FAIRCLOTH, Mr. GRAMS, Mr. INHOFE, Mr. KEMPTHORNE, Mr. LOTT, Mr. MCCAIN, Mr. PRESSLER, Mr. SANTORUM, Mr. SHELBY, Mr. SMITH, Mr. THOMAS, and Mr. THOMPSON):

S.J. Res. 49. A joint resolution proposing an amendment to the Constitution of the United States to require two-thirds majorities for bills increasing taxes; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BOND:

S. 1574. A bill to provide Federal contracting opportunities for small business concerns located in historically underutilized business zones, and for other purposes; to the Committee on Small Business.

THE HUBZONE ACT OF 1996

Mr. BOND. Mr. President, I rise today to introduce a measure called the HUBZone Act of 1996. The purpose underlying this bill is to create new opportunities for growth through small business opportunities in distressed urban and rural communities which have suffered economic decline. This legislation will provide for an immediate infusion of cash and the creation of new jobs in our Nation's economically distressed areas.

During the 8 years I served as Governor of Missouri, I met frequently with community leaders who were seeking help in attracting businesses and jobs to their cities and towns. We tried various programs. The enterprise zone concept met with some limited success in Missouri but the concept was good. Our incentives were limited to State tax relief, which was not a very significant element, but I believe that the idea of providing incentives for locating businesses in areas of high unemployment makes sense.

Now, in my position representing my State and serving as chairman of the Committee on Small Business, I continue to receive pleas for help. We have not yet found the perfect formula to bring economic hope and independence to these communities. But I believe we are working on it. I think we are on the right track.

The message for help has changed somewhat. Although help has been forthcoming from the Federal Government, high unemployment and poverty remain. One community leader, for example, has stressed to me that his city has all the job training funds it is capable of using. He said, ''Don't send us any more training funds. Send us some jobs.'' What the city, the inner city, and people there need is more jobs.

Too many of our Nation's cities and rural areas have suffered economic decline while others have prospered often with Federal assistance. In October of last year, I chaired a hearing before the Senate Committee on Small Business on ''Revitalizing America's Rural and Urban Communities.'' We heard insightful testimony about the importance of changing the U.S. Tax Code, for example, and providing other incentives to attract businesses to the communities in need of economic opportunity. Their recommendations have merit, and I urge my colleagues in the committees with jurisdiction over appropriate legislation to take swift action to bring these legislative changes to the Senate floor.

What distinguishes the HUBZone Act of 1996 from other excellent proposals is that there is an immediate impact this bill can have on economically distressed communities. The HUBZone proposal would benefit entire communities by creating meaningful incentives for small businesses to operate and provide employment within America's most disadvantaged inner-city neighborhoods and rural areas.

Specifically, the HUBZone Act of 1996 creates a new class of small businesses eligible for Federal Government contract set-asides and preferences. To be eligible, a small business must be located in a historically underutilized business zone—that is the basis for the acronym ''HUBZone''—and not less than 35 percent of its work force would have to reside in a HUBZone.

I will contrast the HUBZone proposal in this legislation today with a draft Executive order that is being circulated by the Clinton administration to establish an empowerment contracting program. I commend the President and the administration for focusing on the value of targeting Federal Government assistance to low-income communities. However, I think that program falls short of meeting the goal of helping low-income communities and its residents.

For example, under the President's proposal, any business, large or small, located in a low-income community would qualify for a valuable contracting preference, even if it does not employ one resident of the community. This is clearly a major deficiency or loophole when trying to assist the unemployed and underemployed who live in those target areas. A further weakness in the President's proposal is the failure to define clearly and objectively the criteria which makes a community eligible for his program. We need to avoid creating a new Federal program that ends up helping well-off individuals and companies while failing to have a significant impact on the poor.

The HUBZone Act of 1996 makes the contracting preference available only if the small business is located in the economically distressed area and employs 35 percent of its work force from a HUBZone. That is a significant difference. It is one that is clearly designed to attack deep-seated poverty in geographic locations within the United States.

To qualify for the program, the small business would have to certify to the Administrator of the U.S. Small Business Administration that it is located in a HUBZone and that it will comply with certain rules governing subcontracting. In addition, a qualified small business must agree to perform at least 50 percent of the contract in a HUBZone unless the terms of the contract require that the efforts be conducted elsewhere; in other words, a service contract requiring the small business' presence in Government-owned or leased buildings, for example. In the latter case, no less than 50 percent of the contract would have to be performed by employees of the eligible small business.

Mr. President, the HUBZone Act of 1996 is designed to cut through Government redtape while stressing a streamlined effort to place Government contracts and new jobs in economically distressed communities.

Many of my colleagues are familiar with the SBA's 8(a) minority small business program and some of the rules which are cumbersome for small businesses seeking to qualify for the program. Typically, an 8(a) program applicant has to hire a lawyer to help prepare the application and shepherd it through the SBA procedure, which can often take months. In fact, Congress was forced to legislate the maximum time the agency could review an application as a last-ditch effort to speed up the process. Today, it still takes the SBA at least 90 days, the statutory maximum, to review an application.

The HUBZone Act of 1996 is specifically designed to avoid bureaucratic roadblocks that have delayed and discouraged small business from taking advantage of Government programs. Simply put, if you are a small business located in the HUBZone, employing people from a HUBZone, you are eligible. Once eligible, the small business notifies the SBA of its participation in the HUBZone program, and it is qualified to receive Federal Government contract preferences.

Our goal in introducing this measure is to have new Government contracts being awarded to small businesses in economically distressed communities. Therefore, we have included some ambitious goals for each Government agency. In 1997, 1 percent of the total value of all prime Government contracts would be awarded to small businesses located in HUBZones. The goal would increase to 2 percent in 1998, 3 percent in 1999, and 4 percent in 2000 and each succeeding year.

HUBZone contracting is a bold undertaking. Passage of the HUBZone Act would create hope for inner cities and distressed rural areas that have long been ignored. Most importantly, passage of the HUBZone bill will create hope for the hundreds of thousands of unemployed or underemployed people who long ago thought our country had given up on them. This hope is tangible; it is jobs and income.

We are going to be holding hearings before the Committee on Small Business on the HUBZone Act of 1996 and the role our Nation's small business community can play in revitalizing our distressed cities and rural communities. I really think the HUBZone proposal has great merit. I ask my colleagues to look at it, offer comments,

if you agree with what we are trying to do, the goal of this program and its objective. I welcome cosponsors. I welcome constructive discussion and input from those who have an interest in seeing economic opportunity brought back to inner-city areas and distressed rural communities.

Mr. President, I ask unanimous consent that the text of the bill and a section-by-section analysis of its provisions be printed in the RECORD.

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

S. 1574

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''HUBZone Act of 1996''.

SEC. 2. HISTORICALLY UNDERUTILIZED BUSINESS ZONES.

(a) DEFINITIONS.—Section 3 of the Small Business Act (15 U.S.C. 632) is amended by adding at the end the following new subsection:

''(o) DEFINITIONS RELATING TO HISTORICALLY UNDERUTILIZED BUSINESS ZONES.—For purposes of this section, the following definitions shall apply:

''(1) HISTORICALLY UNDERUTILIZED BUSINESS ZONE.—The term 'historically underutilized business zone' means any area located within one or more qualified census tracts or qualified nonmetropolitan counties.

''(2) SMALL BUSINESS CONCERN LOCATED IN A HISTORICALLY UNDERUTILIZED BUSINESS ZONE.—The term 'small business concern located in a historically underutilized business zone' means a small business concern—

''(A) that is owned and controlled by one or more persons, each of whom is a United States citizen;

''(B) the principal office of which is located in a historically underutilized business zone; and

''(C) not less than 35 percent of the employees of which reside in a historically underutilized business zone.

''(3) QUALIFIED AREAS.—

''(A) QUALIFIED CENSUS TRACT.—The term 'qualified census tract' has the same meaning as in section 42(d)(5)(C)(i)(I) of the Internal Revenue Code of 1986.

''(B) QUALIFIED NONMETROPOLITAN COUNTY.—The term 'qualified nonmetropolitan county' means, based on the most recent data available from the Bureau of the Census of the Department of Commerce, any county—

''(i) that is not located in a metropolitan statistical area (as that term is defined in section 143(k)(2)(B) of the Internal Revenue Code of 1986); and

''(ii) in which the median household income is less than 80 percent of the nonmetropolitan State median household income.

''(4) QUALIFIED SMALL BUSINESS CONCERN LOCATED IN A HISTORICALLY UNDERUTILIZED BUSINESS ZONE.—

''(A) IN GENERAL.—A small business concern located in a historically underutilized business zone is 'qualified', if—

''(i) the small business concern has certified in writing to the Administrator that—

''(I) it is a small business concern located in a historically underutilized business zone;

''(II) it will comply with the subcontracting limitations specified in Federal Acquisition Regulation 52.219–14;

''(III) in the case of a contract for services (except construction), not less than 50 percent of the cost of contract performance incurred for personnel will be expended for employees of that small business concern or for employees of other small business concerns located in historically underutilized business zones; and

''(IV) in the case of a contract for procurement of supplies (other than procurement from a regular dealer in such supplies), the small business concern (or a subcontractor of the small business concern that is also a small business concern located in a historically underutilized business zone) will perform work for not less than 50 percent of the cost of manufacturing the supplies (not including the cost of materials) in a historically underutilized business zone; and

''(ii) no certification made by the small business concern under clause (i) has been, in accordance with the procedures established under section 30(c)(2)—

''(I) successfully challenged by an interested party; or

''(II) otherwise determined by the Administrator to be materially false.

''(B) CHANGE IN PERCENTAGES.—The Administrator may utilize a percentage other than the percentage specified in under subclause (III) or (IV) of subparagraph (A)(i), if the Administrator determines that such action is necessary to reflect conventional industry practices among small business concerns that are below the numerical size standard for businesses in that industry category.

''(C) CONSTRUCTION AND OTHER CONTRACTS.—The Administrator shall promulgate final regulations imposing requirements that are similar to those specified in subclauses (III) and (IV) of subparagraph (A)(i) on contracts for general and specialty construction, and on contracts for any other industry category that would not otherwise be subject to those requirements. The percentage applicable to any such requirement shall be determined in accordance with subparagraph (B).

''(D) LIST OF QUALIFIED SMALL BUSINESS CONCERNS.—The Administrator shall establish and maintain a list of qualified small business concerns located in historically underutilized business zones, which list shall—

''(i) include the name, address, and type of business with respect to each such small business concern;

''(ii) be updated by the Administrator not less than annually; and

''(iii) be provided upon request to any Federal agency or other entity.''.

(b) FEDERAL CONTRACTING PREFERENCES.—The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) by redesignating section 30 as section 31; and

(2) by inserting after section 29 the following new section:

''SEC. 30. HISTORICALLY UNDERUTILIZED BUSINESS ZONES PROGRAM.

''(a) IN GENERAL.—There is established within the Administration a program to be carried out by the Administrator to provide for Federal contracting assistance to qualified small business concerns located in historically underutilized business zones in accordance with this section.

''(b) CONTRACTING PREFERENCES.—

''(1) CONTRACT SET-ASIDE.—

''(A) REQUIREMENT.—The head of an executive agency shall afford the opportunity to participate in a competition for award of a contract of the executive agency, exclusively to qualified small business concerns located in historically underutilized business zones, if the Administrator determines that—

''(i) it is reasonable to expect that not less than 2 qualified small business concerns located in historically underutilized business zones will submit offers for the contract; and

''(ii) the award can be made on the restricted basis at a fair market price.

''(B) COVERED CONTRACTS.—Subparagraph (A) applies to a contract that is estimated to exceed the simplified acquisition threshold.

''(2) SOLE-SOURCE CONTRACTS.—

''(A) REQUIREMENT.—The head of an executive agency, in the exercise of authority provided in any other law to award a contract of the executive agency on a sole-source basis, shall award the contract on that basis to a qualified small business concern located in a historically underutilized business zone, if any, that—

''(i) submits a reasonable and responsive offer for the contract; and

''(ii) is determined by the Administrator to be a responsible contractor.

''(B) COVERED CONTRACTS.—Subparagraph (A) applies to a contract that is estimated to exceed the simplified acquisition threshold and not to exceed $5,000,000.

''(3) PRICE EVALUATION PREFERENCE IN FULL AND OPEN COMPETITIONS.—In any case in which a contract is to be awarded by the head of an executive agency on the basis of full and open competition, the price offered by a qualified small business concern located in a historically underutilized business zone shall be deemed as being lower than the price offered by another offeror (other than another qualified small business concern located in a historically underutilized business zone) if the price offered by the qualified small business concern located in a historically underutilized business zone is not more than 10 percent higher than the price offered by the other offeror.

''(4) RELATIONSHIP TO OTHER CONTRACTING PREFERENCES.—

''(A) SUBORDINATE RELATIONSHIP.—A procurement may not be made from a source on the basis of a preference provided in paragraph (1), (2), or (3) if the procurement would otherwise be made from a different source under section 4124 or 4125 of title 18, United States Code, or the Javits-Wagner-O'Day Act.

''(B) SUPERIOR RELATIONSHIP.—A procurement may not be made from a source on the basis of a preference provided in section 8(a), if the procurement would otherwise be made from a different source under paragraph (1), (2), or (3) of this subsection.

''(5) DEFINITIONS.—For purposes of this subsection, the terms 'executive agency', 'full and open competition', and 'simplified acquisition threshold' have the meanings given such terms in section 4 of the Office of Federal Procurement Policy Act.

''(c) ENFORCEMENT; PENALTIES.—

''(1) IN GENERAL.—The Administrator shall enforce the requirements of this section.

''(2) VERIFICATION OF ELIGIBILITY.—In carrying out this subsection, the Administrator shall establish procedures relating to—

''(A) the filing, investigation, and disposition by the Administration of any challenge to the eligibility of a small business concern to receive assistance under this section (including a challenge, filed by an interested party, relating to the veracity of a certification made by a small business concern under section 3(o)(4)(A)); and

''(B) verification by the Administrator of the accuracy of any certification made by a small business concern under section 3(o)(4)(A).

''(3) RANDOM INSPECTIONS.—The procedures established under paragraph (2) may provide for random inspections by the Administrator of any small business concern making a certification under section 3(o)(4).

''(4) PROVISION OF DATA.—Upon the request of the Administrator, the Secretary of Labor

and the Secretary of Housing and Urban Development shall promptly provide to the Administrator such information as the Administrator determines to be necessary to carry out this subsection.

''(5) PENALTIES.—In addition to the penalties described in section 16(d), any small business concern that is determined by the Administrator to have misrepresented the status of that concern as a 'small business concern located in a historically underutilized business zone' for purposes of this section, shall be subject to the provisions of—

''(A) section 1001 of title 18, United States Code; and

''(B) sections 3729 through 3733 of title 31, United States Code.''.

SEC. 3. TECHNICAL AND CONFORMING AMENDMENTS TO THE SMALL BUSINESS ACT.

(a) PERFORMANCE OF CONTRACTS.—Section 8(d) of the Small Business Act (15 U.S.C. 637(d)) is amended—

(1) in paragraph (1)—

(A) in the first sentence, by striking '',, small business concerns owned and controlled by socially and economically disadvantaged individuals'' and inserting '', qualified small business concerns located in historically underutilized business zones, small business concerns owned and controlled by socially and economically disadvantaged individuals''; and

(B) in the second sentence, by inserting ''qualified small business concerns located in historically underutilized business zones,'' after ''small business concerns,'';

(2) in paragraph (3)—

(A) by inserting ''qualified small business concerns located in historically underutilized business zones,'' after ''small business concerns,'' each place that term appears; and

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

''(F) For purposes of this contract, the term 'qualified small business concern located in a historically underutilized business zone' has the same meaning as in section 3(o) of the Small Business Act.'';

(3) in paragraph (4)—

(A) in subparagraph (D), by inserting ''qualified small business concerns located in historically underutilized business zones,'' after ''small business concerns,''; and

(B) in subparagraph (E), by striking ''small business concerns and'' and inserting ''small business concerns, qualified small business concerns located in historically underutilized business zones, and'';

(4) in paragraph (6), by inserting ''qualified small business concerns located in historically underutilized business zones,'' after ''small business concerns,'' each place that term appears; and

(5) in paragraph (10), by inserting ''qualified small business concerns located in historically underutilized business zones,'' after ''small business concerns,''.

(b) AWARDS OF CONTRACTS.—Section 15 of the Small Business Act (15 U.S.C. 644) is amended—

(1) in subsection (g)(1)—

(A) by inserting ''qualified small business concerns located in historically underutilized business zones,'' after ''small business concerns,'' each place that term appears; and

(B) by inserting after the second sentence the following: ''The Governmentwide goal for participation by qualified small business concerns located in historically underutilized business zones shall be established at not less than 1 percent of the total value of all prime contract awards for fiscal year 1997, not less than 2 percent of the total value of all prime contract awards for fiscal year 1998, not less than 3 percent of the total value of all prime contract awards for fiscal year 1999, and not less than 4 percent of the total value of all prime contract awards for fiscal year 2000 and each fiscal year thereafter.'';

(2) in subsection (g)(2)—

(A) in the first sentence, by striking '',, by small business concerns owned and controlled by socially and economically disadvantaged individuals'' and inserting '', by qualified small business concerns located in historically underutilized business zones, by small business concerns owned and controlled by socially and economically disadvantaged individuals'';

(B) in the second sentence, by inserting ''qualified small business concerns located in historically underutilized business zones,'' after ''small business concerns,''; and

(C) in the fourth sentence, by striking ''by small business concerns owned and controlled by socially and economically disadvantaged individuals and participation by small business concerns owned and controlled by women'' and inserting ''by qualified small business concerns located in historically underutilized business zones, by small business concerns owned and controlled by socially and economically disadvantaged individuals, and by small business concerns owned and controlled by women''; and

(3) in subsection (h), by inserting ''qualified small business concerns located in historically underutilized business zones,'' after ''small business concerns,'' each place that term appears.

(c) OFFENSES AND PENALTIES.—Section 16 of the Small Business Act (15 U.S.C. 645) is amended—

(1) in subsection (d)(1)—

(A) by inserting '', a 'qualified small business concern located in a historically underutilized business zone','' after '' 'small business concern',''; and

(B) in subparagraph (A), by striking ''section 9 or 15'' and inserting ''section 9, 15, or 30''; and

(2) in subsection (e), by inserting '', a 'small business concern located in a historically underutilized business zone','' after '' 'small business concern',''.

SEC. 4. OTHER TECHNICAL AND CONFORMING AMENDMENTS.

(a) TITLE 10, UNITED STATES CODE.—Section 2323 of title 10, United States Code, is amended—

(1) in subsection (a)(1)(A), by inserting before the semicolon the following: '', and qualified small business concerns located in historically underutilized business zones (as that term is defined in section 3(o) of the Small Business Act)''; and

(2) in subsection (f), by inserting ''or as a qualified small business concern located in a historically underutilized business zone (as that term is defined in section 3(o) of the Small Business Act)'' after ''subsection (a))''.

(b) FEDERAL HOME LOAN BANK ACT.—Section 21A(b)(13) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(13)) is amended—

(1) by striking ''concerns and small'' and inserting ''concerns, small''; and

(2) by inserting '', and qualified small business concerns located in historically underutilized business zones (as that term is defined in section 3(o) of the Small Business Act)'' after ''disadvantaged individuals''.

(c) SMALL BUSINESS ECONOMIC POLICY ACT OF 1980.—Section 303(e) of the Small Business Economic Policy Act of 1980 (15 U.S.C. 631b(e)) is amended—

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

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

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

''(3) qualified small business concerns located in historically underutilized business zones (as that term is defined in section 3(o) of the Small Business Act).''.

(d) SMALL BUSINESS INVESTMENT ACT OF 1958.—Section 411(c)(3)(B) of the Small Business Investment Act of 1958 (15 U.S.C. 694b(c)(3)(B)) is amended by inserting before the semicolon the following: '', or to a qualified small business concern located in a historically underutilized business zone, as that term is defined in section 3(o) of the Small Business Act''.

