much so that they provided in the Bill of Rights that private property—shall not—be taken for public use without just compensation. Indeed, the courts have been very clear that if the Government builds a highway across your property, then the 5th amendment's just compensation provision applies. However, one form of taking which has become more common than outright condemnation is the regulatory taking. This occurs when the Government imposes such stringent controls on the use of private property that its value is eroded or destroyed.

Currently, farmers, small businesses, and homeowners are in the path of an avalanche of Federal regulations and restrictions affecting their property. During President Clinton's first year in office, the Federal Register, which is the daily depository of all proposed and final Federal regulations, totalled 69,684 pages—the highest count since Jimmy Carter's record level. Moreover, the Unified Agenda of Federal Regulations reveals an enormous increase of regulatory activity, with a 22 percent growth since 1992 in the number of regulations under consideration or recently completed by the 60 Federal departments and agencies within the Clinton bureaucracy.

Two examples of Federal regulatory takings involve wetlands and endangered species. In Texas, the U.S. Fish and Wildlife Service [USFWS] has listed 65 species as threatened or endangered. Nationwide, 853 species are already listed as endangered, and approximately 3,900 are candidates for inclusion on the list. The mere presence, however fleeting, of a listed species on a parcel of land has profound ramifications for small, individual landowners whose property holdings are often their most significant source of income. In the Woods of East Texas, if a red-cockaded woodpecker landed in your tree, you could suddenly be threatened with a government taking that barred you from cutting your own timber. Without the income generated by such economic activity, how are those whose jobs are put at risk expected to provide for themselves and their families?

All over the country under wetlands provisions, entire counties or significant portions of coastal land in States such as Texas and Maryland have found that the ability of people to use their property has been restricted dramatically because a Government bureaucrat redefined what would qualify as a wetland. The destructive impact of these regulatory actions on jobs. the economy, family well-being, and individual freedom has been enormous.

To help revive this important freedom, I have reintroduced The Private Property Rights Restoration Act, which will restore the Constitutional mandate that just compensation be paid when government action reduce private property value. This bill will safeguard the rights of individuals whose land is taken by Government regulations or policies which reduce or destroy the value of the property. The legislation or policies which reduce or destroy the value of the property. The legislation requires compensation to be paid when such an action has reduced property value by at least 25 percent or $10,000. However, such protection will not be extended to uses of property which are deemed to be a public nuisance. The payment of compensation to, and legal fees for, property owners who successfully plead their case in court must be paid with funds from the budget of the agency issuing the regulation.

Mr. President, I will work toward passage of this legislation to help every American whose constitutionally guaranteed property rights are being ignored or threatened by the Federal Government. I hope we can work together to protect private property rights and to bring the Fifth Amendment back into the family of the Bill of Rights on behalf of the people who own property, till the soil, and produce the goods and services in our country.

I ask unanimous consent that a one page description of the legislation and the bill itself be printed in the RECORD.

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

S. 145

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 ''Private Property Rights Restoration Act''.

SEC. 2. PRIVATE PROPERTY RIGHTS RESTORATION.

(a) CAUSE OF ACTION.—(1) The owner of any real property shall have a cause of action against the United States if—

(A) the application of a statute, regulation, rule, guideline, or policy of the United States restricts, limits, or otherwise takes a right to real property that would otherwise exist in the absence of such application; and

(B) such application described under subparagraph (A) would result in a discrete and nonnegligible reduction in the fair market value of the affection portion of real property.

(2) Notwithstanding paragraph (1)(B), a prima facie case against the United States shall be established if the Government action described under paragraph (1)(A) results in a temporary or permanent diminution of fair market value of the affected portion of real property of the lesser of—

(A) 25 percent or more; or

(B) $10,000 or more.

(b) JURISDICTION.—An action under this Act shall be filed in the United States Court of Federal Claims which shall have exclusive jurisdiction.

(c) RECOVERY.—In any action filed under this Act, the owner may elect to recover—

(1) a sum equal to the diminution in the fair market value of the portion of the property affected by the application of a statute, regulation, rule, guideline, or policy described under subsection (a)(1)(A) and retain title; or

(2) the fair market value of the affected portion of the regulated property prior to the Government action and relinquish title to the portion of property regulated.

(d) PUBLIC NUISANCE EXCEPTION.—(1) No compensation shall be required by virtue of this Act if the owner's use or proposed use of the property amounts to a public nuisance as commonly understood and defined by background principles of nuisance and property law, as understood under the law of the State within which the property is situated.

(2) To bar an award of damages under this Act, the United States shall have the burden

of proof to establish that the use or proposed use of the property is a public nuisance as defined under paragraph (1) of this subsection.

SEC. 3. APPLICATION; STATUTE OF LIMITATIONS.

(a) APPLICATION.—This Act shall apply to the application of any statute, regulation, rule, guideline, or policy to real property, if such application occurred or occurs on or after January 1, 1994.

(b) STATUTE OF LIMITATIONS.—The statute of limitations for actions brought under this Act shall be six years from the application of any statute, regulation, rule, guideline, or policy of the United States to any affected parcel of property under this Act.

SEC. 4. AWARD OF COSTS; LITIGATION COSTS.

(a) IN GENERAL.—The court, in issuing any final order in any action brought under this Act, shall award costs of litigation (including reasonable attorney and expert witness) to any prevailing plaintiff.

(b) PAYMENT.—all awards or judgments for plaintiff, including recovery for damages and costs of litigation, shall be paid out of funds of the agency or agencies responsible for issuing the statute, regulation, rule, guideline or policy affecting the reduction in the fair market value of the affected portion of property. Payments shall not be made from a judgment fund.

SEC. 5. CONSTITUTIONAL OR STATUTORY RIGHTS NOT RESTRICTED.

Nothing in this Act shall restrict any remedy or any right which any person (or class of persons) may have under any provision of the United States Constitution or any other law.

PRIVATE PROPERTY RIGHTS RESTORATION ACT

SECTION 1. SHORT TITLE.—"PRIVATE PROPERTY RIGHTS RESTORATION ACT".

SEC. 2. PRIVATE PROPERTY RIGHTS RESTORATION.

(a) CAUSE OF ACTION.—

(1) The owner of any real property (land) may sue the U.S. government if

(A) any governmental action identified in the Act takes a persons right to their property; and (B) that taking significantly reduces the fair market value of the affected portion of property.

(2) A property owner may sue the U.S. government if the government action causes a temporary or permanent diminution of fair market value of the affected portion of real property of at least 25 percent or $10,000.

(b) JURISDICTION.—The U.S. Court of Federal Claims is established as the court of jurisdiction for claims brought forth under this Act.

(c) RECOVERY.—Property owners may choose among two options to seek reimbursement for government actions which result in takings:

(d) PUBLIC NUISANCE EXCEPTION.—ensures that no compensation is awarded if the use to which the property owner puts the property is judged to be a public nuisance.

SEC. 3. APPLICATION; STATUTE OF LIMITATIONS.

(a) APPLICATION.—The bill applies to real property affected by governmental actions which occur on or after January 1, 1994.

(b) STATUTE OF LIMITATIONS.—The statute of limitations for actions brought forth under this legislation is limited to 6 years after application of the regulatory action to the affected property.

SEC. 4. AWARD OF COSTS; LITIGATION COSTS

(a) Includes litigation costs in court award.

(b) Requires payment for court awards from agency budgets of the agency responsible for the government action, rather than a judgement fund.

SEC. 5. CONSTITUTIONALITY OR STATUTORY RIGHTS NOT RESTRICTED.

Ensures that the bill does not preclude any other remedy property owners may seek.●

By Mr. GRAMM:

S. 146. A bill to authorize negotiation of free trade agreements with the countries of the Americas, and for other purposes; to the Committee on Finance.

THE AMERICAS FREE TRADE ACT

Mr. GRAMM. Mr. President, on February 4, 1993, I introduced legislation to authorize the negotiation of free agreements between the United States and the countries in North and South America. This was a step toward the realization of my hopes for a free trade area stretching from the Elizabeth Islands of Canada to Tierra del Fuego in South America. The subsequent approval of the North American Free Trade Agreement [NAFTA], is the most significant accomplishment to date on the road toward the achievement of free trade throughout our hemisphere.

On January 25, 1994, I introduced the American Free Trade Act. This legislation was similar to the bill that I introduced the preceding year, with the addition of special provisions regarding free trade with a post-Castro, post communist Cuba. Those provisions defined the standards by which we would be able to identify the return of freedom to Cuba and would give priority to the negotiation of a free trade agreement with a free Cuba.

The Index of Economic Freedom, recently published by the Heritage Foundation, listed Cuba, together with North Korea, as the most repressive nation on the earth with regard to economic rights and freedoms. Cuba and North Korea remain the last bastions of unrepentant Marxism. While such a repressive regime remains in power in Cuba, free trade would be meaningless and free trade negotiations would be a waste of time. On the other hand, in a post-Castro environment, free trade can play a crucial role in promoting and reestablishing economic and political freedoms.

The bill contains five standards for measuring the return of freedom in Cuba. These standards are:

1. The establishment of constitutionally-guaranteed democratic government with leaders freely and fairly elected;

2. The restoration, effective protection, and broad exercise of private property rights;

3. The achievement of a convertible currency;

4. The release of political prisoners; and

5. The effective guarantee of free speech and freedom of the press.

These, of course, are minimum conditions upon which free trade relations can be established and which free trade can strengthen. In fact, free trade will serve to expand the economic and political freedoms of the people of Cuba.

Mr. President, the bill sets forth an additional requirement that necessarily must be met for our Nation to enter into a broad free trade arrangement with Cuba, and that is that the claims of U.S. citizens for compensation for expropriated property are appropriately addressed.

