S. 891. A bill to require Federal agencies to assess the impact of policies and regulations on families, and for other purposes; to the Committee on Governmental Affairs.

By Mr. GRAHAM (for himself, Mr. MCCAIN, Mr. SMITH of Oregon, Mr. WYDEN, Mr. BUMPERS, Mr. THOMAS, Mr. HUTCHINSON, Mr. BOND, Mr. GREGG, Mr. REID, Mr. FORD, Mr. ROBB, Mr. INOUYE, Mr. SANTORUM, Mr. BREAUX, Mr. HOLLINGS, Mr. GLENN, and Mr. DURBIN):

S. 892. A bill to amend title VII of the Public Health Service Act to revise and extend the area health education center program; to the Committee on Labor and Human Resources.

By Mrs. BOXER:

S. 893. A bill to provide for the conveyance of a parcel of unused agricultural land in Dos Palos, California, to the Dos Palos Ag Boosters for use as a farm school; to the Committee on Energy and Natural Resources.

S. 894. A bill to provide for the conveyance of certain land in the Six Rivers National Forest in the State of California for the benefit of the Hoopla Valley Tribe; to the Committee on Indian Affairs.

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

S. 895. A bill to designate the reservoir created by Trinity Dam in the Central Valley project, California, as ''Trinity Lake''; to the Committee on Energy and Natural Resources.

By Mr. LEAHY (for himself, Mr. HAGEL, Mr. KERREY, Mr. MCCAIN, Mr. CLELAND, Mr. KEMPTHORNE, Mr. INOUYE, Mr. LUGAR, Mr. MCCONNELL, Mr. LEVIN, Mr. HATCH, Mr. LIEBERMAN, Ms. SNOWE, Mr. KERRY, Mr. GRASSLEY, Mr. ROBB, Mr. CHAFEE, Mr. BREAUX, Mr. SMITH of Oregon, Mrs. FEINSTEIN, Mr. MOYNIHAN, Mr. SPECTER, Mr. BUMPERS, Ms. COLLINS, Mr. DURBIN, Mr. JEFFORDS, Mr. REID, Mr. DODD, Mr. D'AMATO, Mr. BYRD, Mr. CAMPBELL, Mr. CONRAD, Mr. ROCKEFELLER, Mr. JOHNSON, Mr. BINGAMAN, Mr. DORGAN, Mr. DASCHLE, Ms. MIKULSKI, Mr. TORRICELLI, Mr. LAUTENBERG, Ms. LANDRIEU, Mr. REED, Mr. WELLSTONE, Mr. KENNEDY, Mr. BRYAN, Mr. FEINGOLD, Ms. MOSELEY-BRAUN, Mr. SARBANES, Mr. KOHL, Mrs. BOXER, Mr. HARKIN, Mrs. MURRAY, Mr. FORD, Mr. AKAKA, Mr. BAUCUS, Mr. BIDEN, and Mr. WYDEN):

S. 896. A bill to restrict the use of funds for new deployments of antipersonnel landmines, and for other purposes; to the Committee on Armed Services.

By Mr. WYDEN (for himself and Mr. D'AMATO):

S. 897. A bill to make permanent certain authority relating to selfemployment assistance programs; to the Committee on Finance.

By Mr. HATCH (for himself, Mr. BAUCUS, Mr. MACK, and Mr. D'AMATO):

S. 898. A bill to amend the Internal Revenue Code of 1986 to simplify certain provisions applicable to real estate investment trusts; to the Committee on Finance.

By Mr. DODD:

S. 899. A bill to amend the Solid Waste Disposal Act to provide for flow control of municipal solid waste; to the Committee on Environment and Public Works.

By Mr. FEINGOLD (for himself and Mr. DEWINE):

S. 900. A bill to provide for sentencing enhancements and amendments to the Federal Sentencing Guidelines for offenses relating to the abuse and exploitation of children, and for other purposes; to the Committee on the Judiciary.

By Mr. KEMPTHORNE:

S. 901. A bill to provide Federal tax incentives to owners of environmentally sensitive lands to enter into conservation easements for the protection of habitat; to amend the Internal Revenue Code of 1986 to allow a deduction from the gross estate of a decedent in an amount equal to the value of real property subject to an endangered species conservation agreement; and for other purposes; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. BYRD (for himself, Mr. HAGEL, Mr. HOLLINGS, Mr. CRAIG, Mr. INOUYE, Mr. WARNER, Mr. FORD, Mr. THOMAS, Mr. DORGAN, Mr. HELMS, Mr. LEVIN, Mr. ROBERTS, Mr. ABRAHAM, Mr. MCCONNELL, Mr. ASHCROFT, Mr. BROWNBACK, Mr. KEMPTHORNE, Mr. THURMOND, Mr. BURNS, Mr. CONRAD, Mr. GLENN, Mr. ENZI, Mr. INHOFE, Mr. BOND, Mr. COVERDELL, Mr. DEWINE, Mrs. HUTCHISON, Mr. GORTON, Mr. HATCH, Mr. BREAUX, Mr. CLELAND, Mr. DURBIN, Mr. HUTCHINSON, Mr. JOHNSON, Ms. LANDRIEU, Ms. MIKULSKI, Mr. NICKLES, Mr. SANTORUM, Mr. SHELBY, Mr. SMITH of Oregon, Mr. BENNETT, Mr. FAIRCLOTH, Mr. FRIST, Mr. GRASSLEY, Mr. ALLARD, and Mr. MURKOWSKI):

S. Res. 98. A resolution expressing the sense of the Senate regarding the conditions for the United States becoming a signatory to any international agreement on greenhouse gas emissions under the United Nations Framework Convention on Climate Change; to the Committee on Foreign Relations.

By Mr. DASCHLE:

S. Res. 99. A resolution to encourage consumers to consult with their pharmacists in connection with the purchase and use of over-the-counter drug products; to the Committee on Labor and Human Resources.

By Mr. HUTCHINSON (for himself, Mr. LIEBERMAN, Mr. HELMS, Mr. FAIRCLOTH, Mr. TORRICELLI, Mr. REID, Mr. SMITH of New Hampshire, Mr. SANTORUM, Mr. HAGEL, Mr. CRAIG, Mr. MACK, Mr. KOHL, Mr. MURKOWSKI, and Mr. ASHCROFT):

S. Con. Res. 32. A concurrent resolution recognizing and commending American airmen held as political prisoners at the Buchenwald concentration camp during World War II for their service, bravery, and fortitude; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOMENICI (for himself, Mr. BOND, Mr. KERRY, Ms. SNOWE, Ms. LANDRIEU, Mr. KEMPTHORNE, Mr. BUMPERS, Mr. HARKIN, Mr. KOHL, Mr. LAUTENBERG, Mr. DASCHLE, Mr. LEVIN, Ms. MIKULSKI, Mr. LIEBERMAN, Mr. CLELAND, Mr. WELLSTONE, Ms. MOSELEY-BRAUN, Mrs. HUTCHISON, Mr. BURNS, Mrs. BOXER, Mr. SPECTER, Mr. MOYNIHAN, Mr. SANTORUM, and Mr. BINGAMAN):

S. 888. A bill to amend the Small Business Act to assist the development of small business concerns owned and controlled by women, and for other purposes; to the Committee on Small Business.

THE WOMEN'S BUSINESS CENTERS ACT OF 1997

Mr. DOMENICI. Mr. President, I am pleased to introduce today a bill that strengthens this country's small business sector, and that is the Women's Business Centers Act of 1997. I am also extremely pleased to have the chairman of the Committee on Small Business, Senator BOND, join me on this bill as my principal cosponsor, along with the ranking Democrat from the Small Business Committee who is also an original cosponsor. I note the arrival on the floor of Senator KERRY from Massachusetts. He is the ranking member of the Committee on Small Business.

There are a number of Senators in a very limited period of time who have joined us from both sides of the aisle. I ask unanimous consent that those Senators who are listed in my statement be original cosponsors, because they have indicated a desire to do that.

I thank the ranking member from Massachusetts for his diligence. He has procured a number of cosponsors, and we have also. I believe from the committee itself we have overwhelming support. I would like to take a couple of minutes to explain what we are doing.

First, let me acknowledge that in the U.S. House of Representatives, starting last year, Congresswoman NANCY JOHNSON took a lead in this matter and introduced a women's business bill. I introduced the companion bill in the Senate. By way of the recent history of this issue, we have been funding the women's business centers through appropriations. I take a great deal of pride in saying for the last few years, while the administration either did not fund this effort or reduced it in half, we funded it fully with the assistance of Chairman BOND, Senator HUTCHISON, and others, at $4 million a year. We are asking that this effort, which we will explain briefly, now be funded at $8 million a year.

Mr. President, I say to my fellow Senators, it might come as a shock to many that the fastest growing part of America's small business is women's small business. As a matter of fact, 2 years ago, we had a startling statistic that women-owned businesses employed more people—even then, 2 years ago—than all of the 500 major corporations in America. That means that there is a major business impact in America. Women are doing marvelously well by adding more women's ownership to the business sector. There is more diversification and more segments of the American population are becoming owners of businesses or have a real opportunity to do so.

In my particular State, there exists an entity that helps women's small businesses expand, in some instances, get started. I am very proud of that organization, and, frankly, it is growing. One will note that our bill varies a little bit from Representative JOHNSON's

in that we don't want the funds under our bill to be restricted to only those 22 or so States who do not have centers, but rather with the discretion of the administrator, to also use the funds in those States to expand growing programs.

In a very orderly and organized way, without a lot of overhead, women's business centers, by various names, are helping women who have an idea about a small business, providing them with technical assistance, in some instances to provide micro loans, and in all instances to provide the knowledge and wherewithal and planning that is necessary so that they start off on the right foot.

I have had the luxury of visiting with many of the women who are being helped in our State by our women's business center. I have been startled. If I could share by way of anecdote with the Senate, if we had enough time, some of the exciting things women are doing in trying to set up their own businesses and how successful they are, it would take me a long, long time. But let me suggest, there is no lack of willingness to compete and take a risk, which is very, very important to being entrepreneurs, and that is not something that is solely in the province of men. Across America, women are succeeding in business with relish and gusto.

There are many statistics and numbers that we could now talk about in terms of how we go about concluding that this is an important part of the private sector—this women's entrepreneurship in America, and the creation of new jobs in America. Suffice it to say that it is the fastest growing portion of the American small business group.

Women are succeeding and they are not succeeding in any less numbers, less percentages of success than are men. So what we are encouraging is that every State has one of these centers, and it is modeled after successful ones across this country. In my case, we have the Women's Economic Self-Sufficiency Team, which has a corporate name of WESST corp. It is the only technical assistance group of this type in our State devoted to women's business needs. It is doing a marvelous job of helping hundreds of women find out whether their business idea has a chance of succeeding, giving them technical assistance, in some instances getting them loans through normal loan channels, and in some instances using some of the small moneys they get for startup loans.

Funds for this program are small, but the women's business centers derive from a grand idea with a marvelous goal. You can't do much better. Senator BURNS, who occupies the Chair, wants to be added as a cosponsor, and I so request.

We are also very pleased the ranking member of the committee, Senator KERRY, is joining us in support of this measure, along with other Senators serving on the committee: Senators KEMPTHORNE, SNOWE, LANDRIEU, BUMPERS, HARKIN, LEVIN, LIEBERMAN, and WELLSTONE. As well, we welcome and appreciate the support of other noncommittee cosponsors: Senators KAY BAILEY HUTCHISON, MOSELEY-BRAUN, KOHL, LAUTENBERG, DASCHLE, MIKULSKI, and CLELAND.

Mr. President, the Women's Business Centers Act of 1997 bill reflects our commitment for a stronger and more dynamic program for women-owned businesses. Supporting women's businesses is not just common sense, it makes economic sense.

The National Foundation for Women Business Owners cites these statistics to illustrate the importance of women-owned businesses to our U.S. firms, and provide employment to 26 percent of U.S. workers. They contribute over $2.3 trillion in annual revenues to the U.S. economy. Since 1987, women-owned businesses have grown in number by 78 percent. And, they have done so in nontraditional areas such as construction, wholesale trade, transportation, communications, and manufacturing. Forty percent of women business owners have been in business 9 years or longer.

Given these phenomenal statistics, it is time we give more attention to this critical segment of our business community. Women-owned businesses are run by creative and professional entrepreneurs who employ millions of workers and deliver trillions of dollars into our communities. At the same time, these entrepreneurs are far too often overlooked and underestimated by our banking and financial communities, as well as by the Small Business Administration.

I believe it is fair to say that a significant number, if not most, women entrepreneurs have achieved their goals and successes because they are disciplined and committed. We can probably say the same about men who have achieved their business objectives. The difference, however, is that we know there has been a disproportionate amount of training, technical assistance, procurement opportunities, and ready access to capital for male entrepreneurs compared to women.

Despite these disparities, women business owners have achieved their monumental feats because of their business acumen, self-reliance, ingenuity, and dogged determination. Since it is projected that women will own 50 percent of all businesses by the year 2000, the time is now to assist these women entrepreneurs.

Looking at the Small Business Administration's [SBA] record, we can congratulate them on their slowly but surely improvement in the percentage of loan guarantees to women borrowers. Within SBA's 7(a) and 504 loan programs, the agency reports that it has tripled its number of loans to women borrowers from 3,588 in 1992 to 11,452 in 1996. That represents an increase in the dollar amount from $634 million in 1992 to $1.6 billion in 1996. That is the pretty side of the picture.

Turn the picture over, however, and these figures mean that women recipients constitute approximately one-fifth of the total loan clientele and receive approximately one-seventh of the loan guarantee funds. This is at a time when the SBA reports that over the last decade, ''new women-owned firms—one-third of all firms—have grown at twice the rate of men-owned businesses.'' I do not suggest this SBA picture is all bleak, but I do believe the record is less than optimal, and considerably more effort must be given to addressing women's business needs.

This year we are committed to improving and enlarging the scope of the SBA's women's program.

One of the most beneficial programs within the SBA is the Women's Business Centers Program, managed by the Office of Women's Business Ownership. I personally know the excellent record of these centers, of which there are 53 sites in 28 States.

In my State of New Mexico, I have talked with the clients and toured their businesses. Thanks to the able leadership of the centers' personnel, these businesses are growing financially, employing new personnel, and creating new markets for their goods and services.

In New Mexico, the Women's Economic Self-Sufficiency Team—WESST corp—is the only business and technical assistance organization specifically focused on the needs of women. Its mission is to facilitate the startup and growth of women- and minority-owned businesses.

Its target market is low-income, unemployed, and underemployed women. Among its important accomplishments is its expansion to five additional sites, thereby providing much-needed assistance to both rural and urban women across our vast State. Since incorporating in 1988, WESST corp has facilitated the startup and growth of over 500 small businesses. This has created more than 750 jobs and businesses which have average annual gross receipts of $75,000. WESST corp has also established a low-interest revolving loan fund, with 75 percent of the loans extended to rural women and 65 percent to startups.

Under the direction of the very able and creative Agnes Noonan, WESST corp is one of New Mexico's best business services. WESST corp is one of the 28 State organizations that participates in the SBA's Women's Business Centers Program. It is obvious that its contributions are critical to our State's economy.

Between 1987 and 1996, U.S. census figures indicate that the number of New Mexico women-owned firms increased by 60 percent, employment increased by 138 percent, and sales grew by 154 percent. Women-owned firms in New Mexico employ nearly 115,000 people and generate nearly $11 billion in sales. Moreover, women-owned firms

account for 41 percent of all firms in New Mexico, provide employment for 35 percent of its workers, and generate 21 percent of its business sales.

As Agnes Noonan says,

Women's business centers across the United States play a critical role in helping women develop and grow successful small businesses. The acquisition of technical business skills is obviously important. Equally important, however, is the provision of long-term mentoring and support without which many women would never make it beyond an initial orientation session.

It is important that Women's Business Centers, like WESST corp, continue to target their expertise to the thousands of potential and existing women entrepreneurs. These centers are able to leverage public and private resources to help their clients develop new businesses or expand existing ones. The centers' personnel are skilled professionals who give specialized assistance to women.

For example, the Women's Business Development Center in Miami, FL, reports that its programs are:

tailored to meet the specific needs of the community, i.e., evening and weekend classes, counseling at business sites and other non-traditional methods of providing entrepreneurial training and technical assistance. Classes are often held in Spanish and other languages. Many sites provide child care, transportation and distance training when necessary.

I am 100 percent behind establishing business centers in States that do not have them. At the same time, based upon the extraordinary record of WESST corp in New Mexico, it is also equally important that an existing business center be allowed to expand its services into other geographical sites that will serve women entrepreneurs who would not, or could not, otherwise be served at the so-called flagship center. The primary business site has established its record of activities and services, and it is able to offer valuable expertise and guidance to the new center. Therefore, I believe very strongly that requests for replication of existing programs into new sites must also be given a fair and honest appraisal for financial assistance.

This bill will strengthen the Women's Business Centers Program across the United States. The bill will allow the SBA program to extend its assistance to the individual State organizations from 3 years to 5 years. This will enable the State centers to have a longer period of time to develop their private sector funding base.

Additionally, we have modified the Federal to private matching requirements to ensure the centers have sufficient time to develop the one Federal to each non-Federal dollar match by the 4th year of activity. Most important, this bill authorizes up to $8 million for assisting existing centers, developing new State programs, or for replicating business center sites in other geographical areas. This is an increase in funding for the business centers' programs from the present, and modest, $4 million annual funding.

Senator BOND and I, along with the other cosponsors of the bill, strongly support expansion of the SBA's Women's Business Centers Program. We know how instrumental these programs are in helping women entrepreneurs, and how very critical these businesses are to families, communities, and the overall economic well-being of our States. We urge other Members of the Senate to join us in support of this small but powerful program.

I yield the floor now for Senator BOND who does a marvelous job with the Small Business Committee, has made it a viable active entity, and I thank him for his support.

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. 888

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 ''Women's Business Centers Act of 1997''.

SEC. 2, WOMEN'S BUSINESS TRAINING CENTERS.

(a) IN GENERAL.—Section 29 of the Small Business Act (15 U.S.C. 656) is amended to read as follows:

''SEC. 29. WOMEN'S BUSINESS TRAINING CENTERS.

''(a) FINANCIAL ASSISTANCE.—The Administration may provide financial assistance to private organizations to conduct 5-year projects for the benefit of small business concerns owned and controlled by women. The projects shall provide—

''(1) financial assistance, including training and counseling in how to apply for and secure business credit and investment capital, preparing and presenting financial statements, and managing cash flow and other financial operations of a business concern;

''(2) management assistance, including training and counseling in how to plan, organize, staff, direct and control each major activity and function of a small business concern; and

''(3) marketing assistance, including training and counseling in identifying and segmenting domestic and international market opportunities, preparing and executing marketing plans, developing pricing strategies, locating contract opportunities, negotiating contracts, and utilizing varying public relations and advertising techniques.

''(b) CONDITIONS.—

''(1) NON-FEDERAL CONTRIBUTIONS.—As a condition of receiving financial assistance authorized by this section, the recipient organization shall agree to obtain, after its application has been approved and notice of award has been issued, cash contributions from non-Federal sources as follows:

''(A) in the first, second, and third years, 1 non-Federal dollar for each 2 Federal dollars;

''(B) in the fourth year, 1 non-Federal dollar for each Federal dollar; and

''(C) in the fifth year, 2 non-Federal dollars for each Federal dollar.

''(2) FORM OF NON-FEDERAL CONTRIBUTIONS.—One-half of the non-Federal matching assistance under this section may be in the form of in-kind contributions which are budget line items only, including office equipment and office space.

''(3) FORM OF FEDERAL CONTRIBUTIONS.—The Federal financial assistance authorized pursuant to this section may be made by grant, contract, or cooperative agreement and may contain such provision, as necessary, to provide for payments in lump sum or installments, and in advance or by way of reimbursement. The Administration may disburse up to 25 percent of each year's Federal share awarded to a recipient organization after notice of the award has been issued and before the non-Federal sector matching funds are obtained.

''(4) FAILURE TO OBTAIN PRIVATE FUNDING. If any recipient of assistance fails to obtain the required non-Federal contribution during any project—

''(A) it shall not be eligible thereafter for advance disbursements pursuant to paragraph (3) during the remainder of that project, or for any other project for which it is or may be funded by the Administration; and

''(B) prior to approving assistance to such organization for any other projects, the Administration shall specifically determine whether the Administration believes that the recipient will be able to obtain the requisite non-Federal funding and enter a written finding setting forth the reasons for making such determination.

''(c) SUBMISSION OF 5-YEAR PLAN.—Each applicant organization for assistance under this section initially shall submit a 5-year plan to the Administration on proposed fundraising and training activities, and a recipient organization may receive financial assistance under this program for a maximum of 5 years per women's business center site.

''(d) EVALUATION OF APPLICANTS.—

''(1) IN GENERAL.—The Administration shall evaluate and rank applicants in accordance with predetermined selection criteria that shall be stated in terms of relative importance. Such criteria and their relative importance shall be made publicly available and stated in each solicitation for applications made by the Administration.

''(2) CRITERIA.—The selection criteria referred to in paragraph (1) shall include—

''(A) the experience of the applicant in conducting programs or on-going efforts designed to impart or upgrade the business skills of women business owners or potential owners;

''(B) the present ability of the applicant to commence a project within a minimum amount of time; and

''(C) the ability of the applicant to provide training and services to a representative number of women who are both socially and economically disadvantaged.

''(e) ESTABLISHMENT OF OFFICE.—There is established within the Administration the Office of Women's Business Ownership, which shall be responsible for the administration of the Administration's programs for the development of women's business enterprises, as such term is defined in section 408 of the Women's Business Ownership Act of 1988. The Office of Women's Business Ownership shall be administered by an Assistant Administrator, who shall be appointed by the Administrator.

''(f) DEFINITIONS.—For purposes of this section—

''(1) the term 'small business concern owned and controlled by women', either start-up or existing, includes any small business concern—

''(A) that is not less than 51 percent owned by one or more women; and

''(B) the management and daily business operations of which are controlled by one or more women; and

''(2) the term 'women's business center site' means one or more women's business centers established in conjunction with another women's business center in another location within a State or region—

''(A) that reaches a distinct population that would otherwise not be served;

''(B) whose services are targeted to women;

''(C) whose scope, function, and activities are similar to those of the primary women's business center in conjunction with which it was established.

