By Mr. DORGAN:

S. 663. A bill to modernize the Federal Reserve System, to provide for a Federal Open Market Advisory Committee, and for other purposes; to the Committee on Banking, Housing, and Urban affairs.

By Mr. COHEN:

S. 664. A bill to ensure the competitive availability of consumer electronics devices affording access to telecommunications system services, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SIMON:

S. 665. A bill to amend the Internal Revenue Code of 1986 to increase motor fuel taxes by 8 cents a gallon, the resulting revenues to be used for mass transit, AMTRAK, and interstate, State, and local roads and bridges, and for other purposes; to the Committee on Finance.

S. 666. A bill to amend chapter 93 of title 31, United States Code, to provide additional requirements for a surety corporation to be approved by the Secretary of the Treasury, to provide for equal access to surety bonding, and for other purposes; to the Committee on the Judiciary.

By Mr. BRYAN (for himself and Mr. SHELBY):

S. 667. A bill to amend the Securities Exchange Act of 1934 in order to reform the conduct of private securities litigation, to provide for financial fraud detection and disclosure, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. WARNER:

S. 668. A bill to authorize the establishment of the National Capital Region Interstate Transportation Authority, to define the powers and duties of the Authority, and for other purposes; to the Committee on Environment and Public Works.

By Mr. GLENN (by request):

S. 669. A bill to revise and streamline the acquisition laws of the Federal Government, and for other purposes; to the Committee on Governmental Affairs.

By Mr. GLENN (for himself and Mr. PRYOR):

S. 670. A bill to amend the Internal Revenue Code of 1986 to prevent the unauthorized inspection of tax returns or tax return information; to the Committee on Finance.

By Mr. HATCH:

S. 671. A bill to provide a fair and balanced resolution to the problem of multiple imposition of punitive damages, and for other purposes; to the Committee on the Judiciary.

By Mr. HATCH (for himself, Mr. MCCONNELL, and Mr. THOMAS):

S. 672. A bill to provide a fair and balanced resolution to the problem of multiple imposition of punitive damages, and for the reform of the civil justice system; to the Committee on the Judiciary.

By Mrs. KASSEBAUM (for herself, Mr. INOUYE, Mr. DOMENICI, and Mr. STEVENS):

S. 673. A bill to establish a youth development grant program, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. EXON (for himself, Mr. DORGAN, Mr. KERRY, and Mr. MOYNIHAN):

S. 674. A bill entitled the ''Rail Investment Act of 1995''; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mrs. HUTCHISON:

S. Res. 100. A resolution to proclaim April 5, 1995, as National 4–H Day, and for other purposes; to the Committee on the Judiciary.

By Mr. BROWN:

S. Res. 101. A resolution expressing the sense of the Senate in support of extending some of the benefits of enhanced economic relations enjoyed by the United States and Israel to those countries that sustain a ''warm'' peace with Israel; to the Committee on Finance.

By Mr. BROWN (for himself, Ms. MIKULSKI, Mrs. FEINSTEIN, Mr. HELMS, and Mr. PELL):

S. Res. 102. A resolution to express the sense of the Senate concerning Pakistan and the impending visit of Prime Minister Bhutto; to the Committee on Foreign Relations.

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

S. Con. Res. 10. A concurrent resolution expressing the sense of the Congress that the United States should take steps to improve economic relations between the United States and the countries of Eastern and Central Europe; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DORGAN;

S. 663. A bill to modernize the Federal Reserve System, to provide for a Federal Open Market Advisory Committee, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

THE FEDERAL RESERVE BOARD REFORM ACT OF 1995

Mr. DORGAN. Mr. President, today I rise to introduce a piece of legislation that I want to describe briefly for the Senate.

On my behalf, and on behalf of Senator REID from Nevada, we introduced this morning a piece of legislation called the Federal Reserve Reform Act of 1995.

Anyone who has listened to the debate in the Senate the last year understands that I have had major differences with the Federal Reserve Board and its policies. We all know that the Federal Reserve Board has raised interest rates seven times over the past year or so. And its decision to tighten the money supply has had an enormous impact on the economic well-being of this country. But despite its central role in our economy, the Federal Reserve still dwells only in the shadows of public debate.

This organization, located downtown in a concrete temple, meets in secret to make interest rate decisions that have an enormous impact on our economy. The Federal Reserve is the last dinosaur in what is supposed to be a democratic Government because it, behind closed doors, makes decisions that affect every single American family, with no democratic input or debate. So for seven times in the last year or so they have decided we have a major storm brewing called inflation, and therefore they should increase interest rates in order to stem the tide of inflation.

Of course there is no credible evidence that inflation is on the horizon in any significant way. For the last 4 successive years, inflation has been declining. So what is the Federal Reserve Board doing? It is serving its constituency, the big money center banks, at the expense of American families.

But members of the Fed still meet in secret to make decisions that are critical to the lives of every American. Until recently, the Fed would not even disclose its monetary policy decisions to the public in a timely manner. Also, the Fed's entire budget is not published in the budget of the U.S. Government. And there are currently no formal channels established through which the Fed can coordinate its monetary policy goals with the fiscal policies of the President and Congress. Finally, regional Fed bank presidents, who are not accountable to the American people, are casting votes on interest rate decisions. In my judgment, these conditions are not what Congress intended when it created the Federal Reserve in the early 1900's.

My legislation would do the following to rectify these problems:

First, the President's top economic advisers would be required to meet three times a year with the Board of Governors of the Federal Reserve. This includes the Secretary of the Treasury, the Chairman of the Council of Economic Advisers, and the Director of the Office of Management and Budget.

Second, the President would be empowered to appoint a new Chairman of the Federal Reserve near the beginning of his term rather than toward the end. The Fed is crucial to the success of any economic policy and the President should have the opportunity to appoint a Chairman of the Fed near the beginning of the Presidential term.

Third, the Fed would be required to disclose immediately any changes in its targets for the money supply. This would provide all investors, large and small, with equal and timely information about monetary policy decisions. The provision merely codifies what the Federal Reserve is doing in recent practice.

Fourth, the Fed would be required to publish all of its budget in the budget of the U.S. Government. Only a small fraction of Federal Reserve budget is published in the Federal budget; the rest is published in a variety of Federal Reserve publications. The legislation requires that it all be published in one place for public review.

Fifth, the Comptroller General would be permitted to conduct more thorough audits of Fed operations, including policy procedures and processes. For many years the Fed was totally exempt from any such audits to uncover misdoing or waste. Today the General Accounting Office [GAO] is prohibited from auditing many of the Fed's operations, including actions on monetary policy and transactions made under the direction

of the current Federal Open Market Committee. This bill will remove many of these restrictions.

Sixth, only those members of the Board of Governors, who have been appointed by the President and confirmed by the Senate, will be permitted to vote on monetary policy matters. This will help take back the Nation's monetary policy from the heads of the money center bankers who are accountable only to their shareholders, and restore it to those Fed officials who are accountable to the general public, as the framers of the original Federal Reserve Act intended.

My legislation is not designed to politicize monetary policy or politicize the Federal Reserve Board. But, I do want the Federal Reserve Board to be more accountable to the American people.

If the Federal Reserve Board is a public agency—if it belongs ultimately to the people of this country—then the people ought to be able to know what is going on there, and all its voting members ought to answer to the American people.

I might say, as an aside, I am also thinking of introducing legislation that renames the Open Market Committee. My central thesis is if the Open Market Committee is going to be closed, then let us rename it the Closed Market Committee until such time as it is open. The American people deserve to know what goes on behind closed doors in the construct of monetary policy—policy, incidentally, that affects every single American family.

I know words do not always have specific meaning here in public policy and in politics, but they ought to. Why should we close the door and then call the committee that closes the door, in law, the Open Market Committee? Let us just call it the Closed Market Committee.

That is for another day. I do not include that recommendation in this legislation. But the Federal Reserve Reform Act of 1995 is something I am pleased to offer on behalf of myself and Senator REID from Nevada.

By Mr. COHEN:

S. 664. A bill to ensure the competitive availability of consumer electronics devices affording access to telecommunications system services, and for other purposes; to the Committee on Commerce, Science, and Transportation.

COMPETITIVE CONSUMER ELECTRONICS AVAILABILITY ACT OF 1995

Mr. COHEN. Mr. President, all consumers like choice. When companies are allowed to compete and consumers are given more choices, products and services inevitably become more affordable and of higher quality. For this reason, the major thrust of the various telecommunications bills that have been offered this year is to create a more competitive environment for communications products and services. I support this goal.

Today, I am introducing legislation that is focused on one particular area of telecommunications that I believe truly needs more competition—cable television.

Less than 20 years ago, we had little choice as to where we could obtain our phones. Each of us rented a standard, ordinary phone from our local telephone company. This monopoly ended with the break-up of AT&T. Today, most people own their telephones, and the types of phones we can choose are endless. Callers, for example, can go to any number of local retailers to buy phones that are more sophisticated than those previously offered by the telephone company. Consumers now can purchase car phones, phones that are connected to an answering machine, or cellular phones. Moreover, today's phones are considerably cheaper than the rotary dial phones of the 1950's. Innovation, greater choice, and lower prices have been the result of intense competition in the telephone market.

Unfortunately, consumers today do not have the same choices with regard to the devices necessary to obtain cable television. Cable customers are in the same situation phone customers found themselves 20 years ago. Virtually all cable users get their cable set-top boxes and other hardware, which have security features, only from one source—the local cable company. There is no competition for these devices.

The bill I am introducing today would allow cable customers to buy their converter boxes and other communications access devices from their local retail stores. Cable users in Maine and elsewhere in the country would no longer be at the mercy of cable operators to get their cable boxes. They could buy or rent them from anyone they choose—just as they do currently with telephones.

This bill, which is identical to legislation already introduced in the House by Representative BLILEY, would require the Federal Communications Commission [FCC] to adopt regulations to ensure that converter boxes and other interface equipment could be sold commercially by non-cable operators. Cable users, of course, could still choose to rent boxes from their cable operator if they desired.

In the near future, the Senate will consider legislation designed to increase competition in all telecommunications markets. My bill would bring competition to a segment of the telecommunication market that desperately needs it. By allowing consumers to choose how they get their cable box, prices on the boxes and other interface equipment will likely drop, and manufacturers and retailers of converter boxes will become more innovative and responsive to the needs of consumers.

Cable companies argue that they need a monopoly over cable devices to protect against theft of cable programming. I fully agree that cable operators should be able to protect their signals so that only paying customers get the benefit of their services. I do not, however, believe that a monopoly over the cable device market is necessary to achieve this purpose.

It should be noted that the phone companies once made the same argument. They argued that if phone customers were allowed to purchase phones from anyone other than the phone company, there would be widespread theft of phone services. This, however, has not turned out to be the case.

Likewise, I am confident that the sale of cable devices by non cable businesses would not lead to the theft of cable programming.

Today's technology will allow cable operators to protect their signals without monopolizing the hardware and restricting consumers' ability to choose how they will get a box. Cable companies can prevent theft of their signals without controlling the distribution of converter boxes. For example, the Electronic Industries Association has developed a draft standard that would allow codes to be put on magnetic cards, similar to credit cards. This card, which could be used with a commercially sold box, would ensure that only those customers who have paid for services actually get them.

Under my legislation, the FCC would determine the rules—after significant public comment—that would promote competition in the cable device market while safeguarding against the theft of cable programming. My legislation gives the FCC significant discretion in meeting this goal, but requires them to make it a high priority.

Competition for converter boxes and other devices can only benefit consumers. As it did in the telephone market, competition will lead to innovation, greater choice, as well as lower prices for converter boxes.

