In the Navy there are 1,120 promotions to the grade of lieutenant commander (list begins with Glen F. Abad) (Reference No. 1295).

In the Marine Corps there is one promotion to the grade of major (Robert T. Bader) (Reference No. 1300).

In the Marine Corps there is one promotion to the grade of major (Wayne D. Szymczyk) (Reference No. 1301).

In the Air Force there is one promotion to the grade of colonel (Wendell R. Keller) (Reference No. 1310).

In the Air Force there are 18 appointments to the grade of second lieutenant (list begins with Sean P. Abell) (Reference No. 1311).

In the Air Force Reserve there are 17 promotions to the grade of lieutenant colonel (list begins with Randall R. Ball) (Reference No. 1312).

In the Air Force Reserve there are 35 promotions to the grade of lieutenant colonel (list begins with James E. Ball) (Reference No. 1313).

In the Army Reserve there are 25 promotions to the grade of colonel (list begins with Ernest R. Adkins) (Reference No. 1314).

In the Army Reserve there are 44 promotions to the grade of lieutenant colonel (list begins with William A. Ayers, Jr.) (Reference No. 1315).

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORDS of November 7, 1995, December 11, 1995, July 17, September 9, 13, and 19, 1996, at the end of the Senate proceedings.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. THURMOND (for himself, Mr. FAIRCLOTH, Mr. LOTT, Mr. HELMS, and Mrs. KASSEBAUM):

S. 2104. A bill to amend chapter 71 of title V, United States Code, to prohibit the use of Federal funds for certain Federal employee labor organization activities, and for other purposes; to the Committee on Governmental Affairs.

By Mr. FRIST:

S. 2105. A bill to amend chapter 29 of title 35, United States Code, to provide for a limitation on patent infringements relating to a medical practitioner's performance of a medical activitiy; to the Committee on the Judiciary.

By Mr. MCCONNELL:

S. 2106. A bill to amend the United Nations Participation Act of 1945 to prohibit the placement of members of the United States Armed Forces under the command, direction, or control of the United Nations, and for other purposes; to the Committee on Foreign Relations.

By Mr. THOMAS (for himself, Mr. ROBB, and Mr. MCCAIN):

S. 2107. A bill to authorize the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of Mongolia; to the Committee on Finance.

By Mr. DORGAN (for himself, Mr. ASHCROFT, Mr. BIDEN, Mr. BREAUX, Mr. COATS, Mr. DEWINE, Mr. FAIRCLOTH, Mr. FORD, Mr. GRASSLEY, Mr. HATFIELD, Mr. INHOFE, Mr. LOTT, Mr. MACK, Mr. MCCONNELL, Mr. MURKOWSKI, Mr. PRESSLER, and Mr. THURMOND):

S. 2108. A bill to clarify Federal law with respect to assisted suicide, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DASCHLE:

S. 2109. A bill to provide a 1-year delay in the imposition of penalties on small businesses failing to make electronic fund transfers of business taxes; to the Committee on Finance.

S. 2110. A bill to amend the Internal Revenue Code of 1986 to provide special rules for certain gratuitous transfers of employer securities for the benefit of employees; to the Committee on Finance.

By Mr. MCCAIN:

S. 2111. A bill to amend the Act commonly known as the ''Navajo-Hopi Land Settlement Act of 1974'', and for other purposes; to the Committee on Indian Affairs.

By Mr. FORD:

S. 2112. A bill to revise the boundary of the Abraham Lincoln Birthplace National Historic Site in Larue County, Kentucky, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. KERRY:

S. 2113. A bill to increase funding for child care under the temporary assistance for needy families program; to the Committee on Finance.

By Mr. AKAKA:

S. 2114. A bill to amend the Animal Welfare Act to ensure that all dogs and cats used by research facilities are obtained legally, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SHELBY:

S. 2115. A bill to protect and enhance sportsmen's opportunities and conservation of wildlife, and for other purposes; to the Committee on Environment and Public Works.

By Mr. MOYNIHAN:

S. 2116. A bill to facilitate efficient investments and financing of infrastructure projects and new job creation through the establishment of a National Infrastructure Development Corporation, and for other purposes; to the Committee on Finance.

By Mr. LOTT (for Mr. HATFIELD):

S.J. Res. 63. A joint resolution making continuing appropriations for the fiscal year ending September 30, 1997, and for other purposes; read the first time.

By Mr. DODD (for himself, Mr. D'AMATO, Mr. WARNER, Mr. MOYNIHAN, Mr. BRADLEY, Mr. BYRD, Mrs. FEINSTEIN, Mr. FORD, Mr. HEFLIN, Mr. KENNEDY, Mr. KERRY, Mr. LAUTENBERG, Ms. MIKULSKI, Mr. PELL, Mr. REID, Mr. ROBB, Mr. SIMON, Mr. CHAFEE, Mr. COHEN, Mr. DEWINE, Mr. DOMENICI, Mrs. KASSEBAUM, Mr. MACK, Mr. MURKOWSKI, and Mr. THURMOND):

S.J. Res. 64. A joint resolution to commend Operation Sail for its advancement of brotherhood among nations, its continuing commemoration of the history of the United States, and its nurturing of young cadets through training in seamanship; considered and passed.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. FORD:

S. Res. 296. A resolution to permit disabled Senate employees with the privilege of the Senate floor to use supporting services on the floor; to the Committee on Rules and Administration.

By Mr. ABRAHAM (for himself and Mr. LEVIN):

S. Res. 297. A resolution referring S. 558, entitled ''A bill for the relief of retired SFC James D. Benoit, Wan Sook Benoit, and the estate of David Benoit, and for other purposes,'' to the Chief Judge of the U.S. Court of Claims for a report on the bill; to the Committee on the Judiciary.

By Mr. BYRD (for himself, Mr. LOTT, Mr. DASCHLE, Mr. ABRAHAM, Mr. AKAKA, Mr. ASHCROFT, Mr. BAUCUS, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BRADLEY, Mr. BREAUX, Mr. BROWN, Mr. BRYAN, Mr. BUMPERS, Mr. BURNS, Mr. CAMPBELL, Mr. CHAFEE, Mr. COATS, Mr. COCHRAN, Mr. COHEN, Mr. CONRAD, Mr. COVERDELL, Mr. CRAIG, Mr. D'AMATO, Mr. DEWINE, Mr. DODD, Mr. DOMENICI, Mr. DORGAN, Mr. EXON, Mr. FAIRCLOTH, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FORD, Mrs. FRAHM, Mr. FRIST, Mr. GLENN, Mr. GORTON, Mr. GRAHAM, Mr. GRAMM, Mr. GRAMS, Mr. GRASSLEY, Mr. GREGG, Mr. HARKIN, Mr. HATCH, Mr. HEFLIN, Mr. HELMS, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. KEMPTHORNE, Mr. KENNEDY, Mr. KERREY, Mr. KERRY, Mr. KOHL, Mr. KYL, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mr. LUGAR, Mr. MACK, Mr. MCCAIN, Mr. MCCONNELL, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mr. MURKOWSKI, Mrs. MURRAY, Mr. NICKLES, Mr. NUNN, Mr. PELL, Mr. PRESSLER, Mr. PRYOR, Mr. REID, Mr. ROBB, Mr. ROCKEFELLER, Mr. ROTH, Mr. SANTORUM, Mr. SARBANES, Mr. SHELBY, Mr. SIMON, Mr. SIMPSON, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Mr. STEVENS, Mr. THOMAS, Mr. THOMPSON, Mr. THURMOND, Mr. WARNER, Mr. WELLSTONE, and Mr. WYDEN):

S. Res. 298. A resolution designating room S. 131 in the Capitol as the ''Mark O. Hatfield Room''; considered and agreed to.

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

S. Res. 299. A resolution extending the provisions of Senate Resolution 149 of the 103d Congress, 1st session, relating to the Senate Arms Control Observer Group; considered and agreed to.

By Mr. WELLSTONE (for himself, Mr. INOUYE, Mrs. MURRAY, Mr. DODD, Mrs. FRAHM, Mr. REID, Mr. GLENN, Mr. EXON, Mrs. BOXER, and Mr. KENNEDY):

S. Res. 300. A resolution to designate the week of November 3, 1996, as ''National Shaken Baby Syndrome Awareness Week''; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. THURMOND (for himself, Mr. FAIRCLOTH, Mr. LOTT, Mr. HELMS, and Mrs. KASSEBAUM):

S. 2104. A bill to amend chapter 71 of title V, United States Code, to prohibit the use of Federal funds for certain Federal employee labor organization activities, and for other purposes; to the Committee on Governmental Affairs.

UNION ACTIVITIES LEGISLATION

Mr. THURMOND. Mr. President, I rise today to introduce a very important piece of legislation that would affect every American taxpayer. This measure would prohibit Federal funds

from being used to pay Federal employees while working on union business.

Mr. President, I was shocked by a recent Government Accounting Office [GAO] report to Congress concerning union activities at the Social Security Administration [SSA]. I understand that Federal employees have the right to be represented by a union. However, I completely disagree that the American taxpayer should foot the bill for this representation.

The results of the GAO report are astounding and very disturbing. The GAO reported that over 413,000 hours were spent by Federal employees last year on union activities at the SSA. This cost the American taxpayers approximately $12.6 million in salaries and expenses. This does not even count the amount of time management spent answering union concerns. The cost involved for management to respond may be double the nearly $13 million we spent on the union representatives. The GAO identified 1,800 SSA employees who are authorized by the union to spend time on SSA union activities; I repeat, Mr. President, 1,800 Federal employees, paid by the U.S. Government to do union work. Currently, 146 of those representatives are considered to be full-time. In other words, 146 Federal employees are spending 100 percent of their time at the Social Security Administration working on union activities, not serving Social Security beneficiaries and the taxpayer, but doing full-time union work. These figures are for just one agency. In 1993, President Clinton issued Executive Order 12871, which requires agencies to involve labor organizations as full ''partners'' with management in identifying problems and creating solutions. In the time that this Executive order has been in effect, the cost to the American taxpayer for union activity at SSA alone has more than doubled. Further, Federal employees who are performing union work full-time has jumped from 80 to 146. There are still some 1,654 additional SSA employees working part-time on union activities. Mr. President, this is outrageous.

As I stated, these figures are only for the SSA. I have, therefore, requested that the GAO prepare a similar report to the one conducted at SSA, which would address union activity within the entire Federal Government. It is my feeling that the aggregate numbers will be equally as staggering and shocking as those found at SSA.

I am pleased to be a cosponsor of legislation, authored by my good friend, Senator FAIRCLOTH, which would prohibit using money from the Social Security and Medicare trust funds for union activities at SSA and the Department of Health and Human Services. However, I think we should go even further. No Federal money should be used to subsidize union work within any Government agency. Our Government workers should be attending to the business for which they were hired while on the American taxpayer's time. The union representatives at Federal agencies were not hired to do the work of the unions. They were hired to perform specific duties pertaining to the official business of the Federal agency that employs them.

The legislation I am introducing would ensure that union activities at the Federal level are not financed by the already heavily burdened American taxpayer. Mr. President, let the unions pay the salaries and expenses of those who perform union work; and let our tax money be used to do the work of the American people.

The able Majority Leader, Senator LOTT, Senators FAIRCLOTH, HELMS, and KASSEBAUM are original cosponsors. I invite my other colleagues to join us in support of this important measure to correct an absolute misuse of Federal funds.

I further ask unanimous consent that the GAO report regarding union activities at the Social Security Administration be included in the RECORD.

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

UNION ACTIVITY AT THE SOCIAL SECURITY ADMINISTRATION

Mr. Chairman and Members of the Subcommittee: I am pleased to be here today to discuss the time spent on union activities at the Social Security Administration (SSA). Union activities generally include representing employees in complaints against management, bargaining over changes in working conditions and the application of personnel policies, and negotiating union contracts with management. The federal government pays its employees' salaries and expenses for the portion of time they are allowed to spend on union activities; it also provides other support such as space, supplies, equipment, and some travel expenses.[1] Federal union members generally cannot bargain over wages and cannot strike, and federal employees are not required to join unions and pay union dues in order to be represented by the union.

Given the budget constraints facing federal agencies, the Subcommittee expressed concern about the amount of time and expenses devoted to union activities and paid for by the federal government. The Subcommittee expressed particular concern about SSA unions regarding the amount of money paid for union activities out of the Social Security trust funds.

As requested, I will focus my remarks on the history of union involvement in the federal government, the statutory basis for the federal government to pay employee salaries and expenses for union activities, and the amount of time spent on and costs associated with union activities at SSA and how the agency accounts for it. The Subcommittee also asked us to comment on how the amount of time and money spent at SSA on union activities compares with what is spent at other large federal agencies, such as the Department of Veterans Affairs (VA) and the Internal Revenue Service (IRS), and how it compares with the amount spent by the U.S. Postal Service, which operates more like a private-sector company. As requested, we have also provided information on union activities in the private sector.

In response to your request, we began our work at SSA in August 1995. To develop this information, we interviewed management and union officials in SSA headquarters and 4 of SSA's 10 regional offices. We also reviewed union contracts, payroll records, and time-reporting forms. To determine the amount of time spent on union activities, we reviewed yearly reports of time spent on union activities and verified the time reported by reviewing source documents at one region and selected headquarters components. We supplemented our field work with telephone calls to three additional SSA regions to verify that similar time reporting procedures were used.

We also met with union and management officials at VA, IRS, and the Postal Service to compare their union time and costs with SSA's. VA does not operate a national union time-reporting system and therefore could not provide data on union activities. Consequently, we are not providing any information concerning VA. At IRS and the Postal Service, we obtained available information on union activity from headquarters and selected field facilities but did not verify its accuracy. We also discussed the role and function of unions in the federal government with the Office of Personnel Management (OPM) and discussed the private-sector use of official time for union activities with labor-relations experts at various trade associations, colleges, and universities. We also reviewed a 1992 Bureau of National Affairs publication that summarized trends in labor/management contracts for private industry. Finally, to determine the types of contract provisions that exist in private industry with regard to the use of official time, we reviewed ten contracts on file at the Bureau of Labor Statistics.

In summary, federal labor/management relations were formalized by executive order in the early 1960s.[2] In 1962, an executive order permitted federal agencies to grant official time for certain meetings between management and union representatives, at the discretion of the agency. The management control prevalent when the first executive order was issued has evolved over time, and today unions operating at federal government agencies have significant involvement in operational and management decisions. The use of official time, which is authorized paid time off from assigned duties for union activities, has become a routine method of union operation in the federal government. OPM officials told us that currently no governmentwide requirement exists to capture or report the amount of official time charged to union activities. They further noted that managers and employees would spend time interacting on personnel and working condition matters even if there were no unions operating at agencies.

We determined that over the last 6 years, the time spent on union activities at SSA has grown from 254,000 to at least 413,000 hours, at a cost to SSA's trust funds of $12.6 million in 1995 alone. That is, SSA currently pays the equivalent of the salaries and expenses of about 200 SSA employees to represent the interests of the approximately 52,000 employees represented by unions at SSA. This cost represents a portion of the $5.5 billion SSA incurred in administrative expenses for fiscal year 1995.

In addition, SSA has reported to the Congress that the number of full-time union representatives, those devoting 75 percent or more of their time to union activities, grew from 80 to 145 between 1993 and 1995. We found, however, that the reporting system for collecting such data does not adequately track the number of union representatives charging time to union activities or the actual time spent. Consequently, we conducted a limited verification of the hours spent on union activities reported by SSA and found

[1] Footnotes at end of article.

that time spent on union activities was underreported. While SSA is currently developing a new system to more accurately track the time spent on union activities, it plans to implement this system to replace only the automated reporting system for union representatives in the field offices and teleservice centers. SSA is not planning to improve the less accurate manual time-reporting system for its other components.

Under the terms of the current SSA union contract negotiated in 1993, the selection of union representatives and the amount of time they spend on union activities are determined by the union without the consent of local managers. We found that over 1,800 designated union representatives in SSA are authorized to spend time on union activities, although most of the time spent is by SSA's 146 full-time representatives. Some SSA field managers told us that their having no involvement in decisions about how much time is spent by individuals and who the individuals are causes problems in managing the day-to-day activities of their operations. Union representatives, on the other hand, told us that the time they use is necessary to fully represent the interests of their coworkers.

SSA reported that it paid for 404,000 hours for union activities in fiscal year 1995, as compared with 442,000 hours reported by IRS in fiscal year 1994, the most recent information available. The Postal Service reported that 1.7 million hours spent on union activities in fiscal year 1995 related to grievances. This Postal Service estimate does not include substantial additional time spent on other types of union activities and paid for by either the unions or the Postal Service.

With regard to union activity in private industry, some employers pay some or all of the salaries and expenses of union representatives, as the federal government does, while others do not.

BACKGROUND

Labor unions are groups of employees organized to bargain with employers over such issues as wages, hours, benefits, and working conditions. The current federal labor/management program differs from nonfederal programs in three important ways: (1) federal unions bargain on a limited number of issues—bargaining over pay and other economic benefits is generally prohibited,[1] (2) strikes and lockouts are prohibited, and (3) federal employees cannot be compelled to join, or pay dues to, the unions that represent them. At SSA, employees are represented by three unions: the American Federation of Government Employees (AFGE), which represents over 95 percent of SSA employees who are represented by a union; the National Treasury Employees Union (NTEU); and the National Federation of Federal Employees (NFFE). Of SSA's 65,000 employees, about 52,000 nonsupervisory employees are represented by the unions, and about 47 percent of those represented are dues-paying union members. Union operations at SSA are governed by a national AFGE contract and six other union contracts with individual NTEU and NFFE components.

