S. 1375. A bill to promote energy conservation investments in Federal facilities, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. AKAKA (for himself and Mr. INOUYE):

S. 1376. A bill to increase the Federal medical assistance percentage for Hawaii to 59.8 percent; to the Committee on Finance.

By Mr. HATCH (for himself, Mr. LEAHY, and Mr. DASCHLE):

S. 1377. A bill to amend the Act incorporating the American Legion to make a technical correction; considered and passed.

By Mr. WARNER:

S. 1378. A bill to extend the authorization of use of official mail in the location and recovery of missing children, and for other purposes; considered and passed.

By Mr. DEWINE (for himself, Mr. MOYNIHAN, Mr. HATCH, Mr. D'AMATO, Mr. DODD, Mr. KOHL, Mr. COVERDELL, Mr. KENNEDY, Mr. INOUYE, Mr. LIEBERMAN, Ms. SNOWE, Mr. HUTCHINSON, Mr. THURMOND, Mr. MCCAIN, Mr. SHELBY, Mr. CAMPBELL, and Mr. WYDEN):

S. 1379. A bill to amend section 552 of title 5, United States Code, and the National Security Act of 1947 to require disclosure under the Freedom of Information Act regarding certain persons, disclose Nazi war criminal records without impairing any investigation or prosecution conducted by the Department of Justice or certain intelligence matters, and for other purposes; to the Committee on the Judiciary.

By Mr. COATS (for himself, Mr. LIEBERMAN, Mr. D'AMATO, and Mr. KERREY):

S. 1380. A bill to amend the Elementary and Secondary Education Act of 1965 regarding charter schools; to the Committee on Labor and Human Resources.

By Mr. NICKLES:

S. 1381. A bill to direct the Secretary of the Army to convey lands acquired for the Candy Lake project, Osage County, Oklahoma; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. WARNER (for himself and Mr. FORD):

S. Res. 143. A resolution to authorize the printing of a revised edition of the Senate Election Law Guidebook; considered and agreed to.

S. Con. Res. 61. A concurrent resolution authorizing printing of a revised edition of the publication entitled ''Our Flag''; considered and agreed to.

S. Con. Res. 62. A concurrent resolution authorizing printing of the brochure entitled ''How Our Laws Are Made''; considered and agreed to.

S. Con. Res. 63. A concurrent resolution authorizing printing of the pamphlet entitled ''The Constitution of the United States of America''; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. MIKULSKI (for herself, Ms. SNOWE, Mr. LOTT, Mr. SARBANES, Mr. COCHRAN, Mr. GLENN, Mr. D'AMATO, Mr. HOLLINGS, Mr. HUTCHINSON, Ms. MOSELEY-BRAUN, Mr. INOUYE, Mr. FORD, and Ms. COLLINS):

S. 1370. A bill to amend title II of the Social Security Act to provide that a monthly insurance benefit thereunder shall be paid for the month in which the recipient dies, subject to a reduction of 50 percent if the recipient dies, during the first 15 days of such month, and for other purposes; to the Committee on Finance.

THE SOCIAL SECURITY FAMILY PROTECTION ACT

Ms. MIKULSKI. Mr. President, today, I rise to talk about an issue that is very important to me, very important to my constituents in Maryland and very important to the people of the United States of America.

For the second Congress in a row, I am joining in a bipartisan effort with my friend and colleague, Senator OLYMPIA SNOWE, to end an unfair policy of the Social Security System.

Senator SNOWE and I are introducing the Social Security Family Protection Act. This bill addresses retirement security and family security. We want the middle class of this Nation to know that we are going to give help to those who practice self-help.

What is it I am talking about? We have found that Social Security does not pay benefits for the last month of life. If a Social Security retiree dies on the 18th of the month or even on the 30th of the month, the surviving spouse or family members must send back the Social Security check for that month.

I think that is an harsh and heartless rule. That individual worked for Social Security benefits, earned those benefits, and paid into the Social Security trust fund. The system should allow the surviving spouse or the estate of the family to use that Social Security check for the last month of life.

This legislation has an urgency, Mr. President. When a loved one dies, there are expenses that the family must take care of. People have called my office in tears. Very often it is a son or a daughter that is grieving the death of a parent. They are clearing up the paperwork for their mom or dad, and there is the Social Security check. And they say, ''Senator, the check says for the month of May. Mom died on May 28. Why do we have to send the Social Security check back? We have bills to pay. We have utility coverage that we need to wrap up, mom's rent, or her mortgage, or health expenses. Why is Social Security telling me, 'Send the check back or we're going to come and get you'?''

With all the problems in our country today, we ought to be going after drug dealers and tax dodgers, not honest people who have paid into Social Security, and not the surviving spouse or the family who have been left with the bills for the last month of their loved one's life. They are absolutely right when they call me and say that Social Security was supposed to be there for them.

I've listened to my constituents and to the stories of their lives. What they say is this: ''Senator MIKULSKI, we don't want anything for free. But our family does want what our parents worked for. We do want what we feel we deserve and what has been paid for in the trust fund in our loved one's name. Please make sure that our family gets the Social Security check for the last month of our life.''

That is what our bill is going to do. That is why Senator SNOWE and I are introducing the Family Social Security Protection Act. When we talk about retirement security, the most important part of that is income security. And the safety net for most Americans is Social Security.

We know that as Senators we have to make sure that Social Security remains solvent, and we are working to do that. We also don't want to create an undue administrative burden at the Social Security Administration—a burden that might affect today's retirees. But it is absolutely crucial that we provide a Social Security check for the last month of life.

How do we propose to do that? We have a very simple, straightforward way of dealing with this problem. Our legislation says that if you die before the 15th of the month, you will get a check for half the month. If you die after the 15th of the month, your surviving spouse or the family estate would get a check for the full month.

We think this bill is fundamentally fair. Senator SNOWE and I are old-fashioned in our belief in family values. We believe you honor your father and your mother. We believe that it is not only a good religious and moral principle, but it is good public policy as well.

The way to honor your father and mother is to have a strong Social Security System and to make sure the system is fair in every way. That means fair for the retiree and fair for the spouse and family. That is why we support making sure that the surviving spouse or family can keep the Social Security check for the last month of life.

Mr. President, we urge our colleagues to join us in this effort and support the Social Security Family Protection Act.

Ms. SNOWE. Mr. President, I am pleased to join my colleague and friend, the Senator from Maryland, Senator MIKULSKI, in introducing legislation to correct an inequity that exists in our Social Security system.

Currently, when a Social Security beneficiary dies, his or her last monthly benefit check must be returned to the Social Security Administration. This provision often causes problems for the surviving family members because they are unable to financially subsidize the expenses accrued by the late beneficiary in their last month of life. The bill we are introducing today is based on legislation I have introduced during the last four Congresses. My original legislation prorated the Social Security benefit based on the date of death. If the beneficiary died before the 15th, the surviving spouse received 50 percent of the benefit, if the beneficiary died after the 15th, the surviving spouse received the entire

check. The bill Senator MIKULSKI and I are introducing today expands on this bill by making other family members eligible to receive the check if there is not a surviving spouse.

Current law makes an inappropriate assumption that a beneficiary has not incurred expenses during his or her last month of life. I know that my colleagues have heard, as have Senator MIKULSKI and I, from constituents who have lost a husband or wife, father or mother, toward the end of the month, received the Social Security check and spent all or part of it to pay the bills, only to receive a notice from Social Security that the check must be returned. For many of these people, that check was the only income they had and they are left struggling to find the money to pay back the Social Security Administration and pay the rest of the expense their family member incurred in their last month.

I would like to read a part of a letter I received from a constituent about the experience of his family when his brother-in-law died. This letter, along with Senator MIKULSKI's own experience when she lost a loved one, serves to highlight why this bill is necessary.

On February 29, 1996, at 9:20 p.m. he passed away. . . . he was alive for 99.99617% of the month missing a full month by 0.0038314%. With this evidence in hand, the SSA then decided that his check for the month of Feburary had to be returned to them. Unfortunately, his debts for the month didn't disappear just because he failed to live the extra 0.0038315% of the month. . . . it would be nice to see some kind of pro-rating system put into place for the rest of the people who are going to encounter this ghoulish practice.

I know that my colleagues have all received letters like this. For many of these people, that Social Security check is the only financial resource available to deal with the costs incurred during their loved one's last day of life. Without it, they are left struggling to find the money to pay back the Social Security Administration.

I believe that this legislation provides a fair solution to an unfair situation and I hope my colleagues will join un in supporting this bill.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 1372. A bill to provide for the protection of farmland at the Point Reyes National Seashore, and for other purposes; to the Committee on Energy and Natural Resources.

THE POINT REYES NATIONAL SEASHORE FARMLAND PROTECTION ACT OF 1997

Mrs. BOXER. As with many of our national parks, monuments, and other protected treasures, the character and beauty of the Point Reyes National Seashore are threatened—not by development or environmental degradation within the national seashore—but by proposed development outside the boundary line over which the Park Service has no control.

The Point Reyes National Seashore Farmland Protection Act of 1997, which I am introducing today, is an innovative proposal which will ensure that the ecological integrity of the Point Reyes National Seashore is protected for future generations, while also preserving the property rights and historic agricultural use of the farmland in the area.

The legislation establishes a Farmland Protection Area adjacent to the Point Reyes National Seashore within which willing farmers and ranchers will have the opportunity to sell conservation easements for their land. The Farmland Protection Area includes 38,000 acres of the eastern shore of Tomales Bay visible from within Point Reyes. Property owners within that area will be available, but not required, to sell conservation easements to their land.

Conservation easements are legal agreements between a land-owner and a land trust, non-profit, conservation organization. The conservation easements restrict development on the land which is incompatible with the agricultural uses of the land. The easements would not expand public access, pesticide regulations, or hunting rights. Furthermore, the easements will remain with the land in perpetuity providing security for ranchers as well as continued protection for the national seashore.

The easements will allow existing agricultural activities to continue and will preserve the pastoral nature of the land adjacent to Point Reyes National Seashore and the Golden Gate National Recreation Areas by guaranteeing no new development.

This bill will not allow the Secretary to acquire land without the consent of the owner.

I believe this legislation will become a model for land conservation across the Nation as Governments lack the funds to purchase fee title to protect valuable properties from development. This approach may be used to address similar problems at other parks, wildlife refuges, and marine sanctuaries by preserving compatible land use areas that protect view sheds and prevent environmental damage.

This legislation will allow the National Park Service, working with the Marin Agricultural Land Trust [MALT], the Sonoma Land Trust [SLT], and the Sonoma County Agricultural Preservation and Open Space District [SCAPOSD] to protect this beautiful area at a fraction of the cost of acquiring title to the properties within the new boundaries. In addition, those properties would be maintained on Marin County's tax rolls.

Without this legislation, almost 40,000 acres of scenic ranch land will be vulnerable to development. This bill has the strong support of the local farmers and ranchers within the area to be protected, local environmental groups including the Marin Conservation League, effected local governments and the local chamber of commerce.

I commend Congresswoman LYNN WOOLSEY for her hard work and dedication to the House companion legislation. She has been working closely with interested parties in an effort to find this innovative approach to conservation which benefits ranchers, environmentalists, the county, and the Park Service alike.

Last week, the House Resources Committee National Parks and Public Lands Subcommittee held a hearing on this legislation. In that hearing, concerns were raised over the Department of Interior's involvement in the conservation easements and the creation of a boundary around private agricultural lands.

While I understand that the National Park Service is not usually involved in agricultural conservation easements I believe it is the most suitable agency in this case. The United States Department of Agriculture [USDA] does have a program whereby ranchers can sell conservation easements. These farmlands may not be critical agricultural lands at a national level, but they are critical to the Nation's investment in the Point Reyes National Seashore. A simple increase in funding for USDA's Farmland Protection Program would not ensure any new funding for the Farmland Protection Area.

That also leads to the need for a boundary. While I believe it would be beneficial to authorize conservation easements for the entire agricultural area, we must first concentrate on the most critical lands. The boundary will ensure that the funding is used on these critical lands—lands closest to the national park which the Federal Government has the most interest in protecting.

Currently, there are 18 operating ranches within the existing Point Reyes National Seashore. It is my understanding that these ranchers are pleased with their relationship with the National Park Service. All the landowners who wanted to continue ranching when the Point Reyes National Seashore was formed are still operating ranches. In fact, every single rancher has signed a statement affirming their satisfaction with the continuing cooperation and support they receive from the National Park Service as they continue their ranching operations.