By Mr. SIMON:

S. 665. A bill to amend the Internal Revenue Code of 1986 to increase motor fuel taxes by 8 cents a gallon, the resulting revenues to be used for mass transit, AMTRAK, and interstate, State, and local roads and bridges, and for other purposes; to the Committee on Finance.

FUEL TAX LEGISLATION

● Mr. SIMON. Mr. President, today I am introducing a bill calling for an 8 cents a gallon tax increase on gasoline and diesel fuel.

Revenue gained from this tax would be used for mass transit, AMTRAK, and interstate, State, and local roads and bridges. As the administration and the Congress consider proposals to downsize the Federal Government and increase the responsibilities of State governments, returning some Federal taxes to States and cities would be a very sensible step.

We are all aware of the need for increases in transit and surface transportation investment. And returning revenue to State and local governments for infrastructure and capital improvement projects would help State and local governments, promote job creation and improve the Nation's economic well-being in general. This motor fuel tax increase would go a long way toward meeting this goal. An increase in public investment is long overdue, Mr. President. I urge my colleagues to support this legislation.●

By Mr. SIMON:

S. 666. A bill to amend chapter 93 of title 31, United States Code, to provide additional requirements for a surety corporation to be approved by the Secretary of the Treasury, to provide for equal access to surety bonding, and for other purposes; to the Committee on the Judiciary.

THE EQUAL SURETY BOND OPPORTUNITY ACT OF 1995

Mr. SIMON. Mr. President, I am pleased to introduce the Equal Surety Bond Opportunity Act of 1995. This bill is designed to further equal opportunity for surety bond applicants and to equip bond applicants—particularly small business applicants—with information to help them to strengthen their businesses.

Construction firms must have surety bonds to bid on all Federal projects in excess of $25,000 and all federally assisted projects in excess of $100,000. In fact, bonding is now required for most State and local government construction projects and an increasing number of private construction projects. Clearly, access to surety bonding is essential to the livelihood of the majority of construction companies.

Surety bonds ensure that a contractor is capable of completing the specified work and has the financial ability to pay its bills on time. If the bonded contractor fails to complete the project, the surety firm steps in to fulfill the contract.

Furthermore, surety firms minimize their own risk by determining, before they issue a bond, whether the applicant is capable of completing the particular project in question. The principal source of bonds—for-profit corporate surety firms—use undisclosed underwriting standards to make this determination. Essentially, they assess an applicant's three C's—cash, capacity to do work, and character. But the personal character of a contractor may be evaluated in a very subjective manner, which can result in discrimination.

Although classified as a type of insurance, these bonds are really more like a line of credit. If a surety firm has to step in to fulfill the bonded company's obligation under a contract, it expects to be reimbursed. Unfortunately, as with other types of lines of credit such as mortgage financing, women and minority contractors face serious problems in obtaining surety bonds. Several studies of mortgage lending rates in Detroit, Atlanta, and Washington, DC have revealed a significant race-related mortgage lending gap even after adjusting the data for legitimate business concerns. These studies were based in part on data that banks and other lending institutions are required to report to the Federal Government. Federal law does not require surety firms to report any similar data for applications received or granted.

I sponsored and held hearings on the Equal Surety Bond Opportunity Act in the 102d Congress. Witnesses at that hearing included representatives of the Women Construction Owners and Executives and the National Association of Minority Contractors who testified in support of the bill. According to these witnesses, bond applicants have been rejected simply for being a woman, or being a minority. Clearly, these are unacceptable reasons for rejecting a bond applicant.

The American Subcontractors Association also presented testimony at that hearing. They agreed that women and minority-owned construction companies face special problems in getting bonds, as do many small and emerging construction firms. They noted, however, that all of these companies would benefit if surety companies were required to give an explanation for rejecting a bond application. This would allow them to take corrective action for future applications.

By law, the U.S. Treasury Department maintains a list of federally approved surety firms authorized to issue bonds on Federal projects. My bill, which is modeled after the Equal Credit Opportunity Act, would make it unlawful for a Treasury-approved surety to discriminate against applicants based on race, color, religion, national origin, sex, marital status, or age. Simply put, the bill makes it clear that the three C's cannot be determined by reference to an applicant's race, color, religion, national origin, sex, or marital status.

The bill would also require Treasury-approved firms to provide denied applicants, upon request, full written disclosure of the reasons for their denial. A written explanation will give all construction firms the opportunity to take appropriate corrective action—an opportunity now available to all prospective Federal small business contractors when denied by an agency contracting officer. The written explanation would also help curb denials of bonding based on nonlegitimate reasons.

Again, the legislation will benefit all construction firms. It does not dictate underwriting standards for the surety industry. It does not require sureties to report data on applications received or bonds written. Nor does it inflict onerous regulations on the industry. But it will give businesses the information they need to improve their businesses. Moreover, the bill will ensure that surety firms comply with the same nondiscrimination laws that apply to banks and other lending institutions. If a surety firm is in compliance with these laws, it has nothing to fear from this legislation.

Mr. President, I urge my colleagues to support this very simple, but important legislation.

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

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

S. 666

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 ''Equal Surety Bond Opportunity Act of 1995''.

SEC. 2. ADDITIONAL REQUIREMENTS REGARDING APPROVAL OF SURETIES.

(a) IN GENERAL.—A company may not be approved as a surety by the Secretary of the Treasury under section 9304 of title 31, United States Code, or provide any surety bond pursuant to such section unless the company maintains full compliance with the requirements of section 9310 of title 31, United States Code.

(b) REQUIREMENTS RELATING TO ENFORCEABILITY.—

(1) SIGNED STATEMENT OF COMPLIANCE WITH APPLICATION.—Section 9305(a) of title 31, United States Code, is amended—

(A) by striking ''and'' at the end of paragraph (1);

(B) by striking the period at the end of paragraph (2) and inserting ''; and''; and

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

''(3) a statement of compliance with section 9310, which is signed under penalty of perjury by the president and the secretary of the corporation.''.

(2) COMPLIANCE AS A CONDITION FOR APPROVAL OF APPLICATION.—Section 9305(b) of title 31, United States Code, is amended—

(A) by striking ''and'' at the end of paragraph (2);

(B) by striking the period at the end of paragraph (3) and inserting ''; and''; and

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

''(4) the corporation is in full compliance with section 9310.''.

(3) SIGNED STATEMENT OF COMPLIANCE WITH QUARTERLY REPORTS.—Section 9305(c) of title 31, United States Code, is amended by inserting ''and a statement of compliance with section 9310,'' before ''signed and sworn''.

(4) ENFORCEMENT AUTHORITY OF SECRETARY OF THE TREASURY.—Section 9305(d) of title 31, United States Code, is amended—

(A) in paragraph (1), by striking ''9304 or 9306'' and inserting ''9304, 9306, or 9310''; and

(B) by striking ''and'' at the end of paragraph (2);

(C) by striking the period at the end of paragraph (3) and inserting ''; and''; and

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

''(4) may, after the end of the 1-year period beginning on the effective date of any revocation under paragraph (1) of the authority of a surety corporation for noncompliance with section 9310, reauthorize such corporation to provide surety bonds under section 9304.''.

(5) REVOCATION FOR FAILURE TO PAY CERTAIN JUDGMENTS.—Section 9305(e) of title 31, United States Code, is amended—

(A) by striking ''and'' at the end of paragraph (1);

(B) by redesignating paragraph (2) as paragraph (3); and

(C) by inserting after paragraph (1) the following new paragraph:

''(2) the corporation does not pay a final judgment or order against the corporation for noncompliance with section 9310, or fails to comply with any order under that section; and''.

(c) TECHNICAL AND CONFORMING AMENDMENT.—Section 9304(a)(3) of title 31, United States Code, is amended by striking ''9305 and 9306'' and inserting ''9305, 9306, and 9310''.

SEC. 3. INFORMATION FOR BOND APPLICANTS AND NONDISCRIMINATION.

(a) IN GENERAL.—Chapter 93 of title 31, United States Code, is amended by adding at the end the following new section:

''SEC. 9310. INFORMATION FOR BOND APPLICANTS; NONDISCRIMINATION.

''(a) REASONS FOR ADVERSE ACTION; PROCEDURE APPLICABLE.—

''(1) NOTICE REQUIRED.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), any surety approved under section 9304 shall notify an applicant for a bid bond, payment bond, or performance bond of its action on a completed application not later than 10 days after receipt of the application.

''(B) EXTENSION.—The notification required by subparagraph (A) may be furnished not later than 20 days after receipt of the application, if the surety has not issued a bond to the applicant in the 12-month period preceding the date of receipt of the application.

''(2) STATEMENT OF REASONS.—

''(A) IN GENERAL.—Each applicant against whom adverse action is taken shall be entitled to a statement of reasons for such action from the surety.

''(B) ACCEPTABLE FORMS OF STATEMENT.—A surety satisfies the requirements of subparagraph (A)—

''(i) by providing a statement of reasons in writing as a matter of course to applicants against whom adverse action is taken; or

''(ii) by giving written notification of adverse action which discloses—

''(I) the applicant's right to a statement of reasons not later than 30 days after receipt by the surety of a written request made by the applicant not later than 60 days after such notification; and

''(II) the identity of the person or office from which such statement may be obtained.

''(C) ORAL STATEMENT PERMITTED.—A required statement of reasons for adverse action may be given orally if written notification advises the applicant of the applicant's right to have the statement of reasons confirmed in writing upon the applicant's written request.

''(3) SPECIFICITY OF REASONS.—A statement of reasons meets the requirements of this section only if it contains specific reasons for the adverse action taken.

''(4) APPLICABILITY IN CASE OF THIRD PARTY APPLICATIONS.—In the case of a request to a surety by a third party to issue a bond directly or indirectly to an applicant, the notification and statement of reasons required by this section may be made directly by such surety, or indirectly through the third party, if the identity of the surety is disclosed to the applicant.

''(5) APPLICABILITY IN CASE OF SURETIES WHICH ACCEPT FEW APPLICATIONS.—The requirements of paragraphs (2), (3), and (4) may be satisfied by oral statements or notifications in the case of any surety which acted on not more than 100 applications during the calendar year in which the adverse action is taken.

''(b) NONDISCRIMINATION.—

''(1) ACTIVITIES.—It shall be unlawful for any surety to discriminate against any applicant, with respect to any aspect of a surety bond transaction—

''(A) on the basis of race, color, religion, national origin, sex, marital status, disability, or age (if the applicant has the capacity to contract);

''(B) because the applicant has in good faith exercised any right under this chapter;

''(C) because the applicant previously obtained a bond through an individual or personal surety; or

''(D) because the applicant previously obtained a bond through—

''(i) any bonding assistance program expressly authorized by law;

''(ii) any bonding assistance program administered by a nonprofit organization for its members or an economically disadvantaged class of persons; or

''(iii) any special purpose bonding program offered by a profitmaking organization to meet special needs.

''(2) ACTIVITIES NOT CONSTITUTING DISCRIMINATION.—It shall not constitute discrimination for purposes of this section for a surety—

''(A) to make an inquiry of marital status if such inquiry is for the purpose of ascertaining the surety's rights and remedies applicable to the granting of a bond and not to discriminate in a determination of bondability;

''(B) to make an inquiry of the applicant's age if such inquiry is for the purpose of determining the amount and probable continuance of bondability; or

''(C) to make an inquiry as to where the applicant has previously obtained a bond, in order to determine bonding history, or other pertinent element of bondability, except that an applicant may not be assigned a negative factor or value because such applicant previously obtained a bond through—

''(i) an individual or personal surety;

''(ii) a bonding assistance program expressly authorized by law;

''(iii) any bonding program administered by a nonprofit organization for its members or an economically disadvantaged class of persons; or

''(iv) any special purpose bonding program offered by a profitmaking organization to meet special needs.