This last December, the leaders of all of the nations of the Western Hemisphere, except for Fidel Castro, met in Miami and agreed to the goal of achieving free trade throughout the Americas early in the next century. I have long supported that goal. I hope that this bill that I am reintroducing today can be speedily enacted to give the President the authority to begin negotiations right away.

Mr. President, the time is not at all premature. Several countries have already expressed a desire to enter into a free trade arrangement with the United States. Among those are Chile, Panama, Argentina, and others. Several of these and other countries in the hemisphere have entered into, or are negotiating, free trade arrangements among themselves. While NAFTA is the largest free trade area in the hemisphere, Brazil, Argentina, Uruguay and Paraguay, are scheduled this year to initiate the second largest free trade area, called Mercosul/sur, a free trade area with nearly $650 billion in combined gross domestic product.

Four other trade arrangements are or soon will be in place in the Americas and the Caribbean. These trade arrangements are the building blocks of an eventual free trade area embracing all of the Americas. The Americas Free Trade Act would encourage the President to conduct negotiations with such groups of nations, in order to build upon the progress that they are achieving in lowering the barriers to trade among themselves.

Mr. President, the last 15 years have witnessed victories for freedom in the governments and economies of the Americas. Their rejection of authoritarianism has accelerated, and the United States has been the model for this development. After almost two centuries of forsaking the example of freedom that made us the greatest, most prosperous nation on the planet, the nations of this hemisphere are more willing than ever to emulate our formula for success. Now is the time for us to encourage and embrace our neighbors as we lay the foundation for a new century of prosperity and opportunity for all of the people of the New World.

Mr. President, I ask that the summary and text of the bill be included in the RECORD.

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

S. 146

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 ''Americas Free Trade Act''.

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The countries of the Western Hemisphere have enjoyed more success in the twentieth century in the peaceful conduct of their relations among themselves than have the countries in the rest of the world.

(2) The economic prosperity of the United States and its trading partners in the Western Hemisphere is increased by the reduction of trade barriers.

(3) Trade protection endangers economic prosperity in the United States and throughout the Western Hemisphere and undermines civil liberty and constitutionally limited government.

(4) The successful establishment of a North American Free Trade Area sets the pattern for the reduction of trade barriers throughout the Western Hemisphere, enhancing prosperity in place of the cycle of increasing trade barriers and deepening poverty that results from a resort to protectionism and trade retaliation.

(5) The reduction of government interference in the foreign and domestic sectors of a nation's economy and the concomitant promotion of economic opportunity and freedoms promote civil liberty and constitutionally limited government.

(6) Countries that observe a consistent policy of free trade, the promotion of free enterprise and other economic freedoms (including effective protection of private property rights), the removal of barriers to foreign direct investment, in the context of constitutionally limited government and minimal interference in the economy, will follow the surest and most effective prescription to alleviate poverty and provide for economic, social, and political development.

SEC. 3. FREE TRADE AREA FOR THE WESTERN HEMISPHERE.

(a) IN GENERAL.—The President shall take action to initiate negotiations to obtain trade agreements with the sovereign countries located in the Western Hemisphere, the terms of which provide for the reduction and ultimate elimination of tariffs and other nontariff barriers to trade, for the purpose of promoting the eventual establishment of a free trade area for the entire Western Hemisphere.

(b) RECIPROCAL BASIS.—An agreement entered into under subsection (a) shall be reciprocal and provide mutual reductions in trade barriers to promote trade, economic growth, and employment.

(c) BILATERAL OR MULTILATERAL BASIS.—Agreements may be entered into under subsection (a) on a bilateral basis with any foreign country described in that subsection or on a multilateral basis with all of such countries or any group of such countries.

SEC. 4. FREE TRADE WITH FREE CUBA.

(a) RESTRICTIONS PRIOR TO RESTORATION OF FREEDOM IN CUBA.—The provisions of this Act shall not apply to Cuba unless the President certifies (1) that freedom has been restored in Cuba, and (2) that the claims of United States citizens for compensation for expropriated property have been appropriately addressed.

(b) STANDARDS FOR THE RESTORATION OF FREEDOM IN CUBA.—The President shall not make the certification that freedom has been restored in Cuba, as described in subsection (a), unless he determines that—

(1) a constitutionally guaranteed democratic government has been established in Cuba, with leaders chosen through free and fair elections;

(2) the rights of individuals to private property have been restored and are effectively protected and broadly exercised in Cuba;

(3) Cuba has a currency that is fully convertible domestically and internationally;

(4) all political prisoners have been released in Cuba; and

(5) the rights of free speech and freedom of the press in Cuba are effectively guaranteed.

(c) PRIORITY FOR FREE TRADE WITH FREE CUBA.—Upon making the certification described in subsection (a) the President shall give priority to the negotiation of a free trade agreement with Cuba.

SEC. 5. PERMANENT APPLICATION OF FAST TRACK PROCEDURES.

The provisions of section 151 of the Trade Act of 1974 (19 U.S.C. 2191) apply to implementing bills submitted with respect to trade agreements entered into pursuant to the provisions of this Act.

THE AMERICAS FREE TRADE ACT—SUMMARY

I. The President is directed to undertake negotiations to establish free trade agreements between the United States and countries of the Western Hemisphere. Agreements may be bilateral or multilateral.

II. The President, before seeking a free trade agreement with Cuba under the Act, would have to certify (1) that freedom has been restored in Cuba, and (2) that the claims of U.S. citizens for compensation for expropriated property have been appropriately addressed. The President could make the certification that freedom has been restored to Cuba only if he determines that—

A. constitutionally guaranteed democratic government has been established in Cuba, with leaders freely and fairly elected;

B. private property rights have been restored and are effectively protected and broadly exercised;

C. Cuba has a convertible currency;

D. all political prisoners have been released; and

E. free speech and freedom of the press are effectively guaranteed.

If the President certifies that freedom has been restored to Cuba, priority will be given to the negotiation of a free trade agreement with Cuba.

III. Congressional fast track procedures for consideration of any such agreement (i.e., expedited consideration, no amendments) are extended permanently.

By Mr. GRAMM:

S. 147. A bill to amend the Internal Revenue Code of 1986 to increase the personal exemption for dependents to $5,000, and for other purposes; to the Committee on Finance.

THE CUT GOVERNMENT BUDGET TO INCREASE FAMILY BUDGET ACT OF 1995

Mr. GRAMM. Mr. President, for the last 40 years, government has spent an increasing share of the income of American families and because government has spent the family's income less wisely than the family would have spent it, the well-being of American families and America has diminished. This proposal will cut government spending and allow families to spend their own money on their own children for their own future.

To give families their freedom and their money back, every family with children will get an immediate tax cut so that families can invest in the needs of their own children.

The current $2,500 exemption allowed per child will be doubled to $5,000. The total exemptions for a family of four now shield from Federal income taxes just $10,000 or about 20 percent of the average income of such a family. With this change, the amount of family income protected for its own use would rise to $15,000 or about 33 percent of average family income. While this is an important step toward allowing families to spend their own money again, the amount of average family income shielded from the tax collector will still be only about half of the level which existed in 1950.

Tax cut—$124 billion	Spending cut—$124 billion
Double the dependent exemption for all children from $2,500 to $5,000, thus allowing families to spend more of their own money on their own children.	Cut the discretionary budgets of the Departments of Education, Energy, Labor, Health and Human Services, Housing and Urban Development, and Transportation (non-trust fund) by 16% over 5 years.

Facts on the parent and child exemptions:

In 1950, exemptions alone shielded 65 percent of the income of an average family of four from any Federal income taxes.

By the end of the 1970's, the protection of family income provided by the exemption had dropped to just 16 percent of the income of an average family of four.

In the 1980's, Republicans stopped the erosion of the exemption by indexing it for inflation, and then restored part of that lost protection so that by 1992, 21 percent of the income of an average family of four was protected from Federal income taxes.

This increase in the dependent exemption would further protect the family budget from Federal taxation by increasing the exemption to 33 percent of the average income of a family of four.

It will reduce by $1,400 the Federal income tax on an average income family of four earning $45,000..

We will force the government to tighten its budget so families can loosen theirs, reversing a 40-year trend.

This transfer of spending power from government to families is a down payment on restoring the American Dream.

By Mr. GRAMM:

S. 148. A bill to promote the integrity of investment advisers; to the Committee on Banking, Housing, and Urban Affairs.

THE INVESTMENT ADVISERS INTEGRITY ACT

Mr. GRAMM. Mr. President, today I am introducing legislation that will aid the Securities and Exchange Commission [SEC] in targeting resources to enforce the Investment Advisers Act of 1940. Increasingly, American families are investing in mutual funds, individual retirement accounts, municipal bonds, a variety of insurance products, and many other financial instruments.

Often, American families rely upon investment advisers to assist them in making investment decisions and in managing their assets. Millions of people have benefited from the services provided by these investment advisers.

For several years, the Securities and Exchange Commission has expressed in testimony before Congress the need to

improve supervision of investment advisers. While not lacking for resources, given the dramatic increase in the SEC's budget over the last several years, the SEC has had difficulty targeting funding to this area of responsibility. The bill that I am introducing will take two important steps toward focusing the SEC's efforts.

First, the bill would highlight the importance of enforcing the Investment Advisers Act of 1940 by identifying specific amounts from the SEC's budget to be devoted to that purpose. The bill authorizes $10 million for fiscal year 1996, and $12 million in 1997, recognizing that organizing and training for this purpose is unlikely to be completed in the first year. The SEC could devote more of its budget to this enforcement effort if the Commission chose to do so, but these amounts will at least ensure increased priority.

