By Mr. ASHCROFT:

S. Con. Res. 52. A concurrent resolution expressing the sense of Congress in opposition to a ''bit tax'' on Internet data proposed in the Human Development Report 1999 published by the United Nations Development Programme; to the Committee on Foreign Relations.

Mrs. FEINSTEIN (for herself, Ms. MUKULSKI, Mrs. BOXER, Mr. AKAKA, Mr. BINGAMAN, and Mr. SARBANES):

S. Con. Res. 53. A concurrent resolution condemning all prejudice against individuals of Asian and Pacific Island ancestry in the United States and supporting political and civic participation by such individuals throughout the United States; to the Committee on the Judiciary.

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

S. Con. Res. 54. A concurrent resolution expressing the sense of Congress that the Auschwitz-Birkenau state museum in Poland should release seven paintings by Auschwitz survivor Dina Babbitt made while she was imprisoned there, and that the governments of the United States and Poland should facilitate the return of Dina Babbit's artwork to her; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MACK (for himself, Ms. MIKULSKI, Mr. GRAMS, Mr. WELLSTONE, and Mr. GRASSLEY):

S. 1499. A bill to title XVIII of the Social Security Act to promote the coverage of frail elderly Medicare beneficiaries permanently residing in nursing facilities in specialized health insurance programs for the frail elderly; to the Committee on Finance.

MEDICARE'S ELDERLY RECEIVING INNOVATIVE TREATMENTS (MERIT) ACT OF 1999

Mr. MACK. Mr. President, today I am pleased to join my colleagues, Senator MIKULSKI, Senator WELLSTONE, and Senator GRAMS, in sponsoring the Medicare's Elderly Receiving Innovative Treatments (MERIT) Act of 1999.

This legislation ensures that frail elderly persons residing in nursing homes continue to have the opportunity for improved quality of care and better health outcomes provided by the EverCare program. This program is reimbursed by Medicare on a capitated fee basis to managed care organizations that deliver preventive and primary medical care geared to the special needs of this population. Care is given by nurse practitioner/physician primary care teams which also coordinate care when the patient is hospitalized. Ideally, as much care as possible is provided at the nursing home thus preventing the expense of hospitalization. A major goal is to maintain stability in the patients' life by caring for them in their place of residence. The typical patient is over 85, 82 percent are female, 75 percent are on Medicaid and 70 percent have dementia.

The Balanced Budget Act of 1997 (BBA) requires the Health Care Financing Administration (HCFA) to establish a new risk-adjusted methodology for payments to health plans which is to go into effect on January 1, 2000. An interim risk adjusted payment will be based on inpatient hospital encounter data. However, an unintended consequence of this methodology may be a dramatic drop in EverCare payments by more than 40 percent, according to Long Term Care Data Institute study. This would jeopardize the program, which is currently comprised of demonstration and non-demonstration components, since providers could not afford to remain in business. HCFA recognized the possibly of this and did grant an exemption from the interim methodology for one year, 2000–2001. HCFA, however, has not yet presented a methodology that would be fair and adequate to ensure the continuance of EverCare.

This legislation exempts programs serving the frail elderly living in nursing homes from the phased in risk-adjustment payment methodology and continues payments using the current system. It directs HCFA to develop a distinct payment methodology which meets the needs of these patients and to establish performance measurement standards. It also allows the frail elderly to join EverCare on a continual basis without regard to enrollment periods.

Mr. President, I ask unanimous consent that a copy of the legislation be printed in the RECORD.

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

S. 1499

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 ''Medicare's Elderly Receiving Innovative Treatments (MERIT) Act of 1999''.

SEC. 2. MODIFICATION OF PAYMENT RULES.

Section 1853 of the Social Security Act (42 U.S.C. 1395w–23) is amended—

(1) in subsection (a)—

(A) in paragraph (1)(A), by striking ''subsections (e) and (f)'' and inserting ''subsections (e) through (i)'';

(B) in paragraph (3)(D), by inserting ''and paragraph (4)'' after ''section 1859(e)(4)''; and

(C) by adding at the end the following:

''(4) EXEMPTION FROM RISK-ADJUSTMENT SYSTEM FOR FRAIL ELDERLY BENEFICIARIES ENROLLED IN SPECIALIZED PROGRAMS FOR THE FRAIL ELDERLY.—

''(A) IN GENERAL.—During the period described in subparagraph (B), the risk-adjustment described in paragraph (3) shall not apply to a frail elderly Medicare+Choice beneficiary (as defined in subsection (i)(3)) who is enrolled in a Medicare+Choice plan under a specialized program for the frail elderly (as defined in subsection (i)(2)).

''(B) PERIOD OF APPLICATION.—The period described in this subparagraph begins with January 2000, and ends with the first month for which the Secretary certifies to Congress that a comprehensive risk adjustment methodology under paragraph (3)(C) (that takes into account the types of factors described in subsection (i)(1)) is being fully implemented.''; and

(2) by adding at the end the following:

''(i) SPECIAL RULES FOR FRAIL ELDERLY ENROLLED IN SPECIALIZED PROGRAMS FOR THE FRAIL ELDERLY.—

''(1) DEVELOPMENT AND IMPLEMENTATION OF NEW PAYMENT SYSTEM.—The Secretary shall develop and implement (as soon as possible after the date of enactment of this subsection), during the period described in subsection (a)(4)(B), a payment methodology for frail elderly Medicare+Choice beneficiaries enrolled in a Medicare+Choice plan under a specialized program for the frail elderly (as defined in paragraph (2)(A)). Such methodology shall account for the prevalence, mix, and severity of chronic conditions among such beneficiaries and shall include medical diagnostic factors from all provider settings (including hospital and nursing facility settings). It shall include functional indicators of health status and such other factors as may be necessary to achieve appropriate payments for plans serving such beneficiaries.

''(2) SPECIALIZED PROGRAM FOR THE FRAIL ELDERLY DESCRIBED.—

''(A) IN GENERAL.—For purposes of this part, the term 'specialized program for the frail elderly' means a program which the Secretary determines—

''(i) is offered under this part as a distinct part of a Medicare+Choice plan;

''(ii) primarily enrolls frail elderly Medicare+Choice beneficiaries; and

''(iii) has a clinical delivery system that is specifically designed to serve the special needs of such beneficiaries and to coordinate short-term and long-term care for such beneficiaries through the use of a team described in subparagraph (B) and through the provision of primary care services to such beneficiaries by means of such a team at the nursing facility involved.

''(B) SPECIALIZED TEAM.—A team described in this subparagraph—

''(i) includes—

''(I) a physician; and

''(II) a nurse practitioner or geriatric care manager, or both; and

''(ii) has as members individuals who have special training and specialize in the care and management of the frail elderly beneficiaries.

''(3) FRAIL ELDERLY MEDICARE+CHOICE BENEFICIARY DESCRIBED.—For purposes of this part, the term 'frail elderly Medicare+Choice beneficiary' means a Medicare+Choice eligible individual who—

''(A) is residing in a skilled nursing facility or a nursing facility (as defined for purposes of title XIX) for an indefinite period and without any intention of residing outside the facility; and

''(B) has a severity of condition that makes the individual frail (as determined under guidelines approved by the Secretary).''.

SEC. 3. CONTINUOUS OPEN ENROLLMENT FOR QUALIFIED INDIVIDUALS.

(a) IN GENERAL.—Section 1851(e) of the Social Security Act (42 U.S.C. 1395w–21(e)) is amended by adding at the end the following:

''(7) SPECIAL RULES FOR FRAIL ELDERLY MEDICARE+CHOICE BENEFICIARIES ENROLLING IN SPECIALIZED PROGRAMS FOR THE FRAIL ELDERLY.—There shall be a continuous open enrollment period for any frail elderly Medicare+Choice beneficiary (as defined in section 1853(i)(3)) who is seeking to enroll in a Medicare+Choice plan under a specialized program for the frail elderly (as defined in section 1853(i)(2)).''.

(b) CONFORMING AMENDMENTS.—

(1) OPEN ENROLLMENT PERIODS.—Section 1851(e)(6) of the Social Security Act (42 U.S.C. 1395w–21(e)(6)) is amended—

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

(B) by redesignating subparagraph (B) as subparagraph (C); and

(C) by inserting at the end of subparagraph (A) the following:

''(B) that is offering a specialized program for the frail elderly (as defined in section 1853(i)(2)), shall accept elections at any time for purposes of enrolling frail elderly Medicare+Choice beneficiaries (as defined in section 1853(i)(3)) in such program; and''.

(2) EFFECTIVENESS OF ELECTIONS.—Section 1851(f)(4) of the Social Security Act (42 U.S.C. 1395w–21(f)(4)) is amended by striking ''subsection (e)(4)'' and inserting ''paragraph (4) or (7) of subsection (e)''.

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

SEC. 4. DEVELOPMENT OF QUALITY MEASUREMENT PROGRAM.

(a) IN GENERAL.—Section 1852(e) of the Social Security Act (42 U.S.C. 1395w–22(e)) is amended by adding at the end the following:

''(5) QUALITY MEASUREMENT PROGRAM FOR SPECIALIZED PROGRAMS FOR THE FRAIL ELDERLY AS PART OF MEDICARE+CHOICE PLANS.—The Secretary shall develop and implement a program to measure the quality of care provided in specialized programs for the frail elderly (as defined in section 1853(i)(2)) in order to reflect the unique health aspects and needs of frail elderly Medicare+Choice beneficiaries (as defined in section 1853(i)(3)). Such quality measurements may include indicators of the prevalence of pressure sores, reduction of iatrogenic disease, use of urinary catheters, use of anti-anxiety medications, use of advance directives, incidence of pneumonia, and incidence of congestive heart failure.''.

(b) EFFECTIVE DATE.—The Secretary of Health and Human Services shall first provide for the implementation of the quality measurement program for specialized programs for the frail elderly under the amendment made by subsection (a) by not later than July 1, 2000.

By Mr. HATCH (for himself, Mr. DOMENICI, Mr. DASCHLE, Mr. KERREY, Mr. INOUYE, Mr. BINGAMAN, Mr. COCHRAN, Ms. MIKULSKI, Mr. BURNS, Mrs. BOXER, Mr. MCCONNELL, Mr. BUNNING, Mr. JEFFORDS, Mr. ROBB, Mr. SANTORUM, and Mr. DODD):

S. 1500. A bill to amend title XVIII of the Social Security Act to provide for an additional payment for services provided to certain high-cost individuals under the prospective payment system for skilled nursing facility service, and for other purposes; to the Committee on Finance.

MEDICARE BENEFICIARY ACCESS TO QUALITY NURSING HOME CARE ACT OF 1999

Mr. HATCH. Mr. President, I rise today along with the distinguished Chairman of the Budget Committee, Senator DOMENICI, and other colleagues in introducing the ''Medicare Beneficiary Access to Quality Nursing Home Care Act of 1999.'' This bill will help ensure that Medicare beneficiaries will continue to have access to vitally needed nursing home care services.

When Congress passed the Balanced Budget Act of 1997, the BBA, we created a new prospective payment system (PPS) for skilled nursing facilities (SNF). While the industry generally supported the SNF PPS, there clearly have been some unintended consequences as a result of the implementation the new payment system which is now beginning to affect patient care.

We have an obligation to Medicare beneficiaries, and particularly those in nursing homes as well as those who need to gain admission to nursing homes, to correct this problem. This legislation is designed specifically to address the problem with patient access to nursing home care.

The measure we are introducing today is designed to address two significant problems that have occurred as a result of the implementation of the PPS.

First, the bill provides additional monies to care for the so-called high-acuity SNF patients who require non-therapy ancillary services for conditions such as cancer, hip fracture, and stroke.

Second, with respect to the market basket update, the bill closes the gap between the inaccurate inflation market basket estimate and the actual cost increases between fiscal years 1995 and 1998.

It is my understanding that both solutions could be easily implemented by HCFA.

Mr. President, let me focus more specifically on each of the two provisions.

With respect to non-therapy ancillary care, the bill proposes to add-on additional monies under the federal per diem rate for 15 categories of care. We are now finding that high-acuity and medically complex patients are being shortchanged because the current case-mix system does not accurately measure or account for patients with high medical complexities which utilize greater ancillary services.

HCFA has even acknowledged that they do not have accurate data to properly compensate for such non-therapy ancillary care. According to HCFA, they believe that more accurate data reflecting the case-mix for sicker patients should be available in 2001.

Unfortunately, we now know that beneficiaries are having difficulty receiving non-therapy ancillary care today. For some, waiting 2 years for the HCFA data is simply not an option.

Accordingly, the ''Medicare Beneficiary Access to Quality Nursing Home Care Act'' will provide interim relief until HCFA has developed more complete and accurate data. The bill provides additional funds for 15 RUS III categories, or the so-called resource utilization groups.

These RUGS were chosen because they represent categories of services that closely match the diagnoses for high-acuity patients. Such additional funds would only be provided for a two-year period, or less, until the Secretary of Health and Human Services has corrected the data to properly reflect the costs of non-therapy ancillary care.

It is my understanding that HCFA believes they can implement a new case mix methodology within this time frame.