(e) TITLE 31, UNITED STATES CODE.—

(1) CONTRACTS FOR COLLECTION SERVICES.—Section 3718(b) of title 31, United States Code, is amended—

(A) in paragraph (1)(B), by inserting ''and law firms that are qualified small business concerns located in historically underutilized business zones (as that term is defined in section 3(o) of the Small Business Act)'' after ''disadvantaged individuals''; and

(B) in paragraph (3)—

(i) in the first sentence, by inserting before the period ''and law firms that are qualified small business concerns located in historically underutilized business zones'';

(ii) in subparagraph (A), by striking ''and'' at the end;

(iii) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

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

''(C) the term 'qualified small business concern located in a historically underutilized business zone' has the same meaning as in section 3(o) of the Small Business Act.''.

(2) PAYMENTS TO LOCAL GOVERNMENTS.—Section 6701(f) of title 31, United States Code, is amended—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking ''and'' at the end;

(ii) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

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

''(C) qualified small business concerns located in historically underutilized business zones.''; and

(B) in paragraph (3)—

(i) in subparagraph (A), by striking ''and'' at the end;

(ii) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

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

''(C) the term 'qualified small business concern located in a historically underutilized business zone' has the same meaning as in section 3(o) of the Small Business Act.''.

(3) REGULATIONS.—Section 7505(c) of title 31, United States Code, is amended by striking ''small business concerns and'' and inserting ''small business concerns, qualified small business concerns located in historically underutilized business zones, and''.

(f) OFFICE OF FEDERAL PROCUREMENT POLICY ACT.—

(1) ENUMERATION OF INCLUDED FUNCTIONS.—Section 6(d) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(d)) is amended—

(A) in paragraph (5)(C), by inserting ''and of qualified small business concerns located in historically underutilized business zones'' after ''other minorities'';

(B) in paragraph (10), by inserting ''qualified small business concerns located in historically underutilized business zones (as that term is defined in section 3(o) of the Small Business Act),'' after ''small businesses,''; and

(C) in paragraph (11), by inserting ''qualified small business concerns located in historically underutilized business zones (as that term is defined in section 3(o) of the Small Business Act),'' after ''small businesses,''.

(2) PROCUREMENT DATA.—Section 19A of the Office of Federal Procurement Policy Act (41 U.S.C. 417a) is amended—

(A) in subsection (a)—

(i) by inserting ''the number of qualified small business concerns located in historically underutilized business zones,'' after ''Procurement Policy''; and

(ii) by inserting a comma after ''women''; and

(B) in subsection (b), by adding at the end the following: ''For purposes of this section, the term 'qualified small business concern located in a historically underutilized business zone' has the same meaning as in section 3(o) of the Small Business Act.''.

(g) ENERGY POLICY ACT OF 1992.—Section 3021 of the Energy Policy Act of 1992 (42 U.S.C. 13556) is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking ''or'';

(B) in paragraph (3), by striking the period and inserting ''; or''; and

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

''(4) qualified small business concerns located in historically underutilized business zones.''; and

(2) in subsection (b), by adding at the end the following new paragraph:

''(3) The term 'qualified small business concern located in a historically underutilized business zone' has the same meaning as in section 3(o) of the Small Business Act.''.

(h) TITLE 49, UNITED STATES CODE.—

(1) PROJECT GRANT APPLICATION APPROVAL CONDITIONED ON ASSURANCES ABOUT AIRPORT OPERATION.—Section 47107(e) of title 49, United States Code, is amended—

(A) in paragraph (1), by inserting before the period ''or qualified small business concerns located in historically underutilized business zones (as that term is defined in section 3(o) of the Small Business Act)'';

(B) in paragraph (4)(B), by inserting before the period ''or as a qualified small business concern located in a historically underutilized business zone (as that term is defined in section 3(o) of the Small Business Act)''; and

(C) in paragraph (6), by inserting ''or a qualified small business concern located in a historically underutilized business zone (as that term is defined in section 3(o) of the Small Business Act)'' after ''disadvantaged individual''.

(2) MINORITY AND DISADVANTAGED BUSINESS PARTICIPATION.—Section 47113 of title 49, United States Code, is amended—

(A) in subsection (a)—

(i) in paragraph (1), by striking the period at the end and inserting a semicolon;

(ii) in paragraph (2), by striking the period at the end and inserting ''; and''; and

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

''(3) the term 'qualified small business concern located in a historically underutilized business zone' has the same meaning as in section 3(o) of the Small Business Act.''; and

(B) in subsection (b), by inserting before the period ''or qualified small business concerns located in historically underutilized business zones''.

HISTORICALLY UNDERUTILIZED BUSINESS ZONE ACT OF 1995—SECTION-BY-SECTION ANALYSIS

SECTION 1. SHORT TITLE

Historically Undercutilized Business Zone Act of 1995, hereinafter referred to as the ''HUBZone Act of 1995.''

SECTION 2. HISTORICALLY UNDERUTILIZED BUSINESS ZONES

Definitions—

Historically Underutilized Business Zone (HUBZone) is any area located within a qualified metropolitan statistical area or qualified non-metropolitan area.

Small business concern located in a Historically Underutilized Business Zone is a small business whose principal office is located in a HUBZone and whose workforce includes at least 35% of its employees from one or more HUBZones.

Qualified Metropolitan Statistical Area is an area where not less than 50% of the households have an income of less than 60% of the metropolitan statistical area median gross income as determined by the Department of Housing and Urban Development.

Qualified Non-metropolitan Area is an area where the household income is less than 80% of the non-metropolitan area median gross income as determined by the Bureau of the Census of the Department of Commerce.

Qualified Small Business Concern must certify in writing to the Small Business Administration (SBA) that it (a) is located in a HUBZone, (b) will comply with subcontracting rules in the Federal Acquisition Regulations (FAR), (c) will insure that not less than 50% of the contract cost will be performed by the Qualified Small Business.

Contracting preferences—

Contract Set-Aside to a qualified small business located in a HUBZone can be made by a procuring agency if it determines that 2 or more qualified small businesses will submit offers for the contract and the award can be made at a fair market price.

Sole-source Contracts can be awarded to a qualified small business if it submits a reasonable and responsive offer and is determined by SBA to be a responsible contractor. Sole-source contracts cannot exceed $5 million.

10% Price Evaluation Preference in full and open competition can be made on behalf of the Qualified Small Business if its offer is not more than 10% higher than the other offeror, so long as it is not a small business concern.

Enforcement; penalties

The SBA Administrator or his designee shall establish a system to verify certifications made by HUBZone small businesses to include random inspections and procedures relating to disposition of any challenges to the accuracy of any certification. If SBA determines that a small business concern may have misrepresented its status as a HUBZone small business, it shall be subject to prosection under title 18, section 1001, U.S.C., False Certifications, and title 31, sections 3729–3733, U.S.C., False Claims Act.

SECTION 3. TECHNICAL AND CONFORMING AMENDMENTS TO THE SMALL BUSINESS ACT

HUBZone preference

The Small Business Act is amended to give qualified small business concerns located in HUBZones a higher preference than small business concerns owned and controlled by socially and economically disadvantaged individuals (8(a) contractors).

HUBZone goals

This section sets forth government-wide goals for awarding government contracts to qualified small business. In Fiscal Year 1997, the goal will be not less than 1% of the total value of all prime contracts awarded to qualified small businesses located in HUBZones. In FY 1998, this goal will increase to 2%; in FY 1999, it will be 3%; and it will reach 4% in FY 2000 and each year thereafter.

Offenses and penalties

This section provides that anyone who misrepresents any entity as being a qualified small business in order to obtain a government contract or subcontract can be fined up to $500,000 and imprisoned for not more than 10 years and be subject to the administrative remedies prescribed by the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801–3812).

SECTION 4. OTHER TECHNICAL AND CONFORMING AMENDMENTS

This section makes technical amendments to other federal government agency programs that have traditionally provided contract set asides and preferences to disadvantaged small business by expanding each program to include small business located in an Historically Underutilized Business Zone.

By Mr. LAUTENBERG:

S. 1575. A bill to improve rail transportation safety, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE RAIL SAFETY ACT OF 1996

• Mr. LAUTENBERG. Mr. President, today I introduce legislation, the Rail Safety Act of 1996, to improve railroad safety.

Mr. President, over the last 2 weeks, there has been a rash of railroad accidents, including two involving large numbers of passengers. The first of these accidents occurred in my home State of New Jersey on Friday, February 9. In the middle of the morning rush hour, two New Jersey Transit commuter trains collided outside of Secaucus, NJ. The crash killed two engineers and one passenger, and injured more than 235 others. The trains were carrying more than 700 passengers combined, and the death and injury toll easily could have been much higher.

One week later, right here in the Capital area, 11 people lost their lives when a Maryland commuter train collided with an Amtrak train.

These accidents have revealed significant gaps in rail safety and the failure to use existing technology to improve safety. I personally visited the site of the New Jersey crash and was chilled by the devastation. There is no way that one could see what happened in New Jersey and Maryland without feeling a great sense of responsibility about the need to improve the safety of our rail system.

Each day, over half a million Americans use commuter railroads to get to work. Each year, Amtrak carries an additional 22 million passengers on its national routes. In addition to those who take the train are the millions of Americans who live near congested freight train routes which pose their own dangers during accidents, such as spills of hazardous materials and fires.

I recognize that passenger rail service is among the safest forms of travel. And I think it important that we not scare the public into believing otherwise. At the same time, in my view, there is much we should be doing to make rail service more safe.

Just consider our Nation's commitment to rail safety compared to our commitment to safety on commercial aircraft, which have the better safety

record. On planes, there are elaborate safety procedures for each flight. Flight attendants explain emergency measures at the beginning of each trip. Automatic emergency mechanisms are required in each plane, highly sophisticated technology tells pilots when problems arise and emergency exits are well identified and easy to operate.

By contrast, many of today's railroad safety signals and procedures date back almost to the last century. For some reason, the technological revolution seems to have left rail safety back at the station. Compounding matters, much of our railroad regulatory system has been unchanged for decades.

Congress should act promptly to address this problem. We need to review a wide variety of laws and regulations, with one overriding philosophy: The safety of our Nation's rail passengers must come first.

Just because railroad passengers only ride 32 inches off the ground does not mean they deserve less attention or protection than those who ride 32,000 feet above the ground. That does not mean we should rush to impose unrealistic mandates that would drive up costs beyond the capacity to support changes. But, it still requires that we search for ways to take on the issues that have been allowed to drag on for too many years, while rail passengers continue to be exposed to danger unnecessarily.

The Rail Safety Act of 1996 proposes important steps that I think we should take immediately.

One of the most critical matters that we should address is the current law that establishes the hours of service that rail engineers may work. This law was developed in 1907 and has changed very little over the past 90 years. Under the law, it is perfectly legal for a locomotive engineer to work 24 hours in a 32-hour period.

Mr. President, those kinds of hours, combined with the demands and stresses of an engineer's job, is a recipe for disaster. We would never allow pilots or truck drivers to work these kinds of hours; restrictions on these operators are severe. Yet engineers, who are responsible for hundreds and hundreds of people at a time, continue to work under these archaic rules.

The Federal Railroad Administration is in the process of studying the issue of fatigue, as is the industry. But those studies could be years from completion. The adverse effect of fatigue on the ability of an individual to perform their job is well documented. We should act now. I believe the FRA should have the ability to regulate hours of service for railroad engineers. The FAA has authority to regulate hours of service for pilots and the Office of Motor Carriers has the authority to regulate hours of service for commercial drivers. Why should the railroad industry be treated differently?

My legislation would direct the Federal Railroad Administration, not later than 180 days after enactment of the bill, to promulgate regulations concerning limitations on duty hours of train employees. The bill does not prejudge the FRA's process. It encourages FRA to develop regulations in a negotiated rulemaking process so that the interests of all parties are fully represented. My bill protects railroad employees by prohibiting any FRA rules from being less stringent than the current hours of service law. This provision will ensure that a future Administration could not abuse its discretion by actually increasing the burdens on engineers, contrary to congressional intent.

Beyond changing the hours of service requirements, we need to explore ways to use technology to prevent rail accidents. For more than 75 years, automatic train control systems have been available that can warn engineers about a missed signal and automatically stop the train. These systems are right in the train cab. Both visually and audibly these automatic train control systems remind the engineer about their latest signal. In fact, such systems were installed on virtually our entire rail network years ago. Unfortunately, that technology has been removed from most tracks, and no related technology was in place to prevent the accidents in New Jersey and Maryland. This situation cannot be allowed to continue.

Mr. President, I recognize that we should be careful before mandating the automatic train control system if more advanced, satellite-based technology will be available in the immediate future. But, we cannot continue to drift. Therefore, my bill directs the FRA, not later than 1 year after the date of enactment, to determine the feasibility of satellite-based train control systems to provide positive train control for railroad systems in the United States. Positive train control systems use a constant flow of information to anticipate potentially dangerous situations and order the appropriate measures long before an accident might occur.

Under this legislation, all rail systems would be required to install automated train control technology. However, this requirement would be waived for those systems that establish, to the satisfaction of the Department of Transportation, that they will install an effective satellite-based train control system not later than the year 2001. This seems a reasonable period to me, though I would invite comments from interested parties on whether a different period would be more appropriate.

Mr. President, we need to make a judgment about the prospects for the new satellite-based train control technology, one way or the other. Otherwise, we will find ourselves back here again in another few years, asking the same questions while families grieve and others lie in pain in hospital beds.

Another set of issues raised by the two passenger accidents is emergency escape, crash worthiness of passenger cars, fuel tank integrity, and signal placement. All have contributed to the loss of life and injury.

My bill would direct the FRA to examine the possibility of developing automatic escape systems. Not later than 1 year after the date of enactment of my bill, the Department of Transportation would be required to complete a study of the technical, structural, and economic feasibility of automatic train escape devices. If the report is positive, the Secretary is authorized to promulgate regulations in this area.

Mr. President, there is reliable, off-the-shelf technology that is used to inflate air bags during violent automobile accidents. That same technology could be used to automatically open escape routes in violent train accidents. Such technology might have saved the lives of passengers in the Maryland accident, who apparently survived the crash, but who were unable to escape the fire and smoke.

Another step I am proposing is to have FRA establish minimum safety standards for locomotive fuel tanks. Not later than 180 days after the date of enactment of my bill, the Department of Transportation would be required to establish minimum safety standards for fuel tanks of locomotives that take into consideration environmental protection and public safety. The Secretary would be given the authority to limit the applicability of the standards to new locomotives.

The Maryland accident demonstrated the terrifying nature of fuel-fed fires. Many in the industry already are investing in less vulnerable fuel tank configurations. But we need to ensure in the future that no locomotives have the kind of exposed, vulnerable fuel tank that contributed to the Maryland disaster.

It is also important to ensure that passenger rail cars are produced and configured in a safe manner. Not later than 1 year after the date of enactment of my bill, the Department of Transportation would be required to determine whether to promulgate regulations to require crash posts at the corners of rail passengers cars, safety locomotives on rail passenger trains, and minimum crashworthiness standards for passenger cab cars.

The death toll in both the New Jersey and Maryland accidents might have been less if the passenger compartments were stronger or if some had not been exposed by the lack of a locomotive at the front of the train. Amtrak is investigating the possibility of using decommissioned locomotives at the front of their push trains in order to provide engineers with a safe platform from which to work and to provide additional protection to the first passenger car in case of a collision. The National Transportation Safety Board has suggested that passenger cars be equipped with crash posts at the corner of each car.

The FRA is developing new safety standards for rail cars. My bill would direct the FRA to consider crash posts and safety locomotives, and to make a specific finding about these alternatives.

Also, after touring the scene of New Jersey Transit's sideswipe accident, I am convinced that unprotected passenger cab cars should be held to a higher standard than other passenger cars. The bill therefore requires FRA to evaluate the possibility of establishing minimum crashworthiness standards for these passenger cab cars, and to issue a report about their conclusions.

In addition, the bill directs the FRA to look into signal placement. Not later than 1 year after the date of enactment of my bill, the Department of Transportation would be required to determine whether regulations should be promulgated to require that a signal be placed along a railway at each exit of a rail train station; and if practicable, a signal be placed so that it is visible only to the train that the signal is designed to influence. If the study determines such regulations should be promulgated, the Department of Transportation is given the authority to promulgate those regulations. Signals should be positioned in the best places possible to minimize human error.

Mr. President, I recognize that some in the rail community may object to the costs of additional safety measures. And these costs cannot be ignored. Last year, Federal operating and capital assistance to transit agencies was cut by some 20 percent from the previous year's funding level. This reduction represented the single largest cut of any transportation mode in the Transportation appropriations bill.

Our Nation derives economic, social, and environmental benefits from public transit agencies. We expect these agencies to provide safe services. Yet, we cut their funding and then wonder why safety is affected. We must continue to support mass transit or else we will force commuters off relatively safe buses, subways, and trains and onto our Nation's roads, which annually cause the premature death of some 40,000 Americans.

Mr. President, it remains critically important to improve rail safety. I challenge skeptics to visit with the families of loved ones who died in New Jersey and Maryland. See first hand what it means when we compromise on safety. You will not come away unmoved.

Mr. President, we in the Congress have an obligation to protect the public. After the Chase, MD, accident of 1987 Congress mobilized and quickly enacted sweeping rail safety legislation. As a result, untold Americans have been saved through the mandated use of automatic train controls on the Northeast corridor, the creation of minimum federal standards for licensing of railroad engineers, certification requirements for predeparture inspections and whistle blower protections for rail employees. I am proud of the part that I played in developing that legislation and believe that it has been very effective. However, more should be done. The lives and health of literally millions of Americans are at stake.

Mr. President, both the Washington and the New York editorials of February 21, 1996, make the case for increasing rail safety. I ask unanimous consent that they be inserted in the RECORD as part of my statement.

I hope my colleagues will support this legislation. I believe it is a responsible approach to rail safety that builds on the lessons we have learned from our Nation's recent rail safety accidents.

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

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

S. 1575

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Rail Safety Act of 1996''.

SEC. 2. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Federal Railroad Administration.

(2) PASSENGER CAB CAR.—The term ''passenger cab car'' means the leading cab car on a passenger train that does not have a locomotive or safety locomotive at the front of the train.

(3) SAFETY LOCOMOTIVE.—The term ''safety locomotive'' means a cab-car locomotive (whether operational or not) that is used at the front of a rail passenger train to promote passenger safety.

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

(5) TRAIN EMPLOYEE.—The term ''train employee'' has the same meaning as in section 21101(5) of title 49, United States Code.

SEC. 3. HOURS OF SERVICE.

(a) IN GENERAL.—

(1) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary, in consultation with the Administrator, shall promulgate regulations concerning limitations on duty hours of train employees that contain—

(A) requirements concerning hours of work for train employees and interim periods available for rest that are no less stringent than the applicable requirements under section 21103 of title 49, United States Code, as in effect on the day before the effective date of subsection (b); and

(B) any other related requirements that the Secretary determines to be necessary to protect public safety.

(2) NEGOTIATED RULEMAKING.—

(A) IN GENERAL.—In promulgating regulations under this subsection, the Secretary shall use negotiated rulemaking, unless the Secretary determines that the use of that process is not appropriate.

(B) PROCEDURES FOR NEGOTIATED RULEMAKING.—If the Secretary determines under subparagraph (A) that negotiated rulemaking is appropriate, the Secretary, in consultation with the Administrator, shall carry out the negotiated rulemaking in accordance with the procedures under subchapter III of chapter 5 of title 5, United States Code.

(b) REPEAL.—

(1) IN GENERAL.—Section 21103 of title 49, United States Code, is repealed.

(2) EFFECTIVE DATE.—This subsection shall take effect on the date on which the Secretary promulgates final regulations under subsection (a).