''(3) ADDITIONAL ACTIVITIES NOT CONSTITUTING DISCRIMINATION.—It is not a violation of this section for a surety to refuse to issue a bond pursuant to—

''(A) any bonding assistance program authorized by law for an economically disadvantaged class of persons;

''(B) any bonding assistance program administered by a nonprofit organization for its members or an economically disadvantaged class of persons; or

''(C) any special purpose bonding program offered by a profitmaking organization to meet special needs,

if such refusal is required by or made pursuant to such program.''.

(b) DEFINITION OF ADVERSE ACTION.—Section 9301 of title 31, United States Code, is amended—

(1) by striking the period at the end of paragraph (1) and inserting a semicolon;

(2) by striking the period at the end of paragraph (2) and inserting ''; and''; and

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

''(3) 'adverse action'—

''(A) means a denial of a bond, a change in the terms of an existing bonding arrangement, or a refusal to issue a bond in the amount or on substantially the terms requested; and

''(B) does not include any refusal to issue an additional bond under an existing bonding arrangement where the applicant is in default, or where such additional bond would exceed a previously established bonding limit.''.

SEC. 4. CIVIL PENALTIES.

Section 9308 of title 31, United States Code, is amended—

(1) in the first sentence by striking ''A surety corporation'' and inserting the following:

''(a) LIABILITY TO THE UNITED STATES.—A surety corporation'';

(2) in the second sentence by striking ''A civil action'' and inserting the following:

''(c) JURISDICTION.—A civil action'';

(3) in the third sentence by striking ''A penalty imposed'' and inserting the following:

''(d) EFFECT OF PENALTIES ON CONTRACTS.—A penalty imposed''; and

(4) by inserting after subsection (a) (as designated by paragraph (1)) the following new subsection:

''(b) LIABILITY FOR DISCRIMINATORY ACTION.—Any surety corporation that fails to comply with section 9310(b) shall be liable to the applicant for—

''(1) any actual damage sustained by such applicant (individually or as a member of a class); and

''(2) in the case of any successful action under this subsection, the costs of the action, together with reasonable attorney's fees, as determined by the court.''.

SEC. 5. REGULATIONS.

The Secretary of the Treasury shall issue such proposed regulations as may be necessary to carry out this Act not later than 270 days after the date of the enactment of this Act. The final regulations shall become effective not later than 1 year after the date of enactment of this Act.

SEC. 6. EFFECTIVE DATE.

The amendments made by this Act shall become effective on the earlier of—

(1) the effective date of final regulations promulgated pursuant to section 5; or

(2) the end of the 1-year period beginning on the date of enactment of this Act.

By Mr. BRYAN (for himself and Mr. SHELBY):

S. 667. A bill to amend the Securities Exchange Act of 1934 in order to reform the conduct of private securities litigation, to provide for financial fraud detection and disclosure, and for other purposes; to the Committee on Banking, Housing and Urban Affairs.

THE SECURITIES ENFORCEMENT ACT OF 1995

● Mr. BRYAN. Mr. President, today Senator SHELBY and I are introducing the Private Securities Enforcement Improvement Act of 1995 to improve the Federal securities litigation process. I believe our legislation provides a balance between protecting the rights of defrauded investors and providing relief to honest companies who may find themselves the target of a frivolous lawsuit.

I have serious concerns that in a rush to judgment Congress may err too far and end up curtailing suits that have merit and thus undermine the American public's confidence in the integrity of our financial markets. There is no greater harm Congress could do to the capital markets.

The issue of securities litigation reform came to my attention several years ago when a constituent was defrauded in a real estate limited partnership. On numerous occasions he raised concerns over the time periods individuals had to file securities lawsuits. Little could he have known that

a short while later the Supreme Court would rule in the Lampf case that the statute of limitations in a major section of securities law would be shortened to 1 year after discovery or 3 years after the fraud actually took place—whichever came first.

I do not believe the Court felt this was the appropriate amount of time to uncover financial fraud but was all they could provide in a strict interpretation of the statute. To make matters worse, the Court applied the shortened time period retroactively, thereby imperiling hundreds of legitimate fraud cases—many of which were in the midst of years of litigation.

In 1992, we were successful in fixing the retroactive cases by applying the statute of limitations that was applicable when the cases were filed. Unfortunately, we were not able to fix the standard prospectively.

The legislation we are introducing today would help rectify this problem by establishing a statute of limitations of 2 years after discovering the fraud or 5 years after the fraud took place. I find it hard to believe reasonable people could object to such a timetable. Our experience with financial crooks like Charlie Keating have demonstrated how easy it is to conceal financial crimes. You would be hard pressed to find anyone who thinks that financial crimes are on the decline. In fact, the evidence shows financial crimes are escalating.

This legislation is designed to improve private securities litigation in a number of ways: eliminating certain abusive litigation practices; deterring and providing sanctions against the filing of meritless cases; instituting procedural reforms to screen out weak cases nearly in the judicial process and enhancing the detection of financial fraud.

These measures are carefully crafted so as not to discourage meritorious suits yet attack several areas of potential abuse. As Securities and Exchange Chairman Arthur Levitt recently noted that ''[p]rivate securities litigation plays a prominent role in checking the market excesses. To change that, we would need to recalibrate our entire system checks and balances.''

The fundamental purpose of Federal securities laws is to provide investor protection and thereby foster investor confidence and encourage the investment necessary for capital formation, economic growth and job creation. Our system of private litigation under the Federal securities laws has functioned effectively as a necessary and essential supplement to the enforcement program of the Securities and Exchange Commission.

The provisions of this bill should ensure that defrauded investors can recover their damages, that criminals are brought to justice, and that corporations are protected from unwarranted litigation in a system that is quicker, less costly and more fair to all concerned.

Mr. President, I look forward to passing legislation that will correct some of the abuses present in the current securities litigation system and address the issues raised by Supreme Court rulings in legislation that President Clinton can sign.●

By Mr. WARNER:

S. 668. A bill to authorize the establishment of the National Capital Region Interstate Transportation Authority, to define the powers and duties of the Authority, and for other purposes; to the Committee on Environment and Public Works.

THE NATIONAL CAPITAL REGION INTERSTATE TRANSPORTATION AUTHORITY ACT OF 1995

● Mr. WARNER. Mr. President, I introduce legislation today to establish the National Capital Region Interstate Transportation Authority.

This Authority, representing Virginia, Maryland, and the District of Columbia, will serve the region's need to focus attention and to build a partnership between the Federal Government, the Commonwealth of Virginia, the State of Maryland, the District of Columbia, local governments, and other interested persons to move forward with a new Potomac River crossing on the Capital Beltway at the Woodrow Wilson Memorial Bridge.

This legislation will establish one entity to devote its full time and attention to facilitating the construction of a replacement bridge, or bridge and tunnel project, for the aging Woodrow Wilson Memorial Bridge.

Mr. President, State and local governments have long recognized the importance of the Woodrow Wilson Bridge to the region's economic vitality and its critical link to providing efficient interstate travel from Maine to Florida.

The Congress also recognized the needs of this facility and its relationship to the efficient movement of people and commerce in the region during the development of the Intermodal Surface Transportation Efficiency Act of 1991. That legislation established the Interstate Transportation Study Commission and charged the Commission with the responsibility of recommending ''new mechanisms, authority, and/or agreements to fund, develop, and manage the transportation system of the National Capital Region, primarily focusing on the interstate highway and bridge systems.''

The 13 members of the Commission extensively examined the existing transportation needs of the National Capital region and concluded that the immediate demand was to focus attention on examining every option to provide for a new Potomac River crossing at the Woodrow Wilson Bridge. To accomplish this, the Commission recommended the creation of a new interstate authority to assume ownership and responsibilities of the bridge and to move forward with the financing of a new facility as recommended by the Woodrow Wilson Bridge Coordination Committee and approved by the National Capital Region Transportation Planning Board.

The Woodrow Wilson Bridge Coordination Committee is a working partnership to identify options for the future of the bridge and to develop a consensus plan on fixing or replacing the deteriorating Woodrow Wilson Bridge. The Coordination Committee is following an open participatory process to examine alternatives to improve this vital crossing and is scheduled to identify a preferred alternative, complete an environmental impact statement and issue a record of decision by mid-1996.

It is not my intention for the Authority established by this legislation to interfere with or disrupt this valuable ongoing work. The Authority will provide the next critical step in these tight fiscal times—a financing mechanism—which will provide the means necessary to finance, operate, and maintain a new river crossing.

It is important for my colleagues to remember that the Federal Government constructed the Woodrow Wilson Bridge in 1954 and remains responsible for the needs of the existing facility and the financing, planning, and design work required for a new facility.

Today the Woodrow Wilson Memorial Bridge is the only segment of the 44,000 mile Interstate System that is owned by the Federal Government. The bridge was designed 40 years ago to carry 75,000 vehicles per day, with 10 percent of the traffic consisting of heavy trucks. Today, the bridge carries 165,000 vehicles per day, and 11 percent of the volume is truck traffic. This facility is the only drawbridge on the regional interstate network, the only piece of the region's eight-lane Capital Beltway that is limited to six lanes, and the only segment of the Capital Beltway with a remaining lifespan of less than 10 years.

Recent studies by the Federal Highway Administration confirm that annual repairs to the existing bridge fail to extend the use life of the facility and are no longer cost effective. Safety experts for the Federal Highway Administration advise me that unless a new facility is constructed within the next 9 years, the Department may be required to enforce truck size and weight restrictions on this segment of the Capital Beltway.

Mr. President, the solution is clear. The Woodrow Wilson Bridge, a critical line in the region's transportation network and a vital link in our Nation's intermodal transportation system, needs to be rebuilt with the capacity to handle the significant demands being placed upon it every day. The National Capital Region Interstate Transportation Authority is the first step in addressing a problem that has gone unresolved for far to long.

Recent census data reveals that half of all workers in this region live and work in different jurisdictions and one-third live and work in different States.

The National Capital Region Transportation Planning Board forecasts that between 1990 and 2020 the volume of traffic in our region will increase by more than 70 percent, while the current planned highway capacity will expand by only 20 percent. Between now and 2020, our traffic volume could triple during the heaviest part of the evening rush hour.

Traffic congestion translates into wasted productivity and dollars. A recent study by the Texas Transportation Institute found that in 1987 traffic congestion in the Metropolitan Washington area cost each of an estimated $570 a year in lost time and wasted fuel. Today, it is estimated that our traffic congestion is costing each of us at least $1,000 per year. This is a cost both to residents and to the region's business community.

Because of the gridlock that occurs on our region's roadways during the morning and evening rush hours, our residents are not resistant to using public transit. Indeed, we currently have the highest percentage of high-occupancy vehicle [HOV] users in the Nation are tied for second place with Chicago for the highest percentage of mass transit users. While I fully support expanding public transportation options and building upon our HOV road network, these efforts alone will not solve our region's problems with inadequate highways and bridges.

The National Capital Region Interstate Transportation Authority will enhance the ability of the system to meet expanding economic growth and help our Nation's Capital thrive in the increasingly competitive global marketplace. Almost 85 percent of the Nation's freight travels at least part of its journey over a highway. As American companies rely more and more on just-in-time-delivery to get raw materials to manufacturing facilities, and American wholesalers and retailers count on rapid delivery to keep their inventories lean, the economic importance of an efficient national transportation infrastructure is actually growing.

