Department of Veterans' Affairs, transmitting, pursuant to law, a rule entitled ''Rulemaking Procedures'' (RIN2900–AI33) received on March 3, 1997; to the Committee on Veterans' Affairs.

EC–1278. A communication from the Assistant General Counsel for Regulations, Department of Education, transmitting, pursuant to law, a rule entitled ''Direct Grant Programs'' (RIN1880–AA74) received on February 27, 1997; to the Committee on Labor and Human Resources.

EC–1279. A communication from the Director of Regulations Policy, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, two rules including a rule entitled ''Lowfat and Skim Milk Products'' received on February 27, 1997; to the Committee on Labor and Human Resources.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. CONRAD (for himself, Mr. KERREY, Mr. HARKIN, Mr. WELLSTONE, Mr. BAUCUS, Mr. COCHRAN, and Mr. INOUYE):

S. 385. A bill to provide reimbursement under the medicare program for telehealth services, and for other purposes; to the Committee on Finance.

By Mr. WYDEN:

S. 386. A bill to amend title XVIII of the Social Security Act to protect and improve the medicare program, and for other purposes; to the Committee on Finance.

By Mr. HATCH (for himself, Mr. BAUCUS, Mr. NICKLES, Mr. BREAUX, Mr. GORTON, Mrs. FEINSTEIN, Mrs. MURRAY, and Mrs. BOXER):

S. 387. A bill to amend the Internal Revenue Code of 1986 to provide equity to exports of software; to the Committee on Finance.

By Mr. LUGAR:

S. 388. A bill to amend the Food Stamp Act of 1977 to assist States in implementing a program to prevent prisoners from receiving food stamps; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. ABRAHAM (for himself, Mr. BOND, Mr. NICKLES, Mr. HUTCHINSON, Mr. HELMS, and Mr. SESSIONS):

S. 389. A bill to improve congressional deliberation on proposed Federal private sector mandates, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, as modified by the order of April 11, 1986, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. COVERDELL (for himself, Mrs. FEINSTEIN, and Mr. HELMS):

S.J. Res. 19. Joint resolution to disapprove the certification of the President under section 490(b) of the Foreign Assistance Act of 1961 regarding foreign assistance for Mexico during fiscal year 1997; read the first time.

S.J. Res. 20. Joint resolution to disapprove the certification of the President under section 490(b) of the Foreign Assistance Act of 1961 regarding foreign assistance for Mexico during fiscal year 1997; to the Committee on Foreign Relations.

S.J. Res. 21. Joint resolution to disapprove the certification of the President under section 490(b) of the Foreign Assistance Act of 1961 regarding assistance for Mexico during fiscal year 1997, and to provide for the termination of the withholding of and opposition to assistance that results from the disapproval; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CONRAD (for himself, Mr. KERREY, Mr. HARKIN, Mr. WELLSTONE, Mr. BAUCUS, Mr. COCHRAN and Mr. INOUYE):

S. 385. A bill to provide reimbursement under the Medicare Program for telehealth services, and for other purposes; to the Committee on Finance.

THE COMPREHENSIVE TELEHEALTH ACT OF 1997

• Mr. CONRAD. Mr. President, today, I am pleased to be joined by Senator KERREY, Senator HARKIN, Senator WELLSTONE, Senator BAUCUS, Senator COCHRAN, and Senator INOUYE to introduce legislation to help improve health care delivery in rural and underserved communities throughout America through the use of telecommunications and telehealth technology.

Telehealth encompasses a wide variety of technologies, ranging from the telephone to high-technology equipment that enables a surgeon to perform surgery from thousands of miles away. It includes interactive video equipment, fax machines and computers along with satellites and fiber optics. These technologies can be used to diagnose patients, deliver care, transfer health data, read x-rays, provide consultation, and educate health professionals. Telehealth also includes the electronic storage and transmission of personally identifiable health information, such as medical records, test results, and insurance claims.

The promise of telehealth is becoming increasingly apparent. Throughout the country, providers are experimenting with a variety of telehealth approaches in an effort to improve access to quality medical and other health-related services. Those programs are demonstrating that telecommunications technology can alleviate the constraints of time and distance, as well as the cost and inconvenience of transporting patients to medical providers. Many approaches show promising results in reducing health care costs and bringing adequate care to all Americans. For the first time, technological advances and the development of a national information infrastructure give telehealth the potential to overcome barriers to health care services for rural Americans and afford them the access that most Americans take for granted. But it is clear that our Nation must do more to integrate telehealth into our overall health care delivery infrastructure.

Because I believe telehealth holds incredible promise for rural America, I formed the Ad Hoc Steering Committee on Telemedicine and Health Care Informatics to explore telehealth and related issues in 1994. The purpose of the steering committee, which includes telehealth experts from government, private industry, and the health care professions, is to evaluate Federal policies on telehealth and how to use telecommunications technology more effectively to increase access to health care throughout America.

Throughout the last few years, as the steering committee held meetings and policy forums, it became increasingly apparent that there is enormous energy and financial effort being devoted to telehealth today, both by government and private industry.

Because so many rural and underserved communities lack the ability to attract and support a wide variety of health care professionals and services, it is important to find a way to bring the most important medical services into those communities. Telehealth provides an important part of the answer. It helps bring services to remote areas in a quick, cost-effective manner, and can enable patients to avoid traveling long distances in order to receive health care treatment.

Telehealth is already making a difference in my State. The University of North Dakota has a fiber optic two-way audio and video interactive network that has been used to train students in areas like social work and medical technology. Recently, I had the opportunity to spend some time with two of the premier telehealth systems in the State of North Dakota. I was amazed at the capabilities of these systems. They currently supply speciality care to rural North Dakota clinics, manage chronic disease, lower administrative costs, and reduce the isolation felt by rural and frontier practitioners.

Because telehealth is in many respects an emerging health care application, it is particularly important to constructively capitalize on efforts like these. My proposal attempts to facilitate this in a number of ways.

The first element of my proposal builds on current demonstration projects to require the Health Care Financing Administration to put in place a reimbursement system for telehealth activities under Medicare. Medicare reimbursement policy is an essential component of helping to integrate telehealth into the health care infrastructure, and must be explored. It is particularly important in rural areas, where many hospitals do as much as 80 percent of their business with Medicare patients. While rural areas are the most in need of telehealth services, I also realize there are other groups that would greatly benefit from an expansion of this service. That is why I am also asking the Secretary of Health and Human Services to submit a report that will examine the impact of expanding telehealth reimbursement for nonrural Medicare beneficiaries who are home-bound or nursing home-bound and for whom being transferred for health care services imposes a serious hardship.

The second element of this proposal asks the Secretary of Health and Human Services to submit a report to

the Congress on the status of efforts to ease licensing burdens on practitioners who cross State lines in the course of supplying telehealth services. Currently, consultation by almost any licensed health professional in this situation requires that the practitioner be licensed in both States.

In talking with telehealth providers in my State, and with experts on the ad hoc committee, I have been told repeatedly that this is one of the most significant barriers to developing broad integrated telehealth systems. More importantly, they tell me States have actively been using licensure to close their borders to innovative telehealth practice. In the past 2½ years, 11 States have taken legislative action to ensure that out-of-State practitioners must be fully licensed in their State in order to provide telehealth services, even if they are fully licensed in their own State. During a recent discussion with a telehealth practitioner from my home State of North Dakota, I was told about a group of telehealth specialists who, among their small group practice, were licensed in more than 30 different States. That means they pay 30 different fees, are responsible for 30 different continuing education requirements, and are overseen by 30 different regulatory bodies. This is a costly and burdensome procedure for many practitioners, but the burden falls particularly heavily on rural practitioners, who face long travel times to acquire continuing education, and who frequently run on lower profit margins than urban practitioners.

While I am not prepared at this time to propose that the Federal Government get involved with professional licensure, I have asked the Secretary to study the issue and report to Congress yearly on the status of efforts by States and other interested organizations to address this issue. This will allow us to reach out to the States and work together to find solutions to cross-State licensure concerns. As part of this report, I have asked the Secretary to make recommendations to Congress, if appropriate, about possible Federal action to lower the licensure barrier.

A third element of my proposal involves coordination of the Federal telehealth effort. Vice President GORE has been making outstanding contributions in the area of the information superhighway. The Department of Health and Human Services, in large part at the urging of the Vice President, has created an informal interagency task force that is examining our Federal agency telehealth efforts. This group recently completed a report on telehealth that highlights current Federal activities and also provides a thorough examination of many of the important issues in telehealth.

My bill attempts to use that task force to inventory Federal activity on telehealth and related technology, determine what applications have been found successful, and recommend an overall Federal policy approach to telehealth. Many departments and agencies of the Federal Government are engaged in telehealth activity, including the Veterans' Administration, Department of Defense, Department of Agriculture, Office of Rural Health Policy, and many others. The more these agencies work together to coordinate the Federal effort and consolidate Federal resources, the more effective the Federal Government will be in contributing to telehealth in a positive way. I believe this is especially important in light of the recent GAO report calling for an expanded role for this group and more coordination of telehealth issues across the Federal agencies. The efforts of this group, along with the ongoing activities of the congressional ad hoc steering committee, will provide a renewed focus for telehealth across the Federal Government. Such coordination will also help protect the American taxpayer from unnecessary duplication of effort.

The fourth part of my proposal helps communities build homegrown telehealth networks. It attempts both to build a telehealth infrastructure and foster rural economic development and incorporates many of the most important lessons learned from other grant projects and studies on telehealth from across the Federal Government.

Clearly, the scarcity of resources in many rural communities requires that the coordination and use of those resources be maximized. My bill encourages cooperation by various local entities in an effort to help build sustainable telehealth programs in rural communities. It plants seed money to encourage health care providers to join with other segments of the community to jointly use telecommunications resources. Using a unique loan forgiveness program, it rewards telehealth systems that supply appropriate, high-quality care while reducing overall health care costs.

Most importantly, it does not create a system where various technological approaches are imposed upon communities. Rather it enables potential grantees to determine user-friendly approaches that work best for them. This homegrown approach to developing user-friendly telehealth systems, as well as the preference for coordinating resources within communities, will help ensure the long-term viability of such programs after the grant expires.

Mr. President, my proposal is a sound first step in our national efforts to integrate telecommunications technology into the rapidly evolving health care delivery system. This bill is very similar to legislation, S. 2171 I introduced late in the 104th Congress. I am very encouraged by the positive feedback I have received from telehealth networks across the country. Over the past few months, I have attempted to reach out to different groups and incorporate their ideas into this proposal. As a result, I have made several changes in the bill that I believe will make this a stronger proposal. But, as with any complex issue, I understand that some may prefer different approaches. By introducing this legislation early in the 105th Congress, I hope to send a message to all interested parties that now is the time to come forward with creative solutions to these important issues. It is my hope that comprehensive telehealth legislation can be attached to any Medicare reform legislation enacted in this Congress so we can improve access to needed health care services for rural and underserved populations.

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. 385

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Comprehensive Telehealth Act of 1997''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Definitions.

TITLE I—MEDICARE REIMBURSEMENT FOR TELEHEALTH SERVICES

Sec. 101. Medicare reimbursement for telehealth services.

TITLE II—TELEHEALTH LICENSURE

Sec. 201. Initial report to Congress.
Sec. 202. Annual report to Congress.

TITLE III—PERIODIC REPORTS TO CONGRESS FROM THE JOINT WORKING GROUP ON TELEHEALTH

Sec. 301. Joint working group on telehealth.

TITLE IV—DEVELOPMENT OF TELEHEALTH NETWORKS

Sec. 401. Development of telehealth networks.
Sec. 402. Administration.
Sec. 403. Guidelines.
Sec. 404. Authorization of appropriations.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds the following:

(1) Hospitals, clinics, and individual health care providers are critically important to the continuing health of rural populations and the economic stability of rural communities.

(2) Rural communities are underserved by specialty health care providers.

(3) Telecommunications technology has made it possible to provide a wide range of health care services, education, and administrative services between health care providers, patients, and administrators across State lines.

(4) The delivery of health services by licensed health care providers is a privilege and the licensure of health care providers and the ability to discipline such providers is necessary for the protection of citizens and for the public interest, health, welfare, and safety.

(5) The licensing of health care providers to provide telehealth services has a significant impact on interstate commerce and any unnecessary barriers to the provision of telehealth services across State lines should be eliminated.

(6) Rapid advances in the field of telehealth give Congress a need for current information and updates on recent developments in telehealth research, policy, technology, and the use of this technology to

supply telehealth services to rural and underserved areas.

(7) Telehealth networks can provide hospitals, clinics, health care providers, and patients in rural and underserved communities with access to specialty care, continuing education, and can act to reduce the isolation from other professionals that these health care providers sometimes experience.

(8) In order for telehealth systems to continue to benefit rural and underserved communities, the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) must reimburse the provision of health care services from remote locations via telecommunications.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To mandate that the Health Care Financing Administration reimburse the provision of clinical health services via telecommunications.

(2) To determine if States are making progress in facilitating the provision of telehealth services across State lines.

(3) To create a coordinating entity for Federal telehealth research, policy, and program initiatives that reports to Congress annually.

(4) To encourage the development of rural telehealth networks that supply appropriate, cost-effective care, and that contribute to the economic health and development of rural communities.

(5) To encourage research into the clinical efficacy and cost-effectiveness of telehealth diagnosis, treatment, or education on individuals, health care providers, and health care networks.

SEC. 3. DEFINITIONS.

In this Act:

(1) HEALTH CARE PROVIDER.—The term ''health care provider'' means anyone licensed or certified under State law to provide health care services who is operating within the scope of such license.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

TITLE I—MEDICARE REIMBURSEMENT FOR TELEHEALTH SERVICES

SEC. 101. MEDICARE REIMBURSEMENT FOR TELEHEALTH SERVICES.