This legislation creates a completely voluntary program. Landowners who wish to sell their land to developers, continue to have that right. While I don't encourage such actions, this legislation does nothing to impede it. We have an opportunity here to take an important step toward protecting farmers and enhancing a national park. It is not often that we have such an occasion where often competing interests can co-exist. This legislation provides that opening. I encourage my colleagues to support this legislation and I am hopeful that we can pass it quickly.

I ask unanimous consent that the full text of the legislation be printed in the RECORD.

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

S. 1372

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 ''Point Reyes National Seashore Farmland Protection Act of 1997''.

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to protect the pastoral nature of the land adjacent to the Point Reyes National Seashore from development that would be incompatible with the character, integrity, and visitor experience of the park;

(2) to create a model public/private partnership among the Federal, State, and local governments, and as organizations and citizens that will preserve and enhance the agricultural land along Tomales and Bodega Bay Watersheds;

(3) to protect the substantial Federal investment in Point Reyes National Seashore by protecting land and water resources and maintaining the relatively undeveloped nature of the land surrounding Tomales and Bodega Bays; and

(4) to preserve productive uses of land and waters in Marin and Sonoma counties adjacent to Point Reyes National Seashore, primarily by maintaining the land in private ownership restricted by conservation easements.

SEC. 3. ADDITION OF FARMLAND PROTECTION AREA TO POINT REYES NATIONAL SEASHORE AND ACQUISITION OF DEVELOPMENT RIGHTS.

(a) ADDITION.—Section 2 of Public Law 87–657 (16 U.S.C. 459c–1) is amended by adding at the end the following:

''(c) FARMLAND PROTECTION AREA.—

''(1) IN GENERAL.—The Point Reyes National Seashore shall include the Farmland Protection Area depicted on the map numbered 612/60,163 and dated July 1995, which shall be on file and available for public inspection in the Offices of the National Park Service of the Department of the Interior in Washington, District of Columbia.

''(2) OBJECTIVE.—Within the Farmland Protection Area depicted on the map described in paragraph (1), the primary objective shall be to maintain agricultural land in private ownership protected from nonagricultural development by conservation easements.''.

(b) FARMLAND ACQUISITION AND MANAGEMENT.—Section 3 of Public Law 97–657 (16 U.S.C. 459c–2) is amended by adding at the end the following:

''(d) FARMLAND ACQUISITION AND MANAGEMENT.—

''(1) IN GENERAL.—Notwithstanding subsections (a) through (c), the Secretary, to encourage continued agricultural use, may acquire land or interests in land from the owners of the land within the Farmland Protection Area depicted on the map described in section 2(c).

''(2) METHOD OF ACQUISITION.—

''(A) IN GENERAL.—Except as provided in paragraph (4), land and interests in land may be acquired under this subsection only by donation, purchase with donated or appropriated funds, or exchange.

''(B) LAND ACQUIRED BY EXCHANGE.—Land acquired under this subsection by exchange may be exchanged for land outside the State of California, notwithstanding section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)).

''(3) REQUIREMENTS.—

''(A) PRIORITY.—The Secretary shall give priority to—

''(i) acquiring interests in land through the purchase of development rights and conservation easements;

''(ii) acquiring land and interests in land from nonprofit corporations operating primarily for conservation purposes; and

''(iii) acquiring land and interests in land by donation or exchange.

''(B) CONSERVATION EASEMENTS.—The Secretary shall not acquire any conservation easement on land within the Farmland Protection Area from a nonprofit organization that was acquired by the nonprofit organizations before January 1, 1997.

''(C) COOPERATIVE AGREEMENTS.—For the purpose of managing, in the most cost-effective manner, interests in land acquired under this subsection, and for the purpose of maintaining continuity with land that has an easement on the date of enactment of this subsection, the Secretary shall enter into cooperative agreements with public agencies or nonprofit organizations having substantial experience holding, monitoring, and managing conservation easements on agricultural land in the region, such as the Marin Agricultural Land Trust, the Sonoma County Agricultural Preservation and Open Space District, and the Sonoma Land Trust.

''(4) REGULATION.—

''(A) IN GENERAL.—Within the boundaries of the Farmland Protection Area depicted on the map described in section 2(c)—

''(i) absent an acquisition of privately owned land or an interest in land by the United States, nothing in this Act authorizes any Federal agency or official to regulate the use or enjoyment of privately owned land, including land that, on the date of enactment of this subsection, is subject to an easement held by the Marin Agricultural Land Trust, the Sonoma County Agricultural Preservation and Open Space District, or the Sonoma Land Trust; and

''(ii) such privately owned land shall continue under the jurisdiction of the State and political subdivisions within which the land is located.

''(B) PERMITS AND LEASES.—

''(i) IN GENERAL.—The Secretary may permit, or lease, land acquired in fee under this subsection.

''(ii) CONSISTENCY.—Any such permit or lease shall be consistent with the purposes of the Point Reyes National Seashore Farmland Protection Act of 1997.

''(iii) USE OF REVENUES.—Notwithstanding any other provision of law, revenues derived from any such permit or lease—

''(I) may be retained by the Secretary; and

''(II) shall be available, without further appropriation, for expenditure to further the goals and objectives of agricultural preservation within the boundaries of the area depicted on the map described to in section 2(c).

''(C) LAND OF STATE AND LOCAL GOVERNMENTS.—Land or an interest in land, within the area depicted on the map described in section 2(c) that is owned by the State of California or a political subdivision of the State of California, may be acquired only by donation or exchange.

''(5) OWNER'S RESERVATION OF RIGHT.—Section 5 shall not apply with respect to land and or an interest in land acquired under this subsection.''.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 9 of Public Law 87–657 (16 U.S.C. 459c–7) is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''There are authorized''; and

(2) by adding at the end the following:

''(b) LAND ACQUISITION.—

''(1) IN GENERAL.—In addition to the sums authorized to be appropriated by this section before the enactment of the Point Reyes National Seashore Farmland Protection Act of 1997, there is authorized to be appropriated $30,000,000 to be used on a matching basis to acquire land and interests in land under section 3(d).

''(2) FEDERAL SHARE.—The Federal share of the costs for acquiring land and interests in land under section 3(d) shall be 50 percent of the total costs of the acquisition.

''(3) NON-FEDERAL SHARE.—

''(A) FORM.—The non-Federal share of the acquisition costs may be paid in the form of property, moneys, services, or in-kind contributions, fairly valued.

''(B) LAND OF STATE AND LOCAL GOVERNMENTS.—For the purpose of determining the non-Federal share of the costs, any land or interests in land that is within the boundaries of the area depicted on the map described in section 2(c), that, on the date of enactment of this subsection, is held under a conservation easement by the Marin Agricultural Land Trust, the Sonoma County Agricultural Preservation and Open Space District, the Sonoma Land Trust, or any other land protection agency or by the State of California or any political subdivision of the State, shall be considered to be a matching contribution from non-Federal sources in an amount that is equal to the fair market value of the land or interests in land, as determined by the Secretary.''.

By Mr. MURKOWSKI:

S. 1373. A bill to establish the Commonwealth of Guam, and for other purposes; to the Committee on Energy and Natural Resources.

THE GUAM COMMONWEALTH ACT

Mr. MURKOWSKI. Mr. President, I send to the desk, for appropriate reference, legislation to establish the Commonwealth of Guam. This measure is identical to H.R. 100 which was introduced by Congressman UNDERWOOD. I am introducing this measure at the request of Congressman UNDERWOOD and Governor Gutierrez of Guam.

The quest for self-government and recognition of the authority to determine the laws and programs that facilitate or impede our social, political, and economic growth are an integral part of the territorial history of this Nation. Even before the Constitution had been ratified, the Northwest Ordinance set the pattern for the territory subject to the new Federal Government. The ordinance set a policy that the territory would be settled as soon as possible and admitted into the Union with the other States. That policy, of full self-government and limited governance from the Federal Establishment, marked territorial policy until the beginning of this century.

While this century has seen the admission of States such as Arizona and New Mexico, as well as the more recent admission of Alaska and Hawaii, the progress of full self-government has been slower for most of the areas acquired as a result of the Spanish-American War or since that time. In 1898, a century ago, the United States acquired the Philippines, Guam, and Puerto Rico. In 1900 and 1904 treaties of cession confirmed the extension of sovereignty over American Samoa. In 1916

we acquired the Virgin Islands. In 1976 the covenant that provided the basis for the acquisition of the Northern Mariana Islands was enacted following a plebiscite in the islands.

These areas, with the exception of the Philippines, have not followed the path taken by the other territories of the United States. The Philippines achieved commonwealth and independence, although World War II delayed full implementation. Shortly after World War II, Puerto Rico was permitted to replace the local government provisions of federal organic legislation with a locally drafted Constitution and to elect its Governor. Not until the 1970's were Guam, the Virgin Islands, and American Samoa afforded the opportunity to popularly elect their own Governor. Also, during that period, Guam and the Virgin Islands were provided the opportunity to develop a constitution to govern local matters.

The Commonwealth of the Northern Mariana Islands and American Samoa are in a slightly different situation. American Samoa has a locally developed constitution promulgated by secretarial order and the Northern Marianas operate under the local constitution authorized under the covenant.

The process of local self-government and improvements in Federal-territorial relations has not stopped for any of these areas. This Congress has already seen as much attention as has occurred over the past decade. The Senate has passed legislation that provides the Virgin Islands with the same flexibility to issue short-and long-term bonds as the States enjoy. The Senate has also passed legislation that would reform the way surplus Federal lands are disposed of in Guam, providing the Government of Guam with an effective voice in decisions with respect to future land use management. We have also considered modifications requested by the executives in Guam and the Virgin Islands to the powers of the Governor and Lieutenant Governor. Both the Senate and the House have pending legislation to provide a referendum in Puerto Rico on future political status. In that context we are considering status in the larger constitutional context of Statehood or independence as well as possible refinements to the present relationship. We also have pending in the Senate legislation forwarded by the administration that would revise Federal-territorial relations with the Northern Marianas in the areas of minimum wage, immigration, and trade.

The legislation that I am introducing today is a very broad approach to Federal relations with Guam. The provisions address several different issues ranging from problems over resource allocation and use to operations of government to social and cultural issues. In the past decade since the voters in Guam approved the present draft, some of the provisions, such as judicial reform or disposal of excess Federal lands, have been addressed individually. Others may no longer be relevant due to other changes. The central issue, however, is as current and relevant as it was in 1982 when the voters in Guam decided to seek commonwealth as a means to obtain greater self-government.

The central issue is the proper role and authority of Federal versus local government. Where should decisions be made, be they right or wrong, and who should bear the burden of providing for the future? Should the Federal or local government have the authority to safeguard and manage local resources and provide for the health, safety, education, and welfare of the local residents? Should noncontiguous areas bear the burden of regulations crafted to meet the needs of the contiguous United States and for the administrative convenience of bureaucrats in Washington? I use the word noncontiguous because the concerns that led Guam to seek the provisions of this legislation are equally applicable to areas in Alaska or Hawaii. Status, in the constitutional sense, is not the problem or the answer, but rather the allocation of power and authority under the Constitution between Federal and local government.

An example of this would be the application of provisions of the Clean Air Act to Guam. Notwithstanding the fact that Guam is a relatively small island located in the western Pacific in the middle of the trade winds, it had to comply with the same emission requirements as did places like Los Angeles or Washington. My colleagues should remember that what made Guam so valuable to the Spanish was that the galleons leaving Acapulco were blown by the trade winds to Guam, where they reprovisioned prior to heading to Manila. The powerplants in Guam were required to install expensive scrubbers even though the nearest point of land was the Philippines. Eventually we managed to obtain a waiver for Guam, but it was only after years of effort by our committee, with the help I would note of my colleagues on the Environment and Public Works Committee, to convince EPA that granting a waiver for Guam was not a precedent for exempting the State of Nebraska. Alaska and Hawaii have not been as successful, I would note. Another example is the visa waiver that we finally managed to obtain for Guam for tourists.

These are not unique problems. Administrative convenience seems to always outweigh the realities of life in the noncontiguous areas, nor are our provisions uniform. In some instances, the difference in treatment aggravates the local unhappiness with Washington. Guam is the southernmost of the Mariana Islands. The Northern Mariana Islands, which can be seen from Guam, are not subject to the Jones Act, but Guam is. The Virgin Islands has an exception, but Guam does not. While I would never argue for uniformity as an inflexible principle, I do think that Washington can be considerably more creative than it has been, and certainly can be more understanding of the uniqueness of the noncontiguous areas.