Mr. President, I look forward to working with my colleagues and the Commonwealth of Virginia, the State of Maryland, and the District of Columbia as we advance this legislation.●

By Mr. GLENN (by request):

S. 669. A bill to revise and streamline the acquisition laws of the Federal Government, and for other purposes; to the Committee on Governmental Affairs.

THE FEDERAL ACQUISITION IMPROVEMENT ACT OF 1995

Mr. GLENN. Mr. President, I rise today to introduce a bill, the Federal Acquisition Improvement Act, by request of the administration. I am glad to do it, because this bill represents the next step of reforming the way Government buys its goods and services.

Last year, the Congress passed the Federal Acquisition Streamlining Act, better known as FASA. That was the first major piece of procurement reform legislation in over 10 years. The passage of the act constituted a critical victory in the war against Government inefficiency and one of the most significant accomplishments of the Governmental Affairs Committee during the 103d Congress.

FASA is a comprehensive Governmentwide procurement reform effort aimed at streamlining the acquisition process by reducing paperwork burdens through revision and consolidation of acquisition statutes to eliminate redundancy, provide consistency and facilitate implementation.

The law is the culmination of years of legislative and oversight effort led by the Governmental Affairs Committee, in conjunction with the Armed Services and Small Business Committees of both the Senate and the House, to make sense out of the complex process of supplying the Federal Government with the goods and services it needs just to operate.

Figuring significantly also were recommendations of the Vice President's National Performance Review regarding increased reliance on acquisitions of commercial items and increased simplified acquisition threshold of $100,000, and other recommendations mirroring those in the report of the advisory panel on streamlining and codifying acquisition laws pursuant to section 800 of the National Defense Authorization Act for fiscal year 1991. That was the so-called 800 panel.

Mr. President, this really was a culmination of a number of different activities that came together to pass the legislation last year. We had been working in the Governmental Affairs Committee on this problem of streamlining acquisition, making it more efficient for all of Government, not just the armed services.

At the same time, the Armed Services Committee, of which I am also a member, asked the Pentagon to do a study of their own procurement practices, and that was done with what became known as the 800 panel.

Then, when the new administration was elected, the Vice President headed up the National Performance Review. And it, once again, got into areas of procurement reform. So we all combined our efforts, and that culminated then in passage last year of FASA.

That was quite an accomplishment. As if that were not enough, I am pleased today to be a sponsor of a bill which I hope will mark the beginning of serious Senate efforts in the 104th Congress to make even further reforms to our procurement system.

People in the agencies and industry have already begun to refer to this new set of proposed reforms as FASA 2, but its actual title is the Federal Acquisition Improvement Act. I think that is symbolic of what the administration is trying to do. Yes, this is a further streamlining effort, but the administration is also trying to improve on and refine the endeavor which began last year with the passage of FASA.

I believe this bill is a good starting point for this second round of reforms, and we are definitely headed in the right direction for this venture.

It appears that the administration is trying to finish what it started last year with FASA, as well as pursuing some bold new objectives with this bill, and I want to commend them personally for that.

For instance, one theme in the bill appears to be furthering the work begun in FASA of attempting to bring the Government more in line with the commercial world exemplified by provisions clarifying the definition of commercial services and shortening the time it takes to complete a procurement. That is a major item.

Consistent with this theme is the desire expressed in this bill to further streamline the award process, something also begun in FASA. Significant provisions we will be watching in this realm involve the lowering of agency approval levels and delegation of authorities for using noncompetitive procedures; limiting competitive range determinations to as few as the three highest-ranked offerors; and the authorization of two-phase selection procedures for certain information technology in design-build contracts.

The administration has also begun to tackle the controversial, highly charged issue of reform of the protest system by attempting to streamline it and reduce the number of protests filed. Included are provisions on making statutory and consistent the standards of review used for development and evaluation of the protest record; preaward debriefings for unsuccessful offerors; and consolidation of the judicial protest forum. I will be watching suggestions in this area with particular interest, especially since I know that the proposals in this area do not begin and end with those made in this bill.

There are also some very beneficial concepts in this bill related to ethics; recoupment of fees paid to the U.S. Government on foreign sales of military products and technologies developed under Government contracts; FACNET, the newly established electronic commerce system created under FASA for procurements under the simplified acquisition threshold; and more pilot programs to test out new and different concepts.

This list barely scratches the surface, and it is easy to see that the administration is attacking some tough and very diverse issues with this bill. We will be scrutinizing each and every one of these provisions for their wisdom and for their prudence.

As I said, at this juncture I may not support every single provision of this bill. Most of the proposals I am sure I will support. Others I support the concept behind but feel the language may need some work and will be glad to do that. There are also ideas in the bill with which I may disagree altogether,

and I am sure we count on being blessed with new ideas as we go along. In general, though, I think we are headed in the right direction with this new bill, and I am very glad to be submitting it on behalf of the administration.

The bill is being introduced today and the legislative process can begin to work and we can begin to consider opinions from all interested parties on each provision so that we can put forth the best possible measure for the President's signature. I know that the General Accounting Office, GAO, and others, have testified before the House Government Reform and Oversight Committee offering many valuable suggestions along this line. I look forward to engaging in that process again, as I did last year.

Mr. President, I want to reiterate that I believe the administration's bill is a very good place to start working on the next round of reforms to streamline our procurement system. We have a challenge ahead of us to flesh out this bill, but I am excited that the administration continues to focus attention in this area.

By Mr. GLENN (for himself and Mr. PRYOR):

S. 670. A bill to amend the Internal Revenue Code of 1986 to prevent the unauthorized inspection of tax returns or tax return information; to the Committee on Finance.

TAXPAYER BROWSING PROTECTION ACT

Mr. GLENN. Mr. President, this bill is entitled the Taxpayer Browsing Protection Act. We have a problem. Criminal penalties and sanctions do currently apply when IRS employees look at taxpayer returns that they are not authorized to do for work purposes and willfully disclose that information to third parties. However, there is a nebulous loophole for when IRS employees engage in such browsing for their own curious interests but do not disclose that information to others.

The bill that we are submitting here today is based on recommendations by the IRS and the Department of Justice, which began looking at this issue following hearings last year which publicly disclosed this activity. This bill would provide in the Internal Revenue Code that unauthorized inspection of returns or return information is an offense punishable by a fine not to exceed $1,000, or imprisonment of not more than 1-year, or both, together with costs of prosecution.

If the offense is committed by an officer or employee of the United States, they are immediately fired upon conviction.

Third, it will clarify that the unauthorized inspection, as well as the unauthorized disclosure, of returns or return information is a violation of the code's confidentiality provisions for returns and return information.

Mr. President, this bill addresses something that came out in our hearings last year where we found that some employees were just browsing through accounts on which they were not doing work. They were just curious about what was in the accounts. We had some that actually got into accounts and changed some of the figures in there and received kickbacks for what they were doing. Some of those people are already in jail now. So that area is covered.

We want to tighten this up, and the IRS very much favors this. Commissioner Margaret Richardson said this morning at our hearing that she does favor this, and we worked with her on this. She feels it covers a loophole in the legislation that needs to be covered. I am glad to submit it and help close that loophole so that we will make it absolutely unequivocally illegal for IRS employees to be browsing through other people's accounts, whether for voyeuristic reasons, or just plain curiosity, or whatever the motives are. But people should expect that when they file their tax returns and that information is in the internal revenue system, those returns are confidential and will be worked on only by people that are dealing with business matters on their accounts and nothing more. That is what this legislation does. I hope we can have support on it after it has been through the committee process.

The PRESIDING OFFICER. The bill will be appropriately referred.

Mr. PRYOR. Mr. President, I am very proud that I was here at the moment when Senator GLENN was introducing his two proposals, especially the proposal on browsing by the Internal Revenue Service.

It has been my pleasure to have served as the chairman of the Finance Committee's Committee on Oversight of the Internal Revenue Service for a period of years. During that period of time, I might say that the committee in the House and the Senate, in their wisdom, did in fact adopt the 1988 Taxpayers Bill of Rights. The Taxpayer's Bill of Rights was the very first piece of legislation ever in the history of this Republic, or in the history of the Internal Revenue Service, to spell out the specific powers of the individual taxpayer.

We have now introduced something we call T–2, Mr. President, which is the taxpayers Bill of Rights II.

This legislation goes even several steps further in the protection of the rights afforded to the individual taxpayer in this country.

Senator GLENN's proposal is an answer to, and is a direct result of, testimony which was unearthed and information which has been gathered by Senator GLENN's committee, his very competent staff, on the issues and the alarming fact that, in the past—and maybe even in the present—certain overzealous Internal Revenue Service employees have taken the liberty to abuse the system by looking at individual taxpayer records and accounts and sharing those facts with other individuals. I think what Senator GLENN is doing today is a true service. I stand behind him all the way, and I hope that the Senator will put me down as an original cosponsor.

Mr. GLENN. I will be glad to do so. If the Senator will yield for a moment, Mr. President. To put this in a broader context, the Senator from Arkansas, Senator PRYOR, is the one who on our Governmental Affairs Committee took the lead in putting together the Taxpayer Bill of Rights. It has served us well and the taxpayers of this country should be glad for what he did. I am sure they are, whether they realize they are in his debt or not. What I have done here is expand a little on his efforts. To put it in an even larger context, we are coming into a time with the information age, the information flow, time period in history that replaces the agriculture revolution, the industrial revolution. Now we are into the information revolution. Along with that is going the computerization of all of the taxpayer records that formerly were all in on a piece of paper in the file. They were not as accessible as they are now to computers and hackers and other people.

One of our biggest problems in keeping confidentiality is making sure that as we move into the taxpayer system modernization program, the TSM Program, a very expensive modernization program—and it will be another 3 or 4 years before completion—that will completely modernize the IRS. We need protections like this and like the protections the Senator from Arkansas put the initiative on in putting it together. So he is to be complimented for his efforts in times past on this. As he said, he has T–2, the Taxpayer Bill of Rights II, which is being prepared.

This bill I put in today is one that covers one loophole that we had discerned was there and which the IRS agreed we should close, and we are glad the Senator from Arkansas is a cosponsor because he did a lot of the original work and deserves a lot of the credit for it.

By Mr. HATCH:

S. 671. A bill to provide a fair and balanced resolution to the problem of multiple imposition of punitive damages, and for other purposes; to the Committee on the Judiciary.

THE MULTIPLE PUNITIVE DAMAGES FAIRNESS ACT

Mr. HATCH. Mr. President, I rise today to introduce legislation which will at last deal with one aspect of one of the most serious problems facing our civil justice system today—out of control punitive damage awards.

Punitive damages constitute punishment and an effort to deter future egregious misconduct. Punitive damages are not awarded to make whole the victim of wrongdoing. Punitive damages reform is not about shielding wrongdoers from liability, nor does such reform prevent victims of wrongdoing

from being rightfully compensated for their damages.

Safeguards are needed to protect against abuse in the award of punitive damages. In a 1994 opinion authored by Justice Stevens, the Supreme Court noted, ''Punitive damages pose an acute danger of arbitrary deprivation of property.'' [*Honda Motor Co.* v. *Oberq,* 114 S. Ct. 2331, 2340]

One particular problem is multiple awards of punitive damages. While I do not argue that a person or company that acts maliciously should not be subject to punitive damages, it is neither just nor fair for the repeated imposition of punitive damages in several States for the same act or conduct, as our system currently permits. Moreover, exorbitant and out-of-control punitive damage awards have the effect of punishing innocent people as well: employees, other consumers and shareholders.