At the other federal organizations we visited, five unions had national collective bargaining agreements—four at the Postal Service and one at IRS. There were 751,000 employees represented by unions at the Postal Service and 97,000 at the IRS. Although other unions without national collective bargaining agreements represented Postal Service employees, the number of employees represented by these unions is less than one percent of all represented employees.

There are two main categories of official time, or government paid time spent on union activities, at SSA. The category known as ''bank time'' in field offices, and equivalent categories of official time in other components, refers to time that is negotiated and limited by SSA contracts with its unions. Bank time includes time spent on union- or employee-initiated grievances (complaints regarding any matter related to employment) as well as on union-initiated activities, such as training or representational duties. The category known as ''nonbank time'' in field offices, and equivalent categories in other components, generally refers to time spent on management-initiated activities; bargaining over changes to work assignments and working conditions (such as disallowed leave, employee work space, and equipment); management-initiated grievances; and any other time not specifically designated as bank time.

HISTORY OF UNION ACTIVITY IN THE FEDERAL GOVERNMENT

In 1912, the Lloyd-LaFollette Act established the right of postal employees to join a union and set a precedent for other federal employees to join unions. The government did little to provide agencies with guidance on labor relations until the early 1960s.

In 1962, President Kennedy issued Executive Order 10988, establishing in the executive branch a framework for federal agencies to bargain with unions over working conditions and personnel practices. The order established a decentralized labor/management program under which each agency had discretion in interpreting the order, deciding individual agency policy, and settling its own contract disputes and grievances.

In 1969, President Nixon issued Executive Order 11491, which established a process for resolving labor disputes in the executive branch by forming the Federal Labor Relations Council to prescribe regulations and arbitrate grievances. This order clarified language to expressly permit bargaining on operational issues for employees adversely affected by organizational realignments or technological changes.

In 1970, the Postal Reorganization Act brought postal labor relations under a structure similar to that applicable to companies in the private sector. Collective bargaining for wages, hours, and working conditions was authorized subject to regulation by the National Labor Relations Board. Like other federal employees, postal employees could not be compelled to join or pay dues to a union and could not strike.

The Civil Service Reform Act of 1978 provided a statutory basis for the current federal labor/management relations program and set up an independent body, the Federal Labor Relations Authority (FLRA), to administer the program. The act expanded the scope of collective bargaining—the process under which union representatives and management bargain over working conditions—to allow routine negotiation of some operational issues, such as the use of technology and the means for conducting agency operations.

In 1993, President Clinton issued Executive Order 12871, which articulated a new vision of labor/management relations, called ''Partnership.'' Partnership required agencies to involve labor organizations as full partners with management in identifying problems and crafting solutions to better fulfill the agency mission. It also expanded the scope of bargainable issues. This new arrangement was intended to end the sometimes adversarial relationship between federal unions and management and to help facilitate implementation of National Performance Review initiatives, which were intended to improve public service and reduce cost of government.

BASIS FOR PAYING SALARIES OF UNION REPRESENTATIVES

In 1962, Executive Order 10988 permitted federal agencies to grant official time, which is authorized paid time off from assigned government duties, for meetings between management and union representatives for contract negotiation, at the discretion of the agency. In 1971, Executive Order 11491 was amended to prohibit the use of official time for contract negotiation unless the agency and union agreed to certain arrangements. Specifically, the agency could authorize either (1) up to 40 hours of official time for negotiation during regular working hours or (2) up to one-half the time actually spent in negotiations. Over the next 4 years, a series of Federal Labor Relations Council decisions and regulations continued to liberalize the use of official time by allowing negotiations for the use of official time for other purposes.

The Civil Service Reform Act of 1978 authorized official time for federal agency union representatives in negotiating a collective bargaining agreement.[4] The act also permitted agencies and unions to negotiate whether union representatives would be granted official time in connection with other labor/management activities, as long as the official time was deemed reasonable, necessary, and in the public interest. The act continued to permit agencies to provide unions with routine services and facilities at agency expense. The act prohibited the use of official time for internal union business, such as solicitation of members.

TIME SPENT ON AND COST OF UNION ACTIVITIES AT SSA

SSA has a national system for reporting time spent on union activities by union representatives. This system is separate from the agency's time and attendance and workload reporting systems. Under this system, union representatives generally fill out and submit forms to their supervisors to account for union time. The hours reported on these forms are then periodically aggregated and submitted to SSA headquarters for totaling. This time-reporting system consists of two component systems that cover roughly an equal number of employees. The first is an automated system that captures time reported by union representatives working in field offices, which are the primary point of public contact with SSA, and at teleservice centers, where calls to SSA's national 800 number are answered. The second component is a manual system used to capture time spent by union representatives at SSA headquarters, as well as at Program Service Centers, the Office of Hearings and Appeals, and other components. Neither system is designed to capture either time spent by management on union-related matters or the number or names of individuals charging union time.

We conducted a limited verification of time captured in SSA's national reporting system at one SSA region and several headquarters components. By tracing source documents for union representatives' time to reported totals in the system, we discovered additional time not captured by the two systems. These gaps occurred primarily in the manual system and resulted from inaccurate reporting from the source documents, overlooked reports for some union representatives, and uncounted reports for some organizational units during certain reporting periods. We also verified that similar procedures were being used at three other regions, which could result in similar underreporting at these locations.

The overall time spent on union activities has grown steadily from 254,000 hours in 1990 to over 413,000 in 1995. This is the equivalent

of paying the salaries and other expenses of about 200 SSA employees to represent the 52,000 employees in the bargaining unit in 1995. SSA reported 254,000 hours of official time devoted to union activities in 1990, 269,000 in 1991, 272,000 in 1992, 314,000 in 1993, 297,000 in 1994, and 404,000 in 1995.

Because of limitations in SSA's reporting system, it is not possible to estimate actual time spent agencywide for any reporting period. Although it is likely that the actual time spent agencywide exceeds our estimates, our verification sample was not large enough to be statistically valid, so it cannot be extrapolated to all of SSA.

To determine what contributed to the increase in time spent on union activities, we developed information on the categories of time used.

SSA is currently developing a new system to better track and account for time spent on union activities in its field offices and teleservice centers. SSA says the purpose of this system is to provide management and the union with a more accurate and up-to-date accounting of time spent and the number of employees working on union activities and to ensure that time expended on certain activities does not exceed time allotted to the unions by the contracts. SSA, however, has no current plans to apply this new system to headquarters, the Program Service Centers, the Office of Hearings and Appeals, or other components using the manual system and did not explain why the agency made this decision.

SSA has no system for routinely calculating and reporting the cost of union activity, although it does provide annual estimates of the expenses for union activities to the Congress.

In order to determine the accuracy of these estimates, we tried to construct our own estimate of union-related costs. Because the salaries of union representatives make up most of the cost, we asked SSA for a list of current representatives and the time they spend on union activities. SSA estimated that there were about 1,600 union representatives, but the lists they maintained were outdated and incomplete. We identified about 1,800 union representatives who are currently authorized by the union to spend time on SSA union activities. SSA has also reported to the Congress that the number of full-time representatives—those spending 75 percent or more of their time on union activities—grew from 80 to 145 between fiscal years 1993 and 1995. We identified 145 current full-time representatives. The average annual salary in 1995 for the 146 full-time representatives was $41,970. In 1996, their salaries ranged from $23,092 to $81,217.

We estimate that the total cost to SSA for union activities of all representatives was about $12.6 million in 1995. We calculated the 1995 personnel cost to be $11.4 million by multiplying the average hourly salary of union representatives (about $27.64, including benefits) by the 413,000 hours we estimated the representatives spent on union activities.

The remaining $1.2 million in total SSA costs for union activities includes related travel expenses; SSA's share of arbitration costs; and support costs, such as supplies, office space, and telephone use. More specifically, in accordance with the union contracts, SSA pays for travel related to contract negotiations and grievance cases. In addition, it pays the travel and per-diem costs of all union representatives, whenever meetings are held at management's initiative. Union representation at major SSA initiatives, such as the reengineering of its disability programs, the National Partnership Council, and Partnership training, has added to travel and per-diem costs. In 1995, SSA estimated that it spent about $600,000 on travel-related expenses for union representatives. Union representatives told us that the union pays travel costs for union-sponsored training, internal union activities, and some local travel.

Under the national contract agreements, arbitration fees and related expenses are shared equally between the union and SSA. SSA reported that its share of arbitration costs was $54,000 for the 38 cases heard in 1995.

SSA also incurs other costs for telephones, computers, fax machines, furniture, space and supplies used by union representatives. In 1995, SSA estimated this cost at $500,000.

Regarding the amount of dues collected from union members, we determined that about $4.8 million was collected in 1995, mainly through payroll deduction. The unions use these funds for their internal expenses, which include the cost of lodging and transportation for union-provided training; the union's share of grievance costs; miscellaneous furniture, supplies, and equipment for some union offices; the salaries of the AFGE local president and his staff, who represent SSA headquarters employees; and a share of national union expenses.

The recent advent of Partnership activities in SSA will likely increase the time spent on union activities. The executive order on Partnership directs agencies to involve unions as the representatives of employees to work as full partners with management to design and implement changes necessary to reform government. Partnership activities at SSA are just starting, and we found that these limited activities are not routinely designated by SSA in its union time-reporting system. It is possible that time spent on Partnership activities is currently being reported in other activity categories. Consequently, as Partnership activities increase, we would expect the time devoted to them to also increase. However, this will be evident only if agency time-reporting systems adequately designate this time. It should be noted that many public and private organizations without unions are involving employees in quality management initiatives similar to Partnership activities.

SSA MANAGEMENT AND UNION VIEWS ON UNION TIME

SSA managers and union officials and representatives have offered their views about the use of official time for union activities. SSA managers, both individually and through their managers' associations, have expressed concern to us and to the Congress about limitations in their ability to effectively manage their operations and control the use of time spent by their employees under the current union/management arrangement. By contract, the assignment of union representatives and the amount of time they spend on union activities are determined by the union without the consent of local management.

Of the 31 field managers we interviewed, 21 said that it is more difficult to manage day-to-day office functions because they have little or no control over when and how union activities are conducted. They said that they have trouble maintaining adequate staffing levels in the office to serve walk-in traffic, answer the telephones, and handle routine office workloads. Additionally, 18 expressed concern about the amount of time they spend responding to union requests for information regarding bargaining and grievances. We did not verify the accuracy of any of the field managers' statements. We tried to quantify the time spent by managers on union related activities, but SSA had no time reporting system to track it. However, managers would be spending some of their time interacting with employees about similar issues even if there were no unions.

Nine out of the 15 union officials and representatives we talked to felt that it was counterproductive in the Partnership era to track time spent on union activities. They believe that union representation is an important function that is authorized by a negotiated agreement with SSA that authorizes them to represent the interests of their coworkers. They consider the amount of time currently allocated for their activities as appropriate and believe that more attention should be paid to the value of their efforts than to the time it takes to conduct them.

COMPARISON OF TIME SPENT AND COST OF UNION ACTIVITY AT IRS, THE POSTAL SERVICE AND SSA

The Postal Service and IRS provided data to us on time spent on union activities in their agencies. Postal Service records show that during fiscal year 1995, union representatives at the Postal Service reported spending 1.7 million hours of official time on grievance processing and handling in the early stages. This number does not include substantial amounts of official time spent on employee involvement programs similar to SSA's Partnership activities, which are paid for by the Postal Service. Neither does this number include official time spent on activities such as employee involvement training and ULP charges.

IRS records showed that their union representatives reported spending 442,000 hours on union activities in fiscal year 1994, the most recent year for which data are available. We did not attempt to verify these estimates. In fiscal year 1995, the Postal Service reported spending $29 million in basic pay on grievance processing and handling for the 1.7 million hours. IRS did not develop cost data for union operations.

WHO PAYS UNION COSTS IN PRIVATE INDUSTRY?

Union operations in private industry vary widely. In addition to bargaining over working conditions as SSA unions do, unions in private industry bargain over wages, hours, and benefits. In discussions with National Labor Relations Board officials, we were told that some private-sector firms do not pay their employees' salaries for the time they spend performing union activities, and other firms pay for some or all of the time. For example, during our review of 10 contracts, we found that 7 provided for company employees, acting as union representatives, to perform certain union functions in addition to their company duties, at the expense of the employer. In a 1992 publication that summarized basic patterns in private industry union contracts, the Bureau of National Affairs (BNA) reported that over 50 percent of the 400 labor contracts it analyzed guaranteed pay to employees engaged in union activity on company time. It also reported that 22 percent of the contracts specifically prohibit conducting union activities on company time.

Private-sector employers negotiate company time with pay for union representatives to handle grievances more frequently than they do for contract negotiations. Of the contracts reviewed by BNA, 53 percent guaranteed pay for union representatives to present, investigate, or handle grievances. This practice was reported occurring twice as often in manufacturing as in nonmanufacturing businesses. BNA reported that only 10 percent of the contracts guaranteed pay for employees to negotiate contracts.

Forty-one percent of the private-sector contracts guaranteeing employees pay when they conduct union activities on company time place restrictions on representatives. BNA reported that in 19 percent of the cases with such pay guarantees, management limited the amount of hours that it would pay

for. Our review of 10 private-sector contracts submitted to the Bureau of Labor Statistics found one negotiated contract under which employees were limited to 6 hours a day of company time for union representation and another under which they were limited to 8 hours per week of company time for processing grievances.

CONCLUSIONS

SSA, like other federal agencies and some private firms, pays for approved time spent by their employees on union activities. SSA has a special fiduciary responsibility to effectively manage and maintain the integrity of the Social Security trust funds from which most of these expenses are paid. In a time of shrinking budgets and personnel resources, it is especially important for SSA, as well as other agencies, to evaluate how resources are being spent and to have reliable monitoring systems that facilitate this evaluation.

To ensure accurate tracking of time spent on union activities and the staff conducting these activities, SSA has developed and is testing a new time-reporting system for its field offices and teleservice centers. We agree that these are valuable goals for a time-reporting system and believe that it should be implemented agencywide, including at headquarters, Program Service Centers, the Office of Hearings and Appeals, and other components currently using the less reliable manual reporting system. With an improved agencywide system, SSA management should have better information on where its resources are being spent.

Mr. Chairman, this concludes my formal remarks. I would be happy to answer any question from you or other members of the Subcommittee. Thank you.

FOOTNOTES

[1]The U.S. Postal Service generally does not pay the salaries and expenses of full-time union representatives. Instead, salaries and expenses are covered by union dues. The Postal Services does, however, pay for the time spent on union activities by some parttime union representatives and for union-occupied space in postal facilities.

[2]Postal labor/management relations are governed by the Postal Reorganization Act of 1970, which incorporates many provisions of the National Labor Relations Act.

[3]Postal unions, however, can bargain over wages and other economic benefits.

[4]The Postal Service is not governed by this act. The basis for paying certain union representatives for specified union activities at the Postal Service is contained in union contracts. Contract negotiations are carried out at union expense.

By Mr. FRIST:

S. 2105. A bill to amend chapter 29 of title 35, United States Code, to provide for a limitation on patent infringements relating to a medical practitioner's performance of a medical activity; to the Committee on the Judiciary.

PATENT INFRINGEMENTS LIMITATION LEGISLATION

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

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

S. 2105

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

SECTION 1. LIMITATION ON PATENT INFRINGEMENTS RELATING TO A MEDICAL PRACTITIONER'S PERFORMANCE OF A MEDICAL ACTIVITY.

Section 287 of title 35, United States Code, is amended by adding at the end the following new subsection:

''(c)(1) With respect to a medical practitioner's performance of a medical activity that constitutes an infringement under section 271 (a) or (b) of this title, the provisions of sections 281, 283, 284, and 285 of this title shall not apply against the medical practitioner or against a related health care entity with respect to such medical activity.

''(2) This subsection does not apply to the activities of any person, or employee or agent of such person (regardless of whether such person is a tax exempt organization under section 501(c) of the Internal Revenue Code of 1986), who is engaged in the commercial development, manufacture, sale, importation, or distribution of a machine, manufacture, or composition of matter or the provision of pharmacy or clinical laboratory services (other than laboratory services provided in a physician's office), if such activities are—

''(A) directly related to the commercial development, manufacture, sale, importation, or distribution of a machine, manufacture, or composition of matter or the provision of pharmacy or clinical laboratory services (other than clinical laboratory services provided in a physician's office); and

''(B) regulated under the Federal Food, Drug, and Cosmetic Act, the Public Health Service Act, or the Clinical Laboratories Improvement Act.

''(3) For purposes of this subsection:

''(A) the term 'body' means—

''(i) a human body, organ, or cadaver; or

''(ii) a nonhuman animal used in medical research or instruction directly relating to the treatment of humans.

''(B) The term 'medical activity' means the performance of a medical or surgical procedure on a body, but shall not include—

''(i) the use of a patented machine, manufacture, or composition of matter in violation of such patent;

''(ii) the practice of a patented use of a composition of matter in violation of such patent; or

''(iii) the practice of a process in violation of a biotechnology patent.

''(C) The term 'medical practitioner' means any natural person who is—

''(i) licensed by a State to provide the medical activity described under paragraph (1); or

''(ii) acting under the direction of such natural person in the performance of the medical activity.