(a) IN GENERAL.—Not later than July 1, 1998, the Secretary shall make payments from the Federal Supplementary Medical Insurance Trust Fund under part B of title XVIII of the Social Security Act (42 U.S.C. 1395j et seq.) in accordance with the methodology described in subsection (b) for professional consultation via telecommunications systems with an individual or entity furnishing a service for which payment may be made under such part to a beneficiary under the medicare program residing in a rural area (as defined in section 1886(d)(2)(D) of such Act (42 U.S.C. 1395ww(d)(2)(D))) or an underserved area, notwithstanding that the individual health care provider providing the professional consultation is not at the same location as the individual furnishing the service to that beneficiary.

(b) METHODOLOGY FOR DETERMINING AMOUNT OF PAYMENTS.—Taking into account the findings of the report required under section 192 of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191; 110 Stat. 1988), the findings of the report required under paragraph (c), and any other findings related to the clinical efficacy and cost-effectiveness of telehealth applications, the Secretary shall establish a methodology for determining the amount of payments made under subsection (a), including the cost of the consultation service, a reasonable overhead adjustment, and a malpractice risk adjustment.

(c) SUPPLEMENTAL REPORT.—Not later than January 1, 1998, the Secretary shall submit a report to Congress which shall contain a detailed analysis of—

(1) how telemedicine and telehealth systems are expanding access to health care services;

(2) the clinical efficacy and cost-effectiveness of telemedicine and telehealth applications;

(3) the quality of telemedicine and telehealth services delivered; and

(4) the reasonable cost of telecommunications charges incurred in practicing telemedicine and telehealth in rural, frontier, and underserved areas.

(d) EXPANSION OF TELEHEALTH SERVICES FOR CERTAIN MEDICARE BENEFICIARIES.—

(1) IN GENERAL.—Not later than January 1, 1999, the Secretary shall submit a report to Congress that examines the possibility of making payments from the Federal Supplementary Medical Insurance Trust Fund under part B of title XVIII of the Social Security Act (42 U.S.C. 1395j et seq.) for professional consultation via telecommunications systems with an individual or entity furnishing a service for which payment may be made under such part to a beneficiary described in paragraph (2), notwithstanding that the individual health care provider providing the professional consultation is not at the same location as the individual furnishing the service to that beneficiary.

(2) BENEFICIARY DESCRIBED.—A beneficiary described in this paragraph is a beneficiary under the medicare program who does not reside in a rural area (as so defined) or an underserved area, who is home-bound or nursing home-bound, and for whom being transferred for health care services imposes a serious hardship.

(3) REPORT.—The report described in paragraph (1) shall contain a detailed statement of the potential costs to the medicare program under title XVIII of that Act of making the payments described in that paragraph using various reimbursement schemes.

TITLE II—TELEHEALTH LICENSURE

SEC. 201. INITIAL REPORT TO CONGRESS.

Not later than January 1, 1998, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning—

(1) the number, percentage and types of health care providers licensed to provide telehealth services across State lines, including the number and types of health care providers licensed to provide such services in more than 3 States;

(2) the status of any reciprocal, mutual recognition, fast-track, or other licensure agreements between or among various States;

(3) the status of any efforts to develop uniform national sets of standards for the licensure of health care providers to provide telehealth services across State lines;

(4) a projection of future utilization of telehealth consultations across State lines;

(5) State efforts to increase or reduce licensure as a burden to interstate telehealth practice; and

(6) any State licensure requirements that appear to constitute unnecessary barriers to the provision of telehealth services across State lines.

SEC. 202. ANNUAL REPORT TO CONGRESS.

(a) IN GENERAL.—Not later than January 1, 1999, and each July 1 thereafter, the Secretary shall prepare and submit to the appropriate committees of Congress, an annual report on relevant developments concerning the matters referred to in paragraphs (1) through (6) of section 201.

(b) RECOMMENDATIONS.—If, with respect to a report submitted under subsection (a), the Secretary determines that States are not making progress in facilitating the provision of telehealth services across State lines by eliminating unnecessary requirements, adopting reciprocal licensing arrangements for telehealth services, implementing uniform requirements for telehealth licensure, or other means, the Secretary shall include in the report recommendations concerning the scope and nature of Federal actions required to reduce licensure as a barrier to the interstate provision of telehealth services.

TITLE III—PERIODIC REPORTS TO CONGRESS FROM THE JOINT WORKING GROUP ON TELEHEALTH

SEC. 301. JOINT WORKING GROUP ON TELEHEALTH.

(a) IN GENERAL.—

(1) REDESIGNATION.—The Joint Working Group on Telemedicine, established by the Secretary, shall hereafter be known as the ''Joint Working Group on Telehealth'' with the chairperson being designated by the Director of the Office of Rural Health Policy.

(2) MISSION.—The mission of the Joint Working Group on Telehealth is—

(A) to identify, monitor, and coordinate Federal telehealth projects, data sets, and programs,

(B) to analyze—

(i) how telehealth systems are expanding access to health care services, education, and information,

(ii) the clinical, educational, or administrative efficacy and cost-effectiveness of telehealth applications, and

(iii) the quality of the services delivered, and

(C) to make further recommendations for coordinating Federal and State efforts to increase access to health services, education, and information in rural and underserved areas.

(3) PERIODIC REPORTS.—The Joint Working Group on Telehealth shall report not later than January 1 of each year (beginning in 1998) to Congress on the status of the Group's mission and the state of the telehealth field generally.

(b) REPORT SPECIFICS.—The annual report required under subsection (a)(3) shall provide—

(1) an analysis of—

(A) how telehealth systems are expanding access to health care services,

(B) the clinical efficacy and cost-effectiveness of telehealth applications,

(C) the quality of telehealth services delivered,

(D) the Federal activity regarding telehealth, and

(E) the progress of the Joint Working Group on Telehealth's efforts to coordinate Federal telehealth programs; and

(2) recommendations for a coordinated Federal strategy to increase health care access through telehealth.

(c) TERMINATION.—The Joint Working Group on Telehealth shall terminate immediately after the annual report filed not later than January 1, 2002.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary for the operation of the Joint Working Group on Telehealth on and after the date of the enactment of this Act.

TITLE IV—DEVELOPMENT OF TELEHEALTH NETWORKS

SEC. 401. DEVELOPMENT OF TELEHEALTH NETWORKS.

(a) IN GENERAL.—The Secretary, acting through the Director of the Office of Rural Health Policy (of the Health Resources and Services Administration), shall provide financial assistance (as described in subsection (b)(1)) to recipients (as described in

subsection (c)(1)) for the purpose of expanding access to health care services for individuals in rural and frontier areas through the use of telehealth.

(b) FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—Financial assistance shall consist of grants or cost of money loans, or both.

(2) FORM.—The Secretary shall determine the portion of the financial assistance provided to a recipient that consists of grants and the portion that consists of cost of money loans so as to result in the maximum feasible repayment to the Federal Government of the financial assistance, based on the ability to repay of the recipient and full utilization of funds made available to carry out this title.

(3) LOAN FORGIVENESS PROGRAM.—

(A) ESTABLISHMENT.—With respect to cost of money loans provided under this section, the Secretary shall establish a loan forgiveness program under which recipients of such loans may apply to have all or a portion of such loans forgiven.

(B) REQUIREMENTS.—A recipient described in subparagraph (A) that desires to have a loan forgiven under the program established under such paragraph shall—

(i) within 180 days of the end of the loan cycle, submit an application to the Secretary requesting forgiveness of the loan involved;

(ii) demonstrate that the recipient has a financial need for such forgiveness;

(iii) demonstrate that the recipient has met the quality and cost-appropriateness criteria developed under subparagraph (C); and

(iv) provide any other information determined appropriate by the Secretary.

(C) CRITERIA.—As part of the program established under subparagraph (A), the Secretary shall establish criteria for determining the cost-effectiveness and quality of programs operated with loans provided under this section.

(c) RECIPIENTS.—

(1) APPLICATION.—To be eligible to receive a grant or loan under this section an entity described in paragraph (2) shall, in consultation with the State office of rural health or other appropriate State entity, prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require, including—

(A) a description of the anticipated need for the grant or loan;

(B) a description of the activities which the entity intends to carry out using amounts provided under the grant or loan;

(C) a plan for continuing the project after Federal support under this section is ended;

(D) a description of the manner in which the activities funded under the grant or loan will meet health care needs of underserved rural populations within the State;

(E) a description of how the local community or region to be served by the network or proposed network will be involved in the development and ongoing operations of the network;

(F) the source and amount of non-Federal funds the entity would pledge for the project; and

(G) a showing of the long-term viability of the project and evidence of health care provider commitment to the network.

The application should demonstrate the manner in which the project will promote the integration of telehealth in the community so as to avoid redundancy of technology and achieve economies of scale.

(2) ELIGIBLE ENTITIES.—An entity described in this paragraph is a hospital or other health care provider in a health care network of community-based health care providers that includes at least—

(A) two of the following:

(i) community or migrant health centers;

(ii) local health departments;

(iii) nonprofit hospitals;

(iv) private practice health professionals, including rural health clinics;

(v) other publicly funded health or social services agencies;

(vi) skilled nursing facilities;

(vii) county mental health and other publicly funded mental health facilities; and

(viii) providers of home health services; and

(B) one of the following, which must demonstrate use of the network for purposes of education and economic development (as required by the Secretary):

(i) public schools;

(ii) public library;

(iii) universities or colleges;

(iv) local government entity; or

(v) local nonhealth-related business entity.

An eligible entity may include for-profit entities so long as the network grantee is a nonprofit entity.

(d) PRIORITY.—The Secretary shall establish procedures to prioritize financial assistance under this title considering whether or not the applicant—

(1) is a health care provider in a rural health care network or a health care provider that proposes to form such a network, and the majority of the health care providers in such a network are located in a medically underserved, health professional shortage areas, or mental health professional shortage areas;

(2) can demonstrate broad geographic coverage in the rural areas of the State, or States in which the applicant is located;

(3) proposes to use Federal funds to develop plans for, or to establish, telehealth systems that will link rural hospitals and rural health care providers to other hospitals, health care providers and patients;

(4) will use the amounts provided for a range of health care applications and to promote greater efficiency in the use of health care resources;

(5) can demonstrate the long-term viability of projects through use of local matching funds (cash or in-kind);

(6) can demonstrate financial, institutional, and community support for the long-term viability of the network; and

(7) can demonstrate a detailed plan for coordinating system use by eligible entities so that health care services are given a priority over non-clinical uses.

(e) MAXIMUM AMOUNT OF ASSISTANCE TO INDIVIDUAL RECIPIENTS.—The Secretary may establish the maximum amount of financial assistance to be made available to an individual recipient for each fiscal year under this title, and establish the term of the loan or grant, by publishing notice of the maximum amount in the Federal Register.

(f) USE OF AMOUNTS.—

(1) IN GENERAL.—Financial assistance provided under this title shall be used—

(A) with respect to cost of money loans, to encourage the initial development of rural telehealth networks, expand existing networks, or link existing networks together; and

(B) with respect to grants, as described in paragraph (2).

(2) GRANTS AND LOANS.—The recipient of a grant or loan under this title may use financial assistance received under such grant or loan for the acquisition of telehealth equipment and modifications or improvements of telecommunications facilities including—

(A) the development and acquisition through lease or purchase of computer hardware and software, audio and video equipment, computer network equipment, interactive equipment, data terminal equipment, and other facilities and equipment that would further the purposes of this section;

(B) the provision of technical assistance and instruction for the development and use of such programming equipment or facilities;

(C) the development and acquisition of instructional programming;

(D) demonstration projects for teaching or training medical students, residents, and other health professions students in rural training sites about the application of telehealth;

(E) transmission costs, maintenance of equipment, and compensation of specialists and referring health care providers;

(F) development of projects to use telehealth to facilitate collaboration between health care providers;

(G) electronic archival of patient records;

(H) collection and analysis of usage statistics and data that can be used to document the cost effectiveness of the telehealth services; or

(I) such other uses that are consistent with achieving the purposes of this section as approved by the Secretary.

(3) EXPENDITURES IN RURAL AREAS.—In awarding a grant or cost of money loan under this section, the Secretary shall ensure that not less than 50 percent of the grant or loan award is expended in a rural area or to provide services to residents of rural areas.

(g) PROHIBITED USES.—Financial assistance received under this section may not be used for any of the following:

(1) To build or acquire real property.

(2) Expenditures to purchase or lease equipment to the extent the expenditures would exceed more than 40 percent of the total grant funds.

(3) To purchase or install transmission equipment (such as laying cable or telephone lines, microwave towers, satellite dishes, amplifiers, and digital switching equipment).

(4) For construction, except that such funds may be expended for minor renovations relating to the installation of equipment.

(5) Expenditures for indirect costs (as determined by the Secretary) to the extent the expenditures would exceed more than 20 percent of the total grant funds.

(h) MATCHING REQUIREMENT FOR GRANTS.—The Secretary may not make a grant to an entity State under this section unless that entity agrees that, with respect to the costs to be incurred by the entity in carrying out the program for which the grant was awarded, the entity will make available (directly or through donations from public or private entities) non-Federal contributions (in-cash or in-kind) in an amount equal to not less than 50 percent of the Federal funds provided under the grant.

SEC. 402. ADMINISTRATION.

(a) NONDUPLICATION.—The Secretary shall ensure that facilities constructed using financial assistance provided under this title do not duplicate adequate established telehealth networks.

