mandates on State, local, and tribal governments without adequate funding, in a manner that may displace other essential governmental priorities; and to ensure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statutes and regulations; and for other purposes; read the first time.

By Mr. DASCHLE (for himself, Mr. BINGAMAN, Mr. CAMPBELL, Mr. KERRY, Mr. REID, and Mr. INOUYE):

S. 170. A bill to amend the Public Health Service Act to provide a comprehensive program for the prevention of Fetal Alcohol Syndrome, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DASCHLE (for himself, Mr. SIMON, Mr. KENNEDY, Mr. KERRY, Mr. REID, and Mr. AKAKA):

S. 171. A bill to amend title XIX of the Social Security Act to provide for coverage of alcoholism and drug dependency residential treatment services for pregnant women and certain family members under the medicaid program, and for other purposes; to the Committee on Finance.

By Mr. HEFLIN:

S.J. Res. 13. A joint resolution proposing an amendment to the Constitution to provide for a balanced budget for the United States Government; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. COCHRAN (for Mr. DOLE):

S. Res. 26. A resolution making majority party appointments to the Governmental Affairs Committee for the 104th Congress; considered and agreed to.

By Mr. DOLE:

S. Res. 27. A resolution amending Rule XXV; considered and agreed to.

By Mr. GRASSLEY (for Mr. STEVENS (for himself and Mr. FORD)):

S. Res. 28. A resolution to increase the portion of funds available to the Committee on Rules and Administration for hiring consultants; considered and agreed to.

By Mr. GRASSLEY (for Mr. DOLE):

S. Res. 29. A resolution amending Rule XXV; considered and agreed to.

S. Res. 30. A resolution making majority party appointments to certain Standing Committees for the 104th Congress; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MCCAIN:

S. 150. A bill to authorize an entrance fee surcharge at the Grand Canyon National Park, and for other purposes; to the Committee on Energy and Natural Resources.

THE GRAND CANYON PUBLIC/PRIVATE PARTNERSHIP ACT

● Mr. MCCAIN. Mr. President, today I'm introducing legislation to help finance desperately needed improvements at our Nation's premier national park—our great pride and joy—the Grand Canyon.

The measure would authorize the Secretary of the Interior to establish a special public-private partnership account, under which entrance fee revenues would be matched with private donations to help fund vital projects called for in the park's general management plan.

This legislation will provide additional resources for the Grand Canyon at a time when park needs far outstrip the ability of the Treasury to fund them. The measure enjoys the support of two important organizations dedicated to protecting the interests of the Grand Canyon: The Grand Canyon Trust; and, the Grand Canyon Natural History Association.

We in Arizona are proud to be home to the crown jewel of our National Park System. We take immense pride in the park and appreciate the awesome responsibility with which our country has been vested as stewards of this world class resource. We also understand that we have much work to do in order to meet those responsibilities.

Resources are desperately needed to repair the park's aging infrastructure. Compare that need to the canyon's park budget this year which is only $13 million—a gap as wide and formidable as the Grand Canyon itself.

The need is enormous and it is growing. Last year, 5 million people visited the Grand Canyon—a number that will continue to grow at a rapid pace. The ever increasing demand will place even more stress on the park's aging and needy infrastructure.

To address future needs, the National Park Service has been working diligently on the park's general management plan. The plan will guide management prerogatives into the next century. The draft plan which was released last year, identifies projects and programs which will help us to cope with the increased visitation, enhance visitor experience and protect the canyon's valuable resources for this and future generations.

While the plan has not been completed, preliminary reports estimate that it will cost nearly a quarter of a billion dollars to fully fund. Providing the necessary resources is a staggering challenge. The proposal I am presenting here today is one way to help us meet this enormous need.

As I said, the bill would authorize the Secretary to use fee revenues to leverage private contributions to help finance park projects.

In order to fund the Federal share of such partnerships, the Secretary would be authorized to add a surcharge of up to $2 on the current $10 per vehicle park entrance fee.

Mr. President, no one, least of all this Senator, likes the idea of higher park entrance fees. But, visitors understand that park services and infrastructure cost money and they are willing to support the park with their fees as long as they know the revenue will be used for that purpose.

Under current procedures, entrance fees are collected at the park, returned to the General Treasury and appropriated by Congress in many instances for purposes other than the needs at the Grand Canyon.

The revenues raised under the measure I'm proposing would remain in a special account at the park to be used only in concert with private donations for vital park needs. Such public-private partnerships have ample and successful precedent in other areas of public administration, and are an excellent means of stretching our resources. I believe they could be a useful tool at the Grand Canyon and perhaps other national parks as well.

Again, no one likes the idea of any increase in park fees. But, ironically, we need only to look to Disney Land for a reality check. Today, visitors to Disney Land pay $35 a piece to see Mickey Mouse. By comparison, Grand Canyon visitors pay a relatively modest $10 per carload to view what John Wesley Powell aptly described as the most sublime spectacle on Earth. We all understand and accept the fact that keeping that spectacle sublime and providing for its enjoyment by the millions who visit costs money. An added surcharge to leverage private dollars would seem to be a justified and efficient means of making ends meet, and it deserves our thoughtful consideration.

We estimate that the surcharge would generate an additional $2 million a year. Once leveraged with money from the private sector the fund would make a significant contribution to park improvements and maintenance of infrastructure such as upgrading the park's transportation system to relieve overcrowding; maintaining trails; and improving the water system and housing, just to name a very few.

Mr. President, the creation of a special partnership account raises many questions. I, like others, want to make absolutely certain that private contributions to the park are not used in any way that would compromise park interests or values. This measure seeks to address that issue because management of the fund must be dictated solely by the needs of the park and the ethic of stewardship.

The measure calls on the Secretary of the Interior to establish regulations, with full public comment and participation, to guide how the fund will be managed, how private donations will be solicited, for what purposes they will be used and how the partnerships will be structured and managed.

In addition, the bill specifically requires that any project funded under the partnership must be consistent with the statutes, regulations, and rules governing the park, and that it is specifically approved and prioritized within the general management plan. These plans are developed with public participation and are subject to all the applicable environmental laws. Ensuring that partnership funds are used only for purposes authorized by the relevant management plan will ensure that only necessary and appropriate projects are undertaken.

Many businesses and individuals want to contribute to the protection of Grand Canyon National Park because they realize that it is a national treasure and that it needs and deserves our assistance. Nevertheless, we must take steps to ensure that these donations are not offered with strings attached that would place commercial interests ahead of park needs and values.

Mr. President, Grand Canyon is at a critical point. Demand for park resources is increasing, as is the cost of maintenance. Given the current budget constraints the administration and Congress are not likely to provide the further increases necessary to adequately meet the need.

We must look for innovative ways to fully fund the preservation and enhancement of our Nation's park system. I believe the method I'm proposing is a viable option that should be fully examined and considered. Secretary Babbitt has indicated that facilitating a public/private partnership at Grand Canyon is one of the Interior Department's highest priorities.

Mr. President, last year we celebrated the 75th anniversary of Grand Canyon National Park. It is most appropriate that we recommit ourselves to the charge of Theodore Roosevelt ''to keep the canyon for our children and our children's children, and for all who come after us, as one of the great sights which every American if he can travel at all should see.'' Let's work to meet the needs at the Grand Canyon with that purpose firmly in mind.

I ask unanimous consent that letters of support from the Grand Canyon Trust and the Grand Canyon Natural History Association along with editorials and news articles regarding this measure be entered into the RECORD. I also ask unanimous consent that the text of the bill appear in the RECORD.

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

S. 150

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 ''Grand Canyon Public/Private Partnership Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) as of the date of enactment of this Act, the existing infrastructure of Grand Canyon National Park is not adequate to serve the purposes for which the Park was established;

(2) improving the infrastructure of the Park would enhance the natural and cultural resources of the Park and the quality of the experiences of visitors to the Park;

(3) through the development of a general management plan, the Director of the National Park Service has identified reasonable measures that are necessary to improve the infrastructure and related services of the Park, including making improvements to transportation facilities and visitor services, and reusing historic structures appropriately; and

(4) in order for the Director to implement the general management plan referred to in paragraph (3) at the Park, it is necessary for the Director to be authorized to—

(A) enter into agreements with non-Federal entities to share the costs of the improvements; and

(B) assess and collect a special surcharge in addition to the entrance fees otherwise collected by the National Park Service.

SEC. 3. DEFINITIONS.

In this Act:

(1) ELIGIBLE PROJECT.—The term ''eligible project'' means any project that is eligible for funding in accordance with this Act.

(2) FACILITY.—The term ''facility'' includes any structure, road, trail, utility, or other facility that is used or to be used for or in support of—

(A) the protection or restoration of a natural or cultural resource;

(B) an interpretive service; or

(C) any other service or activity that the Secretary determines to be related to the operation of the Park.

(3) FEDERAL SHARE.—The term ''Federal share'', with respect to the cost of an eligible project, means the percentage of the cost of the project that is paid with Federal funds, including funds disbursed from the special account.

(4) NATIONAL PARK FOUNDATION.—The term ''National Park Foundation'' means the foundation established under the Act entitled ''An Act to establish the National Park Foundation'', approved December 18, 1967 (16 U.S.C. 19e et seq.).

(5) NON-FEDERAL SHARE.—The term ''non-Federal share'', with respect to the cost of an eligible project, means the percentage of the cost of the project that is paid with funds other than funds referred to in paragraph (3).

(6) PARK.—The term ''Park'' means the Grand Canyon National Park.

(7) SPECIAL ACCOUNT.—The terms ''special account for Grand Canyon National Park infrastructure improvement'' and ''special account'' mean the account established pursuant to section 5.

SEC. 4. GRAND CANYON ENTRANCE FEE SURCHARGE.

Notwithstanding any other provision of law, the Secretary of the Interior shall—

(1) authorize the Superintendent of the Grand Canyon National Park to charge and collect, in addition to the entrance fee collected pursuant to section 4 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–6a), a surcharge in an amount not to exceed $2 for each individual charged the entrance fee; and

(2) remit to the special account for Grand Canyon National Park infrastructure improvement amounts collected as a surcharge under paragraph (1).

SEC. 5. SPECIAL ACCOUNT FOR GRAND CANYON NATIONAL PARK INFRASTRUCTURE IMPROVEMENT.

(a) ESTABLISHMENT.—The Secretary of the Treasury, in consultation with the National Park Foundation, shall establish in the Treasury of the United States a special account for Grand Canyon National Park infrastructure improvement.

(b) ADMINISTRATION OF ACCOUNT.—The Secretary of the Treasury shall—

(1) credit to the special account amounts remitted pursuant to section 4(2); and

(2) make funds in the special account available for use only as provided in subsection (c).

(c) USE OF FUNDS.—

(1) IN GENERAL.—The National Park Foundation may provide funds from the special account to the Secretary of the Interior, acting through the Director of the National Park Service, to be used to pay the Federal share of the cost of eligible projects.

(2) DAILY OPERATIONS.—No funds in the special account may be used for daily operation of the Park.

SEC. 6. ELIGIBLE PROJECTS.

(a) IN GENERAL.—Subject to subsection (b), any project for the design, construction, operation, maintenance, repair, or replacement of a facility within the Park shall be eligible for funding in accordance with this Act.

(b) LIMITATION.—A project referred to in subsection (a) shall be consistent with—

(1) the laws governing the National Park Service;

(2) the Act entitled ''An Act to establish the Grand Canyon National Park in the State of Arizona'', approved February 26, 1919 (16 U.S.C. 221 et seq.), the Grand Canyon National Park Enlargement Act (16 U.S.C. 228a et seq.), and any related law; and

(3) the general management plan for the Park.

SEC. 7. COST-SHARING AGREEMENTS WITH NON-FEDERAL ENTITIES.

(a) IN GENERAL.—The Director of the National Park Service, in consultation with the Superintendent of the Grand Canyon National Park, shall enter into a cost-sharing agreement with a non-Federal Government entity for each eligible project for which funds are provided under section 5(c)(1).

(b) CONTENT.—Each cost-sharing agreement shall specify the Federal share and the non-Federal share of the cost of the project and shall provide for payment of the non-Federal share by the non-Federal entity.

(c) AUTHORITY TO COVER SEVERAL PROJECTS.—A cost-sharing agreement may cover more than 1 eligible project.

SEC. 8. REGULATIONS.

(a) IN GENERAL.—In consultation with the National Park Foundation, the Secretary of the Interior shall issue regulations to carry out this Act.

(b) CONTENT.—The regulations shall include—

(1) procedures for the management of the special account;

(2) the manner in which funds for payment of the non-Federal share of the cost of an eligible project may be solicited and acknowledged;

(3) provisions for ensuring the protection of the natural, cultural, and other resources that the Park was established to protect;

(4) provisions to encourage funding from the private sector only for projects that contribute to the restoration and protection of the resources referred to in paragraph (3);

(5) protections against the commercialization of the Park;

(6) procedures to prevent the creation of a conflict of interest with respect to an employee of the Federal Government; and

(7) provisions for continuous participation of the general public in the oversight of the implementation of this Act.

(c) NOTICE AND PUBLIC COMMENT.—The Secretary shall carry out subsection (a) in accordance with section 553 of title 5, United States Code, without regard to any applicable exception provided in the section.

SEC. 9. REPORT.

(a) IN GENERAL.—Not later than 5 years after the date of enactment of this Act, the Secretary of the Interior shall submit to Congress a report on the Park infrastructure improvement authority provided in this Act.

(b) CONTENT OF REPORT.—The report shall include—

(1) an assessment of the effectiveness of the exercise of authority under this Act to improve the infrastructure of the Park; and

(2) any recommended legislation with respect to—

(A) the surcharge authorized under section 4;

(B) the special account;

(C) the use of the special account for funding eligible projects; or

(D) any other matter that the Secretary determines to be related to the authority provided under this Act.

GRAND CANYON
NATURAL HISTORY ASSOCIATION,
Grand Canyon, AZ, May 6, 1994.

HON. JOHN MCCAIN,
U.S. Senator, Russell Senate Office Building, Washington, DC.

DEAR SENATOR MCCAIN: I am very happy to be able to write this letter of complete and enthusiastic support for your bill designed to authorize an entrance fee surcharge at the Grand Canyon National Park, for the purpose of assuring a Federal matching pool of funds for necessary capital projects at the Park. We have previously discussed the value of such a tool to be used to foster public/private partnerships to accomplish the overdue rebuilding of infrastructure to support the crush of visitors. We further believe that the choice of Grand Canyon as the test case for such an effort will enable us to create a model that can be used by other National Parks and Monuments across the country. Please let us know how else we can support this important legislation.

Sincerely,

ROBERT W. KOONS,
General Manager, CEO.

GRAND CANYON TRUST,
January 5, 1995.

Hon. JOHN MCCAIN,
U.S. Senate, Washington, DC.

DEAR SENATOR MCCAIN: Thank you for providing the Grand Canyon Trust with the opportunity to review and comment on both draft and final versions of your proposed legislation regarding entrance fees and public/private cost-sharing at Grand Canyon National Park.

We believe that your proposed legislation will greatly assist the efforts of the National Park Service and other entities who are struggling to find appropriate means to generate the additional funding so urgently needed by Grand Canyon National Park. In this regard, we strongly support the core concepts in your bill: new fees to generate incremental revenue for park projects and cost-sharing arrangements between the park service and non-governmental entities.

We share your concern that Grand Canyon's pressing infrastructure and resource management needs will not be met unless Congress acts to provide the new authorities described in your legislation. And, if those needs are not met, the park environment and visitor experience will continue to deteriorate—an utterly unacceptable and unnecessary fate for the crown jewel of America's parks.

Senator McCain, we applaud your consistent leadership on behalf of Grand Canyon. This bill, the National Parks Overflights Act, Grand Canyon Protection Act, and so many other measures reflect your unwavering dedication to the needs of the park. Please be assured that we are prepared to assist you in your efforts to move the bill through the legislative process to final enactment.

Again, thank you for all you have done for the Grand Canyon.

Sincerely,

THOMAS C. JENSEN,
Executive Director.

By Mr. BUMPERS (for himself, Mr. BRADLEY, Mr. FEINGOLD, Mr. HARKIN, Mr. KERRY, Mr. KOHL, Mr. PRYOR, Mr. SIMON, and Mr. WELLSTONE):

S. 151. A bill to reduce Federal spending by restructuring the Air Force's F–22 program to achieve initial operating capability in 2010 and a total inventory of no more than 42 aircraft in 2015; to the Committee on Armed Services.

By Mr. BUMPERS (for himself, Mr. BRADLEY, Mr. FEINGOLD, Mr. HARKIN, Mr. KOHL, Mr. LEAHY, Mr. SIMON, Mr. PRYOR, and Mr. WELLSTONE):

S. 152. A bill to reduce Federal spending and rapidly enhance strategic airlift by terminating the C–17 aircraft program after fiscal year 1996 and by providing for a program to meet the remaining strategic airlift requirements of the Department of Defense with nondevelopmental aircraft; to the Committee on Armed Services.

By Mr. BUMPERS (for himself, Mr. BRADLEY, Mr. CONRAD, Mr. FEINGOLD, Mr. HARKIN, Mr. KOHL, Mr. LEAHY, Mr. PRYOR, Mr. SIMON, and Mr. WELLSTONE):

S. 153. A bill to reduce Federal spending and enhance military satellite communications by reducing funds for the MILSTAR II satellite program and accelerating plans for deployment of the Advanced EHF Statellite/MILSTAR III; to the Committee on Armed Services.

By Mr. BUMPERS (for himself, Mr. BRADLEY, Mr. FEINGOLD, Mr. HARKIN, Mr. KOHL, Mr. SIMON, and Mr. WELLSTONE):

S. 154. A bill to prohibit the expenditure of appropriated funds on the Advanced Neutron Source; to the Committee on Appropriations.

By Mr. BUMPERS (for himself, Mr. BRADLEY, Mr. CONRAD, Mr. FEINGOLD, Mr. HARKIN, Mr. KOHL, Mr. LEAHY, and Mr. WELLSTONE):

S. 155. A bill to reduce Federal spending by prohibiting the backfit of Trident I ballistic missile submarines to carry D–5 Trident II submarine-launched ballistic missile; to the Committee on Appropriations.

By Mr. BUMPERS (for himself, Mr. BRADLEY, Mr. FEINGOLD, Mr. HARKIN, Mr. KOHL, Mr. PRYOR, Mr. SIMON, and Mr. WELLSTONE):

S. 156. A bill to reduce Federal spending by limiting the amount of appropriations which may be available to the intelligence community for fiscal year 1996; to the Committee on Appropriations.

By Mr. BUMPERS (for himself, Mr. WARNER, Mr. BRADLEY, Mr. CONRAD, Mr. FEINGOLD, Mr. KERRY, Mr. KOHL, Mr. LEAHY, Mr. PRYOR, Mr. SIMON, and Mr. WELLSTONE):

S. 157. A bill to reduce Federal spending by prohibiting the expenditure of appropriated funds on the United States International Space Station Program; to the Committee on Appropriations.

SPENDING CUTS LEGISLATION

Mr. BUMPERS. Mr. President, I send seven separate bills to the desk that I am offering on behalf of myself, Senators BRADLEY, KOHL, FEINGOLD, PRYOR, WELLSTONE, LAUTENBERG, and other Senators.

Just briefly, Mr. President, those bills contain seven specific spending cuts which, over the first 5 years would save $33 billion, and over a 15-year-period would save $114 billion; four of those seven would terminate or cut spending on four specific weapons programs. One would cut the intelligence budget. One would kill NASA's space station program, and the last would kill the Department of Energy's Advanced Neutron Source. Yesterday CBS News and USA Today–CNN released new public opinion polls. Both asked over 1,000 people: What should be the highest priority of this new Congress? Interestingly, according to the CNN/USA Today/Gallup Poll, out of about 15 items listed, 45 percent of the people said defense spending should have a very low priority and 11 percent said it should have no priority. Mr. President, 56 percent of the people in that poll said—bear this in mind—defense spending should have no priority or a low priority.

Yesterday was admittedly a euphoric day for Republicans in Congress. I have been in those euphoric positions so I watched with a great deal of interest, and I know how much they enjoyed the day. But how many times did you hear yesterday that we are going to give Government back to the people, we are going to start responding to what the people believe? Here is a golden opportunity for this Congress to prove that they can cut spending—they can cut spending the way the American people want. Bear in mind that the Contract With America provides for tax cuts which are estimated to cost between $150 and $200 billion. Under the 1990 Budget Act, that means the people who favor those tax cuts are going to have to cut mandatory spending; the great bulk of mandatory spending is entitlements—Medicare, Medicaid, Social Security. That means that people who favor those tax cuts are going to have to find offsetting spending cuts in entitlements.

The Kerry Commission was just disbanded, after long, arduous work in trying to figure out proposed recommendations of entitlement spending cuts. After spending over $1 million on that Commission, a basket of about 100 proposals were submitted to the Commission, many of whose members were Members of Congress. Not one single proposal was adopted for cutting entitlement spending. And here we have a tax cut proposal that is going to require $150 to $200 billion in spending cuts over the next 5 years. Yet those same polls yesterday showed that 77 percent on one poll, and 82 percent on

the other, said deficit reduction should be the highest priority.

So, Mr. President, I am introducing these spending cuts. Bear this in mind. In 1996 the deficit is going to start back up unless we do something. So here is our task, find $150 billion in Social Security and Medicare and Medicaid in order to provide for a middle-class tax cut, and you are going to have to find God knows how much else of spending to cut to keep the deficit from starting back up in 1996, and I promise you the American people will turn on this place like a saber-toothed tiger if that happens, and rightly so.

So here is $33 billion in seven spending cuts. I have some charts. I will show those later and I will speak more extensively on those specific cuts, why I think they should be there.

This will give people a chance to put up or shut up.

● Mr. LEAHY. Mr. President, in the 1980's, we were told that it was possible to increase defense spending, cut taxes and still balance the Federal budget. The national debt quadrupled in those years. President Clinton was elected on a pledge to reduce the budget deficits that had crippled the economy through the Reagan-Bush years. For the first time in two decades, we have actually cut the deficits and the economy is improving. Now, we are again hearing the siren song of tax cutting and increased defense spending from the same people who were the source of our national discontent. We have to build upon the solid accomplishments of the last 2 years—not upon the wreckage of the previous 12 years.

Senator BUMPERS is offering this thoughtful list of future spending cuts that will save taxpayers tens of billions of dollars. They are in contrast to the many words being tossed about to justify a return to the failed policies of the past.

I support most of the spending cuts proposed here today. But we need support from the new Republican majority to relieve the American taxpayer of the burden they impose on all of us.

Some of these cuts will actually enhance existing programs. For example, if we cap production of the C–17 cargo plane at 40 planes and instead buy existing aircraft like Boeing 747's or Lockheed C5's, we can save $5 billion over the next 5 years and increase our air cargo capabilities.

If we cancel the fifth and sixth military communication satellites known as Milstar, we can save $2 billion over the next 5 years. These satellites were designed to survive a nuclear war with the Soviet Union, a nation that doesn't even exist any more. Instead, we should accelerate development of the smaller, cheaper Milstar III, which will deliver more communications capability for the regional conflicts that we are most likely to encounter in the future.

The international space station will consume $52 billion of taxpayer money over the next 15 years. I am not against space exploration, but NASA has never justified the immense cost of this program in terms of scientific returns.

We need to intensify our efforts to develop cheap, reusable launch vehicles that make space more accessible. then we can consider space stations, space factories and other futuristic projects.

The Navy wants to spend $3 billion over the next 5 years to refit our Trident ballistic missile submarines with the super-accurate D–5 nuclear missile. These missiles were designed as bunker-busters for Soviet ICBM's, which are being disarmed as we speak. And we have D4 missiles that can deliver an acceptable nuclear punch in the unlikely event of total nuclear war.

I don't agree with everything Senator BUMPERS proposes. We differ on his recommendation to cut $5 billion from the intelligence budget. I prefer to await the recommendations of the Presidential commission set up last year by Congress to review the roles and missions of our intelligence agencies.

I reserve my opinion on the Advanced Neutron Source reactor because I have not had an opportunity to analyze the details of this program. I may very well join Senator BUMPERS in opposition in the future—but I just don't know enough to make an educated judgement at the present time.

In sum, there are tens of billions of dollars to be saved in these spending cuts, without any threat to national security, and the very real possibility that our defense will be strengthened as a result.

Along with Senator BUMPERS, I urge incoming Senators and Representatives to make a genuine, bipartisan effort to review these options to make our government less costly and more efficient. We have some old white elephants straining the costs of government. We don't need great new ideas—just a little courage—to end these programs.●

By Mr. JOHNSTON:

S. 158. A bill to provide for the energy security of the Nation through encouraging the production of domestic oil and gas resources in deep water on the Outer Continental Shelf in the Gulf of Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

THE OUTER CONTINENTAL SHELF DEEP WATER ROYALTY RELIEF ACT

● Mr. JOHNSTON. Mr. President, I introduce the Outer Continental Shelf Deep Water Royalty Relief Act. This legislation is intended to address the serious decline in oil and gas exploration and development activity in the Western and Central Gulf of Mexico on the Outer Continental Shelf [OCS]. This is not the same proposal introduced in the Senate and reported by the Committee on Energy and Natural Resources in the last Congress. This specific legislation is the result of a compromise worked out with the Administration last session in the context of the mining law reform conference. This legislation has the support of the Secretaries of the Departments of Energy and the Interior.

The Outer Continental Shelf is an important domestic source of oil and clean-burning natural gas. Approximately 10 percent of domestic oil and 25 percent of domestic natural gas is produced from the OCS. The OCS is estimated to hold one-fourth of all domestic oil and gas reserves. The Central and Western Gulf account for 90 percent of the oil and 99 percent of the gas produced from the OCS.

Domestic exploration and development have fallen off dramatically in recent years as capital has moved to support drilling in other parts of the world. In 1992, for the first time, the major oil companies spent more on exploration and development activity abroad than on U.S. activities. Between 1987 and 1992, $30 billion flowed from the U.S. oil patch to foreign operations. This translates to a loss of 450,000 jobs by the domestic industry over the last 10 years.

Mr. President, the deep waters of the OCS hold promise of substantial oil and gas resources crucial to our domestic energy security. However, the costs of producing these resources are substantial and increase significantly with water depth. One industry estimate places capital investment costs for a conventional fixed leg platform in 800 feet of water at $360 million, compared to costs of nearly $1 billion for a conventional tension leg platform in 3000 feet of water. According to Department of Interior estimates there are some 11 billion barrels of oil equivalent in the Gulf of Mexico in waters of a depth of 200 meters or more. This legislation is expected to bring into production at least two additional fields with possible reserves of 150 million barrels of oil equivalent.

By allowing lessees to recover a significant portion of the capital cost prior to imposition of a royalty payment this legislation will encourage development of these important oil and gas resources. Royalty holidays of this type are commonly used in other parts of the world as a mechanism for risk sharing between the government and the industry of the huge up-front capital costs associated with developing this type of resource. The North Sea is a prime example. British and Norwegian tax and royalty changes, put in place in the 80's have yielded dramatic results in the past couple of years. In fact, increases in this non-Opec production has contributed significantly to holding down international oil prices.

First, the legislation clarifies the authority of the Secretary of the Interior to grant royalty relief on existing leases in the OCS to encourage development. Currently the Secretary may grant relief once a lease has been developed and is producing, it is not clear whether the authority exists before

production is initiated. The Department of Interior has sought this clarification. The legislation further provides for a specified royalty holiday for existing leases in deep waters that are not currently economic. Upon application, undeveloped leases in water depths of 200 meters or more in the Central and Western Gulf that are found to be uneconomic under current conditions, will have the royalty payment suspended until a minimum number of volumes have been produced. The specific volumes covered by the royalty holiday are based on water depth. The provision applies to production from leases coming on-line after the date of enactment of the legislation and to production resulting from lease development activities undertaken pursuant to a Development Operations Coordination Document approved after the date of enactment. In addition, for new leasing in the Gulf, the lease terms will provide for an initial royalty holiday on a given number of barrels of oil or gas equivalent, as determined by the Secretary. This new leasing arrangement will be in effect for 5 years from the date of enactment. The royalty relief would not apply to the production of oil or natural gas, respectively, in any month when the average closing price for the earliest delivery month for oil exceeds $28 per barrel or when prices for natural gas exceed $3.50 per million Btu's.