In response to concerns expressed to me by HCFA over Y2K problems and the difficulty of any systems' changes at this point in the PPS implementation, my bill provides for a simple, temporary add-on federal dollars to the federal per diem component.

Based on informal comments from HCFA officials, the bill should be easy for the agency to implement in time to have an immediate positive impact on patient care.

The second feature in our bill attempts to close the gap between the inflation adjuster—the market basket update—and the actual cost increases. Recent data are now showing that HCFA's market basket increase is well below actual inflation costs for nursing home care.

When Congress passed the BBA, the year 1995 was chosen as the base year for future inflation adjustments because it provided the most recent set of complete cost reporting data for PPS implementation.

HCFA was charged with developing a market basket of nursing home goods and services to trend forward to 1998, which was when PPS was implemented. Unfortunately, it appears that HCFA has underestimated the market basket index by not considering the cost of nursing home services. In addition, the statute requires the inflation adjuster to be market basket minus one, which only makes the estimate worse.

Evidence is now available to illustrate that the market basket estimate is inadequate to properly compensate for nursing home care.

In 1996, HCFA's market basket increase was approximately 2.7 percent, while data now indicates that the actual cost increase was approximately 10.5 percent. Preliminary 1997 cost data reflect similar differences between the HCFA market basket index and the actual change in costs experienced by nursing facilities.

My legislation provides easily implemented relief to nursing homes which are being short changed by inadequate market basket estimates. The bill eliminates the ''minus one'' from the inflation adjuster for 1996, 1997, and 1998, thereby providing a one-percent increase of the index over three years, compounded.

While there may need to be further modification to the actual market basket, this straightforward legislative solution enables HCFA to implement this provision immediately. This solution will provide meaningful and practical relief to nursing homes so they can continue to provide quality care for the more medically complex Medicare beneficiaries.

Mr. President, many nursing homes are on the verge of filing for bankruptcy and others may be closing their doors due to various PPS implementation problems. As a result, Medicare beneficiaries are finding themselves on long waiting lists to be admitted to a skilled nursing facility. Others are remaining in hospitals for extended stays, while they wait for nursing home availability.

The ''Medicare Beneficiary Access to Quality Nursing Home Care Act'' is a common sense solution to address these very real problems. It provides

two solutions that HCFA can implement today without being mired in Year 2000 compliance efforts.

I would add that I am pleased that the Chairman of the Finance Committee, Senator ROTH, has indicated his interest in moving a bipartisan BBA technical bill following the August recess.

I have written to Senator ROTH asking him to carefully review our skilled nursing facility bill as he develops a BBA technical corrections bill over the next several weeks. I strongly believe this bill serves as a viable option on which to address the PPS problem that so many nursing homes are facing today.

I ask unanimous consent that the complete text of the bill be printed in the RECORD.

Mr. President, I want to express my thanks to my colleague and good friend, Senator DOMENICI, for his valued help in developing the bill with me as well as to the many others Senators who have joined us today as cosponsors.

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

S. 1500

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 ''Medicare Beneficiary Access to Quality Nursing Home Care Act of 1999''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Beneficiaries under the medicare program under title XVIII of the Social Security Act are experiencing decreased access to skilled nursing facility services due to inadequate reimbursement under the prospective payment system for such services under section 1888(e) of such Act.

(2) Such inadequate reimbursement may force skilled nursing facilities to file for bankruptcy and close their doors, resulting in reduced access to skilled nursing facility services for medicare beneficiaries.

(3) The methodology under the prospective payment system for skilled nursing facility services has made it more difficult for medicare beneficiaries to find nursing home care. Some beneficiaries are remaining in hospitals for extended stays due to reduced access to nursing homes. Others are placed in nursing homes that are hours away from family and friends.

(4) The Health Care Financing Administration has indicated that the prospective payment system for skilled nursing facility services does not accurately account for the costs associated with providing medically complex care (non-therapy ancillary services and supplies). Due to Year 2000 problems, the Health Care Financing Administration claims that it will be unable to properly account for such costs under such system.

(5) The Medicare Payment Advisory Commission (MedPAC) has indicated that payments to skilled nursing facilities under the medicare program may not be adequate for beneficiaries who need relatively high levels of non-therapy ancillary services and supplies. According to MedPAC, such inadequate funding could result in access problems for beneficiaries with medically complex conditions.

(6) In order to provide adequate payment under the prospective payment system for skilled nursing facility services, such system must take into account the costs associated with providing 1 or more of the following services:

(A) Ventilator care.

(B) Tracheostomy care.

(C) Care for pressure ulcers.

(D) Care associated with individuals that have experienced a stroke or a hip fracture.

(E) Care for non-vent, non-trach pneumonia.

(F) Dialysis.

(G) Infusion therapy.

(H) Deep vein thrombosis.

(I) Care associated with individuals with transient peripheral neuropathy, a chronic obstructive pulmonary disease, congestive heart failure, diabetes, a wound infection, a respiratory infection, sepsis, tuberculosis, HIV, or cancer.

(7) A temporary legislative solution is necessary in order to ensure that medicare beneficiaries with complex conditions continue to receive access to appropriate skilled nursing facility services.

(8) The skilled nursing facility market basket increase over the last 3 years evidences a critical payment gap that exists between the actual cost of providing services to medicare beneficiaries residing in a skilled nursing facility and the reimbursement levels for such services under the prospective payment system. In addition, the Health Care Financing Administration, in establishing the skilled nursing facility market basket index under section 1888(e)(5)(A) of the Social Security Act only accounted for the cost of goods, but not for the cost of services, as such section requires.

SEC. 3. MODIFICATION OF CASE MIX CATEGORIES FOR CERTAIN CONDITIONS.

(a) IN GENERAL.—For purposes of applying any formula under paragraph (1) of section 1888(e) of the Social Security Act (42 U.S.C. 1395yy(e)), for services provided on or after October 1, 1999, and before the earlier of October 1, 2001, or the date described in subsection (c), the Secretary of Health and Human Services shall increase the adjusted Federal per diem rate otherwise determined under paragraph (4) of such section for services provided to any individual during the period in which such individual is in a RUGS III category by the applicable payment add-on as determined in accordance with the following table:

RUGS III Category	Applicable Payment Add-On
RUC	$73.57
RUB	$23.06
RUA	$17.04
RVC	$76.25
RVB	$30.36
RVA	$20.93
RHC	$54.07
RHB	$27.28
RHA	$25.07
RMC	$69.98
RMB	$30.09
RMA	$24.24
SE3	$98.41
SE2	$89.05
CA1	$27.02.

(b) UPDATE.—The Secretary shall update the applicable payment add-on under subsection (a) for fiscal year 2001 by the skilled nursing facility market basket percentage change (as defined under section 1888(e)(5)(B) of the Social Security Act (42 U.S.C. 1395yy(e)(5)(B)) applicable to such fiscal year.

(c) DATE DESCRIBED.—The date described in this subsection is the date that the Secretary of Health and Human Services implements a case mix methodology under section 1888(e)(4)(G)(i) of the Social Security Act (42 U.S.C. 1395yy(e)(4)(G)(i)) that takes into account adjustments for the provision of nontherapy ancillary services and supplies such as drugs and respiratory therapy.

SEC. 4. MODIFICATION TO THE SNF UPDATE TO FIRST COST REPORTING PERIOD.

(a) IN GENERAL.—Section 1888(e) of the Social Security Act (42 U.S.C. 1395yy(e)) is amended—

(1) in paragraph (3)(B)(i), by striking ''minus 1 percentage point''; and

(2) in paragraph (4)(B), by striking ''reduced (on an annualized basis) by 1 percentage point''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to services provided on or after October 1, 1999.

Mr. DOMENICI. Mr. President, I rise today to join with Senator HATCH in introducing the ''Medicare Beneficiary Access to Quality Nursing Home Care Act of 1999.''

I am convinced that this bill is urgently needed to assure our senior citizens have access to quality nursing home care through the Medicare program.

We can all take a certain amount of pride in the bipartisan Balanced Budget Act of 1997, which contained the most sweeping reforms for Medicare since the program was enacted in 1965. These reforms have extended the solvency of the program to 2015 and brought new health coverage options to seniors throughout the country.

However, it should come as no surprise that legislation as complex as the Balanced Budget Act (BBA), as well as its implementation by the Health Care Financing Administration, has produced some unintended consequences that need to be corrected.

That is exactly the situation in the case of nursing homes. The transition to the Prospective Payment System (PPS) for Skilled Nursing Facilities (SNFs) that was contained in the BBA is seriously threatening access to needed care for seniors all across the country.

In May, 63 Senators joined with me in sending a bipartisan appeal to the Secretary of Health and Human Services urging her to address the growing crisis in the nursing home industry through administrative action. To date, we have received no direct response from the Secretary on this matter, nor has the Health Care Financing Administration (HCFA) shown any willingness to address the problem.

With time quickly running out on many nursing home operators, I believe Congress must act before it is too late to assure our seniors will continue to have access to quality nursing home care.

Let me note that Congress is not alone in believing there is a problem here. Dr. Gail Wilensky, the Chair of the Medicare Payment Advisory Commission, recently testified before the Senate Finance Committee that some Medicare patients are having difficulty accessing care in skilled nursing facilities. Dr. Wilensky went on to say that the current reimbursement system adopted by HCFA does not adequately account for patients requiring high levels of nontherapy ancillary services and supplies.

In New Mexico, there are currently 81 nursing homes in the state serving about 6,000 patients, and I am convinced that the current Medicare payment system, as implemented by HCFA, simply does not provide enough funds to cover the costs being incurred by these facilities when they care for our senior citizens.

For rural states like New Mexico, corrective action is critically important. Many communities in my state are served by a single facility that is the only provider for many miles. If such a facility were to close, patients in that home would be forced to move to facilities much farther away from their families. Moreover, nursing homes in smaller, rural communities often operate on a razor thin bottom line, and, for them, the reductions in Medicare reimbursements have been especially devastating.

The legislation we are introducing today would go a long way toward restoring stability in the nursing home industry. It would increase reimbursement rates through two provisions.

First, a 2-year period, the bill modestly increases payments for 15 high acuity conditions, like cancer, hip fracture, and stroke. At the end of 2 years, HCFA expects that they will have the data to more properly reflect the high costs of these cases in the payment system.

Second, the bill eliminates the one percentage point reduction in the annual inflation update for all reimbursement rates for skilled nursing facilities.

I look forward to working with Senator HATCH and the other cosponsors of this bill in pushing for passage of this critical legislation when we return in September.

By Mr. MCCAIN:

S. 1501. A bill to improve motor carrier safety, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE MOTOR CARRIER SAFETY IMPROVEMENT ACT OF 1999

● Mr. MCCAIN. I am pleased to introduce the Motor Carrier Safety Improvement Act of 1999. This measure is designed to remedy certain weaknesses regarding the Federal motor carrier safety program as identified by the Department of Transportation's Inspector General (DOT IG) in April 1999. The Motor Carrier Safety Improvement Act also contains several new initiatives intended to advance safety on our nation's roads and highways.

The bill would establish a separate Motor Carrier Safety Administration within the DOT. That agency would be responsible for carrying out the Federal motor carrier safety enforcement and regulatory responsibilities currently held by the Federal Highway Administration. It would be headed by an Administrator, appointed by the President and confirmed by the Senate.

To guard against increasing the already bloated Federal bureaucracy, the bill would cap employment and funding at the levels currently endorsed by the Administration for motor carrier safety activities. This legislation also recognizes the significant differences between truck operations and passenger carrying operations and accordingly, would call for a separate division within the new agency to ensure commercial bus safety.

Aside from organizational issues, the Motor Carrier Safety Improvement Act would require the Department to implement all the IG's recently issued truck safety recommendations. DOT has indicated it will act on some of the recommendations, but it has failed to articulate a definitive action plan to implement all of the IG's recommendations. We should not risk the consequences of ignoring the IG's recommendations and this bill would require action to eliminate the identified safety gaps at DOT. In addition, it would authorize additional funding as requested by the Administration to address safety shortcomings. It also includes a number of items to address truck safety and enforcement, including provisions to strengthen the Commercial Drivers License Program, to improve data collection activities and to promote the accurate exchange of driver information among the states.

I want to take a moment to share with my colleagues how I reached the decision to develop this measure.

In the last Congress, a comprehensive package of motor carrier and highway safety provisions was enacted as part the Transportation Equity Act for the 21st Century (TEA–21). This package was developed over a two-year period. Throughout the 105th Congress, the primary impediment faced by the Committee on Commerce, Science, and Transportation when crafting our highway safety legislation was an insufficient allocation of contract authority from the highway trust fund. Despite this serious constraint, the Committee did succeed in raising the authorizations for motor carrier and highway safety programs. At the same time, the Committee also succeeded in incorporating into TEA–21 almost every safety initiative brought to the Committee's attention.

Several months after TEA–21 was signed into law, I asked the IG to assess a proposal to move the then Office of Motor Carriers (OMC) form the Federal Highway Administration (FHWA) to the National Highway Traffic Safety Administration (NHTSA). The proposal was being advanced by the Chairman of the House Appropriations Subcommittee on Transportation who was, and is, concerned about OMC's effectiveness in overseeing the safety of our nation's truck and bus industries, concerns I share overall.