Insensitivity is also a reason underlying some of the provisions of the legislation. The most recent example is the actions of the Fish and Wildlife Service in carrying out its land grab in Guam. Rather than devoting resources to the eradication of the brown tree snake, the Fish and Wildlife Service rushed to use the depredation caused by the snake as a reason for creating a refuge and overlay covering almost one-third of Guam. Well know habitat such as runways were covered. The reason for the rush to create the refuge is understandable since several of the native species are already extinct and the rest are scurrying for what little remains of their existence from the snake. If the Fish and Wildlife Service had not moved quickly, they would have had to defend creating the only refuge for non-existent species. I suppose they could have used it as a precedent for creating a refuge for dinosaurs in Utah and locking up whatever lands the President and Secretary Babbitt missed last year. In that context, I would suggest that at the next meeting of the Western Governors, the Governors of Guam and Utah swap stories of Federal land grabs.

I am in full sympathy with the objectives of this legislation. The Governor of Guam may feel that he is alone, but we in Alaska know full well what dealing with Washington entails. We also must deal with insensitive bureaucrats, acquisitive Secretaries, irrelevant stateside standards, and a wealth of officious and fussy Federal agencies who seem to have as their sole mission making life as difficult, expensive, and complex as possible. Guam at least has a central road system and the possibility of developing the southern end of the island—an option that Federal managers are committed to denying Alaska. I fully understand the frustrations that led the U.S. citizens in Guam to develop this legislation. Unfortunately, I must say that the problem is not the plenary authority of Congress under the Territorial Clause.

As I stated, this legislation is a companion measure to one introduced by Congressman UNDERWOOD and I am introducing it at his request and at the request of the Governor of Guam. I ask unanimous consent that a copy of the letter be included in the RECORD.

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

(See exhibit 1.)

Mr. MURKOWSKI. Mr. President, I do not necessarily support every provision in this legislation as drafted, but I do support the underlying objective of redressing the balance of power and authority between Washington and Agana. As a result of my trip to Guam last year, I introduced legislation to deal with the disposal of surplus Federal property and prevent any future

land grabs such as the one engaged in by the Fish and Wildlife Service. That legislation was not everything that either the Governor or I would have preferred, but I think that the end result of the Senate action, if finally enacted, will be a significant improvement in Federal-territorial relations. I intend to take the same constructive approach to the provisions of this legislation.

I appreciate that questions have been raised over some of the provisions from constitutional as well as policy grounds, but that should not be an excuse to avoid addressing the underlying concerns that led to the drafting and approval of those provisions by the voters in Guam. As I said before, we have a lot of experience with foolish and petty restrictions from Federal agencies. As a percentage, far more of Alaska is subject to Federal land domination and our communities suffer the consequences of an inability to obtain transportation and utility corridors across the Federal lands. I have sympathy and sensitivity to local cultural concerns as well because we also see Federal agencies trying to frustrate the benefits and protections afforded our Native Alaskans. Guam is concerned over the loss of the economic potential of its marine resources and Alaska holds the single most promising petroleum area on the continent.

I hope to meet shortly with the Governor and with members of the Guam Legislature to discuss the provisions of this legislation. I fully expect that the next few years will be particularly active for our Committee as we consider not only how to improve and strengthen local self-government in and revise Federal relations with Guam, but also deal with concerns that have arisen with some of the expectations and implementation of provisions of the Northern Marianas Covenant, political status in Puerto Rico, and renegotiation and extension of certain provisions of the Compacts of Free Association with the Republic of the Marshall Islands and the Federated States of Micronesia. Much has happened in the north Pacific since World War II and it is our responsibility to be as sensitive and responsible as possible to the needs and aspirations of the local governments who are either within or in free association with the United States. I encourage my colleagues to take the time to become more familiar with these areas and to take their particular needs and problems into consideration when crafting legislation. It is far easier to address the situation of the noncontiguous areas at the outset of legislative efforts, than it is to come in later when we have entrenched bureaucrats who see their power threatened if we act responsibly.

EXHIBIT 1

CARL T.C. GUTIERREZ,
GOVERNOR OF GUAM.

ROBERT A. UNDERWOOD,
MEMBER OF CONGRESS,
October 29, 1997.

Senator FRANK MURKOWSKI,
Chairman, Committee on Energy and Natural Resources, Washington, DC.

DEAR CHAIRMAN MURKOWSKI: Today we had our first hearing on H.R. 100, the Guam Commonwealth Act, before the House Committee on Resources. As we work with the Members of the House Committee to perfect their version, we believe it is time to move forward and proceed to the next step in the process.

Therefore, we respectfully request your support for the introduction of companion legislation to this bill in the Senate and consideration of a hearing at the earliest possible convenience of the committee.

We pledge to work closely with you and your staff and assist you in any way we can.

Sincerely,

CARL T.C. GUTIERREZ,
Governor of Guam.
ROBERT A. UNDERWOOD,
Member of Congress.

By Mr. MCCAIN:

S. 1374. A bill to clarify that unmarried adult children of Vietnamese reeducation camp internees are eligible for refugee status under the Orderly Departure Program; to the Committee on Foreign Relations.

THE ORDERLY DEPARTURE PROGRAM CLARIFICATION ACT OF 1997

Mr. MCCAIN. Mr. President, I rise to introduce legislation that is basically a technical correction to language that I had included in the fiscal year 1997 Omnibus Consolidated Appropriations Act. That language, and the legislation I offer today, are designed to make humanitarian exceptions for the unmarried adult children of former reeducation camp detainees seeking to emigrate to the United States under the Orderly Departure Program [ODP]. Despite what I considered to have been pretty unambiguous legislation in both word and intent, the Immigration and Naturalization Service and Department of State interpreted my amendment to the 1997 bill so as to exclude the very people to whom the provision was targeted.

An amendment identical to the bill I am introducing today was included, without objection, to the State Department authorization bill for fiscal year 1998. Because that bill is hung-up over an unrelated issue, and because the State Department ceased accepting new applications for the ODP at the end of September, it was imperative that another avenue be sought for attaining passage of this important legislation. I wish to reiterate that this is an uncontroversial bill, supported earlier this year by the Senate, and which enjoys the backing of the Department of State.

Prior to April 1995, the adult unmarried children of former Vietnamese reeducation camp prisoners were granted derivative refugee status and were permitted to accompany their parents to the United States under a subprogram of the Orderly Departure Program.

This policy changed in April 1995. My amendment to fiscal year 1997 foreign operations appropriations bill, which comprises part of the Omnibus Appropriations Act, was intended to restore the status quo ante regarding the adult unmarried children of former prisoners. My comments in the CONGRESSIONAL RECORD from July 25, 1996, clearly spelled this out.

Unfortunately, certain categories of children who, prior to April 1995, had received derivative refugee status and whom Congress intended to be covered by last year's amendment, are now considered ineligible to benefit from that legislation.

First, prior to April 1995 the widows of prisoners who died in re-education camps were permitted to be resettled in the United States under this subprogram of the ODP, and their unmarried adult children were allowed to accompany them. These children are now considered ineligible to benefit from last year's legislation.

To ask these widows to come to the United States without their children is equal to denying them entry under the program. Many of these women are elderly and in poor health, and the presence of their children is essential to providing the semblance of a family unit with the care that includes.

The second problem stemming from INS and the State Department's interpretation of the 1997 language involves the roughly 20 percent of former Vietnamese re-education camp prisoners resettled in the United States who were processed as immigrants, at the convenience of the United States Government.

Their unmarried adult children, prior to April 1995, were still given derivative refugee status; however, the position of INS and State is that these children are now ineligible because the language in the fiscal year 1997 bill included the phrase ''processed as refugees for resettlement in the United States.''

That phrase was intended to identify the children of former prisoners being brought to the United States under the subprogram of the ODP and eligible to be processed as a refugee—which all clearly were—as distinct from the children of former prisoners who were not being processed for resettlement in the United States.

The fact that a former prisoner, eligible to be processed as a refugee under the ODP subprogram, was processed as an immigrant had no effect prior to April 1995, and their children were granted refugee status. The intention of last year s legislation was to restore the status quo ante, including for the unmarried adult children of former prisoners eligible for and included in this subprogram but resettled as migrants.

Mr. President, I urge support for this legislation.

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

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

S. 1374

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

SECTION 1. ELIGIBILITY FOR REFUGEE STATUS.

Section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (Public Law 104–208; 110 Stat. 3009–171) is amended—

(1) in subsection (a)—

(A) by striking ''For purposes'' and inserting ''Notwithstanding any other provision of law, for purposes''; and

(B) by striking ''fiscal year 1997'' and inserting ''fiscal years 1997 and 1998''; and

(2) by amending subsection (b) to read as follows:

''(b) ALIENS COVERED.—

''(1) IN GENERAL.—An alien described in this subsection is an alien who—

''(A) is the son or daughter of a qualified national;

''(B) is 21 years of age or older; and

''(C) was unmarried as of the date of acceptance of the alien's parent for resettlement under the Orderly Departure Program.

''(2) QUALIFIED NATIONAL.—For purposes of paragraph (1), the term 'qualified national' means a national of Vietnam who—

''(A)(i) was formerly interned in a reeducational camp in Vietnam by the Government of the Socialist Republic of Vietnam; or

''(ii) is the widow or widower of an individual described in clause (i); and

''(B)(i) qualified for refugee processing under the reeducation camp internees subprogram of the Orderly Departure Program; and

''(ii) on or after April 1, 1995, is accepted—

''(I) for resettlement as a refugee; or

''(II) for admission as an immigrant under the Orderly Departure Program.''.

By Mr. KOHL (for himself, Mr. FEINGOLD, Mr. BUMPERS, Mr. JOHNSON, Mr. BINGAMAN, and Mr. JEFFORDS):

S. 1375. A bill to promote energy conservation investments in Federal facilities, and for other purposes; to the Committee on Energy and Natural Resources.

THE FEDERAL ENERGY BANK ACT OF 1997

Mr. KOHL.

Mr. President, I rise today to introduce legislation entitled ''the Federal Energy Bank Act.'' The purpose of this legislation is to provide a stable long-term source of funding for energy efficiency projects throughout the Federal Government. If we are to start the Nation on the road toward increased energy conservation we must begin with the Federal Government. This bill will help provide the necessary investments to make this first step toward long-term energy conservation possible.

I have long believed that our Nation must implement a sensible national energy policy which emphasizes greater energy conservation and efficiency, as well as the development of renewable resources. This bill is just one step of many that need to be taken to reduce our energy consumption problems. The events in the Middle East, coupled with the environmental problems associated with the use of fossil fuels, have only increased the need for improved energy conservation. Simply put, we cannot continue to rely on imported oil to meet such a large part of our Nation's energy needs. This dependence places our economic security at great risk. At present, petroleum imports account for fully one-half of our trade deficit. In addition, the use of oil and other fossil fuels contributes to global climate change, air pollution, and acid rain.

Mr. President our attempts to remedy this situation are nothing new. In fact, the laws requiring significant energy use reductions are already in place. The Energy Policy Act of 1992 mandated that Federal agencies use cost-effective measures, with less than a 10-year payback, to reduce energy consumption in their facilities by 20 percent by the year 2000 compared to 1985 levels. President Clinton, with Executive Order 12902, extended the mandate by requiring Federal agencies to reduce energy consumption by 30 percent by the year 2005 compared to 1985 energy uses. If accomplished, this would save the American taxpayer millions in annual energy costs and in turn put us on the road to future energy savings. This would also improve our environment, our balance of trade, and our national security.

But the road toward energy efficiency or even self-sufficiency is not an easy one and requires capital investment. The administration and Congress must back their policies with real dollars for investment in energy efficiency projects. According to the recent Federal energy efficiency and water conservation study, drafted by the Department of Energy, an investment of $5.7 billion is required through 1996 to 2005 to meet National Energy Policy and Conservation Act and Executive order goals. The best estimate of the total funding available has resulted in a shortfall of $2 billion. Without significant funding the goals as set forth by the President will not be met. Laws and mandates alone will not solve our energy problems. It requires long-term capital investment.

Mr. President, my business background has taught me that most large paybacks come from positive long-term investments. Unfortunately, the Federal Government does not traditionally take this approach. More often that not, it seeks short-term savings and cuts which do not address the problem of energy consumption or encourage future energy conservation.

Mr. President, my bill will help address this funding shortfall. The bill creates a bank to fund the purchase of energy efficiency projects by Federal agencies and in the long run will reduce the overall amount of money spent on energy consumption by the Federal Government. For each of the fiscal years 1999, 2000, 2001, each Federal agency will contribute an amount equal to 5 percent of its previous year's utility costs into a fund or bank managed by the Secretary of the Treasury.