''(D) The term 'patented use of a composition of matter' does not include a claim for a method of performing a medical or surgical procedure on a body that recites the use of a composition of matter if the use of that composition of matter does not directly contribute to achievement of the objective of the claimed method.

''(E) The term 'professional affiliation' means staff privileges, medical staff membership, employment or contractual relationship, partnership or ownership interest, academic appointment, or their affiliation under which a medical practitioner provides a medical activity on behalf of, or in association with, a health care entity.

''(F) The term 'related health care entity'—

''(i) means an entity with which a medical practitioner has a professional affiliation under which the medical practitioner performs a medical activity; and

''(ii) includes without limitation such an affiliation with a nursing home, hospital, university, medical school, health maintenance organization, group medical practice, or a medical clinic.

''(G) The term 'State' means any State or territory of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

''(4) This subsection shall not apply to any patent issued before the date of enactment of this subsection.''.●

By Mr. MCCONNELL:

S. 2106. A bill to amend the United Nations Participation Act of 1945 to prohibit the placement of members of the United States Armed Forces under the command, direction, or control of the United Nations, and for other purposes; to the Committee on Foreign Relations.

THE UNITED NATIONS PARTICIPATION ACT OF 1945 AMENDMENT ACT OF 1996

● Mr. MCCONNELL. Mr. President, for several months, I have tried to get a straight answer from the administration on the legal justification for the deployment of U.S. troops under United Nations' command in Macedonia. While the soldiers have a mission, I do not believe they have a clear, legal mandate.

The question of our involvement in Macedonia was first brought to my attention by Ron Ray, a constituent of mine who was representing Michael New. Apparently, Michael New asked his commanding officer to provide some explanation as to why an American Army specialist was being asked to wear a U.N. uniform and deploy to Macedonia under the U.N. flag.

In a recent hearing with Ambassador Madeleine Albright, usually one of the more plain spoken members of the President's foreign policy team, we reviewed the procedures for deploying American troops under the United Nation's flag. She offered the view that while there were clear guidelines defining chapter VII deployments, using chapter VI to justify a mission had evolved as a matter of U.N. custom and tradition.

Since 1948, 27 peace operations have been authorized by the United Nations Security Council. In addition to being authorized by a specific chapter of the United Nations Charter, U.S. troop deployments must be authorized consistent with U.S. legal requirements spelled out in the United Nations Participation Act.

In July 1993, President Clinton wrote the Congress stating, ''U.N. Security Council Resolution 795 established the UNPROFOR Macedonia mission under a chapter VI of the U.N. Charter and UNPROFOR Macedonia is a peacekeeping force under chapter VI of the Charter.'' But this assertion is not substantiated by the record of resolutions and reports passed by the United Nations.

Between 1991 and the end of 1995, the United Nations passed 97 Security Council resolutions related to the former Yugoslavia. In addition, 13 reports were issued by the U.N. Secretary General relative to the mandate of the UNPROFOR Macedonia operation. None of these resolutions or reports mention a chapter VI mandate for Macedonia. In fact, there are 27 resolutions which specifically refer to UNPROFOR, which includes Macedonia, as chapter VII. It is worth pointing to just one of

these resolutions which states that the United Nations Security Council was ''Determined to ensure the security of UNPROFOR and its freedom of movement for all its missions (i.e., Macedonia) and to these ends was acting under chapter VII of the Charter of the United Nations.''

In spite of the record, the administration continues to insist that Macedonia is a chapter VI operation. When I asked them to document this determination, I was provided the following guidance by the Acting Assistant Secretary of State:

The U.N. Charter authority underlying the mandate of a U.N. peace operation depends on an interpretation of the relevant resolutions of the U.N. Security Council. As a matter of tradition, the Security Council explicitly refers to a ''Chapter VII'' when it authorizes an enforcement operation under that Chapter. The absence of a reference to Chapter VII in a resolution authorizing or establishing a peacekeeping operation thus indicates that the operation is not considered by the Security Council to be an enforcement operation. Neither does the Security Council refer explicitly to ''Chapter VI'' in its resolutions pertaining to peacekeeping operations. This practice evolved over time as a means for the Security Council to develop practical responses to problems without unnecessarily invoking the full panoply of provisions regarding the use of force under Chapter VII, and without triggering other Charter provisions that might impede Member States on the Security Council if Chapter VI were referenced.

In essence what this explanation means is U.S. troops can be deployed in harm's way as a matter of U.N. tradition rather than U.S. law. It means U.S. soldiers are deployed in a combat zone with an absence of reference to the actual legal mandate because the U.N. Security Council does not want to refer explicitly to chapter VI due to a reluctance to inconvenience member states on the Security Council.

Mr. President, let me try to add a little clarity to just what the Acting Assistant Secretary means when stating the administration does not want to invoke a ''panoply of provisions regarding the use of force.'' In simple English, when a chapter VII mission is authorized by the U.N., U.S. law requires the operation to be approved by the Congress. In simple terms, the State Department is using a chapter VI designation to avoid having to come to the Congress to justify the financial and military burden the United States has assumed in Macedonia.

When the State Department calls a panoply of provisions problem, I call surrendering U.S. interests to U.N. command. This is not the first time Congress has been circumvented. I had hoped the administration had learned from our experience in Somalia. I had hoped the tragic loss of life would help the President understand the value and importance of a full congressional debate and approval of the merits of deploying American soldiers overseas into hostile conditions. Apparently, the lesson is lost on this administration. When the U.N. calls, we send our young men and women to serve.

Mr. President, I have taken the time to review the circumstances of our military involvement in Macedonia, in order to explain why I am introducing legislation today which assures U.S. troops will not serve under U.N. commanders and will not be forced to wear a U.N. uniform. Our soldiers sign up to serve and pledge allegiance to their Nation—not the United Nations. This bill will protect them as they fulfill both their oath and responsibilities.●

By Mr. THOMAS (for himself, Mr. ROBB and Mr. MCCAIN):

S. 2107. A bill to authorize the extension of nondiscriminatory treatment—most-favored-nation treatment—to the products of Mongolia; to the Committee on Finance.

MONGOLIA MOST-FAVORED-NATION STATUS LEGISLATION

Mr. THOMAS. Mr. President, I rise as chairman of the Subcommittee on East Asian and Pacific Affairs to introduce S. 2107, a bill to authorize the extension of nondiscriminatory treatment—formerly known as most-favored-nation status—to the products of Mongolia. I am pleased to be joined by the subcommittee's ranking minority member, Senator ROBB, and Senator MCCAIN as original cosponsors.

Mongolia has undergone a series of remarkable and dramatic changes over the last few years. Sandwiched between the former Soviet Union and China, it was one of the first countries in the world to become Communist after the Russian revolution. After 70 years of Communist rule, though, the Mongolian people recently have made great progress in establishing a democratic political system and creating a free-market economy. Just this year, the country held its third election under its new constitution, resulting in a parliamentary majority for the coalition of democratic opposition parties. Rather than attempt to maintain its hold on power, the former government peaceably—and commendably—transferred power to the new government.

Mongolia has demonstrated a strong desire to build a friendly and cooperative relationship with the United States on trade and related matters since its turn toward democracy. We concluded a bilateral trade treaty with that country in 1991, and a bilateral investment treaty in 1994. Mongolia has received nondiscriminatory trading status since 1991, and has been found to be in full compliance with the freedom of emigration requirements under title IV of the Trade Act of 1974. In addition, it has acceded to the Agreement Establishing the World Trade Organization.

Mr. President, Mongolia has clearly demonstrated that it is fully deserving of joining the ranks of those countries to which we extend nondiscriminatory trade status. The extension of that status would not only serve to commend the Mongolians on their fine progress, but would also enable the United States to avail itself of all its rights under the WTO with respect to Mongolia.

I have another, more personal, reason for being interested in MFN status for Mongolia. Mongolia and my home State of Wyoming are sister states; a strong relationship between the two has developed over the past 3 years. Several Mongolian Provincial Governors have visited the State, and the two governments have established partnerships in education and agriculture. Like Wyoming, Mongolia is a high plateau with high mountains on the northwest border, where many of the inhabitants make their living by raising livestock. I am pleased to see the development of this mutually beneficial relationship, and am sure that the extension of nondiscriminatory trade status will serve to strengthen it further.

Mr. President, Congressman BEREUTER has introduced similar legislation in the House. While we both realize that it is probably too late in the legislative year to move this bill forward before we adjourn sine die, we hope that introducing the bill now will serve as a starting point to move forward with this important measure early in the next Congress.

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

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

S. 2107

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

SECTION 1. CONGRESSIONAL FINDINGS.

The Congress finds that Mongolia—

(1) has received most-favored-nation treatment since 1991 and has been found to be in full compliance with the freedom of emigration requirements under title IV of the Trade Act of 1974;

(2) has since ending its nearly 70 years of dependence on the former Soviet Union, made remarkable progress in establishing a democratic political system and creating a free-market economic system;

(3) has recently held its third election under its new constitution, resulting in a parliamentary majority for the coalition of democratic opposition parties and a peaceable transfer of power to the new government;

(4) has concluded a bilateral trade treaty with the United States in 1991, and a bilateral investment treaty in 1994;

(5) has acceded to the Agreement Establishing the World Trade Organization;

(6) has demonstrated a strong desire to build a friendly and cooperative relationship with the United States on trade matters; and

(7) the extension of unconditional most-favored-nation treatment to the products of Mongolia would enable the United States to avail itself of all rights under the World Trade Organization with respect to Mongolia.

SEC. 2. TERMINATION OF APPLICATION OF TITLE IV OF THE TRADE ACT OF 1974 TO MONGOLIA.

(a) PRESIDENTIAL DETERMINATIONS AND EXTENSIONS OF NONDISCRIMINATORY TREATMENT.—Notwithstanding any provision of title IV of the Trade Act of 1974 (19 U.S.C. 2431 et seq.), the President may—

(1) determine that such title should no longer apply to Mongolia; and

(2) after making a determination under paragraph (1) with respect to Mongolia, proclaim the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of that country.

(b) TERMINATION OF APPLICATION OF TITLE IV.—On or after the effective date of the extension under subsection (a)(2) of nondiscriminatory treatment to the products on Mongolia, title IV of the Trade Act of 1974 shall cease to apply to that country.

By Mr. DORGAN (for himself, Mr. ASHCROFT, Mr. BIDEN, Mr. BREAUX, Mr. COATS, Mr. DEWINE, Mr. FAIRCLOTH, Mr. FORD, Mr. GRASSLEY, Mr. HATFIELD, Mr. INHOFE, Mr. LOTT, Mr. MACK, Mr. MCCONNELL, Mr. MURKOWSKI, Mr. PRESSLER, and Mr. THURMOND):

S. 2108. A bill to clarify Federal law with respect to assisted suicide, and for other purposes; to the Committee on Labor and Human Resources.

THE ASSISTED SUICIDE FUNDING RESTRICTION ACT

Mr. DORGAN. Mr. President, I rise today, along with my colleague, Senator ASHCROFT, to introduce a piece of legislation. We understand that it is late in the session, but we have just completed work on the legislation, and we hope that introducing it now and reintroducing it in the next Congress will allow us to make some progress toward enacting this bill.

There are 15 original cosponsors besides myself and Senator ASHCROFT: Senators BIDEN, BREAUX, COATS, DEWINE, FAIRCLOTH, FORD, GRASSLEY, HATFIELD, INHOFE, LOTT, MACK, MCCONNELL, MURKOWSKI, PRESSLER, and THURMOND.

This is obviously a bipartisan group of Senators who are today introducing this legislation. I will describe it briefly, and then I will ask my colleague, Senator ASHCROFT from Missouri, with whom I am pleased to introduce this today, to add to that description.

Our legislation is called the Assisted Suicide Funding Restriction Act. That is a rather long name, but simply stated, what this bill ensures is that Federal tax dollars will not be used to pay for assisting in suicide.

We are in a circumstance in this country where only one State—the State of Oregon—has legalized physician-assisted suicides. The State has every right to do that. And Oregon is now engaged in the courts in a challenge of its law. When and if the court challenge is dismissed and it becomes law in Oregon—as is expected based on an earlier Ninth Circuit Court of Appeals decision—the folks who run the Medicaid Program in Oregon indicate that the State fully intends to use its Medicaid dollars to pay for physician-assisted suicides.

Some of us here in Congress believe that we ought not to in any way countenance the use of Federal dollars in the furtherance of physician-assisted suicides. We are not telling the States what their policies ought to be with respect to whether physician-assisted suicides should be allowed. Most States have already made that judgment and decided that assisted suicide is not appropriate. But to a State that has said it intends to use Federal dollars to further their State policy allowing assisted suicide, we say no. That is not what we would expect Federal dollars, especially Federal health care dollars, to be used for. We would expect Federal health care dollars to be used to advance the health of patients and the delivery of medicine to those in this country who need it—not to advance Federal payment for those who would elect physician-assisted suicide.

Some might say, ''Well, why do you have to legislate on this?'' I say to them, if we do not, when the courts resolve the legal questions with respect to the Oregon law, we likely will immediately be using Federal dollars to pay for physician-assisted suicide in that State, regardless of whether Congress and the public want them to or not. The officials in that State have indicated that will be the case. So with this legislation we say we think it is inappropriate from a public policy standpoint and we would not want scarce Federal dollars used for that purpose.

I would like to describe what this legislation is not because it is as important as describing what it is.

This legislation does not limit the withholding of, or the withdrawal of, medical treatment, or of nutrition, or hydration from terminally-ill patients who have decided they do not want their lives sustained by medical technology. Most people and States recognize that there are ethical, moral, and legal distinctions between actively taking steps to end a patient's life and withholding or withdrawing treatment in order to allow a patient to die naturally. Again, this legislation specifically states that we are not interfering with the ability of patients and their families to end or withdrawal treatment.

This legislation also does not prohibit Federal funding for any care or service that is intended to alleviate a patient's pain or discomfort, even if the use of this pain control ultimately hastens the patient's death. I think we would all agree that we should make the utmost effort to ensure that terminally ill patients do not spend their final days in pain and suffering, and this legislation does not hinder that.

Finally, this legislation does not prohibit a State from using its own dollars to assist in suicide. If a State decides that it wants to allow and pay for physician-assisted suicide as a matter of policy, it can use its own money to further that aim. This bill simply says we do not want Federal dollars used for that purpose.

Mr. President, I understand that the issue of assisted suicide is an enormously emotional one. All of us in this country have read the news accounts of a doctor who is actively involved in assisting in his patients' suicides and of those who have taken him to court saying he has violated their State law. People have very strongly held opinions about this subject because issues of life and death reach to the inner core of people's moral beliefs. But regardless of one's personal views about assisted suicide, there is little disagreement on the broader question of whether we ought to use Federal health care dollars to pay for physician-assisted suicide.

In fact, a national survey earlier this year found that 83 percent of the American people believe that tax dollars should not be used for assisted suicide. I believe this legislation should and will have wide support. The National Conference of Catholic Bishops and the National Right to Life Committee have both endorsed the bill. The American Medical Association and the American Nurses Association have position statements opposing assisted suicide. President Clinton has also indicated his opposition to assisted suicide, and Senator ASHCROFT and I hope that our colleagues will join us as cosponsors of this legislation. We hope to advance this legislation in the intervening days, and also, if necessary, to reintroduce it early in the next session to see if we can get the Congress to enact this legislation soon.

Let me again sum up what this bill would and would not do, along with why it is necessary. Mr. President, this legislation will prohibit Federal funds from being used for the costs associated with assisted suicide.

Let me say again that I am pleased to work with my colleague, Senator ASHCROFT of Missouri, who I know feels strongly about this issue as well.

Mr. President, this legislation will prohibit Federal funds from being used for the costs associated with assisted suicide.

I understand that the decisions that confront individuals and their families when a terminal illness strikes are among the most difficult a family will ever have to make. At times like this, each of us must rely on our own religious beliefs and conscience to guide us. But regardless of one's personal views about assisted suicide, I do not believe that taxpayers should be forced to pay for this controversial practice. The majority of taxpayers I have talked to do not want their tax money used to assist in suicides. In fact, when asked in a poll in May of this year whether tax dollars should be spent for assisting suicide, 83 percent of taxpayers feel tax money should not be spent for this purpose.

The Assisted Suicide Funding Restriction Act prevents any Federal funding from being used for any item or service which is intended to cause, or assist in causing, the suicide, euthanasia, or mercy killing of any individual. The programs covered under this bill include Medicare, Medicaid, the military health care system, Federal Employees Health Benefits [FEHB] plans, Public Health Service programs, programs for the disabled, and the Indian Health Service.

This bill does make some important exceptions. First, let me make clear that this bill does not limit the withholding or withdrawal of medical treatment or of nutrition or hydration from terminally ill patients who have decided that they do not want their lives sustained by medical technology. Most people and States recognize that there are ethical, moral, and legal distinctions between actively taking steps to end a patient's life and withholding or withdrawing treatment in order to allow a patient to die naturally. Every State now has a law in place governing a patient's right to lay out in advance, through an advanced directive, living will, or some other means, his or her wishes related to medical care at the end of life. Again, this bill would not interfere with the ability of patients and their families to make clear and carry out their wishes regarding the withholding or withdrawal of medical care that is prolonging the patient's life.