This is a win-win policy for the Federal Government. By stimulating development of indigenous oil and gas resources we reduce our dependence on imported supplies, create jobs and generate significant revenues, initially in Federal and State income taxes then royalties.

Mr. President, this bill represents one step in addressing this problem. It is a significant step, but we must look at other initiatives, such as changes in the tax laws that can be taken to address this serious decline in domestic oil and gas exploration and development activity. I look forward to considering other initiatives that could complement the royalty relief proposal that I am introducing today.

I am also submitting a separate amendment to this legislation to correct an unacceptably onerous effect of the Oil Pollution Act of 1990 [OPA 90]. The amendment gives the Secretary of the Interior the flexibility to set the financial responsibility requirement based on the risk associated with different sorts of facilities. OPA 90 was passed and signed into law following the Exxon Valdez tanker spill in Alaska. The intent of OPA 90 was to lessen the risk of oil spills and to improve the level of preparedness and responsiveness when spills do occur. OPA 90 created a comprehensive prevention, response, liability and compensation regime for dealing with vessel and facility caused oil pollution from spills in navigable waters. However, in the post-disaster zeal to legislate, the solution went far beyond the problem. Currently, the Outer Continental Shelf Lands Act [OCSLA] requires owners of OCS facilities to demonstrate evidence of financial responsibility equal to $35 million. OPA 90 increased the financial responsibility of responsible parties to $150 million. This was done without regard to the actual risk and experience of nontanker facilities operating in the OCS.

This same amendment was reported by the Committee on Energy and Natural Resources in the last Congress and was the subject of a colloquy between myself and Senator BAUCUS on the Senate floor. The Solicitor of the Department of the Interior has since completed his review of the financial responsibility provisions and determined that ''OPA does not authorize MMS to set different responsibility levels for offshore facilities based on risk.'' The Administration agrees that a legislative remedy is required.

I urge my colleagues to join me in supporting this important legislation to provide deepwater royalty relief in the Western and Central Gulf of Mexico. 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. 158

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be referred to as the ''Outer Continental Shelf Deep Water Royalty Relief Act''.

SEC. 2. AMENDMENTS TO THE OUTER CONTINENTAL SHELF LANDS ACT.

Section 8(a) of the Outer Continental Shelf Lands Act, (43 U.S.C. 1337 (a) (3)), is amended by striking paragraph (3) in its entirety and inserting the following:

''(3) (A) The Secretary may, in order to—

''(i) promote development or increased production on producing or non-producing leases; or

''(ii) encourage production of marginal resources on producing or non-producing leases; through primary, secondary, or tertiary recovery means, reduce or eliminate any royalty or net profit share set forth in the lease(s). With the lessee's consent, the Secretary may make other modifications to the royalty or net profit share terms of the lease in order to achieve these purposes.

''(B) (i) Notwithstanding the provisions of this Act other than this subparagraph, with respect to any lease or unit in existence on the date of enactment of the Outer Continental Shelf Deep Water Royalty Relief Act meeting the requirements of this subparagraph, no royalty payments shall be due on new production, as defined in clause (iv) of this subparagraph, from any lease or unit located in water depths of 200 meters or greater in the Western and Central Planning Areas of the Gulf of Mexico, including that portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 degrees, 30 minutes West longitude, until such volume of production as determined pursuant to clause (ii) has been produced by the lessee.

(ii) Upon submission of a complete application by the lessee, the Secretary shall determine within 180 days of such application whether new production from such lease or unit would be economic in the absence of the relief from the requirement to pay royalties provided for by clause (i) of this subparagraph. In making such determination, the Secretary shall consider the increased technological and financial risk of deep water development and all costs associated with exploring, developing, and producing from the lease. The lessee shall provide information required for a complete application to the Secretary prior to such determination. The Secretary shall clearly define the information required for a complete application under this section. Such application may be made on the basis of an individual lease or unit. If the Secretary determines that such new production would be economic in the absence of the relief from the requirement to pay royalties provided for by clause (i) of this subparagraph, the provisions of clause (i) shall not apply to such production. If the Secretary determines that such new production would not be economic in the absence of the relief from the requirement to pay royalties provided for by clause (i), the Secretary must determine the volume of production from the lease or unit on which no royalties would be due in order to make such new production economically viable; except that for new production as defined in clause (iv) (aa), in no case will that volume be less than 17.5 million barrels of oil equivalent in water depths of 200 to 400 meters, 52.5 million barrels of oil equivalent in 400–800 meters of water, and 87.5 million barrels of oil equivalent in water depths greater than 800 meters. Redetermination of the applicability of clause (i) shall be undertaken by the Secretary when requested by the lessee prior to the commencement of the new production and upon significant change in the factors upon which the original determination was made. The Secretary shall make such redetermination within 120 days of submission of a complete application. The Secretary may extend the time period for making any determination or redetermination under this clause for 30 days, or longer it agreed to by the applicant, if circumstances so warrant. The lessee shall be notified in writing of any determination or redetermination and the reasons for and assumptions used for such determination. Any determination or redetermination under this clause shall be a final agency action. The Secretary's determination or redetermination shall be judicially reviewable under section 10(a) of the Administrative Procedures Act, 5 U.S.C. Sec. 702, only for actions filed within 30 days of the Secretary's determination or redetermination.

''(iii) In the event that the Secretary fails to make the determination or redetermination called for in clause (ii) upon application by the lessee within the time period, together with any extension thereof, provided for by clause (ii), no royalty payments shall be due on new production as follows:

''(aa) For new production, as defined in clause (iv) (aa) of this subparagraph, no royalty shall be due on such production according to the schedule of minimum volumes specified in clause (ii) of this subparagraph.

''(bb) For new production, as defined in clause (iv) (bb) of this subparagraph, no royalty shall be due on such production for one year following the start of such production.

''(iv) For purposes of this subparagraph, the term 'new production' is—

(aa) any production from a lease from which no royalties are due on production, other than test production, prior to the date of enactment of the Outer Continental Shelf Deep Water Royalty Relief Act; or

(bb) any production resulting from lease development activities pursuant to a Development Operations Coordination Document, or supplement thereto that would expand

production significantly beyond the level anticipated in the Development Operations Coordination Document, approved by the Secretary after the date of enactment of the Outer Continental Shelf Deep Water Royalty Relief Act.

''(v) During the production of volumes determined pursuant to clauses (ii) or (iii) of this subparagraph, in any year during which the arithmetic average of the closing prices on the New York Mercantile Exchange for Light Sweet crude oil exceeds $28.00 per barrel, any production of oil will be subject to royalties at the lease stipulated royalty rate. Any production subject to this clause shall be counted toward the production volume determined pursuant to clause (ii) or (iii). Estimated royalty payments will be made if such average of the closing prices for the previous year exceeds $28.00. After the end of the calendar year, when the new average price can be calculated, lessees will pay any royalties due, with interest but without penalty, or can apply for a refund, with interest, of any overpayment.

''(vi) During the production of volumes determined pursuant to clause (ii) or (iii) of this subparagraph, in any year during which the arithmetic average of the closing prices on the New York Mercantile Exchange for natural gas exceeds $3.50 per million British thermal units, any production of natural gas will be subject to royalties at the lease stipulated royalty rate. Any production subject to this clause shall be counted toward the production volume determined pursuant to clauses (ii) or (iii). Estimated royalty payments will be made if such average of the closing prices for the previous year exceeds $3.50. After the end of the calendar year, when the new average price can be calculated, lessees will pay any royalties due, with interest but without penalty, or can apply for a refund, with interest, of any overpayment.

''(vii) The prices referred to in clauses (v) and (vi) of this subparagraph shall be changed during any calendar year after 1994 by the percentage, if any, by which the implicit price deflator for the gross domestic product change during the preceding calendar year.''

SEC. 3. NEW LEASES.

(a) Section 8(a)(1) of the Outer Continental Shelf Lands Act, as amended, (43 U.S.C. 1337(a)(1)) is amended as follows:

(1) Redesignate section 8(a)(1)(H) as section 8(a)(1)(I);

(2) Add a new section 8(a)(1)(H) as follows:

''(H) cash bonus bid with royalty at no less than 12 and ½ per centum fixed by the Secretary in amount or value of production saved, removed, or sold, and with suspension of royalties for a period, volume, or value of production determined by the Secretary. Such suspensions may vary based on the price of production from the lease.''

(b) For all tracts located in water depths of 200 meters or greater in the Western and Central Planning Areas of the Gulf of Mexico, including that portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 degrees, 30 minutes West longitude, any lease sale within five years of the date of enactment of this Act, shall use the bidding system authorized in Section 8(a)(1)(H) of the Outer Continental Shelf Lands Act, as amended by this Act, except that the suspension of royalties shall be set at a volume of not less than the following:

(1) 17.5 million barrels of oil equivalent for leases in water depths of 200 to 400 meters;

(2) 52.5 million barrels of oil equivalent for leases in 400 to 800 meters of water; and

(3) 87.5 million barrels of oil equivalent for leases in water depths greater than 800 meters.

SEC. 4. REGULATIONS.

The Secretary shall promulgate such rules and regulations as are necessary to implement the provisions of this Act within 180 days after the enactment of this Act.●

By Mr. SHELBY (for himself, Mr. CRAIG, Mr. FAIRCLOTH, and Mr. HEFLIN):

S. 160. A bill to impose a moratorium on immigration by aliens other than refugees, certain priority and skilled workers, and immediate relatives of United States citizens and permanent resident aliens; to the Committee on the Judiciary.

THE IMMIGRATION MORATORIUM ACT OF 1995

Mr. SHELBY. Mr. President, today I am introducing a bill to address the seemingly perpetual problem of immigration. We are often told the United States of America was established by immigrants. Indeed, immigration has been the cornerstone of America. I could not agree more about the positive impact immigrants have played in America, nor will I dispute the positive role immigrants will play in the future.

We are taught to believe that immigration to America has been, and should be, a perpetual and unlimited right.

However, our capacity, as a country, to process and assimilate the heavy flow of immigrants is not sustainable. Excessive demands on social, medical and welfare services accentuate the necessity to address the problem immediately.

A quick survey of the condition of State budgets, particularly those of California, Florida, Illinois, New York, and Texas will illustrate the overwhelming demands on education, health care, welfare, prisons, and other social infrastructure. California, Florida, and Texas are actually suing the Federal Government for billions of dollars they have had to spend for such immigrant related costs.

The dilemma before us is not limited to illegal immigrants as the media often implies. While approximately 300,000 illegal immigrants come here each year, we actually admit almost 1 million legal immigrants a year. Legal immigration creates a demand more than three times greater than illegal immigration. Simply put, States do not have the resources to provide services to an additional 1.3 million persons a year.

Some will say that these immigrants do not come over here for a hand out, but that they come over to work and live the American dream. However, if we assume this to be true—that they come to America to work—then this means they increase the supply of the labor force. Of the 974,000 immigrants that were granted legal permanent residence in 1992, 672,303 were between the ages of 20 and 64.

If these immigrants enter the job market, their entry effectively reduces wages by increasing the labor supplied. At a time when real income is stagnant if not declining, immigration policy should not contribute such a strong downward pressure on real income. Such a policy does not make fiscal or social sense.

The scenario just mentioned is the optimist view. If one chooses to assume the opposite, that immigrants choose not to work, the inevitable result is an increase in the demand of social services. As mentioned earlier, the demand is already too high for many states.

Neither of the two scenarios paint a pretty picture. Indeed, both of these scenarios are costly to the American taxpayer.

As a result, I am introducing legislation to provide relief to the American taxpayer. This bill would lower the amount of legal immigrants from about 1 million to 325,000. This figure would include around 175,000 spouses and children of U.S. citizens which has traditionally been the case.

The bill also includes a 50,000 level for refugees/asylees, 50,000 for highly skilled workers and 50,000 for other relatives of U.S. citizens.

In addition, my legislation would reduce the admissions backlog by freezing it at the current level. New applications would not be accepted until the end of the moratorium unless the applicant came from one of the allowable categories under this legislation.

This legislation would ease the demands on State governments while also minimizing the negative economic consequences immigrants have on the labor force. Although this is only a temporary 5-year remedy, it will allow us the time needed to pass a complete, long-term solution to the problem.

I support comprehensive reform efforts, but believe immediate relief is needed.

It is important that we strive for a rational and equitable immigration policy that takes into account the economic and social needs. We must do this without compromising the social and economic stability of this country and the quality of life for every American.

In order for immigrants to live the American dream, there has to be a healthy, prosperous economy and a diverse, harmonious society.

To offer anything less, would be to cheat them of the American dream. Mr. President, I urge my colleagues to support this legislation.

By Mrs. MURRAY:

S. 161. A bill to amend the Internal Revenue Code of 1986 to reduce the rate of estate tax imposed on family-owned business interests; to the Committee on Finance.

THE AMERICAN FAMILY BUSINESS PRESERVATION ACT

Mrs. MURRAY. Mr. President, today I am introducing the American Family Business Preservation Act of 1995.

My father ran a small business in Bothell, WA. He taught me as long as I worked hard and played by the rules, I could build a better life for myself and my family. But, for years, it seemed that as hard as my husband and I were

working, we were still a pink slip away from real financial disaster.

Small businesses are the heart of the American economic system. They are the essence of the American dream. And, sadly, for many small business owners that dream has been fading. Our great American middle class is nervous. My bill aims to alleviate that anxiety and restore the dream.

Mr. President, this bill will specifically reduce the particularly onerous estate and gift tax imposed on our small businesses during the 1980s. This bill allows small manufacturers, service industries, farmers, and woodlot owners to leave their children the benefits of their hard work. It will end the ridiculous penalties the Federal Government has imposed on American families when a loved one dies. It will keep American families engaged in small business financially solvent.

This reform is especially important to my home State of Washington. It will encourage the stability and diversity of our economy. It will help assure that farms and woodlots stay in family hands and thereby ensure stability in forest management. It is an environment-friendly tax cut.

Specifically, the American Family Business Preservation Act will reduce the 55-percent estate tax rate to 15 percent as long as the heirs continue to operate the business. If, for any reason, the heirs are unable to operate—but continue to own—the business, the maximum rate will be 20 percent.

It indexes the unified estate and gift tax credit for inflation. This credit—which effectively exempts from tax estates valued at less than $600,000—was last increased 14 years ago, in 1981.

And, the bill allows hard-working Americans to keep more of their money in their family. I believe if you work hard and you play by the rules, you should be able to enjoy the rewards. When this bill passes, we will be able to give up to 15 percent of our earned income each year to family members without being subject to gift tax.

Mr. President, this provision is important because many of this Nation's hard-working people have yet to feel the impact of the current economic expansion. During the past 2 years, we have created more than 5 million jobs. Interest rates and inflation are subdued. We have reduced the size of Government. And, we have trimmed the one-third of our Federal budget deficit.

I am proud of this record.

But, we need to make sure working people really benefit from this economic progress.

Mr. President, we are at an economic crossroads. We can continue along the traditional route of corporate buyouts, declining wages, and a skittish middle class. Or, we can move boldly into a new century in which jobs and lives are valued, and all American families have a stake in our economic well-being.

That is why this bill is so important.

Mr. President, it gives our kids hope in the future. It brings common sense and the voice of average Americans to our tax policy. Hard-working Americans need to be respected, and they deserve to reap the benefits of their hard work. Our only hope of restoring the American dream is to empower the middle class.

When my colleagues, Congressman BILL BREWSTER and Congressman JIM MCCRERY, introduced the companion bill in the other body in the last Congress, it deservedly gained quick and solid bipartisan support. I expect the same record in this body.

Mr. President, I ask unanimous consent that the full 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. 161

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 ''American Family Business Preservation Act''.

SEC. 2. REDUCED ESTATE TAX RATE ON FAMILY-OWNED BUSINESS INTERESTS.

(a) IN GENERAL.—Part I of subchapter A of chapter 11 of the Internal Revenue Code of 1986 (relating to tax imposed) is amended by adding at the end the following new section:

''SEC. 2003. REDUCED RATE ON FAMILY-OWNED BUSINESS INTERESTS.

''(a) IN GENERAL.—In the case of an estate of a decedent to which this section applies, the tax imposed by section 2001 shall not exceed the sum of—

''(1) a tax computed at the rates and in the manner as if this section had not been enacted on the greater of—

''(A) the sum described in section 2001(c)(1) reduced by the qualified family-owned business interests, or

''(B) the sum (if any) described in section 2001(c)(1) taxed at a rate below the applicable rate, plus

''(2) a tax equal to the applicable rate of the portion of the taxable estate in excess of the amount determined under paragraph (1).

''(b) ESTATES TO WHICH SECTION APPLIES.—This section shall apply to an estate if—

''(1) the decedent was (at the date of his or her death) a citizen of the United States,

''(2) the sum of—

''(A) the value of the qualified family-owned business interests which are included in determining the gross estate and which are acquired from or passed from the decedent to a qualified heir of the decedent, and

''(B) the amount (taken into account under subsection 2001(b)(1)(B)) of the adjusted taxable gifts of such interests to members of the decedent's family,

exceeds 50 percent of the adjusted gross estate, and

''(3) during the 8-year period ending on the date of the decedent's death there have been periods aggregating 5 years or more during which—

''(A) such interests were owned by the decedent or a member of the decedent's family, and

''(B) there was material participation by the decedent or a member of the decedent's family in the operation of the business to which such interests relate.

''(c) APPLICABLE RATE.—For purposes of this section, the applicable rate is—

''(1) 15 percent if the requirement of subsection (b)(3)(B) is met by a member of the decedent's family, and

''(2) 20 percent in any other case.

''(d) QUALIFIED FAMILY-OWNED BUSINESS INTEREST.—

''(1) IN GENERAL.—For purposes of this section, the term 'qualified family-owned business interest' means—

''(A) an interest as a proprietor in a trade or business carried on as a proprietorship;

''(B) an interest as a partner in a partnership carrying on a trade or business, if such partnership had 15 or fewer partners; or

''(C) stock in a corporation carrying on a trade or business if such corporation had not more than the number of shareholders specified in section 1361(b)(1)(A).

Such term shall not include any interest which is readily tradable on an established securities market or otherwise.

''(2) RULES FOR APPLYING PARAGRAPH (1).—For purposes of paragraph (1), rules similar to the rules of paragraphs (2), (3), (4), and (6) of section 6166(b) shall apply.

''(e) RECAPTURE OF TAX BENEFIT IF INTERESTS NOT HELD FOR 10 YEARS.—

''(1) IN GENERAL.—If—

''(A) during the 10-year period beginning on the date of death of the decedent—

''(i)(I) any portion of a qualified family-owned business interest is distributed, sold, exchanged, or otherwise disposed of, or

''(II) money and other property attributable to such an interest is withdrawn from such trade or business, and

''(B) the aggregate of such distributions, sales, exchanges, or other dispositions and withdrawals equals or exceeds 20 percent of the value of such interest, or

there is hereby imposed an additional estate tax.

''(2) ADDITIONAL ESTATE TAX.—

''(A) IN GENERAL.—The amount of the additional estate tax imposed by paragraph (1) shall be the applicable percentage of the excess of what would have been the estate tax liability but for subsection (a) over the adjusted estate tax liability.

''(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the term 'applicable percentage' means 100 percent reduced (but not below zero) by the product of—

''(i) 10 percentage points, and

''(ii) the number of years (if any) after the date of the decedent's death which the year during which the additional estate tax is imposed by paragraph (1) is after the 1st year after the date of the decedent's death.

''(C) ADJUSTED ESTATE TAX LIABILITY.—For purposes of subparagraph (A), the term 'adjusted estate tax liability' means the estate tax liability increased by the amount (if any) of any prior additional estate tax imposed by subsection (f).

''(D) ESTATE TAX LIABILITY.—For purposes of this paragraph, the term 'estate tax liability' means the tax imposed by section 2001 reduced by the credits allowable against such tax.

''(3) CERTAIN RULES TO APPLY.—For purposes of this subsection, rules similar to the rules of subparagraphs (B), (C), and (D) of section 6166(g)(1) shall apply.

''(f) RECAPTURE OF PORTION OF TAX BENEFIT IF HEIRS CEASE TO MATERIALLY PARTICIPATE DURING 10 YEARS AFTER DEATH.—

''(1) IN GENERAL.—If—

''(A) the applicable rate which applied under subsection (a) to the estate of the decedent was 15 percent,

''(B) at any time during the 10-year period beginning on the date of death of the decedent, no qualified heir materially participates in the operation of the business to which the qualified family-owned business interests relate, and

''(C) there is no recapture under subsection (e) on or before the earliest date during such 10-year period that no qualified heir so materially participated,

there is hereby imposed an additional estate tax.

''(2) ADDITIONAL ESTATE TAX.—The amount of the additional estate tax imposed by paragraph (1) shall be the applicable percentage of the excess of what would have been the estate tax liability but for subsection (c)(1) over the estate tax liability.

''(3) DEFINITIONS.—For purposes of paragraph (2), the terms 'applicable percentage' and 'estate tax liability' have the meanings given to such terms by subsection (e).

''(g) OTHER DEFINITIONS.—For purposes of this section, the terms 'qualified heir' and 'member of the family' have the meanings given to such terms by section 2032A(e).''

(b) CLERICAL AMENDMENT.—The table of sections for part I of subchapter A of chapter 11 of such Code is amended by adding at the end the following new item:

''Sec. 2003. Reduced rate on family-owned business interests.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after the date of the enactment of this section.

SEC. 3. LIMITATION ON 4 PERCENT RATE OF INTEREST ON ESTATE TAX EXTENDED UNDER SECTION 6166 NOT TO APPLY TO ESTATE TAX ATTRIBUTABLE TO QUALIFIED FAMILY-OWNED BUSINESS INTERESTS.

(a) IN GENERAL.—Paragraph (2) of section 6601(j) of the Internal Revenue Code of 1986 (relating to 4-percent portion) is amended by adding at the end the following new flush sentence:

''Subparagraph (B) shall not take into account the amount of the tax imposed by chapter 11 which is attributable to qualified family-owned business interests (as defined in section 2003(b)) unless an election is in effect under section 2032A with respect to the estate.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to estates of decedents dying after the date of the enactment of this section.

SEC. 4. EXTENSION OF ALTERNATE VALUATION DATE TO 40 MONTHS WITH RESPECT TO ESTATE CONSISTING LARGELY OF QUALIFIED FAMILY-OWNED BUSINESS INTERESTS.

(a) IN GENERAL.—Section 2032 of the Internal Revenue Code of 1986 (relating to alternate valuation) is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

''(c) ESTATES LARGELY CONSISTING OF QUALIFIED FAMILY-OWNED BUSINESS INTERESTS.—In the case of an estate to which section 2003 applies—

''(1) subsection (a) shall be applied by substituting '40 months' for '6 months' each place it appears, and

''(2) section 6075(a) (relating to time for filing estate tax return) shall be applied by substituting '43 months' for '9 months'.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to estates of decedents dying after the date of the enactment of this section.

SEC. 5. INCREASE IN GIFT TAX EXCLUSION.

(a) IN GENERAL.—Subsection (b) of section 2503 of the Internal Revenue Code of 1986 (relating to taxable gifts) is amended by adding at the end the following new sentence: ''In the case of gifts made during a calendar year by a donor to ancestors or lineal descendents of the donor, the aggregate amount of such gifts which are not included in the total amount of gifts by reason of this subsection shall not be less than 15 percent of the donor's earned income (as defined in section 32(c)(2)) for the taxable year ending with or within such calendar year.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to gifts made in calendar years beginning after the date of the enactment of this section.

SEC. 6. INCREASE IN UNIFIED ESTATE AND GIFT TAX CREDITS.

(a) ESTATE TAX CREDIT.—

(1) Subsection (a) of section 2010 of the Internal Revenue Code of 1986 (relating to unified credit against estate tax) is amended by striking ''$192,800'' and inserting ''the applicable credit amount''.

(2) Section 2010 of such Code is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

''(c) APPLICABLE CREDIT AMOUNT.—For purposes of this section—

''(1) IN GENERAL.—The applicable credit amount is the amount of the tentative tax which would be determined under the rate schedule set forth in section 2001(c) if the amount with respect to which such tentative tax is to be computed were $600,000.

''(2) COST-OF-LIVING ADJUSTMENTS.—In the case of any decedent dying in a calendar year after December 31, 1995, the $600,000 amount set forth in paragraph (1) shall be increased by an amount equal to—

''(A) $600,000, multiplied by

''(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 1996' for 'calendar year 1992' in subparagraph (B) thereof.

Any increase determined under the preceding sentence shall be rounded to the nearest multiple of $1,000.''

(3) Paragraph (1) of section 6018(a) of such Code is amended by striking ''$600,000'' and inserting ''$600,000 (adjusted as provided in section 2010(c)(2)''.

(b) UNIFIED GIFT TAX CREDIT.—Paragraph (1) of section 2505(a) of such Code is amended by striking ''$192,800'' and inserting ''the applicable credit amount in effect under section 2010(c) for such calendar year''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying, and gifts made, after December 31, 1995.

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

S. 162. A bill to amend the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979 to improve natural gas and hazardous liquid pipeline safety, in response to the natural gas pipeline accident in Edison, New Jersey, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE SAFETY IMPROVEMENT ACT OF 1995

● Mr. LAUTENBERG. Mr. President, today I am introducing the National Gas Pipeline Safety Improvement Act of 1995. This bill dramatically decreases the chances of pipeline accidents and reduces the risk to those who live, work, or go to school near a pipeline.

This bill is designed to prevent disasters like the one that occurred last March 23, in Edison, NJ. The whole Nation witnessed the ball of fire over Edison in the wake of the explosion. Every American who saw that image on television shuddered.

All too often, when a disaster happens, people focus on it for a few days and then shift their attention to other events. That has not happened in the wake of the Edison explosion and will not happen. I won't let that happen. Senator BRADLEY won't let it happen. And the people of Edison won't let it happen.

I was the destruction in Edison after the explosion. The explosion was devastating to the families involved and traumatic to all residents of my State, which is home to a number of pipelines. I have talked to families who lost everything but the clothes on their backs. I have seen the emotional fallout—the children and adults who replay the events of that evening each night before they drift into a fitful sleep. And I know that even now, almost a year later, those people still have very real problems.

Edison was not an isolated event. Since that terrible night on March 23, there have been other pipeline problems. And there were problems that preceded it. My major concern is what happened in Edison; but, Mr. President, we must make sure it doesn't happen in any community, to any American.

I believe that if this bill had been law before that fateful night last March things could have been very different.

Let me briefly describe the five major elements of my legislation:

First, my legislation would beef up compliance with existing laws by making sure that the Department of Transportation has the resources necessary to conduct regular oversight inspections of corporations with pipeline operations in New Jersey and around the country.

The bill achieves this goal by providing the U.S. DOT with the authority to recoup the cost of accident investigations from pipeline companies. In this way, DOT inspections are not interrupted when Office of Pipeline Safety personnel and resources are diverted to investigate a major pipeline failure.

Second, the bill would prevent accidents before they happen. Our legislation will increase funding to States to advertise one-call notification systems and expand the DOT role in pipeline safety to include pipeline safety awareness programs.

One-call notification systems require contractors to learn the location of underground facilities before they dig.

Third, the bill directs the Secretary to establish an electronic data system on existing pipelines. This will provide an adequate data base so DOT can cope with the potential problems we face.

This system will provide information on the nature, extent, and geologic location of pipeline facilities to facilitate risk assessment and safety planning with respect to such facilities.