This is not a hypothetical problem. This past September, for example, a State court let stand a multimillion dollar punitive damage award against an automobile distributor who failed to inform a buyer that his new vehicle had been refinished to cure superficial paint damage.

The victim, a purchaser of a $40,000 BMW automobile, learned 9 months after his purchase that his vehicle might have been partially refinished. As a result of the discovery, he sued the automobile dealer, the North American distributor, and the manufacturer, for fraud and breach of contract. He also sought an award for punitive damages. He won and hit the jackpot.

At trial, the jury was allowed to assess damages for each of the partially refinished vehicles that had been sold throughout the United States over a period of 10 years. As sought by the plaintiff's attorney, the jury returned a verdict of $4,000 in compensatory damages and $4 million in punitive damages.

On appeal to the State supreme court, the punitive damage award was reduced to $2 million, applicable to the North American distributor. The U.S. Supreme Court has accepted this case for review of the constitutionality of the $2 million punitive damage award.

I should note that this same defendant can be sued again and again for punitive damages by every owner of a partially refinished vehicle. In fact, according to defense counsel, the same plaintiff's attorney has filed 24 other similar lawsuits.

Defendant and consumers are not the only ones hurt by excessive, multiple punitive damage awards. Ironically, other victims can be those the system supposedly is intended to benefit, the injured parties themselves. Funds that might otherwise be available to compensate later victims can be wiped out at any early stage by excessive punitive damage awards.

The imposition of multiple punitive damage awards in different States for the same act is an issue that can only be addressed through Federal legislation. If only one State limits such awards, other States still remain free to impose multiple punitive damages. Accordingly, a Federal response is necessary.

Mr. President, I hope Senators will join me in supporting this initiative.

By Mr. HATCH (for himself, Mr. MCCONNELL, and Mr. THOMAS):

S. 672. A bill to provide a fair and balanced resolution to the problem of multiple imposition of punitive damages, and for the reform of the civil justice system; to the Committee on the Judiciary.

THE CIVIL JUSTICE FAIRNESS ACT

Mr. HATCH. Mr. President, one of the few things on which most Americans can agree today is the need for reform of our civil justice system. In plain English, which is itself something too often absent from our courthouses and law offices, America's civil justice system has gotten out of control.

In too many cases, the system fails to deliver justice to the parties. For most Americans, rich or poor, private citizen, small business person, or major corporation, the prospect of going to court, regardless of the merits of the case, is about as welcome as root canal work or an IRS audit.

The litany of problems is no secret; they include excessive legal fees and costs, dilatory and sometimes abusive litigation practices, the increasing use of junk science as evidence, a veritable tidal wave of frivolous lawsuits by prison inmates, and a risk of unduly large punitive damage awards.

The problems with our current civil justice system have resulted in several perverse effects. First, all too often the system fails to accomplish its most important function—to compensate adequately deserving plaintiffs. Second, it imposes unnecessarily high litigation costs on all parties—costs that are passed along to consumers, to each and every American, in the form of higher prices for products and services we buy—costs that ultimately harm our Nation's business competitiveness in the increasingly global economy.

It's time Congress faced up to the problem and enacted meaningful legislation reforming our civil justice system, to eliminate its abuses and procedural problems and to restore to the American people a civil justice system deserving of their trust, confidence, and support. To achieve this goal, I am today introducing the Civil Justice Fairness Act, along with Senators MCCONNELL and THOMAS.

I would like to review the major provisions of this legislation and to explain how they would correct some of the more serious problems in our present civil justice system.

This legislation would address the problem of multiple punitive damage awards. We all know that punitive damage awards are out of control in this country. The imposition of multiple punitive damages for the same wrongful act in particular, raises great concern about the fairness of punitive damages and their ability to serve the purposes of punishment and deterrence for which they are intended.

This past September, for example, a State court let stand a multi-million-dollar punitive damage award against an automobile distributor who failed to inform a buyer that his new vehicle had been refinished to cure superficial paint damage. The jury was allowed to assess damages for each of the nearly 1,000 other vehicles that had been sold throughout the United States.

Conceivably, the company can still be sued for punitive damages in every other State where it sold one of its vehicles for the same act.

Moreover, multiple punitive damage awards can hurt injured parties. Funds that would otherwise be available to compensate later victims can be wiped out at any early stage by excessive punitive damage awards. A Federal response is critical: if only one State limits such awards, other States still remain free to impose multiple punitive damages. Accordingly, my bill limits these multiple punitive damage awards.

My legislation also addresses abuses of punitive damages litigation. It includes a heightened standard of proof to ensure that punitive damages are awarded only if there is clear and convincing evidence that the harm suffered was the result of conduct either specifically intended to cause that harm, or carried out with conscious, flagrant indifference to the rights or the safety of the claimant.

This bill also provides that punitive damages may not be awarded against the seller of a drug or medical device that received pre-market approval from the Food and Drug Administration.

Additionally, this legislation would allow a bifurcated trial, at the defendant's request, on the issue of punitive damages and limits the amount of the award to either $250,000 or three times the economic damages suffered by the claimant, whichever is greater.

This legislation would also limit a defendant's joint liability for non-economic damages. In any civil case for personal injury, wrongful death, or based upon the principles of comparative fault, a defendant's liability for non-economic loss shall be severable only and shall not be joint. The trier of fact will determine the proportional liability of each person, whether or not a party to the action, and enter separate judgments against each defendant.

Another provision of this bill would shift costs and attorneys fees in circumstances in which a party has rejected a settlement offer, forcing the litigation to proceed, and then obtained a less favorable judgment. This provision encourages parties to act reasonably, rather than pursue lengthy and costly litigation. It allows a plaintiff or a defendant to be compensated

for their reasonable attorneys fees and costs from the point the other party rejects a reasonable settlement offer.

Another reform included in this legislation is a provision aimed at abusive litigation practices. This bill restores earlier provisions of rule 11 of the Federal Rules of Civil Procedure, to make sanctions for abusive litigation practices mandatory, and to require attorneys to make reasonable inquiries into the factual allegations before they file a pleading in court. This bill also eliminates the so-called safe harbor rule that allows an offending party to withdraw his offending pleading and clarifies that sanctions would also serve to compensate a prevailing party under rule 11.

Another problem in our civil justice system that has been widely reported is abuse in contingency fee cases. This bill encourages attorneys to disclose fully to clients the hours worked and fees paid in all contingency fee cases. The bill calls upon the Attorney General to draft model State legislation requiring such disclosure to clients. It also requires the Attorney General to study possible abuses in the area of contingency fees and, where such abuses are found, to draft model State legislation specifically addressing those problems.

This legislation restricts the use of so-called ''junk science'' in the courtroom. This long overdue reform will improve the reliability of expert scientific evidence and permit juries to consider only scientific evidence that is objectively reliable.

This legislation also includes a provision for health care liability reform. It limits, in any health care liability action, the maximum amount of noneconomic damages that may be awarded to a claimant to $250,000. This limit would apply regardless of the number of parties against whom the action is brought, and regardless of the number of claims or actions brought. To avoid prejudice to any parties, the jury would not be informed about the limitations on noneconomic damages.

This legislation would also establish a reasonable, uniform statute of limitations for the bringing of health care liability actions.

Further, if damages for losses incurred after the date of judgment exceed $100,000, the court shall allow the parties to have 60 days in which to negotiate an agreement providing for the payment of such damages in a lump sum, periodic payments, or a combination of both. If no agreement is reached, a defendant may elect to pay the damages on a periodic basis. Periodic payments for future damages would terminate in the event of the claimant's return to work, or upon the claimant's death. There is an exception for the portion of such payments allocable to future earnings, which shall be paid to any individual to whom the claimant owed a duty of support immediately prior to death, to the extent required by law at the time of the claimant's death.

This legislation also allows States the freedom to experiment with alternative patient compensation systems based upon no-fault principles. The Secretary of Health and Human Services would award grants based on applications by interested States according to enumerated criteria and subject to enumerated reporting requirements. Persons or entities participating in such experimental systems may obtain from the Secretary a waiver from the provisions of this legislation for the duration of the experiment. The Secretary would collect information regarding these experiments and submit an annual report to Congress, including an assessment of the feasibility of implementing no-fault systems, and legislative recommendations, if any.

Our court system, at both the Federal and State level, is facing an ever-mounting tide of lawsuits, many totally frivolous, filed by prison inmates. This bill improves the ability of our courts to dismiss nonmeritorious in forma pauperis claims and requires the exhaustion of available administrative remedies in prisoner civil rights cases before a lawsuit is filed in court. Also, the bill requires that inmates bear at least some of the cost of initiating litigation, by enabling the courts to require the payment of at least a partial fee, or the payment of court fees in installments where the inmate cannot afford the entire fee.

Mr. President, I ask for unanimous consent that a section-by-section description of the bill be printed in the RECORD.

I urge my colleagues to take a serious look at these problems within our civil justice system. I believe this bill addresses these issues in a common sense way, and I hope my colleagues will join me in sponsoring this legislation.

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

SECTION-BY-SECTION DESCRIPTION OF THE CIVIL JUSTICE FAIRNESS ACT

TITLE I—PUNITIVE DAMAGES REFORM

Sec. 101: Definitions. This section defines various terms and phrases used in Title I of the bill.

Sec. 102: Multiple Punitive Damages Fairness. This section generally prohibits the award of multiple punitive damages. With one exception, it prevents courts from awarding punitive damages based on the same act or course of conduct for which punitive damages have already been awarded against the same defendant. Under the exception, an additional award of punitive damages may be permitted if the court determines in a pretrial hearing that the claimant will offer new and substantial evidence of previously undiscovered, additional wrongful behavior on the part of the defendant, other than injury to the claimant. In those circumstances, the court must make specific findings of fact to support the award, must reduce the amount of punitive damages awarded by the amounts of prior punitive damages based on the same acts, and may not disclose to the jury the court's determination and action under the section. This section would not apply to any action brought under a federal or state statute that specifically mandates the amount of punitive damages to be awarded.

Sec. 103: Uniform Standards for Award of Punitive Damages. This section sets the following uniform standards for the award of punitive damages in any State or Federal Court action: (1) In general, punitive damages may be awarded only if the claimant establishes by clear and convincing evidence that the conduct causing the harm was either specifically intended to cause harm or carried out with conscious, flagrant indifference to the rights or the safety of other persons. (2) Punitive damages may not be awarded in the absence of an award of compensatory damages exceeding nominal damages. (3) Punitive damages may not be awarded against a manufacturer or product seller of a drug or medical device which was the subject of pre-market approval by the food and Drug Administration (FDA). This FDA exemption is not applicable where a party has withheld or misrepresented relevant information to the FDA. (4) Punitive damages may not be pleaded in a complaint. Instead, a party must establish at a pre-trial hearing that it has a reasonable likelihood of proving facts at trial sufficient to support an award of punitive damages, and may then amend the pleading to include a prayer for relief seeking punitive damages. (5) At the defendant's request, the trier of fact shall consider in separate proceedings whether punitive damages are warranted and, if so, the amount of such damages. If a defendant requests bifurcated proceedings, evidence relevant only to the claim for punitive damages may not be introduced in the proceeding on compensatory damages. Evidence of the defendant's profits from his misconduct, if any, is admissible, but evidence of the defendant's overall wealth is inadmissible in the proceeding on punitive damages. (6) In any civil action where the plaintiff seeks punitive damages under this title, the amount awarded shall not exceed three times the economic damages or $250,000, whichever is greater. This provision shall be applied by the court and shall not be disclosed to the jury. (7) This section applies to all civil actions in which a trial has not commenced before the effective date of this Act.

