LIEBERMAN, Mr. MCCAIN, Mr. MURKOWSKI, Mr. ROBERTS, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH of New Hampshire, Mr. TORRICELLI, and Mr. WARNER):

S. 1133. A bill to amend the Internal Revenue Code of 1986 to allow tax-free expenditures from education individual retirement accounts for elementary and secondary school expenses and to increase the maximum annual amount of contributions to such accounts; to the Committee on Finance.

By Mrs. MURRAY (for herself, Mr. CRAIG, Mr. WYDEN, Mr. BAUCUS, Mr. MURKOWSKI, Mr. SMITH of Oregon, Mr. BURNS, Mr. GORTON, and Mr. KEMPTHORNE):

S. 1134. A bill granting the consent and approval of Congress to an interstate forest fire protection compact; to the Committee on the Judiciary.

By Mr. MCCONNELL:

S. 1135. A bill to provide certain immunities from civil liability for trade and professional associations, and for other purposes; to the Committee on the Judiciary.

By Mr. DURBIN:

S. 1136. A bill to amend the Employee Retirement Income Security Act of 1974 to provide that the State preemption rules shall not apply to certain actions under State law to protect health insurance policyholders; to the Committee on Labor and Human Resources.

S. 1137. A bill to amend section 258 of the Communications Act of 1934 to establish additional protections against the unauthorized change of subscribers from one telecommunications carrier to another; to the Committee on Commerce, Science, and Transportation.

By Mr. HELMS (for himself, Mr. BROWNBACK, Mr. BURNS, Mr. HAGEL, and Mr. ROBERTS):

S. 1138. A bill to reform the coastwise, intercoastal, and noncontiguous trade shipping laws, and for other purposes; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. THURMOND:

S. Res. 111. A resolution designating the week beginning September 14, 1997, as ''National Historically Black Colleges and Universities Week'', and for other purposes; to the Committee on the Judiciary.

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

S. Res. 112. A resolution condemning the most recent outbreak of violence in the Republic of Congo and recognizing the threat such violence poses to the prospects for a stable democratic form of government in that country; to the Committee on Foreign Relations.

By Mr. GRAHAM:

S. Res. 113. A resolution congratulating the people of Jamaica on the occasion of the 35th anniversary of their nation's independence and expressing support for the continuation of strong ties between Jamaica and the United States; to the Committee on Foreign Relations.

By Mr. TORRICELLI (for himself and Mr. BROWNBACK):

S. Res. 114. A resolution expressing the sense of the Senate that the transfer of Hong Kong to the People's Republic of China not alter the current or future status of Taiwan as a free and democratic country; to the Committee on Foreign Relations.

By Mrs. BOXER (for herself and Mr. JOHNSON):

S. Res. 115. A resolution expressing support for a National Day of Unity in response to the President's call for a national dialogue on race; to the Committee on the Judiciary.

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

S. Res. 116. A resolution designating November 15, 1997, and November 15, 1998, as ''America Recycles Day''; to the Committee on the Judiciary.

By Mr. LUGAR (for himself and Mr. ROCKEFELLER):

S. Con. Res. 47. A concurrent resolution expressing the sense of Congress that the United States Government should fully participate in EXPO 2000 in the year 2000, in Hanover, Germany, and should encourage the academic community and the private sector in the United States to support this worthwhile undertaking; to the Committee on Foreign Relations.

By Mr. KYL (for himself, Mrs. FEINSTEIN, Mr. SHELBY, Mr. ALLARD, Mr. ASHCROFT, Mr. BROWNBACK, Mr. BURNS, Mr. D'AMATO, Mr. INHOFE, Mr. JOHNSON, Ms. MIKULSKI, and Mr. SPECTER):

S. Con. Res. 48. A concurrent resolution expressing the sense of the Congress regarding proliferation of missile technology from Russia to Iran; to the Committee on Foreign Relations.

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

S. Con. Res. 49. A concurrent resolution authorizing use of the Capitol Grounds for ''America Recycles Day'' national kick-off campaign; to the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ALLARD:

S. 1094. A bill to authorize the use of certain public housing operating funds to provide tenant-based assistance to public housing residents; to the Committee on Banking, Housing, and Urban Affairs.

THE CRIME VICTIM HOUSING VOUCHERS BILL

JULY 30, 1997

Mr. ALLARD. Today, Mr. President, I would like to introduce a bill that would provide for more public housing vouchers. I have been working on this issue in the Housing Subcommittee, and it is my hope that a similar provision will be placed in the Public Housing bill.

The original intent of the Federal housing assistance program was to provide temporary housing to poor individuals and families. Since their inception, federal housing programs have grown dramatically. Today they provide $25 billion per year in housing assistance.

In my view, the voucher program is the best means for low-income families to find secure affordable rental housing. The voucher program first began in 1974 and has grown to serve over 1.5 million low-income families today. These families are empowered with the choice of where they want to live and are given the freedom to determine what surroundings they desire. Vouchers are the preferable means of providing affordable housing to low-income individuals.

Vouchers enjoy wide support, including past Republican and Democratic administrations. In fact, the current Secretary of HUD, Secretary Andrew Cuomo supports an expanded voucher program.

Vouchers are very popular, which is demonstrated by the 1.5 million families who are currently using vouchers or certificates. Vouchers empower individuals and promote competition within Public Housing Authorities and within the community, thereby lowering costs and improving conditions for the residents. Vouchers or other alternatives can be less expensive than the current public housing program; they can save the government money, and improve conditions for the tenants.

Studies have indicated that project-based housing assistance costs more on average than the voucher housing program. In fact, the findings of the June 1995 GAO report indicated that housing vouchers cost 10 percent less than project-based housing. This study clearly demonstrated that on a national average, the section 8 tenant-based housing program is cheaper than the public unit-based housing program. In fact, one can say that the savings from the movement to vouchers would amount to $640 million per year which could add additional housing assistance.

Under this legislation, ten percent of the public housing operating funds that are distributed to each public housing authority would be made available for those who currently live in the public housing unit and wish to be given a voucher. Nothing would be required or mandated; it is simply a choice given to the resident. In fact, we make clear that any unexpended amounts set aside for vouchers would be used by the PHAs for normal operating funds.

Quite frankly, I really don't know how anyone could oppose this provision unless they are just opposed to giving people a choice and an opportunity.

The language that I have proposed also establishes a preference for crime victims. It states that a voucher will be made available to any resident of public housing who is the victim of a crime of violence that has been reported to law enforcement. People should have the option of vouchers when their housing is unsafe.

My strong belief is that we should increase the pace at which we move ahead with the conversion of housing from the old central planning and concentrated public housing model, to one of choice and opportunities through the use of vouchers.

By Mr. ROBERTS (for himself, Mr. BINGAMAN, Mr. BROWNBACK, Mr. CAMPBELL, Mr. DOMENICI and Mr. INOUYE):

S. 1095. A bill to enhance the administrative authority of the respective presidents of Haskell Indian Nations University and the Southwestern Indian Polytechnic Institute, and for other purposes; to the Committee on Indian Affairs.

THE HASKELL INDIAN NATIONS UNIVERSITY AND SOUTHWESTERN INDIAN POLYTECHNIC INSTITUTE ADMINISTRATIVE SYSTEMS ACT OF 1997

Mr. ROBERTS. Mr. President, I rise today to introduce the Haskell Indian Nations University and Southwestern Indian Polytechnic Institute Administrative Systems Act of 1997. I am pleased to have my colleagues, Senators SAM BROWNBACK, JEFF BINGAMAN, PETE DOMENICI, and DANIEL INOUYE, and Indian Affairs Committee Chairman Senator BEN NIGHTHORSE CAMPBELL as cosponsors. This legislation will provide Haskell Indian Nations University and Southwestern Indian Polytechnic Institute the administrative authority and flexibility to complete their transitions from two year institutions to a 4-year university for Haskell, and a national community college for SIPI.

Located in Lawrence, KS, Haskell is an educational institution rich in history and opportunity for American Indian and Alaskan Native communities. Founded in 1884 as the United States Indian Industrial Training School, Haskell has grown from a school providing agricultural education for grades one through five to a fully accredited four-year university. In October 1993, Haskell changed its name from Haskell Indian Junior College to Haskell Indian Nations University after receiving accreditation to offer a bachelor of science degree in elementary teacher education. Since its inception, Haskell has provided tuition-free education, culturally sensitive curricula, innovative services and a commitment to academic excellence to federally recognized tribal members. With as many as 175 tribes represented in the student body, Haskell offers Native American history, institutions, arts, literature, and language courses integrating the perspectives of various Native American cultures. Haskell continues development of 4-year programs in other fields, striving to meet the challenge of enriching the lives of young native Americans and Alaska Natives.

I support Haskell's vision to become a national center for Indian education, research, and cultural programs; increasing the knowledge and supporting the educational needs of American Indians and Alaskan Natives. This legislation, which allows the institution to remain within the Bureau of Indian Affairs and employees to continue participation in Federal retirement and health benefit programs, provides the Haskell president and Board of Regents authority over organizational structure, classification of positions, recruitment, procurement, and determination of all human resource policies and procedures. In short, this legislation completes Haskell's transition by giving the school the autonomy enjoyed by the tribally controlled community colleges and BIA elementary and secondary schools. As Haskell continues to change and meet the educational demands of native Americans and Alaskan Natives into the 21st Century, so too should the system by which Haskell is administered change and grow. The Haskell Indian Nations University and Southwestern Indian Polytechnic Institute Administrative Systems Act of 1997 complements the educational and administrative efforts of these schools, giving Haskell and SIPI the support and flexibility required to progress and develop into outstanding institutions of higher learning. My Kansas colleague, Representative VINCENT SNOWBARGER, has introduced this bill in the House of Representatives.

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

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

S. 1095

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 ''Haskell Indian Nations University and Southwestern Indian Polytechnic Institute Administrative Systems Act of 1997''.

SEC. 2. FINDINGS.

The Congress finds that—

(1) the provision of culturally sensitive curricula for higher education programs at Haskell Indian Nations University and the Southwestern Indian Polytechnic Institute is consistent with the commitment of the Federal Government to the fulfillment of treaty obligations to Indian tribes through the principle of self-determination and the use of Federal resources; and

(2) giving a greater degree of autonomy to those institutions, while maintaining them as an integral part of the Bureau of Indian Affairs, will facilitate—

(A) the transition of Haskell Indian Nations University to a 4-year university; and

(B) the administration and improvement of the academic program of the Southwestern Indian Polytechnic Institute.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) HASKELL INDIAN NATIONS UNIVERSITY.—The term ''Haskell Indian Nations University'' means Haskell Indian Nations University, located in Lawrence, Kansas.

(2) SOUTHWESTERN INDIAN POLYTECHNIC INSTITUTE.—The term ''Southwestern Indian Polytechnic Institute'' means the Southwestern Indian Polytechnic Institute, located in Albuquerque, New Mexico.

(3) RESPECTIVE INSTITUTIONS, ETC.—The terms ''respective institutions'' and ''institutions to which this Act applies'' mean Haskell Indian Nations University and the Southwestern Indian Polytechnic Institute.

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

SEC. 4. PERSONNEL MANAGEMENT.

(a) INAPPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—Chapters 51, 53, and 63 of title 5, United States Code (relating to classification, pay, and leave, respectively) and the provisions of such title relating to the appointment, performance evaluation, promotion, and removal of civil service employees shall not apply to applicants for employment with, employees of, or positions in or under either of the institutions to which this Act applies.

(b) ALTERNATIVE PERSONNEL MANAGEMENT PROVISIONS.—

(1) IN GENERAL.—The president of each of the respective institutions shall by regulation prescribe such personnel management provisions as may be necessary, in the interest of effective administration, to replace the provisions of law that are inapplicable with respect to such institution by reason of subsection (a).

(2) PROCEDURAL REQUIREMENTS.—Regulations under this subsection—

(A) shall be prescribed in consultation with the board of regents (or, if none, the governing body) of the institution involved and other appropriate representative bodies;

(B) shall be subject to the requirements of subsections (b) through (e) of section 553 of title 5, United States Code; and

(C) shall not take effect except with the prior written approval of the Secretary.

(c) SPECIFIC SUBSTANTIVE REQUIREMENTS.—Under the regulations prescribed for an institution under this section—

(1) no rate of basic pay may, at any time, exceed—

(A) in the case of an employee who would otherwise be subject to the General Schedule, the maximum rate of basic pay then currently payable for grade GS–15 of the General Schedule (including any amount payable under section 5304 of title 5, United States Code, or other similar authority for the locality involved); or

(B) in the case of an employee who would otherwise be subject to subchapter IV of chapter 53 of title 5, United States Code (relating to prevailing rate systems), the maximum rate of basic pay which (but for this section) would then otherwise be currently payable under the wage schedule covering such employee;

(2) section 5307 of title 5, United States Code (relating to limitation on certain payments) shall apply, subject to such definitional and other modifications as may be necessary in the context of the applicable alternative personnel management provisions under this section;

(3) procedures shall be established for the rapid and equitable resolution of grievances;

(4) no employee may be discharged without notice of the reasons therefor and opportunity for a hearing under procedures that comport with the requirements of due process, except that this paragraph shall not apply in the case of an employee serving a probationary or trial period under an initial appointment; and

(5) employees serving for a period specified in or determinable under an employment agreement shall, except as otherwise provided in the agreement, be notified at least 30 days before the end of such period as to whether their employment agreement will be renewed.

(d) RULE OF CONSTRUCTION.—Nothing in this section shall be considered to affect the applicability of—

(1) any provision of law providing for—

(A) equal employment opportunity;

(B) Indian preference; or

(C) veterans' preference;

(2) any provision of chapter 23 of title 5, United States Code, or any other provision of such title, relating to merit system principles or prohibited personnel practices; or

(3) chapter 71 of title 5, United States Code, relating to labor-management and employee relations.

(e) LABOR-MANAGEMENT PROVISIONS.—

(1) COLLECTIVE-BARGAINING AGREEMENTS.—Any collective-bargaining agreement in effect on the day before the applicable effective date under subsection (f)(1) shall continue to be recognized by the institution involved until altered or amended pursuant to law.

(2) EXCLUSIVE REPRESENTATIVE.—Nothing in this Act shall affect the right of any labor organization to be accorded (or to continue to be accorded) recognition as the exclusive representative of any unit of employees.

(3) OTHER PROVISIONS.—Matters made subject to regulation under this section shall not be subject to collective bargaining.

(f) EFFECTIVE DATE.—

(1) ALTERNATIVE PERSONNEL MANAGEMENT PROVISIONS.—Any alternative personnel management provisions under this section shall take effect on such date as may be specified in the regulations applicable with respect to the institution involved, except that in no event shall the date specified be later than 1 year after the date of the enactment of this Act.

(2) PROVISIONS MADE INAPPLICABLE BY THIS SECTION.—Subsection (a) shall, with respect to an institution, take effect as of the effective date specified with respect to such institution under paragraph (1).

(g) APPLICABILITY.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the alternative personnel management provisions under this section shall apply with respect to all applicants for employment with, all employees of, and all positions in or under the institution involved.

(2) CURRENT EMPLOYEES NOT COVERED EXCEPT PURSUANT TO A VOLUNTARY ELECTION.—

(A) IN GENERAL.—An employee serving with an institution on the day before the applicable effective date under subsection (f)(1) shall not be subject to such institution's alternative personnel management provisions (and shall instead, for purposes of such institution, be treated in the same way as if this section had not been enacted, notwithstanding subsection (a)) unless, before the end of the 5-year period beginning on such effective date, such employee elects to be covered by such provisions.

(B) PROCEDURES.—An election under this paragraph shall be made in such form and in such manner as may be required under the regulations, and shall be irrevocable.

(3) TRANSITION PROVISIONS.—

(A) PROVISIONS RELATING TO ANNUAL AND SICK LEAVE.—Any individual who—

(i) makes an election under paragraph (2), or

(ii) on or after the applicable effective date under subsection (f)(1), is transferred, promoted, or reappointed, without a break in service of 3 days or longer, to a position within an institution to which this Act applies from a position with the Federal Government or the government of the District of Columbia,

shall be credited, for the purpose of the leave system provided under regulations prescribed under this section, in conformance with the requirements of section 6308 of title 5, United States Code, with the annual and sick leave to such individual's credit immediately before the effective date of such election, transfer, promotion, or reappointment, as the case may be.

(B) LIQUIDATION OF REMAINING LEAVE UPON TERMINATION.—

(i) ANNUAL LEAVE.—Upon termination of employment with an institution to which this Act applies, any annual leave remaining to the credit of an individual within the purview of this section shall be liquidated in accordance with section 5551(a) and section 6306 of title 5, United States Code.

(ii) SICK LEAVE.—Upon termination of employment with an institution to which this Act applies, any sick leave remaining to the credit of an individual within the purview of this section shall be creditable for civil service retirement purposes in accordance with section 8339(m) of title 5, United States Code, except that leave earned or accrued under regulations prescribed under this section shall not be so creditable.

(C) TRANSFER OF REMAINING LEAVE UPON TRANSFER, PROMOTION, OR REEMPLOYMENT.—In the case of an employee of an institution to which this Act applies who is transferred, promoted, or reappointed, without a break in service of 3 days or longer, to a position in the Federal Government (or the government of the District of Columbia) under a different leave system, any leave remaining to the credit of that individual which was earned or credited under the regulations prescribed under this section shall be transferred to such individual's credit in the employing agency on an adjusted basis in accordance with section 6308 of title 5, United States Code.

(4) WORK-STUDY.—Nothing in this section shall be considered to apply with respect to a work-study student, as defined by the president of the institution involved, in writing.

SEC. 5. DELEGATION OF PROCUREMENT AUTHORITY.

The Secretary shall, to the maximum extent consistent with applicable law and subject to the availability of appropriations therefor, delegate to the president of each of the respective institutions procurement and contracting authority with respect to the conduct of the administrative functions of such institution.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to each of the respective institutions for fiscal year 1998, and for each fiscal year thereafter—

(1) the amount of funds made available by appropriations as operations funding for the administration of such institution for fiscal year 1997; and

(2) such additional sums as may be necessary for the operation of such institution pursuant to this Act.

Mr. BINGAMAN. Mr. President, I am pleased to join my colleague from the State of Kansas, Senator ROBERTS, in introducing a bill that will enable two Tribal Colleges to pursue their missions without the burden of unnecessary Federal regulations. Like Haskell Indian Nations University, the Southwestern Indian Polytechnic Institute of Albuquerque (SIPI) is one of about 30 Tribal Colleges that is supported by the Bureau of Indian Affairs. Many of the students at these colleges are the first in their families to attend college, and having a Tribal College near their home and in tune with their tradition is critical to their education and economic success. Both Haskell and SIPI have grown in academic stature in the past few decades. SIPI recently marked its 25th anniversary and adopted a Master Plan that will guide the growth of its programs and facilities beyond the year 2000.

A recent report by the Carnegie Foundation for the Advancement of Teaching entitled ''Native American Colleges: Progress and Prospects,'' documents the critical role that these colleges play in offering Native Americans access to higher education. This report also traces the history of the relationship between the Federal government and Tribal Colleges. Haskell and SIPI are the only Tribal Colleges that are administered by the Bureau of Indian Affairs, and as a result are bound by the personnel regulations that apply to Federal agencies. At one time, this policy made sense and allowed these two universities to establish an administrative infrastructure and academic programs. But as the Carnegie Foundation report points out, the relationship between the Federal government and Tribal Colleges should evolve as the institutions take on more self-determination. The time has come to enact legislation that reflects the growth of these institutions.

The Federal personnel regulations imposed on SIPI and Haskell are inappropriate for institutions of higher education and are not recognized by accreditation organizations. This bill would allow Haskell and SIPI to establish independent authority over their personnel policies and practices. There is a world of difference between a Federal agency and a thriving institution of higher education, and these differences should be reflected in their personnel classification, pay systems, and policies for hiring and promotion. SIPI needs the authority to hire and promote faculty and staff on the basis of their intellect and the excellence of their teaching, research, and service to the institution.

The U.S. military academies have encountered these same obstacles, and they have adopted alternative personnel regulations approved by the Office of Personnel Management. The personnel authority that would be established under this bill have been modeled after those in use by the U.S. Air Force Academy. OPM has been consulted and is in agreement with the contents of this bill.

I agree with the Carnegie Foundation's report when it says: ''These institutions have taken on a breathtaking array of responsibilities. With each passing year, tribal colleges prove their worth to tribal communities, and to the nation. They can longer be dismissed as risky experiments, nor can their accomplishments be ignored. They are a permanent part of their reservations and this country.''

I applaud Senator ROBERTS' efforts to develop and introduce this legislation. I look forward to working with him and with Senators CAMPBELL and INOUYE of the Committee on Indian Affairs to provide these two institutions with the flexibility they need to continue to flourish.

By Mr. KERREY (for himself and Mr. GRASSLEY):

S. 1096. A bill to restructure the Internal Revenue Service, and for other purposes; to the Committee on Finance.

THE INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1997

Mr. KERREY. Madam 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. 1096

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; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Internal Revenue Service Restructuring and Reform 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.

(c) TABLE OF CONTENTS.—

SEC. 2. CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSES.

(a) The Congress finds the following:

(1) The structure of the Internal Revenue Service should be strengthened to ensure focus and better target its budgeting, staffing, and technology to serve the American taxpayer and collect the Federal revenue.

(2) The American public expects timely, accurate, and respectful service from the Internal Revenue Service.

(3) The job of the Internal Revenue Service is to operate as an efficient financial management organization.

(4) The bulk of the Federal revenue is generated through voluntary compliance. Taxpayer service and education, as well as targeted compliance and enforcement initiatives, increase voluntary compliance.

(5) While the Internal Revenue Service must maintain a strong enforcement presence, its core and the core of the Federal revenue stream lie in a revamped, modern, technologically advanced organization that can track finances, send out clear notices, and assist taxpayers promptly and efficiently.

(6) The Internal Revenue Service governance, management, and oversight structures must: develop and maintain a shared vision with continuity; set and maintain priorities and strategic direction; impose accountability on senior management; provide oversight through a credible board, including members who bring private sector expertise to the Internal Revenue Service; develop appropriate measures of success; align budget and technology with priorities and strategic direction; and coordinate oversight and identify problems at an early stage.

(7) The Internal Revenue Service must use information technology as an enabler of its strategic objectives.

(8) Electronic filing can increase cost savings and compliance.

(9) In order to ensure that fewer taxpayers are subject to improper treatment by the Internal Revenue Service, Congress and the agency need to focus on preventing problems before they occur.

(10) There currently is no mechanism in place to ensure that Members of Congress have a complete understanding of how tax legislation will affect taxpayers and the Internal Revenue Service and to create incentives to simplify the tax law, and to ensure that Congress hears directly from the Internal Revenue Service during the legislative process.

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

(1) To restructure the Internal Revenue Service, transforming it into a world class service organization.

(2) To establish taxpayer satisfaction as the goal of the Internal Revenue Service, such that the Internal Revenue Service should only initiate contact with a taxpayer if the agency is prepared to devote the resources necessary for a proper and timely resolution of the matter.

(3) To provide for direct accountability to the President for tax administration, an Internal Revenue Service Oversight Board, a strengthened Commissioner of Internal Revenue, and coordinated congressional oversight to ensure that there are clear lines of accountability and that the leadership of the Internal Revenue Service has the continuity and expertise to guide the agency.

(4) To enable the Internal Revenue Service to recruit and train a first-class workforce that will be rewarded for performance and held accountable for working with taxpayers to solve problems.

(5) To establish paperless filing as the preferred and most convenient means of filing tax returns for the vast majority of taxpayers within 10 years of enactment of this Act.

(6) To provide additional taxpayer protections and rights and to ensure that taxpayers receive fair, impartial, timely, and courteous treatment from the Internal Revenue Service.

(7) To establish the resolution of the century date change problem as the highest technology priority of the Internal Revenue Service.

(8) To establish procedures to minimize complexity in the tax law and simplify tax administration, and provide Congress with an independent view of tax administration from the Internal Revenue Service.

TITLE I—EXECUTIVE BRANCH GOVERNANCE AND SENIOR MANAGEMENT OF THE INTERNAL REVENUE SERVICE

Subtitle A—Executive Branch Governance and Senior Management

SEC. 101. INTERNAL REVENUE SERVICE OVERSIGHT BOARD.

(a) IN GENERAL.—Section 7802 (relating to the Commissioner of Internal Revenue) is amended to read as follows:

''SEC. 7802. INTERNAL REVENUE SERVICE OVERSIGHT BOARD.

''(a) ESTABLISHMENT.—There is established within the Department of the Treasury the Internal Revenue Service Oversight Board (in this subchapter referred to as the 'Board').

''(b) MEMBERSHIP.—

''(1) COMPOSITION.—The Board shall be composed of 9 members, of whom—

''(A) 7 shall be individuals who are not full-time Federal officers or employees, who are appointed by the President, by and with the advice and consent of the Senate, and who shall be considered special government employees pursuant to paragraph (2),

''(B) 1 shall be the Secretary of the Treasury or, if the Secretary so designates, the Deputy Secretary of the Treasury, and

''(C) 1 shall be a representative of an organization that represents a substantial number of Internal Revenue Service employees who is appointed by the President, by and with the advice and consent of the Senate.

''(2) SPECIAL GOVERNMENT EMPLOYEES.—

''(A) QUALIFICATIONS.—Members of the Board described in paragraph (1)(A) shall be appointed solely on the basis of their professional experience and expertise in the following areas:

''(i) Management of large service organizations.

''(ii) Customer service.

''(iii) Compliance.

''(iv) Information technology.

''(v) Organization development.

''(vi) The needs and concerns of taxpayers.

In the aggregate, the members of the Board described in paragraph (1)(A) should collectively bring to bear expertise in these enumerated areas.

''(B) TERMS.—Each member who is described in paragraph (1)(A) shall be appointed for a term of 5 years, except that of the members first appointed—

''(i) 1 member shall be appointed for a term of 1 year,

''(ii) 1 member shall be appointed for a term of 2 years,

''(iii) 2 members shall be appointed for a term of 3 years, and

''(iv) 1 member shall be appointed for a term of 4 years.

''(C) REAPPOINTMENT.—An individual who is described in paragraph (1)(A) may be appointed to no more than two 5-year terms on the Board.

''(D) SPECIAL GOVERNMENT EMPLOYEES.—During such periods as they are performing services for the Board, members who are not Federal officers or employees shall be treated as special government employees (as defined in section 202 of title 18, United States Code).

''(E) CLAIMS.—

''(i) IN GENERAL.—Members of the Board who are described in paragraph (1)(A) shall have no personal liability under Federal law with respect to any claim arising out of or resulting from an act or omission by such member within the scope of service as a member. The preceding sentence shall not be construed to limit personal liability for criminal acts or omissions, willful or malicious conduct, acts or omissions for private gain, or any other act or omission outside the scope of the service of such member on the Board.

''(ii) EFFECT ON OTHER LAW.—This subparagraph shall not be construed—

''(I) to affect any other immunities and protections that may be available to such member under applicable law with respect to such transactions,

''(II) to affect any other right or remedy against the United States under applicable law, or

''(III) to limit or alter in any way the immunities that are available under applicable law for Federal officers and employees not described in this subparagraph.

''(3) VACANCY.—Any vacancy on the Board—

''(A) shall not affect the powers of the Board, and

''(B) shall be filled in the same manner as the original appointment.

''(4) REMOVAL.—

''(A) IN GENERAL.—A member of the Board may be removed at the will of the President.

''(B) SECRETARY OR DELEGATE.—An individual described in subsection (b)(1)(B) shall be removed upon termination of employment.

''(C) REPRESENTATIVE OF INTERNAL REVENUE SERVICE EMPLOYEES.—A member who is from an organization that represents a substantial number of Internal Revenue Service employees shall be removed upon termination of employment, membership, or other affiliation with such organization.

''(c) GENERAL RESPONSIBILITIES.—

''(1) IN GENERAL.—The Board shall oversee the Internal Revenue Service in the administration, management, conduct, direction, and supervision of the execution and application of the internal revenue laws or related statutes and tax conventions to which the United States is a party.

''(2) EXCEPTIONS.—The Board shall have no responsibilities or authority with respect to—

''(A) the development and formulation of Federal tax policy relating to existing or proposed internal revenue laws, related statutes, and tax conventions,

''(B) specific law enforcement activities of the Internal Revenue Service, including compliance activities such as criminal investigations, examinations, and collection activities, or

''(C) specific activities of the Internal Revenue Service delegated to employees of the Internal Revenue Service pursuant to delegation orders in effect as of the date of the enactment of this subsection, including delegation order 106 relating to procurement authority, except to the extent that such delegation orders are modified subsequently by the Secretary.

''(3) RESTRICTION ON DISCLOSURE OF RETURN INFORMATION TO BOARD MEMBERS.—No return, return information, or taxpayer return information (as defined in section 6103(b)) may be disclosed to any member of the Board described in subsection (b)(1)(A) or (C). Any request for information not permitted to be disclosed under the preceding sentence, and any contact relating to a specific taxpayer, made by a member of the Board to an officer or employee of the Internal Revenue Service shall be reported by such officer or employee to the Secretary and the Joint Committee on Taxation.

''(d) SPECIFIC RESPONSIBILITIES.—The Board shall have the following specific responsibilities:

''(1) STRATEGIC PLANS.—To review and approve strategic plans of the Internal Revenue Service, including the establishment of—

''(A) mission and objectives, and standards of performance relative to either, and

''(B) annual and long-range strategic plans.

''(2) OPERATIONAL PLANS.—To review the operational functions of the Internal Revenue Service, including—

''(A) plans for modernization of the tax system,

''(B) plans for outsourcing or managed competition, and

''(C) plans for training and education.

''(3) MANAGEMENT.—To provide for—

''(A) the selection and appointment, evaluation, and removal of the Commissioner of Internal Revenue,

''(B) the review of the Commissioner's selection, evaluation, and compensation of senior managers, and

''(C) the review of the Commissioner's plans for reorganization of the Internal Revenue Service.

''(4) BUDGET.—To—

''(A) review and approve the budget request of the Internal Revenue Service prepared by the Commissioner,

''(B) submit such budget request to the Secretary of the Treasury,

''(C) ensure that the budget request supports the annual and long-range strategic plans, and

''(D) ensure appropriate financial audits of the Internal Revenue Service.

The Secretary shall submit the budget request referred to in subparagraph (B) for any fiscal year to the President who shall submit such request, without revision, to Congress together with the President's annual budget request for the Internal Revenue Service for such fiscal year.

''(e) BOARD PERSONNEL MATTERS.—

''(1) COMPENSATION OF MEMBERS.—

''(A) IN GENERAL.—Each member of the Board who is described in subsection (b)(1)(A) shall be compensated at a rate of $30,000 per year. All other members of the Board shall serve without compensation for such service.

''(B) CHAIRPERSON.—In lieu of the amount specified in subparagraph (A), the Chairperson of the Board shall be compensated at a rate of $50,000 per year if such Chairperson is described in subsection (b)(1)(A).

''(2) TRAVEL EXPENSES.—The members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.

''(3) STAFF.—On the request of the Chairperson of the Board, the Commissioner shall detail to the Board such personnel as may be necessary to enable the Board to perform its duties. Such detail shall be without interruption or loss of civil service status or privilege.

''(4) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Board may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

''(f) ADMINISTRATIVE MATTERS.—

''(1) CHAIR.—The members of the Board shall elect a chairperson for a 2-year term.

''(2) COMMITTEES.—The Board may establish such committees as the Board determines appropriate.

''(3) MEETINGS.—The Board shall meet at least once each month and at such other times as the Board determines appropriate.

''(4) REPORTS.—The Board shall each year report to the President and the Congress with respect to the conduct of its responsibilities under this title.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 4946(c) (relating to definitions and special rules for chapter 42) is amended—

(A) by striking ''or'' at the end of paragraph (5),

(B) by striking the period at the end of paragraph (6) and inserting '', or'', and

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

''(7) a member of the Internal Revenue Service Oversight Board.''.

(2) The table of sections for subchapter A of chapter 80 is amended by striking the item relating to section 7802 and inserting the following new item:

''Sec. 7802. Internal Revenue Service Oversight Board.''

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 102. COMMISSIONER OF INTERNAL REVENUE; CHIEF COUNSEL; OTHER OFFICIALS.

(a) IN GENERAL.—Section 7803 (relating to other personnel) is amended to read as follows:

''SEC. 7803. COMMISSIONER OF INTERNAL REVENUE; CHIEF COUNSEL; OTHER OFFICIALS.

''(a) COMMISSIONER OF INTERNAL REVENUE.—

''(1) APPOINTMENT.—There shall be in the Department of the Treasury a Commissioner of Internal Revenue who shall be appointed by the Internal Revenue Service Oversight Board to a 5-year term and compensated without regard to chapters 33, 51, and 53 of title 5, United States Code. The appointment shall be made on the basis of demonstrated ability in management and without regard to political affiliation or activity. The Board may reappoint the Commissioner to subsequent terms so long as performance is satisfactory or better.

''(2) DUTIES.—The Commissioner shall—

''(A) administer, manage, conduct, direct, and supervise the execution and application of the internal revenue laws or related statutes and tax conventions to which the United States is a party; and

''(B) when a vacancy occurs, recommend a candidate for appointment as Chief Counsel for the Internal Revenue Service to the President, and may recommend the removal of such Chief Counsel to the President.

''(3) CONSULTATION WITH BOARD.—The Commissioner shall consult with the Board on all matters set forth in paragraphs (2) and (3) (other than subparagraph (A)) of section 7802(d)(2).

''(4) PAY.—The Commissioner is authorized to be paid at an annual rate of basic pay not to exceed the maximum rate of basic pay of level II of the Executive Schedule under section 5311 of title 5, United States Code, including any applicable locality-based comparability payment that may be authorized under section 5304 of such title 5.

''(b) CHIEF COUNSEL FOR THE INTERNAL REVENUE SERVICE.—

''(1) APPOINTMENT.—There shall be in the Department of the Treasury a Chief Counsel for the Internal Revenue Service who shall be appointed by the President, by and with the advice and consent of the Senate.

''(2) DUTIES.—The Chief Counsel shall be the chief law officer for the Internal Revenue Service and shall perform such duties as may be prescribed by the Secretary of the Treasury. To the extent that the Chief Counsel performs duties relating to the development of rules and regulations promulgated under this title, final decision making authority shall remain with the Secretary.

''(3) PAY.—The Chief Counsel is authorized to be paid at an annual rate of basic pay not to exceed the maximum rate of basic pay of level III of the Executive Schedule under section 5311 of title 5, United States Code, including any applicable locality-based comparability payment that may be authorized under section 5304 of such title 5.

''(c) ASSISTANT COMMISSIONER FOR EMPLOYEE PLANS AND EXEMPT ORGANIZATIONS.—

''(1) ESTABLISHMENT OF OFFICE.—There is established within the Internal Revenue Service an office to be known as the 'Office of Employee Plans and Exempt Organizations' to be under the supervision and direction of an Assistant Commissioner of Internal Revenue. As head of the Office, the Assistant Commissioner shall be responsible for carrying out such functions as the Secretary may prescribe with respect to organizations exempt from tax under section 501(a) and with respect to plans to which part I of subchapter D of chapter 1 applies (and with respect to organizations designed to be exempt under such section and plans designed to be plans to which such part applies) and other nonqualified deferred compensation arrangements. The Assistant Commissioner shall report annually to the Commissioner with respect to the Assistant Commissioner's responsibilities under this section.

''(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be apxpropriated to the Internal Revenue Service solely to carry out the functions of the Office an amount equal to the sum of—

''(A) so much of the collection from taxes under section 4940 (relating to excise tax based on investment income) as would have been collected if the rate of tax under such section was 2 percent during the second preceding fiscal year, and

''(B) the greater of—

''(i) an amount equal to the amount described in subparagraph (A), or

''(ii) $30,000,000.