The Secretary of Energy will authorize loans from the bank to any Federal agency for use toward investment in energy efficiency projects. The agency will then repay the loan, making the bank self-supporting after a few years. The Secretary of Energy will also establish selection criteria for each energy efficiency project, determining the project is cost-effective and produces a payback in 3 years or less. Agencies will be required to report the progress of each project with a cost of more than $1 million to the Secretary 1 year after installation. The Secretary will then report to Congress each year on all the operations of the bank.

Mr. President, this bill will provide the real dollars required to make the Executive order goals a reality. The Congressional Budget Office has projected a 5-year savings for the bill at $3 million. Our energy savings will be even greater over the long term.

Mr. President, in closing I would like to thank Johnson Controls, the largest public company in Wisconsin, for their continued leadership and input on this bill. As a maker of energy conservation systems, Johnson has provided me with the real world insights that have helped me draft a bill that attempts to address our energy conservation needs.

Mr. President, I ask unanimous consent the full text of the bill be printed in full in the RECORD. I urge my colleagues to support this bill and will push for its early enactment.

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

S. 1375

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Federal Energy Bank Act''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) energy conservation is a cornerstone of national energy security policy;

(2) the Federal Government is the largest consumer of energy in the economy of the United States;

(3) many opportunities exist for significant energy cost savings within the Federal Government; and

(4) to achieve the energy savings required by Executive Order, the Federal Government must make significant investments in energy savings systems and products, including energy management control systems.

(b) PURPOSE.—The purpose of this Act is to promote energy conservation investments in Federal facilities.

SEC. 3. DEFINITIONS.

In this Act:

(1) AGENCY.—The term ''agency'' means—

(A) an Executive agency (as defined in section 105 of title 5, United States Code, except that the term also includes the United States Postal Service);

(B) Congress and any other entity in the legislative branch; and

(C) a court and any other entity in the judicial branch.

(2) BANK.—The term ''Bank'' means the Federal Energy Bank established by section 4.

(3) ENERGY EFFICIENCY PROJECT.—The term ''energy efficiency project'' means a project that assists an agency in meeting or exceeding the energy efficiency goals stated in—

(A) part 3 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8251 et seq.);

(B) subtitle F of title I of the Energy Policy Act of 1992; and

(C) applicable Executive orders, including Executive Order Nos. 12759 and 12902.

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

(5) TOTAL UTILITY PAYMENTS.—The term ''total utility payments'' means payments made to supply electricity, natural gas, and any other form of energy to provide the heating, ventilation, and air conditioning, lighting, and other energy needs of an agency facility.

SEC. 4. ESTABLISHMENT OF BANK.

(a) IN GENERAL.—There is established in the Treasury of the United States a trust fund to be known as the ''Federal Energy Bank'', consisting of—

(1) such amounts as are appropriated to the Bank under section 8;

(2) such amounts as are transferred to the Bank under subsection (b);

(3) such amounts as are repaid to the Bank under section 5(b)(4); and

(4) any interest earned on investment of amounts in the Bank under subsection (c).

(b) TRANSFERS TO BANK.—

(1) IN GENERAL.—At the beginning of each of fiscal years 1999, 2000, and 2001, each agency shall transfer to the Secretary of the Treasury, for deposit in the Bank, an amount equal to 5 percent of the total utility payments paid by the agency in the preceding fiscal year.

(2) UTILITIES PAID FOR AS PART OF RENTAL PAYMENTS.—The Secretary shall by regulation establish a formula by which the appropriate portion of a rental payment that covers the cost of utilities shall be considered to be a utility payment for the purposes of paragraph (1).

(c) INVESTMENT OF FUNDS.—The Secretary of the Treasury shall invest such portion of funds in the Bank as is not, in the Secretary's judgment, required to meet current withdrawals. Investments may be made only in interest-bearing obligations of the United States.

SEC. 5. LOANS FROM THE BANK.

(a) IN GENERAL.—The Secretary of the Treasury shall transfer from the Bank to the Secretary such amounts as are appropriated to carry out the loan program under subsection (b).

(b) LOAN PROGRAM.—

(1) IN GENERAL.—In accordance with section 6, the Secretary shall establish a program to loan amounts from the Bank to any agency that submits an application satisfactory to the Secretary in order to finance an energy efficiency project.

(2) PERFORMANCE CONTRACTING FUNDING.—To the extent practicable, an agency shall not submit a project for which performance contracting funding is available.

(3) PURPOSES OF LOAN.—

(A) IN GENERAL.—A loan under this section may be made to pay the costs of—

(i) an energy efficiency project; or

(ii) development and administration of a performance contract.

(B) LIMITATION.—An agency may use not more than 15 percent of the amount of a loan under subparagraph (A)(i) to pay the costs of administration and proposal development (including data collection and energy surveys).

(4) REPAYMENTS.—

(A) IN GENERAL.—An agency shall repay to the Bank the principal amount of the energy efficiency project loan plus interest at a rate determined by the President, in consultation with the Secretary and the Secretary of the Treasury.

(B) WAIVER.—The Secretary may waive the requirement of subparagraph (A) if the Secretary determines that payment of interest by an agency is not required to sustain the needs of the Bank in making energy efficiency project loans.

(5) AGENCY ENERGY BUDGETS.—Until a loan is repaid, an agency budget submitted to Congress for a fiscal year shall not be reduced by the value of energy savings accrued as a result of the energy conservation measure implemented with funds from the Bank.

(6) AVAILABILITY OF FUNDS.—An agency shall not rescind or reprogram funds made available by this Act. Funds loaned to an agency shall be retained by the agency until expended, without regard to fiscal year limitation.

SEC. 6. SELECTION CRITERIA.

(a) IN GENERAL.—The Secretary shall establish criteria for the selection of energy efficiency projects to be awarded loans in accordance with subsection (b).

(b) SELECTION CRITERIA.—The Secretary may make loans only for energy efficiency projects that—

(1) are technically feasible;

(2) are determined to be cost-effective using life cycle cost methods established by the Secretary by regulation;

(3) include a measurement and management component to—

(A) commission energy savings for new Federal facilities; and

(B) monitor and improve energy efficiency management at existing Federal facilities; and

(4) have a project payback period of 3 years or less.

SEC. 7. REPORTS AND AUDITS.

(a) REPORTS TO THE SECRETARY.—Not later than 1 year after the installation of an energy efficiency project that has a total cost of more than $1,000,000, and each year thereafter, an agency shall submit to the Secretary a report that—

(1) states whether the project meets or fails to meet the energy savings projections for the project; and

(2) for each project that fails to meet the savings projections, states the reasons for the failure and describes proposed remedies.

(b) AUDITS.—The Secretary may audit any energy efficiency project financed with funding from the Bank to assess the project's performance.

(c) REPORTS TO CONGRESS.—At the end of each fiscal year, the Secretary shall submit to Congress a report on the operations of the Bank, including a statement of the total receipts into the Bank, and the total expenditures from the Bank to each agency.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

Mr. FEINGOLD. Mr. President, I am delighted to join with my colleague, the senior Senator from Wisconsin [Mr. KOHL] as an original co-sponsor of the Federal Energy Bank Act.

The idea of the Federal Government leading by example in the area of energy efficiency has made sense to me for a long time, so much so, in fact, that in campaigning for the Senate in 1992, I included energy efficiency in my campaign platform. I proposed an 82-point plan to reduce the deficit, a series of specific spending reductions and revenue changes which, if enacted in sum total, would have eliminated the deficit.

Among those items, as I was a candidate for office after the passage of the 1992 Energy Policy Act and after the United States' signing of the Framework Convention on Climate Change in Rio de Janeiro, Brazil, was one to encourage the Federal Government to implement a comprehensive energy savings program for the Federal Government through energy efficiency investments.

After all, I believe that if Wisconsin consumers and business have been converted to the wisdom of compact fluorescent light bulbs, efficient heating and cooling systems, weatherization, and energy saving computers, among the wide range of potential efficiency improvements, that the Federal Government promoting those actions should also make the same investments to the taxpayers' benefit.

Section 152 of the Energy Policy Act mandated that Federal agencies use all cost-effective measures that could be implemented with less than a 10-year payback to reduce energy consumption in their facilities by 20 percent by the year 2000 compared to 1985 consumption levels.

On March 8, 1994, President Clinton signed Executive Order 12902. This order was an even more aggressive mandate to improve energy efficiency in Federal buildings nationwide by requiring agencies to use cost-effective measures to reduce energy use by fiscal year 2005 by 30 percent compared with the agency's 1985 energy use.

After taking office, I have learned that among the most significant constraints to implementing more energy efficient practices in the Federal Government is the lack of sufficient funds to invest in energy efficient equipment.

Section 162 of the Energy Policy Act of 1992 directed the Secretary of Energy to conduct a detailed study of options for financing energy and water conservation measures in Federal facilities as required under the act and by subsequent Executive orders. On June 3, 1997, the Secretary of Energy, Mr. Penã released that study. It documents a need for a $5.7 billion financial investment between 1996 and 2005 to meet the Energy Policy Act and Executive order goals, a value which could vary from a low of $4.4 billion to a high of $7.1 billion given variability in both energy and water investment requirements.

The best estimate, according to the same study of the total Federal funding available to spend on energy and water efficiency improvements from various sources, including direct agency appropriations, energy savings performance contracts, and utility demand-side management programs, and appropriations to the Federal energy efficiency fund, to the Federal Government to meet those needs over the same time period is $3.7 billion. Thus, under DOE's best estimate, at the Federal level we face a potential shortfall of funds necessary to achieve our Federal energy and water conservation objectives of $2 billion.

In order to address this shortfall, I am pleased joining as a cosponsor of this legislation to create a Federal energy revolving fund or ''energy bank.''

Some in this body may be concerned that the existence of the current Federal energy efficiency fund alleviates the need for additional Federal conservation investment. The problem with the current fund, which operates as a grant program for agencies to make efficiency improvements, is that it does not contribute to the replenishment of capital resources because it does not have to be paid back and is therefore dependent upon appropriations.

Under the legislation, I join in cosponsoring with my colleague from Wisconsin today, Federal agencies will be required, in fiscal years 1998–2000, to deposit an amount equal to 5 percent of their total utility payments in the proceeding fiscal year to capitalize the fund. After 2000, the Secretary of Energy will determine an amount necessary to ensure that the fund meets its obligations.

Agencies will then be able to get a loan from the fund to finance efficiency projects, which they will be responsible for repaying with interest. The projects must use off-the-shelf technologies and must be cost effective.

The best part of this approach is that the technologies are required to have a 3-year pay back period, and, therefore, this legislation achieves some modest savings for the taxpayer. CBO scores this measure as saving $3 million over 5 years.

In addition to savings for the taxpayer, I am also pleased to assist the Federal Government in advancing what I believe to be an important part of our overall strategy to combat greenhouse gas emissions. As many in the body are aware, President Clinton announced his plan for meeting the challenge of global climate change on October 22, 1997, in preparation for negotiating meetings in Bonn, Germany on a new protocol to the Climate Convention. Among the items the President cited was the need to do more in the area of federal energy management. Aggressive energy management can reduce carbon emissions from the activities of the Federal Government, which, the President indicated, has the Nation's largest energy bill at almost $8 billion per year. The President specifically stated that there is a need to improve federal procurement of energy efficient technologies, and this measure is a positive, proactive measure to ensure that federal agencies specifically set aside funds to achieve this goal. The senior Senator from Wisconsin [Mr. KOHL] and I look forward to working with the administration to advance this legislation as a piece of the country's overall greenhouse gas reductions strategy.

In conclusion, I look forward to working with my senior Senator on this issue. I believe that this is a unique opportunity for Senate colleagues to support legislation that is both fiscally responsible and environmentally sound.

By Mr. AKAKA (for himself and Mr. INOUYE):

S. 1376. A bill to increase the Federal medical assistance percentage for Hawaii to 59.8 percent; to the Committee on Finance.

THE HAWAII FEDERAL MEDICAL ASSISTANCE PERCENTAGE ADJUSTMENT ACT OF 1997

Mr. AKAKA. Mr. President, I rise today to introduce legislation to adjust the Federal medical assistance percentage [FMAP] rate for Hawaii to reflect more fairly the State's ability to bear its share of Medicaid payments. I am pleased that my colleague, the senior Senator from Hawaii, Senator INOUYE, has joined me as a sponsor of this measure.