''(g) REPORTS TO CONGRESS.—

''(1) IN GENERAL.—The Administration shall prepare and transmit a biennial report to the Committee on Small Business of the House of Representatives and the Committee on Small Business of the Senate on the effectiveness of all projects conducted under the authority of this section.

''(2) CONTENTS.—The reports required by paragraph (1) shall provide information concerning—

''(A) the number of individuals receiving assistance;

''(B) the number of start-up business concerns formed;

''(C) the gross receipts of assisted concerns;

''(D) increases or decreases in profits of assisted concerns; and

''(E) the employment increases or decreases of assisted concerns.

''(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $8,000,000 per year to carry out the projects authorized by this section. Notwithstanding any other provision of law, the Administration may use such expedited acquisition methods as it deems appropriate to achieve the purposes of this section, except that it shall ensure that all eligible sources are provided a reasonable opportunity to submit proposals.''.

(b) APPLICABILITY.—Any organization conducting a 3-year project under section 29 of the Small Business Act (15 U.S.C. 656) on the day before the effective date of this Act may extend such project to 5 years and receive financial assistance according to section 29(b) of the Small Business Act, as amended by this Act, and subject to procedures established by the Administrator in coordination with the Office of Women's Business Ownership established by this Act.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, it is with great pleasure that I rise today to join my distinguished colleague, Senator DOMENICI, in introducing the Women's Business Centers Act of 1997. I appreciate the kind words, but Senator DOMENICI has long been the leading proponent of women-owned businesses. He has worked hard to secure the additional funding for the centers. I am delighted to work with him on the bill.

Also I am very pleased that my ranking member on the Small Business Committee, Senator KERRY, and many of our colleagues are working together with Senator DOMENICI and us as original cosponsors of the bill.

I think once again this is an opportunity for Congress to demonstrate its strong support for effective programs serving current and future women entrepreneurs. It was just 1 year ago that many of my colleagues will remember that the administration sought to zero out the budget for women's business demonstration sites, and Congress stepped in to ensure full funding. Now we are reaching for new heights—making the program an ongoing effort to fund women's business centers through 5-year grants.

The Committee on Small Business began its work in this session of Congress with the cooperation of my ranking member at a hearing on women-owned and home-based businesses. I will talk more about that in just a few moments. But the hearing we held then and others has provided the committee with extensive testimony and letters of endorsement on the important economic contribution being made by women entrepreneurs and the role played by women business centers. With nearly 8 million firms owned by women—a third of all firms—and 18.5 million people are employed by women-owned firms, which is 1 of 4 working men and women in the U.S., the contribution of women-owned businesses to the economy, which includes nearly $2.3 trillion in sales, deserves recognition and encouragement.

In my home State of Missouri, there are approximately 120,000 women-owned businesses. And, in 1997, the recipient of the Avon Women of Enterprise Award is Georgia Buchanan, president and CEO of All Pro Construction in Grandview, MO. In 1995, Georgia's company was also recognized by the SBA as the National Minority Construction Firm of the Year.

Last year, Missouri's entrepreneurs were recognized as well when Phyllis Hannan, owner of Laser Mark It and Laser Light Technologies, was named SBA's National Small Businessperson of the Year.

We have other women business leaders, including Carol Jones, of Springfield, who operates a large and well-respected realty company, in addition to her civic work and service on the Federal Home Loan Bank Board, and Stella Olson, who is serving as a member of the Small Business Fairness Board for SBA region 7 and is the owner of STAT Enterprises, Inc., a transcription company.

These women are all local success stories taking an active role in expanding their own businesses with management financing and market training necessary for its success.

The Women's Business Centers Act of 1997 recognizes the important contributions made by the 53 women's business centers located in 28 States. The bill increases the level of funding authorized for establishing additional women's business centers to $8 million per year for 3 years, double when compared to the current authorization of $4 million per year. The Clinton administration's budget request for fiscal year 1998 is $4 million. Significantly, the additional funding is intended to ensure that women's business centers exist in all 50 States.

Other important provisions of this bill include allowing Centers receiving funds on the day prior to enactment to apply to extend their eligibility for funding for 2 additional years. Also, for all women's business centers receiving funds under this bill, the private sector match is structured to facilitate a smoother transition to self-sufficiency. The program is designed to provide seed money for women's business centers that can then flourish with the financial support of the local community. Training and services are to be tailored to the local community, and the grantees running the centers must have the requisite experience and commitment to deliver the services suited to women in the area.

The introduction of this bill coincides with the work of the Committee on Small Business to reauthorize the programs of the Small Business Administration, the SBA. The committee has supported the creation and expansion of business development centers dedicated to the unique needs of women who are either current or potential business owners. The women's business centers created under this bill will provide the tried and true ongoing training and assistance, offered by the current demonstration sites, to ensure that their clients have the skills and know-how to build and maintain successful businesses.

This is a win-win bill. It provides women owning businesses or those women preparing to start new small businesses with the tools necessary to support their transition and the challenges faced when trying to expand.

I look forward to working with my colleagues to advance this bill as part of the Small Business Reauthorization Act of 1997. The concepts endorsed today will be incorporated with other reforms so that the services delivered by SBA and its numerous resource partners are beneficial to men and women alike. The committee has important work to do in this regard, and we appreciate Senator DOMENICI and Representative JOHNSON's efforts in this regard.

Mr. DOMENICI. Mr. President, I have sent the bill to the desk for appropriate referral, but I ask unanimous consent that it be held at the desk before being referred for the remainder of the day in case others want to cosponsor it. They can be original cosponsors.

The PRESIDING OFFICER. Without objection, it will be held at the desk.

Mr. DOMENICI. Mr. President, whatever time I have remaining —I do not believe Senator BOND needs any additional time—I yield to Senator KERRY, and he can control it with other Members. I think there is adequate time for others who need it, but I yield whatever time I have to Senator KERRY.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized, and the Chair informs him he has 12 minutes.

Mr. KERRY. I thank the Senator from New Mexico. I want to thank the distinguished Senator for his leadership on this issue and also the Senator from Missouri, the chairman of the Small Business Committee. I am delighted to join with both of them. I think this will have an enormous, positive impact, and their leadership is greatly appreciated.

I am pleased to stand in support as we introduce the Women's Business

Centers Act of 1997. Nine years ago, when we first established a demonstration program for helping women-owned businesses attain capital and assistance in business development, a lot of people had some doubts about it. The legislation brought together the SBA and independent organizations in order to deliver assistance to women-owned businesses.

Nine years ago, Mr. President, many people in the country were skeptical about the need for women-owned business assistance. There was a kind of perception problem with respect to whether or not it was needed and whether or not a lot of women in the country were going to take advantage of it and, in some cases, doubts even by some about whether or not they could. Everything in the years since then has destroyed the stereotypes. It changed attitudes and has proven that the people who believed in this effort were correct.

The program has matured since its creation. And, to date, nearly 50,000 American women have been served by 54 sites in 28 States and the District of Columbia.

The bill that we introduce today is really only underscoring a small part of the many contributions that women make to the economy of this country. One of the reasons that we are currently enjoying such a significant economic boom is because of the contributions in the last few years from women-owned entrepreneurs.

The Committee on Small Business is particularly pleased to champion this program. All of my Democratic colleagues from the Small Business Committee—Senators BUMPERS, LEVIN, HARKIN, LIEBERMAN, WELLSTONE, CLELAND, and LANDRIEU—have joined us in sponsoring this bill which will make the program permanent.

The program is operated by SBA's Women's Business Ownership Office, which also would become permanent under the legislation. With the SBA's help, we have begun to tap the remarkable resource of women-owned businesses that has been proven to exist over the course of the last years. I know that many knew it always existed, but this pilot project has really given the evidence greater weight than it has ever had before. And I think this should pass overwhelmingly.

Mr. President, women-owned businesses have been a critical component of the remarkable growth spurt we are enjoying in the country. According to the Census Bureau, women-owned businesses represent one-third of all U.S. companies, and they annually contribute more than $1.5 trillion in sales to the U.S. economy. The National Federation of Women Business Owners and Dun & Bradstreet reported that 7.7 million women-owned businesses employ more people than the Fortune 500 companies. So we must provide a strong policy that allows these women to meet their greatest potential and allow this country to benefit from the full measure of their endeavors.

We know that women entrepreneurs are breaking records. Women-owned sole proprietorships have a startup rate twice that of male-owned businesses. Between 1987 and 1992, the number of women-owned businesses increased by 43 percent, while businesses overall only grew by 26 percent. During the same time, employment by women-owned firms grew 100 percent. Particularly notable, women-owned companies with 100 or more workers increased employment by 158 percent, more than double the rate for all U.S. firms of similar size.

This country needs to preserve and to foster that special entrepreneurial spirit. And the Women's Business Centers Act is a great way to do that.

In Massachusetts, the 147,000 women-owned businesses represent over one-third of all the companies in our State. And through the SBA's women demonstration program—the program which this bill would make permanent—the Center for Women & Enterprise, Inc., was established in Boston in 1995. In just 2 years, the center has served over 1,000 women business owners, 40 percent of which are minorities.

The center offers scholarships for low-income women and provides courses, workshops, and one-on-one counseling. One hundred cities and towns in eastern Massachusetts are benefiting from the work of the center. I want to see that success continue. We can do that, and we can replicate it in State after State by making the women's business centers and the Women's Business Ownership Office permanent assets of the SBA programs.

In addition to counseling, women business owners need access to capital. Women are vital players in business, and yet their access to capital for funding business enterprise has been limited, and it is still limited. The SBA is trying to meet that demand by increasing access to capital.

From 1992 until 1995, the number of SBA guaranteed loans going to women quadrupled. They received $3.8 billion in SBA guaranteed loans during that period of time. And in fiscal year 1996, women-owned businesses received nearly $2 billion in loans from SBA guarantees.

So access to capital is beginning to improve for women business owners, but we need to guarantee that we support programs that continue that trend.

Last month, I helped kick off a national initiative undertaken by the SBA's Women's Business Ownership Office, the National Women's Business Council, and the Federal Reserve Bank in Boston, to convene workshops throughout the United States. These meetings bring together women business owners, lenders, and policymakers to discuss how to expand capital markets to meet the increasing demand of women-owned businesses.

With input from the women's community, I have concluded that this issue is one that is going to be addressed at different levels. We need more micro-loans for startup businesses. We need more business development and technical assistance, more loan package counseling, and more access to venture and angel capital sources.

This program is one key way to maximize women-owned businesses and to wisely use Government resources to boost the private sector's success.

I join with Senator DOMENICI and Senator BOND in urging our colleagues to support the Women's Business Centers Act of 1997. It will provide $8 million in funding that will be used to provide matching grants for women's centers, and the bill will make the program and the Women's Business Ownership Office a permanent part of the important work that the SBA is doing to guarantee opportunity for all of those who wish to create jobs in this country.

We hope to establish sites in every State to serve women entrepreneurs with the passage of this act. And I hope that our colleagues will overwhelmingly support it.

Mr. President, I ask unanimous consent that Senator SPECTER and Senator BOXER also be added as cosponsors.

Mr. President, I reserve the balance of time for other Senators wishing to speak on this bill.

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

Mr. SPECTER. Mr. President, I have sought recognition to announce my cosponsorship of the Domenici-Bond Women's Business Centers Act of 1997, which will reauthorize this valuable program administered by the Small Business Administration's, the SBA's, Office of Women's Business Ownership.

Women-owned businesses are a major driving force for America's economy. As of 1996, there were nearly 8 million women-owned businesses nationwide, employing more than 18.5 million people and generating close to $2.3 trillion in sales. According to the National Foundation for Women Business Owners, women-owned businesses are growing faster than the overall economy in each of the top 50 metropolitan areas in the United States, including Philadelphia and Pittsburgh. In a study released in March 1997, the foundation reported that as of 1996, Philadelphia's 127,100 women-owned enterprises employed 448,500 people and generated over $56 billion in sales, and Pittsburgh's 54,800 women-owned enterprises employed 141,800 people and generated over $17 billion in sales. These numbers are truly impressive and highlight the significant impact of women in business on Pennsylvania's economy.

Established through the Women's Business Ownership Act of 1988, the women's business centers have been vital in providing services and programs that support and accelerate women's business ownership. My constituents are fortunate to be served by the Women's Business Development Center, located in Philadelphia. Since

its formation in July 1995, the center has provided information, business assessment, training, and counseling sessions to over 3,000 prospective, emerging, and established women business owners. It is critical to reauthorize the activities of these centers to ensure that women-owned businesses have the resources necessary to prosper and grow.

Specifically, the Women's Business Centers Act of 1997 would double the authorized appropriation for the women's business centers to $8 million, authorize 5 years of project funding for new centers, extend funding for existing centers for an additional 2 years, and modify the Federal funding match requirements to facilitate self-sufficiency of the centers.

This legislation complements my efforts on behalf of minority and women-owned business enterprises. On April 23, 1997, I reintroduced the Minority and Women Capital Formation Act, S. 635, which provides targeted tax incentives for investors to invest equity capital in minority and women-owned small businesses, as well as venture capital funds dedicated to investing in minority and/or women-owned businesses.

I also worked to secure a $500,000 grant through the Small Business Administration in fiscal year 1997 to support the activities of the National Education Center for Women in Business, located at Seton Hill College in Greensburg, PA. The center promotes women's business ownership by conducting collaborative research, providing educational programs and curriculum development, and serving as an informational clearinghouse for women entrepreneurs.

In conclusion, Mr. President, I urge my colleagues to support swift adoption of the Women's Business Centers Act of 1997 so that we can meet the needs of America's emerging women business owners, which are critical to the economic health of our Nation.

Mr. WELLSTONE. Mr. President, I am very pleased to join my colleagues today as an original cosponsor of the Women's Business Centers Act of 1997. I thank the chairman of the Small Business Committee, Senator BOND, as well as Senators DOMENICI and KERRY, for their leadership on this issue.

As a member of the Small Business Committee, I have followed the success of the women's business demonstration sites—two of which are in Minnesota. I would like to note the effectiveness and good work of those two organizations: Women in New Development, or WIND, of Bemidji, MI, and the Women's Business Center, which is operated in association with the White Earth Reservation Tribal Council in Mahnomen, MI.

This program, and these centers, fill a crucial need in many communities across the country. They deliver needed technical assistance, and they ultimately help provide tremendous economic benefits.

I recently received a letter from Mary Turner, director of the White Earth center. She pointed out that her center and others operated through the program are committed to delivering services aimed at promoting self-sufficiency, and which are ''as diverse as the women we serve—women of color, women on public assistance moving on to self-employment, rural and urban women, and women starting home-based businesses.''

Mr. President, the bill will reauthorize the women's demonstration sites, increasing the program's annual funding and authorizing demonstration sites to receive funding for 5 years rather than the current 3 years. I look forward to working with the chairman and other members of our committee to include this measure as part of our broader reauthorization of SBA programs.

By Mr. GRAHAM (for himself, Mr. GRASSLEY, Mr. HATCH, Mrs. BOXER and Mr. JEFFORDS):

S. 889. A bill to provide for pension reform, and for other purposes; to the Committee on Finance.

THE RETIREMENT SECURITY FOR THE 21ST CENTURY ACT

Mr. GRAHAM. Mr. President, today, as I did once before in January of this year, I rise to speak about an issue which is of vital importance to this Nation, the retirement security of our people into the 21st century.

Mr. President, the facts are startling. Fifty-one million working Americans are not covered by any type of retirement plan. An incredible 87 percent of workers employed by small businesses, businesses with fewer than 20 employees, have no private retirement or pension coverage. Less than 40 percent of the 33 million Americans, age 65 and older, today collect a pension. These numbers are very, very disturbing.

There are three foundations for a secure retirement: Social Security, personal savings, and a pension. Each one of these foundations is eroding. Social Security is unlikely to increase. Personal savings rates are falling. Fewer of today's workers will retire with a lifetime pension.

In January, I spoke and mentioned some of the reasons that pension coverage fails to reach so many workers. Some of those reasons include the fact that our work force is changing. For the most part, our pension laws have not kept pace with the changes in the American work force. Think about current workers in an era of tremendous employee mobility—you don't work an entire career for one company, as was the typical pattern for our parents and grandparents. Small business is a tremendously vital part of our economy. Yet, those very small businesses are faced with obstacles in establishing retirement plans.

There has been a decline in union membership, and unionized workers are the most apt to be covered under a defined benefit retirement plan. There is a shift away from manufacturing jobs toward service and retail, and, again, pension coverage is higher in manufacturing sectors than in these new expanding areas of the American economy.

Knowing that these trends will continue, it is obvious that we need to make certain that our pension laws have kept pace with the changing American work force. My goal is to ensure that each American who works hard for 30, 40 years, or more, has every opportunity for a secure and comfortable retirement. I share this goal with many of my colleagues, including Senators ORRIN HATCH, CHARLES GRASSLEY, and JOHN BREAUX, all of whom join me today in introducing this bipartisan bill.

To achieve the goal that every American who works hard for a lifetime will have a secure retirement and pension, we have focused on five areas: Expanded coverage for small businesses, women's equity issues, portability, pension security and enforcement, and simplification. Those, Mr. President, are the five areas of impact for the legislation that we introduce today.

I have been honored to participate with some of my colleagues' efforts to build retirement security for American workers. Senator DASCHLE has created a Democratic pension task force, which led to the introduction of S. 14 on the first day of this session.

Senators MOSELEY-BRAUN, MURRAY, and SNOWE have furthered the debate in helping women achieve a sound retirement, with the Comprehensive Women's Pension Protection Act.

Senators CONRAD and HATCH have focused on clarifying nondiscrimination rules for governmental plans.

Senator BOXER has fought to protect pension assets from abuse in 401(k) plans.

Senator GREGG's leadership has guided the Republican pension task force to introduce its pension proposal earlier this week.

The attention that this issue has received in the Congress highlights its importance to the American people. I am ready to work together and find the common ground that will form the foundation for a secure retirement for millions of Americans.

We will take a common bipartisan approach that will be necessary for both sides of the aisle, both employers and employees, in order to build that foundation for the future. We need to be able to offer businessowners and their workers uncumbersome portability, administrative simplicity and the confidence that their plans are secure and well funded.

To be honest, when I first saw the statistics of how many people are ill prepared for retirement, I was amazed. I started asking ''Why?'' Why do we have over 50 million Americans not prepared for their retirement? I asked Floridians directly. I have spoken with large and small chambers of commerce.

In my career, I have had the opportunity to spend a workday working directly with the people of our State at

more than 300 businesses. I have worked side by side with small business owners, with executives, and their employees.

My staff, visiting a chamber of commerce in central Florida, recalls the answer given as to why small businesses have few pension plans: ''Administrative costs and red tape.''

When I traveled to Orlando to discuss this bill, I had the arduous task of bringing along the United States Code books and current regulations dealing with pension and retirement. They are overwhelming just by their weight alone.

Our Nation's small businesses need simple options. They should be focusing on what they do best—growing their businesses, growing our economy, not attempting to apply a pension law that was written 30 or more years ago for large businesses to their current circumstances. It is crucial that we make it as uncomplicated as possible for our Nation's businesses to offer their employees retirement security.

We need to cut back on paperwork, eliminate obstacles to starting pension plans, streamline the complex regulations, and provide employers with the guidance and support they need to continue their valuable efforts.

In the end, all of these provisions will encourage employers to offer pension plans because of the lower administrative costs and reduction of red tape.

Let me mention a few specific ideas which are incorporated in this legislation.

Small businesses are the most vital sector of today's economy. This is where job growth is, and all indications are where it will accelerate in the future. Yet, small businesses face many challenges in providing a secure retirement for their employees: Higher administrative costs to manage a plan; a fluctuating income stream—some years profits are up; and sometimes they are down—and a lack of resources to keep current with changing laws and regulations.

This chart demonstrates the problem. Workers in America with a retirement plan: According to the Small Business Administration, if you work for a company that employs 20 or fewer persons, your chances of having a retirement plan are 13 percent; if you work for a firm with between 21 and 100 employees, your chances are 38 percent; if you work for a firm that employs over 500 people, 72 percent of the time you will be covered by a pension and retirement program.

We need to make it a wise business decision for small businessowners to establish a retirement plan for themselves and for their employees. We need to offer simple creative solutions to expand pension coverage for small businesses.

Payroll deductions for individual retirement accounts is one example, Mr. President, of the kind of change which is made in this legislation.

Even with every effort made for simplification, some businesses won't be able to establish a retirement plan. But even the smallest of small businesses can help their employees. Any step we take to facilitate putting money away for retirement is a step in the right direction.

Payroll deductions are the easiest manner of savings. This provision will facilitate the contributions to IRAs by direct deduction from payrolls.

Modification of the topheavy rules is another step that will facilitate small businesses providing retirement programs. What are topheavy rules? These are rules which were created to assure that private pension plans were not disproportionately tilted toward highly compensated individuals. These rules affect small businesses much more than large companies. Because topheavy rules are excessively cumbersome, small businesses simply don't offer retirement plans for any of their employees.

Our provisions attempt to address this inequity by repealing the family aggregation rules and simplifying the definition of key employees and compensation.

It is important that retirement plans benefit all employees—but, if we can modify these rules to help small family businesses prepare for retirement, millions of Americans would be better off in their retirement years.

Another area of special concern, Mr. President, in this legislation is the impact that old pension and retirement policies have on women. We know that women are coming into the work force in much larger numbers than they did in previous generations. We know that women are the most mobile component of our work force. They change jobs more frequently. They move in and out of the work force as family and other responsibilities dictate. Women tend, during their career, to care for children and aging parents, which makes it difficult for them to stay in one job long enough to secure the benefits that require long periods of employment.

Statistics show that women will live longer in retirement than men. Therefore, they need more, not less, financial resources for their retirement years. Historically during a career, women will earn less than men, thus making it more difficult for them to save for retirement. The provisions that we include in our women and family equity section help both women and men, but they disproportionately help women.

Some of the specific concerns women face during their working careers:

Time away from work for child care, lower salaries, or divorce.

This section can provide a growing sector of our working population a fair chance at a productive and secure retirement.

It provides for faster vesting of employers' matching contribution. Under current law, employers may require up to 5 years of service before an employee is entitled to the employer's matching contribution to the business' defined contribution plan.

Twenty percent of our work force age 45 to 64 have been in their current jobs less than 4 years. That is a huge sector of the work force who are most likely not to stay long enough to vest in their retirement plan. Women are a disproportionate share of that huge portion of the work force. By reducing the vesting period from 5 years to 3 years, we more accurately reflect the changes in our work force.