(b) LOAN MATURITY.—The maturities of cost of money loans shall be determined by the Secretary, based on the useful life of the facility being financed, except that the loan shall not be for a period of more than 10 years.

(c) LOAN SECURITY AND FEASIBILITY.—The Secretary shall make a cost of money loan only if the Secretary determines that the security for the loan is reasonably adequate and that the loan will be repaid within the period of the loan.

(d) COORDINATION WITH OTHER AGENCIES.—The Secretary shall coordinate, to the extent practicable, with other Federal and State

agencies with similar grant or loan programs to pool resources for funding meritorious proposals in rural areas.

(e) INFORMATIONAL EFFORTS.—The Secretary shall establish and implement procedures to carry out informational efforts to advise potential end users located in rural areas of each State about the program authorized by this title.

SEC. 403. GUIDELINES.

Not later than 180 days after the date of enactment of this Act, the Secretary shall issue guidelines to carry out this title.

SEC. 404. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title, $25,000,000 for fiscal year 1998, and such sums as may be necessary for each of the fiscal years 1999 through 2004.●

By Mr. WYDEN:

S. 386. A bill to amend title XVIII of the Social Security Act to protect and improve the Medicare Program, and for other purposes; to the Committee on Finance.

THE MEDICARE MODERNIZATION AND PATIENT PROTECTION ACT OF 1997

● Mr. WYDEN. Mr. President, as this Congress moves forward to strengthen and secure the Medicare Program for future generations, three issues are crystal clear.

First, we must have the political will to modernize Medicare to reflect both the quality and the efficiency of private health care plans now serving most working Americans, and in particular the Federal Employees Health Benefits Program which many Members of Congress, their staff and families, and other Federal employees enjoy.

Second, we must maintain our commitment to current and future Medicare beneficiaries by preserving a basic, high-quality portfolio of health services for all enrollees, irrespective of their income, where they live, or their particular health circumstances.

Third, we must begin the transformation of Medicare financial foundations in a way that is first fair to all beneficiaries, and second insures that Medicare will be there for our children and their children, and that it will not bust the Federal budget in the bargain.

I believe that the legislation I introduce, today, The Medicare Modernization and Patient Protection Act of 1997, meets all three of these primary goals. While fully preserving traditional, fee-for-service Medicare, this legislation also will create an array of new, high-quality, cost-efficient health plans for Medicare beneficiaries, and offer those enrollees positive incentives to try them. It will provide new protections and consumer rights to Medicare beneficiaries in capitated health plans. It will mandate new penalties and enforcement mechanisms to eradicate fraud and abuse now stripping billions of dollars per year from the program. And it will create new support systems for some of Medicare's most desperately ill and poor beneficiaries, and their families.

Finally, through new cost-conscious management systems and a firm fiscal control mechanism, this plan will reduce Medicare cost growth by approximately $100 billion over the next 5 years, and with financial constraints that will continue to control runaway spending growth after fiscal year 2002.

The Medicare Modernization and Patient Protection Act will offer seniors more health plan choices by eliminating the huge variability in capitated payments to health plans in counties around the nation. At the same time, it will raise the minimum payment to 80 percent of the national average payment, leveraging higher reimbursements and I believe more plan offerings in up to 20 percent of our counties.

This proposal also establishes an outlier fund, an account fueled by withholding up to five percent of payments to Medicare health maintenance organizations. Medicare managers would have discretion to withhold those payments from plans which are being over-compensated by the HMO payment formula, and disburse those funds in the form of extra payments to plans which have avoided risk selection in their beneficiary recruitment and as a result are providing services to sicker enrollees with above-average health care costs. Compared to the meat-cleaver approach of reducing all plan payments from the current 95 percent of local average health care costs, to 90 percent, this is a surgical solution to two significant Medicare managed care plan problems: (a) plan overpayments and (b) plans which avoid enrolling older, frailer beneficiaries because they cut profit margins.

At the end of the year, any funds remaining in this account would be rolled back into the Medicare hospital insurance budget.

At the same time, this bill reforms current rules for Medicare supplemental insurance, or Medigap policies, requiring that such policies must be issued to any eligible beneficiary at any time. This change will encourage more seniors to try capitated plans, because they know the Medigap safety net always will be available to them.

Seniors would be protected from unfair denial of service decision and other health plan abuses through a strengthened and streamlined appeals process. Also, seniors would receive more informative and easily comparable information on health plans in their communities, and through the mail on a regular basis through annual enrollment fairs.

The legislation also would require the collection of customer service and satisfaction data, and performance information to be used in qualitative analysis by Medicare to produce published report cards on plan performance, and help consumers make kitchen-table assessments of their plan options.

By Federal statute, plans also would be barred from muzzling doctors and other health care practitioners in their conversations with patients about their medical condition and all treatments appropriate to their case.

New criminal and civil penalties are created for practitioners and plans who rip off the system.

Programs for hospice care, Alzheimer's respite care, and prospective payment for both home care and skilled nursing care are added to Medicare. The legislation requires Medicare to study and make recommendations on the more extensive and appropriate use of community pharmacy, telemedicine and so-called social health maintenance organization plans for dual eligibles in its portfolio of services to beneficiaries.

The fiscal integrity portion of this bill would set overall part A and part B spending limits for each of the next 5 years. These overall spending limits would include target spending allotments for each of the several major areas of Medicare activity: doctors, hospitals, diagnostic services, nursing homes, and the like.

Typically, Medicare has sought to control costs in these areas in the past by rolling back reimbursement rates for goods and services. Providers, however, have watered down Medicare's attempts at thrift by increasing volume in the face of lower per-service payments. Too often this has led to waste and inefficiency, with providers ordering procedures and services that beneficiaries really don't need, crippling Medicare with unnecessarily high costs.

With $100 billion in cumulative savings expected in 5 years, my proposal would require that Medicare practitioners live within the budget's ceiling by mandating reduced reimbursements if cumulative billings otherwise would bust an individual service sector's annual spending plan.

Despite these restraints, Medicare fee-for-service providers will enjoy generally healthy annual increases under this proposal. Beneficiaries should see no change in the level or quality of care they receive. Expensive, unnecessary care, however, could be sharply curtailed.

Mr. President, I believe that this Congress should not as a first step relinquish Medicare restructuring to a special commission. I think most of us have an acute awareness of what is needed to fix the program for the long term. Some steps will be harder than others. But as the old Chinese proverb reminds us, a trip of a thousand miles begins with the first step.

I hope my colleagues will agree with me that the Medicare Modernization and Patient Protection Act is that good first step, and join with me in cosponsoring this legislation.

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

THE MEDICARE MODERNIZATION AND PATIENT PROTECTION ACT OF 1997—SECTION-BY-SECTION ANALYSIS

TITLE I: PROMOTING COMPETITION, QUALITY, AND BENEFICIARY CHOICE IN MEDICARE

Section 1: Short title; table of contents, definitions.

Section 2: Findings

Section 101: Establishment of Plan Inprovement and Competition Office

Subsection (a), establishes an office within Health Care Financing Administration to carry out several of the pro-quality, pro-consumer mandates of the legislation.

Subsection (b), defines duties.

Subsection 102: HMO and Competitive Pricing Demonstration Projects

Subsection (a), directs the Secretary to conduct demonstration projects for competitive bidding between HMO contractors in counties in which the AAPCC rate is 120 percent of the national average AAPCC rate, or higher.

Subsection (b), directs reports to Congress.

Subsection (c), waives certain requirements under the Social Security Act.

Subsection (d), requires that the projects be conducted within existing department funding.

Subsection 103: Medigap amendments

Subsection (a), guarantees issues of Medicare supplemental insurance regardless of preexisting health conditions.

Subsection also requires community rating of Medigap policies. Further, this subsection guarantees offer of Medigap coverage to persons who leave Medicare risk plans for any one of several reasons, including voluntary disenrollment at any time during the first 12 months of enrollment in a risk plan (and had not been in a risk plan, earlier).

Subsection (b), limits exclusion from coverage due to pre-existing health conditions.

Subsection (c), clarifies non-discrimination requirements during initial enrollment periods.

Subsection (d), extends the six-month initial enrollment period to non-elderly Medicare beneficiaries.

Subsection (e), sets effective dates.

Subsection (f), defines transition rules including a directive that the National Association of Insurance Commissioners amend its Model Regulation to reflect Medicare supplemental insurance policy changes required by the section.

TITLE II: INCREASING MEDICARE COVERAGE OPTIONS

Subtitle A: Risk Plan Improvements

Section 201: Changes in medicare managed care program

Subsection (a), HMO payments, amends the current formula for determining local HCFA annual reimbursement rate increases for persons insured by risk-sharing plans providing both Part A and Part B benefits (Medicare Risk plans). The reformulation would, beginning in 1998, set a new minimum payment ''floor'' requiring that HCFA pay no plan less than 80 percent of the national average for payments to all plans in 1997. For each community, payment increases in subsequent years would be determined by selecting the highest figure from three alternative formulas; (1) 102 percent of the previous year's rate, (2) in 1999, 80 percent of the 1998 national average, and in 2000 and in subsequent years increasing the rate by the previous year's national average growth rate for Medicare managed care plan reimbursements, or (3) an increase determined by a ''melded'' rate of local and national managed care average reimbursements, according to the following formula:

1998: area specific percentage of increase is determined by the sum of 80 percent of the local average increase in the average adjusted per capita cost (AAPCC) in previous year, and 20 percent of the national AAPCC increase.

1999: area specific percentage determined by the sum of 75 percent of the local AAPCC increase in the previous year, and 25 percent of the national AAPCC increase.

2000: area specific percentage determined by the sum of 70 percent of local AAPCC increase in previous year, and 30 percent of the national AAPCC increase.

2001: area specific percentage determined by the sum of 65 percent of the local AAPCC increase in previous year, and 35 percent of the national AAPCC increase.

2002: area specific percentage determined by the sum of 60 percent of the local AAPCC increase in previous year, and 40 percent of the national AAPCC increase.

2003, and in each subsequent year: area specific percentage determined by the sum of 60 percent of the local AAPCC increase in previous year, and 40 percent of the national AAPCC increase.

This section also contains certain budgetary protections for beneficiaries receiving treatment for end-stage renal disease, and for high-cost-growth metropolitan counties.

Subsection (b) creates additional quality standards for section 1876(c)(6) of the Act, requiring Medicare managed care plans to meet new standards established by the Secretary of HHS in consultation with private accreditation organizations, and addressing such issues as ongoing quality assurance programs stressing (1) health outcomes, and (2) providing review by physicians and other certified health professionals.

Plans meeting these additional standards may waive the requirement of at least 50 percent non-Medicare beneficiary enrollment for participation as a Medicare Risk contractor.

Subsection (c) requires coordinated enrollment and disenrollment periods for Medicare managed care plans, similar to so-called ''open season'' periods for Federal Employee Health Benefit Program plans.

Subsection (d) sets service area requirements for participating plans, including requirements that plans provide enrollment within all of a metropolitan statistical area if such organization provides enrollment in any part of the metropolitan area. Some limited exclusions may be allowed.

Subsection (e) provides other enhanced enrollee protections involving provision of emergency room care and services, renal dialysis, and reimbursement of services outside the plan's services area (specific to renal disease).

Subsection (f) allows the Secretary in certain instances to make additional payments to plans insuring certain individuals, for reasonable costs related to anomalies in specific service areas.

Subsection (g) provides for intermediate sanctions against plans for program violations, short of termination. These intermediate sanctions may include civil penalties of not more than $25,000 per offense, and suspension of new enrollment. The section also provides for reasonable notice to the organization and a right of appeal.

Subsection (h) requires that Medicare managed care plans must submit to standardized quality review through independent organizations to determine and demonstrate that they have maintained the new, higher quality performance levels required under this legislation. The section also requires a review of plans' quality performance by the U.S. General Accounting Office, no later than July 1998.

Subsection (i) sets an effective date for Section 101 as the contract years beginning with 1998.

Section 202: Quality report cards and comparative reports

Subsection (a) requires that beginning in calendar year 1998, the Secretary will begin distribution of quality report cards to beneficiaries on eligible managed care plans and on Medicare supplemental policies, including a comparison of benefits, costs and quality indicators developed under this section.

Subsection (b) directs the Secretary to develop quality indicators on (1) disenrollents statistics, (2) care outcomes, (3) population health status, (4) appropriateness of care, (5) consumer satisfaction, (6) access to care, including waiting time for scheduled appointments and access to emergency room care, and (7) preventative care programs.

Subsection (c) directs the Secretary to develop standardized reports comparing plans on the basis of (1) monthly premiums, (2) choice of doctors, (3) choice of hospitals, (4) service area, (5) emergency room care coverage, (6) hospital charges, (7) physician charges, (8) prescription drug coverage, (9) ambulance coverage, (10) coverage of routine eye exams and eyeglasses, (11) coverage of skilled nursing facilities and home health care, (12) coverage of hearing exams and hearing aids, (13) coverage of mental health therapy, (14) the number of beneficiaries in the plan, and several other indicators of plan coverage.

Subsection (d) requires that plans divulge to the Secretary information required to complete this comparative analysis. The Secretary also is empowered to collect, on a pro rata basis, costs from plans to carry out the requirements of this section.

Subsection (e), definitions.

Section 203: Preemption of state laws restricting managed care

Subsection (a) preempts states from establishing care mandates for health insurance coverage in Medicare.

Subsection (b) preempts state laws restricting managed care arrangements. This preemption would lift state laws which (1) prohibit or limit carriers from offering incentives to enrollees to use services of participating providers, (2) prohibit or limit carriers from limiting services to participating providers, and other state restrictions on managed care plans.

This subsection also includes a number of definitions.