The Federal share of Medicaid payments varies depending on each State's ability to pay—wealthier States bear a larger share of the cost of the program, and thus have lower FMAP rates. Per capita income is used as the measure of State wealth. Because per capita income in Hawaii is quite high, the State's FMAP rate is at the lowest level—50 percent. Hawaii is one of only a dozen States whose FMAP rate is at the 50 percent level. My bill would increase Hawaii's FMAP rate from 50 percent to 59.8 percent.

Because of our geographic location and other factors, the cost of living in Hawaii greatly exceeds the cost of living in the mainland States. Per capita income is a poor measure of a State's relative ability to bear the cost of Medicaid services. An excellent analysis of this issue is included in the 21st edition of ''The Federal Budget and the States'', a joint study conducted by the Taubman Center for State and local Government at Harvard University's John F. Kennedy School of Government and the office of U.S. Senator DANIEL PATRICK MOYNIHAN. According to the study, if per capita income is measured in real terms, Hawaii ranks 47th at $19,755 compared to the national average of $24,231. This sheds a totally different light on the State's financial status.

The cost of living in Honolulu is 83 percent higher than the average of the metropolitan areas tracked by the U.S. Census Bureau, based on 1995 data. Recent studies have shown that for the State as a whole, the cost of living is more than one-third higher than the rest of the U.S. In fact, Hawaii's Cost of Living Index ranks it as the highest in the country. Some government programs take the high cost of living in Hawaii into account and funding is adjusted accordingly. These include Medicare prospective payment rates, food stamp allocations, school lunch programs, housing insurance limits, and military living expenses.

These examples reflect the recognition that the higher cost of living in noncontiguous States should be taken into account in fashioning government program policies. It is time for similar recognition of this factor in gauging Hawaii's ability to support its health care programs. During consideration of the Balanced Budget Act this past summer, the Senate included a provision increasing Alaska's FMAP rate to 59.8 percent for the next 3 years. Setting a higher match rate as was done for Alaska would still leave Hawaii with a lower FMAP rate than a majority of the States, but would better recognize Hawaii's ability to pay its fair share of the costs of the Medicaid program.

Despite the high cost of living, the Harvard-Moynihan study finds that Hawaii also has one of the highest poverty rates in the Nation. The State's 16.9 percent poverty rate is ranked eighth in the country, compared to the national average of 14.7 percent. These higher cost levels are reflected in State government expenditures and State taxation. Thus, on a per capita basis State revenue and expenditures are far higher in Hawaii, as well as Alaska, than in the 48 mainland States. The higher expenditure levels are necessary to assure an adequate level of public services which are more costly to provide in these States.

Of the top 10 States with the highest poverty rates in the country, the Harvard-Moynihan study finds that only 3 others have an FMAP rate between 50–60 percent. The other six States have FMAP rates of 65 percent and higher. Even more astonishing is that of the top 10 States with the lowest real per capita income, only Hawaii has a 50-percent FMAP rate.

To bring equity to this situation, Hawaii has sought an increase in its FMAP rate over the past several years. Just as we did for Alaska this past summer, Hawaii should be included in this long-warranted change, as the same factors justifying an increase for Alaska apply to Hawaii. Recognition of this point was made by House and Senate conferees to the Balanced Budget Act. The conferees, on page 879 of the conference report, note that poverty guidelines for Alaska and Hawaii are different than those for the rest of the Nation, yet there is no variation from the national calculation in the FMAP. The conferees correctly noted that comparable adjustments are generally made for Alaska and Hawaii.

The case for an FMAP increase is especially compelling in Hawaii, which has a proud history of providing essential health services in an innovative and cost-effective manner. That commitment is not easy to fulfill. Unlike most States, for example, Hawaii's Aid to Families with Dependent Children/Temporary Assistance for Needy Families [AFDC/TANF] caseloads have been increasing dramatically. In Hawaii, our caseload has risen by 21 percent since 1994 compared to a national decline of 23 percent during this same period. Since TANF block grants are based on

historical spending levels, the increased demand has placed extreme pressure on State resources.

Hawaii has sought to maintain a social safety net while striving for more efficient delivery of government services. The most striking example is the QUEST Medical Assistance Program, which operates under a Federal waiver. QUEST has brought managed care and broader coverage to the State's otherwise uninsured populations. At the same time, Hawaii is the only State whose employers guarantee health care coverage to every full-time employee, a further example of Hawaii's commitment to a strong social support system.

There is a particularly strong need for a more suitable FMAP rate for Hawaii now. The State has not participated in the economic growth that has benefitted most of the rest of the Nation. Hawaii's unemployment rate is above the national average and State tax revenues have fallen short of projected estimates. The need to fund 50 percent of the cost of the Medicaid program puts an increasing strain on the State's resources.

For all of these reasons, the FMAP rates for Hawaii should be adjusted to reflect more equitably the State's ability to support the Medicaid program. This will assure that the special problem of the noncontiguous States is dealt with in a principled manner. I believe it is also important to point out that based on Hawaii's current Medicaid spending level of approximately $700 million, each percentage point increase in our FMAP rate would provide approximately $7 million annually in additional Federal funds. Thus, the cost of enhancing the State's FMAP rate would be relatively modest.

I urge my colleagues in the Senate to support an upward adjustment in Hawaii's Federal medical assistance percentage.

Mr. President, in closing, 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. 1376

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

SECTION 1. INCREASED FMAP FOR HAWAII.

(a) INCREASED FMAP.—The first sentence of section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)), as amended by section 4725 of the Balanced Budget Act of 1997 (Public Law 105–33; 111 Stat. 418), is amended—

(1) by striking ''and (3)'' and inserting '', (3)''; and

(2) by inserting before the period at the end the following: '', and (4) for purposes of this title and title XXI, the Federal medical assistance percentage for Hawaii shall be 59.8 percent''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to—

(1) items and services furnished on or after October 1, 1997, under—

(A) a State plan or under a waiver of such plan under title XIX; and

(B) a State child health plan under title XXI of such Act;

(2) payments made on a capitation or other risk-basis for coverage occurring under plans under such titles on or after such date; and

(3) payments attributable to DSH allotments for Hawaii determined under section 1923(f) of such Act (42 U.S.C. 1396r–4(f)) for fiscal years beginning with fiscal year 1998.

By Mr. DEWINE (for himself, Mr. MOYNIHAN, Mr. HATCH, Mr. D'AMATO, Mr. DODD, Mr. KOHL, Mr. COVERDELL, Mr. KENNEDY, Mr. INOUYE, Mr. LIEBERMAN, Ms. SNOWE, Mr. HUTCHINSON, Mr. THURMOND, Mr. MCCAIN, Mr. SHELBY, Mr. CAMPBELL, and Mr. WYDEN):

S. 1379. A bill to amend section 552 of title 5, United States Code, and the National Security Act of 1947 to require disclosure under the Freedom of Information Act regarding certain persons, disclose Nazi war criminal records without impairing any investigation or prosecution conducted by the Department of Justice or certain intelligence matters, and for other purposes; to the Committee on the Judiciary.

THE NAZI WAR CRIMES DISCLOSURE ACT

Mr. DEWINE. Mr. President, I am pleased to be part of a bipartisan group of Senators, led by my friend from New York, Senator MOYNIHAN, to introduce the Nazi War Crimes Disclosure Act. Passage of this legislation will lift the last remaining veils of secrecy on one of the darkest periods in human history.

the Nazi War Crimes Disclosure Act represents what I hope will be the culmination of work begun in the last Congress to release U.S. Government-held records of Nazi war criminals, the Nazi Holocaust, and the trafficking of Nazi-held assets.

Just 2 years ago, we celebrated the 50th anniversary of the end of the Second World War, and with it, the Nazis' death grip on an entire continent. Since that time, searingly detailed accounts of the Nazi Holocaust have come to our attention.

We have learned so much. Yet, if the last few years are any indication, we still have so much more to learn.

After the fall of Communist rule, Russia and several former Soviet-bloc nations opened volumes of secret files on Nazi war crimes. Argentina has cooperated in the public release of its files. British Government records are being declassified and made available for public scrutiny. And over the past year, Swiss banks and the Swiss Government have been under intense international pressure to make a full accounting of unclaimed funds belonging to Holocaust victims, as well as Nazi assets that may have once belonged to Holocaust victims.

Mr. President, here at home, our own Government has been gradually making records available about what it knew of Nazi-related activities and atrocities. Earlier this year, a Government-conducted study revealed new information about what the U.S. Government knew regarding the transfer and flow of funds held by Nazi officials. This report found that the U.S. Government was aware that the Nazi mint took gold stolen from European central banks and melted it together with gold obtained in horrible fashion—from tooth-fillings, wedding bands and other items seized from death camp victims. Last Sunday's New York Times detailed newly released Government documents that described how the Federal Reserve Bank of New York had melted down and recast hundreds of Nazi-held gold bars. According to the released records, the U.S. Government knew that a good portion of this gold had been looted from the Netherlands and Belgium. It is not known if any of these bars contained gold from Holocaust victims, or to what extent the U.S. Government knew it.

Mr. President, earlier today, at a press conference to announce the introduction of this legislation, I had on display several aerial U.S. intelligence photographs taken in 1944. The pictures were of Auschwitz, with prisoners being led to the gas chambers. These pictures were discovered by photo analysts from the Central Intelligence Agency in 1978. They confirm what we had heard from the Polish underground that a death camp did in fact exist at Auschwitz. They also demonstrated that our Government had photographs of these camps as these atrocities were occurring.

These pictures tell a grisly story. How many more exist? With our legislation, we intend to answer that question.

So, the fact is, the dark tragedy of the Nazi Holocaust, which ended more than 60 years ago, has been unfolding long after these tragic events occurred and is still unfolding with each new release of information.

Both Congress and the President have taken action to promote the release of Government-held records during this tragic era. On April 17, 1995, the President issued an Executive order calling for the release of national security data and information older than 25 years. Last year, thanks to the tireless efforts of my friend from New York, Senator MOYNIHAN and Representative CAROLYN MALONEY and several others, Congress passed a sense-of-the-Congress resolution, which stated that any U.S. Government agencies should make public any records in its possession about individuals who are alleged to have committed Nazi war crimes. The President agreed, noting that learning the remaining secrets about the Holocaust are in the clear public interest.

The Nazi War Crimes Disclosure Act is designed to put the concerns expressed by the last Congress into strong action. What our bill would do is amend the Freedom of Information Act to establish a presumption that Nazi war criminal records are to be made available to the public. This means that all materials would be required to be released in their entirety unless a Federal agency head concludes

that the release of all or part of these records would compromise privacy or national security interests. The agency head must notify Congress of any determination to not release records.

To facilitate this process, the bill would establish the Nazi War Criminal Records Interagency Working Group. This working group would to the greatest extent possible locate, identify, inventory, declassify, and make available for the public all Nazi war records held by the United States.

This pro-active search is necessary because a full Government search and inventory has never been completed. For example, some documents that surfaced this spring were found in holdings related to Southeast Asia.

Our bill would be targeted toward two classes of Nazi-related materials: First, war crimes information regarding Nazi persecutions; and second, any information related to transactions involving assets of Holocaust and other Nazi victims.

In summary, what we are trying to do with this bill is strike a clear balance between our Government's legitimate privacy and national security interests and the people's desire to know the truth about Nazi atrocities. These records, once released, will be held in a repository at the National Archives.

This bill is a bipartisan effort to ensure the Federal Government has done all it can to ensure Holocaust victims and their families can obtain the answers they need.

Again, this bill is the culmination of years of tireless work by a number of leaders. First, I want to pay special tribute to the Senators from New York—both have worked tirelessly on Holocaust related legislation for years. Senator MOYNIHAN has been a leader in the drive to declassify U.S. Government records and a well-respected historian. He championed the release of the so-called VENONA cables that confirmed that the Soviet Union had an active spy network that had penetrated our Government. I am pleased to be working with Senator MOYNIHAN on a similar endeavor—the cataloging and declassification of as many World War II documents on the Holocaust as possible.

Senator D'AMATO has worked to make public scores of Swiss bank records and lost accounts of Holocaust victims. His efforts inspired us to redraft our legislation to ensure the Federal Government releases records related to the trafficking of Nazi-held assets.

This bill has the support of the chairmen of the Judiciary and Intelligence Committees—respectively, my friend from Utah, Senator HATCH, and my friend from Alabama, Senator SHELBY.

Mr. President, I also would be remiss if I did not mention my friend from Wisconsin, Senator KOHL, who serves with me on the Antitrust Subcommittee on the Judiciary Committee. He has brought insight on this issue that none of us has.