SEC. 4. SATELLITE-BASED TRAIN CONTROL SYSTEMS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary, acting through the Administrator, shall conduct a study to determine the feasibility of requiring satellite-based train control systems to provide positive train control for railroad systems in the United States by January 1, 2001.

(b) TIME FRAME FOR OPERATION; AUTOMATED TRAIN CONTROL SYSTEMS.—

(1) REGULATIONS TO COVER IMPRACTICABILITY OF SATELLITE-BASED TRAIN CONTROL SYSTEMS.—Subject to paragraph (3), if, upon completion of the study conducted under subsection (a), the Secretary, acting through the Administrator, determines that the installation of an effective satellite-based train control system referred to in subsection (a) could not be accomplished practicably by January 1, 2001, the Secretary shall promulgate regulations to require, as soon as practicable after the date of promulgation of the regulations, the use of automated train control technology that is available on that date.

(2) REGULATIONS TO COVER PRACTICABILITY OF SATELLITE-BASED TRAIN CONTROL SYSTEMS.—

(A) IN GENERAL.—Subject to paragraph (3), if upon completion of the study conducted under subsection (a), the Secretary, acting through the Administrator, determines that the installation of an effective satellite-based train control system referred to in subsection (a) could be accomplished practicably by January 1, 2001, the Secretary, in consultation with the Administrator, shall promulgate regulations to require, as soon as practicable after the date of promulgation of the regulations, the use of automated train control technology that is available on that date.

(B) WAIVERS.—If the appropriate official of a railroad system establishes, to the satisfaction of the Secretary, and in a manner specified by the Secretary, that the railroad system will have in operation a satellite-based train control system by January 1, 2001, the Secretary shall issue a waiver for that railroad system to waive the application of the regulations promulgated under subparagraph (A) for that railroad system, subject to terms and conditions established by the Secretary.

(3) CONDITIONS.—In promulgating regulations under this subsection, the Secretary, in consultation with the Administrator, shall provide for any exceptions or conditions that the Secretary, in consultation with the Administrator, determines to be necessary.

(4) MONITORING.—

(A) IN GENERAL.—If the Secretary issues a waiver for a railroad system under paragraph (2)(B), the railroad system shall, during the period that the waiver is in effect, provide such information to the Secretary as the Secretary, acting through the Administrator, determines to be necessary to monitor the compliance of the railroad system with the conditions of the waiver, including information concerning the progress of the railroad system in achieving an operational satellite-based train control system.

(B) REVOCATION OF WAIVERS.—If, at any time during the period that a waiver issued under paragraph (2)(B) is in effect, the Secretary determines that the railroad system issued the waiver is not meeting the terms or conditions of the waiver, or is not likely to have in operation a satellite-based train control system by January 1, 2001, the Secretary shall revoke the waiver.

SEC. 5. AUTOMATIC TRAIN ESCAPE DEVICE STUDY.

(a) STUDY.—Not later than 1 year after the date of enactment of this Act, the Secretary, acting through the Administrator, shall conduct a study of the technical, structural, and economic feasibility of automatic train escape devices.

(b) REPORT.—Upon completion of the study conducted under this section, the Secretary, acting through the Administrator, shall—

(1) prepare a report that contains the findings of the study; and

(2) submit a copy of the report to the appropriate committees of the Congress.

(c) REGULATIONS.—If, by the date specified in subsection (a), the Secretary makes a determination (on the basis of the findings of the study) that automatic train escape devices should be required on rail passenger trains, the Secretary, in consultation with the Administrator, shall, not later than 180 days after such date, promulgate regulations to require automatic train escape devices on rail passenger trains as soon as practicable after the date of promulgation of the regulations.

SEC. 6. LOCOMOTIVE FUEL TANKS.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary, in consultation with the Administrator, shall establish, by regulation, minimum safety standards for fuel tanks of locomotives of rail passenger trains that take into consideration environmental protection and public safety.

(b) APPLICABILITY.—The Secretary, in consultation with the Administrator, may limit the applicability of the regulations promulgated under subsection (a) to new locomotives (as defined by the Secretary, in consultation with the Administrator) if the Secretary determines that the limitation is appropriate.

SEC. 7. PASSENGER CAR CRASH-WORTHINESS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with the Administrator, shall determine whether to promulgate regulations, for the purpose of protecting public safety, to—

(1) require crash posts at the corners of rail passenger cars;

(2) require safety locomotives on rail passenger trains;

(3) establish minimum crash-worthiness standards for passenger cab cars; or

(4) carry out any combination of paragraphs (1) through (3).

(b) REGULATIONS.—If, the Secretary, acting through the Administrator, determines that promulgating any of the regulations referred to in subsection (a) are necessary to protect public safety, the Secretary, in consultation with the Administrator, shall, not later than 180 days after such date, promulgate such regulations in final form, to take effect as soon as practicable after the date of promulgation of the regulations.

(c) REPORT.—If the Secretary determines under subsection (a) that taking any action referred to in paragraphs (1) through (3) of such subsection is not necessary to protect public safety, not later than the date of the determination, the Secretary shall submit a report to the appropriate committees of the Congress that provides the reasons for the determination.

SEC. 8. SIGNAL PLACEMENT.

(a) STUDY.—Not later than 1 year after the date of enactment of this Act, the Secretary, acting through the Administrator, shall conduct a study of the placement of rail signals along railways. In conducting the study, the Secretary, acting through the Administrator, shall determine whether regulations should be promulgated to require—

(1) that a signal be placed along a railway at each exit of a rail station; and

(2) if practicable, that a signal be placed so that it is visible only to the train employee of a train that the signal is designed to influence.

(b) REGULATIONS.—If, upon completion of the study conducted under subsection (a), the Secretary determines that the regulations referred to in that subsection are necessary for the protection of public safety, the Secretary shall, not later than 180 days after the completion of the study, promulgate those regulations.

(c) REPORT.—If, upon completion of the study conducted under subsection (a), the Secretary determines that promulgating any of the regulations referred to in subsection (a) is not necessary for the protection of public safety, not later than the date of completion of the study, the Secretary shall submit a report to the appropriate committees of the Congress that provides the reasons for that determination.

[From the Washington Post, Feb. 21, 1996]

LESSONS FROM THE TRAIN DISASTER

The horrifying details of death by fire and smoke—of people frantically seeking escape from a mangled commuter-train-turned-furnace Friday night—continue to prompt questions about rail safety policies in general and about what happened in Silver Spring specifically. Some answers must await the findings of investigators from the National Transportation Safety Board. But there are safety procedures, policies and equipment that have been the subjects of debate in the industry for years, and that haunt every autopsy of a train wreck:

Signals. What, if any, signals did engineer Richard Orr, aboard Maryland commuter train 286, notice or remember in the final miles before this train slammed into Amtrak's Capitol Limited? Before arriving in Kensington, he passed a signal that should have warned him to be prepared to stop. The signal system is considered highly reliable. But there is a more effective system that goes back to the 1920s: With it, even if the engineer fails to spot or continue to remember the warning signal, he sees a small light in his cab, and each time his train goes through a restrictive signal he hears a whistle. Should he fail to push a lever to acknowledge the signal and then slow down or stop, the train would do so automatically. Why isn't every train equipped with this?

They used to be—on any line that was to travel faster than 80 mph—under a 1947 Interstate Commerce Commission order. But over time, railroads were permitted on a case-by-case basis to remove the system, in part because the age of fast passenger trains was seen as ending. Besides, railroads argued that the systems were expensive and that the braking systems caused other safety problems for freight trains. Today's signal system for MARC, like those for most lines, does not provide automatic train control.

Although railroads today have a better safety record than at any time in history, this history includes earlier crashes—in Seabrook, Prince George's County, in 1978 and in Chase, Md., in 1987—that prompted the NTSB to recommend that all trains in the Northeast Corridor be equipped with automatic stopping devices. They now are.

Passenger Escape. Yesterday, federal regulators issued emergency regulations that, in addition to setting 30 mph limits on non-automatic control lines for trains between a station stop and the first signal, included a call for more visible exit signs on train cars. Visible, uncomplicated instructions for opening windows, doors and escape routes ought to be posted everywhere. How about instructions on the back of every seat?

Train Design. Though America's trains are among the sturdiest pieces of equipment moving on land or in the skies, there is the question of the Amtrak train's exposed diesel fuel tanks, which splashed the fuel that ignited the terrible fire. Newer models don't have this feature; the sooner the old models are gone the better.

''*Push-Pull*.'' The MARC train was being pushed by its locomotive, a common practice for quick back-and-forth runs. Passengers may feel safer with a locomotive in front of them, but there is no hard evidence that safety is compromised when it is pushing instead of pulling.

Another issue affects public confidence in railroad travel: Maryland transit officials issued conflicting, inaccurate and constantly changing reports on the accident for hours Friday. At first they were telling television stations that no MARC passengers were involved; they gave out a telephone number that assured callers that no passengers on the train had been injured. This was occurring as televised scenes and witness accounts were indicating otherwise. Whatever MARC may have had as an emergency preparedness plan, it failed. Amtrak, on the other hand, seemed to be issuing as much information as it could.

More questions are sure to arise as the fact-finding continues. A safe transportation system of any kind requires more than the mere recitation of probability statistics. Public confidence must be taken into account not only by government regulators but also by the industry officials.

[From the New York Times, Feb. 21, 1996]

IN THE TRAIN WRECKS' AFTERMATH

Two train collisions seven days apart have brought calamity to the ordinarily quiet and safe commuter systems of New York and Washington D.C. Federal and local officials are responding with intense investigations and emergency measures. They have already found some surprising soft spots in the rail network's safety rules and practices.

New Jersey Transit, responding to the metropolitan region's worst commuter train crash in 38 years, quickly eliminated the nighttime split shift that enabled an engineer to work extra-long hours just before his train collided with another on Feb. 9. There was no need to await final analyses of what caused the accident to discontinue a work arrangement that was inherently hazardous.

The authorities are still investigating the accident, but it appears that a train bound for Hoboken ran through yellow and red lights that should have warned the engineer to stop before entering tracks where an outbound train had the right of way. The inbound train's engineer, John DeCurtis, was operating during the morning rush hour at the end of a split shift that had started 14½ hours earlier. He had a chance to rest five hours during the middle of the night, but with no cot or quiet space provided. Officials also need to weigh whether Mr. DeCurtis's safety record, which included two previous suspensions for running red lights, was a warning that should have been heeded, and whether the installation of automatic braking systems should be accelerated to prevent such tragic accidents.

Similarly in last Friday evening's collision between a Washington-bound commuter

train and an Amtrak train headed north from Washington, the absence of automatic train controls has already emerged as a safety gap in the local system. Even more critically, the cars may have lacked fully operational and clearly marked evacuation routes with the kind of safety instructions that might have prevented the death of eight young Job Corps trainees, who were killed along with three crew members.

The signal system on the Maryland track was inadequate. There was a caution light just before a suburban station where the train was stopping anyway, but no similar light immediately after to remind the engineer not to accelerate to a high speed. The train rounded a bend and slammed into the Amtrak train that had been temporarily routed on the same tracks.

The Transportation Department responded yesterday with belated but sensible stopgap rules. When a train leaves a station, engineers must proceed no faster than 30 miles an hour. They must call out to other crew members any warning signal they see. All the nation's railroads are instructed to test emergency exits and submit safety plans for Federal review. Clearly, many safety hazards need examination and correction as the result of these two tragedies.●

By Ms. MIKULSKI (for herself and Mr. SARBANES):

S. 1576. A bill to provide that Federal employees who are furloughed or are not paid for performing essential services during a period of a lapse in appropriations, may receive a loan, paid at their standard rate of compensation, from the Thrift Savings Fund, and for other purposes; to the Committee on Governmental Affairs.

THE FURLOUGH RELIEF ACT OF 1996

● Ms. MIKULSKI. Mr. President, today, I am introducing legislation with Senator SARBANES called the Furlough Relief Act of 1996. Our bill would help Federal employees weather the storm during Government shutdowns by allowing them access to interest free loans from their Thrift Savings Plans.

About the only thing that Federal employees can rely on today is uncertainty. During the last year we have seen one attack after another aimed at Federal workers. Between assaults on earned retirement benefits, downsizing, and furloughs, these dedicated people have to be wondering what's coming next.

Today we are operating much of the Government under an emergency continuing resolution. I fervently hope there will not be another shutdown, and I will be doing all I can to prevent one from happening. But there is no guarantee that Federal employees will be able to go to work and earn their paychecks after this continuing resolution expires on March 15. They could face yet another shutdown. That would mean more lost pay, more lost productivity, and more uncertainty.

I am a Federal employee Senator. I believe in honest pay for hard work, and I know of no group of Americans that works harder than our Federal employees. That is why I am introducing legislation today that will help Federal employees who want to help themselves.

As my colleagues know, Federal employees currently are allowed to borrow from their tax deferred Thrift Savings Plans for reasons such as furthering their education, buying a home, or undergoing a medical procedure. However, the approval process for a TSP loan can take weeks. There is also no guarantee that the loan will be approved, and if it is approved, the borrower must pay interest when paying back the loan.

The Furlough Relief Act of 1996 would allow furloughed Federal employees to be automatically eligible for a TSP loan from their account during any Government shutdown. This loan would continue to be paid as long as the employee remains on furlough. It would help Federal employees make up for lost wages. When a furlough ends, the employee would be able to pay back the loan without interest.

The Furlough Relief Act will cut through the redtape of the TSP loan process. It will provide a dependable source of income for Federal employees who have been denied their pay, and it will finally give a break to dedicated people who have not had many breaks in the past year.

I think it's time to stop these assaults on Federal employees. We cannot continue to devalue Government workers and at the same time expect Government to work better. In my State of Maryland, there are thousands of Federal employees making Government work better and making a difference in the lives of all Americans. I salute them, and I dedicate myself to making a difference in their lives.●

By Mr. HATFIELD (for himself and Mr. SARBANES):

S. 1577. A bill to authorize appropriations for the National Historical Publications and Records Commission for fiscal years 1998, 1999, 2000, and 2001; to the Committee on Rules and Administration.

THE NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION REAUTHORIZATION ACT OF 1996

● Mr. HATFIELD. Mr. President, it is a great pleasure for me to today introduce a bill to reauthorize the functions of the National Historical Publications and Records Commission on which I serve. I am pleased to be joined by my good friend and colleague, Senator SARBANES. Senator SARBANES and I have a long association with the Commission.

This important organization, closely associated with the National Archives and Records Administration, has been diligently performing some of the most vital archival preservation work in the country. Realizing the importance of preserving historical works and collections, Congress established the National Historical Publications and Records Commission in 1934. Its purpose was to collect, edit, and publish the papers of the Founding Fathers, the writings of other distinguished Americans, and the documentary histories of the First Congress, the Supreme Court, and the process of the ratification of the Constitution. In 1974, Congress expanded the Commission's responsibilities to include providing advice and assistance to public and private institutions in the development and administration of archival systems. In the same year, the NHPRC established a Historical Records Advisory Board in each State to help coordinate overall preservation strategies and to ensure that the Commission would have a strong Federal-State partnership for its records programs.

Today, the National Historical Publications and Records Commission has not strayed from its original mission. The NHPRC continues to screen and determine the historical works it considers appropriate for preserving or publishing. The Commission administers grants to projects dedicated to preserving annals essential for historical research, publishing historical papers, and archiving nationally significant records. Without the preservation of these invaluable records, historians have little hope of accurately analyzing our Nation's history. Another important aspect of the Commission's objective is to encourage and instruct local agencies, schools, museums, and individuals to forge ahead in their actions to preserve and publish historical works; the tasks facing archival institutions, manuscript depositories, and scholars require more than the valiant efforts of a single Federal Commission. The valuable work of the Commission is a very good example of a healthy partnership between public and private institutions, Federal and State agencies. The NHPRC pays no more than one-third of the funds of the projects that it supports. Thus, the program is one of aiding and working closely with individuals and local institutions dedicated to preserving important facets of our history.

The number of records that the Commission has preserved and published is an impressive tribute to its efficient organization. To date, the NHPRC has supported 1,056 archival projects in all 50 States, three territories, and the District of Columbia. These projects have published 717 documentary volumes. Recent project grants have gone to an agency in Illinois to preserve Abraham Lincoln's legal papers and to a center in Atlanta to publish the papers of Martin Luther King, Jr. In addition, the Commission has produced 8,280 reels of microfilm as well as 1,822 microfiche. Finally, the NHPRC has supported a total of 274 documentary editing projects. As the numbers suggest, the Commission has been quite successful in its mission to preserve and publish the Nation's historical works.

The bill I am introducing today seeks to extend authorization of appropriations for an additional 4 years in amounts up to $10 million annually. This appropriation would cover fiscal years 1998, 1999, 2000, and 2001. One hundred percent of the appropriations go

entirely toward project grants; the National Archives bears the administrative costs. The American public may be assured that their investment is well spent by the NHPRC.

Passage of this important legislation will reassure America's community of scholars, librarians, and archivists working closely with the NHPRC that Congress is committed to the important mission of the Commission. In the past, Congress has clearly supported the work of the NHPRC and has recognized the importance of the Commission's efforts to ensure that the words, thoughts, and ideas of our Nation's historic individuals are collected from fragile or deteriorating source material and placed in books or on microfilm. Passage of this bill will ensure that present and future generations of inquisitive minds will have access to our history.

Mr. President, this bill will allow the NHPRC to continue its valuable work for the next 4 years—work that will be of the utmost benefit to scholars, researchers, libraries, and the public. Our Nation's history needs to be preserved, and the future generations of Americans deserve the right to have accurate records of their past. The preservation of our historical documents will protect and enrich our Nation's wonderful history. I am proud to be a sponsor of this legislation and confident in urging my colleagues to give their support to this important legislation.

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. 1577

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

SECTION 1. AUTHORIZATION OF APPROPRIATIONS FOR THE NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION.

Section 2504(f)(1) of title 44, United States Code, is amended—

(1) in subparagraph (F) by striking out ''and'' after the semicolon;

(2) in subparagraph (G) by striking out the period and inserting in lieu thereof a semicolon; and

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

''(H) $10,000,000 for fiscal year 1998;

''(I) $10,000,000 for fiscal year 1999;

''(J) $10,000,000 for fiscal year 2000; and

''(K) $10,000,000 for fiscal year 2001.''

● Mr. SARBANES. Mr. President, I am pleased to join today with Senator HATFIELD in introducing legislation to reauthorize the National Historical Publications and Records Commission for 4 years.

It has been my privilege to alternate with Senator HATFIELD in serving as the representative of the U.S. Senate on the National Historical Publications and Records Commission, Senator HATFIELD represented the Senate from 1983 to 1988, and I succeeded him until my term expired last year. The Commission has had strong bipartisan support throughout its history, and I trust will continue to do so.

The NHPRC's statutory mandate is to promote the preservation and use of America's historical legacy. The work of the NHPRC assures all Americans that the history of our Nation will be documented, that vital historical records will be kept safe, and that historians and others will have ready access to those records.

Grants awarded through the National Historical Publications and Records Commission are producing valuable results. In my own State of Maryland, the Commission is helping scholars edit, and presses publish, editions of papers that document the emancipation of slaves and the careers of important historical figures.

Other important discoveries have resulted from grants awarded to scholars by the Commission. For example, NHPRC grants resulted recently in the discovery of the longest document yet known that Abraham Lincoln wrote in his own hand, a group of letters written to James Madison by a famous jurist in the era of our revolution, an the original drawing made by Architect William Thornton for the ground plan of the U.S. Capitol.

Although the Commission has been doing this work since it was established by Congress in 1934, its efforts remain relevant to today's concerns. We have seen States and local governments across the country, with advice and assistance from the Commission, establish archival programs. We have seen the Commission launch several projects to deal with the growing problem facing archivists in controlling and accessing valuable electronic records, and helping historians make their documentary editions accessible electronically on the Internet.