Fourth, we need to target attention to areas where the greatest potential threat exists. The legislation will increase inspection and siting requirements for pipelines in high density population areas. I would also encourage

people who live near a pipeline to report suspicious dumping or digging on a pipeline right-of-way.

Finally, we need to have stronger punishment to deter negligent or willful violations of law. Our bill would make it a Federal crime to illegally dump on pipeline right-of-way and mandate the installation and use of remotely controlled shutoff valves.

Mr. President, last June DOT's Office of Pipeline Safety sponsored a pipeline safety summit. The summit was designed to develop a public/private agenda that establishes priorities for pipeline safety initiatives and identifies the next steps needed to make them a reality. The report developed from the suggestions at the summit will form a blueprint for action. I expect that report to be completed soon. When it is, I will develop additional legislative proposals based upon it.

Meanwhile, I would like to remind my colleagues that no State in the Union is exempt from the type of disaster that happened in Edison, NJ.

Mr. President, I would encourage all of my colleagues to examine and cosponsor the National Gas Pipeline Safety Improvement Act of 1995.

I ask unanimous consent that the text of the National Gas Pipeline Safety Improvement Act of 1994 be printed in the RECORD.

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

S. 162

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 ''Pipeline Safety Improvement Act of 1994''.

SEC. 2. RECOVERY BY SECRETARY OF TRANSPORTATION OF COSTS OF INVESTIGATION OF CERTAIN PIPELINE ACCIDENTS.

(a) NATURAL GAS PIPELINE ACCIDENTS.—Section 14 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1681) is amended by adding at the end the following:

''(g)(1)(A) Subject to paragraphs (2) and (3), the Secretary may recover from any person who engages in the transportation of gas, or who owns or operates pipeline facilities, the costs incurred by the Secretary—

''(i) in investigating an accident with respect to such transportation or facilities; and

''(ii) in overseeing the response of the person to the accident.

''(B) For the purposes of this paragraph, the costs incurred by the Secretary in an investigation of an accident may include the cost of hiring additional personnel (including personnel to support monitoring activities by the Office of Pipeline Safety), the cost of tests or studies, and travel and administrative costs associated with the investigation.

''(2) The Secretary may not recover costs under this subsection with respect to an accident unless the accident—

''(A) results in death or personal injury; or

''(B) results in property damage (including the cost of any lost natural gas) and environmental damage (including the cost of any environmental remediation) in an amount in excess of $250,000.

''(3) The amount that the Secretary may recover under this subsection with respect to an accident may not exceed $500,000.

''(4)(A) Amounts recovered by the Secretary under this subsection shall be available to the Secretary for purposes of the payment of the costs of investigating and overseeing responses to accidents under this subsection. Such funds shall be available to the Secretary for such purposes without fiscal year limitation.

''(B) Such amounts shall be used to supplement and not to supplant other funds made available to the Secretary for such purposes.''.

(b) HAZARDOUS LIQUID PIPELINE ACCIDENTS.—Section 211 of the Hazardous Liquid Pipeline Safety Act of 1979 (title II of Public Law 96–129; 49 U.S.C. App. 2010) is amended by adding at the end the following:

''(g)(1)(A) Subject to paragraphs (2) and (3), the Secretary may recover from any person who engages in the transportation of hazardous liquids, or who owns or operates pipeline facilities, the costs incurred by the Secretary—

''(i) in investigating an accident with respect to such transportation or facilities; and

''(ii) in overseeing the response of the person to the accident.

''(B) For the purposes of this paragraph, the costs incurred by the Secretary in an investigation of an accident may include the cost of hiring additional personnel (including personnel to support monitoring activities by the Office of Pipeline Safety), the cost of tests or studies, and travel and administrative costs associated with the investigation.

''(2) The Secretary may not recover costs under this subsection with respect to an accident unless the accident—

''(A) results in death or personal injury; or

''(B) results in property damage (including the cost of any lost hazardous liquid) and environmental damage (including the cost of any environmental remediation) in an amount in excess of $250,000.

''(3) The amount that the Secretary may recover under this subsection with respect to an accident may not exceed $500,000.

''(4)(A) Amounts recovered by the Secretary under this subsection shall be available to the Secretary for purposes of the payment of the costs of investigating and overseeing responses to accidents under this subsection. Such funds shall be available to the Secretary for such purposes without fiscal year limitation.

''(B) Such amounts shall be used to supplement and not to supplant other funds made available to the Secretary for such purposes.''.

SEC. 3. GRANTS TO STATES AND ONE-CALL NOTIFICATION SYSTEMS TO PROMOTE USE OF SUCH SYSTEMS.

(a) GRANTS TO STATES.—Subsection (c) of section 20 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1687) is amended by adding at the end the following: ''The Secretary may make a grant to a State for development and establishment of a one-call notification system only if the State ensures that the cost of establishing and operating the system are shared equitably by persons owning or operating underground facilities.''.

(b) GRANTS TO SYSTEMS.—Such subsection is further amended—

(1) by striking ''GRANTS TO STATES.—'' and inserting ''GRANTS TO STATES AND SYSTEMS.—(1)''; and

(2) by adding at the end the following:

''(2)(A) The Secretary may also make grants to one-call notification systems for activities relating to the promotion of the utilization of such systems.

''(B) The Secretary shall ensure that the Federal share of the cost of the activities referred to in subparagraph (A) under any grant made under this paragraph does not exceed 50 percent of the cost of such activities.''.

(c) SANCTIONS.—Subsection (b)(9) of such section is amended by inserting '', or that would provide for effective civil or criminal penalty sanctions or equitable relief appropriate to the nature of the offense'' after ''12 of this Act''.

(d) CONFORMING AMENDMENT.—Subsection (f) of such section is amended by striking out ''subsection (c)'' and inserting in lieu thereof ''subsection (c)(1)''.

SEC. 4. PREVENTION OF DAMAGE TO PIPELINE FACILITIES.

(a) NATURAL GAS PIPELINE FACILITIES.—Section 14(a) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1681(a)) is amended by inserting after ''and training activities'' the following: ''and promotional activities relating to prevention of damage to pipeline facilities''.

(b) HAZARDOUS LIQUID PIPELINE FACILITIES.—Section 211(a) of the Hazardous Liquid Pipeline Safety Act of 1979 (title II of Public Law 96–129; 49 U.S.C. App. 2010(a)) is amended by inserting after ''and training activities'' the following: ''and promotional activities relating to prevention of damage to pipeline facilities''.

SEC. 5. ELECTRONIC DATA ON PIPELINE FACILITIES FOR RISK ASSESSMENT AND SAFETY PLANNING.

(a) AUTHORITY TO DEVELOP.—The Secretary of Transportation may develop an electronic data base containing uniform information on the nature, extent, and geographic location of pipeline facilities. The purpose of the data base shall be to provide information on such facilities to the Secretary, owners of pipeline facilities, as persons engaged in transporting gas or hazardous liquids through pipeline facilities, and for secured use by State agencies concerned with land use planning, environmental regulation, and pipeline regulatory oversight, in order to facilitate risk assessment and safety planning with respect to such facilities.

(b) CONTRACT AND GRANT AUTHORITY.—(1) Subject to paragraph (2), the Secretary may develop the data base described under subsection (a) by entering into contracts or cooperative agreements with any entity that the Secretary determines appropriate for that purpose and by making grants to States or institutions of higher education for that purpose.

(2) The Secretary shall ensure that the Federal share of the cost of any activities carried out under a grant or cooperative agreement made under this subsection does not exceed 50 percent of the cost of such activities.

(c) USE OF GEOGRAPHIC INFORMATION SYSTEM TECHNOLOGY.—In developing the data base described in subsection (a), the Secretary shall, to the maximum extent practicable, develop a data base that—

(1) utilizes Geographic Information System technology or any similar technology providing data of an equivalent quality and usefulness; and

(2) permits ready incorporation of data and information from a variety of sources.

(d) DEFINITION.—For purposes of this section, the term ''pipeline facility'' has the meaning given such term in section 20(e) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1687(e)).

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

(a) NATURAL GAS PIPELINE SAFETY ACT OF 1968.—(1) Section 17(a) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1684(a)) is amended—

(A) in paragraph (12), by striking ''and'';

(B) by striking paragraph (13); and

(C) by adding after paragraph (12) the following new paragraphs:

''(13) $20,000,000 for the fiscal year ending September 30, 1995;

''(14) $30,000,000 for the fiscal year ending September 30, 1996; and

''(15) $35,000,000 for the fiscal year ending September 30, 1997.''.

(2) Section 17(c) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1684(c)) is amended by striking ''and $10,000,000 for the fiscal year ending September 30, 1995'' and inserting in lieu thereof ''$16,500,000 for the fiscal year ending September 30, 1995, $19,000,000 for the fiscal year ending September 30, 1996, and $21,500,000 for the fiscal year ending September 30, 1997''.

(b) HAZARDOUS LIQUID PIPELINE SAFETY ACT OF 1979.—Section 214(a) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2013(a)) is amended—

(1) in paragraph (12), by striking ''and'';

(2) by striking paragraph (13); and

(3) by adding after paragraph (12) the following new paragraphs:

''(13) $7,000,000 for the fiscal year ending September 30, 1995;

''(14) $10,000,000 for the fiscal year ending September 30, 1996; and

''(15) $11,000,000 for the fiscal year ending September 30, 1997.''.

SEC. 7. SITING OF INTERSTATE TRANSMISSION FACILITIES.

(a) SITING GUIDELINES.—Within 2 years after the date of enactment of this Act, the Federal Energy Regulatory Commission shall review its practices and guidelines for siting natural gas interstate transmission facilities in urban areas to determine whether changes are needed in the areas of—

(1) selecting routes for pipelines; and

(2) determining the appropriate width of rights-of-way.

(b) EDUCATIONAL INFORMATION FOR LOCAL JURISDICTIONS.—(1)(A) Within 2 years after the date of enactment of this Act, the Secretary, in consultation with the Federal Energy Regulatory Commission, shall make educational information available, regarding natural gas interstate transmission facilities permits and rights-of-way and issues with respect to development in the vicinity of such interstate transmission facilities, for distribution to appropriate agencies of local governments with jurisdiction over the lands through which natural gas interstate transmission facilities pass.

(B) For purposes of this section, the term ''interstate transmission facilities'' has the meaning given such term in section 2(8) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1671(8)).

(2)(A) Within 2 years after the date of enactment of this Act, the Secretary shall make educational information available, regarding hazardous liquid interstate pipeline facilities rights-of-way and issues with respect to development in the vicinity of such interstate pipeline facilities, for distribution to appropriate agencies of local governments with jurisdiction over the lands through which hazardous liquid interstate pipeline facilities pass.

(B) For purposes of this paragraph, the term ''interstate pipeline facilities'' has the meaning given such term in section 202(5) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2001(5)).

(3) There are authorized to be appropriated to the Secretary of Energy for carrying out this subsection, $2,000,000, to remain available until expended.

SEC. 8. DUMPING WITHIN PIPELINE RIGHTS-OF-WAY.

(a) NATURAL GAS PIPELINE SAFETY ACT OF 1968.—

(1) AMENDMENT.—The Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1671 et seq.) is amended by adding at the end the following new section:

''SEC. 22. DUMPING WITHIN PIPELINE RIGHTS-OF-WAY.

''(a) PROHIBITION.—No person shall excavate within the right-of-way of a natural gas interstate transmission facility, or any other limited area in the vicinity of such interstate transmission facility established by the Secretary, and dispose solid waste therein.

''(b) DEFINITION.—For purposes of this section, the term 'solid waste' has the meaning given such term in section 1004(27) of the Solid Waste Disposal Act (42 U.S.C. 6903(27)).''.

(2) CONFORMING AMENDMENT.—Section 11(a)(1) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1679a(a)(1)) is amended by striking ''or section 20(h)'' and inserting in lieu thereof '', section 20(h), or section 22(a)''.

(b) HAZARDOUS LIQUID PIPELINE SAFETY ACT OF 1979.—

(1) AMENDMENT.—The Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2001 et seq.) is amended by adding at the end the following new section:

''SEC. 221. DUMPING WITHIN PIPELINE RIGHTS-OF-WAY.

''(a) PROHIBITION.—No person shall excavate within the right-of-way of a hazardous liquid interstate pipeline facility, or any other limited area in the vicinity of such interstate pipeline facility established by the Secretary, and dispose solid waste therein.

''(b) DEFINITION.—For purposes of this section, the term 'solid waste' has the meaning given such term in section 1004(27) of the Solid Waste Disposal Act (42 U.S.C. 6903(27)).''.

(2) CONFORMING AMENDMENT.—Section 208(a)(1) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2007(a)(1)) is amended by inserting ''or section 221(a)'' after ''section 207(a)''.

SEC. 9. PERIODIC INSPECTION BY INSTRUMENTED INTERNAL INSPECTION DEVICES.

(a) NATURAL GAS PIPELINE SAFETY ACT OF 1968.—Section 3(g)(2) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1672(g)(2)) is amended—

(1) by striking ''Not later than 3 years after the date of the enactment of this paragraph'' and inserting in lieu thereof ''Not later than 1 year after the date of the enactment of the Natural Gas Pipeline Safety Improvement Act of 1994''; and

(2) in the first sentence, by inserting ''and shall prescribe a schedule or schedules for such inspections'' after ''operator of the pipeline''.

(b) HAZARDOUS LIQUID PIPELINE SAFETY ACT OF 1979.—Section 203(k)(2) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2002(k)(2)) is amended—

(1) by striking ''Not later than 3 years after the date of the enactment of this paragraph'' and inserting in lieu thereof ''Not later than 1 year after the date of the enactment of the Natural Gas Pipeline Safety Improvement Act of 1994''; and

(2) in the first sentence, by inserting ''and shall prescribe a schedule or schedules for such inspections'' after ''operator of the pipeline''.

SEC. 10. PROMOTING PUBLIC AWARENESS FOR NEIGHBORS OF PIPELINES.

(a) NATURAL GAS PIPELINE SAFETY ACT OF 1968.—Section 18 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1685) is amended by adding at the end the following new subsections:

''(c) PROMOTING PUBLIC AWARENESS FOR NEIGHBORS OF PIPELINES.—Not later than 1 year after the date of enactment of this subsection, and annually thereafter, the owner or operator of each interstate transmission facility shall notify all residents within 1000 yards, or such other distance as the Secretary determines appropriate, of such interstate transmission facility of—

''(1) the general location of the interstate transmission facility;

''(2) a request for reporting of any instances of excavation or dumping on or near the interstate transmission facility;

''(3) a phone number to use to make such reports; and

''(4) appropriate procedures for such residents to follow in response to accidents concerning interstate transmission facilities.

''(d) PUBLIC EDUCATION.—The Secretary shall develop, in conjunction with appropriate representatives of the natural gas pipeline industry, public service announcements to be broadcast or published to educate the public about pipeline safety.''.

(b) HAZARDOUS LIQUID PIPELINE SAFETY ACT OF 1979.—Section 212 of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2011) is amended by adding at the end the following new subsections:

''(e) PROMOTING PUBLIC AWARENESS FOR NEIGHBORS OF PIPELINES.—Not later than 1 year after the date of enactment of this subsection, and annually thereafter, the owner or operator of each interstate pipeline facility shall notify all residents within 1000 yards, or such other distance as the Secretary determines appropriate, of such interstate pipeline facility of—

''(1) the general location of the interstate pipeline facility;

''(2) a request for reporting of any instances of excavation or dumping on or near the interstate pipeline facility;

''(3) a phone number to use to make such reports; and

''(4) appropriate procedures for such residents to follow in response to accidents concerning interstate pipeline facilities.

''(f) PUBLIC EDUCATION.—The Secretary shall develop, in conjunction with appropriate representatives of the hazardous liquid pipeline industry, public service announcements to be broadcast or published to educate the public about pipeline safety.''.

SEC. 11. REMOTELY OR AUTOMATICALLY CONTROLLED VALVES.

Section 3 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1672) is amended by adding at the end the following new subsection:

''(l) REMOTELY OR AUTOMATICALLY CONTROLLED VALVES.—Not later than 18 months after the date of enactment of this subsection, the Secretary shall issue regulations requiring the installation and use, wherever technically and economically feasible, of remotely or automatically controlled valves that are reliable and capable of shutting off the flow of gas in the event of an accident, including accidents in which there is a loss of the primary power source. In developing proposed regulations, the Secretary shall consult with, and give special consideration to recommendations of, appropriate groups from the gas pipeline industry, such as the Gas Research Institute.''.

SEC. 12. BASELINE INFORMATION.

(a) NATURAL GAS PIPELINE SAFETY ACT OF 1968.—Section 3(g) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1672(g)) is amended by adding at the end the following new paragraph:

''(3) BASELINE INFORMATION.—Before transporting natural gas through a pipeline which, because of its design, construction, or replacement, is required by regulations issued under paragraph (1) to accommodate the passage of instrumented internal inspection devices, the owner or operator of such pipeline shall, using such a device, obtain baseline information with respect to the safety of the pipeline.''.

(b) HAZARDOUS LIQUID PIPELINE SAFETY ACT OF 1979.—Section 203(k) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2002(k)) is amended by adding at the end the following new paragraph:

''(3) BASELINE INFORMATION.—Before transporting hazardous liquids through a pipeline which, because of its design, construction, or replacement, is required by regulations issued under paragraph (1) to accommodate the passage of instrumented internal inspection devices, the owner or operator of such pipeline shall, using such a device, obtain baseline information with respect to the safety of the pipeline.''.●

By Mr. BRADLEY:

S. 163. A bill to amend the Congressional Budget Act of 1974 to require that allocations of budget authority and budget outlays made by the Committee on Appropriations of each House be agreed to by joint resolution and to permit amendments that reduce appropriations to also reduce the relevant allocation and the discretionary spending limits; 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.

THE SPENDING REDUCTION AND BUDGET CONTROL ACT OF 1995

● Mr. BRADLEY. Mr. President, I introduce the Spending Reduction and Budget Control Act of 1995. This legislation fundamentally and powerfully reforms an appropriations and budget process that is too stacked in favor of continued public spending and a status quo of wasteful or outdated government programs.

I have been trying, along with a number of Senators, to reduce taxpayer funding wasted on unnecessary programs and to reduce the deficit. During the 103d Congress, over 20 separate, specific cut proposals were voted on in the Senate. Only three were adopted. Three. Clearly, any attempt to cut programs on the Senate floor is a long shot.

The prospects are discouraging and, unfortunately, the Senate's own rules work against any attempt to cut spending. My legislation targets these rules and the substantial procedural obstacles faced by any legislator who dares to cut appropriations, and to cut Federal spending.

Every time one of us offers a amendment to cut a program, we face the charge that these amendments do not lead necessarily to any deficit reduction. This happened again and again during the last Congress as a way to discourage Senators from supporting an amendment. Instead of criticizing a proposed budget cut on substance, opponents simply remind Senators that these budget cutters are just tilting at windmills.

The problem is that this argument is valid. The rules governing the budget and appropriations process in fact make it nearly impossible to cut a program and reduce spending. In reality, any attempt to do so would almost certainly require a three-fifths supermajority to succeed. And the cuts, even if agreed to by the Senate, can be easily reversed in Conference.

My bill creates three key spending reforms, which I will describe in detail. This legislation—first—creates real opportunities to establish or redirect spending priorities, second—guarantees members an ability to cut spending with a majority vote, and—third—constrains the appropriations conferences to retain spending cuts agreed to in both Houses of Congress.

Consider how we allocate spending around here: after Congress approves the budget, the Appropriations Committees are allowed to determine discretionary spending within the budget resolution targets. While we debate functional categories during consideration of the budget, the fact is that these categories (with the possible exception of the defense category) are almost entirely irrelevant to the appropriations process.

Constrained only by an overall discretionary spending cap, the Appropriations Committee distributes spending authority to its 13 subcommittees. Based on virtually no guidelines, tens of billions of dollars are allocated to the subcommittees. The rest of Congress never knows how this was done or how their constituents' money can be spent until they've been handed the results.

We need to return this power to the voters by allowing all of their representatives to determine how to distribute the money within the budget targets and subcommittee jurisdictions. That means nothing more than requiring a vote by each House on how much money each subcommittee should get. This is the first element of may bill.

Unfortunately, this step alone doesn't solve the problem. When the appropriations bills come to the floor, there are different complex rules but the same problem: the ability to cut spending is greatly limited.

Here's how it works on the House and Senate floors: if you offer an amendment to cut a specific spending item, such as the purchase of Lawrence Welk's childhood home, and it passes, the category that money came from remains intact, and the money you saved can be spent somewhere else in that category.

If you want to avoid the trap I just described, you also have to get approval to cut the overall allocation, and lock in that cut. These allocations and caps are very important in Congress—we have rules that say you need 60, not 50, votes to reduce these privileged entities. You can raise taxes with 50 votes but to cut spending you need 60 votes. The second part of my bill would straighten this out—if you have the support of a majority, you can cut spending.

But there's one last problem. Even if the House and Senate agree on similar program and allocation cuts, the Conference Committee that creates the final bill is virtually free to reinsert whatever funding might have been cut. This couldn't happen under the terms of the third part of my proposal.

These problems are real. I know firsthand. This really happens. It happened last Congress to a spending cut amendment I offered. After the Senate agreed to cut $22 million from the High Temperature Gas Reactor, the Conference Committee scaled the reduction down to $10 million. Half a loaf, but still $10 million in deficit reduction, right? Wrong. The Energy and Water Appropriations Bill—which cut funding for the HTGR by $10 million—actually increased in size during the conference, gaining an extra $20 million out of thin air.

Let me make an analogy between cutting spending under the present system and basketball. Imagine you make a free throw—cut a specific program—but it doesn't count unless you go back to the three-point line and make the shot again—cut the allocation or cap. But it doesn't count again unless you go back to the half-court line and sink a shot from there—keep the cuts in a conference report. All of that in order to get credit for a single free throw—or a single deficit reduction amendment.

We've created this maze. We can straighten it out. We have to turn the process around so that it's as easy to cut spending in the future as it is to protect spending now. We need a new system, which would be created by the adoption of my reforms.

Again, there are three key elements to my proposal:

First, we need to give to Congress the right to debate and set priorities for discretionary spending. These are the most fundamental decisions, and they are out of the reach of most of the Congress.

I propose we put these decisions before Congress, for approval or modification by majority vote. My bill would require a separate resolution to allocate spending among the appropriations subcommittees. Both houses would have to agree beforehand on how much could be spent by each house's subcommittees.

Second, we need to change the rules that prevent cuts in appropriations spending from being actual budget cuts. These obstacles—which were put in place to hinder an increase in spending—represent bad policy when the goal is deficit reduction.

My legislation would allow cuts in programs and cuts in spending. There would be several options: one, follow the status quo, and let money saved from an appropriations cut amendment be spent elsewhere; two, cut a program and cut the current year's allocation (thereby reducing the deficit); or three, cut a program, cut the current budget, and force a reduction in future budgets. All of these approaches would require only a majority vote—not the current supermajority of 60 votes—to be adopted.

Third, real accountability is needed in conference committees, where expensive deals are often cut. Even when the House and Senate each cut programs, the compromise may turn out to be that no program is cut.

My bill would change Senate rules to prohibit an Appropriations Conference Committee from reporting a bill that cuts spending less than either the House or Senate language. Even if the House and Senate cuts are in different programs, the conference will have to reduce spending by at a minimum the smaller of the two amounts. In other words, if the House agrees to $100 million in cuts on a particular appropriations bill, and the Senate agrees to $200 million on same bill, the Conferees would be constrained to produce a Conference Report with at least $100 million in cuts included.

Are these budget reforms the answer to the deficit crisis? No. Entitlement and tax expenditure outlays are both growing rapidly, and neither can be addressed by changing congressional procedures. Even as we tighten controls on discretionary spending, we must move forward to confront the huge growth in the other two-thirds of the budget.

Americans are right when they think that we are truly inspired when it comes to spending; we need to bring the same zeal to cutting spending. We need basic reforms that assure that spending cuts are spending cuts, not just reasons for another press release.

Mr. President, I urge my colleagues to consider this legislation seriously. This bill would go a long way towards creating a rational, balanced approach to the budget and spending. In my view, these changes are needed and overdue.

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

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

S. 163

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 ''Spending Reduction and Budget Control Act of 1995''.

SEC. 2. JOINT RESOLUTION ALLOCATING APPROPRIATED SPENDING.

(a) COMMITTEE ON APPROPRIATIONS RESOLUTION.—Section 302(b) of the Congressional Budget Act of 1974 is amended to read as follows:

''(b) COMMITTEE SUBALLOCATIONS.—

''(1) COMMITTEES ON APPROPRIATIONS.—(A) As soon as practical after a concurrent resolution on the budget is agreed to, the Committee on Appropriations of each House shall, after consulting with Committee on Appropriations of the other House, report to its House an original joint resolution on appropriations allocations (referred to in the paragraph as the 'joint resolution') that contains the following:

''(i) A subdivision among its subcommittees of the allocation of budget outlays and new budget authority allocated to it in the joint explanatory statement accompanying the conference report on such concurrent resolution.

''(ii) A subdivision of the amount with respect to each such subcommittee between controllable amounts and all other amounts.

The joint resolution shall be placed on the calendar pending disposition of such joint resolution in accordance with this subsection.

''(B)(i) Except as provided in clause (ii), the provisions of section 305 for the consideration in the Senate of concurrent resolutions on the budget and conference reports thereon shall also apply to the consideration in the Senate of joint resolutions reported under this paragraph and conference reports thereon.

''(ii)(I) Debate in the Senate on any joint resolution reported under this paragraph, and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to not more than 20 hours.

''(II) The Committee on Appropriations shall manage the joint resolution.

''(C) The allocations of the Committees on Appropriations shall not take effect until the joint resolution is enacted into law.

''(2) OTHER COMMITTEES.—As soon as practicable after a concurrent resolution on the budget is agreed to every committee of the House and Senate (other than the Committees on Appropriations) to which an allocation was made in such joint explanatory statement shall, after consulting with the committee or committees of the other House to which all or part of its allocation was made—

''(A) subdivide such allocation among its subcommittees or among programs over which it has jurisdiction; and

''(B) further subdivide the amount with respect to each subcommittee or program between controllable amounts and all other amounts.

Each such committee shall promptly report to its House the subdivisions made by it pursuant to this paragraph.''.

(b) POINT OF ORDER.—Section 302(c) of the Congressional Budget Act of 1974 is amended by striking ''such committee makes the allocation or subdivisions required by'' and inserting ''such committee makes the allocation or subdivisions in accordance with''.

(c) ALTERATION OF ALLOCATIONS.—Section 302(e) of the Congressional Budget Act of 1974 is amended to read as follows:

''(e) ALTERATION OF ALLOCATIONS.—

''(1) Any alteration of allocations made under paragraph (1) of subsection (b) proposed by the Committee on Appropriations of either House shall be subject to approval as required by such paragraph.

''(2) At any time after a committee reports the allocations required to be made under subsection (b)(2), such committee may report to its House an alteration of such allocations. Any alteration of such allocations must be consistent with any actions already taken by its House on legislation within the committee's jurisdiction.''.

SEC. 3. AMENDMENTS TO APPROPRIATIONS BILL.

Section 302 of the Congressional Budget Act of 1974 is amended by—

(1) redesignating subsection (g) as subsection (h); and

(2) inserting after subsection (f) the following:

''(g) AMENDMENTS TO APPROPRIATIONS ACT REDUCING ALLOCATIONS.—

''(1) FLOOR AMENDMENTS.—Notwithstanding any other provision of this Act, an amendment to an appropriations bill shall be in order if—

''(A) such amendment reduces an amount of budget authority provided in the bill and reduces the relevant subcommittee allocation made pursuant to subsection (b)(1) and the discretionary spending limits under section 601(a)(2) for the fiscal year covered by the bill; or

''(B) such amendment reduces an amount of budget authority provided in the bill and reduces the relevant subcommittee allocation made pursuant to subsection (b)(1) and the discretionary spending limits under section 601(a)(2) for the fiscal year covered by the bill and the 4 succeeding fiscal years.