The proposal, originally contained in an appropriations bill, was eliminated when it was brought to the House Floor. Consequently, I was surprised to learn of its resurrection as a line item in early drafts of the conference report on the Omnibus Appropriations Act for fiscal year 1999. I remind my colleagues that the transfer had never been included in any House or Senate-passed legislation, nor had any of the authorizing Committees of jurisdiction ever been asked to consider it at all in the 105th Congress.

Rather than enact measures that have surface appeal, it is the responsibility of the Congress to ascertain whether the proposals would be effective. I felt it very important that we first determine whether NHTSA was the most appropriate entity to oversee truck safety before requiring it to take on such critical yet unfamiliar responsibilities. That is why I asked for the IG's counsel.

I chaired a hearing in April at which the IG released his report and offered several ways to improve motor carrier safety. The IG's report does not endorse transferring the responsibilities to NHTSA. While this and several options were discussed, the IG stressed that the greatest problem impeding the effectiveness of the Office of Motor Carriers was a fundamental lack of leadership as currently structured. I repeat, the IG found that leadership was the greatest gap hindering truck safety advancements.

One way to raise the visibility of truck safety and bring leadership to motor carrier safety issues is to create an entity that has motor carrier safety as its sole purpose. Given that we have agencies responsible for air, rail, and highway safety, it seems within reason to provide similar treatment in this modal area, particularly given the many identified problems stemming from a lack of attention within its current structure.

Further, creating a direct link with the Office of the Secretary would guarantee that motor carrier safety share holders, including owners, operators, drivers, safety advocates and even government employees, would not be forced to vie for an agency's attention, forced to compete against highway construction and other interests as is currently the case. As we have regrettably learned, the scales of safety and highway construction are not balanced and we need to take action to alter this inequity.

Other legislative proposals have been offered in recent days. I assure my colleagues that I am willing to review those measures and listen to other suggestions to improve this legislation.

In the many meetings and hearings that have been held to discuss options to enhance highway safety, it became very clear that all motor carrier stake holders share a common goal. We want to improve truck and bus safety, decrease highway accidents, and reduce accident fatalities. I look forward to working with my colleagues, the Administration, highway safety groups, safety enforcement officials, and truck and motor coach representatives to achieve a realistic and effective safety bill. To attempt to do less would be an abrogation of our responsibility.●

By Mr. REED:

S. 1502. A bill to amend the Federal Election Campaign Act of 1971 to require mandatory spending limits for Senate candidates and limits on independent expenditures, to ban soft money, and for other purposes; to the Committee on Rules and Administration.

THE CAMPAIGN SPENDING CONTROL ACT OF 1999

Mr. REED. Mr. President, I rise today to discuss legislation I am introducing, the Campaign Spending Control Act of 1999. I introduced similar legislation in 1997. Unfortunately, in the last two years we have only seen the financial excesses of our campaign system grow, further disenfranchising and disillusioning voters. If our government is to regain the confidence and participation of the electorate, enactment of this legislation is more necessary today than it was two years ago.

Mr. President, two independent public policy groups recently released surveys gauging the public's opinion of their federal government. The news, once again, was not good for our democracy.

Earlier this month the Council for Excellence in Government released a nonpartisan poll, conducted by respected pollsters Peter Hart and Robert Teeter, which demonstrated that less than four in ten Americans now believe that President Lincoln's refrain, that our government is ''of, by, and for the people'' is accurate. While past disillusionment with government was directed at so-called ''unaccountable bureaucrats,'' today most Americans blame the moneyed special interests and the politicians and their political parties for the fact that government is not accountable to the average citizen. Patricia McGinnis, the Council's President, characterized the poll as demonstrating that ''we have an anemic democracy, badly in need of involvement and ownership by its citizens.''

Back in January of this year the Center on Policy Attitudes, released a nonpartisan poll which showed continued record high public dissatisfaction with government. This finding is disconcerting given that our nation is experiencing an unprecedented economic boom coupled with military security. Nonetheless, the Center's study showed that less than one in three Americans ''trust the government in Washington to do what is right'' most of the time. The study concludes that ''[t]he public's dissatisfaction with the US government is largely due to the perception that elected officials, acting in their self-interest, give priority to special interests and partisan agendas, over the interests of the public as a whole.'' Specifically, the survey found that three in four Americans believe that the government is ''run for the benefit of a few big interests.''

Mr. President, I believe that the biggest culprit fueling the public perception that politicians, political parties, and representational government is beholden to special interests, not the needs of the average citizen, is our campaign financing system. When politicians depend upon wealthy special interests, which represent less than one percent of the citizenry, for the political contributions that fuel campaigns the public is left to conclude that its voice will not, cannot, be heard, never mind addressed.

The 1996 elections produced record spending: over 2.7 billion dollars, or approximately 28 dollars per voter. All this money produced record-low voter participation. These two tragic facts are inextricably linked. Most Americans believe our current campaign system is tainted by a flood of special interest money, drowning out their voice, making their participation meaningless, and leaving their concerns unaddressed.

Mr. President, unfortunately, the excesses of 1996 were only multiplied in 1998. Funded by unregulated, unlimited ''soft money'' contributions, the use of unaccountable ''issue ads'' tripled. Without the ability to check either the facts or the sponsors of these ads, Americans became more cynical and less likely to participate. Candidates, on the other hand, are forced to raise money to not only match the resources and the advertising, of their opponent, but also outside groups that are running ''issue ads.''

Those challenging sitting Members of Congress are most disadvantaged by our financing system: in 1998 almost half of the House of Representatives faced opponents with little or no funding. The money chase saps a candidate's time, limiting the ability and incentive to debate, attend forums, and otherwise engage voters. Even the donors dislike the current system: with many corporate leaders announcing their opposition to, and unwillingness to participate in, the current system. We are trapped in a system that no one, not the voters, not the candidates, not the donors, thinks proper.

The roots of this abysmal situation can be traced to a misguided Supreme Court decision. In Buckley v. Valeo, a 1976 case which challenged the 1974 campaign reform legislation, the Court held that, in order to avoid corruption, or its appearance, political contributions could be limited. However, the Court invalidated campaign expenditure limits. The Court surmised that, given the contribution limit reforms, expenditure limits were not only unnecessary but would stifle unlimited and in-depth debate stimulated by greater campaign spending. This conjecture has been proven absolutely false by over twenty years of practical experience.

The single most important step to reform elections and revitalize our democracy is to reverse the Buckley decision by limiting the amount of money that a candidate or his allies can spend.

For this reason Senator JOHNSON and I are introducing legislation which directly challenges the Buckley decision and places mandatory limits on all campaign expenditures. These limits do not favor incumbents. Historically, these limits would have restricted almost four out of five incumbents, while impacting only a handful of challengers. Additionally, this legislation would fully ban corporate contributions, as well as unlimited and unregulated contributions by wealthy individuals and organizations. Further, our bill would limit campaign expenditures by supposedly, neutral, independent groups, and restrict corporations, labor unions, and other organizations from influencing campaigns under the guise of issue advocacy. The end result of this legislation would be to eliminate over a half-billion dollars from the system, encourage challenges to incumbents, and further promote debate among both candidates and the electorate.

What effect would these limits have on political debate? Contrary to the Supreme Court, I believe such limits would increase dialogue. Candidates would be free from the burdens of unending fundraising and thus be available to participate in debates, forums, and interviews. With greater access to candidates and less reason to believe that candidates were captives of their contributors, voters might well be more prepared to invest the time needed to be informed on issues of concern and ask candidates to address them.

Some of the most extreme defenders of our current campaign financing system will argue that this legislation impinges upon freedom of speech. In analyzing this criticism it is important to remember that the vast majority of Americans, ninety-six percent, have never made a political contribution. The bill will marginally restrict the rights of a few to contribute and spend money—not speak—so that the majority of voters might restore their faith in the process. Campaign finances will be restricted no more than necessary to fulfill several compelling interests, the most important of which is the people's faith in their government. Such a restriction conforms with Constitutional jurisprudence and has been demonstrated as necessary by history. The fact is all democratic debates are restricted by rules. My legislation would simply reinstall some rules into our political campaigns while directly impacting very few Americans.

Another criticism of this bill will be that it goes too far. Many reform proponents argue that we should concentrate on more modest gains. It is irrefutable that today, Congress struggles to consider even the most modest of reforms, such as banning so called soft money: unlimited donations by corporations, labor unions, and wealthy individuals to political party committees. Unfortunately the debate in Congress has regressed terribly from the original McCain-Feingold bill,

which addressed runaway campaign expenditures with voluntary spending limits. Yet, there are also reasons to be optimistic about implementation of substantial campaign reform.

Reform has broad public support and has grown into a major grass-roots initiative outside of Washington, DC. Elected officials from thirty-three states have urged that the Buckley decision be revisited and limits implemented. Legislative bodies in Ohio and Vermont have implemented sweeping reform by enacting mandatory caps on candidate expenditures. Other states, such as my own, have embraced public financing as a more modest, but significant, means of reform. On election day in 1998 voters in Arizona and Massachusetts approved significant reforms, both of which would ban so called ''soft money'' as well as encourage contribution and spending limits through voluntary public financing. Currently, campaign finance reform is enacted or being pursued in more than forty states. While significant reform may be a major step for Congress; our constituents and their state and local representatives are implementing important reform throughout the nation.

Unfortunately, because of the overly restrictive and confused jurisprudence flowing from the Buckley decision, many of these popular initiatives face years of special interest challenge in court. Indeed, the most effective reforms will, most likely, be struck down by trial courts. While I enthusiastically support any substantive reform, if we are to address the underlying cancer which has disintegrated voter trust and participation, the problem of unlimited expenditures must be directly confronted. As I have already stated, this is a step that one municipality and two states have embraced. Many more state officials as well as prominent constitutional law scholars have urged such a course. Expenditure limitations have been proposed by Congressional reformers in the past, and it is time to rededicate ourselves to this goal. The largest impediment to such reform is the Supreme Court, and I believe that there is, again, reason to be optimistic that the Court will accommodate such reform in the near future.

Currently, the Court has before it a case which challenges the Buckley decision. In Buckley, the Court upheld against First Amendment challenge the $1,000 federal contribution limit passed by Congress. In Shrink Missouri Government PAC v. Adams, the case currently under review by the Supreme Court, the Eighth Circuit struck down as unconstitutional Missouri's virtually identical state-wide contribution limit of $1,075, holding that only proof of corruption can justify contribution limits. I have led several members of Congress in an amicus brief to the Court.

Mr. President, our brief makes two arguments. First, it demonstrates that the Eighth Circuit's decision is inconsistent with the Supreme Court's decision in Buckley and should be reversed on that ground alone. Second, it contends that the Court should give legislatures the leeway to pass reforms that will respond meaningfully to the erosion of public confidence in the government created by the current campaign financing system.

This leeway can be provided in two ways. First, the Court should review campaign finance reforms under a deferential standard of review—''intermediate'' scrutiny rather than ''strict'' scrutiny—as long as the legislature does not justify the reforms on the communicative impact of the speech at issue. Second, the Court should recognize the institutional competence uniquely possessed by legislatures both to identify threats to the integrity of the electoral system and to implement corresponding reforms.

The amicus brief does not advocate any particular type of reform, but rather urges the Court to provide leeway for legislatures to enact necessary reforms. It is my hope that this case, while not changing the fundamental holding of Buckley, will stimulate the Court to provide greater deference to legislatures that seek to address the threat that campaign financing, and the cynicism it creates, poses to our democracy.

Once such leeway has been provided, the Court will be forced to revisit its holding that spending money is the functional equivalent to speaking. Experience since this 1976 decision should force the Court to realize that while money fuels speech, at some point, financial expenditures only increase a speaker's volume. Spending has now reached a shrill pitch that the vast majority of Americans want addressed. Elected representatives in thirty three states and countless grassroots officials agree with this sentiment. The legislation I have introduced today will implement such reform, restoring rules to our political debate, encouraging public participation, and thus stimulating faith in our democracy. I thank Senator JOHNSON for his support in this endeavor.

Mr. President, I would ask that a copy of this bill be printed in the RECORD.

The bill follows:

S. 1502

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 ''Campaign Spending Control Act of 1999''.

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

SEC. 2. STATEMENT OF PURPOSE.

The purposes of this Act are to—

(1) restore the public confidence in and the integrity of our democratic system;

(2) strengthen and promote full and free discussion and debate during election campaigns;

(3) relieve Federal officeholders from limitations on their attention to the affairs of the Federal government that can arise from excessive attention to fundraising;

(4) relieve elective office-seekers and officeholders from the limitations on purposeful political conduct and discourse that can arise from excessive attention to fundraising;

(5) reduce corruption and undue influence, or the appearance thereof, in the financing of Federal election campaigns; and

(6) provide non-preferential terms of access to elected Federal officeholders by all interested members of the public in order to uphold the constitutionally guaranteed right to petition the Government for redress of grievances.