Spousal IRA is another example of a provision in the current law which particularly adversely affects women. In an American culture where we see more and more two-career couples, we need to encourage each of them to save in every way possible.

Under current law, if one spouse is participating in a retirement program at his or her job, no matter how small, the other spouse is precluded from a tax deductible individual retirement account. Senators ROTH and BREAUX have worked long and hard on this issue, and we have included the results of their efforts in this proposal. It eliminates one barrier that has stood in the way of many two-career families providing for two individuals' pension and retirement security. Individual retirement accounts have proven to be one of the most effective ways to plan for future financial security. Working couples should be encouraged to plan and save through this option. We want to eliminate this barrier to save.

Another aspect that particularly affects women is the fact that they are subject to periodic discontinuity in their employment careers.

As the father of four daughters and eight grandchildren, I know all the joy a child can bring a family and how much planning is needed for the new parents to assure that they and their children can provide for their future years.

Many employees today are taking unpaid leave to spend a few weeks or months with a newborn or a newly adopted child. But by doing so, they may be taking a step away from their own retirement security by not being able to make their usual contributions to their retirement plan. Our provision allows them to do so when they return to the job.

This proposal is modeled after legislation that Congress adopted after the gulf war in which returning veterans were allowed to make a contribution to their retirement programs to cover the period that they were away from their job serving their Nation. We will help our Nation's new parents in the same way that we helped returning veterans.

Saving for retirement is not an easy task. It takes dedication month after month. Under this provision, we will make certain that the good savings habits that parents have started can be sustained even if they take time away from work to be with a newborn child.

Another factor that peculiarly affects women is the issue of portability—the ability to move retirement benefits from one job to the next.

Just looking at some of the current statistics, we know that the average American worker over the course of a 40-year career will have seven different employers. The average worker in a 40-year career will have seven different employers. Our pension laws were written in an era that didn't anticipate this modern mobility of the work force.

Americans' retirement dreams can be dimmed by the consequences of moving from job to job. They will have less retirement assets. Often there is no choice but to make a job change. A spouse gets transferred to another city to keep the family together; the other spouse moves as well. We in Congress have been in favor of keeping families together. Let's make certain that the family is not hurt in later years by a difficult retirement, a constrained retirement, because of that very mobility. An employee can be downsized. Companies can go bankrupt. Hard-working recent college graduates can move up the career leader. Each of these involve job changes.

Mr. President, one of the things that has distinguished the American economy from many other industrialized nations has been this very factor of our mobile work force, that people were willing to move where there were new opportunities, where the changes in the economy dictate that it was to their advantage as well as to the Nation's advantage for people to move from one job to the other. We shouldn't constrain that by imposing a penalty on their long-term retirement security because they have done what is in their interest and what is in the interest of our dynamic economy.

When such moves occur, we need to mobilize the pension money, to put wheels under it, to make it as portable as the people who will benefit by those retirement savings. Providing employees with a vehicle to take their pension money with them during their working careers will allow the accrual of larger pensions making it easier on the worker and the employers to keep track of retirement funds.

How can we do this? We can do it through several proposals which are incorporated in the bill that I introduce today. Similar defined contribution plans should be able to roll over one into the other. Money in a retirement stream should be kept there until retirement. When you leave one job for another, your retirement savings should be able to travel with you.

Mr. President, today American workers have their retirement plans in many different types of specific forms. Well known is the 401(k) plan; also, plans for workers who are employed by nonprofit organizations, workers who are employed by the Government, individual retirement accounts.

What we provide in our legislation is that, if a worker moves, for instance, from a Government employment to a private employment, they would be able to carry with them their accumulated retirement benefits from their previous plan into their new employment.

This will require the consent of both the employees and the new employer to do so. But the law will no longer erect arbitrary barriers against such transition of employment benefits.

All of these plans have their own specific but generally relatively marginal differences. But they all have one common purpose—that is, allowing workers to save for retirement. This ability to move plans as employment history requires a movement will facilitate achieving that objective.

Mr. President, we also need to encourage businesses to allow their employees to do this. We will eliminate the fear among businesses that by accepting a new employee's previous retirement assets, the business risks the disqualification of its own plan.

Once a pension plan is in place, Congress needs to assure that the assets are invested wisely and securely. America's workers are depending on the assets that are accumulating in retirement plans. Our laws protecting pension assets need to give them the confidence that they need to rely on these plans in retirement.

There should be stronger penalties for fraud and embezzlement of plans. We say clearly to the pension fund managers and administrators: If you are guilty of fraud or embezzlement, then your own pension will be at risk. Workers who are hurt by your action will be compensated out of your pension. America's pension fund managers have a sacred trust to millions of employees who will depend on their expertise and skills for a sound retirement. If that trust is broken, harsh sanctions are in order for the guilty party, or managers.

There should be greater access to information by employees as to what is the status of their pension retirement fund. Pension security will be enhanced by an educated work force. Employees with the necessary information will be able to watch over their own retirement assets. A vital aspect of retirement security is keeping pension participants fully informed of what they have in their plans and what to expect when they retire.

Senator GRASSLEY is to be commended for his efforts in this area, making sure that employees receive accurate information and properly computed pensions.

To help employees plan for their retirement, we propose annual benefit statements for all defined contributions plans and every 3 years for defined benefits plans.

These statements will help all employees plan carefully and would also help to reduce pension miscalculations. We are acting in an anticipatory way to cut off what we think could be a future threat to retirement security.

Once we have made every effort to keep our Nation's pension assets protected from fraud and abuse, let us protect these assets from ourselves.

There is already a consumer credit crisis in this country. Millions of American families are overextended, carrying huge balances on multiple credit cards month to month.

Our measure will prohibit 401(k) or similar retirement assets from being tied to credit cards. If these credit cards were allowed, we would be putting Americans on the slippery slope, spending retirement assets before retiring.

Mr. President, I mentioned that one of our principal areas of concern is simplification, to make it easier for all the participants in the retirement security process to know, to be in compliance with the standards and therefore to be encouraged to provide more adequately for their retirement.

Summary plan descriptions and a summary of major modifications will now be substituted for the detailed reporting requirements which are currently required. One less report will be filed. The Department of Labor probably has millions of these current detailed reports stockpiled.

Under our proposal, the Labor Department retains the right to request one of these reports from a company, but for simplification's sake let us not require the reports to be sent in unless they are actually needed.

We are also sanctioning the use of electronic communications. Our pension laws should get on the information highway. We have asked the Department of the Treasury to look to the use of e-mail and modern technology in administering pension plans. It is common sense. It is simpler to use. It is less expensive. It will encourage particularly small businesses to provide retirement plans.

Mr. President, common sense is the foundation of this proposal, to make the punishment for failure to comply with the standards fit the crime. Under current law, the IRS can threaten to disqualify an entire pension plan for inadvertent errors. We are proposing intermediate sanctions, sanctions which are proportionate to the error that has been committed.

The IRS is to be commended for several programs they have initiated to work with businesses in this area. We want to codify elements of those plans that are already in practice. As an example, a plan should not be disqualified if a company finds and fixes an error prior to an Internal Revenue Service audit. Rank-and-file employees will not be taxed even if a plan is disqualified.

Senators HATCH and CONRAD have led the effort to permanently exclude governmental plans from nondiscriminatory rules. Congress placed a temporary moratorium on those rules in 1977. Since then, we have addressed this issue every few years. After two decades, common sense says let us make this permanent.

Mr. President, preparing this generation of workers for retirement is, in my view, almost an issue of national security. We know that beginning early in

the 21st century there will be a surge of Americans who will reach retirement age. How well prepared those millions of Americans are for the years after retirement will have a significant impact on the economic, personal, and national security of this Nation. A strong economic future depends upon this.

Mr. President, you represent a State with significant numbers of persons who have chosen to live there in retirement. That is also true of my State of Florida. Every time I go home to my State, I see the result of persons who have conscientiously planned for their retirement—families that have worked hard, invested wisely, saved diligently, and are now enjoying the benefits of retirement in our State.

Collectively, we Americans could learn a lot from this generation. I want to provide this generation with every possible opportunity to have the same lifestyle as our parents are currently enjoying. To achieve this goal, we need businesses to work together with their employees. We need Republicans and Democrats to collaborate in a bipartisan solution to those inhibitions which are currently resulting in over 50 million Americans not having pension retirement plans. We need to work together to find the common ground and to take steps now on the items upon which we agree. Every time we can make pensions more portable, simpler, fairer to women, more attractive to small businesses, more secure, we are helping every American reach their retirement goal. We are making a significant contribution to a better America.

By Mr. BENNETT (for himself and Mr. HATCH):

S. 890. A bill to dispose of certain Federal properties located in Dutch John, UT, to assist the local government in the interim delivery of basic services to the Dutch John community, and for other purposes; to the Committee on Energy and Natural Resources.

THE DUTCH JOHN PRIVATIZATION ACT OF 1997

Mr. BENNETT. Mr. President, I am pleased to introduce the Dutch John Privatization Act of 1997 with my colleague from Utah, Senator HATCH.

I want to explain to my colleagues the history of this community. The town of Dutch John, UT, was established in 1958 by the Bureau of Reclamation to house personnel and equipment during the construction of the Flaming Gorge Dam and Reservoir on the Green River. During this construction period, the town housed over 2,000 people. After the completion of the dam, Dutch John continued to serve as the residence of approximately 175 people, including Federal Government employees and others associated with the Flaming Gorge Dam and Recreation Area.

To this day, basic services for Dutch John, as well as the operative and administrative costs for the town, have been an unnecessary financial burden for the Bureau of Reclamation and the U.S. Forest Service. The cost of providing the full range of community facilities and services—including that of the landlord for the town—have substantially risen over the years, approaching $1 million annually. The time has arrived to transfer the ownership and maintenance of this town into local hands.

For several years, the involved Federal agencies have worked with Daggett County officials and residents in drafting a Dutch John privatization proposal that would protect all affected interests. The outcome of this process is the Dutch John Privatization Act of 1997. This legislation would provide for the transfer of selected Federal property into private ownership; dispose several residential units, public building and facilities; provide for a transition to local government administration and reduce long-term Federal expenditures.

This legislation would transfer approximately 2,400 acres of land, identified by the U.S. Forest Service and the Bureau of Reclamation as no longer necessary to fulfill the agencies' mission, out of Federal ownership. Residents would have the ability to purchase the homes they currently rent from the Bureau of Reclamation at fair market value. Federal agencies would retain ownership of identified needed facilities, including the U.S. Forest Service warehouse and office complex, the Bureau of Reclamation industrial complex, certain personnel housing and the heliport.

As the Federal Government ceases to provide basic community services, such as roads, water, and sewer, local government would be required to assume these responsibilities. Daggett County would receive an annual grant from public power revenues, for 15 years, in order to offset the costs of transition while a traditional community tax base is created.

This bill is a win-win situation. The Federal Government will initially save more than one-half million dollars per year, and after 15 years, will eliminate altogether an expensive obligation. Dutch John will be a self-sustaining community while providing necessary services for the 2 million people that visit the Flaming Gorge National Recreation Area each year.

After 25 years, Dutch John as a government-run town has become an anachronism. This legislation is in the best long-term interest of Federal, State, and local governments. I urge my colleagues to join me in saving the Federal Government the costs of administering the town of Dutch John while providing the means to start a community with a small-resort commercial base in one of the most remote parts of Utah.

Mr. HATCH. Mr. President, I rise, along with Senator BENNETT, to introduce the Dutch John Privatization Act. Dutch John, a city in Daggett County, UT, was established in 1958 by the Bureau of Reclamation to provide a community for the construction and operation of the Flaming Gorge Dam on the Green River. The dam was completed in 1964.

This bill will remove the 2,400 acre township from Federal ownership by allowing for a buy-out of homes by existing lessees and permittees at fair market value and for a transition to local government ownership over 15 years.

This legislation is the result of years of discussion among local, State, and Federal officials, including the Bureau of Reclamation, U.S. Forest Service, and Daggett County.

During the construction of Flaming Gorge Dam, the population of Dutch John reached more than 2,000 people. Today this remote town has approximately 175 persons. As small as it is, the Federal Government still pays about $1 million each year to run the city. As the landlord for Dutch John, the Federal Government must provide the water infrastructure, the sewer system, city roads, and various other public goods and services.

Privatizing Dutch John would release the Federal Government from the burden of the operation and maintenance of this town. The current mandate and budget constraints of the Bureau of Reclamation and the U.S. Forest Service act as disincentives for the Federal Government to invest in Dutch John.

This legislation will allow Federal agencies to retain control and ownership of facilities they have identified as needed for continued Government operation. Homes and properties not retained by the Federal Government will be sold at fair market value to current renters. Holders of federally issued permits and leases would have the right to purchase their underlying leased or permitted land at fair market value. All other properties will be transferred to Daggett County, and the revenues from these sales would be used for costs related to Dutch John.

Under this bill, Daggett County will receive a $300,000 annual grant for the next 15 years as it takes over responsibility for the town's governance and infrastructure. During this transition period, Daggett County would be able to create a local tax base to fund future maintenance, sanitary, and public safety services.

Currently, an environmental assessment is underway that will analyze the need for additional commercial recreation services for national recreation area and Ashley National Forest visitors. We will certainly review these recommendations carefully.

Nevertheless, this legislation reflects the work of many individuals who have worked hard to create a viable plan for the future of Dutch John and that will allow residents to become self-governed. Self-governance, after all, is the cornerstone of our federal system, and Dutch John has been, for all intents and purposes, a Federal colony.

We urge our colleagues to join us in supporting independence for Dutch John.

By Mr. ABRAHAM (for himself, Mr. FAIRCLOTH, Mr. SESSIONS, Mr. HUTCHINSON, Mr. DEWINE, Mr. COATS, Mr. ASHCROFT, and Mr. COVERDELL):

S. 891. A bill to require Federal agencies to assess the impact of policies and regulations on families, and for other purposes; to the Committee on Governmental Affairs.

THE FAMILY IMPACT STATEMENT ACT OF 1997

Mr. ABRAHAM. Mr. President, on April 21 President Clinton issued an Executive order purporting to defend America's children from environmental health and safety risks. At the very end of this order was a simple, but cryptic statement. That statement was, ''Executive Order 12606 of September 2, 1987 is revoked.''

With that simple statement, Mr. President, without consulting this body or so much as naming the order revoked, President Clinton struck an unnecessary and uncalled for blow against American families and children.

Executive Order 12606 of September 2, 1987, signed by President Reagan, was one of the most important policy statements of the last 25 years.

As stated in its preamble, that Executive order was intended ''to ensure that the autonomy and rights of the family are considered in the formulation and implementation of policies by Executive departments and agencies.''

That Executive order, which President Clinton so blithely, almost mutely discarded, required our Federal bureaucracy for the first time to consider their actions' effects on the families of this nation.

More than any Government program, America's children are protected, nurtured and given the means they need to lead good lives by their families. No national village can replace the constant care and attention of parents.

By allowing Executive agencies to ignore the effects of their policies on families, President Clinton promises more harm to children than any Executive order he signs could possibly cure.

Because of President Reagan's Executive order, it was the official policy of this country that our bureaucrats must think about families as they formulate and apply rules and regulations.

Do we seriously believe, Mr. President, that the American family no longer needs protection?

Do we seriously believe that Federal rules, regulations, and programs no longer have serious effects on our families?

Do we seriously believe that bureaucrats here in Washington will just naturally craft everything they do so as to serve the interests of our families?

I do not think so, Mr. President. In fact I am convinced that now more than ever our families need our protection. I am convinced that we must ensure that those who work for the Federal Government stop and think about how what they are doing effects our families.

That is why, along with Senators FAIRCLOTH, SESSIONS, TIM HUTCHINSON, DEWINE, COATS, and ASHCROFT, I am introducing the Family Impact Statement Act of 1997. This legislation will reinstate our national policy requiring that Federal bureaucrats consider the effects of their actions on our families.

Specifically, and mirroring the Executive order recently revoked by the President, the Abraham-Faircloth Family Impact Statement Act would require that executive departments assess measures that may have significant impact on family formation, maintenance and general well-being in light of the following questions:

1. Does this action by Government strengthen or erode the stability of the family and, particularly, the marital bond?

2. does this action strengthen or erode the authority and rights of parents in the education, nurture, and supervision of their children?

3. does this action help the family perform its functions, or does it substitute governmental activity for that function?

4. does this action by Government increase or decrease family earnings? Do the proposed benefits of this action justify the impact on the family budget?

5. can this activity be carried out by a lower level of Government or by the family itself?

6. what message, intended or otherwise, does this program send to the public concerning the status of the family?

7. what message does it send to young people concerning the relationship between their behavior, their personal responsibility, and the norms of our society?

Again, mirroring the Executive order President Clinton recently revoked, Abraham-Faircloth would require that the head of the department or agency involved in any policy significantly effecting family well-being certify in writing that such measures has been assessed in light of these criteria. The department or agency head also must provide an explanation of how such measures will enhance family well-being.

The Office of Management and Budget will then, to the extent permitted by law, ensure that the policies of the executive departments and agencies are applied in light of these criteria.

In addition, Mr. President, this legislation will require that the White House Office of Policy Development assess existing and proposed policies and regulations that impact family well-being in light of the same criteria. That office will then provide evaluations on those measures to the Office of Management and Budget, and advise the President on policy and regulatory actions that may be taken to strengthen the institutions of marriage and the family in America.

Mr. President, this legislation will restore a crucial protection for the fundamental institution on which our society is based. By requiring that our departments and agencies consider the impact of their actions on our families it will protect those families from intrusive policies that undermine them, their children's lives, and our social fabric.

I urge my colleagues to join with me to make bureaucrats consider our families' well-being before they act. I urge them to support Abraham-Faircloth.

I yield the floor.

By Mr. GRAHAM (for himself, Mr. MCCAIN, Mr. SMITH of Oregon, Mr. WYDEN, Mr. BUMPERS, Mr. THOMAS, Mr. HUTCHINSON, Mr. BOND, Mr. GREGG, Mr. REID, Mr. FORD, Mr. ROBB, Mr. INOUYE, Mr. SANTORUM, Mr. BREAUX, Mr. HOLLINGS, Mr. GLENN, and Mr. DURBIN):

S. 892. A bill to amend title VII of the Public Health Service Act to revise and extend the area health education center program; to the Committee on Labor and Human Resources.

THE AREA HEALTH EDUCATION CENTER PROGRAM EXTENSION ACT

Mr. GRAHAM. Mr. President, I rise today to introduce legislation in conjunction with Senator MCCAIN and 16 of our colleagues to reauthorize the Area Health Education Center Program under title VII of the Public Health Service Act.

Unfortunately, the law of supply and demand does not always operate to the benefit of rural Americans or the working poor in the health care marketplace. Whether individuals live three counties away from the nearest full-service clinic or just across town, often their access to primary and preventive care is limited.

While recent attention has focused on controlling run-away health care costs, the problem is not only one of cost, but also one of allocation. We need to allocate both our abundant supply of health professionals and the highly concentrated resources of our world class academic health centers to individuals who are underserved in the health care marketplace.

Since its inception in 1973, one of the most effective means of redistributing and reallocating manpower has been the Federal and State-funded Area Health Education Centers Program [AHEC]. AHEC's serve as bridges between medical schools and our Nation's underserved rural and inner-city communities, recruiting and training primary care providers and health professionals, and providing continuing education to existing providers. Nine years ago, the AHEC Program was expanded to include the Health Education Training Centers Program [HETC], which are designed to address the persistent unmet health care needs of population groups such as migrants, minorities, and others.

As Governor of Florida, I became aware of the accomplishments of AHEC's in addressing the maldistribution of health professionals in underserved areas of other southern States

such as North Carolina and helped catalyze the initial interest for the development of AHEC's in my State. Since then, I have been pleased to see AHEC's and more recently HETC's grow and flourish throughout Florida and throughout the country.

Based at each of the State's medical schools, Florida's four AHEC programs now cover all 67 counties in the State. The programs and their 10 affiliated centers conduct activities that address regional and State priorities in areas such as public and school health, recruitment of health professionals to medically underserved communities, and special health needs of migrant and immigrant populations.

With more than 44 AHEC programs operating in 42 States, we are finally approaching the full evolution of AHEC into a national system with an infrastructure through which to reach those communities and populations in greatest need of basic health services. In 1994, 80 of 142 allopathic and osteopathic medical schools were involved with AHEC and HETC programs nationally, and 13 percent of the Nation's total medical school enrollment obtained community-based training through the program.

AHEC's effectiveness lies in this unique ability to combine the resources of academic health centers with those of medically underserved communities and in such a way that enhances the primary care training while increasing access to care. This role continues to increase in importance as States struggle to adjust to changes in medical reimbursements, limitations on welfare, and cutbacks in social services.

One of the most important contributions AHEC's have made in Florida and around the Nation is in the training of health professionals in collaboration with local health education institutions, public health departments, community health centers, rural hospitals, local school systems, and volunteer organizations. As a result AHEC's have generated a great deal of academic and community support. During fiscal year 1994, 32 AHEC programs received $22 million in Federal allocations; this was matched by approximately $106 million in State and local funds. These programs have had such success in gaining local and State funds because State legislators and community leaders have witnessed the very real impact and benefits that AHEC's bring to the lives of the people in their States and communities.

Despite promising health care reforms and increased enrollment in managed care networks, the number of uninsured and underinsured Americans continues to rise. Hundreds of counties throughout the United States are still without doctors, and for many low-income families, whether they be located in the inner-city or a small, rural community, preventive dental care is considered a luxury.

Because these problems have yet to be resolved, and because AHEC is needed as much today as when it was created, Senator MCCAIN and I are sponsoring this legislation to reauthorize AHEC, as we did successfully in 1992. This reauthorization already enjoys widespread bipartisan support—a testament to the pliable nature of this program in meeting the needs of diverse communities. In their first 25 years, AHEC's around the country have repeatedly shown that the sum total of Federal and State dollars that they have been allocated has been money well spent. We would like to see this successful program extended for 5 more years.

Thanks to AHEC, the face of health professions education is changing into a more community-centered enterprise that places higher priority on the everyday needs of all Americans, including those who historically have been underserved. While we have already begun to see the results of this change, many challenges lie ahead in the ongoing effort to ensure access to health care for all Americans. With the contribution of AHEC, our communities and academic health centers will have the means necessary to work together and meet those challenges.