Mr. President, I proposed to direct those efforts where the problems are likely to occur. Frankly, the fraud is going to be where the money is, and that is where we should direct the SEC's attention. For example, as few as 5 percent of registered investment advisers manage more than $500 million each of client assets, and yet this group has 70 percent of all assets under management. The SEC should not have its attention diverted from these advisers by inspection of advisers managing little or none of their clients' assets. In fact, Mr. President, about half of all investment advisers do not manage any client assets at all.

This bill would exempt from SEC registration all investment advisers managing less than $5 million in assets, with one important condition. That condition is that adviser is registered with his or her State securities regulator, who would then have responsibility for supervision. Should a State not wish to take on responsibility for supervision of such investment advisers, then that State need not register them, and the investment adviser would continue to require to register with the SEC and be subject to SEC supervision.

If the SEC determines, however, that there is a need, and that the SEC has sufficient resources, the Commission may limit this exemption to investment advisers managing no more than $1 million in assets. The SEC would in such event supervise investment advisers who manage 99 percent of all assets under management. This would target the SEC's efforts less sharply, but it would still reduce the SEC's inspection load by as much as two-thirds.

The legislation would preserve full authority for the SEC to investigate aggressively any investment adviser where allegations of fraud are raised. Moreover, the SEC could disqualify from registration as an investment adviser any individual who in the previous 10 years had been convicted of a felony.

This bill avoids the approach of earlier proposals, which would have imposed a new tax on all investment advisers, and thereby on all of their clients. In my view, such a tax is unconscionable, especially while existing SEC fees impose a tax on investment, raising enough revenues to fund the SEC two or three times over. Moreover, the most harmful stage of the economic cycle on which to levy a tax is investment. Every investment dollar lost to pay for government is not just a loss of one dollar, but it is the loss of the many more dollars that this investment would have generated in economic activity.

Mr. President, allow me to emphasize again, that the SEC has not been starved for resources. The budget of the SEC has tripled since 1986, up by 60 percent since 1990. The challenge to the SEC has not been obtaining resources, but rather assigning those resources to what the SEC has testified is a priority area of concern. This legislation will aid the SEC in that effort.

Mr. President, I ask that a summary and the text of the bill by included in the RECORD.

S. 148

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 ''Investment Advisers Integrity Act''.

SEC. 2. ENHANCED ENFORCEMENT PRIORITY.

Of the amounts appropriated to the Securities and Exchange Commission, there are authorized to be appropriated—

(1) not to exceed $10,000,000 in fiscal year 1996; and

(2) not to exceed $12,000,000 for fiscal year 1997; for the enforcement of the provisions of the Investment advisers Act of 1940, particularly with respect to advisers managing more than $5,000,000 in assets.

SEC. 3. EXEMPTION FOR STATE REGISTRATION.

Section 203(b) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3(b)) is amended—

(1) by striking ''or'' at the end of clause (2);

(2) by striking the period at the end of clause (3) and inserting ''; and''; and

(3) by adding at the end the following:

''(4) any investment adviser who, during the course of the preceding 12 months, had no more than $5,000,000 in assets under management, if the investment adviser is registered with the appropriate State securities regulator, except that the Commission may, by rule, also require registrations by investment advisers who, during the preceding 12 months, had more than $1,000,000 but less than $5,000,000 in assets under management if the Commission determines such action to be necessary to achieve the purposes of the Act. As used in this section, the term 'assets under management' means the client assets with respect to which an investment adviser provides continuous and regular supervisory or management services.''.

SEC. 4. INVESTIGATION OF FRAUD.

Section 209 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-9) is amended by adding at the end the following:

''(f) The Commission is authorized to conduct investigations of any investment adviser, notwithstanding any exception from registration under section 203(b)(4), in any case where the appropriate State securities regulator or one or more clients or former clients of the investment adviser have alleged fraud on the part of the investment adviser.''.

SEC. 5. DISQUALIFICATION OF CONVICTED FELONS.

(a) AMENDMENT.—Section 203(e) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3(e)) is amended—

(1) by redesignating paragraphs (3) through (7) as paragraphs (4) through (8), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

''(3) has been convicted within 10 years preceding the filing of any application for registration or at any time thereafter of any crime that is punishable by imprisonment for one or more years and that is not described in paragraph (2) of this subsection or a substantially equivalent crime by a foreign court of competent jurisdiction.''.

(b) CONFORMING AMENDMENTS.—Section 203 of such Act is further amended—

(1) in subsection (e)(6) (as redesignated by subsection (a) of this section), by striking ''this paragraph (5)'' and inserting ''this paragraph (6)'';

(2) in subsection (f)—

(A) by striking ''paragraph (1), (4), (5), or (7)'' and inserting ''(1), (5), (6), or (8)''; and

(B) by striking ''paragraph (3)'' and inserting ''paragraph (4)''; and

(3) in subsection (i)(1)(D), by striking ''section 203(e)(5) of this title'' and inserting ''subsection (e)(6) of this section''.

THE INVESTMENT ADVISERS INTEGRITY ACT—SUMMARY

I. For fiscal year 1996 $10 million are authorized, and for fiscal year 1997 $12 million are authorized, for enforcement of the Investment Advisers Act of 1940, with a particular focus on supervision of investment advisers managing more than $5 million in assets.

II. Investment advisers who, during the previous year, did not have more than $5 million in assets under management are exempt from registering with the SEC, provided that they have registered with their appropriate state securities regulator.

III. The SEC may, by rule, require registration with the SEC of investment advisers who, during the previous year, had more than $1 million but less than $5 million in assets under management, if the Commission determines such action to be necessary to achieve the purposes of the Investment Advisers Act of 1940.

IV. The SEC would retain authority to conduct investigations of any investment advisers, whether registered with the SEC or with state regulators, in the case of allegations of fraud raised either by clients or by state securities regulators.

V. An individual with a felony conviction during the previous ten years can be disqualified by the SEC from registration as an investment adviser.

By Mr. GRAMM:

S. 149. A bill to require a balanced Federal budget by fiscal year 2002 and each year thereafter, to protect Social Security, to provide for zero-based budgeting and decennial sunsetting, to impose spending caps on the growth of entitlements during fiscal years 1996 through 2002, and to enforce those requirements through a budget process involving the President and Congress and sequestration; to the Committee on the Judiciary.

THE BALANCED BUDGET IMPLEMENTATION ACT

● Mr. GRAMM. Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

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

BALANCED BUDGET IMPLEMENTATION ACT
OUTLINE

A bill to require and implement a balanced budget by the year 2002.

TITLE 1. REQUIRE A JOINT BUDGET RESOLUTION TO FORCE JOINT ACTION BETWEEN CONGRESS AND THE PRESIDENT:

(A) Joint Resolution on the Budget: To remedy the lack of cooperation and coordination between the President and Congress resulting from the Congressional Budget and Impoundment Control Act of 1974 which created two budgets—one Executive and one Congressional—the Balanced Budget Implementation Act converts the present concurrent resolution on the budget into a joint resolution on the budget which must be signed by the President, ensuring joint Congressional and Executive branch consensus on and commitment to each annual budget.

TITLE 2. ZERO-BASED BUDGETING & DECENNIAL SUNSETTING:

(A) For FY 1996 and FY 1997, Congress must re-authorize all discretionary programs and all unearned entitlements: The Balanced Budget Implementation Act adopts President Carter's zero-based budgeting concept, mandating that before FY 1996 begins, the spending authority for all unearned entitlements, and the spending authority for the most expensive one-third of discretionary programs will expire. Entitlements earned by service or paid for in total or in part by assessments or contributions shall be deemed as earned, and their authorization shall not expire. Entitlements not sunsetted include Social Security, veterans benefits, retirement programs, Medicare and others. Before FY 1997, the spending authority of the remaining discretionary programs will expire.

Specifics: By the beginning of FY 1997, all unearned entitlements and discretionary programs will be subject to re-authorization. If a specific unearned entitlement or discretionary program is not re-authorized in a non-appropriations bill, it cannot be funded and will be terminated.

(B) Unauthorized programs cannot receive appropriations: The Balanced Budget Implementation Act creates a point of order in both Houses against any bill or provision thereof that appropriates funds to a program for which no authorization exists.

Specifices: Such point of order can be waived only by the affirmative vote of 3/5ths of the whole membership of each House. Appeals of the ruling of the chair on such points of order also require a 3/5ths affirmative vote of the whole membership of each House.

A 3/5ths point of order shall lie against any authorization that is contained in an appropriation bill.

(C) All discretionary programs and unearned entitlements must be reauthorized every ten years: In the first session of the congress which follows the decennial Census reapportionment, the spending authority for all unearned entitlements and the most expensive one-third of all discretionary programs will expire for the fiscal year that begins in that session. In the second session of that Congress, the spending authority for the remaining discretionary programs will expire for the fiscal year that begins in that session. This provision will be enforced by the points of order contained in Section (B) above.

TITLE 3. LIMIT THE GROWTH OF ENTITLEMENTS TO THE GROWTH RATE OF SOCIAL SECURITY:

(A) the Balanced Budget Implementation Act adopts President Bush's proposal to limit the aggregate growth of all entitlements other than social Security to the growth rate formula of Social Security for the period FY 1996 to FY 2002: the aggregate growth of all entitlements other than Social Security is limited to the growth rate formula of Social Security, which is the consumer price index and the growth in eligible population.

(B) the Balanced Budget Implementation Act provides flexibility in the growth rate of entitlement programs: An individual entitlement program can grow faster than the overall entitlement cap as long as the aggregate growth in all entitlements (other than Social Security) does not exceed the entitlement cap.