This bill also makes clear that it does not prevent Federal funding for any care or service that is intended to alleviate a patient's pain or discomfort, even if the use of this pain control ultimately hastens the patient's death. Large doses of medication are often needed to effectively reduce a terminally ill patient's pain, and this medication may increase the patient's risk of death. I think we all would agree that the utmost effort should be made to ensure that terminally ill patients do not spend their final days in pain and suffering.

Finally, while I think Federal dollars ought not be used to assist a suicide, this bill does not prohibit a State from using its own dollars for this purpose. However, I do not think taxpayers from other States, who have determined that physician-assisted suicide should be illegal, should be forced to pay for this practice through the use of Federal tax dollars.

I realize that the legality of assisted suicide has historically been a State issue. Thirty-five States, including my State of North Dakota, have laws prohibiting assisted suicide and at least eight other States consider this practice to be illegal under common law. Only one State, Oregon, has a law legalizing assisted suicide.

However, two circumstances have changed that now make this an issue of Federal concern. First, Federal courts are already handing down decisions that will have enormous consequences on our public policy regarding assisted suicide. Second, we are on the brink of a situation where Federal Medicaid dollars may soon be used to reimburse physicians who help their patients die. Should this occur, Congress will not have considered this issue. I believe it was never Congress' intention for Medicaid or other Federal dollars to be used to assist in suicide, and I hope we will take action soon to stop this practice before it starts. If Congress does not act, a few States, or a few judges, may very well make this decision for us.

In two separate cases this year, Compassion in Dying versus State of Washington and Quill versus Vacco, the Federal Ninth and Second Circuit Courts of Appeal, respectively, have struck down Washington and New York State statutes outlawing assisted suicide. In the Compassion in Dying case, the ninth circuit held that the ''right to die'' is constitutionally recognized and that Washington State's law prohibiting physicians from prescribing life-ending medication therefore violates the ''due process'' clause of the 14th amendment for terminally ill adults who wish to end their life. In Quill versus Vacco, the second circuit also found that a State law prohibiting physician-assisted suicide violates the Constitution, but it did not agree with the ninth circuit's reasoning that such a law violates the due process clause. Rather, the second circuit held that the New York State law was unconstitutional because it violates the ''equal protection'' clause of the Constitution. The Supreme Court could decide to take up one or both of these cases as early as next year.

Ironically, in a third case, Lee versus Oregon, a Federal district court judge also used the ''equal protection'' clause as the basis for his decision—but he ruled that Oregon's 1994 law allowing assisted suicide for the terminally ill violates the Constitution, and the judge enjoined the implementation of Oregon's law. However, this decision has been appealed to the Ninth Circuit Court of Appeals, which has already affirmed a constitutional ''right to die.'' The ninth circuit's decision, which is expected to overturn the district court and lift the injunction against Oregon's law, could be handed down any day. The State's Medicaid director has already stated that, when the injunction against Oregon's law is lifted, Oregon will use Medicaid dollars to pay for the costs associated with a physician assisting in suicide.

I hope you agree with me and the vast majority of Americans who oppose using scarce Federal dollars to pay for assisted suicide. I invite you to join me, Senator ASHCROFT and 15 of our colleagues in this effort by cosponsoring the Assisted Suicide Funding Restriction Act.●

I yield the floor.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. ASHCROFT. Mr. President, let me begin by commending my colleague form North Dakota for his excellent remarks, and his clear explanation of this important concept that I believe the American people would have us do. And, after all, we come to this body as servants of the people. The people are overwhelmingly aware of this issue, and the vast majority of American citizens do not believe that tax dollars should be used in the conduct of medicine in such a way as to take lives rather than to save them.

I thank my colleague from North Dakota and those who have joined us in cosponsoring this particular measure.

Mr. President, President Jefferson wrote in words that are now inscribed on the Jefferson Memorial that the ''care and protection of human life, and not its destruction'' are the only legitimate objectives of good government. Thomas Jefferson believed that our rights were God-given and that life was an inalienable right.

In this spirit and understanding, I join today with Senator DORGAN in sponsoring the Assisted Suicide Funding Restriction Act. It is a modest and timely response to a challenge to our legal system and a challenge to the moral character of this country. What this bill says simply is that Federal tax dollars shall not be used to pay for and promote assisted suicide, or euthanasia.

This bill is urgently needed to preserve the intent of the Founding Fathers and the integrity of Federal programs as they now exist and serve the elderly and seriously ill in America—programs which were intended to support life and to enhance human life, not to promote its destruction.

Government's role in this culture should be to call us to our highest and best. I do not believe Government has a role in hastening Americans to their graves.

Our court system is in the process now of litigating serious issues in this respect, and, as a result, we find ourselves with the need for this kind of clarifying legislation dramatized. This bill is intended to prevent the morally contemptible injustice of taking money from an American citizen and then using that money to kill another American citizen through assisted suicide.

This is a bill which is very narrowly focused. It is clearly targeted. It only affects Federal funding for actions whose direct purpose is to cause or assist in causing suicide—actions that are clearly condemned as unethical by the American Medical Association and also illegal in the vast majority of our States. Again, this bill simply prohibits any Federal funding for medical actions that assist suicide.

This bill is needed because, in March, the Ninth Circuit Court of Appeals contradicted the positions of 49 States, when it found a ''Federal constitutional right'' to physician-assisted suicide in a case involving Washington State law. Similarly, the State of Oregon passed Measure 16, the first law in America to authorize the dispensing of drugs to terminally ill patients to assist in their suicide.

Although a Federal court in Oregon struck down the law that Oregon had enacted, the case is being appealed to that same ninth circuit, which has already signaled that it believes in a right, a constitutional right, to assisted suicide.

Oregon's Medicaid director and the chairman of Oregon's Health Services

Commission have both said that whenever the ninth circuit allows the Oregon law to go into effect, that the federally funded Medicaid Program in Oregon will begin paying for assisted suicide with Federal taxpayers' funds. According to Oregon's authorities, the procedure would be listed on Medicaid reimbursement forms under the grotesque euphemism of ''comfort care.''

That is a rather startling, almost Orwellian label to put on assisted suicide. I would think if I were going over an insurance policy and someone said, ''Do you want to be covered for comfort care,'' I would say, ''Oh, yes, throw in the comfort care.'' But comfort care turns out to be a phrase that is destined to be used for assisted suicide, and I do not believe it is intended by this Congress or previous Congresses, or in the law of the United States, that tax dollars from Federal resources be used to support that kind of ''comfort care.''

The problem is greatly magnified when we consider that Oregon will be drawing down Federal taxpayers' funds to help pay for such assisted suicides. Neither Medicaid nor Medicare nor any other Federal health program has explicit language to prohibit the use of Federal funds to dispense lethal drugs for suicide, primarily because nobody in the history of these programs felt that we would be appropriating money or creating a program to provide for suicide. We felt we were providing for individuals, developing therapeutic approaches to health problems, not providing for something that the American Medical Association would say was unethical and inappropriate, and which would shock the conscience of most Americans.

When Oregon's ninth circuit reinstates measure 16, Federal funds will be used for comfort care, a.k.a.—also known as—assisted suicide. As a result, I think it is important for us to step up and to define and to place into law the kinds of restrictions which I think we felt were implied in all of our activities prior to this time. We would be derelict in our duty if we were now to ignore this problem and allow a few officials, either in a Federal circuit or in a specific State, to decide that the taxpayers of all other States and jurisdictions would have to help subsidize a practice which they have never authorized and that millions find to be morally abhorrent.

It is crystal clear that the American people do not want their tax dollars spent on dispensing toxic drugs with the sole intent to assist suicide. Recently, a Wirthlin Poll showed 83 percent of the public opposed such use of Federal funds. Even the voters of Oregon, who narrowly approved Measure 16 by a vote of 51 to 49 percent, did not consider the question of public funding. Voters of two other west coast States, California and Washington, soundly defeated similar initiatives to legalize assisted suicide. Since November of 1994, when Oregon passed its law, 15 other States have considered and rejected bills to legalize assisted suicide. Of course, the Federal funding question has never been placed before the people in a ballot initiative.

I would like to say a few words about the way this legislation is crafted. It is very carefully limited, and it is very modest. It does not in any way forbid a State to legalize assisted suicide. If a State like Oregon chooses to do so, the Federal Government does not choose to intrude under this bill, or even forbid the State to provide its own funds.

If the State were to provide for assisted suicide and were to fund that with State dollars, in spite of the fact that is not my idea of good State government, it would be allowed under this bill. This bill simply would prevent Federal funds and Federal programs from being drawn into and providing support for and promoting assisted suicide. After the passage of this bill, States may choose to legalize or even fund assisted suicide. They simply could not choose to draw down Federal funds to promote or develop that program.

The bill also does not attempt to resolve the constitutional issue that is on its way to the Supreme Court, that issue being whether there is a right to assisted suicide or euthanasia. Nor would this legislation be affected by what the Supreme Court might do when it decides that issue. Congress would still have the right to prevent Federal funding of such a practice, even if the Supreme Court found that there was a constitutional right to assisted suicide.

It is also important to understand what this bill does not cover. As its rule of construction clearly provides, it does not affect abortion. It does not affect complex issues, such as the withholding or withdrawal of life-sustaining treatment, even of nutrition and hydration. Nor does this bill affect the disbursing of large doses of morphine or other pain killers to ease the pain of individuals with terminal illnesses, even though the administration of such drugs does, in some cases, carry the risk of hastening death as a side effect. The administration of pain killers is a long-acknowledged, legally accepted practice in all 50 States—and is ethically accepted by the medical profession and even pro-life and religious organizations as well.

What we are dealing with here is the Federal funding of actions whose direct purpose is to cause or assist in causing the suicide of a patient.

I am pleased that in spite of the fact the Democrats and Republicans may disagree on how to reform Federal programs like Medicaid and Medicare, there are things on which we do agree. One thing we should be able to agree on is the measure in this bill. Of course, our agreement is reflected in the cosponsorship of this measure by individuals on both sides of the aisle. These Federal programs should provide a means to care for and to protect our citizens, not become vehicles for the destruction of our citizens, especially as a result of Federal funding.

I would like to close by quoting the hallmark of Jeffersonian principles embodied in the Declaration of Independence:

> We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness.

I therefore urge all my colleagues to support this bill, an effort to uphold congressional responsibility, to defend the foremost of our unalienable rights, the right that citizens have to life.

By Mr. DASCHLE:

S. 2109. A bill to provide a 1-year delay in the imposition of penalties on small businesses failing to make electronic fund transfers of business taxes; to the Committee on Finance.

SMALL BUSINESS LEGISLATION

Mr. DASCHLE. Mr. President, today I am introducing legislation that would waive for 1-year penalties on small businesses that fail to pay their taxes to the Internal Revenue Service [IRS] electronically.

In July of this year, millions of small business owners received a letter from the IRS announcing that, beginning January 1, 1997, business tax payments would have to be made via electronic funds transfer. This letter sent shock waves through the small business community in South Dakota. The letter was vague and provided little information on how the new deposit requirement would work.

In meetings, letters, and phone calls, South Dakotans have posed many questions to me that the IRS letter did not answer: ''How much will this cost my business?''; ''Will I have to purchase new equipment to make these electronic transfers?''; and ''Will the IRS be taking the money directly out of my account?''

As you may recall, this new requirement was adopted as part of a package of revenue offsets for the North American Free-Trade Agreement.

The Treasury Department was directed to draw up regulations phasing in the requirement, which will raise money by eliminating the float banks accrue on the delay between the time they receive tax deposits from businesses and the time they transfer this money to the Treasury.

All businesses with $47 million or more in annual payroll taxes are already required to pay by electronic funds transfer. The new, lower threshold is estimated to bring 1.3 million small- and medium-sized businesses into the program for the first time.

As a result of protests registered by many small businesses, the IRS decided to delay for 6 months the 10 percent penalty on firms failing to begin making deposits electronically by January 1, 1997. Not satisfied with this step, Congress recently passed an outright 6 month delay in the electronic filing requirement as part of the Small Business Job Protection Act of 1996.

I strongly supported this amendment. However, I believe that these 1.3 million businesses should be given further time to comply without the threat of financial penalties. Electronic funds transfer may well prove to be the most efficient system of payment for all concerned, including small businesses. Once they learn the advantages of the new system, these firms may well come to prefer it to the existing one, which requires a special kind of coupon and a lot of paperwork. But this is a new procedure, and many small employers are not sure what it will entail. That is why I believe we should enact a temporary waiver of penalties.

The bill I am introducing today would suspend penalties for noncompliance for 1 year, until July 1, 1998. I believe this step is necessary to provide time for small businesses to be properly educated about the easiest, least burdensome, and most cost-efficient way to comply. In my view, whenever possible the IRS should avoid taking an adversarial approach toward the small business community, and, for that matter, any taxpayers. At every opportunity, the IRS should seek to help taxpayers comply with their obligations. I believe that, by removing the threat of penalties for a short while longer, this legislation will help the IRS fulfill this important part of its mission.

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

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

S. 2109

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

SECTION 1. WAIVER OF PENALTY ON SMALL BUSINESSES FAILING TO MAKE ELECTRONIC FUND TRANSFERS OF TAXES.

No penalty shall be imposed under the Internal Revenue Code of 1986 solely by reason of a failure by a person to use the electronic fund transfer system established under section 6302(h) of such Code if—

(1) such person is a member of a class of taxpayers first required to use such system on or after July 1, 1997, and

(2) such failure occurs during the 1-year period beginning on July 1, 1997.

By Mr. DASCHLE:

S. 2110. A bill to amend the Internal Revenue Code of 1986 to provide special rules for certain gratuitous transfers of employer securities for the benefit of employees; to the Committee on Finance.

EMPLOYEE STOCK OWNERSHIP PLANS LEGISLATION

Mr. DASCHLE. Mr. President, I today am introducing legislation that would take a small but significant step toward improving the productivity of American businesses and workers. My bill would permit certain employee stock ownership plans [ESOP's] to be beneficiaries of charitable remainder trusts under estate tax law.

We have all heard stories about closely held companies being sold and broken up in order to raise cash to pay a large estate tax bill to the Internal Revenue Service. Not infrequently, a company that has been built over a period of decades is dismantled, cutting adrift employees with years of service.

My bill would provide a way for an owner of a nonpublicly traded company to benefit company employees without having the estate tax stand in the way. It would permit the owner under certain circumstances to donate his or her shares to the company's ESOP through the use of a charitable/ESOP remainder trust. If carried out in accordance with the restrictions set forth in the bill, the transfer would be eligible for an estate tax deduction. By being transferred to an ESOP, the stock would be allocated directly to company employees.

The legislation includes a number of safeguards against abuse. First, stock transferred to an ESOP in this fashion could not be used to benefit any ESOP participant who was related to the decedent or who owned more than 5 percent of the company. This safeguard is aimed at ensuring that no estate tax deduction would be available where the transfer benefited the decedent's family members or the company's major stockholders. Second, the bill would require that the transferred stock be allocated to ESOP participants over time. This would provide an incentive for employees to continue to build the business. It would also prevent the creation of instant windfalls for employees that could encourage them to terminate employment.

Any owner of a non-publicly traded company would be free to take advantage of this legislation to preserve a business beyond his or her death. I believe that quite a few family and closely held businesses will find the legislation of interest, as these firms tend to be run by people who take an interest in their employees and would like to see their companies make a continuing contribution to their communities. I salute these entrepreneurs and propose this modest legislation in an effort to help them realize that goal.

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

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

S. 2110

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

SECTION 1. GRATUITOUS TRANSFERS FOR THE BENEFIT OF EMPLOYEES.

(a) IN GENERAL.—Subparagraph (C) of section 664(d)(1) of the Internal Revenue Code of 1986 and subparagraph (C) of section 664(d)(2) of such Code are each amended by striking the period at the end and inserting ''or, to the extent the remainder interest is in qualified employer securities (as defined in paragraph (3)(B)), is to be transferred to an employee stock ownership plan (as defined in section 4975(e)(7)) in a qualified gratuitous transfer (as defined by paragraph (3)).''

(b) QUALIFIED GRATUITOUS TRANSFER DEFINED.—Subsection (d) of section 664 of such Code is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

''(3) QUALIFIED GRATUITOUS TRANSFER OF QUALIFIED EMPLOYER SECURITIES.—

''(A) IN GENERAL.—For purposes of this section, the term 'qualified gratuitous transfer' means a transfer of qualified employer securities to an employee stock ownership plan (as defined in section 4975(e)(7)) but only to the extent that—

''(i) the securities transferred previously passed from a decedent to a trust described in paragraph (1) or (2);

''(ii) no deduction under section 404 is allowable with respect to such transfer;

''(iii) such plan provides that the securities so transferred are allocated to plan participants in a manner consistent with section 401(a)(4);

''(iv) such plan treats such securities as being attributable to employer contributions but without regard to the limitations otherwise applicable to such contributions under section 404;

''(v) such plan provides that such securities are held in a suspense account under the plan to be allocated each year, up to the limitations under section 415(c), after first allocating all other annual additions for the limitation year, up to the limitations under sections 415 (c) and (e); and

''(vi) the employer whose employees are covered by the plan described in this subparagraph files with the Secretary a verified written statement consenting to the application of sections 4978 and 4979A with respect to such employer.

''(B) QUALIFIED EMPLOYER SECURITIES.—For purposes of this section, the term 'qualified employer securities' means employer securities (as defined in section 409(l)) which are issued by a domestic corporation which has no outstanding stock which is readily tradable on an established securities market.