Mr. President, I invite my colleagues to join Senator MCCAIN and me in supporting the reauthorization of this important program which targets health care services to our Nation's most underserved areas. I ask unanimous consent that the full text of the bill and letters of support from the Association of American Medical Colleges and the American Association of Colleges of Osteopathic Medicine be printed in the RECORD.

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

S. 892

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 ''Area Health Education Center Program Extension Act''.

SEC. 2. AREA HEALTH EDUCATION CENTER PROGRAM.

Section 746 of the Public Health Service Act (42 U.S.C. 293j et seq.) is amended to read as follows:

''SEC. 746. AREA HEALTH EDUCATION CENTER PROGRAMS.

''(a) AUTHORITY FOR PROVISION OF FINANCIAL ASSISTANCE.—

''(1) ASSISTANCE FOR PLANNING, DEVELOPMENT, AND OPERATION OF PROGRAMS.—

''(A) IN GENERAL.—The Secretary shall award grants to and enter into contracts with schools of medicine and osteopathic medicine and incorporated consortia made up of such schools, or the parent institutions of such schools, for projects for the planning, development and operation of area health education center programs that—

''(i) improve the recruitment, distribution, supply, quality and efficiency of personnel providing health services in underserved rural and urban areas and personnel providing health services to populations having demonstrated serious unmet health care needs;

''(ii) increase the number of primary care physicians and other primary care providers who provide services in underserved areas through the offering of an educational continuum of health career recruitment through clinical education concerning underserved areas in a comprehensive health workforce strategy;

''(iii) carry out recruitment and health career awareness programs to recruit individuals from underserved areas and under-represented populations into the health professions;

''(iv) prepare individuals to more effectively provide health services to underserved areas or underserved populations through field placements, preceptorships, the conduct of or support of community-based primary care residency programs, and agreements with community-based organizations such as community health centers, migrant health centers, Indian health centers, public health departments and others;

''(v) conduct health professions education and training activities for students and medical residents;

''(vi) conduct at least 10 percent of medical student required clinical education at sites remote to the primary teaching facility of the contracting institution; and

''(vii) provide information dissemination and educational support to reduce professional isolation, increase retention, enhance the practice environment, and improve health care through the timely dissemination of research findings using relevant resources.

''(B) PROJECT TERMS.—

''(i) IN GENERAL.—Except as provided in clause (ii), the period during which payments may be made under an award under subparagraph (A) may not exceed—

''(I) in the case of a project, 12 years or

''(II) in the case of a center within a project, 6 years.

''(ii) EXCEPTION.—The periods described in clause (i) shall not apply to—

''(I) projects that have completed the initial period of Federal funding under this section and that desire to compete for model awards under paragraph (2)(A); and

''(II) projects that apply for awards under subsection (d) regardless of whether such projects have completed their initial period of Federal funding under this section.

''(2) ASSISTANCE FOR OPERATION OF MODEL PROGRAMS.—

''(A) IN GENERAL.—In the case of any entity described in paragraph (1)(A) that—

''(i) has previously received funds under this section;

''(ii) is operating an area health education center program; and

''(iii) is no longer receiving financial assistance under paragraph (1);

the Secretary may provide financial assistance to such entity to pay the costs of operating and carrying out the requirements of the program as described in 746(a)(1).

''(B) MATCHING REQUIREMENT.—With respect to the costs of operating a model program under subparagraph (A), an entity, to be eligible for financial assistance under subparagraph (A), shall make available (directly or through contributions from State, county or municipal governments, or the private sector) recurring non-Federal contributions in cash toward such costs in an amount that is equal to not less than 50 percent of such costs.

''(C) LIMITATION.—The aggregate amount of awards provided under subparagraph (A) to entities in a State for a fiscal year may not exceed the lesser of—

''(i) $2,000,000; or

''(ii) an amount equal to the product of $250,000 and the aggregate number of area health education centers operated in the State by such entities.

''(b) REQUIREMENTS FOR CENTERS.—

''(1) GENERAL REQUIREMENT.—Each area health education center that receives funds under this section shall encourage the regionalization of health professions schools through the establishment of partnerships with community-based area health education centers.

''(2) SERVICE AREA.—Each area health education center that receives funds under this section shall specifically designate a geographic area or medically underserved population to be served by the center. Such area or population shall be in a location removed from the main location of the teaching facilities of the schools participating in the program with such center.

''(3) OTHER REQUIREMENTS.—Each area health education center that receives funds under this section shall—

''(A) assess the health personnel needs of the area to be served by the center and assist in the planning and development of training programs to meet such needs;

''(B) arrange and support rotations for students and residents in family medicine, general internal medicine or general pediatrics, with at least one center in each program being affiliated with or conducting a rotating osteopathic internship or medical residency training program in family medicine, general internal medicine, or general pediatrics in which no fewer than 4 individuals are enrolled in first-year positions;

''(C) conduct interdisciplinary training that involves physicians and other health personnel including, where practicable, public health professionals, physician assistants, nurse practitioners, and nurse midwives; and

''(D) have an advisory board, at least 75 percent of the members of which shall be individuals, including both health service providers and consumers, from the area served by the center.

''(c) CERTAIN PROVISIONS REGARDING FUNDING.—

''(1) ALLOCATION TO CENTERS.—Not less than 75 percent of the total amount of Federal funds provided to an entity under this section shall be allocated by an area health education center program to the area health education centers. Such entity shall enter into an agreement with each center for purposes of specifying the allocation of such 75 percent of funds.

''(2) OPERATING COSTS.—With respect to the operating costs of the area health education program of an entity receiving funds under this section, the entity shall make available (directly or through contributions from State, county or municipal governments, or the private sector) non-Federal contributions in cash toward such costs in an amount that is equal to not less than 50 percent of such costs, except that the Secretary may grant a waiver for up to 75 percent of the amount of the required non-Federal match in the first three years in which an entity receives funds under this section.

''(d) HEALTH EDUCATION AND TRAINING CENTERS.—

''(1) REQUIREMENTS.—A health education training center shall be an entity eligible for funds under this section that—

''(A) addresses the persistent and severe unmet health care needs in States along the border between the United States and Mexico and in the State of Florida, and in other urban and rural areas with populations with serious unmet health care needs;

''(B) establishes an advisory board comprised of health service providers, educators and consumers from the service area;

''(C) conducts training and education programs for health professions students in these areas;

''(D) conducts training in health education services, including training to prepare community health workers; and

''(E) supports health professionals practicing in the area through educational and other services.

''(2) ALLOCATION OF FUNDS.—The Secretary shall make available 50 percent of the amounts appropriated for each fiscal year under subsection (e) for the establishment or operation of health education training centers through projects in States along the border between the United States and Mexico and in the State of Florida.

''(e) AUTHORIZATION OF APPROPRIATIONS.—

''(1) AREA HEALTH EDUCATION CENTER PROGRAMS.—

''(A) IN GENERAL.—There is authorized to be appropriated to carry out this section, other than subsection (d), $40,000,000 for each of the fiscal years 1998 through 2002.

''(B) REQUIRED OBLIGATION.—Of the amounts appropriated under subparagraph (A) for each fiscal year, the Secretary may obligate for awards under subsection (a)(2)—

''(i) not less than 20 percent of such amounts in fiscal year 1998;

''(ii) not less than 25 percent of such amounts in fiscal year 1999;

''(iii) not less than 30 percent of such amounts in fiscal year 2000;

''(iv) not less than 35 percent of such amounts in fiscal year 2001; and

''(v) not less than 40 percent of such amounts in fiscal year 2002.

''(C) HEALTH EDUCATION AND TRAINING CENTERS.—There is authorized to be appropriated to carry out subsection (d), $10,000,000 for each of the fiscal years 1998 through 2002.

''(2) SENSE OF CONGRESS.—It is the sense of the Congress that—

''(A) every State have an active area health education center program in effect under this section; and

''(B) the ratio of Federal funding for the model program under section 746(a)(2) should increase over time and that Federal funding for other awards under this section shall decrease so that the national program will become entirely comprised of programs that are funded at least 50 percent by State and local partners.''.

ASSOCIATION OF AMERICAN MEDICAL COLLEGES,
Washington, DC, June 11, 1997.

Hon. BOB GRAHAM,
U.S. Senate, Washington, DC.

DEAR SENATOR GRAHAM: The Association of American Medical Colleges (AAMC) strongly supports your legislation to reauthorize the Area Health Education Centers (AHEC) and Health Education Training Centers (HETC) programs, which are authorized under Title VII of the Public Health Service Act.

The Area Health Education Center Program Extension Act will protect the primary objectives of the AHEC and HETC programs, which seek to train physicians and other health professionals to provide primary and preventive medical services to communities that are medically underserved. The flexibility and innovativeness of AHEC programs distinguish them among Title VII programs. Medical schools have led AHEC programs successfully since the inception of the program by Congress. The success of the AHEC program is very much due to the ability of the centers to make the substantial resources of medical schools and their parent institutions available to medically underserved communities. It is essential to these communities that these linkages be preserved.

In a nation with over 2,000 health professionals shortage areas and a changing health care delivery system, the federal government and health professions community must continue to develop innovative ways to train physicians and other health professionals to address the health care needs of the medically underserved. The goal of the AHEC and HETC programs is to provide the catalyst to develop long-term collaborations between medical schools and the community-based health care delivery centers.

Thank you for your leadership on this issue. We look forward to working with you to sustain this vital partnership between medical schools and the communities they serve.

Sincerely,

JORDAN J. COHEN, M.D.

AMERICAN ASSOCIATION OF COLLEGES OF OSTEOPATHIC MEDICINE,
Chevy Chase, MD, June 12, 1997.

Hon. BOB GRAHAM,
U.S. Senate, Washington, DC.

DEAR SENATOR GRAHAM: The American Association of Colleges of Osteopathic Medicine is very pleased to endorse the Area Health Education Centers Program Extension Act. The AHEC program provides clinical training opportunities to health professions students in rural settings by extending the resources of academic health centers in need of health care and education. Through this linkage, AHEC projects form networks of health related institutions to provide educational services to students, faculty, and practitioners, and ultimately improve health care delivery.

Senator Graham, we applaud your and Senator McCain's leadership in introducing this important legislation. Please contact us if we can be of assistance.

Sincerely,

DOUGLAS L. WOOD, D.O., PH.D.,
President.

Mr. MCCAIN. Mr. President, I am proud to join my colleague Senator BOB GRAHAM in sponsoring the reauthorization legislation for the national Area Health Education Center Program.

The Graham-McCain reuthorization legislation represents the consensus opinion of the Area Health Education Center community nation-wide. The Area Health Education Center Program Extension Act strives to not only reauthorize the existing act, but to do so in an innovative manner.

Currently, 42 States participate in the AHEC program which originated in 1976 when Congress recognized the lack of quality health care available in our country—especially in our rural and low income urban communities. Too many of these cities and towns did not have access to primary medical care services. Too many communities were losing their bright, educated youth to the larger, economically strong cities and medical communities. Our rural and low income communities were faced with many disadvantages including shortages of physicians and a lack of access to basic health care services.

In response to the health care problems facing our rural and low income urban communities, Congress created the Area Health Education Center Program to generate partnerships between medical schools or academic health centers and rural areas throughout a State. Through these partnerships the AHEC program strives to improve the supply and distribution of health care

professionals while increasing access to quality health care.

The AHEC programs work to meet the medical needs of undeserved areas by creating and implementing innovative methods and educational partnerships. Each AHEC program is individually established and created on a State-by-State basis and provides health professional student training, continuing professional education, student recruitment and placement, development of remote site learning resources, and other projects designed to influence the quantity and distribution of health personnel. Several years ago, this program was expanded to include the Health Education Training Center (HETC) program which addresses the high impact needs which exist in certain areas—particularly those along the Mexican-American border.

However, despite all the progress and success of the AHEC and HETC programs over the last 21 years, the need for recruiting and keeping health care professionals still remains a challenge for many of our rural and low-income urban communities. This is why Senator GRAHAM and I, along with 16 of our colleagues are introducing the Area Health Education Center Program Extension Act.

The Graham-MCCAIN reauthorization of the Area Health Education Center Program Extension Act would reauthorize for 5 years the core AHEC program and the existing HETC program. This bill would allow the Secretary of Health and Human Services to award grants and enter into contracts with schools of medicine and osteopathic medicine to develop AHEC and HETC programs.

Under this bill, AHEC and HETC programs are required to continue improving the distribution of health professionals in communities with serious, unmet health care needs. The programs are also required to increase the number of primary care providers in under served areas while recruiting individuals from these areas and from populations not equally represented into health professions. In addition, the AHEC and HETC programs are responsible for conducting training and education activities for health care students, including medical residents.

Initially, funding for AHEC programs is a Federal responsibility. However, after the first 6 years of operation the AHEC program must obtain 50 percent of their funding from their State, county or municipal government or the private sector in order to continue receiving matching Federal funding.

It is important that we continue to support and promote programs like AHEC and HETC which have developed and are implementing innovative, effective and efficient approaches for making high quality health care accessible throughout our Nation, particularly in rural communities, border States and low-income urban areas.

I believe the AHEC and HETC programs are both bright lights with regard to the potential for addressing the health provider shortage and unmet medical needs in our country. Both the AHEC and HETC programs have clearly demonstrated they are fulfilling a very definite need and ought to be reauthorized and extended. These programs have tremendous potential to continue assisting in effectively addressing the critical health problems in our communities. I urge all of my colleagues to review this important legislation and consider joining us as a cosponsor of this bill.

By Mrs. BOXER:

S. 893. A bill to provide for the conveyance of a parcel of unused agricultural land in Dos Palos, CA, to the Dos Palos Ag Boosters for use as a farm school; to the Committee on Energy and Natural Resources.

DOS PALOS MIDDLE SCHOOL LAND EXCHANGE LEGISLATION

Mrs. BOXER. Mr. President, I am pleased to introduce legislation that would provide the U.S. Department of Agriculture [USDA] the authority to sell much needed land to a local school district in my State of California.

This legislation will grant the USDA the authority to sell 22 acres of land in Dos Palos, CA to either a non-profit group or the Dos Palos School District. The transfer would be based upon an established fair market value of the land, determined by the USDA.

The local community will reap many benefits from this legislation. The school district plans to use the land to establish a farm school to educate and train students and beginning farmers. Under the district's farm school proposal, high school and middle school students will actually farm the land in order to learn all aspects of modern agriculture practices—including irrigation and conservation methods, integrated pest management, agricultural marketing and administration. In addition, the proceeds from the farm school will enable the students to purchase their own equipment and supplies for use at the site. Implementation of this proposal ensures that the land remain in agricultural use for years to come.

This legislation enjoys bi-partisan support, and companion legislation has been introduced by Congressman GARY A. CONDIT in the House. The local school district, the community of Dos Palos, CA, and the USDA have also expressed their support. During the 104th Congress the legislation received expedited review by the House Agriculture Committee, and passed the House by voice vote. Unfortunately, the Senate failed to pass this legislation before adjournment even though there was no known opposition from the leadership or the Senate Agriculture Committee.

By Mrs. BOXER:

S. 894. A bill to provide for the conveyance of certain land in the Six Rivers National Forest in the State of California for the benefit of the Hoopa Valley Tribe; to the Committee on Indian Affairs.

THE HOOPA VALLEY SOUTH BOUNDARY ADJUSTMENT ACT

Mrs. BOXER. Mr. President, I am pleased to introduce legislation that would allow the Hoopa Valley Tribe to obtain lands of deep cultural and historical significance.

The Hoopa Valley Tribe has resided in Hoopa Valley, beginning at the mouth of the Trinity River Canyon in Humboldt County, for 10,000 years. In the 1950s, a settlement agreement between the Hoopa Valley Tribe and the U.S. Government designated a 12-by-12 mile area for the Hoopa Valley Reservation. When this land was surveyed and demarcated, a ''dog-leg'' was created along the southern boundary which omitted certain lands the tribe has deemed culturally and religiously significant.

My legislation will remedy this situation by transferring 2,641 acres of the Six Rivers National Forest to the Hoopa Valley Tribe. I join the U.S. Forest Service in commending the Hoopa Valley Tribe for its history of natural resource management and expertise. This legislation enjoys broad bipartisan support in California and in the House, where it was sponsored by Congressman FRANK D. RIGGS.

During the 104th Congress, the House version of this legislation was unanimously approved. Unfortunately, despite approval from the administration and the Senate Indian Affairs Committee, the legislation was never brought before the full Senate for a vote. I encourage my colleagues to act quickly to provide the Hoopa Valley Tribe with lands necessary to maintain their cultural and religious heritage.

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

S. 895. A bill to designate the reservoir created by Trinity Dam in the Central Valley project, California, as ''Trinity Lake''; to the Committee on Energy and Natural Resources.

THE TRINITY LAKE NAME DESIGNATION ACT

Mrs. BOXER. Mr. President, I am pleased to introduce legislation that would change the name of the Clair Engle Lake in northern California to its commonly known name, Trinity Lake.

Clair Engle Lake is the largest body of recreational water in Trinity County. Every year, thousands of recreational users from all over California come to the lake to fish, boat, hike, and camp.

Since the reservoir was created by the building of the Trinity Dam, local citizens have referred to the lake as Trinity Lake. This usage has been widely adopted by almost all of the general public as well as by Federal, State, and local officials. In fact, this widespread usage of a name other than the official name has become the cause of confusion for visitors and tourists, and has had a negative economic impact on the lake community.

My legislation would end this confusion by renaming the lake to Trinity

Lake. My legislation is supported by the Trinity County Board of Supervisors as well as the Bureau of Reclamation. I also am pleased to be working with Representative WALLY HERGER who has introduced similar legislation in the House of Representatives.

By Mr. LEAHY (for himself, Mr. HAGEL, Mr. KERREY, Mr. MCCAIN, Mr. CLELAND, Mr. KEMPTHORNE, Mr. INOUYE, Mr. LUGAR, Mr. MCCONNELL, Mr. LEVIN, Mr. HATCH, Mr. LIEBERMAN, Ms. SNOWE, Mr. KERRY, Mr. GRASSLEY, Mr. ROBB, Mr. CHAFEE, Mr. BREAUX, Mr. SMITH of Oregon, Mrs. FEINSTEIN, Mr. MOYNIHAN, Mr. SPECTER, Mr. BUMPERS, Ms. COLLINS, Mr. DURBIN, Mr. JEFFORDS, Mr. REID, Mr. DODD, Mr. D'AMATO, Mr. BYRD, Mr. CAMPBELL, Mr. CONRAD, Mr. ROCKEFELLER, Mr. JOHNSON, Mr. BINGAMAN, Mr. DORGAN, Mr. DASCHLE, Ms. MIKULSKI, Mr. TORRICELLI, Mr. LAUTENBERG, Ms. LANDRIEU, Mr. REED, Mr. WELLSTONE, Mr. KENNEDY, Mr. BRYAN, Mr. FEINGOLD, Ms. MOSELEY-BRAUN, Mr. SARBANES, Mr. KOHL, Mrs. BOXER, Mr. HARKIN, Mrs. MURRAY, Mr. FORD, Mr. AKAKA, Mr. BAUCUS, Mr. BIDEN, and Mr. WYDEN):

S. 896. A bill to restrict the use of funds for new deployments of antipersonnel landmines, and for other purposes; to the Committee on Armed Services.

THE LANDMINE ELIMINATION ACT OF 1997

Mr. LEAHY. Mr. President, I rise to introduce legislation, with 56 cosponsors—Democrats and Republicans, conservatives and liberals, men and women—to ban new deployments of antipersonnel landmines beginning in the year 2000.

I am honored to be joined by Senator CHUCK HAGEL, who was injured by landmines in Vietnam, and who is the chief cosponsor of this bill.

I also want to give special thanks to Senators BOB KERREY and JOHN MCCAIN, both decorated Vietnam veterans, who are cosponsors of this bill and know far better than I about the terror landmines inflict on our own soldiers. In and out of Congress, those who know these weapons best, hate them most.

Landmines have some marginal military value. So, for that matter, do chemical weapons. But the damage done by these hidden killers long after the guns fall silent and the armies have gone home far outweigh whatever small benefits they add to our enormous and unsurpassed military arsenal.

The victims are not only innocent civilians. There were more than 64,000 American casualties from landmines in Vietnam. If that is not appalling enough, the overwhelming majority of those mines contained U.S. components. They were made here, and they killed and maimed our soldiers halfway around the world.

In Bosnia, more than 250 soldiers under U.N. and NATO commands have been injured, and 29 killed, by landmines. Every American casualty from enemy causes in Bosnia has been from landmines.

And that does not include the thousands of civilians who have fallen victim to these indiscriminate weapons, and the thousands more who will lose their legs, their arms, their eyesight and their lives in the future. For some 68 countries, the bridge to the 21st century is strewn and landmines. 100 million of them.

The purpose of this legislation is to exert U.S. leadership. But what we propose here is no different, indeed it does not go as far, as what others have already done. Great Britain, Canada, Germany, South Africa are some of the countries who have unilaterally renounced their production, use, and export of these weapons, and are destroying their stockpiles.

Some 72 nations have said they will meet in Ottawa this December to sign a treaty banning the weapons, and I suspect that number will continue to climb. Our country has not said if we will go to Ottawa. Why is this administration—which showed such moral leadership on chemical weapons to isolate the rogue nations—putting the United States in the role of a helpless giant when it comes to antipersonnel landmines? Why can we not use that same moral suasion, as others have done? We are not a pariah nation, and we should not act like one.

The United States shows leadership worthy of a great and powerful nation when we are bold on a practical and moral issue like this. We squander that potential and are no different from other nations when we sit on the sidelines, as the administration has done here.

For the past 5 years, the leadership on banning landmines has come from Congress. I hope the President will step forward to move the United States into the front ranks of this global effort, along with Canada and our other allies.

Before some in the Pentagon start drumming up opposition to this bill, I would urge them to consider who is supporting it, and why we support it. Every Member of the Senate who has seen combat is a cosponsor of this bill. This is not about taking away a weapon the Pentagon needs. It is about beginning the next century by renouncing a weapon that does not belong in the arsenal of civilized nations. The Pentagon has far more to gain if the use of antipersonnel landmines is made a war crime.

Finally, to those in the Pentagon who say that so-called smart mines—that are designed to self-destruct automatically—are the solution to this problem, I challenge them to find me a landmine that is smart enough to tell the difference between a soldier and a child. And let us not fool ourselves—the rest of the world does not use self-destruct mines, and they are not going to. They are not going to feel pressured to give up their mines, if we refuse to renounce smart mines. We saw that with chemical weapons, and with the nuclear test ban. There is no substitute for U.S. leadership.