Together, with this kind of bipartisan support, I am hopeful we can move this legislation quickly through Congress and to the President early next year. As a member of the Intelligence Committee, I intend to make this a priority issue—so that people from my State and across our Nation can have access to the most complete inventory of U.S. Government records on the Holocaust. The clock is running, and time is running out for so many victims of the Holocaust. They, and history itself, deserve to know as much as possible about this tragic chapter in the story of humanity.

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

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

S. 1379

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 ''Nazi War Crimes Disclosure Act''.

SEC. 2. REQUIREMENT OF DISCLOSURE UNDER FREEDOM OF INFORMATION REGARDING PERSONS WHO COMMITTED NAZI WAR CRIMES.

(a) IN GENERAL.—Section 552 of title 5, United States Code, is amended—

(1) in subsection (a)(4)(B) in the second sentence, by inserting ''or subsection (h)'' after ''subsection (b)''; and

(2) by inserting after subsection (g) the following:

''(h)(1) For the purposes of this subsection, the term 'Nazi war criminal records' means records or portions of records that—

''(A) pertain to any person as to whom the United States Government, in its sole discretion, has determined there exists reasonable grounds to believe that such person, during the period beginning on March 23, 1933, and ending on May 8, 1945, under the direction of, or in association with—

''(i) the Nazi government of Germany;

''(ii) any government in any area occupied by the military forces of the Nazi government of Germany;

''(iii) any government established with the assistance or cooperation of the Nazi government of Germany; or

''(iv) any government which was an ally of the Nazi government of Germany,

ordered, incited, assisted, or otherwise participated in the persecution of any person because of race, religion, national origin, or political opinion; or

''(B) pertain to any transaction as to which the United States Government, in its sole discretion, has determined there exists reasonable grounds to believe—

''(i) involved assets taken from persecuted persons during the period beginning on March 23, 1933, and ending on May 8, 1945, by, under the direction of, on behalf of, or under authority granted by the Nazi government of Germany or any nation then allied with that government; and

''(ii) such transaction was completed without the assent of the owners of those assets or their heirs or assigns or other legitimate representatives.

''(2)(A) Notwithstanding subsection (b), this subsection shall apply to Nazi war criminal records.

''(B) Subject to subparagraphs (C), (D), and (E), Nazi war criminal records that are responsive to a request for records made in accordance with subsection (a) shall be released in their entirety.

''(C) An agency head may exempt from release under subparagraph (B) specific information, the release of which should be expected to—

''(i) constitute a clearly unwarranted invasion of personal privacy;

''(ii) reveal the identity of a confidential human source, or reveal information about the application of an intelligence source or method, or reveal the identity of a human intelligence source when the unauthorized disclosure of that source would clearly and demonstrably damage the national security interests of the United States;

''(iii) reveal information that would assist in the development or use of weapons of mass destruction;

''(iv) reveal information that would impair United States cryptologic systems or activities;

''(v) reveal information that would impair the application of state-of-the-art technology within a United States weapon system;

''(vi) reveal actual United States military war plans that remain in effect;

''(vii) reveal information that would seriously and demonstrably impair relations between the United States and a foreign government, or seriously and demonstrably undermine ongoing diplomatic activities of the United States;

''(viii) reveal information that would clearly and demonstrably impair the current ability of United States Government officials to protect the President, Vice President, and other officials for whom protection services, in the interest of national security, are authorized;

''(ix) reveal information that would seriously and demonstrably impair current national security emergency preparedness plans; or

''(x) violate a statute, treaty, or international agreement.

''(D) In applying exemptions (ii) through (x) of subparagraph (C), there shall be a presumption that the public interest in the release of Nazi war criminal records outweighs the damage to national security that might reasonably be expected to result from disclosure. The agency head, as an exercise of discretion, may rebut this presumption with respect to a Nazi war criminal record, or portion thereof, based on an exemption listed in subparagraph (C). The exercise of this discretion shall be promptly reported to the committees of Congress with appropriate jurisdiction.

''(E) This subsection shall not apply to records—

''(i) related to or supporting any active or inactive investigation, inquiry, or prosecution by the Office of Special Investigations of the Department of Justice; or

''(ii) in the possession, custody or control of that office.''.

(b) INAPPLICABILITY OF NATIONAL SECURITY ACT OF 1947 EXEMPTION.—Section 701 of the National Security Act of 1947 (50 U.S.C. 431) is amended—

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

(2) by inserting after subsection (d) the following:

''(e) Subsection (a) shall not apply to any operational file, or any portion of any operational file, that constitutes a Nazi war criminal record under section 552(h) of title 5, United States Code.''.

SEC. 3. INTERAGENCY INVENTORY OF NAZI WAR CRIMINAL RECORDS.

(a) DEFINITIONS.—In this section the term—

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

(2) ''Interagency Group'' means the Nazi War Criminal Records Interagency Working Group established under subsection (b);

(3) ''Nazi war criminal records'' has the meaning given such term under section 552(h)(1) of title 5, United States Code (as added by section 2(a)(2) of this Act); and

(4) ''record'' means a Nazi war criminal record.

(b) ESTABLISHMENT OF INTERAGENCY GROUP.—

(1) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the President shall establish the Nazi War Criminal Records Interagency Working Group.

(2) MEMBERSHIP.—The President shall appoint to the Interagency Group the heads of agencies who the President determines will most completely and effectively carry out the functions of the Interagency Group within the time limitations provided in this section. The head of an agency appointed by the President may designate an appropriate officer to serve on the Interagency Group in lieu of the head of such agency.

(3) INITIAL MEETING.—Not later than 90 days after the date of enactment of this Act, the Interagency Group shall hold an initial meeting and begin the functions required under this section.

(c) FUNCTIONS.—Not later than 1 year after the date of enactment of this Act, the Interagency Group shall, to the greatest extent possible consistent with section 552(h)(2) of title 5, United States Code (as added by section 2(a)(2) of this Act)—

(1) locate, identify, inventory, recommend for declassification, and make available to the public at the National Archives and Records Administration, all Nazi war criminal records of the United States;

(2) coordinate with agencies and take such actions as necessary to expedite the release of such records to the public; and

(3) submit a report to Congress describing all such records, the disposition of such records, and the activities of the Interagency Group and agencies under this section.

SEC. 4. EXPEDITED PROCESSING OF REQUESTS FOR NAZI WAR CRIMINAL RECORDS.

(a) DEFINITIONS.—In this section, the term—

(1) ''Nazi war criminal record'' has the meaning given the term under section 552(h)(1) of title 5, United States Code (as added by section 2(a)(2) of this Act); and

(2) ''requester'' means any person who was persecuted in the manner described under section 552(h)(1)(A) of title 5, United States Code (as added by section 2(a)(2) of this Act), who requests a Nazi war criminal record.

(b) EXPEDITED PROCESSING.—For purposes of expedited processing under section 552(a)(6)(E) of title 5, United States Code, any requester of a Nazi war criminal record shall be deemed to have a compelling need for such record.

SEC. 5. EFFECTIVE DATE.

The amendments made by this Act shall apply to requests under section 552 of title 5, United States Code (known as Freedom of Information Act requests) received by an agency after the expiration of the 90-day period beginning on the date of enactment of this Act.

Mr. MOYNIHAN. Mr. President, today we introduce a revised War Crimes Disclosure Act which Senators D'AMATO, DODD and I originally sponsored in the 104th Congress as a companion to a measure introduced by Representative MALONEY.

The measure is a simple one. It requires the disclosure of information under the Freedom of Information Act regarding individuals who participated in Nazi war crimes. This bill, which Senator DEWINE has carefully crafted, builds on our original measure by expanding its scope to include information regarding stolen assets of the victims of Nazi war crimes, and by requiring a Governmentwide search of records to ensure the release of as many relevant documents as possible. A similar search for information regarding Nazi assets was recently conducted under the direction of Stuart Eizenstat, with significant results.

Ideally, documents regarding Nazi war crimes would be made available to the public without further legislation and without having to go through the slow process involved in getting information through the Freedom of Information Act [FOIA]. Unfortunately, this is not the case. Researchers seeking information on Nazi war criminals are denied access to relevant materials in the possession of the United States Government, even when the disclosure of these documents no longer poses a threat to national security—if indeed such disclosure ever did.

Perhaps the most important provision contained in the legislation is the balancing test. This requires that ''there shall be a presumption that the public interest in the release of Nazi war criminal records outweighs the damage to national security that might reasonably be expected to result from disclosure.'' The provision is in keeping with the report of the Commission on Protecting and Reducing Government Secrecy which recommended that such a balancing test be applied in all classification decisions.

The Commission on Protecting and Reducing Government Secrecy was the second statutory examination of Government secrecy. I was honored to Chair the Commission; Representative COMBEST served as vice-chairman. Also serving on the Commission were John Deutch, Martin Faga, John Podesta, and Samuel Huntington. We presented our report to the President in March, and the congressional members of the Commission introduced legislation to implement the recommendations of the Commission in May.

We have welcomed the many editorials and feature articles supporting our efforts as, in the words of the Sacramento Bee, a ''sensible, much-needed proposal for reforming runaway classification of secrets by the federal government.'' And Albany's Times Union assessment that our bill represents a ''bipartisan effort * * * to make more government documents accessible to the public and, in the process, make government more accountable.''

Our's is a report that, I believe, sets out a new framework for how to think about Government secrecy. Beginning with the concept that secrecy should be understood as a form of Government regulation. In the words of the German sociologist Max Weber, writing some eight decades ago:

Every bureaucracy seeks to increase the superiority of the professionally informed by keeping their knowledge and intentions secret. Bureaucratic administration always tends to be an administration of ''secret sessions''; in so far as it can, it hides its knowledge and action from criticism.

The pure interest of the bureaucracy in power, however, is efficacious far beyond those areas where purely functional interests make for secrecy. The concept of the ''official secret'' is the specific invention of bureaucracy, and nothing is so fanatically defended by the bureaucracy as this attitude, which cannot be substantially defended beyond these specifically qualified areas.

What we traditionally think of in this country as regulation concerns how citizens are to behave. Whereas public regulation involves what the citizen may do, secrecy concerns what that citizen may know. And the citizen does not know what may not be known. As our Commission stated: ''Americans are familiar with the tendency to overregulate in other areas. What is different with secrecy is that the public cannot know the extent or the content of the regulation.''

Thus, secrecy in the ultimate mode of regulation; the citizen does not even know that he or she is being regulated. It is a parallel regulatory regime with a far greater potential for damage if it malfunctions. In our democracy, where the free exchange of ideas is so essential, it can be suffocating.

We must develop what might be termed a competing ''culture of openness'' fully consistent with our interests in protecting national security, but in which power and authority are no longer derived primarily from one's ability to withhold information from others in Government and the public at large.

The Nazi War Crimes Disclosure Act is in keeping with the work of the Commission on Protecting and Reducing Government Secrecy. With the passing of time it becomes ever more important to document Nazi war crimes, lest the enormity of those crimes be lost to history. The greater access which this legislation provides will add clarity to this important effort. I applaud those researchers who continue to pursue this important work.

I would like to thank Representative MALONEY for her original work on this subject in the House of Representatives and I would also thank Senator DEWINE for joining me in this effort here in the Senate.

Mr. KOHL. Mr. President, I am pleased to be an original cosponsor of the Nazi War Crimes Disclosure Act. I want to thank Senator DEWINE and commend him for taking the lead on this important issue.

This bill demonstrates America's commitment to the same historical honesty that we are demanding of Switzerland and other countries only now facing their role in the atrocities of World War II. It is not enough for us to talk about disclosure by others. We need to practice it too. If there are secrets relating to the presence of Nazi war criminals in the United States, or

if there is information that will be helpful in identifying assets of Holocaust victims, or even evidence of other governments collaborating with the Nazis, let's open these files and reveal these secrets before an entire generation of survivors is gone.

This bill creates a presumption in favor of the public interest in learning all there is to learn about Nazi war crimes and requires a proactive searching of Government files for relevant documents. We have an obligation to find this information and to disseminate it. Although the Holocaust happened more than 50 years ago, we are now seeing countries and individuals caught up in the maelstrom of World War II grappling with this difficult past. Much of the debate on these issues has been triggered by recently released information from Government and other archives.

For survivors, there is no legislation that can erase the suffering they endured at the hands of the Nazis. As we go about our day-to-day business, it is easy to forget the horrific details of what happened in Europe: the gruesome torture and deaths, the systematic extermination of people. However, for those of us who were directly touched by the Holocaust, history is very real. I grew up in the shadow of this tragedy. When I was a child, my family worried daily about family members left behind in Europe during the war. We constantly discussed what was or wasn't happening, and when the truth finally emerged, and all Americans realized the extent of the tragedy, it touched us even more.