''(3) USER FEES.—All user fees collected by the Office shall be dedicated to carry out the functions of the Office.

''(d) OFFICE OF TAXPAYER ADVOCATE.—

''(1) IN GENERAL.—

''(A) There is established in the Internal Revenue Service an office to be known as the 'Office of the Taxpayer Advocate'. Such office shall be under the supervision and direction of an official to be known as the 'Taxpayer Advocate' who shall be appointed by and report directly to the Commissioner of Internal Revenue, with the approval of the Internal Revenue Service Oversight Board. The Taxpayer Advocate shall be entitled to compensation at the same rate as the highest level official reporting directly to the Commissioner of Internal Revenue.

''(B) As a qualification for appointment as the Taxpayer Advocate, an individual must have substantial experience representing taxpayers before the Internal Revenue Service or with taxpayer rights issues.

''(C) An individual who, before being appointed as the Taxpayer Advocate, was an officer or employee of the Internal Revenue Service may be so appointed only if such individual agrees not to accept any employment with the Internal Revenue Service for at least 5 years after ceasing to be the Taxpayer Advocate.

''(2) FUNCTIONS OF OFFICE.—

''(A) IN GENERAL.—It shall be the function of the Office of Taxpayer Advocate to—

''(i) assist taxpayers in resolving problems with the Internal Revenue Service,

''(ii) identify areas in which taxpayers have problems in dealings with the Internal Revenue Service,

''(iii) to the extent possible, propose changes in the administrative practices of the Internal Revenue Service to mitigate problems identified under clause (ii), and

''(iv) identify potential legislative changes which may be appropriate to mitigate such problems.

''(B) ANNUAL REPORTS.—

''(i) OBJECTIVES.—Not later than June 30 of each calendar year after 1995, the Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the objectives of the Taxpayer Advocate for the fiscal year beginning in such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information.

''(ii) ACTIVITIES.—Not later than December 31 of each calendar year after 1995, the Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the activities of the Taxpayer Advocate during the fiscal year ending during such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information, and shall—

''(I) identify the initiatives the Taxpayer Advocate has taken on improving taxpayer services and Internal Revenue Service responsiveness,

''(II) contain recommendations received from individuals with the authority to issue Taxpayer Assistance Orders under section 7811,

''(III) contain a summary of at least 20 of the most serious problems encountered by taxpayers, including a description of the nature of such problems,

''(IV) contain an inventory of the items described in subclauses (I), (II), and (III) for which action has been taken and the result of such action,

''(V) contain an inventory of the items described in subclauses (I), (II), and (III) for which action remains to be completed and the period during which each item has remained on such inventory,

''(VI) contain an inventory of the items described in subclauses (I), (II), and (III) for which no action has been taken, the period during which each item has remained on such inventory, the reasons for the inaction, and identify any Internal Revenue Service official who is responsible for such inaction,

''(VII) identify any Taxpayer Assistance Order which was not honored by the Internal Revenue Service in a timely manner, as specified under section 7811(b),

''(VIII) contain recommendations for such administrative and legislative action as may be appropriate to resolve problems encountered by taxpayers,

''(IX) describe the extent to which regional problem resolution officers participate in the selection and evaluation of local problem resolution officers,

''(X) identify areas of the tax law that impose significant compliance burdens on taxpayers or the Internal Revenue Service, including specific recommendations for remedying these problems,

''(XI) in conjunction with the National Director of Appeals, identify the 10 most litigated issues for each category of taxpayers (e.g., individuals, self-employed individuals, and small businesses), including recommendations for mitigating such disputes, and

''(XII) include such other information as the Taxpayer Advocate may deem advisable.

''(iii) REPORT TO BE SUBMITTED DIRECTLY.—Each report required under this subparagraph shall be provided directly to the Committees described in clauses (i) and (ii) without any prior review or comment from the Commissioner, the Internal Revenue Service Oversight Board, the Secretary of the Treasury, any other officer or employee of the Department of the Treasury, or the Office of Management and Budget.

''(C) OTHER RESPONSIBILITIES.—The Taxpayer Advocate shall—

''(i) monitor the coverage and geographic allocation of problem resolution officers,

''(ii) develop guidance to be distributed to all Internal Revenue Service officers and employees outlining the criteria for referral of taxpayer inquiries to problem resolution officers,

''(iii) ensure that the local telephone numbers for the problem resolution officer in each internal revenue district is published and available to taxpayers, and

''(iv) in conjunction with the Commissioner, develop career paths for problem resolution officers choosing to make a career in the Office of the Taxpayer Advocate.

''(3) RESPONSIBILITIES OF COMMISSIONER.—The Commissioner shall establish procedures requiring a formal response to all recommendations submitted to the Commissioner by the Taxpayer Advocate within 3 months after submission to the Commissioner.''.

(b) AMENDMENT OF PRESIDENT'S AUTHORITY TO APPOINT CHIEF COUNSEL FOR INTERNAL REVENUE SERVICE.—

(1) Paragraph (2) of section 7801(b) (relating to the office of General Counsel for the Department) is amended to read as follows:

''(2) ASSISTANT GENERAL COUNSELS.—The Secretary of the Treasury may appoint, without regard to the provisions of the civil service laws, and fix the duties of not to exceed five assistant General Counsels.''.

(2)(A) Subsection (f)(2) of section 301 of title 31, United States Code, is amended by striking ''an Assistant General Counsel who shall be the'' and inserting ''a''.

(B) Section 301 of such title 31 is amended by adding at the end the following new subsection:

''(h) CROSS REFERENCE.—For provisions relating to the appointment of officers and employees of the Internal Revenue Service, see subchapter A of chapter 80 of the Internal Revenue Code of 1986.''.

(c) CONFORMING AMENDMENTS.—

(1) The table of sections for subchapter A of chapter 80 is amended by striking the item relating to section 7803 and inserting the following new item:

''Sec. 7803. Commissioner of Internal Revenue; Chief Counsel; other officials.''

(2) Subsection (b) of section 5109 of title 5, United States Code, is amended by striking ''7802(b)'' and inserting ''7803(c)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 103. OTHER PERSONNEL.

(a) IN GENERAL.—Section 7804 (relating to the effect of reorganization plans) is amended to read as follows:

''SEC. 7804. OTHER PERSONNEL.

''(a) APPOINTMENT AND SUPERVISION.—The Commissioner of Internal Revenue is authorized to employ such number of persons as the Commissioner deems proper for the administration and enforcement of the internal revenue laws, and the Commissioner shall issue all necessary directions, instructions, orders, and rules applicable to such persons.

''(b) POSTS OF DUTY OF EMPLOYEES IN FIELD SERVICE OR TRAVELING.—

''(1) DESIGNATION OF POST OF DUTY.—The Commissioner shall determine and designate the posts of duty of all such persons engaged in field work or traveling on official business outside of the District of Columbia.

''(2) DETAIL OF PERSONNEL FROM FIELD SERVICE.—The Commissioner may order any such person engaged in field work to duty in the District of Columbia, for such periods as the Commissioner may prescribe, and to any designated post of duty outside the District of Columbia upon the completion of such duty.

''(c) DELINQUENT INTERNAL REVENUE OFFICERS AND EMPLOYEES.—If any officer or employee of the Treasury Department acting in connection with the internal revenue laws fails to account for and pay over any amount of money or property collected or received by him in connection with the internal revenue laws, the Secretary shall issue notice and demand to such officer or employee for payment of the amount which he failed to account for and pay over, and, upon failure to pay the amount demanded within the time specified in such notice, the amount so demanded shall be deemed imposed upon such officer or employee and assessed upon the date of such notice and demand, and the provisions of chapter 64 and all other provisions of law relating to the collection of assessed taxes shall be applicable in respect of such amount.''.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (b) of section 6344 is amended by striking ''section 7803(d)'' and inserting ''section 7804(c)''.

(2) The table of sections for subchapter A of chapter 80 is amended by striking the item relating to section 7804 and inserting the following new item:

''Sec. 7804. Other personnel.''

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Subtitle B—Personnel Flexibilities

SEC. 111. PERSONNEL FLEXIBILITIES.

(a) IN GENERAL.—Part III of title 5, United States Code, is amended by adding at the end the following new subpart:

''Subpart I—Miscellaneous

''CHAPTER 93—PERSONNEL FLEXIBILITIES RELATING TO THE INTERNAL REVENUE SERVICE

''Sec.
''9301. General requirements.
''9302. Flexibilities relating to performance management.
''9303. Classification and pay flexibilities.
''9304. Staffing flexibilities.
''9305. Flexibilities relating to demonstration projects.

''§ 9301. General requirements

''(a) CONFORMANCE WITH MERIT SYSTEM PRINCIPLES, ETC.—Any flexibilities under this chapter shall be exercised in a manner consistent with—

''(1) chapter 23, relating to merit system principles and prohibited personnel practices; and

''(2) provisions of this title (outside of this subpart) relating to preference eligibles.

''(b) REQUIREMENT RELATING TO UNITS REPRESENTED BY LABOR ORGANIZATIONS.—

''(1) WRITTEN AGREEMENT REQUIRED.—Employees within a unit with respect to which a labor organization is accorded exclusive recognition under chapter 71 shall not be subject to the exercise of any flexibility under section 9302, 9303, 9304, or 9305, unless there is a written agreement between the Internal Revenue Service and the organization permitting such exercise.

''(2) DEFINITION OF A WRITTEN AGREEMENT.—In order to satisfy paragraph (1), a written agreement—

''(A) need not be a collective bargaining agreement within the meaning of section 7103(8); and

''(B) may not be an agreement imposed by the Federal Service Impasses Panel under section 7119.

''(c) FLEXIBILITIES FOR WHICH OPM APPROVAL IS REQUIRED.—

''(1) IN GENERAL.—Except as provided in paragraph (2), flexibilities under this chapter may be exercised by the Internal Revenue Service without prior approval of the Office of Personnel Management.

''(2) EXCEPTIONS.—The flexibilities under subsections (c) through (e) of section 9303 may be exercised by the Internal Revenue Service only after a specific plan describing how those flexibilities are to be exercised has been submitted to and approved, in writing, by the Director of the Office of Personnel Management.

''§ 9302. Flexibilities relating to performance management

''(a) IN GENERAL.—The Commissioner of Internal Revenue shall, within 180 days after the date of the enactment of this chapter, establish a performance management system which—

''(1) subject to section 9301(b), shall cover all employees of the Internal Revenue Service other than—

''(A) the members of the Internal Revenue Service Oversight Board;

''(B) the Commissioner of Internal Revenue; and

''(C) the Chief Counsel for the Internal Revenue Service;

''(2) shall maintain individual accountability by—

''(A) establishing retention standards which—

''(i) shall permit the accurate evaluation of each employee's performance on the basis of criteria relating to the duties and responsibilities of the position held by such employee; and

''(ii) shall be communicated to an employee before the start of any period with respect to which the performance of such employee is to be evaluated using such standards;

''(B) providing for periodic performance evaluations to determine whether retention standards are being met; and

''(C) with respect to any employee whose performance does not meet retention standards, using the results of such employee's performance evaluation as a basis for—

''(i) denying increases in basic pay, promotions, and credit for performance under section 3502; and

''(ii) the taking of other appropriate action, such as a reassignment or an action under chapter 43; and

''(3) shall provide for—

''(A) establishing goals or objectives for individual, group, or organizational performance (or any combination thereof), consistent with Internal Revenue Service performance planning procedures, including those established under the Government Performance and Results Act of 1993, the Information Technology Management Reform Act of 1996, Revenue Procedure 64–22 (as in effect on July 30, 1997), and taxpayer service surveys, and communicating such goals or objectives to employees;

''(B) using such goals and objectives to make performance distinctions among employees or groups of employees; and

''(C) using assessments under this paragraph, in combination with performance evaluations under paragraph (2), as a basis for granting employee awards, adjusting an employee's rate of basic pay, and taking such other personnel action as may be appropriate.

For purposes of this title, performance of an employee during any period in which such employee is subject to retention standards under paragraph (2) shall be considered to be 'unacceptable' if the performance of such employee during such period fails to meet any of those standards.

''(b) AWARDS.—

''(1) FOR SUPERIOR ACCOMPLISHMENTS.—In the case of an employee of the Internal Revenue Service, section 4502(b) shall be applied by substituting 'with the approval of the Commissioner of Internal Revenue' for 'with the approval of the Office'.

''(2) FOR EMPLOYEES WHO REPORT DIRECTLY TO THE COMMISSIONER.—

''(A) IN GENERAL.—In the case of an employee of the Internal Revenue Service who reports directly to the Commissioner of Internal Revenue, a cash award in an amount up to 50 percent of such employee's annual rate of basic pay may be made if the Commissioner finds such an award to be warranted based on such employee's performance.

''(B) NATURE OF AN AWARD.—A cash award under this paragraph shall not be considered to be part of basic pay.

''(C) TAX ENFORCEMENT RESULTS.—A cash award under this paragraph may not be based solely on tax enforcement results.

''(D) ELIGIBLE EMPLOYEES.—Whether or not an employee is an employee who reports directly to the Commissioner of Internal Revenue shall, for purposes of this paragraph, be determined under regulations which the Commissioner shall prescribe.

''(E) LIMITATION ON COMPENSATION.—For purposes of applying section 5307 to an employee in connection with any calendar year to which an award made under this paragraph to such employee is attributable, subsection (a)(1) of such section shall be applied by substituting 'to equal or exceed the annual rate of compensation for the President for such calendar year' for 'to exceed the annual rate of basic pay payable for level I of the Executive Schedule, as of the end of such calendar year'.

''(3) BASED ON SAVINGS.—

''(A) IN GENERAL.—The Commissioner of Internal Revenue may authorize the payment of cash awards to employees based on documented financial savings achieved by a group or organization which such employees comprise, if such payments are made pursuant to a plan which—

''(i) specifies minimum levels of service and quality to be maintained while achieving such financial savings; and

''(ii) is in conformance with criteria prescribed by the Office of Personnel Management.

''(B) FUNDING.—A cash award under this paragraph may be paid from the fund or appropriation available to the activity primarily benefiting or the various activities benefiting.

''(C) TAX ENFORCEMENT RESULTS.—A cash award under this paragraph may not be based solely on tax enforcement results.

''(c) OTHER PROVISIONS.—

''(1) NOTICE PROVISIONS.—In applying sections 4303(b)(1)(A) and 7513(b)(1) to employees of the Internal Revenue Service, '15 days' shall be substituted for '30 days'.

''(2) APPEALS.—Notwithstanding the second sentence of section 5335(c), an employee of the Internal Revenue Service shall not have a right to appeal the denial of a periodic step increase under section 5335 to the Merit Systems Protection Board.

“§ 9303. Classification and pay flexibilities

“(a) BROAD-BANDED SYSTEMS.—

“(1) DEFINITIONS.—For purposes of this subsection—

“(A) the term ‘broad-banded system’ means a system under which positions are classified and pay for service in any such position is fixed through the use of pay bands, rather than under—

“(i) chapter 51 and subchapter III of chapter 53; or

“(ii) subchapter IV of chapter 53; and

“(B) the term ‘pay band’ means, with respect to positions in 1 or more occupational series, a pay range—

“(i) consisting of—

“(I) 2 or more consecutive grades of the General Schedule; or

“(II) 2 or more consecutive pay ranges of such other pay or wage schedule as would otherwise apply (but for this section); and

“(ii) the minimum rate for which is the minimum rate for the lower (or lowest) grade or range in the pay band and the maximum rate for which is the maximum rate for the higher (or highest) grade or range in the pay band, including any locality-based and other similar comparability payments.

“(2) AUTHORITY.—The Commissioner of Internal Revenue may, subject to criteria to be prescribed by the Office of Personnel Management, establish one or more broad-banded systems covering all or any portion of its workforce which would otherwise be subject to the provisions of law cited in clause (i) or (ii) of subsection (a)(1)(A), except for any position classified by statute.

“(3) CRITERIA.—The criteria to be prescribed by the Office shall, at a minimum—

“(A) ensure that the structure of any broad-banded system maintains the principle of equal pay for substantially equal work;

“(B) establish the minimum (but not less than 2) and maximum number of grades or pay ranges that may be combined into pay bands;

“(C) establish requirements for adjusting the pay of an employee within a pay band;

“(D) establish requirements for setting the pay of a supervisory employee whose position is in a pay band or who supervises employees whose positions are in pay bands; and

“(E) establish requirements and methodologies for setting the pay of an employee upon conversion to a broad-banded system, initial appointment, change of position or type of appointment (including promotion, demotion, transfer, reassignment, reinstatement, placement in another pay band, or movement to a different geographic location), and movement between a broad-banded system and another pay system.

“(4) INFORMATION.—The Commissioner of Internal Revenue shall submit to the Office such information relating to its broad-banded systems as the Office may require.

“(5) REVIEW AND REVOCATION AUTHORITY.—The Office may, with respect to any broad-banded system under this subsection, and in accordance with regulations which it shall prescribe, exercise with respect to any broad-banded system under this subsection authorities similar to those available to it under sections 5110 and 5111 with respect to classifications under chapter 51.

“(b) SINGLE PAY-BAND SYSTEM.—

“(1) IN GENERAL.—The Commissioner of Internal Revenue may, with respect to employees who remain subject to chapter 51 and subchapter III of chapter 53 (or subchapter IV of chapter 53), fix rates of pay under a single pay-band system.

“(2) DEFINITION.—For purposes of this subsection, the term ‘single pay-band system’ means, for pay-setting purposes, a system similar to the pay-setting aspects of a broad-banded system under subsection (a), but consisting of only a single grade or pay range, under which pay may be fixed at any rate not less than the minimum and not more than the maximum rate which (but for this section) would otherwise apply with respect to the grade or pay range involved, including any locality-based and other similar comparability payments.

“(3) SPECIAL RULES.—

“(A) PROMOTION OR TRANSFER.—An employee under this subsection who is promoted or transferred to a position in a higher grade shall be entitled to basic pay at a rate determined under criteria prescribed by the Office of Personnel Management based on section 5334(b).

“(B) PERFORMANCE INCREASES.—In lieu of periodic step-increases under section 5335, an employees under this subsection who meets retention standards under section 9302(a)(2)(A) shall be entitled to performance increases under criteria prescribed by the Office. An increase under this subparagraph shall be equal to one-ninth of the difference between the minimum and maximum rates of pay for the applicable grade or pay range

“(C) INCREASES FOR EXCEPTIONAL PERFORMANCE.—In lieu of additional step-increases under section 5336, an employee under this subsection who has demonstrated exceptional performance shall be eligible for a pay increase under this subparagraph under criteria prescribed by the Office. An increase under this subparagraph may not exceed the amount of an increase under subparagraph (B).

“(c) ALTERNATIVE CLASSIFICATION SYSTEMS.—

“(1) IN GENERAL.—Subject to section 9301(c), the Commissioner of Internal Revenue may establish 1 or more alternative classification systems that include any positions or groups of positions that the Commissioner determines, for reasons of effective administration—

“(A) should not be classified under chapter 51 or paid under the General Schedule;

“(B) should not be classified or paid under subchapter IV of chapter 53; or

“(C) should not be paid under section 5376.

“(2) LIMITATIONS.—An alternative classification system under this subsection may not—

“(A) with respect to any position that (but for this section) would otherwise be subject to the provisions of law cited in subparagraph (A) or (B) of paragraph (1), establish a rate of basic pay in excess of the maximum rate for grade GS–15 of the General Schedule, including any locality-based and other similar comparability payments; and

“(B) with respect to any position that (but for this section) would otherwise be subject to the provision of law cited in paragraph (1)(C), establish a rate of basic pay in excess of the annual rate of basic pay of the Commissioner of Internal Revenue.

“(d) GRADE AND PAY RETENTION.—Subject to section 9301(c), the Commissioner of Internal Revenue may, with respect to employees who are covered by a broad-banded system under subsection (a) or an alternative classification system under subsection (c), provide for variations from the provisions of subchapter VI of chapter 53.

“(e) RECRUITMENT AND RETENTION BONUSES; RETENTION ALLOWANCES.—Subject to section 9301(c), the Commissioner of Internal Revenue may, with respect to its employees, provide for variations from the provisions of sections 5753 and 5754.

“§ 9304. Staffing flexibilities

“(a) IN GENERAL.—

“(1) PERMANENT APPOINTMENT IN THE COMPETITIVE SERVICE.—Except as otherwise provided by this subsection, an employee of the Internal Revenue Service may be selected for a permanent appointment in the competitive service in the Internal Revenue Service through internal competitive promotion procedures when the following conditions are met:

“(A) The employee has completed 2 years of current continuous service in the competitive service under a term appointment or any combination of term appointments.

“(B) Such term appointment or appointments were made under competitive procedures prescribed for permanent appointments.

“(C) The employee’s performance under such term appointment or appointments met established retention standards.

“(D) The vacancy announcement for the term appointment from which the conversion is made stated that there was a potential for subsequent conversion to a permanent appointment.

“(2) CONDITION.—An appointment under this subsection may be made only to a position the duties and responsibilities of which are similar to those of the position held by the employee at the time of conversion (referred to in paragraph (1)(D)).

“(b) RATING SYSTEMS.—

“(1) IN GENERAL.—Notwithstanding subchapter I of chapter 33, the Commissioner of Internal Revenue may establish category rating systems for evaluating job applicants for positions in the competitive service, under which qualified candidates are divided into 2 or more quality categories on the basis of relative degrees of merit, rather than assigned individual numerical ratings. Each applicant who meets the minimum qualification requirements for the position to be filled shall be assigned to an appropriate category based on an evaluation of the applicant’s knowledge, skills, and abilities relative to those needed for successful performance in the job to be filled.

“(2) TREATMENT OF PREFERENCE ELIGIBLES.—Within each quality category established under paragraph (1), preference eligibles shall be listed ahead of individuals who are not preference eligibles. For other than scientific and professional positions at or higher than GS–9 (or equivalent), preference eligibles who have a compensable service-connected disability of 10 percent or more, and who meet the minimum qualification standards, shall be listed in the highest quality category.

“(3) SELECTION PROCESS.—An appointing authority may select any applicant from the highest quality category or, if fewer than 3 candidates have been assigned to the highest quality category, from a merged category consisting of the highest and second highest quality categories. Notwithstanding the preceding sentence, the appointing authority may not pass over a preference eligible in the same or a higher category from which selection is made, unless the requirements of section 3317(b) or 3318(b), as applicable, are satisfied, except that in no event may certification of a preference eligible under this subsection be discontinued by the Internal Revenue Service under section 3317(b) before the end of the 6-month period beginning on the date of such employee’s first certification.

“(c) MAXIMUM PERIOD FOR WHICH EMPLOYEE MAY BE DETAILED.—The 120-day limitation under section 3341(b)(1) for details and renewals of details shall not apply with respect to the Internal Revenue Service.

“(d) INVOLUNTARY REASSIGNMENTS AND REMOVALS OF CAREER APPOINTEES IN THE SENIOR EXECUTIVE SERVICE.—Neither section 3395(e)(1) nor section 3592(b)(1) shall apply with respect to the Internal Revenue Service.

''(e) PROBATIONARY PERIODS.—Notwithstanding any other provision of law or regulation, the Commissioner of Internal Revenue may establish a period of probation under section 3321 of up to 3 years for any position if, as determined by the Commissioner, a shorter period would be insufficient for the incumbent to demonstrate complete proficiency in such position.

''(f) PROVISIONS THAT REMAIN APPLICABLE.—No provision of this section exempts the Internal Revenue Service from—

''(1) any employment priorities established under direction of the President for the placement of surplus or displaced employees; or

''(2) its obligations under any court order or decree relating to the employment practices of the Internal Revenue Service.

''§ 9305. Flexibilities relating to demonstration projects

''(a) IN GENERAL.—For purposes of applying section 4703 with respect to the Internal Revenue Service—

''(1) paragraph (1) of subsection (b) of such section shall be deemed to read as follows:

'' '(1) develop a plan for such project which describes its purpose, the employees to be covered, the project itself, its anticipated outcomes, and the method of evaluating the project;';

''(2) paragraph (3) of subsection (b) of such section shall be disregarded;

''(3) paragraph (4) of subsection (b) of such section shall be applied by substituting '30 days' for '180 days';

''(4) paragraph (6) of subsection (b) of such section shall be deemed to read as follows:

'' '(6) provide each House of the Congress with the final version of the plan.';

''(5) paragraph (1) of subsection (c) of such section shall be deemed to read as follows:

'' '(1) subchapter V of chapter 63 or subpart G of part III;'; and

''(6) subsection (d)(1) of such section shall be disregarded.

''(b) NUMERICAL LIMITATION.—For purposes of applying the numerical limitation under subsection (d)(2) of section 4703, a demonstration project shall not be counted if or to the extent that it involves the Internal Revenue Service.''

(b) CLERICAL AMENDMENT.—The analysis for part III of title 5, United States Code, is amended by adding at the end the following:

''Subpart I—Miscellaneous

''93. Personnel Flexibilities Relating to the Internal Revenue Service .... 9301''.

(c) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act.

TITLE II—ELECTRONIC FILING

SEC. 201. ELECTRONIC FILING OF TAX AND INFORMATION RETURNS.

(a) IN GENERAL.—It is the policy of the Congress that paperless filing should be the preferred and most convenient means of filing tax and information returns, and that by the year 2007, no more than 20 percent of all tax returns should be filed on paper.

(b) STRATEGIC PLAN.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Treasury or the Secretary's delegate (hereafter in this section referred to as the ''Secretary'') shall implement a plan to eliminate barriers, provide incentives, and use competitive market forces to increase electronic filing gradually over the next 10 years while maintaining processing times for paper returns at 40 days.

(2) ELECTRONIC COMMERCE ADVISORY GROUP.—To ensure that the Secretary receives input from the private sector in the development and implementation of the plan required by paragraph (1), the Secretary shall convene an electronic commerce advisory group to include representatives from the tax practitioner, preparer, and computerized tax processor communities and other representatives from the electronic filing industry.

(c) INCENTIVES.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall implement procedures to provide for the payment of incentives to transmitters of qualified electronically filed returns, based on the fair market value of costs to transmit returns electronically.

(2) QUALIFIED ELECTRONICALLY FILED RETURNS.—For purposes of this section, the term ''qualified electronically filed return'' means a return that—

(A) is transmitted electronically to the Internal Revenue Service,

(B) for which the taxpayer was not charged for the cost of such transmission, and

(C) in the case of returns transmitted after December 31, 2004, was prepared by a paid preparer who does not submit any return after such date to the Internal Revenue Service on paper.

(d) ANNUAL REPORTS.—Not later than June 30 of each calendar year after 1997, the Chairperson of the Internal Revenue Service Oversight Board, the Secretary, and the Chairperson of the electronic commerce advisory group established under subsection (b)(2) shall report to the Committees on Ways and Means, Appropriations, and Government Reform and Oversight of the House of Representatives, the Committees on Finance, Appropriations, and Government Affairs of the Senate, and the Joint Committee on Taxation, on—

(1) the progress of the Internal Revenue Service in meeting the policy set forth in subsection (a);

(2) the status of the plan required by subsection (b); and

(3) the necessity of action by the Congress to assist the Internal Revenue Service to satisfy the policy set forth in subsection (a).

SEC. 202. EXTENSION OF TIME TO FILE FOR ELECTRONIC FILERS.

(a) IN GENERAL.—Subsection (a) of section 6072 (relating to the time for filing income tax returns) is amended—

(1) by striking ''(a) GENERAL RULE.—In the case of'' and inserting the following:

''(a) GENERAL RULES.—

''(1) PAPER RETURNS.—Except as provided in paragraph (2), in the case of'',

(2) by moving the text 2 ems to the right, and

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

''(2) ELECTRONICALLY FILED RETURNS.—In the case of returns filed electronically, returns made on the basis of the calendar year shall be filed on or before the 15th day of May following the close of the calendar year and returns made on the basis of a fiscal year shall be filed on or before the 15th day of the fifth month following the close of the fiscal year.''

(b) RETURNS OF CORPORATIONS.—Subsection (b) of section 6072 (relating to the time for filing income tax returns) is amended—

(1) by moving the text 2 ems to the right, and

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

''(2) ELECTRONICALLY FILED RETURNS.—In the case of returns filed electronically, returns made on the basis of the calendar year shall be filed on or before the 15th day of April following the close of the calendar year and returns made on the basis of a fiscal year shall be filed on or before the 15th day of the 4th month following the close of the fiscal year.''

(c) INFORMATION RETURNS.—Part V of chapter 61 (relating to information and returns) is amended by adding the following new section:

''SEC. 6073. TIME FOR FILING CERTAIN INFORMATION RETURNS.

''(a) ELECTRONICALLY FILED RETURNS.—In the case of returns made under subparts B and C of part III of this chapter that are filed electronically, such returns shall be filed on or before March 31 of the year following the calendar year to which such returns relate.

''(b) NOTICE TO RECIPIENTS.—Notwithstanding subsection (a), receipts for employees required under section 6051 and any statements otherwise required to be furnished to persons with respect to whom information is required, shall be furnished to such persons on or before January 31 of the calendar year in which the return under subsection (a) is required to be filed.

''(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns required to be filed after December 31, 1999.''

(d) RETURNS OF PARTNERSHIPS.—Part V of chapter 61 (relating to information and returns) is amended by adding the following new section:

''SEC. 6074. TIME FOR FILING PARTNERSHIP RETURNS.

''(a) IN GENERAL.—Except as provided in subsection (b), returns made under section 6031 shall be filed on or before the 15th day of the 3d month following the close of the taxable year of the partnership, except that the return of a partnership consisting entirely of nonresident aliens shall be filed on or before the 15th day of the 6th month following the close of the taxable year of the partnership.

''(b) ELECTRONICALLY FILED RETURNS.—In the case of returns filed electronically, returns shall be filed on or before the 15th day of the 4th month following the close of the taxable year of the partnership.''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to returns for taxable years beginning after December 31, 1998.

SEC. 203. PAPERLESS ELECTRONIC FILING.

(a) IN GENERAL.—Section 6061 (relating to signing of returns and other documents) is amended—

(1) by striking ''Except as otherwise provided by'' and inserting the following:

''(a) GENERAL RULE.—Except as otherwise provided by subsection (b) and'', and

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

''(b) ELECTRONIC SIGNATURES.—The Secretary shall develop procedures for the acceptance of signatures in digital or other electronic form. Until such time as such procedures are in place, the Secretary shall accept electronically filed returns and other documents on which the required signature(s) appears in typewritten form, but filers of such documents shall be required to retain a signed paper original of all such filings, to be made available to the Secretary for inspection, until the expiration of the applicable period of limitations set forth in chapter 66.''.

(b) DEADLINE FOR ESTABLISHING PROCEDURES.—Not later than December 31, 1998, the Secretary of the Treasury or the Secretary's delegate shall establish procedures to accept, in electronic form, any other information, statements, elections, or schedules, from taxpayers filing returns electronically, so that such taxpayers will not be required to file any paper.

(c) PROCEDURES FOR COMMUNICATIONS BETWEEN IRS AND PREPARER OF ELECTRONICALLY-FILED RETURNS.—Such Secretary shall establish procedures for taxpayers to authorize, on electronically filed returns, the preparer of such returns to communicate with the Internal Revenue Service on matters included on such returns.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 204. REGULATION OF PREPARERS.

(a) IN GENERAL.—Subsection (a) of section 330 of title 31, United States Code, is amended—

(1) by striking ''Treasury; and'' in paragraph (1) and inserting ''Treasury and all other persons engaged in the business of preparing returns or otherwise accepting compensation for advising in the preparation of returns,'',

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

(3) by adding at the end the following:

''(3) establish uniform procedures for regulating preparers of paper and electronic tax and information returns.

No demonstration shall be required under paragraph (2) for persons solely engaged in the business of preparing returns or otherwise accepting compensation for advising in the preparation of returns.''

(b) DIRECTOR OF PRACTICE.—Such section 330 is amended by adding at the end the following new subsection:

''(d) DIRECTOR OF PRACTICE.—There is established within the Department of the Treasury an office to be known as the 'Office of the Director of Practice' to be under the supervision and direction of an official to be known as the 'Director of Practice'. The Director of Practice shall be responsible for regulation of all practice before the Department of the Treasury.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 205. PAPERLESS PAYMENT.

(a) IN GENERAL.—Section 6311 (relating to payment by check or money order) is amended to read as follows:

''SEC. 6311. PAYMENT OF TAX BY COMMERCIALLY ACCEPTABLE MEANS.

''(a) AUTHORITY TO RECEIVE.—It shall be lawful for the Secretary to receive for internal revenue taxes (or in payment of internal revenue stamps) any commercially acceptable means that the Secretary deems appropriate to the extent and under the conditions provided in regulations prescribed by the Secretary.

''(b) ULTIMATE LIABILITY.—If a check, money order, or other method of payment, including payment by credit card, debit card, charge card, or electronic funds transfer so received is not duly paid, or is paid and subsequently charged back to the Secretary, the person by whom such check, money order, or other method of payment has been tendered shall remain liable for the payment of the tax or for the stamps, and for all legal penalties and additions, to the same extent as if such check, money order, or other method of payment had not been tendered.

''(c) LIABILITY OF BANKS AND OTHERS.—If any certified, treasurer's, or cashier's check (or other guaranteed draft), or any money order, or any means of payment that has been guaranteed by a financial institution (such as a credit card, debit card, charge card, or electronic funds transfer transaction which has been guaranteed expressly by a financial institution) so received is not duly paid, the United States shall, in addition to its right to exact payment from the party originally indebted therefor, have a lien for—

''(1) the amount of such check (or draft) upon all assets of the financial institution on which drawn,

''(2) the amount of such money order upon all the assets of the issuer therefor,

''(3) the guaranteed amount of any other transaction upon all the assets of the institution making such guarantee,

and such amount shall be paid out of such assets in preference to any other claims whatsoever against such financial institution, issuer, or guaranteeing institution, except the necessary costs and expenses of administration and the reimbursement of the United States for the amount expended in the redemption of the circulating notes of such financial institution.

''(d) PAYMENT BY OTHER MEANS.—

''(1) AUTHORITY TO PRESCRIBE REGULATIONS.—The Secretary shall prescribe such regulations as the Secretary deems necessary to receive payment by commercially acceptable means, including regulations that—

''(A) specify which methods of payment by commercially acceptable means will be acceptable;

''(B) specify when payment by such means will be considered received;

''(C) identify types of nontax matters related to payment by such means that are to be resolved by persons ultimately liable for payment and financial intermediaries, without the involvement of the Secretary; and

''(D) ensure that tax matters will be resolved by the Secretary, without the involvement of financial intermediaries.

''(2) AUTHORITY TO ENTER INTO CONTRACTS.—Notwithstanding section 3718(f) of title 31, United States Code, the Secretary is authorized to enter into contracts to obtain services relating to receiving payment by other means when cost beneficial to the Government.

''(3) SPECIAL PROVISIONS FOR USE OF CREDIT CARDS.—If use of credit cards is accepted as a method of payment of taxes pursuant to subsection (a)—

''(A) a payment of internal revenue taxes (or a payment for internal revenue stamps) by a person by use of a credit card shall not be subject to section 161 of the Truth-in-Lending Act (15 U.S.C 1666), or to any similar provisions of State law, if the error alleged by the person is an error relating to the underlying tax liability, rather than an error relating to the credit card account such as a computational error or numerical transposition in the credit card transaction or an issue as to whether the person authorized payment by use of the credit card;

''(B) a payment of internal revenue taxes (or a payment for internal revenue stamps) shall not be subject to section 170 of the Truth in Lending Act (15 U.S.C 1666i), or to any similar provisions of State law;

''(C) a payment of internal revenue taxes (or a payment for internal revenue stamps) by a person by use of a debit card shall not be subject to section 908 of the Electronic Fund Transfer Act (15 U.S.C 1693f), or to any similar provisions of State law, if the error alleged by the person is an error relating to the underlying tax liability, rather than an error relating to the debit card account such as a computational error or numerical transposition in the debit card transaction or an issue as to whether the person authorized payment by use of the debit card;

''(D) the term 'creditor' under section 103(f) of the Truth in Lending Act (15 U.S.C 1602(f)) shall not include the Secretary with respect to credit card transactions in payment of internal revenue taxes (or payment for internal revenue stamps); and

''(E) notwithstanding any other provision of law to the contrary, in the case of payment made by credit card or debit card transaction in an amount owed to a person as a result of the correction of an error under section 161 of the Truth in Lending Act (15 U.S.C 1666) or section 908 of the Electronic Fund Transfer Act (15 U.S.C 1693(f)), the Secretary is authorized to provide such amount to such person as a credit to that person's credit card or debit card account through the applicable credit card or debit card system.