Mr. President, it is important that the Commission continue its respected work in preserving the heritage of our Nation. The reauthorization legislation I am joining Senator HATFIELD in introducing is a practical and important step in ensuring continuity of the National Historical Publications and Records Commission. I urge my colleagues to join us in ensuring its swift passage.●

By Mr. FRIST (for himself and Mr. HARKIN):

S. 1578. A bill to amend the Individuals With Disabilities Education Act to authorize appropriations for fiscal years 1997 through 2002, and for other purposes; to the Committee on Labor and Human Resources.

THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT AMENDMENTS OF 1996

Mr. FRIST. Mr. President, today I am pleased and proud to introduce the Individuals With Disabilities Education Act Amendments of 1996. These amendments will guide our actions into the next century as we plan and secure educational opportunities for over 5 million American children with disabilities. Many recent polls have ranked education as one of the top concerns of Americans. These polls are a wakeup call. We must help America's children succeed and be able to demonstrate that they have succeeded. We must find ways to affect the culture of education, not through intrusive mandates, but through incentives for partnership and innovation. We must not give up on any child. We must view planning a child's education as a collaborative process. These important goals are the basis of the reauthorization of the Individuals With Disabilities Education Act, commonly referred to as IDEA.

As everyone knows I am new to this business of drafting Federal legislation. I am not new to the effects of Federal legislation on individual lives. In my surgical practice, I have sometimes been able to save lives because of Federal legislation and sometimes in spite of the barriers such legislation imposed on my efforts.

Thus, I take my responsibility as chairman of the Disability Policy Subcommittee very seriously. I am grateful for the partnership of my colleague from Iowa, Senator Tom HARKIN, who was a partner in the entire process, and whose past leadership of this subcommittee was and is an inspiration.

I have been both cautious and careful as I have weighed recommendations for amendments bought to me to change IDEA.

THE RIGHT OF A CHILD WITH A DISABILITY TO AN EDUCATION IS PRESERVED

IDEA is a civil rights statute. It guarantees access to a free appropriate public education for children with disabilities. This understanding was established clearly in the predecessor to IDEA, Public Law 94–142, which was enacted in 1975. IDEA is founded in the 14th amendment of the Constitution, which is the equal protection clause. This connection is reinforced through 20 years of case law and bipartisan legislative history. The IDEA amendments introduced today will not undermine the civil right of any child with a disability to a free appropriate public education.

Public Law 94–142 was based on five principles.

First, educational planning for a child with a disability should be done on an individual basis. Public Law 94–142 required that an individualized education program [IEP] be developed for each child with a disability.

Second, parents of a child with a disability should participate in the development of their child's IEP. Public Law 94–142 required such participation.

Third, decisions about a child's eligibility and education should be based on objective and accurate information. Public Law 94–142 required evaluation of a child to establish his or her need for special education and related services and to determine the child's progress.

Fourth, if appropriate for a child with a disability, he or she should be educated in general education with

necessary services and supports. Public Law 94–142 required educational placements based on such determinations.

Fifth, parents and educators should have a means of resolving differences about a child's eligibility, IEP, educational placement, or other aspects of the provision of a free appropriate public education to the child. Public Law 94–142 required that if the parents of a child requested one, they were entitled to an impartial due process hearing. And, if differences between parents and educators could not be resolved through administrative proceedings such as a local due process hearing or a State-level review of the facts in the situation, either side could use court to settle the matter. In 1986, the law was amended to clarify that the Federal courts have the power to require the awarding of attorneys' fees to parents who prevail in administrative proceedings or court actions.

The amendments offered today will not undermine any of these five principles or their manifestation in IDEA.

In fact, this reauthorization of IDEA reinforces its basic principles and adds to the law a viable set of tools with which to help adults help children with disabilities prepare for a successful future.

FOCUSED ACCOUNTABILITY EXPECTED

The amendments address accountability. People involved in educational planning for a child with a disability will be expected to show results—where a child is and where a child is going in terms of the general education curriculum. How does he or she do in the classroom? How does he or she do on local or statewide assessments of student progress? Is a child getting appropriate services and supports to demonstrate what he or she knows and can do? The amendments reshape expectations for children with disabilities and create a common frame of reference—the general education curriculum. Most children with disabilities can learn and benefit from the general education curriculum. Some may need to learn it at a slower pace or in a modified form. Some may need to demonstrate what they have learned in a different way than their peers. Nonetheless, they can learn and therefore, should have the opportunity to learn, what their brothers, sisters, and friends are learning.

Unless we secure the general education curriculum as the educational anchor for most children with disabilities, their ability to succeed on district-wide and statewide assessments of student progress will be jeopardized. If they fail or perform poorly on such assessments, because they were taught from a watered-down general education curriculum or a different curriculum, we are reinforcing the beliefs of people who say that children with disabilities cannot learn as much or as well as other children. We also are reinforcing the beliefs of people who prefer separate educational opportunities for children with disabilities. Moreover, if children are taught from a watered-down general education curriculum or a different curriculum, we may inadvertently create a justification for ignoring children with disabilities when undertaking school reform initiatives.

If the general education curriculum is the focus for planning for a child with a disability, it will improve communication throughout the system—a child with a disability and peers, educators and the child's parents, special education teachers and general teachers, related services professionals and teachers, and parents of children with and without disabilities. Such a focus also will affect expenditures and uses of personnel. The emphasis will shift to what services and supports are necessary in order for a child with a disability to succeed in the general education curriculum. This shift may save a school district money, while continuing an appropriate education for a child with a disability. Lines of responsibility will blend—the question will become—''How do we make the general education curriculum work for a particular child with a disability?'' If this blending of responsibility takes off, and I believe it will work, not only will children with disabilities benefit, but children at risk will benefit, because personnel will acquire new skills and supports that equip them to serve all children.

CULTURE IN THE EDUCATIONAL ENVIRONMENT CHANGED

The amendments will affect the culture of schools—to create new bases for teamwork, to reinforce existing partnerships, and to provide incentives to view the delivery of educational services to children with disabilities not as a distinct, separate mandate, but as an integral part of the overall business of education. I come to this conclusion from personal experience.

Giving an individual a new heart, a chance at a longer life with quality, is the ultimate high. When that moment comes, I am filled with powerful emotions—pride, love, prayers of thanks, satisfaction, and a profound appreciation of the power of teamwork. Reaching that moment and the critical ones that follow it is not possible without teamwork, involving the transplant recipient, the donor's bereaved family, the organ donor coordinator, medical, surgical, technical and nursing staff, counselors, and the recipient's family. This process is long, complex, emotional and risky, but it is not a contest. Everyone has a common goal. Information is compiled and analyzed. Options are considered. Differences are aired. Decisions are made.

As I became engaged in the reauthorization of IDEA I realized that planning the education of any child with a disability should not be viewed as a contest, but as an opportunity for teamwork. The bill includes many provisions which encourage and reinforce teamwork. Parents will be a source of information when compiling evaluation data on a child suspected of having or known to have a disability. Parents will have the opportunity to participate in all meetings in which decisions which affects their child's education are made. Parents of children with disabilities will have the opportunity to help develop school-based improvement plans designed to expand and improve educational experiences for their children. Teachers—those who do or could work with disabled children—will be involved in providing and interpreting information on the educational and social strengths, progress, and needs of children with disabilities, which would be used in IEP meetings.

School districts will see a substantial reduction in paperwork under IDEA and will have increased flexibility on the use of personnel and the fiscal tracking of the use of personnel. Because of these amendments we will see more reasons for educators and parents to have common goals; fewer reasons for administrators to call IDEA burdensome; more general and special education teachers and related services personnel working together; more children with disabilities succeeding in the general education curriculum; more children with disabilities participating in school reform initiatives; and most important, more children at risk of failure will succeed.

We will not see these changes overnight. They will take time. The amendments to IDEA restructure the 14 discretionary or support programs—totaling $254 million in authorizations—to facilitate and realize these changes, as well as others. Thirty million dollars are authorized for a new Systems Change State Grant Program. States will compete for access to these dollars. The purpose of this grant program is to provide funds to help States to address problems that have statewide implications. For example, States could use grant awards to design effective ways for general education and special education teachers to work in the same classrooms; to develop effective within-school options for addressing behaviors subject to school disciplinary measures; or to arrange effective transitions for children with disabilities from early intervention to preschool programs, from high school to the adult world, or at other important times in a child's life.

The amendments clearly link funding for personnel training and research to the needs of children with disabilities, their families, school personnel, and school districts. Any institution that seeks a training grant will be obligated to identify a personnel shortage that they intend to address. Any institution that seeks to train teachers to work with blind children must teach trainees how to teach Braille.

With regard to research grants, I appreciate the fact that research takes extended effort. Research results are never immediate and are often modest building blocks toward some broader area of knowledge. Research infrastructure requires a sustained, predictable commitment to funding. However,

the amendments offered today expect researchers to keep their eye on the child in the classroom, the teacher in the classroom, the principal in the school, the child's parents, the school district, or the State education agency. Researchers will be expected to provide information that benefits children with disabilities, their teachers, or other targeted audiences. Practical research will be valued. Through this reauthorization, the allocation of research dollars will emphasize lines of inquiry that will result in information that teachers or others can use to help children with disabilities succeed in the general education curriculum.

The amendments also sustain and strengthen the Federal support for information that helps children with disabilities, their parents, teachers, related service personnel, early intervention professionals, administrators, researchers, teacher trainers, and others learn about, access, and use state-of-the-art tools and strategies to be effective as partners in the business of education. The amendments require grantees who are involved in the business of information gathering and dissemination and the grantees who are responsible for technical assistance to make a difference—to know their audiences, to provide them with information and assistance that they need and can use, and to verify that their efforts counted, not just in terms of numbers of people reached or pieces of paper disseminated, but in terms of lives changed.

I certainly know the difference between an established and an experimental surgical procedure, and I know what it takes to teach new techniques to professionals across the country, and to do it well. It is my hope that the standards of information and dissemination and technical assistance achieved in medicine will come to be expected within the professional community serving infants, toddlers, children, and youth with disabilities. I think it is reasonable to expect that when anyone asks for information or assistance from a federally funded source, that source is prepared to say, ''This will work; or, this will work if certain conditions are present; or, this works 50 percent of the time; or this might work.'' This reauthorization moves us toward increased confidence in the information requested, received, or offered under information dissemination and technical assistance activities funded through IDEA. With increased confidence will come the opportunity to be a better equipped participant and partner in the identification, evaluation, selection or design of educational opportunities for children with disabilities.

HELPING EACH CHILD IS AN INVESTMENT IN THE FUTURE

The amendments also address another priority of many Americans—intervening in the lives of children before they fail, before they are labeled, or before they are lost. Effective intervention and targeted prevention are themes that cut across many of the provisions in the reauthorization of IDEA.

Early intervention. The bill reauthorizes part H, the Early Intervention Program, in IDEA. Part H was originally enacted in 1986. This program, in which all States participate, has been extremely effective in reaching infants and toddlers with disabilities early in their young lives, often at birth. This early intervention program helps these small ones, and their parents, unlock their abilities and become prepared to realize maximum benefits from their later preschool and school experiences.

The amendments direct the Federal Government to develop a model definition and service delivery standards for infants and toddlers at risk of being developmentally delayed. Early intervention professionals are very successful at diagnosing and serving infants and toddlers with disabilities, that is, disabilities which are discernable before, during, or shortly after birth. These professionals are experienced in developing appropriate intervention strategies for such children. They are less successful in identifying infants and toddlers who show more subtle signs indicative of later disability. I anticipate that the model definition and service standards, which will draw from the experiences of States which currently are serving at-risk populations, eventually will provide early intervention professionals with the tools to identify and reach greater numbers of at-risk infants and toddlers.

The amendments also give States increased administrative flexibility with regard to the transition of a child from an early intervention program funded by part H into a preschool program funded by section 619 of part B of IDEA. This flexibility will provide an incentive to focus on what is best for a particular child—allowing the child to remain in an early intervention program after his or her third birthday during a school year and to transition to a preschool program in the next school year. This flexibility permits the child's individualized family services plan [IFSP] to be the child's IEP until planning is done for the next school year.

As a surgeon I understand the importance and effect of early intervention in a medical situation. As a Senator I have been reminded of the benefits of Headstart and have witnessed the benefits of early intervention and preschool programs at the Kennedy Institute at Vanderbilt University. I have no doubt that as we continue to invest Federal funds in the very young lives of infants and toddlers with disabilities, we will deliver to our schools children who can learn more easily, participate more fully, and be less distinguishable from their peers in terms of expectations, progress, and friendships.

Labeling deemphasized. These amendments lessen the need for and meaning of labels. School districts will be required to report the number of children with IEP's, and the number of students in each of two placement categories. They will not be required to continue reporting the numbers of children in twelve disability categories, by age group, or by multiple types of placements. This will significantly reduce the longstanding reporting burden imposed on school districts and States. I anticipate that this administrative relief will translate into less interest in and use of disability labels in schools and classrooms.

The amendments encourage States to adopt placement-neutral funding formulas. Thus, over time there will be fewer incentives for segregated, label-driven educational placements for children with disabilities.

Under certain conditions, school districts also will have the opportunity to commingle IDEA dollars with other funds when serving children with disabilities—when children with disabilities are in general education classrooms being taught by general and special education teachers; when children eligible for services under IDEA are being served with children identified as disabled under the Americans With Disabilities Act or section 504 of the Rehabilitation Act; or when a school has a school improvement plan in effect. This flexibility in the use of IDEA dollars will cause school officials to rethink how services may be delivered more efficiently and more effectively; cause labeling to be viewed as less relevant or necessary; and cause teachers to view their roles in reaching children as complementary and their responsibilities for helping all children succeed as a joint effort.

The amendments recognize that many children from minority backgrounds are inappropriately identified as being eligible for special education and related services under IDEA. It is anticipated that with the opportunity to use IDEA funds in more flexible ways, parents, teachers, and administrators will not need to use the referral and evaluation procedures connected to special education as frequently as in the past to secure more or different services for children from minority backgrounds.

No child to be lost or forgotten. The amendments take a broad view of the concept of ''dropout.'' In the amendments numerous, interrelated provisions have been crafted to reduce the likelihood that child with a disability will either figuratively or literally drop out of school and become disconnected from peers and professionals who can contribute to the child's growth and success in school. These provisions will require affirmative efforts on the part of educators, other professionals, and the parents of the child to keep the child connected in meaningful ways to the business of learning. Three sets of provisions particularly should result in fewer children with disabilities being lost or forgotten.

Integrated transition services for secondary school students with disabilities. Developing a secondary student's IEP for a particular year should not be an activity divorced from transition planning for the child that may encompass multiple years. Therefore, the amendments make transition planning for a child 14 or older a part of the IEP process. This clarification should result in simplification of administrative procedures. Secondary school personnel and personnel responsible for transition services, to the extent that they are different, will have a common process—the development or modification of a student's IEP—in which to make contributions and through which to influence what others may propose. Parents and students with disabilities will continue to have direct roles in the planning process as well. Students at the designated age of majority, in States where this is permitted, will be able to be the principal representative of their own interests and preferences.

Clarification of fiscal responsibilities for related services. In order to succeed in school and connect to the social culture of school, children with disabilities may need more than specially designed instruction. They may need one of many related services, such as speech therapy, occupational therapy, physical therapy, or counseling. Such services may be critical at any time in the school years of a child with a disability, because they help a child acquire the tools to blend in and be accepted by peers and teachers—to communicate, to walk, to sit, to function more independently, to hold a pen, use a keyboard, or to use socially appropriate behavior. Accessing related services personnel can be costly and is not always easy, even when cost is not a factor. The amendments clearly establish that fiscal responsibility for such services extends beyond school districts; spell out the broader obligation of local and State agencies that could and should absorb such costs; and indicate that school districts have the opportunity to seek reimbursement from such agencies, when a child's eligibility for such services, funded by other than a local school district, is known.

School discipline and civil rights. A few children with disabilities sometimes pose a danger to themselves or others, or are so disruptive that neither they or their classmates can learn. Such children should not, must not, be abandoned.

How to best address such situations was the most contentious issue during the development of this reauthorization of IDEA. Educators reported that current provisions in IDEA prevent them from removing disabled students who are dangerous from school. One exception in current law is when a student with a disability brings a weapon to school. Such a student can be removed from his or her current educational placement for up to 45 days. Parents of children with disabilities argued strenuously that if IDEA were to make it easier for educators to remove disabled students who are dangerous or seriously disruptive from their educational placements, the law would give educators a reason to serve children with disabilities in more segregated settings or not at all. Moreover, parents argued that increasing educators' ability and discretion to remove children with disabilities from their current educational placements, without parental consent, would provide educators with the opportunity to divert responsibility for having inappropriately served children with disabilities in the first place and reward educators for the actions or inactions that led to the dangerous or disruptive behavior.

The amendments to address this issue are not in the bill. I plan to continue working on this issue with my colleagues, with professional organizations and associations who have already contributed to this process, and especially with parents. I have come to consider both the contentions of educators and those of parents to be valid. I anticipate creation of an amendment that will strike a balance between the educators' responsibility to maintain safe schools and the right of children with disabilities, even when they engage in dangerous or seriously disruptive behavior, to continue their education.

I anticipate negotiating a discipline amendment that will: Define dangerous behavior; sustain a commitment from schools to involve parents in their children's education before crises develop; reach an agreement on a mechanism that allows the removal of a student with a disability in an expedited manner when the student is truly a danger to himself or herself or to others; and that will allocate resources to train principals and to train teachers and students in conflict resolution strategies and related behavior management techniques.

We have a long history of bipartisan commitment to IDEA. We must continue to be courageous, on both sides of the aisle, in our commitment to improve the lives of our citizens with disabilities, most especially children. We must continue to be courageous in our commitment to making American schools the best they can be for all of our children.

In our hearings on IDEA in May 1995, a mother from Kentucky came in, even though her son Ryan had died, and told us her son's story. I remember that she said she was guided in her advocacy by a quote from Daniel Burnham, who said:

> Make no little plans. They have no magic to stir men's blood and probably themselves will not be realized. Make big plans, aim high and hope they work, remembering that a noble, logical diagram, once recorded, will never die, but long after we are gone will be a living thing asserting itself with ever-growing insistency.

This is the kind of courage children with disabilities must bring to their everyday lives. This is the kind of courage that parents of children with disabilities show every day as they dream their dreams and work, step-by-step, toward a better, more independent, more productive life for their child. This is the kind of courage that America's dedicated and professional teachers bring to their work with American students every school day, aiming high and hoping their big plans work.

We can do no less. We will do no less. These amendments will keep us on track.

Mr. President, I ask unanimous consent that a short list of improvements to IDEA, and a section-by-section summary of the bill be printed in the RECORD.

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

INDIVIDUALS WITH DISABILITIES EDUCATION ACT AMENDMENTS OF 1996

SUMMARY OF CHANGES MADE TO CURRENT LAW BY FRIST BILL

PART A—GENERAL PROVISIONS (SECS. 601–610)

Sec. 601—Short Title/Findings/Purpose

Updates ''Findings''—to reflect changes made in the education of children with disabilities over the past 20 years (since enactment of P.L. 94–142), and to restate that the ''right to equal educational opportunities'' is inherent in the equal protection clause of the 14th Amendment.

Updates ''Purposes'' of IDEA—to incorporate all relevant IDEA programs in the purpose statements (i.e., the basic State grant program under Part B, the early intervention program for infants and toddlers with disabilities under Part H, and the various support programs under Parts C through E, including systems change activities, coordinated research and personnel preparation, and coordinated technical assistance, dissemination, and technology development and media services).

Sec. 602—Definitions

Adds definitions of ''behavior management plan'', ''educational service agency'' (to replace ''intermediate educational unit''), ''general education curriculum'', ''inappropriately identified'', ''individualized family service plan (IFSP)'', ''infant or toddler with a disability'', ''outlying areas'', ''parent'' (to include guardians), ''public or private nonprofit agency or organization'', ''supplementary aids and services'', ''systems change activities''; ''systems change outcomes'', and ''unserved and underserved''.