Sec. 104: Effect on Other Law. This section specifies that certain state and federal laws are not superseded or affected by this legislation. Choice-of-law and forum nonconveniens rules are similarly unaffected.

TITLE II—SEVERAL LIABILITY

Sec. 201: Several Liability for Noneconomic Loss. This section limits a defendant's joint liability for non-economic damages. In any civil action for personal injury, wrongful death, or based upon principles of comparative fault, a defendant's liability for noneconomic loss shall be several only and shall not be joint. The trier of fact will determine the proportional liability of each person, whether or not such person is a party to the action, and enter separate judgments against each defendant.

TITLE III—CIVIL PROCEDURAL REFORM

Sec. 301: Sanctions for Abusive Litigation Practices. This section restores key provisions to Federal Rule of Civil Procedure 11. It requires a party to conduct a reasonable pre-filling inquiry into allegations and factual assertions contained in a pleading or motion, and makes the issuance of sanctions for frivolous or abusive tactics mandatory rather than permissive. It also gives the courts wider latitude to impose sanctions on attorneys for filing abusive pleadings by eliminating the so-called ''safe harbor'' rule. The safe harbor rule allows a party moved

against to withdraw the offending pleading within 21 days of a Rule 11 motion—an indulgent free bite at the apple. The section also clarifies that the purpose of sanctions is to deter repetition of abusive litigation practices and to compensate a party injured by the conduct.

Sec. 302: Trial Lawyer Accountability. This section contains two major provisions. The first provides that it is the sense of the Congress that each State should require attorneys who enter into contingent fee agreements to disclose to their clients the actual services performed and hours expended in connection with such agreements. The second provision directs the Attorney General to study and evaluate contingent fee awards and their abuses in State and Federal court; to develop model legislation to require attorneys who enter into contingency fee agreements to disclose to clients the actual services performed and hours expended, and to curb abuses in contingency fee awards based on the study; and to report the Attorney General's findings and recommendations to Congress within one year of enactment.

Sec. 303: Honesty in Evidence. This section amends Federal Rule of Evidence 702 to reform the rules regarding the use of expert testimony. It clarifies that courts retain substantial discretion to determine whether the testimony of an expert witness that is premised on scientific, technical, or medical knowledge is based on scientifically valid reasoning, is sufficiently reliable, and is sufficiently established to have gained general acceptance in the particular field in which it belongs. The section codifies the standard for admissibility of expert testimony enunciated in *Daubert* v. *Merrell Dow Pharmaceuticals, Inc.*, 113 S. Ct. 2786 (1993). It also restores the common law *Frye* rule that requires that scientific evidence have ''general acceptance'' in the relevant scientific community to be admissible. This section further clarifies that expert witnesses have expertise in the particular field on which they are testifying. Finally, this section mandates that the testimony of an expert retained on a contingency fee basis is inadmissible.

Sec. 304: Fair Shifting of Costs and Reasonable Attorney Fees. This section modifies Federal Rule of Civil Procedure 68 to allow either party, not just the defendant, to make a written offer of settlement or to allow a judgment to be entered against the offering party. It expands the time period during which an offer can be made from 10 days before trial to any time during the litigation. If within 21 days the offer is accepted, a judgment may be entered by the court. If, however, a final judgment is not more favorable to an offeree than the offer, the offeree must pay attorney fees and costs incurred after the time expired for acceptance of the offer. Thus, this is not a true ''loser pays'' provision where a loser pays the winner's attorney's fees, but rather a narrower attorney fee- and cost-shifting idea applicable only when a party has made an offer of settlement or judgment. This section also significantly expands the definition of recoverable costs. Currently, costs are narrowly defined and do not create enough of a financial incentive for a party to make an offer that allows judgment to be entered. Finally, this section also allows a party to make an offer of judgment after liability has already been determined but before the amount or extent has been adjudged.

TITLE IV—HEALTH CARE LIABILITY REFORM

Sec. 401: Limitations on Noneconomic Damages. In any health care liability action the maximum amount of noneconomic damages that may be awarded to a claimant is $250,000. This limit shall apply regardless of the number of parties against whom the action is brought, and regardless of the number of claims or actions brought. The jury shall not be informed about the limitations on noneconomic damages.

Sec. 402: Uniform Statute of Limitations. This section provides a reasonable uniform statute of limitations for health care liability actions, with one exception for minors. The general rule is that an action must be brought within two years from the date the injury and its cause was or reasonably should have been discovered, but in no event can an action be brought more than six years after the alleged date of injury. This section also allows an exception for young children. The rule for children under six years of age is that an action must be brought within two years from the date the injury and its cause was or reasonably should have been discovered, but in no event can an action be brought more than six years after the alleged date of injury or the date on which the child attains 12 years of age, whichever is later.

Sec. 403: Periodic Payment of Future Damages. This section allows for the periodic payment of large awards for losses accruing in the future. If damages for losses incurred after the date of judgment exceed $100,000, the court shall allow the parties to have 60 days in which to negotiate an agreement providing for the payment of such damages in a lump sum, periodic installments, or a combination of both. If no agreement is reached within those 60 days, a defendant may elect to pay the damages on a periodic basis. The court will determine the amount and periods for such payments, reducing amounts to present value for purposes of determining the funding obligations of the individual making the payments. Periodic payments for future damages terminate in the event of the claimant's recovery or return to work; or upon the claimant's death, except for the portion of the payments allocable to future earnings which shall be paid to any individual to whom the claimant owed a duty of support immediately prior to death to the extent required by law at the time of death. Such payments shall expire upon the death of the last person to whom a duty of support is owed or the expiration of the obligation pursuant to the judgment for periodic payments.

Sec. 404: Non-Fault Based Patient Compensation System Demonstration Project. This section allows states to experiment with alternative patient compensation systems based upon no-fault principles. Grants shall be awarded by the Secretary of Health and Human Services based on applications made by interested states according to enumerated criteria and subject to enumerated reporting requirements. Persons or entities involved in the demonstrations involved may obtain a waiver from the Secretary from the provisions of this Title for the duration of the experiment, which shall be not greater than five years. The Secretary shall collect information regarding these experiments and submit an annual report to Congress including an assessment of the feasibility of implementing no-fault systems and legislative recommendations, if any.

Sec. 405: Definitions. This section defines various terms and phrases used in Title IV of the bill.

TITLE V—CONTROL OF ABUSIVE PRISONER LITIGATION TACTICS

Sec. 501: Reform of In Forma Pauperis Determinations. This section reforms *in forma pauperis* determinations by permitting courts to require a prisoner to make either partial payment of fees or the payment of fees in installments where the court determines that a prisoner is unable to pay the total fees. This section also requires that, where a prisoner files an *in forma pauperis* affidavit, the prisoner must also file (1) an affidavit listing the prisoner's assets, and (2) a statement, signed by prison officials, specifying the prisoner's income and assets during the preceding year.

Sec. 502: Improving Courts' Abilities to Dismiss Nonmeritorious Claims. This section improves courts' abilities to dismiss nonmeritorious *in forma pauperis* claims by permitting courts to dismiss such claims at any time where the allegation of poverty is untrue, where those claims are frivolous or malicious, where the complaint fails to state a claim on which relief can be granted, or where the claim is insubstantial in that the plaintiff suffered no injury or an insubstantial injury.

Sec. 503: Exhaustion of Administrative Remedies in Prisoner Litigation. This section amends Section 7 of the Civil Rights of Institutionalized Persons Act to require the exhaustion of available administrative remedies where a prisoner files a lawsuit under 42 U.S.C. §1983. It also makes minor changes in the assessment of whether administrative remedies are adequate, to grant greater flexibility to the Attorney General. Currently, courts are required to continue a case for no longer than 90 days to allow a prisoner to exhaust his administrative remedies. Prisoners often merely wait out the time period and make no effort to pursue an administrative remedy. Thus, this section requires *exhaustion* of a prisoner's plain, speedy, and effective administrative remedy.

TITLE VI—MISCELLANEOUS PROVISIONS

Sec. 601: Federal Cause of Action Precluded. This section provides that the bill does not provide any new basis for federal court jurisdiction. The resolution of punitive damages claims is left to state courts or to federal courts that currently have jurisdiction over those claims.

Sec. 602: Effective Date. Except as otherwise provided, this section provides that this Act shall be effective 30 days after the date of its enactment and shall apply to all civil actions commenced on or after that date, including actions in which the harm occurred before the effective date of this Act.

By Mrs. KASSEBAUM (for herself, Mr. INOUYE, Mr. DOMENICI, and Mr. STEVENS):

S. 673. A bill to establish a youth development grant program, and for other purposes; to the Committee on Labor and Human Resources.

THE YOUTH DEVELOPMENT COMMUNITY BLOCK GRANT ACT OF 1995

● Mrs. KASSEBAUM. Mr. President, I introduce the Youth Development Community Block Grant Act of 1995 on behalf of myself, Senator DOMENICI, Senator INOUYE, Senator STEVENS. The purpose of this initiative is to reallocate existing Federal funding for preventive youth program into a more effective and cohesive network of community-based youth development services for 6- to 18-year-olds.

The United States has concentrated most of its efforts on behalf of youth on specific problems that have captured the attention of the American public. This well-intentioned response has had two major results: First, the creation of a maze of narrowly defined categorical programs to address the

specific needs of a particular population; and second, a lack of local flexibility in determining how best to respond to the needs of youth in the community. These two factors, combined with our concern about the increasing vulnerability of the American family, have lead to the development of the Youth Development Community Block Grant Act.

The central goal of the youth development community block grant [YDCBG] is to promote and support positive youth development. The bill will fund services focused on prevention—programs that help children and youth develop the values and life skills they need to succeed. It reflects the belief of leaders in the field of youth development, including the Carnegie Council on Adolescent Development and the Center for Youth Development and Policy Research, that youth programs should address the social, moral, emotional, and physical development of youth, in addition to their ability to think and reason.

Likewise, the legislation reflects the strong consensus among these experts that youth development services should focus on the needs of youth in general, rather than segregate them into various categories of risk. It also emphasizes the use of participatory, hands-on-techniques which have been shown to be effective in getting youth involved and interested in learning critical life skills.

Rather than wait until young people are in crisis, this legislation will fund preventive services. Rather than forcing service providers to define the needs of a youth to conform to the labyrinth of rules and regulations of a categorical program, they can identify the youth's needs based on what is actually needed. The youth development community block grant represents a comprehensive, coordinated approach to youth and to funding community-based services.

The YDCBG incorporates many of the principles which policymakers and service providers have identified as necessary for effective Federal support for community-based human services—local control, flexibility, coordination, and accountability.

Most existing youth development programs are provided not by government agencies but by community-based organizations. The youth development community block grant builds on the strength, credibility, and expertise of existing community-based resources.

There is a broad and growing consensus among youth policy experts about the importance of increased investment in positive youth development programs. For example, in major studies, both the Chaplin Hall Center for Children at the University of Chicago and the Carnegie Council have concluded that, if youth are to succeed, there must be a well-developed infrastructure of youth development services in their communities. Provisions in the legislation concentrate on improving the quality of community-based youth development programs and improving the capacity of communities to design and deliver successful services for our youth.

The YDCBG was developed in conjunction with the National Collaboration for Youth, a 15-member coalition of major youth-serving organizations. These organizations collectively provide direct services to over 25 million children and youth each year.

Members of the National Collaboration for Youth endorsing the Youth Development Community Block Grant Act include: the American Red Cross, Association of Junior Leagues International, Big Brothers/Big Sisters of America, Boy Scouts of America, Boys and Girls Clubs of America, Camp Fire Boys and Girls, Child Welfare League of America, 4-H-Extension Service, Girl Scouts of the USA, Girls Inc., National Network of Runaway and Youth Services, The Salvation Army, WAVE Inc., YMCA of the USA, and YWCA of the USA.