(C) From FY 1996 to FY 2002, the aggregate spending growth cap on entitlements will be enforced by an entitlement sequester: The Balanced Budget Implementation Act provides that if aggregate spending growth in entitlements exceeds the total growth in consumer prices and eligible population, an across-the-board sequester to eliminate excess spending growth will occur on all entitlements other than Social Security. A 3/5ths vote point of order lies against any effort to exclude any entitlement from this sequester. This sequester would be in effect until Congress passes legislation which brings the entitlement program back within the cap, and the President signs the bill.

TITLE 4. ESTABLISH FIXED DEFICIT TARGETS, RESTORE AND STRENGTHEN GRAMM-RUDMAN, AND REQUIRE A BALANCED BUDGET BY 2002:

(A) Restores the fixed deficit targets of Gramm-Rudman (GR) enacted by President Reagan: The Balanced Budget Implementation Act modifies the existing GR maximum deficit amounts and extends the GR sequester mechanism to balance the budget by FY 2002 and annually thereafter.

The fixed deficit targets established for the next seven fiscal years will result in a balanced budget by the fiscal year 2002: FY 1996, $145 billion; FY 1997, $120 billion; FY 1998, $97 billion; FY 1999, $72 billion; FY 2000, $48 billion; FY 2001, $24 billion; FY 2002, $0 billion.

The new maximum deficit amounts will be enforced by the existing GR deficit sequester. After reaching a balanced budget, the GR sequester mechanism will become permanent to ensure the budget stays in balance.

(B) Strengthen the GR points of order: The Balanced Budget Implementation Act requires the strengthening of the existing GR budget points of order.

Specifies: A point of order will lie against all actions that (1) increase the deficit or (2) increase the limit on national debt held by the public beyond the deficit levels required in Section A & B (above). This point of order will lie in both Houses, and may be waived only by a 3/5ths vote of the whole membership of each House. An appeal of the point of order can only be waived by a 3/5ths vote. No rule in either House can permit waiver of such a point of order by less than 3/5ths affirmative vote of the whole membership of such House, nor can such point of order be waived for more than one bill per vote on such point of order.

Once the budget is balanced, all points of order will become permanent to ensure the budget stays in balance.

(C) Protect Social Security: Social Security will be protected fully by (1) preserving the existing points of order to protect the Social Security trust fund; and (2) providing expedited procedures in 2002 for consideration of additional legislation to balance the budget excluding the Social Security Trust Fund.

(D) Extend the Discretionary Spending Caps: President Clinton proposed extending the existing caps on total discretionary budget authority and outlays to cover the fiscal years 1999 and 2000. That cap will be extended to also apply to the fiscal years 2001 and 2002, at the same level of President Clinton's proposed extension.

Year, outlays; FY 1998, $542.4 billion; FY 1999, $542.4 billion; FY 2000, $542.4 billion; FY 2001, $542.4 billion; FY 2002, $542.4 billion.

(E) Look Back Sequester: In the last quarter of every fiscal year, a ''look back'' sequestration is required to eliminate any excess deficit for the current year. This look back sequester will guarantee that the actual deficit target set for that year is achieved.

Specifics: On July 1 of every fiscal year, the Office of Management and Budget (OMB) will order an initial look back sequester based on the most recent OMB deficit estimates. On July 15, the OMB Mid-Session Review will update and finalize the sequester order. The final order will stay in effect unless offset by appropriate legislation to bring the deficit into compliance with that year's target.●

By Mr. DOLE (for himself, Mr. HATCH, Mr. SIMON, Mr. THURMOND, Mr. HEFLIN, Mr. CRAIG, Ms. MOSELEY-BRAUN, Mr. BROWN, Mr. KOHL, Mr. SIMPSON, Mr. GRASSLEY, Mr. SPECTER, Mr. KYL, Mrs. FEINSTEIN, Mr. NICKLES, Mr. MURKOWSKI, Mr. BRYAN, Mrs. HUTCHISON, Mr. EXON, Mr. SHELBY, Mr. CAMPBELL, Mr. SMITH, Mr. COHEN, Mr. PRESSLER, Mr. GREGG, Mr. GORTON, Mr. ASHCROFT, Mr. BURNS, Mr. MCCONNELL, Mr. INHOFE, Mr. GRAMM, Mr. LOTT, Mr. DEWINE, Ms. SNOWE, Mr. THOMPSON, Mr. ROTH, Mr. LUGAR, Mr. BOND, Mr. CRAIG THOMAS, Mr. COVERDELL, Mr. SANTORUM, Mr. GRAMS, and Mr. MACK):

S.J. Res. 1. A joint resolution proposing an amendment to the Constitution of the United States to require a balanced budget; to the Committee on the Judiciary.

THE BALANCED BUDGET CONSTITUTIONAL AMENDMENT

Mr. DOLE. Mr. President, 1969 was a year of firsts and lasts. It was the year that a man—American astronaut Neil Armstrong—first walked on the Moon. And, it was the last year that Congress balanced the budget. That was 35 years ago.

In 1969, we spent $16.6 billion or roughly 9 percent of the Federal budget to pay interest on the national—pocket change by today's standards. According to President Clinton's most recent budget, interest payments on the national debt will surpass the $300 billion mark for the first time this year. This year, roughly 20 percent of all Federal spending will go to pay interest on the national debt.

Beginning in 1974, Congress has tried to control Federal spending with a series of legislative remedies—Gramm-Rudman-Hollings, spending caps, pay-as-you-go—but, every time those remedies started to bite, the special interests began to squawk. The decisions got too tough, and Congress blinked.

Mr. President the deficit situation has improved since President Clinton took office, but only slightly. Even under the rosiest of scenarios which assume 10 straight years of steady growth with low inflation, the deficit is expected to fall for another year or two and then start moving right back up again.

Mr. President, on November 8, the American people sent a message to Washington. They want us to get Federal spending under control.

Nine more ''messengers,'' fresh from the campaign trail, took the oath of office today. The American people and every one of the 11 new Senators who were elected last November, understand that the time has come for a fundamental change in the way we do business in Washington.

It is time to give constitutional protection to the generations of Americans whose dreams of a better future are being crushed under a mountain of debt passed on by a spendthrift Congress for the past 35 years. It is time to give constitutional protection to future generations of Americans—our children and grandchildren—who are not now eligible to vote and are inadequately represented in Congress today.

The American people want a smaller, less intrusive Government. Ronald Reagan tried to cut taxes, grow the economy, and force Congress to either cut spending or run up record deficits. He wagered that given that choice, Congress would do the right thing and cut spending. But, not even record deficits could curb Congress' spending addiction.

There will be some who argue that voting for the balanced budget amendment is taking the easy way out. They are wrong. Adoption of the balanced budget amendment is only the first step. Once it is approved, Congress must begin to take action now that will enable us to balance the budget by the time the proposed amendment could go into effect.

The American people want the 104th Congress to make some tough choices. They understand that we cannot magically balance the budget overnight, but, they also expect to see progress, real progress.

We intend to deliver. Senator DOMENICI and Congressman KASICH are hard at work with other House and Senate Republicans developing a budget blueprint that will put the Federal budget on a path toward balance by 2002—without touching Social Security and without raising taxes.

Mr. President, I want to commend the distinguished chairman of the Judiciary Committee, Senator HATCH, the distinguished senior Senator from Illinois, Senator SIMON, the distinguished senior Senator from Idaho, Senator CRAIG, and the distinguished President pro tempore, Senator THURMOND, for the work they have done to develop a balanced budget constitutional amendment that has strong bipartisan support.

I understand from Chairman HATCH that the Senate Judiciary Committee will hold a hearing on Senate Joint Resolution 1 tomorrow, and that he intends to work with the members of the committee to try to get this amendment to the Senate floor for a full debate later this month. I look forward to that debate, and I am confident that with the help and support of the American people, the 104th Congress will be able to break the gridlock for real change. Change that demonstrates that we got the message—loud and clear, change that can help restore confidence in our democratic system of Government, change that can help revive the American dream for future generations of Americans.

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

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

S. J. RES. 1

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission to the States for ratification:

''ARTICLE—

''SECTION 1. Total outlays for any fiscal year shall not exceed total receipts for that fiscal year, unless three-fifths of the whole number of each House of Congress shall provide by law for a specific excess of outlays over receipts by a rollcall vote.

''SECTION 2. The limit on the debt of the United States held by the public shall not be increased, unless three-fifths of the whole number of each House shall provide by law for such an increase by a rollcall vote.

''SECTION 3. Prior to each fiscal year, the President shall transmit to the Congress a proposed budget for the United States Government for that fiscal year, in which total outlays do not exceed total receipts.

''SECTION 4. No bill to increase revenue shall become law unless approved by a majority of the whole number of each House by a rollcall vote.

''SECTION 5. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect. The provisions of this article may be waived for any fiscal year in which the United States is engaged in military conflict which causes an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

''SECTION 6. The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.

''SECTION 7. Total receipts shall include all receipts of the United States Government except those derived from borrowing. Total outlays shall include all outlays of the United States Government except for those for repayment of debt principal.

''SECTION 8. This article shall take effect beginning with fiscal year 2002 or with the second fiscal year beginning after its ratification, whichever is later.''.

Mr. HATCH. Mr. President, I am pleased to be joining the majority leader this morning in introducing, along with Senator SIMON, Senator THURMOND, Senator CRAIG, and others, a balanced budget amendment to the Constitution. This is the consensus amendment developed through decades of study, work, hearing, debates, and discussions.

It is appropriate that it hold a place of honor as Senate Joint Resolution 1 in this new Congress. Its debate and adoption will be a major step in the work of this Congress to reform itself and its relationship with the American people. The people's frustration with the Washington ways of a profligate Congress and an unresponsive and irresponsible Federal bureaucracy is not new, but it has been growing. That fact should be no surprise.

The national debt is fast approaching $4.8 trillion. This means every man, woman, and child in the state of Utah and all other States has a debt burden of $18,500.