Deletes definitions of ''research and related purposes'', ''public and private agency'', and ''youth with a disability''; and moves the definition of ''transition services'' to sec. 614(i).

Revises definitions of—

(1) ''IEP''—by removing all substantive provisions, and referring to sections 614(d)–614(j), where all provisions (both process and content) are contained.

(2) ''Institution of Higher Education (IHE)''—by making a simple cross reference to the Higher Education Act of 1965, etc.

(3) ''Related Services''—by adding ''orientation and mobility services'' (to be consistent with current policy of the Education Department).

Makes technical and conforming changes to several other definitions e.g., by adding a definition for the term ''child with a disability (current law defines the plural ''children with disabilities''), and alphabetizes and adds heading to terms.

Sec. 603—Office of Special Education Programs (OSEP). (Provisions regarding the administrative staffing of OSEP)

Amends sec. 603—to allow OSEP to ''accept voluntary and uncompensated services in furtherance of the purposes of this Act.''

Sec. 604—Abrogation of State Sovereign Immunity. (Current law provides that the Federal Government has the right to bring a suit against a State for violation of IDEA)

No changes.

Sec. 605—Acquisition of Equipment and Construction of Necessary Facilities

Repealed.

Sec. 606—Employment of Individuals with Disabilities

No changes.

Sec. 607—Grants for the Removal of Architectural Barriers

Repealed.

Sec. 608—Requirements for Prescribing Regulations. (Current law requires a 90-day public comment period for regulations proposed under Part B of the IDEA)

Makes technical and conforming changes.

Sec. 609—Eligibility for Financial Assistance. (Current law provides that no grants may be made for projects that focus exclusively on children aged 3–5, unless the State is eligible for a preschool grant under sec. 619)

Makes technical and conforming changes.

Sec. 610—Administrative Provisions Applicable to Parts D and E

(Parts D&E include support programs under IDEA concerning research, personnel training, etc. The Senate bill (1) reduces the number of support programs from 14 to 7, and (2) reorganizes the remaining provisions contained in Parts C through G of current law into three Parts: Part C—State Systems Change Grants, Part D—Coordinated Research and Personnel Preparation, and Part E—Technical Assistance, Support, and Dissemination.) The Senate bill reorganizes and substantially revises sec. 610, as described below:

1. Requires Secretary to develop and implement a comprehensive plan for activities under D and E, to enhance services to children with disabilities under parts B and H.

2. Identifies eligible applicants for awards (SEAs, LEAs, IHEs, private nonprofit organizations, Indian tribes, and, in some cases, ''for profit'' organizations); and specifies that the Secretary may limit individual competitions to one or more categories of applicants, etc.

3. Extends current provisions regarding outreach to minorities (i.e., requires at least one percent of the total funds appropriated under parts D and E to be used for outreach purposes for ''HBCUs'' and IHEs with minority enrollments of at least 25 percent. This is a continuation of current law.

4. Provides that the Secretary may, without rulemaking, limit competitions to projects that give priority to one or more targeted areas set out in the bill—so long as each project addresses the needs of children with disabilities and their families.

5. Sets out specific applicant responsibilities.

6. Includes provisions for application management—including (1) requiring a peer review process, with detailed criteria for selection of panel members, and (2) providing that the Secretary may use a portion of funds under Parts D and E (a) to pay nonfederal entities for administrative support, (b) for Federal employees to monitor projects, and for evaluation of activities carried out under these programs.

PART B—ASSISTANCE FOR EDUCATION OF ALL CHILDREN WITH DISABILITIES (SECS. 611–620)

Sec. 611—Entitlements and Allocations

1. Retains the ''child count'' formula.

2. Expands the list of activities that a State may carry out if it retains Part B funds at the State level (e.g., to meet performance goals, and to develop and implement the mediation process required by sec. 615, systems change activities authorized under part C, and a statewide coordinated services system, etc.).

3. Revises the $7,500 minimum subgrant provision (which prohibits subgrants to very small LEAs that would receive less than $7,500 under sec. 611). The bill (1) eases this restriction by giving States the option to decide whether to make subgrants of less than that amount, and (2) adds preschool funds under sec. 619 to the amount that could be counted in determining if an LEA meets the $7,500 minimum. (Bill retains the provision requiring that, if a State doesn't make a subgrant to an LEA, it must use those funds to provide FAPE to children residing in the LEA).

4. Defines ''outlying areas'' as including the Federated States of Micronesia, Republic of the Marshall Islands, and the Republic of Palau and requires the outlying areas to use their Part B funds in accordance with the purposes of IDEA, and not for other purposes, as permitted under P.L. 95–134.

5. Makes technical changes regarding grants to the Secretary of the Interior, and makes other technical and conforming changes.

Sec. 612—State Eligibility

1. Simplifies provisions related to State participation under Part B—by combining most of the elements of current sections 612 (State eligibility) and 613 (State plans), so that all conditions of State eligibility (including policies on FAPE, procedural safeguards, LRE, etc.) appear in one comprehensive section.

2. Amends ''child find'' requirements (Sec. 612(a)(3))—to codify current Department policy, which provides that, so long as a child meets the ''two-pronged'' test as a ''child with a disability'' under sec. 602(4) (i.e., has a disability and needs special education), the child does not have to be classified by a specific impairment or condition in order to be eligible for service under Part B.

3. Amends LRE provisions (Sec. 612(a)(5))—to ensure that the State's funding formula does not result in placements that violate the policy that children are placed in the least restrictive environment, and (2) that the state educational agency examines data to determine if significant racial disproportionality is occurring in the evaluation and placement of children under this Act; and if either situation is identified, to take appropriate corrective action.

4. Amends provisions on Transition from Part H to Preschool Programs (Sec. 612(a)(9))—to conform Part B with the transition planning requirements under Part H (Sec. 678(a)(8)) (i.e., to ensure the LEA staff participate in transition planning conferences convened by the Part H lead agency, in order to ensure an effective transition for infants and toddlers with disabilities who move into preschool programs under Part B.

5. Addresses unilateral placements by parents (Sec. 612(a)(10))—to clarify that if the parents of a child with a disability unilaterally place the child in a private school and a hearing officer agrees with the parent's placement, the LEA may be required to reimburse the parents. However, the amount of reimbursement may be reduced or denied—(1) if prior to removal of the child from the public school, the parents do not provide a statement to the LEA rejecting its proposed placement, or (2) upon a judicial finding of unreasonableness the respect to actions taken by the parents.

6. Strengthens requirements on ensuring provision of services by non-educational agencies (Sec. 612(a)(12)) (i.e., while retaining the single line of responsibility of the SEA (Sec. 612(a)(11)), the bill provides (1) that if a non-educational agency is responsible for providing or paying for services that are also necessary for ensuring FAPE to children with disabilities, that agency must pay for, or provide such services directly or by contract or other arrangements, (2) that the State must ensure that interagency agreements or other mechanisms are in effect between educational agencies and non-educational agencies for defining respective financial responsibilities, resolving interagency disputes, and for interagency coordination, and (3) that the State must establish a mechanism by which local educational agencies may seek reimbursement from agencies for the costs of providing related services and disseminate those procedures to local educational agencies.

7. Amends ''comprehensive system of personnel development'' (CSPD) requirements (Sec. 612(a)(14))—to simplify and reduce the burden of such requirements, especially the data provisions, and make the requirements more meaningful.

8. Amends ''Personnel Standards'' to include use of paraprofessionals (Sec. 612(a)(15))—to allow districts to utilize appropriately trained and supervised paraprofessionals to provide services.

9. Conforms the IDEA to general education initiatives (sec. 612 (a)(16) and (17))—by requiring States to (1) establish performance goals and indicators for children with disabilities, and (2) ensure that these children participate in general State and district-wide assessments, with appropriate accommodations, where necessary, and that guidelines are developed for participation in alternative assessments for those children who cannot participate in state and district-wide assessments.

10. Consolidates funding requirements under current law in one place (Sec. 612(a)(18)), and deletes non-germane provisions.

11. Consolidates the public participation requirements of current law in one place (Sec. 612(a)(19)), and provides language to reduce burden—by clarifying that, if the State's policies and procedures have been subjected to public comment through a State rulemaking process, no further public review or public comment period is required.

12. Amends provisions on State Advisory Panels—by (1) specifying other categories of participants of such panels, (2) adding new duties of the Panel (e.g., advise the SEA developing corrective action plans to address findings identified through Federal monitoring reports, and to developing and implementing policies related to coordination of services), and (3) providing that a State panel established under the ESEA or Goals 200: Educate America Act may also serve as the State Advisory Panel if it meets the requirements of this part.

13. Significantly reduces paperwork and staff burden, by no longer requiring States to submit three-year State plans. Once a State demonstrates to the satisfaction of the Secretary that it has in effect policies and procedures that meet the eligibility requirements of the new sec. 612, the State does not have to resubmit such materials, unless those policies and procedures are change.

14. Simplifies provisions related to participation of LEAs—by (1) replacing the LEA application requirements in sec. 614 of current law with new ''LEA eligibility'' provisions in sec. 613, and (2) conforming those provisions, as appropriate, to the new State eligibility requirements under sec. 612.

Sec. 613—LEA Eligibility

1. Simplifies provisions related to participation of LEAs—by (1) replacing the LEA application requirements in sec. 614 of current

law with new ''LEA eligibility'' provisions in sec. 613, and (2) conforming those provisions, as appropriate, to the new State eligibility requirements under sec. 612.

2. Includes ''Maintenance of Effort'' provision—to ensure that the level of expenditures for the education of children with disabilities within each LEA from State and local funds will not drop below the level of such expenditures for the preceding fiscal year; but provides four specific exceptions (i.e., (1) decreases in enrollment of children with disabilities, (2) end of LEA's responsibility to provide an exceptionally costly program to a child with a disability [because child leaves the LEA, etc.], (3) retirement or other voluntary departure of special education staff who are at or near the top of the salary schedule, and (4) end of unusually large expenditures for equipment or construction). (Bill retains ''excess costs'' and ''supplement—not supplant'' provisions of current law.)

3. Provides greater flexibility to LEAs in the use of Part B funds, while still ensuring that children with disabilities receive needed special education and related services. The bill identifies specific activities that an LEA may carry out (notwithstanding the excess cost and noncomingling requirements in secs. 613(3)(B) and 612(a)(18)(A)(ii)), including using Part B funds for—

Incidental benefits (i.e., LEAs could provide special education services to a child with a disability in the regular classroom without having to track the costs of any incidental benefits to non-disabled students from those services).

Simultaneous services on a space-available basis (i.e., special education and related services that are provided to ''IDEA-eligible'' children could simultaneously be provided, on a space available basis, to children with disabilities who are protected by ''ADA–504'').

A coordinated services system (i.e., an LEA could use up to 5 percent of its Part B funds to develop and implement a coordinated services system that links education, health, and social welfare services, and various systems and entities in a manner designed to improve educational and transitional results for all children and their families, including children with disabilities and their families).

A school-based improvement plan (i.e., an LEA could (if authorized by the SEA) permit one or more local schools within the LEA to design, implement, and evaluate a school-based improvement plan for improving educational and transitional results for children with disabilities and, as appropriate, for other children, consistent with the provisions on incidental benefits and simultaneous services in sec. 613(a)(4) (A) and (B)).

4. Provides that an LEA may join with other LEAs to jointly establish eligibility under Part B.

5. Significantly reduces paperwork and staff burden for SEAs and LEAs—by providing that once an LEA demonstrates to the satisfaction of the SEA that it has in effect policies and procedures that meet the eligibility requirements of the new sec. 613, the SEA may consider that those requirements have been met; and the LEA would not have to resubmit such materials, unless those policies and procedures are changed.

6. Simplifies local involvement with a State's Comprehensive System of Personnel Development—and requires that a local educational agency only, to the extent appropriate, contribute to and benefit from the State Comprehensive System of Personnel Development.

Sec. 614—Evaluations, Reevaluations, IEPs, and Educational Placements

1. Simplifies State and local administration of provisions on evaluation, IEPs, and placements—by placing all such provisions in one newly established sec. 614.

2. Addresses Evaluations and Reevaluations:

Reduces cost and administrative burden—by requiring that existing evaluation data on a child be reviewed to determine if any other data are needed to make decisions about a child's eligibility and services. (If it is determined by appropriate individuals that additional data are not needed, the parents must be so informed of that fact and of their right to still request an evaluation; but no further evaluations are required at that time unless requested by the parents.)

Includes protections in evaluation procedures—by requiring LEAs to ensure that tests and other evaluation materials are relevant, validated for the specific purpose for which they are being used, etc.; and retains the nondiscriminatory testing procedures required in current law.

3. Addresses IEP provisions:

Consolidates all substantive provisions on IEPs (both content and process) in one place (secs. 614(d)–614(j)), and re-orders the provisions, so that there is a logical sequence—from (1) procedures for developing IEPs, (2) IEP content, (3) measuring and reporting on each child's progress, and (4) reviewing and revising the IEP.

Requires IEP team to consider specific factors in developing each child's IEP, including (1) basic information about the child (e.g., most recent evaluation results, child's strengths, and parent concerns for enhancing the child's education), and (2) other special factors and possible remedies, as appropriate (e.g., in the case of a child with a visual or hearing impairment, limited English).

Revises content of IEPS—by (1) replacing ''annual goals and short term instructional objectives'' with ''measurable annual objectives'', (2) placing greater emphasis on ensuring that each child, as appropriate, has the opportunity to progress in the general curriculum, and to participate with nondisabled children in various environments.

Amends provisions on transition services (i.e., the bill requires that transition services needs (1) be considered for all students with disabilities beginning at age 14 (or younger . . .), and, as appropriate, addressed under the applicable components of the IEP (e.g., levels of performance, objectives, and services), and (2) be considered in light of the student's participation in the general curriculum (e.g., a vocational education or school to work program).)

The bill (1) retains current law requiring a statement of transition services beginning at age 16 (or younger), and (2) moves the definition of ''transition services'' from Part A to sec. 614(I).

4. Adds a provision regarding transfer of rights at the age of majority (i.e., requiring that, at least one year before a student reaches the age of majority under State law, the IEP must include ''a statement about the rights under this Act, if any, that will transfer to the student on reaching the age of majority under sec. 615(j).''

Sec. 615—Procedural Safeguards.

1. Revises the written notice provision—(a) to set out the specific content of notices to parents, and (b) to reduce burden under current law and regulations—by permitting notices to include only a brief summary of the procedural safeguards under Part B relating to due process hearings (and appeals, if applicable), civil actions, and attorney fees—together with a statement that a full explanation of such safeguards will be provided if the parents request it or request a due process hearing, etc.

2. Reduces potential conflict between LEAs and parents of children with disabilities—by requiring States to make mediation available to such parents, on a voluntary basis. (The use of mediation can resolve disputes quickly and effectively, and at less cost.)

3. Provides clearer notice of the existence of a conflict between an LEA and the parents of a child with disabilities. The bill requires the parents to provide the LEA a written notice of their intent to file a complaint (request a due process hearing) under Part B, on any matter regarding the identification, evaluation, or educational placement of the child or the provision of FAPE to the child, 10 calendar days prior to filing the complaint, if the parents (1) have new information about any matter described above, and (2) are initiating a complaint about such a matter, and have signed the most recent IEP of the child.

The bill further states that (1) if, prior to filing the complaint, the parents have new information on any matter described above, they must provide the information to the LEA along with the notice of intent to file a complaint; and (2) if the parents were duly informed by the LEA of their obligation to file such a notice, and fail to do so, ''the time line for a final decision on the complaint shall be extended by 10 calendar days.''

4. Amends provisions on attorney fees—by clarifying that ''the determination of whether a party is a prevailing party under this section shall be made in accordance with the law established by the Supreme Court in *Hensley* v. *Eckerhart*, 461 U.S. 424 (1983);'' and (2) that, ''for the purpose of this section, an IEP meeting, in and of itself, shall not be deemed a proceeding triggering the awarding of attorneys fees''.

5. Permits the transfer of parental rights to a student with disabilities upon reaching the age of majority under State law; and provides that if (under State law) such a student is determined to not have the ability to provide informed consent under Part B, the State must have procedures for appointing the parent or another person to represent the student's interests throughout the student's eligibility under this part.

6. Makes other technical and conforming changes.

Sec. 616—Withholding and Judicial Review

Makes technical and conforming changes.

Sec. 617—Administration

1. Adds a provision prohibiting the Secretary from rulemaking via policy letters or other statements. (The bill provides that, in order to establish a new rule that is required for compliance and eligibility under Part B, the Secretary must follow standard rulemaking requirements.)

2. Adds a provision requiring the Department of Education to widely disseminate, on a quarterly basis, a list of correspondence from the Department during the previous quarter that describes the Department's interpretations of this part and the implementing regulations. (Each item on the list must identify the topic being addressed, include ''such other summary information as the Secretary finds appropriate.''

Sec. 618—Evaluation and Program Information

1. Significantly reduces the data burden to States and LEAs—by eliminating the requirement for individual State data reports by disability category, but requires the Secretary, directly or by grant, contract, or cooperative agreement, to conduct studies and evaluations necessary to assess the effectiveness of efforts to provide FAPE and early intervention services, including assessing ''the placement of children with disabilities by disability category.''

2. Requires the Secretary to conduct a longitudinal study that measures the educational and transitional services provided

to and results achieved by children with disabilities under this Act, etc.

3. Provides for earmarking up to one-half of one percent of the amounts appropriated under Parts B and H to carry out the purposes of sec. 618.

Sec. 619—Preschool Grants

Includes changes that are virtually identical to the changes made in sec. 611, with respect to State administration and State use of funds, subgrants to LEAs and other State agencies, and the provision on the use of funds by the outlying areas.

Sec. 620—Payments

Makes technical and conforming changes.

Support Programs (Parts C through E, and H)

PART C—PROMOTING SYSTEMS CHANGE TO IMPROVE EDUCATIONAL AND TRANSITIONAL SERVICES AND RESULTS FOR CHILDREN WITH DISABILITIES (SECS. 621–625)

A new Part C has been developed. [It replaces current Part C which authorized a wide range of special interest demonstration and technical assistance initiatives, most with their own authorization earmarks.] The new Part C authorizes a new ''Systems Change'' State grant program. State Education Agencies, in partnership with local education agencies, and other interested individuals, agencies, and organizations, would be able to compete for planning or implementation grants to improve educational and transitional services and results for children with disabilities on a system wide basis.

Sec. 621—Findings and Purposes

Sec. 622—Grants

Authorizes grants to State Education Agencies in partnership with local education agencies, and other individuals, agencies, and organizations to address comprehensive systems change.

Authorizes grants to multiple States, in collaboration with universities and interested persons to address system change barriers of a regional or national scope.

Grants for planning for one year duration and implementation grants may be 5 years duration.

Sec. 623—Application

Grants to be based upon the performance of children with disabilities on State assessments and other performance indicators.

Grants to describe the organizational structures, policies, procedures and practices that will be changed to improve educational and transitional services and results for children with disabilities.

Sec. 624—Incentives

Provides incentives for significant and substantial levels of collaboration among participating partners.

Provides incentives for addressing the needs of unserved, underserved, and inappropriately identified populations of children with disabilities.

Sec. 625—Authorization of Appropriations

PART D RESEARCH AND PERSONNEL PREPARATION (SEC. 631–634)

A new Part D authorizes research/innovation and personnel preparation activities which are to be coordinated with system changes initiatives funded under Part C and improve results for children with disabilities. [Consolidates current Part D, which funds personnel preparation, and Part E, which funds research.]

Sec. 631—Findings and Purpose

Sec. 632—Definitions

Sec. 633—Research and Innovation

New knowledge production—supports research and innovation projects in areas of new knowledge, such as, learning styles, instructional approaches, behavior management, assessment tools, assistive technology, program accountability and personnel preparation models.