''(e) CONFIDENTIALITY OF INFORMATION.—

''(1) IN GENERAL.—Except as otherwise authorized by this subsection, no person may use or disclose any information relating to credit or debit card transactions obtained pursuant to section 6103(k)(8) other than for purposes directly related to the processing of such transactions, or the billing or collection of amounts charged or debited pursuant thereto.

''(2) EXCEPTIONS.—

''(A) Debit or credit card issuers or others acting on behalf of such issuers may also use and disclose such information for purposes directly related to servicing an issuer's accounts.

''(B) Debit or credit card issuers or others directly involved in the processing of credit or debit card transactions or the billing or collection of amounts charged or debited thereto may also use and disclose such information for purposes directly related to—

''(i) statistical risk and profitability assessment,

''(ii) transferring receivables, accounts, or interest therein,

''(iii) auditing the account information,

''(iv) complying with Federal, State, or local law, and

''(v) properly authorized civil, criminal, or regulatory investigation by Federal, State, or local authorities.

''(3) PROCEDURES.—Use and disclosure of information under this paragraph shall be made only to the extent authorized by written procedures promulgated by the Secretary.

''(4) CROSS REFERENCE.—

"For provision providing for civil damages for violation of paragraph (1), see section 7431."

(b) SEPARATE APPROPRIATION REQUIRED FOR PAYMENT OF CREDIT CARD FEES.—No amount may be paid by the United States to a credit card issuer for the right to receive payments of internal revenue taxes by credit card without a separate appropriation therefor.

(c) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 64 is amended by striking the item relating to section 6311 and inserting the following:

''Sec. 6311. Payment of tax by commercially acceptable means.''

(d) AMENDMENTS TO SECTION 6103 AND 7431 WITH RESPECT TO DISCLOSURE AUTHORIZATION.—

(1) Subsection (k) of section 6103 (relating to confidentiality and disclosure of returns and return information) is amended by adding at the end the following new paragraph—

''(8) DISCLOSURE OF INFORMATION TO ADMINISTER SECTION 6311.—The Secretary may disclose returns or return information to financial institutions and others to the extent the Secretary deems necessary for the administration of section 6311. Disclosures of information for purposes other than to accept payments by check or money orders shall be made only to the extent authorized by written procedures promulgated by the Secretary.''.

(2) Section 7431 (relating to civil damages for unauthorized disclosure of returns and return information) is amended by adding at the end the following new subsection:

''(g) SPECIAL RULE FOR INFORMATION OBTAINED UNDER SECTION 6103(k)(8).—For purposes of this section, any reference to section 6103 shall be treated as including a reference to section 6311(e).''.

(3) Section 6103(p)(3)(A) is amended by striking ''or (6)'' and inserting ''(6), or (8)''.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the day which is 9 months after the date of the enactment of this Act.

SEC. 206. RETURN-FREE TAX SYSTEM.

(a) IN GENERAL.—The Secretary of the Treasury or the Secretary's delegate shall develop procedures for the implementation of a return-free tax system under which individuals would be permitted to comply with the Internal Revenue Code of 1986 without making the return required under section 6012 of such Code for taxable years beginning after 2007.

(b) REPORT.—Not later than June 30 of each calendar year after 1999, such Secretary shall report to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Taxation on—

(1) the procedures developed pursuant to subsection (a),

(2) the number and classes of taxpayers that would be permitted to use the procedures developed pursuant to subsection (a),

(3) the changes to the Internal Revenue Code of 1986 that could enhance the use of such a system, and

(4) what additional resources the Internal Revenue Service would need to implement such a system.

SEC. 207. ACCESS TO ACCOUNT INFORMATION.

Not later than December 31, 2006, the Secretary of the Treasury or the Secretary's delegate shall develop procedures under which a taxpayer filing returns electronically would be able to review the taxpayer's account electronically, including all necessary safeguards to ensure the privacy of such account information.

TITLE III—TAXPAYER PROTECTION AND RIGHTS

SEC. 301. EXPANSION OF AUTHORITY TO ISSUE TAXPAYER ASSISTANCE ORDERS.

(a) IN GENERAL.—Section 7811(a) (relating to taxpayer assistance orders) is amended—

(1) by striking ''Upon application'' and inserting the following:

''(1) IN GENERAL.—Upon application'',

(2) by moving the text 2 ems to the right, and

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

''(2) DETERMINATION OF HARDSHIP.—For purposes of determining whether a taxpayer is suffering or about to suffer a significant hardship, the Taxpayer Advocate should consider—

''(A) whether the Internal Revenue Service employee to which such order would issue is following applicable published administrative guidance, including the Internal Revenue Manual,

''(B) whether there is an immediate threat of adverse action,

''(C) whether there has been a delay of more than 30 days in resolving taxpayer account problems, and

''(D) the prospect that the taxpayer will have to pay significant professional fees for representation.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 302. EXPANSION OF AUTHORITY TO AWARD COSTS AND CERTAIN FEES.

(a) AUTHORITY TO AWARD HIGHER ATTORNEY'S FEES BASED ON COMPLEXITY OF ISSUES.—Clause (iii) of section 7430(c)(1)(B) (relating to the award of costs and certain fees) is amended by inserting '', or the difficulty of the issues presented in the case or the local availability of tax expertise,'' before ''justifies a higher rate''.

(b) AWARD OF ADMINISTRATIVE COSTS INCURRED AFTER 30-DAY LETTER.—

(1) Paragraph (2) of section 7430(c) is amended by striking the last sentence and insert the following:

''Such term shall only include costs incurred on or after whichever of the following is the earliest: (i) the date of the receipt by the taxpayer of the notice of the decision of the Internal Revenue Service Office of Appeals, (ii) the date of the notice of deficiency, or (iii) the date on which the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals is sent.''

(2) Subparagraph (B) of section 7430(c)(7) is amended by striking ''or'' and the end of clause (i), by striking the period at the end of clause (ii) and inserting '', or'', and by adding at the end the following new clause:

''(iii) the date on which the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals is sent.''

(c) AWARD OF FEES FOR CERTAIN ADDITIONAL SERVICES.—Paragraph (3) of section 7430(c) is amended by adding at the end the following new sentence: ''Such term also includes such amounts as the court calculates, based on hours worked and costs expended, for services of an individual (whether or not an attorney) who is authorized to practice before the Tax Court or before the Internal Revenue Service and who represents the taxpayer for no more than a nominal fee.''

(d) DETERMINATION OF PREVAILING PARTY.—Paragraph (4) of section 7430(c) is amended—

(A) by inserting at the end of subparagraph (A) the following new flush sentence:

''For purposes of this section, such section 2412(d)(2)(B) shall be applied by substituting '$5,000,000' for the amount otherwise applicable to individuals, and '$35,000,000' for the amount otherwise applicable to businesses.'', and

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

''(D) SAFE HARBOR.—The position of the United States was not substantially justified if the United States has not prevailed on the same issue in at least 3 United States Courts of Appeal.''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to proceedings beginning after the date of the enactment of this Act.

SEC. 303. CIVIL DAMAGES FOR NEGLIGENCE IN COLLECTION ACTIONS.

(a) IN GENERAL.—Section 7433 (relating to civil damages for certain unauthorized collection actions) is amended—

(1) in subsection (a), by inserting '', or by reason of negligence,'' after ''recklessly or intentionally'', and

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by inserting ''($100,000, in the case of negligence)'' after ''$1,000,000'', and

(B) in paragraph (1), by inserting ''or negligent'' after ''reckless or intentional''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to actions of officers or employees of the Internal Revenue Service after the date of the enactment of this Act.

SEC. 304. DISCLOSURE OF CRITERIA FOR EXAMINATION SELECTION.

(a) IN GENERAL.—The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act, incorporate into the statement required by section 6227 of the Omnibus Taxpayer Bill of Rights (Internal Revenue Service Publication No. 1) a statement which sets forth in simple and nontechnical terms the criteria and procedures for selecting taxpayers for examination. Such statement shall not include any information the disclosure of which would be detrimental to law enforcement, but shall specify the general procedures used by the Internal Revenue Service, including the extent to which taxpayers are selected for examination on the basis of information available in the media or on the basis of information provided to the Internal Revenue Service by informants.

(b) TRANSMISSION TO COMMITTEES OF CONGRESS.—Such Secretary shall transmit drafts of the statement required under subsection (a) (or proposed revisions to any such statement) to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Taxation on the same day.

SEC. 305. ARCHIVAL OF RECORDS OF INTERNAL REVENUE SERVICE.

(a) IN GENERAL.—Subsection (l) of section 6103 (relating to confidentiality and disclosure of returns and return information) is amended by adding at the end the following new paragraph:

''(16) DISCLOSURE TO NATIONAL ARCHIVES AND RECORDS ADMINISTRATION.—The Secretary shall, upon written request from the Archivist of the United States, disclose to the Archivist all records of the Internal Revenue Service for purposes of scheduling such records for destruction or for retention in the National Archives. Any such information that is retained in the National Archives shall not be disclosed without the express written approval of the Secretary.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to requests made by the Archivist after the date of the enactment of this Act.

SEC. 306. TAX RETURN INFORMATION.

The Joint Committee on Taxation shall convene a study of the scope and use of provisions regarding taxpayer confidentiality, and shall report the findings of such study, together with such recommendations as it deems appropriate, to the Congress no later than one year after the date of the enactment of this Act. Such study shall be led by a panel of experts, to be appointed by the Joint Committee on Taxation, which shall examine the present protections for taxpayer privacy, the need for third parties to use tax return information, and the ability to achieve greater levels of voluntary compliance by allowing the public to know who is legally required to do so, but does not file tax returns.

SEC. 307. FREEDOM OF INFORMATION.

(a) IN GENERAL.—The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act, develop procedures under which expedited access will be granted to requests under section 551 of title 5, United States Code, when—

(1) there exists widespread and exceptional media interest in the requested information, and

(2) expedited processing is warranted because the information sought involves possible questions about the government's integrity which affect public confidence.

In addition, such procedures shall require the Internal Revenue Service to provide an explanation to the person making the request if the request is not satisfied within 30 days, including a summary of actions taken to date and the expected completion date. Finally, to the extent that any such request is not satisfied in full within 60 days, such person may seek a determination of whether such request should be granted by the appropriate Federal district court.

(b) TRANSMISSION TO COMMITTEES OF CONGRESS.—Such Secretary shall transmit drafts of the procedures required under subsection (a) (or proposed revisions to any such procedures) to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Taxation on the same day.

SEC. 308. OFFERS-IN-COMPROMISE.

(a) IN GENERAL.—Section 7122 (relating to offers-in-compromise) is amended by adding at the end the following new subsection:

''(c) ALLOWANCES.—The Secretary shall develop and publish schedules of national and local allowances to ensure that taxpayers entering into a compromise have an adequate means to provide for basic living expenses.''

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 309. ELIMINATION OF INTEREST DIFFERENTIAL ON OVERPAYMENTS AND UNDERPAYMENTS.

(a) IN GENERAL.—Subsection (a) of section 6621 (relating to the determination of rate of interest) is amended to read as follows:

''(a) GENERAL RULE.—

''(1) RATE.—The rate established under this section shall be the sum of—

''(A) the Federal short-term rate determined under subsection (b), plus

''(B) the number of percentage points specified by the Secretary.

''(2) DETERMINATION OF PERCENTAGE POINTS.—The number of percentage points specified by the Secretary for purposes of paragraph (1)(B) shall be the number which the Secretary estimates will result in the same net revenue to the Treasury as would have resulted without regard to the amendments made by section 309 of the Internal Revenue Service Restructuring and Reform Act of 1997.''

(b) CONFORMING AMENDMENTS.—

(1) Section 6621 is amended by striking subsection (c).

(2) The following provisions are each amended by striking ''overpayment rate'' and inserting ''rate'': Sections 42(j)(2)(B), 167(g)(2)(C), 460(b)(2)(C), 6343(c), 6427(i)(3)(B), 6611(a), and 7426(g).

(3) The following provisions are each amended by striking ''underpayment rate'' and inserting ''rate'': Sections 42(k)(4)(A)(ii), 148(f)(4)(C)(x)(II), 148(f)(7)(C)(ii), 453A(c)(2)(B), 644(a)(2)(B), 852(e)(3)(A), 4497(c)(2), 6332(d)(1), 6601(a), 6602, 6654(a)(1), 6655(a)(1), and 6655(h)(1).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply for purposes of determining interests for periods after the date of the enactment of this Act.

SEC. 310. ELIMINATION OF APPLICATION OF FAILURE TO PAY PENALTY DURING PERIOD OF INSTALLMENT AGREEMENT.

(a) IN GENERAL.—Subsection (c) of section 6651 (relating to the penalty for failure to file tax return or to pay tax) is amended by adding at the end the following new paragraph:

''(3) TOLLING DURING PERIOD OF INSTALLMENT AGREEMENT.—If the amount required to be paid is the subject of an agreement for payment of tax liability in installments made pursuant to section 6159, the additions imposed under subsection (a) shall not apply so long as such agreement remains in effect.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to agreements entered into after the date of the enactment of this Act.

SEC. 311. SAFE HARBOR FOR QUALIFICATION FOR INSTALLMENT AGREEMENTS.

(a) IN GENERAL.—Subsection (a) of section 6159 (relating to agreements for payment of tax liability in installments) is amended—

(1) by striking ''The Secretary is'' and inserting the following:

''(1) IN GENERAL.—The Secretary is'',

(2) by moving the test 2 ems to the right, and

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

''(2) SAFE HARBOR.—The Secretary shall enter into an agreement to accept the payment of a tax liability in installments if—

''(A) the amount of such liability does not exceed $10,000,

''(B) the taxpayer has not failed to file any tax return or pay any tax required to be shown thereon during the immediately preceding 5 years, and

''(C) the taxpayer has not entered into any prior installment agreement under this paragraph.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements entered into after the date of the enactment of this Act.

SEC. 312. PAYMENT OF TAXES.

(a) IN GENERAL.—The Secretary of the Treasury or his delegate shall establish such rules, regulations, and procedures as are necessary to require payment of taxes by check or money order to be made payable to the Treasurer, United States of America.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 313. LOW INCOME TAXPAYER CLINICS.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

''SEC. 7525. LOW INCOME TAXPAYER CLINICS.

''(a) IN GENERAL.—The Secretary shall make grants to provide matching funds for the development, expansion, or continuation of qualified low income taxpayer clinics.

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

''(1) QUALIFIED LOW INCOME TAXPAYER CLINIC.—

''(A) IN GENERAL.—The term 'qualified low income taxpayer clinic' means a clinic that—

''(i) represents low income taxpayers in controversies with the Internal Revenue Service,

''(ii) operates programs to inform individuals for whom English is a second language about their rights and responsibilities under this title, and

''(iii) does not charge more than a nominal fee for its services, except for reimbursement of actual costs incurred.

''(B) REPRESENTATION OF LOW INCOME TAXPAYERS.—A clinic meets the requirements of subparagraph (A)(i) if—

''(i) at least 90 percent of the taxpayers represented by the clinic have income which does not exceed 250 percent of the poverty level, as determined in accordance with criteria established by the Director of the Office of Management and Budget, and

''(ii) the amount in controversy for any taxable year generally does not exceed the amount specified in section 7463.

''(2) CLINIC.—The term 'clinic' includes—

''(A) a clinical program at an accredited law school in which students represent low income taxpayers in controversies arising under this title, and

''(B) an organization exempt from tax under section 501(c) which satisfies the requirements of paragraph (1) through representation of taxpayers or referral of taxpayers to qualified representatives.

''(3) QUALIFIED REPRESENTATIVE.—The term 'qualified representative' means any individual (whether or not an attorney) who is authorized to practice before the Internal Revenue Service or the applicable court.

''(c) SPECIAL RULES AND LIMITATIONS.—

''(1) AGGREGATE LIMITATION.—Unless otherwise provided by specific appropriation, the Secretary shall not allocate more than $3,000,000 per year (exclusive of costs of administering the program) to grants under this section.

''(2) LIMITATION ON INDIVIDUAL GRANTS.—A grant under this section shall not exceed $100,000 per year.

''(3) MULTI-YEAR GRANTS.—Upon application of a qualified low income taxpayer clinic, the Secretary is authorized to award a multi-year grant not to exceed 3 years.

''(4) CRITERIA FOR AWARDS.—In determining whether to make a grant under this section, the Secretary shall consider—

''(A) the numbers of taxpayers who will be served by the clinic, including the number of taxpayers in the geographical area for whom English is a second language,

''(B) the existence of other low income taxpayer clinics serving the same population,

''(C) the quality of the program offered by the low income taxpayer clinic, including the qualifications of its administrators and qualified representatives, and its track record, if any, in providing service to low income taxpayers, and

''(D) alternative funding sources available to the clinic, including amounts received from other grants and contributions, and the endowment and resources of the educational institution sponsoring the clinic.

''(5) REQUIREMENT OF MATCHING FUNDS.—A low income taxpayer clinic must provide matching funds on a dollar for dollar basis for all grants provided under this section. Matching funds may include—

''(A) the salary (including fringe benefits) of a faculty member at an educational institution who is teaching in the clinic;

''(B) the salaries of administrative personnel employed in the clinic; and

''(C) the cost of equipment used in the clinic.

Indirect expenses, including general overhead of the educational institution sponsoring the clinic, shall not be counted as matching funds.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end the following new section:

''Sec. 7525. Low income taxpayer clinics.''

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 314. JURISDICTION OF THE TAX COURT.

(a) INTEREST DETERMINATIONS.—Subsection (c) of section 7481 (relating to the date when Tax Court decisions become final) is amended—

(1) by inserting ''or underpayment'' after ''overpayment'' each place it appears, and

(2) by striking ''petition'' in paragraph (3) and inserting ''motion''.

(b) EXTENSION OF TIME FOR PAYMENT OF ESTATE TAX.—Section 6166 (relating to the extension of time for payment of estate tax) is amended—

(1) by redesignating subsection (k) as subsection (l), and

(2) by inserting after subsection (j) the following new subsection:

''(k) JUDICIAL REVIEW.—The Tax Court shall have jurisdiction to review disputes regarding initial or continuing eligibility for extensions of time for payment under this section, including disputes regarding the proper amount of installment payments required herein.''

(c) SMALL CASE CALENDAR.—

(1) Subsection (a) of section 7463 (relating to disputes involving $10,000 or less) is amended by striking ''$10,000'' each place it appears and inserting ''$25,000''.

(2) The section heading for section 7463 is amended by striking ''$10,000'' and inserting ''$25,000''.

(3) The item relating to section 7463 in the table of sections for part II of subchapter C of chapter 76 is amended by striking ''$10,000'' and inserting ''$25,000''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to proceedings commencing after the date of the enactment of this Act.

SEC. 315. CATALOGING COMPLAINTS.

(a) IN GENERAL.—The Commissioner of Internal Revenue shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act, develop procedures to catalog and review taxpayer complaints of misconduct by Internal Revenue Service employees. Such procedures should include guidelines for internal review and discipline of employees, as warranted by the scope of such complaints.

(b) HOTLINE.— The Commissioner of Internal Revenue shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act, establish a toll-free telephone number for taxpayers to register complaints of misconduct by Internal Revenue Service employees, and shall publish such number in Publication 1.

SEC. 316. PROCEDURES INVOLVING TAXPAYER INTERVIEWS.

(a) IN GENERAL.—Paragraph (1) of section 7521(b) (relating to procedures involving taxpayer interviews) is amended to read as follows:

''(1) EXPLANATIONS OF PROCESSES.—An officer or employee of the Internal Revenue Service shall—

''(A) before or at an initial interview, provide to the taxpayer—

''(i) in the case of an in-person interview with the taxpayer relating to the determination of any tax, an explanation of the audit process and the taxpayer's rights under such process, or

''(ii) in the case of an in-person interview with the taxpayer relating to the collection of any tax, an explanation of the collection process and the taxpayer's rights under such process, and

''(B) before an in-person initial interview with the taxpayer relating to the determination of any tax—

''(i) inquire whether the taxpayer is represented by an individual described in subsection (c),

''(ii) explain that the taxpayer has the right to have the interview take place in a reasonable place and that such place does not have to be the taxpayer's home,

''(iii) explain the reasons for the selection of the taxpayer's return for examination, and

''(iv) provide the taxpayer with a written explanation of the applicable burdens of proof on taxpayers and the Internal Revenue Service.

If the taxpayer is represented by an individual described in subsection (c), the interview may not proceed without the presence of such individual unless the taxpayer consents.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to interviews and examinations taking place after the date of the enactment of this Act.

SEC. 317. EXPLANATION OF JOINT AND SEVERAL LIABILITY.

(a) IN GENERAL.—The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act, establish procedures to clearly alert taxpayers of their joint and several liabilities on all tax forms, publications, and instructions. Such procedures shall include explanations of the possible consequences of joint and several liability.

(b) TRANSMISSION TO COMMITTEES OF CONGRESS.—Such Secretary shall transmit drafts of the procedures required under subsection (a) (or proposed revisions to any such procedures) to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Taxation on the same day.

SEC. 318. PROCEDURES RELATING TO EXTENSIONS OF STATUTE OF LIMITATIONS BY AGREEMENT.

(a) IN GENERAL.—Paragraph (4) of section 6501(c) (relating to the period for limitations on assessment and collection) is amended—

(1) by striking ''Where'' and inserting the following:

''(A) IN GENERAL.—Where'',

(2) by moving the text 2 ems to the right, and

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

''(B) NOTICE TO TAXPAYER OF RIGHT TO REFUSE OR LIMIT EXTENSION.—The Secretary shall notify the taxpayer of the taxpayer's right to refuse to extend the period of limitations, or to limit such extension to particular issues, on each occasion when the taxpayer is requested to provide such consent.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to requests to extend the period of limitations made after the date of the enactment of this Act.

SEC. 319. REVIEW OF PENALTY ADMINISTRATION.

The Taxpayer Advocate shall prepare a study and provide an independent report to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Taxation, no later than July 30, 1998, reviewing the administration and implementation by the Internal Revenue Service of the penalty reform recommendations made in the Omnibus Budget Reconciliation Act of 1989, including legislative and administrative recommendations to simplify penalty administration and reduce taxpayer burden.

SEC. 320. STUDY OF TREATMENT OF ALL TAXPAYERS AS SEPARATE FILING UNITS.

The Secretary of the Treasury or his delegate and the Comptroller General of the United States shall each conduct separate studies on the feasibility of treating each individual separately for purposes of the Internal Revenue Code of 1986, including recommendations for eliminating the marriage penalty, addressing community property issues, and reducing burden for divorced and separated taxpayers. The reports of each study shall be delivered to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Taxation no later than 180 days after the date of the enactment of this Act.

SEC. 321. STUDY OF BURDEN OF PROOF.

The Comptroller General of the United States shall prepare a report on the burdens of proof for taxpayers and the Internal Revenue Service for controversies arising under the Internal Revenue Code of 1986, which shall be delivered to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Taxation no later than 180 days after the date of the enactment of this Act. Such report shall highlight the differences between these burdens and the burdens imposed in other disputes with the Federal Government, and should comment on the impact of changing these burdens on tax administration and taxpayer rights.

TITLE IV—CONGRESSIONAL ACCOUNTABILITY FOR THE INTERNAL REVENUE SERVICE

Subtitle A—Oversight

SEC. 401. EXPANSION OF POWERS OF THE JOINT COMMITTEE ON TAXATION.

(a) IN GENERAL.—Section 8021 (relating to the powers of the Joint Committee on Taxation) is amended by adding at the end the following new subsections:

''(e) CONSULTANT SERVICES.—The Joint Committee is authorized to procure the services of experts and consultants in accordance with section 3109(b) of title 5, United States Code.

''(f) INVESTIGATIONS.—The Joint Committee shall review all requests (other than requests by a Committee or Subcommittee) for investigations of the Internal Revenue Service by the General Accounting Office, and approve such requests when appropriate, with a view towards eliminating overlapping investigations, ensuring that the General Accounting Office has the capacity to handle the investigation, and ensuring that investigations focus on areas of primary importance to tax administration.

''(g) RELATING TO JOINT HEARINGS.—

''(1) IN GENERAL.—The Chief of Staff, and such other staff as are appointed pursuant to section 8004, shall provide such assistance as is required for joint hearings described in paragraph (2).

''(2) JOINT HEARINGS.—On or before April 1 of each calendar year after 1997, there shall be a joint hearing of two members of the majority and one member of the minority from each of the Committees on Finance, Appropriations, and Government Affairs of the Senate, and the Committees on Ways and Means, Appropriations, and Government Reform and Oversight of the House of Representatives, to review the strategic plans and budget for the Internal Revenue Service. After the conclusion of the annual filing season, there shall be a second annual joint hearing to review other matters outlined in section 8022(3)(C).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 402. COORDINATED OVERSIGHT REPORTS.

(a) IN GENERAL.—Paragraph (3) of section 8022 (relating to the duties of the Joint Committee on Taxation) is amended to read as follows:

''(3) REPORTS.—

''(A) To report, from time to time, to the Committee on Finance and the Committee on Ways and Means, and, in its discretion, to the Senate or House of Representatives, or both, the results of its investigations, together with such recommendations as it may deem advisable.

''(B) To report, annually, to the Committee on Finance and the Committee on Ways and Means on the overall state of the Federal tax system, together with recommendations with respect to possible simplification proposals and other matters relating to the administration of the Federal tax system as it may deem advisable.

''(C) To report, annually, to the Committees on Finance, Appropriations, and Government Affairs of the Senate, and to the Committees on Ways and Means, Appropriations, and Government Reform and Oversight of the House of Representatives, with respect to—

''(i) strategic and business plans for the Internal Revenue Service;

''(ii) progress of the Internal Revenue Service in meeting its objectives;

''(iii) the budget for the Internal Revenue Service and whether it supports its objectives;

''(iv) progress of the Internal Revenue Service in improving taxpayer service and compliance;

''(v) progress of the Internal Revenue Service on technology modernization; and

''(vi) the annual filing season.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Subtitle B—Budget

SEC. 411. BUDGET DISCRETION.

(a) IN GENERAL.—

(1) ADJUSTMENTS.—For purposes of the Congressional Budget Act of 1974 and the Balanced Budget and Emergency Deficit Control Act of 1985—

(A) the discretionary spending limits under section 601(a)(2) of the Congressional Budget Act of 1974 (and those limits as cumulatively adjusted) for the current fiscal year and each outyear;

(B) the allocations to the Committees on Appropriations under sections 302(a) and 602(a) of the Congressional Budget Act of 1974; and

(C) the levels for major functional category 800 (General Government) and the appropriate budgetary aggregates in the most recently agreed to concurrent resolution on the budget,

shall be adjusted to reflect the amounts of additional new budget authority or additional outlays reported by the Committee on Appropriations in appropriations legislation (or by the committee of conference on such legislation) for the Internal Revenue Service.

(2) LIMITATION.—Any adjustments made pursuant to paragraph (1) may be made for new initiatives on an annual basis only for—

(A) improvements in taxpayer services, including building an integrated database of taxpayer information accessible to front-line Internal Revenue Service personnel; or

(B) other improvements that the Director of the Congressional Budget Office certifies to the Chairpersons of the Committees on Budget of the Senate and the House of Representatives that such budget authority will not increase the Federal budget deficit,

except that funding for ongoing programs shall be provided through the normal appropriations process.

(b) REVISED LIMITS, ALLOCATIONS, LEVELS, AND AGGREGATES.—Upon the reporting of legislation pursuant to subsection (a), and again upon the submission of a conference report on such legislation in either House (if a conference report is submitted), the Chairpersons of the Committees on the Budget of the Senate and the House of Representatives shall file with their respective Houses appropriately revised—

(1) discretionary spending limits under section 601(a)(2) of the Congressional Budget Act of 1974 (and those limits as cumulatively adjusted) for the current fiscal year and each outyear;

(2) allocations to the Committee on Appropriations under sections 302(a) and 602(a) of that Act; and

(3) levels for major functional category 800 (General Government) and the appropriate budgetary aggregates in the most recently agreed to concurrent resolution on the budget, to carry out this subsection.

These revised discretionary spending limits, allocations, functional levels, and aggregates shall be considered for purposes of congressional enforcement of that Act as the discretionary spending limits, allocations, functional levels, and aggregates.

(c) REPORTING REVISED ALLOCATIONS.—The Committees on Appropriations of the Senate and the House of Representatives may report appropriately revised allocations pursuant to sections 302(b) and 602(b) of the Congressional Budget Act of 1974 to carry out this section.

(d) CONTINGENCIES.—This section shall not apply to any additional new budget authority or additional outlays unless the Director of the Congressional Budget Office certifies to the Chairpersons of the Committees on Appropriation of the Senate and the House of Representatives that the Director or any other outside authority has verified that—

(1) the Internal Revenue Service has provided them with reasonably accurate cost and revenue information;

(2) the Internal Revenue Service has implemented adequate quality service measures consistent with taxpayer rights;

(3) the Internal Revenue Service has obtained a clean opinion on its financial audit of appropriated accounts; and

(4) the Internal Revenue Service has made significant progress towards receiving a clean opinion on its financial audit of custodial accounts.

SEC. 412. FUNDING FOR CENTURY DATE CHANGE.

It is the sense of Congress that funding for the Internal Revenue Service efforts to resolve the century date change computing problems should be funded fully to provide for certain resolution of such problems.

SEC. 413. FINANCIAL MANAGEMENT ADVISORY GROUP.

The Commissioner shall convene a financial management advisory group consisting of individuals with expertise in governmental accounting and auditing from both the private sector and the Government to advise the Commissioner on financial management issues, including—

(1) the continued partnership between the Internal Revenue Service and the General Accounting Office;

(2) the financial accounting aspects of the Internal Revenue Service's system modernization;

(3) the necessity and utility of year-round auditing; and

(4) the Commissioner's plans for improving its financial management system.

Subtitle C—Tax Law Complexity

SEC. 421. ROLE OF THE INTERNAL REVENUE SERVICE.

It is the sense of Congress that the Internal Revenue Service should provide the Congress with an independent view of tax administration, and that during the legislative process, the tax writing committees of the Congress should hear from front-line technical experts at the Internal Revenue Service with respect to the administrability of pending amendments to the Internal Revenue Code of 1986.

SEC. 422. TAX COMPLEXITY ANALYSIS.

(a) IN GENERAL.—Chapter 92 (relating to powers and duties of the Joint Committee on Taxation) is amended by adding at the end the following new section:

''SEC. 8024. TAX COMPLEXITY ANALYSIS.

''(a) IN GENERAL.—

''(1) REPORTED BILLS AND RESOLUTIONS.—When a committee of the Senate or House of Representatives reports a bill or joint resolution that includes any provision amending the Internal Revenue Code of 1986, the report for such bill or joint resolution shall contain a Tax Complexity Analysis prepared by the Joint Committee on Taxation for each provision therein.

''(2) AMENDED BILLS AND JOINT RESOLUTIONS; CONFERENCE REPORTS.—If a bill or joint resolution is passed in an amended form (including if passed by one House as an amendment in the nature of a substitute for the text of a bill or joint resolution from the other House) or is reported by a committee of conference in amended form, and the amended form contains an amendment to the Internal Revenue Code of 1986 not previously considered by either House, then the committee of conference shall ensure that the Joint Committee on Taxation prepares a Tax Complexity Analysis for each provision therein.

''(b) CONTENT OF COMPLEXITY ANALYSIS.—Each Tax Complexity Analysis must address—

''(1) whether the provision is new, modifies or replaces existing law, and whether hearings were held to discuss the proposal and whether the Internal Revenue Service provided input as to its administrability;

''(2) when the provision becomes effective, and corresponding compliance requirements on taxpayers (e.g., effective on date of enactment, phased in, or retroactive);

''(3) whether new Internal Revenue Service forms or worksheets are needed, whether existing forms or worksheets must be modified, and whether the effective date allows sufficient time for the Internal Revenue Service to prepare such forms and educate taxpayers;

''(4) necessity of additional interpretive guidance (e.g., regulations, rulings, and notices);

''(5) the extent to which the proposal relies on concepts contained in existing law, including definitions;

''(6) effect on existing record keeping requirements and the activities of taxpayers, complexity of calculations and likely behavioral responses, and standard business practices and resource requirements;

''(7) number, type, and sophistication of affected taxpayers; and

''(8) whether the proposal requires the Internal Revenue Service to assume responsibilities not directly related to raising revenue which could be handled through another Federal agency.

''(c) LEGISLATION SUBJECT TO POINT OF ORDER.—

''(1) IN GENERAL.—It shall not be in order in the Senate or the House of Representatives to consider any bill, joint resolution, amendment, motion, or conference report that is not accompanied by a Tax Complexity Analysis for each provision therein.

''(2) IN THE SENATE.—Upon a point of order being made by any Senator against any provision under this section, and the point of order being sustained by the Chair, such specific provision shall be deemed stricken from the bill, resolution, amendment, amendment in disagreement, or conference report, and may not be offered as an amendment from the floor.

''(3) IN THE HOUSE OF REPRESENTATIVES.—

''(A) It shall not be in order in the House of Representatives to consider a rule or order that waives the application of paragraph (1).

''(B) In order to be cognizable by the Chair, a point of order under this section must specify the precise language on which it is premised.

''(C) As disposition of points of order under this section, the Chair shall put the question of consideration with respect to the proposition that is the subject of the points of order.

''(D) A question of consideration under this section shall be debatable for 10 minutes by each Member initiating a point of order and for 10 minutes by an opponent on each point of order, but shall otherwise by decided without intervening motion except one that the House adjourn or that the Committee of the Whole rise, as the case may be.

''(E) The disposition of the question of consideration under this subsection with respect to a bill or joint resolution shall be considered also to determine the question of consideration under this subsection with respect to an amendment made in order as original text.

"(d) RESPONSIBILITIES OF THE COMMISSIONER.—The Commissioner shall provide the Joint Committee on Taxation with such information as is necessary to prepare a Tax Complexity Analysis on each instance in which such an analysis is required."

(b) CLERICAL AMENDMENT.—The table of sections for chapter 92 is amended by adding at the end the following new item:

"Sec. 8024. Tax complexity analysis."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to legislation considered on or after the earlier of January 1, 1998, or the 90th day after the date of the enactment of an additional appropriation to carry out section 8024 of the Internal Revenue Code of 1986, as added by this section.

SEC. 423. SIMPLIFIED TAX AND WAGE REPORTING SYSTEM.

(a) POLICY.—It is the policy of the Congress that employers should have a single point of filing tax and wage reporting information.

(b) ELECTRONIC FILING OF INFORMATION RETURNS.—The Social Security Administration shall establish procedures no later than December 31, 1998, to accept electronic submissions of tax and wage reporting information from employers, and to forward such information to the Internal Revenue Service, and to the tax administrators of the States, upon request and reimbursement of expenses. For purposes of this paragraph, recipients of tax and wage reporting information from the Social Security Administration shall reimburse the Social Security Administration for its incremental expenses associated with accepting and furnishing such information.

SEC. 424. COMPLIANCE BURDEN ESTIMATES.

The Joint Committee on Taxation shall prepare a study of the feasibility of developing a baseline estimate of taxpayers' compliance burdens against which future legislative proposals could be measured.