I recognize that the Pentagon may be institutionally incapable of giving up a weapon that has some value, however marginal. Their job is to protect American soldiers, and there are undoubtedly instances when antipersonnel landmines have done that. But they should consider the horrendous casualties these weapons have inflicted on our troops. And they should recognize that just because a weapon has some marginal value does not justify its use when the victims are overwhelmingly innocent civilians, indeed whole societies.

Ultimately, it is a political decision, and the President, as Commander in Chief, needs to act. The question no longer is whether we will ban antipersonnel landmines, but when. This bill moves us closer to that goal.

There is only one way to stop this, and that is to stop it. And the sooner the United States does that, as others have done, the sooner the world can sweep these weapons into the dustbin of history.

Mr. HAGEL. Mr. President, I am proud to serve as the principal Republican sponsor of this important legislation. I want to express my gratitude to my colleague from Vermont, Senator LEAHY, for the dedication and leadership he has shown in bringing this issue before the U.S. Senate.

I approach this issue from two perspectives. First, I've had a real life experience with this issue. My brother and I were wounded twice together in Vietnam as a result of landmines. Second, I am a strong supporter of our military. It's important that we not take any action that would inhibit the military's ability to fight and win wars, do their jobs, and maintain valuable weapons options and strategies.

However, we are dealing with a different world than we fought in world wars, Korea and Vietnam. Our recent military actions have been actions where we've been in and out relatively quickly. I am concerned with the effects of laying down mines and then leaving them behind when our troops leave. There are already an estimated 110 million landmines in the ground around the world, and the destruction that these mines continue to inflict on innocent lives is devastating. It's the indiscriminate nature of their killing that makes landmines so hideous.

I believe this legislation addresses a number of the concerns expressed by the military. Exemptions have been provided for when the military needs specific options, such as Korea and the use of antitank mines and claymores.

We have a responsibility to those who've served and those who are now serving in the military and the peoples

of the world to take a close look at this issue. This question comes down to, is this really a military option we need today? I don't believe it is. After careful study and consideration and seeking the opinions of many present and former military commanders, I have decided that America should show leadership on this issue. We can take the moral high ground and still insure a strong, flexible military. I am proud that my five Senate colleagues who are also Vietnam combat veterans have joined me in support of this legislation.

Mr. FEINGOLD. Mr. President, I am pleased to rise as an original cosponsor of the bill to prohibit U.S. deployment of antipersonnel landmines introduced today by the Senator from Vermont [Mr. LEAHY] and the Senator from Nebraska [Mr. HAGEL]. I want to commend the Senator from Vermont for his countless hours of work to ban antipersonnel landmines.

As we all know, Mr. President, antipersonnel landmines continue to ravage the populations of war-torn areas around the world long after the last shot has been fired and the soldiers have gone home. These weapons pose an enduring threat to postwar reconstruction efforts and to innocent civilians in places such as Bosnia, Angola, and Cambodia. These instruments of war lay in fields where children now play or where farmers seek to grow food for the local populations. In fact, displaced populations are often unable to return to their homes because of the presence of unmarked landmines, and roads have been rendered useless since they cannot be traveled. Antipersonnel landmines cause such high levels of civilian casualties, 500 wounded or killed per week in fact, that they have been called weapons of mass destruction in slow motion.

In 1995, this body went on record against landmines by passing an amendment offered by the Senator from Vermont [Mr. LEAHY] to the fiscal year 1996 Department of Defense authorization bill which I was pleased to cosponsor. That amendment imposed a moratorium on the use of antipersonnel landmines except in limited circumstances.

While, unfortunately, we can never be sure that war-torn areas are completely clear of all active landmines, the current Leahy-Hagel bill will prohibit any U.S. agency from deploying or arming any new antipersonnel landmines after January 1, 2000. This bipartisan legislation also contains language relating to the deployment of landmines on the Korean Peninsula. While I believe that this is an important first step in the eventual elimination of new landmines from the face of the Earth, there is much work still to be done.

I, and many other Senators, believe that this legislation represents the least we can do on this subject. Because of this view, I wrote to President Clinton in February to express my contention that a ban on antipersonnel landmines should be an urgent priority for the United States.

In that same letter, I voiced my support for the so-called Ottawa initiative, which calls for a total ban on the production, storage, trade, or use of antipersonnel landmines and includes a plan to develop and sign a treaty by December 1997. In my view, the administration's decision to pursue negotiations through the United Nations Conference on Disarmament, rather than the Ottawa initiative, jeopardizes the likelihood that the Ottawa initiative will succeed. I believe that we should work within the framework of the Ottawa initiative because it is the best avenue currently available to a total worldwide ban on landmines.

As a member of the Foreign Relations Committee and the ranking member of the Subcommittee on African Affairs, I cannot ignore the approximately 110 million uncleared landmines across the globe. To their credit, some of the countries whose landscapes are riddled with these weapons have begun to take positive steps to ban their further use. In February, the South African Government announced its intention to ban the use, production, development, and stockpiling of antipersonnel landmines. In a news conference announcing this decision, the South African defense minister said that the ''indiscriminate use [of landmines] has had a devastating effect internationally, in Africa and in our region. In Angola, the number of amputations resulting from antipersonnel landmines is, tragically, one of the highest in the world, and in Mozambique, thousands of these mines remain uncleared.''

The worldwide devastation caused by landmines was discussed earlier this year at the Fourth Annual NGO Conference in Landmines in Maputo, Mozambique. While the conference focused on clearing landmines from Southern Africa, the tales of destruction and death could apply to many areas of the globe. Since the 1992 Peace Agreement ending the civil war in Mozambique, more than 100 people have been killed by landmines, two-thirds of them children. Mr. President, we owe it to these children—who have seen too much violence and death in their young lives—to make sure they have a safe place to play. And we owe it to our young men and women in uniform, who have represented our Nation so well across the globe, to make sure that the United States will cease deploying new landmines.

In closing, Mr. President, this legislation is an important first step in protecting future generations from the devastation that many face on a daily basis all over the world. This bill gives the United States the opportunity to take a leadership role in the banning of antipersonnel landmines. This is an opportunity we should not miss.

By Mr. WYDEN (for himself and Mr. D'AMATO):

S. 897. A bill to make permanent certain authority relating to self-employment assistance programs; to the Committee on Finance.

THE SELF-EMPLOYMENT REAUTHORIZATION ACT

Mr. WYDEN. Mr. President, today I am introducing legislation with Senator D'AMATO to reauthorize the Self-Employment Assistance [SEA] Program. The Self-Employment Assistance Program takes an innovative and cost-effective approach to helping eligible dislocated workers become self-sufficient: It enables them to use their weekly unemployment checks to start their own businesses. The law has helped turn the unemployment safety net into a trampoline of opportunity for thousands of unemployed.

Today, in 38 States the unemployed who wish to start their own businesses are forced to give up their weekly unemployment compensation checks as soon as their company starts generating revenue—but before it provides enough income to support them. It is exactly this problem the Self-Employment Assistance Program is designed to correct. It gives many skilled workers the chance to get back to work faster and helps create new jobs as well.

In a few short years, the Self-Employment Assistance Program (Public Law 103–182; title V) has enabled thousands of unemployed Americans to use their unemployment compensation to establish new businesses. Modeled on experiments in Massachusetts and Washington, self-employment programs can create jobs at no cost to the taxpayer. Using existing funds, the Massachusetts program created dozens of new businesses but actually paid $1,400 less unemployment per worker than the State average. The Washington program created more than 600 new jobs and the firms were paying an average of $10.50 an hour to workers they had hired.

In Oregon, 122 UI claimants enrolled in SEA last year; 76 completed the program. These entrepreneurs are now running an auto repair shop, a marine maintenance and repair shop, distributing cleaning products to resorts and restaurants along the Oregon Coast and setting up a computer cleaning service.

In Grants Pass, OR, one participant said she could not have developed her publication business without SEA. It helped keep her afloat financially while she pursued her self-employment goal. She received counseling from the local Small Business Development Center, and through the Center she was able to contact potential customers.

In Sweet Home, OR, another woman said the SEA program gave her the chance to have an income as she was starting up her day care business. She presently cares for nine children by herself and has plans to increase enrollment and add another teacher and three aides. The Small Business Development Center at Linn-Benton Community College helped her develop her

business plan and locate financial resources.

Over the past 3 years, 10 States used the 1993 legislation to create Self-Employment Assistance programs: California, Connecticut, Delaware, Maine, Maryland, Minnesota, New Jersey, New York, Oregon and Rhode Island. To date, DoL has approved six States plans (California, Delaware, Maine, New Jersey, New York and Oregon) and four of these—Delaware, Maine, New York and Oregon—are actually up and running.

Here's how the program works. States are given the flexibility to establish Self-Employment Assistance [SEA] programs as part of their unemployment insurance [UI] programs. It permits States to provide income support payments to the unemployed in the same weekly amount as the worker's regular unemployment insurance [UI] benefits would otherwise be. It permits claimants to work full-time on starting their own business instead of searching for traditional wage and salary jobs.

The law directs the DoL to review and approve State SEA program plans. In States that operate SEA programs, new UI claimants who may be eligible for SEA are identified through worker profiling—automated systems that use a set of criteria to identify those claimants who are likely to exhaust their UI benefits and need reemployment assistance. State SEA program provide participants on a weekly or biweekly basis the same amount as regular UI benefits while they are getting their business off the ground. SEA participants are required to participate in technical assistance programs—entrepreneurial training (accounting, cash flow, finances, taxes, etc), business counseling (business plans, marketing, legal requirements, insurance, etc.), and finance—to ensure they have the skills necessary to operate a business. Finally, SEA programs are required to operate at no additional cost to the unemployment trust fund: the law stipulates that the payment of SEA allowances may not result in any additional benefits charges the unemployment trust fund.

Individuals may choose at any time to opt out of the SEA program; they may resume collection of regular unemployment compensation until the total amount of regular unemployment compensation paid and the SEA paid equals the maximum benefit amount. States, through the title III of the Job Training Partnership Act and Small Business Development Centers, support the costs of providing basic SEA program services, like business counseling and technical assistance, but may allow participants to pay for more intensive counseling and technical assistance.

In effect, the program eliminates a high hurdle for those who have the ingenuity, motivation and energy to start their own businesses. In those States with SEA programs, an unemployed worker no longer has to choose between receiving UI benefits and starting a new business.

Mr. President, as we move into the global economy of the 21st century, we must adopt fresh strategies so that our skilled but unemployed workers can start anew in the private sector. Harvard Business School reported last year that from 1978 to 1996, 22 percent of the workforce, or 3 million workers, at the country's top 100 companies had been laid off, and that 77 percent of all the layoffs involved white collar workers. Many of these highly-skilled and motivated workers want to start their own firms. Congress should not stand in their way. Renewal of the Self-Employment Assistance Program will give those States with programs continued flexibility to help unemployed workers create their own businesses and should encourage those without programs to establish them.

Our bipartisan bill promotes the spirit of entrepreneurship. It carries forward a reasonable and sensible reform of the unemployment insurance system at no cost to the taxpayer.

I would like to thank Senator D'AMATO for joining me as an original cosponsor of this bill. New York has a very active and successful Self-Employment Assistance Program, and I look forward to working closely with him to see this important program reauthorized.

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. 897

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

SECTION 1. SELF-EMPLOYMENT ASSISTANCE PROGRAMS.

(a) IN GENERAL.—Paragraph (2) of section 507(e) of the North American Free Trade Agreement Implementation Act (26 U.S.C. 3306 note) is hereby repealed.

(b) CONFORMING AMENDMENTS.—Subsection (e) of section 507 of such Act is further amended—

(1) by amending the heading after the subsection designation to read ''EFFECTIVE DATE.—''; and

(2) by striking ''(1) EFFECTIVE DATE.—'' and by running in the remaining text of subsection (e) immediately after the heading therefor, as amended by paragraph (1).

By Mr. HATCH (for himself, Mr. BAUCUS, and Mr. MACK, and Mr. D'AMATO):

S. 898. A bill to amend the Internal Revenue Code of 1986 to simplify certain provisions applicable to real estate investment trusts; to the Committee on Finance.

THE REAL ESTATE INVESTMENT TRUST SIMPLIFICATION ACT

Mr. HATCH. Mr. President on behalf of myself and Senators BAUCUS, MACK, and D'AMATO, I rise today to introduce the Real Estate Investment Trust Tax Simplification Act of 1997. This legislation would simplify and reform the tax law concerning Real Estate Investment Trusts [REITs]. Similar legislation has been introduced in the House by Representative E. CLAY SHAW, Jr. along with many of our House colleagues.

REIT's were designed to allow small investors to invest in large real estate projects that they otherwise could not afford, including apartment buildings, office buildings, shopping centers, malls, warehouses, etc. Real Estate Investment Trusts have become a very popular form of investment as indicated by the fact that the market capitalization in the whole industry has risen from $9 billion in 1991 to over $100 billion today.

Mr. President, if a REIT properly follows all of the rules, it is not normally taxed at the entity level, but passes through most items of income to the shareholders to report on their own individual tax returns. However, there are many minefields for the unwary that can inadvertently penalize investors and even the general public in some circumstances. This bill is designed to alleviate these complexities and uncertainties.

Let me share with my colleagues an example of the difficulties facing small investors. Under the current rules, in order to gain the benefits of REIT taxation, the investment has to be passive in nature. Hence, the normal procedure is for the REIT to buy the underlying property and lease it out to tenants. However, the REIT must be careful not to provide directly to the tenants any services that are not customary in the real estate business. If this rule is violated, severe consequences can follow. For example, under a literal interpretation of the law, if a REIT that operates a retail mall provides wheelchairs to the customers of the retail tenants, or even assists the tenant in moving into its space, the entity's very status as a REIT could be placed in jeopardy. This is ridiculous and needs to be changed.

Furthermore, current law imposes a tax on a REIT that retains capital gains and imposes a second level of tax on the REIT shareholders when they later receive the capital gain distribution. We need to make the changes necessary to help unsuspecting investors to avoid double taxation. This bill would adopt the corresponding mutual fund rules governing taxation of retained capital gains by passing through a credit to shareholders capital gains taxes paid at the corporate level. The bill would also conform a REIT's 95-percent annual distribution requirement to a mutual fund's 90-percent requirement.

Mr. President, this bill also relaxes some of the current law's onerous penalties for failing to perform some recordkeeping requirements. Currently, a REIT could lose its favored tax status simply by failing to send out or receive back shareholder demand letters for the purpose of verifying the fact that no five or fewer parties own controlling interest in the REIT. So, even though

the REIT in fact meets this test, Mr. President, simply by failing to have on file sufficient shareholder letters substantiating this fact, all of the REIT shareholders could face the extremely harsh penalty of REIT disqualification and double taxation.

Rather than penalizing the REIT so severely for this oversight, Mr. President, this bill would impose a $25,000 penalty for failing to comply with this requirement, if the failure is inadvertent in nature. The penalty would rise to $50,000 in the case of willful noncompliance. I believe my colleagues would agree that this approach makes much more sense than the current rules. It serves as an adequate incentive to keep the appropriate records without causing the unsuspecting, innocent investors severe and unnecessary tax penalties.

Mr. President, this bill also addresses other problems that are detailed in the summary of the bill that I ask unanimous consent to be included in the RECORD after my remarks.

I do not believe this bill is controversial. And, according to the Joint Committee on Taxation, it will have a negligible effect on revenues. It is also important to note that this bill is endorsed by the National Association of Real Estate Investment Trusts, which represents a high percentage of the REIT industry. Whenever we can do things to simplify the Tax Code without causing substantial revenue loss or negative policy consequences we should do it.

Mr. President, this is an opportunity for us to do just that in the area of real estate investment trusts. I urge my colleagues on both sides of the aisle to join me in reforming and simplifying the tax law regarding this very difficult and complex area of the law.

Mr. President, I ask unanimous consent that the text of the bill and a detailed summary of its provisions be printed in the RECORD.

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

S. 898

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

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the ''Real Estate Investment Trust Tax Simplification Act of 1997''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

TITLE I—REMOVAL OF TAX TRAPS FOR THE UNWARY

SEC. 101. CLARIFICATION OF LIMITATION ON MAXIMUM NUMBER OF SHAREHOLDERS.

(a) RULES RELATING TO DETERMINATION OF OWNERSHIP.—

(1) FAILURE TO ISSUE SHAREHOLDER DEMAND LETTER NOT TO DISQUALIFY REIT.—Section 857(a) (relating to requirements applicable to real estate investment trusts) is amended by adding ''and'' at the end of paragraph (1), by striking paragraph (2), and by redesignating paragraph (3) as paragraph (2).

(2) SHAREHOLDER DEMAND LETTER REQUIREMENT; PENALTY.—Section 857 (relating to taxation of real estate investment trusts and their beneficiaries) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

''(f) REAL ESTATE INVESTMENT TRUSTS TO ASCERTAIN OWNERSHIP.—

''(1) IN GENERAL.—Each real estate investment trust shall each taxable year comply with regulations prescribed by the Secretary for the purposes of ascertaining the actual ownership of the outstanding shares, or certificates of beneficial interest, of such trust.

''(2) FAILURE TO COMPLY.—

''(A) IN GENERAL.—If a real estate investment trust fails to comply with the requirements of paragraph (1) for a taxable year, such trust shall pay (on notice and demand by the Secretary and in the same manner as tax) a penalty of $25,000.

''(B) INTENTIONAL DISREGARD.—If any failure under paragraph (1) is due to intentional disregard of the requirement under paragraph (1), the penalty under subparagraph (A) shall be $50,000.

''(C) FAILURE TO COMPLY AFTER NOTICE.—The Secretary may require a real estate investment trust to take such actions as the Secretary determines appropriate to ascertain actual ownership if the trust fails to meet the requirements of paragraph (1). If the trust fails to take such actions, the trust shall pay (on notice and demand by the Secretary and in the same manner as tax) an additional penalty equal to the penalty determined under subparagraph (A) or (B), whichever is applicable.

''(D) REASONABLE CAUSE.—No penalty shall be imposed under this paragraph with respect to any failure if it is shown that such failure is due to reasonable cause and not to willful neglect.''

(b) COMPLIANCE WITH CLOSELY HELD PROHIBITION.—

(1) IN GENERAL.—Section 856 (defining real estate investment trust) is amended by adding at the end the following new subsection:

''(k) REQUIREMENT THAT ENTITY NOT BE CLOSELY HELD TREATED AS MET IN CERTAIN CASES.—A corporation, trust, or association—

''(1) which for a taxable year meets the requirements of section 857(f)(1), and

''(2) which does not know, or exercising reasonable diligence would not have known, whether the entity failed to meet the requirement of subsection (a)(6),

shall be treated as having met the requirement of subsection (a)(6) for the taxable year.''

(2) CONFORMING AMENDMENT.—Paragraph (6) of section 856(a) is amended by inserting ''subject to the provisions of subsection (k),'' before ''which is not''.

SEC. 102. DE MINIMIS RULE FOR TENANT SERVICES INCOME.

(a) IN GENERAL.—Paragraph (2) of section 856(d) (defining rents from real property) is amended by striking subparagraph (C) and the last sentence and inserting:

''(C) any impermissible tenant service income (as defined in paragraph (7)).''

(b) IMPERMISSIBLE TENANT SERVICE INCOME.—Section 856(d) is amended by adding at the end the following new paragraph:

''(7) IMPERMISSIBLE TENANT SERVICE INCOME.—For purposes of paragraph (2)(C)—

''(A) IN GENERAL.—The term 'impermissible tenant service income' means, with respect to any real or personal property, any amount received or accrued directly or indirectly by the real estate investment trust for—

''(i) services furnished or rendered by the trust to the tenants of such property, or

''(ii) managing or operating such property.

''(B) DISQUALIFICATION OF ALL AMOUNTS WHERE MORE THAN DE MINIMIS AMOUNT.—If the amount described in subparagraph (A) with respect to a property exceeds 1 percent of all amounts received or accrued during such taxable year directly or indirectly by the real estate investment trust with respect to such property, the impermissible tenant service income of the trust with respect to the property shall include all such amounts.

''(C) EXCEPTIONS.—For purposes of subparagraph (A)—

''(i) services furnished or rendered, or management or operation provided, through an independent contractor from whom the trust itself does not derive or receive any income shall not be treated as furnished, rendered, or provided by the trust, and

''(ii) there shall not be taken into account any amount which would be excluded from unrelated business taxable income under section 512(b)(3) if received by an organization described in section 511(a)(2).

''(D) AMOUNT ATTRIBUTABLE TO IMPERMISSIBLE SERVICES.—For purposes of subparagraph (A), the amount treated as received for any service (or management or operation) shall not be less than 150 percent of the direct cost of the trust in furnishing or rendering the service (or providing the management or operation).

''(E) COORDINATION WITH LIMITATIONS.—For purposes of paragraphs (2) and (3) of subsection (c), amounts described in subparagraph (A) shall be included in the gross income of the corporation, trust, or association.''

SEC. 103. ATTRIBUTION RULES APPLICABLE TO TENANT OWNERSHIP.

Section 856(d)(5) (relating to constructive ownership of stock) is amended by adding at the end the following: ''For purposes of paragraph (2)(B), section 318(a)(3)(A) shall be applied under the preceding sentence in the case of a partnership by taking into account only partners who own (directly or indirectly) 25 percent or more of the capital interest, or the profits interest, in the partnership.''

TITLE II—CONFORMITY WITH REGULATED INVESTMENT COMPANY RULES

SEC. 201. CREDIT FOR TAX PAID BY REIT ON RETAINED CAPITAL GAINS.

(a) GENERAL RULE.—Paragraph (3) of section 857(b) (relating to capital gains) is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

''(D) TREATMENT BY SHAREHOLDERS OF UNDISTRIBUTED CAPITAL GAINS.—

''(i) Every shareholder of a real estate investment trust at the close of the trust's taxable year shall include, in computing his long-term capital gains in his return for his taxable year in which the last day of the trust's taxable year falls, such amount as the trust shall designate in respect of such shares in a written notice mailed to its shareholders at any time prior to the expiration of 60 days after the close of its taxable year (or mailed to its shareholders with its annual report for the taxable year), but the amount so includible by any shareholder shall not exceed that part of the amount subjected to tax in subparagraph (A)(ii) which he would have received if all of such amount had been distributed as capital gain dividends by the trust to the holders of such shares at the close of its taxable year.