Integration of research and practice—supports projects which validate new knowledge findings through demonstration and dissemination of successful practice.

Improvement in the use of professional knowledge—supports projects to organize and disseminate professional knowledge in ways that empower teachers, parents, and others to use such knowledge in their classrooms and other learning settings.

Sec. 634—Personnel Preparation

High incidence disabilities—supports the preparation of a variety of personnel providing educational and transitional services and supports to students in high incidence disability areas, such as, learning disabilities, mental retardation, behavior disordered, and other groups.

Leadership preparation—supports the preparation of leadership personnel at the advanced graduate, doctoral, and post-doctoral levels of training.

Low-incidence disabilities—supports the preparation of a variety of personnel providing educational and transitional services and supports to children in low incidence disability areas, such as, sensory impairment, multiple disabilities, and severe disabling conditions.

Projects of national significance—supports the development and demonstration of new and innovative program models and approaches in the preparation of personnel to work with children with disabilities.

PART E—TECHNICAL ASSISTANCE, SUPPORT, AND DISSEMINATION OF INFORMATION (SECS. 641–644)

A new Part E provides authorizations for parent training and information centers, technical assistance, support, dissemination, and technology and media activities which are to be coordinated with system change initiatives funded under Part C and other activities that are designed to improve educational and transitional services and results for children with disabilities. [Consolidates activities authorized in various Parts of current law, especially Parts G and F; removes numerous authorization earmarks.]

Sec. 641—Findings and Purposes

Sec. 642—Definitions

Sec. 643—Parent Training and Information

Provides support for Statewide Parent Training and Information Center activities, as authorized in current law, with the following additions:

Supports collaboration between Centers and other parent groups in a State and between parent groups and systems change activities in States.

Requires Centers to work together through national and regional networks, and to address the needs of unserved and underserved parents in their State.

Provides support for Community-based Parent and Information Programs:

Supports the building of capacity, demonstration, and replication of models to ensure that parents of children with disabilities from unserved and underserved populations participate in parent training and information activities.

Supports the provision of services to parents of children with disabilities from unserved and underserved populations.

Supports the provision of training and information concerning children inappropriately identified as disabled.

Supports technical assistance activities to develop, coordinate, and disseminate information.

Sec. 644—Coordinated Technical Assistance and Dissemination

Supports systemic technical assistance to States, local education agencies, and other entities to plan and conduct comprehensive systems change activities.

Supports inter-organizational technical assistance activities to address interagency barriers to systems change and to improved transitional and educational results for children with disabilities.

Supports national dissemination activities in areas related to: Infants, toddlers, children, and youth with disabilities and their families; provision of services and supports for deaf-blind children; services to blind and print disabled children; postsecondary services to individuals with disabilities; personnel to provide services to children with disabilities.

Supports national technical assistance and dissemination coordination activities.

Sec. 645—Technology Development, Demonstration, and Utilization and Media Services

Supports research, development, and demonstration of innovative and emerging technology benefiting children with disabilities.

Supports dissemination and transfer of technology for use by children with disabilities.

Supports video descriptions, and open and closed captioning of television programs.

Supports recorded free educational materials and textbooks for visually impaired and print-disabled students in elementary, secondary, postsecondary, and graduate school.

Supports activities of the National Theater of the Deaf.

Requires the collection and reporting of appropriate evaluation data concerning technology and media activities.

PART H—INFANTS AND TODDLERS WITH DISABILITIES (SECS. 671–687)

The early intervention program for infants and toddlers with disabilities under Part H of this Act is an evolving program that has proven successful and enjoyed strong support since its enactment in 1986. Therefore, no major amendments are proposed. However, the bill:

1. Provides greater flexibility in addressing the needs of ''at risk infants and toddlers'' in those States not currently serving such children—by permitting Part H funds to be used for referring those children to other (non-Part H) services, and conducting periodic follow-ups on each referral to determine if the child's eligibility under Part H has changed.

2. Provides for a review of the definition of ''developmental delay''—by requiring the Federal Interagency Coordinating Council (FICC) to convene a panel to develop recommendations regarding a model definition of ''developmental delay''—to assist States, as appropriate, with their own respective definitions.

3. Facilitates the provision requiring a smooth transition for toddlers with disabilities from the Part H program to preschool services under Part B—by permitting the planning to begin up to 6 months before the child's 3rd birthday, if the parents and agencies agree.

4. Provides technical changes related to (1) membership on the FICC (2) responsibilities of the State and Federal Interagency Coordinating Councils, and (3) definitions of terms; and makes other technical and conforming changes.

THE FIRST BILL—COMMONSENSE IMPROVEMENTS TO IDEA

1. Eliminates the major bureaucratic burden of three-year plan submissions.—State and local educational agencies will make only one plan or application, instead of the currently mandated submission of once every three years. Under the First bill, state and local agencies will update their plans only if they report substantial changes.

2. Reduces burden on school funding sources to pay for supports and related services.—The First bill helps local districts pay for supports and related services by requiring that other agencies pay their fair share of the cost of services to children who are eligible for those agencies' services.

3. Cuts mandatory data collection by 50%.—The First bill cuts data collection and reporting burdens on state and local educational agencies. Currently, agencies are required to report numbers of children receiving special education by age, by four placement categories and by the disability of the student. Under the Frist bill, agencies will report only the total number of children receiving special education and the number of children in each of only two placement categories.

4. Reduces litigation by adding mediation.—If there is a dispute over an IEP, school districts and families will be able to use mediation to try to resolve issues instead of automatically having to go to a due process hearing.

5. Eliminates regulation through Department of Education policy letters.—The Frist bill will reduce the burden of new regulations on state and local educational agencies. Policy letters issued by the Department of Education will no longer be used for purposes of eligibility and compliance monitoring. Letters may be issued only for nonregulatory guidance and purposes of explanation and clarification of existing policy.

6. Relieves burden by allowing flexible local control of funds:

A. Allows flexibility in the use of funds for school improvement and coordination with general education reform.—States will be allowed to use up to 1% of the funds received under Part B, and local districts may use up to 5% of Part B funds to develop better services for all children, including children with disabilities. In addition, school districts will be allowed all of their Part B funds to establish school-based improvement plans designed to improve educational results for children with disabilities.

B. Relieves financial burden of the current maintenance of effort requirement.—The Frist bill allows local education agencies to reduce the overall level of spending for educating children with disabilities by the following; when the reduction results from lower per-teacher staff costs or per-pupil student costs, when a reduction is due to a one-time expenditure in the preceeding fiscal year, or when there are decreases in district enrollment of students with disabilities.

C. Eliminates wasteful fiscal tracking mandates.—Building and district administrators will no longer be required to keep track of the educational benefits to non-disabled children when a child with a disability is provided special education and related services in the regular education classroom.

7. Reduces the administrative burden of student evaluations.—The Frist bill will simplify and streamline the process of student evaluation. Initial evaluations and reevaluations will focus on collecting only the information that is necessary for educational planning. Reevaluations will take place when additional information is needed, or at natural transitions such as when a student moves from elementary school to junior high.

8. Cuts data collection requirements of personnel development programs.—The Frist bill simplifies and reduces data collection requirements for a state to maintain its Comprehensive System of Personnel Development (CSPD). In addition, local control will increase because school districts will decide their level of participation in the state's CSPD.

9. Cuts paperwork and providers administrative relief in IEP process.—The Frist bill eliminates mandated short-term objectives in an IEP. Paperwork will be reduced by the elimination of short-term objective tracking and repetitive reporting of test results and other information in the IEP. A flexible, sensible, workable schedule of educational reports to parents of children with disabilities will be determined by the IEP team.

10. Empowers school officials in disciplining children.—For the first time since its enactment, IDEA will contain comprehensive language that will untie school officials' hands when disciplining students with disabilities. [Currently under discussion, will be worked out by date of mark-up and then inserted]

● Mr. HARKIN. Mr. President, as ranking member of the Subcommittee on Disability Policy, I am pleased to join Senator FRIST, the chair of that subcommittee, in introducing the Individuals With Disabilities Education Act [IDEA] Amendments of 1996. It has been a privilege and a pleasure for me to work with Senator FRIST and our respective staffs in developing this reauthorization proposal. I also would like to compliment Pat Morrissey, Senator FRIST's staff director for the Subcommittee on Disability Policy for her efforts to enhance the partnership between parents of children with disabilities and the educational community.

The amendments we are proposing today provide fine-tuning to powerful education legislation with a long and successful history. Just 3 months ago, on November 29, we celebrated the 20th anniversary of the signing of Public Law 94–142, the Education for All Handicapped Children Act of 1975, now known as part B of IDEA. The purpose of this law is simple—to assist States and local communities to meet their obligations to provide equal educational opportunity to children with disabilities in accordance with the equal protection clause of the 14th amendment of the U.S. Constitution.

As we look back on that day two decades ago, we know that this law has literally changed the world for millions of children with disabilities. Prior to the enactment of Public Law 94–142, 1 million children with disabilities in the United States were excluded entirely from the public school system, and more than half of all children with disabilities did not receive appropriate educational services.

On that day in 1975, we lit a beacon of hope for millions of children with disabilities and their families. We sent a simple, yet powerful message heard around the world that the days of exclusion, segregation, and denial of education for children with disabilities are over in this country. And we sent a powerful message that families count and they must be treated as equal partners

Because of IDEA, tremendous progress has been made in addressing the problems that existed in 1975. Today, every State in the Nation has laws in effect assuring the provision of a free appropriate public education for all children with disabilities. And over 5,000,000 children with disabilities are now receiving special education and related services.

For many parents who have disabled children, IDEA is a lifeline of hope. As one parent recently told me:

> Thank God for IDEA. IDEA gives us the strength to face the challenges of bringing up a child with a disability. It has kept our family together. Because of IDEA our child is achieving academic success. He is also treated by his nondisabled peers as ''one of the guys.'' I am now confident that he will graduate high school prepared to hold down a job and lead an independent life.

In May, Danette Crawford, a senior at Urbandale High School in Des Moines, testified before the Disability Policy Subcommittee. Danette, who has cerebral palsy, testified that:

> My grade point average stands at 3.8 and I am enrolled in advanced placement courses. The education I am receiving is preparing me for a real future. Without IDEA, I am convinced I would not be receiving the quality education that Urbandale High School provides me.

We are now graduating the first generation of students who have had the benefits of the provisions of IDEA. Already, for example, since 1978 the percentage of incoming college freshman with disabilities has more than tripled from 2.4 percent to over 9 percent. We once heard despondency and anger from parents. We now hear enthusiasm and hope, as I have, from a parent from Iowa writing about her 7-year-old daughter with autism. She said, ''I have no doubt that my daughter will live nearly independently as an adult, will work, and will be a very positive contributor to society. That is very much her dream, and it is my dream for her. The IDEA has made this dream capable of becoming a reality.''

Mr. President, these are not isolated statements from a few parents in Iowa. They are reflective of the general feeling about the law across the country. The National Council on Disability [NCD] recently conducted 10 regional meetings throughout the Nation regarding progress made in implementing the IDEA over the past 20 years. In its report, NCD stated that ''in all of the 10 regional hearings * * * there were ringing affirmations in support of IDEA and the positive difference it has made in the lives of children and youth with disabilities and their families.'' The report adds that ''all across the country witnesses told of the tremendous power of IDEA to help children with disabilities fulfill their dreams to learn, to grow, and to mature.''

These comments, as well as testimony presented at the four hearings held by the Subcommittee on Disability Policy, make it clear to me that major changes in IDEA are not needed nor wanted. IDEA is as critical today as it was 20 years ago, particularly the due process protections. These provisions level the playing field so that parents can sit down as equal partners in designing an education for their children.

The witnesses at these hearings did make it clear, however, that we need to fine-tune the law—in order to make sure that children with disabilities are

not left out of educational reform efforts that are now underway, and to take what we have learned over the past 20 years and use it to update and improve this critical law.

Based on 20 years of experience and research in the education of children with disabilities, we have reinforced our thinking and knowledge about what is needed to make this law work, and we have learned many new things that are important if we are to ensure an equal educational opportunity for all children with disabilities.

For example, our experience and knowledge over the past 20 years have reaffirmed that the provision of quality education and services to children with disabilities must be based on an individualized assessment of each child's unique needs and abilities; and that, to the maximum extent appropriate, children with disabilities must be educated with children who are not disabled and children should be removed from the regular educational environment only when the nature and severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

We have also learned that students with disabilities achieve at significantly higher levels when schools have high expectations—and establish high goals—for these students, ensure their access to the general curriculum, whenever appropriate, and provide them with the necessary services and supports. And there is general agreement that including children with disabilities in general State and districtwide assessments is an effective accountability mechanism and a critical strategy for improving educational results for these children.

Our experience over the past 20 years has underscored the fact that parent participation is a crucial component in the education of children with disabilities, and parents should have meaningful opportunities, through appropriate training and other supports, to participate as partners with teachers and other school staff in assisting their children to achieve to high standards.

There is general agreement today at all levels of government that State and local educational agencies must be responsive to the increasing racial, ethnic, and linguistic diversity that prevails in the nation's public schools today. Steps must be taken to ensure that the procedures used for referring and evaluating children with disabilities include appropriate safeguards to prevent the over or under-identification of minority students requiring special education. Services, supports, and other assistance must be provided in a culturally competent manner. And greater efforts must be made to improve post-school results among minority students with disabilities.

The progress that has been made over the past 20 years in the education of children with disabilities has been impressive. However, it is clear that significant challenges remain. We must ensure that this crucial law not only remains intact as the centerpiece for ensuring equal educational opportunity for all children with disabilities, but also that it is strengthened and updated to keep current with the changing times.

The basic purposes of Public Law 94–142 must be retained under the proposed reauthorization of IDEA: To assist States and local communities in meeting their obligation to ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services that are designed to meet the unique needs of these children and enable them to lead productive independent adult lives; to ensure that the rights of children with disabilities and their parents are protected; and to assess and ensure the effectiveness of efforts to educate children with disabilities.

We also need to expand those purposes to promote the improvement of educational services and results for children with disabilities and early intervention services for infants and toddlers with disabilities—by assisting the systems change initiatives of State educational agencies in partnerships with other interested parties, and by assisting and supporting coordinated research and personnel preparation, and coordinated technical assistance, dissemination, and evaluation, as well as technology development and media services.

Mr. President, this bipartisan bill we are presenting here today provides the fine-tuning that is needed to up-date current law along the lines I have described. These amendments will help ensure that children with disabilities have equal educational opportunities along with their nondisabled peers to leave school with the skills necessary for them to be included and integrated in the economic and social fabric of society and to live full, independent productive lives as adults.

In closing, Mr. President, I would like to quote Ms. Melanie Seivert of Sibley, IA, who is the parent of Susan, a child with Downs syndrome. She states:

> Our ultimate goal for Susan is to be educated academically, vocationally, [and] in life-skills and community living so as an adult she can get a job and live her life with a minimum of management from outside help. Through the things IDEA provides . . . we will be able to reach our goals.
>
> Does it not make sense to give all children the best education possible? Our children need IDEA for a future.

Mr. President, IDEA is the shining light of educational opportunity. And we, in the Congress, must make sure that the light continues to burn bright. We still have promises to keep. I urge my colleagues to support the Individuals With Disabilities Education Act Amendments of 1996.●

By Mr. GLENN (for himself, Mr. STEVENS, Mr. LEVIN, Mr. COCHRAN, Mr. PRYOR, Mr. COHEN, Mr. LIEBERMAN, and Mr. BROWN):

S. 1579. A bill to streamline and improve the effectiveness of chapter 75 of title 31, United States Code (commonly referred to as the ''Single Audit Act''); to the Committee on Governmental Affairs.

THE SINGLE AUDIT ACT AMENDMENTS OF 1996

Mr. GLENN. Mr. President, today, I am introducing legislation to amend the Single Audit Act of 1984. This legislation will both improve financial management of Federal funds and reduce paperwork burdens on State and local governments, universities and other nonprofit organizations that receive Federal assistance. I am happy that the chairman of the Governmental Affairs Committee, Senator STEVENS, joins with me in cosponsoring the bill, as do Senators LEVIN, COCHRAN, PRYOR, COHEN, LIEBERMAN, and BROWN, all fellow members of the Governmental Affairs Committee.

Over the last several years we have made great strides in reforming the sloppy and wasteful state of Federal financial management. The Chief Financial Officers Act of 1990, which I strongly support, was a major accomplishment in this regard. Much more remains to be done, however, to achieve greater accountability for the hundreds of billions of dollars of Federal assistance that go to or through State and local governments and nonprofit organizations. Much more also remains to be done to reduce the auditing and reporting burdens of the Federal assistance management process. The Single Audit Act Amendments of 1996, which I introduce today, goes a long way toward achieving these goals.

The Single Audit Act was enacted in 1984 to overcome serious gaps and duplications that existed in audit coverage over Federal funds provided to State and local governments, which now amount to about $200 billion a year. Some governments rarely saw an auditor interested in examining Federal funds, others were swamped by auditors, each looking at a separate grant award. The Single Audit Act remedied that problem by changing the audit focus from compliance with individual Federal grant requirements to a periodic single overall audit of the entity receiving Federal assistance. The act also set specific dollar thresholds to exempt small grant recipients from regular audit requirements. This structured approach of entity-wide audits simplified overlapping audit requirements and improved grantee-organization administrative controls.

The Single Audit Act also served an important purpose of prompting State and local governments to improve their general financial management practices. The act encouraged the governments to review and revise their financial management practices, including instituting annual financial statement audits, installing new accounting systems, and implementing monitoring systems. The improvements represented long-needed and long-lasting

financial management reforms. Studies by the General Accounting Office [GAO] confirmed these accomplishments. The success of the act also prompted the Office of Management and Budget [OMB] to apply single audit principles to educational institutions and other nonprofits that receive or passthrough Federal funds (OMB Circular No. A–133, ''Audits of Institutions of Higher Education and Other Nonprofit Organizations,'' March 1990).

During my tenure as chairman of the Governmental Affairs Committee, I requested that GAO study the implementation of the Single Audit Act and suggest any needed changes. The resulting report, Single Audit: Refinements Can Improve Usefulness (GAO/AIMD–94–133, June 1994), reviewed the successes of the act, but also pointed out specific modifications that could improve the act's usefulness. The legislation I introduce today is based on GAO's findings, and in fact, was developed in cooperation with GAO and OMB. Moreover, OMB is presently revising its Circular A–133 consistent with the purposes of this legislation. Finally, the bill also reflects comments received from State, local and private sector accounting, and audit professionals, as well as program managers. Altogether, the legislation will strengthen the act, while simultaneously reducing its burdens.

First, the legislation extends the act to cover nonprofit entities that receive Federal assistance. Again, these organizations are currently subject to the single audit process under OMB Circular A–133. Broadening the act's coverage in this way ensures that all non-Federal grantee organizations will be covered uniformly by a single audit process.

Second, the bill reduces audit and related paperwork burdens by raising the single audit threshold from $100,000 to $300,000. This would exempt thousands of smaller State and local governments and nonprofits from Federal single audit requirements. It would still ensure, however, that the vast majority of Federal funds would be subject to audit testing. Needless to say, it would also not interfere with the ability of Federal agencies to audit or investigate grantees when needed to safeguard Federal funds.

Third, the bill would improve audit effectiveness by establishing a risk-based approach for selecting programs to be tested during single audits for adequacy of internal controls and compliance with Federal program requirements, such as eligibility rules. The Single Audit Act has required audit testing solely on the basis of dollar criteria. Using the risk-based approach will ensure coverage of large programs, as well as others that are actually more at risk.

Fourth, the legislation improves the contents and timeliness of single audit reporting to make the reports more useful. Currently, auditors often include a number of different documents in a single audit report. These documents are designed to comply with auditing standards but leave many confused. A summary document, written in plain language, would greatly increase the usefulness of single audit reports.