While these and other community-based youth organizations are providing important services to millions of youth, millions more go unserved or underserved. It is critical that the existing Federal dollars allocated for youth prevention be used in the most effective and efficient way—to build a cohesive network of locally driven services and programs.

The legislation authorizes the youth development community block grant for 3 years at $2 billion per year. This authorization level represents a 10-percent savings over current Federal spending for the various programs consolidated under the YDCBG, the sum of the fiscal year 1995 appropriations for existing programs combined with the estimated appropriations level for crime bill programs aimed at youth prevention, less 10 percent.

I hope other Members of the Senate join with us as cosponsors of the Youth Development Community Block Grant Act.

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

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

SUMMARY—YOUTH DEVELOPMENT COMMUNITY BLOCK GRANT

The Youth Development Community Block Grant (YDCBG) is an effort to reallocate existing federal funding for preventive youth programs into a more effective and efficient response to the needs of young people, aged 6–18. The goal of youth development programs is helping children and youth learn the life skills which they need to succeed. This legislation establishes a community driven, coordinated network of positive youth development to accomplish this goal.

In short, the youth development community block grant:

Is community-based and flexible, with program accountability

Invests money in prevention rather than crisis intervention

Transforms current categorical programs into a cohesive network

Can serve as a catalyst in building stronger communities to support children and their families

FEATURES OF THE YOUTH DEVELOPMENT COMMUNITY BLOCK GRANT

Community control of local programs

This legislation supports the idea that the best place to design and implement youth programs is within the community. When created within the context of the community and by a partnership of community members, the programs can draw upon the strengths of existing resources and address the specific needs of the youth living there.

All YDCBG-funded programs must address community youth development priorities as defined by the Local Board; recognize the role of the family in youth development; involve parents, youth, and community leaders in the program; coordinate services with other programs in the community; and establish process and outcome objectives responding to local needs.

Focus on prevention rather than crisis intervention

The second part of the equation is that it is important to redirect resources to prevention activities. Most government funds are focused on solving problems rather than preventing problems from occurring. There are a variety of activities which help youth develop their social, emotion, and physical abilities, along with their ability to think and reason. These activities can involve mentoring, sports and recreation, peer counseling, youth clubs, leadership development, educationally based youth employment, and a variety of other non-academic pursuits. youth development programs provide youth with hands on, active way to learn life skills which will help them make a successful transition from childhood to adulthood.

In addition, because these activities are not focused on correcting a specific problem, but on providing basic life skills, the programs do not need to be restricted to ''high risk'' youth or a special target population. Local communities and youth development agencies may choose to focus the activities on a special group of children and youth, such as low-income or at risk youth, in response to a particular need of the community.

Funds go Directly to Communities

Nearly 95% of the YDCBG funds are funneled directly to local communities; states serve as a pass through and monitoring mechanism. Through a planning and priority setting process, local communities determine the types of activities which will be funded and who will provide those services. Program accountability is demonstrated by measuring the community's progress in meeting goals set in the planning and priority setting process. This provides communities broad flexibility to define local priorities and support local initiatives, while at the same time encouraging community partnerships comprehensive planning, and service integration.

Existing funds are consolidated into a cohesive strategy

Funding for the YDCBG is drawn from existing federal youth prevention programs. The majority of existing youth development and prevention programs are funded through categorical grants awarded on a discretionary basis by the federal agency administering the initiative. These categorical programs are designed to respond to an identified problem such as substance abuse or teen pregnancy. The YDCBG recognizes that those problems are symptoms not only of youth but of an ineffective service delivery system—and that the new funding structure

must transform the current potpourri of narrowly defined categorical programs into a cohesive community based strategy for youth. Current budget constraints demand that existing federal funds be more efficiently administered and more effectively used.

Although the legislation includes the repeal of several federal initiatives, a ''grandfather'' clause in the bill permits communities to continue funding for any local program currently receiving funding from the repealed programs. While the federal administration and legislation will be terminated, the programs themselves can continue to operate at the community level—where the service is delivered.

Funds will be allocated based on a formula, rather then good grantwriting skills

The majority of programs consolidated within the YDCBG are currently distributed through the discretionary grant process. Distribution among states and communities varies widely and is determined, in large part, by the grantwriting skills of the grantees. Through a formula based allocation of YDCBG funds, every county will receive some level of funding for youth development activities. This allocation formula gives equal weight to the size of the youth population aged 6–18, the proportion of the youth population living below the poverty line, and increases in the rate of serious juvenile crime. A small state minimum and set aside for Native American populations is included in the legislation.

Administrative structures are streamlined

The primary administrative structure of the YDCBG is the Local Board. This Board, appointed jointly by the Chief Executive Officer of the County and a representative of the local youth development community, is responsible for setting the goals, determining strategies for achieving those goals, and distributing funds for youth development services in the community. The state serves as a pass through for distributing funds to counties based on the federal allocation formula. In addition, the state is responsible for basic monitoring, reporting and technical assistance functions to assist the counties implementation of the act. The federal role in the YDCBG consists of program oversight as well as state and local capacity building through technical assistance, and research-based demonstration projects.

Provisions in the bill promote the use of existing administrative structures on the federal, state, and local levels. Multi-county and other partnership efforts are encouraged.

Sources for federal funding of the YDCBG

Department of Health and Human Services:

Youth Gang Prevention Program.

National Youth Sports Program.

Demonstration Partnership Program.

Community Coalition Demonstration Projects to Support HHS Needs for Minority Males.

Demonstration Grants for the Prevention of Alcohol and Other Drug Abuse among High Risk Youth.

Drug Abuse Prevention for Runaway and Homeless Youth.

Drug Abuse Prevention and Education Relating to Youth Gangs.

Department of Labor: Summer Youth Employment and Training Program.

Department of Education:

School Drop-Out Demonstration Assistance.

Drug Free and Safe Schools and Communities National Programs.

Drug Free and Safe Schools and Communities—State Grants.

Drug Free and Safe Schools and Communities—Regional Centers

Drug Free and Safe Schools and Communities—Emergency Grants.

Department of Justice-Office of Juvenile Justice and Delinquency Prevention:

Youth Gangs.

Juvenile Mentoring.

Delinquency Prevention Grants.

From the Crime bill:

Ounce of Prevention Council.

Local Crime Prevention Block Grant Program.

Family and Community Endeavor Schools Grant Program.

Assistance for Delinquent and At-Risk Youth.

Local Partnership Act.

Urban Recreation and At-Risk Youth.

Gang Resistance Education and Training.

The $2 billion authorization amount for the YDCBG is the sum of the fiscal year 1995 appropriations for existing programs combined with the estimated appropriations for the crime bill programs less 10%.

YOUTH DEVELOPMENT COMMUNITY BLOCK GRANT ACT OF 1995—SECTION-BY-SECTION DESCRIPTION

Section 1: Short Title; Table of Contents: This section contains the table of contents for the Youth Development Community Block Grant Act of 1995.

Section 2: Findings: Section 2 enumerates Congressional findings for the Youth Development Community Block Grant Act of 1995.

Section 3: Purposes: The purpose of this Act is set forth in Section 3. The Act is designed to create a single, comprehensive Federal strategy for community-based youth development services, and to support communities in designing community strategic plans for worthwhile youth development.

Section 4: Definitions: Section 4 defines all relevant terms and phrases referred to in the Act.

Section 5: Distribution of Funds: Section 5 authorizes appropriations up to $2,000,000,000 per fiscal year 1996 through 1998. This appropriation is to be allocated in the following manner: 95.5 percent for allotments to States (for distribution to the community boards); 1.5 percent for grants to Native American organizations; and 3 percent for activities by the Administration for Children and Families. The formula for distributing the funds to states and to counties equally weights three factors—youth population, level of poverty, and increases in violent juvenile crime since 1990.

Section 6: Community Youth Development Board: Section 6 establishes a Community Youth Development Board and a multicounty Community Board. These boards shall prepare and submit to the State a community strategic plan for youth development, shall be responsible for establishing monitoring and evaluation procedures; and shall award grants. This section also sets forth guidelines for the composition, administration, and duties of community boards.

Section 7: Duties of the State: State responsibilities are set forth in Section 7. These duties include the designation of a state entity to administer and conduct State activities; the development of a mechanism through which to process information, coordinate activities, assess program effectiveness, and for the preparation and submission of an annual report.

Section 8: Duties of the Assistant Secretary: This section specifies duties of the Assistant Secretary. The Assistant Secretary shall establish and implement a mechanism to receive information necessary to improve the effectiveness of Federal youth development activities. Moreover, the Assistant Secretary shall issue national policy goals and a national strategic plan; shall monitor, evaluate, and coordinate activities funded under this Act; and shall submit reports to the President and Congress.

Section 9: Repeals: Section 9 enumerates provisions of law which are repealed by the Act. Several provisions in the Violent Crime Control and Law Enforcement Act of 1994 are repealed, along with several Department of Education Programs. Various provisions from other programs are also repealed.

Section 10: Conforming Amendments: Section 10 sets forth conforming amendments in the Elementary and Secondary Education Act of 1965, the Anti-Drug Abuse Act of 1988, the Job Training Partnership Act, and the National School Lunch Act.

Section 11: Transfer of Funds: Section 11 outlines the transfer of funds. The total amount of funds shall be transferred to the budget account for this Act. Any amounts in the budget account that exceed $2,000,000,000 shall be returned to the Treasury of the United States.●

● Mr. DOMENICI. Mr. President, I am pleased to join the Senator from Kansas, the distinguished chairwoman of the Senate Labor Committee, and the Senator from Hawaii as an original sponsor of this legislation. Senator KASSEBAUM has summarized what is in this bill far more eloquently that I can, so I won't bother to summarize this bill section-by-section. But I would like to take a moment to review the provisions of this bill that I think deserve special attention.

It has become especially obvious in recent years that there is no such thing as one size fits all when it comes to providing services to youth. Many of the programs we have put into place have the same noble intention of providing services to children and youth who need them, but vary in their approaches to delivery. Some programs work very well, others less so. Youth who qualify for one program out of the Department of Labor may not necessarily qualify for a program out of the Department of Human Services. Additionally, we have front-loaded the process with countless regulations to be followed and forms and applications to be completed. As a result, our good intentions are often followed with confusing procedure and time-consuming oversight and management procedures. Plainly, the current system is not delivering.

Our bill is based upon two encroaching realities. First, that many of the problems in our current system are not always due to the nature of the population served, but because of an ineffective, confusing, contradictory, or overwhelming method of delivering services. Second, that States and local communities know best what works best in their States and local communities. Clearly, a new approach to delivering these services is needed.

With this in mind, we did not approach this problem with the intent of block granting a number of Federal programs just for the sake of block granting. I know there are some who question the wisdom of block-granting programs, and I share the view that there are some programs which, due

to their comprehensive nature, do not belong in a block grant. The issue is one of appropriateness—we should not lump together programs which are unrelated or serve substantially different populations, or deliver unrelated services. In other words, don't block grant your apples with your oranges.

I am pleased, therefore, that our legislation focuses on block granting appropriate, and related, programs. These are programs with overlapping jurisdictions or which duplicate programs available in other agencies. And, unlike some proposals that often set our phones to ringing, the bill consolidates apples only with apples. The block grant established under this legislation would consolidate funding from existing Federal youth prevention programs. The list isn't long, and it may even turn out that we didn't include a program in here that others may think should be included. So, I think if you look carefully at what we have included in this block grant, you will see that we did not create a block grant just because everyone is doing it. We were very careful in the programs we chose.