Subsection (c) preempts state laws restricting utilization review programs. However, the section specifies that this preemption *exempts* laws preventing denial of lifesaving medical treatment pending transfer of enrollees to another health care provider.

Subsection (d), effective date, January 1, 1998.

Section 204: Appeals

Subsection (a) requires all Medicare Risk contractors to designate an independent ombudsman to assist enrollees in exercising rights to dispute plan decisions, and in other grievances.

This section also directs the Secretary to establish no later than January 1, 1998, an office for the collection of data one each plan pertaining to decisions on the disallowance of services to beneficiaries, in full or in part.

Subsection (b) requires that plans provide enrollees with clear and understandable description of grievance and appeal procedures.

Subsection (c) creates an expedited HCFA grievance and appeals procedure.

Section 205: Medicare HMO Enrollment Fair

Subsection (a), mandates that the Secretary require and coordinate annual enrollment fairs in each Medicare payment area to inform beneficiaries of plans offered by health care organizations.

Subtitle B: Maintaining Fee-for-Service Program

Section 211: Failsafe budget mechanism

Subsection (a) requires payment adjustments to achieve specified Medicare targets. Sets annualized, five-year spending targets for Medicare, Parts A and B, according to budget estimated under Clinton Administration plan.

Includes a ''fail-safe'' budget mechanism allowing the Secretary to undertake proportional reductions in provider reimbursements if spending targets otherwise would be exceeded by billing volume.

Section 212: Maintenance of part B premium at current percentage of part B program costs

Subsection (a) maintains monthly premium setting formula at the current percentage of actual Part B program costs.

Subsection (b) sets effective date, applying to premiums paid for months beginning with January 1997.

TITLE III—PROMOTION OF PROGRAMS OF ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE) AND OF SOCIAL HEALTH MAINTENANCE ORGANIZATIONS (SHMOS)

Section 301: Definitions

Section 302: Expanding the availability of qualified organizations for frail elderly community projects (program of all-inclusive care for the elderly (pace))

Subsection (a) directs the Secretary to establish PACE provider status for public or nonprofit organizations to provide comprehensive health care services, on a capitated basis, to frail elderly patients who are at risk of institutionalization in skilled nursing facilities, and who would qualify for benefits under both Medicare and Medicaid. Such organizations would qualify for three-year periods, with re-qualification procedures. Requirements for assuming financial risk are specified.

The subsection, the Secretary would be required to act on applications within 90 days.

Subsection (b) provides for terms and conditions of approval, equivalent to those contained in conditions of approval for an On Lok waiver, section 603C of the Social Security Amendments of 1983, as extended by OBRA 1985. The section also defines other entry requirements, and certain responsibilities of the Secretary to assure quality and feasibility of the plan.

Subsection (c) defines eligibility for participation by PACE plans.

Subsection (d) sets reimbursement to the organization through a capitation basis.

Subsection (e) applies Section 302 statutes to plans currently operating under an On Lok waiver.

Subsection (f) applies current Social Security Act statutes relating to income and resources of institutionalized spouses to any individual receiving services from an organization operating as a PACE provider.

Subsection (g) allows participating plans to also offer services to frail populations other than the elderly, except where the Secretary finds provision of such services may impair the ability of the organization's performance as a SHMO.

Section 303: Application of spousal impoverishment rules

Applies protections against spousal impoverishment to couples receiving services through PACE organizations.

Section 304: Permitting expansion and making permanent SHMO waivers

The section lifts limitations on how many SHMOs may be approved by the Secretary, as well as limitations on how many individuals may be enrolled in any such project.

Section 305: Repeals; effective date; and application to existing waivers

Subsection (a) repeals certain federal statues which are non-conforming to the intent and purpose of this legislation.

Subsection (b) requires that the Secretary within nine months of enactment make effective interim final regulations on the provisions of this title. Until then, all existing PACE providers and OnLok waivers will remain in effect. After implementation of new regulations, SHMOs which at that point have completed three years of activity will attain PACE provider status without need for re-application.

Demonstration sites operating less than three years will be accorded PACE provider status, but will be required to undergo annual review for three years.

TITLE IV—OTHER MEDICARE CHANGES

Section 401: Application of competitive acquisition process for part B Items and services

Subsection (a) authorizes the Secretary to describe appropriate competitive acquisition procedures for awarding contracts for items or services. Selected areas of acquisition to be governed by competitive bidding will be left to the Secretary's discretion. The section applies to the acquisition of durable medical equipment, clinical lab services, prosthetic devices, diagnostic tests, surgical dressings, and other items and services which may be identified by the Secretary.

Section 401 sets a number of requirements to assure the health and safety of Medicare beneficiaries.

Subsection (b) sets limitations and requirements with respect to exclusive and non-exclusive competitions.

Subsection (c) sets an effective date of January 1, 1997.

Section 402: Simpler procedure for inherent reasonableness determinations

Subsection (a) and Subsection (b) revise, strike or extend existing status to reform Medicare acquisitions procedures for both goods and services, and improve efficiency within those activities.

Subsection (c) makes those changes effective on January 1, 1997.

Section 403: Promoting advanced directives

Subsection (a) requires that persons who have executed advanced directives are ensured that such documents are included in hospital medical charts.

Subsection (b) would require development and dissemination of standard national forms by the Secretary.

Subsection (c) encourages health plans in Medicare to encourage use of advanced directive forms through education and dissemination of promotional material.

Subsection(d) directs the Secretary to develop and implement a promotional campaign with respect to advanced directives.

Section 404: Antifraud efforts

Subsection (a) increases penalties for Medicare fraud, and includes definitions.

Subsection (b) establishes new definitions of punishable offenses.

Subsection (c) requires a study on standardization of claims administration focused on determining the feasibility and desirability of establishing a standardized Medicare claims administration process, implementing other measures to improve record keeping, and taking other appropriate steps to reduce waste, fraud and abuse in making payments in the Medicare program.

Subsection (d) directs the Commission on Reinventing Government to report to Congress on the effectiveness of current efforts to combat waste, fraud and abuse in Medicare, and whether these efforts would be enhanced by establishing a coordinated, all-payer, multijurisdiction antifraud program.

Section 405: Hospice benefits

Subsection (a) restrucutes the benefit period for hospice care, extending such benefits to an unlimited number of 60-day periods. This section includes a number of conforming amendments.

Subsection (b) provides new language for reimbursement of related services including ambulance, diagnostic tests, chemotherapy and radiation therapy within the hospice environment.

Subsection (c) allows for contracting with independent physicians and physician groups for hospice care services.

Subsection (d) waives certain staffing requirements.

Subsection (e) limits liability of beneficiaries and providers with regard to certain hospice coverage denials.

Subsection (f) extends the period for a physician to medically certify an individual's terminal illness.

Subsection (g) sets effective date.

Section 406: Study providing pharmacy services to medicare beneficiaries

Subsection (a), directs the Secretary to identify cost savings which may be achieved through expanding the role of pharmacy services under the program.

Subsection (b) describes services which should be analyzed in the study.

Subsection (c) and (d), require development of recommendations and a report to Congress.

Section 407: Respite Benefit

Subsection (a) describes entitlement structure for service not exceeding 32 each year.

Subsection (b) further describes conditions and limitations on payment.

Subsection (c) definitions.

Subsection (d) defines payments from supplementary insurance trust fund for individuals with only hospital insurance coverage.

Subsection (e) effective date.

TITLE V—PROSPECTIVE PAYMENT FOR HOME HEALTH SERVICES

Section 501. Payment for home health services

Subsection (a) amends the Social Security Act to mandate that home health services be reimbursed through a prospective payment system. This provision describes discrete areas of services.

(b) directs establishment of a per visit rate for home care services.

(c) sets aggregate limits for services and for patients.

(d) sets a medical review process for the system of payments described in the act, and supervision to insure that individuals receive appropriate care.

(e) provides for adjustments to payments and for the tracking of patients who may switch home health agencies. This section also provides for monitoring features that determine changes in the quality and level of health care. The provision also requires that the Secretary report annually to Congress regarding recommendations for ensuring access to appropriate home health services.

(f) provides for payment to Christian Science providers.

(g) requires an annual report to Congress during the first three years of this payment plan by the Medicare Prospective Payment Review Commission on the effectiveness of the payment methodology.

(h) mandates development of an ''episodic'' prospective payment system for home health care.

(i) requires the Secretary to develop a data base upon which managers may develop a fair and accurate case mix adjustor as required elsewhere in this act for the determination of prospective payment.

Subsection (b) appeals process.

Subsection (c) sunsets reasonable cost limitation.

Subsection (d) effective date.

Section 502. Review by peer review organization of home health services

Subsection (a) requires utilization and quality review of home health services by an appropriate peer review organization. These reviews would occur under conditions including a health agency's determination that a patient did not meet conditions for care, that the patient no longer requires care, that the patient's level of care is inconsistent with the prescription of the attending physician.

This provision also requires written notification to the patient by the agency and the peer review organization.

Subsection (b) describes hearing rights.

Section 503. Retroactive reinstatement of presumptive waiver of liability.

Reconciles OBRA 1986 and other statutes to allow implementation of prospective payment for home health services.

TITLE VI: PROSPECTIVE PAYMENT SYSTEM FOR NURSING FACILITIES

Section 601: Definitions for acuity payment, aggregated resident invoice, allowable costs, case mix weight and other items to be cited in the determination of prospective payment.

Section 602: Sets payment objectives, including maintaining a fair and equitable balance between cost containment and quality of care.

Section 603: Defines powers and duties of the Secretary.

Section 604: Reconciles provisions of this title with the Social Security Act.

Section 605: Establishes a resident classification system to be used to adjust payment rates to practical care requirements.

Section 606: Establishes a ''cost-center'' system for establishing appropriate reimbursement to facilities based on overhead expenses and general operating costs.

Section 607: Resident assessment. Requires facilities to assess needs of each resident in accordance with the reimbursement requirements of the title.

Section 608: Establishes a system for formulating per diem rates of reimbursement for enrolled residents.

Section 609: Establishes a per diem reimbursement system for compensating facility administrative and general costs.

Section 610: Establishes payment system for fee-for-service ancillary costs.

Section 611: Provides for reimbursement of selected ancillary services and other costs.

Section 612: Establishes per diem payment for property costs related to rentals required by facilities.

Section 613: Creates a procedure for mid-year rate adjustments.

Section 614: Creates payment rate exceptions for new and low-volume nursing facilities.

Section 615: Creates a process for appealing decisions by HCFA regarding payments in the amount of $10,000 or more.

Section 616: Phases in prospective payment for skilled nursing facilities over a three-year period. First year would have payments based on 25 percent of new system, 75 percent of old system. Second year goes to a 50–50 split. Third year is 75 percent new system, 25 percent old system. Fourth year fully exercises all payment requirements under the title.

TITLE VII: TELEMEDICINE

Section 701: Internet access for health care providers for rural areas.

Subsection (a) amends the Communications Act of 1934 by adding minimum requirements for Internet access for health care providers for rural areas. Requires carriers to provide access ''necessary for the provision of health care services'' and at rates described in the title. Sets threshold requirements for infrastructure and bandwidth, to be determined by ''commission.''

Subsection (b) definitions.

Subsection (c) conforming amendments.

Section 702: Establishes a congressional Commission on Telemedicine to undertake requirements of the title.

Subsection (a) defines membership, term of office, payment.

Subsection (b) describe duties, including ''a thorough study and develop(ment) of recommendations on all matters relating to which Telemedicine service should be covered under Medicare.''

Title also requires a report on these issues not later than one year following enactment.

Subsection (c) through (f) describe powers, personnel, termination and appropriations for the commission.●

By Mr. HATCH (for himself, Mr. BAUCUS, Mr. NICKLES, Mr. BREAUX, Mr. GORTON, Mrs. FEINSTEIN, Mrs. MURRAY, and Mrs. BOXER):

S. 387. a bill to amend the Internal Revenue Code of 1986 to provide equity to exports of software; to the Committee on Finance.

THE SOFTWARE EXPORT EQUITY ACT

Mr. HATCH. Mr. President, I rise today to introduce the Software Export Equity Act. I am pleased to be joined in this bipartisan effort by my colleagues on the Senate Finance Committee, Senators MAX BAUCUS, DON NICKLES, JOHN BREAUX, as well as PATTY MURRAY, SLADE GORTON, DIANNE FEINSTEIN, and BARBARA BOXER. Identical legislation has been introduced in the House by Representative JENNIFER DUNN and a strong bipartisan group of her House colleagues.

This bill highlights an issue that I have mentioned many times in the Finance Committee. Currently, the section of the Internal Revenue Code outlining what qualifies for foreign sales corporation [FSC] treatment and tax benefits is unclear and has left out software that is exported overseas. Our bill would clarify the treatment of software.

What is a foreign sales corporation? It is a corporate entity established by Congress to help facilitate the export of American made goods to foreign markets. The FSC rules allow a corporation a tax benefit on a portion of its earnings generated by the sale or lease of export property. It is consistent with sound U.S. policy to promote U.S. exports.

When the foreign sales corporation statute was enacted in 1971, the computer software industry was relatively new. The original FSC statute was drafted with the intent that only U.S. job-creating property manufactured or produced in the United States and sold or leased outside the United States qualifies for export benefits. The FSC rules are designed to assist U.S. exporters in competing with products made in other countries that have more favorable rules for taxing exports.

Mr. President, it is in our best interests to encourage the export of American goods and services. The United States is currently the world leader in software development, employing approximately 2 million people in software development jobs. As this industry continues to grow, much of the expansion of the industry is due to the growth of exports. However, as the software industry has grown in response to global markets, the tax laws have not kept up.

Currently, the statute allows films, tapes, records or similar reproductions to qualify for FSC benefits. However, because of a narrow interpretation of the FSC rules, software does not generally receive this export incentive.