''(C) TREATMENT OF SECURITIES ALLOCATED BY EMPLOYEE STOCK OWNERSHIP PLAN TO PERSONS RELATED TO DECEDENT OR 5-PERCENT SHAREHOLDERS.—

''(i) IN GENERAL.—If any portion of the assets of the plan attributable to securities acquired by the plan in a qualified gratuitous transfer are allocated to the account of—

''(I) any person who is related to the decedent (within the meaning of section 267(b)), or

''(II) any person who, at the time of such allocation or at any time during the 1-year period ending on the date of the acquisition of qualified employer securities by the plan, is a 5-percent shareholder of the employer maintaining the plan,

the plan shall be treated as having distributed (at the time of such allocation) to such person or shareholder the amount so allocated.

''(ii) 5-PERCENT SHAREHOLDER.—For purposes of clause (i), the term '5-percent shareholder' means any person who owns (directly or through the application of section 318(a)) more than 5 percent of—

''(I) any class of outstanding stock of the corporation which issued such qualified employer securities or of any corporation which is a member of the same controlled group of corporations (within the meaning of section 409(l)(4)) as such corporation, or

''(II) the total value of any class of outstanding stock of any such corporation; and

For purposes of the preceding sentence, section 318(a) shall be applied without regard to the exception in paragraph (2)(B)(i) thereof.

''(iii) CROSS REFERENCE.—

''For excise tax on allocations described in clause (i), see section 4979A.''

(c) CONFORMING AMENDMENTS.—

(1) Section 401(a)(1) of such Code is amended by inserting ''or by a charitable remainder trust pursuant to a qualified gratuitous transfer (as defined in section 664(d)(3)(A)),'' after ''stock bonus plans),''.

(2) Section 404(a)(9) of such Code is amended by inserting after subparagraph (B) the following new subparagraph:

''(C) A qualified gratuitous transfer (as defined in section 664(d)(3)(A)) shall have no effect on the amount or amounts otherwise deductible under paragraph (3) or (7) or under this paragraph.''

(3) Section 415(c)(6) of such Code is amended by adding at the end the following new sentence:

''The amount of any qualified gratuitous transfer (as defined in section 664(d)(3)(A)) allocated to a participant for any limitation year shall not exceed the limitations imposed by this section, but such amount shall not be taken into account in determining whether any other amount exceeds the limitations imposed by this section.''

(4) Section 415(e) of such Code is amended—

(A) by redesignating paragraph (6) as paragraph (7), and

(B) by inserting after paragraph (5) the following new paragraph:

''(6) SPECIAL RULE FOR QUALIFIED GRATUITOUS TRANSFERS.—Any qualified gratuitous transfer of qualified employer securities (as defined by section 664(d)(3)) shall not be taken into account in calculating, and shall not be subject to, the limitations provided in this subsection.''

(5) Paragraph (3) of section 644(e) of such Code is amended to read as follows:

''(3) acquired by a charitable remainder annuity trust (as defined in section 664(d)(1)) or a charitable remainder unitrust (as defined in sections 664(d) (2) and (4)), or''.

(6) Subparagraph (B) of section 664(d)(1) of such Code and subparagraph (B) of section 664(d)(2) of such Code are each amended by inserting ''and other than qualified gratuitous transfers described in subparagraph (C)'' after ''subparagraph (A)''.

(7) Paragraph (4) of section 674(b) of such Code is amended by inserting before the period ''or to an employee stock ownership plan (as defined in section 4975(e)(7)) in a qualified gratuitous transfer (as defined in section 664(d)(3))''.

(8)(A) Section 2055(a) of such Code is amended—

(i) by striking ''or'' at the end of paragraph (3),

(ii) by striking the period at the end of paragraph (4) and inserting ''; or'', and

(iii) by inserting after paragraph (4) the following new paragraph:

''(5) to an employee stock ownership plan if such transfer qualifies as a qualified gratuitous transfer of qualified employer securities within the meaning of section 664(d)(3).''

(B) Clause (ii) of section 2055(e)(3)(C) of such Code is amended by striking ''section 664(d)(3)'' and inserting ''section 664(d)(4)''.

(9) Paragraph (8) of section 2056(b) of such Code is amended to read as follows:

''(8) SPECIAL RULE FOR CHARITABLE REMAINDER TRUSTS.—

''(A) IN GENERAL.—If the surviving spouse of the decedent is the only beneficiary of a qualified charitable remainder trust who is not a charitable beneficiary nor an ESOP beneficiary, paragraph (1) shall not apply to any interest in such trust which passes or has passed from the decedent to such surviving spouse.

''(B) DEFINITIONS.—For purposes of subparagraph (A)—

''(i) CHARITABLE BENEFICIARY.—The term 'charitable beneficiary' means any beneficiary which is an organization described in section 170(c).

''(ii) ESOP BENEFICIARY.—The term 'ESOP beneficiary' means any beneficiary which is an employee stock ownership plan (as defined in section 4975(e)(7)) that holds a remainder interest in qualified employer securities (as defined in section 664(d)(3)) to be transferred to such plan in a qualified gratuitous transfer (as defined in section 664(d)(3)).

''(iii) QUALIFIED CHARITABLE REMAINDER TRUST.—The term 'qualified charitable remainder trust' means a charitable remainder annuity trust or a charitable remainder unitrust (described in section 664).''

(10) Section 4947(b) of such Code is amended by inserting after paragraph (3) the following new paragraph:

''(4) SECTION 507.—The provisions of section 507(a) shall not apply to a trust which is described in subsection (a)(2) by reason of a distribution of qualified employer securities (as defined in section 664(d)(3)) to an employee stock ownership plan (as defined in section 4975(e)(7)) in a qualified gratuitous transfer (as defined by section 664(d)(3)).''

(11) The last sentence of section 4975(e)(7) of such Code is amended by inserting ''and section 664(d)(3)'' after ''section 409(n)''

(12) Subsection (a) of section 4978 of such Code is amended by inserting ''or acquired any qualified employer securities in a qualified gratuitous transfer to which section 664(d)(3) applied'' after ''section 1042 applied''.

(13) Paragraph (2) of section 4978(b) of such Code is amended—

(A) by inserting ''or acquired in the qualified gratuitous transfer to which section 664(d)(3) applied'' after ''section 1042 applied'', and

(B) by inserting ''or to which section 664(d)(3) applied'' after ''section 1042 applied'' in subparagraph (C) thereof.

(14) Subsection (c) of section 4978 of such Code is amended by striking ''written statement'' and all that follows and inserting ''written statement described in section 664(d)(3)(A)(vi) or in section 1042(b)(3) (as the case may be).''

(15) Paragraph (2) of section 4978(e) of such Code is amended by striking the period and inserting ''; except that such section shall be applied without regard to subparagraph (B) thereof for purposes of applying this section and section 4979A with respect to securities acquired in a qualified gratuitous transfer (as defined in section 664(d)(3)(A)).''

(16) Subsection (a) of section 4979A of such Code is amended to read as follows:

''(a) IMPOSITION OF TAX.—If—

''(1) there is a prohibited allocation of qualified securities by any employee stock ownership plan or eligible worker-owned cooperative, or

''(2) there is an allocation described in section 663(d)(3)(C)(i),

there is hereby imposed a tax on such allocation equal to 50 percent of the amount involved.''

(17) Subsection (c) of section 4979A of such Code is amended to read as follows:

''(c) LIABILITY FOR TAX.—The tax imposed by this section shall be paid by—

''(1) the employer sponsoring such plan, or

''(2) the eligible worker-owned cooperative,

which made the written statement described in section 664(d)(3)(A)(vi) or in section 1042(b)(3)(B) (as the case may be).''

(18) Section 4979A of such Code is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

''(d) SPECIAL STATUTE OF LIMITATIONS FOR TAX ATTRIBUTABLE TO CERTAIN ALLOCATIONS.—The statutory period for the assessment of any tax imposed by this section on an allocation described in subsection (a)(2) of qualified employer securities shall not expire before the date which is 3 years from the later of—

''(1) the 1st allocation of such securities in connection with a qualified gratuitous transfer (as defined in section 664(d)(3)(A)), or

''(2) the date on which the Secretary is notified of the allocation described in subsection (a)(2).''

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers made by trusts to, or for the use of, an employee stock ownership plan after the date of the enactment of this Act.

By Mr. MCCAIN:

S. 2111. A bill to amend the act commonly known as the Navajo-Hopi Land Settlement Act of 1974, and for other purposes; to the Committee on Indian Affairs.

THE NAVAJO-HOPI LAND SETTLEMENT ACT AMENDMENTS OF 1996

Mr. MCCAIN. Mr. President, I introduce legislation to make certain amendments to the Navajo-Hopi Land Settlement Act of 1974 in order to bring the relocation process to an orderly conclusion within 5 years. This legislation will phase out the Navajo-Hopi relocation program by September 30, 2001, and at that time transfer any remaining responsibilities to the Secretary of the Interior. This legislation will provide a time certain for eligible Navajo and Hopi individuals to apply for and receive relocation benefits and after that time the Federal Government will no longer be obligated to provide replacement housing for such individual. Under this legislation, the funds that would have been used to provide replacement housing to such individual will be kept in trust by the Secretary for distribution to the individual or their heirs.

Mr. President, the Navajo-Hopi Land Settlement Act of 1974 was enacted to resolve longstanding disputes that have divided the Navajo and Hopi Indian Tribes for more than a century. The origins of this dispute can be traced directly to the creation of the 1882 reservation for the Hopi Tribe and the creation of the 1934 Navajo Reservation. At the times these reservations were established there were Navajo families residing within the lands set aside for the Hopi Tribe and Hopi families residing on lands set aside for the Navajo Nation. Tensions between the two tribes continued to heighten until in 1958 Congress, in an effort to resolve this dispute, passed legislation that authorized the tribes to file suit in Federal court to quiet title to the 1882 reservation and to their respective claims and rights. That legislation has given rise to more than 35 years of continuous litigation between the tribes in an effort to resolve their respective rights and claims to the land.

In 1974, Congress enacted the Navajo-Hopi Land Settlement Act which established Navajo and Hopi negotiating teams under the auspices of a Federal mediator to negotiate a settlement to the 1882 reservation land dispute. The act also authorized the tribes to file suit in Federal court to quiet title to the 1934 reservation and to file any

claims for damages arising out of the dispute against each other or the United States. The act also established a three member Navajo-Hopi Indian Relocation Commission to oversee the relocation of members of the Navajo Nation who were residing on lands partitioned to the Hopi Tribe and members of the Hopi Tribe who were residing on lands partitioned to the Navajo Nation. Since its establishment, the relocation program has proven to be an extremely difficult and contentious process.

When this program was first established, it was estimated that the cost of relocation would be roughly $40 million to provide relocation benefits to approximately 6,000 Navajos estimated to be eligible for relocation. These figures woefully underestimated the number of families impacted by relocation and the tremendous delays that have plagued this program. To date, the United States has expended over $350 million to relocate more than 11,000 Navajo and Hopi tribal members. There remain over 640 eligible families who have never received relocation benefits and an additional 50 to 100 families who have never applied for relocation benefits. In addition, there are over 130 eligibility appeals still pending. The funding for this settlement has exceeded the original cost estimates by more than 900 percent.

Mr. President, we cannot continue to fund this program with no end in sight. I am convinced that our current Federal budgetary pressures require us to ensure that the Navajo-Hopi relocation housing program is brought to an orderly and certain conclusion. It is for that reason that I am introducing the Navajo-Hopi Land Settlement Act Amendments of 1996. This legislation will phase out the Navajo-Hopi Indian relocation program by September 30, 2001, and transfer the remaining responsibilities under the act to the Secretary of the Interior. Under the bill, the relocation commissioner shall transfer to the Secretary such funds as are necessary to construct replacement homes for any eligible head of household who has left the Hopi partitioned land but has not received a replacement home by September 30, 2001. These funds will be held in trust by the Secretary of the Interior for distribution to such individual or their heirs. In addition, the bill includes provisions establishing an expedited procedure for handling appeals of final eligibility determinations.

Mr. President, I have developed this legislation as an initial starting point for ongoing discussions with the representatives of the Office of Navajo and Hopi Indian Relocation and the administration, the Hopi Tribe, the Navajo Nation, and the affected families of both tribes. It is my hope that this bill will stimulate discussions that will lead to the passage of legislation in the 105th Congress that will bring this long and difficult process to a certain and ordered conclusion.

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:

S. 2111

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

SECTION 1. SHORT TITLE.

SHORT TITLE.—This Act may be cited as the ''Navajo-Hopi Land Settlement Act Amendments of 1996''.

TITLE I—AMENDMENTS TO THE NAVAJO-HOPI LAND SETTLEMENT ACT OF 1974

SEC. 101. REFERENCES.

Whenever in this Act an amendment or repeal is expressed in terms of an amendment or repeal to a section or other provision, the references shall be considered to be made to a section or other provision of the Act commonly known as the Navajo-Hopi Land Settlement Act of 1974 (Public law 93–531; 25 U.S.C. 640 et seq.).

SEC. 102. AMENDMENTS TO THE NAVAJO-HOPI LAND SETTLEMENT ACT OF 1974.

(a) REPEALS.—Sections 1 through 5 (25 U.S.C. 640d through 640d–4) and section 30 (25 U.S.C. 640d–28) are each repealed.

(b) AMENDMENTS AND REDESIGNATIONS.—

(1) Section 6 (25 U.S.C. 640d–5) is amended—

(A) by striking the matter preceding subsection (a) through subsection (c);

(B) by inserting the following before subsection (d):

''SECTION 1. PARTITIONED LANDS.

(C) by redesignating subsection (d) as subsection (a);

(D) by striking subsections (e) and (f); and

(E) by redesignating subsections (g) and (h) as subsections (b) and (c), respectively; and

(F) in subsection (a), as so designated, by striking, ''In any partition of the surface rights to the joint use area,'' and inserting the following:

''With regard to the final order issued by the United States District Court for the District of Arizona (hereafter in this Act referred to as the 'District Court') on August 30, 1978, that provides for the partition of surface rights and interest of the Navajo and Hopi tribes (hereafter in this Act referred to as the 'Tribes') by lands laying within the reservation established by Executive order on December 16, 1982,''.

(2) Section 7 (25 U.S.C. 640d–6) is amended by striking ''SEC. 7. Partitioned'' and inserting the following:

''SEC. 2. JOINT OWNERSHIP OF MINERALS.

''Partitioned''.

(3) Section 8 (25 U.S.C. 640d–7) is amended—

(A) by striking ''SEC. 8. (a) Either tribe'' and inserting the following:

''SEC. 3. ACTIONS.

''(a) AUTHORIZATIONS TO COMMENCE AND DEFEND ACTIONS IN DISTRICT COURT.—Either tribe'';

(B) in subsection (b), by inserting ''ALLOCATION OF LAND TO RESPECTIVE RESERVATIONS UPON DETERMINATIONS OF INTERESTS.—'' after ''(b)'';

(C) in subsection (c)—

(i) by inserting ''ACTIONS FOR ACCOUNTING, FAIR VALUE OF GRAZING, AND CLAIMS FOR DAMAGES TO LAND.—'' after ''(c)''; and

(ii) by striking ''section 18'' each place it appears and inserting ''section 12'';

(D) in subsection (d), by inserting ''RULE OF CONSTRUCTION.—'' after ''(d)'';

(E) in subsection (e), by inserting ''PAYMENT OF LEGAL FEES, COURT COSTS, AND OTHER EXPENSES.—'' after ''(e)''; and

(F) by striking subsection (f).

(4) Section 9 (25 U.S.C. 640d–8) is amended by striking ''SEC. 9. Notwithstanding'' and inserting the following:

''SEC. 4. PAUITE INDIAN ALLOTMENTS.

''Notwithstanding''.

(5) Section 10 (25 U.S.C. 640d–9) is amended—

(A) by striking ''SEC. 10. (a) Subject'' and inserting the following:

''SEC. 5. PARTITIONED AND OTHER DESIGNATED LANDS.

''(a) NAVAJO TRUST LANDS.—'';

(B) in subsection (a), by striking ''sections 9 and 16(a)'' and inserting ''sections 4 and 10(a)'';

(C) in subsection (b)—

(i) by inserting ''HOPI TRUST LANDS.—'' after ''(b)'';

(ii) by striking ''sections 9 and 16(a)'' and inserting ''sections 4 and 10(a)'';

(iii) by striking ''sections 2 and 3'' and inserting ''section ''1'' and

(iv) by striking ''section 8'' and inserting ''section 3'';

(D) in subsection (c)—

(i) by inserting ''PROTECTION OF RIGHTS AND PROPERTY.—'' after ''(c)''; and

(ii) by striking the comma after ''pursuant thereto'' and all that follows through the end of the subsection and inserting a period;

(E) in subsection (d), by inserting ''PROTECTION OF BENEFITS AND SERVICES.—'' after ''(d)''; and

(F) in subsection (e)—

(i) by inserting ''TRIBAL JURISDICTION OVER PARTITIONED LANDS.—'' after ''(e)''; and

(ii) in the last sentence, by striking ''life tenants and''.

(6) Section 11 (25 U.S.C. 640d–10) is amended—

(A) by striking ''SEC. 11. (a) The Secretary'' and inserting the following:

''SEC. 6. RESETTLEMENT LANDS FOR NAVAJO TRIBE.