It is only natural for American survivors and their families to expect the American Government to be as forthcoming as possible. Although many survivors have gone on to live productive lives here in the United States, and around the world, they can never forget. Nor should we.

Many emerging democracies are now facing their pasts—through truth commissions and the like. It is tempting to want to look forward and to forget events of long ago. But for these fragile democracies, reckoning with the past is the key to ensuring a secure future. We too must recognize that the openness prescribed by this legislation only makes our democracy stronger.

This legislation maintains protections for individuals from the unwarranted invasion of their personal privacy, and it continues to provide exceptions for the most urgent national security and foreign policy interests. The difference between this bill and existing FOIA protections is that this bill firmly sets into law the public's right to know about Nazi war crimes and the disposition of Nazi assets, and if there is information that agencies insist on keeping secret, the relevant congressional committees must be informed. This will give us the opportunity to determine whether information dating so far back should remain classified. Finally, the bill provides that if an agency head exercises his or her authority to block the release of information, the decision is subject to judicial review.

It is difficult to imagine what knowledge would be subject to these protections so many years after the fact. Yes, there may be information which makes us feel uncomfortable. There is already information about the extent to which the U.S. Government knew about what was going on during the war in the Nazi death camps. We must not be afraid of what we may learn. The only ones who need fear are the perpetrators of these vicious acts who have escaped scrutiny until now, for there are still Nazi war criminals at large in this country and abroad. Armed with new information, much like the information which may be available in our own files, courts around the world are compelling them to answer for their despicable acts.

This legislation is targeted to information solely related to Nazi war crimes and to transactions involving Nazi victims, yet it sets an important precedent in codifying a more narrow set of privacy and national security exceptions for the release of Government information through the Freedom of Information Act. These exceptions are based on Executive Order 12958 which set the criteria for the release of information more than 25 years old. Unfortunately, we still have a long way to go in ensuring that this more open standard is uniformly applied to the release of Government information.

I am pleased that Senator MOYNIHAN is one of the lead sponsors of this bill because he has been such an eloquent spokesman against excessive secrecy. His work with the Commission on Protecting and Reducing Government Secrecy is truly commendable and I am pleased that this legislation is consistent with the findings of the Commission. Beyond shedding light on a difficult chapter in the history of humanity, this legislation can help foster a greater openness in the handling of Government information.

If we succeed, we will have left a legacy of which we can all be proud.

By Mr. COATS (for himself, Mr. LIEBERMAN, Mr. D'AMATO, and Mr. KERREY):

S. 1380. A bill to amend the Elementary and Secondary Education Act of 1965 regarding charter schools; to the Committee on Labor and Human Resources.

THE CHARTER SCHOOL EXPANSION ACT OF 1997

Mr. COATS. Mr. President, I am so pleased to join my good friend, Senator LIEBERMAN, in introducing another bill which has as its primary aim the expansion of educational opportunities for children. Senator LIEBERMAN has been a leader in promoting educational alternatives, and his efforts in the charter school movement have contributed to the tremendous growth in the number of charter schools since 1994. I commend him for his work in this area and am honored to join him in introducing the Charter School Expansion Act of 1997.

This bill builds on the great success of the original charter school legislation which Senator LIEBERMAN introduced in 1994. The Federal Charter School Grant Program provided seed money to charter school operators to help them cover the startup costs of beginning a charter school. In the last 3 years, the number of charter schools in operation around the country has tripled, with more than 700 charter schools now in 23 States.

The purpose of this bill is to further encourage the growth of high-quality charter schools around the country.

This bill provides incentives to encourage States to increase the number of charter schools in their State. The bill also tightens the eligibility definitions to better direct funds to those States who are committed to developing strong charter schools.

To ensure that charter schools have enough funding to continue once their doors are opened, this bill provides that charter schools get their fair share of Federal programs for which they are eligible, such as title 1 and IDEA.

This bill also increases the financing options available to charter schools and allows them to utilize funds from the title VI block grant program for startup costs.

And finally, the Secretary of Education and each State education agency is directed to inform every school district about the charter school option so that this educational alternative will be an option for any parent who is interested.

WHAT ARE CHARTER SCHOOLS?

Charter schools are independent public schools that have been freed from onerous bureaucratic and regulatory burdens and able to design and deliver educational programs tailored to meet the needs of their students and their communities.

The individualized education available to students through charter schools makes this a very desirable educational alternative. Charter schools give families an opportunity to choose the educational setting that best meet their child's needs. For many low-income families in particular, charter schools provide their first opportunity to select educational setting which is best for their child.

These innovative charter schools are having tremendous academic success serving the same population of students who are struggling in more traditional public school settings. Several recent studies have highlighted the success of charter schools around the country in serving at-risk students. A study conducted by the Hudson Institute found dramatic improvement for minority and low income students who had been failing in their previous school. These students are flourishing in the smaller, challenging environments found in charter schools.

With results like these, it is no wonder that some of the strongest support

for charter legislation comes from low-income families. Low-income families not only have real educational choices, but are actually needed in the charter school environment for everything from volunteering, to coaching, for fundraising, and even teaching. This direct involvement of families is helping to build small communities centered around the school.

Charter schools can be started by anyone interested in providing a quality education: Parents, teachers, school administrators, community groups, businesses, and colleges can all apply for a charter. And, importantly, if these schools fail to deliver a high-quality education, they will be closed—either through a district or State's accountability measures or due to lack of customers. Accountability is literally built in to the charter school process—a school's charter must be complied with and unhappy parents and students can leave if they are not satisfied.

In addition to the positive impact on the charter's students and their families, the overall charter movement is serving as a catalyst for change in the public schools. A foundational principle of the charter concept is that fair competition can stimulate improvement. And improvement in public schools has been spurred around the country due to the rapid growth of charter schools.

Recently, several studies have been released highlighting some of the success of charter schools around the country. In May, the Department of Education released its first formal report on its study of charter schools. Key first-year findings include:

The two most common reasons for starting public charter schools are flexibility from bureaucratic laws and regulations and the chance to realize an educational vision.

In most States, charter schools have a racial composition similar to statewide averages or have a higher proportion of minority students.

Charter schools enroll roughly the same proportion of low income students, on average, as other public schools.

Over the last 2 years, the Hudson Institute has undertaken its own study of charter schools, entitled ''Charter Schools in Action.'' Their research team traveled to 14 States, visited 60 schools, and surveyed thousands of parents, teachers, and students.

Some of this study's key findings include:

Three-fifths of charter school students report that their charter school teachers are better than their previous school's teacher.

Over two-thirds of parents say their charter school is better than their child's previous schools with respect to class size, school size, and individual attention.

Over 90 percent of teachers are satisfied with their charter school's educational philosophy, size, fellow teachers, and students.

Among students who said they were failing at their previous school, more than half are now doing excellent or good work. These gains were dramatic for minority and low-income youngsters, and were confirmed by their parents.

The example of these schools point to important ways to improve and reinvent public education as a whole. The implications from the success of charter schools indicate that successful public schools should be consumer-oriented, diverse, results-oriented, and professional places that also function as mediating institutions in their communities.

The tremendous success of charter schools in the last 6 years gives me great hope for the success of overall education reform. The more than 700 charter schools in this country that have sprung up in such a short period of time provide solid evidence that parents are interested in improving their children's educational opportunities and they will do whatever it takes.

With the introduction of this bill, the Charter School Expansion Act, Senator LIEBERMAN and I hope to send a signal to parents all across this country that they are not alone in their struggle to improve education for their children. We hope to ease their struggle by enabling new charter schools to be developed. More charter schools will result in greater accountability, broader flexibility for classroom innovation, and ultimately more choice in public education. I urge my colleagues to support this bill and to increase educational opportunities for all children.

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

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

S. 1380

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 ''Charter School Expansion Act of 1997''.

SEC. 2. INNOVATIVE CHARTER SCHOOLS.

Title VI of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7301 et seq.) is amended—

(1) in section 6201(a) (20 U.S.C. 7331(a))—

(A) in paragraph (1)(C), by striking ''and'' after the semicolon;

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

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

''(2) support for planning, designing, and initial implementation of charter schools as described in part C of title X; and''; and

(2) in section 6301(b) (20 U.S.C. 7351(b))—

(A) in paragraph (7), by striking ''and'' after the semicolon;

(B) by redesignating paragraph (8) as paragraph (9); and

(C) by inserting after paragraph (7) the following:

''(8) planning, designing, and initial implementation of charter schools as described in part C of title X; and''.

SEC. 3. CHARTER SCHOOLS.

(a) PURPOSE.—Section 10301(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8061(b)) is amended—

(1) in paragraph (1), by striking ''and'' after the semicolon;

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

(3) by adding at the end the following:

''(3) expanding the number of high-quality charter schools available to students across the Nation.''.

(b) CRITERIA FOR PRIORITY TREATMENT.—Section 10302 of such Act of 1965 (20 U.S.C. 8062) is amended by adding at the end the following:

''(e) PRIORITY TREATMENT.—

''(1) IN GENERAL.—

''(A) FISCAL YEARS 1998, 1999, AND 2000.—In awarding grants under this part for any of the fiscal years 1998, 1999, and 2000 from funds appropriated under section 10311 that are in excess of $51,000,000 for the fiscal year, the Secretary shall give priority to States to the extent that the States meet 1 or more of the criteria described in paragraph (2).

''(B) SUCCEEDING FISCAL YEARS.—In awarding grants under this part for fiscal year 2001 or any succeeding fiscal year from any funds appropriated under section 10311, the Secretary shall give priority to States to the extent that the States meet 1 or more of the criteria described in paragraph (2).

''(2) PRIORITY CRITERIA.—The criteria referred to in paragraph (1) are as follows:

''(A) The State has demonstrated significant progress in increasing the number of charter schools in the period prior to the period for which a State educational agency or eligible applicant applies for a grant under this part.

''(B) The State law regarding charter schools—

''(i) provides for at least 1 authorized public chartering agency that is not a local educational agency for each individual or entity seeking to operate a charter school pursuant to such State law; or

''(ii) in the case of a State in which local educational agencies are the only authorized public chartering agencies, allows for an appeals process for the denial of an application for a charter school.

''(C) The State law regarding charter schools provides for the automatic waiver of most State and local education laws and regulations, except those laws and regulations related to health, safety, and civil rights.

''(D) The State law regarding charter schools provides for periodic review and evaluation by the authorized public chartering agency of each charter school to determine whether the charter school is meeting or exceeding the academic performance requirements and goals for charter schools as set forth under State law or the school's charter.

''(f) AMOUNT CRITERIA.—In determining the amount of a grant to be awarded under this part to a State educational agency, the Secretary shall take into consideration the number of charter schools that will be created under this part in the State.''.

(c) APPLICATIONS.—Section 10303(b) of such Act (20 U.S.C. 8063(b)) is amended—

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

(2) by inserting after paragraph (1) the following:

''(2) describe how the State educational agency—

''(A) will inform each charter school in the State regarding—

''(i) Federal funds that the charter school is eligible to receive; and

''(ii) Federal programs in which the charter school may participate;

''(B) will ensure that each charter school in the State receives the charter school's commensurate share of Federal education funds that are allocated by formula; and

''(C) will disseminate best or promising practices of charter schools to each local educational agency in the State; and''.

(d) NATIONAL ACTIVITIES.—Section 10305 of such Act (20 U.S.C. 8065) is amended to read as follows:

''SEC. 10305. NATIONAL ACTIVITIES.

''The Secretary shall reserve for each fiscal year the lesser of 5 percent of the amount appropriated to carry out this part for the fiscal year or $5,000,000, to carry out the following activities:

''(1) To provide charter schools, either directly or through State educational agencies, with—

''(A) information regarding—

''(i) Federal funds that charter schools are eligible to receive; and

''(ii) other Federal programs in which charter schools may participate; and

''(B) assistance in applying for Federal education funds that are allocated by formula, including assistance with filing deadlines and submission of applications.

''(2) To provide for the completion of the 4-year national study (which began in 1995) of charter schools.

''(3) To provide—

''(A) information to applicants for assistance under this part;

''(B) assistance to applicants for assistance under this part with the preparation of applications under section 10303;

''(C) assistance in the planning and startup of charter schools;

''(D) training and technical assistance to existing charter schools;

''(E) information to applicants and charter schools regarding gaining access to private capital to support charter schools; and

''(F) for the dissemination of best or promising practices in charter schools to other public schools.''.