''(ii) For purposes of this title, every such shareholder shall be deemed to have paid, for

his taxable year under clause (i), the tax imposed by subparagraph (A)(ii) on the amounts required by this subparagraph to be included in respect of such shares in computing his long-term capital gains for that year; and such shareholder shall be allowed credit or refund as the case may be, for the tax so deemed to have been paid by him.

''(iii) The adjusted basis of such shares in the hands of the shareholder shall be increased with respect to the amounts required by this subparagraph to be included in computing his long-term capital gains, by the difference between the amount of such includible gains and the tax deemed paid by such shareholder in respect of such shares under clause (ii).

''(iv) In the event of such designation, the tax imposed by subparagraph (A)(ii) shall be paid by the real estate investment trust within 30 days after the close of its taxable year.

''(v) The earnings and profits of such real estate investment trust, and the earnings and profits of any such shareholder which is a corporation, shall be appropriately adjusted in accordance with regulations prescribed by the Secretary.

''(vi) As used in this subparagraph, the terms 'shares' and 'shareholders' shall include beneficial interests and holders of beneficial interests, respectively.''

(b) CONFORMING AMENDMENTS.—

(1) Clause (i) of section 857(b)(7)(A) is amended by striking ''subparagraph (B)'' and inserting ''subparagraph (B) or (D)''.

(2) Clause (iii) of section 852(b)(3)(D) is amended by striking ''by 65 percent'' and all that follows and inserting ''by the difference between the amount of such includible gains and the tax deemed paid by such shareholder in respect of such shares under clause (ii).''

SEC. 202. REDUCTION OF DISTRIBUTION REQUIREMENT.

Clauses (i) and (ii) of section 857(a)(1)(A) are each amended by striking ''95 percent (90 percent for taxable years beginning before January 1, 1980)'' and inserting ''90 percent''.

TITLE III—OTHER SIMPLIFICATION

SEC. 301. MODIFICATION OF EARNINGS AND PROFITS RULES FOR DETERMINING WHETHER REIT HAS EARNINGS AND PROFITS FROM NON-REIT YEAR.

Subsection (d) of section 857 is amended by adding at the end the following new paragraph:

''(3) DISTRIBUTIONS TO MEET REQUIREMENTS OF SUBSECTION (a)(2)(B).—Any distribution which is made in order to comply with the requirements of subsection (a)(2)(B)—

''(A) shall be treated for purposes of this subsection and subsection (a)(2)(B) as made from the earliest accumulated earnings and profits (other than earnings and profits to which subsection (a)(2)(A) applies) rather than the most recently accumulated earnings and profits, and

''(B) to the extent treated under subparagraph (A) as made from accumulated earnings and profits, shall not be treated as a distribution for purposes of subsection (b)(2)(B).''

SEC. 302. TREATMENT OF FORECLOSURE PROPERTY.

(a) GRACE PERIODS.—

(1) INITIAL PERIOD.—Paragraph (2) of section 856(e) (relating to special rules for foreclosure property) is amended by striking ''on the date which is 2 years after the date such trust acquired such property'' and inserting ''as of the close of the 3d taxable year following the taxable year in which such trust acquired such property''.

(2) EXTENSION.—Paragraph (3) of section 856(e) is amended—

(A) by striking ''or more extensions'' and inserting ''extension'', and

(B) by striking the last sentence and inserting: ''Any such extension shall not extend the grace period beyond the close of the 3d taxable year following the last taxable year in the period under paragraph (2).''

(b) REVOCATION OF ELECTION.—Paragraph (5) of section 856(e) is amended by striking the last sentence and inserting: ''A real estate investment trust may revoke any such election for a taxable year by filing the revocation (in the manner provided by the Secretary) on or before the due date (including any extension of time) for filing its return of tax under this chapter for the taxable year. If a trust revokes an election for any property, no election may be made by the trust under this paragraph with respect to the property for any subsequent taxable year.''

(c) CERTAIN ACTIVITIES NOT TO DISQUALIFY PROPERTY.—Paragraph (4) of section 856(e) is amended by adding at the end the following new flush sentence:

''For purposes of subparagraph (C), property shall not be treated as used in a trade or business by reason of any activities of the real estate investment trust with respect to such property to the extent that such activities would not result in amounts received or accrued, directly or indirectly, with respect to such property being treated as other than rents from real property.''

SEC. 303. SPECIAL FORECLOSURE RULE FOR HEALTH CARE PROPERTIES.

Section 856(e) (relating to special rules for foreclosure property) is amended by adding at the end the following new paragraph:

''(6) SPECIAL RULE FOR QUALIFIED HEALTH CARE PROPERTIES.—For purposes of this subsection—

''(A) ACQUISITION BY LEASE TERMINATIONS.—The term 'foreclosure property' shall include any qualified health care property acquired by a real estate investment trust as the result of the termination or expiration of a lease of such property.

''(B) GRACE PERIOD.—In the case of a qualified health care property which is foreclosure property solely by reason of subparagraph (A), in lieu of applying paragraphs (2) and (3)—

''(i) the qualified health care property shall cease to be foreclosure property on the date which is 2 years after the date such trust acquired such property, and

''(ii) if the real estate investment trust establishes to the satisfaction of the Secretary that an extension of the grace period in clause (i) is necessary to the orderly leasing or liquidation of the trust's interest in such qualified health care property, the Secretary may grant 1 or more extensions of the grace period for such qualified health care property.

Any such extension shall not extend the grace period beyond the date which is 6 years after the date such trust acquired such qualified health care property.

''(C) INCOME FROM INDEPENDENT CONTRACTORS.—For purposes of applying paragraph (4)(C) with respect to qualified health care property which is foreclosure property, income derived or received by the trust from an independent contractor shall be disregarded to the extent such income is attributable to—

''(i) leases existing on the date the real estate investment trust acquired the qualified health care property, or

''(ii) leases extended or entered into after the trust acquired such property from lessees pursuant to terms set forth in such existing leases or on terms under which the trust receives a substantially similar or lesser benefit in comparison to the previous lease for such property.

''(D) QUALIFIED HEALTH CARE PROPERTY.—The term 'qualified health care property' means any real property (including interests therein), and any personal property incident to such real property, which—

''(i) is a health care facility, or

''(ii) is necessary or incidental to the use of a health care facility.

For purposes of the preceding sentence, the term 'health care facility' means a hospital, nursing facility, assisted living facility, or other licensed health care facility which extends medical or nursing or ancillary services to patients and which, immediately before the termination, expiration, default, or breach of the lease of or mortgage secured by such facility, was operated by a provider of such services which was eligible for participation in the Medicare program under title XVIII of the Social Security Act with respect to such facility.''

SEC. 304. PAYMENTS UNDER HEDGING INSTRUMENTS.

Section 856(c)(6)(G) (relating to treatment of certain interest rate agreements) is amended to read as follows:

''(G) TREATMENT OF CERTAIN HEDGING INSTRUMENTS.—Except to the extent provided by regulations, any—

''(i) payment to a real estate investment trust under an interest rate swap or cap agreement, option, futures contract, forward rate agreement, or any similar financial instrument, entered into by the trust in a transaction to reduce the interest rate risks with respect to any indebtedness incurred or to be incurred by the trust to acquire or carry real estate assets, and

''(ii) gain from the sale or other disposition of any instrument described in clause (i),

shall be treated as income qualifying under paragraph (2).''

SEC. 305. EXCESS NONCASH INCOME.

Section 857(e)(2) (relating to determination of amount of excess noncash income) is amended—

(1) by striking subparagraph (B),

(2) by striking the period at the end of subparagraph (C) and inserting a comma,

(3) by redesignating subparagraph (C) (as amended by paragraph (2)) as subparagraph (B), and

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

''(C) the amount (if any) by which—

''(i) the amounts includible in gross income with respect to instruments to which section 860E(a) or 1272 applies, exceed

''(ii) the amount of money and the fair market value of other property received during the taxable year under such instruments, and

''(D) amounts includible in income by reason of cancellation of indebtedness.''

SEC. 306. PROHIBITED TRANSACTION SAFE HARBOR.

(a) IN GENERAL.—Clause (iii) of section 857(b)(6)(C) (relating to certain sales not to constitute prohibited transactions) is amended by striking ''(other than foreclosure property)'' each place it appears and inserting ''(other than exempt property)''.

(b) EXEMPT PROPERTY.—Subparagraph (D) of section 857(b)(6) is amended by adding at the end the following new clause:

''(viii) The term 'exempt property' means—

''(I) foreclosure property, and

''(II) property which, while held by the real estate investment trust, was compulsorily or involuntarily converted (within the meaning of section 1033).''

SEC. 307. SHARED APPRECIATION MORTGAGES.

(a) BANKRUPTCY SAFE HARBOR.—Section 856(j) (relating to treatment of shared appreciation mortgages) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

''(4) COORDINATION WITH 4-YEAR HOLDING PERIOD.—

''(A) IN GENERAL.—For purposes of section 857(b)(6)(C), if a real estate investment trust is treated as having sold secured property under paragraph (3)(A), the trust shall be treated as having held such property for at least 4 years if—

''(i) the secured property is sold or otherwise disposed of pursuant to a case under title 11 of the United States Code,

''(ii) the seller is under the jurisdiction of the court in such case, and

''(iii) the disposition is required by the court or is pursuant to a plan approved by the court.

''(B) EXCEPTION.—Subparagraph (A) shall not apply if—

''(i) the secured property was acquired by the trust with the intent to evict or foreclose, or

''(ii) the trust knew or had reason to know that default on the obligation described in paragraph (5)(A) would occur.''

(b) CLARIFICATION OF DEFINITION OF SHARED APPRECIATION PROVISION.—Clause (ii) of section 856(j)(5)(A) is amended by striking ''gain'' each place it appears and inserting ''gain or appreciation in value''.

SEC. 308. WHOLLY OWNED SUBSIDIARIES.

Section 856(i)(2) (defining qualified REIT subsidiary) is amended by striking ''at all times during the period such corporation was in existence''.

TITLE IV—EFFECTIVE DATE

SEC. 401. EFFECTIVE DATE.

The amendments made by this Act shall apply to taxable years beginning after the date of the enactment of this Act.

REIT TAX PROVISIONS

The tax provisions in the Real Estate Investment Trust Simplification Act (''REITSA'') fall within three broad categories.

1. Traps For The Unwary. First, current law disqualifies a REIT that satisfies all required ownership tests but does not follow certain administrative details relating to shareholder demand letters. REITSA would replace the potential disqualification with a reporting penalty imposed on a REIT's failure to follow IRS notification rules.

Second, REITSA would create a de minimis exception to current law so that a REIT's rental income would not be disqualified if it performs nominal, although impermissible, services for a tenant.

Third, REITSA would correct a technical ''glitch'' in which stock ownership attribution may occur between unrelated partners. The current constructive ownership rule results in certain rents received by a REIT not qualifying for the REIT income tests.

2. Mutual Fund Conformity. First, current law taxes a REIT that retains capital gains, and imposes a second level of the tax on the REIT shareholders when later they receive the capital gain distribution. REITSA would mirror the corresponding mutual fund rules governing taxation of retained capital gains by passing through a credit to shareholders for capital gains taxes paid at the corporate level.

Second, REITSA would conform a REIT's 95% annual distribution requirement to a mutual fund's 90% requirement.

3. Other Simplification Measures. First, REITSA would make a technical change to how a REIT computes its earnings & profits (''E&P''). Since 1986, a REIT must distribute all pre-REIT earnings and profits within its first REIT taxable year or lose its REIT status. However, if a REIT has unexpected year-end earnings, the normal ordering rules governing E&P distributions create a substantial risk that a new REIT may fail to distribute all of its pre-REIT E&P, notwithstanding its good faith efforts to comply with the distribution requirement. REITSA would correct the ordering rules for accumulated E&P distributions to make it easier for a new REIT to comply with the distribution requirement.

Second, REITSA would simplify the administration of the REIT foreclosure property rules by: (a) extending the time period for the foreclosure election from 2 to 3 years; (b) coordinating the foreclosure property independent contractor rule with the primary independent contractor rule for REITs; and (3) creating a more practical definition of independent contractor for certain health care properties.

Third, REITSA would update the current REIT hedging rule to include income from all hedges of REIT liabilities.

Fourth, REITSA would extend an exception to the current 95% distribution rule to include other forms of phantom income, e.g., income from the discharge of indebtedness.

Fifth, REITSA would correct a problem in the wording of Congress' past liberalization of the safe harbor from the 100% excise tax on prohibited transactions, i.e., sales of property in the ordinary course of business. The proposal would not count as a dealer sale property that is involuntarily converted.

Sixth, REITSA would create a safe harbor to the shared appreciation mortgage (''SAM'') rules that would not penalize a REIT lender for the borrower's bankruptcy. The proposal also would clarify that SAMs could be based on appreciation in value as well as gain.

Last, REITSA would codify an IRS ruling position by allowing a REIT to use a wholly-owned subsidiary to hold property even if the subsidiary previously had been owned by a non-REIT.

By Mr. DODD:

S. 899. A bill to amend the Solid Waste Disposal Act to provide for flow control of municipal solid waste; to the Committee on Environment and Public Works.

THE MUNICIPAL SOLID WASTE DISPOSAL ACT

Mr. DODD. Mr. President, today, I am introducing the Solid Waste Disposal Act of 1997. It seeks to correct the May 1994 Supreme Court Decision in the matter of Carbone versus Town of Clarkstown which has had a devastating impact on Connecticut and States around the country. This bill is very similar to the proposal that overwhelmingly passed the Senate in the last Congress by a vote of 94 to 6. It protects communities and taxpayers that have invested hundreds of millions of dollars to build economical and environmentally clean solid waste facilities —only to see those dollars now potentially lost because of the Carbone decision. Carbone held that towns and cities cannot control the flow of solid waste to facilities it has built or operated.

In this bill, flow control authority, would remain with those communities that were operating or constructing disposal facilities or had contracted for such disposal prior to the Carbone decision. There is no prospective flow control; in fact, the authority would cease 30 years after enactment of the legislation.

Approximately 35 States were adversely affected by the Carbone decision, which invalidated local flow control authority an issue that is vital to the fiscal soundness and public safety of States and localities. The Justices left it to Congress to reinstate flow control, and it is my belief that if Congress does not enact this legislation, States will continue to suffer environmentally and financially.

State and local governments and State-created entities have a vested interest in how solid waste produced within their borders is transported and disposed of. Flow control is the backbone of Connecticut's integrated waste management plan. My State and many others had the foresight to plan ahead—to move away from landfills toward a more environmentally and economically sound system of recycling and waste-to-energy facilities. And it had been working.

Localities made significant capital investments to construct expensive waste disposal facilities. In Connecticut, they incurred almost $750 million in debt. More than 80 percent of municipalities in Connecticut have contracts with the State's six waste-to-energy facilities.

By 1991, the recycling rate had increased to 23 percent, but has remained flat since 1994. In 1989, there were 50 landfills, and today, there are only three, a sign of Connecticut's progress in devising a better way to dispose of its solid waste.

Revenues from the facilities, used to pay off the bonds, were to be ensured by flow control authority. Without the ability to direct waste to appropriate facilities, these revenue bonds are in jeopardy. Municipalities entered into put or pay contracts—wherein they agree to dispose of a set amount of waste at a designated facility or pay a penalty. Now, after Carbone they are forced to pay for the shortfall created by trash moving to cheaper, less environmentally friendly disposal areas. Facilities in Connecticut are reporting tonnage reductions of more than 20 percent. That translates into hundreds of thousands of dollars in lost revenue from reduced energy production and tipping fees—what the waste haulers pay to dump the trash.

At a time when Congress is working to ease the tax burden on working families, the Carbone case will cause taxes to increase for a great many Connecticut residents if towns are unable to meet their trash quotas. Citizens would be forced to pay twice —first, to have their waste transported, and again to cover the put-or-pay requirement.

This legislation strikes an appropriate balance between the interests of communities who must dispose of their solid waste and the interests of the haulers paid to move it. I am confident that if we pass this flow control legislation, Connecticut municipalities, and localities around the Nation will be able to administer their solid waste management systems in environmentally sound and fiscally responsible manners.

I understand Senator CHAFEE is currently working to craft legislation on this subject. I look forward to working with him and my other colleagues to resolve this complex problem facing our States and localities. Furthermore, I hope my colleagues will join me in supporting this bill.

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

S. 899

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 ''Municipal Solid Waste Disposal Act of 1997''.

SEC. 2. STATE AND LOCAL GOVERNMENT CONTROL OF MOVEMENT OF MUNICIPAL SOLID WASTE AND RECYCLABLE MATERIAL.

(a) IN GENERAL.—Subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) is amended by adding at the end the following:

''SEC. 4011. STATE AND LOCAL GOVERNMENT CONTROL OF MOVEMENT OF MUNICIPAL SOLID WASTE AND RECYCLABLE MATERIAL.

''(a) DEFINITIONS.—In this section:

''(1) DESIGNATE.—The term 'designate', in reference to the action of a State, political subdivision, or public service authority in designating a waste management facility, means to authorize, require, or contractually commit that all or any portion of the municipal solid waste or recyclable material that is generated within the boundaries of the State, political subdivision, or public service authority be delivered to waste management facilities or facilities for recyclable material or a public service authority identified by the State, political subdivision, or public service authority.

''(2) FLOW CONTROL AUTHORITY.—The term 'flow control authority' means the authority to control the movement of municipal solid waste or voluntarily relinquished recyclable material and direct municipal solid waste or voluntarily relinquished recyclable material to a designated waste management facility or facility for recyclable material.

''(3) LEGALLY BINDING PROVISION OF THE STATE OR POLITICAL SUBDIVISION.—For purposes of the authority conferred by subsections (b) and (c), the term 'legally binding provision of the State or political subdivision' includes a put or pay agreement that designates waste to a waste management facility that was in operation on or before December 31, 1988, and that requires an aggregate tonnage to be delivered to the facility during each operating year by the political subdivisions that have entered put or pay agreements designating that waste management facility. The entering into of a put or pay agreement shall be considered to be a designation (as defined in subsection (a)(1)) for purposes of this title.

''(4) MUNICIPAL SOLID WASTE.—

''(A) IN GENERAL.—The term 'municipal solid waste' means solid waste generated by the general public or from a residential, commercial, institutional, or industrial source, consisting of paper, wood, yard waste, plastics, leather, rubber, and other combustible material and noncombustible material such as metal and glass, including residue remaining after recyclable material has been separated from waste destined for disposal, and including waste material removed from a septic tank, septage pit, or cesspool (other than from portable toilets).

''(B) EXCLUSIONS.—The term 'municipal solid waste' does not include—

''(i) waste identified or listed as a hazardous waste under section 3001 or waste regulated under the Toxic Substances Control Act (15 U.S.C. 2601 et seq.);

''(ii) waste, including contaminated soil and debris, resulting from a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604, 9606) or any corrective action taken under this Act;

''(iii) medical waste listed in section 11002;

''(iv) industrial waste generated by manufacturing or industrial processes, including waste generated during scrap processing and scrap recycling;

''(v) recyclable material; or

''(vi) sludge.

''(5) POLITICAL SUBDIVISION.—The term 'political subdivision' means a political subdivision of a State.

''(6) PUBLIC SERVICE AUTHORITY.—The term 'public service authority' means—

''(A) an authority or authorities created pursuant to State legislation to provide individually or in combination solid waste management services to political subdivisions;

''(B) other body created pursuant to State law; or

''(C) an authority that was issued a certificate of incorporation by a State corporation commission established by a State constitution.

''(7) PUT OR PAY AGREEMENT.—The term 'put or pay agreement' means an agreement that obligates or otherwise requires a State, political subdivision, *or public service authority* to—

''(A) deliver a minimum quantity of municipal solid waste to a waste management facility; and

''(B) pay for that minimum quantity of municipal solid waste even if the stated minimum quantity of municipal solid waste is not delivered within a required period of time.

''(8) RECYCLABLE MATERIAL.—The term 'recyclable material' means material that has been separated from waste otherwise destined for disposal (at the source of the waste or at a processing facility) or has been managed separately from waste destined for disposal, for the purpose of recycling, reclamation, composting of organic material such as food and yard waste, or reuse (other than for the purpose of incineration).

''(9) WASTE MANAGEMENT FACILITY.—The term 'waste management facility' means a facility that collects, separates, stores, transports, transfers, treats, processes, combusts, or disposes of municipal solid waste.

''(b) AUTHORITY.—

''(1) IN GENERAL.—Each State, political subdivision, or public service authority may exercise flow control authority for municipal solid waste and for recyclable material voluntarily relinquished by the owner or generator of the material that is generated within its jurisdiction by directing the municipal solid waste or recyclable material to a waste management facility or public service authority or facility for recyclable material, if the flow control authority—

''(A)(i) had been exercised before May 15, 1994, and was being implemented on May 15, 1994, pursuant to a law (including an ordinance or regulation) or other legally binding provision of the State or political subdivision; or

''(ii) had been exercised before May 15, 1994, without regard to whether implementation of such a law (including an ordinance or regulation) or other legally binding provision of the State or political subdivision was prevented by an injunction, temporary restraining order, or other court action, or was suspended by the voluntary decision of the State or political subdivision because of the pendency of a court action; or

''(B) has been implemented by designating before May 15, 1994, the particular waste management facilities or public service authority to which the municipal solid waste or recyclable material is to be delivered, which facilities were in operation as of May 15, 1994, or were in operation before May 15, 1994, and were temporarily inoperative on May 15, 1994.

''(2) LIMITATION.—The authority of this section extends only to the specific classes or categories of municipal solid waste to which flow control authority requiring a movement to a waste management facility was applied on or before May 15, 1994 (or, in the case of a State, political subdivision, or public service authority that qualifies under subsection (c), to the specific classes or categories of municipal solid waste for which the State, political subdivision, or public service authority before May 15, 1994, had committed to the designation of a waste management facility).

''(3) LACK OF CLEAR IDENTIFICATION.—With regard to facilities granted flow control authority under subsection (c), if the specific classes or categories of municipal solid waste are not clearly identified, the authority of this section shall apply only to municipal solid waste generated by households.