''(2) CONFERENCE REPORTS.—(A) It shall not be in order to consider a conference report on an appropriations bill that contains a provision reducing subcommittee allocations and discretionary spending included in both the bill as passed by the Senate and the House of Representatives if such provision provides reductions in such allocations and spending that are less than those provided in the bill as passed by the Senate or the House of Representatives.

''(B) It shall not be in order in the Senate or the House of Representatives to consider a conference report on an appropriations bill that does not include a reduction in subcommittee allocations and discretionary spending in compliance with subparagraph (A) contained in the bill as passed by the Senate and the House of Representatives.''.

SEC. 4. SECTION 602(b) ALLOCATIONS.

Section 602(b)(1) of the Congressional Budget Act of 1974 is amended to read as follows:

''(1) SUBALLOCATIONS BY APPROPRIATIONS COMMITTEES.—The Committee on Appropriations of each House shall make allocations under subsection (a)(1)(A) or (a)(2) in accordance with section 302(b)(1).''.

SPENDING REDUCTION AND BUDGET CONTROL ACT OF 1995—LEGISLATIVE SUMMARY

The legislation introduced today increases the likelihood of deficit reduction and the accountability of the budget process. The amendment gives legislators new tools to address spending priorities and deficit reduction.

STEP 1: FIX THE ALLOCATION PROCESS

Problem

A central decision in the Appropriations process is the distribution of available spending authority (BA and outlays) among the thirteen subcommittees. While the Budget Resolution may fix the total spending ceiling, the ''functional categories'' provide little guidance for these ''302/602 (B)'' allocations. As a result, the Appropriations Committee made fundamental decisions about spending priorities that are not subject to the approval by the entire Senate. Additionally, the House and Senate figures often differ.

Solution

The Congress would required to consider and approve spending targets for each appropriation subcommittee. This would be done by a Joint Resolution which would:

Originate and be managed within the Appropriations Committees;

Have privileged status and supersede other pending business;

Limit debate (Reconciliation-type rules—20 hour debate, tight germaneness rules for amendments)

Specify allocations by Subcommittee

Meet appropriate overall Budget cap

Be passed by both Houses in final form prior to the approval of any Appropriations Bills by either House.

Subcommittees allocations can be modified in subsequent Appropriations Bills:—*downward* by a majority vote—*upward* by a three-fifths vote, as is the case today.

STEP 2: AMENDMENTS TO APPROPRIATIONS BILLS SHOULD BE ABLE TO PRODUCE BUDGET SAVINGS WITH A MAJORITY VOTE

Problem

A valid criticism to any amendment to cut Appropriations is that such amendments are unlikely to result in deficit savings. If a legislator succeeds in cutting an account, the funds saved remain available under the Subcommittee's 302(b)/602(b) allocation to be spent on other items. If the appropriations cuts amendment contains reductions in the 302(b)/602(b) allocation, then it is subject to a ''supermajority'' (i.e., three-fifths vote) point of order. Finally, even if both Houses pass similar cuts or if both Houses come in below the 302(b)/602(b) allocation figures, there is no explicit constraint on Conference to maintain deficit reduction.

Solution

Senators and Representatives would be allowed to offer appropriations cut amendments in one of three forms:

(i) Cut the program account, but retain current law subcommittee allocation and discretionary cap figures;

(ii) Cut the program account and drop subcommittee allocation and discretionary cap figures accordingly for current year;

(iii) Cut the program account and drop subcommittee allocation figure for current year and discretionary cap figure for current year and for an additional four years.

Any amendment offered in one of the above forms would *not* be subject to a three-fifths vote point of order.

STEP 3: FOCUS THE CONFERENCE COMMITTEES ON DEFICIT REDUCTION

Problem

Even if each House adopted reduced spending proposals, there's no guarantee that the conference committee will reduce spending. In fact, our experience is that the conference committee can drop cut proposals and even report a bill which increases spending *higher* than that reported by *either* House.

Solution

Conference would not be able to adopt a final 302(b)/602(b) allocation figure higher than the highest of the House or Senate figures; if two Houses agree on different budget cuts on the same appropriations bill, Conference would be required to pass savings equal to the lesser of the two packages of budget cuts.●

By Mr. BRADLEY (for himself, Mr. SPECTER, Mr. LAUTENBERG and Mr. EXON):

S. 164. A bill to require States to consider adopting mandatory, comprehensive, Statewide one-call notification systems to protect natural gas and hazardous liquid pipelines and all other underground facilities from being damaged by excavations, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE COMPREHENSIVE ONE-CALL NOTIFICATION ACT OF 1995

● Mr. BRADLEY. Mr. President, I introduce the Comprehensive One-call Notification Act. I am very pleased to have as cosponsors of this bill Senator SPECTER, Senator LAUTENBURG, and the ranking member of the Commerce Committee's Transportation Subcommittee, Senator EXON.

The bill we are introducing today will create new assurance that accidents involving pipelines and underground utilities won't occur. Every year, multiple fatalities and tens of millions of dollars worth of damage occur simply because people dig where they shouldn't. These third-party incidents are the single leading cause of accidents involving pipelines. According to the Department of Transportation, these accidents result in over half of the fatalities and half of the property damage caused by all pipeline failures. The Comprehensive One-Call Notification Act will create a mechanism to prevent the inadvertent injury and the potential tragedy.

Last March 23, just before midnight, an explosion ripped through the community of Durham Woods in Edison, NJ. Within minutes, eight apartment buildings were ablaze. Soon they were gone, wiped out by a fireball that lit up the sky over hundreds of square miles. One life was lost. Hundreds lost their homes. Many more were evacuated.

The injuries were miraculously low. But who knows how many others still lie awake at night, wondering whether it could happen again and fearing the future.

Reflecting on the accident today, it seems hard to fault anyone for their response to the tragedy. The community pulled together to help out those in need. Food, emergency shelter, general support and financial assistance were offered amply and unconditionally in the hours and days following the accident.

However, great as this response was, this is not what is most striking about this accident. What is most striking about the accident is how lucky we were. Who would ever think that, given the timing and the magnitude of the explosion, so many people—many fleeing with just the clothes they had on—would escape without serious injury? Few who have walked around that crater, seen the charged cars and the empty building foundations would disagree with the conclusion that many there were saved only by a miracle.

Unfortunately, miracles are a poor basis for public policy. You can't count on them. I am not about to count on them. The fact is that there is no margin for error in today's pipeline industry. The natural gas industry does have an excellent safety record, especially when you consider that 25 percent of the energy we consume moves by these pipelines. For example, there are seven major pipelines that cross my home State, and hundreds of smaller ones. But the Edison accident never should have happened.

We need to acknowledge Edison for what it is: a breakdown in the regulatory and safety program. When the National Transportation Safety Board testified before the Energy Committee in April, their analysis pointed nearly conclusively to multiple gouges on the pipeline as the probable cause of the disaster. These marks appeared to be due to some powerful machinery, such as a backhoe, that struck the pipeline repeatedly.

At this point, we don't know whether the damage was unintentional or on purpose. We don't know who struck the pipeline or whether they might have been aware of the possibility. We do know, however, that there was no requirement of utility notification prior to the excavation. And we know that there is no penalty for digging in the vicinity of the pipeline without notifying the utility operator.

This is simply wrong, and represents a failure of public policy. At the hearing before the Senate Energy Committee, every witness agreed that we need a new national program of utility notification. If someone is excavating or grading a site, there has to be proper notification and it has to be mandatory—not voluntary—with penalties for negligence or noncompliance. This national program will be created by the comprehensive legislation we are considering today.

Right now, the gas industry is making plans for a rapid expansion into new markets, particularly in the areas of natural gas vehicles and electric power production. The Department of Energy has predicted that the gas market will expand by a third over the next 15 years. If accidents occur—regardless of who is at fault or how the industry follows up—this growth will not. It is that simple.

The telecommunications industry is likewise spending billions to expand its infrastructure and capabilities. If this investment, however, is held hostage by every backhoe operator in every State, without serious controls and oversight, we won't see a lot of traffic on this information superhighway.

In one sense, this bill is unnecessary. Sooner or later, I predict, every State will adopt one-call provisions like those identified in this legislation. The reason is simple: sooner or later, every State will experience a major accident involving third-party damage to underground utilities. Then, just as has happened in New Jersey, one-call provisions will be introduced or strengthened. This is not an issue of cost. Most States have these programs already. The problem is that, absent sufficient political motivation, these programs are just not as effective as they need to be.

We shouldn't have to wait for another disaster to understand the importance of this modest bill. This comprehensive one-call legislation represents a necessary step if we are to do everything reasonable and appropriate to protect the public from the kind of tragedy that struck Edison.

This bill, obviously, won't guarantee that another Edison will never occur. But mandatory, truly comprehensive one-call programs, based on a national model, are a good place to start.

Passage of this legislation will send a message to the public that our concern is serious and the risks are real. A national program will create a new level of awareness and this awareness would

be a powerful ally in our fight for increased safety.

Mr. President, last Congress, this legislation was passed twice by the House of Representatives and was passed unanimously by the Senate Commerce Committee. This bill was on the verge of final approval when the Senate adjourned last October.

It is clearly time to pass this legislation. I believe that there is no substantive reason why we cannot and should not act. It is endorsed very broadly by industry. It is needed by the general public. I urge all my colleagues to consider this bill carefully and approve it without delay.

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. 164

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 ''Comprehensive One-Call Notification Act of 1995''.

SEC. 2. DEFINITIONS.

In this Act:

(1) DAMAGE.—The term ''damage'' means—

(A) impact or contact with an underground facility, its appurtenances, or its protective coating; or

(B) weakening of the support for the facility or protective housing that requires repair.

(2) EXCAVATION.—The term ''excavation''—

(A) means an operation in which earth, rock, or other material in the ground is moved, removed, or otherwise displaced by means of a mechanized tool or equipment or by means of an explosive; but

(B) does not include—

(i) a generally accepted normal agricultural practice or activity taken in support of such a practice, as determined by each State, including tilling of the soil for agricultural purposes to a depth of 18 inches or less;

(ii) a generally accepted normal lawn and garden activity, as determined by each State;

(iii) the excavation of a gravesite in a cemetery; or

(iv) such routine railroad maintenance as such maintenance would disturb the ground to a depth of no more than 18 inches, as measured from the surface of the ground, in accordance with rules adhered to by a railroad requiring underground facilities other than its own to be buried 3 feet or lower on its property or along its right-of-way.

(3) EXCAVATOR.—The term ''excavator'' means a person that conducts excavation.

(4) FACILITY OPERATOR.—The term ''facility operator'' means a person that operates an underground facility.

(5) HAZARDOUS LIQUID.—The term ''hazardous liquid'' has the meaning stated in section 60101(a)(4) of title 49, United States Code.

(6) NATURAL GAS.—The term ''natural gas'' has the meaning given the term ''gas'' in section 60101(a)(2) of title 49, United States Code.

(7) PERSON.—The term ''person'' includes an agency of Federal, State, or local government.

(8) ROUTINE RAILROAD MAINTENANCE.—The term ''routine railroad maintenance'' includes such activities as ballast cleaning, general ballast work, track lining and surfacing, signal maintenance, and replacement of crossties.

(9) SECRETARY.—The term ''Secretary'' means the Secretary of Transportation.

(10) STATE.—The term ''State'' has the meaning stated in section 60101(a)(20) of title 49, United States Code.

(11) STATE PROGRAM.—The term ''State program'' means the program of a State to establish or maintain a one-call notification system.

(12) UNDERGROUND FACILITY.—The term ''underground facility''—

(A) means an underground line, system, or structure used for gathering, storing, transmitting, or distributing oil, petroleum products, other hazardous liquids, natural gas, communication, electricity, water, steam, sewerage, or any other commodity that the Secretary determines should be included under the requirements of this Act; but

(B) does not include a portion of a line, system, or structure if the person that owns or leases, or holds an oil or gas mineral leasehold interest in, the real property in which that portion is located also operates, or has authorized the operation of, the line, system, or structure only for the purpose of furnishing services or materials to that person, except to the extent that that portion—

(i) contains predominantly natural gas or hazardous liquids; and

(ii)(I) is located within an easement for a public road (as defined under section 101(a) of title 23, United States Code), or a toll highway, bridge, or tunnel (as described in section 129(a)(2) of that title); or

(II) is located on a mineral lease and is within the boundaries of a city, town, or village.

SEC. 3. NATIONWIDE TOLL-FREE NUMBER SYSTEM.

Within 1 year after the date of enactment of this Act, the Secretary shall, in consultation with the Federal Communications Commission, facility operators, excavators, and one-call notification system operators, provide for the establishment of a nationwide toll-free telephone number system to be used by State one-call notification systems.

SEC. 4. STATE PROGRAMS.

(a) CONSIDERATION.—

(1) IN GENERAL.—Each State shall consider whether to adopt a comprehensive statewide one-call notification program with each element described in section 5, to protect all underground facilities from damage due to any excavation.

(2) NEW OR EXISTING PROGRAM.—A State program may be provided for through the establishment of a new program or through modification or improvement of an existing program, and may be implemented by a nongovernmental organization.

(b) PROCEDURES.—

(1) NOTICE AND HEARING.—State consideration under subsection (a) shall be undertaken after public notice and hearing and shall be completed within 3 years after the date of enactment of this Act.

(2) PART OF GENERAL PROCEEDING.—Such consideration may be undertaken as part of any proceeding of a State with respect to the safety of pipelines or other underground facilities.

(c) COMPLIANCE.—If a State fails to comply with the requirements of subsection (a), the Secretary or any person aggrieved by such failure may in a civil action obtain appropriate relief against any appropriate officer or entity of the State, including the State itself, to compel such compliance.

(d) APPROPRIATENESS.—Nothing in this Act prohibits a State from making a determination that it is not appropriate to adopt a State program described in section 5, pursuant to its authority under otherwise applicable State law.

SEC. 5. ELEMENTS OF STATE PROGRAM.

(a) IN GENERAL.—Each State's consideration under section 4(a) shall include consideration of program elements that—

(1) provide for a one-call notification system or systems that shall—

(A) apply to all excavators and to all facility operators;

(B) operate in all areas of the State and not duplicate the geographical coverage of other one-call notification systems;

(C) receive and record appropriate information from excavators about intended excavations;

(D) inform facility operators of any intended excavations that may be in the vicinity of their underground facilities; and

(E) inform excavators of the identity of facility operators who will be notified of the intended excavation;

(2) provide for 24-hour coverage for emergency excavation, with the manner and scope of coverage determined by the State;

(3) employ mechanisms to ensure that the general public, and in particular all excavators, are aware of the one-call telephone number and the requirements, penalties, and benefits of the State program relating to excavations;

(4) inform excavators of any procedures that the State has determined must be followed when excavating;

(5) require that any excavator contact the one-call notification system in accordance with State specifications, which may vary depending on whether the excavation is short term, long term, routine, continuous, or emergency;

(6) require facility operators to provide for locating and marking or otherwise identifying their facilities at an excavation site, in accordance with State specifications, which may vary depending on whether the excavation is short term, long term, routine, continuous, or emergency;

(7) provide effective mechanisms for penalties and enforcement as described in section 6;

(8) provide for a fair and appropriate schedule of fees to cover the costs of providing for, maintaining, and operating the State program;

(9) provide an opportunity for citizen suits to enforce the State program;

(10) require railroads to report any accidents that occur during or as a result of routine railroad maintenance to the Secretary and the appropriate local officials; and

(11) provide that when a facility operator believes that its underground facility is not buried 3 feet or lower on railroad property or right-of-way, the facility operator may request permission to enter the railroad property or right-of-way for the purpose of assessing the depth of such underground facility and report its finding to the railroad.

(b) EXCEPTION.—When excavation is undertaken by or for a person on real property that is owned or leased by, or in which an oil or gas mineral leasehold interest is held by, that person, and that person operates all underground facilities located at the site of the excavation, a State program may elect not to require that such person contact the one-call notification system before conducting excavation.

SEC. 6. PENALTIES AND ENFORCEMENT.

(a) GENERAL PENALTIES.—Each State's consideration under section 4(a) shall include consideration of a requirement that any excavator or facility operator that violates the requirements of the State program shall be liable for an appropriate administrative or civil penalty.

(b) INCREASED PENALTIES.—If a violation results in damage to an underground facility resulting in death, serious bodily harm, or

actual damage to property exceeding $50,000, or damage to a hazardous liquid underground facility resulting in the release of more than 50 barrels of product, the penalties shall be increased, and an additional penalty of imprisonment may be assessed for a knowing and willful violation.

(c) DECREASED PENALTIES.—Each State's consideration under section 4(a) shall include consideration of reduced penalties for a violation, that results in or could result in damage, that is promptly reported by the violator.

(d) EQUITABLE RELIEF AND MANDAMUS ACTIONS.—Each State's consideration under section 4(a) shall include consideration of provisions for appropriate equitable relief and mandamus actions.

(e) IMMEDIATE CITATION OF VIOLATIONS.—Each State's consideration under section 4(a) shall include consideration of procedures for issuing a citation of violation at the site and time of the violation.

SEC. 7. GRANTS TO STATES.

(a) AUTHORITY.—

(1) FUNDING.—Using $4,000,000 of the amounts previously collected under section 7005 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (previously codified as 49 U.S.C. App. 1682a) or section 60301 of title 49, United States Code, for each of the fiscal years 1996, 1997, and 1998, to the extent provided in advance in appropriations Acts, the Secretary shall make grants to States, or to operators of one-call notification systems in such States, that have elected to adopt a State program described in section 5 or to establish and maintain a State program pursuant to subsection (b) of this section.

(2) GENERAL PURPOSES.—Grants under subsection (a) may be used in—

(A) establishing one-call notification systems;

(B) modifying existing systems to conform to standards established under this Act; and

(C) improving systems to exceed those standards.

(3) PARTICULAR USES.—Grants under subsection (a) may be used to—

(A) improve communications systems linking one-call notification systems;

(B) improve location capabilities, including training personnel and developing and using location technology;

(C) improve record retention and recording capabilities;

(D) enhance public information and education campaigns;

(E) increase and improve enforcement mechanisms, including administrative processing of violations; and

(F) otherwise further the purposes of this Act.

(b) ALTERNATE FORM OF STATE PROGRAM.—The Secretary may make a grant under subsection (a) to a State that establishes or maintains a State program that differs from a State program described in section 5 if the State program is at least as protective of the public health and safety and the environment as a State program described in section 5.

SEC. 8. DEPARTMENT OF TRANSPORTATION.

(a) COORDINATION WITH OTHER RESPONSIBILITIES.—

(1) COORDINATION.—The Secretary shall coordinate the implementation of this Act with the implementation of chapter 601 of title 49, United States Code.

(2) REVIEW OF PROGRAMS.—Within 18 months after the date of enactment of this Act, the Secretary shall review, and report to Congress on, the extent to which any policies, programs, and procedures of the Department of Transportation could be used to achieve the purposes of this Act.

(b) MODEL PROGRAM.—

(1) DEVELOPMENT.—

(A) INITIAL MODEL PROGRAM.—Within 1 year after the date of enactment of this Act, the Secretary, in consultation with facility operators, excavators, one-call notification system operators, and State and local governments, shall develop and make available to States a model State program, including a model enforcement program.

(B) AMENDMENTS.—The model program may be amended by the Secretary on the Secretary's initiative or in response to reports submitted by the States pursuant to section 9 or as a result of workshops conducted under paragraph (3).

(2) MANDATORY ELEMENTS.—The model program developed under paragraph (1) shall include all elements of a State program described in section 5.

(3) OTHER ELEMENTS.—The Secretary shall consider incorporating the following elements into the model program:

(A) RECORDATION OF INFORMATION.—The one-call notification system or systems shall—

(i) receive and record appropriate information from excavators about intended excavations, including—

(I) the name of the person contacting the one-call notification system;

(II) the name, address, and telephone number of the excavator;

(III) the specific location of the intended excavation, along with the starting date thereof and a description of the intended excavation activity; and

(IV) the name, address, and telephone number of the person for whom the work is being performed; and

(ii) maintain records on each notice of intent to excavate for the period of time necessary to ensure that such records remain available for use in the adjudication of any claims relating to the excavation.

(B) PROVISION OF INFORMATION.—The provision of information on excavation requirements at the time of issuance of excavation or building permits, or other specific mechanisms for ensuring excavator awareness.

(C) ADVANCE CONTACT.—A requirement that any excavator must contact the one-call notification system at least 2 business days, and not more than 10 business days, before excavation begins.

(D) ALTERNATIVE NOTIFICATION PROCEDURES.—Alternative notification procedures for excavation activities conducted as a normal part of continuing operations within specific geographic locations over an extended period of time.

(E) MARKING OF FACILITIES; MONITORING OF EXCAVATION.—A requirement that facility operators—

(i) provide for locating and marking, in accordance with the American Public Works Association Uniform Color Code for Utilities, or otherwise identifying, in accordance with standards established by the State or the American National Standards Institute, their underground facilities at the site of an intended excavation within no more than 2 business days after notification of such intended excavation; and

(ii) monitor such excavation as appropriate.

(F) NOTIFICATION OF NO UNDERGROUND FACILITIES.—Provision for notification of excavators if no underground facilities are located at the excavation site.

(G) LONGER TIME LIMITATIONS.—Provision for the approval of a State program under this Act with time limitations longer than those required under subparagraphs (C) and (E) of this paragraph where special circumstances, such as severe weather conditions or remoteness of location, pertain.

(H) UNKNOWN LOCATIONS.—Procedures for excavators and facility operators to follow when the location of underground facilities is unknown.

(I) IMPROVEMENT OF CAPABILITIES.—Procedures to improve underground facility location capabilities, including compiling and notifying excavators, facility operators, and one-call centers of any information about previously unknown underground facility locations when such information is discovered.

(J) ALTERNATIVE RULES FOR TIMELY COMPLIANCE.—Alternative rules for timely compliance with State program requirements in emergency circumstances.

(K) REVOCATION OF LICENSES AND PERMITS.—If a State has procedures for licensing or permitting entities to do business, procedures for the revocation of the license or permit to do business of any excavator determined to be a habitual violator of the requirements of the State program.

(4) WORKSHOPS.—Within 6 months after the date of enactment of this Act, and annually thereafter, the Secretary shall conduct workshops with facility operators, excavators, one-call notification system operators, and State and local governments in order to develop, amend, and promote the model program, and to provide an opportunity to share information among such parties and to recognize State programs that exemplify the goals of this Act.

(c) PUBLIC EDUCATION.—The Secretary shall develop, in conjunction with facility operators, excavators, one-call notification system operators, and State and local governments, public service announcements and other educational materials and programs to be broadcast or published to educate the public about one-call notification systems, including the national phone number.

SEC. 9. STATE REPORTS.

(a) REQUIREMENT.—

(1) INITIAL REPORT.—Within 3 years after the date of enactment of this Act, each State shall submit to the Secretary a report on progress made in implementing this Act.

(2) STATUS REPORTS.—Within 4½ years after the date of enactment of this Act, and annually thereafter, each State shall report to the Secretary on the status of its State program, if any, and its requirements, and any other information the Secretary requires.

(b) SIMPLIFIED REPORTING FORM.—Within 3 years after the date of enactment of this Act, the Secretary shall develop and distribute to the States a simplified form for complying with the reporting requirements of subsection (a)(2).

SEC. 10. FEDERAL REPORT.

The Secretary shall report annually to Congress on the number and circumstances surrounding accidents caused by routine railroad maintenance.

SEC. 11. MORE PROTECTIVE SYSTEMS.

Nothing in this Act prohibits a State from implementing a one-call notification system that provides greater protection for underground facilities from damage due to excavation than a system established pursuant to this Act.

SEC. 12. USE OF TECHNOLOGIES FOR REMOTE AND ABOVE-GROUND PIPELINE LOCATION.

The Secretary shall consult with other agencies as to the availability and affordability of technologies which will help relocate pipelines from above-ground and remote locations.●

By Mr. DOMENICI (for himself, Mr. BINGAMAN, and Mr. DOLE):

S. 166. A bill to transfer a parcel of land to the Taos Pueblo Indians of New Mexico; to the Committee on Energy and Natural Resources.

TAOS PUEBLO BOTTLENECK LEGISLATION

● Mr. DOMENICI. Mr. President, the bill I am introducing with my colleagues, Mr. BINGAMAN and Mr. DOLE, will transfer 764 acres now located in the Wheeler Peak Wilderness of the Carson National Forest to the Taos Pueblo, both in northern New Mexico.

The history of this area is fascinating and involves the only living culture in the United States to be recognized by the United Nations as a World Heritage Site. Americans can be very proud of the Taos Pueblo Indians who live in the Rocky Mountains of New Mexico. I know New Mexicans are proud of the Taos Pueblo for this most unique international honor in our land of enchantment.

Designation as a World Heritage Site is an honor we share with the Grand Canyon, Yosemite, the Statue of Liberty, and Independence Hall, to name several such sites in the United States. The Taos Pueblo, however, is the only living culture to be so honored in the Western Hemisphere.

A well known cultural and religious attribute of this World Heritage Site at Taos Pueblo is the Blue Lake and its special spiritual significance to the Taos Pueblo and other New Mexico Indians. Blue Lake is nestled high in the Sangre de Cristo Mountains east of the Pueblo. The sacred ceremonies of the Taos Pueblo people at this site pre-date the signing of the Magna Carta.

The Bottleneck area is an integral part of Blue Lake and continues to be used by Taos Pueblo for religious pilgrimages. The sacred Path of Life Trail, connecting the Pueblo with Blue Lake, runs through the bottleneck. The Blue Lake Wilderness includes Blue Lake, Star Lake, and Bear Lake. Headwaters to Rio Pueblo de Taos and the Rio Lucero are also in this sacred area. There is no doubt that the Blue Lake Wilderness, designated a wilderness area in the 1970 law, has been a vital source of livelihood and spiritual strength for the Taos Pueblo for over 1,000 years.

The bill pending before the Senate today is intended to complete the full transfer of the Blue Lake territory to the Taos Pueblo. The Path of Life Trail in the Bottleneck Tract will be returned to its rightful owners.

Most of the Blue Lake area transfer took place in 1970, when Public Law 91–550 was signed by President Richard M. Nixon. At that time, 48,000 of the 50,000 acres of Blue Lake Wilderness were returned to the Taos Pueblo. The entire 50,000 acre area known as the Blue Lake was acknowledged by the Indian Claims Commission in 1965 to be Taos Pueblo land. The creation of the Blue Lake Wilderness in 1970 by the Congress transferred 48,000 acres of the 50,000 acres back to Taos Pueblo to be held in trust by the United States for the Pueblo.

In 1979, the Federal District Court in Washington, DC added 1,235 acres to the trust lands of Taos Pueblo in the Tract C transfer, leaving only the so-called Bottleneck Tract from the original 50,000 acre claim. Our legislation completes the Blue Lake transfer.

Drafted as an amendment to the Blue Lake Wilderness Act, our bill requires that the Bottleneck also be maintained as wilderness. The Taos Pueblo has an excellent record of maintaining the Blue Lake Wilderness. We have every confidence that adding the Bottleneck to the Blue Lake Wilderness will increase the enthusiasm of the Pueblo for continuing its excellent stewardship of the Blue Lake Wilderness.

The Wilderness Society, Audubon Society, Sierra Club, and the National Wildlife Federation support the return of the Bottleneck to Taos Pueblo.