(e) COMMENSURATE TREATMENT; RECORDS TRANSFER; PAPERWORK REDUCTION.—Part C of title X of such Act (20 U.S.C. 8061 et seq.) is amended—

(1) by redesignating sections 10306 and 10307 as sections 10310 and 10311, respectively; and

(2) by inserting after section 10305 the following:

''SEC. 10306. FEDERAL FORMULA ALLOCATION DURING FIRST YEAR AND FOR SUCCESSIVE ENROLLMENT EXPANSIONS.

''For purposes of the allocation to schools by the States or their agencies of funds under part A of title I, and any other Federal funds which the Secretary allocates to States on a formula basis, the Secretary and each State educational agency shall take such measures not later than 6 months after the date of enactment of the Charter School Expansion Act of 1997 as are necessary to ensure that every charter school receives the Federal funding for which the charter school is eligible not later than 5 months after the charter school first opens, notwithstanding the fact that the identity and characteristics of the students enrolling in that charter school are not fully and completely determined until that charter school actually opens. The measures similarly shall ensure that every charter school expanding its enrollment in any subsequent year of operation receives the Federal funding for which the charter school is eligible not later than 5 months after such expansion.

''SEC. 10307. SOLICITATION OF INPUT FROM CHARTER SCHOOL OPERATORS.

''To the extent practicable, the Secretary shall ensure that administrators, teachers, and other individuals directly involved in the operation of charter schools are consulted in the development of any rules or regulations required to implement this part, as well as in the development of any rules or regulations relevant to charter schools that are required to implement part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.), the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), or any other program administered by the Secretary that provides education funds to charter schools or regulates the activities of charter schools.

''SEC. 10308. RECORDS TRANSFER.

''State educational agencies and local educational agencies, to the extent practicable, shall ensure that a student's records and, if applicable, a student's individualized education program as defined in section 602(11) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(11)), are transferred to a charter school upon the transfer of the student to the charter school, in accordance with applicable State law.

''SEC. 10309. PAPERWORK REDUCTION.

''To the extent practicable, the Secretary and each authorized public chartering agency shall ensure that implementation of this part results in a minimum of paperwork for any eligible applicant or charter school.''.

(f) PART C DEFINITIONS.—Section 10310(1) of such Act (as redesignated by subsection (e)(1)) (20 U.S.C. 8066(1)) is amended—

(1) in subparagraph (A), by striking ''an enabling statute'' and inserting ''a specific State statute authorizing the granting of charters to schools'';

(2) in subparagraph (H), by inserting ''is a school to which parents choose to send their children, and that'' before ''admits'';

(3) in subparagraph (J), by striking ''and'' after the semicolon;

(4) in subparagraph (K), by striking the period and inserting ''; and''; and

(5) by adding at the end the following:

''(L) has a written performance contract with the authorized public chartering agency in the State.''.

(g) AUTHORIZATION OF APPROPRIATIONS.—Section 10311 of such Act (as redesignated by subsection (e)(1)) (20 U.S.C. 8067) is amended by striking ''$15,000,000 for fiscal year 1995'' and inserting ''$100,000,000 for fiscal year 1998''.

(h) TITLE XIV DEFINITIONS.—Section 14101 of such Act (20 U.S.C. 8801) is amended—

(1) in paragraph (14), by inserting '', including a public elementary charter school,'' after ''residential school''; and

(2) in paragraph (25), by inserting '', including a public secondary charter school,'' after ''residential school''.

(i) CONFORMING AMENDMENT.—The matter preceding paragraph (1) of section 10304(e) of such Act (20 U.S.C. 8064(e)) is amended by striking ''10306(1)'' and inserting ''10310(1)''.

Mr. LIEBERMAN. Mr. President, I rise today to join my good friend and partner Senator COATS in introducing legislation that would speed the progress of what is arguably the most promising engine of education reform in America today, the charter school movement.

Before discussing the legislation itself, I think it's important to talk first about the context in which it is being introduced and the ongoing debates here in Congress over how best to improve our public schools and expand educational opportunities for all students. In listening to much of the back and forth recently, particularly about efforts to promote a limited school choice program, it seems that too often these battles are being waged, in the words of the great John Gardner, between uncritical lovers and unloving critics, those who would defend the status quo in public education at all costs and those who would attack it at the drop of a hat, with neither side doing much listening.

Making matters worse, the uncritical lovers have helped reduce this challenging, vitally important discussion to a simplistic either-or equation. Either you are for public education, which means you subscribe to a certain orthodoxy and dare not depart from it, or you are against it. Either you subscribe to a small set of educationally correct methods of reform or you are subverting public education as we know it.

In my view, this shortsightedness is shortchanging our children. Given how many students are being served poorly by the status quo, particularly those living in urban areas who are trapped in deadening and in some cases deadly public schools, and given the crucial role that education will play in determining whether the American dream can be made real for those kids in the information age, we have an obligation to leave no policy stone unturned or untested and judge ideas by the simple, unalloyed standard of what works. We must be open to trying any plan or program that offers the hope of better education for our children.

That is why Senator COATS and I have been advocating for some time that we experiment with private school choice, sponsoring a series of bills to set up pilot programs in our cities to see if giving low-income students the chance to attend a private or faith-based school will enhance their learning and force those failing public schools to improve.

And that is why today we want to take this opportunity to express our support for the growing public charter school movement and to outline our plans to help make these innovative, independent programs the norm rather than a novelty in this country.

I have been a long-time advocate of the charter approach, which grants educators freedom from top-heavy bureaucracies and their redtape in exchange for a commitment to meet high academic standards. After visiting, this week, with a group of passionate charter school operators and teachers at a national conference here in town, I am all the more convinced that charter schools represent what may be the future of public education. These folks are driving a grassroots revolution that is seeking to reinvent the public school and take it back to the future, reconnecting public education to some of our oldest, most basic values—ingenuity, responsibility, accountability—and refocusing its mission on doing what's best for the child instead of what's best for the system.

The results speak for themselves. Over the past 3 years, the number of public charter schools have more than

tripled, with more than 700 of them operating in 23 different States and the District of Columbia, and parents in turn have given these programs overwhelmingly high marks for their responsiveness to them as consumers. Broad-based studies done by the Hudson Institute and the Education Department show that charters are effectively serving diverse populations, particularly many of the disadvantaged and at-risk children that traditional public schools have struggled to educate. And while it's too soon to determine what impact charter schools are having on overall academic performance, the early returns in places like Massachusetts suggest that charters are succeeding where it matters most, in the classroom.

Perhaps most heartening of all, a recent survey done by the National School Board Association found that the charter movement is already having a ripple effect that is being felt in many local school districts. The NSBA report cites evidence that traditional schools are working harder to please local families so they won't abandon them to competing charter schools, and that central administrators often see charters as a powerful tool to develop new ideas and programs without fearing regulatory roadblocks.

The most remarkable aspect of this movement may be that it has managed to bring together educators, parents, community activists, business leaders, and politicians from across the political spectrum on common ground in support of a common goal to better educate our children through more choice, more flexibility, and more accountability in our public schools. In these grassroots may lie the roots of a consensus for renewing the promise of public education.

We want to build on this agreement and the successes of charter schools and do what we can at the Federal level to encourage the growth of this movement. So today we will be introducing bipartisan legislation that will strengthen the Federal investment in charter schools and help remove some of the hurdles preventing charters from flourishing in every State.

Our bill, the Charter School Expansion Act, would revamp the Federal Charter School Grant Program to make it more focused on helping States and local groups create new schools and meet the President's goal of creating 3,000 charters by the year 2000. We want to increase funding for grants to new schools, which help charter operators meet the high costs of starting a school from scratch, and better target that aid to the States that are serious about expanding their charter program. Our hope is that these changes will give States that have been slow to embrace the charter movement an incentive to get on board.

In the near term, we feel this bill can be a starting point for overcoming our partisan and ideological differences and reaching a consensus on how to improve our schools and safeguard the hopes of our children. This proposal has already generated bipartisan interest both here in the Senate and the House, the administration has expressed its support, and we are optimistic it will be passed next year overwhelmingly.

In closing, I would like to thank Senator KERRY and Senator D'AMATO for joining Senator COATS and myself as original cosponsors of this bill. I would urge the rest of our colleagues, if they have not yet already done so, to take a close look at some of the truly innovative charter school programs being run in your home States and around the country. And I would ask you to join us in supporting this legislation to build on all the great work that's being done at the State and local level and help us chart a new course in education reform in America.

By Mr. NICKLES:

S. 1381. A bill to direct the Secretary of the Army to convey lands acquired for the Candy Lake project, Osage County, OK; to the Committee on Environment and Public Works.

THE CANDY LAKE LAND CONVEYANCE ACT OF 1997

Mr. NICKLES. Mr. President, today, I am introducing the Candy Lake Land Conveyance Act of 1997. The purpose of this legislation is to direct the Secretary of the Army to convey lands acquired for the Candy Lake project in Osage County, OK, back to the original landowners.

Briefly, the U.S. Army Corps of Engineers acquired 3,657.45 acres of land in Osage County from 21 landowners for the purpose of constructing Candy Lake. The project was not constructed, and in December 1996, the Corps of Engineers declared the Candy Lake property excess to the needs of the Federal Government.

My legislation will give each of the 21 landowners the option to purchase their original property from the Federal Government at fair market value. If a landowner, or their descendant, opts not to purchase their former property, that land will be disposed of in accordance with the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

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

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

S. 1381

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

SECTION. 1. DEFINITIONS.

In this Act:

(1) FAIR MARKET VALUE.—The term ''fair market value'' means the amount for which a willing buyer would purchase and a willing seller would sell a parcel of land, as determined by a qualified, independent land appraiser.

(2) PREVIOUS OWNER OF LAND.—The term ''previous owner of land'' means a person (including a corporation) that conveyed, or a descendant of an individual who conveyed, land to the Army Corps of Engineers for use in the Candy Lake project in Osage County, Oklahoma.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Army.

SEC. 2. LAND CONVEYANCES.

(a) IN GENERAL.—The Secretary, acting through the Real Estate Division of the Tulsa District, Army Corps of Engineers, shall convey, in accordance with this section, all right, title, and interest of the United States in and to the land acquired by the United States for the Candy Lake project in Osage County, Oklahoma.

(b) PREVIOUS OWNERS OF LAND.—

(1) IN GENERAL.—The Secretary shall give a previous owner of land first option to purchase the land described in subsection (a) that was owned by the previous owner of land or by the individual from whom the previous owner of land is descended.

(2) APPLICATION.—

(A) IN GENERAL.—A previous owner of land that desires to purchase the land described in subsection (a) that was owned by the previous owner of land, or by the individual from whom the previous owner of land is descended, shall file an application to purchase the land with the Secretary not later than 180 days after the official date of notice to the previous owner of land under section 3.

(B) FIRST TO FILE HAS FIRST OPTION.—If more than 1 application is filed for a parcel of land described in subsection (a), first options to purchase the parcel of land shall be allotted in the order in which applications for the parcel of land were filed.

(3) IDENTIFICATION OF PREVIOUS OWNERS OF LAND.—As soon as practicable after the date of enactment of this Act, the Secretary shall, to the extent practicable, identify each previous owner of land.

(4) CONSIDERATION.—Consideration for land conveyed under this subsection shall be the fair market value of the land.

(c) DISPOSAL.—Any land described in subsection (a) for which an application has not been filed under subsection (b)(2) within the applicable time period shall be disposed of in accordance with the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

(d) EXTINGUISHMENT OF EASEMENTS.—All flowage easements acquired by the United States for use in the Candy Lake project in Osage County, Oklahoma, are extinguished.

SEC. 3. NOTICE.

(a) IN GENERAL.—The Secretary shall notify—

(1) each person identified as a previous owner of land under section 2(b)(3), not later than 30 days after identification, by United States mail; and

(2) the general public, not later than 30 days after the date of enactment of this Act, by publication in the Federal Register.

(b) CONTENTS OF NOTICE.—Notice under this section shall include—

(1) a copy of this Act;

(2) information sufficient to separately identify each parcel of land subject to this Act; and

(3) specification of the fair market value of each parcel of land subject to this Act.

(c) OFFICIAL DATE OF NOTICE.—The official date of notice under this section shall be the later of—

(1) the date on which actual notice is mailed; or

(2) the date of publication of the notice in the Federal Register.

ADDITIONAL COSPONSORS

S. 61

At the request of Mr. LOTT, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S.