''(4) EFFECTIVE PERIOD OF AUTHORITY.—With respect to each designated waste management facility, the authority of this section shall be effective during the period ending on the later of—

''(A) the end of the remaining life of a contract between the State, political subdivision, or public service authority and any other person regarding the movement or delivery of municipal solid waste or voluntarily relinquished recyclable material to a designated facility (as in effect May 15, 1994);

''(B) completion of the schedule for payment of the capital costs of the facility concerned (as in effect May 15, 1994 (without regard to whether the capital costs are subsequently refinanced to provide a reduced interest rate with no change in amount or maturity); or

''(C) the end of the remaining useful life of the facility (as in existence on the date of enactment of this section), as that remaining life may be extended by—

''(i) retrofitting of equipment or the making of other significant modifications to meet applicable environmental requirements or safety requirements;

''(ii) routine repair or scheduled replacement of equipment or components that does not add to the capacity of a waste management facility; or

''(iii) expansion of the facility on land that is—

''(I) legally or equitably owned, or under option to purchase or lease, by the owner or operator of the facility; and

''(II) covered by the permit for the facility (as in effect May 15, 1994).

''(5) ADDITIONAL AUTHORITY.—

''(A) APPLICATION OF PARAGRAPH.—This paragraph applies to a State or political subdivision that, on or before January 1, 1984—

''(i) adopted a regulation under State law that required the transportation to, and management or disposal at, waste management facilities in the State, of—

''(I) all solid waste from residential, commercial, institutional, or industrial sources (as defined under State law); and

''(II) recyclable material voluntarily relinquished by the owner or generator of the recyclable material; and

''(ii) as of January 1, 1984, had implemented the regulation in the case of every political subdivision of the State.

''(B) AUTHORITY.—Notwithstanding anything to the contrary in this section (including subsection (m)), a State or political subdivision described in subparagraph (A) may continue to exercise flow control authority (including designation of waste management facilities in the State that meet the requirements of subsection (c)) for all classes and categories of solid waste that were subject to flow control on January 1, 1984.

''(6) FLOW CONTROL ORDINANCE.—

''(A) IN GENERAL.—Notwithstanding anything to the contrary in this section, but subject to subsection (m), during the effective period described in paragraph (4), a political subdivision that adopted a flow control ordinance in November 1991, and designated facilities to receive municipal solid waste before April 1, 1992, may exercise flow control authority until the end of the remaining life of all contracts between the political subdivision and any other person regarding the movement or delivery of municipal solid waste or voluntarily relinquished recyclable material to a designated facility (as in effect May 15, 1994).

''(B) LIMITATION.—The authority under subparagraph (A) applies only with respect to the specific classes or categories of municipal solid waste to which flow control authority was actually applied on or before May 15, 1994.

''(c) COMMITMENT TO CONSTRUCTION.—

''(1) IN GENERAL.—Notwithstanding subparagraphs (A) and (B) of subsection (b)(1), a political subdivision may exercise flow control authority under subsection (b), if—

''(A)(i) the law (including an ordinance or regulation) or other legally binding provision specifically provides for flow control authority for municipal solid waste generated within the boundaries of the political subdivision; and

''(ii) the authority was exercised before May 15, 1995, and was being implemented on May 15, 1994; or

''(B) before May 15, 1994, the political subdivision committed to the designation of the particular waste management facilities or public service authority to which municipal solid waste is to be transported or at which municipal solid waste is to be disposed of under that law (including an ordinance or regulation), plan, or legally binding provision.

''(2) FACTORS DEMONSTRATING COMMITMENT.—A commitment to the designation of waste management facilities or public service authority is demonstrated by 1 or more of the following factors:

''(A) CONSTRUCTION PERMITS.—All permits required for the substantial construction of the facility were obtained before May 15, 1994.

''(B) CONTRACTS.—All contracts for the substantial construction of the facility were in effect before May 15, 1994.

''(C) REVENUE BONDS.—Before May 15, 1994, revenue bonds were presented for sale to specifically provide revenue for the construction of the facility (without regard to whether the revenue bonds are subsequently refinanced to provide a reduced interest rate with no change in amount or maturity).

''(D) CONSTRUCTION AND OPERATING PERMITS.—The State or political subdivision submitted to the appropriate regulatory agency or agencies, on or before May 15, 1994, substantially complete permit applications for the construction and operation of the facility.

''(d) FORMATION OF SOLID WASTE MANAGEMENT DISTRICT TO PURCHASE AND OPERATE EXISTING FACILITY.—Notwithstanding subparagraphs (A) and (B) of subsection (b)(1), a solid waste management district that was formed by a number of political subdivisions for the purpose of purchasing and operating a facility owned by 1 of the political subdivisions may exercise flow control authority under subsection (b) if—

''(1) the facility was fully licensed and in operation before May 15, 1994;

''(2) before April 1, 1994, substantial negotiations and preparation of documents for the formation of the district and purchase of the facility were completed;

''(3) before May 15, 1994, at least 80 percent of the political subdivisions that were to participate in the solid waste management district had adopted an ordinance committing the political subdivisions to the participation, and the remaining political subdivisions adopted such an ordinance within 2 months after that date; and

''(4) the financing was completed (without regard to whether the revenue bonds are subsequently refinanced to provide a reduced interest rate with no change in amount or maturity), the acquisition was made, and the facility was placed under operation by the solid waste management district on or before September 21, 1994.

''(e) FACILITY CONSTRUCTED AND OPERATED.—During the effective period described in subsection (b)(4), a political subdivision may exercise flow control authority for municipal solid waste and for recyclable material voluntarily relinquished by the owner or generator of the material that is generated within the jurisdiction of the political subdivision if—

''(1) before May 15, 1994, the political subdivision—

''(A) contracted with a public service authority or with its operator, to deliver or cause to be delivered to the public service authority substantially all of the disposable municipal solid waste that is generated or collected by or is within or under the control of the political subdivision, for the purpose of supporting revenue bonds issued by and in the name of the public service authority or on its behalf by a State entity for waste management facilities; or

''(B) entered into contracts with a public service authority or its operator to deliver or cause to be delivered to the public service authority substantially all of the disposable municipal solid waste that is generated or collected by or within the control of the political subdivision, which imposed flow control pursuant to a law (including an ordinance or regulation) or other legally binding provision, if revenue bonds were issued in the name of the public service authority for waste management facilities and outstanding (without regard to whether the revenue bonds are subsequently refinanced to provide a reduced interest rate with no change in amount or maturity); and

''(2) before May 15, 1994, the public service authority—

''(A) issued the revenue bonds or had revenue bonds issued on its behalf by a State entity for the construction of municipal solid waste facilities to which the municipal solid waste of the political subdivision is transferred or disposed (without regard to whether the revenue bonds are subsequently refinanced to provide a reduced interest rate with no change in amount or maturity); and

''(B) commenced operation of the facilities.

''(f) STATE-MANDATED DISPOSAL SERVICES.—During the effective period described in subsection (b)(4), a political subdivision may exercise flow control authority for municipal solid waste and for recyclable material voluntarily relinquished by the owner or generator of the material that is generated within the jurisdiction of the political subdivision if, before May 15, 1994, the political subdivision—

''(1) was responsible under State law for providing for the operation of solid waste facilities to serve the disposal needs of all incorporated and unincorporated areas of the county;

''(2) is required to initiate a recyclable material recycling program in order to meet a municipal solid waste reduction goal of at least 30 percent;

''(3) has been authorized by State statute to exercise flow control authority and had implemented the authority through the adoption or execution of a law (including an ordinance or regulation), contract, or other legally binding provision; and

''(4) had incurred, or caused a public service authority to incur, significant financial expenditures to comply with State law and to repay outstanding bonds that were issued specifically for the construction of solid waste management facilities to which the waste of the political subdivision is to be delivered.

''(g) STATE SOLID WASTE DISTRICT AUTHORITY.—A solid waste district or a political subdivision may exercise flow control authority for municipal solid waste and for recyclable material voluntarily relinquished by the owner or generator of the material that is generated within the jurisdiction of the political subdivision if—

''(1) the solid waste district or a political subdivision within the solid waste district—

''(A) is currently required to initiate a recyclable material recycling program in order to meet a municipal solid waste reduction goal of at least 30 percent by the year 2005; and

''(B) uses revenues generated by the exercise of flow control authority strictly to implement programs to manage municipal solid waste, other than development of incineration; and

''(2) before May 15, 1994, the solid waste district or political subdivision or municipality—

''(A) was responsible under State law for the management and regulation of the storage, collection, processing, and disposal of solid waste within its jurisdiction;

''(B) was authorized by State statute (enacted before January 1, 1992) to exercise flow control authority, and subsequently adopted or sought to exercise the authority through a law (including an ordinance or regulation), regulatory proceeding, contract, franchise, or other legally binding provision; and

''(C) was required by State statute (enacted before January 1, 1992) to develop and implement a solid waste management plan consistent with the State solid waste management plan, and the solid waste management plan of the solid waste district or political subdivision or municipality was approved by the appropriate State agency before September 15, 1994.

''(h) STATE-AUTHORIZED SERVICES AND LOCAL PLAN ADOPTION.—A political subdivision may exercise flow control authority for municipal solid waste and for recyclable material voluntarily relinquished by the owner or generator of the material that is generated within the jurisdiction of the political subdivision if, before May 15, 1994, the political subdivision—

''(1) had been authorized by a State statute that specifically named the political subdivision to exercise flow control authority and had implemented the authority through a law (including an ordinance or regulation), contract, or other legally binding provision;

''(2) had adopted a local solid waste management plan pursuant to State statute and was required by State statute to adopt the plan in order to submit a complete permit application to construct a new solid waste management facility proposed in the plan;

''(3) had presented for sale a revenue or general obligation bond to provide for the site selection, permitting, or acquisition for construction of new facilities identified and

proposed in the local solid waste management plan of the political subdivision (without regard to whether the revenue or general obligation bond is subsequently refinanced to provide a reduced interest rate with no change in amount or maturity);

''(4) includes a municipality or municipalities required by State law to adopt a local law (including an ordinance) to require that solid waste that has been left for collection shall be separated into recyclable, reusable, or other components for which economic markets exist; and

''(5) is in a State that has aggressively pursued closure of substandard municipal landfills, both by regulatory action and under statute designed to protect deep flow recharge areas in counties in which potable water supplies are derived from sole source aquifers.

''(i) RETAINED AUTHORITY.—

''(1) REQUEST.—On the request of a generator of municipal solid waste affected by this section, a State or political subdivision may authorize the diversion of all or a portion of the solid waste generated by the generator making the request to an alternative solid waste treatment or disposal facility, if the purpose of the request is to provide a higher level of protection for human health and the environment or reduce potential future liability of the generator under Federal or State law for the management of the municipal solid waste, unless the State or political subdivision determines that the facility to which the municipal solid waste is proposed to be diverted does not provide a higher level of protection for human health and the environment or does not reduce the potential future liability of the generator under Federal or State law for the management of the municipal solid waste.

''(2) CONTENTS.—A request under paragraph (1) shall include information on the environmental suitability of the proposed alternative treatment or disposal facility and method, compared to that of the designated facility and method.

''(j) LIMITATIONS ON REVENUE.—A State or political subdivision may exercise flow control authority under subsection (b), (c), (d), or (e) only if the State or political subdivision certifies that the use of any of its revenues derived from the exercise of the authority will be used for solid waste management services or related landfill reclamation.

''(k) REASONABLE REGULATION OF COMMERCE.—A law, ordinance, regulation, or other legally binding provision or official act or political subdivision, as described in subsection (b), (c), (d), or (e), that implements flow control authority in compliance with this section shall be considered to be a reasonable regulation of commerce retroactive to its date of enactment or effective date and shall not be considered to be an undue burden on or otherwise considered as impairing, restraining, or discriminating against interstate commerce.

''(l) EFFECT ON EXISTING LAWS AND CONTRACTS.—

''(1) ENVIRONMENTAL LAWS.—Nothing in this section has any effect on any other law relating to the protection of human health and the environment or the management of municipal solid waste or recyclable material.

''(2) STATE LAW.—Nothing in this section authorizes a political subdivision to exercise the flow control authority granted by this section in a manner that is inconsistent with State law.

''(3) OWNERSHIP OF RECYCLABLE MATERIAL.—Nothing in this section—

''(A) authorizes a State or political subdivision to require a generator or owner of recyclable material to transfer recyclable material to the State or political subdivision; or

''(B) prohibits a generator or owner of recyclable material from selling, purchasing, accepting, conveying, or transporting recyclable material for the purpose of transformation or remanufacture into usable or marketable material, unless the generator or owner voluntarily made the recyclable material available to the State or political subdivision and relinquished any right to, or ownership of, the recyclable material.

''(m) TERMINATION OF AUTHORITY; REPEAL.—

''(1) TERMINATION OF AUTHORITY.—Notwithstanding any other provision of this title, authority to control the flow of municipal solid waste or recyclable material by directing municipal solid waste or recyclable material to a waste management facility shall terminate on the date that is 30 years after the date of enactment of this Act.

''(2) REPEAL.—This section and the item relating to this section in the table of contents for subtitle D of the Solid Waste Disposal Act are repealed effective as of the date that is 30 years after the date of enactment of this Act.

''(n) SECTION NOT APPLICABLE TO LISTED FACILITIES.—Notwithstanding any other provision of this title, the authority to exercise flow control shall not apply to a facility that—

''(1) on the date of enactment of this Act, is listed on the National Priorities List under the Comprehensive Environmental, Response, Compensation and Liability Act (42 U.S.C. 9601 et seq.); or

''(2) as of May 15, 1994, was the subject of a pending proposal by the Administrator of the Environmental Protection Agency to be listed on the National Priorities List.''.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents for subtitle D in section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended by adding after the item relating to section 4010 the following:

''Sec. 4011. State and local government control of movement of municipal solid waste and recyclable material.''.

[From the New London News, June 11, 1997]

STONINGTON IS SUED BY TRASH FIRM—COMPANY SEEKS TO BLOCK TOWN GARBAGE COLLECTION

[By Joe Wojtas]

STONINGTON.—One of the town's largest commercial garbage haulers has sued the town in an effort to stop it from taking over trash collection next month.

A hearing will be held June 17 in New London Superior Court on a request by USA Waste Inc. of Franklin and U.W.S. of Rhode Island Inc., a landfill company, for an injunction that would stop the town from implementing its takeover plan on July 1.

USA Waste attorney Thomas J. Donahue Jr., who had warned the town it would be sued if the plan was implemented, had no comment about the suit Tuesday.

USA Waste has reported having 175 commercial customers and numerous residential customers in town. Donahue was not able to say what the value of USA Waste's current contracts are. The plan would void those contracts on July 1.

First Selectmen Donald Maranell said the suit was expected.

''The town has spent a lot of effort researching court cases, state statues and the needs of our residents,'' he said. ''Our ordinance is clearly lawful and in the best interests of the health, safety and welfare of the residents of the Town of Stonington. It is the town's opinion we will prevail.''

Surprisingly, USA Waste was one of the firms that submitted bids to pick up trash for the town and is one of two firms with which the town is negotiating. Maranell said that if USA Waste agrees to terms, it would have to drop any action against the town. A decision is expected in a few days.

RESIDENTS VOTE FOR CHANGE

Residents voted in April to have the town take over all garbage collection to ensure it would be delivered to the Preston incinerator. Town officials said the town would face a $500,000 deficit in the 1997–98 budget if plan was not implemented.

The town said the plan was needed because haulers with contracts to pick up garbage from businesses in town began taking the trash to landfills with lower tipping fees than Preston, such as the U.W.S. site in Warwick.

Town officials charged that haulers were making huge profits because their contracts with businesses were based on the higher Preston fee. They said taxpayers should not have to pay for the deficit so haulers could continue making big profits.

Because the town's contract with Preston requires a certain amount of garbage each year, he shortfall in business garbage meant taxpayers had to pay for the deficit. A court had rules that towns could not force private haulers to take trash to Preston.

Town officials said they could solve the problem by taking over trash collection in town and hiring their own contractor, which would be required to bring all garbage to Preston.

They said a court decision from Babylon, Long Island, allowed that town to implement a similar plan. The Connecticut Resource Recovery Authority has agreed to pay all the town's legal bills because it is looking for a solution to the same problems in other towns.

Private haulers have argued it is unfair for the town to take over garbage collection when the haulers have valid contracts with the businesses.

The suit states the ordinance and regulations passed by the town deprive USA Waste and U.W.S. of their interstate commerce rights, prevent USA Waste from hauling and collecting garbage and deprive U.W.S. of receiving waste from Stonington.

The suit states the town is exceeding its authority and violating state law and the U.S. Constitution. It also points out that the town ''devised a scheme'' to illegally steer garbage to Preston even though it knew about court decisions preventing such action.

In addition to an injunction, the suit asks a judge to rule that the ordinance and regulations are illegal and unconstitutional.

By Mr. FEINGOLD (for himself and Mr. DEWINE):

S. 900. A bill to provide for sentencing enhancements and amendments to the Federal Sentencing Guidelines for offenses relating to the abuse and exploitation of children, and for other purposes; to the Committee on the Judiciary.

THE CHILD EXPLOITATION SENTENCING ENHANCEMENT ACT OF 1997

Mr. FEINGOLD. Mr. President, I rise today to introduce the Child Exploitation Sentencing Enhancement Act of 1997. I am pleased to be joined in this effort by my friend and colleague from the Senate Committee on the Judiciary, Senator DEWINE. The legislation we are introducing today will increase the criminal penalties for individuals who use computers and the Internet to commit crimes of sexual abuse and exploitation against children.

Just as the miraculous advances in computer technology have opened new worlds to many of us, some have chosen to exploit these technologies to advance criminal activity. Most troubling are those who use computers and the Internet to sexually exploit and abuse children. According to the National Center for Missing and Exploited Children, which supports this legislation, criminals are increasingly using computer telecommunications technology as a means to assist in the sexual victimization of young children.

Mr. President, there can be no doubt that the Internet and advancing computer technologies provide each of us with many new and promising means of communication. However, when these technologies are used to further the criminal sexual exploitation and abuse of children, it is essential, in my view, that this conduct be punished more severely. FBI Director Louis Freeh recently testified before the Senate Appropriations Subcommittee for Commerce, Justice and State and highlighted this problem;

The same marvelous advances in computer and telecommunications technology that allow our children to reach out to new sources of knowledge and cultural experiences are also leaving them unwittingly vulnerable to exploitation and harm by pedophiles and other sexual predators in ways never before possible.

Mr. President, advances in technology should not be the shield from behind which pedophiles and sexual molesters target and prey upon our children.

In responding to this problem, the Feingold-DeWine legislation directs the U.S. Sentencing Commission to increase criminal penalties for people who intentionally use a computer to entice children into illicit sexual conduct. The bill also directs that sentences be increased for those criminals who seek out children on the Internet and misrepresent their true identity in a knowing effort to gain the trust of the child they intend to sexually victimize.

The provisions in this bill are directed squarely at those molesters and sexual predators who go on-line and hang out in computer chat rooms targeting unknowing young victims. One distinct and unfortunate advantage of the Internet for criminals is that they are able to reach a much wider audience of potential victims than they would if physical contact were required to initiate their criminal activity. Another troubling aspect of this situation is that criminals are provided with near fool-proof anonymity while cruising the Internet looking for victims. In some cases, victims are enticed or lured to meet with the sexual molester. The ability for the criminal to misrepresent their true identity and thus gain the confidence of the victim is a significant aspect of these crimes. Director Freeh also noted this problem recently:

Pedophiles often seek out young children by either participating in or monitoring activities in chat rooms that are provided by commercial on-line services for teenagers and preteens to converse with each other. These chat rooms also provide pedophiles an anonymous means of establishing relationships with children. Using a chat room, a child can converse for hours with unknown individuals, often without the knowledge or approval of their parents. There is no easy way for the child to know if the person he or she is talking with is, in fact, another 14-year-old, or is a 40-year-old sexual predator masquerading as a peer.

Clearly, Mr. President, a child molester who stalks children on the information superhighway derives benefits that are simply not present if direct physical contact is required to target and recruit the victim. Director Freeh's testimony also noted that sexual criminals also target young victims by posing as children looking for pen pals or by posting notices on computer bulletin boards in order to facilitate and develop relationships which can in turn provide a victim for the predator's illegal sexual activity.

In addition to increasing sentences for criminal activity involving this type of conduct, the legislation expands the pattern of activity sentencing enhancement to a wider range of sexual abuse and exploitation crimes. In doing so, those criminals who have shown an ongoing pattern of sexually exploiting minors will be held accountable for their conduct through longer prison sentences. In doing so, the criminal is incapacitated for a longer period of time thus reducing the potential that they will be set free to victimize again. This sentencing enhancement will now be applicable in cases of sexual abuse, sexual exploitation, and the coercion and enticement of minors for an illegal sexual activity. Additionally, this legislation targets repeat offenders by increasing penalties for repeat offenses and by increasing maximum penalties available under the Federal criminal code. Finally, the legislation authorizes funding to be used to appoint guardian ad litem for children who are the victims of, or witnesses to, crimes involving abuse or exploitation.

Mr. President, there can be no doubt that our children are our most precious resource. I am the father of teenage children and I, like any parent, worry about the health and safety of my children. I encourage my children to utilize the Internet and to gain the benefits of these amazing new technologies—technologies which simply did not exist a few years ago or when I was growing up. During my tenure in this body I have been a strong believer in the potential of the Internet and sincerely hope that as we move toward the next century that potential will be realized. However, in doing so, I am mindful of the dangers that always exist when individuals—criminals—exploit a new technology to further their illicit criminal activity. The legislation being introduced today speaks directly to the small percentage of individuals who intentionally misuse the Internet to sexually prey upon children. The adoption of this legislation will send a loud and clear message that the Congress of the United States will not tolerate the sexual exploitation of our young people and that the information superhighway will not become a haven for pedophiles and sexual predators.

I ask unanimous consent that a copy of the legislation be printed in the RECORD as well as a copy of a letter from the National Center for Missing and Exploited Children in support of the bill.