Let me provide an example that I have shared before with my colleagues on the Finance Committee. Suppose you have two CD–ROM's—one containing a musical recording, the other containing dictionary software with musical recordings included. The two look the same and are very similar except for the software. If the you export a master CD–ROM of the musical recording to another country for reproduction, the export qualifies for FSC benefits. However, if you export a master copy of the software CD–ROM with a license to make additional copies, you will be denied FSC benefits. This is simply wrong and unfair. In an age where many computer products are multipurpose—with music and software—this makes no sense.

Now this problem is not beyond repair. The Treasury Department does not believe that it has the authority to issue regulations to correct this problem. However, they support the legislative fix I am introducing today. The FSC statute must be clarified to allow exported software with the right to reproduce to receive fair and equitable treatment.

Mr. President, this problem hits home in my State of Utah. There are a number of software manufacturers in Utah that have developed a worldwide presence. Watching musical and other intangible items receive FSC treatment while highly sophisticated software is left out, is simply discouraging for these sometimes small software companies. This legislation corrects this inequity and reestablishes our commitment to promoting American competitiveness.

I am please to introduce the Software Export Equity Act today. I urge all of my colleagues to support this bipartisan effort and cosponsor this bill.

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. 387

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 ''Software Export Equity Act''.

SEC. 2. CLARIFICATION OF APPLICATION OF FOREIGN SALES CORPORATION RULES TO SOFTWARE.

Subparagraph (B) of section 927(a)(2) of the Internal Revenue Code of 1986 (relating to property excluded from eligibility as FSC export property) is amended by inserting '', and software, whether or not patented'' after ''for commercial or home use''.

Mr. NICKLES. Mr. President, I am pleased to join Senator HATCH, Senator BAUCUS, and Senator BREAUX in the introduction today of the Software Export Equity Act, a bill to provide that software exports receive the same tax treatment as other products made in the United States. Our bill will help ensure that the U.S. software industry, the current world leader, maintains their competitive edge.

The Software Export Equity Act simply clarifies that software produced in the United States for export fully qualifies for foreign sales corporation [FSC] export incentives the same as most other U.S. products. The bill proposes no special or unique benefit for the software industry, just equal and fair treatment under existing law.

The FSC statute and its predecessor, the domestic international sales corporation statute, were enacted by Congress to help U.S. companies compete abroad. The FSC statute provides a tax exemption of up to 5 percent of a company's income attributable to export sales of U.S.-made products. Only those products manufactured or produced in the United States for export to a foreign market qualify for FSC benefits to ensure domestic economic growth and job creation.

Unfortunately, the fledgling software industry was not specifically considered by Congress when the FSC statute was enacted, and subsequent Treasury Department rules disqualified them for FSC benefits. Indeed, Treasury's narrow interpretation allows nearly identical products, exported in an identical manner, such as movies and compact disc recordings, to fully qualify for FSC benefits, but not software.

Repeated attempts to convince the Treasury Department to modify their rules have failed, Mr. President, leaving only the alternative of amending the law. Fortunately, this issue has broad bipartisan support in the House and Senate and was recently included in President Clinton's fiscal year 1998 budget request.

Employing over 2 million people and exporting more than $26 billion in software each year, the U.S. software industry is an important and growing part of our economy. They lead the world in the development of innovative products and cutting-edge technology. In today's competitive global economy, incentives to encourage firms to develop products here for export abroad are vitally important. The enactment of this legislation will assure that we provide these incentives to all U.S. products equally.

I encourage all my colleagues to join us in supporting this legislation.

Mr. BREAUX. Mr. President, I am pleased today to join Mr. HATCH, Mr. NICKLES, and Mr. BAUCUS in introducing the Software Export Equity Act. This legislation is extremely important to maintaining the U.S. software industry's competitiveness and the growth of high-skilled, high-paying software industry jobs in the United States. The Software Export Equity Act has broad bipartisan support and was included in the fiscal year 1998 budget that the President submitted to Congress. I urge my colleagues to join with us in support of swift enactment of this legislation.

The U.S. software industry is a vital and growing part of the U.S. economy, creating many new high-paying, high technology jobs in the United States. Much of the expansion of the software industry is due to the growth of export sales. The Software Export Equity Act clarifies the application of the foreign sales corporation [FSC] rules to exports of U.S. software.

The FSC rules were enacted to address the competitive disadvantages faced by U.S. exporters vis-a-vis exports from other countries that have more favorable tax systems, particularly those that effectively exempt export sales from home country tax. The goal of the FSC provisions was to prevent manufacturing and production jobs from moving out of the United States. Unfortunately, a narrow IRS interpretation of these rules precludes exports of U.S. software from fully qualifying for the FSC incentive. I am very concerned that this problem could cause U.S. software companies to begin examining such options as moving high-skilled, high-paying software development jobs overseas where highly skilled labor is available at much lower wages. The FSC incentive will help offset higher U.S. labor costs by providing benefits on the export of products developed in the United States. Moreover, there is no justification to deny U.S. software exports the FSC incentive. Virtually every other U.S. exporter fully qualifies for these incentives. I believe it is vital to quickly enact legislation that would clarify these rules to reflect the Congress' intent with respect to software, not only to protect U.S. software development jobs, but also to preserve ownership of this technology in the United States.

Mr. BAUCUS. Mr. President, I am pleased today to join Senator HATCH in cosponsoring the Software Export Equity Act. I believe the continued vitality of the U.S. software industry is extremely important to the U.S. economy. The Software Export Equity Act will not only help us to retain high-paying U.S. software development jobs with successful U.S. software companies, but also will help smaller U.S. software companies to enter the export market by helping to offset the high costs of exporting.

The Software Export Equity Act ensures that U.S. software exports qualify for the benefits of the foreign sales corporation [FSC] rules, which are very important to maintaining a high level of U.S. exports. The foreign sales corporation rules were enacted to provide an incentive for U.S. companies to manufacture their products in the United States for export overseas, thus retaining U.S. development and manufacturing jobs. It is clearly as important to Congress to retain U.S. software development jobs, which are among the highest paying jobs in the United States, as it is to retain other manufacturing and development jobs. Nonetheless, the IRS has questioned the application of the FSC rules to software because independent software products did not exist when this incentive was originally enacted in 1971. Our tax laws must keep up with changes in technology and recognize that FSC rules should apply to software.

This legislation is about fairness, but more importantly, this legislation is about jobs and preserving the ownership of technology in the United States. The Department of Commerce estimates that every $1 billion of export trade is worth domestic jobs. Today there are nearly 600,000 U.S. employees working directly in the software industry, with at least another 1.5 million software developers employed in related industries. These are high-paying jobs, with average compensation in 1992 of $55,000 per employee. The Software Export Equity Act will prevent U.S. software companies from moving those high-paying software development jobs overseas, where highly skilled labor is available for much lower wages. The Software Export Equity Act will also help smaller software companies to enter the export market by helping to offset the high cost of exporting, which was one of the principal purposes for creating the FSC rules. FSC treatment is as important to exports of software as it is to exports of other U.S. products that are clearly covered by these rules.

Finally, the Software Export Equity Act will protect U.S. ownership of technology. If software development jobs were moved outside the United States, ownership of the technology created would also move outside the United States. Today the software industry has revenues of $200 billion a year and a growth rate of 13 percent per year. To lose U.S. ownership of the future of this industry would mean not only a tremendous direct loss to the GDP, but also would mean a loss of the spillover benefits that U.S.-developed technology has on other U.S. industries. In summary, the loss of ownership of this technology would be devastating to the growth potential of the U.S. economy.

I appreciate the fact that the administration supports our position and has recommended FSC treatment for computer software in the budget. Enactment of this legislation will make that recommendation reality. I urge my colleagues to join Senators HATCH, BREAUX, NICKLES, and myself in support of swift action on the Software Export Equity Act.

• Mr. GORTON. Mr. President, I am pleased to join Senator HATCH today in introducing the Software Export Equality Act. In 1971, Congress created foreign service corporations [FSC] in order to encourage U.S. exports and increase U.S. competitiveness in the international marketplace. Under current law, FSC legislation gives U.S. manufacturers a tax incentive for exports of domestically produced goods. Today, virtually every U.S. product manufactured for export abroad qualifies for FSC benefits. Yet current tax laws continue to discriminate against one of the America's fastest growing exports: software.

Due to the IRS's narrow interpretation of FSC rules, the software industry is precluded from qualifying for any FSC benefits despite the fact that approximately 85 percent of products sold by U.S. software companies are developed in the United States and it currently ranks seventh in U.S. industry exports. This bill will clarify that computer software qualifies as export property and is eligible for FSC benefits. Continuing to deny the benefits of FSC rules to the software industry is not only unfair, it poses a serious impediment to the competitiveness of U.S. manufactured software.

Software is one of the America's fastest growing industries, with revenues of more than $200 billion and a growth rate of 13 percent per year on average. As the world leader in software development, the United States is home to more than 8,000 software companies that provide, directly and indirectly, millions of high-paying, high-skilled American jobs in many States.

Software is a vital and growing part of many State economies, including my own State of Washington. In Washington State, the software industry accounted for $3.5 billion worth, and 12 percent, of Washington State exports and employed over 22,509 people in 1995. Microsoft, the State's largest software producer, alone supported 1.5 percent of the State's economy in 1995. But these impressive numbers do not even take into account the significant impact the numerous small and middle-sized software companies that make up the majority in Washington State have on the State's economy.

The worldwide market for software is exploding and global competition is quickly on the rise. In this increasingly competitive world economy, incentives to encourage firms to develop and export from the United States are more important than ever to job creation and economic stability. This bill provides a simpe way to ensure the U.S. software industry remains the world leader in software manufacturing and American software jobs are protected.

I encourage my colleagues to join me in support of this very important legislation and urge its quick passage in the Senate.•

By Mr. LUGAR:

S. 388. A bill to amend the Food Stamp Act of 1977 to assist States in implementing a program to prevent prisoners from receiving food stamps; to the Committee on Agriculture, Nutrition, and Forestry.

FOOD STAMP ACT AMENDMENTS

• Mr. LUGAR. Mr. President, I rise today to introduce a bill that will stop prisoners from getting food stamp benefits. My bill will assist States in implementing a program to ensure that prisoners are not counted as members or heads of food stamp households, thus either increasing the households' benefits or allowing an individual to illegally receive benefits in the prisoner's name.

I was disturbed to read in the newspaper about a draft General Accounting Office report showing over $3 million in food stamp benefits being overpaid to households in which a member has been incarcerated. Current law prohibits prisoners from receiving food stamp benefits and requires that households notify their local welfare office of any changes in the makeup of the household. I am concerned to see that there is a breakdown in the system, allowing millions of dollars to be paid out illegally.

Briefings by USDA's Food and Consumer Service and the General Accounting Office have confirmed that although a few States are performing computer matches of data on States' food stamp participants and verified inmates, most are not. All States should be doing these computer matches. This bill requires the Secretary of Agriculture to collect information from States already doing computer matches to prevent prisoners from receiving food stamp benefits, then evaluate, summarize, and disseminate this information to all States not later than 180 days after the bill's enactment. The Secretary must then provide the States with technical assistance to implement a computer matching system.

The problem of prisoners illegally receiving Federal benefits is not limited to the Food Stamp Program. Another recently released General Accounting Office report shows that the Social Security Administration has made erroneous payments to prisoners who were incarcerated in the jail system at the time of the study. In response to this study, the Personal Responsibility and Work Opportunity Act of 1996 included language authorizing the Commissioner of the Social Security Administration to enter into agreements with institutions to prevent these erroneous payments. We should make a similar effort to prevent these erroneous payments in the Food Stamp program.

The Food Stamp Program provides a safety net for millions of people. We cannot allow fraud and abuse to undermine the Food Stamp Program. Integrity is essential to ensure a program that can serve those in need. It is Congress' responsibility to play a role in ending fraud and abuse in all federally funded programs. This legislation is an important step in ending fraud and abuse in the Food Stamp Program.

I urge my colleagues to support 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. 388

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

SECTION 1. DENIAL OF FOOD STAMPS FOR PRISONERS.

Section 11 of the Food Stamp Act of 1977 (7 U.S.C. 2020) is amended by adding at the end the following:

''(q) DENIAL OF FOOD STAMPS FOR PRISONERS.—

''(1) COLLECTION AND DISSEMINATION OF INFORMATION.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall—

''(A) collect information on policies and procedures used by States that conduct computer matches or other systems to prevent prisoners from receiving food stamp benefits; and

''(B) evaluate, summarize, and disseminate to each State the information collected under paragraph (1) that describes the best practices of the States (including information related to verifying prisoners' social security numbers with the Social Security Administration).

''(2) ASSISTANCE TO STATES.—The Secretary shall assist States, to the extent practicable, in implementing a system to conduct computer matches or other systems to prevent prisoners from receiving food stamp benefits.''.•

By Mr. ABRAHAM (for himself, Mr. BOND, Mr. NICKLES, Mr. HUTCHINSON, Mr. HELMS and Mr. SESSIONS):

S. 389. A bill to improve congressional deliberation on proposed Federal private sector mandates, and for other purposes.

THE MANDATES INFORMATION ACT OF 1997

Mr. ABRAHAM. Mr. President, I rise today to introduce the Mandates Information Act of 1997. This bill in my view furthers the cause of careful deliberation in this, the greatest deliberative body in the world. It will force Members of Congress to carefully consider all aspects of potential legislation containing mandates affecting consumers, workers, and small businesses.