The human implications of our mammoth debt are that our children are being shackled with an insurmountable burden as a result of our largess. Perhaps the most significant effect of today's unrestrained borrowing, however, will be a reduction in the political choices available to future governments of this Nation. Next year, some estimates suggest, interest will consume almost 24 percent of all Federal revenues—at $296 billion, that is more than total Federal revenues in 1975. Imagine that. What we now pay in interest was more than the Government took in in total just 20 years ago.

When the people of my home State think of leaving a legacy to their children and grandchildren, this is not what they think of. They don't expect to make their children and grandchildren pay their credit card bills, but this is the inheritance their government is creating for them. Together with that debt comes a weakened economy, a weakened trading posture, and—worst of all—a less sound, less responsive, and less responsible government. Most parents and grandparents want to leave a brighter, not a darker, future for their loved ones.

The promise of strong, responsible government the founding generation left embodied in the Constitution has not been kept by those who recently have stood in their place. The national Government has grown increasingly profligate over recent decades. We have a duty to do better.

The American people understand this. I regularly receive mail from Utahns asking why the Federal Government cannot balance its budget in the same way that families and businesses must.

There is concern about the way the Federal Government soaks up capital to make interest payments which could

be used for private investment or Government health, housing, or education programs. They all echo the concern that an integral part of constitutional responsibility has been lost in recent decades, that of fiscal discipline, the simple notion that government should live within its means and not bind future generations to pay for current consumption without real return. That is why over 85 percent of Americans favor a balanced budget amendment.

Congress has proven itself wholly incapable of controlling its deficit addiction without the strong therapy of a clear constitutional mandate to make it get clean and sober. A balanced budget constitutional amendment is necessary to force Congress to keep faith with voters who expect them to end the fiscal folly. Only the constitutional discipline of a balanced budget amendment can return sanity to an out-of-control budgetary process.

The proposed amendment is wholly consistent with the Constitution in scope and purpose. It provides another of what Madison called ''auxiliary precautions'' to help ensure that a government of human beings would—to the greatest extent possible—be governed by the better angels of our human nature. In short, the amendment assures the blessings of limited government and liberty promised by the Framers of the Constitution.

The amendment, in restoring limited government, preserves a rule of fiscal responsibility that, for much of our history, literally went without saying. It addresses a serious spending bias in the present fiscal process arising from the fact that Members of Congress do not have to approve new taxes in order to pay for new spending programs. Rather than having to cast such politically disadvantageous votes, Congress has been able to resort to increased levels of deficit spending.

The balanced budget amendment proposes to overcome this spending bias by restoring the linkage between Federal spending and taxing decisions. It does not propose to read any specific level of spending or taxing forever into the Constitution, and it does not propose to intrude the Constitution into the day-to-day spending and taxing decisions of the representative branch of the Government. It merely proposes to create a fiscal environment in which the competition between the taxspenders and the taxpayers is a more equal one—one in which spending decisions will once more be constrained by available revenues.

Nor will passage and ratification of the balanced budget amendment lead to intrusive Federal court interference in the budgeting process. The well-recognized doctrines of article III standing and justiciability, as well as the political question doctrine, act as a deterrent to unnecessary judicial activism. Furthermore, Congress' ability to define the jurisdiction of the Federal courts, pursuant to article III of the Constitution and section 6 of the balanced budget amendment, allows Congress to prevent judicial activism should it arise, through implementing legislation.

Statutory efforts to control spending are inadequate—pure and simple. They are short term. Any balanced budget statute can be repealed, in whole or in part, by the simple expedient of adopting a new statute. The spending bias in Congress, however, is a permanent problem. It demands a permanent constitutional solution. The virtue of a constitutional amendment is that it can invoke a stronger rule to overcome the spending bias.

This amendment is not a panacea for the economic problems of the Nation. The amendment is, however, a necessary step toward securing an environment more conducive to honest and accountable fiscal decisionmaking. It moves us toward the kind of debate about priorities and the role of the Federal Government that are the essence of responsible government—the kind of responsible government the founders left us and the kind the voters require of us in this Congress.

I am extremely pleased to stand side-by-side with my colleagues from both sides of the aisle as we unveil today an amendment that will establish constitutional limitations on federal spending and deficit practices. I want to pay special tribute to my colleague Senator SIMON, who has been a critical force in this effort over the years, and to Senator THURMOND, who has been a leader in this effort virtually every year that he has been in the U.S. Congress. We look forward to his continued participation.

I sincerely hope that this will be the year we approve this amendment and send it to the States for ratification to save future generations of Americans from this heavy and debilitating economic burden.

Mr. CRAIG. Mr. President, this afternoon, let me join with Senator GLENN in echoing his praise of Senator KEMPTHORNE of Idaho and the effort they both have pursued in bringing S. 1 to the floor for its early consideration. I know of no other piece of legislation, except my balanced budget amendment, that I think is more critical to bring up in the 104th Congress. I say that, confident in telling the Governors and the mayors and those who direct local and State government that as we work to pass a balanced budget amendment and then bring the budget into balance, we will not pass on to them Federal responsibilities of taxing or governing. And that is why S. 1, or the unfunded Federal mandates legislation, is so important and that it go before us, to convince the American people and those local and State units of government that we are going to be responsible in our work with them, in our recognition of their priority and their place in the Constitution, that we do not keep shoving through to them the types of legislation or Federal regulation or mandates that is merely a way for us to pass through or force upon them the obligation of funding Federal programs when we did not have the willingness to fund them ourselves.

Mr. President, what I come to the floor this afternoon to speak to is not S. 1, but I am a primary cosponsor of it and a strong supporter of it. I am here to speak about Senate Joint Resolution 1. That, of course, is the balanced budget amendment that Senator DOLE has introduced before the 104th Congress and this Senate just a few hours ago.

But in talking about that issue and my 12 years of championing that cause, both here in the Senate and the House, I would be remiss if I did not speak about the distinguished President pro tempore of the Senate, Senator STROM THURMOND, because you see it was Senator THURMOND more than 35 years ago who saw the wisdom of forcing this Government to balance its budget through a constitutional requirement, a constitutional amendment. So at my age and at my tenure here in the Senate, I am but a child in the support of this issue compared to those of seniority and especially those like Senator STROM THURMOND. So I honor him this afternoon for his allegiance and his farsightedness in dealing with this issue.

It is also important that I recognize Senator PAUL SIMON of Illinois. And I recognize him in the true bipartisan spirit in which we must deal with a constitutional amendment to require a balanced Federal budget. It is not a partisan issue. It takes two-thirds of the Senate present and voting or it takes 67 here in the Senate to pass a constitutional amendment and that means that both sides of the aisle, both Democrat and Republican, must agree, both in what we present in its image and in its wisdom to assure the passage of such a Senate joint resolution before it can go before the States for ratification.

So I recognize both Senator THURMOND and certainly Senator SIMON; also, now chairman of the Judiciary Committee, Senator ORRIN HATCH of the State of Utah; Senator HOWELL HEFLIN, Senator CAROL MOSELEY-BRAUN, and Senator HANK BROWN, the chairman of the Constitution Subcommittee, all of them very active in the Judiciary Committee. Those will be the Senators holding the hearing tomorrow before which I will testify on a version of that amendment of the kind that I have worked on now for over 12 years to assure that there would come a day—and I believe that day will occur within the month—when this Senate will pass a balanced budget amendment to our Constitution, as I believe the House will pass, then to send it forth to the States for their consideration and their ratification.

I also want to note our new Senate colleagues who have shown leadership and enthusiasm on this legislation when they were in the other body, including the Senators from Arizona [Mr.

KYL], from Oklahoma [Mr. INHOFE], and from Maine [Ms. SNOWE].

Why is this amendment so important? Well, in brief, it becomes obvious when you look at the number of years that our Government and this Senate has operated in deficit—34 deficits in the last 35 years, and 57 deficits in the last 65 years.

Yes, this Government and this Congress is clearly out of the habit of even being able to deal with the concept of balancing the Federal budget on an annual basis and being fiscally responsible instead of mounting up the billions and billions of dollars of debt on which it now costs over $200 billion a year just to finance the net interest alone.

The longer we wait to mandate a balanced budget, the more difficult it becomes. We cannot postpone this amendment any longer.

That is why in the Contract With America with the new Members of Congress that were just put in place in the House, those who campaigned on it, the balanced budget amendment became the No. 1 issue. The American people understand. They understand the wisdom of balancing their own budgets, whether it is the budget of their family or the budget of their business. They know it is only good fiscal sense and now they demand it of their Government and I think this Congress can and will deliver.

And so it is a proud moment when I will be able to stand on the floor with these other Senators and debate it and offer up an amendment that we think will be ratified by the States in very short order. And we will begin the very important march, the very important process, of then crafting a budget and a procedure that will bring us to a balanced budget that will demonstrate the kind of fiscal responsibility that our people have asked for for so long.

Some folks tell us, ''If Congress would just do its job, you wouldn't need a constitutional amendment.'' But that's the point—too many Members of Congress—and too many Presidents—have not thought balancing the budget was in their job description. That's why we need to add balancing the budget to that part of our job description that can't be repealed, delayed, suspended, or ignored at will—the Constitution.

When we pass this amendment, it will go to every State Capitol, and we will begin one of the great debates of our age. That's what this vote is really about, engaging the American people in the most sweeping public debate about the appropriate size, scope, and role of the Federal Government since the original Bill of Rights was sent to the States by the First Congress.

The question is clear: Do we trust the people with that debate? This Senator does. That's why we have this process of amending the Constitution, because the Constitution is the people's law, not the Government's law, and because the people have a right to take part in such a momentous debate.