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

S. 1097. A bill to reduce acid deposition under the Clean Air Act, and for other purposes; to the Committee on Environment and Public Works.

THE ACID DEPOSITION CONTROL ACT OF 1997.

Mr. MOYNIHAN. Mr. President, I rise today to introduce the Acid Deposition Control Act of 1997, a bill to combat acid rain and help restore health to the Nation's sensitive ecosystems—such as the Adirondack Park in my home State of New York. My friend and colleague, Senator D'AMATO is cosponsor of this measure.

Mr. President, in the 1960's, fishermen in the Adirondacks began to complain about more than the big ones that got away. Fish, once abundant, were not simply becoming harder to catch. They had disappeared. Initially, pollution seemed an unlikely cause. The lakes lie in a park protected by the New York State Constitution from most disturbances by human activities. Most of the lakes are virtually inaccessible, except to fishermen—and the winds that blow in from industrial pockets across the Midwest.

Before long, pioneering scientists such as Cornell University's Eugene Likens and Carl Schofield and Syracuse University's Charles Driscoll established a link between increased deposition of acidic compounds in rainfall and the absence or deformity of fish in lakes with clear water and low pH.

This was precisely the phenomenon first documented by Robert Angus Smith in Manchester, England, in 1852. More recently, acid rain had been of concern in Scandinavia. Acids lofted into the atmosphere from tall smokestacks in the industrial basin of the Ruhr River, falling on watersheds that were, in many places, little more than bare rock. Closer to the source, acid rain was blamed for Waldsterben, the death of Germany's prized Black Forest.

We have learned a great deal since then. In June 1980, Congress passed the Energy Security Act, Public Law 96–264. Title VII consisted of a bill I introduced in 1979, the Acid Precipitation Act of 1980. It established the National Acid Precipitation Assessment Program [NAPAP]—an interagency research program to foster the development of science-based Federal policy regarding acid rain. This program resulted in the establishment of long-term acid deposition monitoring programs, a network of permanent forest plots and lake sampling regimes, over 1,500 peer reviewed publications, and perhaps more important the issuance of 71 doctoral degrees in acid deposition research during the 1980's compared to only 2 in the decade before.

By the end of this massive study, scientists worldwide gathered in South Carolina to discuss what they had learned. They learned that at least 800 lakes and 2,200 streams in the eastern United States had been made acidic by acid rain; they predicted that an additional 10 percent would become acidic over the next decade without additional legislation. And they confirmed—as had been expected—that sulfur dioxide emissions were found to be a significant factor in acidifying ecosystems. Sulfur dioxide had contributed to forest decline in high elevation areas, corrosion of stone and metal structures, and reduced visibility.

In 1990, Congress enacted acid rain controls to reduce sulfur dioxide emissions by 10 million tons below 1985 levels, utilizing a unique, market-based approach to ensure the most cost-effective pollution reduction possible. At the time, the measure was expected to have some noticeable—but not overwhelming—beneficial effects.

We were right. Visibility has increased. Acidification of lake waters and deterioration of materials has been reduced. The incidence of respiratory disease has decreased. The market-based emissions trading approach has proved a tremendous success, fostering reductions nearly 40 percent beyond that which the act required, at costs amounting to a mere fraction of industry and government predictions. Equally important, our knowledge increased.

In recent years, scientists have identified another important precursor of acid rain: nitrogen oxides. Studies on the combined effect of sulfur dioxide and nitrogen oxide strongly suggest that the Clean Air Act will not be adequate to prevent long-term deterioration of national treasures such as the Adirondack Mountains and the Chesapeake Bay. According to a 1995 Environmental Protection Agency [EPA] study, even with the reductions required by the Clean Air Act, up to 45 percent of the lakes in the Adirondacks will become too acidic to support most aquatic life by the year 2040. Lakes too acidic to support life. Now there is a powerful image.

The bill I introduce today requires an additional 50-percent reduction of sulfur dioxide and a 75-percent reduction in the level of nitrogen oxides emitted from electric utilities. This legislation blends the best judgment of top scientists with the successful, market-based approach of the existing program.

The legislation calls for a nitrogen oxide cap and trade program similar to the sulfur dioxide program presently administered by EPA's Acid Rain Division. Under the program, EPA officials would divide a fixed—capped—number of nitrogen oxide emission allowances among the 48 contiguous States each year, basing each State's share of allowances on the State's share of the power generated within the 48 States.

Each State, in turn, would divide the allowances among the utilities within the State, in whatever manner the State sees fit. Each allowance represents a limited right to emit 1 ton of NO_X pollution. Each utility must conduct an accounting procedure to ensure that they hold enough allowances to cover their emissions tonnage. A utility with more allowances than emissions may sell their additional allowances or save them for use in a future year. Likewise, a utility with fewer allowances than emissions would purchase excess allowances from another source.

If for any reason a State does not wish to administer the allocation of allowances to its utilities, the EPA Administrator will distribute the allowances automatically, giving each utility a share of the State's allowances equal to that utility's share of the State's power generation.

In addition to contributing to acid deposition, NO_X pollution contributes to ozone pollution, a respiratory and pulmonary irritant which can cause significant adverse health effects. Because heat and sunlight are necessary components in the creation of ozone pollution, ozone is most prevalent in warm summer months. Therefore, in an effort to reduce ozone pollution, the legislation would take additional measures to reduce summertime NO_X emissions. During the months of May, June, July, August, and September, an electric utility would be forced to surrender two allowances per ton of NO_X emitted.

The NO_X trading program would commence operation on January 1, 2000, beginning with an annual cap of 5.4 million allowances and cutting back to 3.0 million allowances beginning in 2003. EPA modeling suggests that, due to the two-for-one ozone season emissions provision, the actual emissions will likely drop to approximately 2.3 million tons per year after 2003—a reduction of approximately 70 percent from 1995 levels.

Mr. President, there were days when dark plumes of smoke coming out of factory smokestacks were signs of prosperity. There was nothing Jim Farley liked to do better than put up a new Post Office and hire an artist to paint on its walls prosperity returning. Black columns of smoke reaching up to the sky—strong colors for what we hoped would be a strong economy.

Lord Kelvin used to point out that one can't solve a problem that one cannot measure. We have spent decades measuring, and now it is time to update our policy response in order to solve the problem. It is time to adjust to the consequences of what we have learned. Mr. President, I urge my colleagues to support the Acid Deposition Control Act of 1997.

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. 1097

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 ''Acid Deposition Control Act''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) reductions of atmospheric nitrogen oxide and sulfur dioxide from utility plants, in addition to the reductions required under the Clean Air Act (42 U.S.C. 7401 et seq.), are needed to reduce acid deposition and its serious adverse effects on public health, natural resources, building structures, sensitive ecosystems, and visibility;

(2) nitrogen oxide and sulfur dioxide contribute to the development of fine particulates, suspected of causing human mortality and morbidity to a significant extent;

(3) regional nitrogen oxide reductions of 50 percent in the Eastern United States, in addition to the reductions required under the Clean Air Act, may be necessary to protect sensitive watersheds from the effects of nitrogen deposition;

(4) without reductions in nitrogen oxide and sulfur dioxide, the number of acidic lakes in the Adirondacks in the State of New York is expected to increase by up to 40 percent by 2040; and

(5) nitrogen oxide is highly mobile and can lead to ozone formation hundreds of miles from the emitting source.

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

(1) to recognize the current scientific understanding that emissions of nitrogen oxide and sulfur dioxide, and the acid deposition resulting from emissions of nitrogen oxide and sulfur dioxide, present a substantial human health and environmental risk;

(2) to require reductions in nitrogen oxide and sulfur dioxide emissions;

(3) to support the efforts of the Ozone Transport Assessment Group to reduce ozone pollution;

(4) to reduce utility emissions of nitrogen oxide by 70 percent from 1990 levels; and

(5) to reduce utility emissions of sulfur dioxide by 50 percent after the implementation of phase II sulfur dioxide requirements under section 405 of the Clean Air Act (42 U.S.C. 7651d).

SEC. 3. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) AFFECTED FACILITY.—The term ''affected facility'' means a facility with 1 or more combustion units that serve at least 1 electricity generator with a capacity equal to or greater than 25 megawatts.

(3) NO_x ALLOWANCE.—The term ''NO_x allowance'' means a limited authorization to emit, in accordance with this Act—

(A) 1 ton of nitrogen oxide during each of the months of October, November, December, January, February, March, and April of any year; and

(B) ½ ton of nitrogen oxide during each of the months of May, June, July, August, and September of any year.

(4) MMBTU.—The term ''mmBtu'' means 1 million British thermal units.

(5) PROGRAM.—The term ''Program'' means the Nitrogen Oxide Allowance Program established under section 4.

(6) STATE.—The term ''State'' means the 48 contiguous States and the District of Columbia.

SEC. 4. NITROGEN OXIDE ALLOWANCE PROGRAM.

(a) IN GENERAL.—

(1) ESTABLISHMENT.—Not later than 18 months after the date of enactment of this Act, the Administrator shall establish a program to be known as the ''Nitrogen Oxide Allowance Program''.

(2) SCOPE.—The Program shall be conducted in the 48 contiguous States and the District of Columbia.

(3) NO_x ALLOWANCES.—The Administrator shall allocate under paragraph (4)—

(A) for each of calendar years 2000 through 2002, 5,400,000 NO_x allowances; and

(B) for calendar year 2003 and each calendar year thereafter, 3,000,000 NO_x allowances.

(4) ALLOCATION.—

(A) DEFINITION OF TOTAL ELECTRIC POWER.—For purposes of this paragraph, the term ''total electric power'' means all electric power generated by utility and nonutility generators for distribution, including electricity generated from solar wind, hydro power, nuclear power, and the combustion of fossil fuel.

(B) ALLOCATION OF ALLOWANCES.—The Administrator shall allocate annual NO_x allowances to each of the States in proportion to the State's share of the total electric power generated in the 48 contiguous States and the District of Columbia.

(C) PUBLICATION.—The Administrator shall publish in the Federal Register a list of each State's NO_x allowance allocation—

(i) by December 1, 1998, for calendar years 2000 and 2002;

(ii) by December 1, 2000, for calendar years 2003 through 2010; and

(iii) by December 1 of each calendar year after 2000, for the calendar year 5 years previous.

(5) INTRASTATE DISTRIBUTION.—

(A) IN GENERAL.—A State may submit a report to the Administrator detailing the distribution of NO_x allowances of the State to affected facilities in the State—

(i) not later than September 30, 1999, for calendar years 2000 through 2002;

(ii) not later than September 30, 2001, for calendar years 2003 through 2010; and

(iii) not later than September 30 of each calendar year after 2011, for the calendar year 5 years previous.

(B) ACTION BY THE ADMINISTRATOR.—If a State submits a report under subparagraph (A) not later than September 30 of the calendar year specified in subparagraph (A), the Administrator shall distribute the NO_x allowances to affected facilities in the State as detailed in the report.

(C) LATE SUBMISSION OF REPORT.—A report submitted by a State after September 30 of the specified year shall have no force or effect.

(D) DISTRIBUTION IN ABSENCE OF A REPORT.—

(i) IN GENERAL.—Subject to subsection (e), if a State does not submit a report under subparagraph (A) not later than September 30 of the calendar year specified in subparagraph (A), the Administrator shall, not later than November 30 of that calendar year, distribute the NO_x allowances for the calendar years specified in subparagraph (A) to each affected facility in the State in proportion to the affected facility's share of the total net electric power generated in the State.

(ii) DETERMINATION OF FACILITY'S SHARE.—In determining an affected facility's share of total net electric power generated in a State, the Administrator shall consider the net electric power generated by the facility and the State to be—

(I) for calendar years 2000 through 2002, the average annual amount of net electric power generated, by the facility and the State, respectively, in calendar years 1995 through 1997;

(II) for calendar years 2003 through 2010, the average annual amount of net electric power generated, by the facility and the State, respectively, in calendar years 1997 through 1999; and

(III) for calendar year 2011 and each calendar year thereafter, the amount of net electric power generated, by the facility and the State, respectively, in the calendar year 5 years previous to the year for which the determination is made.

(E) JUDICIAL REVIEW.—A distribution of NO_x allowances by the Administrator under subparagraph (D) shall not be subject to judicial review.

(b) NO_x ALLOWANCE TRANSFER SYSTEM.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Administrator shall promulgate NO_x allowance system regulations under which a NO_x allowance allocated under this Act may be transferred among affected facilities and any other person.

(2) ESTABLISHMENT.—The regulations shall establish the NO_x allowance system under this section, including requirements for the allocation, transfer, and use of NO_x allowances under this Act.

(3) USE OF NO_x ALLOWANCES.—The regulations shall—

(A) prohibit the use (but not the transfer in accordance with paragraph (5)) of any NO_x allowance before the calendar year for which the NO_x allowance is allocated; and

(B) provide that the unused NO_x allowances shall be carried forward and added to NO_x allowances allocated for subsequent years.

(4) CERTIFICATION OF TRANSFER.—A transfer of a NO_x allowance shall not be effective until a written certification of the transfer, signed by a responsible official of the person making the transfer, is received and recorded by the Administrator.

(c) NO_x ALLOWANCE TRACKING SYSTEM.—Not later than 18 months after the date of enactment of this Act, the Administrator shall promulgate regulations for issuing, recording, and tracking the use and transfer of NO_x allowances that shall specify all necessary procedures and requirements for an orderly and competitive functioning of the NO_x allowance system.

(d) PERMIT REQUIREMENTS.—A NO_x allowance allocation or transfer shall, on recordation by the Administrator, be considered to be a part of each affected facility's operating permit requirements, without the requirement for any further permit review and revision.

(e) NEW SOURCE RESERVE.—

(1) IN GENERAL.—For a State for which the Administrator distributes NO_x allowances under subsection (a)(5)(D), the Administrator shall place 10 percent of the total annual NO_x allowances of the State in a new source reserve to be distributed by the Administrator—

(A) for calendar years 2000 through 2003, to sources that commence operation after 1995;

(B) for calendar years 2004 through 2009, to sources that commence operation after 1997; and

(C) for calendar year 2010 and each calendar year thereafter, to sources that commence operation after the calendar year that is 5 years previous to the year for which the distribution is made.

(2) SHARE.—For a State for which the Administrator distributes NO_x allowances under subsection (a)(5)(D), the Administrator shall distribute to each new source a number of NO_x allowances sufficient to allow emissions by the source at a rate equal to the lesser of the new source performance standard or the permitted level for the full nameplate capacity of the source, adjusted pro rata for the number of months of the year during which the source operates.

(3) UNUSED NO_x ALLOWANCES.—

(A) IN GENERAL.—During the period of calendar years 2000 through 2005, the Administrator shall conduct auctions at which a NO_x allowance remaining in the new source reserve that has not been distributed under paragraph (2) shall be offered for sale.

(B) OPEN AUCTIONS.—An auction under subparagraph (A) shall be open to any person.

(C) CONDUCT OF AUCTION.—

(i) METHOD OF BIDDING.—A person wishing to bid for a NO_x allowance at an auction under subparagraph (A) shall submit (by a date set by the Administrator) to the Administrator (on a sealed bid schedule provided by the Administrator) an offer to purchase a specified number of NO_x allowances at a specified price.

(ii) SALE BASED ON BID PRICE.—A NO_x allowance auctioned under subparagraph (A) shall be sold on the basis of bid price, starting with the highest priced bid and continuing until all NO_x allowances for sale at the auction have been sold.

(iii) NO MINIMUM PRICE.—A minimum price shall not be set for the purchase of a NO_x allowance auctioned under subparagraph (A).

(iv) REGULATIONS.—The Administrator, in consultation with the Secretary of the Treasury, shall promulgate regulations to carry out this paragraph.

(D) USE OF NO_x ALLOWANCES.—A NO_x allowance purchased at an auction under subparagraph (A) may be used for any purpose and at any time after the auction that is permitted for use of a NO_x allowance under this Act.

(E) PROCEEDS OF AUCTION.—The proceeds from an auction under this paragraph shall be distributed to the owner of an affected source in proportion to the number of allowances that the owner would have received but for this subsection.

(f) NATURE OF NO_x ALLOWANCES.—

(1) NOT A PROPERTY RIGHT.—A NO_x allowance shall not be considered to be a property right.

(2) LIMITATION OF NO_x allowances.—Notwithstanding any other provision of law, the Administrator may terminate or limit a NO_x allowance.

(g) PROHIBITIONS.—

(1) IN GENERAL.—After January 1, 2000, it shall be unlawful—

(i) for the owner or operator of an affected facility to operate the affected facility in such a manner that the affected facility emits nitrogen oxides in excess of the amount permitted by the quantity of NO_x allowances held by the designated representative of the affected facility; or

(ii) for any person to hold, use, or transfer a NO_x allowance allocated under this Act, except as provided under this Act.

(2) OTHER EMISSION LIMITATIONS.—Section 407 of the Clean Air Act (42 U.S.C. 7651f) is repealed.

(3) TIME OF USE.—A NO_x allowance may not be used before the calendar year for which the NO_x allowance is allocated.

(4) PERMITTING, MONITORING, AND ENFORCEMENT.—Nothing in this section affects—

(A) the permitting, monitoring, and enforcement obligations of the Administrator under the Clean Air Act (42 U.S.C. 7401 et seq.); or

(B) the requirements and liabilities of an affected facility under the Clean Air Act (42 U.S.C. 7401 et seq.).

(h) SAVINGS PROVISIONS.—Nothing in this section—

(1) affects the application of, or compliance with, the Clean Air Act (42 U.S.C. 7401 et seq.) for an affected facility, including the provisions related to applicable national ambient air quality standards and State implementation plans;

(2) requires a change in, affects, or limits any State law regulating electric utility rates or charges, including prudency review under State law;

(3) affects the application of the Federal Power Act (16 U.S.C. 791a et seq.) or the authority of the Federal Energy Regulatory Commission under that Act; or

(4) interferes with or impairs any program for competitive bidding for power supply in a State in which the Program is established.

SEC. 5. INDUSTRIAL SOURCE MONITORING.

Section 412(a) of the Clean Air Act (42 U.S.C. 7651k(a)) is amended in the first sentence by inserting '', or of any industrial facility with a capacity of 100 or more mmBtu's per hour,'' after ''The owner and operator of any source subject to this title''.

SEC. 6. EXCESS EMISSIONS PENALTY.

(a) IN GENERAL.—

(1) LIABILITY.—The owner or operator of an affected facility that emits nitrogen oxides in any calendar year in excess of the NO_x allowances the owner or operator holds for use for the facility for that year shall be liable for the payment of an excess emissions penalty.

(2) CALCULATION.—The excess emissions penalty shall be calculated by multiplying $6,000 by the quantity that is equal to—

(A) the quantity of NO_x allowances that would authorize the nitrogen oxides emitted by the facility for the calendar year; minus

(B) the quantity of NO_x allowances that the owner or operator holds for use for the facility for that year.

(3) OVERLAPPING PENALTIES.—A penalty under this section shall not diminish the liability of the owner or operator of an affected facility for any fine, penalty, or assessment against the owner or operator for the same violation under any other provision of law.

(b) EXCESS EMISSIONS OFFSET.—

(1) IN GENERAL.—The owner or operator of an affected facility that emits nitrogen oxide during a calendar year in excess of the NO_x allowances held for the facility for the calendar year shall offset in the following calendar year a quantity of NO_x allowances equal to the number of NO_x allowances that would authorize the excess nitrogen oxides emitted.

(2) PROPOSED PLAN.—Not later than 60 days after the end of the year in which excess emissions occur, the owner or operator of an affected facility shall submit to the Administrator and the State in which the affected facility is located a proposed plan to achieve the offset required under paragraph (1).

(3) CONDITION OF PERMIT.—On approval of the proposed plan by the Administrator, as submitted, modified, or conditioned by the Administrator, the plan shall be considered a condition of the operating permit for the affected facility without further review or revision of the permit.

(c) PENALTY ADJUSTMENT.—The Administrator shall annually adjust the penalty specified in subsection (a) to reflect changes in the Consumer Price Index for all urban consumers published by the Bureau of Labor Statistics.

SEC. 7. SULFUR DIOXIDE ALLOWANCE PROGRAM REVISIONS.

Section 402(3) of the Clean Air Act (as added by section 401 of Public Law 101–549 (104 Stat. 2584)) (42 U.S.C. 7651a(3)) is amended by inserting before the period at the end the following: ''for allowances allocated for calendar years 1995 through 2002, and ½ ton of sulfur dioxide for allowances allocated for calendar year 2003 and each calendar year thereafter.''.

SEC. 8. REGIONAL ECOSYSTEMS.

(a) REPORT.—

(1) IN GENERAL.—Not later than December 31, 2002, the Administrator shall submit to Congress a report identifying objectives for scientifically credible environmental indicators, as determined by the Administrator, that are sufficient to protect sensitive ecosystems of the Adirondack Mountains, Mid-Appalachian Mountains, and Southern Blue Ridge Mountains and water bodies of the Great Lakes, Lake Champlain, Long Island Sound, and the Chesapeake Bay.

(2) ACID NEUTRALIZING CAPACITY.—The report under paragraph (1) shall—

(A) include acid neutralizing capacity as an indicator; and

(B) identify as an objective under paragraph (1) the objective to increase the proportion of water bodies in sensitive receptor areas with an acid neutralizing capacity greater than zero from the proportion identified in surveys begun in 1984.

(3) UPDATED REPORT.—Not later than December 31, 2006, the Administrator shall submit to Congress a report updating the report under paragraph (1) and assessing the status and trends of various environmental indicators for the regional ecosystems referred to in paragraph (1).

(4) REPORTS UNDER THE NATIONAL ACID PRECIPITATION ASSESSMENT PROGRAM.—The reports under this subsection shall satisfy the report requirements set forth in section 103(j)(3)(E) of the Clean Air Act (42 U.S.C. 7403(j)(3)(E)) for the years 2002 and 2006.

(b) REGULATIONS.—

(1) DETERMINATION.—Not later than December 31, 2006, the Administrator shall determine whether emissions reductions under section 4 are sufficient to ensure achievement of the objectives identified in subsection (a)(1).

(2) PROMULGATION.—If the Administrator determines under paragraph (1) that emissions reductions under section 4 are not sufficient to ensure achievement of the objectives identified in subsection (a)(1), the Administrator shall promulgate, not later than 2 years after making the finding, such regulations, including modification of nitrogen oxide and sulfur dioxide allowance allocations or any such measure, as the Administrator determines are necessary to protect the sensitive ecosystems described in subsection (a)(1).

SEC. 9. GENERAL COMPLIANCE WITH OTHER PROVISIONS.

Except as expressly provided in this Act, compliance with this Act shall not exempt or exclude the owner or operator of an affected facility from compliance with any other law.

SEC. 10. MERCURY EMISSION STUDY AND CONTROL.

(a) STUDY AND REPORT.—The Administrator shall—

(1) study the practicality of monitoring mercury emissions from all combustion units that have a capacity equal to or greater than 250 mmBtu's per hour; and

(2) not later than 2 years after the date of enactment of this Act, submit to Congress a report on the results of the study.

(b) REGULATIONS CONCERNING MONITORING.—Not later than 1 year after the date of submission of the report under subsection (a), the Administrator shall promulgate regulations requiring the reporting of mercury emissions from units that have a capacity equal to or greater than 250 mmBtu's per hour.

(c) EMISSION CONTROLS.—

(1) IN GENERAL.—Not later than 1 year after the commencement of monitoring activities under subsection (b), the Administrator shall promulgate regulations controlling electric utility and industrial source emissions of mercury.

(2) FACTORS.—The regulations shall take into account technological feasibility, cost, and the projected levels of mercury emissions that will result from implementation of this Act.

SEC. 11. DEPOSITION RESEARCH BY THE ENVIRONMENTAL PROTECTION AGENCY.

(a) IN GENERAL.—The Administrator shall establish a competitive grant program to fund research related to the effects of nitrogen deposition on sensitive watersheds and coastal estuaries in the Eastern United States.

(b) CHEMISTRY OF LAKES AND STREAMS.—Not later than September 30, 1999, and September 30, 2006, the Administrator shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Resources of the House of Representatives a report on the health and chemistry of lakes and streams of the Adirondacks that were subjects of the report transmitted under section 404 of Public Law 101–549 (commonly known as the ''Clean Air Act Amendments of 1990'') (104 Stat. 2632).

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

(1) to carry out subsection (a), $1,000,000 for each of fiscal years 1998 through 2003; and

(2) to carry out subsection (b), $1,000,000 for each of fiscal years 1998, 1999, 2005, and 2006.

Mr. D'AMATO. Mr. President, I rise today to join my friend and distinguished colleague, Senator MOYNIHAN, in introducing legislation that we believe will curb the devastating effects of acid rain in New York State and throughout the entire Nation. Our bill seeks to place controls on the emission of the pollutants that cause acid rain and acid deposition—Sulfur Dioxide (SO_2) and Nitrogen Oxide (NO_x)—beyond those levels enacted in the 1990 Clean Air Act. In this way, we will ensure that those entities that are primarily responsible for the pollution that affects down-wind States such as New York are held to the same strict accountability.

New Yorkers know all too well that pollution transported from up-wind sources has had a devastating impact on the Adirondacks as well as other regions within the State. The prevalence of acid deposition has reached the point where the Environmental Protection Agency [EPA] estimates that without further controls of nitrogen oxides, the number of acidic lakes in the Adirondacks could increase to 43 percent by the year 2040. Such an increase will see approximately 1,300 lakes out of the 3,000 in the Adirondacks become chronically acidic. Clearly, we must take action to prevent this from becoming a reality.

Under the 1990 Clean Air Act, a cap on SO_2 emissions was enacted. It was designed to reduce the overall level of this pollutant by 50 percent by the year 2000. To provide an incentive to decrease emissions even more, a system of trading allowances for SO_2 was established. An ''allowance'' allows a utility to emit 1 ton of SO_2 pollution. These trading allowances enable utilities that have reached their allowable emission caps for SO_2 to buy another utility's excess capability. This ability to ''trade'' tons of SO_2 has been popular with utilities and has actually brought significant reductions in the amount of SO_2 emitted in a cost-effective manner. The legislation that we are introducing today builds on that success by instituting a NO_x cap and trade program that we believe will have a positive impact on the environment.

Under the bill, the Environmental Protection Agency [EPA] would be required to allocate a capped number of NO_x emission allowances nationwide—excluding Alaska and Hawaii. The EPA would base each State's allotment on the percentage share of power each State generates within the 48 contiguous States. So, if a particular State generates 5 percent of the power in the Continental United States, then that State would be entitled to 5 percent of the total emissions pool.

Once a State had received its emission allowances, the State would be able to divide those allowances within the State in any manner it chooses. Utilities would be required to ensure that they have enough tons at their disposal to cover their total emission tonnage. If a State had additional tons, they would be able to sell allowances or ''bank'' them for use at a future time. A utility without enough allowances would have to buy them on the open market, an option currently in practice with SO_2. Utilities that do not abide by these restrictions on capping and trading NO_x allowances would be fined $6,000 per ton emitted over the established limit for that plant. States that are unwilling or unable to determine the allocation of allowances to utilities within their State would have that capability default to the EPA.

The NO_x trading program would go into effect in the year 2000 with an annual cap of 5.4 million allowances nationwide decreasing to 3 million allowances in 2003. Currently, utilities emit approximately 6.5 million tons of nitrogen oxides (NO_x).

The bill would also create further protections against harmful pollution during the summer months when ozone levels are at their highest. When NO_x combines with heat, sunlight and volatile organic compounds [VOC's], the end product is ozone. Thus, ideal conditions for high levels of ground-level ozone occur mainly in the summer months. To combat this, the legislation calls for utilities to give up two allowances for each ton of NO_x emitted during the months of May, June, July, August and September instead of the one allowance per ton that would apply for the remaining 7 months of the year. This would effectively drop the total emission of NO_x to 2.3 million tons after the year 2003 and would create approximately a 70 percent reduction in NO_x emissions from the 1990 level.

In addition, the bill calls for further reductions in SO_2 in the year 2003, when utilities will be required to use two allowances per ton of SO_2 emitted instead of one. This would cut these emissions in half. The bill also requires the EPA to conduct a study on the effects that mercury, a toxic metal, may have on the environment and how to measure this mercury with an eye towards possible monitoring and control of mercury emissions in the future.

Finally, the bill contains a provision for specific research on the effect of acid deposition on the sensitive ecosystems of the Adirondacks, the Southern Blue Ridge Mountains, the Mid-Appalachian Mountains and water bodies of the Great Lakes, Lake Champlain, Long Island Sound and the Chesapeake Bay. If proven by research that a particular region is still threatened, then the Administrator may take further steps to promote environmental recovery of that region.

We in New York continue to see the effects that acid rain and acid deposition have on our environment. Lakes, streams and trees in the Adirondacks are still dying due to the continued emission and transport of these pollutants. Other states and other regions throughout our nation have similar problems. If we are to pass along a healthy environment to our children and grandchildren, we must be willing to enact the controls that will preserve that legacy. The legislation that Senator MOYNIHAN and I have proposed is strong medicine, but it will enable us to sustain our heritage for generations to come.

By Mr. DURBIN:

S. 1098. A bill to provide for the debarment or suspension from Federal procurement and nonprocurement activities of persons that violate certain labor and safety laws; to the Committee on Governmental Affairs.

THE FEDERAL PROCUREMENT AND ASSISTANCE INTEGRITY ACT

Mr. DURBIN. Mr. President, I am pleased today to introduce legislation to improve the efficiency and protect the integrity of Federal procurement and assistance programs, by ensuring that the Federal Government does business with responsible contractors and participants.

The United States General Accounting Office [GAO] has found that billions of dollars in Federal procurement contracts and assistance are going to individuals and corporations which are violating our nation's labor and employment laws. In 1995, the GAO reported that more than $23 billion in Federal contracts were awarded in fiscal year 1993 to contractors who violated labor laws. That is 13 percent of the $182 billion in Federal contracts awarded that year. Part of the reason for this, the GAO found, is that the National Labor Relations Board, which enforces our nation's labor laws, does not know whether violators of the law are receiving Federal contracts. And the General Services Administration, which oversees Federal procurement, does not know the labor relations records of Federal contractors.

Last year, the GAO reported that $38 billion in Federal contracts in fiscal year 1994 were awarded to contractors who had violated workplace health and safety laws. That is 22 percent of the $176 billion in Federal contracts of $25,000 or more which were awarded that year. The GAO found that 35 people died and 55 more people were hospitalized in fiscal year 1994 as a result of injuries at the workplaces of federal contractors who violated health and safety laws. These contractors were assessed a total of $10.9 million in penalties in fiscal year 1994—while being awarded $38 billion in Federal contracts.

The GAO concluded that, although federal agencies have the authority to deny contracts and federal assistance to companies that violate Federal laws, this authority is rarely used in the case of safety and health violations. The GAO found that federal agencies do not normally collect or receive information about which contractors are violating health and safety laws—even when contractors have been assessed large penalties for egregious or repeat violations.

The Federal Government should not ignore the health and safety records of companies that apply for federal contracts and assistance. A report published this week in the Archives of Internal Medicine concludes that job-related injuries and illnesses in the United States are more common than previously thought, costing the nation more than AIDS, Alzheimer's, cancer or heart disease. The report, which analyzed national estimates of job-related illnesses and injuries in 1992, states that more than 13 million Americans were injured from job-related causes in just one year—more than four times the number of people who live in the City of Chicago. The report concluded that the cost to our country from workplace injuries and illnesses was $171 billion in 1992.

The Federal Government has a responsibility to taxpayers, working Americans and law-abiding businesses, to ensure that federal tax dollars do not go to individuals and corporations that violate safety and health, labor and veterans' employment preference laws. About 26 million Americans are employed by federal contractors and subcontractors. They deserve to know that their Government is not rewarding employers who violate the laws that protect American workers and veterans.

The legislation I am introducing today will improve the enforcement of our nation's health and safety, labor and veterans' employment laws, and provide an incentive to contractors to comply with the law. This legislation will allow the Secretary of Labor to debar or suspend a person from receiving Federal contracts or assistance for violating the National Labor Relations Act, the Fair Labor Standards Act, the Occupational Safety and Health Act or the disabled and Vietnam-era veterans hiring preference law. It will require the Secretary of Labor and the National Labor Relations Board to develop procedures to determine whether a violation of law is serious enough to warrant debarment or suspension. And, as recommended by the GAO, this legislation will require ongoing exchanges of information among Federal agencies to improve their ability to enforce our nation's laws. This legislation is identical to a bill introduced in the House of Representatives by Congressman Lane Evans of Illinois, and it is similar to legislation introduced in previous years by former Senator Paul Simon.

Mr. President, it is important to note that the vast majority of Federal contractors obey the law. This legislation is only directed at those who are violating the law. It will deny Federal contracts and assistance to individuals and companies that violate the law and ensure that Federal contracts are awarded to companies that respect the law.

I urge my colleagues to join me in supporting this legislation, and 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. 1098

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Federal Procurement and Assistance Integrity Act''.

SEC. 2. PURPOSE.

The purpose of this Act is to improve the efficiency and effectiveness and protect the integrity of the Federal procurement and assistance systems by ensuring that the Federal Government does business with responsible contractors and participants.

SEC. 3. DEBARMENT AND SUSPENSION FOR VIOLATORS OF CERTAIN LABOR AND SAFETY LAWS.

(a) DEBARMENT AND SUSPENSION.—The Secretary of Labor may debar or suspend a person from procurement activities or nonprocurement activities upon a finding, in accordance with procedures developed under this section, that the person violated any of the following laws:

(1) The National Labor Relations Act (29 U.S.C. 151 et seq.).

(2) The Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).

(3) The Occupational Safety and Health Act (29 U.S.C. 651 et seq.).

(4) Section 4212(a) of title 38, United States Code.

(b) PROCEDURES.—The Secretary of Labor and the National Labor Relations Board shall jointly develop procedures to determine whether a violation of a law listed in subsection (a) is serious enough to warrant debarment or suspension under that subsection. The procedures shall provide for an assessment of the nature and extent of compliance with such laws, including whether there are or were single or multiple violations of those laws or other labor or safety laws and whether the violations occur or have occurred at one facility, several facilities, or throughout the company concerned. In developing the procedures, the Secretary and the Board shall consult with departments and agencies of the Federal Government and provide, to the extent feasible, for ongoing exchanges of information between the departments and agencies and the Department of Labor and the Board in order to accurately carry out such assessments.

(c) DEFINITIONS.—In this section:

(1) DEBAR.—The term ''debar'' means to exclude, pursuant to established administrative procedures, from Federal Government contracting and subcontracting, or from participation in nonprocurement activities, for a specified period of time commensurate with the seriousness of the failure or offense or the inadequacy of performance.

(2) NONPROCUREMENT ACTIVITIES.—The term ''nonprocurement activities'' means all programs and activities involving Federal financial and nonfinancial assistance and benefits, as covered by Executive Order No. 12549 and the Office of Management and Budget guidelines implementing that order.

(3) PROCUREMENT ACTIVITIES.—The term ''procurement activities'' means all acquisition programs and activities of the Federal Government, as defined in the Federal Acquisition Regulation.

(4) SUSPEND.—The term ''suspend'' means to disqualify, pursuant to established administrative procedures, from Federal Government contracting and subcontracting, or from participation in nonprocurement activities, for a temporary period of time because an entity or individual is suspected of engaging in criminal, fraudulent, or seriously improper conduct.

(d) EFFECTIVE DATE.—This Act shall take effect on October 1, 1997.

(e) REGULATIONS.—The Federal Acquisition Regulation and the regulations issued pursuant to Executive Order No. 12549 shall be revised to include provisions to carry out this Act.

(f) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Labor and the National Labor Relations Board shall jointly submit to Congress a report on the implementation of this Act.