Under the terms of this legislation, Taos Pueblo will hold the responsibility and right to manage and control the entire Blue Lake Territory. The Bottleneck Tract is currently a part of the Wheeler Peak Wilderness Area in the Carson National Forest, New Mexico, and is managed by the Forest Service. Taos Pueblo lands surround the Bottleneck on three sides (east, south, and west). Unfortunately, public access to this Bottleneck tract leads to unwelcome intrusions. During Indian ceremonials, hikers often find their way into the Blue Lake Wilderness Area. Our bill will resolve this and related problems in favor of the Taos Pueblo. There will no longer be questions of ownership or rights of way, and the Pueblo will be responsible for management of the entire Blue Lake area including the Bottleneck Tract added by this legislation.

The Bottleneck Tract, is currently managed by the Forest Service as a scenic overlook. Taos Pueblo leaders are issued permits and the Forest Service closes the area for their pilgrimages. There are no public camping, fishing, or other recreational uses permitted. Hiking is allowed.

It is the intention of Taos Pueblo, under the terms of this bill, to continue to use these lands for traditional purposes only. These uses include religious and ceremonial pilgrimages, hunting and fishing, a source of water, forage for their domestic livestock, timber, and other natural resources for their personal use. These uses are all subject to such regulations for conservation purposes as the Secretary of the Interior may prescribe as managed by the Taos Pueblo under the terms of the Blue Lake wilderness legislation.

There is no intention in our legislation to change any water rights associated with the Blue Lake area or the Taos Pueblo. I have personally discussed this issue with the Taos tribal leaders who have assured me that the return of the Bottleneck will not alter their claims to water in the Taos Valley. There will be no adverse impact on downstream water users in the Taos Valley as a result of passage of this legislation. In fact, I remain optimistic about the on-going water negotiations in the Taos Valley and look forward to working with all parties to ratify a negotiated settlement in the Congress.

It is our intention that the lands shall remain forever wild and maintained as a wilderness. Identical legislation is being introduced in the House by Representative RICHARDSON of New Mexico. We urge our colleagues to support our legislation to transfer the last parcel of the Blue Lake Wilderness to the Taos Pueblo Indians of New Mexico.

By Mr. JOHNSTON:

S. 167. A bill to amend the Nuclear Waste Policy Act of 1982 and for other purposes; to the Committee on Energy and Natural Resources.

THE NUCLEAR WASTE POLICY ACT OF 1995

● Mr. JOHNSTON. Mr. President, I am today introducing legislation to amend the Nuclear Waste Policy Act of 1982.

The existing law was meant to provide for the permanent disposal of spent nuclear fuel from the Nation's civilian nuclear powerplants and high-level radioactive waste from our nuclear weapons program. It called for the construction of a deep geologic repository in which nuclear waste could safely be buried beginning in January 1998.

The existing law has fallen far short of its goals. The repository will not be ready in 1998. The earliest completion date is now 2010, but it may not be ready even then without significant program changes and budget increases. In the meantime, available storage capacity at civilian powerplants is running out, threatening the ability of some plants to keep operating.

The existing program was designated to be self-funding. The law imposed a special fee on utilities, which is ultimately borne by their ratepayers. The American people have paid over $8 billion into the Nuclear Waste Fund. Over $4 billion has been spent, but our budget laws put the balance of the fund off-limits, where it can be used to balance the deficit but not used for the purpose for which it was collected.

Mr. President, the program cannot succeed as it is presently constituted. The time has come to restructure the program so it can succeed. This bill I am introducing today would do so.

The Nuclear Waste Policy Act of 1995 provides a complete substitute to the 1982 law. It provides for the construction of an interim storage facility, which would provide adequate spent fuel storage capacity until the repository can be built and licensed. It places the existing repository program on sounder foundations by providing rational, health-based standards for licensing the repository. It provides authority for the Department of Energy to begin construction of the rail spur needed to transport nuclear waste to the interim storage facility and repository. And it provides special budget treatment for the Nuclear Waste Fund to ensure that the program will be able to use the funds that are now being collected for that purpose.

Mr. President, I urge my colleagues to join me in supporting this important legislation, and 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. 167

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That the Nuclear Waste Policy Act of 1982 is amended to read as follows:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Nuclear Waste Policy Act of 1995''.

(b) TABLE OF CONTENTS.—

SEC. 2. DEFINITIONS.

For purposes of this Act:

(1) The term ''affected unit of local government'' means the unit of local government with jurisdiction over the site of the repository or interim storage facility. Such term may, at the discretion of the Secretary, include other units of local government that are contiguous with such unit.

(2) The term ''atomic energy defense activity'' means any activity of the Secretary performed in whole or in part in carrying out any of the following functions:

(A) naval reactors development;

(B) weapons activities including defense inertial confinement fusion;

(C) verification and control technology;

(D) defense nuclear materials production;

(E) defense nuclear waste and materials byproducts management;

(F) defense nuclear materials security and safeguards and security investigations; and

(G) defense research and development.

(3) The term ''civilian nuclear power reactor'' means a civilian nuclear powerplant required to be licensed under section 103 or 104b of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134(b)).

(4) The term ''Commission'' means the Nuclear Regulatory Commission.

(5) The term ''Department'' means the Department of Energy.

(6) The term ''disposal'' means the emplacement in a repository of high-level radioactive waste, spent nuclear fuel, or other highly radioactive material with no foreseeable intent of recovery, whether or not such emplacement permits recovery of such waste.

(7) The term ''engineered barriers'' means manmade components of a disposal system designed to prevent the release of radionuclides into the geologic medium involved. Such term includes the high-level radioactive waste form, high-level radioactive waste canisters, and other materials placed over and around such canisters.

(8) The term ''high-level radioactive waste'' means—

(A) the highly radioactive material resulting from the reprocessing of spent nuclear fuel, including liquid waste produced directly in reprocessing and any solid material derived from such liquid waste that contains fission products in sufficient concentrations; and

(B) other highly radioactive material that the Commission, consistent with existing law, determines by rule requires permanent isolation.

(9) The term ''federal agency'' means any Executive agency, as defined in section 105 of title 5, United States Code.

(10) The term ''Indian tribe'' means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary of the Interior because of their status as Indians, including any Alaska Native village, as defined in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c)).

(11) The term ''interim storage facility'' means a complex designed and constructed under section 101 for the receipt, handling, possession, safeguarding, and storage of spent nuclear fuel prior to transfer to a repository for the permanent disposal of such spent nuclear fuel.

(12) The term ''low-level radioactive waste'' means radioactive material that—

(A) is not high-level radioactive waste, spent nuclear fuel, transuranic waste, or byproduct material as defined in section 11 e.(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)(2)); and

(B) the Commission, consistent with existing law, classifies a low-level radioactive waste.

(13) The term ''Office'' means the office of Civilian Radioactive Waste Management established in section 304.

(14) The term ''package'' means the primary container that holds, and is in contact with, solidified high-level radioactive waste, spent nuclear fuel, or other radioactive materials, and any overpacks, that are used for the transportation, storage, or disposal of such waste, spent fuel, or other materials.

(15) The term ''Program Approach'' means the Secretary's plan for site characterization activities described in the Yucca Mountain Technical Implementation Plan for Fiscal Year 1995.

(16) The term ''repository'' means a complex designed and constructed under section 102 for the permanent geologic disposal of high-level radioactive waste and spent nuclear fuel, including both surface and subsurface areas at which high-level radioactive waste and spent nuclear fuel handling activities are conducted.

(17) The term ''Secretary'' means the Secretary of Energy.

(18) The term ''site characterization'' means activities, whether in a laboratory or in the field, undertaken to establish the geologic condition and the ranges of the parameters of a candidate site relevant to the location of a repository, including borings, surface excavations, excavations of exploratory shafts, limited subsurface lateral excavations and borings, and in site testing needed to evaluate the suitability of a candidate site for the location of the repository, but not including preliminary borings and geophysical testing needed to assess whether site characterization should be undertaken.

(19) The term ''spent nuclear fuel'' means fuel that has been withdrawn from a nuclear reactor following irradiation, the constituent elements of which have not been separated by reprocessing.

(20) The term ''storage'' means retention of high-level radioactive waste, spent nuclear fuel, or transuranic waste with the intent to recover such waste or fuel for subsequent use, processing, or disposal.

(21) The term ''Waste Fund'' means the Nuclear Waste Fund established in section 302(c).

(22) The term ''Yucca Mountain site'' means the area in the State of Nevada described in section 103(b).

TITLE I—STORAGE AND DISPOSAL

SEC. 101. INTERIM STORAGE.

(a) AUTHORIZATION.—The Secretary shall construct and operate a facility for the interim storage of high-level radioactive waste and spent nuclear fuel at the Yucca Mountain site.

(b) NRC LICENSING.—The Secretary shall apply to the Commission for a license to store high-level radioactive waste and spent nuclear fuel in the interim storage facility. The Commission shall amend its regulations for licensing independent spent fuel storage installations as appropriate to carry out the purposes of this section. The Commission shall act expeditiously on the Secretary's application and shall license the facility in accordance with the provisions of this Act and the Commission's regulations for licensing independent spent fuel storage installations as amended.

(c) DURATION OF THE LICENSE.—The Commission shall license storage of high-level radioactive waste and spent nuclear fuel at the facility for an initial term of 100 years from the date of issuance of the license and may, upon application by the Secretary, renew the license for additional terms.

(d) CAPACITY.—The interim storage facility shall provide sufficient capacity to store spent nuclear fuel from civilian nuclear power reactors until the Secretary is able to transfer the spent fuel to the repository, and shall be expandable if operation of the repository is delayed.

(e) ENVIRONMENTAL IMPACT STATEMENT.—(1) Construction and operation of the interim storage facility shall be considered a major federal action significantly affecting the quality of the human environment for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The Secretary shall submit an environmental impact statement on the interim storage facility to the Commission with the license application.

(2) For purposes of complying with the requirements of the National Environmental

Policy Act of 1969 and this section, the Secretary need not consider the need for the interim storage facility or alternative sites or designs in the environmental impact statement.

(3) The Secretary's environmental impact statement and any supplements thereto shall, to the extent practicable, be adopted by the Commission in connection with the issuance by the Commission of a license for storage of spent nuclear fuel at the interim storage facility. To the extent such statement is adopted by the Commission, such adoption shall be deemed to also satisfy the responsibilities of the Commission under the National Environmental Policy Act of 1969.

(f) EXPEDITED ACTIONS.—The Secretary shall begin storing spent nuclear fuel at the interim storage facility at the earliest practicable date. All actions by the Secretary, the Commission, the Secretary of the Interior, or any federal agency or officer with respect to consideration of applications or requests for the issuance or grant of any authorization related to the interim storage facility shall be expedited, and any such application or request shall take precedence over any similar applications or requests not related to the interim storage facility.

(g) WASTE CONFIDENCE.—Licensing and operation of the interim storage facility in accordance with this section shall constitute reasonable assurance that high-level radioactive waste and spent nuclear fuel can and will be disposed of safely for purposes of the Commission's decision to grant or amend any license to operate any civilian nuclear power reactor under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.)

SEC. 102. PERMANENT DISPOSAL.

(a) SITE CHARACTERIZATION.—The Secretary shall carry out appropriate site characterization activities at the Yucca Mountain site in accordance with the Secretary's Program Approach to site characterization. The Commission shall review its existing regulations for the disposal of high-level radioactive waste in geologic repositories and shall amend them as may be necessary to reflect the Program Approach and this Act.

(b) ENVIRONMENTAL IMPACT STATEMENT.—(1) Construction and operation of the repository shall be considered a major federal action significantly affecting the quality of the human environment for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The Secretary shall submit an environmental impact statement on the construction and operation of the repository to the Commission with the license application.

(2) For purposes of complying with the requirements of the National Environmental Policy Act of 1969 and this section, the Secretary need not consider the need for the repository or alternative sites or designs in the environmental impact statement.

(3) The Secretary's environmental impact statement and any supplements thereto shall, to the extent practicable, be adopted by the Commission in connection with the issuance by the Commission of a construction authorization under subsection (d), a license under subsection (e), or a license amendment under subsection (f). To the extent such statement or supplement is adopted by the Commission, such adoption shall be deemed to also satisfy the responsibilities of the Commission under the National Environmental Policy Act of 1969.

(c) SITE SUITABILITY DETERMINATION.—(1) The Secretary shall determine, based upon the results of the site characterization activities, whether the Yucca Mountain site is suitable for development of a geologic repository and report her determination to the Congress.

(2) If the Secretary determines that the Yucca Mountain site is unsuitable for development of a repository, the Secretary shall terminate site characterization activities at the site, notify Congress and the State of Nevada of her decision and the reasons therefor, and recommend to Congress not later than 6 months after such determination further actions, including the enactment of legislation, that may be needed to manage the nation's high-level radioactive waste and spent nuclear fuel.

(3) If the Secretary determines that the Yucca Mountain site is suitable for development of a repository, the Secretary shall apply to the Commission for authorization to construct the repository.

(d) CONSTRUCTION AUTHORIZATION.—The Commission shall initially grant the Secretary a construction authorization for the repository upon determining that there is reasonable assurance that high-level radioactive waste and spent nuclear fuel can be disposed of in the repository—

(1) in conformity with the Secretary's application, the provisions of this Act, and the regulations of the Commission;

(2) without unreasonable risk to the health and safety of the public; and

(3) consistent with the common defense and security.

(e) LICENSE.—Following substantial completion of construction and the filing of any additional information needed to complete the license application, the Commission shall issue a license to dispose of high-level radioactive waste and spent nuclear fuel in the repository if the Commission determines that the repository has been constructed and will operate—

(1) in conformity with the Secretary's application, the provisions of this Act, and the regulations of the Commission;

(2) without unreasonable risk to the health and safety of the public; and

(3) consistent with the common defense and security.

(f) CLOSURE.—After placing high-level radioactive waste and spent nuclear fuel in the repository, and after providing for the retrievability of such high-level radioactive waste and spent nuclear fuel during any period the Secretary determines to be appropriate, the Secretary shall apply to the Commission to amend the license to permit permanent closure of the repository. The Commission shall grant such license amendment upon finding that there is reasonable assurance that the repository can be permanently closed—

(1) in conformity with the provisions of this Act and the regulations of the Commission;

(2) without unreasonable risk to the health and safety of the public; and

(3) consistent with the common defense and security.

(g) POST-CLOSURE OVERSIGHT.—Following repository closure, the Secretary shall continue to oversee the Yucca Mountain site to prevent any activity at the site that poses an unreasonable risk of—

(1) breaching the repository's engineered or geologic barriers; or

(2) increasing the exposure of individual members of the public to radiation beyond allowable limits.

(h) LICENSING STANDARDS.—For purposes of making any licensing determination under this section—

(1) RELEASE STANDARDS.—The Commission shall find that the repository will not constitute an unreasonable risk to the health and safety of the public if there is reasonable assurance that the amount of radioactive materials and radioactivity released from the site (excluding background radiation and other radiation arising from the natural geological characteristics of the site) over a 10,000-year period shall not result in an annual dose to an average member of the general population in the vicinity of the site in excess of one-third of the annual dose received from natural background sources by an average member of the general population in the United States.

(2) OVERALL SYSTEM PERFORMANCE.—The Commission shall not deny the issuance of a license on the basis of the Secretary's failure to demonstrate satisfaction of any individual subsystem performance standard so long as the Commission finds reasonable assurance of satisfaction of the overall system performance standard.

(3) GROUNDWATER PROTECTION.—Notwithstanding the provisions of the Safe Drinking Water Act (42 U.S.C. 300f et seq.), a Commission finding of reasonable assurance of satisfaction of the system performance standard and the design objective shall constitute a finding of adequate protection of groundwater. No maximum contaminant level limits or other groundwater protection measures shall apply.

(4) HUMAN INTRUSION.—The Commission shall assume that, following repository closure, the inclusion of engineered barriers and the Secretary's post-closure oversight of the Yucca Mountain site, in accordance with subsection (g), shall be sufficient to—

(A) prevent any activity at the site that poses an unreasonable risk of breaching the repository's engineered or geologic barriers; and

(B) prevent any increase in the exposure of individual members of the public to radiation beyond allowable limits.

SEC. 103. LAND WITHDRAWAL.

(a) WITHDRAWAL AND RESERVATION.—(1) The Yucca Mountain site, as described in subsection (b), is withdrawn from all forms of entry, appropriation, and disposal under the public land laws, including without limitation the mineral leasing laws, the geothermal leasing laws, the material sale laws, and the mining laws.

(2) Jurisdiction of any land within the Yucca Mountain site managed by the Secretary of the Interior, the Secretary of Defense, or any other federal officer is transferred to the Secretary of Energy.

(3) The Yucca Mountain site is reserved for the use of the Secretary for the construction and operation of the interim storage facility and the repository and activities associated with the purposes of this title.

(b) LAND DESCRIPTION.—(1) The boundaries depicted on the map entitled ''Yucca Mountain Site Withdrawal Map,'' dated _____, and on file with the Secretary, are established as the boundaries of the Yucca Mountain site.

(2) Within 30 days after the date of the enactment of this Act, the Secretary shall—

(A) publish in the Federal Register a notice containing a legal description of the Yucca Mountain site; and

(B) file copies of the map described in paragraph (1) and the legal description of the Yucca Mountain site with the Congress, the Secretary of the Interior, the Governor of Nevada, and the Archivist of the United States.

(3) The map and legal description referred to in paragraph (2) shall have the same force and effect as if they were included in this Act. The Secretary may correct clerical and typographical errors in the map and legal description.

TITLE II—TRANSPORTATION AND STATE RELATIONS

SEC. 201. MULTI-PURPOSE CANISTERS.

The Secretary shall design one or more multi-purpose canister systems capable of holding spent nuclear fuel during interim

storage, transportation, and disposal. The Secretary shall apply to the Commission to certify such systems for the storage and transportation of spent nuclear fuel. The Secretary is authorized to procure such systems in quantities necessary for the transportation, storage, and disposal of spent nuclear fuel as part of the integrated nuclear waste management system established under this Act. The Secretary is authorized to deploy such systems to holders of spent fuel disposal contracts under section 302.

SEC. 202. RAILROAD.

(a) AUTHORIZATION.—The Secretary shall acquire rights of way within the corridor designated in subsection (b) and shall construct and operate, or cause to be constructed and operated, a railroad and such facilities as are required to transport spent nuclear fuel and high-level radioactive waste from existing rail systems to the interim storage facility and the repository.

(b) ROUTE DESIGNATION.—(1) The Secretary shall acquire such rights of way and develop such facilities within the corridor depicted on the map .

(2) Within 30 days after the date of the enactment of this Act, the Secretary shall—

(A) publish in the Federal Register a notice containing a legal description of the corridor; and

(B) file copies of the map described in paragraph (1) and the legal description of the corridor with the Congress, the Secretary of the Interior, the Governor of Nevada, and the Archivist of the United States.

(3) The map and legal description referred to in paragraph (2) shall have the same force and effect as if they were included in this Act. The Secretary may correct clerical and typographical errors in the map and legal description.

(c) WITHDRAWAL AND RESERVATION.—(1) The public lands depicted on such map are withdrawn from all forms of entry, appropriation, and disposal under the public land laws, including without limitation and mineral leasing laws, the geothermal laws, the material sale laws, and the mining laws.

(2) Jurisdiction of such land is transferred from the Secretary of the Interior to the Secretary of Energy.

(3) Such lands are reserved for the use of the Secretary for the construction and operation of such transportation facilities and activities associated under this title.

(4) The lands depicted in the map that are within the Quail Springs Wilderness Study and the Nellis A, B, and C Wilderness Study Areas are released from further review and management under section 603 of the Federal Land Policy and Management Act (43 U.S.C. 1782). Such lands shall be managed in accordance with this Act, notwithstanding any contrary provisions of Federal, State, or local statutes, laws, regulations, ordinances, or orders.

(d) ENVIRONMENTAL IMPACT STATEMENT.—(1) Construction and operation of transportation facilities within the corridor shall constitute a major federal action significantly affecting the quality of the human environment for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 431 et seq.) The Secretary shall prepare an environmental impact statement on the construction and operation of such facilities prior to commencement of construction. In preparing such statement, the Secretary shall adopt, to the extent practicable. relevant environmental reports that have been developed by other Federal and State agencies.

(2) For purposes of complying with the requirements of the National Environmental Policy Act of 1969 and this section, the Secretary need not consider the need for the development or improvement of transportation facilities, alternative routes, or alternative means of transportation.

(3) Acquisition of rights of way within the corridor shall not constitute a major federal action significantly affecting the quality of the human environment for purposes of the National Environmental Policy Act of 1969 and shall not be delayed pending completion of the environmental impact statement required under paragraph (1).

(e) EXEMPTION.—Neither the Secretary nor any person constructing railroad facilities under contract with the Secretary under this section shall be considered a rail carrier within the meaning of the Interstate Commerce Act (49 U.S.C. 10102 (19)) and shall not be subject to the jurisdiction of the Interstate Commerce Commission under 49 U.S.C. 10901.

SEC. 203. TRANSPORTATION REQUIREMENTS.

(a) PACKAGE CERTIFICATION.—No spent nuclear fuel or high-level radioactive waste may be transported by or for the Secretary under this Act except in packages that have been certified for such purposes by the Commission.

(b) STATE NOTIFICATION.—The Secretary shall abide by regulations of the Commission regarding advance notification of State and local governments prior to transportation of spent nuclear fuel or high-level radioactive waste under this Act.

(c) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance and funds to States for training for public safety officials of appropriate units of local government and Indian tribes through whose jurisdiction the Secretary plans to transport substantial amounts of spent nuclear fuel or high-level radioactive waste under this Act. Training shall cover procedures required for safe routine transportation of these materials, as well as procedures for dealing with emergency response situations. The Secretary's duty to provide technical and financial assistance under this subsection shall be limited to amounts specified in annual appropriations from the Waste Fund for such purpose.

(d) USE OF PRIVATE CARRIERS.—The Secretary, in providing for the transportation of spent nuclear fuel under this Act, shall utilize by contract private industry to the fullest extent possible in each aspect of such transportation. The Secretary shall use direct federal services for such transportation only upon a determination of the Secretary of Transportation, in consultation with the Secretary, that private industry is unable or unwilling to provide such transportation services at a reasonable cost.

SEC. 204. STATE CONSULTATION AND ASSISTANCE.

(a) PROVISION OF INFORMATION.—(1) The Secretary, the Commission, and other agencies involved in the construction, operation, or regulation of any aspect of the interim storage facility or repository shall provide to the Governor and legislature of Nevada timely and complete information regarding determinations or plans made with respect to the site characterization, siting, development, design, licensing, construction, operation, regulation, or decommissioning of the interim storage facility and repository.

(2) Upon written request for information by the Governor or legislature, the Secretary shall provide a written response to such request within 30 days of the receipt of such request. Such response shall provide the information requested or, in the alternative, the reasons why the information cannot be so provided.

(b) CONSULTATION AND COOPERATION.—In performing any study of the Yucca Mountain site for the purpose of determining the suitability of the site for a repository, in developing and operating the interim storage facility, and in developing and loading the repository, the Secretary shall consult and cooperate with the Governor and legislature of Nevada in an effort to resolve the concerns of the State regarding the public health and safety, environmental, and economic impacts of the interim storage facility or repository. In carrying out her duties under this title, the Secretary shall take such concerns into account to the maximum extent feasible.

(c) FINANCIAL ASSISTANCE.—(1)(A) The Secretary shall make grants to the State of Nevada and any affected unit of local government for purpose of participating in activities required by this section. Any salary or travel expense that would ordinarily be incurred by such State or affected unit of local government, may not be considered eligible for funding under this paragraph.

(B) The Secretary shall make grants to the State of Nevada and any affected unit of local government for purposes of enabling the State or affected unit of local government—

(i) to review activities taken under this title with respect to the Yucca Mountain site for purposes of determining any potential economic, social, public health and safety, and environmental impacts of the interim storage facility or repository on the State or affected unit of local government and its residents;

(ii) to develop a request for impact assistance under paragraph (2);

(iii) to engage in any monitoring, testing, or evaluation activities with respect to site characterization programs with regard to such site;

(iv) to provide information to Nevada residents regarding any activities of such state, the Secretary, or the Commission with respect to such site; and

(v) to request information from, and make comments and recommendations to, the Secretary regarding such activities taken under this subtitle with respect to such site.

(C) Any salary or travel expense that would ordinarily be incurred by the State of Nevada or any affected unit of local government may not be considered eligible for funding under this paragraph.

(2)(A)(i) The Secretary shall provide financial and technical assistance to the State of Nevada and any affected unit of local government requesting such assistance.

(ii) Such assistance shall be designed to mitigate the impact on the State or affected unit of local government of the development of the interim storage facility or repository and the characterization of such site.

(iii) Such assistance to the State or affected unit of local government shall commence upon the initiation of site characterization activities.

(B) The State of Nevada and any affected unit of local government may request assistance under this subsection by preparing and submitting to the Secretary a report on the economic, social, public health and safety, and environmental impacts that are likely to result from site characterization activities at the Yucca Mountain site.

(C) As soon as practicable, the Secretary shall seek to enter into a binding agreement with the State of Nevada setting forth—

(i) the amount of assistance to be provided under this subsection to such state or affected unit of local government; and

(ii) the procedures to be followed in providing such assistance.

(3)(A) In addition to financial assistance provided under paragraph (1) and (2), the Secretary shall grant to the State of Nevada and any affected unit of local government an amount each fiscal year equal to the amount

the State or affected unit of local government, respectively, would receive if authorized to tax site characterization activities at such site, the development and operation of the interim storage facility, and the development and operation of the repository, as the State or affected unit of local government taxes the non-federal real property and industrial activities occurring within the State or affected unit of local government.

(B) Such grants shall continue until such time as the respective activities, development, and operation are terminated at such site.

(4)(A) The State of Nevada or any affected unit of local government may not receive—

(i) any grant with respect to the interim storage facility under paragraph (1) after the expiration of the one-year period following the date on which the Commission disapproves an application for a license to store high-level radioactive waste and spent nuclear fuel at the site; or

(ii) any grant with respect to the site characterization activities or construction of the repository under paragraph (1) after the expiration of the one-year period following the earlier of—

(I) the date on which the Secretary notifies the Governor and legislature of the State of Nevada of the termination of site characterization activities at the Yucca Mountain site; or

(II) the date on which the Commission disapproves an application for a construction authorization for a repository at such site.

(B) The State of Nevada or any affected unit of local government may not receive any further assistance under paragraph (2)—

(i) with respect to the interim storage facility if construction or operation of the interim storage facility are terminated by the Secretary or if such activities are permanently enjoined by any court; or

(ii) with respect to the repository if repository construction activities or site characterization activities are terminated by the Secretary or if such activities are permanently enjoined by any court.

(C) At the end of the 2-year period beginning on the effective date of any license under section 102(c), no federal funds, shall be made available to the State of Nevada or affected unit of local government under paragraph (1) or (2), except for such funds as may be necessary to support State activities pursuant to agreements or contracts for impact assistance entered into under paragraph (2) by the State with the Secretary during such 2-year period.

(5) Financial assistance authorized in this subsection shall be made out of amounts held in the Waste Fund.

SEC. 205. PREEMPTION.

(a) IN GENERAL.—The Secretary shall be subject to and comply with all Federal, State, and local environmental or land use laws, requirements, or orders of general applicability, including those requiring permits or reporting, or those setting standards, criteria, or limitation.

(b) EXEMPTION.—(1) Notwithstanding subsection (a), the President shall exempt the Secretary from any Federal, State, or local requirement (including any law, regulation, or order requiring any license, permit, certification, authorization, or approval, or setting any standard, criterion, or limitation) if the President determines, in his discretion, that—

(A) issuance of the required licensed, permit, certification, authorization, or approval is being unreasonably delayed or denied;

(B) the requirement is not based on credible scientific data, is not generally applicable, or was adopted by formal means; or

(C) the cost of complying with the law, requirement, or order unreasonably exceeds the benefit to the public health and safety or the environment.