A constitution is a document that enumerates and limits the powers of the Government to protect the basic rights of the people. Within that framework, it sets forth just enough procedures to safeguard its essential operations. It deals with the most fundamental responsibilities of the Government and the broadest principles of governance.

Our balanced budget amendment, Senate Joint Resolution 1, fits squarely within that constitutional tradition.

The case for the balanced budget amendment can be summed up as follows: The ability of the Federal Government to borrow money from future generations involves decisions of such magnitude that they should not be left to the judgments of transient majorities.

The right at stake is the right of the people—today and in future generations—to be protected from the burdens and harms created when a profligate government amasses an intolerable debt.

The Framers of the Constitution recognized that fundamental right. I return once more to the words of Thomas Jefferson, who explicitly elevated balanced budgets to this level of morality and fundamental rights when he said:

> The question whether one generation has the right to bind another by the deficit it imposes is a question of such consequence as to place it among the fundamental principles of government. We should consider ourselves unauthorized to saddle posterity with our debts, and morally bound to pay them ourselves.

Actually, deficit spending is a form of taxation without representation. Americans are told that deficits are Uncle Sam's way of giving them a free lunch, providing $1.15 worth of Government for just $1 in taxes. In reality, interest on the gross debt adds another 20 cents in spending above and beyond every $1 the Government spends on benefits, goods, services, and overhead.

Deficits are really the cruellest tax of all, since they never stop taking the taxpayers' money. Americans are paying now, with a sluggish economy, for the Government's past addiction to debt. Unless things change, the next generation will pay even more dearly.

The President's own 1995 budget, in its ''Analytical Perspectives'' volume, projected that future generations will pay as much as 82 percent of their lifetime incomes in taxes, under the current policies of borrow-and-spend.

Federal budget deficits are the single biggest threat to our economic security. The Federal debt now totals $4.7 trillion, or about $18,000 for every man, woman, and child in America, and is growing.

As deficits grow, as the national debt mounts, so do the interest payments made to service that debt. Besides crowding out other fiscal priorities, these amount to a highly regressive transfer of wealth.

In fact, interest payments to wealthy foreigners make up the largest foreign aid program in history. According to the President's budget, in 1993, the U.S. Government sent $41 billion overseas in interest payments. That's almost exactly twice as much as all spending on actual international programs, including foreign aid and operating our embassies abroad, which totaled less than $21 billion.

Annual gross interest on the debt now runs about $300 billion, making it now the second largest item of Federal spending, and equal to about half of all personal income taxes.

There are many issues relating to this amendment, which will be aired fully and fairly when the Senate considers Senate Joint Resolution 1 later this month. At that time, we will again recall our almost 4,000 pages of legislative history over the last 15 years. Every question has been answered, every objection has been dealt with.

Senate Joint Resolution 1 has a history; it has a pedigree. It is the bipartisan, bicameral, consensus that has been looked at by constitutional scholars, economists, public interest groups, and members of both bodies. This amendment has been scrubbed and fine-tuned. It passes constitutional muster.

It's often said that Congress underestimates the wisdom of the people. Well, the people have spoken once again, and it's time for Senators to realize that, today, as is usually the case, good policy is good politics. The American people understand the balanced budget amendment, they want Congress to pass it, and they are right.

By Mr. THURMOND (for himself, Mr. DOLE, and Mr. SIMPSON):

S.J. Res. 2. A joint resolution proposing an amendment to the Constitution of the United States to allow the President to veto items of appropriation; to the Committee on the Judiciary.

LINE-ITEM VETO LEGISLATION

Mr. THURMOND. Mr. President, I rise today with the distinguished Majority Leader, Senator DOLE, to introduce a proposed constitutional amendment which would give authority to the President to disapprove specific items of appropriation on any Act or joint resolution submitted to him. This authority is commonly referred to as line item veto.

The Congress must address runaway spending if we are truly going to establish a sound fiscal policy for this Nation.

As of November 16, 1994, the Federal debt stood at $4.6 trillion and payment of interest on the debt is the second largest item in the budget. The budget deficit for fiscal year 1993 was over $250 billion.

Recently, Majority Leader DOLE and Speaker GINGRICH met with President Clinton concerning legislative priorities in the 104th Congress. I am pleased to note that granting Presidential authority for line item was favorably discussed. Also, the Chairman

of the Senate Judiciary Committee, Senator HATCH, who once opposed a constitutional amendment on line item veto authority, now has come to appreciate the merit of this worthy proposal.

I believe the Judiciary Committee should quickly act on this important measure and send it to the Senate. In April, 1990, the Judiciary Committee favorably reported my proposed constitutional amendment on line item veto authority which was the same legislation that I am introducing today. Before that vote in 1990, the Judiciary Committee last approved a proposed constitutional amendment to grant the President line item veto authority in 1884.

The Congress regularly enacts appropriations measures, totaling billions and billions of dollars. Too often there are items tucked away in these bills that represent millions of dollars that would have very little chance of passing on their own merit. Yet, the President has no discretion to weed out these unnecessary expenditures and must approve or disapprove the bill in its entirety.

Presidential authority for line item veto is a badly needed fiscal tool which would provide valuable means to reduce and restrain excessive appropriations. It should be emphasized that my proposal grants the President power to approve or disapprove individual items of appropriation and does not grant power to simply reduce the dollar amount legislated by the Congress.

Forty-three governors currently have, in one form or another, the power to reduce or eliminate items or provisions in appropriation measures. Surely, the President should have a form of discretionary authority that 43 governors now have to check unbridled spending.

It is my hope that this Congress will swiftly approve line item veto and send a clear message to the American people that we are making a serious effort to get our Nation's fiscal house in order.

I urge my colleagues to support this proposal and our efforts to make it part of our Constitution.

Mr. President, I ask unanimous consent that this proposal be printed in the RECORD.

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

S.J. RES. 2

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission to the States for ratification:

''ARTICLE —

''The President may disapprove any item of appropriation in any Act or joint resolution. If an Act or joint resolution is approved by the President, any item of appropriation contained therein which is not disapproved shall become law. The President shall return with his objections any item of appropriation disapproved to the House in which the Act or joint resolution containing such item originated. The Congress may, in the manner prescribed under section 7 of article I for Acts disapproved by the President, reconsider any item of appropriation disapproved under this article.''.

By Mr. KYL:

S.J. Res. 3. A joint resolution proposing an amendment to the Constitution of the United States to provide that expenditures for a fiscal year shall neither exceed revenues for such fiscal year nor 19 per centum of the Nation's Gross National Product for the last calendar year ending before the beginning of such fiscal year; to the Committee on the Judicairy.

BALANCED BUDGET SPENDING LIMITATION ACT

● Mr. KYL. Mr. President, I introduce the Balanced Budget/Spending Limitation Amendment [BBSLA], an initiative which is designed to end Congress' addiction to overspending and give the Nation a chance at a healthy economic future.

It is an initiative which has been endorsed in the past by such taxpayer groups as Citizens Against Government Waste, Citizens for Tax Reform, and the National Tax Limitation Committee, not to mention the Institute for Research on the Economics of Taxation among others.

Like other balanced budget amendments which will be considered, the BBSLA requires a balanced Federal budget. It is unique, however, in two other respects—both substantively and in its objectives.

Substantively, it includes a Federal spending limitation. It limits spending to 19 percent of Gross National Product, which is roughly the level of tax revenues the Federal Government has collected annually for the last generation.

With respect to objectives, the BBSLA is designed to promote both fiscal responsibility and economic growth.

Just before Congress considered balanced budget amendments in 1992, the General Accounting Office released a report predicting that, based on then-current trends, Federal spending could grow to 42.4 percent of GNP by the year 2020. That would be up from about 23 percent of GNP today. Slower economic growth would result, and combined with a growing debt burden, the next generation could expect no improvement in its standard of living.

A report released the year before by Stephen Moore of the Institute for Policy Innovation came to similar conclusions about the proportion of GNP that the Government would command if current trends continue. The report concluded that:

Meaningful, constitutional limits on the growth of spending are needed to bring the size of government down to economically sustainable levels. One way to achieve this end would be to limit the percentage of GNP which the government can command from the private sector.

The idea of spending limits is not new. Nineteen States across the country have some form of spending limitations, in statute or in their constitutions. California, for example, adopted a constitutional limit in 1979, limiting yearly growth in appropriations to the percentage increase in population and inflation.

Tennessee adopted its constitutional limit in 1978, limiting the growth in appropriations to the growth in State personal income. Texas, also in 1978, adopted a constitutional limit, tying the growth in biennial appropriations to the rate of growth of personal State income.

The BBSLA is modeled after Arizona's spending limitation, which I helped draft in 1974 with then-State Senate Majority Leader Sandra Day O'Connor, now Associate Justice of the U.S. Supreme Court; State Senator Ray Rottas, who went on to become State Treasurer of Arizona; Clarence Duncan, a prominent Arizona attorney; and a handful of others. The spending limit, set at 7 percent of State personal income, was approved by an overwhelming 78 percent of the State's voters.

Combining a balanced budget requirement with a spending limitation achieves two things: first, it treats the cause of big deficits—excessive government spending—and not just the symptoms of that problem—high taxes and excessive borrowing. Our problem is not that Congress doesn't tax enough; it is that Congress spends too much.

Moreover, this approach recognizes that the only way Congress really can balance the budget is by limiting Federal spending to the level of revenues that the economy has been willing to bear.

Over the last 40 years—in good economic times and bad, despite tax increases and tax cuts, and under presidents of both political parties—revenues to the Treasury have remained relatively constant at about 19 percent of GNP.