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

S. 900

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 ''Child Exploitation Sentencing Enhancement Act of 1997''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the sexual exploitation of children, including the sexual abuse of minors, and illegal sexual activity with minors, poses a significant threat to the health, safety, and well-being of children in the United States;

(2) there is a compelling governmental interest in preserving the health and safety of children, and the prevention and elimination of the sexual abuse and exploitation of children serves that interest;

(3) if computers are used to facilitate the sexual abuse or exploitation of children—

(A) by facilitating the contact, persuasion, inducement, enticement, or coercion of a child in order to exploit or engage in illegal sexual activity with that child, the risk of harm is magnified and more dangerous to children because—

(i) the use of a computer allows the sexual offender to target and reach a wider range of potential victims than would otherwise be possible if direct physical presence and contact with the child was necessary to initiate and facilitate the crime; and

(ii) the use of a computer allows the sexual offender to avoid more readily detection by law enforcement officials, as law enforcement officials may lack the resources or training necessary to identify, pursue, and apprehend those individuals who target children for sexual exploitation through the use of computers; and

(B) the use of a computer allows a sexual offender to avoid revealing, or to knowingly conceal from a potential victim, the actual identity of the offender (including the offender's sex, age, and name) and therefore allows the offender to gain more readily the confidence of an unsuspecting child;

(4) there is a compelling governmental interest in prohibiting repeated and continuing patterns of child sexual exploitation through extended incarceration for offenders who use computers to facilitate the sexual exploitation of a child or to sexually exploit a child;

(5) individuals who engage in a repeated and continuing pattern of sexual abuse or exploitation of children over a period of time are particularly harmful to children;

(6) it is important to pay special attention to the identification of those offenders who show the greatest risk of continuing victimizing of children, so that the offenders may be incapacitated through extended incarceration;

(7) consistently, experts in the field of criminal justice find that criminal history, especially a history of sexual offenses, is the most important and accurate predictor of whether an individual might commit a sexual offense in the future;

(8)(A) the report issued by the United States Sentencing Commission in 1996 entitled ''Sex Offenses Against Children: Findings and Recommendations Regarding Federal Penalties'' contains a review of the cases of all Federal offenders sentenced for offenses of pornography and transportation of minors for illegal sexual activity and criminal sexual abuse;

(B) in the report, the United States Sentencing Commission found that—

(i) in approximately 20 percent of the cases reviewed by the United States Sentencing Commission, the defendant had a prior sex-related conviction;

(ii) 64 percent of the defendants convicted under sexual abuse guidelines who had prior convictions for sexual offenses had committed sexual crimes against children; and

(iii) for all categories of sexual abuse, the probability that a child was the prior victim of such a defendant was high (ranging from a 50 to 70 percent probability);

(9) incapacitation through extended incarceration will prevent those offenders who engage in a repeated and continuing pattern of sexual exploitation of children from continuing to commit the heinous sexual offenses against children; and

(10) the prevention and elimination of the sexual exploitation of children provides a compelling governmental interest in prohibiting repeated and continuing patterns of child sexual exploitation through extended incarceration.

SEC. 3. DEFINITIONS.

In this Act:

(1) CHILD; CHILDREN.—The term ''child'' or ''children'' means a minor or minors of an age specified in the applicable provision of title 18, United States Code, that is subject to review under this Act.

(2) MINOR.—The term ''minor'' means any individual who has not attained the age of 18, except that, with respect to references to section 2243 of title 18, United States Code, the term means an individual described in subsection (a) of that section.

SEC. 4. INCREASED PENALTIES FOR USE OF A COMPUTER IN THE SEXUAL ABUSE OR EXPLOITATION OF A CHILD.

Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal Sentencing Guidelines on aggravated sexual abuse under section 2241 of title 18, United States Code, sexual abuse under section 2242 of title 18, United States Code, sexual abuse of a minor or ward under section 2243 of title 18, United States Code, coercion and enticement of a juvenile under section 2422(b) of title 18, United States Code, and transportation of minors under section 2423 of title 18, United States Code; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal Sentencing Guidelines to increase penalties if the defendant used a computer with the intent to persuade, induce, entice, or coerce a child of an age specified in the applicable provision referred to in paragraph (1) to engage in any prohibited sexual activity.

SEC. 5. INCREASED PENALTIES FOR KNOWING MISREPRESENTATION IN THE SEXUAL ABUSE OR EXPLOITATION OF A CHILD.

Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal Sentencing Guidelines on aggravated sexual abuse under section 2241 of title 18, United States Code, sexual abuse under section 2242 of title 18, United States Code, sexual abuse of a minor or ward under section 2243 of title 18, United States Code, coercion and enticement of a juvenile under section 2422(b) of title 18, United States Code, and transportation of minors under section 2423 of title 18, United States Code; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal Sentencing Guidelines to increase penalties if the defendant knowingly misrepresented the actual identity of the defendant with the intent to persuade, induce, entice, or coerce a child of an age specified in the applicable provision referred to in paragraph (1) to engage in a prohibited sexual activity.

SEC. 6. INCREASED PENALTIES FOR PATTERN OF ACTIVITY OF SEXUAL EXPLOITATION OF CHILDREN.

Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal Sentencing Guidelines on criminal sexual abuse, the production of sexually explicit material, the possession of materials depicting a child engaging in sexually explicit conduct, coercion and enticement of minors, and the transportation of minors; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal Sentencing Guidelines to increase penalties applicable to the offenses referred to in paragraph (1) in any case in which the defendant engaged in a pattern of activity involving the sexual abuse or exploitation of a minor.

SEC. 7. REPEAT OFFENDERS; INCREASED MAXIMUM PENALTIES FOR TRANSPORTATION FOR ILLEGAL SEXUAL ACTIVITY AND RELATED CRIMES.

(a) REPEAT OFFENDERS.—

(1) CHAPTER 117.—

(A) IN GENERAL.—Chapter 117 of title 18, United States Code, is amended by adding at the end the following:

''§ 2425. Repeat offenders

''(a) IN GENERAL.—Any person described in this subsection shall be subject to the punishment under subsection (b). A person described in this subsection is a person who violates a provision of this chapter, after one or more prior convictions—

''(1) for an offense punishable under this chapter or chapter 109A or 110; or

''(2) under any applicable law of a State relating to conduct punishable under this chapter or chapter 109A or 110.

''(b) PUNISHMENT.—A violation of a provision of this chapter by a person described in subsection (a) is punishable by a term of imprisonment of a period not to exceed twice the period that would otherwise apply under this chapter.''.

(B) CONFORMING AMENDMENT.—The chapter analysis for chapter 117 of title 18, United States Code, is amended by adding at the end the following:

''2425. Repeat offenders.''.

(2) CHAPTER 109A.—Section 2247 of title 18, United States Code, is amended to read as follows:

''§ 2247. Repeat offenders

''(a) IN GENERAL.—Any person described in this subsection shall be subject to the punishment under subsection (b). A person described in this subsection is a person who violates a provision of this chapter, after one or more prior convictions—

''(1) for an offense punishable under this chapter or chapter 110 or 117; or

''(2) under any applicable law of a State relating to conduct punishable under this chapter, or chapter 110 or 117.

''(b) PUNISHMENT.—A violation of a provision of this chapter by a person described in subsection (a) is punishable by a term of imprisonment of a period not to exceed twice the period that would otherwise apply under this chapter.''.

(b) INCREASED MAXIMUM PENALTIES FOR TRANSPORTATION FOR ILLEGAL SEXUAL ACTIVITY AND RELATED CRIMES.—

(1) TRANSPORTATION GENERALLY.—Section 2421 of title 18, United States Code, is amended by striking ''five'' and inserting ''10''.

(2) COERCION AND ENTICEMENT OF MINORS.—Section 2422 of title 18, United States Code, is amended—

(A) in subsection (a), by striking ''five'' and inserting ''10''; and

(B) in subsection (b), by striking ''10'' and inserting ''15''.

(3) TRANSPORTATION OF MINORS.—Section 2423 of title 18, United States Code, is amended—

(A) in subsection (a), by striking ''ten'' and inserting ''15''; and

(B) in subsection (b), by striking ''10'' and inserting ''15''.

(c) AMENDMENT OF SENTENCING GUIDELINES.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal Sentencing Guidelines relating to chapter 117 of title 18, United States Code; and

(2) upon completion of the review under paragraph (1), promulgate such amendments to the Federal Sentencing Guidelines as are necessary to provide for the amendments made by this section.

SEC. 8. CLARIFICATION OF DEFINITION OF DISTRIBUTION OF PORNOGRAPHY.

Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal Sentencing Guidelines relating to the distribution of pornography covered under chapter 110 of title 18, United States Code, relating to the sexual exploitation and other abuse of children; and

(2) upon completion of the review under paragraph (1), promulgate such amendments to the Federal Sentencing Guidelines as are necessary to clarify that the term ''distribution of pornography'' applies to the distribution of pornography—

(A) for monetary remuneration; or

(B) for a nonpecuniary interest.

SEC. 9. DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.

In carrying out this Act, the United States Sentencing Commission shall—

(1) with respect to any action relating to the Federal Sentencing Guidelines subject to this Act, ensure reasonable consistency with other guidelines of the Federal Sentencing Guidelines; and

(2) with respect to an offense subject to the Federal Sentencing Guidelines, avoid duplicative punishment under the guidelines for substantially the same offense.

SEC. 10. AUTHORIZATION FOR GUARDIANS AD LITEM.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Justice, for the purpose specified in subsection (b), such sums as may

be necessary for each of fiscal years 1998 through 2001.

(b) PURPOSE.—The purpose specified in this subsection is the procurement, in accordance with section 3509(h) of title 18, United States Code, of the services of individuals with sufficient professional training, experience, and familiarity with the criminal justice system, social service programs, and child abuse issues to serve as guardians ad litem for children who are the victims of, or witnesses to, a crime involving abuse or exploitation.

SEC. 11. APPLICABILITY.

This Act and the amendments made by this Act shall apply to any action that commences on or after the date of enactment of this Act.

NATIONAL CENTER FOR
MISSING AND EXPLOITED CHILDREN,
Arlington, VA, May 2, 1997.

Hon. RUSSELL D. FEINGOLD,
Senate Judiciary Committee, Subcommittee on the Constitution, Federalism and Property Rights, Washington, DC.

DEAR SENATOR FEINGOLD: I am writing on behalf of the National Center for Missing and Exploited Children to formally express our support for your leadership in addressing child sexual exploitation using the Internet. The legislation you have proposed will go far to strengthen penalties for offenders and provide justice for child victims.

This bill will strengthen federal penalties for those individuals who prey sexually on children and will assure that the enhanced penalties will apply across the board, so offenders don't slip through the cracks of the system and serve one short sentence after another. This piece of legislation will also accomplish the important goal of providing authorization for the appropriation of federal funds to the guardian *ad litem* program. This program permits judges to appoint court guardians to a child victim or witness, to insure that the child's interests and concerns are considered. Unfortunately, the program is rarely utilized, due solely to a lack of funding. This bill would work towards changing that, and providing victimized children with an ally in the courtroom. The components of this legislation are well-researched, comprehensive, and narrowly focused to achieve its specific and laudable aims.

The National Center for Missing and Exploited Children spearheads nationwide efforts to locate and recover missing children, and raise public awareness about ways to prevent child abduction, molestation and sexual exploitation. As you continue your work in support of children and others victimized by criminal offenders, please do not hesitate to contact us if we can be of assistance in any way.

Again, we strongly commend your efforts, and urge other members of the U.S. Senate and Senate Judiciary Committee to join you. Thank you again for your dedication to the interests of America's criminal victims, and feel free to contact me in the future.

Sincerely,

ERNIE ALLEN,
President/CEO.

By Mr. KEMPTHORNE:

S. 901. A bill to provide Federal tax incentives to owners of environmentally sensitive lands to enter into conservation easements for the protection of habitat; to amend the Internal Revenue Code of 1986 to allow a deduction from the gross estate of a decedent in an amount equal to the value of real property subject to an endangered species conservation agreement; and for other purposes; to the Committee on Finance.

THE ENDANGERED SPECIES CONSERVATION TAX INCENTIVES ACT OF 1997

Mr. KEMPTHORNE. Mr. President, I am introducing today legislation which is intended to provide tax incentives for private property owners who wish to participate in the conservation of land for the preservation of endangered, threatened and other species.

For too long the Federal Government has used its enforcement procedures and its regulatory authority to dictate conservation in aid of endangered and threatened species. This method has failed to produce the kind of results we want. The Endangered Species Act as currently written is almost all stick and no carrot. I would like to begin to change that today.

For 18 months I have worked on a bill to reauthorize the Endangered Species Act. Currently, I am in negotiations with the Democrats and the Administration on a bill that will provide a variety of incentives to property owners to preserve habitat through conservation agreements and plans, prelisting agreements and other preservation tools.

I also have a number of ideas on how to provide tax incentives to private property owners to preserve habitat. Because of the opportunity presented by the budget reconciliation bill, I have suggested to the Finance Committee three of the many options I will later propose in a companion bill to the ESA reauthorization. Those three options are included in the legislation that we are introducing today.

Let me emphasize that inclusion of these new tax incentives will truly benefit both species and people. I've met with many property owners who have said, ''we would be happy to step forward and preserve habitat for species and we would grant a conservation easement if there was an incentive.'' Well with adoption of the ideas included in this bill there will be.

I have had critics that have said that we should not provide these kinds of incentives to private property owners because we'll have too many people coming forward and saying, ''I have an endangered species on my land.'' What is wrong with that? To my mind, that would be a welcome reversal from the current prevailing attitude that some have about the presence of an endangered species on their property. Right now you have a situation that some land owners believe that if they do have an endangered species, or if it is suggested that they might, they're just as likely to try to remove the habitat to avoid a problem down the road. We need to change that attitude if we're going to recover endangered species.

We are currently at the crossroads of two systems. One where you have government overregulation that tells people what they can and cannot do on their land, and the other a system that encourages property owners to step forward and do something good for species because it's good for you too.

We can depend on our property owners to do what's right and what's good for species. I know that our farmers and ranchers know how to be innovative and creative. They know how to help species. And they know how to manage land.

The right system is one where we encourage active involvement of landowners through incentives. Certainly, I know that if I were an endangered species, I would much rather have a friendly and willing landlord—one that viewed me as an asset—than a reluctant one who viewed me as a threat and a liability because of some bureaucrats and regulations handed down from Washington, DC.

That's what this legislation will do. It's going to make the people active partners.

Later, when I introduce bipartisan legislation to reauthorize the Endangered Species Act I will also introduce a companion bill with additional new ideas to promote conservation through incentives. But as you know Mr. President, the key to legislating is idea and opportunity. We should take advantage of the opportunities presented by the budget reconciliation bill to help both private property owners and our endangered and threatened species. We can do both.

By Mrs. BOXER:

S. 902. A bill to require physicians to provide certain men with information concerning prostate specific antigen tests and to provide for programs of research on prostate cancer; to the Committee on Labor and Human Resources.

THE PROSTATE TESTING FULL INFORMATION ACT

Mrs. BOXER. Mr. President, today, I introduce the Prostate Testing Full Information Act. In a series of town meetings in my State of California, I brought together the top prostate cancer experts in the State, the head of the urology branch at the National Cancer Institute, and prostate cancer survivors to discuss what can be done to aid in the fight against this disease.

The statistics on prostate cancer are alarming. Based on current U.S. rates, about 19 of every 100 men born today will be diagnosed with prostate cancer during their lifetime, while approximately 4 of every 100 men will die from the disease. Between 1973 and 1993, the rate of new cases of prostate cancer rose by 173 percent. During 1997, approximately 370,000 new cases will be diagnosed and more than 40,000 men will die of prostate cancer.

This bill will require physicians, at the time they perform a prostate examination on men over the age of 50, to inform the patient of the availability of the prostate specific antigen [PSA] test and other appropriate diagnostic procedures.

In addition, the bill increases prostate cancer research funding at the National Institutes of Health and the Agency for Health Care Policy and Research.

I urge my colleagues to join me in cosponsoring this important legislation.

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

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

S. 902

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 ''Prostate Testing Full Information Act''.

SEC. 2. REQUIREMENT RELATING TO CERTAIN PHYSICIANS.

(a) REQUIREMENT.—If a covered physician, during a physical examination, examines the prostate gland of a patient, the physician shall provide information to the patient concerning the availability of appropriate diagnostic procedures, including the prostate antigen test, if any of the following conditions are present:

(1) The patient is over 50 years of age.

(2) The patient manifests clinical symptomatology.

(3) The patient is at an increased risk of prostate cancer.

(4) The provision of the information to the patient is medically necessary, in the opinion of the physician.

(b) ENFORCEMENT.—The Secretary of Health and Human Services shall promulgate regulations that—

(1) require the reporting of covered physicians that violate subsection (a) to the Secretary; and

(2) provide for the application of sanctions to enforce the provisions of subsection (a).

(c) DEFINITION.—In this section, the term ''covered physician'' means a physician as defined in section 1861(r) of the Social Security Act (42 U.S.C. 1395x(r)) who has received any Federal payment or assistance under any program under—

(1) the Public Health Service Act (42 U.S.C. 201 et seq.); or

(2) the Social Security Act (42 U.S.C. 301 et seq.).

SEC. 3. AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (as added by section 603(a) of the Newborns' and Mothers' Health Protection Act of 1996 and amended by section 702(a) of the Mental Health Parity Act of 1996) is amended by adding at the end the following:

''SEC. 713. REQUIREMENT RELATING TO PROSTATE SPECIFIC ANTIGEN TEST.

''(a) REQUIREMENT.—If a physician, during a physical examination, examines the prostate gland of a patient, the physician shall provide information to the patient concerning the availability of appropriate diagnostic procedures, including the prostate antigen test, if any of the following conditions are present:

''(1) The patient is over 50 years of age.

''(2) The patient manifests clinical symptomatology.

''(3) The patient is at an increased risk of prostate cancer, as determined pursuant to regulations promulgated by the Secretary of Health and Human Services.

''(4) The provision of the information to the patient is medically necessary, in the opinion of the physician.

''(b) PROHIBITION ON LIMITATION.—The provision of information in accordance with subsection (a) may not be prohibited under the terms of—

''(1) any written contract or written agreement between the physician and any group health plan, any health insurance issuer providing health insurance coverage in connection with a group health plan, or any related party with respect to a group health plan; or

''(2) any written statement from the plan, issuer, or related party to the physician.

''(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as requiring a group health plan or a health insurance issuer providing health insurance coverage in connection with a group health plan to provide coverage for prostate specific antigen tests.

''(d) DEFINITION.—In this section, the term 'physician' has the meaning given such term in section 1861(r) of the Social Security Act (42 U.S.C. 1395x(r)).''.

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act, as amended by section 603 of the Newborns' and Mothers' Health Protection Act of 1996 and section 702 of the Mental Health Parity Act of 1996, is amended by inserting after the item relating to section 712 the following new item:

''Sec. 713. Requirement relating to prostate specific antigen test.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning on or after January 1, 1998.

SEC. 4. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT RELATING TO THE GROUP MARKET.

(a) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act (as added by section 604(a) of the Newborns' and Mothers' Health Protection Act of 1996 and amended by section 703(a) of the Mental Health Parity Act of 1996) is amended by adding at the end the following new section:

''SEC. 2706. REQUIREMENT RELATING TO PROSTATE SPECIFIC ANTIGEN TEST.

''(a) REQUIREMENT.—If a physician, during a physical examination, examines the prostate gland of a patient, the physician shall provide information to the patient concerning the availability of appropriate diagnostic procedures, including the prostate antigen test, if any of the following conditions are present:

''(1) The patient is over 50 years of age.

''(2) The patient manifests clinical symptomatology.

''(3) The patient is at an increased risk of prostate cancer, as determined pursuant to regulations promulgated by the Secretary of Health and Human Services.

''(4) The provision of the information to the patient is medically necessary, in the opinion of the physician.

''(b) PROHIBITION ON LIMITATION.—The provision of information in accordance with subsection (a) may not be prohibited under the terms of—

''(1) any written contract or written agreement between the physician and any group health plan, any health insurance issuer providing health insurance coverage in connection with a group health plan, or any related party with respect to a group health plan; or

''(2) any written statement from the plan, issuer, or related party to the physician.

''(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as requiring a group health plan or a health insurance issuer providing health insurance coverage in connection with a group health plan to provide coverage for prostate specific antigen tests.

''(d) DEFINITION.—In this section, the term 'physician' has the meaning given such term in section 1861(r) of the Social Security Act (42 U.S.C. 1395x(r)).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to group health plans for plan years beginning on or after January 1, 1998.

SEC. 5. AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT RELATING TO THE INDIVIDUAL MARKET.

(a) IN GENERAL.—Subpart 3 of part B of title XXVII of the Public Health Service Act (as added by section 605(a) of the Newborn's and Mother's Health Protection Act of 1996) is amended by adding at the end the following new section:

''SEC. 2752. REQUIREMENT RELATING TO PROSTATE SPECIFIC ANTIGEN TEST.

''The provisions of section 2706 shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as they apply to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the small or large group market.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after January 1, 1998.

SEC. 6. RESEARCH AND EDUCATION REGARDING PROSTATE CANCER; CERTAIN PROGRAMS OF THE PUBLIC HEALTH SERVICE.

(a) NATIONAL INSTITUTES OF HEALTH.—Section 417B(c) of the Public Health Service Act (42 U.S.C. 286a–8(c)) is amended in the first sentence by striking ''$72,000,000'' and all that follows and inserting the following: ''$90,250,000 for fiscal year 1998, $108,500,000 for fiscal year 1999, $126,500,000 for fiscal year 2000, and $145,000,000 for fiscal year 2001.''.

(b) AGENCY FOR HEALTH CARE POLICY AND RESEARCH.—Section 902 of the Public Health Service Act (42 U.S.C. 299a) is amended by adding at the end the following:

''(f) ACTIVITIES REGARDING PROSTATE CANCER.—The Administrator shall, with respect to prostate cancer—

''(1) conduct and support research on the outcomes, effectiveness, and appropriateness of health services and procedures; and

''(2) in carrying out section 912(a), provide for the development, periodic review, and updating of clinically relevant guidelines, standards of quality, performance measures, and medical review criteria.''.

ADDITIONAL COSPONSORS

S. 293

At the request of Mr. HATCH, the names of the Senator from Maryland [Ms. MIKULSKI], the Senator from Idaho [Mr. CRAIG], the Senator from Nevada [Mr. REID], and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of S. 293, a bill to amend the Internal Revenue Code of 1986 to make permanent the credit for clinical testing expenses for certain drugs for rare diseases or conditions.

S. 370

At the request of Mr. GRASSLEY, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 370, a bill to amend title XVIII of the Social Security Act to provide for increased medicare reimbursement for nurse practitioners and clinical nurse specialists to increase the delivery of health services in health professional shortage areas, and for other purposes.

S. 371

At the request of Mr. GRASSLEY, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 371, a bill to amend title