Shortening the reporting timeframes will also make the single audit reports more useful. The current practice of filing reports 13 months after the end of the year that was audited significantly reduces their utility. An ideal period would be the Government Finance Officers Association's standard of 6 months for timely reporting by State and local governments. However, given the multiple audits that some State auditors have to perform, the legislation establishes a 9-month standard. Moreover, the legislation gives flexibility for extensions as needed. The overall goal, still, is to shorten the reporting timeframe to make the single audit reports more useful to assess the stewardship of organizations entrusted with Federal funds and to prompt any needed corrective actions.

Fifth, the legislation increases administrative flexibility. OMB is authorized to issue rules to implement the act and may revise certain audit requirements as needed, without seeking amendments to the act. For example, OMB would be authorized to raise even higher the $300,000 threshold. Auditors also will have greater flexibility to target programs at risk.

In these and other ways, the Single Audit Act Amendments of 1996 will streamline the underlying Single Audit Act, update its requirements, reduce burdens, and provide for more flexibility. This legislation builds on the significant accomplishments of the 1984 act and I am confident that the Senate will move the legislation expeditiously.

In December 1995, the Senate Committee on Governmental Affairs held a hearing on the status of Federal financial management, including the Single Audit Act. Charles Bowsher, the Comptroller General of the United States and, Kurt Sjoberg, the California State auditor, representing the National State Auditors Association, strongly supported the legislation and recommended that it be enacted. Edward DeSeve, Office of Management and Budget Controller, also applauded the legislative effort.

The support of the Comptroller General and the State auditors is especially important. The Comptroller General was instrumental in advising the Congress when the original Single Audit Act was enacted. He followed the subsequent implementation of the act and has made the recommendations for improving the act that was the basis for the current legislation. I give great weight to his recommendations for amending the Single Audit Act. State auditors, for their part, are key players in the single audit process. They conduct or arrange for thousands of single audits each year. So, their views are also critically important. Following the December hearing, the National State Auditors Association met to discuss the legislation and decided unanimously to support its enactment. I submit their letter of support for the RECORD.

Finally, I commend to my colleagues the fact that this legislation is bipartisan. Again, Senator STEVENS, chairman of the Governmental Affairs Committee, joins with me in cosponsoring the bill, as do Senators LEVIN, COCHRAN, PRYOR, COHEN, LIEBERMAN, and BROWN. This bipartisanship also extends to the House of Representatives. With this bipartisan support, I am sure that this good Government legislation can soon become law.

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

S. 1579

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

SECTION 1. SHORT TITLE; PURPOSES.

(a) SHORT TITLE.—This Act may be cited as the ''Single Audit Act Amendments of 1996''.

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

(1) promote sound financial management, including effective internal controls, with respect to Federal awards administered by non-Federal entities;

(2) establish uniform requirements for audits of Federal awards administered by non-Federal entities;

(3) promote the efficient and effective use of audit resources;

(4) reduce burdens on State and local governments, Indian tribes, and nonprofit organizations; and

(5) ensure that Federal departments and agencies, to the maximum extent practicable, rely upon and use audit work done pursuant to chapter 75 of title 31, United States Code (as amended by this Act).

SEC. 2. AMENDMENT TO TITLE 31, UNITED STATES CODE.

Chapter 75 of title 31, United States Code, is amended to read as follows:

''CHAPTER 75—REQUIREMENTS FOR SINGLE AUDITS

''§ 7501. Definitions

''(a) As used in this chapter, the term—

''(1) 'Comptroller General' means the Comptroller General of the United States;

''(2) 'Director' means the Director of the Office of Management and Budget;

''(3) 'Federal agency' has the same meaning as the term 'agency' in section 551(1) of title 5;

''(4) 'Federal awards' means Federal financial assistance and Federal cost-reimbursement contracts that non-Federal entities receive directly from Federal awarding agencies or indirectly from pass-through entities;

''(5) 'Federal financial assistance' means assistance that non-Federal entities receive or administer in the form of grants, loans, loan guarantees, property, cooperative agreements, interest subsidies, insurance,

donated surplus property, food commodities, direct appropriations, or other assistance, but does not include amounts received as reimbursement for services rendered to individuals in accordance with guidance issued by the Director;

''(6) 'Federal program' means all Federal awards to a non-Federal entity assigned a single number in the Catalog of Federal Domestic Assistance or encompassed in a group of numbers or other category as defined by the Director;

''(7) 'generally accepted government auditing standards' means the government auditing standards issued by the Comptroller General;

''(8) 'independent auditor' means—

''(A) an external State or local government auditor who meets the independence standards included in generally accepted government auditing standards; or

''(B) a public accountant who meets such independence standards;

''(9) 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation (as defined in, or established under, the Alaskan Native Claims Settlement Act) that is recognized by the United States as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

''(10) 'internal controls' means a process, effected by an entity's management and other personnel, designed to provide reasonable assurance regarding the achievement of objectives in the following categories:

''(A) Effectiveness and efficiency of operations.

''(B) Reliability of financial reporting.

''(C) Compliance with applicable laws and regulations;

''(11) 'local government' means any unit of local government within a State, including a county, borough, municipality, city, town, township, parish, local public authority, special district, school district, intrastate district, council of governments, any other instrumentality of local government and, in accordance with guidelines issued by the Director, a group of local governments;

''(12) 'major program' means a Federal program identified in accordance with risk-based criteria prescribed by the Director under this chapter, subject to the limitations described under subsection (b);

''(13) 'non-Federal entity' means a State, local government, or nonprofit organization;

''(14) 'nonprofit organization' means any corporation, trust, association, cooperative, or other organization that—

''(A) is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;

''(B) is not organized primarily for profit; and

''(C) uses net proceeds to maintain, improve, or expand the operations of the organization;

''(15) 'pass-through entity' means a non-Federal entity that provides Federal awards to a subrecipient to carry out a Federal program;

''(16) 'program-specific audit' means an audit of one Federal program;

''(17) 'recipient' means a non-Federal entity that receives awards directly from a Federal agency to carry out a Federal program;

''(18) 'single audit' means an audit, as described under section 7502(d), of a non-Federal entity that includes the entity's financial statements and Federal awards;

''(19) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, any instrumentality thereof, any multi-State, regional, or interstate entity which has governmental functions, and any Indian tribe; and

''(20) 'subrecipient' means a non-Federal entity that receives Federal awards through another non-Federal entity to carry out a Federal program, but does not include an individual who receives financial assistance through such awards.

''(b) In prescribing risk-based program selection criteria for major programs, the Director shall not require more programs to be identified as major for a particular non-Federal entity, except as prescribed under subsection (c) or as provided under subsection (d), than would be identified if the major programs were defined as any program for which total expenditures of Federal awards by the non-Federal entity during the applicable year exceed—

''(1) the larger of $30,000,000 or 0.15 percent of the non-Federal entity's total Federal expenditures, in the case of a non-Federal entity for which such total expenditures for all programs exceed $10,000,000,000;

''(2) the larger of $3,000,000, or 0.30 percent of the non-Federal entity's total Federal expenditures, in the case of a non-Federal entity for which such total expenditures for all programs exceed $100,000,000 but are less than or equal to $10,000,000,000; or

''(3) the larger of $300,000, or 3 percent of such total Federal expenditures for all programs, in the case of a non-Federal entity for which such total expenditures for all programs equal or exceed $300,000 but are less than or equal to $100,000,000.

''(c) When the total expenditures of a non-Federal entity's major programs are less than 50 percent of the non-Federal entity's total expenditures of all Federal awards (or such lower percentage as specified by the Director), the auditor shall select and test additional programs as major programs as necessary to achieve audit coverage of at least 50 percent of Federal expenditures by the non-Federal entity (or such lower percentage as specified by the Director), in accordance with guidance issued by the Director.

''(d) Loan or loan guarantee programs, as specified by the Director, shall not be subject to the application of subsection (b).

''§ 7502. Audit requirements; exemptions

''(a)(1)(A) Each non-Federal entity that expends a total amount of Federal awards equal to or in excess of $300,000 or such other amount specified by the Director under subsection (a)(3) in any fiscal year of such non-Federal entity shall have either a single audit or a program-specific audit made for such fiscal year in accordance with the requirements of this chapter.

''(B) Each such non-Federal entity that expends Federal awards under more than one Federal program shall undergo a single audit in accordance with the requirements of subsections (b) through (i) of this section and guidance issued by the Director under section 7505.

''(C) Each such non-Federal entity that expends awards under only one Federal program and is not subject to laws, regulations, or Federal award agreements that require a financial statement audit of the non-Federal entity, may elect to have a program-specific audit conducted in accordance with applicable provisions of this section and guidance issued by the Director under section 7505.

''(2)(A) Each non-Federal entity that expends a total amount of Federal awards of less than $300,000 or such other amount specified by the Director under subsection (a)(3) in any fiscal year of such entity, shall be exempt for such fiscal year from compliance with—

''(i) the audit requirements of this chapter; and

''(ii) any applicable requirements concerning financial audits contained in Federal statutes and regulations governing programs under which such Federal awards are provided to that non-Federal entity.

''(B) The provisions of subparagraph (A)(ii) of this paragraph shall not exempt a non-Federal entity from compliance with any provision of a Federal statute or regulation that requires such non-Federal entity to maintain records concerning Federal awards provided to such non-Federal entity or that permits a Federal agency, pass-through entity, or the Comptroller General access to such records.

''(3) Every 2 years, the Director shall review the amount for requiring audits prescribed under paragraph (1)(A) and may adjust such dollar amount consistent with the purposes of this chapter, provided the Director does not make such adjustments below $300,000.

''(b)(1) Except as provided in paragraphs (2) and (3), audits conducted pursuant to this chapter shall be conducted annually.

''(2) A State or local government that is required by constitution or statute, in effect on January 1, 1987, to undergo its audits less frequently than annually, is permitted to undergo its audits pursuant to this chapter biennially. Audits conducted biennially under the provisions of this paragraph shall cover both years within the biennial period.

''(3) Any nonprofit organization that had biennial audits for all biennial periods ending between July 1, 1992, and January 1, 1995, is permitted to undergo its audits pursuant to this chapter biennially. Audits conducted biennially under the provisions of this paragraph shall cover both years within the biennial period.

''(c) Each audit conducted pursuant to subsection (a) shall be conducted by an independent auditor in accordance with generally accepted government auditing standards, except that, for the purposes of this chapter, performance audits shall not be required except as authorized by the Director.

''(d) Each single audit conducted pursuant to subsection (a) for any fiscal year shall—

''(1) cover the operations of the entire non-Federal entity; or

''(2) at the option of such non-Federal entity such audit shall include a series of audits that cover departments, agencies, and other organizational units which expended or otherwise administered Federal awards during such fiscal year provided that each such audit shall encompass the financial statements and schedule of expenditures of Federal awards for each such department, agency, and organizational unit, which shall be considered to be a non-Federal entity.

''(e) The auditor shall—

''(1) determine whether the financial statements are presented fairly in all material respects in conformity with generally accepted accounting principles;

''(2) determine whether the schedule of expenditures of Federal awards is presented fairly in all material respects in relation to the financial statements taken as a whole;

''(3) with respect to internal controls pertaining to the compliance requirements for each major program—

''(A) obtain an understanding of such internal controls;

''(B) assess control risk; and

''(C) perform tests of controls unless the controls are deemed to be ineffective; and

''(4) determine whether the non-Federal entity has complied with the provisions of laws, regulations, and contracts or grants pertaining to Federal awards that have a direct and material effect on each major program.

''(f)(1) Each Federal agency which provides Federal awards to a recipient shall—

''(A) provide such recipient the program names (and any identifying numbers) from which such awards are derived, and the Federal requirements which govern the use of such awards and the requirements of this chapter; and

''(B) review the audit of a recipient as necessary to determine whether prompt and appropriate corrective action has been taken with respect to audit findings, as defined by the Director, pertaining to Federal awards provided to the recipient by the Federal agency.

''(2) Each pass-through entity shall—

''(A) provide such subrecipient the program names (and any identifying numbers) from which such assistance is derived, and the Federal requirements which govern the use of such awards and the requirements of this chapter;

''(B) monitor the subrecipient's use of Federal awards through site visits, limited scope audits, or other means;

''(C) review the audit of a subrecipient as necessary to determine whether prompt and appropriate corrective action has been taken with respect to audit findings, as defined by the Director, pertaining to Federal awards provided to the subrecipient by the pass-through entity; and

''(D) require each of its subrecipients of Federal awards to permit, as a condition of receiving Federal awards, the independent auditor of the pass-through entity to have such access to the subrecipient's records and financial statements as may be necessary for the pass-through entity to comply with this chapter.

''(g)(1) The auditor shall report on the results of any audit conducted pursuant to this section, in accordance with guidance issued by the Director.

''(2) When reporting on any single audit, the auditor shall include a summary of the auditor's results regarding the non-Federal entity's financial statements, internal controls, and compliance with laws and regulations.

''(h) The non-Federal entity shall transmit the reporting package, which shall include the non-Federal entity's financial statements, schedule of expenditures of Federal awards, corrective action plan defined under subsection (i), and auditor's reports developed pursuant to this section, to a Federal clearinghouse designated by the Director, and make it available for public inspection within the earlier of—

''(1) 30 days after receipt of the auditor's report; or

''(2)(A) for a transition period of at least 2 years after the effective date of the Single Audit Act Amendments of 1996, as established by the Director, 13 months after the end of the period audited; or

''(B) for fiscal years beginning after the period specified in subparagraph (A), 9 months after the end of the period audited, or within a longer timeframe authorized by the Federal agency, determined under criteria issued under section 7505, when the 9-month timeframe would place an undue burden on the non-Federal entity.

''(i) If an audit conducted pursuant to this section discloses any audit findings, as defined by the Director, including material noncompliance with individual compliance requirements for a major program by, or reportable conditions in the internal controls of, the non-Federal entity with respect to the matters described in subsection (e), the non-Federal entity shall submit to Federal officials designated by the Director, a plan for corrective action to eliminate such audit findings or reportable conditions or a statement describing the reasons that corrective action is not necessary. Such plan shall be consistent with the audit resolution standard promulgated by the Comptroller General (as part of the standards for internal controls in the Federal Government) pursuant to section 3512(c).

''(j) The Director may authorize pilot projects to test alternative methods of achieving the purposes of this chapter. Such pilot projects may begin only after consultation with the Chair and Ranking Minority Member of the Committee on Governmental Affairs of the Senate and the Chair and Ranking Minority Member of the Committee on Government Reform and Oversight of the House of Representatives.

''§ 7503. Relation to other audit requirements

''(a) An audit conducted in accordance with this chapter shall be in lieu of any financial audit of Federal awards which a non-Federal entity is required to undergo under any other Federal law or regulation. To the extent that such audit provides a Federal agency with the information it requires to carry out its responsibilities under Federal law or regulation, a Federal agency shall rely upon and use that information.

''(b) Notwithstanding subsection (a), a Federal agency may conduct or arrange for additional audits which are necessary to carry out its responsibilities under Federal law or regulation. The provisions of this chapter do not authorize any non-Federal entity (or subrecipient thereof) to constrain, in any manner, such agency from carrying out or arranging for such additional audits, except that the Federal agency shall plan such audits to not be duplicative of other audits of Federal awards.

''(c) The provisions of this chapter do not limit the authority of Federal agencies to conduct, or arrange for the conduct of, audits and evaluations of Federal awards, nor limit the authority of any Federal agency Inspector General or other Federal official.

''(d) Subsection (a) shall apply to a non-Federal entity which undergoes an audit in accordance with this chapter even though it is not required by section 7502(a) to have such an audit.

''(e) A Federal agency that provides Federal awards and conducts or arranges for audits of non-Federal entities receiving such awards that are in addition to the audits of non-Federal entities conducted pursuant to this chapter shall, consistent with other applicable law, arrange for funding the full cost of such additional audits. Any such additional audits shall be coordinated with the Federal agency determined under criteria issued under section 7504 to preclude duplication of the audits conducted pursuant to this chapter or other additional audits.

''(f) Upon request by a Federal agency or the Comptroller General, any independent auditor conducting an audit pursuant to this chapter shall make the auditor's working papers available to the Federal agency or the Comptroller General as part of a quality review, to resolve audit findings, or to carry out oversight responsibilities consistent with the purposes of this chapter. Such access to auditor's working papers shall include the right to obtain copies.

''§ 7504. Federal agency responsibilities and relations with non-Federal entities

''(a) Each Federal agency shall, in accordance with guidance issued by the Director under section 7505, with regard to Federal awards provided by the agency—

''(1) monitor non-Federal entity use of Federal awards, and

''(2) assess the quality of audits conducted under this chapter for audits of entities for which the agency is the single Federal agency determined under subsection (b).

''(b) Each non-Federal entity shall have a single Federal agency, determined in accordance with criteria established by the Director, to provide the non-Federal entity with technical assistance and assist with implementation of this chapter.

''(c) The Director shall designate a Federal clearinghouse to—

''(1) receive copies of all reporting packages developed in accordance with this chapter;

''(2) identify recipients that expend $300,000 or more in Federal awards or such other amount specified by the Director under section 7502(a)(3) during the recipient's fiscal year but did not undergo an audit in accordance with this chapter; and

''(3) perform analyses to assist the Director in carrying out responsibilities under this chapter.

''§ 7505. Regulations

''(a) The Director, after consultation with the Comptroller General, and appropriate officials from Federal, State, and local governments and nonprofit organizations shall prescribe guidance to implement this chapter. Each Federal agency shall promulgate such amendments to its regulations as may be necessary to conform such regulations to the requirements of this chapter and of such guidance.

''(b)(1) The guidance prescribed pursuant to subsection (a) shall include criteria for determining the appropriate charges to Federal awards for the cost of audits. Such criteria shall prohibit a non-Federal entity from charging to any Federal awards—

''(A) the cost of any audit which is—

''(i) not conducted in accordance with this chapter; or

''(ii) conducted in accordance with this chapter when expenditures of Federal awards are less than amounts cited in section 7502(a)(1)(A) or specified by the Director under section 7502(a)(3), except that the Director may allow the cost of limited scope audits to monitor subrecipients in accordance with section 7502(f)(2)(B); and

''(B) more than a reasonably proportionate share of the cost of any such audit that is conducted in accordance with this chapter.

''(2) The criteria prescribed pursuant to paragraph (1) shall not, in the absence of documentation demonstrating a higher actual cost, permit the percentage of the cost of audits performed pursuant to this chapter charged to Federal awards, to exceed the ratio of total Federal awards expended by such non-Federal entity during the applicable fiscal year or years, to such non-Federal entity's total expenditures during such fiscal year or years.

''(c) Such guidance shall include such provisions as may be necessary to ensure that small business concerns owned and controlled by socially and economically disadvantaged individuals will have the opportunity to participate in the performance of contracts awarded to fulfill the audit requirements of this chapter.

''§ 7506. Monitoring responsibilities of the Comptroller General

''(a) The Comptroller General shall review provisions requiring financial audits of non-Federal entities that receive Federal awards that are contained in bills and resolutions reported by the committees of the Senate and the House of Representatives.

''(b) If the Comptroller General determines that a bill or resolution contains provisions that are inconsistent with the requirements of this chapter, the Comptroller General shall, at the earliest practicable date, notify in writing—

''(1) the committee that reported such bill or resolution; and

''(2)(A) the Committee on Governmental Affairs of the Senate (in the case of a bill or resolution reported by a committee of the Senate); or

''(B) the Committee on Government Reform and Oversight of the House of Representatives (in the case of a bill or resolution reported by a committee of the House of Representatives).

''§ 7507. Effective date

''This chapter shall apply to any non-Federal entity with respect to any of its fiscal years which begin after June 30, 1996.''.

SEC. 3. TRANSITIONAL APPLICATION.