That is because changes in the tax code change people's behavior. Low taxes stimulate the economy, resulting in more taxable income and transactions, and more revenue to the Treasury. Higher taxes discourage work, production, investment and savings, so revenues are always less than projected. Although tax cuts and tax rate increases may create temporary declines and surges in revenue, revenues always adjust at roughly the same percentage of GNP as people adjust their behavior to the new tax laws. So you cannot reduce the deficit and balance the budget by raising taxes.

The point is, if revenue as a share of GNP remains relatively steady no matter what Congress does, the only way to really raise revenues is to grow the economy first. In other words, 19 percent of a larger GNP represents more revenue to the Treasury than 19 percent of a smaller GNP.

The BBSLA thus attacks the cause of deficits head on—it limits spending. And, by linking spending to the size of the economy—as measured by GNP—it not only recognizes the reality that a growing economy produces more revenue, but also gives Congress an incentive to support policies that ensure that economy is indeed healthy and growing. Only a growing economy—as measured by GNP—would increase the dollar amount that Congress is allowed to spend. So, if Congress wants to spend more money, it would have to support policies that promote economic growth first.

Mr. President, it appears that a balanced budget amendment will pass this year. It is now time to ask which balanced budget amendment best meets the Nation's long-term needs; which amendment best addresses the root causes of the Nation's budget problems.

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

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

S.J. RES. 3

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

''ARTICLE —

''SECTION 1. Except as provided in this article, outlays of the United States Government for any fiscal year may not exceed its receipts for that fiscal year.

''SECTION 2. Expect as provided in this article, the outlays of the United States Government for a fiscal year may not exceed 19 per centum of the Nation's gross national product for that fiscal year.

''SECTION 3. The Congress may, by law, provide for suspension of the effect of sections 1 or 2 of this article for any fiscal year for which three-fifths of the whole number of each House shall provide, by a roll call vote, for a specific excess of outlays over receipts or over 19 per centum of the Nation's gross national product.

''SECTION 4. Total receipts shall include all receipts of the United States except those derived from borrowing and total outlays shall include all outlays of the United States except those for the repayment of debt principal.

''SECTION 5. This article shall apply to the second fiscal year beginning after its ratification and to subsequent fiscal years, but not to fiscal years beginning before October 1, 2001.''.●

By Mr. THURMOND:

S.J. Res. 4. A joint resolution proposing an amendment to the Constitution relating to a Federal balanced budget; to the Committee on the Judiciary.

BALANCED BUDGET CONSTITUTIONAL AMENDMENT

Mr. THURMOND. Mr. President, I rise today to introduce legislation to amend the U.S. Constitution to require the Federal Government to achieve and maintain a balanced budget.

This legislation is essentially the same as Senate Joint Resolution 8 which I introduced in the 103d Congress and is similar to an earlier bill in March of 1986 which received 66 of 67 votes needed for Senate approval. Also, the Senate passed a balanced budget amendment in 1982 but was defeated in the House of Representatives. Simply stated, this legislation calls for a constitutional amendment requiring that outlays not exceed receipts during any fiscal year. Also, Congress would be allowed by three-fifths vote to adopt a specific level of deficit spending. Further, the Congress could waive the amendment during time of war. Finally, the amendment would also require that any bill to increase taxes be approved by a majority of the whole number of both Houses.

It is clear that the budget deficit is a top priority with the American people. Additionally, this legislation would be a key step to reduce and ultimately eliminate the Federal deficit. The interest and attention which this problem has attracted speaks volumes as to the need for solutions to our Nation's runaway fiscal policy.

Our Constitution has been amended only 27 times in over 200 years. Amendment to the supreme law of our land is a serious endeavor which should only be reserved to protect the fundamental rights of our citizens or to ensure the survival of our system of government.

Mr. President, I believe that the very survival of our system of government is presently being jeopardized by an irrational and irresponsible pattern of spending which has become firmly entrenched in Federal fiscal policy over the last half-century. As a result, this fiscal policy has gone a long way toward seriously threatening the liberties and opportunities of our present and future citizens.

As of November 16, 1994, the Federal debt is over $4.6 trillion. Per capita, the Federal debt is over $16,000. This means that it would cost every man, woman and child in America $16,000 each to pay off the public debt. The Federal deficit for fiscal year 1993 was $255 billion. In order to solve the deficit problem, congressional spending must be addressed.

I have believed for many years that the way to reverse the misguided direction of the fiscal government is by amending the Constitution to mandate, except in extraordinary circumstances, balanced Federal budgets. I know many other Members of Congress join me in wanting to establish balanced budgets as a fiscal norm, rather than a fiscal anomaly.

Those who oppose a balanced budget constitutional amendment and opt instead for self-imposed congressional restraint must face the fact that this restraint has not been forthcoming. Importantly, the Congress has only balanced the Federal budget one time in the last 32 years. Meanwhile, the level of annual budget deficits has grown enormously over this period of time. Continued deficit spending by the Federal Government will undoubtedly lead the Nation into more periods of economic stagnation and decline. The tax burdens which today's deficits will place on future generations of American workers is staggering. We must reverse the fiscal course of the Federal Government and a constitutional amendment is the only effective way to accomplish it. It is time for Congress to understand the simple fact that a government cannot survive by continuing to spend more money than it takes in.

Mr. President, the balanced budget amendment proposal has the support of many of our colleagues in the Congress, a Congress which holds diverse views on many issues. Supporters of a balanced budget amendment share an unyielding commitment to restoring sanity to a spending process which is out of control and hurling our Nation headlong toward economic disaster.

I urge my colleagues to support this proposal so we may submit this important constitutional amendment to the States for ratification.

By Mr. THURMOND:

S.J. Res. 5. A joint resolution proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

FORFEIT OF OFFICE BY GOVERNMENT OFFICIALS AND JUDGES CONVICTED OF FELONIES

Mr. THURMOND. Mr. President, today I am introducing a proposed amendment to the Constitution which would require Federal judges and certain other officers of the United States to forfeit their offices upon conviction of a felony.

I believe that the citizens of the United States will agree that those who have been convicted of felonies should not be allowed to continue to occupy positions of trust and responsibility in our Government. Nevertheless, under current constitutional law it is possible for certain officers of the United States to continue to receive a salary even after being convicted of a felony. If they are unwilling to resign, the only method which may be used to remove them from the Federal payroll is impeachment, a process which can occupy a great deal of valuable time and resources of the Congress.

Currently, the Congress has the power to impeach officers of the Government who have committed treason, bribery, or other high crimes and misdemeanors. However, when a court has found an official guilty of a serious crime, it should not be necessary for Congress to then essentially re-try the official before he or she can be removed from the Federal payroll.

The constitutional amendment which I am introducing will provide that any officer of the United States who is appointed by the President and confirmed

by the Senate, upon conviction of a felony and exhaustion of all direct appeals, shall be removed from office and shall lose all salary and benefits arising from service in such office.

Mr. President, I urge my colleagues to carefully consider this proposal and ask unanimous consent that it be printed in the RECORD.

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

S.J. RES. 5

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the constitution if ratified by the legislatures of three-fourths of the several States within seven years after its submission to the State for ratification:

''ARTICLE—

''Any officer of the United States appointed by the President with the advice and consent of the Senate, upon conviction of a felony, shall forfeit office and all prerogatives, benefits, or compensation thereof.''.

By Mr. THURMOND (for himself, Mr. FAIRCLOTH, Mr. LOTT, and Mr. SHELBY):

S.J. Res. 6. A joint resolution proposing an amendment to the Constitution of the United States relating to voluntary school prayer; to the Committee on the Judiciary.

VOLUNTARY SCHOOL PRAYER AMENDMENT

Mr. THURMOND. Mr. President, today, I am introducing, along with Senators FAIRCLOTH, LOTT and SHELBY, the voluntary school prayer constitutional amendment. This bill is identical to S.J. Res. 73 which I introduced in the 98th Congress at the request of the President and reintroduced in the 99th, 100th, 101st, 102d, and 103d Congress.

This proposal has received strong support from our colleagues on both sides of the aisle and is of vital importance to our Nation. It would restore the right to pray voluntarily in public schools—a right which was freely exercised under our Constitution until the 1960's, when the Supreme Court ruled to the contrary.

Also, in 1985, the Supreme Court ruled an Alabama statute unconstitutional which authorized teachers in public schools to provide a period of silence, for meditation or voluntary prayer at the beginning of each school day. As I stated when that opinion was issued and repeat again—the Supreme Court has too broadly interpreted the establishment clause of the first amendment and, in doing so, has incorrectly infringed on the rights of those children—and their parents—who wish to observe a moment of silence for religious or other purposes.

Until the Supreme Court ruled in the Engel and Abington School District decisions, the establishment clause of the first amendment was generally understood to prohibit the Federal Government from officially approving, or holding in special favor, any particular religious faith or denomination. In crafting that clause, our Founding Fathers sought to prevent what has originally caused many colonial Americans to emigrate to this country—an official, State religion. At the same time, they sought, through the free exercise clause, to guarantee to all Americans the freedom to worship God without government interference or restraint. In their wisdom, they recognized that true religious liberty precludes the Government from both forcing and preventing worship.

As Supreme Court Justice William Douglas once stated: ''We are a religious people whose institutions presuppose a Supreme Being.'' Nearly every President since George Washington has proclaimed a day of public prayer. Moreover, we, as a Nation, continue to recognize the Deity in our Pledge of Allegiance by affirming that we are a Nation ''under God.'' Our currency is inscribed with the motto, ''In God We Trust''. In this body, we open the Senate and begin our workday with the comfort and stimulus of voluntary group prayers—such a practice has been recently upheld as constitutional by the Supreme Court. It is unreasonable that the opportunity for the same beneficial experience is denied to the boys and girls who attend public schools. This situation simply does not comport with the intentions of the framers of the Constitution and is, in fact, antithetical to the rights of our youngest citizens to freely exercise their respective religions. It should be changed, without further delay.