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

S. 1099. A bill to authorize the Secretary of the Army to acquire such land in the vicinity of Pierre, South Dakota, as the Secretary determines is adversely affected by the full wintertime Oahe Powerplant release; to the Committee on Environment and Public Works.

RELOCATION OF RESIDENTS IN PIERRE AND FT. PIERRE, SOUTH DAKOTA, LEGISLATION

Mr. DASCHLE. Mr. President, today I am introducing legislation to provide the Corps of Engineers with the authority to buy-out and relocate people living in the southeast Pierre and Ft.

Pierre areas that are being flooded by the federal Pick-Sloan project. This is a chronic problem that is getting worse every year as sediment builds up at the delta of the Bad and Missouri Rivers.

In the Pierre and Ft. Pierre area, high water levels, exacerbated by sediment buildup and ice, regularly leads to the flooding of homes in the wintertime. The situation has become intolerable, and it is not fair for the residents of this area to continue to suffer as the result of the operation of this federal project. Moreover, the flooding problem hinders the ability of the Western Area Power Administration to generate hydroelectric power from the Oahe dam, resulting in the loss of millions of dollars in revenues to the federal government each year.

To address this problem, I added a provision to the 1996 Water Resources Development Act to require the Corps of Engineers to develop a plan to remove the sediment blocking the channel and to reduce the erosion that is leading to this persistent buildup of sediment at the delta. Hopefully, this effort will lead to the development of a means of moving some of the sediment and of a plan to better prevent erosion in the Bad River watershed. One local resident, Mike Harrison, has developed a plan to help clear the channel of sediment which holds promise and which the Corps will evaluate with funds appropriated for fiscal year 1998.

Even if that effort is successful, however, and we are able to relieve some of the pressure on the channel, sediment from the Bad River will continue to build up at that location. In short, while we may be able to increase the capacity of the channel to transport water and thus allow for greater hydroelectric power generation in the wintertime, it is difficult to envision a time when we will be able to permanently alleviate the risk of flooding to the homeowners in the area.

Therefore, I am introducing this legislation to authorize the Corps to relocate the affected homeowners and ensure that they never again have to face the prospects of enduring flooded homes during our cold South Dakota winters. It is my strong hope Congress will recognize the severity of this problem and move swiftly to enact and implement this legislation. I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1099

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

SECTION 1. ACQUISITION OF LAND NEAR PIERRE, SOUTH DAKOTA.

To provide full operational capability to carry out the authorized purposes of the Missouri River Main Stem dams that are part of the Pick-Sloan Missouri River Basin Program authorized by section 9 of the Act entitled ''An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes'', approved December 22, 1944, the Secretary of the Army, acting through the Chief of Engineers, may acquire, from willing sellers, such land in the vicinity of Pierre, South Dakota, as the Secretary determines is adversely affected by the full wintertime Oahe Powerplant release.

By Mr. AKAKA (for himself, Ms. COLLINS, Mr. HUTCHINSON, Ms. LANDRIEU, Mr. BUMPERS, Mr. FORD, Mr. BINGAMAN, and Mr. HOLLINGS):

S. 1100. A bill to amend the Covenant To Establish a Commonwealth of the Northern Mariana Islands in Political Union With the United States of America, the legislation approving such covenant, and for other purposes; to the Committee on Energy and Natural Resources.

THE COMMONWEALTH OF THE NORTHERN MARIANA REFORM ACT

Mr. AKAKA. Mr. President, today I am introducing the Commonwealth of the Northern Mariana Islands Reform Act, a bipartisan initiative to curb immigration, wage, and apparel labeling abuses in the CNMI. Senators COLLINS, HUTCHINSON of Arkansas, LANDRIEU, BUMPERS, FORD, BINGAMAN, and HOLLINGS are cosponsors of this legislation.

The Commonwealth of the Northern Mariana Islands is located 3,900 miles west of Hawaii. Following World War II, the United States administered the islands under a U.N. Trusteeship.

In 1975, the people of the CNMI voted for political union with the United States. Today the CNMI is a U.S. territory.

A 1976 covenant enacted by Congress gave U.S. citizenship to residents of the CNMI. The covenant exempted the Commonwealth from U.S. immigration and minimum wage laws, however. This omission has led to a number of abuses in the CNMI that my bill would rectify.

IMMIGRATION ABUSE IN THE CNMI

I am sure many Senators will find it hard to believe that the Immigration and Nationality Act does not apply to all territories in the U.S. As surprising as it may be, the CNMI is exempt from U.S. immigration law.

Let me explain the origins of this unique situation. At the time that the covenant establishing the CNMI was negotiated, the Northern Marianas leadership expressed concern that immigrants from neighboring Asian countries might settle in the CNMI and thereby alter the Commonwealth's culture. The island government requested that it be given exclusive authority over immigration so that it could limit the entry of aliens and preserve local culture and customs. Congress agreed to the request, but specifically reserved the right to extend Federal immigration law to the CNMI if the situation warranted.

After 20 years, CNMI immigration policy is a proven failure. In 1980, the Commonwealth's population was 16,780. Of these, 12 percent were alien residents. Today, CNMI's population is 59,000, more than half of whom are aliens.

Rather than preventing an influx of immigrants, the CNMI has established an aggressive policy of recruiting low-wage, foreign guest workers to operate an ever-expanding garment and tourism industry. According to the CNMI representative in Washington, local immigration policy has ''no limit. It is wide open, unrestricted.''

The U.S. Immigration and Naturalization Service reports that CNMI authorities have no reliable records of aliens who have entered the CNMI, how long they remain, and when, if ever, they depart. Ninety-one percent of the private sector work force are alien guest workers. These workers have overwhelmed the CNMI, driving up unemployment in the Commonwealth to 14 percent. There is no justification for an immigration policy that admits foreign workers in such overwhelming numbers that it leads to double-digit unemployment.

The application of U.S. immigration law to the CNMI is long overdue. The CNMI has exploited its immigration exemption to the point where alien workers constitute a majority of the CNMI population. The Commonwealth's exemption from the Immigration and Nationality Act has been so abused that protecting the island culture ceases to be an issue.

Despite a 3-year effort by the U.S. Departments of Justice, Labor, and Interior, and an appropriation of $10 million by Congress, there had been little or no improvement in CNMI immigration policy. In fact, the Commonwealth's immigration policy has grown worse. Between January 1995 and May 1996, 23 new garment companies received operating licenses, prompting the CNMI Government to enact legislation to double the number of foreign workers permitted in the island's garment industry.

''MADE IN USA'' ABUSE

The U.S. apparel industry would be shocked to learn that in 1996, $555 million of textile products labeled ''Made in USA'' were cut and sewn in the CNMI by workers who enjoy none of the protections typically associated with the ''Made in USA'' label. Even more frightening is the fact that the CNMI textile industry is growing at a rate of 30 percent annually. Textile manufacturers across the United States who pay their employees the Federal minimum wage are undercut by CNMI competitors who label their garments ''Made in USA'' but employ foreign laborers to sew foreign fabric, pay them $3.05 an hour and subject them to feudal working conditions.

The evidence that garments sewn in the CNMI directly and unfairly compete with U.S. apparel manufacturers is very strong. According to the Commerce Department, 85 percent of CNMI apparel is classified as import sensitive. This classification means that the CNMI garments compete with segments of the U.S. apparel industry that are experiencing significant decline due to heavy import penetration.

Apparel manufacturers in the CNMI enjoy benefits that far exceed those enjoyed by foreign or domestic manufacturers. CNMI garment factories are not subject to the U.S. minimum wage and pay no duty on fabrics they import. Furthermore, quotas do not apply to either fabric imported into the Commonwealth, or to finished garments cut and sewn in the CNMI using foreign labor. Yet these products are labeled ''Made in the USA'' and compete unfairly with apparel employment elsewhere in the United States.

The July 1997 report on labor, immigration, and law enforcement in the CNMI confirms my analysis of the Commonwealth's garment industry. Page 13 of the report contains the following finding:

> The duty and quota-free preferences afforded to products of the CNMI, coupled with local control of immigration and minimum wage, have led to a rapidly growing garment manufacturing industry. Apparel manufacturers operating in the CNMI, who mainly employ workers from the People's Republic of China, label their products ''Made in the USA,'' and use Chinese fabric not subject to United States duty or quota. By using the CNMI as an apparel manufacturing base, these manufacturers avoid duties and are not subject to United States quotas on finished products. These imports adversely affect the United States apparel industry's employment and profits.

In some cases, these garment factories are transplanted to the CNMI from the People's Republic of China. They are owned or managed by Chinese nationals, and staffed by bonded and indentured Chinese laborers. Despite promises of the American dream if they work in the CNMI, laborers must sign contracts with government officials in the People's Republic of China that waive rights guaranteed to U.S. workers, forbid participation in religious and political activities while in the U.S., prohibit workers from marrying, and subject employees to penalties in China for violations of their labor contracts.

In factories with close ties to China, compliance with labor contracts is directly monitored by representatives of the Chinese government. These working conditions hardly justify granting ''Made in the USA'' status to CNMI garments.

CNMI DENIES EMPLOYMENT OPPORTUNITIES TO U.S. WORKERS

The 1976 covenant exempts the CNMI from the Federal minimum wage. This exemption was granted with the understanding that as its economy grew and prospered, the CNMI would raise its minimum wage to the Federal level. Foreign workers typically enter the CNMI under 1-year work permits and are paid a minimum of wage of $3.05.

According to the July 1997 report by the Department of the Interior, the lower minimum wage, combined with unlimited access to foreign labor, creates an incentive for employers to hire foreign labor for all jobs, including skilled and entry level jobs at or near the minimum wage. Employment statistics clearly support the Interior Department analysis.

Ninety-one percent of the private sector work force are alien guest workers. U.S. citizens who can find work, and there are many who cannot, are typically employed by the government in jobs that pay more than the minimum wage. Due to its irresponsible immigration policy, foreign workers have overwhelmed the CNMI to the point where unemployment among U.S. citizens living in the Commonwealth is 14 percent. The CNMI preference for foreign laborers deprives U.S. citizens of private sector opportunities and leaves them with the limited options of government work, unemployment and welfare, or relocation to Guam or the mainland.

The minimum wage is sometimes a lightning-rod issue for Republicans. However, in a labor market where there is an unlimited supply of guest workers, the low CNMI minimum wage means that low-wage alien laborers are displacing U.S. workers. Any policy that favors foreign workers over the interests of employed and unemployed U.S. citizens is indefensible.

LABOR ABUSE IN THE CNMI

CNMI immigration and wage abuses have caused a number of collateral problems. Pervasive labor abuses in the Commonwealth have provoked international outrage. In 1995, the Philippine government imposed a moratorium on immigration of Filipino workers in the CNMI. The Philippine Government's extraordinary action to protect its citizens from employment in the CNMI was the first such decision by a foreign government in U.S. history. Although the Philippine Government has since lifted the moratorium, recurring abuses prompted Philippine officials to announce that the moratorium may soon be reimposed.

While the U.S. minimum wage does not apply, CNMI must adhere to all other Federal labor laws. The U.S. Department of Labor has uncovered a systematic pattern of labor abuses in the CNMI. These abuses are a direct consequence of the Commonwealth's unrestricted immigration policy. Examples include involuntary servitude and peonage, illegal withholding of wages, nonpayment of overtime wages, illegal deductions from paychecks to cover employer expenses, kickbacks of wages to employers, and employee lockdowns in work sites and living barracks.

HUMAN RIGHTS AND SEXUAL ABUSE

The Commonwealth's immigration policy results in serious problems in other areas. The Justice Department has documented numerous cases of women and girls being recruited from the Philippines, China, and other Asian countries expressly for criminal sexual activity. These abuses are a direct consequence of the Commonwealth's unrestricted immigration policy.

Typically, these women are told they will work in the CNMI as waitresses, but are forced into nude dancing and prostitution upon their arrival. The Justice Department described this situation as the ''systematic trafficking of women and minors for prostitution,'' which may also involve illegal smuggling, organized crime, immigration document fraud, and pornography. Cases of sexual servitude have also been identified.

The U.S. Justice Department also found cases of female guest workers and aliens living in the CNMI being forced into prostitution through intimidation or threats of physical harm. In some instances, women who resist are kidnapped, raped, and tortured.

To correct these abuses in the CNMI, my bill makes three changes in Federal law. First, it extends the Immigration and Nationality Act to the Commonwealth so that the CNMI will end its dependence on foreign labor.

Second, it would limit use of the ''Made in USA'' label to apparel manufactured with a minimum percentage of U.S. citizen labor. In 1999, the minimum percentage of U.S. citizen labor must be 20 percent. In 2000, the minimum percentage must be 35 percent and thereafter the minimum percentage rises to 50 percent.

Finally, my bill would make the U.S. minimum wage applicable to the CNMI so that the CNMI garment industry competes fairly with industry on the U.S. mainland.

Despite efforts to portray itself as an economic miracle, there is a dark side to the CNMI economy. Citizens and foreign laborers pay a very high price for the Commonwealth's economic success, and enjoy few benefits of that success. The time for patience has ended. The time has come to force changes that the Commonwealth has been unwilling to enact.

I ask unanimous consent that a copy of my bill be printed in the RECORD.

I also ask unanimous consent that the following additional documents be printed in the RECORD: the executive summary of the Clinton administration's July 1997 report on labor, immigration, and law enforcement in the Commonwealth of the Northern Mariana Islands, the Library of Congress translation of a Chinese shadow contract, the memo from the State Department confirming that an agency of the Chinese Government is a party to the shadow contract, and a June 20, 1997, Washington Times article and a June 6, 1997, Honolulu Star-Bulletin article on the CNMI.

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

S. 1100

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 ''Commonwealth of the Northern Mariana Islands Reform Act''.

SEC. 2. FINDINGS.

The Congress finds that—

(1) the Covenant to Establish a Commonwealth of the Northern Mariana Islands in

Political Union with the United States of America was approved by Congress pursuant to Public Law 94–241, 90 Stat. 263;

(2) at the time that the Covenant was being negotiated, representatives of the government of the Northern Mariana Islands expressed concern that United States immigration laws would allow unrestricted immigration into their small island community;

(3) in response to these concerns, section 503(a) of the Covenant provided that the Immigration and Naturalization Act did not immediately apply to the Commonwealth of the Northern Mariana Islands;

(4) Congress expressly reserved the right to extend the Immigration and Naturalization Act to the Commonwealth of the Northern Mariana Islands at a future date;

(5) following the enactment of the Covenant, the Commonwealth of the Northern Mariana Islands instituted a largely unrestricted immigration policy, causing the Commonwealth's population to increase from 16,780 in 1980 to a population of over 58,800 in 1995, with foreign workers outnumbering United States citizens;

(6) as a result of these immigration policies, 91 percent of the private sector work force in the Commonwealth is comprised of foreign workers;

(7) the Commonwealth of the Northern Mariana Islands has used its immigration policy to recruit a large, low-cost foreign work force of desperately poor individuals with no meaningful opportunity to demand safe living and working conditions or fair wages and benefits;

(8) notwithstanding an unemployment rate of 14 percent among United States citizens, the Commonwealth has recruited increasing numbers of foreign workers;

(9) even though the Commonwealth alleges that unfilled job openings justify recruitment of an increasing number of foreign workers, the Commonwealth's own statistics indicate an unemployment rate of 4.5 percent foreign workers;

(10) the U.S. Immigration and Naturalization Service reported that the Commonwealth of the Northern Mariana Islands has no reliable records of aliens who have entered the Commonwealth, how long they remain, and when, if ever, they depart;

(11) at the time that the Covenant was being negotiated, representatives of the government of the Northern Mariana Islands expressed concern that the minimum wage provisions of the Fair Labor Standards Act would disrupt the Commonwealth's struggling local economy;

(12) in response to these concerns, section 503(c) of the Covenant provided that the minimum wage provisions of the Fair Labor Standards Act did not immediately apply to the Commonwealth;

(13) Congress expressly reserved the right to extend the minimum wage provisions of the Fair Labor Standards Act to the Commonwealth of the Northern Mariana Islands at a future date;

(14) the economy of the Commonwealth of the Northern Mariana Islands has grown significantly and, in 1996, annual gross business revenues rose to $1,500,000,000, a 6-fold increase during the past decade;

(15) the current minimum wage in the Commonwealth of the Northern Mariana Islands is only $3.05 per hour for garment and construction industry workers and $3.05 per hour for those working in other industries;

(16) the U.S. Department of Labor has uncovered a systematic pattern of labor abuses in the Commonwealth of the Northern Mariana Islands, including—

(a) involuntary servitude and peonage,

(b) illegal withholding of wages earned,

(c) non-payment of overtime wages,

(d) illegal deductions from paychecks,

(e) kickbacks of wages paid to employees,

(f) employee lock-downs in work sites and living barracks, and

(g) unsafe and unhealthy working and living environments;

(17) despite an expectation that they will enjoy the American dream in the Commonwealth of the Northern Mariana Islands, foreign workers have been required to sign contracts with government representatives in the Peoples Republic of China which—

(a) waive rights guaranteed to U.S. workers,

(b) forbid participation in religious and political activities while in the United States,

(c) prohibit workers from dating or marrying in the United States,

(d) subject employees to civil and labor penalties if returned to China, and

(e) permit Chinese government recruiters to charge a fee of 25 percent of an employee's net pay for a period of two years;

(18) the U.S. Department of Justice has determined that the immigration and labor situation in the Commonwealth of the Northern Mariana Islands has created a major organized crime problem in the Commonwealth which involves—

(a) Immigration document fraud,

(b) Public corruption,

(c) Racketeering,

(d) Drug trafficking,

(e) Prostitution,

(f) Pornography,

(g) Extortion,

(h) Gambling,

(i) Smuggling, and

(j) Other forms of violent crime;

(19) the U.S. Department of Justice is investigating numerous cases in the Commonwealth of the Northern Mariana Islands of women being recruited from the Philippines, China, and other Asian countries expressly for criminal sexual activity, and has also described this situation as the ''systematic trafficking of women and minors for prostitution;''

(20) the Commonwealth of the Northern Mariana Islands is exempt from Federal immigration law, the Federal minimum wage law, and Federal tariffs and taxes, yet its products are sold as ''Made in USA'' although 95 percent of the workers in the garment manufacturing industry are not U.S. citizens;

(21) garments made in the Commonwealth of the Northern Mariana Islands carrying the ''Made in USA'' label compete directly with garments made on the United States mainland by workers and businesses that are subject to Federal immigration law, the Federal minimum wage law, and Federal taxes;

(22) in 1996, garment manufacturers in the Commonwealth shipped garments to the Continental United States with a wholesale value of $555 million, a 30 percent increase over the previous year;

(23) Congress appropriated $10 million to fund a 3-year initiative by the U.S. Departments of Justice, Labor, and Interior to assist the Commonwealth in its efforts to improve its labor and immigration policies;

(24) despite this appropriation there has been little or no improvement in the immigration and labor policies of the Commonwealth of the Northern Mariana Islands;

(25) the government of the Commonwealth of the Northern Mariana Islands has been ineffective in stemming the flow of immigration onto United States soil, raising the wage and living standards for workers, and aggressively prosecuting labor and human rights abuses;

(26) despite efforts by the Reagan, Bush, and Clinton administrations to persuade the government of the Commonwealth of the Northern Mariana Islands to correct problems in the Commonwealth, the situation has only deteriorated; and

(27) the continuing concern about labor abuses, the Commonwealth's immigration policy, and the employment of foreign workers in a manner that unfairly competes with other U.S. manufacturing prompted President Clinton on May 30, 1997 to notify the Governor of the Commonwealth of the Northern Mariana Islands that Federal immigration and minimum wage laws should be applied to the Commonwealth.

SEC. 3. APPLICATION OF IMMIGRATION LAW.

(a) Article V, Section 506 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (approved by Public Law 94–241, 90 Stat. 263) is amended by adding at the end thereof the following:

''(e)(1) For purposes of entry into the Northern Mariana Islands by any individual (but not for purposes of entry by an individual into the United States from the Northern Mariana Islands), the Immigration and Nationality Act shall apply as if the Northern Mariana Islands were a State (as defined in section 101(a)(36) of the Immigration and Nationality Act).

''(2) Notwithstanding paragraph (1), with respect to an individual seeking entry into the Northern Mariana Islands for purposes of employment in the textile, hotel, tourist, or construction industry (including employment as a contractor), the Federal statutes and regulations governing admission to Guam of individuals described in section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act shall apply. For purposes of this paragraph—

''(A) references in such statutes and regulations to United States resident workers shall be deemed to be references to United States citizens, national or resident workers; and

''(B) references in such statutes and regulations to Guam shall be deemed to be references to the Northern Mariana Islands.

''(3) When deploying personnel to enforce the provisions of this section, the Attorney General shall coordinate with, and act in conjunction with, State and local law enforcement agencies to ensure that such deployment does not degrade or compromise the law enforcement capabilities and functions currently performed by immigration officers.

''(4) The Attorney General shall prescribe and implement a transition period for the amendments made to section 506(a) of the Covenant. The transition period shall not exceed 4 years from the effective date of this subsection. Not later than 2 years after the date of enactment of the Commonwealth of the Northern Mariana Islands Reform Act, the Attorney General shall submit a report on the status of implementing this section.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect 180 days after the date of enactment of this Act except that the amendment designated as ''(e)(2)'' shall take effect on the date of enactment of this Act.

SEC. 4. LABELING REQUIREMENTS FOR TEXTILE FIBER PRODUCTS.

(a) Public Law 94–241 is amended by adding at the end the following:

''SEC. 6. LABELING OF TEXTILE FIBER PRODUCTS.

''(a) No textile fiber product that is made or assembled in the Commonwealth of the Northern Mariana Islands shall have a stamp, tag, label, or other means of identification or substitute therefore on or affixed to the product stating 'Made in USA' or otherwise stating or implying that the product was made or assembled in the United States unless the product is made or assembled using direct labor that meets the required percentage of qualified manhours.

"(b) A textile fiber product that does not meet the requirements of subsection (a) shall be deemed to be misbranded for purposes of the Textile Fiber Products Identification Act (Public Law 85–897, 72 Stat. 1717).

"(c) In this section:

"(1) DIRECT LABOR.—The term 'direct labor' includes any work provided to prepare, assemble, process, package, or transport a textile fiber product, but does not include supervisory, management, security, or administrative work.

"(2) FREELY ASSOCIATED STATES.—The term 'Freely Associated States' means the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia.

"(3) QUALIFIED MANHOURS.—The term 'qualified manhours means the manhours of direct labor performed by persons who are citizens or nationals of the United States or citizen of the Freely Associated States.

"(4) REQUIRED PERCENTAGE.—The term 'required percentage' means—

"(A) 20 percent, for the period beginning January 1, 1998, through December 31, 1998;

"(B) 35 percent, for the period beginning January 1, 1999, through December 31, 1999; and

"(C) 50 percent, for the period beginning January 1, 2000, and thereafter.

"(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.".

SEC. 5. MINIMUM WAGE REQUIREMENTS.

(a) Section 503 of Article V of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, approved by Public Law 94–241 is amended by deleting "States; and (c) the minimum wage provisions of Section 6, Act of June 25, 1938, 52 Stat. 1062, as amended," and inserting in lieu thereof "States.".

(b) Public Law 94–241, 90 Stat. 263, is amended by adding at the end thereof the following:

"SEC. 7. MINIMUM WAGES IN THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.

"(a) The minimum wage provisions of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) shall apply to the Commonwealth of the Northern Mariana Islands, except that—

"(1) during the period beginning 30 days after the date of enactment of this Act and ending on December 31, 1997, the minimum wage rate applicable to the Commonwealth of the Northern Mariana Islands shall be $3.05 an hour for an employee; and

"(2) beginning on January 1, 1998, and each calendar year thereafter, the minimum wage rate applicable to the Commonwealth of the Northern Mariana Islands for an employee for each such calendar year shall be the minimum wage rate applicable to the Commonwealth of the Northern Mariana Islands for the preceding calendar year increased by 30 cents or the amount necessary to increase the minimum wage rate to the rate described in section 6(a)(1) of the Fair Labor Standards Act of 1938, whichever is less; and

"(3) after the calendar year in which the minimum wage rate applicable to the Commonwealth of the Northern Mariana Islands has been increased under subparagraph (A) to the minimum wage rate described in section 6(a)(1) of the Fair Labor Standards Act of 1938, the minimum wage rate applicable to the Commonwealth of the Northern Mariana Islands for an employee for any succeeding calendar year shall be the rate described in such section.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect 30 days after the date of enactment of this Act.

SEC. 6. REPORT.

Not later than 1 year after the date of enactment of this Act, the Secretary of the Interior, in consultation with other Federal agencies, shall conduct a study of the extent of human rights violations and labor rights violations in the Commonwealth of the Northern Mariana Islands, including the use of forced or indentured labor, and any efforts being taken by the Government of the United States or the Commonwealth of the Northern Mariana Islands to address or prohibit such violations. The Secretary of the Interior shall include the results of such study in the annual report, entitled "Federal-CNMI Initiative on Labor, Immigration, and Law Enforcement," transmitted to Congress.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

FEDERAL-CNMI INITIATIVE ON LABOR, IMMIGRATION, AND LAW ENFORCEMENT IN THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS, JULY 1997

EXECUTIVE SUMMARY

The United States took the Northern Mariana Islands from Japan in 1944 and administered the islands under a United Nations trusteeship agreement until 1986. At that time, the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (Covenant) came into full effect, and the residents were granted United States citizenship. In developing their Covenant agreement with the United States, the Northern Marianas negotiators expressed concern that the Federal Immigration and Nationality Act (INA) would permit excessive immigration to the islands from neighboring Asian countries that would permanently overwhelm the local culture and community. Federal negotiators and the Congress, therefore, agreed to not immediately extend Federal immigration control. Ironically, CNMI policies have resulted in aliens becoming a majority of the island's population. These policies include use of low-wage temporary alien workers for permanent jobs and the aggressive promotion of garment manufacturing. Wages lower than the Federal minimum wage are possible because the Federal minimum wage was not extended to the Northern Mariana Islands. The garment industry takes advantage of the immigration and minimum wage exemption privileges, as well as privileged exceptions to the Federal trade laws, to ship products partially manufactured in the islands into the United States market even though the islands are outside the customs territory of the United States.

Federal officials have expressed concern about the CNMI alien labor system since at least 1984, when the Interior Department's Assistant Secretary for Territorial and International Affairs first officially suggested the extension of Federal immigration authority as provided in section 503 of the Covenant. Despite repeated expressions of Federal concern with CNMI policies, the CNMI imported increasing numbers of temporary alien workers and promoted the garment industry's expansion. The Congress, in 1994, directed the establishment of a joint program with the CNMI to respond to the widening range of labor, immigration, and law enforcement problems. After three years under this Federal-CNMI Initiative on Labor, Immigration, and Law Enforcement (Initiative), agencies report that these negative trends not only persist, but in a number of instances, are worsening:

United States citizens—mostly indigenous people—are now a minority of the population. The CNMI population has grown by 250 percent since the 1980 census. Temporary alien workers now comprise 69 percent of the labor force. The children of alien mothers not born in the CNMI, the United States or the freely associated states account for 16 percent of United States citizens in the CNMI.

The Immigration and Naturalization Service finds that the CNMI immigration system is ineffective, resulting in a large CNMI illegal immigrant population and the smuggling of illegals into the United States immigration zone. Estimates of illegal aliens in the CNMI range from 4.2 percent to 25.5 percent of United States citizen population in the CNMI. The Department of Justice finds that the foreign criminal presence is increasing.

Alien workers account for over 90 percent of the CNMI's private sector workforce, while unemployment among locally-born United States citizens is at 14.2 percent.

Worker complaints over wages due and working conditions continue undiminished, with the governments of the Philippines and China expressing concern about the treatment of their citizens. Allegations persist regarding the CHMI's inability to protect workers against crimes such as illegal recruitment, battery, rape, child labor, and forced prostitution.

Some workers labor under "shadow" or secondary contracts signed in their home country that subvert their rights under the Constitution of the United States, such as their right to engage in political and religious activities while on United States soil.

CNMI alien labor policies are having a profound negative effect on public services and infrastructure such as education, health care, public safety, water, sewer, and solid waste disposal.

Apparel manufacturers operating in the CNMI, who mainly employ workers from the People's Republic of China, label their products "Made in USA", and use Chinese fabric not subject to United States duty or quota. By using the CNMI as an apparel manufacturing base, these manufacturers avoid duties and are not subject to United States quotas on finished products. These imports adversely affect the United States apparel industry's employment and profits.

The CNMI is a producer of several sensitive apparel products where United States producers' share of the market is 50 percent or less. Imports of these sensitive apparel products from the CNMI, at an average landed value of $462.7 million in 1996, represented 5.7 percent of total United States imports of these products. In recent years, total garment shipments from the CNMI to the United States have increased by 30 percent a year, with an acceleration to 45 percent in the first four months of 1997 over the same months in 1996. The average landed value of CNMI garment shipments to the United States is now at a rate of $625 million annually.

Federal agencies have worked closely with the CNMI leaders to correct these problems under the Initiative. Work continues with many conscientious CNMI officials. The Administration, however, finds that the government of the CNMI is unwilling to alter its basic immigration, minimum wage, and garment manufacturing policies; and that there are fundamental weaknesses in law enforcement.

The Administration, therefore, believes that a Federal policy framework addressing immigration, minimum wage, and the duty-free shipment of products is needed to properly address these problems and to promote CNMI economic development consistent with our country's policies and values.

Accordingly, the Administration recommends that the Congress extend Federal immigration and minimum wage policies as provided in section 503 of the Covenant. In addition, the Administration recommends that the Congress close the loophole being exploited by the CNMI garment industry by requiring certification that at least 50 percent United States labor (and freely associated state citizen labor) is employed in order for products to carry the ''Made in USA'' label and receive duty-free access to the United States market. Finally, in order to minimize adverse economic consequences, the Administration plans to work with CNMI representatives, and proposes that these measures be phased in by the Congress in a reasonable and appropriate manner.

DEPARTMENT OF STATE, OFFICE OF CHINESE AND MONGOLIAN AFFAIRS

Date: July 22, 1997.
To: Patrick McGary, Office of Senator Akaka.
From: Cari Enav.
RE: Hiuzhou Corporation of the Overseas Labor Service.

Message: According to the Huizhou Foreign Affairs Office, the Huizhou Corporation of the Overseas Labor Services is state-owned enterprise. It is under the municipal labor bureau.

CONGRESSIONAL RESEARCH SERVICE,
LIBRARY OF CONGRESS,
Washington, DC.

OVERSEAS LABOR CONTRACT

Party A: Hui Zhou Company of the Overseas Labor Services, Guangdong Province.

Part B: Name redacted.

Party B, of his own free will, accepts the invitation of Party A to engage in carpentry work on Saiban Island [transliteration] for a term of two years. Party A and Party B both agree to abide by the following terms and conditions:

1. From the date of the signing of this contract by Party A and Party B, Party B agrees to obey the leadership of and accept arrangements made by Party A, and comply with rules and regulations made by Party A. During the period when Party B is sent to work overseas, Party B must strictly observe decrees, laws and regulations of the local government; may not participate locally in any political or religious activities; and, among other things, may not engage in smuggling, prostitution, theft, gambling, drugs, fighting, excessive drinking, or watching pornographic videos. While working overseas, Party B may not date or get married. Any violation of the aforesaid may entail investigation into financial and legal liabilities, including deduction and/or withholding of salary and/or bonus as well as payment for round trip expenses, or punishment in accordance with the relevant criminal laws, depending on the seriousness of circumstances.

2. While fulfilling his contractual obligations, Party B shall accept reasonable work arrangements made by the employer; work diligently; may not be, for any reason, slack at work; may not, without permission, request the employer to change the type of work or increase the salary; may not look for other employment locally; and may not go on strike. An individual who has violated the aforesaid agreement shall be subject to action by Party A, and employment may be terminated immediately; such individual will bear responsibility for round trip expenses, and will be liable for all financial losses thus incurred, in accordance with the seriousness of the impact on foreign affairs.

3. Party B shall provide labor services for the term of the contract, and may not suspend service unilaterally, or request an early return to China. Party B shall [illegible] to overcome family difficulties, if any, and may not use such difficulties as an excuse to suspend service or return to China early. If it becomes impossible for Party B to work due to the employer's failure to arrange appropriate work or for any other reason caused by the employer, Party B can accurately report the situation to Party A. Party A shall have the responsibility to negotiate with and make representations to the employer, according to contractual terms and conditions, and Party B shall abide by the decision made through consultations and negotiations between Party A and the employer.

Upon expiration of the contract, the term of the service may be extended appropriately based on the work requirements, and Party B shall, in principle, comply with the decision made by Party A.

4. Upon completion of the service, Party B may not [illegible] stay overseas, and shall return to China strictly according to the route provided. Party B may not carry contraband on entry or exit at customs, or sell foreign currency or duty-free goods for profit.

5. While providing labor service oveseas, Party B shall receive a monthly salary of ____, of which ____ will be remitted to China, together with the domestic management fee, and converted into RMB based on the prevailing market quotation for his or her family. Payment for overtime and bonuses shall, in principle, be made by the employer directly to Party B.

6. While working overseas, Party B may not borrow money from or lend money to the employer or any other party.

7. Party B agrees to pay a deposit in the amount of RMB 3,000. When Party B returns his or her passport, Party A shall return to Party B the entire amount of the deposit. Party B agrees to pay a fee in the amount of RMB 400 for the handling of necessary dcuments. If, for some reason, Party B is unable to work overseas after Party A has completed the necessary procedures required for Party B to work overseas, the deposit and handling fee will not be returned to Party B. If Party B is unable to work overseas for reasons caused by Party A, the deposit and 50% of the handling fee shall be refunded.

8. If Party B has the need [illegible] economic [illegible] while working overseas, such compensation shall also be deducted from the deposit.

9. If a situation arises where Party B is required to make compensation, but is unable to make the payment while he or she is working overseas, the guarantor agrees to make the payment for financial compensation on behalf of Party B, while Party B accepts full financial responsibilities.

10. During the period of Party B's labor services, the employer shall be responsible for all expenses for transportation to and from work, return airfare to China, room and board, medical insurance, life insurance and applicable taxes imposed by the local country. Party A shall urge the employer to provide various benefits that Party B shall be entitled to while working overseas, as provided in the labor service contract.

11. This contract has three copies, one each for Party A, Party B and the guarantor. All three copies have equal legal effect. This contract shall take effect from the date of signing. Party A shall formally notify Party B, upon his or her return to China of the termination of the employment relationship, and this contact shall automatically become invalid.

[From the Washington Times, June 20, 1997]

NORTHERN MARIANAS HIT AS RIGHTS ABUSER

NATIVES TAKE ADVANTAGE OF GUEST WORKERS

(By Henry Hurt)

Wendy Doromal was asleep in her home on the island of Rota when the telephone rang at 5:30 a.m. A housekeeper named Thelma Landeza, the caller said, had been raped by her employer, a politically well-connected businessman. Afraid to go to the local authorities, Mrs. Landeza had walked for hours to the refuge of an underground network on Rota.

Mrs. Doromal, then 40, quickly dressed and set out to help. Such missions were in stark contrast to what the art teacher from Vernon, Conn., expected when she first came to the U.S.-owned Northern Mariana Islands, a scattering of volcanic specks in the western Pacific Ocean.

Mrs. Doromal and her family loved Rota's sandy beaches and clear, blue ocean. But drastic changes were taking place in this paradise—changes that have deeply stained America's reputation as the champion of human rights all over the world.

Lured by fee-driven recruiters, thousands of poor Asian ''guest workers'' were entering the Northern Marianas. Virtually every native household had at least one Philippine maid.

Mrs. Doromal soon discovered serious cases of workers being cheated out of wages and physically abused. The transgressors were the native population—an elite minority who maintained effective control of every government function. Although the newcomers outnumbered the natives, they had no voice or vote. And so Wendy Doromal, less than 5 feet tall but forceful and articulate, gradually became their advocate.