SEC. 3. FINDINGS OF FACT.

Congress finds the following:

(1) The current Federal campaign finance system, with its perceived preferential access to lawmakers for interest groups capable of contributing sizable sums of money to lawmakers' campaigns, has caused a widespread loss of public confidence in the fairness and responsiveness of elective government and undermined the belief, necessary to a functioning democracy, that the Government exists to serve the needs of all people.

(2) The United States Supreme Court, in Buckley v. Valeo, 424 U.S. 1 (1976), disapproved the use of mandatory spending limits as a remedy for such effects, while approving the use of campaign contribution limits.

(3) Since 1976, campaign expenditures have risen steeply in Federal elections with spending by successful candidates for the United States Senate between 1976 and 1996 rising from $609,100 to $3,775,000, an increase that is twice the rate of inflation.

(4) As campaign spending has escalated, voter turnout has steadily declined and in 1996 voter turnout fell to its lowest point since 1924, and stands now at the lowest level of any democracy in the world.

(5) Coupled with out-of-control campaign spending has come the constant necessity of

fundraising, arising, to a large extent, from candidates adopting a defensive ''arms race'' posture of constant readiness against the risk of massively financed attacks against whatever the opposing candidate may say or do.

(6) The current campaign finance system has had a deleterious effect on those who hold public office as endless fundraising pressures intrude upon the performance of constitutionally required duties. Capable and dedicated officials have left office in dismay over these distractions and the negative public perceptions that the fundraising process engenders and numerous qualified citizens have declined to seek office because of the prospect of having to raise the extraordinary amounts of money needed in today's elections.

(7) The requirement for candidates to raise funds, the average 1996 expenditure level required a successful Senate candidate to raise more than $12,099 a week for 6 years, significantly impedes on the ability of Senators and other officeholders to tend to their official duties, and limits the ability of candidates to interact with the electorate while also tending to professional responsibilities.

(8) As talented incumbent and potential public servants are deterred from seeking office in Congress because of such fundraising pressures, the quality of representation suffers and those who do serve are impeded in their effort to devote full attention to matters of the Government by the campaign financing system.

(9) Contribution limits are inadequate to control all of these trends and as long as campaign spending is effectively unrestrained, supporters can find ways to protect their favored candidates from being outspent. Since 1976, major techniques have been found and exploited to get around and evade contribution limits.

(10) Techniques to evade contribution limits include personal spending by wealthy candidates, independent expenditures that assist or attack an identified candidate, media campaigns by corporations, labor unions, and nonprofit organizations to advocate the election or defeat of candidates, and the use of national, State, or local political parties as a conduit for money that assists or attacks such candidates.

(11) Wealthy candidates may, under the present Federal campaign financing system, spend any amount they want out of their own resources and while such spending may not be self-corrupting, it introduces the very defects the Supreme Court wanted to avoid. The effectively limitless character of such resources obliges a wealthy candidate's opponent to reach for larger amounts of outside support, causing the deleterious effects previously described.

(12) Experience shows that there is an identity of interest between candidates and political parties because the parties exist to support candidates, not the other way around. Party expenditures in support of, or in opposition to, an identifiable candidate are, therefore, effectively spending on behalf of a candidate.

(13) Political experience shows that so-called ''independent'' support, whether by individuals, committees, or other entities, can be and often is coordinated with a candidate's campaign by means of tacit understandings without losing its nominally independent character and, similarly, contributions to a political party, ostensibly for ''party-building'' purposes, can be and often are routed, by undeclared design, to the support of identified candidates.

(14) The actual, case-by-case detection of coordination between candidate, party, and independent contributor is, as a practical matter, impossible in a fast-moving campaign environment.

(15) So-called ''issue advocacy'' communications, by or through political parties or independent contributors, need not advocate expressly for the election or defeat of a named candidate in order to cross the line into election campaign advocacy; any clear, objective indication of purpose, such that voters may readily observe where their electoral support is invited, can suffice as evidence of intent to impact a Federal election campaign.

(16) When State political parties or other entities operating under State law receive funds, often called ''soft money'', for use in Federal elections, they become de facto agents of the national political party and the inclusion of these funds under applicable Federal limitations is necessary and proper for the effective regulation of Federal election campaigns.

(17) The exorbitant level of money in the political system has served to distort our democracy by giving some contributors, who constitute less than 3 percent of the citizenry, the appearance of favored access to elected officials, thus undermining the ability of ordinary citizens to petition their Government. Concerns over the potential for corruption and undue influence, and the appearances thereof, has left citizens cynical, the reputation of elected officials tarnished, and the moral authority of Government weakened.

(18) The 2 decades of experience since the ruling of the Supreme Court in Buckley v. Valeo in 1976 have made it evident that reasonable limits on election campaign expenditures are now necessary and these limits must comprehensively address all types of expenditures to prevent circumvention of such limits.

(19) The Supreme Court based its Buckley v. Valeo decision on a concern that spending limits could narrow political speech ''by restricting the number of issues discussed, the depth of their exploration, and the size of the audience reached''. The experience of the past 20 years has been otherwise as experience shows that unlimited expenditures can drown out or distort political discourse in a flood of distractive repetition. Reasonable spending limits will increase the opportunity for previously muted voices to be heard and thereby increase the number, depth, and diversity of ideas presented to the public.

(20) Issue advocacy communications that do not promote or oppose an identified candidate should remain unregulated, as should the traditional freedom of the press to report and editorialize about candidates and campaigns.

(21) In establishing reasonable limits on campaign spending, it is necessary that the limits reflect the realities of modern campaigning in a large, diverse population with sophisticated and expensive modes of communication. The limits must allow citizens to benefit from a full and free debate of issues and permit candidates to garner the resources necessary to engage in that debate.

(22) The expenditure limits established in this Act for election to the United States Senate were determined after careful review of historical spending patterns in Senate campaigns as well as the particular spending level of the 3 most recent elections as evidenced by the following:

(A) The limit formula allows a candidate a level of spending which guarantees an ability to disseminate the candidate's message by accounting for the size of the population in each State as well as historical spending trends including the demonstrated trend of lower campaign spending per voter in larger States as compared to voter spending in smaller States.

(B) The candidate expenditure limits included in this legislation would have restricted 80 percent of the incumbent candidates in the last 3 elections, while only impeding 18 percent of the challengers.

(C) It is clear from recent experience that expenditure limits as set by the formula in this Act will be high enough to allow an effective level of competition, encourage candidate dialogue with constituents, and circumscribe the most egregiously high spending levels, so as to be a bulwark against future campaign finance excesses and the resulting voter disenfranchisement.

TITLE I—SENATE ELECTION SPENDING LIMITS

SEC. 101. SENATE ELECTION SPENDING LIMITS.

(a) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following:

''SEC. 324. SPENDING LIMITS FOR SENATE ELECTION CAMPAIGNS

''(a) IN GENERAL.—The amount of funds expended by a candidate for election, or nomination for election, to the Senate and the candidate's authorized committee with respect to an election shall not exceed the election expenditure limits described in subsections (b), (c), and (d).

''(b) PRIMARY ELECTION EXPENDITURE LIMIT.—The aggregate amount of expenditures made in connection with a primary election by a Senate candidate and the candidate's authorized committee shall not exceed 67 percent of the general election expenditure limit under subsection (d).

''(c) RUNOFF ELECTION EXPENDITURE LIMIT.—The aggregate amount of expenditures made in connection with a runoff election by a Senate candidate and the candidate's authorized committee shall not exceed 20 percent of the general election expenditure limit under subsection (d).

''(d) GENERAL ELECTION EXPENDITURE LIMIT.—

''(1) IN GENERAL.—The aggregate amount of expenditures made in connection with a general election by a Senate candidate and the candidate's authorized committee shall not exceed the greater of—

''(A) $1,182,500; or

''(B) $500,000; plus

''(i) 37.5 cents multiplied by the voting age population not in excess of 4,000,000; and

''(ii) 31.25 cents multiplied by the voting age population in excess of 4,000,000.

''(2) EXCEPTION.—In the case of a Senate candidate in a State that has not more than 1 transmitter for a commercial Very High Frequency (VHF) television station licensed to operate in that State, paragraph (1)(B) shall be applied by substituting—

''(A) '$1.00' for '37.5 cents' in clause (i); and

''(B) '87.5 cents' for '31.25 cents' in clause (ii).

''(3) INDEXING.—The monetary amounts in paragraphs (1) and (2) shall be increased as of the beginning of each calendar year based on the increase in the price index determined under section 315(c), except that the base period shall be calendar year 1999.

''(e) EXEMPTED EXPENDITURES.—In determining the amount of funds expended for purposes of this section, there shall be excluded any amounts expended for—

''(1) Federal, State, or local taxes with respect to earnings on contributions raised;

''(2) legal and accounting services provided solely in connection with complying with the requirements of this Act;

''(3) legal services related to a recount of the results of a Federal election or an election contest concerning a Federal election; or

''(4) payments made to or on behalf of an employee of a candidate's authorized committee for employee benefits—

''(A) including—

''(i) health care insurance;

''(ii) retirement plans; and

''(iii) unemployment insurance; but

''(B) not including salary, any form of compensation, or amounts intended to reimburse the employee.''.

TITLE II—COORDINATED AND INDEPENDENT EXPENDITURES

SEC. 201. ADDING DEFINITION OF COORDINATION TO DEFINITION OF CONTRIBUTION.

(a) DEFINITION OF CONTRIBUTION.—Section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)) is amended—

(1) in subparagraph (A)—

(A) in clause (i), by striking ''or'' at the end;

(B) in clause (ii) by striking the period and inserting ''; or''; and

(C) by adding at the end the following:

''(iii) a payment made for a communication or anything of value that is for the purpose of influencing an election for Federal office and that is a payment made in coordination with a candidate.''; and

(2) by adding at the end the following:

''(C) PAYMENT MADE IN COORDINATION WITH.—The term 'payment made in coordination with' means—

''(i) a payment made by any person in cooperation, consultation, or concert with, at the request or suggestion of, or pursuant to any general or particular understanding with, a candidate, a candidate's authorized committee, an agent acting on behalf of a candidate or a candidate's authorized committee, or (for purposes of paragraphs (9) and (10) of section 315(a)) another person;

''(ii) the financing by any person of the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign materials prepared by the candidate or the candidate's authorized committee (not including a communication described in paragraph (9)(B)(i) or a communication that expressly advocates the candidate's defeat); or

''(iii) payments made based on information about the candidate's plans, projects, or needs provided to the person making the payment by the candidate, the candidate's authorized committee, or an agent of a candidate or a candidate's authorized committee.''.

(b) CONFORMING AMENDMENTS.—

(1) SECTION 315.—Section 315(a)(7)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(7)(B)) is amended to read as follows:

''(B) expenditures made in coordination with a candidate (within the meaning of section 301(8)(C)) shall be considered to be contributions to the candidate and, in the case of limitations on expenditures, shall be treated as an expenditure for purposes of this section; and''.

(2) SECTION 316.—Section 316(b)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b(b)(2)) is amended by striking ''shall include'' and inserting ''shall have the meaning given those terms in paragraphs (8) and (9) of section 301 and shall also include''.

SEC. 202. TREATMENT OF CERTAIN COORDINATED CONTRIBUTIONS AND EXPENDITURES.

Section 315(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)) is amended by adding at the end the following:

''(9) For purposes of this section, contributions made by more than 1 person in coordination with each other (within the meaning of section 301(8)(C)) shall be considered to have been made by a single person.

''(10) For purposes of this section, an independent expenditure made by a person in coordination with (within the meaning of section 301(8)(C)) another person shall be considered to have been made by a single person.''.

SEC. 203. POLITICAL PARTY COMMITTEES.

(a) LIMIT ON COORDINATED AND INDEPENDENT EXPENDITURES BY POLITICAL PARTY COMMITTEES.—Section 315(d) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(d)) is amended—

(1) in paragraph (1), by inserting ''and independent expenditures'' after ''Federal office''; and

(2) in paragraph (3)—

(A) by inserting '', including expenditures made'' after ''make any expenditure''; and

(B) by inserting ''and independent expenditures advocating the election or defeat of a candidate,'' after ''such party''.

(b) RULES APPLICABLE WHEN LIMITS NOT IN EFFECT.—For purposes of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), during any period beginning after the effective date of this Act in which the limitation under section 315(d)(3) (as amended by subsection (a)) is not in effect the following amendments shall be effective:

(1) INDEPENDENT VERSUS COORDINATED EXPENDITURES BY A POLITICAL PARTY COMMITTEE.—Section 315(d) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(d)) is amended—

(A) in paragraph (1)—

(i) by striking ''(2) and (3) of this subsection'' and inserting ''(2), (3), and (4) of this subsection''; and

(ii) by inserting ''coordinated'' after ''make'';

(B) in paragraph (3), by inserting ''coordinated'' after ''make any''; and

(C) by adding at the end the following:

''(4) PROHIBITION AGAINST MAKING BOTH COORDINATED EXPENDITURES AND INDEPENDENT EXPENDITURES.—

''(A) IN GENERAL.—A committee of a political party shall not make both a coordinated expenditure in excess of $5,000 and an independent expenditure with respect to the same candidate during an election cycle.