(2) In the event the President makes a determination under paragraph (1) with respect to any State requirement (including any requirement of any agency or subdivision of the State) and further determines, in his discretion, that such requirement was imposed for the purpose of delaying or obstructing construction or operation of the interim storage facility, repository, or associated facilities under this Act, the President may exempt the Secretary from all State requirements under this subsection or such portion thereof as the President determines necessary.

TITLE III—FUNDING AND ORGANIZATION

SEC. 301. BUDGET PRIORITIES.

For purposes of preparing annual requests for appropriations from the Waste Fund and allocating appropriated funds among competing requirements, the Secretary shall accord—

(1) the licensing, construction, and operation of the interim storage facility under section 101 the highest priority;

(2) the acquisition of rights of way and the construction and operation of the railroad under section 202 the next highest priority; and

(3) the licensing, construction, and operation of the repository under section 102 the lowest priority.

SEC. 302. NUCLEAR WASTE FUND.

(a) CONTRACTS.—(1) In the performance of his functions under this Act, the Secretary is authorized to enter into contracts with any person who generates or holds title to high-level radioactive waste, or spent nuclear fuel, of domestic origin for the acceptance of title, subsequent transportation, and disposal of such waste or spent fuel. Such contracts shall provide for payment to the Secretary of fees pursuant to paragraphs (2) and (3) sufficient to offset expenditures described in subsection (d).

(2) For electricity generated by a civilian nuclear power reactor and sold on or after the date 90 days after January 7, 1983, the fee under paragraph (1) shall be equal to 1.0 mill per kilowatt-hour.

(3) For spent nuclear fuel, or solidified high-level radioactive waste derived from spent nuclear fuel, which fuel was used to generate electricity in a civilian nuclear power reactor prior to the application of the fee under paragraph (2) to such reactor, the Secretary shall, not later than 90 days after January 7, 1983, establish a 1 time fee per kilogram of heavy metal in spent nuclear fuel, or in solidified high-level radioactive waste. Such fee shall be in an amount equivalent to an average charge of 1.0 mill per kilowatt-hour for electricity generated by such spend nuclear fuel, or such solidified high-level radioactive waste derived therefrom, to be collected from any person delivering such spent nuclear fuel or high-level waste, pursuant to section 402, to the Federal Government. Such fee shall be paid to the Treasury of the United States and shall be deposited in the separate fund established by subsection (c). In paying such a fee, the person delivering spend fuel, or solidified high-level radioactive wastes derived therefrom, to the Federal Government shall have no further financial obligation to the Federal Government for the long-term storage and permanent disposal of such spent fuel, or the solidified high-level radioactive waste derived therefrom.

(4) Not later than 180 days after January 7, 1983, the Secretary shall establish procedures for the collection and payment of the fees establish by paragraph (2) and paragraph (3). The Secretary shall annually review the amount of the fees established by paragraphs (2) and (3) above to evaluate whether collection of the fee will provide sufficient revenues to offset the costs as defined in subsection (d) herein. In the event the Secretary determines that either insufficient or excess revenues are being collected, in order to recover the costs incurred by the Federal Government that are specified in subsection (d), the Secretary shall propose an adjustment to the fee to ensure full cost recovery. The Secretary shall immediately transit this proposal for such an adjustment to Congress. The adjusted fee proposed by the Secretary shall be effective after a period of 90 days of continuous session have elapsed following the receipt of such transmittal unless during such 90-day period either House of Congress adopts a resolution disapproving their Secretary's proposed adjustment in accordance with the procedures set forth for congressional review of an energy action under section 551 of the Energy Policy and Conservation Act.

(5) Contracts entered into under this section shall provide that—

(A) following commencements of operation of a repository, the Secretary shall take title to the high-level radioactive waste or spent nuclear fuel involved as expeditiously as practicable upon the request of the generator or owner of such waste or spent fuel; and

(B) in return for the payment of fees established by this section, the Secretary, beginning not later than January 31, 1998, will dispose of the high-level radioactive waste or spent nuclear fuel involved as provided in title I.

(6) The Secretary shall establish in writing criteria setting forth the terms and conditions under which such disposal services shall be made available.

(b) ADVANCE CONTRACTING REQUIREMENT.—(1)(A) The Commission shall not issue or renew a license to any person to use a utilization or production facility under the authority of section 103 or 104 of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134) unless—

(1) such person has entered into a contract with the Secretary under this section; or

(ii) the Secretary affirms in writing that such person is actively and in good faith negotiating with the Secretary for a contract under this section.

(B) The Commission, as it deems necessary or appropriate, may require as a precondition to the issuance or renewal of a license under section 103 or 104 of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134) that the applicant for such license shall have entered into an agreement with the Secretary for the disposal of high-level radioactive waste and spent nuclear fuel that may result from the use of such license.

(2) Except as provided in paragraph (1), no spent nuclear fuel or high-level radioactive waste generated or owned by any person (other than a department of the United States referred to in section 101 or 102 of title 5, United States Code) may be disposed of by the Secretary in any repository constructed under this Act unless the generator or owner of such spent fuel or waste has entered into a contract with the Secretary under this section by not later than—

(A) June 30, 1983; or

(B) the date on which such generator or owner commences generation of, or takes title to, such spent fuel or waste; whichever occurs later.

(3) The rights and duties of a party to a contract entered into under this section may be assignable with transfer of title to the spent nuclear fuel or high-level radioactive waste involved.

(4) No high-level radioactive waste or spent nuclear fuel generated or owned by any department of the United States referred to in

section 101 or 102 of title 5, United States Code, may be disposed of by the Secretary in any repository constructed under this Act unless such department transfers to the Secretary, for deposit in the Nuclear Waste Fund, amounts equivalent to the fees that would be paid to the Secretary under the contracts referred to in this section if such waste or spent fuel were generated by any other person.

(c) ESTABLISHMENT OF NUCLEAR WASTE FUND.—There hereby is established in the Treasury of the United States a separate fund, to be known as the Nuclear Waste Fund. The Waste Fund shall consist of—

(1) all receipts, proceeds, and recoveries realized by the Secretary under subsections (a),(b), and (e), which shall be deposited in the Waste Fund immediately upon their realization;

(2) any appropriations made by the Congress to the Waste Fund; and

(3) any unexpended balances available on the date of the enactment of this Act for functions or activities necessary or incident to the disposal of civilian high-level radioactive waste or civilian spent nuclear fuel, which shall automatically be transferred to the Waste Fund on such date.

(d) USE OF WASTE FUND.—The Secretary may make expenditures from the Waste Fund, subject to subsection (e), only for purposes of radioactive waste disposal activities under titles I and II, including—

(1) the identification, development, licensing, construction, operation, decommissioning, and post-decommissioning maintenance and monitoring of the interim storage facility or repository constructed under this Act;

(2) the conducting of nongeneric research, development, and demonstration activities under this Act;

(3) the administrative cost of the radioactive waste disposal program;

(4) any costs that may be incurred by the Secretary in connection with the transportation, treating, or packaging of spent nuclear fuel or high-level radioactive waste to be disposed of in the repository or to be stored in the interim storage facility, including the cost of designing and procuring multi-purpose canisters under section 201 and the cost of constructing and operating rail systems under section 202;

(5) the costs associated with acquisition, design, modification, replacement, operation, and construction of facilities at the repository of interim storage facility; and necessary or incident to such repository or interim storage facility; and

(6) the provision of assistance to the State of Nevada, and affected units of local government under section 204.

(e) ADMINISTRATION OF WASTE FUND.—(1) The Secretary of the Treasury shall hold the Waste Fund and, after consultation with the Secretary, annually report to the Congress on the financial condition and operations of the Waste Fund during the preceding fiscal year.

(2) The Secretary shall submit the budget of the Waste Fund to the Office of Management and Budget triennially along with the budget of the Department of Energy submitted at such time in accordance with chapter 11 of title 31, United States Code. The budget of the Waste Fund shall consist of the estimates made by the Secretary of expenditures from the Waste Fund and other relevant financial matters for the succeeding 3 fiscal years, and shall be included in the Budget of the United States Government. The Secretary may make expenditures from the Waste Fund, subject to appropriations which shall remain available until expended. Appropriations shall be subject to triennial authorization.

(3) If the Secretary determines that the Waste Fund contains at any time amounts in excess of current needs, the Secretary may request the Secretary of the Treasury to invest such amounts, or any portion of such amounts as the Secretary determines to be appropriate, in obligations of the United States—

(A) having maturities determined by the Secretary of the Treasury to be appropriate to the needs of the Waste Fund; and

(B) bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the maturities of such investments, except that the interest rate on such investments shall not exceed the average interest rate applicable to existing borrowings.

(4) Receipts, proceeds, and recoveries realized by the Secretary under this section, and expenditures of amounts from the Waste Fund, shall be exempt from annual apportionment under the provisions of subchapter II of chapter 15 of title 31, United States Code.

(5) If at any time the moneys available in the Waste Fund are insufficient to enable the Secretary to discharge his responsibilities under this subtitle, the Secretary shall issue to the Secretary of the Treasury obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be agreed to by the Secretary and the Secretary of the Treasury. The total of such obligations shall not exceed amounts provided in appropriation Acts. Redemption of such obligations shall be made by the Secretary from moneys available in the Waste Fund. Such obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall be not less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the obligations under this paragraph. The Secretary of the Treasury shall purchase any issued obligations, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under such Act are extended to include any purchase of such obligations. The Secretary of the Treasury may at any time sell any of the obligations acquired by him under this paragraph. All redemptions, purchases, and sales by the Secretary of the Treasury of obligations under this paragraph shall be treated as public debt transactions of the United States.

(6) Any appropriations made available to the Waste Fund for any purpose described in subsection (d) shall be repaid into the general fund of the Treasury, together with interest from the date of availability of the appropriations until the date of repayment. Such interest shall be paid on the cumulative amount of appropriations available to the Waste Fund, less the average undisbursed cash balance in the Waste Fund account during the fiscal year involved. The rate of such interest shall be determined by the Secretary of the Treasury taking into consideration the average market yield during the month preceding each fiscal year on outstanding marketable obligations of the United States of comparable maturity. Interest payments may be deferred with the approval of the Secretary of the Treasury, but any interest payments so deferred shall themselves bear interest.

SEC. 303. BUDGET TREATMENT.

(a) SCOREKEEPING.—Notwithstanding any other provision of law, the receipts and disbursements of the Waste Fund for each fiscal year beginning after the date of the enactment of this Act shall be deemed to be equal to the amount of receipts and disbursements in fiscal year 1995 for purposes of—

(1) the budget of the United States Government as submitted by the President;

(2) the congressional budget for the United States Government; and

(3) the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) SEQUESTRATION.—Any disbursement from the Waste Fund shall be exempt from reduction under any order issued under part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

(c) APPROPRIATIONS.—Any disbursement from the Waste Fund shall be subject to appropriations but shall be included in the discretionary spending limits as set forth in section 601 of the Congressional Budget and Impoundment Control Act of 1974 in any fiscal year beginning after the date of the enactment of this Act only to the extent that funds were appropriated from the Waste Fund in fiscal year 1995.

SEC. 304. OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT.

(a) ESTABLISHMENT.—There hereby is established within the Department of Energy an Office of Civilian Radioactive Waste Management. The Office shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate payable for level III of the Executive Schedule under section 5315 of title 5, United States Code.

(b) FUNCTIONS OF DIRECTOR.—The Director of the Office shall be responsible for carrying out the functions of the Secretary under this Act, subject to the general supervision of the Secretary. The Director of the Office shall be directly responsible to the Secretary.

(c) ANNUAL REPORT TO CONGRESS.—The Director of the Office shall annually prepare and submit to the Congress a comprehensive report on the activities and expenditures of the Office.

SEC. 305. DEFENSE CONTRIBUTION.

(a) ALLOCATION.—The Secretary shall determine the appropriate portion of the cost of managing high-level radioactive waste and spent nuclear fuel under this Act allocable to the permanent disposal of high-level radioactive waste from atomic energy defense activities. In addition to any request for an appropriation from the Waste Fund under section 302, the Secretary shall request annual appropriations from general revenues in amounts sufficient to pay the full cost of the permanent disposal of high-level radioactive waste from atomic energy defense activities in the repository.

(b) AUTHORIZATION.—There is authorized to be appropriated to the Secretary, from general revenues, for carrying out the purposes of this Act, such sums as may be necessary to pay the full cost of the permanent disposal of high-level radioactive waste from atomic energy defense activities.

TITLE IV—GENERAL AND MISCELLANEOUS PROVISIONS

SEC. 401. NRC REGULATIONS.

Nothing in this Act shall be read to repeal or require the amendment or repromulgation of Commission regulations of the Commission in effect on the date of enactment of this Act except to the extent such regulations are inconsistent with the provisions of this Act.

SEC. 402. JUDICIAL REVIEW OF AGENCY ACTIONS.

(a) JURISDICTION OF UNITED STATES COURTS OF APPEALS.—(1) Except for review in the Supreme Court of the United States, the United States courts of appeals shall have original and exclusive jurisdiction over any civil action—

(A) for review of any final decision or action of the Secretary, the President, or the Commission under this Act;

(B) alleging the failure of the Secretary, the President, or the Commission to make any decision, or take any action, required under this Act;

(C) challenging the constitutionality of any decision made, or action taken, under any provision of this Act; or

(D) for review of any environmental impact statement prepared or environmental assessment pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to any action under this Act or alleging a failure to prepare such statement with respect to any such action.

(2) The venue of any proceeding under this section shall be in the judicial circuit in which the petitioner involved resides or has its principal office, or in the United States Court of Appeals for the District of Columbia.

(b) DEADLINE FOR COMMENCING ACTION.—A civil action for judicial review described under subsection (a)(1) may be brought not later than the 180th day after the date of the decision or action or failure to act involved, as the case may be, except that if a party shows that he did not know of the decision or action complained of (or of the failure to act), and that a reasonable person acting under the circumstances would not have known, such party may bring a civil action not later than the 180th day after the ate such party acquired actual or constructive knowledge or such decision, action, or failure to act.

SEC. 403. TITLE TO MATERIAL.

Delivery, and acceptance by the Secretary, or any high-level radioactive waste or spent nuclear fuel for the interim storage facility or repository shall constitute a transfer to the Secretary of title to such waste or spent fuel.

SEC. 404. LICENSING OF FACILITY EXPANSIONS AND TRANSSHIPMENTS.

(a) ORAL ARGUMENT.—In any Commission hearing under section 189 of the Atomic Energy Act of 1954 (42 U.S.C. 2239) on an application for a license, or for an amendment to an existing license, filed after January 7, 1983, to expand the spent nuclear fuel storage capacity at the site of a civilian nuclear power reactor, through the use of high-density fuel storage racks, fuel rod compaction, the transshipment of spent nuclear fuel to another civilian nuclear power reactor within the same utility system, the construction of additional spent nuclear fuel pool capacity or dry storage capacity, or by other means, the Commission shall, at the request of any party, provide an opportunity for oral argument with respect to any matter which the Commission determines to be in controversy among the parties. The oral argument shall be preceded by such discovery procedures as the rules of the Commission shall provide. The Commission shall require each party, including the Commission staff, to submit in written form, at the time of the oral argument, a summary of the facts, data, and arguments upon which such party proposes to rely that are known at such time to such party. Only facts and data in the form of sworn testimony or written submission may be relied upon by the parties during oral argument. Of the materials that may be submitted by the parties during oral argument, the Commission shall only consider those facts and data that are submitted in the form of sworn testimony or written submission.

(b) ADJUDICATORY HEARING.—(1) At the conclusion of any oral argument under subsection (a), the Commission shall designate any disputed question of fact, together with any remaining questions of law, for resolution in an adjudicatory hearing only if it determines that—

(A) there is a genuine and substantial dispute of fact which can only be resolved with sufficient accuracy by the introduction of evidence in an adjudicatory hearing; and

(B) the decision of the Commission is likely to depend in whole or in part on the resolution of such dispute.

(2) In making a determination under this subsection, the Commission—

(A) shall designate in writing the specific facts that are in genuine and substantial dispute, the reason why the decision of the agency is likely to depend on the resolution of such facts, and the reason why an adjudicatory hearing is likely to resolve the dispute; and

(B) shall not consider—

(i) any issue relating to the design, construction, or operation of any civilian nuclear power reactor already licensed operate a such site, or any civilian nuclear power reactor to which a construction permit has been granted at such site, unless the Commission determines that any such issue substantially affects the design, construction, or operation of the facility or activity for which such license application, authorization, or amendment is being considered; or

(ii) any siting or design issue fully considered and decided by the Commission in connection with the issuance of a construction permit or operating license for a civilian nuclear power reactor at such site, unless (I) such issue results from any revision of siting or design criteria by the Commission following such decision; and (II) the Commission determines that such issue substantially affects the design, construction, or operation of the facility or activity for which such license application, authorization, or amendment is being considered.

(3) The Provisions of paragraph (2)(B) shall apply only with respect to licenses, authorizations, or amendments to licenses or authorizations, applied for under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) before December 31, 2005.

(4) The provisions of this section shall not apply to the first application for a license or license amendment received by the Commission to expand onsite spend fuel storage capacity by the use of a new technology not previously approved for use at any nuclear powerplant by the Commission.

(c) JUDICIAL REVIEW.—No court shall hold unlawful or set aside a decision of the Commission in any proceeding described in subsection (a) because of a failure by the Commission to use a particular procedure pursuant to this section unless—

(1) an objection to the procedure used was presented to the Commission in a timely fashion or there are extraordinary circumstances that excuse the failure to present a timely objection; and

(2) the court finds that such failure has precluded a fair consideration and informed resolution of a significant issue of the proceeding taken as a whole.

SEC. 405. SITING A SECOND REPOSITORY.

(a) CONGRESSIONAL ACTION REQUIRED.—The Secretary may not conduct site-specific activities with respect to a second repository unless Congress has specifically authorized and appropriated funds for such activities.

(b) REPORT.—The Secretary shall report to the President and to Congress on or after January 1, 2007, but not later than January 1, 2010, on the need for a second repository.

SEC. 406. FINANCIAL ARRANGEMENTS FOR LOW-LEVEL RADIOACTIVE WASTE SITE CLOSURE.

(a) FINANCIAL ARRANGEMENTS.—(1) The Commission shall establish by rule, regulation, or order, after public notice, and in accordance with section 181 of the Atomic Energy Act of 1954 (42 U.S.C. 2231), such standards and instructions as the Commission may deem necessary or desirable to ensure in the case of each license for the disposal of low-level radioactive waste that an adequate bond, surety, or other financial arrangement (as determined by the Commission) will be provided by a licensee to permit completion of all requirements established by the Commission for the decontamination, decommissioning, site closure, and reclamation of sites, structures, and equipment used in conjunction with such low-level radioactive waste. Such financial arrangements shall be provided and approved by the Commission, or, in the case of sites within the boundaries of any agreement State under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021), by the appropriate State or State entity, prior to issuance of licenses for low-level radioactive waste disposal or, in the case of licenses in effect on January 7, 1983, prior to termination of such licenses.

(2) If the Commission determines that any long-term maintenance or monitoring, or both, will be necessary at a site described in paragraph (1), the Commission shall ensure before termination of the license involved that the licensee has made available such bonding, surety, or other financial arrangements as may be necessary to ensure that any necessary long-term maintenance or monitoring needed for such site will be carried out by the person having title and custody for such site following license termination.

(b) TITLE AND CUSTODY.—(1) The Secretary shall have authority to assume title and custody of low-level radioactive waste and the land on which such waste is disposed of, upon request of the owner of such waste and land and following termination of the license issue by the Commission for such disposal, if the Commission determines that—

(A) the requirements of the Commission for site closure, decommissioning, and decontamination have been met by the licensee involved and that such licensee is in compliance with the provisions of subsection (a);

(B) such title and custody will be transferred to the Secretary without cost to the Federal Government; and

(C) Federal ownership and management of such site is necessary or desirable in order to protect the public health and safety, and the environment.

(2) If the Secretary assumes title and custody of any such waste and land under this subsection, the Secretary shall maintain such waste and land in a manner that will protect the public health and safety, and the environment.

(c) SPECIAL SITES.—If the low-level radioactive waste involved is the result of a licensed activity to recover zirconium, hafnium, and rare earths from source material, the Secretary, upon request of the owner of the site involved, shall assume title and custody of such waste and the land on which it is disposed when such site has been decontaminated and stabilized in accordance with the requirements established by the Commission and when such owner has made adequate financial arrangements approved by the Commission for the long-term maintenance and monitoring of such site.

SEC. 407. NUCLEAR REGULATORY COMMISSION TRAINING AUTHORIZATION.

The Commission is authorized and directed to promulgate regulations, or other appropriate regulatory guidance, for the training and qualifications of civilian nuclear powerplant operators, supervisors, technicians, and other appropriate operating personnel. Such regulations or guidance shall establish simulator training requirements for applicants for civilian nuclear powerplant operator licenses and for operator requalification programs; requirements governing Commission administration of requalification examinations; requirements for operating tests at civilian nuclear powerplant simulators, and instructional requirements for civilian nuclear powerplant licensee personnel training programs.

TITLE V—NUCLEAR WASTE TECHNICAL REVIEW BOARD

SEC. 501. DEFINITIONS.

(1)The term ''Chairman'' means the Chairman of the Nuclear Waste Technical Review Board.

(2) The term ''Board'' means the Nuclear Waste Technical Review Board established under section 502.

SEC. 502. NUCLEAR WASTE TECHNICAL REVIEW BOARD.

(a) ESTABLISHMENT.—There is established a Nuclear Waste Technical Review Board that shall be an independent establishment within the executive branch.

(b) MEMBERS.—The Board shall consist of 11 members who shall be appointed by the President not later than 90 days after December 22, 1987, from among persons nominated by the National Academy of Sciences in accordance with paragraph (3).

(2) The President shall designate a member of the Board to serve as chairman.

(3)(A) The National Academy of Sciences shall, not later than 90 days after December 22, 1987, nominate not less than 22 persons for appointment to the Board from among persons who meet the qualifications described in subparagraph (C).

(B) The National Academy of Sciences shall nominate not less than 2 persons to fill any vacancy on the Board from among persons who meet the qualifications described in subparagraph (C).

(C)(i) Each person nominated for appointment to the Board shall be—

(I) eminent in a field of science or engineering, including environmental sciences; and

(II) selected solely on the basis of established records of distinguished service.

(ii) The membership of the Board shall be representatives of the broad range of scientific and engineering disciplines related to activities under this title.

(iii) No person shall be nominated for appointment to the Board who is an employee of—

(I) the Department of Energy;

(II) a national laboratory under contract with the Department of Energy; or

(III) an entity performing high-level radioactive waste or spent nuclear fuel activities under contract with the Department of Energy.

(4) Any vacancy on the Board shall be filled by the nomination and appointment process described in paragraph (1) and (3).

(5) Members of the Board shall be appointed for terms of 4 years, each such term to commence 120 days after December 22, 1987, except that of the 11 members first appointed to the Board, 5 shall serve for 2 years and 6 shall serve for 4 years, to be designated by the President at the time of appointment.

SEC. 503. FUNCTIONS.

The Board shall evaluate the technical and scientific validity of activities undertaken by the Secretary after December 22, 1987, including—

(1) site characterization activities; and

(2) activities relating to the packaging or transportation of high-level radioactive waste or spent nuclear fuel.

SEC. 504. INVESTIGATORY POWERS.

(A) HEARINGS.—Upon request of the Chairman or a majority of the member of the Board, the Board may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Board considers appropriate. Any member of the Board may administer oaths or affirmations to witnesses appearing before the Board.

(b) PRODUCTION OF DOCUMENTS.—(1) Upon the request of the Chairman or a majority of the members of the Board, and subject to existing law, the Secretary (or any contractor of the Secretary) shall provide the Board with such records, files, papers, data, or information as may be necessary to respond to any inquiry of the Board under this title.

(2) Subject to existing law, information obtainable under paragraph (1) shall not be limited to final work products of the Secretary, but shall include drafts of such products and documentation of work in progress.

SEC. 505. COMPENSATION OF MEMBERS.

(A) IN GENERAL.—Each member of the Board shall be paid at the rate of pay payable for level III of the Executive Schedule for each day (including travel time) such member is engaged in the work of the Board.

(b) TRAVEL EXPENSES—Each member of the Board may receive travel expenses, including per diem in lieu of subsidence, in the same manner as is permitted under sections 5702 and 5703 of title 5, United States Code.

SEC. 506. STAFF.

(a) CLERICAL STAFF.—Subject to paragraph (2), the Chairman may appoint and fix the compensation of such clerical staff as may be necessary to discharge the responsibilities of the Board.

(2) Clerical staff shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 3 of such title relating to classification and General Schedule pay rates.

(b) PROFESSIONAL STAFF.—(1) Subject to paragraphs (2) and (3), the Chairman may appoint and fix the compensation of such professional staff as may be necessary to discharge the responsibilities of the Board.

(2) Not more than 10 professional staff members may be appointed under this subsection.

(3) Professional staff members may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS–18 of the General Schedule.

SEC. 507. SUPPORT SERVICES.

(a) GENERAL SERVICES.—To the extent permitted by law and requested by the Chairman, the Administrator of General Services shall provide the Board with necessary administrative services, facilities, and support on a reimbursable basis.

(b) ACCOUNTING, RESEARCH, AND TECHNOLOGY ASSESSMENT SERVICES—The Comptroller General, the Librarian of Congress, and the Director of the Office of Technology Assessment shall, to the extent permitted by law and subject to the availability of funds, provide the Board with such facilities, support, funds and services, including staff, as may be necessary for the effective performance of the functions of the Board.

(c) ADDITIONAL SUPPORT.—Upon the request of the Chairman, the Board may secure directly from the head of any department or agency of the United States information necessary to enable it to carry out this title.

(d) MAILS.—The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(e) EXPERTS AND CONSULTANTS.—Subject to such rules as may be prescribed by the Board, the Chairman may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS–18 of the General Schedule.

SEC. 508. REPORT.

The Board shall report not less than 2 times per year to Congress and the Secretary its findings, conclusions, and recommendations. The first such report shall be submitted not later than 12 months after December 22, 1987.

SEC. 509. AUTHORIZATION OF APPROPRIATIONS.

Notwithstanding subsection (d) of section 302, and subject to subsection (e) of such section, there are authorized to be appropriated for expenditures from amounts in the Waste Fund established in subsection (c) of such section such sums as may be necessary to carry out the provisions of this title.

SEC. 510. TERMINATION OF THE BOARD.

The Board shall cease to exist not later than 1 year after the date on which the Secretary begins disposal of high-level radioactive waste or spent nuclear fuel in the respository.●

By Mr. KENNEDY:

S. 168. A bill to ensure individual and family security through health insurance coverage for all Americans; to the Committee on Labor and Human Resources.

THE AFFORDABLE HEALTH CARE FOR ALL AMERICANS ACT

Mr. KENNEDY. Mr. President, the crisis in health care has not gone away, but hopefully the partisan gridlock that blocked action last year has. Our failure to enact comprehensive reform in 1994 guarantees that this crisis will worsen every year, until Congress finally has the courage to pass a genuine solution.

Last year, despite the economic recovery, the number of Americans without health insurance increased by 1 million. This year, the number of uninsured is certain to increase again. The rise in national health spending was close to $100 billion last year, and total spending will top $1 trillion this year. The main reason the Federal deficit is soaring is that out-of-control health costs continue to drive up Medicare and Medicaid spending faster than anything else in the budget. No American family can be confident that the insurance protecting them today will be there for them tomorrow if serious illness strikes.

Last year, we had the most extensive debate in the Nation's history on comprehensive reform. Committees in both the House and Senate reported out measures that met the two key tests of

real reform—guaranteed health insurance for all Americans and control of health costs. For the first time, comprehensive reform legislation was debated on the floor of the U.S. Senate. In the end we were not successful in passing health reform, but the American people expect us to keep trying until we succeed.