''When I saw Thelma that morning,'' Mrs. Doromal recalls, ''the fear shot from her face into my heart. She'd been beaten and she was crying and trembling.''

Mrs. Landeza's tale was harrowing. At 38 and widowed, the small, sweet-faced woman had sought work in the Northern Marianas to send money to her five children in the Philippines. ''It was supposed to be like going to America,'' she said.

But that's not the way it turned out for Mrs. Landeza or thousands of other men and women like her. From 1990 to 1993, she says, she was paid the domestic wage of 69 cents an hour for 12-hour days; she also was ''rented out'' to another party for an additional six hours a day, for which she never saw a cent. Mrs. Landeza was supposed to have Sundays off but says she did not.

Like many other workers, Mrs. Landeza was afraid to complain to local labor officials. She says her boss, Rafael Quitugua, flaunted his connections with those very people. She couldn't risk being returned jobless to the Philippines.

Then, according to Mrs. Landeza, on the night of Oct. 16, 1993, Mr. Quitugua ordered her to clean up a bar he owned. Driving her back home, the man reached for Mrs. Landeza and said, ''I like you very much.'' He veered down a path toward an isolated beach.

NO ACTION TAKEN

''I screamed and fought him and begged him to take me home,'' she said. ''But he beat me and finally raped me. He said, 'If you ever tell what happened, I'll kill you.' ''

Mrs. Doromal didn't want this to become another unprosecuted case because of ''insufficient evidence.'' So she and Mrs. Landeza took the first morning flight to the island of Saipan, the Northern Marianas' seat of government.

There, Dr. David McGarey of the Commonwealth Health Center noted abrasions on Mrs. Landeza's body. He diagnosed ''apparent rape'' and collected specimens for a rape evidence kit that he turned over to authorities.

Mrs. Doromal also summoned Renato Villapando, principal officer of the Philippine consulate. To assure immediate attention, he wrote a detailed account of Mrs.

Landeza's story that he sent to the attorney general of the Northern Marianas.

Weeks passed, however, and then months. No charges were brought. Mr. Quitugua, meanwhile, maintained his innocence.

American interest in the Northern Marianas was born in the blood of 5,289 troops who died there in 1944 wresting the islands from the Japanese. The territories languished for decades until 1976, when the U.S. Congress created the Commonwealth of the Northern Mariana Islands (CNMI).

A decade later, its residents became American citizens. Under the agreement, Congress allowed the CNMI to set its own immigration policies, and the U.S. minimum wage would not apply to its workers.

The result was rapid economic growth as entrepreneurs flocked to Saipan to open factories and develop tourism. The most common products were garments carrying the coveted ''Made in U.S.A.'' label that entered the U.S. mainland duty-free. From all over Asia, especially the Philippines, destitute workers arrived to work in these factories and in the islands' booming hotels, restaurants and bars.

Their wages, though higher than in their native countries, were quite low—and remain so today. The biggest winners are the natives. The law grants a legal monopoly of all land in the Northern Marianas to these Pacific islanders, who can lease their property to factory and hotel operators at handsome prices.

Today only about 38 percent of the CNMI population of 59,000 is of native descent.

''They are an exclusive minority with the power to dominate and exploit others,'' said Mikel W. Schwab, assistant U.S. attorney and chief of the civil division that oversees the CNMI. ''What's missing is equal protection under the law.''

Responsibility for human rights abuses lies ultimately with the U.S. Congress, which oversees CNMI wage and immigration policies. Legislation addressing these issues is now being considered.

The case of Thelma Landeza was one of more than 500 complaints that reached Mrs. Doromal starting in 1989.

While more than half the cases involved wage disputes, others included workers tortured, forced into prostitution and held in sexual servitude.

''In my own experience as a civil prosecutor,'' said Mr. Schwab, ''I have witnessed a level of human exploitation that makes Doromal's cases ring with credibility.''

But his civil division had no primary authority to investigate or prosecute rapes and assaults that occurred in jurisdictions under the control of the CNMI attorney general's office.

Mrs. Doromal and her husband, Boboy, provided food and shelter for workers and helped them file complaints. Most important, they stood beside them in the face of predictable wrath from their employers and government officials.

HOLLOW PROMISES

As Mrs. Doromal continued her fearless campaign, CNMI authorities sought to discredit her. She was accused of everything from fabricating stories to harboring illegal workers. By the summer of 1994, however, her files had become the basis for a government task force investigation.

Growing publicity about worker abuses set off local rage against Mrs. Doromal and her family. Anonymous phone calls threatened death. The tires of the family car were slashed. Her family was ostracized, and this pressure forced Mrs. Doromal to resign from her teaching position.

On Aug. 29, 1994, the Doromals fled to Saipan. There, CNMI Gov. Froilan C. Tenorio met with Mrs. Doromal and assured her that the worst labor abusers would be prosecuted.

In September, Mr. Tenorio sat before a U.S. Senate subcommittee in Washington. With great humility he conceded that many of the charges reported in the press—which were first raised by Mrs. Doromal—were accurate:

''I am saddened and ashamed. Workers have been cheated and forced to live in subhuman conditions, locked in during nonwork hours, and been beaten and raped. Our administration will do everything in our power to end labor abuse''.

BLAMING THE VICTIM

A few days after meeting with Mr. Tenorio, Mrs. Doromal received a call from Rota's underground network. A hysterical young woman named Teresa—not her real name—was claiming that for several weeks she had been locked up by her employer and repeatedly raped.

Mrs Doromal arranged for Teresa to be brought to a Saipan hospital. ''She kept going into corners and rocking back and forth, crying,'' Mrs. Doromal said.

Teresa, 24, was an animated woman who had studied hotel and restaurant management in the Philippines. But employment there was scarce. A job on Rota with an establishment described by the recruiter as an ''upscale restaurant'' seemed the surest route to good money. The establishment, however, was little more than a brothel.

In desperation, Teresa accepted the friendly overtures of a politically well-connected many who got her out of the club. Teresa says she went to work for him—only to be locked in a remote farmhouse where she was tied up, beaten and raped daily until she escaped after three weeks.

Under the glare of publicity stirred up by Mrs. Doromal, the CNMI attorney general's office investigated Teresa's case. Four months later, it concluded that the evidence was insufficient to go to trial. The case was dropped.

Two weeks after Teresa's case was dropped, Mr. Tenorio was back in Washington to inform Congress that his administration was making substantial progress in cleaning up human rights violations. Employers who abuse contract workers, he said, ''are being investigated, prosecuted and convicted.''

To Mrs. Doromal, such words meant that nothing had changed. But with no regular job, her family couldn't stay in the Northern Marianas; they returned to the U.S. mainland in May 1995.

In December 1995, nearly a year after Mr. Tenorio last told Congress he was cleaning up human right violations, Maria—not her real name—a tiny Philippine woman with a childlike face, stood frozen on the stage of a Rota nightclub tears in her eyes. It was Maria's first night of work, and she had been promised she would never be asked to dance nude. But now amid catcalls, her boss was demanding that she strip.

He threatened her until she gave in. But that wasn't enough; soon he demanded that she have sex with him and ''go out with customers.'' Maria refused. She was forced from her job and returned to the Philippines, where she told her story to Reader's Digest.

Despite such reports, CNMI acting Attorney General Robert B. Dunlap II claims conditions are much improved.

''We sent two investigators to Rota,'' he said. ''They stayed a week trying to attract a prostitute—and never found one.''

Mr. Tenorio, up for re-election in November, maintains he is doing all he can to make a good situation for contract workers even better. Meanwhile, he is conducting a $1 million public relations campaign to shore up the CNMI's image, bringing dozens of congressmen and staffers to tour the Northern Marianas.

''The thinking is 'Don't fix the problem, fix the image,''' said Eric Grigoire, a New Jersey native who is the human rights advocate for the Catholic Church in the Northern Marianas. He is still summoned to Rota regularly by Mrs. Doromal's original underground network.

What of Thelma Landeza? In February 1995—more than 16 months after she reported being kidnapped, raped and beaten—her boss, Rafael Quitugua, was charged with the crime, He pleaded not guilty. In December 1995 the charge was dropped.

[From the Star-Bulletin, June 6, 1997]

EXPLOITED IN SAIPAN SEX BAR, TEEN FINDS HAVEN HERE

ISLE FILIPINO COALITION FOR SOLIDARITY IS A GODSEND FOR ABUSED WORKERS

(By Susan Kreifels)

Katrina turns 16 Monday, finally getting a taste of sweetness in her otherwise bitter dose of life.

Hawaii's Filipino Coalition for Solidarity has provided the teenage girl haven since March from her grim life in Saipan, where she said she had been sexually exploited in a barroom since she was 14.

The civil rights advocacy group hopes to find a way to keep her in the United States, far from threats from her former employers, who now face a federal lawsuit on Saipan for alleged violations of child labor and wage laws.

Katrina is the young girl's stage name. Her real name is being withheld to protect her identity in the eighth-grade classroom she now attends on Oahu.

Born in Manila to a poor squatter family, she ran away when she was 13, ending up in the arms of unscrupulous recruiters.

Although she admits she lied that she was 19 in the beginning, Katrina said she later told the recruiters her real age.

But, according to the girl, the recruiters arranged a passport that claimed she was born in 1974 instead of 1981.

Katrina ended up in Saipan, where her recruiter-boss promised to make her a ''starlet.'' But for the then 14-year-old, it was a horror role in which customers abused her naked body and had live sex with her and other bar girls on stage.

Performances, she said, were videotaped. If she didn't do what she was told, her bosses threatened to ship her back to the Philippines at her own expense.

''I was scared. I don't have any money. What happens to me? Maybe I will die.''

Katrina describes her life as one much older than her years.

She and other Filipino women who worked in the Saipan bar stayed in barracks, virtual prisoners who couldn't go out. ''They treated us like animals.''

She sent most of her salary home to her mother.

''In school, I was very religious. I feel there is no God anymore. I prayed but no response,'' she said.

She drank alcohol every night because ''it's easier to do anything if you're drunk. You can't really feel anything.

''I try to put it behind me. Sometimes I think, how did I do that? Animal people only do that. I get depressed.''

Last October she went to government labor officials on Saipan and filed a complaint, which led to the U.S. Department of Labor lawsuit. Her former employers tried to bribe her to give up her complaint, ''but I wanted to see justice.''

And, she says with some disbelief, ''after all I experienced, suddenly I'm here.''

COALITION MONITORS SAIPAN

Nic Musico of the Filipino Coalition for Solidarity said the Hawaii group has been monitoring abuse of Filipino workers in the Commonwealth of Northern Mariana Islands, a U.S. territory 3,900 miles west of Hawaii, for the last four years. The group has given haven to other Filipino workers.

The commonwealth, which doesn't fall under U.S. wage or immigration laws, offers low minimum wages ($2.95) and tax incentives that have fueled Saipan's $500 million-a-year garment industry. More than 30,000 imported laborers from the Philippines, China and other Asian countries work the mills on this small island of 25,000 citizens. The government says without the foreign workers, its garment and tourism industry would collapse.

There were more than 500 labor complaints filed last year, according to the commonwealth government. Some are passed along to the U.S. Department of Labor to pursue. In 1994, the department successfully sued a Japanese company that owned several bars employing underage girls.

The lawsuit involving Katrina and her co-workers, filed in the U.S. District Court in Saipan, is not expected to go to trial until late this year. Defendants Eugene R. Zamora, Sr., and Marylou ''Malou'' Zamora, whom Katrina said brought her to Saipan from the Philippines, are believed to have returned to their home country. Defendant Francisco Matsunaga, the Zamoras' partner at the Club Kalesa, where Katrina worked, died last November.

Michael Bayer, wage and hour investigator on Saipan for the U.S. Department of Labor, said the foreign workers are tied to one-year contracts they know don't have to be renewed.

''The more abused, poor, desperate they are in their home country, the more willing they are to put up with someplace else,'' said Bayer, emphasizing he was giving a personal opinion rather than an official one. ''They have no voice. There are no unions. The only outlet is to file a complaint.''

CLINTON SENDS WARNING

There are moves in Congress to force the commonwealth to comply with U.S. wage and immigration laws. Last week President Clinton sent commonwealth Gov. Froilan C. Tenorio a letter warning that his administration would work with Congress to extend U.S. laws there:

''The minimum wage is plainly inadequate; there have been persistent incidents of improper treatment of alien workers and inadequate enforcement of their rights; and manufacturers using foreign workers unfairly compete with other production under the U.S. flag,'' Clinton's letter said. He said he would work with Congress to amend the 1976 covenant that created a political union with the islands and made their residents U.S. citizens but allowed the commonwealth to control its immigration and minimum wage.

Dave Ecret, acting public information officer for Tenorlo's office, said the commonwealth has made ''tremendous improvements'' in the labor situation and believes Clinton has been misinformed of the current situation.

Some Republicans in Congress agree. Rep. Dick Armey, House majority leader, and Rep. Tom DeLay, House majority whip, assured Tenorio this week in a letter that any legislation that would ''harm the economic, social or political well being of the CNMI is counter to the principles of the Republican Party, and this Congress has no intention of voting on such legislation.'' The two commended the islands for their commitment to ending labor problems.

AKAKA BACKS CLINTON

Hawaii's Sen. Daniel Akaka, a Democrat, said yesterday at he supported Clinton's letter and would work to bring changes in the commonwealth, where ''horror stories of labor abuses continue to abound, while CNMI (commonwealth) officials launch a public relations campaign touting the territory as an economic model for the rest of the nation.''

Ecret said the government has forced companies to clean up workers' barracks and doubled the commonwealth government's immigration and labor staffs to more quickly resolve abuse cases.

Ecret also said businesses must pay room and board in addition to minimum wages, raising the cost of labor of Saipan. He said any changes in labor and immigration laws on Saipan would be ''devastating'' to the economy.

While politicians debate the bigger issues, members of the Filipino Coalition for Solidarity are working to protect the people caught up in them, like Katrina. Musico said his group has solicited people to adopt Katrina, but time is running out—an adoption application must be filed before she turns 16. Musico is more optimistic that she will be granted special asylum.

For now, Katrina has been given permission to stay in the United States until November.

By Mr. CRAIG (for himself, Mr. MURKOWSKI, Mr. REID, Mr. BRYAN, Mr. BENNETT, Mr. BURNS, Mr. HATCH, Mr. THOMAS, Mr. CAMPBELL, Mr. STEVENS, and Mr. KEMPTHORNE):

S. 1102. A bill to amend the general mining laws to provide a reasonable royalty from mineral activities on Federal lands, to specify reclamation requirements for mineral activities on Federal lands, to create a State program for the reclamation of abandoned hard rock mining sites on Federal lands, and for other purposes; to the Committee on Energy and Natural Resources.

THE MINING LAW REFORM ACT OF 1997

Mr. CRAIG. Mr. President, in the last Congress, Members in the Senate and our colleagues in the other Chamber worked hard to reform the laws under which the U.S. mining industry operate on the vast Federal lands of the west. Members on both sides of the aisle, from all regions of the country, acknowledged that the Mining Law of 1872 needed change. This body and the other body passed legislation to reform the mining law only to have our efforts vetoed by the President. I believe it is time to make another effort to pass mining reform legislation and to engage the Clinton administration in meaningful discussion that can bring to a close the long and fruitless debate we have so far had on this issue.

Today, I am introducing, a bipartisan bill in conjunction with Chairman MURKOWSKI, Senator REID, and Senator BRYAN and five other of our colleagues to legislatively solve the problems that we see with the mining law. The Mining Law Reform Act of 1997, is a bill which will ensure continued mineral production in the United States. It provides for a fair economic return from minerals extracted on public lands, and will link mining practices on federal lands to State and Federal environmental laws and land-use plans. This bill provides a balanced and equitable solution to concerns raised over the existing mining law.

Mining in the United States is an important part of our nation's economy. It serves the national interest by maintaining a steady and reliable supply of the materials that drive our industries. Revenue from mining fuels local economies by providing family income and preserving community tax bases. Mining has become an American success story. Fifteen years ago, U.S. manufacturers were forced to rely on foreign producers for 75 percent of the gold they needed. Today, the U.S. is more than self-sufficient. The combined direct and indirect impact on the economy of our nation by the mining industry in 1995 was almost $524 billion. This is nine times the value of the actual minerals that were mined. Obviously we are talking about a very significant portion of our economy and one that we can not cavalierly assign to the economic antique shed. This information is from a recent report by the Western Economic Analysis Center. I ask unanimous consent that the summary of this report be made a part of the RECORD.

Mining, however, is a business associated with enormous up-front costs and marginal profits. Excessive royalties discourage, and in other countries have discouraged, mineral exploration. Too large a royalty would undermine the competitiveness of the mining industry. The end result of excessive government involvement would be the movement of mining operations overseas and the loss of American jobs. The legislation I am introducing today will keep U.S. mines competitive and prevent the movement of U.S. jobs to other countries.

The General Mining Law is the cornerstone of U.S. mining practices. It establishes a useful relationship between industry and government to promote the extraction of minerals from mineral rich Federal lands. Although the cornerstone of this laws was originally enacted in 1872, it remains to function effectively today. The law has been amended and revised many times since its original passage. The legislation I am introducing today preserves the solid foundation provided by this law and makes some important revisions that address the concerns that have been paramount in this debate that I have been involved in for nearly a decade.

Specifically, the Mining Law Reform Act of 1997 will insure revenue to the Federal Government by imposing fair and equitable fees and a net royalty. It requires payment of fair market value for lands to be mined. It assures lands will return to the public sector if they are not developed for mineral production, as is intended in this legislation. Furthermore, to prevent mining interests from using patented land for purposes other than mining, the bill limits occupancy to that which is only necessary to carry out mining activities.

To ensure mining activities do not unnecessarily degrade Federal lands, the Mining Law Reform Act mandates compliance with all Federal, State and local environmental laws with regard to land use and reclamation. To enforce these provisions, the bill includes civil penalties and the authority for compliance orders.

Finally, this bill creates a program to address the environmental problems associated with abandoned mines. Working directly with the States, the Mining Law Reform Act directs fees and royalty receipts to the abandoned mine cleanup programs. It is time we have a workable mechanism to clean up these relics of the past.

The legislation we are proposing today is in the best interest of the American people because it provides revenue from public resources, assures mines will be developed in an environmentally sensitive manner and that abandoned mines from earlier eras will be reclaimed. It is fair to mining interests because it imposes reasonable fees and royalties, and it is good for the environment because it assures that sound land use and reclamation practices are followed. I ask my colleagues to join me in support of this legislation and look forward to hearings and Senate legislative action.

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

MINING AND THE AMERICAN ECONOMY

EVERYTHING BEGINS WITH MINING

(Prepared by George F. Leaming, Ph.D.)

Combined Direct and Indirect Impacts of Mining, 1995

	Values in millions of dollars
California	$52,475.866
New York	31,005.248
Texas	28,971.894
Pennsylvania	28,643.365
Michigan	26,229.092
Ohio	24,964.148
Illinois	23,932.294
Florida	19,703.096
Kentucky	16,331.941
West Virginia	15,277.424
Indiana	14,232.916
New Jersey	14,104.661
Arizona	13,715.868
North Carolina	13,090.456
Minnesota	12,970.055
Massachusetts	12,794.139
Virginia	11,498.840
Georgia	11,202.431
Alabama	11,027.917
Missouri	10,162.067
All Other States	131,270.339
Total impact	523,604.058

SUMMARY

The American mining industry had a combined direct and indirect impact on the economy of the United States in 1995 of almost $524 billion. That $523.6 billion total economic benefit was nearly nine times the value of the solid minerals that were mined in the United States that year.

Nearly five million Americans had jobs in 1995 as a result of the combined direct and indirect contributions of the mining industry to personal, business, and government income throughout the nation. The total number of jobs created both directly and indirectly in the nation's economy by the domestic mining industry was more than 15 times the number of workers directly involved in mining.

The nation's business firms realized the greatest benefits from the mining industry's monetary contributions to the American economy in 1995. The nearly $296 billion in sales revenues obtained by domestic business firms directly and indirectly as a result of the income stream created by mining comprised 56% of the industry's total impact on the nation's economy.

Individual Americans and their families also received a significant amount of personal income as a result of mining's direct and indirect monetary contributions to the national economy in 1995. The nearly $144 billion received by residents of the United States in 1995 as a direct or indirect result of the income streams created by the mining industry amounted to more than three percent of all earnings received by the country's workers. It was more than the personal income earned by all of the residents of Georgia and Mississippi combined in 1995, and it was almost as much as the personal income received by the residents of Arkansas, Louisiana, and the District of Columbia from all sources. That $143.7 billion total of personal income from mining was enough to pay the wages of nearly five million American workers, only 6% of whom were actually employed in mining.

The federal government also shared in the economic benefit generated by the mining industry in 1995. Almost $57 billion in revenues received by the federal government in 1995 were generated either directly or indirectly from the income streams created by mining in the United States. That amounted to nearly 11% of mining's total contribution to the nation's economy.

State and local governments likewise shared in the contributions to the national economy made by the domestic mining industry. More than $27 billion of the revenues received by state and local governments throughout the country in 1995 were provided either directly or indirectly from the income streams that were created by mining. That was equivalent to about 4% of all state and local taxes levied in 1995. It represented about 5% of the entire monetary contribution of the nation's mining industry to the national economy. It gave government at all levels (federal, state, and local) a 16% share of mining's total contribution to the nation's economy.

Among the 50 states, California received the greatest economic benefit from the mining industry. The state ranked first in combined direct and indirect economic benefit from the mining of solid minerals, even though it ranked only fifth in the value of such minerals produced. The Californai economy gained more than $52 billion and 469,000 jobs in 1995 as a result of the combined direct and indirect impacts of mining in the United States. The gain came partly as a result of the state's role as a minerals producer and also as a manufacturing, trade, service, and financial center for much of the western United States as well as its role as a major beneficiary of the redistribution effects of the federal tax system.

Table 1—Combined Direct and Indirect Contributions of the American Mining Industry to the Economies of the Individual United States, 1995

State	Combined gain
Alabama	$11,027,917,000
Alaska	1,342,592,000
Arizona	13,715,868,000
Arkansas	3,790,429,000
California	52,475,866,000
Colorado	7,634,613,000
Connecticut	6,922,838,000
Delaware	1,566,762,000
Dist. of Columbia	1,941,284,000
Florida	19,703,096,000
Georgia	11,202,431,000
Hawaii	1,605,841,000
Idaho	1,898,296,000
Illinois	23,932,294,000
Indiana	14,232,916,000
Iowa	5,032,141,000
Kansas	4,052,691,000
Kentucky	16,331,942,000
Louisiana	5,547,709,000
Maine	1,740,423,000
Maryland	7,465,306,000
Massachusetts	12,794,139,000
Michigan	26,229,092,000
Minnesota	12,970,055,000
Mississippi	3,267,550,000
Missouri	10,162,067,000
Montana	2,214,078,000
Nebraska	2,196,212,000
Nevada	7,067,021,000
New Hampshire	1,977,094,000
New Jersey	14,104,661,000
New Mexico	3,408,964,000
New York	31,005,248,000
North Carolina	13,090,456,000
North Dakota	1,014,968,000
Ohio	24,964,149,000
Oklahoma	4,882,853,000
Oregon	5,108,336,000
Pennsylvania	28,643,365,000
Rhode Island	1,612,602,000
South Carolina	5,821,461,000
South Dakota	1,494,319,000
Tennessee	9,460,228,000
Texas	28,971,894,000
Utah	6,906,968,000
Vermont	1,018,057,000
Virginia	11,498,840,000
Washigton	9,604,834,000
West Virginia	15,277,424,000
Wisconsin	9,706,482,000
Wyoming	3,967,386,000
Total	523,604,058,000

Source: Western Economic Analysis Center.

New York received the second greatest gain from the nation's mining industry in 1995, with a total boost to its economy of more than $31 billion and more than 227,000 jobs. The impact on New York was partly the result of the state's direct role as a minerals producer but more a result of its role as a major trade, manufacturing, and financial center and as a major beneficiary of the income redistribution effect of federal spending.

Texas was not far behind New York in total economic gain from mining in 1995. The state has the nation's eighth largest mining industry, directly providing more than 16,000 jobs. In 1995, the Texas economy gained almost $29 billion and more than 308,000 jobs as a direct and indirect result of mining in the United States.

Pennsylvania was very close behind Texas in total economic benefit from the mining industry in 1995. The state has a major mining industry of its own, ranking sixth in value of mine output in 1995, but its bigger gain came as a result of its position as a manufacturing center for the nation, selling products and services to mining and other enterprises in other states. In 1995, the Pennsylvania economy gained almost $29 billion and 246,000 jobs as a direct and indirect result of mining in the United States.

Among the top 20 states that gained the most personal, business, and government income directly and indirectly from mining in 1995, 12 of them, including California, New York, Pennsylvania, Michigan, Ohio, Illinois, Indiana, New Jersey, Massachusetts, North Carolina, Virginia and Georgia, although they had significant mining industries of their own, actually received more business income from mining in other states. Their biggest gains come from selling products and services to mining enterprises in other states and through the disbursement of government revenues collected from firms that had mining operations in other states.

Among the 20 states that gained the most economically from mining in 1995, only two (California and Arizona) were in the public land areas of the West traditionally thought of as being the center of American mining. Six (Ohio, Illinois, Indiana, Michigan, Minnesota, and Missouri) were in the Midwest, while eight (Kentucky, West Virginia, Texas, Florida, North Carolina, Georgia, Virginia, and Alabama) were in the South and another four (New York, Pennsylvania, New Jersey, and Massachusetts) were in the Northeast.

More than 90% of the total impact of mining on the economy of the United States in 1995 was in the form of indirect personal, business, and government income generated by the circulation and recirculation through the nation's economy of the mining industry's direct payments to persons, other businesses, and governments. Those direct payments, while making up only 9% of the total impact, were themselves substantial, particularly in those states where mining activity took place and in states where manufacturers and other businesses produced products and services for use in mining.

Direct payments by mining firms to individuals, other businesses, and governments in the United States in 1995 totalled more than $48 billion. Of that total, the industry paid over $14.5 billion (30%) as personal income to employees, former employees, and stockholders. More than 85% of that amount went to pay the wages and salaries of current employees, while nearly all of the remaining 15% went to pay pensions to former employees and dividends to investors.

Table 2—Direct Contributions of the American Mining Industry to the Economies of the Individual United States in 1995

State	*Total direct impact*
Alabama	$1,342,230,000
Alaska	213,388,000
Arizona	2,299,706,000
Arkansas	334,147,000
California	2,876,115,000
Colorado	801,267,000
Connecticut	328,546,000
Delaware	100,729,000
Dist. of Columbia	17,968,000
Florida	1,326,928,000
Georgia	829,196,000
Hawaii	80,974,000
Idaho	280,470,000
Illinois	1,719,495,000
Indiana	1,103,017,000
Iowa	433,192,000
Kansas	348,926,000
Kentucky	2,662,452,000
Louisiana	356,075,000
Maine	102,133,000
Maryland	369,080,000
Massachusetts	581,349,000
Michigan	1,644,407,000
Minnesota	1,301,183,000
Mississippi	200,552,000
Missouri	868,251,000
Montana	458,813,000
Nebraska	164,594,000
Nevada	1,728,137,000
New Hampshire	99,845,000
New Jersey	623,148,000
New Mexico	638,176,000
New York	1,314,774,000
North Carolina	876,359,000
North Dakota	150,558,000
Ohio	1,650,231,000

Table 2—Direct Contributions of the American Mining Industry to the Economies of the Individual United States in 1995—Continued

State	*Total direct impact*
Oklahoma	391,423,000
Oregon	387,101,000
Pennsylvania	2,300,648,000
Rhode Island	68,760,000
South Carolina	423,942,000
South Dakota	251,085,000
Tennessee	608,122,000
Texas	2,544,266,000
Utah	1,100,239,000
Vermont	72,397,000
Virginia	1,019,016,000
Washington	719,353,000
West Virginia	2,815,983,000
Wisconsin	608,016,000
Wyoming	1,361,726,000
Wyoming	1,361,726,000
Total	44,898,488,000

Totals do not include contributions to federal government revenues.

Source of data: Western Economic Analysis Center.

The biggest share (56%) of the mining industry's direct contributions to the national economy in 1995, however, went to other businesses to pay for the products and services used in the search for and production of minerals. Those direct payments to suppliers of materials, equipment, energy, and services used in mining amounted to over $27 billion. They were made to suppliers located in every state of the Union and the District of Columbia.

The nation's mining industry also made significant payments directly to state and local governments, largely in the states in which they conducted mining or processing operations. The amount of such direct payments by mining firms to state and local governments in 1995 approached $3.4 billion.

The federal government got even more. Direct payments by mining firms to the United States Government in payroll taxes, income taxes, and other taxes and fees surpassed $3.5 billion in 1995. That represented more than 7% of the industry's total direct contribution to the American economy last year.

The direct contributions of the mining industry to the economies of the various states in 1995 tended to be the greatest in those states in which the most mining activity was conducted and which had the most suppliers providing goods and services to mining firms in other states. Thus, California, with major metal mining, construction minerals, and industrial minerals mining industries, as well as large manufacturing, trade, services, and financial sectors serving mining firms in other states, led the list with a direct impact from mining of almost $2.9 billion. West Virginia, with the country's biggest coal mining industry (in terms of value), was second with a direct impact in 1995 of more than $2.8 billion.

Kentucky, with the nation's second largest coal mining industry, as third in impact with a direct impact on its economy of nearly $2.7 billion. Texas, with major metals, construction minerals, industrial minerals, and coal mining output, was fourth in direct impact with over $2.5 billion. Pennsylvania, the nation's fifth most important source of mined coal and third biggest producer of construction minerals, was fifth in direct impact with more than $2.3 billion.

Arizona, with the nation's largest copper mining industry was sixth, receiving a direct impact of nearly $2.3 billion, while Nevada, with the nation's largest gold mining industry, was seventh with a direct economic gain of more than $1.7 billion. Illinois was eighth, also with an impact of over $1.7 billion.

Table 3—Total Employment Supported Directly and Indirectly by the American Mining Industry in the Individual United States, 1995

State	*Total jobs*
Alabama	107,400
Alaska	12,000
Arizona	137,300
Arkansas	44,400
California	469,200
Colorado	77,300
Connecticut	54,400
Delaware	14,400
Dist. of Columbia	9,400
Florida	212,600
Georgia	121,300
Hawaii	18,300
Idaho	23,600
Illinois	209,400
Indiana	133,700
Iowa	57,200
Kansas	48,200
Kentucky	150,300
Louisiana	62,300
Maine	19,800
Maryland	79,300
Massachusetts	103,900
Michigan	203,300
Minnesota	113,300
Mississippi	41,500
Missouri	103,200
Montana	24,900
Nebraska	30,000
Nevada	63,000
New Hampshire	20,300
New Jersey	115,500
New Mexico	44,000
New York	227,500
North Carolina	140,400
North Dakota	13,300
Ohio	220,700
Oklahoma	52,700
Oregon	53,500
Pennsylvania	246,000
Rhode Island	15,900
South Carolina	65,900
South Dakota	19,800
Tennessee	98,300
Texas	308,000
Utah	66,200
Vermont	11,100
Virginia	124,800
Washington	92,300
West Virginia	132,700
Wisconsin	98,800
Wyoming	41,400
Total	4,954,000

Source of data: Western Economic Analysis Center.

THE IMPACT OF THE MINING INDUSTRIES ON THE ECONOMY OF THE UNITED STATES

In 1995, the mining industries had a combined direct and indirect impact on the economy of the United States of $523.604 billion including combined direct and indirect contributions of $143,742 billion in personal income (equal to 5 million jobs), $295.712 billion in business income, $56.992 billion in federal government revenues, and $27.158 billion in state and local government revenues.

As a result of the circulation (and multiplication) of the mining industry's total direct impact of $48.429 billion that included direct payments of $3.373 billion to state and local governments, $3.530 billion to the federal government, $27.023 billion to other American businesses, and $14.503 billion in personal income for Americans, including wages and salaries for the industry's 320,400 employees, who labored to produce minerals with a total value of $60.055 billion.

Mr. MURKOWSKI. Mr. President, I stand today to add my strong support for the introduction of this comprehensive package of reforms intended to bring this Nation's mining law into the 21st century.

There are few issues before the Senate that are more complex and contentious than mining law reform. Make no mistake, it is an issue within which major ideologies compete. The outcome of these debates will define for years to come the role public lands play in the Nation's ability to maintain a viable strategic mining capability.

Across the Nation—from the White House, and from within this very chamber we have been regaled with stirring speeches on the short comings of the 1872 mining law: the unfairness it imposes on the American people. Unfortunately this rhetoric has served only to inflame passions and polarize the American public on this complex issue.

It will come as no surprise why, under these circumstances, mining law reform has been such a difficult undertaking within the Congress. There is one additional circumstance which serves to frustrate legitimate efforts to bring mining reform negotiations to a successful culmination. Legitimate reformers within the administration and the Congress have been joined by those who see mining reform as the perfect vehicle for ending mining on public lands. With these forces there is no appeasement. As reform proposals move toward addressing legitimate concerns, the goal line is moved. As you can imagine, this causes a great deal of frustration among those of us engaged in serious reform efforts.

Be that as it may, the only unforgivable action this Senator could take would be to abandoned the effort. In the great debate before us I would ask you to look carefully at the issues—if you seek reform which brings a fair return to the public treasury, that protects the environment, and preserves the Nation's ability to produce strategic minerals—then you will find a great deal to support in the legislation we lay before you today.

I also take a great deal of pride in the fact that this legislation does not forget about the Nation's smallest mining operations. It will allow them to stay in business and to continue to compete on an even playing field with the larger, better financed operations. And for those of you who might wonder why small miners are important; you need only remember that the great majority of large mining operations across the country started out as a nothing more than a crazy idea inside the head of a prospector simply too stubborn to give up on their dream.

On the other hand, if it is your intention to use mining reform as a vehicle to end mining on public lands or punish mining companies for making a profit, then you will find little in my legislation to aid in your cause.

There is one resounding note of agreement across the Nation relating to mining reform—it is time to bring this piece of historic legislation into the 21st century.

However, in our zeal to bring about this necessary modernization, we must not forget what we are tinkering with. Bad decisions clouded with emotionally charged rhetoric can have devastating effects on a $5 billion industry. An industry whose products form the muscle and sinew of the Nation's entire industrial output. We are taking into our hands the well-being of 50,000 American miners, their families, and their communities. We will be reaching out and directly affecting the future well-being of thousands who derive their primary source of income manufacturing the goods and services which support this critical industry. We owe it to that industry, those people, their communities, and the entire American public to make good decisions. There is simply too much at stake to let our collective emotions get in the way of good decision making.

The Nation's first comprehensive mining laws were negotiated under torchlite miner's courts, over copious amounts of whiskey, and down the barrels of cocked six shooters. These laws literally emerged out of the muck and grime of the gold fields of California, the silver fields of Nevada, and countless other mining camps scattered across the American West. The initial law was designed to give every miner the opportunity to compete on an even playing field without fear of having his hard earned gain taken away during the dark of night. The law was also intended to give a young nation a self sufficiency in its mineral needs. The industrial revolution was upon us, and our mills and factories were hungry for the raw mineral feed stocks necessary to keep pace with the growing demand for industrial products.

And Mr. President I am here to tell you that we were successful. Due in no small part to the mining industry of this Nation and all the hard working miners, the United States moved to the pre-eminent position that enabled us to win two world wars and set a standard of living that is still the envy of the world.

This package of mining reforms contained in this legislation honors the past, recognizes the present, and sets the stage for a bright future.

This legislation honors the past by refusing to abandon the basic tenets of the Nation's mining law. A system that allows for the location, development and production of mineral resources off the public lands. Resources necessary to keep this country's mills and factories working at full capacity.

We recognize the present through the creation of fair reforms which recognize that over one hundred years have passed since the general mining laws went onto the books. During that time many changes have occurred in this country and the mining industry.