The Congress should swiftly pass this resolution and send it to the States for ratification. This amendment to the Constitution would clarify that it does not prohibit vocal, voluntary prayer in the public school and other public institutions. It emphatically states that no person may be required to participate in any prayer. The Government would be precluded from drafting school prayers. This well-crafted amendment enjoys the support of an overwhelming number of Americans. During the 98th Congress, we were only 11 votes short of the 67 necessary for approval in the Senate.

I strongly urge my colleagues to support prompt consideration and approval of this joint resolution during this Congress and ask unanimous consent that it be printed in the RECORD.

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

S.J. RES. 6

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of each House concurring therein), That the following article is hereby proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress:

''ARTICLE —

''Nothing in this Constitution shall be construed to prohibit individual or group prayer in public schools or other public institutions. No person shall be required by the United States or by any State to participate in prayer. Neither the United States nor any State shall compose the words of any prayer to be said in public schools.''.

By Mr. HATCH (for himself, Mr. BROWN, Mr. ABRAHAM, Mr. LOTT, Mr. KEMPTHORNE, Mr. SHELBY, Mr. SMITH and Mr. CRAIG THOMAS):

S.J. Res. 9. A joint resolution proposing an amendment to the Constitution of the United States barring Federal unfunded mandates to the States; to the Committee on the Judiciary.

UNFUNDED FEDERAL MANDATES CONSTITUTIONAL AMENDMENT

Mr. HATCH. Mr. President, I am today introducing in the Senate a joint resolution proposing a constitutional amendment that would grant States and localities relief from any further unfunded Federal mandates.

This amendment would restore the balance between Federal and State power that the Constitution was meant to preserve, but that decades of Federal heavyhandedness have upset. Under this amendment—which would apply to statutes enacted after its ratification—unfunded mandates would not be enforceable against States and localities unless Congress so specified through a separate supermajority vote.

This is not a conservative or a liberal issue. It is an issue of effective, efficient government. Freeing States and localities of the burden of unfunded mandates will enable our State and local representatives to carry out the agenda—whether liberal or conservative—that their people have elected them to carry out.

Let me emphasize that this joint resolution is not intended as an alternative to the unfunded mandates legislation that Senator KEMPTHORNE is offering as S. 1. I fully support Senator KEMPTHORNE'S bill, and I am pleased to have Senator KEMPTHORNE'S support for this joint resolution. Senator KEMPTHORNE'S bill will be a major first step in providing real relief from unfunded mandates. This amendment will provide the next big step.

No matter is more basic to our constitutional structure than the relation between the Federal and State governments. We should not tinker with the Constitution. But we should also not accept, much less acquiesce in, the fundamental damage that has been inflicted on our constitutional structure. It is time to restore this structure.

Attached is a section-by-section analysis of this unfunded mandates amendment.

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

SENATOR HATCH'S CONSTITUTIONAL AMENDMENT ON UNFUNDED MANDATES SECTION-BY-SECTION ANALYSIS

This amendment would impose dramatic new limits on the federal government's power to subject States and localities to unfunded mandates. The amendment would bar direct unfunded mandates, except where Congress by a ⅔ vote has specified that States and localities should be subject to those mandates. It would also bar conditional mandates on the receipt of federal assistance by States and localities—e.g., in spending programs—unless the condition is directly and substantially related to the specific subject matter of the federal assistance (and again subject to a ⅔ override). The amendment would also codify the Supreme Court's 1992 ruling in *New York* v. *United States*, 112 S. Ct. 2408 (1992). The amendment would apply only prospectively—that is, only to statutes that become effective after it has been ratified.

Here is a section-by-section analysis:

Section 1. Section 1 has two parts. First, it provides that federal statutes cannot impose or authorize direct unfunded mandates on States and localities. Were this the only provision, Congress would then simply condition all of its mandates on assistance that States could not afford to reject. Accordingly, it is also necessary to limit Congress' power to impose conditional mandates (e.g., as part of a spending program). This is done through the second part of section 1. The requirement that a condition be ''directly and substantially related to the specific subject matter of the assistance'' is a significant improvement over existing constitutional case law, which requires only that conditions be ''reasonably related'' to the ''purpose'' of the assistance.

Section 2. Section 2 provides an exception to section 1: where Congress so specifies by a ⅔ vote, unfunded obligations or loosely related conditions may be imposed on States and localities. This provision ensures that in those cases in which mandates are truly warranted, they can be adopted.

Section 3. Section 3 codifies the Supreme Court's ruling in *New York* v. *U.S.*, 112 S. Ct. 2408, 2435 (1992), that under the Tenth Amendment the ''Federal Government may not compel the States to enact or administer a federal regulatory program.''

Section 4. Section 4 provides that the term ''State'' applies to State agencies and to cities and counties.

Section 5. Section 5 makes clear that the amendment would apply only prospectively.

Section 6. Section 6 is designed to make clear that courts could not order federal funding as a remedy for a violation of section 1. Instead, the consequence of a violation is that the obligation is not enforceable against the State or locality.

Section 7. Section 7 protects against the amendment somehow being misconstrued to expand federal power.

By Mrs. FEINSTEIN:

S.J. Res. 10. A joint resolution to designate the visitors center at the Channel Islands National Park, California, as the ''Robert J. Lagomarsino Visitors Center''; to the Committee on Energy and Natural Resources.

THE ROBERT J. LAGOMARSINO VISITORS CENTER ACT OF 1995

Mrs. FEINSTEIN. Mr. President, today I am introducing a resolution to designate the visitors center at the Channel Islands National Park, California, as the ''Robert J. Lagomarsino Visitors Center.'' I am pleased to say Congressman ELTON GALLEGLY is introducing the measure in the House of Representatives.

The legislation is identical to S.J. Res. 152 and H.J. Res. 67 which we sponsored in the 103d Congress. The House of Representatives passed the measure in 1993 as part of H.R. 3252, the West Virginia Conservation Act. The Senate Energy and Natural Resources Committee also approved the measure last year, but the full Senate was unable to act before the 103d Congress adjourned.

As some of my colleagues will remember, Robert Lagomarsino served in the House of Representatives for 18 years, from 1974 to 1992, representing the nineteenth district of California which then included Santa Barbara County and part of Ventura County. A member of the House Interior and Insular Affairs Committee and the Subcommittee on National Parks and Public Lands, Bob Lagomarsino was active on a wide range of natural resource issues, including the Alaska National Interest Lands Act, the Strip Mine Control Act, the California Wilderness Act, the Sespe Condor Rivers and Range Act, and hundreds of other bills.

But perhaps Bob Lagomarsino is most closely associated with protection of the Santa Barbara Channel and the establishment of the Channel Islands National Park. Even before his election to the House of Representatives, Bob Lagomarsino worked to protect the fragile Channel Islands and their remarkable scenery and wildlife. As a Member of the California State Senate, Bob Lagomarsino authored the bill creating a state sanctuary around the Channel Islands. As a Member of the House, Bob Lagomarsino sponsored the legislation which expanded the existing Channel Islands National Monument and redesignated the area as a National Park. He then worked hard to secure the funding necessary to complete the park. Additionally, as a Member of the House, he fought to protect the Channel Islands National Park from potential oil spills, successfully persuading oil companies not to ship Alaskan oil through the Santa Barbara Channel and opposing new federal oil leases in the area.

Given Bob Lagomarsino's long association with protection of the Channel Islands, I believe it is most fitting for us to designate the visitors center at the Channel Islands National Park as the ''Robert J. Lagomarsino Visitors Center''. I hope my colleagues in the 104th Congress will join me in recognizing the contributions of this distinguished Californian and enact this measure promptly.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed at this point in the RECORD.

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

S.J. RES. 10

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The visitors center at the Channel Islands National Park, California, is designated as the ''Robert J. Lagomarsino Visitors Center''.

SEC. 2. LEGAL REFERENCE.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the visitors center referred to in section 1 is deemed to be a reference to the ''Robert J. Lagomarsino Visitors Center.''

SENATE CONCURRENT RESOLUTION 1—PROVIDING FOR TELEVISION COVERAGE OF OPEN CONFERENCE COMMITTEE MEETINGS

Mr. DOLE (for himself and Mr. DASCHLE) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. CON. RES. 1

Resolved by the Senate (the House of Representatives concurring), That it is hereby authorized to provide coverage by television cameras of all open conference committee meetings.

Mr. DOLE. Mr. President, on June 2, 1986, the Senate opened its doors to the American people through television cameras, a giant leap in increasing the access of Americans to their Government. However, in some areas, the Senate needs to take further steps to enter the 20th century when it comes to opening our proceedings to the public.

The American people sent a lot of messages to Congress on November 8, but certainly one was that they expect us to deliver on our promises. We heard that message loud and clear, and we expect the people to hold us accountable. As our employers, the American people have every right to observe their Government in action, and we have a responsibility to ensure that public access.

Today, along with my friend from South Dakota, Senator DASCHLE, I am introducing two resolutions to increase public access to the proceedings of Congress. The first is a Senate resolution which would permit the electronic media to cover the majority leader's and minority leader's so-called dugout briefings. These briefings, which have traditionally been open only to reporters with notepads, have been held on the Senate floor for a few minutes prior to the day's session. Senate rules currently do not permit broadcasting of the Senate floor while the Senate is not in session, but this resolution would allow it for these sessions.

The second resolutions is a concurrent resolution which would permit coverage by television cameras of all open House-Senate conference committee meetings. These public meetings have been open to print reporters and journalists without television cameras. It is high time we permitted more of the American people to see with their own eyes this important part of the legislative process.

I ask that these resolutions be printed and referred to the appropriate committee.