We are proposing a much simpler approach to delivering services to young people, and one that gives communities a much greater voice in determining what services are appropriate in their area. We are rejecting the current practice of moving funding for youth programs through a number of assistant secretaries at the Federal and State level, then gluing on layer after burdensome layer of regulations from a number of different agencies onto those funds. Instead, our bill would ensure that money flows directly to the States—and then directly to communities—and not to the Federal Government. Ninety-five percent of the funds available under this bill go directly to local communities, who know best what their specific needs are.

The State would serve mainly as a flow-through point, with an appropriate entity in place to administer and conduct a few activities, including monitoring, reporting, and technical assistance to counties. Administration of the program is left largely to local boards, which would be appointed in each community by the chief executive officer of the county and a representative of the local youth development community. These boards would determine the goals of the programs within their community, how the community would pursue these goals, and then distribute the funds for the youth development services in the community.

Further, the funds for this program are allocated to the States by formula, not through a discretionary grant process. We have found this approach is one that works in other large grants, such as the Community Development Block Grant. A formula ensures that every State, regardless of size or grant-writing ability, will receive some funding for their youth programs. We have also included a mandatory set-aside for native American, Hawaiian, and Alaskan populations to ensure that the young people in these populations will continue to receive services. I know Senator KASSEBAUM worked closely with members of the Indian Affairs Committee on this language, including the distinguished ranking member who is sponsoring this legislation with us, and I appreciate that committee's assistance in this matter as well.

Unlike the current system, the funds made available under this block grant are not targeted at a narrowly defined group of young people. The non-targeted nature of this block grant means that communities do not necessarily have to target their programs to only at-risk, or only high-risk, or only no-risk youth. Rather, they can develop programs that serve all the youth in their community. These activities can be as broad or as narrow as the community chooses.

Another objective of this legislation is to provide for our young people before they become lost in the system. Under our current system, we focus our efforts mainly on solving an existing problem. Now, I would certainly agree that there is an appropriate role for the Government in this area, but I do not think I exaggerate when I say that many of our programs are the equivalent of ambulance chasing. We seem to always arrive after the fact to help pick up the pieces.

Again, I agree that this is an important function of Government—and our bill would certainly not prevent communities from operating these kinds of programs—but I think we serve our children and our communities better if we focus our efforts on preventing problems from occurring in the first place. Therefore, our bill is heavily tilted toward preventative programs, and would consolidate funding from a number of prevention programs under the jurisdictions of Labor, Health and Human Services, Education, and Justice.

Let me reassure my colleagues that there is no hidden agenda here. We are not out to get any one of these programs. In fact, I have been a staunch supporter of many of the programs block granted in this bill, including the National Youth Sports Program under the Department of Health and Human Services, the Summer Youth Employment and Training Program under the Department of Labor, and Safe and Drug Free Schools under the Department of Education. However, I'm certain there are some in New Mexico listening to me right now who are saying, ''Wait a moment, Senator—you're proposing to put into your block grant a program that we already have. What will happen to our program?'' The answer to that is, nothing. The purpose of this bill is to let communities continue to make available and expand upon the kinds of services these programs provide, but without the Federal Government peeking over their shoulders. We have grandfathered existing programs, allowing the communities to continue funding for any local program currently in place, but without the Federal administration.

Now, in all the talk about block grants, there is always the concern that we will be letting the States have completely free reign, with no accountability, and therefore States will be spending the money from block grants on unrelated items. I want to assure my colleagues and anyone listening that this cannot happen under our bill. Funds must be spent on youth development programs in the State. Period. Also, we will maintain some—minimal, but some—oversight of the program, as well as assisting the States in training and technical assistance, as needed.

It has become alarmingly obvious that we will be unable to continue to fund programs at their existing rate of growth. However, we believe that under our proposed delivery system, States will be able to perform more with less funding. The funding authorized for this program is based on the current authorization levels for the 23 programs we consolidate, minus 10 percent. That amounts to $2 billion. That is not a huge reduction in funding, and we believe that without having to worry about complying with the strict letter of the law, without having to worry about complying with regulation after regulation, and without having to worry about reams of paperwork, the States will find they can continue to deliver services at their current rate, and may surprise themselves in finding they can do even more.

Finally, I want to acknowledge a number of groups who are lending their support to this legislation, and who have been very helpful during this process. My thanks go especially to the Boys and Girls Club of America, Big Brothers/Big Sisters, the American Red Cross, YMCA, YWCA, and the Boy Scouts of America. These are groups I have worked with closely on my efforts with the Character Counts Coalition, and their support for this effort means as much to me as it does for my efforts with Character Counts. I look forward to continuing to work with them.

I believe ours is a responsible approach that can work. I encourage my colleagues to give it a chance to do so.●

By Mr. EXON (for himself, Mr. DORGAN, Mr. KERRY, and Mr. MOYNIHAN):

S. 674. A bill entitled the ''Rail Investment Act of 1995''; to the Committee on Commerce, Science, and Transportation.

RAIL INVESTMENT ACT

Mr. EXON. Mr. President, I am pleased to introduce the Rail Investment Act of 1995. This legislation will ensure that America's rail infrastructure continues to meet the needs of the Nation. This bill is an update version of S. 2002 which the Senate Commerce Committee unanimously approved last year and combines several important

rail initiatives including the reauthorization of Amtrak, the reauthorization of the Local Rail Freight Assistance Program and other rail initiatives of critical importance to a number of Members of the Senate.

The bill before the Senate takes into account the cost-saving measures taken by the Amtrak Board and includes new provisions to help Amtrak generate more nontax revenues through advertising, concessions and intermodal coordination with America's bus companies. I know that this legislation is a starting place and not a finishing place. Many painful choices regarding Amtrak are just around the bend. With a few modifications, however, it is where the Senate left off last year.

As the former chairman of the Surface Transportation Subcommittee, I am proud of the work we did last year. I have updated the effort to reflect the new political and financial realities which face both Amtrak and this body.

The Senate Commerce Committee held a very good hearing on Amtrak and it is clear to me that there continues to be strong bipartisan support for a national passenger rail system. I look forward to working with both the new chairman of the full committee and the subcommittee to assure that Amtrak has a future.

The key features of the Rail Investment Act include:

First, an addition to the Amtrak mission statement that Amtrak should treat all passengers with respect, courtesy, and dignity and that Amtrak should manage its capital investment to provide world class service;

Second, a study of proposed changes of the State-requested service program;

Third, a renewal of the authorization for the Northeast Corridor Improvement Program [NECIP];

Fourth, a technical amendment to settle a title problem for Reno, NV, rail properties;

Fifth, the Missouri River Corridor Development Program to study the feasibility of service between Kansas City and Omaha, to authorize station projects and fund operation of new service in and around the States bordering the Missouri River;

Sixth, a provision to assist Rhode Island with its double-stack freight service problems;

Seventh, a provision which allows Amtrak to better manage its finances;

Eighth, a provision to study D.C. to Bristol, VA, passenger rail service;

Ninth, the addition of a passenger representative to the Amtrak Board of Directors;

Tenth, a pilot program to generate more nontax revenues from advertising and concession sales; and

Eleventh, a provision to authorize a rail project integral to service between Massachusetts and Maine;

Twelfth, a continuation of the Amtrak labor management safety task force.

The bill also includes the text of legislation I introduced with Senators DASCHLE, PRESSLER, HARKIN, CONRAD, KERREY, and DORGAN last year to reauthorize the Local Rail Freight Assistance Program [LRFA] for $30 million each year. In addition, the LRFA Program is amended to give authorization for emergency appropriations, and to add explicit language to permit LRFA money to be used for crossing closures and upgrades.

I urge my colleagues to endorse this much needed legislation.

ADDITIONAL COSPONSORS

S. 240

At the request of Mr. DOMENICI, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 240, a bill to amend the Securities Exchange Act of 1934 to establish a filing deadline and to provide certain safeguards to ensure that the interests of investors are well protected under the implied private action provisions of the act.

S. 351

At the request of Mr. HATCH, the name of the Senator from Delaware [Mr. ROTH] was added as a cosponsor of S. 351, a bill to amend the Internal Revenue Code of 1986 to make permanent the credit for increasing research activities.

S. 360

At the request of Mr. SMITH, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 360, a bill to amend title 23, United States Code, to eliminate the penalties imposed on States for noncompliance with motorcycle helmet and automobile safety belt requirements, and for other purposes.

S. 390

At the request of Mr. BIDEN, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 390, a bill to improve the ability of the United States to respond to the international terrorist threat.

S. 451

At the request of Mr. NICKLES, the name of the Senator from Wyoming [Mr. THOMAS] was added as a cosponsor of S. 451, a bill to encourage production of oil and gas within the United States by providing tax incentives and easing regulatory burdens, and for other purposes.

S. 629

At the request of Mr. THOMAS, the name of the Senator from Arizona [Mr. KYL] was added as a cosponsor of S. 629, a bill to provide that no action be taken under the National Environmental Policy Act of 1969 for a renewal of a permit for grazing on National Forest System lands.

S. 641

At the request of Mr. KENNEDY, the names of the Senator from Washington [Mrs. MURRAY], the Senator from Arkansas [Mr. PRYOR], the Senator from Arkansas [Mr. BUMPERS], the Senator from Nebraska [Mr. KERREY], the Senator from Nevada [Mr. REID], the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from South Carolina [Mr. HOLLINGS], and the Senator from Louisiana [Mr. JOHNSTON] were added as cosponsors of S. 641, a bill to reauthorize the Ryan White CARE Act of 1990, and for other purposes.

S. 644

At the request of Mr. CAMPBELL, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 644, a bill to amend title 38, United States Code, to reauthorize the establishment of research corporations in the Veterans Health Administration, and for other purposes.

S. 650

At the request of Mr. SHELBY, the name of the Senator from Minnesota [Mr. GRAMS] was added as a cosponsor of S. 650, a bill to increase the amount of credit available to fuel local, regional, and national economic growth by reducing the regulatory burden imposed upon financial institutions, and for other purposes.

SENATE RESOLUTION 91

At the request of Mr. PELL, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of Senate Resolution 91, a resolution to condemn Turkey's illegal invasion of Northern Iraq.

AMENDMENT NO. 425

At the request of Mr. PRESSLER, the name of the Senator from Arizona [Mr. KYL] was added as a cosponsor of amendment No. 425 proposed to H.R. 1158, a bill making emergency supplemental appropriations for additional disaster assistance and making rescissions for the fiscal year ending September 30, 1995, and for other purposes.

SENATE CONCURRENT RESOLUTION 10—RELATIVE TO EASTERN AND CENTRAL EUROPE

Mr. BROWN (for himself and Mr. SIMON) submitted the following concurrent resolution; which was referred to the Committee on Finance:

S. CON. RES. 10

Whereas the countries of Central and Eastern Europe, including Poland, Hungary, the Czech Republic, Slovakia, Lithuania, Latvia, Estonia, Slovenia, Bulgaria, and Romania, are important to the long-term stability and economic success of a future Europe freed from the shackles of communism;

Whereas the Central and Eastern European countries, particularly Hungary, Poland, the Czech Republic, and Slovakia, are in the midst of dramatic reforms to transform their centrally planned economies into free market economies and to join the Western community;

Whereas it is in the long-term interest of the United States to encourage and assist the transformation of Central and Eastern Europe into a free market economy, which is the solid foundation of democracy, and will contribute to regional stability and greatly increased opportunities for commerce with the United States;