''(a) TRANSFER OF LANDS.—The Secretary'';

(B) in subsection (b), by inserting ''PROXIMITY OF LANDS TO BE TRANSFERRED OR ACQUIRED.—'' before ''(b)'';

(C) in subsection (c)—

(i) by inserting ''SELECTION OF LANDS TO BE TRANSFERRED OR ACQUIRED.—'' after ''(c)''; and

(ii) by striking the period at the end and inserting the following: '': *Provided further*, That the authority of the Commissioner to select lands under this subsection shall terminate on September 30, 2000.'';

(D) in subsection (d), by inserting ''REPORTS.—'' after ''(d)'';

(E) in subsection (e), by inserting ''PAYMENTS.—'' after ''(e)'';

(F) in subsection (f), by inserting ''Acquisition of Title To Surface and Subsurface Interests.—'' after ''(f)'';

(G) in subsection (g), by inserting ''LANDS NOT AVAILABLE FOR TRANSFER.—'' after ''(g)''; and

(H) in subsection (h)—

(i) by inserting ''ADMINISTRATION OF LANDS TRANSFERRED OR ACQUIRED.—'' after ''(h)'';

(ii) by striking the period at the end and inserting the following: '': *Provided further*, That, in order to facilitate relocation, in the discretion of the Commissioner, the Commissioner may grant homesite leases on land acquired pursuant to this section to members of the extended family of a Navajo who is certified as eligible to receive benefits under this Act, except that the Commissioner may not expend, or otherwise make available funds made available by appropriations to the Commissioner to carry out this Act, to provide housing to those extended family members.''; and

(I) in subsection (i)—

(i) by inserting ''NEGOTIATIONS REGARDING LAND EXCHANGES OR LEASES.'' after ''(i); and

(ii) by striking ''section 23'' and inserting ''section 18''.

(7) Section 12 (25 U.S.C. 640d–11) is amended—

(A) by striking ''SEC. 12. (a) There is hereby'' and inserting the following:

''SEC. 7. OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION.

''(a) ESTABLISHMENT.—There is hereby'';

(B) in subsection (b), by inserting ''APPOINTMENT.—'' after ''(b)'';

(C) in subsection (c), by inserting ''CONTINUATION OF POWERS.—'' after ''(c)'';

(D) in subsection (d), by inserting ''POWERS OF COMMISSIONER.—'' after ''(d)'';

(E) in subsection (e), by inserting ''ADMINISTRATION.—'' after ''(e)'';

(F) in subsection (f) and by inserting the following:

''(f) TERMINATION.—The Office of Navajo and Hopi Indian Relocation shall cease to exist on September 30, 2001. On that date, any functions of the Office that have not been fully discharged, as determined in accordance with this Act shall be transferred to the Secretary of the Interior in accordance with title III of the Navajo-Hopi Land Settlement Act Amendments of 1996.''; and

(G) by adding at the end the following new subsections:

''(g) OFFICE OF RELOCATION.—Effective on October 1, 2001, there is established in the Department of the Interior an Office of Relocation. The Secretary of the Interior, acting through the Office of Relocation, shall carry out the functions of the Office of Navajo and Hopi Indian Relocation transferred to the Secretary of the Interior in accordance with title III of the Navajo-Hopi Land Settlement Act Amendments of 1996.

''(h) TERMINATION OF OFFICE OF RELOCATION.—The Office of Relocation shall cease to exist on the date on which the Secretary of the Interior determines that the functions of the Office have been fully discharged.''.

(8) Section 13 (25 U.S.C. 640d–12) is amended—

(A) by striking ''SEC. 13. (a) Within'' and inserting the following:

''SEC. 13. REPORT CONCERNING RELOCATION OF HOUSEHOLD AND MEMBERS OF EACH TRIBE.

''(a) IN GENERAL.—Within'''

(B) in subsection (b), by inserting ''CONTENT OF REPORT.—'' after ''(b)''; and

(C) in subsection (c), by inserting ''DETAILED PLAN FOR RELOCATION.—'' after ''(c)'';

(9) Section 14 (25 U.S.C. 640d–13) is amended—

(A) by striking ''SEC. 14. (a) Consistent'' and inserting the following:

''SEC. 8. RELOCATION OF HOUSEHOLDS AND MEMBERS.

''(a) AUTHORIZATION.—;

(B) in subsection (a)—

(i) in the first sentence—

(I) by striking ''section 8'' each place it appears and inserting ''section 3''; and

(II) by striking ''sections 2 and 3'' and inserting ''section 1''; and

(ii) by striking the second sentence;

(C) in subsection (b)—

(i) by inserting ''ADDITIONAL PAYMENTS TO HEADS OF HOUSEHOLDS'' after ''(b)''; and

(ii) by striking ''section 15'' and inserting ''section 9'';

(D) in subsection (c), by inserting ''PAYMENTS FOR PERSONS MOVING AFTER A CERTAIN DATE.—''; and

(E) by adding at the end the following new subsection:

''(d) PROHIBITION.—No payment for benefits under this Act may be made to any head of a household if, as of September 30, 2001, that head has not been certified as eligible to receive those payments.''.

(10) In section 15 (25 U.S.C. 640d–14)—

(A) by striking ''SEC. 15. (a) The Commission'' and inserting the following:

''SEC. 9. RELOCATION HOUSING.

''(a) PURCHASE OF HABITATION AND IMPROVEMENTS.—The Commission'';

(B) in the last sentence of subsection (a), by striking ''as determined under section 13(b)(2) of this title'';

(C) in subsection (b), by inserting ''REMBURSEMENT FOR MOVING EXPENSES AND PAYMENT FOR REPLACEMENT DWELLING.—'' after ''(b)'';

(D) in subsection (c)—

(i) by inserting ''STANDARDS; CERTAIN PAYMENTS.—'' after ''(c)'';

(ii) by striking ''section 8'' and inserting ''section 3''; and

(iii) by striking ''section 3 or 4 of this title'' and inserting ''section 1'';

(E) in subsection (d), by inserting ''METHODS OF PAYMENT.—''after ''(d)'';

(F) by striking subsection (g);

(G) by redesignating subsections (e) and (f) as subsections (g) and (h), respectively;

(H) by inserting after subsection (d) the following new subsections:

''(e) BENEFITS HELD IN TRUST.—

''(1) IN GENERAL.—On September 30, 2001, the Commissioner shall notify the Secretary of the Interior (hereafter in this subsection referred to as the 'Secretary') of the identity of any head of household that is certified as eligible to receive benefits under this Act (hereafter in this subsection referred to as an 'eligible head of household') who, as of such date—

''(A) does not reside on lands that have been partitioned to the tribe of that eligible head of household; and

''(B) has not received a replacement home.

''(2) TRANSFER OF FUNDS.—On the date specified in paragraph (1), the Commissioner shall transfer to the Secretary any unexpended funds that were made available to the Commissioner for the purpose of making payments under this Act to the eligible heads of household referred to in paragraph (1).

''(3) DISPOSITION OF TRANSFERRED FUNDS.—

''(A) IN GENERAL.—The Secretary shall hold the funds transferred under paragraph (2) in trust for the eligible heads of household referred to in paragraph (1). The Secretary shall provide payments in amounts that would have otherwise have been made to an eligible head of household before the date specified in paragraph (1) from the amounts held in trust—

''(i) upon request of the eligible head of household, to be used for a replacement home; or

''(ii) if the eligible head of household does not make a request under clause (i), upon the death of the eligible head of household, in accordance with subparagraph (B).

''(B) DISTRIBUTION OF FUNDS UPON THE DEATH OF AN ELIGIBLE HEAD OF HOUSEHOLD.—If, upon the death of an eligible head of household, the Secretary holds funds in trust under this paragraph for that eligible head of household, the Secretary shall—

''(i) determine and notify the heirs of the head of household; and

''(ii) distribute the funds to—

''(I) the heirs who have attained the age of 18; and

''(II) each remaining heir, at the time that the heir attains the age of 18.

''(f) NOTIFICATION.—

''(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Navajo-Hopi Land Settlement Act Amendments of 1996, the Commissioner shall, in accordance with section 700.138 of title 25, Code of Federal Regulations, notify each eligible head of household who has not entered into a lease with the Hopi Tribe to reside on lands partitioned to the Hopi Tribe.

''(2) LIST.—Upon the expiration of the notice periods referred to in section 700.139 of title 25, Code of Federal Regulations, the Commissioner shall forward to the Secretary and the United States Attorney for the District of Arizona a list containing the name and address of each eligible head of household who—

''(A) continues to reside on lands that have not been partitioned to the tribe of that eligible head of household; and

''(B) has not entered into a lease to reside on those lands.

''(3) CONSTRUCTION OF REPLACEMENT HOMES.—Before July 1, 1999, the Commissioner may commence construction of a replacement home on the lands acquired under section 6 not later than 90 days after receiving a notice of the imminent removal of a relocatee from the lands partitioned under this Act to the Hopi Tribe from—

''(A) the Secretary; or

''(B) the United States Attorney for the District of Arizona.'';

(I) in subsection (g), as redesignated by subparagraph (G)—

(i) by inserting ''DISPOSAL OF ACQUIRED DWELLINGS AND IMPROVEMENTS.—'' after ''(g)''

(ii) by striking ''section 8'' and inserting ''section 3''; and

(iii) by striking ''section 3 or 4 of this title'' and inserting ''section 1'';

(J) in subsection (h), as redesignated by subparagraph (G), by inserting ''PREFERENTIAL TREATMENT FOR HEADS OF HOUSEHOLDS OF THE NAVAJO TRIBE EVICTED FROM THE HOPE RESERVATION BY JUDICIAL DECISION.—''; AND

(K) by adding after subsection (h) the following new subsections:

''(i) APPEALS.—

''(1) IN GENERAL.—The Commissioner shall establish an expedited hearing procedure that shall apply to an appeal relating to the denial of eligibility for benefits under this Act (including the regulations issued under this Act) that is—

''(A) pending on the date of enactment of Navajo-Hopi Land Settlement Act Amendments of 1996; or

''(B) filed after the date specified in subparagraph (A).

''(2) FINAL DETERMINATIONS.—The hearing procedure established under paragraph (1) shall—

''(A) as necessary, provide for a hearing before an impartial third party; and

''(B) ensure the achievement of a final determination by the Office of Navajo and Hopi Indian Relocation for each appeal described in that paragraph not later than January 1, 1999.

''(3) NOTICE.—

''(A) IN GENERAL.—Not later than 30 days after the date of enactment of the Navajo-Hopi Land Settlement Act Amendments of 1996, the Commissioner, shall provide written notice to any individual that the Commissioner determines may have the right to a determination of eligibility for benefits under this Act.

''(B) REQUIREMENTS FOR NOTICE.—The notice provided under this paragraph shall—

''(i) specify that a request for a determination of eligibility referred to in subparagraph (A) shall be presented to the Commission not later than 180 days after the date of issuance of the notice; and

''(ii) be provided—

''(I) by mail (which may be carried out by a means other than certified mail) to the last known address (if available) of the recipient; and

''(II) in a newspaper of general circulation in the geographic area in which an address referred to in subclause (I) is located.

''(j) PROCUREMENT OF SERVICES.—

''(1) IN GENERAL.—Notwithstanding any other provision of this Act, to ensure the full and fair evaluation of the requests referred to in subsection (i)(3)(A) (including an appeal hearing before an impartial third party referred to in subsection (i)(2)(A)), the Commissioner may enter into such contracts or

agreements to procure such services, and employ such personnel (including attorneys), as are necessary.

''(2) DETAIL OF ADMINISTRATIVE LAW JUDGES OR HEARING OFFICERS.—The Commissioner may request the Secretary to act through the Director of the Office of Hearings and Appeals of the Department of the Interior, to make available, by detail or other appropriate arrangement, to the Office of Navajo and Hopi Indian Relocation, an administrative law judge or other hearing officer with appropriate qualifications to review the requests referred to in subsection (i)(3)(A).

''(k) APPEAL TO UNITED STATES CIRCUIT COURT OF APPEALS.—

''(1) IN GENERAL.—Subject to paragraph (3), any individual who, under the procedures established by the Commissioner under this section, is determined not to be eligible to receive benefits under this Act may appeal that determination to the United States Circuit Court of Appeals for the Ninth Circuit (hereafter in this subsection referred to as the 'Circuit Court').

''(2) REVIEW.—

''(A) IN GENERAL.—The Circuit Court shall, with respect to each appeal referred to in paragraph (1)—

''(i) review the entire record (as certified to the Circuit Court under paragraph (3) on which a determination of the ineligibility of the appellant to receive benefits under this Act was based; and

''(ii) on the basis of that review, affirm or reverse that determination.

''(B) STANDARD OF REVIEW.—The Circuit Court shall affirm any determination that the Circuit Court determines to be supported by substantial evidence.

''(3) NOTICE OF APPEAL.—

''(A) IN GENERAL.—An individual who appeals a determination of ineligibility under paragraph (1) shall, not later than 30 days after the date of that determination, file a notice of appeal with—

''(i) the Circuit Court; and

''(ii) the Commissioner.

''(B) CERTIFICATION OF RECORD.—Upon receipt of a notice provided under subparagraph (A)(ii), the Commissioner shall certify to the Circuit Court the record on which the determination that is the subject of the appeal was made.

''(C) REVIEW PERIOD.—The Circuit Court shall conduct a review and render a decision under paragraph (2) not later than 60 days after receiving a certified record under subparagraph (B).

''(D) BINDING DECISION.—A decision made by the Circuit Court under this subsection shall be final and binding on all parties.

(11) Section 16 (25 U.S.C. 640d–15) is amended—

(A) by striking ''SEC. 16. (a) The Navajo'' and inserting the following:

''SEC. 10. PAYMENT OF FAIR RENTAL VALUE FOR USE OF LANDS.

''(a) IN GENERAL.—The Navajo'';

(B) in subsection (a), by striking ''sections 8 and 3 or 4'' and inserting ''sections 1 and 3''; and

(C) in subsection (b)—

(i) by inserting ''PAYMENT.—'' after ''(b)''; and

(ii) by striking sections 8 and 3 or 4'' and inserting ''sections 1 and 3''.

(12) Section 17 (25 U.S.C. 640d–16) is amended—

(A) by striking ''SEC. 17. (a) Nothing'' and inserting the following:

''SEC. 11. STATUTORY CONSTRUCTION.

(a) IN GENERAL.—Nothing''; and

(B) in subsection (b), by inserting ''FEDERAL EMPLOYEES.— after ''(b)''.

(13) Section 18 (25 U.S.C. 640d–17) is amended—

(A) by striking ''SEC. 18. (a) Either'' and inserting the following:

''SEC. 12. ACTIONS FOR ACCOUNTING, FAIR VALUE OF GRAZING, AND CLAIMS FOR DAMAGES TO LAND.

''(a) Either'';

(B) in the matter preceding paragraph (1) in subsection (a), by striking ''section 3 or 4'' and inserting ''section 1'';

(C) in subsection (b)—

(i) by inserting ''DEFENSES.—'' after ''(b)'';

(ii) by striking ''section 3 or 4'' and inserting ''section 1'';

(D) in subsection (c), by inserting ''FURTHER ORIGINAL, ANCILLARY, OR SUPPLEMENTARY ACTS TO INSURE QUIET ENJOYMENT.—'' after ''(c)'';

(E) in subsection (d), by inserting ''UNITED STATES AS PARTY; JUDGMENTS AGAINST THE UNITED STATES'' after ''(d)''; and

(F) in subsection (e), by inserting ''REMEDIES'' after ''(e)''.

(14) Section 19 (25 U.S.C. 640d–18) is amended—

(A) by striking ''SEC. 19. (a) Notwithstanding'' and inserting the following:

''SEC. 14. REDUCTION IN LIVESTOCK WITH JOINT USE.

''(a) IN GENERAL.—Notwithstanding'';

(B) in subsection (a), by striking ''section 3 or 4'' and inserting ''section 1'';

(C) in subsection (b)—

(i) by inserting ''SURVEY LOCATION OF MONUMENTS AND FENCING OF BOUNDARIES.—'' after ''(b)'';

(ii) by striking ''sections 8 and 3 or 4'' and inserting ''sections 1 and 3'';

(D) in subsection (c)—

(i) by inserting ''COMPLETION OF SURVEYING, MONUMENTING, AND FENCING OPERATIONS; LIVESTOCK REDUCTION PROGRAM.—'' after ''(c)'';

(ii) by striking ''section 4 of this title'' and inserting ''section 1''; and

(iii) by striking ''section 8'' and inserting ''section 3''.

(15) Section 20 (25 U.S.C. 640d–19) is amended by striking ''SEC. 20. The members'' and inserting the following:

''SEC. 15. PERPETUAL USE OF CLIFF SPRINGS FOR RELIGIOUS CEREMONIAL USES; PIPING OF WATER FOR USE BY RESIDENTS.

The members''.

(16) Section 21 (25 U.S.C. 640d–20) is amended by striking ''SEC. 21. Notwithstanding'' and inserting the following;

''SEC. 16. USE AND RIGHT OF ACCESS TO RELIGIOUS SHRINES ON RESERVATION OF OTHER TRIBE.

Notwithstanding''.

(17) Section 22 (25 U.S.C. 640d–21) is amended by striking ''SEC. 22. The availability '' and inserting the following:

''SEC. 17. EXCLUSION OF PAYMENTS FROM CERTAIN FEDERAL DETERMINATIONS OF INCOME.