''(B) CERTIFICATION.—Before making a coordinated expenditure in excess of $5,000 in connection with a general election campaign of a candidate, a committee of a political party that is subject to this subsection shall file with the Commission a certification, signed by the treasurer, stating that the committee will not make independent expenditures with respect to such candidate.

''(C) TRANSFERS.—A party committee that certifies under this paragraph that the committee will make coordinated expenditures with respect to any candidate shall not, in the same election cycle, make a transfer of funds to, or receive a transfer of funds from, any other party committee unless that committee has certified under this paragraph that it will only make coordinated expenditures with respect to candidates.

''(D) DEFINITION OF COORDINATED EXPENDITURE.—In this paragraph, the term 'coordinated expenditure' shall have the meaning given the term 'payments made in coordination with' in section 301(8)(C).''.

(2) LIMIT ON CONTRIBUTIONS TO POLITICAL PARTY COMMITTEES.—Section 315(a) of Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)) is amended—

(A) in paragraph (1)(B), by striking ''which, in the aggregate, exceed $20,000'' and inserting ''that—

''(i) in the case of a political committee that certifies under subsection (d)(4) that it will not make independent expenditures in connection with the general election campaign of any candidate, in the aggregate, exceed $20,000; or

''(ii) in the case of a political committee not described in clause (i), in the aggregate, exceed $5,000''; and

(B) in paragraph (2)(B), by striking ''which, in the aggregate, exceed $15,000'' and inserting ''that—

''(i) in the case of a political committee that certifies under subsection (d)(4) that it will not make independent expenditures in connection with the general election campaign of any candidate, in the aggregate, exceed $15,000; or

''(ii) in the case of a political committee not described in clause (i), in the aggregate, exceed $5,000''.

(c) DEFINITION OF ELECTION CYCLE.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by adding at the end the following:

''(20) ELECTION CYCLE.—The term 'election cycle' means—

''(A) in the case of a candidate or the authorized committee of a candidate, the period beginning on the day after the date of the most recent general election for the specific office or seat that the candidate is seeking and ending on the date of the next general election for that office or seat; and

''(B) in the case of all other persons, the period beginning on the first day following the date of the last general election and ending on the date of the next general election.''.

SEC. 204. LIMIT ON INDEPENDENT EXPENDITURES.

(a) IN GENERAL.—Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end the following:

''(i) LIMIT ON INDEPENDENT EXPENDITURES.—No person shall make independent expenditures advocating the election or defeat of a candidate during an election cycle in an aggregate amount greater than the limit applicable to the candidate under subsection (d)(3).''.

(b) RULES APPLICABLE WHEN RULES IN SUBSECTION (a) NOT IN EFFECT.—For purposes of the Federal Election Campaign Act of 1971, during any period beginning after the effective date of this Act in which the limit on independent expenditures under section 315(i) of the Federal Election Campaign Act of 1971, as added by subsection (a), is not in effect, section 324 of such Act, as added by section 101(a), is amended by adding at the end the following:

''(f) INCREASE IN EXPENDITURE LIMIT IN RESPONSE TO INDEPENDENT EXPENDITURES.—

''(1) IN GENERAL.—The applicable election expenditure limit for a candidate shall be increased by the aggregate amount of independent expenditures made in excess of the limit applicable to the candidate under section 315(d)(3)—

''(A) on behalf of an opponent of the candidate; or

''(B) in opposition to the candidate.

''(2) NOTIFICATION.—

''(A) IN GENERAL.—A candidate shall notify the Commission of an intent to increase an expenditure limit under paragraph (1).

''(B) COMMISSION RESPONSE.—Within 3 business days of receiving a notice under subparagraph (A), the Commission must approve or deny the increase in expenditure limit.

''(C) ADDITIONAL NOTIFICATION.—A candidate who has increased an expenditure limit under paragraph (1) shall notify the Commission of each additional increase in increments of $50,000.''.

SEC. 205. CLARIFICATION OF DEFINITIONS RELATING TO INDEPENDENT EXPENDITURES.

(a) DEFINITION OF INDEPENDENT EXPENDITURE.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by striking paragraph (17) and inserting the following:

''(17) INDEPENDENT EXPENDITURE.—The term 'independent expenditure' means an expenditure that—

(A) contains express advocacy; and

(B) is made without the participation or cooperation of, or without consultation with, or without coordination with a candidate or a candidate's authorized committee or agent (within the meaning of section 301(8)(C)).''.

(b) DEFINITION OF EXPRESS ADVOCACY.—Section 301 of Federal Election Campaign Act of 1971 (2 U.S.C. 431), as amended by section 202(c), is amended by adding at the end the following:

''(21) EXPRESS ADVOCACY.—The term 'express advocacy' includes—

''(i) a communication that conveys a message that advocates the election or defeat of a clearly identified candidate for Federal office by using an expression such as 'vote for,' 'elect,' 'support,' 'vote against,' 'defeat,' 'reject,' '(name of candidate) for Congress,' 'vote pro-life,' or 'vote pro-choice,' accompanied by a listing or picture of a clearly identified candidate described as 'pro-life' or 'pro-choice,' 'reject the incumbent,' or an expression susceptible to no other reasonable interpretation but an unmistakable and unambiguous exhortation to vote for or against a specific candidate; or

''(ii) a communication that is made through a broadcast medium, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising—

''(A) that is made on or after a date that is 90 days before the date of a general election of the candidate;

''(B) that refers to the character, qualifications, or accomplishments of a clearly identified candidate, group of candidates, or candidate of a clearly identified political party; and

''(C) that does not have as its sole purpose an attempt to urge action on legislation that has been introduced in or is being considered by a legislature that is in session.''.

SEC. 206. ELIMINATION OF LEADERSHIP PACS.

(a) DESIGNATION AND ESTABLISHMENT OF AUTHORIZED COMMITTEE.—Section 302(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(e)) is amended by—

(1) striking paragraph (3) and inserting the following:

''(3) No political committee that supports, or has supported, more than one candidate may be designated as an authorized committee, except that—

''(A) a candidate for the office of President nominated by a political party may designate the national committee of such political party as the candidate's principal campaign committee, if that national committee maintains separate books of account with respect to its functions as a principal campaign committee; and

''(B) a candidate may designate a political committee established solely for the purpose of joint fundraising by such candidates as an authorized committee.''; and

(2) adding at the end the following:

''(6)(A) A candidate for Federal office or any individual holding Federal office may not directly or indirectly establish, finance, maintain, or control any political committee other than a principal campaign committee of the candidate, designated in accordance with paragraph (3). A candidate for more than one Federal office may designate a separate principal campaign committee for each Federal office. This paragraph shall not preclude a Federal officeholder who is a candidate for State or local office from establishing, financing, maintaining, or controlling a political committee for election of the individual to such State or local office.

''(B) A political committee prohibited by subparagraph (A), that is established before the date of enactment of this paragraph, may continue to make contributions for a period that ends on the date that is 1 year after the date of enactment of this paragraph. At the end of such period the political committee shall disburse all funds by 1 or more of the following means:

''(1) Making contributions to 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 Act that is not established, maintained, financed, or controlled directly or indirectly by any candidate for Federal office or any individual holding Federal office.

''(2) Making a contribution to the Treasury.

''(3) Making contributions to the national, State, or local committees of a political party.

''(4) Making contributions not to exceed $1,000 to candidates for elective office.''.

TITLE III—SOFT MONEY

SEC. 301. SOFT MONEY OF POLITICAL PARTY COMMITTEE.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by section 101(a), is amended by adding at the end the following:

''SEC. 325. SOFT MONEY OF PARTY COMMITTEES.

''(a) NATIONAL COMMITTEES.—A national committee of a political party (including a national congressional campaign committee of a political party), an entity that is directly or indirectly established, financed, maintained, or controlled by a national committee or its agent, an entity acting on behalf of a national committee, and an officer or agent acting on behalf of any such committee or entity (but not including an entity regulated under subsection (b)) shall not solicit or receive any contributions, donations, or transfers of funds, or spend any funds, that are not subject to the limitations, prohibitions, and reporting requirements of this Act.

''(b) STATE, DISTRICT, AND LOCAL COMMITTEES.—

''(1) IN GENERAL.—Any amount that is expended or disbursed by a State, district, or local committee of a political party (including an entity that is directly or indirectly established, financed, maintained, or controlled by a State, district, or local committee of a political party and an officer or agent acting on behalf of any such committee or entity) during a calendar year in which a Federal election is held, for any activity that might affect the outcome of a Federal election, including any voter registration or get-out-the-vote activity, any generic campaign activity, and any communication that refers to a candidate (regardless of whether a candidate for State or local office is also mentioned or identified) shall be made from funds subject to the limitations, prohibitions, and reporting requirements of this Act.

''(2) ACTIVITY EXCLUDED FROM PARAGRAPH (1).—

''(A) IN GENERAL.—Paragraph (1) shall not apply to an expenditure or disbursement made by a State, district, or local committee of a political party for—

''(i) a contribution to a candidate for State or local office if the contribution is not designated or otherwise earmarked to pay for an activity described in paragraph (1);

''(ii) the costs of a State, district, or local political convention;

''(iii) the non-Federal share of a State, district, or local party committee's administrative and overhead expenses (but not including the compensation in any month of any individual who spends more than 20 percent of such individual's time on activity during the month that may affect the outcome of a Federal election) except that for purposes of this clause, the non-Federal share of a party committee's administrative and overhead expenses shall be determined by applying the ratio of the non-Federal disbursements to the total Federal expenditures and non-Federal disbursements made by the committee during the previous presidential election year to the committee's administrative and overhead expenses in the election year in question;

''(iv) the costs of grassroots campaign materials, including buttons, bumper stickers, and yard signs that name or depict only a candidate for State or local office; and

''(v) the cost of any campaign activity conducted solely on behalf of a clearly identified candidate for State or local office, if the candidate activity is not an activity described in paragraph (1).

''(B) FUNDRAISING COSTS.—Any amount spent by a national, State, district, or local committee, by an entity that is established, financed, maintained, or controlled by a State, district, or local committee of a political party, or by an agent or officer of any such committee or entity to raise funds that are used, in whole or in part, to pay the costs of an activity described in paragraph (1) shall be made from funds subject to the limitations, prohibitions, and reporting requirements of this Act.

''(c) TAX-EXEMPT ORGANIZATIONS.—A national, State, district, or local committee of a political party (including a national congressional campaign committee of a political party, an entity that is directly or indirectly established, financed, maintained, or controlled by any such national, State, district, or local committee or its agent, an agent acting on behalf of any such party committee, and an officer or agent acting on behalf of any such party committee or entity), shall not solicit any funds for or make any donations to an organization that is exempt from Federal taxation under section 501(c) of the Internal Revenue Code of 1986.

''(d) CANDIDATES.—

''(1) IN GENERAL.—A candidate, individual holding Federal office, or agent of a candidate or individual holding Federal office shall not—

''(A) solicit, receive, transfer, or spend funds in connection with an election for Federal office unless the funds are subject to the limitations, prohibitions, and reporting requirements of this Act;

''(B) solicit, receive, or transfer funds that are to be expended in connection with any election other than a Federal election unless the funds—

''(i) are not in excess of the amounts permitted with respect to contributions to candidates and political committees under paragraphs (1) and (2) of section 315(a); and

''(ii) are not from sources prohibited by this Act from making contributions with respect to an election for Federal office; or

''(C) solicit, receive, or transfer any funds on behalf of any person that are not subject to the limitations, prohibitions, and reporting requirements of the Act if the funds are for use in financing any campaign-related activity or any communication that refers to a clearly identified candidate.

''(2) EXCEPTION.—Paragraph (1) shall not apply to the solicitation or receipt of funds by an individual who is a candidate for a State or local office if the solicitation or receipt of funds is permitted under State law for the individual's State or local campaign committee.''.

SEC. 302. STATE PARTY GRASSROOTS FUNDS.

(a) INDIVIDUAL CONTRIBUTIONS.—Section 315(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(1)) is amended—

(1) in subparagraph (B), by striking ''or'' at the end;

(2) in subparagraph (C), by striking the period at the end and inserting ''; or''; and

(3) by inserting after subparagraph (C) the following:

''(D) to—

''(i) a State Party Grassroots Fund established and maintained by a State committee of a political party in any calendar year which, in the aggregate, exceed $20,000; or

''(ii) any other political committee established and maintained by a State committee of a political party in any calendar year which, in the aggregate, exceed $5,000;

except that the aggregate contributions described in this subparagraph that may be made by a person to the State Party Grassroots Fund and all committees of a State Committee of a political party in any State in any calendar year shall not exceed $20,000.''.

(b) DEFINITIONS.—Section 301 of the Federal Election Campaign Act of 1970 (2 U.S.C. 431), as amended by section 205(b), is amended by adding at the end the following:

''(22) GENERIC CAMPAIGN ACTIVITY.—The term 'generic campaign activity' means a campaign activity that promotes a political party and does not refer to any particular candidate for a Federal, State, or local office.