We set the stage for the future by placing instruments within the legislation that directs the reclamation of old abandoned mine sites and preventing abuses in the exercise of the rights authorized within the law.

Mr. President, we recognize that the time has come to reform the general mining laws. But it must be reform that fixes the things which are wrong without destroying this important industry and the lives and communities dependent on it.

The legislation we offer today does that but in such a way that corrects the problems with the law without killing the mining industry.

The legislation advances reforms in 4 general areas; royalty, patents, operations, and reclamation.

No area within the 1872 mining laws has been so greatly criticized as the failure on the part of that legislation to require royalty to be paid for minerals extracted from public land.

The legislation that we introduce today corrects this. It requires that 5 percent of the profit made from a mining operation on federal lands be paid to the federal government.

This legislation seeks a percentage of the profit, not the value of the mineral in place. We do this for very specific reasons. Failure to do so will cause the shutdown of many operations and prevent the opening of new mines. It will cause other operators to cast low ore concentrates onto the spoil pile as they seek out only the very highest grade ores.

Yes, highly profitable mines do exist and I am sure you are going to hear a lot about them from our opponents. But I can also assure you that there is an equal number that operate on the margin. Mines are like people, no two are alike. Through legislation we seek to create a one-size-fits-all royalty. If that royalty is designed to address highly profitable mines, many marginal mines will go under. That is why we designed our royalty to take a percentage of the profits. If the mine makes money, the public gets a share. This approach recognizes that the public benefits from a strong mining industry beyond the royalty it might collect. A continuous and competitive supply of metals to the Nation's mills and factories, high paying mining jobs, and healthy, viable communities also contribute to the common good.

I fail to see how the public good is served through the creation of a royalty system so intrusive that it must be paid for through the loss of jobs, the health of local communities, and the abandonment of lower grade mineral resources. For those of you who would dismiss these predictions need only look north of our borders to British Columbia to see living proof of this prediction. In 1974 they put a royalty on minerals before cost of production was factored in.

Five thousand miners lost their jobs, mining diminished to the point where only one new mine went into operation in 1976. The industry was devastated. The royalty was removed in 1978. Years later the industry still has not completely recovered.

Those who forget history are doomed to repeat it—let us not forget the experience of our neighbors to the north.

Patenting or the right to take title to lands containing minerals upon demonstration that the parcel can support a profitable operation is another area targeted for intense criticisms by opponents to existing mining law.

There is no doubt that there have been serious abuses of this provision of the 1872 mining law. Unscrupulous individuals have located mineral operations for the soul purpose of gaining title and turning the land into a lodge, resort or ski area. These practices are wrong and should be corrected. But it should not be done in a way that punishes the great majority of miners who patent lands for the sole purpose of mining. Punishing everyone to get at the few is absolutely wrong and down right un-American.

The legislation we introduce today cures the problem without punishing the innocent. We would continue to issue patents to operators who are engaged in legitimate mining operations. However, we also include provisions allowing the Secretary to step in and reclaim lands should it be determined that they are no longer being used for mining.

This approach protects the legitimate miner while insuring that unscrupulous operators can no longer turn mining operations into other activities.

Much criticism has been levied in the past at the 1872 mining laws for what has been called the encouragement of speculative activities on mineralized lands. Because no controls were in place, any person could go out and stake lands purely for speculative purposes. This kept legitimate miners from accessing lands for development and burdened the bureaucracy with mining claims that had no real mineral potential.

The legislation we introduce today addresses this practice. It requires that a $25 filing fee be paid at the time the claim is filed, and makes permanent the $100 per year per claim maintenance fee. These fees will discourage speculative claim staking while allowing miners intent on mining access to lands.

The 1872 mining law did not address environmental protection. Our revisions weave a tight environmental safety net to protect the federal lands. We include a permit process which requires secretarial approval for all but the most minimal mineral related activities; furthermore, we require that lands disturbed by mining be reclaimed to prevent undue and unnecessary environmental degradation. To correct situations where mine operations are abandoned, this legislation requires all operations be fully bonded to pay for reclamation. We do this in ways that allow individual miners the opportunity to choose the bonding tool that best suits their individual needs while not losing sight of the overall reclamation goal.

While bonding assures that no further reclamation responsibilities will fall to the public, what about sites which have been abandoned in the past? I won't be breaking any secrets by telling you that discretionary funding for new projects around here is about as scarce as virtue at a lawyers convention. There is simply too much need with not enough dollars to go around. Does this mean that reclamation is not important? Not at all—-there is no question that the reclamation of these abandoned sites needs to occur. The only question is where the dollars are going to come from and what other priority must fall to the side.

This legislation addresses this issue through the establishment of a mine reclamation fund. This fund is capitalized by the funds collected by this legislation. Filing fees, maintenance fees, and royalty collected all goes into the fund to pay for the reclamation work. This fund dovetails with other reclamation funds and fills the gaps. It is not duplicative.

The Nation's small miners will find that there are exemptions from the payment of fees for the first 25 claims, royalty relief for yearly profits of less than $50,000, authorizations to use state reclamation bonding pools, and the ability to maintain exclusive long term land use tenure.

For those who seek meaningful reform to the nation's general mining laws, this legislation does the job. It fixes past abuses without punishing the innocent. It establishes a partnership with miners to share in the profits of mining without putting people out of work. It works with existing environmental legislation to assure that mining operations are carried out with the least possible disturbance. It makes sure that the public does not have to pay for the inappropriate actions of the few while allowing the many to pursue their activities in a ways that do not jeopardize their financial well being. And, it sets up a process to pay for existing mine reclamation needs without taking money away from ongoing federal programs.

This is good legislation, it fixes existing problems without creating new ones. It establishes partnerships between the Federal and State governments and treats the mining community with respect and dignity without turning a blind eye to past indiscretion.

I recognize that we have an up-hill battle. Mining reform has been shrouded for far too long in a smokey veil of rhetoric and sensationalism. The complexity of the issue is such that before we can show any meaningful progress we must separate the voices of those who seek meaningful reform from those who are using the debates to prevent mining on public lands. I believe this legislation will do that—it provides a platform for reasonable discussion and negotiation without threatening to end mining on public land.

What we propose may not be poetic, but it does have a rock solid substance; it does not lend itself to catchy media blurbs, but it is genuine reform; it does not offer quick fixes; but it does make changes that are needed without punishing the innocent. It may not be pretty and it certainly is not easy to understand but I can promise you one thing—it will work.

Both sides of the mining reform debate have come a long way toward achieving meaningful compromise. I am certain that the legislative vehicle we launch today will carry us that last mile and finally bring us the reform that is needed.

Mr. BENNETT. Mr. President, I am pleased to join my colleagues in introducing the Mining Law Reform Act of 1997 today. The merits of this legislation have already been outlined by others, so I will not go into details. I believe that we have come a long way toward reaching a compromise and I congratulate the chairman for his willingness and his efforts to reach the middle ground.

Mr. President, in this time of economic prosperity, I find it worrisome that we must constantly remind the American people that our Nation's economic prosperity is largely dependent upon our ability to create wealth. The ability to create wealth depends upon ability to take a raw material that has little or no economic worth and turn it into something of value. The economic prosperity which we have experienced in this decade is due, in part, to the increased ability of our Nation's mining industry to create wealth out of our raw materials.

In my own State, there are some groups which argue that the mining industry is no longer needed, that it is a relic of the past. I hear from these same groups how tourism will be the savior of Utah's rural communities and if the people of rural Utah would only accept this, then everything will work out just fine. The economy will be strong, the environment will be protected and everyone will have a high standard of living.

Mr. President, I do not want to diminish in any way the important contribution that tourism provides to the economy of my State. Utahns encourage people to come and enjoy our ski slopes, our canyons, and our national parks. But much of the tourism industry is seasonal in nature. In some small communities in southern Utah, it takes two and one-half incomes to generate the average income. It is not uncommon to strike up a conversation with a waitress in the local cafe, and learn that her husband works two jobs to make ends meet. As one County Commissioner summarized recently, ''If tourism was really the answer, making beds, frying hamburgers, and pumping gas would have made us rich a long, long time ago.''

In 1995, the values of minerals mined in Utah exceeded $2.4 billion. Utah's direct economic gain from mining exceeded $1.1 billion, including $358 million in personal income gains. The average mining job in Utah pays about $36,000 a year. With this in mind, imagine the tremendous positive impact that a few dozen mining jobs have in these communities. These jobs impact the local auto dealer, the real estate agent, the contractor, and the hardware store owner.

Mr. President, responsible and reasonable mining law reform should be enacted. But as we undertake these efforts, we must also recognize the important contribution of the mining industry to our Nation's economy. It makes no sense to enact mining law reform in the name of environmental protection or budgetary concerns, if these reforms in turn force industry offshore where environmental restrictions are not a consideration and some other country's government receives tax revenues. I urge my colleagues to keep this in mind.

I congratulate the chairman for his efforts and I look forward to working closely with him to enact this legislation.

THE MINING LAW REFORM ACT OF 1997

Mr. BRYAN. Mr. President, I am pleased to join many of my colleagues from the West today in introducing the Mining Law Reform Act of 1997.

The mining industry has always played an important role in our national economy, and particularly in the economies of many western States. From the discovery of the Comstock Lode in the 19th century, to the silver boom of the Goldfield-Tonopah area in the early 20th century, to the record levels of gold and silver production in the last decade, the mineral industry has historically played a vital role in Nevada's economy. For the fifth year in a row, Nevada's mines have collectively topped the 6 million ounce mark in gold production. In 1996, there was a total of 7.08 million ounces of gold produced in Nevada. The State's rich landscape has made Nevada the largest gold producer in the nation with 66.5 percent of all production. In addition, it now accounts for 10 percent of all the gold in the world.

The most recent information from the State of Nevada indicates that direct mining employment in Nevada exceeds 13,000 jobs. The average annual pay for these jobs, the highest of any sector in the state, is about $46,000, compared to the average salary in Nevada of about $26,000 per year. In addition to the direct employment in mining, there are an estimated 36,000 jobs in the state related to providing goods and services needed by the industry.

I would also like to note that Nevada mining companies must pay taxes like any other business, and they also pay an additional Nevada tax called the ''Net Proceeds of Mines Tax.'' The total Net Proceeds tax paid to the State in 1995 was approximately $33 million. With the addition of sales and property tax, the industry paid approximately $141 million in State and local taxes in 1995. In addition, the Nevada mining industry paid approximately $95 million in Federal taxes in 1995.

The figures and statistics I have just mentioned are significant not only to emphasize the importance of the mining industry to the State of Nevada, but also to provide a context for the criticism often leveled against the industry that they enjoy a free ride for mining activities on Federal land. The bottom line is that the mining industry pays taxes just like any other business, and in Nevada they pay an additional tax targeted specifically to their industry.

The issue of reclamation is also central to the mining law reform debate. I should note that Nevada has one of the toughest, if not the toughest, State reclamation programs in the country. Nevada mining companies are subject to a myriad of Federal and State environmental laws and regulations, including the Clean Water Act, Clean Air Act, and Endangered Species Act. Mining companies must secure literally dozens of environmental permits prior to commencing mining activities, including a reclamation permit, which must be obtained before a mineral exploration project or mining operation can be conducted. Companies must also file a surety or bond with the State or the Federal land manager in an amount sufficient to ensure reclamation of the entire site prior to receiving a reclamation permit.

It is in the context of promoting the economic viability of the mining industry and of encouraging strong environmental reclamation efforts administered by the States that I view the debate over the reform of the Mining Law of 1872. As I have stated many times over the years, I feel that certain aspects of the 1872 mining law are in need of reform. Specifically, I feel strongly that the patenting provision of the current law should be changed to provide for the payment of fair market value for the surface estate—our legislation does that. All patents should also include a reverter clause, which would ensure that patented public lands would revert to Federal ownership if no longer used for mining purposes—our legislation does that. I believe that mining laws reform legislation should ensure that any land used for mining purposes must be reclaimed pursuant to applicable Federal and State statutes—our legislation does that. And finally, I believe that mining law reform legislation should impose a reasonable royalty on mineral production from Federal land—our legislation does that.

The Mining Law Reform Act of 1997 addresses each of the concerns I have just outlined. It is my hope that this legislation will serve as the starting point for the debate over mining law reform this year.

The time has never been more critical for Congress to enact comprehensive mining law reform. The aura of uncertainty that the industry has been forced to operate under for the last decade is causing many companies to look overseas for their future operations. The number of United States and Canadian mining companies exploring or operating in Latin America continues to grow dramatically. We must enact mining reform this Congress if we hope to secure the economic benefits we derive as a Nation from a healthy mining industry.

By Mr. MOYNIHAN (for himself, Mr. REID, Mrs. BOXER, Ms. MIKULSKI, and Mr. ROBB):

S. 1103. A bill to amend title 23, United States Code, to authorize Federal participation in financing of projects to demonstrate the feasibility of deployment of magnetic levitation transportation technology, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE MAGNETIC LEVITATION (MAGLEV) TRANSPORTATION TECHNOLOGY DEPLOYMENT ACT OF 1997

Mr. MOYNIHAN. Mr. President, I rise with a distinguished group of my colleagues to introduce the Magnetic Levitation Transportation Technology Deployment Act of 1997.

Maglev is the first new transportation technology envisioned since the development of aviation in the early 1900's, and its adoption represents an opportunity for dramatic national gains in transportation efficiency and economic growth. This legislation proposes to demonstrate the feasibility of Maglev by authorizing limited Federal participation in financing one or more Maglev projects in the United States.

Maglev is an advanced technology in which magnetic forces lift, propel, and guide a vehicle over a guideway. Utilizing state-of-the-art electric power and control systems, this configuration eliminates the need for wheels and many other mechanical parts, thereby minimizing friction and permitting cruising speeds of 300 miles per hour or more—three times the speed of conventional American train technology. Because of its high speeds and relatively modest right-of-way requirements, Maglev offers significant advantages over auto, rail, and aviation modes in 40- to 600-mile travel markets. Maglev is also a very safe technology since properly designed Maglev is virtually impossible to derail.

While Maglev was invented by a young American nuclear engineer in the 1960's, the Germans have developed the technology and have already built a demonstration Maglev test facility. They are now proceeding with a public/private project to construct a 181-mile Maglev system to connect Berlin to Hamburg. The German system, which is expected to be operational by 2005, will provide 1-hour service between the two cities. Not far behind Germany, Japan has its own Maglev system under test. Meanwhile, our Federal Government has done relatively little to develop this extraordinary technology.

In the last few years, however, the Federal Rail Administration has identified the feasibility of deployment of Maglev systems in several major U.S. transportation corridors. Also, several public/private partnerships in the United States have begun to develop

Maglev projects in a number of States, including California, Florida, Maryland, and Nevada. However, as with our European and Asian competitors, developing these Maglev projects will require Federal support to supplement the private and other public funding sources. Our bill would establish a competition for Federal funds, based on economic and financial criteria, among the various public/private Maglev project partnerships.

Because Maglev is a proven technology that offers significant benefits for both passengers and freight, it is in the National interest to demonstrate these benefits by proceeding to construct and put into service, at an early date, a project in the United States. This legislation will encourage such a project at minimum public cost.

I ask unanimous consent that the section-by-section analysis and the text of the Magnetic Levitation (Maglev) Transportation Technology Deployment Act of 1997 be printed in the RECORD.

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

S. 1103

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 ''Magnetic Levitation (MAGLEV) Transportation Technology Deployment Act of 1997''.

SEC. 2. FINDINGS AND POLICY.

(a) FINDINGS.—Congress finds that—

(1)(A) new transportation technologies are needed to develop new modes of transportation that are environmentally sound and energy efficient;

(B) very high- and super-speed magnetic levitation (referred to in this section as ''MAGLEV'') is the technology that appears to best meet the needs of the traveling public and high-value freight shippers in the 40- to 600-mile distance corridors;

(C) MAGLEV is energy efficient, consuming less energy per passenger mile at any given speed than other forms of transportation and reducing dependence on imported oil;

(D) since properly designed MAGLEV is virtually impossible to derail, MAGLEV is safe and will prevent accidents and loss of life, and will significantly reduce costs attributable to accidents occurring on highways, freight rail lines, intercity rail passenger service lines, commuter rail lines, and short haul airline routes of the United States;

(E) MAGLEV is virtually unaffected by weather conditions, which annually result in delays in other transportation modes employed by freight and passenger carriers; and

(F) MAGLEV makes extensive use of existing highway rights-of-way and consumes less land for its guideway infrastructure than a comparable roadway;

(2) the commercial feasibility study of high-speed ground transportation conducted under section 1036 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 1978)—

(A) demonstrates that MAGLEV systems have the potential for a public and private partnership under which the private sector could operate a system without operating subsidies and the total benefits of the system would exceed the total costs; and

(B) demonstrates that adding links or corridors to the basic MAGLEV system would enhance the basic system, leading to establishment of high-volume high-speed ground transportation networks; and

(3) the study required by section 359(d) of the National Highway System Designation Act of 1995 (Public Law 104–59; 109 Stat. 627) further demonstrates the potential for MAGLEV systems.

(b) POLICY.—It is the policy of the United States to establish a MAGLEV transportation technology system operating along Federal-aid highway and other rights-of-way as part of a national transportation system of the United States.

SEC. 3. MAGNETIC LEVITATION TRANSPORTATION TECHNOLOGY DEPLOYMENT PROGRAM.

(a) IN GENERAL.—Chapter 3 of title 23, United States Code, is amended by inserting after section 321 the following:

''§ 322. Magnetic levitation transportation technology deployment program

''(a) DEFINITIONS.—In this section:

''(1) ELIGIBLE PROJECT COSTS.—The term 'eligible project costs' means the capital cost of the fixed guideway infrastructure of a MAGLEV project, including land, piers, guideways, propulsion equipment and other components attached to guideways, power distribution facilities (including substations), control and communications facilities, access roads, and storage, repair, and maintenance facilities, but not including costs incurred for a new station.

''(2) FULL PROJECT COSTS.—The term 'full project costs' means the total capital costs of a MAGLEV project, including eligible project costs and the costs of stations, vehicles, and equipment.

''(3) MAGLEV.—The term 'MAGLEV' means transportation systems employing magnetic levitation that would be capable of safe use by the public at a speed in excess of 240 miles per hour.

''(4) PARTNERSHIP POTENTIAL.—The term 'partnership potential' has the meaning given the term in the commercial feasibility study of high-speed ground transportation conducted under section 1036 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 1978).

''(5) RECOGNIZED PILOT PROJECT.—The term 'recognized pilot project' means a project identified in the report transmitted by the Secretary to Congress on the near-term applications of magnetic levitation ground transportation technology in the United States as required by section 359(d) of the National Highway System Designation Act of 1995 (Public Law 104–59; 109 Stat. 627).

''(b) HIGH-SPEED GROUND TRANSPORTATION OFFICE.—

''(1) IN GENERAL.—Not later than 90 days after the date of enactment of the Magnetic Levitation (MAGLEV) Transportation Technology Deployment Act of 1997, the Secretary shall establish a High-Speed Ground Transportation Office in the Federal Railroad Administration to—

''(A) coordinate and administer all high-speed rail and MAGLEV programs authorized by this section and any other provision of this title or title 49; and

''(B) make available financial assistance to provide the Federal share of full project costs of eligible projects selected under this section and otherwise carry out this section.

''(2) FEDERAL SHARE.—The Federal share of full project costs under paragraph (1)(B) shall be not more than ⅔.

''(3) USE OF ASSISTANCE.—Financial assistance provided under paragraph (1)(B) shall be used only to pay eligible project costs of projects selected under this section.

''(c) SOLICITATION OF APPLICATIONS FOR ASSISTANCE.—Not later than 90 days after the establishment of the High-Speed Ground Transportation Office, the Secretary shall solicit applications from States, or authorities designated by 1 or more States, for financial assistance authorized by subsection (b)(1)(B) for planning, design, and construction of eligible MAGLEV projects.

''(d) PROJECT ELIGIBILITY.—To be eligible to receive financial assistance under subsection (b)(1)(B), a project shall—

''(1) involve a segment or segments of a high-speed ground transportation corridor that—

''(A) exhibits partnership potential; or

''(B) is a portion of a recognized pilot project;

''(2) require an amount of Federal funds for project financing that will not exceed—

''(A) the amounts made available under subsection (j)(1)(A); and

''(B) the amounts made available by States under subsection (j)(4);

''(3) result in an operating transportation facility that provides a revenue producing service;

''(4) be undertaken through a public and private partnership, with at least ⅓ of full project costs paid using non-Federal funds;

''(5) to the maximum extent practicable (as determined by the Secretary), satisfy applicable Statewide and metropolitan planning requirements;

''(6) be approved by the Secretary based on an application submitted to the Secretary by a State or authority designated by 1 or more States;

''(7) to the extent non-United States MAGLEV technology is used within the United States, be carried out as a technology transfer project; and

''(8) be carried out using materials at least 70 percent of which are manufactured in the United States.

''(e) PROJECT SELECTION CRITERIA.—Prior to soliciting applications, the Secretary shall establish criteria for selecting which eligible projects under subsection (d) will receive financial assistance under subsection (b)(1)(B). The criteria shall include the extent to which—

''(1) a project is nationally significant, including the extent to which the project will demonstrate the feasibility of deployment of MAGLEV technology throughout the United States;

''(2) timely implementation of the project will reduce congestion in other modes of transportation and reduce the need for additional highway or airport construction;

''(3) States, regions, and localities financially contribute to the project;

''(4) implementation of the project will create new jobs in traditional and emerging industries;

''(5) the project will augment MAGLEV networks identified as having partnership potential;

''(6) financial assistance would foster public and private partnerships for infrastructure development and attract private debt or equity investment;

''(7) financial assistance would foster the timely implementation of a project; and

''(8) life-cycle costs in design and engineering are considered and enhanced.

''(f) PROJECT SELECTION.—Not later than 90 days after a deadline established by the Secretary for the receipt of applications, the Secretary shall evaluate the eligible projects in accordance with the selection criteria and select 1 or more eligible projects for financial assistance.

''(g) JOINT VENTURES.—A project undertaken by a joint venture of United States and non-United States persons (including a project involving the deployment of non-United States MAGLEV technology in the United States) shall be eligible for financial assistance under this section if the project is eligible under subsection (d) and selected under subsection (f).

''(h) RESEARCH GRANTS AND CONTRACTS.—The Secretary shall conduct research that shall include providing grants to, and entering into contracts with, colleges, universities, research institutes, Federal laboratories, and private entities for research related to—

''(1) the quantification of benefits derived from the implementation of MAGLEV technology;

''(2) MAGLEV safety;

''(3) the development of domestic MAGLEV technologies, including electromagnetic and superconducting technology; and

''(4) the development of technologies associated with MAGLEV infrastructure.

''(i) REPORT.—Not later than 180 days after the date of enactment of the Magnetic Levitation (MAGLEV) Transportation Technology Deployment Act of 1997, the Secretary shall submit a report to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on progress in implementing this section that includes a report on—

''(1) the establishment of the High-Speed Ground Transportation Office under subsection (b);

''(2) applications for assistance under this section; and

''(3) the establishment of public and private partnerships to carry out this section.

''(j) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to—

''(A) carry out this section (other than subsection (h)), $10,000,000 for fiscal year 1998, $20,000,000 for fiscal year 1999, $200,000,000 for each of fiscal years 2000 and 2001, and $250,000,000 for each of fiscal years 2002 and 2003; and

''(B) provide research grants and contracts under subsection (h), $10,000,000 for each of fiscal years 1998 through 2003.

''(2) AVAILABILITY OF FUNDS.—Funds made available under paragraph (1) shall remain available until expended.

''(3) CONTRACT AUTHORITY.—Approval by the Secretary of an eligible project selected under this section shall be considered to be a contractual obligation of the United States for payment of the Federal share of the full project costs of the project.

''(4) OTHER FEDERAL FUNDS.—Notwithstanding any other provision of law, funds made available to a State to carry out the surface transportation program under section 133 and the congestion mitigation and air quality improvement program under section 149 may be used by the State to pay a portion of the full project costs of an eligible project selected under this section, without requirement for non-Federal funds.

''(5) OTHER ASSISTANCE.—Notwithstanding any other provision of law, an eligible project selected under this section shall be eligible for the loans, loan guarantees, lines of credit, development cost and political risk insurance, credit enhancement, and risk insurance that are authorized for a highway project under this title.

''(6) TAX-EXEMPT BOND FINANCING.—For the purpose of obtaining tax-exempt bond financing under the Internal Revenue Code of 1986, a MAGLEV facility shall be considered to be a high-speed intercity rail facility with an average speed greater than 150 miles per hour under section 142(a)(11) of that Code.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23, United States Code, is amended by inserting after the item relating to section 321 the following:

''322. Magnetic levitation transportation technology deployment program.''.

MAGNETIC LEVITATION (MAGLEV) TRANSPORTATION TECHNOLOGY DEPLOYMENT ACT OF 1997—SECTION-BY-SECTION ANALYSIS

Sec. 1 Short Title

This section designates this bill as the ''Magnetic Levitation (MAGLEV) Transportation Technology Deployment Act of 1997.''

Sec. 2 Findings and Policy

Sub-section (a) makes several findings concerning the need for a new mode of transportation that is environmentally sound and energy efficient and describes how magnetic levitation can meet that need with a demonstrated safe and cost-effective technology.

Based upon the above findings, sub-section (b) declares that it is the policy of the United States to establish a MAGLEV transportation technology system as part of our national transportation system.

Sec. 3 Magnetic Levitation Transportation Technology Deployment Program

Sub-section (a) amends Chapter 3 of Title 23, U.S.C. to add a new ''Section 322. Magnetic Levitation transportation technology deployment program.''

Sub-section (a) of the new Section 322 provides definitions for several terms subsequently used in the legislative language.

Paragraph (b)(1) of the new Section 322 requires The Secretary of Transportation to establish a High-Speed Ground Transportation Office in the Federal Railroad Administration to coordinate and administer all high-speed rail and MAGLEV programs and make available Federal funds authorized by this section for selected MAGLEV projects.

Paragraph (b)(2) specifies that the Federal share of costs of selected projects shall not exceed ⅔ of the full project costs which include: guideway, stations, vehicles and appurtenant facilities and equipment.

Paragraph (b)(3) specifies that the Federal funds authorized by this legislation may only be used to pay the capital costs of the fixed guideway infrastructure of a MAGLEV project.

Sub-section (c) requires the Secretary to solicit applications from states or authorities designated by one or more states for financial assistance in the planning, design and construction of an eligible MAGLEV project.

Sub-section (d) defines project eligibility, and requires eligible projects to, among other requirements:

Involve a segment or segments of a longer high speed ground transportation corridor that exhibits partnership potential (i.e. can be shown that once built, can be operated by private enterprise as a self sustaining entity.) or is a portion of a recognized pilot project identified in a report to Congress mandated by Section 359(d) of the National Highway System Designation Act of 1995;

Not require more Federal assistance than the amount authorized by this legislation plus any additional amounts of Federal-aid highway apportionment which are made available by the states; and

Results in an operating transportation facility that provides revenue producing service.

Sub-section (e) requires the Secretary to establish criteria for selection of eligible projects and provides a list of criteria to be included.

Sub-section (f) requires the Secretary to establish a deadline for receipt of applications and provides 90 days for the Secretary to evaluate the applications and select one or more projects for financial assistance.

Sub-section (g) allows joint ventures composed of U.S. and non-U.S. persons to be eligible for financial assistance.

Sub-section (h) requires the Secretary to carry out additional research and provides authority to enter into research contracts with a variety of public and private businesses, institutions and laboratories.

Sub-section (i) requires a report to the Senate Committee on Environment and Public Works and the House Committee on Transportation and Infrastructure within 180 days on the progress made in implementing the legislation.

Paragraph (j)(1) authorizes $930,000,000 from the Highway Trust Fund (other than the Mass Transit Account) over six years to provide the Federal share of the cost of design and construction of one or more MAGLEV projects selected by the Secretary. It also provides $10,000,000 annually for authorized research activities.

Paragraph (j)(2) and (3) keep the authorized amounts available until expended and provide contract authority.

Paragraph (j)(4) permits any state to use a portion of Federal highway funds apportioned to the state for the Surface Transportation Program (STP) and the Congestion Mitigation Air Quality Program (CMAQ) to pay a portion of the full project costs.

Paragraph (j)(5) makes selected projects eligible for any innovative financing techniques provided for Federal-aid highway projects under title 23, U.S.C.

Paragraph (j)(6) of the new Section 322 makes selected MAGLEV projects eligible for tax-exempt bond financing.

By Mr. HOLLINGS (for himself and Ms. SNOWE):

S. 1104. A bill to direct the Secretary of the Interior to make corrections in maps relating to the Coastal Barrier Resources System; to the Committee on Environment and Public Works.

CORRECTING THE COASTAL BARRIER RESOURCES SYSTEM LEGISLATION

Mr. HOLLINGS. Mr. President, I rise today to introduce a bill aimed at correcting a mistake in the Coastal Barrier Resource System. Without this correction, a portion of Colleton County, SC, will remain in the Coastal Barrier Resources System even though the county never had an opportunity to voice their objection to their inclusion.

In 1980 Congress directed the Secretary of the Interior to study and propose a Coastal Barrier Resources System. The aim was to create a system made up of relatively undeveloped low-lying coastal lands which, because of their susceptibility to flooding, would not be eligible for Federal flood insurance. Practically speaking, to be included in the CBRS means you face serious obstacles when selling or developing your property.

Soon after the passage of the 1980 act, the Department of the Interior created a study group charged which promulgating an inventory of coastal properties—properties to be included in the CBRS. By the end of 1988, the study group had completed its work and the Department of the Interior submitted the CBRS proposal to Congress.

This proposed inventory was the culmination of 8 years work and included suggestions made during two public comment periods. The first public comments were made following the release of an initial draft inventory in 1985. Additional comments were made following the release of a second draft in the spring of 1987. The Department of the Interior received numerous comments on these draft inventories and incorporated many in their final report to Congress. This final report was the basis for the Coastal Barrier Resources System adopted in 1990.

I recite this history because without an understanding of it, Mr. President, one can't understand the intent of my legislation.

While the Department of the Interior was drafting this proposed system, a strip of coastal South Carolina was being annexed by Colleton County from Charleston County. Unfortunately, this annexation occurred in 1987 in the midst of the 1987 CBRA comment period. Unfortunately, the notice of this second draft inventory was not received by Colleton County. The county never received any notice. It appears the draft inventory was provided to Charleston County, not Colleton County. In fact, the maps currently on file at the Department of the Interior, still, incorrectly show this tract in Charleston County—not Colleton County. Thus, the citizens of Colleton County, never having had an opportunity to comment on these proposed changes, now find this tract included in the CBRS.

I proposed legislation in 1995 to correct this mistake, but it was never reported out of committee. It failed to win the Environment and Public Works Committee's support because the Fish and Wildlife Service, at the time, felt that the area in question had been mapped properly.

Mr. President, since the end of the 104th Congress, I have been working with the Fish and Wildlife Service to address this problem. They have now reevaluated this area and have come to the conclusion, ''that the unprecedented procedural circumstances in this situation raise concerns of equity and fairness that warrant remapping.'' Mr. President, I ask unanimous consent to include in the RECORD a letter from John Rogers, Acting Director of the U.S. Fish and Wildlife Service, dated May 1, 1997, that says just that.

In short, this bill corrects a mistake made 10 years ago. It rights a wrong. It does not drastically redraft the Coastal Barrier Resources System nor does it withdraw any lands which were included in the 1982 draft. It is narrowly drafted to address Colleton County's unique situation. My staff, working with the Fish and Wildlife Service, has not identified another area in the system which is similarly situated. That is, there are no other areas which changed jurisdictions at the time the Coastal Barrier Resources System boundaries were being developed and which never received notice of these changes, thus this bill would not prove a precedent for those seeking wholesale changes in the Coastal Barrier Resources System.

In conclusion, the bill simply returns a small portion of Edisto Island, SC to its 1982 status. I urge my colleagues to support this bill.

Ms. SNOWE. Mr. President, I am pleased to join the ranking member of the Commerce Committee, Senator HOLLINGS, in the introduction of the Oceans Act of 1997. This bill will establish a commission like the Stratton Commission of 1966 to review the many ocean and coastal issues facing the United States, and to develop a comprehensive, coordinated, national ocean, and coastal policy.

Prior to introduction, I raised a few concerns with Senator HOLLINGS on some provisions of the draft bill. Basically, I had recommended some language that made it clear that as we develop a new ocean and coastal policy for the Nation, we keep in mind the facts that our fiscal resources are limited, and that our Federal investments in ocean and coastal resources must be spent efficiently and wisely. I also raised some concerns about the fact that the original draft had the President appointing all of the members of this important commission.

Mr. President, Senator HOLLINGS has graciously agreed to make some changes to the bill pursuant to my recommendations. For instance, the bill now authorizes the Congress to appoint more than half of the Commission members, and the Commission is directed to identify opportunities to reform Federal ocean programs to improve efficiency and effectiveness. I commend Senator HOLLINGS for his willingness to work with me and other Republican Senators before introduction of the bill. After introduction, I look forward to working with the distinguished Senator from South Carolina, a Senator who worked on the original Stratton Commission bill 30 years ago and who is a true champion of ocean protection, in the Oceans and Fisheries Subcommittee on any further refinements along these lines that might be constructive.

Again, I thank Senator HOLLINGS and commend him upon introduction of this bill.

By Mr. COCHRAN (for himself and Mr. CONRAD):

S. 1105. A bill to amend the Internal Revenue Code of 1986 to provide a sound budgetary mechanism for financing health and death benefits of retired coal miners while ensuring the long-term fiscal health and solvency of such benefits, and for other purposes; to the Committee on Finance.

THE COMPREHENSIVE COAL ACT REFORM ACT

Mr. COCHRAN. Mr. President, today I am introducing legislation which will correct the abuses of Federal tax policy associated with the Reachback Tax provisions of the Coal Industry Health Benefit Act of 1992 (the Coal Act), while guaranteeing the solvency of the Combined Benefit Fund established by that Act.

The legislation will also guarantee retiree health care benefits to approximately 75,000 retired unionized bituminous coal miners, their spouses or widows, and dependents. These coal mine retirees have received uninterrupted health care benefits which are among the best available to any group of retirees.

The Coal Act also bestowed a windfall on one class of companies at the expense of another class, by shifting 62 percent of the cost of these retiree health benefits from the companies which had contracted to pay for them. Those costs are now shouldered by Federal transfers and private employers, who had no contractual obligation for retiree health care.

Since its passage as part of the National Energy Policy Act, the Coal Act has been the subject of debate in both houses of Congress and tens of millions of dollars has been spent on litigation filed in the Federal courts by companies subjected to its retroactive taxation. Every case has been lost, however, as the courts have ruled that Congress has the power to tax and that it is up to Congress to make or change tax law.

Mr. President, this confiscatory measure is called the Reachback Tax, because it reached back, over the decades and branded for taxation hundreds of companies, or their former owners. Many of those companies had been out of the unionized coal business for decades. Many identified by the Social Security Administration as liable for Reachback Taxes, are nothing more than skeletons of business entities holding the dwindling assets of former small enterprises.

Some reachback companies were taxed because they, or a related party, had signed a UMWA multi-employer contract sometime between 1950 and 1988. When the contracts expired, however, each of the reachback companies had fulfilled its obligations to the union and the union members. There were no continuing ties between the reachback companies and former employees, and certainly no promises of lifetime benefits to those former employees, much less their dependents. Furthermore, the union had no claims pending against these companies for retiree health care.

Mr. President, the Reachback Tax, passed without benefit of hearings or debate, has brought economic disaster to hundreds of innocent American companies, and hardship for tens of thousands of their workers. It has caused a favored class of companies to receive what they admit is a $130 million annual savings in retiree health benefit costs, and transferred that burden to companies—small and large in more than 30 States.