The availability''.

(18) Section 23 (25 U.S.C. 649d–22) is amended—

(A) by striking ''SEC. 23. The Navajo'' and inserting the following:

''SEC. 18. AUTHORIZATION FOR EXCHANGE OF RESERVATION LANDS.

The Navajo''; and

(B) by striking ''sections 14 and 15'' and inserting ''sections 8 and 9''.

(19) Section 24 (25 640d–23) is amended by striking ''SEC. 24. If'' and inserting the following:

''SEC. 19. SEVERABILITY OF PROVISIONS.

If''.

(20) Section 25 (25 U.S.C. 640d–24) is amended to read as follows:

''SEC. 20 AUTHORIZATIONS OF APPROPRIATIONS.

''(a) IN GENERAL.—

''(1) RELOCATION OF HOUSEHOLDS AND MEMBERS.—For the purposes of carrying out the provisions of section 9, there are authorized to be appropriated such sums as may be necessary for each of fiscal years 1998 through 2002.

''(2) RETURN TO CARRYING CAPACITY AND INSTITUTION OF CONSERVATION PRACTICES.—For the purposes of carrying out section 14(a), there are authorized to be appropriated $10,000,000.

''(3) SURVEY LOCATION OF MONUMENTS AND FENCING OF BOUNDARIES.—For the purpose of carrying out section 14(b), there are authorized to be appropriated $500,000.

''(4) RELOCATION OF HOUSEHOLDS AND MEMBERS.—For the purposes of carrying out section 8(b) there are authorized to be appropriated $13,000,000.''.

(21) Section 26 (88 Stat. 1723) is repealed.

(22) Section 27 (25 U.S.C. 640d–25) is amended—

(A) by striking ''SEC. 27.'' and all that follows through subsection (b)'' and inserting the following:

''SEC. 21. FUNDING AND CONSTRUCTION OF HOPI HIGH SCHOOL AND MEDICAL CENTER.''; and

(B) in subsection (c), by striking ''(c)''.

(23) Section 28 (25 U.S.c. 640d–26) is amended-

(A) by striking ''SEC. 28. (a) No action'' and inserting the following:

''SEC. 22. ENVIRONMENTAL IMPACT; APPLICABILITY OF WILDERNESS STUDY; CANCELLATION OF GRAZING LEASES AND PERMITS.

''(a) IN GENERAL.—No action'';

(B) in subsection (b), by inserting ''EFFECT OF WILDERNESS STUDY.—'' after ''(b)''; and

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

''(c) CONSTRUCTION REQUIREMENTS.—

''(1) IN GENERAL.—Any construction activities that are undertaken under this Act shall be conducted in compliance with sections 3 through 7 of Public Law 86–523 (16 U.S.C. 469a–1 through 469c).

''(2) COMPLIANCE WITH OTHER REQUIREMENTS.—With respect to any construction activity referred to in paragraph (1), compliance with the provisions referred to in that paragraph shall be considered to satisfy the applicable requirements of—

''(A) the Act entitled ''an Act to establish a program for the preservation of additional historic properties throughout the Nation, and for other purposes'', approved October 15, 1966 (Public Law, 89–665); and

''(B) the Act entitled ''An Act for the preservation of American antiquities'', approved June 8, 1906 (34 Stat. 225, chapter 3060).''.

(24) Section 29 (25 U.S.C. 640d–27) is amended—

(A) by striking ''SEC. 29. (a) In any'' and inserting the following:

''SEC. 23. ATTORNEY FEES, COSTS AND EXPENSES FOR LITIGATION OR COURT ACTION.

''(a) PAYMENT BY SECRETARY; AUTHORIZATION OF APPROPRIATIONS.—In any;

(B) in subsection (b) by inserting ''AWARD BY COURT.—'' after ''(b)'';

(C) in subsection (c) by inserting ''EXCESS DIFFERENCE.—'' after ''(c)''; and

(D) in subsection (d)—

(i) by inserting ''LITIGATION OF COURT ACTIONS APPLICABLE.—'' after ''(d)''; and

(ii) by striking ''section 8'' and inserting ''section 3''.

(25) Section 31 (25 U.S.C. 640d–29) is amended—

(A) by striking ''SEC. 31. (a) Except'' and inserting the following:

''SEC. 24. LOBBYING.

''(a) IN GENERAL.—Except''; and

(B) in subsection (b), by inserting ''APPLICABILITY.—'' before ''(b)''.

(26) The first section designated as section 32 (25 U.S.C. 640d–30), as added by section 7 of

the Navajo-Hopi Relocation Act Amendments of 1988, is amended—

(A) by striking ''SEC. 32. (a) There'' and inserting the following:

''SEC. 25. NAVAJO REHABILITATION TRUST FUND.

(a) IN GENERAL.—There'';

(B) in subsection (b), by inserting ''DEPOSIT OF INCOME INTO FUND.—'' after ''(b)'';

(C) in subsection (c), by inserting ''INVESTMENT OF FUNDS.—'' after ''(c)'';

(D) in subsection (d), by inserting ''AVAILABILITY OF FUNDS.—'' after ''(d);

(E) in subsection (e), by inserting ''EXPENDITURE OF FUNDS.—'' after ''(e)'';

(F) in subsection (f), by inserting ''TERMINATION OF TRUST FUND.—'' after ''(f)''; and

(G) in subsection (g), by inserting ''AUTHORIZATION OF APPROPRIATIONS.—'' after ''(g)''.

(27) Section 32 (25 U.S.C. 640d–31), as added by section 407 of the Arizona-Idaho Conservation Act of 1988m, is amended by striking ''SEC. 32. Nothing'' and inserting the following:

''SEC. 26. AVAILABILITY OF FUNDS FOR RELOCATION ASSISTANCE REGARDLESS OF PLACE OF RESIDENCE.

Nothing''.

TITLE II—PERSONNEL OF THE OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

SEC. 201. RETENTION PREFERENCE.

The second sentence of section 3501(b) of title 5, United States Code, is amended—

(1) by striking by striking ''or'' after ''Senate'' and inserting a comma;

(2) by striking ''or'' after ''Service'' and inserting a comma; and

(3) by inserting '', or to an employee of the Office of Navajo and Hopi Indian Relocation before the period.

SEC. 202. SEPARATION PAY.

(a) IN GENERAL.—Chapter 55 title 5, United States Code, is amended by adding at the end the following new section:

''§ 5598 Separation pay for certain employees of the Office of Navajo and Hopi Indian Relocation

''(a) IN GENERAL.—Except as provided in subsections (b) and (c), the Commissioner of the Office of Navajo and Hopi Indian Relocation shall establish a program to offer separation pay to employees of the Office of Navajo and Hopi Indian Relocation (hereafter in this section referred to as the 'Office') in the same manner as the Secretary of Defense offers separation pay to employees of a defense agency under section 5597.

''(b) SEPARATION PAY.—

''(1) IN GENERAL.—Under the program establish under subsection (a), the Commissioner of the Office may offer separation pay only to employees within the occupational groups or at pay levels that will minimize disruption of ongoing Office programs at the time that the separation pay is offered.

''(2) REQUIREMENT.—Any separation pay offered under this subsection shall—

''(A) be paid in a lump sum;

''(B) be in an amount equal to $25,000, if paid on or before December 31, 1998;

''(C) be in an amount equal to $20,000, if paid after December 31, 1998, and before January 1, 2000;

''(D) be in an amount equal to $15,000, if paid after December 31, 1999, and before January 1, 2001;

''(E) not—

''(i) be a basis for payment;

''(ii) be considered as income for the purposes of computing any other type of benefit provided by the Federal Government; and

''(F) if an individual is otherwise entitled to receive any severance pay under section 5595 on the basis of any other separation, not be payable in addition to the amount of the severance pay to which that individual is entitled under section 5595.

''(c) PROHIBITION.—No amount shall be payable under this section to any employee of the Office for any separation occurring after December 30, 2000.''

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 55 of title 5 is amended by adding at the end the following new item:

''5598. Separation pay for certain employees of the Office of Navajo and Hopi Indian Relocation.''.

SEC. 203. IMMEDIATE RETIREMENT.

Section 8336(j)(1)(B) of title 5, United States Code, is amended by inserting ''or was employed by the Office of Navajo and Hopi Indian Relocation during the period beginning on January 1, 1990, and ending on the date of separation of that employee'' before the final comma.

SEC. 204. COMPUTATION OF ANNUITY.

Section 8339(d) of title 5, United States Code is amended by adding at the end the following new paragraph:

''(8) The annuity of an employee of the Office of Navajo and Hopi Indian Relocation described in section 8336(j)(1)(B) shall be determined under subsection 9a), except that with respect to service of that employee on or after January 1, 1990, the annuity of that employee shall be—

''(A)(i) 2½ percent of the employee's average pay; multiplied by

''(ii) so much of the employee's service on or after January 1, 1990, as does not exceed 10 years; plus

''(B)(i) a percent of the average pay of the employee; multiplied by

''(ii) so much of the service of the employee on or after January 1, 1990, as exceeds 10 years.''.

SEC. 205. IMMEDIATE RETIREMENT.

Section 8412 of title 5, United States Code, is amended by adding at the end the following new subsection:

''(i) An employee of the Office of Navajo and Hopi Indian Relocation is entitled to an annuity if that employee—

''(1) has been continuously employed in the Office of Navajo and Hopi Indian Relocation during the period beginning on January 1, 1990, and ending on the date of separation of that individual; and

''(2)(A) has completed 25 years of service at any age; or

''(B) has attained the age of 50 years and has completed 20 years of service.''.

SEC. 206. COMPUTATION OF BASIC ANNUITY.

Section 8415 of title 5, United States Code, is amended by adding at the end the following new subsection:

''(h) The annuity of an employee retiring under section 8412(i) shall be determined under subsection (d), except that with respect to service during the period beginning on January 1, 1990, the annuity of the employee shall be—

''(1)(A) 2 percent of the average pay of that individual; multiplied by

''(B) so much of the total service of that individual as does not exceed 10 years; plus

''(2)(A) 1½ percent of the average pay of the individual; multiplied by

''(B) so much of the total service of that individual as exceeds 10 years.''.

TITLE III—TRANSFER OF FUNCTIONS AND SAVINGS PROVISIONS

SEC. 301. DEFINITIONS.

For purposes of this title, unless otherwise provided or indicated by the context—

(1) the term ''Federal agency'' has the meaning given to the term ''agency'' by section 551(1) of title 5, United States Code;

(2) the term ''function'' means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program; and

(3) the term ''office'' includes any office, administration, agency, institute, unit, organizational entity, or component thereof.

SEC. 302. TRANSFER OF FUNCTIONS.

Effective on the date specified in section 307, there are transferred to the Department of the Interior all functions which Office of Navajo and Hopi Relocation exercised before the date of the enactment of this title (including all related functions of any officer or employee of the Office of Navajo and Hopi Relocation) relating to functions of the Office that have not been fully discharged, as determined in accordance with the Act commonly known as the ''Navajo-Hopi Land Settlement Act of 1974'' (Public law 93–531; 25 U.S.C. 640 et seq.).

SEC. 303. TRANSFER AND ALLOCATIONS OF APPROPRIATIONS.

Except as otherwise provided in this Act and the amendments made by this Act, the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the functions transferred by this title, subject to section 1531 of title 31, United States Code, shall be transferred to the Department of the Interior. Unexpended funds transferred pursuant to this section shall be used only for the purposes for which the funds were originally authorized and appropriated.

SEC. 304. SAVINGS PROVISIONS.

(a) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or be a court of competent jurisdiction, in the performance of functions which are transferred under this title, and

(2) which are in effect at the time this title takes effect, or were final before the effective date of this title and are to become effective on or after the effective date of this title,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary of the Interior or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) PROCEEDING NOT AFFECTED.—The provisions of this title shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before the Office of Navajo and Hopi Relocation at the time this title takes effect, with respect to functions transferred by this title but such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this title had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this title had not been enacted.

(c) SUITS NOT AFFECTED.—The provisions of this title shall not affect suits commenced before the effective date of this title, and in

all such suits, proceedings shall be had, appeal taken, and judgments rendered in the same manner and with the same effect as if this title had not been enacted.

(d) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against Office of Navajo and Hopi Relocation, or by or against any individual in the official capacity of such individual as an Office of Navajo and Hopi Relocation, shall abate by reason of the enactment of this title.

(e) ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.—Any administrative action relating to the preparation or promulgation of a regulation by Office of Navajo and Hopi Relocation relating to a function transferred under this title may be continued by the Department of the Interior with the same effect as if this title had not been enacted.

SECTION-BY-SECTION SUMMARY OF THE NAVAJO-HOPI LAND SETTLEMENT ACT AMENDMENTS OF 1996

Section 1. Short Title. This section provides that the bill may be cited as the ''Navajo-Hopi Land Settlement Act Amendments of 1996''.

TITLE I—AMENDMENTS TO THE NAVAJO-HOPI LAND SETTLEMENT ACT OF 1974

Section 101. References. This section provides that whenever an amendment or repeal is expressed in this Act it shall be considered to be made to a section of the Navajo-Hopi Land Settlement Act of 1974 (25 U.S.C. §§640 et seq.).

Section 102. Amendments to the Navajo and Hopi Settlement Act. This section sets forth amendments to the Navajo-Hopi Land Settlement Act of 1974.

Subsection (a) repeals six sections of the Act in their entirety: Section 1 (25 U.S.C. §640d) relating to the appointment and duties of the mediator; Section 2 (25 U.S.C. §640d–1) relating to the appointment and duties of the Navajo and Hopi negotiating teams; Section 3 (25 U.S.C. §640–d–2) relating to the implementation of any agreements reached by the tribal negotiating teams; Section 4 (25 U.S.C. §640d–3) relating to the procedures to be used by the mediator and the Federal District Court in the event that the tribal negotiating teams did not reach agreement; Section 5 (25 U.S.C. §640d–4) relating to other recommendations by the mediator to the Federal District Court; Section 30 (25 U.S.C. §640d–28) relating to the provision of life estates to Navajos residing on lands partitioned to the Hopi Tribe.

Subsection (b) redesignates section 6 (25 U.S.C. §640d–5) as section 1 and amends the provisions of this section relating to the partition of the former Joint Use Area of the 1882 Executive Order reservation.

Paragraph (2) amends section 7 by renaming it ''Joint Ownership of Minerals'' and redesignates it as section 2.

Paragraph (3) redesignates section 8 (25 U.S.C. §640d–7) as section 3 and amends the section by repealing subparagraph (f) which contained special provisions related to the payment of legal fees for the San Juan Southern Paiute Tribe prior to the time of its Federal recognition.

Paragraph (4) redesignates section 9 (25 U.S.C. §640d–8) as section 4 and retitles it ''Paiute Indian Allotments''.

Paragraph (5) redesignates section 10 (25 U.S.C. §640d–9) as section 5 and by amending it to strike references to Navajo life estates.

Paragraph (6) redesignates section 11 (25 U.S.C. §640d–10) as section 6 and amending it to provide for the termination of the Commissioner's authority to select lands for the Navajo Nation on September 30, 2000. This section of the Act is further amended to authorize the Commissioner to make homesites available to extended family members of those Navajos who are certified eligible for relocation benefits in order to facilitate the relocation program.

Paragraph (7) redesignates section 12 (25 U.S.C. §640d–11) as section 7. This section of the Act is amended to provide for: the termination of the Office of Navajo and Hopi Indian Relocation on September 30, 2001; the transfer of any remaining duties or functions, resources, funds, property and staff of the Office to the Secretary of the Department of the Interior in accordance with Title III of this Act; the establishment of an Office of Relocation in the Office of the Secretary which shall remain in existence until the Secretary determines that its functions have been fully discharged.

Paragraph (8) retitles section 13 (25 U.S.C. §640d–12) as ''Report Concerning Relocation of Households and Members of Each Tribe.''

Paragraph (9) redesignates section 14 (25 U.S.C. §640d–13) as section 8. This section of the Act is amended to delete a reference in subsection (a) to the filing of the relocation plan and the completion of the relocation program. A new subsection (d) is added to prohibit the payment of any benefits to any head of household who has not been certified eligible by September 30, 2001.

Paragraph (10) redesignates section 15 (25 U.S.C. §640d–14) as section 9. This section of the Act is amended by adding a new subsection (e) which requires the Commissioner to notify the Secretary of any eligible relocatees who have left the lands partitioned to the tribe of which they are not members, but who have not received a replacement home by September 30, 2001 and to transfer to the Secretary the funds necessary to provide such homes. The Secretary is authorized to hold such funds in trust for each head of household until such time as the head of household requests the construction of a replacement home. If the Secretary still holds the funds in trust for a head of household at the time of the death of the head of household, then the funds shall be distributed to the heirs of the head of household upon attaining 18 years of age and shall no longer be held in trust.

Paragraph (10) further amends the Act by adding a new subsection (f) which directs the Commissioner to implement the provisions of 25 C.F.R. §700.138 within 180 days after the date of enactment of these amendments. Upon the expiration of all time periods in 25 C.F.R. §700.138, the Commissioner shall provide the notices to the Secretary and the United States Attorney for the District of Arizona which are required by 25 C.F.R. §700.139. At any time prior to July 1, 1999, the Commissioner is authorized to construct a replacement home within 90 days of the receipt of a notice from the Secretary or the United States Attorney for the District of Arizona that the removal of a relocatee from the lands partitioned to the Hopi Tribe is imminent.