''(23) STATE PARTY GRASSROOTS FUND.—The term 'State Party Grassroots Fund' means a separate segregated fund established and maintained by a State committee of a political party solely for purposes of making expenditures and other disbursements described in section 326(d).''.

(c) STATE PARTY GRASSROOTS FUNDS.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by section 301, is amended by adding at the end the following:

''SEC. 326. STATE PARTY GRASSROOTS FUNDS.

''(a) DEFINITION.—In this section, the term 'State or local candidate committee' means a committee established, financed, maintained, or controlled by a candidate for other than Federal office.

''(b) TRANSFERS.—Notwithstanding section 315(a)(4), no funds may be transferred by a State committee of a political party from its State Party Grassroots Fund to any other State Party Grassroots Fund or to any other political committee, except a transfer may be made to a district or local committee of the same political party in the same State if the district or local committee—

''(1) has established a separate segregated fund; and

''(2) uses the transferred funds solely for disbursements and expenditures under subsection (d).

''(c) AMOUNTS RECEIVED BY GRASSROOTS FUNDS FROM STATE AND LOCAL CANDIDATE COMMITTEES.—

''(1) IN GENERAL.—Any amount received by a State Party Grassroots Fund from a State or local candidate committee for expenditures described in subsection (d) that are for the benefit of the candidate for whom such Fund is established shall be treated as meeting the requirements of section 325(b)(1) and section 304(e) if—

''(A) the amount is derived from funds which meet the requirements of this Act with respect to any limitation or prohibition as to source or dollar amount specified in paragraphs (1)(A) and (2)(A) of section 315(a); and

''(B) the State or local candidate committee—

''(i) maintains, in the account from which payment is made, records of the sources and amounts of funds for purposes of determining whether those requirements are met; and

''(ii) certifies that the requirements were met.

''(2) DETERMINATION OF COMPLIANCE.—For purposes of paragraph (1)(A), in determining whether the funds transferred meet the requirements of this Act described in such paragraph—

''(A) a State or local candidate committee's cash on hand shall be treated as consisting of the funds most recently received by the committee; and

''(B) the committee must be able to demonstrate that the cash on hand of such committee contains funds meeting those requirements sufficient to cover the transferred funds.

''(3) REPORTING.—Notwithstanding paragraph (1), any State Party Grassroots Fund that receives a transfer described in paragraph (1) from a State or local candidate committee shall be required to meet the reporting requirements of this Act, and shall submit to the Commission all certifications received, with respect to receipt of the transfer from the candidate committee.

''(d) DISBURSEMENTS AND EXPENDITURES.—A State committee of a political party shall only make disbursements and expenditures from the State Party Grassroots Fund of such committee for—

''(1) any generic campaign activity;

''(2) payments described in clauses (v), (ix), and (xi) of paragraph (8)(B) and clauses (iv), (viii), and (ix) of paragraph (9)(B) of section 301;

''(3) subject to the limitations of section 315(d), payments described in clause (xii) of paragraph (8)(B), and clause (ix) of paragraph (9)(B), of section 301 on behalf of candidates other than for President and Vice President;

''(4) voter registration; and

''(5) development and maintenance of voter files during any even-numbered calendar year.''.

SEC. 303. REPORTING REQUIREMENTS.

(a) REPORTING REQUIREMENTS.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) is amended by adding at the end the following:

''(e) POLITICAL COMMITTEES.—

''(1) NATIONAL AND CONGRESSIONAL POLITICAL COMMITTEES.—The national committee of a political party, any congressional campaign committee of a political party, and any subordinate committee of either, shall report all receipts and disbursements during the reporting period, whether or not in connection with an election for Federal office.

''(2) OTHER POLITICAL COMMITTEES TO WHICH SECTION 325 APPLIES.—A political committee (not described in paragraph (1)) to which section 325(b)(1) applies shall report all receipts and disbursements made for activities described in paragraphs (1) and (2)(iii) of section 325(b).

''(3) OTHER POLITICAL COMMITTEES.—Any political committee to which paragraph (1) or (2) does not apply shall report any receipts or disbursements that are used in connection with a Federal election.

''(4) ITEMIZATION.—If a political committee has receipts or disbursements to which this subsection applies from any person aggregating in excess of $200 for any calendar year, the political committee shall separately itemize its reporting for such person in the same manner as required in paragraphs (3)(A), (5), and (6) of subsection (b).

''(5) REPORTING PERIODS.—Reports required to be filed under this subsection shall be filed for the same time periods required for political committees under subsection (a).''.

(b) BUILDING FUND EXCEPTION TO THE DEFINITION OF CONTRIBUTION.—Section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)) is amended—

(1) by striking clause (viii); and

(2) by redesignating clauses (ix) through (xiv) as clauses (viii) through (xiii), respectively.

(c) REPORTS BY STATE COMMITTEES.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434), as amended by subsection (a), is amended by adding at the end the following:

''(f) FILING OF STATE REPORTS.—In lieu of any report required to be filed by this Act, the Commission may allow a State committee of a political party to file with the Commission a report required to be filed under State law if the Commission determines such reports contain substantially the same information.''.

(d) OTHER REPORTING REQUIREMENTS.—

(1) AUTHORIZED COMMITTEES.—Section 304(b)(4) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(4)) is amended—

(A) by striking ''and'' at the end of subparagraph (H);

(B) by inserting ''and'' at the end of subparagraph (I); and

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

''(J) in the case of an authorized committee, disbursements for the primary election, the general election, and any other election in which the candidate participates;''.

(2) NAMES AND ADDRESSES.—Section 304(b)(5)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(5)(A)) is amended by inserting '', and the election to which the operating expenditure relates'' after ''operating expenditure''.

SEC. 304. SOFT MONEY OF PERSONS OTHER THAN POLITICAL PARTIES.

Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434), as amended by subsection 303, is amended by adding at the end the following:

''(g) ELECTION ACTIVITY OF PERSONS OTHER THAN POLITICAL PARTIES.—

''(1) IN GENERAL.—A person other than a committee of a political party that makes aggregate disbursements totaling in excess of $10,000 with respect to an election cycle for activities described in paragraph (2) shall file a statement with the Commission—

''(A) within 48 hours after the disbursements are made; or

''(B) in the case of disbursements that are made within 20 days of an election, within 24 hours after the disbursements are made.

''(2) ACTIVITY.—The activity described in this paragraph is—

''(A) any activity described in section 316(b)(2)(A) that refers to any candidate for Federal office, any political party, or any Federal election; and

''(B) any activity described in subparagraph (B) or (C) of section 316(b)(2).

''(3) ADDITIONAL STATEMENTS.—An additional statement shall be filed each time additional disbursements aggregating $10,000 are made by a person described in paragraph (1).

''(4) APPLICABILITY.—This subsection does not apply to—

''(A) a candidate or a candidate's authorized committee; or

''(B) an independent expenditure.

''(5) CONTENTS.—A statement under this section shall contain such information about the disbursements as the Commission shall prescribe, including—

''(A) the name and address of the person or entity to whom the disbursement was made;

''(B) the amount and purpose of the disbursement; and

''(C) if applicable, whether the disbursement was in support of, or in opposition to, a candidate or a political party, and the name of the candidate or the political party.''.

TITLE IV—ENFORCEMENT

SEC. 401. FILING OF REPORTS USING COMPUTERS AND FACSIMILE MACHINES.

Section 302(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)) is amended

by striking paragraph (11) and inserting the following:

''(11) FILING OF REPORTS USING COMPUTERS AND FACSIMILE MACHINES.—

''(A) REQUIRED FILING.—The Commission may promulgate a regulation under which a person required to file a designation, statement, or report under this Act—

''(i) is required to maintain and file a designation, statement, or report for any calendar year in electronic form accessible by computers if the person has, or has reason to expect to have, aggregate contributions or expenditures in excess of a threshold amount determined by the Commission; and

''(ii) may maintain and file a designation, statement, or report in that manner if not required to do so under regulations prescribed under clause (i).

''(B) FACSIMILE MACHINE.—The Commission shall promulgate a regulation that allows a person to file a designation, statement, or report required by this Act through the use of facsimile machines.

''(C) VERIFICATION OF SIGNATURE.—

''(i) IN GENERAL.—In promulgating a regulation under this paragraph, the Commission shall provide methods (other than requiring a signature on the document being filed) for verifying a designation, statement, or report covered by the regulations.

''(ii) TREATMENT OF VERIFICATION.—A document verified under any of the methods shall be treated for all purposes (including penalties for perjury) in the same manner as a document verified by signature.''.

SEC. 402. AUDITS.

(a) RANDOM AUDITS.—Section 311(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 438(b)) is amended—

(1) by inserting ''(1)'' before ''The Commission''; and

(2) by adding at the end the following:

''(2) RANDOM AUDITS.—

''(A) IN GENERAL.—Notwithstanding paragraph (1), the Commission may conduct random audits and investigations to ensure voluntary compliance with this Act.

''(B) LIMITATION.—The Commission shall not institute an audit or investigation of a candidate's authorized committee under subparagraph (A) until the candidate is no longer a candidate for the office sought by the candidate in that election cycle.

''(C) APPLICABILITY.—This paragraph does not apply to an authorized committee of a candidate for President or Vice President subject to audit under section 9007 or 9038 of the Internal Revenue Code of 1986.''.

(b) EXTENSION OF PERIOD DURING WHICH CAMPAIGN AUDITS MAY BE BEGUN.—Section 311(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 438(b)) is amended by striking ''6 months'' and inserting ''12 months''.

SEC. 403. AUTHORITY TO SEEK INJUNCTION.

Section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)) is amended—

(1) by adding at the end the following:

''(13) AUTHORITY TO SEEK INJUNCTION.—

''(A) IN GENERAL.—If, at any time in a proceeding described in paragraph (1), (2), (3), or (4), the Commission believes that—

''(i) there is a substantial likelihood that a violation of this Act is occurring or is about to occur;

''(ii) the failure to act expeditiously will result in irreparable harm to a party affected by the potential violation;

''(iii) expeditious action will not cause undue harm or prejudice to the interests of others; and

''(iv) the public interest would be best served by the issuance of an injunction;

the Commission may initiate a civil action for a temporary restraining order or a preliminary injunction pending the outcome of the proceedings described in paragraphs (1), (2), (3), and (4).

''(B) VENUE.—An action under subparagraph (A) shall be brought in the United States district court for the district in which the defendant resides, transacts business, or may be found, or in which the violation is occurring, has occurred, or is about to occur.'';

(2) in paragraph (7), by striking ''(5) or (6)'' and inserting ''(5), (6), or (13)''; and

(3) in paragraph (11), by striking ''(6)'' and inserting ''(6) or (13)''.

SEC. 404. INCREASE IN PENALTY FOR KNOWING AND WILLFUL VIOLATIONS.

Section 309(a)(5)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(5)(B)) is amended by striking ''the greater of $10,000 or an amount equal to 200 percent'' and inserting ''the greater of $15,000 or an amount equal to 300 percent''.

SEC. 405. PROHIBITION OF CONTRIBUTIONS BY INDIVIDUALS NOT QUALIFIED TO VOTE.

(a) PROHIBITION.—Section 319 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e) is amended—

(1) in the heading by adding ''AND INDIVIDUALS NOT QUALIFIED TO REGISTER TO VOTE'' at the end; and

(2) in subsection (a)—

(A) by striking ''(a) It shall'' and inserting the following:

''(a) PROHIBITIONS.—

''(1) FOREIGN NATIONALS.—It shall''; and

(B) by adding at the end the following:

''(2) INDIVIDUALS NOT QUALIFIED TO VOTE.—It shall be unlawful for an individual who is not qualified to register to vote in a Federal election to make a contribution, or to promise expressly or impliedly to make a contribution, in connection with a Federal election; or for any person to knowingly solicit, accept, or receive a contribution in connection with a Federal election from an individual who is not qualified to register to vote in a Federal election.''.

(b) INCLUSION IN DEFINITION OF IDENTIFICATION.—Section 301(13) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(13)) is amended—

(1) in subparagraph (A)—

(A) by striking ''and'' the first place it appears; and

(B) by inserting '', and an affirmation that the individual is an individual who is not prohibited by section 319 from making a contribution'' after ''employer''; and

(2) in subparagraph (B), by inserting ''and an affirmation that the person is a person that is not prohibited by section 319 from making a contribution'' after ''such person''.

SEC. 406. USE OF CANDIDATES' NAMES.

Section 302(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(e)) is amended by striking paragraph (4) and inserting the following:

''(4)(A) The name of each authorized committee shall include the name of the candidate who authorized the committee under paragraph (1).

''(B) A political committee that is not an authorized committee shall not—

''(i) include the name of any candidate in its name, or

''(ii) except in the case of a national, State, or local party committee, use the name of any candidate in any activity on behalf of such committee in such a context as to suggest that the committee is an authorized committee of the candidate or that the use of the candidate's name has been authorized by the candidate.''.

SEC. 407. EXPEDITED PROCEDURES.