The payment of this Federal tax is an unfair burden on all of the reachback companies. For every beneficiary assigned, the reachback companies have a liability of approximately $2,400 per year, stretching to the year 2043. No reachback company was prepared to absorb such an expense, nor should it have been. Obviously, jobs have been lost and job-creating projects have been delayed or canceled, and new products and the opening of new markets have been sidetracked because of the Reachback Tax.

When the 102d Congress passed the Reachback Tax in the fall of 1992, it handed the UMWA Combined Fund Trustees the statutory responsibility to collect every cent of every premium due from every reachback company. It also conferred on the Department of Treasury and the Internal Revenue Service the statutory responsibility to impose $100 per day, per beneficiary penalties on every reachback company which does not pay those premiums. Furthermore, the Department of Treasury's Office of Tax Policy reports nonpaying reachback companies are liable for billions of dollars in penalties.

Mr. President, billions of dollars are due the United States Treasury, yet the Treasury and IRS have not moved to collect these penalties. And, despite this financial threat, some 60 percent of all the reachback companies have ignored their statements, unwilling or unable to comply with a Federal law they view as unjust.

Mr. President, the Reachback Tax was promoted during the conference on the Energy Act as an emergency effort to avoid an advertised deficit in the UMWA health benefits fund, and as necessary to save the retirees from an imminent suspension of health care benefits. However, the deficit never materialized. Instead, the General Accounting Office, the private firms Towers Perrin, Deloitte & Touche, and the UMWA Combined Benefit Fund trustees have confirmed a huge surplus in the fund.

The legislation I am introducing today will statutorily guarantee that those surpluses continue through the life of the fund, as several new and permanent cost containment measures by the fund managers have dramatically lowered its expenses below original projections. Furthermore, the number of beneficiaries in the closed pool continues to decline because of mortality.

Statutory relief is the only relief available to these reachback companies. It is needed immediately. I urge Senators to join in support of this legislation to mitigate an unintended impact of well-intended legislation.

Mr. CONRAD. Mr. President, I am pleased to join Senator COCHRAN in sponsoring this reachback tax relief bill to alleviate the inequitable hardships the Coal Industry Retiree Health Benefits Act of 1992 imposed on certain companies.

First, it is important to note that the Coal Act of 1992 assured coal miners and their dependents that their health benefits were permanently secured. And, it provided a statutory foundation to implement that commitment. This legislation continues that commitment and maintains the legal foundation to carry it out.

However, the funding mechanism of the Act has produced severe financial hardship for many companies subject to it. Our legislation reforms the Coal Act to eliminate this very serious and growing problem. In order to fund the 1992 Coal Act, reachback companies, many long removed from deep coal mining, were subjected to a burdensome tax that in many cases threatens their existence. Many companies are no longer in the coal business, and long ago withdrew from the Bituminous Coal Operators Association [BCOA] having met their legal obligations to fund retiree health benefits. It is the BCOA that negotiated a series of collective bargaining agreements with their employees and at the urging of the BCOA, the final contract contribution formula did not fully fund the benefits. The solution to this funding shortfall came down to asking others to help pay, even those who had long ago left the coal business.

We have now reached a point where reform is essential. As much as $16 billion in penalties have accumulated against companies for delinquent premiums. Some of the reachback companies are trying to pay by depleting their assets and thereby jeopardizing their ability to survive economically. Other companies simply cannot afford to pay. The Combined Benefit Fund trustees are currently suing delinquent companies to collect all unpaid premiums. These liabilities threaten the existence of many small companies and the jobs of the people employed by them. It is increasingly clear that this is a symptom of the serious shortcomings in the original legislation. These reachback companies deserve fairer treatment than the Coal Act now provides. Just as important, coal miners and their dependents deserve a Coal Act that will work in the long-run.

To make matters worse, a recent federal court decision has had the adverse effect of reducing the Combined Fund revenues by ten percent and thus threatening the solvency of the Fund. If the decision is left standing, a shortfall is projected by the year 2002. We must act now to preserve the solvency of the miners' fund as well as provide the urgently needed reachback relief. This legislation reverses the court's decision and increases BCOA premiums, to preserve the long term solvency of the Fund and provide a modest level of reachback relief. Following are key reform elements in our legislation:

(1) Eliminates premiums for certain reachback companies and significantly reduces premiums for other reachbacks;

(2) Creates a cap on all small company premiums;

(3) Creates relief for companies who paid withdrawal fees; and

(4) Strengthens the fiscal integrity of the miners' fund by overturning the court decision and increasing BCOA premiums.

The passage of the Coal Act in 1992 has saved the coal producing members of the BCOA more than $130 million per year over their prior annual benefit payment liabilities. The BCOA companies' $130 million annual windfall will need to be reduced in order to provide fiscal relief to the many reachback companies. When this comprehensive bill becomes law, BCOA companies will still benefit from about $100 million in annual savings.

Mr. President, the problems being caused by the Reachback Tax are severe and require a remedy. Congress should act now to reform the Coal Act in order to provide equitable relief for all reachback companies as well as to permanently secure the miners' benefits. We should pass the Comprehensive Coal Act Reform proposal now.

By Mr. COATS:

S. 1106. A bill to provide for the establishment of demonstration projects designed to determine the social, civic, psychological, and economic effects of providing to individuals and families with limited means an opportunity to accumulate assets, and to determine the extent to which an asset-based policy may be used to enable individuals and families with limited means to achieve economic self-sufficiency; to the Committee on Finance.

THE ASSETS OF INDEPENDENCE ACT

Mr. COATS. Mr. President, I am pleased to introduce for Independence Act, bipartisan legislation designed to help poor and working-poor Americans build the productive assets they need to get out of poverty and invest in their future.

Just as people can't borrow their way out of debt, they can't spend their way out of poverty. To move forward, America's struggling families need assets. For assets are ''hope in concrete form.'' While our Nation has wisely recognized this fact for our middle- and upper-income families by subsidizing, through the Tax Code, the acquisition of homes and retirement accounts, we have not extended these very sensible policies to our lower-income citizens. In fact, they are often penalized if they try to save.

My legislation will change that, and set them on a path to economic independence. And, by increasing our national savings rate, it will help set America on a path to greater productivity and prosperity. I truly believe that IDA's can be to the 21st century what the Homestead Act was to the 19th and what the GI Bill was to the 20th—an investment in the common genius of the American people. The truth, Mr. President, is that we have spent billions on the poor, but we have rarely invested in them. And I say emphatically that IDA's are not a give-away—they are an investment.

The Assets for Independence Act authorizes the Department of Health and Human Services to establish community-based Individual Development Account [IDA] programs throughout the country. IDA's are matched savings accounts that can be used by low-income people to acquire a first home, a small business or post-secondary education or training. To help the poor save and to encourage work, their earned income would be matched by federal, non-federal, and private dollars. All payments would go directly to the third-party vendors (for example, directly to the mortgage company for people using their IDA to buy their first home) and, like IRA's, there would be harsh penalties for misuse. Community-based non-profit organizations would have to compete and raise money to be an IDA demonstration site. The legislation authorizes $25 million a year for 4 years for the demonstration.

Mr. President, IDA's are not new to America. In fact, they're spreading rapidly; in part as a result of legislation I proposed, and the Congress passed, last year in connection with the welfare reform bill.

Over 40 private, community-based IDA's programs are operating around the country. I am pleased to say that one of the oldest and most successful IDA programs in the country, at Eastside Community Investments, is located in Indianapolis.

Fourteen States have already included IDA's in their State welfare reform plans, as permitted by the passage of last year's legislation.

Twenty States have sponsored their own IDA programs, some through refundable tax credits, others through direct appropriation. For example, Pennsylvania has allocated $1.25 million for IDA's through a ''Family Savings Accounts'' program for low-income families.

Over 200 community-based groups in 43 States signified their intention to develop IDA's in response to a large, privately-funded IDA demonstration, slated to begin later this summer.

When I talk about IDA's, people often say to me that the poor cannot save. Well they're wrong. The poor can and do save. As of 1995, some 171,000 low-income families saved more than $250 million through community development credit unions in many of America's poorest neighborhoods. Also, I believe that the savings rate of the poor will rise tremendously once we start supporting saving, both institutionally and culturally. And finally, I doubt that all this IDA activity in the country would be going on—all the millions of dollars being committed by major foundations, corporations, and States to IDA's—if there wasn't a core belief in the ability and willingness of the poor to save for long-term, productive assets.

In closing, Mr. President, I would strongly encourage my colleagues to cosponsor this legislation. Just as the private sector and several State have invested in America's poor through IDA's, we—the Federal Government should invest too. Our commitment to IDA's could leverage millions more in private and State contributions—and thereby help move millions of hardworking low-income families from poverty to economic independence.

I ask unanimous consent that the text of the bill as introduced be printed in the RECORD at this point.

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

S. 1106

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Assets for Independence Act''.

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

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Economic well-being does not come solely from income, spending, and consumption, but also requires savings, investment, and accumulation of assets because assets can improve economic independence and stability, connect individuals with a viable and hopeful future, stimulate development of human and other capital, and enhance the welfare of offspring.

(2) Fully ½ of all Americans have either no, negligible, or negative assets available for investment, just as the price of entry to the economic mainstream, the cost of a house, an adequate education, and starting a business, is increasing. Further, the household savings rate of the United States lags far behind other industrial nations presenting a barrier to economic growth.

(3) In the current tight fiscal environment, the United States should invest existing resources in high-yield initiatives. There is reason to believe that the financial returns, including increased income, tax revenue, and decreased welfare cash assistance, resulting from individual development accounts will far exceed the cost of investment in those accounts.

(4) Traditional public assistance programs concentrating on income and consumption have rarely been successful in promoting and supporting the transition to increased economic self-sufficiency. Income-based domestic policy should be complemented with asset-based policy because, while income-based policies ensure that consumption needs (including food, child care, rent, clothing, and health care) are met, asset-based policies provide the means to achieve greater independence and economic well-being.

SEC. 3. PURPOSES.

The purposes of this Act are to provide for the establishment of demonstration projects designed to determine—

(1) the social, civic, psychological, and economic effects of providing to individuals and families with limited means an incentive to accumulate assets by saving a portion of their earned income;

(2) the extent to which an asset-based policy that promotes saving for education, homeownership, and microenterprise development may be used to enable individuals and families with limited means to increase their economic self-sufficiency; and

(3) the extent to which an asset-based policy stabilizes and improves families and the community in which they live.

SEC. 4. DEFINITIONS.

In this Act:

(1) APPLICABLE PERIOD.—The term ''applicable period'' means, with respect to amounts to be paid from a grant made for a project year, the calendar year immediately preceding the calendar year in which the grant is made.

(2) ELIGIBLE INDIVIDUAL.—The term ''eligible individual'' means an individual who is selected to participate by a qualified entity under section 9 of this Act.

(3) HOUSEHOLD.—The term ''household'' means all individuals who share use of a dwelling unit as primary quarters for living and eating separate from other individuals.

(4) INDIVIDUAL DEVELOPMENT ACCOUNT.—

(A) IN GENERAL.—The term ''individual development account'' means a trust created or organized in the United States exclusively for the purpose of paying the qualified expenses of an eligible individual, but only if the written governing instrument creating the trust meets the following requirements:

(i) No contribution will be accepted unless it is in cash or by check.

(ii) The trustee is a federally insured financial institution.

(iii) The assets of the trust will be invested in accordance with the direction of the eligible individual after consultation with the qualified entity providing deposits for the individual under section 10 of this Act.

(iv) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

(v) Except as provided in clause (vi), any amount in the trust which is attributable to a deposit provided under section 10 of this Act may be paid or distributed out of the trust only for the purpose of paying the qualified expenses of the eligible individual.

(vi) Any balance in the trust on the day after the date on which the individual for whose benefit the trust is established dies shall be distributed within 30 days of that date as directed by that individual to another individual development account established for the benefit of an eligible individual.

(B) CUSTODIAL ACCOUNTS.—For purposes of subparagraph (A), a custodial account shall be treated as a trust if the assets of the custodial account are held by a bank (as defined in section 408(n) of the Internal Revenue Code of 1986) or another person who demonstrates, to the satisfaction of the Secretary, that the manner in which such person will administer the custodial account will be consistent with the requirements of this Act, and if the custodial account would, except for the fact that it is not a trust, constitute an individual development account described in subparagraph (A). For purposes of this Act, in the case of a custodial account treated as a trust by reason of the preceding sentence, the custodian of that custodial account shall be treated as the trustee thereof.

(5) NON-FEDERAL PUBLIC SECTOR FUNDS.—The term ''non-Federal public sector funds'' includes any non-Federal funds disbursed from a source pursuant to a program operated under the temporary assistance for needy families program under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).

(6) PROJECT YEAR.—The term ''project year'' means, with respect to a demonstration project, any of the 4 consecutive 12-

month periods beginning on the date the project is originally authorized to be conducted.

(7) QUALIFIED ENTITY.—

(A) IN GENERAL.—The term ''qualified entity'' means—

(i) one or more not-for-profit organizations described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code; or

(ii) a State or local government agency submitting an application under section 5 jointly with an organization described in clause (i).

(B) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed as preventing an organization described in subparagraph (A)(i) from collaborating with a financial institution or for-profit community development corporation to carry out the purposes of this Act.

(8) QUALIFIED EXPENSES.—The term ''qualified expenses'' means 1 or more of the following, as provided by the qualified entity:

(A) POSTSECONDARY EDUCATIONAL EXPENSES.—Postsecondary educational expenses paid from an individual development account directly to an eligible educational institution. In this subparagraph:

(i) POST-SECONDARY EDUCATIONAL EXPENSES.—The term ''post-secondary educational expenses'' means the following:

(I) TUITION AND FEES.—Tuition and fees required for the enrollment or attendance of a student at an eligible educational institution.

(II) FEES, BOOKS, SUPPLIES, AND EQUIPMENT.—Fees, books, supplies, and equipment required for courses of instruction at an eligible educational institution.

(ii) ELIGIBLE EDUCATIONAL INSTITUTION.—The term ''eligible educational institution'' means the following:

(I) INSTITUTION OF HIGHER EDUCATION.—An institution described in section 481(a)(1) or 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)(1) or 1141(a)), as such sections are in effect on the date of enactment of this Act.

(II) POSTSECONDARY VOCATIONAL EDUCATION SCHOOL.—An area vocational education school (as defined in subparagraph (C) or (D) of section 521(4) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471(4))) which is in any State (as defined in section 521(33) of such Act), as such sections are in effect on the date of enactment of this Act.

(B) FIRST-HOME PURCHASE.—Qualified acquisition costs with respect to a qualified principal residence for a qualified first-time homebuyer, if paid from an individual development account directly to the persons to whom the amounts are due. In this subparagraph:

(i) QUALIFIED ACQUISITION COSTS.—The term ''qualified acquisition costs'' means the costs of acquiring, constructing, or reconstructing a residence. The term includes any usual or reasonable settlement, financing, or other closing costs.

(ii) QUALIFIED PRINCIPAL RESIDENCE.—The term ''qualified principal residence'' means a principal residence (within the meaning of section 1034 of the Internal Revenue Code of 1986), the qualified acquisition costs of which do not exceed 100 percent of the average area purchase price applicable to such residence (determined in accordance with paragraphs (2) and (3) of section 143(e) of such Code).

(iii) QUALIFIED FIRST-TIME HOMEBUYER.—

(I) IN GENERAL.—The term ''qualified first-time homebuyer'' means an individual participating in the project (and, if married, the individual's spouse) who has no present ownership interest in a principal residence during the 3-year period ending on the date of acquisition of the principal residence to which this subparagraph applies.

(II) DATE OF ACQUISITION.—The term ''date of acquisition'' means the date on which a binding contract to acquire, construct, or reconstruct the principal residence to which this subparagraph applies is entered into.

(C) BUSINESS CAPITALIZATION.—Amounts paid from an individual development account directly to a business capitalization account which is established in a federally insured financial institution and is restricted to use solely for qualified business capitalization expenses. In this subparagraph:

(i) QUALIFIED BUSINESS CAPITALIZATION EXPENSES.—The term ''qualified business capitalization expenses'' means qualified expenditures for the capitalization of a qualified business pursuant to a qualified plan.

(ii) QUALIFIED EXPENDITURES.—The term ''qualified expenditures'' means expenditures included in a qualified plan, including capital, plant, equipment, working capital, and inventory expenses.

(iii) QUALIFIED BUSINESS.—The term ''qualified business'' means any business that does not contravene any law or public policy (as determined by the Secretary).

(iv) QUALIFIED PLAN.—The term ''qualified plan'' means a business plan, or a plan to use a business asset purchased, which—

(I) is approved by a financial institution, a microenterprise development organization, or a nonprofit loan fund having demonstrated fiduciary integrity;

(II) includes a description of services or goods to be sold, a marketing plan, and projected financial statements; and

(III) may require the eligible individual to obtain the assistance of an experienced entrepreneurial adviser.

(D) TRANSFERS TO IDAS OF FAMILY MEMBERS.—Amounts paid from an individual development account directly into another such account established for the benefit of an eligible individual who is—

(i) the individual's spouse; or

(ii) any dependent of the individual with respect to whom the individual is allowed a deduction under section 151 of the Internal Revenue Code of 1986.

(9) QUALIFIED SAVINGS OF THE INDIVIDUAL FOR THE PERIOD.—The term ''qualified savings of the individual for the period'' means the aggregate of the amounts contributed by the individual to the individual development account of the individual during the period.

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

SEC. 5. APPLICATIONS.

(a) SUBMISSION.—Not later than 6 months after the date of enactment of this Act, a qualified entity may submit to the Secretary an application to conduct a demonstration project under this Act.

(b) CRITERIA.—In considering whether to approve an application to conduct a demonstration project under this Act, the Secretary shall assess the following:

(1) SUFFICIENCY OF PROJECT.—The degree to which the project described in the application appears likely to aid project participants in achieving economic self-sufficiency through activities requiring qualified expenses. In making such assessment, the Secretary shall consider the overall quality of project activities in making any particular kind or combination of qualified expenses to be an essential feature of any project.

(2) ADMINISTRATIVE ABILITY.—The experience and ability of the applicant to responsibly administer the project.

(3) ABILITY TO ASSIST PARTICIPANTS.—The experience and ability of the applicant in recruiting, educating, and assisting project participants to increase their economic independence and general well-being through the development of assets.

(4) COMMITMENT OF NON-FEDERAL FUNDS.—The aggregate amount of direct funds from non-Federal public sector and from private sources that are formally committed to the project as matching contributions.

(5) ADEQUACY OF PLAN FOR PROVIDING INFORMATION FOR EVALUATION.—The adequacy of the plan for providing information relevant to an evaluation of the project.

(6) OTHER FACTORS.—Such other factors relevant to the purposes of this Act as the Secretary may specify.

(c) PREFERENCES.—In considering an application to conduct a demonstration project under this Act, the Secretary shall give preference to an application that—

(1) demonstrates the willingness and ability to select individuals described in section 8 who are predominantly from households in which a child (or children) is living with the child's biological or adoptive mother or father, or with the child's legal guardian;

(2) provides a commitment of non-Federal funds with a proportionately greater amount of such funds committed by private sector sources; and

(3) targets such individuals residing within 1 or more relatively well-defined neighborhoods or communities (including rural communities) that experience low rates of income or employment.

(d) APPROVAL.—Not later than 9 months after the date of enactment of this Act, the Secretary shall, on a competitive basis, approve such applications to conduct demonstration projects under this Act as the Secretary deems appropriate, taking into account the assessments required by subsections (b) and (c). The Secretary is encouraged to ensure that the applications that are approved involve a range of communities (both rural and urban) and diverse populations.

(e) CONTRACTS WITH NONPROFIT ENTITIES.—The Secretary may contract with an entity described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code to conduct any responsibility of the Secretary under this section or section 12 if—

(1) such entity demonstrates the ability to conduct such responsibility; and

(2) the Secretary can demonstrate that such responsibility would not be conducted by the Secretary at a lower cost.

SEC. 6. DEMONSTRATION AUTHORITY; ANNUAL GRANTS.

(a) DEMONSTRATION AUTHORITY.—If the Secretary approves an application to conduct a demonstration project under this Act, the Secretary shall, not later than 10 months after the date of enactment of this Act, authorize the applicant to conduct the project for 4 project years in accordance with the approved application and the requirements of this Act.

(b) GRANT AUTHORITY.—For each project year of a demonstration project conducted under this Act, the Secretary shall make a grant to the qualified entity authorized to conduct the project on the first day of the project year in an amount not to exceed the lesser of—

(1) the aggregate amount of funds committed as matching contributions by non-Federal public or private sector sources; or

(2) $1,000,000.

SEC. 7. RESERVE FUND.

(a) ESTABLISHMENT.—A qualified entity under this Act, other than a State or local government agency, shall establish a Reserve Fund which shall be maintained in accordance with this section.

(b) AMOUNTS IN RESERVE FUND.—

(1) IN GENERAL.—As soon after receipt as is practicable, a qualified entity shall deposit

in the Reserve Fund established under subsection (a)—

(A) all funds provided to the qualified entity by any public or private source in connection with the demonstration project; and

(B) the proceeds from any investment made under subsection (c)(2).

(2) UNIFORM ACCOUNTING REGULATIONS.—The Secretary shall prescribe regulations with respect to accounting for amounts in the Reserve Fund established under subsection (a).

(c) USE OF AMOUNTS IN THE RESERVE FUND.—

(1) IN GENERAL.—A qualified entity shall use the amounts in the Reserve Fund established under subsection (a) to—

(A) assist participants in the demonstration project in obtaining the skills (including economic literacy, budgeting, credit, and counseling) and information necessary to achieve economic self-sufficiency through activities requiring qualified expenses;

(B) provide deposits in accordance with section 10 for individuals selected by the qualified entity to participate in the demonstration project;

(C) administer the demonstration project; and

(D) provide the research organization evaluating the demonstration project under section 14 with such information with respect to the demonstration project as may be required for the evaluation.

(2) AUTHORITY TO INVEST FUNDS.—

(A) GUIDELINES.—The Secretary shall establish guidelines for investing amounts in the Reserve Fund established under subsection (a) in a manner that provides an appropriate balance between return, liquidity, and risk.

(B) INVESTMENT.—A qualified entity shall invest the amounts in its Reserve Fund that are not immediately needed to carry out the provisions of paragraph (1), in accordance with the guidelines established under subparagraph (A).

(3) LIMITATION ON USES.—Not more than 7.5 percent of the amounts provided to a qualified entity under section 6(b) shall be used by the qualified entity for the purposes described in subparagraphs (A), (C), and (D) of paragraph (1), except that if 2 or more qualified entities are jointly administering a project, no qualified entity shall use more than its proportional share for such purposes.

(d) UNUSED FEDERAL GRANT FUNDS TRANSFERRED TO THE SECRETARY WHEN PROJECT TERMINATES.—Notwithstanding subsection (c), upon the termination of any demonstration project authorized under this section, the qualified entity conducting the project shall transfer to the Secretary an amount equal to—

(1) the amounts in its Reserve Fund at time of the termination; multiplied by

(2) a percentage equal to—

(A) the aggregate amount of grants made to the qualified entity under section 6(b); divided by

(B) the aggregate amount of all funds provided to the qualified entity by all sources to conduct the project.

SEC. 8. ELIGIBILITY FOR PARTICIPATION.

(a) IN GENERAL.—Any individual who is a member of a household that is eligible for assistance under the State temporary assistance for needy families program established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), or that meets the following requirements shall be eligible to participate in a demonstration project conducted under this Act:

(1) INCOME TEST.—The adjusted gross income of the household does not exceed the income limits established under section 32(b)(2) of the Internal Revenue Code of 1986.

(2) NET WORTH TEST.—

(A) IN GENERAL.—The net worth of the household, as of the end of the calendar year preceding the determination of eligibility, does not exceed $10,000.

(B) DETERMINATION OF NET WORTH.—For purposes of subparagraph (A), the net worth of a household is the amount equal to—

(i) the aggregate market value of all assets that are owned in whole or in part by any member of the household; minus

(ii) the obligations or debts of any member of the household.

(C) EXCLUSIONS.—For purposes of determining the net worth of a household, a household's assets shall not be considered to include the primary dwelling unit and 1 motor vehicle owned by the household.

(b) INDIVIDUALS UNABLE TO COMPLETE THE PROJECT.—The Secretary shall establish such regulations as are necessary, including prohibiting future eligibility to participate in any other demonstration project conducted under this Act, to ensure compliance with this Act if an individual participating in the demonstration project moves from the community in which the project is conducted or is otherwise unable to continue participating in that project.

SEC. 9. SELECTION OF INDIVIDUALS TO PARTICIPATE.

From among the individuals eligible to participate in a demonstration project conducted under this Act, each qualified entity shall select the individuals—

(1) that the qualified entity deems to be best suited to participate; and

(2) to whom the qualified entity will provide deposits in accordance with section 10.

SEC. 10. DEPOSITS BY QUALIFIED ENTITIES.

(a) IN GENERAL.—Not less than once every 3 months during each project year, each qualified entity under this Act shall deposit in the individual development account of each individual participating in the project, or into a parallel account maintained by the qualified entity—

(1) from the non-Federal funds described in section 5(b)(4), a matching contribution of not less than $0.50 and not more than $4 for every $1 of earned income (as defined in section 911(d)(2) of the Internal Revenue Code of 1986) deposited in the account by a project participant during that period;

(2) from the grant made under section 6(b), an amount equal to the matching contribution made under paragraph (1); and

(3) any interest that has accrued on amounts deposited under paragraph (1) or (2) on behalf of that individual into the individual development account of the individual or into a parallel account maintained by the qualified entity.

(b) LIMITATION ON DEPOSITS FOR AN INDIVIDUAL.—Not more than $2,000 from a grant made under section 6(b) shall be provided to any 1 individual over the course of the demonstration project.

(c) LIMITATION ON DEPOSITS FOR A HOUSEHOLD.—Not more than $4,000 from a grant made under section 6(b) shall be provided to any 1 household over the course of the demonstration project.

(d) WITHDRAWAL OF FUNDS.—The Secretary shall establish such guidelines as may be necessary to ensure that funds held in an individual development account are not withdrawn, except for 1 or more qualified expenses. Such guidelines shall include a requirement that a responsible official of the qualified entity conducting a project approve such withdrawal in writing.

SEC. 11. LOCAL CONTROL OVER DEMONSTRATION PROJECTS.

A qualified entity under this Act, other than a State or local government agency, shall, subject to the provisions of section 13, have sole authority over the administration of the project. The Secretary may prescribe only such regulations or guidelines with respect to demonstration projects conducted under this Act as are necessary to ensure compliance with the approved applications and the requirements of this Act.

SEC. 12. ANNUAL PROGRESS REPORTS.

(a) IN GENERAL.—Each qualified entity under this Act shall prepare an annual report on the progress of the demonstration project. Each report shall specify for the period covered by the report the following information:

(1) The number of individuals making a deposit into an individual development account.

(2) The amounts in the Reserve Fund established with respect to the project.

(3) The amounts deposited in the individual development accounts.

(4) The amounts withdrawn from the individual development accounts and the purposes for which such amounts were withdrawn.

(5) The balances remaining in the individual development accounts.

(6) Such other information as the Secretary may require to evaluate the demonstration project.

(b) SUBMISSION OF REPORTS.—The qualified entity shall submit each report required to be prepared under subsection (a) to—

(1) the Secretary; and

(2) the Treasurer (or equivalent official) of the State in which the project is conducted, if the State or a local government committed funds to the demonstration project.

(c) TIMING.—The first report required by subsection (a) shall be submitted not later than 60 days after the end of the calendar year in which the Secretary authorized the qualified entity to conduct the demonstration project, and subsequent reports shall be submitted every 12 months thereafter, until the conclusion of the project.

SEC. 13. SANCTIONS.

(a) AUTHORITY TO TERMINATE DEMONSTRATION PROJECT.—If the Secretary determines that a qualified entity under this Act is not operating the demonstration project in accordance with the entity's application or the requirements of this Act (and has not implemented any corrective recommendations directed by the Secretary), the Secretary shall terminate such entity's authority to conduct the demonstration project.

(b) ACTIONS REQUIRED UPON TERMINATION.—If the Secretary terminates the authority to conduct a demonstration project, the Secretary—

(1) shall suspend the demonstration project;

(2) shall take control of the Reserve Fund established pursuant to section 7;

(3) shall make every effort to identify another qualified entity (or entities) willing and able to conduct the project in accordance with the approved application (or, as modified, if necessary to incorporate the recommendations) and the requirements of this Act;

(4) shall, if the Secretary identifies an entity (or entities) described in paragraph (3)—

(A) authorize the entity (or entities) to conduct the project in accordance with the approved application (or, as modified, if necessary, to incorporate the recommendations) and the requirements of this Act;

(B) transfer to the entity (or entities) control over the Reserve Fund established pursuant to section 7; and

(C) consider, for purposes of this Act—

(i) such other entity (or entities) to be the qualified entity (or entities) originally authorized to conduct the demonstration project; and

(ii) the date of such authorization to be the date of the original authorization; and

(5) if, by the end of the 1-year period beginning on the date of the termination, the Secretary has not found a qualified entity (or entities) described in paragraph (3), shall—

(A) terminate the project; and

(B) from the amount remaining in the Reserve Fund established as part of the project, remit to each source that provided funds under section 5(b)(4) to the entity originally authorized to conduct the project, an amount that bears the same ratio to the amount so remaining as the amount provided by the source under section 5(b)(4) bears to the amount provided by all such sources under that section.

SEC. 14. EVALUATIONS.

(a) IN GENERAL.—Not later than 10 months after the date of enactment of this Act, the Secretary shall enter into a contract with an independent research organization to evaluate, individually and as a group, all qualified entities and sources participating in the demonstration projects conducted under this Act.

(b) FACTORS TO EVALUATE.—In evaluating any demonstration project conducted under this Act, the research organization shall address the following factors:

(1) The savings account characteristics (such as threshold amounts and match rates) required to stimulate participation in the demonstration project, and how such characteristics vary among different populations or communities.

(2) What service configurations of the qualified entity (such as peer support, structured planning exercises, mentoring, and case management) increase the rate and consistency of participation in the demonstration project and how such configurations vary among different populations or communities.

(3) The economic, civic, psychological, and social effects of asset accumulation, and how such effects vary among different populations or communities.

(4) The effects of individual development accounts on savings rates, homeownership, level of education attained, and self-employment, and how such effects vary among different populations or communities.

(5) The potential financial returns to the Federal Government and to other public sector and private sector investors in individual development accounts over a 5-year and 10-year period of time.

(6) The lessons to be learned from the demonstration projects conducted under this Act and if a permanent program of individual development accounts should be established.

(7) Such other factors as may be prescribed by the Secretary.

(c) METHODOLOGICAL REQUIREMENTS.—In evaluating any demonstration project conducted under this Act, the research organization shall—

(1) to the extent possible, use control groups to compare participants with nonparticipants;

(2) before, during, and after the project, obtain such quantitative data as are necessary to evaluate the project thoroughly; and

(3) develop a qualitative assessment, derived from sources such as in-depth interviews, of how asset accumulation affects individuals and families.

(d) REPORTS BY THE SECRETARY.—

(1) INTERIM REPORTS.—Not later than 90 days after the end of the calendar year in which the Secretary first authorizes a qualified entity to conduct a demonstration project under this Act, and every 12 months thereafter until all demonstration projects conducted under this Act are completed, the Secretary shall submit to Congress an interim report setting forth the results of the reports submitted pursuant to section 12(b).

(2) FINAL REPORTS.—Not later than 12 months after the conclusion of all demonstration projects conducted under this Act, the Secretary shall submit to Congress a final report setting forth the results and findings of all reports and evaluations conducted pursuant to this Act.

(e) EVALUATION EXPENSES.—The Secretary shall expend such sums as may be necessary to carry out the purposes of this section.

SEC. 15. AUTHORIZATIONS OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act, $25,000,000 for each of fiscal years 1998, 1999, 2000, and 2001, to remain available until expended.

SEC. 16. FUNDS IN INDIVIDUAL DEVELOPMENT ACCOUNTS OF DEMONSTRATION PROJECT PARTICIPANTS DISREGARDED FOR PURPOSES OF ALL MEANS-TESTED FEDERAL PROGRAMS.

Notwithstanding any other provision of law that requires consideration of 1 or more financial circumstances of an individual, for the purpose of determining eligibility to receive, or the amount of, any assistance or benefit authorized by such law to be provided to or for the benefit of such individual, funds (including interest accruing) in an individual development account (as defined in section 4(4)) shall be disregarded for such purpose with respect to any period during which the individual participates in a demonstration project conducted under this Act (or would be participating in such a project but for the suspension of the project).

By Mr. COVERDELL:

S. 1107. A bill to protect consumers by eliminating the double postage rule under which the Postal Service requires competitors of the Postal Service to charge above market prices; to the Committee on Governmental Affairs.

DOUBLE POSTAGE RULE ELIMINATION ACT

Mr. COVERDELL. Mr. President, I am today introducing the Double Postage Rule Elimination Act of 1997. This legislation will protect consumers by eliminating the double postage rule under which the Postal Service requires its competitors to charge above market prices.

We have in effect today laws known as the Private Express Statutes or PES. These laws make it generally unlawful for any person other than the Postal Service to send or carry letters over postal routes for compensation, with some exceptions. Under the PES, private delivery companies must set their two-day delivery rates at twice those of the Postal Service for similarly sized items.

In addition, the PES gives the Postal Service the right to impose fines on businesses that use private delivery companies to deliver time-sensitive mail rather than using the Postal Service. Current regulations permit a business to choose a private carrier—such as UPS, Federal Express, or others—if the business feels that the message is urgent. The catch is that the Postal Service feels it alone can determine if a message is truly urgent, not the consumer.

Currently, the Postal Service charges $3.00 per item for its Priority Mail, which is advertised as reaching the recipient in two days, though that isn't guaranteed. This means the lowest price a private competitor can offer for two-day delivery is $6.00. If the Postal Service raised its rate by $1.00 to $4.00 an item, a private delivery company offering $6.00 service would have no choice but to impose a $2.00 increase, to $8.00.

As you can see, the law gives the Postal Service great power to control the rates charged by its private competitors and limit competition. Combine that with the Postal Service's ability to second-guess a consumer's decision to use a private carrier and you have a very uneven playing field.

The Postal Service has displayed a willingness to use its governmental powers for competitive advantage. In 1993 it was reported that the Postal Service had audited corporations and fined them as much as $500,000 in back postage fees for using UPS and Federal Express when the Postal Service inspectors thought those choices were not warranted.

More recently, the Postal Service spent over $200 million on an advertising campaign for Priority Mail. The campaign was based on the Postal Service's lower price—$3.00 for Priority Mail versus $6.00 for UPS and $8.00 for Federal Express. Of course, the ads left out the fact that the private companies were prohibited by law from matching the Postal Service price—or charging anything less than $6.00 a letter.

Mr. President, the bill I am introducing today does one simple thing to level the field of competition. It replaces the double postage rule with a ''two-dollar'' rule. Under my bill, private companies will be able to legally charge any rate above $2.00 for their second-day products. If they want to match the Postal Service at $3.00, they may. The law will no longer impose an artificial ''double postage'' rule forcing private companies to charge above market rates.

This legislation will stop government intrusions into private consumer decisions and will increase competition in the area of delivering urgent letters. I urge support for the Double Postage Rule Elimination Act of 1997.

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

S. 1108. A bill to designate the Federal building located at 290 Broadway in New York, New York, as the ''Ronald H. Brown Federal Building''; to the Committee on Environment and Public Works.

THE RONALD H. BROWN FEDERAL BUILDING DESIGNATION ACT OF 1997

Mr. MOYNIHAN. Mr. President, I rise to introduce a bill to honor and remember a truly exceptional American, Ronald H. Brown. The bill would designate the newly constructed Federal