Finally, paragraph (10) provides that the Act is also amended by striking the existing subsection (g) and inserting in lieu thereof a new subsection (i) which authorizes the Commissioner to establish an expedited procedure for reaching final determinations on any appeals from denials of eligibility. The Commissioner must provide a final notice, by mail and/or publication, to anyone who may have a right to an eligibility determination within 30 days from the enactment of the amendments and all requests for such determinations must be filed within 180 days from the date of such notice.

A new subsection (j) is added to this section of the Act to authorize the Commissioner to contract for services and employ personnel in order to provide for eligibility determinations and appeals. Upon request, the Director of the Office of Hearings and Appeals of the Department of the Interior shall provide a qualified hearing officer to the Commissioner to assist in hearings to review eligibility determinations.

A new subsection (k) is added to this section of the Act to provide for a final and expedited appeal of any final eligibility determinations by the Office to the Circuit Court of Appeals for the Ninth Circuit. All such appeals shall be filed within 30 days of the final action by the Office and the Court shall complete its review within 60 days after receipt of the certified record from the Office. All such appeals shall be reviewed on the basis of the certified record and any denial of eligibility which is supported by substantial evidence shall be affirmed.

Paragraph (11) redesignates section 16 (25 U.S.C. §640d–15) as section 10 and retitles it ''Payment of Fair Rental Value for Use of Lands''.

Paragraph (12) redesignates section 17 (25 U.S.C. §640d–16) as section 11 and retitles it ''Statutory Construction''.

Paragraph (13) redesignates section 18 (25 U.S.C. §640d–17) as section 12 and retitles it ''Actions for Accounting, Fair Value of Grazing, and Claims for Damages to Land''.

Paragraph (14) redesignates section 19 (25 U.S.C. §640d–18) as section 14 and retitles it ''Reduction in Livestock with Joint Use''.

Paragraph (15) redesignates section 20 (25 U.S.C. §640d–19) as section 15 and retitles it ''Perpetual Use of Cliff Springs for Religious Ceremonial Uses; Piping of Water for Use by Residents''.

Paragraph (16) redesignates section 21 (25 U.S.C. §640d–20) as section 16 and retitles it ''Use and Right of Access to Religious Shrines on Reservation of Other Tribe''.

Paragraph (17) redesignates section 22 (25 U.S.C. §640d–21) as section 17 and retitles it ''Exclusion of Payments from Certain Federal Determination of Income''.

Paragraph (18) redesignates section 23 (25 U.S.C. §640d–22) as section 18 and retitles it ''Authorization for Exchange of Reservation Lands''.

Paragraph (19) redesignates section 24 (25 U.S.C. §640d–23) as section 19 and retitles it ''Severability of Provisions''.

Paragraph (20) redesignates section 25 (25 U.S.C. §640d–24) as section 20 and amends this section in subsection (a) by providing authorizations for appropriations of such sums as may be necessary for fiscal years 1998 through 2002. The authority for appropriations for the mediator, life estates and special discretionary funds for the Commissioner is repealed.

Paragraph (21) repeals section 26 (88 Stat. 1723).

Paragraph (22) redesignates section 27 (25 U.S.C. §640d–25) as section 21 and amends it by repealing subsections (a) and (b) and retitling it ''Funding and Construction of Hopi High School and Medical Center.''

Paragraph (23) redesignates section 28 (25 U.S.C. §640d–26) as section 22 and adding a new subsection (c) to require all construction activities to be undertaken in compliance with 16 U.S.C. §§469a–1 through 469c and declaring that such compliance shall also be deemed to be compliance with P.L. 89–665, as amended, and P.L. 96–95, as amended.

Paragraph (24) redesignates section 29 (25 U.S.C. §640d–27) as section 23 and retitles it ''Attorney Fees, Costs and Expenses for Litigation or Court Action''.

Paragraph (25) redesignates section 31 (25 U.S.C. §640d–29) as section 24 and retitles it ''Lobbying''.

Paragraph (26) redesignates section 32 (25 U.S.C. §640d–30) as section 25 and retitles it ''Navajo Rehabilitation Trust Fund''.

Paragraph (27) redesignates section 32 (25 U.S.C. §640d–31) as section 26 and retitles it

''Availability of Funds for Relocation Assistance Regardless of Place of Residence''.

TITLE II. PERSONNEL OF THE OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

This Title contains six amendments to Title 5 of the United States Code, as follows:

Section 201. Retention Preference. This section amends paragraph (b) of section 3501 to exclude employees of the Office of Navajo and Hopi Indian Relocation from reduction-in-force regulations.

Section 202. Separation Pay. This section amends section 5597 to provide a new paragraph (a)(3) and new subsections (h) and (i) to include employees of the Office of Navajo and Hopi Indian Relocation in the provisions for voluntary separation incentive payments.

Section 203. Immediate Retirement. This section amends section 8336 to include employees of the Office of Navajo and Hopi Indian Relocation in paragraph (1) to make them eligible for early or optional retirement programs.

Section 204. Computation of Annuity. This section amends subsection (d) of section 8336 to modify the retirement computations for those employees of the Office of Navajo and Hopi Indian Relocation who can retire under early or optional retirement regulations.

Section 205. Immediate Retirement. This section amends section 8412 by adding a new subsection (g) to include employees of the Office of Navajo and Hopi Indian Relocation in the provisions for annuities.

Section 206. Computation of Basic Annuity. This section amends section 8415 by adding a new subsection (g) to modify the annuity computations for those employees of the Office of Navajo and Hopi Indian Relocation who are eligible for annuities.

TITLE III—TRANSFER OF FUNCTIONS AND SAVINGS PROVISIONS

Section 301. Definitions. This section sets out the definitions used in this title.

Section 302. Transfer of Functions. This section provides for the transfer of all of the functions of the Office of Navajo and Hopi Relocation that have not been fully discharged to the Department of the Interior.

Section 303. Transfer and Allocations of Appropriations. This section provides that the assets, liabilities, contracts, property, records and unexpended balances of appropriations, allocations and other funds related to the functions transferred under this title, shall be transferred to the Department of the Interior.

Section 304. Savings Provisions. This section provides that all orders, determinations, rulings, regulations, permits, agreements, grants, contracts, licenses, privileges and other administrative actions shall have continuing legal effect until modified, superseded, set aside or revoked in accordance with or by operation of law. It also provides that proceedings, including notices of proposed rulemaking, and lawsuits commenced before the effective date of this title shall not be affected by the transfer.

Section 305. Separability. This section provides that if a provision of this title is held invalid, the remainder of the title shall remain unaffected.

Section 306. References. This section provides that any reference to the Commissioner of the Office of Navajo and Hopi Relocation and the Office of Relocation shall be deemed to refer to the Secretary of the Interior and the Office of Relocation of the Department of Interior respectively.

Section 307. Effective Date. This section provides that this title shall take effect on September 30, 2001.

Mr. Mr. FORD:

S. 2112. A bill to revise the boundary of the Abraham Lincoln Birthplace National Historic Site in Larue County, KY, and for other purposes; to the Committee on Energy and Natural Resources.

THE ABRAHAM LINCOLN BIRTHPLACE NATIONAL HISTORIC SITE BOUNDARY REVISION ACT OF 1996

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

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

S. 2112

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

SECTION 1. REVISION OF BOUNDARY OF ABRAHAM LINCOLN BIRTHPLACE NATIONAL HISTORIC SITE.

(a) IN GENERAL.—On acquisition of the land known as Knob Creek Farm pursuant to subsection (b), the boundary of the Abraham Lincoln Birthplace National Historic Site, established by the Act of July 17, 1916 (39 Stat. 385, chapter 247; 16 U.S.C. 211 et seq.), is revised to include the land.

(b) ACQUISITION OF KNOB CREEK FARM.—The Secretary of the Interior may acquire, by donation only, the approximately 228 acres of land known as Knob Creek Farm in Larue County, Kentucky.

By Mr. KERRY:

S. 2113. A bill to increase funding for child care under the temporary assistance for needy families program; to the Committee on Finance.

THE WORKING FAMILIES' CHILD CARE ASSISTANCE ACT

• Mr. KERRY. Mr. President, today I am introducing the ''Working Families' Child Care Assistance Act'' to help the many working families who face great struggles to find affordable, good-quality child care.

Mr. President, we no longer live in an era when one parent generally stays at home full time to take care of the children. Today, 60 percent of women with children younger than six are in the labor force. The result is that approximately 7 million children of working parents are cared for each month by someone other than a parent. And most of these children spend 30 hours or more each week in child care, according to the National Research Council.

New research also confirms that our current social reality has placed enormous strains on working families' budgets because many families must pay for child care. According to a new study of 100 child care centers entitled ''Cost, Quality, and Child Outcomes in Child Care Centers,'' families spend an average of $4,940 per year to provide services for each enrolled child. Annual child care costs of this size represent a whopping 28 percent of $17,481, which is the yearly income of an average family in the bottom two-fifths of the income scale.

But even for families who can afford the cost of child care, in some communities child care continues to be hard to obtain at any cost. Mr. President, in 1994, 36 States reported State child care assistance waiting lists, according to the children's defense fund. Eight States had at least 10,000 children waiting for assistance. Georgia's list was the longest with 41,000, while in Texas the list had 36,000 names and a wait of about 2 years. In Massachusetts, the statewide waiting list contains the names of 4,000 working families. Additionally, a 1995 U.S. General Accounting Office [GAO] study found that shortages of child care for infants, sick children, children with special needs, and school-age children before and after school pose difficulties for many families.

I believe the child care situation may worsen because of a provision which I did not support in the recently passed welfare reform bill which cuts the title XX social services block grant by 15 percent. Many States currently use this funding to pay for child care for working families; unfortunately, this cut will result in even more families needing child care assistance.

Mr. President, it is time to provide help to working families to afford quality child care. My bill would double the funding through the child care development block grant, increasing child care funding by $1 billion per year. This would result in more than 5,000 families in Massachusetts alone receiving child care help.

Working parents face an extraordinary uphill battle in trying to make ends meet and cover the high cost of child care. Well over half the women in the work force are parents of preschool children, and they need access to affordable, quality child care they can trust. This bill provides real help to working families and hopefully will send a strong signal that their work and their efforts to provide reliable child care for their children is valued and supported.

By Mr. AKAKA:

S. 2114. A bill to amend the Animal Welfare Act to ensure that all dogs and cats used by research facilities are obtained legally, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE PET SAFETY AND PROTECTION ACT OF 1996

• Mr. AKAKA. Mr. President, today I am introducing the Pet Safety and Protection Act of 1996, a bill to amend the Animal Welfare Act to ensure that all dogs and cats used by research facilities are obtained legally.

Medical research is an invaluable weapon in the battle against disease. New drugs and surgical techniques offer promise in the fight against AIDS, cancer, Alzheimer's, heart disease, and a host of other life-threatening illnesses. Orthopedic surgeons are making tremendous progress in designing new and improved joint-replacement materials for patients. Emergency medical techniques, such as CPR, have saved thousands of lives since they were developed.

What do these advancements in medicine have in common? Animal research helped make them possible. Animal research ensures that drugs and surgical techniques, which benefit millions of

people every day, are safe and effective. Animal research is of great importance to our future, but there is growing evidence that, in some instances, research is being carried out using family pets that have been fraudulently obtained from the owners who love them.

The concern that has prompted me to introduce the Pet Safety and Protection Act of 1996 does not relate to whether animals should or should not be used in medical research. Rather, this bill provides a sensible solution to the growing problem of stray and stolen pets being sold to research facilities. It addresses problems caused by unethical Class B ''random source'' animal dealers. The Pet Safety and Protection Act of 1996 will safeguard family pets while allowing essential research to continue in an environment free from deception and abuse.

According to the USDA's Animal and Plant Health Inspection Service [APHIS], there are 4,325 licensed animal dealers in the United States. About 1,100 of these dealers are licensed by APHIS as Class B ''random source'' animal dealers. This means that these dealers do not breed the animals themselves, but obtain their dogs and cats from other sources.

Unfortunately, there is significant evidence to conclude that many Class B ''random source'' dealers are profiteering through theft or by deceptively acquiring animals. For example, in 1995, 50 class B dealers supplied 24,000 of the 89,000 dogs used for research. APHIS investigations of these dealers found that up to 50 percent engaged in fraudulent record-keeping practices. In other words, up to 11,000 of the dogs sold to medical facilities in 1995 may have been obtained through pet theft, falsified records, and other unscrupulous techniques.

The provisions of current law are impossible to enforce effectively. In response to evidence of repeated violations of Federal law by Class B ''random source'' dealers, I have introduced the Pet Safety and Protection Act of 1996. This legislation will ensure that dogs and cats used by research facilities are obtained from legitimate sources.

The problem of pet theft should not be left unchecked. Dr. Robert Whitney, former director of the Office of Animal Care and Use at the National Institutes of Health recently declared that, ''The continued existence of these virtually unregulatable Class B dealers erodes the public confidence in our commitment to appropriate procurement, care, and use of animals in the important research to better the health of both humans and animals.'' it is in the interests of consumers, pet owners, and researchers alike, to see that animals used for research purposes are obtained legitimately and treated with respect.

I urge all of my colleagues to join in supporting this legislation.●

By Mr. MOYNIHAN:

S. 2116. A bill to facilitate efficient investments and financing of infrastructure projects and new job creation through the establishment of a National Infrastructure Development Corporatoin, and for other purposes; to the Committee on Finance.

THE NATIONAL INFRASTRUCTURE DEVELOPMENT ACT OF 1996

Mr. MOYNIHAN. Mr. President, I am pleased to introduce legislation today that I hope, at the very least, will draw attention to the interesting possibilities of how private capital might be joined with public funding of our Nation's infrastructure. The bill is designed to facilitate investment in, and the financing of, infrastructure projects—which generate good-paying jobs—through the creation of a self-sustaining entity, the National Infrastructure Development Corporation.

In 1991, I sponsored the Intermodal Surface Transportation Efficiency Act [ISTEA]. One provision called for the establishment of an Infrastructure Investment Commission. Public investments in infrastructure have been declining, and so the Commission was charged with looking at ways to encourage the investment of private capital. The Commission was chaired by Daniel V. Flanagan, Jr. Under his able direction, the Commission released a report early in 1993. I found it truly compelling, and I look forward to revisiting the Commission's recommendations as we prepare for ISTEA II. In short, we would do well to listen to Mr. Flanagan, again, as we reauthorize our vitally important transportation infrastructure policies in the 105th Congress. There will be hearings, of course, and we look forward to testimony from the Commission as to its recommendations. I would like to point out that our colleague, Senator HUTCHISON from Texas, served as a member of the Commission; and I certainly look forward to working with her as the Environment and Public Works Committee takes up this most important matter next year.

I would like to note that significant infrastructure investment activity by U.S. pension funds is occurring daily overseas, particularly in Asia and Latin America. A good part of this has been prompted by the evolution of the independent power generation spawned by the action of our Congress in creating such entities as part of the Energy Policy Act of 1992. As a result, we now have a project finance industry in existence in this country assisting those American funds in such infrastructure investment overseas. Also, current policies of the Overseas Private Investment Corporation, the Export Import Bank, and the World Bank, encourage this type of overseas investment through credit enhancements, political risk insurance, and so forth.

The problem in the United States is that we have never provided such credit enhancement disciplines in our own infrastructure network. Clearly, there is significant political risk for the entrepreneur, the architect, the engineer, and even the community group that seeks to develop improvements and novel and innovative ways of paying for such services. The Commission's report suggests a ''growing of the pie'' approach to leverage some of our public funds by encouraging such private investment, and suggests that leverage ratios of approximately 10 to 18 times the public funds involved are attainable.

Recommendations of the Commission and Mr. Flanagan, who has testified several times before Congress on this subject, are incorporated in this legislation. For example, it suggests various insurance initiatives, particularly in the area of development risk, as well as other innovative procedures, including the reinsurance of long term revenue streams that would allow new economic activity to ensure either in the construction of new or rehabilitation of existing facilities.

I commend my colleagues in the House of Representatives, particularly the Democratic leadership there, for introducing this measure in that body earlier this year. To me this is a bipartisan effort and we welcome the support of our Republican colleagues. This legislation, the National Infrastructure Development Act of 1996, is by no means the final word on this subject. But I do recommend it to all of my colleagues for their examination and hope it proves sufficient to stimulate their interest in this ingenious approach to such an exciting matter.

SENATE RESOLUTION 296—RELATIVE TO DISABLED SENATE EMPLOYEES

Mr. FORD submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 296

Resolved, That (a) a Senate employee with a disability (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)) who has the privilege of the Senate floor under rule XXII of the Standing Rules of the Senate may bring such supporting services (including dog guides and interpreters) on the Senate floor as the employing office determines are necessary to assist the disabled employee in discharging the official duties of his or her employment position.

(b) The employing office of a disabled employee shall administer the provisions of this resolution.

SENATE RESOLUTION 297—REFERRING S. 558

Mr. ABRAHAM (for himself and Mr. LEVIN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 297

Resolved, That the bill S. 558 entitled ''A Bill for the relief of Retired Sergeant First Class James D. Benoit, Wan Sook Benoit, and the estate of David Benoit, and for other purposes,'' is referred, with all accompanying papers, to the chief judge of the United