Section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)), as amended by section 403, is amended by adding at the end the following:

''(14) EXPEDITED PROCEDURE.—

''(A) 60 DAYS PRECEDING AN ELECTION.—If the complaint in a proceeding is filed within 60 days immediately preceding a general election, the Commission may take action described in this paragraph.

''(B) RESOLUTION BEFORE ELECTION.—If the Commission determines, on the basis of facts alleged in the complaint and other facts available to the Commission, that there is clear and convincing evidence that a violation of this Act has occurred, is occurring, or is about to occur and it appears that the requirements for relief stated in clauses (ii), (iii), and (iv) of paragraph (13)(A) are met, the Commission may—

''(i) order expedited proceedings, shortening the time periods for proceedings under paragraphs (1), (2), (3), and (4) as necessary to allow the matter to be resolved in sufficient time before the election to avoid harm or prejudice to the interests of the parties; or

''(ii) if the Commission determines that there is insufficient time to conduct proceedings before the election, immediately seek relief under paragraph (13)(A).

''(C) COMPLAINT WITHOUT MERIT.—If the Commission determines, on the basis of facts alleged in the complaint and other facts available to the Commission, that the complaint is clearly without merit, the Commission may—

''(i) order expedited proceedings, shortening the time periods for proceedings under paragraphs (1), (2), (3), and (4) as necessary to allow the matter to be resolved in sufficient time before the election to avoid harm or prejudice to the interests of the parties; or

''(ii) if the Commission determines that there is insufficient time to conduct proceedings before the election, summarily dismiss the complaint.''.

TITLE V—SEVERABILITY; REGULATIONS; EFFECTIVE DATE

SEC. 501. SEVERABILITY.

If any provision of this Act or amendment made by this Act, or the application of a provision or amendment to any person or circumstance, is held to be unconstitutional, the remainder of this Act and amendments made by this Act, and the application of the provisions and amendment to any person or circumstance, shall not be affected by the holding.

SEC. 502. REGULATIONS.

The Federal Election Commission shall promulgate any regulations required to carry out this Act and the amendments made by this Act.

SEC. 503. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act and the amendments made by this Act take effect on the date that is 30 days after the date of enactment of this Act.

By Mr. THOMPSON (for himself and Mr. LIEBERMAN):

S. 1503. A bill amend the Ethics in Government Act of 1978 (5 U.S.C. App.) to extend the authorization of appropriations for the Office of Government. Ethics through fiscal year 2003; to the Committee on Governmental Affairs

THE OFFICE OF GOVERNMENT ETHICS AUTHORIZATION ACT OF 1999

Mr. THOMPSON. Mr. President, I ask unanimous consent that a statement by Senator LIEBERMAN and myself regarding the ''Office of Government Ethics Authorization Act of 1999'' be printed in the RECORD.

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

JOINT STATEMENT BY SENATOR FRED THOMPSON, CHAIRMAN, COMMITTEE ON GOVERNMENTAL AFFAIRS, AND SENATOR JOSEPH LIEBERMAN, RANKING MINORITY MEMBER, COMMITTEE ON GOVERNMENTAL AFFAIRS, ON THE INTRODUCTION OF THE ''OFFICE OF GOVERNMENT ETHICS AUTHORIZATION ACT OF 1999''

Today we are pleased to join together in introducing the ''Office of Government Ethics Authorization Act of 1999.'' This legislation would reauthorize the Office of Government Ethics for four years, through the end of fiscal year 2003.

The Office of Government Ethics was created in 1978 to administer the Ethics in Government Act. The Office was established as a separate agency in the Executive branch, independent from the Office of Personnel Management, as part of the Office's reauthorization in 1988. The Office is headed by a Director who is appointed to serve a 5-year term with the advice and consent of the Senate. The current Director, Stephen Potts, is serving his second term which expires in August 2000.

The Office has responsibility for Executive branch policies relating to preventing conflicts of interest on the part of officers and employees in the Executive branch. The Office is a small and respected agency and promotes policies and ethical standards that are implemented by a network of more than 120 Designated Agency Ethics Officers. The Office also provides training and educational programs in an effort to provide guidance to employees throughout the government.

The Office's current authorization is set to expire at the end of this fiscal year. In introducing this legislation, it is our expectation for the Committee on Governmental Affairs and the Senate to act on a timely basis in reauthorizing this agency.

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

S. 1504. A bill to improve health care quality and reduce health care costs by establishing a National Fund for Health Research that would significantly expand the Nation's investment in medical research; to the Committee on Health, Education, Labor, and Pensions.

NATIONAL FUND FOR HEALTH RESEARCH ACT

● Mr. HARKIN. Mr. President, I am pleased to introduce the ''National Fund for Health Research Act of 1999''. And I am particularly pleased to be joined in this effort by my friend and colleague, Senator SPECTER. This bill is similar to legislation I introduced with Senator SPECTER in the 105th Congress, and with Senator HATFIELD during the 104th Congress. The bill gained broad bipartisan support in both the House and Senate.

Our proposal would establish a National Fund for Health Research to provide additional resources for health research over and above those provided to the National Institutes of Health in the annual appropriations process. The Fund would greatly enhance the quality of health care by investing more in finding preventive measures, cures and cost-effective treatments for the major illnesses and conditions that strike Americans.

To finance the Fund, health plans would set aside approximately 1 percent of all health premiums and transfer the funds to the National Fund for Health Research.

Each year under our proposal amounts within the National Fund for Health Research would automatically be allocated to each of the NIH Institutes and Centers. Each Institute and Center would receive the same percentage as they received of the total NIH appropriation for that fiscal year. The set aside would result in a significant annual budget increase for NIH.

In 1994 I argued that any health care reform plan should include additional funding for health research. Systematic health care reform has been taken off the front burner but the need to increase our nation's commitment to health research has not diminished.

While health care spending devours over $1 trillion annually our medical research budget is dying of starvation. The United States devotes less than 3 percent of its total health care budget to health research. The Defense Department spends 15 percent of its budget on research. Does this make sense? The cold war is over but the war against disease and disability continues.

Increased investment in health research is key to reducing health costs in the long run. For example, the costs of Alzheimer's will more than triple in the coming century—adding further strains to Medicare as the baby boomers retire. We know that through research there is a real hope of a major breakthrough in this area. Simply delaying the onset of Alzheimer's by 5 years would save an estimated $50 billion.

Gene therapy and treatments for cystic fibrosis and Parkinson's could eliminate years of chronic care costs, while saving lives and improving patients' quality of life.

Mr. President, Senator SPECTER and I do everything we can to increase funding for NIH through the Labor, Health and Human Services and Education Appropriations bill. But the Balanced Budget Act of 1997 has put us on track to dramatically decrease discretionary spending, so that the nation's investment in health research through the NIH is likely to decline in real terms unless corrective legislative action is taken.

The NIH is not able to fund even 30% of competing research projects or grant applications deemed worthy of funding. Science and cutting edge medical research are being put on hold. We may be giving up possible cures for diabetes, cancer, Parkinson's and countless other diseases.

Mr. President, health research is an investment in our future—it is an investment in our children and grandchildren. It holds the promise of cure of treatment for millions of Americans.●

● Mr. SPECTER. Mr. President, I have sought recognition to join Senator TOM HARKIN, my colleague and distinguished ranking members of the Appropriations Subcommittee on Labor, Health and Human Services and Education, which I chair, in introducing the National Fund for Health Research Act of 1999. This creative proposal, which would create a dedicated health research fund in the U.S. Treasury to supplement the current federal research funding mechanisms, was first developed by Senator HARKIN and our former Senate colleague, Senator Mark Hatfield. I think their idea is a sound one and ought to be adopted, and I am pleased to join Senator HARKIN in introducing this legislation as I did during the 105th Congress. I have also included this proposal as a provision of my comprehensive health care reform legislation, the Health Care Assurance Act of 1999 (S. 24), introduced on January 19, 1999.

I have said many times that I firmly believe that the National Institutes of Health (NIH) is the crown jewel of the Federal government, and substantial investment is crucial to allow the continuation of the breakthrough research into the next decade. In 1981, NIH funding was less than $3.6 billion. For the past three years, NIH funding has increased by 6.8 percent in fiscal year 1997, 7.1 percent in fiscal year 1998, and 15 percent in fiscal year 1999, for a total of $15.7 billion. Senator HARKIN and I are continuing to fight to double the NIH budget, a sentiment which was unanimously supported in the United States Senate during the 105th Congress.

I was dismayed, however, upon examining President Clinton's $15.9 billion budget request for the NIH for fiscal year 2000—only a little over two percent growth, far less than the 15 percent needed to double NIH. At the President's requested level, new and competing NIH research project grants would drop by 1,554—from 9,171 in fiscal year 1999 to 7,617 in fiscal year 2000. This outlook on future grant awards is wholly inadequate to meet the country's most important challenges to improve the health and quality of life for millions of Americans.

To call the President's plan shortsighted would be an understatement. In practical terms, two percent amounts to spending less than $24 for every American who suffers from coronary heart disease. Two percent means slowing the race to cure breast cancer or discover a vaccine to prevent the spread of AIDS. And it means that some of the most promising new breakthroughs in science, like stem cell research, may be postponed for years. Breaking the code for complex problems takes a steady and sustained commitment of people and money.

The National Fund for Health Research Act which we are introducing today would continue Senator HARKIN'S and my unwavering commitment to increasing the nation's investment in biomedical research. The legislation would create a special fund for health research to supplement funding achieved through the regular appropriations process—possibly by as much as $6 billion annually. Our legislation would require health insurers to transfer to the U.S. Treasury an amount

equal to 1 percent of all health premiums they receive. To ensure that the additional funds generated do not simply replace regularly appropriated NIH funds, monies from the health research fund would only be released if the total amount appropriated for the NIH in that year equaled or exceeded the prior year appropriations.

We must all recognize that expanding our base of scientific knowledge inevitably leads to better health, lower health care costs, and an improved quality of life for all Americans. I believe that the creation of a fund for health research would bring us closer to those critical goals.

Mr. President, I urge my colleagues to support the National Fund for Health Research Act, and urge its swift adoption.●

By Mr. THURMOND:

S. 1506. A bill to suspend temporarily the duty on cyclic olefin copolymer resin; to the Committee on the Judiciary.

DUTY SUSPENSION ON CERTAIN COPOLYMER RESIN

Mr. THURMOND. Mr. President, I rise today to introduce a bill which will suspend the duties imposed on a certain copolymer resin used in the production of high technology products. Currently, this resin is imported for use in the United States because there is no domestic supplier or readily available substitute. Therefore, suspending the duties on this copolymer resin would not adversely affect domestic industries.

This bill would temporarily suspend the duty on cyclic olefin copolymer resin, which is a resin used in the manufacturing of high technology products such as high precision optical lenses and laboratory micro liter plates.

Mr. President, suspending the duty on this resin will benefit the consumer by stabilizing the costs of manufacturing the end-use products. Further, this suspension will allow domestic producers to maintain or improve their ability to compete internationally. There are no known domestic producers of this material. I hope the Senate will consider these measures expeditiously.

I ask unanimous consent that the text of the bill be printed in the Congressional RECORD immediately following my remarks.

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

S. 1506

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

SECTION 1. CYCLIC OLEFIN COPOLYMER RESIN.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

''9902.39.00	Cyclic olefin copolymer resin (CAS No. 26007–43–2) (provided for in heading 3902.90.00)	Free	Free	No change	On or before 12/31/2002''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

By Mr. CAMPBELL:

S. 1507. A bill to authorize the integration and consolidation of alcohol and substance programs and services provided by Indian tribal governments, and for other purposes; to the Committee on Indian Affairs.

NATIVE AMERICAN ALCOHOL AND SUBSTANCE ABUSE PROGRAM CONSOLIDATION ACT

Mr. CAMPBELL. Mr. President, I am pleased to introduce the Native American Alcohol and Substance Abuse Program Consolidation Act of 1999, to enable Indian tribes to consolidate and integrate alcohol and substance abuse prevention, diagnosis, and treatment programs to provide unified and more effective services to Native Americans.

Native communities continue to be plagued by alcohol and substance abuse at staggering rates and this abuse is wreaking havoc on Native families across the country.

Unfortunately, alcohol continues to be an important risk factor associated with the top three killers of Native youth—accidents, suicide, and homicide.

Based on 1993 data, the rate of mortality due to alcoholism among Native youth ages 15 to 24 was 5.2 per 100,000, which is 17 times the rate for whites of the same age.

Native Americans have higher rates of alcohol and drug use than any other racial or ethnic group. Despite previous treatment and preventive efforts, alcoholism and substance abuse continue to be prevalent among Native youth: 82 percent of Native adolescents admitted to having used alcohol, compared with 66 percent of non-Native youth.

In a 1994 school-based study, 39 percent of Native high school seniors reported having ''gotten drunk'' and 39 percent of Native kids admitted to using marijuana.

Alcohol and substance abuse also contributes to other social problems including sexually transmitted diseases, child and spousal abuse, poor school achievement and dropout, drunk-driving related deaths, mental health problems, hopelessness and, too commonly, suicide.