I am proud to say that my colleagues and I aided the cause of careful deliberation during the last Congress. We passed the Unfunded Mandates Reform Act of 1995. That legislation required the Congressional Budget Office to make two key estimates with respect to any bill reported out of committee: First, whether the bill contains intergovernmental mandates with an annual cost of $50 million or more; and, second, whether the bill contains private sector mandates with an annual cost of $100 million or more. The 1995 act also established a point of order against bills meeting the $50 million

cost threshold for intergovernmental mandates. Although the point of order can be waived by a simple majority vote, it encourages Congress to think carefully before imposing new intergovernmental mandates.

The 1995 act did not apply its point of order to private sector mandates. This was understandable, given the bill's focus on intergovernmental mandates. But States and localities are not alone in being affected by Federal mandates. Consumers, workers, and small businesses also are affected when the Federal Government passes along the costs of its policies. This is why the Mandates Information Act of 1997 will apply a point of order to bills meeting the $100 million cost threshold for private sector mandates, while also directing the CBO to prepare a ''Consumer, Worker, and Small Business Impact Statement'' for any bill reported out of committee.

These reforms are necessary in my view, Mr. President, because the 1995 act, while effective in its chosen sphere of intergovernmental mandates, does not contain the necessary mechanisms to force Congress to think seriously about the wisdom of proposed mandates on the private sector. This leaves our private sector faced with the same dilemma once faced by our States and localities: Congress does not give full consideration to the costs its mandates impose. Focusing almost exclusively on the benefits of unfunded mandates, Congress pays little heed to, and sometimes seems unaware of, the burden that unfunded mandates impose on the very groups they are supposed to help.

Unfunded mandate costs by definition do not show up on Congress' balance ledger. But, as President Clinton's Deputy Treasury Secretary Lawrence Summers has written, ''[t]here is no sense in which benefits become 'free' just because the government mandates'' them. Congress has merely passed the costs on to someone else.

And that ''someone'' is the American people. As economists from Princeton's Alan Krueger to John Holohan, Colin Winterbottom, and Sheila Zedlewski of the Urban Institute agree, the costs of unfunded mandates on the private sector are primarily borne by three groups: consumers, workers, and small businesses.

What forms do these costs take? For consumers, mandate costs take the form of higher prices for goods and services, as unfunded mandates drive up the cost of labor.

For workers, the costs of unfunded mandates often take the form of significantly lower wages. According to the Heritage Foundation, a range of independent studies indicates that some 88 percent of the cost of private sector mandates are shifted to workers in the form of lower wages.

And mandates can cause workers to lose their jobs altogether. Faced with uncontrollable increases in employee costs, our job creators too often find that they can no longer afford to retain their full complement of workers. The Clinton health care mandate, for example, would have resulted in a net loss of between 200,000–500,000 jobs, according to a study conducted by Professor Krueger.

Small businesses and their potential employees also suffer. Mandates typically apply only to businesses with at least a certain number of employees. As a result, small businesses have a powerful incentive not to hire enough new workers to reach the mandate threshold. As the Wall Street Journal recently noted, ''The point at which a new [mandate] kicks in * * * is the point at which the [Chief Financial Officer] asks 'Why grow?' ''

That question is asked by small businesses all over the country, but let me cite one example from my State. Hasselbring/Clark is an office equipment supplier in Lansing, MI. Noelle Clark is the firm's treasurer and secretary. Mindful of the raft of mandates whose threshold is 50 employees, Ms. Clark reports that lately ''we have hired a few temps to stay under 49.'' Thus, unfunded mandates not only eliminate jobs, but also prevent jobs from being created.

Much as Members of Congress may wish it were not so, mandates have a very real cost. This does not mean that all mandates are bad. But it does mean that Congress should think very carefully about the wisdom of a proposed mandate before imposing it.

Such careful thinking, Mr. President, is the goal of the Mandates Information Act of 1997. Just as the Unfunded Mandates Reform Act of 1995 protects State and local governments from hasty decisionmaking with respect to proposed intergovernmental mandates, the Mandates Information Act would protect consumers, workers, and small businesses from hasty decisionmaking with respect to proposed private sector mandates. It would do so, in essence, by extending the reforms of the 1995 act to private sector mandates.

The bill I introduce today would build on the 1995 act's reforms in two ways. First, to give Congress more complete information about the impact of proposed mandates on the private sector, my bill directs CBO to prepare a ''Consumer, Worker, and Small Business Impact Statement'' for any bill reported out of Committee. This statement would include analyses of the bill's private sector mandates' effects on the following: First, consumer prices and [the] actual supply of goods and services in consumer markets; second, worker wages, worker benefits, and employment opportunities; and third, the hiring practices, expansion, and profitability of businesses with 100 or fewer employees.

But providing Congress with more complete information about the impact of proposed private sector mandates will not guarantee that it pays any attention to it. This we know from experience. In 1981, Congress enacted the State and Local Government Cost Estimate Act, sponsored by Senator Sasser. Pursuant to that act, CBO provided Congress with estimates of the cost of intergovernmental mandates in bills reported out of committee. But Congress routinely ignored this information. It did so because the 1981 act had no enforcement mechanism to force Congress to consider the CBO estimates. As Senator Sasser himself explained in introducing a follow-up bill in 1993, ''[t]he problem [with the 1981 act], it has become clear, is that this yellow caution light has no red light to back it up.''

To supply that ''red light,'' Senator Sasser's Mandate Funding Act of 1993 contained a point of order. Of course, the Unfunded Mandates Reform Act of 1995 likewise contained a point of order, which is why it succeeded where Senator Sasser's 1981 act had failed.

The Mandates Information Act of 1997 will provide this red light for proposed private sector mandates. It contains a point of order against any bill whose private sector mandates exceed the $100 million threshold set by the 1995 act. Like the 1995 act's point of order against intergovernmental mandates, the 1997 bill's point of order can be waived by a simple majority of Members. Thus it will not stop Congress from passing bills it wants to pass.

But the point of order will serve a vital purpose. It will ensure that Congress does not ignore the information contained in the consumer, worker, and small business impact statement. It will do so by allowing any Member to focus the attention of the entire House or Senate on the impact statement for a particular bill.

The Mandates Information Act of 1997 will provide Congress with more complete information about proposed mandates' effects on consumers, workers, and small businesses. It will also ensure that Congress actually considers this information before reaching a judgment about whether to impose a new mandate. The result, Mr. President, will be focused, high-quality deliberation on the wisdom of private sector mandates.

Because of the success of the 1995 act, Congress is now much more careful to consider the interests of State and local governments in making decisions about unfunded mandates. But Congress must be just as careful to consider the interests of consumers, workers, and small businesses in making such decisions. This bill will ensure that care, helping produce better legislation; legislation that imposes a lighter burden on working Americans.

Mr. President, I ask unanimous consent that the following sample of letters from small business groups supporting the bill be introduced in the RECORD, along with a list of groups that have expressed their support for it.

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

ORGANIZATIONS SUPPORTING THE MANDATES INFORMATION ACT OF 1997

NATIONAL ORGANIZATIONS

Chamber of Commerce of the United States; National Association of Wholesaler-Distributors; National Federation of Independent Businesses; National Retail Federation; Small Business Survival Committee; National Restaurant Association; National Association for the Self-Employed.

MICHIGAN ORGANIZATIONS

Associated Underground Contractors, Inc.; Grand Rapids Area Chamber of Commerce; Michigan Association of Timbermen; Michigan Chamber of Commerce; Michigan Farm Bureau Family of Companies; Michigan NFIB; Michigan Retailers Association; Michigan Soft Drink Association; Small Business Association of Michigan.

NATIONAL FEDERATION OF INDEPENDENT BUSINESS,
Washington, DC, February 11, 1997.

Hon. SPENCER ABRAHAM,
U.S. Senate,
Washington, DC.

DEAR SENATOR ABRAHAM: On behalf of the more than 600,000 members of the National Federation of Independent Business (NFIB), I want to express support for the Mandate Information Act of 1997

In 1995 with the passage of the Unfunded Mandates Act, Congress acknowledged the significant problem that federal government mandates have on the operation of states and localities. Government mandates create equally burdensome problems on the private sector and especially small employers. These federal mandates discourage small business start-ups, growth and job creation.

Our members have consistently ranked unreasonable government regulation as one of their top concerns. The Mandate Information Act works to address the problem of federal mandates on small businesses by applying the reforms put in place by the Unfunded Mandates Act of 1995 for state and local government to the private sector. This would require Congress to weigh more carefully the impact of proposed legislation on small businesses and their employees.

We commend you on your efforts to reduce the government mandated burdens a small business must shoulder and look forward to working with you to ensure that this positive reform becomes law.

Sincerely,

DAN DANNER,
Vice President,
Federal Governmental Relations.

CHAMBER OF COMMERCE,
Washington, DC, January 7, 1997.

Hon. SPENCER ABRAHAM,
U.S. Senate,
Washington, DC.

DEAR SENATOR ABRAHAM: I am pleased to offer the support of the U.S. Chamber of Commerce Federation for your proposed legislation, the Mandates Information Act of 1997.

One of the key success stories of the 104th Congress was the adoption of bipartisan unfunded mandates reform requiring Congress to consider the cost and consequences of federal requirements on state and local government. Another important component of this law was the requirement that significant federal mandates on the private sector be measured and made public. Such mandates have an enormous impact on consumers, small businesses and workers in the form of higher prices, fewer jobs, declining good and services and reduced workers benefits. Moreover, these mandates are likely to escalate as scarce budgetary resources will place even greater pressure on utilizing federal regulations as a means of implementing government programs and initiatives.

[The Mandates Information Act would provide the next necessary step to promote greater public and congressional accountability regarding the impact of federal mandates.] It builds upon the success of the unfunded mandates law by requiring Congress to have more information on who will be affected and ultimately pay the costs associated with these mandates. It would allow Member of Congress to vote on each mandate—considering not only its benefits but its effect on the private section as well as the economy, jobs and consumers.

[It is good government policy for Congress to engage in the practice of legislating with the necessary information concerning the impact of their actions. Policymakers have the responsibility and obligation to make informed decisions and to be accountable for the consequences of those decisions.] Such a proposal would help ensure that when resources are diverted from jobs, wages and families into government rules, the impact are fully considered.

The U.S. Chamber of Commerce Federation, the world's largest federation of business, chambers of commerce and business organizations representing every size and sector of the nation's economy, looks forward to working with you in seeking adoption of this common sense, good government proposal.

Sincerely,

R. BRUCE JOSTEN.

NATIONAL RETAIL FEDERATION,
Washington, DC, February 12, 1997.

Hon. SPENCER ABRAHAM,
U.S. Senator,
Washington, DC.

DEAR SENATOR ABRAHAM: On behalf of the National Retail Federation, the world's largest retail trade association, I am writing to support your legislation, the Mandates Information Act of 1997.

Too often Congress passes new mandates on entrepreneurs without understanding the actual cost. Many times, mandates look good on paper, but can have a disastrous effect once implemented. Your legislation will correct that once and for all.

The costs associated with mandates, as you well know, are more than direct cash outlays, these costs mean less economic growth, fewer jobs created and higher costs to consumers. Congress' worthy goal of balancing the budget, combined with desires of some to ''deliver more things'' to voters that the government doesn't have to pay for, will put more pressure than ever on Members of Congress to burden business.

New mandates automatically won't be stopped, only automatically considered under this bill. That's right in line with Main Street. The Abraham legislation assures retailers and other entrepreneurs that Congress will consider the impact of proposed mandates set forth in the CBO Consumer, Worker and Small Business Impact Statement before they are simply enacted into law.

Again, thank you for your leadership against new mandates. We look forward to working with you to pass this legislation.

Sincerely,

JOHN J. MOTLEY,
Senior Vice President,
Government and Public Affairs.

MICHIGAN CHAMBER OF COMMERCE,
Lansing, MI, January 31, 1997.

Hon. SPENCER ABRAHAM,
U.S. Senate,
Washington, DC.

DEAR SPENCE: Your proposed ''Mandates Information Act of 1997'' is a great idea!

As you know, the Michigan Chamber and many other taxpayer groups supported—and voters approved—the Headlee Amendment to the State Constitution in 1978 that required state mandates on local government to be funded by the State. This has caused greater legislative and executive branch evaluation of state program mandates and related costs on local units of government and resulted in funding of any mandates by the state. The Michigan Chamber also supported adoption of unfunded mandates reform during the 104th Congress.

It's important that Congress now consider protection for the private sector from new unfunded mandates. Careful consideration of the impact of federal mandates on state and local government should be extended to job providers and consumers.

The Michigan Chamber of Commerce and our 6,500 member firms are pleased to support this needed legislation.

Sincerely,

JIM BARRETT,
President.

SMALL BUSINESS ASSOCIATION OF MICHIGAN,
Lansing, MI, January 31, 1997.

Hon. SPENCER ABRAHAM,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR ABRAHAM: The Small Business Association of Michigan (SBAM is pleased with your decision to introduce the ''Mandates Information Act.'' Your bill will help protect small businesses from the financial impact of Congressional mandates.

Congressional mandates imposed on the private sector are already driving down worker wages, increasing consumer costs and reducing the availability of goods and services. These mandates could multiply as a result of the effort for a balanced budget. As funding becomes increasingly scarce, advocates of increased government intrusion in the private sector will try to shift program costs to small businesses in the form of new mandates.

A key provision of your legislation is the small business impact statement—to inform Congressional members about mandates and their impact on the private sector. The bill will direct the CBO to estimate the impact of a bill's mandates on consumer cost, worker wages, the availability of goods and services and small business job creation.

SBAM is Michigan's latest state based small business association representing 8,000 businesses in all of Michigan's 83 counties. We look forward to working with you on this important small business issue.

Sincerely,

BARRY S. CARGILL,
Vice President,
Government Relations.