Today I am introducing new legislation to achieve the central goals of reform—the Affordable Health Care for All Americans Act. This legislation builds on what we accomplished in the last Congress, while responding to the criticisms of the various bills proposed.

This legislation will guarantee every American comprehensive, affordable coverage, and it will control health care costs. All employers will be expected to contribute to the cost of coverage for their employees, except for mom and pop small businesses. Subsidies will be provided to help low-income workers and the unemployed. Costs will be controlled by market forces and by improved competition among insurers and providers, with tough backup premium limits in cases where competition fails.

At the same time, the legislation responds to criticisms made in the last Congress that the bills reported by the committees tried to do too much and were excessively regulatory and bureaucratic. The legislation I am introducing today is one-third the length of the bill reported by the Labor and Human Resources Committee in the last Congress. It does not include proposals that are desirable but that can be considered more carefully on a separate legislative track. It eliminates most new boards and commissions, and it adopts, in large measure, the market reform and oversight structure included in last year's bipartisan mainstream proposal.

This legislation will guarantee affordable, comprehensive health care for every citizen through a system of shared responsibility among individuals, businesses, and the Government. Employers are required to contribute to the cost of insurance for their employees and their families, and individuals are expected to contribute to the cost of their own coverage and the coverage of their dependents. Subsidies are provided for low-income workers and the unemployed.

This measure also provides assistance to businesses for the cost of covering low-wage workers, with greater assistance for smaller, low-wage businesses that have the most difficulty in affording a full contribution to the cost. In addition, small businesses with 10 workers or less and below average wages are exempt from the requirements, and special help is provided to assure affordability for the employees of these businesses. One hundred percent tax deductibility is provided for health insurance premiums paid by the self-employed. People who now rely on Medicaid for coverage of acute care services will participate in the same private health insurance system as all other Americans. Insurance reforms eliminate preexisting condition exclusion and provide guaranteed issue and renewability at affordable prices.

Elderly Americans and disabled Americans will benefit from substantial provisions on long-term home care and community care. The bill closes the greatest current gap in Medicare by providing prescription drug coverage. It also establishes a new, voluntary program of insurance against the high cost of nursing home care. Such insurance will be available at a reasonable price to anyone 35 or older.

The bill controls health care costs by improving the health care market. Reforms here will require insurers to complete by providing care more efficiently and effectively, rather than by trying to insure only those least likely to get sick. The bill relies primarily on competition to hold down spending, but it also recognizes that excessive inflation is deeply embedded in the health care system and that competition will work more quickly in some health care markets than others. A backup system of premium limits is included in case competition forces are ineffective in restraining inflation. A reform of medical malpractice is also included.

Finally, the bill recognizes that an insurance card alone is not enough to assure access or protect quality. Increased funding is provided to assure the viability of the Nation's teaching hospitals, to expand access to care through community health centers and school health clinics, and to support biomedical research.

The bill is financed without broad-based new taxes. The basic financing comes from premiums paid by individuals and businesses, as is the case today. The subsidies for low-income individuals and small businesses are financed by lower rates of increase and other savings in existing government health programs and by an increase in the cigarette tax.

To respond to criticisms that the bills in the last Congress tried to do too much, the legislation focuses only on those aspects of last year's bills that are truly central to reform. Proposals that are desirable but less essential have been eliminated from the bill, such as those dealing with administrative simplification, privacy, health care fraud and abuse, new regulation of private long-term care insurance, and new remedies for disputes between insurance companies and individuals.

Most important, this legislation eliminates much of what was criticized as excessive bureaucracy and regulation. A great deal of this criticism each disingenuous, but we have made a new effort to eliminate unnecessary burdens on individuals, businesses, and State governments. The insurance reform and oversight is based on the proposal developed by the bipartisan mainstream group. Most of the new board and commissions created in the earlier bills have been dropped, and essential functions given to existing agencies. The standard benefit package has been eliminated and replaced by a test of actuarial equivalency to the insurance program that protects most Members of Congress, with assurances of attention to high priority needs. Mandatory health alliances have been eliminated in favor of voluntary health insurance purchasing cooperatives, and the size of businesses required to participate in the community rating pool has been reduced to 100 employees or fewer.

Obviously, this legislation will be modified as it moves through Congress. But I believe it builds effectively on the progress we made in the last 2 years, without sacrificing fundamental goals.

All industrialized countries in the world except South Africa and the United States guarantee health care as a basic right for all citizens. The American people deserve the same health security, and it is time for Congress to provide it.

By Mr. DASCHLE (for himself, Mr. BINGAMAN, Mr. CAMPBELL, Mr. KERRY, Mr. REID, and Mr. INOUYE):

S. 170. A bill to amend the Public Health Service Act to provide a comprehensive program for the prevention of Fetal Alcohol Syndrome, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DASCHLE (for himself, Mr. SIMON, Mr. KENNEDY, Mr. KERRY, Mr. REID, and Mr. AKAKA):

S. 171. A bill to amend title XIX of the Social Security Act to provide for coverage of alcoholism and drug dependency residential treatment services for pregnant women and certain family members under the Medicaid Program, and for other purposes; to the Committee on Finance.

FETAL ALCOHOL SYNDROME AND FETAL ALCOHOL EFFECT LEGISLATION

Mr. DASCHLE. Mr. President, today I am reintroducing the Comprehensive Fetal Alcohol Syndrome Prevention Act and the Medicaid Substance Abuse Treatment Act, legislation that will enhance our national effort to eliminate the tragic problem of Fetal Alcohol Syndrome [FAS] and the related condition known as Fetal Alcohol Effect [FAE].

FAS–FAE constitute the leading cause of mental retardation in the United States today. Although both conditions are completely preventable simply by abstaining from the consumption of alcohol during pregnancy, many people unfortunately do not realize the dangers of drinking while pregnant. The Office for Substance Abuse Prevention estimates that as many as 66 percent of all women drink while they are pregnant, endangering their infants' health and putting them at risk of being born with FAS or FAE.

Misconceptions about the impact of alcohol intake during pregnancy are not limited to the general public, however. Even some health care providers are unaware of the danger of drinking during pregnancy, and for many years it was widely held that moderate alcohol consumption during pregnancy was beneficial.

There are approximately 5,000 children born each year in the United States with FAS. It is estimated that the incidence of FAS is as high as 1 per 100 in some Native American communities. The Centers for Disease Control and Prevention estimates that the lifetime cost of treating an individual with FAS is almost $1.4 million. The total cost in terms of health care and social services to treat all Americans with FAS is close to $1.6 billion each year. This is an extraordinary and unnecessary expense, given the fact that FAS is 100 percent preventable.

The first step toward eliminating this devastating disease is raising the public's consciousness about FAS–FAE. Although great strides have been made in this regard, much more work remains to be done. The Comprehensive Fetal Alcohol Syndrome Prevention Act attempts to fill in the gaps in our current FAS–FAE prevention system. It contains four major components, representing the provisions of the original legislation that have not yet been enacted. These provisions include the initiaion of a coordinated education and public awareness campaign; increased support for basic and applied epidemiologic research into the causes, treatment and prevention of FAS–FAE; widespread dissemination of FAS–FAE diagnostic criteria; and the establishment of an interagency task force to coordinate the wide range of Federal efforts in combating FAS—FAE. I ask that a summary of the bill be inserted into the RECORD following the completion of my remarks.

A prevention strategy cannot succeed in the absence of increased access to comprehensive treatment programs for pregnant addicted women so that women and their children can access care. Many pregnant substance abusers are denied treatment because facilities refuse to accept them, or the women cannot accept treatment because they lack adequate child care for their children while they receive treatment. In fact, many treatment programs specifically exclude pregnant women or women with children. To make matters worse, while Medicaid covers some services associated with substance abuse, like outpatient treatment and detoxification, it fails to cover residential treatment, which is considered by most health care professionals to be the most effective method of overcoming addiction.

The Medicaid Substance Abuse Treatment Act would permit coverage of residential alcohol and drug treatment for pregnant women and certain family members under the Medicaid Program, thereby assuring a stable source of funding for States that wish to establish these programs. The bill has three primary objectives. First, it would facilitate the participation of pregnant women who are substance abusers in alcohol and drug treatment programs. Second, by increasing the availability of comprehensive and effective treatment programs for pregnant women and, thus, improving a woman's chances of bearing healthy children, it would help combat the serious and evergrowing problem of drug-impaired infants and children, many of whom are born with FAS and FAE. And, third, it would address the unique situation of pregnant addicted native American and Alaska Native women in Indian Health Service areas.

Mr. President, the cost of prevention is substantially less than the downstream costs in money and human capital of caring for children and adults who have been impaired due to prenatal exposure to alcohol and drugs. These prevention and treatment services are an investment that yields substantial long-term dividends—both on a societal level, as welfare dependence by substance abusers and their children is reduced, and on an individual level, as mothers plagued by alcohol and drug addiction are given the means to heal, for themselves and their unborn children.

FAS and FAE represent a national tragedy that reaches across economic and social boundaries. The demand for a comprehensive and determined response to this devastating problem is clear. I urge my colleagues to support these measures, and am hopeful that, with widespread support, we can enact this important legislation without delay. I ask unanimous consent that the full text of both bills and a summary be printed in the RECORD.

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

S. 170

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 ''Comprehensive Fetal Alcohol Syndrome Prevention Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) Fetal Alcohol Syndrome is the leading known cause of mental retardation, and it is 100 percent preventable;

(2) each year, more than 5,000 infants are born in the United States with Fetal Alcohol Syndrome, suffering irreversible physical and mental damage;

(3) thousands more infants are born each year with Fetal Alcohol Effects, which are lesser, though still serious, alcohol-related birth defects;

(4) Fetal Alcohol Syndrome and Fetal Alcohol Effects are national problems which can impact any child, family, or community, but their threat to American Indians and Alaska Natives is especially alarming;

(5) in some American Indian communities, where alcohol dependency rates reach 50 percent and above, the chances of a newborn suffering Fetal Alcohol Syndrome or Fetal Alcohol Effects are 30 times greater than national averages;

(6) in addition to the immeasurable toll on children and their families, Fetal Alcohol Syndrome and Fetal Alcohol Effects pose extraordinary financial costs to the Nation, including the costs of health care, education, foster care, job training, and general support services for affected individuals;

(7) as a reliable comparison, delivery and care costs are four times greater for infants who were exposed to illicit substances than for infants with no indication of substance exposure, and over a lifetime, health care costs for one Fetal Alcohol Syndrome child are estimated to be at least $1,400,000;

(8) researchers have determined that the possibility of giving birth to a baby with Fetal Alcohol Syndrome or Fetal Alcohol Effects increases in proportion to the amount and frequency of alcohol consumed by a pregnant woman, and that stopping alcohol consumption at any point in the pregnancy reduces the risks and the emotional, physical, and mental consequences of alcohol exposure to the baby; and

(9) we know of no safe dose of alcohol during pregnancy, or of any safe time to drink during pregnancy, thus, it is in the best interest of the Nation for the Federal Government to take an active role in encouraging all women to abstain from alcohol consumption during pregnancy.

SEC. 3. PURPOSE.

It is the purpose of this Act to establish, within the Department of Health and Human Services, a comprehensive program to help prevent Fetal Alcohol Syndrome and Fetal Alcohol Effects nationwide. Such program shall—

(1) coordinate, support, and conduct basic and applied epidemiologic research concerning Fetal Alcohol Syndrome and Fetal Alcohol Effects;

(2) coordinate, support, and conduct national, State, and community-based public awareness, prevention, and education programs on Fetal Alcohol Syndrome and Fetal Alcohol Effects; and

(3) foster coordination among all Federal agencies that conduct or support Fetal Alcohol Syndrome and Fetal Alcohol Effects research, programs, and surveillance and otherwise meet the general needs of populations actually or potentially impacted by Fetal Alcohol Syndrome and Fetal Alcohol Effects.

SEC. 4. ESTABLISHMENT OF PROGRAM.

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by adding at the end thereof the following new part:

''PART O—FETAL ALCOHOL SYNDROME PREVENTION PROGRAM

''SEC. 399G. ESTABLISHMENT OF FETAL ALCOHOL SYNDROME PREVENTION PROGRAM.

''(a) FETAL ALCOHOL SYNDROME PREVENTION PROGRAM.—The Secretary shall establish a comprehensive Fetal Alcohol Syndrome and Fetal Alcohol Effects prevention program that shall include—

''(1) an education and public awareness program to—

''(A) support, conduct, and evaluate the effectiveness of—

''(i) training programs concerning the prevention, diagnosis, and treatment of Fetal Alcohol Syndrome and Fetal Alcohol Effects;

''(ii) prevention and education programs, including school health education and school-based clinic programs for school-age children, concerning Fetal Alcohol Syndrome and Fetal Alcohol Effects; and

''(iii) public and community awareness programs concerning Fetal Alcohol Syndrome and Fetal Alcohol Effects;

''(B) provide technical and consultative assistance to States, Indian tribal governments, local governments, scientific and academic institutions, and nonprofit organizations concerning the programs referred to in subparagraph (A); and

''(C) award grants to, and enter into cooperative agreements and contracts with, States, Indian tribal governments, local governments, scientific and academic institutions, and nonprofit organizations for the purpose of—

''(i) evaluating the effectiveness, with particular emphasis on the cultural competency and age-appropriateness, of programs referred to in subparagraph (A);

''(ii) providing training in the prevention, diagnosis, and treatment of Fetal Alcohol Syndrome and Fetal Alcohol Effects;

''(iii) educating school-age children, including pregnant and high-risk youth, concerning Fetal Alcohol Syndrome and Fetal Alcohol Effects, with priority given to programs that are part of a sequential, comprehensive school health education program; and

''(iv) increasing public and community awareness concerning Fetal Alcohol Syndrome and Fetal Alcohol Effects through culturally competent projects, programs, and campaigns, and improving the understanding of the general public and targeted groups concerning the most effective intervention methods to prevent fetal exposure to alcohol;

''(2) an applied epidemiologic research and prevention program to—

''(A) support and conduct research on the causes, mechanisms, diagnostic methods, treatment, and prevention of Fetal Alcohol Syndrome and Fetal Alcohol Effects;

''(B) provide technical and consultative assistance and training to States, Tribal governments, local governments, scientific and academic institutions, and nonprofit organizations engaged in the conduct of—

''(i) Fetal Alcohol Syndrome prevention and early intervention programs; and

''(ii) research relating to the causes, mechanisms, diagnosis methods, treatment, and prevention of Fetal Alcohol Syndrome and Fetal Alcohol Effects; and

''(C) award grants to, and enter into cooperative agreements and contracts with, States, Indian tribal governments, local governments, scientific and academic institutions, and nonprofit organizations for the purpose of—

''(i) conducting innovative demonstration and evaluation projects designed to determine effective strategies, including community-based prevention programs and multicultural education campaigns, for preventing and intervening in fetal exposure to alcohol;

''(ii) improving and coordinating the surveillance and ongoing assessment methods implemented by such entities and the Federal Government with respect to Fetal Alcohol Syndrome and Fetal Alcohol Effects;

''(iii) developing and evaluating effective age-appropriate and culturally competent prevention programs for children, adolescents, and adults identified as being at-risk of becoming chemically dependent on alcohol and associated with or developing Fetal Alcohol Syndrome and Fetal Alcohol Effects; and

''(iv) facilitating coordination and collaboration among Federal, State, local government, Indian tribal, and community-based Fetal Alcohol Syndrome prevention programs;

''(3) a basic research program to support and conduct basic research on services and effective prevention treatments and interventions for pregnant alcohol-dependent women and individuals with Fetal Alcohol Syndrome and Fetal Alcohol Effects;

''(4) a procedure for disseminating the Fetal Alcohol Syndrome and Fetal Alcohol Effects diagnostic criteria developed pursuant to section 705 of the ADAMHA Reorganization Act (42 U.S.C. 485n note) to health care providers, educators, social workers, child welfare workers, and other individuals; and

''(5) the establishment, in accordance with subsection (b), of an interagency task force on Fetal Alcohol Syndrome and Fetal Alcohol Effects to foster coordination among all Federal agencies that conduct or support Fetal Alcohol Syndrome and Fetal Alcohol Effects research, programs, and surveillance, and otherwise meet the general needs of populations actually or potentially impacted by Fetal Alcohol Syndrome and Fetal Alcohol Effects.

''(b) INTERAGENCY TASK FORCE.—

''(1) MEMBERSHIP.—The Task Force established pursuant to paragraph (5) of subsection (a) shall—

''(A) be chaired by the Secretary or a designee of the Secretary, and staffed by the Administration; and

''(B) include representatives from all relevant agencies and offices within the Department of Health and Human Services, the Department of Agriculture, the Department of Education, the Department of Defense, the Department of the Interior, the Department of Justice, the Department of Veterans Affairs, the Bureau of Alcohol, Tobacco and Firearms, the Federal Trade Commission, and any other relevant Federal agency.

''(2) FUNCTIONS.—The Task Force shall—

''(A) coordinate all Federal programs and research concerning Fetal Alcohol Syndrome and Fetal Alcohol Effects, including programs that—

''(i) target individuals, families, and populations identified as being at risk of acquiring Fetal Alcohol Syndrome and Fetal Alcohol Effects; and

''(ii) provide health, education, treatment, and social services to infants, children, and adults with Fetal Alcohol Syndrome and Fetal Alcohol Effects;

''(B) coordinate its efforts with existing Department of Health and Human Services task forces on substance abuse prevention and maternal and child health; and

''(C) report on a biennial basis to the Secretary and relevant committees of Congress on the current and planned activities of the participating agencies.

''SEC. 399H. ELIGIBILITY.

''To be eligible to receive a grant, or enter into a cooperative agreement or contract under this part, an entity shall—

''(1) be a State, Indian tribal government, local government, scientific or academic institution, or nonprofit organization; and

''(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may prescribe, including a description of the activities that the entity intends to carry out using amounts received under this part.

''SEC. 399I. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this part, such sums as are necessary for each of the fiscal years 1995 through 1998.''.

S. 171

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 ''Medicaid Substance Abuse Treatment Act''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) a woman's ability to bear healthy children is threatened by the consequences of alcoholism and drug addiction;

(2) an estimated 375,000 infants each year are born drug-exposed, at least 5,000 infants are born each year with fetal alcohol syndrome, and another 35,000 are born each year with fetal alcohol effect, a less severe version of fetal alcohol syndrome;

(3) drug use during pregnancy can result in low birthweight, physical deformities, mental retardation, learning disabilities, and heightened nervousness and irritability in newborns;

(4) fetal alcohol syndrome is the leading identifiable cause of mental retardation in the United States and the only cause that is 100 percent preventable;

(5) drug-impaired individuals pose extraordinary societal costs in terms of medical, educational, foster care, residential, and support services over the lifetimes of such individuals;

(6) women, in general, are underrepresented in drug and alcohol treatment programs;

(7) due to fears among service providers concerning the risks pregnancies pose, pregnant women face more obstacles to substance abuse treatment than do other addicts and many substance abuse treatment programs, in fact, exclude pregnant women or women with children;

(8) alcohol and drug treatment is an important prevention strategy to prevent low birthweight, transmission of AIDS, and chronic physical, mental, and emotional disabilities associated with prenatal exposure to alcohol and other drugs;

(9) effective substance abuse treatment must address the special needs of pregnant women who are alcohol or drug dependent, including substance-abusing women who may often face such problems as domestic violence, incest and other sexual abuse, poor housing, poverty, unemployment, lack of education and job skills, lack of access to health care, emotional problems, chemical dependency in their family backgrounds, single parenthood, and the need to ensure child care for existing children while undergoing substance abuse treatment;

(10) nonhospital residential treatment is an important component of comprehensive and effective substance abuse treatment for pregnant addicted women, many of whom need long-term, intensive habilitation outside of their communities to recover from their addiction and take care of themselves and their families; and

(11) a gap exists under the medicaid program for the financing of comprehensive residential care in the existing continuum of medicaid-covered alcoholism and drug abuse treatment services for low-income pregnant addicted women.

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

(1) to increase the ability of pregnant women who are substance abusers to participate in alcohol and drug treatment;

(2) to ensure the availability of comprehensive and effective treatment programs for pregnant women, thus promoting a woman's ability to bear healthy children;

(3) to ensure that nonhospital residential treatment is available to those low-income pregnant addicted women who need long-term, intensive habilitation to recover from their addiction;

(4) to create a new optional medicaid residential treatment service for alcoholism and drug dependency treatment; and

(5) to define the core services that must be provided by treatment providers to ensure

that needed services will be available and appropriate.

SEC. 3. MEDICAID COVERAGE OF ALCOHOLISM AND DRUG DEPENDENCY RESIDENTIAL TREATMENT SERVICES FOR PREGNANT WOMEN, CARETAKER PARENTS, AND THEIR CHILDREN.

(a) COVERAGE OF ALCOHOLISM AND DRUG DEPENDENCY RESIDENTIAL TREATMENT SERVICES.—

(1) OPTIONAL COVERAGE.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended—

(A) in subsection (a)—

(i) by striking ''and'' at the end of paragraph (21);

(ii) in paragraph (24), by striking the period at the end and inserting a semicolon;

(iii) by redesignating paragraphs (22), (23), and (24) as paragraphs (25), (22), and (23), respectively, and by transferring and inserting paragraph (25) after paragraph (23), as so redesignated; and

(iv) by inserting after paragraph (23) the following new paragraph:

''(24) alcoholism and drug dependency residential treatment services (to the extent allowed and as defined in section 1931); and''; and

(B) in the sentence following paragraph (25), as so redesignated—

(i) in subdivision (A), by striking ''or'' at the end;

(ii) in subdivision (B), by inserting '', who is not receiving alcoholism and drug dependency residential treatment services,'' after ''65 years of age''; and

(iii) by inserting after subdivision (B) the following:

''(C) any such payments with respect to alcoholism and drug dependency residential treatment services under paragraph (24) for individuals not described in section 1931(d).''.

(2) ALCOHOLISM AND DRUG DEPENDENCY RESIDENTIAL TREATMENT SERVICES DEFINED.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended by adding at the end the following new section:

''ALCOHOLISM AND DRUG DEPENDENCY RESIDENTIAL TREATMENT SERVICES

''SEC. 1931. (a) ALCOHOLISM AND DRUG DEPENDENCY RESIDENTIAL TREATMENT SERVICES.—The term 'alcoholism and drug dependency residential treatment services' means all the required services described in subsection (b) which are provided—

''(1) in a coordinated manner by a residential treatment facility that meets the requirements of subsection (c) either directly or through arrangements with—

''(A) public and nonprofit private entities;

''(B) licensed practitioners or federally qualified health centers with respect to medical services; or

''(C) the Indian Health Service or a tribal or Indian organization that has entered into a contract with the Secretary under section 102 of the Indian Self-Determination Act (25 U.S.C. 450f) or section 502 of the Indian Health Care Improvement Act (25 U.S.C. 1652) with respect to such services provided to women eligible to receive services in Indian Health Facilities; and

''(2) pursuant to a written individualized treatment plan prepared for each individual, which plan—

''(A) states specific objectives necessary to meet the individual's needs;

''(B) describes the services to be provided to the individual to achieve those objectives;

''(C) is established in consultation with the individual;

''(D) is periodically reviewed and (as appropriate) revised by the staff of the facility in consultation with the individual;

''(E) reflects the preferences of the individual; and

''(F) is established in a manner which promotes the active involvement of the individual in the development of the plan and its objectives.

''(b) REQUIRED SERVICES DEFINED.—

''(1) IN GENERAL.—The required services described in this subsection are as follows:

''(A) Counseling, addiction education, and treatment provided on an individual, group, and family basis and provided pursuant to individualized treatment plans, including the opportunity for involvement in Alcoholics Anonymous and Narcotics Anonymous.

''(B) Parenting skills training.

''(C) Education concerning prevention of HIV infection.

''(D) Assessment of each individual's need for domestic violence counseling and sexual abuse counseling and provision of such counseling where needed.

''(E) Room and board in a structured environment with on-site supervision 24 hours-a-day.

''(F) Therapeutic child care or counseling for children of individuals in treatment.

''(G) Assisting parents in obtaining access to—

''(i) developmental services (to the extent available) for their preschool children;

''(ii) public education for their school-age children, including assistance in enrolling them in school; and

''(iii) public education for parents who have not completed high school.

''(H) Facilitating access to prenatal and postpartum health care for women, to pediatric health care for infants and children, and to other health and social services where appropriate and to the extent available, including services under title V, services and nutritional supplements provided under the special supplemental food program for women, infants, and children (WIC) under section 17 of the Child Nutrition Act of 1966, services provided by federally qualified health centers, outpatient pediatric services, well-baby care, and early and periodic screening, diagnostic, and treatment services (as defined in section 1905(r)).

''(I) Ensuring supervision of children during times their mother is in therapy or engaged in other necessary health or rehabilitative activities, including facilitating access to child care services under title IV and title XX.

''(J) Planning for and counseling to assist reentry into society, including appropriate outpatient treatment and counseling after discharge (which may be provided by the same program, if available and appropriate) to assist in preventing relapses, assistance in obtaining suitable affordable housing and employment upon discharge, and referrals to appropriate educational, vocational, and other employment-related programs (to the extent available).

''(K) Continuing specialized training for staff in the special needs of residents and their children, designed to enable such staff to stay abreast of the latest and most effective treatment techniques.

''(2) REQUIREMENT FOR CERTAIN SERVICES.—Services under subparagraphs (A), (B), (C), and (D), of paragraph (1) shall be provided in a cultural context that is appropriate to the individuals and in a manner that ensures that the individuals can communicate effectively, either directly or through interpreters, with persons providing services.

''(3) LIMITATIONS ON COVERAGE.—

''(A) IN GENERAL.—Subject to subparagraph (B), services described in paragraph (1) shall be covered in the amount, duration, and scope therapeutically required for each eligible individual in need of such services.

''(B) RESTRICTIONS ON LIMITING COVERAGE.—A State plan shall not limit coverage of alcoholism and drug dependency residential treatment services for any period of less than 12 months per individual, except in those instances where a finding is made that such services are no longer therapeutically necessary for an individual.

''(c) FACILITY REQUIREMENTS.—The requirements of this subsection with respect to a facility are as follows:

''(1) The agency designated by the chief executive officer of the State to administer the State's alcohol and drug abuse prevention and treatment activities and programs has certified to the single State agency under section 1902(a)(5) that the facility—

''(A) is able to provide all the services described in subsection (b) either directly or through arrangements with—

''(i) public and nonprofit private entities;

''(ii) licensed practitioners or federally qualified health centers with respect to medical services; or

''(iii) the Indian Health Service or with a tribal or Indian organization that has entered into a contract with the Secretary under section 102 of the Indian Self-Determination Act (25 U.S.C. 450f) or section 502 of the Indian Health Care Improvement Act (25 U.S.C. 1652) with respect to such services provided to women eligible to receive services in Indian Health Facilities; and

''(B) except for Indian Health Facilities, meets all applicable State licensure or certification requirements for a facility of that type.

''(2)(A) The facility or a distinct part of the facility provides room and board, except that—

''(i) subject to subparagraph (B), the facility shall have no more than 40 beds; and

''(ii) subject to subparagraph (C), the facility shall not be licensed as a hospital.

''(B) The single State agency may waive the bed limit under subparagraph (A)(i) for one or more facilities subject to review by the Secretary. Waivers, where granted, must be made pursuant to standards and procedures set out in the State plan and must require the facility seeking a waiver to demonstrate that—

''(i) the facility will be able to maintain a therapeutic, family-like environment;

''(ii) the facility can provide quality care in the delivery of each of the services identified in subsection (b);

''(iii) the size of the facility will be appropriate to the surrounding community; and

''(iv) the development of smaller facilities is not feasible in that geographic area.

''(C) The Secretary may waive the requirement under subparagraph (A)(ii) that a facility not be a hospital, if the Secretary finds that such facility is located in an Indian Health Service area and that such facility is the only or one of the only facilities available in such area to provide services under this section.