Subject to section 7507 of title 31, United States Code (as amended by section 2 of this Act) the provisions of chapter 75 of such title (before amendment by section 2 of this Act) shall continue to apply to any State or local government with respect to any of its fiscal years beginning before July 1, 1996.

SINGLE AUDIT ACT AMENDMENTS OF 1996

This bill amends the Single Audit Act of 1984 (P.L. 98–502). The 1984 Act replaced multiple grant-by-grant audits with an annual entity-wide audit process for State and local governments that receive Federal assistance. The new bill would broaden the scope of the Act to cover universities and other nonprofit organizations, as well. It would also streamline the process. Thus, the bill would improve accountability for hundreds of billions of dollars of Federal assistance, while also reducing auditing and paperwork burdens on grant recipients.

The bill was developed on the basis of GAO review of implementation of the Single Audit Act ''*Single Audit: Refinements Can Improve Usefulness*,'' GAO/AIMD–94–133, June 21, 1994). Major stakeholders in the single audit process were consulted during the drafting process. Support for the bill was confirmed at a December 14, 1995, hearing of the Senate Committee on Governmental Affairs.

The 10 years' experience under the 1984 Act demonstrated that the single audit concept promotes accountability over Federal Assistance and prompts related financial management improvements by covered entities. Experience also showed, however, that process can be strengthened. This bill would (1) improve audit coverage of federal assistance, (2) reduce Federal burden on non-Federal entities, (3) improve audit effectiveness, (4) improve single audit reporting, and (5) increase administrative flexibility.

IMPROVE AUDIT COVERAGE

The bill would improve audit coverage of Federal assistance by including in the single audit process all State and local governments and nonprofit organizations that receive Federal assistance. Currently, the Act only applies to State and local governments. Nonprofit organizations are subject administratively to single audits under OMB Circular A–133, ''Audits of Institutions of Higher Education and Other Nonprofit Organizations.'' –Including nonprofit organizations under the Act would result in a common set of single audit requirements for Federal assistance.

REDUCE FEDERAL BURDEN

The bill would simultaneously reduce Federal burdens on thousands of State and local governments and nonprofits, and ensure audit coverage over the vast majority of Federal assistance provided to those organizations. It would do so by raising the dollar threshold for requiring a single audit from $100,000 to $300,000. While this would relieve many grantees of Federal single audit mandates, GAO estimated that a $300,000 threshold would cover, for example, 95% of direct Federal assistance to local governments. This is commensurate with the coverage provided at the $100,000 threshold when the Act was passed in 1984. Thus, exempting thousands of entities from single audits would reduce audit and paperwork burdens, but not significantly diminish the percentage of Federal assistance covered by single audits.

IMPROVE AUDIT EFFECTIVENESS

The bill would improve audit effectiveness by directing audit resources to the areas of greatest risk. Currently, auditors must perform audit testing on the largest—but not necessarily the riskiest—programs that an entity operates. The bill would require auditors to assess the risk of the programs an entity operates and select the riskiest programs for testing. As the President of the National State Auditors Association said, ''It makes good economic sense to concentrate audits where increased corrective action and recoveries are likely to result.''

IMPROVE SINGLE AUDIT REPORTING

The bill would greatly improve the usefulness of single audit reports by requiring auditors to provide a summary of audit results. The reports would also be due sooner—9 months after the year-end rather than the current 13 months. Interpretations of current rules lead auditors to include 7 or more separate reports in each single audit report. Such a large number of reports tends to confuse rather than inform users. A summary of the audit results would highlight important information and thus enable users to quickly discern the overall results of an audit. Federal managers surveyed by GAO overwhelmingly support the summary reporting and faster submission of reports.

INCREASE ADMINISTRATIVE FLEXIBILITY

The bill would enable the single audit process to evolve with changing circumstances. For example, rather than lock specific dollar amount audit thresholds into law, OMB would have the authority to periodically revise the audit threshold above the new $300,000 threshold. OMB also could revise criteria for selecting programs for audit testing. By giving OMB such authority, specific requirements within the single audit process could be revised administratively to reflect changing circumstances that affect accountability for Federal financial assistance.

CONCLUSION: GOOD GOVERNMENT REFORM

Developed by GAO and endorsed by the National State Auditors Association, the Single Audit Act Amendments of 1996 represents consensus good government legislation that will improve accountability over Federal funds and reduce burdens on State and local governments and nonprofit organizations.

NATIONAL STATE
AUDITORS ASSOCIATION,
Baltimore, MD, January 29, 1996.

Hon. JOHN GLENN,
Ranking Minority Member, Committee on Governmental Affairs, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR GLENN: The National State Auditors Association has voted unanimously to support the proposed bill to amend the Single Audit Act of 1984. My state audit colleagues and I believe that the proposed legislation is an excellent measure that deserves to be passed into law as soon as possible.

The Single Audit Act amendments provide a unique opportunity to address the needs of federal, state and local government auditors and program managers. The original act is over 10 years old and the amendments address many of the changes that have occurred over the years in the auditing profession and in government financial management. The bill is the result of open and constructive dialog along the stakeholders. Over the last several months, we have worked closely with congressional staff as well as representatives of the General Accounting Office and the Office of Management and Budget. As currently drafted, the bill provides needed improvements to financial accountability over federal grant funds.

While there are several excellent provisions in the amended act, two are particularly noteworthy. First, the minimum threshold of receipts requiring any entity to have a single audit performed is raised in the bill to $300,000. Similarly, the thresholds for larger recipients are also adjusted. These modifications will relieve many state and local governments of unnecessary federal mandates and generate savings of audit costs. Second, the amendments allow federal and state governments to focus audit resources on ''high-risk'' grants where the potential for savings is the greatest. It makes good economic sense to concentrate audits where increased corrective action and recoveries are likely to result.

In summary, the National State Auditors Association is pleased to fully support the amendments to the Single Audit Act of 1984 and assist you in any way possible to facilitate its passage this year.

Sincerely,

ANTHONY VERDECCHIA,
President.

By Mr. KYL (for himself, Mr. COVERDELL, Mr. CRAIG, Mr. FAIRCLOTH, Mr. GRAMS, Mr. INHOFE, Mr. KEMPTHORNE, Mr. LOTT, Mr. MCCAIN, Mr. PRESSLER, Mr. SANTORUM, Mr. SHELBY, Mr. SMITH, Mr. THOMAS, and Mr. THOMPSON):

S.J. Res. 49. A joint resolution proposing an amendment to the Constitution of the United States to require two-thirds majorities for bills increasing taxes; to the Committee on the Judiciary.

TAX LIMITATION CONSTITUTIONAL AMENDMENT

• Mr. KYL. Mr. President, during the next 8 weeks, millions of Americans will file their income tax returns. According to estimates by the Internal Revenue Service, individuals will have spent about 1.7 billion hours on tax-related paperwork by the time their returns are completed. Businesses will spend another 3.4 billion hours. The Tax Foundation estimates that the cost of compliance will approach $200 billion.

Mr. President, if that is not evidence that our Tax Code is one of the most inefficient and wasteful ever created, I do not know what is. Money and effort that could have been put to productive use solving problems in our communities, putting Americans to work, putting food on the table, or investing in the Nation's future are instead devoted to convoluted paperwork.

It is no wonder that the American people are frustrated and angry, and that they are demanding radical change in the way their Government taxes and spends. It is no wonder that tax reform has become one of the major issues of this year's Presidential campaign.

Mr. President, today I am introducing a resolution with more than a dozen of my colleagues that represents the first concrete step toward comprehensive tax reform. The resolution, which we call the tax limitation amendment, would establish a constitutional requirement for a two-thirds majority vote in each House of Congress for the approval of tax-rate increases.

A companion resolution, House Joint Resolution 159, was introduced in the House of Representatives on February 1 by Congressman JOE BARTON of Texas and 155 other House Members.

The two-thirds supermajority that we have proposed was among the recommendations of the National Commission on Economic Growth and Tax Reform, appointed by Majority Leader BOB DOLE and Speaker GINGRICH. The Commission, chaired by former HUD Secretary Jack Kemp, advocated a supermajority requirement in its recent report on how to achieve a simpler, single-rate tax to replace the existing maze of tax rates, deductions, exemptions, and credits that makes up the Federal income tax as we know it today.

Here are the words of the Commission:

The roller-coaster ride of tax policy in the past few decades has fed citizens' cynicism about the possibility of real, long-term reform, while fueling frustration with Washington. The initial optimism inspired by the low rates of the 1986 Tax Reform Act soured into disillusionment and anger when taxes subsequently were hiked two times in less than seven years. The commission believes that a two-thirds super-majority vote of Congress will earn Americans' confidence in the longevity, predictability, and stability of any new tax system.

Mr. President, in the 10 years since the last attempt at comprehensive tax reform, Congress and the President have made some 4,000 amendments to the Tax Code. Four thousand amendments. That means that taxpayers have never been able to plan for the future with any certainty about the tax consequences of the decisions they make. They are left wondering whether saving money for a child's education today will result in an additional tax burden tomorrow. They can never be sure that if they make an investment, the capital gains tax will not be increased when they are ready to sell. Rules are changed in the middle of the game, and in some cases, the rules have been changed even after the game is over. President Clinton's tax increase in 1993 retroactively raised taxes on many Americans, including some who had died.

The volatility of the Tax Code is not new. You will recall that the income tax was established in 1913 with a top rate of 7 percent; fewer than 2 percent of American families were even required to file a tax return. Just 3 years later, on the eve of the First World War, the top rate soared to 67 percent. By the Second World War, the top rate had risen again—to 94 percent—and it remained in that range through the 1950's. Of course, by that time, the tax had been expanded to cover almost every working American.

Ten years ago, President Reagan succeeded in reducing the number of tax rates to just two—15 percent and 28 percent. But it was not long before additional rates were established, and taxes were raised again under the Clinton administration.

The tax limitation amendment would put an end to the roller coaster ride of tax policy that has so bedeviled hardworking Americans. And it guarantees more than stability and predictability. It will also ensure that taxes cannot be raised—whether we ultimately adopt a single-rate tax as the Kemp commission has proposed, a national sales tax as Senator LUGAR has proposed, or some alternative—unless there is sufficient consensus and strong bipartisan support in Congress and around the country.

Mr. President, the last tax increase to have cleared the Congress was proposed by President Clinton in 1993, and you will remember that it was the largest tax increase in history.

I was serving in the House of Representatives at the time. It seemed to me that most Americans strongly opposed the plan. The calls, letters, and faxes from my constituents in Arizona ran about 10 to 1 in opposition to the President's tax plan. There was a lot of opposition in Congress, too. The opposition was bipartisan—Republicans and Democrats. Unfortunately, the President was able to hold onto enough members of his own party in the House to pass it there, but only with partisan Democrat support.

The story was different in the Senate. Not more than 50 Senators were willing to support the largest tax increase in history. A measure would normally fail on a tie vote—in this case, 50 to 50. The reason the tax increase passed was that the Vice President, as in the case of any tie in the Senate, had the right to cast the deciding vote. That is his right under the Constitution. The tax bill was not passed improperly, but it is notable that the largest tax increase in history managed to become law without the support of a majority of the people's elected Senators. To me, that is a travesty.

The tax increase of 1990—the next largest in history after the 1993 law—passed with a majority of 54 percent in the Senate and 53 percent in the House. That was only slightly better. Yet given the size of the increase and the burden it placed on the American economy, it seems to me that there should have been greater consensus to pass it, too. Taxing away people's hard-earned income is an extraordinary event—or at least it should be. However, in Washington, it has become routine.

A two-thirds majority vote is, as George Will put it, ''one way of building into democratic decisionmaking a measurement of intensity of feeling as well as mere numbers.'' He noted that supermajority requirements are a device for assigning special importance to certain matters, and maybe taxation should be one of them.

The last two tax increases were passed without much intensity of feeling at all—without any real consensus that a majority of Americans supported them.

Some people might say, fine, there should be consensus, but ours is a government of majority rule. I would respond by noting that supermajority requirements are not new to the Constitution. Two-thirds votes are required for the approval of treaties, for conviction in an impeachment proceeding, for expulsion of a member from either body, for proposed constitutional amendments, and for certain other actions.

If it is appropriate to require a two-thirds vote to ratify a compact with a foreign country, it seems to me that it is certainly appropriate to require a two-thirds vote to approve a compact with our own citizens that requires them to turn over a greater share of what is theirs to the Government.

I want to quote briefly from one of our Founding Fathers, James Madison. He was, of course, a strong supporter of majority rule. Yet he argued eloquently that the greatest threat to liberty in a republic would come from unrestrained majority rule. This is what he said in ''Federalist No. 51'':

It is of great importance in a republic not only to guard the society against the oppression of its rulers, but to guard one part of the society against the injustice of the other part.

If Madison were here today, I believe he would conclude, first of all, that the Tax Code is oppressive to our people. Americans never paid an income tax until early in this century. By 1948, the average American family paid only about 3 percent of its income to the Federal Government. The average family now sends about 25 percent of its income to Washington. Add State and local taxes to the mix, and the burden approaches 40 percent. That is oppression.

Note that Madison also warned, in the quotation I just read, about pitting one part of America against the rest of the country. That is happening here as well. Certain segments of our society—some call them special interests—have learned in recent years how to feed at the public trough while spreading the cost among all taxpayers. This cost-shifting has left the country with a debt that is $4.9 trillion and growing. Our Founding Fathers could never have imagined such profligacy, or I believe they would have imposed constitutional limits on taxing and spending at the very start of the Republic.

If you are interested in lobbying reform, I will tell you this: a two-thirds requirement for tax changes would probably do more to curtail lobbying for special breaks than just about anything else we could do. Since every tax break must be offset with a tax increase on someone else to ensure revenue neutrality—and the second part of the equation, remember, would be out of reach without massive political support—the two-thirds requirement would make it virtually impossible for special interests to gain special advantage in the Tax Code.

Confidence. Stability. Predictability. These are things that a two-thirds supermajority would bring to the Tax

Code. Combine this with comprehensive tax reform that is aimed at simplifying the law and minimizing people's tax burden, and we could see an explosion of economic growth and opportunity unmatched in this country for many years.

Mr. President, I invite my colleagues to join me in supporting the tax limitation amendment.

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

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

S.J. RES. 49

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission by the Congress:

''ARTICLE—

''SECTION 1. Any bill to levy a new tax or increase the rate or base of any tax may pass only by a two-thirds majority of the whole number of each House of Congress.

''SECTION 2. The Congress may waive section 1 when a declaration of war is in effect. The Congress may also waive section 1 when the United States is engaged in military conflict which causes an imminent and serious threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law. Any provision of law which would, standing alone, be subject to section 1 but for this section and which becomes law pursuant to such a waiver shall be effective for not longer than 2 years.

''SECTION 3. All votes taken by the House of Representatives or the Senate under this article shall be determined by yeas and nays and the names of persons voting for and against shall be entered on the Journal of each House respectively.''.●

ADDITIONAL COSPONSORS

S. 50

At the request of Mr. KYL, the name of the Senator from North Carolina [Mr. FAIRCLOTH] was added as a cosponsor of S. 50, a bill to repeal the increase in tax on social security benefits.

S. 356

At the request of Mr. SHELBY, the name of the Senator from Wyoming [Mr. THOMAS] was added as a cosponsor of S. 356, a bill to amend title 4, United States Code, to declare English as the official language of the Government of the United States.

S. 673

At the request of Mrs. KASSEBAUM, the name of the Senator from Texas [Mrs. HUTCHISON] was added as a cosponsor of S. 673, a bill to establish a youth development grant program, and for other purposes.

S. 794

At the request of Mr. LUGAR, the names of the Senator from Nebraska [Mr. EXON] and the Senator from Louisiana [Mr. BREAUX] were added as cosponsors of S. 794, a bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to facilitate the minor use of a pesticide, and for other purposes.

S. 948

At the request of Mr. DORGAN, the names of the Senator from Mississippi [Mr. COCHRAN], the Senator from Ohio [Mr. DEWINE], and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of S. 948, a bill to encourage organ donation through the inclusion of an organ donation card with individual income refund payments, and for other purposes.

S. 984

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

S. 1028

At the request of Mrs. KASSEBAUM, the names of the Senator from California [Mrs. FEINSTEIN], the Senator from Wisconsin [Mr. FEINGOLD], and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of S. 1028, a bill to provide increased access to health care benefits, to provide increased portability of health care benefits, to provide increased security of health care benefits, to increase the purchasing power of individuals and small employers, and for other purposes.

S. 1271

At the request of Mr. CRAIG, the name of the Senator from Georgia [Mr. COVERDELL] was added as a cosponsor of S. 1271, a bill to amend the Nuclear Waste Policy Act of 1982.

S. 1317

At the request of Mr. D'AMATO, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 1317, a bill to repeal the Public Utility Holding Company Act of 1935, to enact the Public Utility Holding Company Act of 1995, and for other purposes.

S. 1370

At the request of Mr. CRAIG, the name of the Senator from Utah [Mr. BENNETT] was added as a cosponsor of S. 1370, a bill to amend title 10, United States Code, to prohibit the imposition of any requirement for a member of the Armed Forces of the United States to wear indicia or insignia of the United Nations as part of the military uniform of the member.

S. 1379

At the request of Mr. SIMPSON, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 1379, a bill to make technical amendments to the Fair Debt Collection Practices Act, and for other purposes.

S. 1397

At the request of Mr. KYL, the name of the Senator from Texas [Mrs. HUTCHISON] was added as a cosponsor of S. 1397, a bill to provide for State control over fair housing matters, and for other purposes.

S. 1423

At the request of Mr. GREGG, the names of the Senator from North Carolina [Mr. FAIRCLOTH], the Senator from Indiana [Mr. COATS], and the Senator from Missouri [Mr. BOND] were added as cosponsors of S. 1423, a bill to amend the Occupational Safety and Health Act of 1970 to make modifications to certain provisions, and for other purposes.

S. 1481

At the request of Mr. HATCH, the names of the Senator from New York [Mr. D'AMATO] and the Senator from Mississippi [Mr. LOTT] were added as cosponsors of S. 1481, a bill to amend the Internal Revenue Code of 1986 to provide for the nonrecognition of gain for sale of stock to certain farmers' cooperatives, and for other purposes.

S. 1483

At the request of Mr. KYL, the names of the Senator from Wyoming [Mr. SIMPSON], the Senator from Iowa [Mr. GRASSLEY], the Senator from Mississippi [Mr. LOTT], the Senator from New York [Mr. D'AMATO], the Senator from Arizona [Mr. MCCAIN], the Senator from Pennsylvania [Mr. SANTORUM], the Senator from Maine [Ms. SNOWE], the Senator from Oklahoma [Mr. NICKLES], the Senator from Georgia [Mr. COVERDELL], the Senator from Idaho [Mr. CRAIG], the Senator from Colorado [Mr. CAMPBELL], the Senator from Alabama [Mr. SHELBY], and the Senator from North Carolina [Mr. FAIRCLOTH] were added as cosponsors of S. 1483, a bill to control crime, and for other purposes.

S. 1491

At the request of Mr. HEFLIN, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 1491, a bill to reform antimicrobial pesticide registration, and for other purposes.

At the request of Mr. GRAMS, the name of the Senator from Texas [Mrs. HUTCHISON] was added as a cosponsor of S. 1491, supra.

S. 1505

At the request of Mr. LOTT, the names of the Senator from Montana [Mr. BURNS], the Senator from Alabama [Mr. SHELBY], the Senator from Hawaii [Mr. INOUYE], and the Senator from Kentucky [Mr. FORD] were added as cosponsors of S. 1505, a bill to reduce risk to public safety and the environment associated with pipeline transportation of natural gas and hazardous liquids, and for other purposes.

S. 1547

At the request of Mr. D'AMATO, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 1547, a bill to limit the provision of assistance to the Government of Mexico using the exchange stabilization fund established pursuant to section 5302 of title 31, United States Code, and for other purposes.

S. 1553

At the request of Mr. MCCAIN, the names of the Senator from Florida [Mr.