Mr. BOND. Mr. President, I rise today in support of the Mandates Information Act of 1997. I am pleased to be an original cosponsor of this important legislation, and I applaud my distinguished colleague from Michigan, Mr. ABRAHAM, for his leadership in this effort.

The bill we are introducing today continues the work begun in the 104th Congress with the enactment of the ''Unfunded Mandates Reform Act of 1995—the 1995 act—authored by Mr.

KEMPTHORNE to ensure that Congress is well advised of the cost unfunded mandates would impose on State and local governments. I was a cosponsor of the 1995 act, and I believe the time has come for us to expand its provisions to require similar detailed information and accountability on unfunded mandates affecting the private sector—so we can protect consumers, workers, and small businesses.

As chairman of the Senate Committee on Small Business, I am all too aware of the disproportionate burden Federal regulations impose on our Nation's small businesses. A 1995 study found that an average firm with less than 20 employees spent approximately $5,500 per employee in 1992 to comply with Federal regulations—compared with $3,000 per employee by firms with 500 or more employees. The overall cost to the economy is between 6 and 9 percent of gross domestic product—between $420–670 billion—in 1995 dollars—in regulatory compliance. Before we permit the Federal Government to adopt any new mandate that would add to this burden, the Congress needs to be fully informed of the new costs to be imposed on the economy so we can make an informed judgment.

The reforms proposed in this bill are needed to ensure that the Congress gives careful and thoughtful consideration to the impact unfunded mandates impose on the private sector. The ability of small businesses to compete and create new jobs can be hindered by unfunded mandates, we need to be aware of the magnitude of any future adverse effects. The Committee on Small Business will continue its work to ensure that the Government's actions here in Washington foster the growth of small businesses located on Main Street. This bill will help to ensure that all Members of Congress are equally informed of the effects a bill would have on the customers, employees, and owners of America's small businesses, the engine of our Nation's economic growth.

The legislation Senator ABRAHAM and I are introducing today will ensure that the private sector impact of unfunded mandates is addressed during deliberations on legislation imposing those mandates. Consumers, workers, and small businesses will benefit from the reforms to enhance congressional deliberations on unfunded mandates affecting the private sector. The Mandates Information Act of 1997 establishes a new parliamentary point of order against any bill that will impose private sector mandates exceeding a $100 million cost threshold. The measure directs the Congressional Budget Office to estimate the impact of the proposed unfunded mandates on consumer costs, worker wages, and the availability of goods and services.

As with the Unfunded Mandate Reform Act of 1995, the point of order authorized by the bill would bar the House or Senate from further action on a proposed measure unless a majority agrees to move forward with the initiative. By authorizing a point of order triggered by private sector impacts, the legislation introduced today puts teeth into the law to ensure that Congress addresses the costs that would be imposed by the unfunded mandates on small businesses, consumers, and workers. This change requires Members of Congress to go on record as either supporting or opposing an unfunded mandate that would add costs to the private sector.

With the aid of a consumer, worker, and small business impact statement, Members of Congress will have the information required to make an informed decision on the merit of imposing a mandate without also providing funding for compliance. The impact statement would be prepared by the Congressional Budget Office—which the bill directs to estimate the economic impact of a proposed mandate on consumers, wages, and the availability of goods and services.

All in all, this bill is about good governance. It provides information to ensure that Congress is fully informed on the impact of an unfunded mandate on the economy and the private sector in particular. By tasking the Congressional Budget Office with preparing an impact statement, the bill also provides important information to educate Congress on the effect of pending legislation. This, in itself, is an important step toward ensuring that the needs and concerns of small businesses, and the workers and customers that depend on small businesses, are given the attention they deserve by Congress. As with the Small Business Regulatory Enforcement Fairness Act of 1996—or the Red-Tape Reduction Act as I prefer to call it—today's bill seeks to ensure that the Government treats small business fairly. The Mandates Information Act has the support of the National Federation of Independent Business, the National Restaurant Association, the U.S. Chamber of Commerce, the National Retail Association, the National Association of Wholesaler-Distributors, and the Small Business Survival Committee—I urge my colleagues to join our efforts to enact this bill and enhance our efforts to ensure good governance.

By Mr. COVERDELL (for himself, Mrs. FEINSTEIN, and Mr. HELMS):

S.J. Res. 19. A joint resolution to disapprove the certification of the President under section 490(b) of the Foreign Assistance Act of 1961 regarding foreign assistance for Mexico during fiscal year 1997; read the first time.

S.J. Res. 20. A joint resolution to disapprove the certification of the President under section 490(b) of the Foreign Assistance Act of 1961 regarding foreign assistance for Mexico during fiscal year 1997; to the Committee on Foreign Relations.

S.J. Res. 21. A joint resolution to disapprove the certification of the President under section 490(b) of the Foreign Assistance Act of 1961 regarding assistance for Mexico during fiscal year 1997, and to provide for the termination of the withholding of and opposition to assistance that results from the disapproval; to the Committee on Foreign Relations.

DISAPPROVAL LEGISLATION

Mr. COVERDELL. Mr. President, I have introduced today three separate joint resolutions to disapprove the President's decision to certify Mexico as fully cooperating in our war on drugs. The first joint resolution will eventually be placed on the calendar by way of rule XIV of the Standing Rules of the Senate. The second resolution is identical to the first joint resolution; however, it will be referred to the Senate Foreign Relations Committee for their consideration.

Finally, Mr. President, the third joint resolution I have just introduced would disapprove the President's certification and instead decertify Mexico but authorize a national interest waiver.

Mr. President, I have been joined today by a coauthor of these resolutions, Senator FEINSTEIN of California, who will make remarks in a moment. I will take just a few minutes to visit this subject and then yield the floor to Senator FEINSTEIN.

First, let me say, Mr. President, that this is a most difficult issue, and it has very broad ramifications. Mr. President, I stand here as a friend of Mexico and the Mexican people, but I believe the actions on the part of the administration were a resounding endorsement of the status quo. Mr. President, the status quo is unacceptable. The status quo sees the Government of Mexico under siege by perpetrators of fraud and corruption and destabilization. Mr. President, the status quo sees millions of new victims being ravaged by the assault of drugs within our community. I suspect that the actions on the part of the administration, of President Clinton, were an effort to be supportive of President Zedillo. I can understand that, but I believe this decision to certify without condition, versus to decertify and waive as our resolution calls for, misleads both nations. It suggests that things are going along fairly well and we just need to keep doing what we have been doing.

The President of Mexico himself said the greatest single threat to the security of his republic are the drug cartels. Mr. President, we are losing this war. That is what the status quo represents. We are losing. The people of Mexico are losing through destabilization of their government at all levels, the American people are losing through the victimization of millions of American citizens, and the democracies of the hemisphere are losing because this is a pervasive cloud over our future as we enter the new century.

All the opportunity one can envision about this hemisphere, the fact that 40 percent of our trade occurs in this hemisphere, the abounding opportunities that one can easily look at when

you see what commerce can produce in the uplifting of all of our peoples, the single most serious threat to all those opportunities are the drug cartels. It hangs as a cloud, Mr. President. I believe the actions on the part of the administration do a disservice to all of our people on both sides of the border. And I hope that we can come at this question more honestly and admit that we have deep problems here, and that the good will that exists between our peoples is vibrant enough and strong enough that it can face an honest problem head on. No one is served by sweeping it under the rug for yet another year. Every day that goes by, we lose a little bit more and we come closer and closer to a time when this becomes unresolvable.

Mr. President, we will hold hearings on these resolutions in the very near term. I compliment my colleague from California for her extended work in this area for a considerable period of time.

At this point, I yield the floor to my colleague from California, Senator FEINSTEIN.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. I thank the Chair and I thank the Senator from Georgia. I am pleased to join with him in this joint resolution, disapproving the certification of Mexico.

Mr. President, my disappointment in the administration's decision to certify Mexico's antidrug efforts last week, I think, was known to all. I believe that decision was a mistake, and I said so.

The decision to certify Mexico in the face of what I consider to be an overwhelming lack of cooperation undermines the integrity of the certification process itself, as well as damaging the credibility of the United States in our dealings with other countries with whom we seek cooperation.

I rise today to join with the Senator from Georgia and a number of my colleagues in introducing this resolution. But I do so with some regret. I regret the need for the resolution for two reasons. First, Mexico is a neighbor, a friend, and an ally of our country. Second, I very much regret the need to disagree with my President on this issue. I believe he made what he believes to be the right decision, but I respectfully disagree with him.

Our intention is clear: We believe that the evidence overwhelmingly supports decertification of Mexico, and then if the President sees fit, invoking a vital national interest waiver. For that reason, Senator COVERDELL has introduced a second resolution that allows the President to waive the sanctions on grounds of vital national interest after we enact our resolution of disapproval.

Last week, a bipartisan group of 39 Senators sent a letter to the President urging that this be his decision.

I ask unanimous consent that this letter be printed in the RECORD following my remarks.

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

(See exhibit 1.)

Mrs. FEINSTEIN. Mr. President, section 490 of the Foreign Assistance Act requires the President to certify that Mexico has cooperated fully with the United States, or taken adequate steps on its own to combat drug trafficking. It's just not tenable to claim that Colombia did not meet that standard, but Mexico did. Let me read one sentence from the decertification of Colombia in 1996. It reads:

> Critical to the U.S. judgment that the Government of Colombia did not fully cooperate on counternarcotics in 1995 is the assessment that corruption remains pervasive, despite the efforts of some dedicated Colombians to root it out.

That is no different from the situation in Mexico today. There are dedicated efforts in Mexico, but the corruption is pervasive.

I think the events of last week are an example in point.

Just hours before the President's decision on certification of Mexico was to be announced, Mexican officials were touting the arrest of a reputed cartel leader, Humberto Garcia Abrego, brother of Juan Garcia Abrego, who was expelled from Mexico during last year's certification process.

Then, just a few hours after the decision to certify was announced, guess what? Garcia Abrego simply walked away from Mexican custody a free man. The Mexican Attorney General's office claimed responsibility for setting him free. His release was ''inexplicable,'' they said.

Mr. President, this is just one example of the kind of cooperation the United States has received. It has tightened up just before certification and then, just after certification, it's business as usual.

With 70 percent of the cocaine, a quarter of the heroin, 80 percent of the marijuana, and 90 percent of the ephedrine used to make methamphetamine entering the United States from our southern border, Mexico's drug problem is America's drug problem, and the problem is getting worse, not better.

Last year at this time, Senator D'AMATO and I compiled a list of actions we considered necessary for the Mexican Government to take in order to show progress on their antidrug efforts. Regrettably, I believe the evidence shows there has been little or no progress on nearly all of the items on this list.

Some of these failures are due to inability; others are due simply to a lack of political will.

For example, some questions: Has Mexico extradited one Mexican national on outstanding drug charges? The answer is no. I was puzzled because the Secretary of State, in her statement on certification, made this statement: ''Mexico has set a precedent by extraditing its own nationals.'' One might conclude that this includes Mexicans wanted on drug charges. Yet, to the contrary, both the Department of Justice and the DEA tell me that not a single Mexican national has been extradited to this country on drug-related charges.

If the State Department has information that Mexican nationals are being extradited on drug-related charges—and there are 52 of them on the extradition list—I ask them now to make that list public. Tell us which Mexican nationals have been extradited on drug-related charges.

Francisco Arellano-Felix of the notorious Tijuana cartel is currently in custody in a Mexican prison and wanted on narcotics charges here in the United States. I say to Mexico, why not show good faith and extradite him?

Mexican authorities tell us that there has been an agreement in principle on extraditing Mexican nationals, but there has been no change in their actions.

Question 2: Has Mexico implemented new laws aimed at curbing the rampant laundering of drug money? No.

Nearly a year ago, the Mexican Parliament passed criminal money laundering laws. But the new laws are a far cry from the stronger legislative action sought by U.S. officials. The new laws do not even require banks to report large or suspicious currency transactions. Promises to enact such regulations have, so far, gone unfulfilled.

To my knowledge, not one money exchange house in Mexico has changed its operations.

Have Mexican authorities significantly increased their seizure rate of cocaine or their arrest of drug traffickers? Let's take a look at it. The answer to that clearly is no. Cocaine seizures by Mexico, which increased slightly last year, are barely half of what was seized in 1993.

Here are seizures in 1993—46.2 tons. Here they are in 1995—22.2 tons. And they are just slightly above that in 1996. Actually, instead of 22.2 tons, in 1996 they are 23.5.

So that is the record. It has been effectively downhill, and then a straight line, and a small little jog up.

Let's take a look at drug-related arrests in Mexico. Drug-related arrests last year are less than half of what they were in 1992. Here are the figures. In 1992, 27,369; down in 1993; down in 1994; and way down in 1995, all the way to 9,700. We don't have 1996 on this chart yet, but the 1996 figures are 11,245. That is a startling drop since 1992.

So here is a country being certified as fully cooperative, and drug seizures have gone down and drug arrests have gone down in the last 3 years.

One has to ask then: What is ''full cooperation''?

Mr. COVERDELL. Mr. President, will the Senator yield?

Mrs. FEINSTEIN. I certainly will.

Mr. COVERDELL. I have a comment on the statistics just demonstrated, because I was reading in the New York Times, and they begin the data in 1994.

So it shows a slight increase. But the dramatic case that the Senator made is absolutely correct. You have to go back to 1992 and 1993 to see what really is happening with arrests and seizures of narcotics.

I just point out that it is good that the Senator is making the point because our adversaries like to start measuring statistics in 1994. We can't do that.

Mrs. FEINSTEIN. The Senator is correct. I thank him very much for that comment because he is absolutely right. The jog up is so small when you compare it with the drop which is so steep and pronounced. So I thank the Senator very much.