''(3) With respect to a facility providing the services described in subsection (b) to an individual eligible to receive services in Indian Health Facilities, such a facility demonstrates (as required by the Secretary) an ability to meet the special needs of Indian and Native Alaskan women.

''(d) ELIGIBLE INDIVIDUALS.—

''(1) IN GENERAL.—A State plan shall limit coverage of alcoholism and drug dependency residential treatment services under section 1905(a)(24) to the following individuals otherwise eligible for medical assistance under this title:

''(A) Women during pregnancy, and until the end of the 12th month following the termination of the pregnancy.

''(B) Children of a woman described in subparagraph (A).

''(C) At the option of a State, a caretaker parent or parents and children of such a parent.

''(2) INITIAL ASSESSMENT OF ELIGIBLE INDIVIDUALS.—An initial assessment of eligible individuals specified in paragraph (1) seeking alcoholism and drug dependency residential treatment services shall be performed by the agency designated by the chief executive officer of the State to administer the State's alcohol and drug abuse treatment activities (or its designee). Such assessment shall determine whether such individuals are in need of alcoholism or drug dependency treatment services and, if so, the treatment setting (such as inpatient hospital, nonhospital residential, or outpatient) that is most appropriate in meeting such individual's health and therapeutic needs and the needs of such individual's dependent children, if any.

''(e) OVERALL CAP ON MEDICAL ASSISTANCE AND ALLOCATION OF BEDS.—

''(1) TOTAL AMOUNT OF SERVICES AS MEDICAL ASSISTANCE.—

''(A) IN GENERAL.—The total amount of services provided under this section as medical assistance for which payment may be made available under section 1903 shall be limited to the total number of beds allowed to be allocated for such services in any given year as specified under subparagraph (B).

''(B) TOTAL NUMBER OF BEDS.—The total number of beds allowed to be allocated under this subparagraph (subject to paragraph (2)(C)) for the furnishing of services under this section and for which Federal medical assistance may be made available under section 1903 is for calendar year—

''(i) 1995, 1,080 beds;

''(ii) 1996, 2,000 beds;

''(iii) 1997, 3,500 beds;

''(iv) 1998, 5,000 beds;

''(v) 1999, 6,000 beds; and

''(vi) 2000 and for calendar years thereafter, a number of beds determined appropriate by the Secretary.

''(2) ALLOCATION OF BEDS.—

''(A) INITIAL ALLOCATION FORMULA.—For each calendar year, a State exercising the option to provide the services described in this section shall be allocated from the total number of beds available under paragraph (1)(B)—

''(i) in calendar years 1995 and 1996, 20 beds;

''(ii) in calendar years 1997, 1998, and 1999, 40 beds; and

''(iii) in calendar year 2000 and for each calendar year thereafter, a number of beds determined based on a formula (as provided by the Secretary) distributing beds to States on the basis of the relative percentage of women of childbearing age in a State.

''(B) REALLOCATION OF BEDS.—The Secretary shall provide that in allocating the number of beds made available to a State for the furnishing of services under this section that, to the extent not all States are exercising the option of providing services under this section and there are beds available that have not been allocated in a year as provided in paragraph (1)(B), that such beds shall be reallocated among States which are furnishing services under this section based on a formula (as provided by the Secretary) distributing beds to States on the basis of the relative percentage of women of childbearing age in a State.

''(C) INDIAN HEALTH SERVICE AREAS.—In addition to the beds allowed to be allocated under paragraph (1)(B) there shall be an additional 20 beds allocated in any calendar year to States for each Indian Health Service area within the State to be utilized by Indian Health Facilities within such an area and, to the extent such beds are not utilized by a State, the beds shall be reapportioned to Indian Health Service areas in other States.''.

(3) MAINTENANCE OF STATE FINANCIAL EFFORT AND 100 PERCENT FEDERAL MATCHING FOR SERVICES FOR INDIAN AND NATIVE ALASKAN WOMEN IN INDIAN HEALTH SERVICES AREAS.—Section 1903 of the Social Security Act (42 U.S.C. 1396b) is amended by adding at the end the following new subsections:

''(x) No payment shall be made to a State under this section in a State fiscal year for alcoholism and drug dependency residential treatment services (described in section 1931) unless the State provides assurances satisfactory to the Secretary that the State is maintaining State expenditures for such services at a level that is not less than the average annual level maintained by the State for such services for the 2-year period preceding such fiscal year.

''(y) Notwithstanding the preceding provisions of this section, the Federal medical assistance percentage for purposes of payment under this section for services described in section 1931 provided to individuals residing on or receiving services in an Indian Health Service area shall be 100 percent.''.

(b) PAYMENT ON A COST-RELATED BASIS.—Section 1902(a)(13) of the Social Security Act (42 U.S.C. 1396a(a)(13)) is amended—

(1) by striking ''and'' at the end of subparagraph (E);

(2) by adding ''and'' at the end of subparagraph (F); and

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

''(G) for payment for alcoholism and drug dependency residential treatment services which the State finds, and makes assurances satisfactory to the Secretary, are reasonable and adequate to meet the costs which must be incurred by efficiently and economically operated facilities in order to provide all the services listed in section 1931(b) in conformity with applicable Federal and State laws, regulations, and quality and safety standards and to assure that individuals eligible for such services have reasonable access to such services;''.

(c) CONFORMING AMENDMENTS.—

(1) CLARIFICATION OF OPTIONAL COVERAGE FOR SPECIFIED INDIVIDUALS.—Section 1902(a)(10) of the Social Security Act (42 U.S.C. 1396a(a)(10)) is amended, in the matter following subparagraph (F)—

(A) by striking ''; and (XI)'' and inserting '', (XI)'';

(B) by striking '', and (XI)'' and inserting '', and (XII)''; and

(C) by inserting before the semicolon at the end the following: '', and (XIII) the making available of alcoholism and drug dependency residential treatment services to individuals described in section 1931(d) shall not, by reason of this paragraph, require the making of such services available to other individuals''.

(2) CONTINUATION OF ELIGIBILITY FOR ALCOHOLISM AND DRUG DEPENDENCY TREATMENT FOR PREGNANT WOMEN FOR 12 MONTHS FOLLOWING END OF PREGNANCY.—Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended in subsection (e)(5) by striking ''under the plan,'' and all through the period at the end and inserting ''under the plan—

''(A) as though she were pregnant, for all pregnancy-related and postpartum medical assistance under the plan, through the end of the month in which the 60-day period (beginning on the last day of her pregnancy) ends; and

''(B) for alcoholism and drug dependency residential treatment services under section 1931 through the end of the 1-year period beginning on the last day of her pregnancy.''.

(3) REDESIGNATIONS.—Section 1902 of the Social Security Act (42 U.S.C. 1396a) is further amended—

(A) in subsection (a)(10)(C)(iv), by striking ''(21)'' and inserting ''(24)''; and

(B) in subsection (j), by striking ''(22)'' and inserting ''(25)''.

(d) ANNUAL EDUCATION AND TRAINING IN INDIAN HEALTH SERVICE AREAS.—The Secretary of Health and Human Services in cooperation with the Indian Health Service shall conduct on at least an annual basis training and education in each of the 12 Indian Health Service areas for tribes, Indian organizations, residential treatment providers, and State health care workers regarding the availability and nature of residential treatment services available in such areas under the provisions of this Act.

(e) EFFECTIVE DATE; TRANSITION.—(1) The amendments made by this section apply to alcoholism and drug dependency residential treatment services furnished on or after July 1, 1995, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) The Secretary of Health and Human Services shall not take any compliance, disallowance, penalty, or other regulatory action against a State under title XIX of the Social Security Act with regard to alcoholism and drug dependency residential treatment services (as defined in section 1931(a) of such Act) made available under such title on or after July 1, 1995, before the date the Secretary issues final regulations to carry out the amendments made by this section, if the services are provided under its plan in good faith compliance with such amendments.

COMPREHENSIVE FETAL ALCOHOL SYNDROME PREVENTION ACT

SUMMARY

This bill would establish a comprehensive program to FAS/FAE across the nation by filling in the gaps in our current FAS/FAE prevention system. The program would:

Coordinate and support national and targeted public awareness, prevention and education programs on FAS/FAE.

Coordinate and support applied epidemiologic research concerning FAS/FAE.

Disseminate FAS/FAE diagnostic criteria to health care and social services providers.

Foster coordination among all Federal agencies that conduct or support FAS/FAE research.

FOUR-PART PROGRAM

The bill would create a program within the Department of Health and Human Services (HHS) with four primary components:

1. Education and public awareness

Various agencies under HHS would be required to coordinate, support and conduct national, State and community-based public awareness and prevention programs on FAS/FAE. The bill would authorize grants for State, local and other FAS/FAE prevention programs.

2. Applied epidemiologic research and prevention

The bill would require various agencies under HHS to conduct and support research (basic and applied epidemiologic) on the cause, prevention and treatment of FAS/FAE. It would provide technical assistance to State, tribal and local governments, as well as scientific and academic institutions and other public entities, that are conducting research on FAS/FAE or are engaged in prevention and early intervention programs. Grants would be awarded to such entities to assist in determining the most effective strategies for prevention and intervention of fetal exposure to alcohol.

3. Diagnostic Criteria for FAS/FAE

Various agencies under HHS would be required to widely disseminate to health care and social services providers the FAS/FAE diagnostic criteria developed pursuant to the ADAMHA Reorganization Act.

4. Inter-agency task force

A large number of government agencies are concerned directly or indirectly with FAS/

FAE, but there is little coordination of these programs. This bill would create an Inter-Agency Task Force to coordinate federal efforts and report on an annual basis to the Secretary of HHS and to relevant congressional committees. The panel will include representatives from the Departments of HHS, Agriculture, Education, Defense, Interior, Justice, and Veterans Affairs; from the Bureau of Alcohol, Tobacco and Firearms; from the Federal Trade Commission; and from any other relevant Federal agency.

Mr. BINGAMAN. Mr. President, I am pleased today to join the distinguished minority leader, Senator DASCHLE, in reintroducing the Comprehensive Fetal Alcohol Syndrome Prevention Act. Through this legislation, we are proposing a comprehensive, coordinated, national effort to prevent one of the leading causes of birth defects in this country: Fetal Alcohol Syndrome.

The need for this legislation is well documented. Fetal Alcohol Syndrome [FAS] is the Nation's primary known cause of mental retardation; yet it is completely preventable. According to a 1993 report issued by the Centers for Disease Control and Prevention, the number of reported FAS cases has tripled over the past decade. The CDC reports that in 1992, nearly 4 infants out of every 10,000 births were born with FAS, suffering irreversible physical and mental harm. In 1979, the first year CDC collected information on the incidence of Fetal Alcohol Syndrome, it estimated the number of reported FAS cases at only 1 per 10,000 births. Adding to the extent of the problem are estimates which indicate that each year 10,000 to 12,000 infants are born with lesser, though still serious, alcohol-related birth defects known as Fetal Alcohol Effects [FAE].

In my home State of New Mexico, the number of infants born with FAS has exceeded the national average for a number of years. Each year, more than 36 babies are born in New Mexico with FAS, and more than 80 are born with FAE. Some experts believe our FAS rate has been consistently higher than the national average because our doctors, who have benefitted from a significant amount of State-based FAS research, are more familiar with its signs and symptoms.

If this is true, then nationally the number of FAS and FAE births could be higher than today's estimates. In fact, the CDC believes this to be the case. According to Dr. David Erickson, the chief of the CDC's Birth Defects and Genetic Diseases branch, the new CDC count—which we need to remember is a threefold increase over the 1979 estimate—probably is a substantial undercount. It is an undercount for a number of reasons, but chief among them is undoubtedly lack of awareness.

Although the exact number of infants and families impacted by FAS and FAE is not entirely certain, there is no question that Fetal Alcohol Syndrome is a national problem. It can impact any child, any family, and any community. But I am especially troubled about the threat FAS poses to the Navajo, Apache, and Pueblo children and families in New Mexico and to American Indians throughout the Nation.

New Mexico health officials estimate that the combined FAS rate for our State's 22 Indian Tribes is two to five times that of the national average. According to the Indian Health Service, the prevalence of FAS is significantly higher among American Indians and Alaska Natives than nationally. I have been told that in some American Indian and Alaska Native communities, as many as one in four newborns may be affected by FAS or FAE.

Mr. President, the real tragedy of Fetal Alcohol Syndrome and Fetal Alcohol Effects is that both are completely preventable. Not one more infant would be born with FAS or FAE if every pregnancy was an alcohol-free pregnancy. If we could get the message out that alcohol and pregnancy do not mix, if we could explain the compelling need for every mother to stay away from alcoholic beverages while she is pregnant, then we could eliminate this disease. The key is prevention through education.

Prevention through education is the cornerstone of the Comprehensive Fetal Alcohol Syndrome Prevention Act. As I mentioned earlier, this bill will create a comprehensive, coordinated program within the Department of Health and Human Services to help prevent FAS and FAE. Specifically, this bill:

Directs the Secretary of Health and Human Services to: coordinate and support national and targeted public awareness, prevention, and education programs on FAS-FAE; coordinate and support basic and applied epidemiologic research on FAS-FAE; assist states in establishing FAS-FAE surveillance programs; focus efforts on the needs of at-risk populations, and American Indians and Alaska Natives in particular.

Establishes an Inter-Agency Task Force on FAS-FAE: to coordinate all Federal agencies that conduct or support FAS-FAE research, programs, and surveillance or otherwise meet the general needs of populations actually or potentially impacted by FAS-FAE.

I believe one of the most important provisions of this bill is the section that would help states and local communities develop targeted campaigns to increase public awareness of the symptoms and impact for preventing FAS and FAE. The central focus of every campaign will be clear, effective, and culturally-sensitive methods and messages for FAS and FAE prevention. Initially, Federal efforts will focus on the needs of at-risk populations, and in particular, American Indians and Alaska Natives.

I urge my colleagues to study this legislation and lend it their support. As I mentioned earlier, FAS knows no boundaries. It can, and does, impact children and families in every State in this country. It is a problem so pervasive, yet so readily preventable, that it requires a broad-based, concerted, and coordinated effort for elimination.

Existing FAS-FAE prevention programs need increased funding, and we need to work to make this happen. But money alone is not the answer. We need a firm commitment from the Federal Government, the States, local governments, Indian tribes, schools, community-based organizations, and families to assume responsibility and work together, in a coordinated manner, for the benefit of our children. If we have this commitment, we can improve the quality of life for children already afflicted with FAS, and we can put an end to this terrible, and 100-percent preventable, disease.

By Mr. HEFLIN:

S.J.Res. 13. A joint resolution proposing an amendment to the Constitution to provide for a balanced budget for the United States Government; to the Committee on the Judiciary.

BALANCED FEDERAL BUDGET CONSTITUTIONAL AMENDMENT

Mr. HEFLIN. Mr. President, as in morning business, I would like to introduce legislation to amend the U.S. Constitution to require the Federal Government to achieve and maintain a balanced budget. I have introduced in each Congress, at the beginning, a similar joint resolution during the time that I have served in the U.S. Senate. I might say that the first bill, or resolution—the first legislative act that I introduced when I came to the Senate was to introduce a bill for a constitutional amendment requiring a balanced Federal budget.

I believe the opportunity to adopt this legislatively and to submit it to the States for ratification is now at hand. In 1982, the Senate debated it at great length and a vote was taken and there were 69 votes. As Members of the Senate know, a constitutional amendment requiring a balanced budget requires a two-thirds vote. So there were two additional votes over the required number back in 1982. Since that time, we have had three votes in the Senate relative to the constitutional amendment requiring a balanced budget. One year there was one vote shy, which was 66 votes. And then on another occasion we got 63 votes.

In each of the occasions in which the Senate has acted pertaining to the constitutional amendment requiring a balanced budget, the House has failed to pass it by the required two-thirds vote. But this time I believe the House will pass it. Regarding the last time when we got 63 votes, I believe if the House had not acted before the Senate, the Senate would have voted the required two-thirds vote at that time. This measure has been around for a long time. It has narrowly missed its mark in the past, but I believe it will meet the mark of a two-thirds vote in the Senate and in the House this year.

It is also particularly important that we go ahead and act now. Interest rates are going up. A major portion of the

budget each year deals with debt service. If interest rates were to double, then you can see that the amount of money that will be required to pay debt service will be doubled also. And so it is important that we go ahead and act soon to provide the necessary fiscal discipline.

It has been 33 years since the Government of the United States has operated on a balanced budget. Most of the States have provisions that require a balanced budget, and it provides the discipline which is needed relative to Government operations and fiscal restraint.

So it is my pleasure again today to offer a bill or resolution which is quite similar to the resolutions which I am cosponsoring with other Senators, including Senator HATCH. I want to congratulate Senator HATCH on his leadership in moving forward. He has a hearing set today relative to resolutions requiring a balanced budget which has a group of very distinguished Americans, a lot of former Attorneys General, and others, who will be testifying at that particular time.

So I think it is important that we move forward and we move forward as fast as we can. So I send to the desk at this time a resolution requiring it.

Mr. President, the time has finally come to pass this legislation and send it to the States for ratification. This amendment is not a gimmick, nor is it chicanery; it is good common sense.

Since I first came to the Senate in 1979, every Congress I have introduced legislation proposing a constitutional amendment to balance the Federal budget, and I have dedicated myself to many years of work with my colleagues to adopt a resolution which would authorize the submission to the States for ratification of a constitutional amendment to require a balanced budget.

For much of our Nation's history, a balanced Federal budget was the status quo and part of our unwritten constitution. For our first 100 years, this country carried a surplus budget, but in recent years this Nation's spending has gone out of control. Indeed, the fiscal irresponsibility demonstrated over the years has convinced me that constitutional discipline is the only way we can achieve the goal of reducing deficits.

As you know, in 1982, the Senate did pass, by more than the required two-thirds vote, a constitutional amendment calling for a balanced budget. There were 69 votes in favor of it at that time. It was sent to the House of Representatives, where, in the House Judiciary Committee it was bottled up. The chairman would not allow it to come up for a committee vote, in order that it might be reported to the floor of the House of Representatives.

In order to bring the measure up for a vote in the House of Representatives, it was necessary to file a discharge petition. This is a petition that has to be signed by more than a majority of the whole number of the House of Representatives, and then it is brought up and voted on without amendment. The Senate-passed amendment failed to obtain the necessary two-thirds vote that was required in the House of Representatives at that time.

In the 99th Congress, after extensive debate, passage of a balanced budget amendment by the Senate failed by one vote—but got 66 votes. During the 101st Congress, I supported a measure which passed the Judiciary Committee, but it was never considered by the full Senate. In the 102d Congress, the Judiciary Committee favorably reported a bill, but since an amendment failed to pass the House by the necessary two-thirds vote, this killed the possibility of favorable action by the Senate.

In the 103d Congress, the Senate again narrowly defeated an amendment, which I cosponsored, by a vote of 63–37—only four votes short of the 67 votes needed for passage. If the recent elections tell us anything, it is that the American people want a leaner, more efficient Federal Government and a government that lives within its means.

Mr. President, I hope the time has come to finally adopt this long-overdue amendment and begin to move toward our goal of a balanced Federal budget.

Section 1 of the amendment requires a three-fifths vote of each House of Congress before the Federal Government can engage in deficit spending. A 60-percent vote in the Senate is a very difficult one to obtain. This requirement should establish the norm that spending will not exceed receipts in any fiscal year. If the government is going to spend money, it should have the money on hand to pay its bills.

Section 2 of the amendment requires a three-fifths vote by both Houses of Congress to raise the national debt. In addition to the three-fifths vote, Congress must provide ''by law'' for an increase in public debt. As I understand it, this means presentment to the President, where the President has the right to veto or sign. If the President chose to veto the bill, it would be returned to Congress for action to possibly override the veto. It is also important to note that section one, regarding the specific excess of outlays over receipts, contains this same requirement that Congress act ''by law.''

Section 2 is important because it functions as an ''enforcement mechanism'' for the balanced budget amendment. While section 1 states outright that ''total outlays * * * shall not exceed total receipts'' without the three-fifths authorization by Congress, the judicial branch would lack the ability to order the legislative and executive branches to meet this obligation. Therefore, section 2 will require a three-fifths vote to increase the national debt. This provision will increase the pressure to comply with the directive of this proposed constitutional amendment.

Other than just being directory, the amendment, by way of section 2, has some teeth and that is what is so important if we are going to do away with deficit spending and operate so that we do not spend any more money than the amount coming into the government. That is what we are trying to achieve here.

Section 3 provides for the submission by the President of a balanced budget to Congress. This section reflects the belief that sound fiscal planning should be a shared governmental responsibility by the President as well as the Congress.

Section 4 of the amendment requires a majority vote of the whole number of each House of Congress any time Congress votes to increase revenues. This holds public officials responsible, and puts elected officials on record for any tax increase which may be necessary to support Federal spending.

Section 5 of the amendment permits a waiver of the provisions for any fiscal year in which a declaration of war is in effect. This section also contains a provision long-supported by myself—that of allowing a waiver in cases of less than an outright declaration of war—where the United States is engaged in military conflict which causes an imminent and serious threat to national security, and is so declared by a joint resolution, which becomes law. Under this scenario, a majority of the whole number of each House of Congress may waive the requirements of a balanced budget amendment.

I firmly believe that Congress should have the option to waive the requirement for a balanced budget in cases of less than an outright declaration of war. Looking back over the history of our Nation, we find that we have had only five declared wars: The War of 1812, the Mexican War, the Spanish-American War, the First World War, and the Second World War.

The most recent encounters of the United States in armed conflict with enemies have been, of course, undeclared wars. We fought the Gulf war without a declaration of war. In addition, we fought both the Vietnam and Korean actions without declarations of war.

This country can be faced with military emergencies which threaten our national security, without a formal declaration of war being in effect. Circumstances may arise in which Congress may need to spend significant amounts on national defense without a declaration of war. Congress and the President must be given the necessary flexibility to respond rapidly when a military emergency arises.

The United States has engaged in only five declared wars, yet the United States has engaged in hostilities abroad which required no less commitment of human lives or American resources than declared wars. In fact, our Nation has been involved in approximately 200 instances in which the United States has used military forces abroad in situations of conflict. Not all of these would move Congress to seek a

waiver of the requirement of a balanced budget, but Congress should have the constitutional flexibility to provide for our Nation's security.

Section 6 of the amendment permits Congress to rely on estimates of outlays and receipts in the implementation and enforcement of the amendment by appropriate legislation.

Section 7 of the amendment provides that total receipts shall include all receipts of the United States except those derived from borrowing. In addition, total outlays shall include all outlays of the United States except those for repayment of debt principal. This section is intended to better define the relevant amounts that must be balanced.

Section 8 directs the amendment to take effect beginning with fiscal year 2002 or with the second fiscal year beginning after ratification, whichever is later. This section will thus allow Congress an adequate period of time to consider and adopt the necessary procedures to implement the amendment and to begin the job of actually balancing the Federal budget.

Mr. President, the future of our Nation's economy is not a partisan issue. Furthermore, the problem of deficit spending cannot be blamed on one branch of government or one political party. Similarly, just as everyone must share part of the blame for our economic ills, everyone must be united in acting to attack the growing problem of deficit spending. I recognize that a balanced budget amendment will not cure our economic problems overnight, but it will act to change the course of our future and lead to responsible fiscal management by our national government.

ADDITIONAL COSPONSORS

S. 2

At the request of Mr. GRAMM, his name was added as a cosponsor of S. 2, a bill to make certain laws applicable to the legislative branch of the Federal Government.

At the request of Mrs. HUTCHISON, her name was added as a cosponsor of S. 2, supra.

At the request of Mr. LEVIN, his name was added as a cosponsor of S. 2, supra.

At the request of Mr. REID, his name was added as a cosponsor of S. 2, supra.

At the request of Mr. GRASSLEY, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 2, supra.

S. 4

At the request of Mr. DEWINE, his name was added as a cosponsor of S. 4, a bill to grant the power to the President to reduce budget authority.

S. 10

At the request of Mr. DASCHLE, the names of the Senator from Nevada [Mr. REID] and the Senator from Vermont [Mr. LEAHY] were added as cosponsors of S. 10, a bill to make certain laws applicable to the legislative branch of the Federal Government, to reform lobbying registration and disclosure requirements, to amend the gift rules of the Senate and the House of Representatives, and to reform the Federal election laws applicable to the Congress.

S. 14

At the request of Mr. DASCHLE, his name was added as a cosponsor of 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.

S. 50

At the request of Mr. LOTT, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 50, a bill to repeal the increase in tax on social security benefits.

S. 92

At the request of Mr. HATFIELD, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of 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.

SENATE JOINT RESOLUTION 1

At the request of Mr. WARNER, his name was added as a cosponsor of Senate Joint Resolution 1, a joint resolution proposing an amendment to the Constitution of the United States to require a balanced budget.

SENATE RESOLUTION 1

At the request of Mr. DEWINE, his name was added as a cosponsor of Senate Resolution 1, a resolution informing the President of the United States that a quorum of each House is assembled.

SENATE RESOLUTION 26—RELATIVE TO APPOINTMENTS TO THE COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. COCHRAN (for Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 26

Resolved, That the following shall constitute the majority party's membership on the following standing committee for the 104th Congress, or until their successors are chosen:

Committee on Governmental Affairs: Mr. Roth, Mr. Stevens, Mr. Cohen, Mr. Thompson, Mr. Cochran, Mr. Grassley, Mr. McCain, and Mr. Smith.

SENATE RESOLUTION 27—AMENDING RULE XXV

Mr. DOLE submitted the following resolution; which was considered and agreed to:

S. RES. 27

Resolved, That at the end of Rule XXV, add the following:

A Senator who on the date this subdivision is agreed to is serving on the Committee on Armed Services, and the Committee on Environment and Public Works, may, during the One Hundred Fourth Congress, also serve as a member of the Committee on Governmental Affairs, but in no event may such Senator serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

SENATE RESOLUTION 28—RELATIVE TO THE COMMITTEE ON RULES

Mr. GRASSLEY (for Mr. STEVENS for himself and Mr. FORD) submitted the following resolution; which was considered and agreed to:

S. RES. 28

Resolved, That section 16(c)(1) of Senate Resolution 71 (103d Congress, 1st Session) is amended by striking ''4,000'' and inserting ''40,000''.

SENATE RESOLUTION 29—AMENDING RULE XXV

Mr. GRASSLEY (for Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 29

Resolved, That at the end of Rule XXV, add the following:

A Senator who on the date this subdivision is agreed to is serving on the Committee on Appropriations, and the Committee on Labor and Human Resources, may, during the One Hundred Fourth Congress, also serve as a member of the Committee on Energy and Natural Resources, but in no event may such Senator serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

A Senator who on the date this subdivision is agreed to is serving on the Committee on Appropriations, and the Committee on Commerce, Science, and Transportation, may, during the One Hundred Fourth Congress, also serve as a member of the Committee on Energy and Natural Resources, but in no event may such Senator serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

A Senator who on the date this subdivision is agreed to is serving on the Committee on Appropriations, and the Committee on Agriculture, Nutrition, and Forestry, may, during the One Hundred Fourth Congress, also serve as a member of the Committee on Environment and Public Works, but in no event may such Senator serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

A Senator who on the date this subdivision is agreed to is serving on the Committee on Appropriations, and the Committee on Banking, Housing, and Urban Affairs, may, during the One Hundred Fourth Congress, also serve as a member of the Committee on Environment and Public Works, but in no event may such Senator serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

A Senator who on the date this subdivision is agreed to is serving on the Committee on the Judiciary, and the Committee on Governmental Affairs, may, during the One Hundred Fourth Congress, also serve as a member of the Committee on Foreign Relations, but in no event may such Senator serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

A Senator who on the date this subdivision is agreed to is serving on the Committee on Energy and Natural Resources, and the Committee on Environment and Public Works,