It leads me to the conclusion that the situation with Mexico has never been worse. DEA has suspended American agents going into Mexico because, just last month, Mexico forbade United States drug agents from carrying weapons on the Mexican side of the border.

I understand that there may be some agreement again to enable our agents to be armed, and then they will go in again. However, it should be pointed out that death threats against our agents are up.

I would like to ask that all Members, if they would be willing, to simply read the testimony provided by Thomas Constantine, Administrator of the Drug Enforcement Administration, before the House Government Reform and Oversight Committee, the National Security, International Affairs, and Criminal Justice Subcommittee, last week. It was played about three times on C-SPAN over the weekend. I heard it. I also read the remarks. And the remarks are really very, very profound.

In this report, Mr. Constantine points out again:

> Since 1993, 23 major drug-related assassinations have taken place in Mexico. Virtually all of these murders remain unsolved. Many of them have occurred in Tijuana, or have involved victims from Tijuana in the last year. Twelve law enforcement officers, or former officials, have been gunned down in Tijuana, and the vast majority of the 200 murders in that city are believed to have been drug related.

The Administrator also points out that of the 1,200 firings firings of Government officials for corruption made by President Zedillo, no successful prosecutions of these individuals have ever taken place. So of the 1,200 Government officials fired for corruption, there has not been a single successful prosecution.

The arrest last month of Gen. Jesus Gutierrez Rebollo brings, I think, the level of drug-influenced corruption in Mexico into some glaring relief. It is frightening. But, as I have pointed out, it is just the tip of the iceberg.

In September, a federal police commander, Ernesto Ibarra, who had vowed to take down the Tijuana cartel, was murdered, and some of the assailants were his own officers.

That should tell us a great deal about the level of corruption.

The celebrated army raid of a wedding last month of the sister of Amado Carillo-Fuentes, Mexico's most powerful cartel leader, seems to be an elaborate charade. The raid, which was organized by General Gutierrez, who we now know was on the Carillo-Fuentes payroll and the target of the raid, was tipped off in advance and either never did come to the wedding or escaped. Federal police were found to be protecting the drug traffickers at that wedding. The federal police were protecting drug traffickers. I find that just amazing.

As former DEA Administrator Robert Bonner said, "It would be hard for anyone to say with a straight face that the Mexican Government is taking effective action against the major drug traffickers at this juncture."

Yet, they were just certified as so doing.

The purpose of section 490 was not to deliver merit badges to nations whose leaders have good intentions. The world is filled with leaders who have good intentions. The act was designed to measure uniformly the actions taken by countries to assist the United States in antidrug efforts.

Colombia was decertified last year and again this year because their efforts were ineffectual.

How Mexico cannot be held to the same standards I have a hard time understanding. To certify Mexico in the face of overwhelming evidence to the contrary undercuts the certification process.

So I ask all of my colleagues to join the distinguished Senator from Georgia and myself in voting to disapprove the President's decision on certification of Mexico but to allow him, if he sees fit, to enact a national-interest waiver.

Then we should work with the President to devise conditions under which Mexico would be eligible for recertification.

EXHIBIT 1

U.S. SENATE,
Washington, DC, February 26, 1997.

The PRESIDENT,
The White House, Washington, DC

DEAR MR. PRESIDENT: We are writing to urge you to deny certification that Mexico has taken sufficient actions to combat international narcotics trafficking when you report to Congress on the anti-narcotics efforts of major drug producing and drug-transit countries. We believe a reasonable examination of the facts leads to no other decision.

Regrettably, we have concluded that there has been insufficient progress, or no progress, on a wide range of key elements of an effective counternarcotics program in Mexico. Some of these failures are due to inability; others are due to a lack of political will. But all have set back the urgent effort to end the plague of drugs on our streets.

We want to bring to your attention a number of the most significant examples of Mexico's inability and unwillingness to deal with the drug trafficking problem effectively:

Cartels: There has been little or no effective action taken against the major drug cartels. The two most powerful—the Juarez Cartel run by Amado Carillo Fuentes, and the Tijuana Cartel, run by the Arellano Felix brothers—have hardly been touched by Mexican law enforcement. Those who have been arrested, such as Hector Palma, are given light sentences and allowed to continue to conduct business from jail. As DEA Administrator Thomas Constantine says, "The Mexicans are now the single most powerful trafficking groups"—worse than the Colombian cartels.

Money Laundering: Last year, the Mexican parliament passed criminal money laundering laws for the first time, but the new laws are incomplete and have not yet been properly implemented. These laws do not require banks to report large and suspicious currency transactions, or threaten the banks with sanctions if they fail to comply. Promises to enact such regulations—which prosecutors need to identify money-launderers—have so far gone unfulfilled. Mexican officials said that such regulations would be developed by January, but they were not produced.

Law Enforcement: While there have been increases in the amounts of heroin and marijuana seized by Mexican authorities, cocaine seizures remain low. Although slightly higher than last year's figures, the 23.6 metric tons seized in 1996 is barely half of what was seized in 1993. A modest increase in drug-related arrests brought the total to 11,245 in 1996—less than half of the 1992 figure.

Cooperation with U.S. Law Enforcement: Our own drug enforcement agents report that the situation on the border has never been worse. Last month, the Mexican government forbade U.S. agents to carry weapons on the Mexican side of the border, putting their lives in grave danger. Recent news reports indicate that death threats against U.S. narcotics agents on the border have quadrupled in the past three months. Some U.S. agents believe that all their cooperative efforts are undone almost instantly by the corrupt Mexican agents with whom they work.

Extraditions: Mexico also has made very little progress in the area of extraditions. In the past year, they have failed to capture and extradite a single high-ranking member of any of the major drug cartels. There are 52 outstanding U.S. extradition requests for drug dealers, and Mexico has failed to comply with a single one of them. No Mexican national has ever been extradited to the United States on drug charges. In the last year, Mexico has fired two directors of its National Institute to Combat Drugs, one Attorney General, and several high-ranking officials in the federal police for their corrupt involvement with the drug lords. We should expect Mexico to pursue the cartel leaders with the same level of intensity used to expose and punish corruption by government officials.

Corruption: Mexico's counternarcotics effort is plagued by corruption in the government and the national police. Among the evidence are the eight Mexican prosecutors and law enforcement officials who have been murdered in Tijuana in recent months. There has been considerable hope that the Mexican armed forces would be able to take a more active role in the counternarcotics effort without the taint of corruption. But the revelation that Gen. Jesus Gutierrez Rebollo, Mexico's top counternarcotics official and a 42-year veteran of the armed forces, had accepted bribes from the Carillo Fuentes cartel, casts grave doubts upon that hope.

Recent news reports indicate that U.S. law enforcement officials suspect judges, prosecutors, Transportation Ministry officials, Naval officers, and Governors of corruption and actively facilitating the work of drug traffickers. The National Autonomous University of Mexico estimates that the drug lords spend $500 million each year to bribe Mexican officials at all levels, and many consider that figure to be a gross under-estimation.

Mr. President, we believe that the evidence is overwhelming and can lead to no decision other than the decertification of Mexico. It would send a strong signal to Mexico and the world that the United States will not tolerate lack of cooperation in the fight against narcotics, even from our close friends and allies. Accordingly, we urge you to establish a clear set of benchmarks by which you will judge if and when to recertify Mexico for counternarcotics cooperation. These benchmarks must include, but not be limited to: effective action to dismantle the major drug cartels and arrest their leaders; full and ongoing implementation of effective money-laundering legislation; compliance with all outstanding extradition requests by the United States; increased interdiction of narcotics and other controlled substances flowing across the border by land and sea routes; improved cooperation with U.S. law enforcement officials including allowing U.S. agents to resume carrying weapons on the Mexican side of the border; and a comprehensive program to identify, weed out, and prosecute corrupt officials at all levels of the Mexican government, police, and military.

You may feel, as many of us do, that U.S. interests in Mexico, economic and otherwise, are too extensive to risk the fall-out that would result from decertification. That is why Congress included a vital national interest waiver provision in Section 490 of the Foreign Assistance Act. But other vital interests are not a valid reason to certify when certification has not been earned. If you feel that our interests warrant it, we urge you to use this waiver. But an honest assessment of Mexico's cooperation on counternarcotics must fall on the side of decertification.

Sincerely,

Wayne Allard, Jeff Bingaman, Barbara Boxer, John Breaux, Richard Bryan, Max Cleland, Susan M. Collins, Kent Conrad, Paul Coverdell, Larry Craig, Alfonse D'Amato, Pete Domenici, Byron Dorgan, Dick Durbin, Russ Feingold, Dianne Feinstein, Wendell Ford, Slade Gorton, Judd Gregg, Chuck Hagel, Jesse Helms, Kay Bailey Hutchison, Tim Hutchinson, Dirk Kempthorne, Bob Kerrey, Jon Kyl, Mary Landrieu, Frank Lautenberg, Connie Mack, Patty Murray, Frank Murkowski, Daniel Patrick Moynihan, Carol Moseley-Braun, Jack Reed, Harry Reid, Rick Santorum, Ted Stevens, Robert Torricelli, and Ron Wyden.

ADDITIONAL COSPONSORS

S. 102

At the request of Mr. BREAUX, the name of the Senator from North Carolina [Mr. FAIRCLOTH] was added as a cosponsor of S. 102, a bill to amend title XVIII of the Social Security Act to improve Medicare treatment and education for beneficiaries with diabetes by providing coverage of diabetes outpatient self-management training services and uniform coverage of blood-testing strips for individuals with diabetes.

S. 146

At the request of Mr. ROCKEFELLER, the names of the Senator from Missouri [Mr. BOND], and the Senator from South Carolina [Mr. HOLLINGS] were added as cosponsors of S. 146, a bill to permit Medicare beneficiaries to enroll with qualified provider-sponsored organizations under title XVIII of the Social Security Act, and for other purposes.

S. 148

At the request of Mr. DASCHLE, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 148, a bill to amend the Public Health Service Act to provide a comprehensive program for the prevention of Fetal Alcohol Syndrome.

S. 211

At the request of Mr. WELLSTONE, the name of the Senator from Georgia [Mr. CLELAND] was added as a cosponsor of S. 211, a bill to amend title 38, United States Code, to extend the period of time for the manifestation of chronic disabilities due to undiagnosed symptoms in veterans who served in the Persian Gulf war in order for those disabilities to be compensable by the Secretary of Veterans Affairs.

S. 242

At the request of Mr. MCCAIN, the name of the Senator from Nebraska [Mr. HAGEL] was added as a cosponsor of S. 242, a bill to require a 60-vote supermajority in the Senate to pass any bill increasing taxes.

S. 317

At the request of Mr. CRAIG, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of S. 317, a bill to reauthorize and amend the National Geologic Mapping Act of 1992.

S. 341

At the request of Mr. ROTH, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 341, a bill to establish a bipartisan commission to study and provide recommendations on restoring the financial integrity of the Medicare Program under title XVIII of the Social Security Act.

S. 355

At the request of Mr. GRAMM, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 355, a bill to amend the Internal Revenue Code of 1986 to make the research credit permanent.

S. 381

At the request of Mr. ROCKEFELLER, the names of the Senator from New Hampshire [Mr. GREGG), and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of S. 381, a bill to establish a demonstration project to study and provide coverage of routine patient care costs for Medicare beneficiaries with cancer who are enrolled in an approved clinical trail program.

SENATE JOINT RESOLUTION 6

At the request of Mr. KYL, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of Senate Joint Resolution 6, a joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims.

SENATE JOINT RESOLUTION 18

At the request of Mr. HOLLINGS, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of Senate Joint Resolution 18, a joint resolution proposing an amendment to the Constitution of the United States relating to contributions and expenditures intended to affect elections.

ADDITIONAL STATEMENTS

TRIBUTE TO SHIRLEY SMITH-POINTER

• Mr. MCCONNELL. Mr. President, I rise today to recognize Shirley Smith-Pointer who is retiring from the Social Security Administration after 34 years of Federal service.

Ms. Smith-Pointer held the positions of claims development clerk, data review technician, and claims representative—the position she held upon retiring. Her duties as a claims representative involved assisting the public in filing claims for retirement, survivors, disability, and Medicare, and also determining entitlement and making final adjudication for those claims.

In addition to her good work as a Social Security employee, Ms. Smith-Pointer was very active in, and helpful to, her community. She served as secretary, usher, and Sunday school teacher for her church. She has also been a member of the National Council of Negro Women and served the Chestnut Street YMCA's Black Achievers' Program.

Mr. President, I ask you and my colleagues to join me in recognizing Shirley Smith-Pointer for 34 years of dedicated service to the Federal Government.•

CHICAGO BOARD OF TRADE AND THE CHICAGO MERCANTILE EXCHANGE

• Ms. MOSELEY-BRAUN. Mr. President, today's Chicago Sun-Times contained an editorial headlined, ''Loosen reins on CBOT, Merc.'' The editorial, talking about the Chicago Board of Trade, and the Chicago Mercantile Exchange, made the point that:

''Congress must loosen the regulatory reins on the Chicago Board of Trade and the Chicago Mercantile Exchange. Otherwise, officials argue convincingly, Chicago will lose business and jobs to the unregulated over the counter markets or overseas exchanges.''

The Sun-Times had it exactly right. As in so many other areas of financial policy, the law has not kept up with economic reality. The world has changed. There is a revolution underway in finance, and, if the United States sits back and ignores the new realities of the marketplace, the result will be to seriously damage American financial marketplaces vis-a-vis their global competition, and to increasingly warp and distort the competition between and among various American financial markets.

We must respond; we must respond vigorously; and we must respond now. Chicago's future and option exchanges