The Federal Government offers several disparate and currently uncoordinated substance abuse prevention and treatment programs for which Native Americans are eligible. This bill addresses how to best coordinate these programs so that the resources are effectively targeted at the communities that need them.

Program funds from the Department of Education include the Office of Elementary and Secondary Education's Safe and Drug-Free Schools and Communities—National Programs; and the Safe and Drug-Free Schools and Communities—State Grants.

In the Department of Health and Human Services the programs include the Administration for Children and Families' (ACF) Social Services Block Grant; the Indian Health Service's (IHS) Urban Indian Health Services funds; the IHS's Research funds; the IHS's Alcohol and Substance Abuse services including outpatient visits, inpatient days, regional treatment centers, admissions, aftercare referrals, and emergency placements; the Substance Abuse and Mental Health Services Administration (SAMHSA) Grants for Residential Treatment Programs for Pregnant and Postpartum Women; the SAMHSA Demonstration Grants for Residential Treatment for women and their Children; the SAMHSA Cooperative Agreements for Substance Abuse Treatment and Recovery Systems for Rural, Remote and Culturally Distinct Populations; the SAMHSA Mental Health Planning and Demonstration Projects; the SAMHSA Demonstration Grants for the Prevention of Alcohol and Drug Abuse Among High-Risk Populations; the SAMHSA Demonstration Grants on Model Projects for Pregnant and Postpartum Women and their Infants; the SAMHSA Comprehensive Residential Drug Prevention and Treatment, Projects for Substance-Using Women and their Children; and the SAMHSA Block Grants for Prevention and Treatment of Substance Abuse.

Programs in the Department of Housing and Urban Development (HUD) include Community Planning and Development, Shelter Plus Care; and HUD's Drug Elimination Grant funds.

Department of the Interior program funds include the Bureau of Indian Affairs, Services to Indian Children, Elderly and Families funds.

Programs in the Department of Justice include National Institute of Justice, Justice Research, Development, and Evaluation Project Grants.

The Department of Transportation funds include National Highway Traffic Safety Administration/Federal Highway Administration funds.

Funds available through the National Institutes of Health—National Institute on Alcohol Abuse and Alcoholism include several different grant programs for minorities and the prevention of alcohol abuse.

The goal of this bill is to authorize tribal governments and inter-tribal organizations to consolidate these programs through a single Federal office, in the Bureau of Indian Affairs, and use a single implementation plan to reduce the administrative and bureaucratic processes and result in more and better services to Native Americans.

This legislation tracks the widely-hailed and very successful ''477 model''

that Indian tribes have had used to effectively coordinate employment training and related services through the Indian Employment Training and Related Services Demonstration Act of 1992 (Pub. Law 102–477).

Under the ''477 model,'' an applicant tribe can file a single comprehensive plan to draw and coordinate resources from many federal agencies and administer them through one office, the Bureau of Indian Affairs in the Department of the Interior.

To facilitate this inter-agency resource transfer, Secretaries of named agencies are required to negotiate and enter into memoranda of understanding.

The bill I am introducing today mirrors the ''477 model'' for purposes of alcohol and drug abuse resources.

I am certain that with this authority, Indian tribes can achieve the same high level of success they have had in the employment training field.

Mr. President, I ask unanimous consent that a copy of the legislation be printed in the RECORD.

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

S. 1507

Be it enacted in 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 ''Native American Alcohol and Substance Abuse Program Consolidation Act of 1999.''

SEC. 2. STATEMENT OF PURPOSE.

The purposes of this Act are (a) to enable Indian tribes to consolidate and integrate alcohol and other substance abuse prevention, diagnosis and treatment programs to provide unified and more effective and efficient services to Native Americans afflicted with alcohol and other substance abuse problems; and (b) to recognize that Indian tribes can best determine the goals and methods for establishing and implementing prevention, diagnosis and treatment programs for their communities, consistent with the policy of self-determination.

SEC. 3. DEFINITIONS.

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

(1) FEDERAL AGENCY.—The term ''Federal agency'' has the same meaning given the term in section 551(1) of title 5, United States Code.

(2) INDIAN TRIBE.—The terms ''Indian tribe'' and ''tribe'' shall have the meaning given the term ''Indian tribe'' in section 4(e) of the Indian Self-Determination and Education Assistance Act.

(3) INDIAN.—The term ''Indian'' shall have the meaning given such term in section 4(d) of the Indian Self-Determination and Education Assistance Act.

(4) SECRETARY.—Except where otherwise provided, the term ''Secretary'' means the Secretary of the Interior.

SEC. 4. INTEGRATION OF SERVICES AUTHORIZED.

The Secretary of the Interior, in cooperation with the appropriate Secretary of Labor, Secretary of Health and Human Services, Secretary of Education, Secretary of Housing and Urban Development, United States Attorney General, Secretary of Transportation, and Director of the National Institutes of Health shall, upon the receipt of a plan acceptable to the Secretary submitted by an Indian tribe, authorize the tribe to coordinate, in accordance with such plan, its federally funded alcohol and substance abuse in a manner that integrates the program services involved into a single, coordinated, comprehensive program and reduces administrative costs by consolidating administrative functions.

SEC. 5. PROGRAMS AFFECTED.

The programs that may be integrated in any such plan referred to in section 4 shall include any program under which an Indian tribe is eligible for receipt of funds under a statutory or administrative formula for the purposes of prevention, diagnosis or treatment of alcohol and other substance abuse problems and disorders, or any program designed to enhance the ability to treat, diagnose or prevent alcohol and other substance abuse and related problems and disorders.

SEC. 6. PLAN REQUIREMENTS.

For a plan to be acceptable pursuant to section 4, it shall—

(1) Identify the programs to be integrated;

(2) be consistent with the purposes of this Act authorizing the services to be integrated into this project;

(3) describe a comprehensive strategy which identifies the full range of existing and potential diagnosis, treatment and prevention programs available on and near the tribe's service area;

(4) describe the way in which services are to be integrated and delivered and the results expected under the plan;

(5) identify the project expenditures under the plan in a single budget;

(6) identify the agency or agencies in the tribe to be involved in the delivery of the services integrated under the plan;

(7) identify any statutory provisions, regulations, policies or procedures that the tribe believes need to be waived in order to implement its plan; and

(8) be approved by the governing body of the tribe.

SEC. 7. PLAN REVIEW.

Upon receipt of the plan from a tribal government, the Secretary shall consult with the Secretary of each Federal agency providing funds to be used to implement the plan, and with the tribe submitting the plan. The parties consulting on the implementation of the plan submitted shall identify any waivers of statutory requirements or of Federal agency regulations, policies or procedures necessary to enable the tribal government to implement its plan. Notwithstanding any other provision of law, the Secretary of the affected agency shall have the authority to waive any statutory requirement, regulation, policy, or procedure promulgated by the affected agency that has been identified by the tribe or the Federal agency to be waived, unless the Secretary of the affected department determines that such a waiver is inconsistent with the purposes of this Act or those provisions of the statute from which the program involved derives its authority which are specifically applicable to Indian programs.

SEC. 8. PLAN APPROVAL.

Within 90 days after the receipt of a tribe's plan by the Secretary, the Secretary shall inform the tribe, in writing, of the Secretary's approval or disapproval of the plan, including any request for a waiver that is made as part of the plan submitted by the tribal government. If the plan is disapproved, the tribal government shall be informed, in writing, of the reasons for the disapproval and shall be given an opportunity to amend its plan or to petition the Secretary to reconsider such disapproval, including reconsidering the disapproval of any waiver requested by the Indian Tribe.

SEC. 9. FEDERAL RESPONSIBILITIES.

(a) RESPONSIBILITIES OF THE DEPARTMENT OF THE INTERIOR.—Within 180 days following the date of enactment of this Act, the Secretary of the Interior, the Secretary of Labor, the Secretary of Health and Human Services, the Secretary of Education, the Secretary of Housing and Urban Development, the United States Attorney General, the Secretary of Transportation, and the Director of the National Institutes of Health shall enter into an interdepartmental memorandum of agreement providing for the implementation of the plans authorized under this Act. The lead agency under this Act shall be the Bureau of Indian Affairs, Department of the Interior. The responsibilities of the lead agency shall include—

(1) the use of a single report format related to the plan for the individual project which shall be used by a tribe to report on the activities undertaken by the plan;

(2) the use of a single report format related to the projected expenditures of the individual plan which shall be used by a tribe to report on all plan expenditures;

(3) the development of a single system of Federal oversight for the plan, which shall be implemented by the lead agency; and

(4) the provision of technical assistance to a tribe appropriate to the plan, delivered under an arrangement subject to the approval of the tribe participating in the project, except that a tribe shall have the authority to accept or reject the plan for providing the technical assistance and the technical assistance provider; and

(5) the convening by an appropriate official of the lead agency (whose appointment is subject to the confirmation of the Senate) and a representative of the Indian tribes that carry out projects under this Act, in consultation with each of the Indian tribes that * * *.

By Mr. CAMPBELL:

S. 1508. A bill to provide technical and legal assistance for tribal justice systems and members of Indian tribes, and for other purposes; to the Committee on Indian Affairs.

NATIVE JUSTICE SYSTEMS ENHANCEMENT ACT

Mr. CAMPBELL. Mr. President, today I introduce the ''Indian Tribal Justice System Technical and Legal Assistance Act of 1999'' to bolster earlier efforts to strengthen Indian tribal justice systems such as the Indian Tribal Justice Act of 1933. I want to be clear: the legislation I am introducing today is intended to complement, not substitute for, the 1993 Act.

Unfortunately, most Native Americans continue to live in abject poverty and as with other indigent groups, access to legal assistance is poor.

In 1997 the Department of Justice published a report showing that crime, particularly violent crime, is rampant on Indian lands. The Congress and the Administration both properly responded with an infusion of millions of dollars for crime prevention, prosecution and detention.

There is also a huge need civil legal assistance in Native communities that is not now being met and that is one of the aims of the bill I am introducing today.

Since the late 1960's Indian Legal Services (''ILS'') organizations have stepped into the fray to provide basic legal service to individual Native Americans and tribes whose members

fall within the federal poverty guidelines.

There are now 30 Indian legal service organizations—very small programs which receive the bulk of their funds from the Legal Services Corporation (LSC). ILS programs provide basic, bread-and-butter legal representation to individual Indian people, and small tribes, throughout the United States.

In addition to providing legal help to individual Natives, ILS assists tribes in developing tribal justice systems, including training court personnel, and strengthening the capacity of tribal courts to handle both civil and criminal matters.

The ILS organizations have been involved in developing written codes on tribal law and practice and procedure in tribal courts, training tribal judges, developing tribal court ''lay advocate'' programs and training lay advocates, and the developing tribal ''peacemaking'' systems which are traditional alternative dispute resolution methods.

The ILS programs carrying out these key functions include the DNA Legal Services of Arizona, New Mexico and Utah; the Michigan Indian Legal Services; the Dakota Plains Legal Services; Wisconsin Judicare; Idaho Legal Aid Services; Oklahoma Indian legal Services; Pine Tree Legal Assistance of Maine, and many others.

Together, tribal governments and the ILS organizations work to ensure that Native justice systems work and that Natives and non-Natives alike have confidence in tribal justice systems and institutions.

Generating that confidence is important for a variety of reasons. For instance, there are many factors determining whether or not a Native community can be competitive and attract investment and business activities to boost employment: a solid physical infrastructure, a skilled and healthy workforce, access to capital, and a governing structure that encourages risk taking and entrepreneurship.

Part of such an environment is a judicial system that instills confidence in businesses as well as individuals that disputes can be settled fairly, that contracts will be honored, and that the governed recognize the government's authority as legitimate.

A disordered system does not foster that confidence. Whether or not individuals will have access to legal services and well-ordered tribunals is key to development.

A strong ''legal infrastructure'' is widely recognized in American business circles as a necessary condition for business development whether it be in Russian, Indonesia, inner city America, or on Indian lands.

Within existing appropriations, the bill I am introducing authorizes the Attorney General, in consultation with the Office of Tribal Justice, to provide assistance to legal service organizations and non-profit entities to help build capacity of tribal courts and tribal justice systems so that confidence in these systems can be augmented, and much-needed legal assistance will be provided.

The three areas targeted for assistance are training for tribal judicial personnel, tribal civil legal assistance, and tribal criminal assistance.

I believe that in addition to regulatory reform, physical infrastructure, and development assistance, strengthening tribal justice systems is another component in bringing real development to tribal economies and government.

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

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

S. 1508

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

SECTION 1. SHORT TITLE.

This Act may be cited as the Indian Tribal Justice Technical and Legal Assistance Act of 1999.

SEC. 2. FINDINGS.

The Congress finds and declares that—

1) There is a a government-to-government relationship between the United States and Indian tribes;

2) Indian tribes are sovereign entities and are responsible for exercising governmental authority over Indian tribes;

3) The rate of violent crime committed in Indian country is approximately twice the rate of violent crime committed in the United States as a whole;

4) In any community, a high rate of violent crime is a major obstacle to investment, job creation and economic growth;

5) Tribal justice systems are an essential part of tribal governments and serve as important forums for ensuring the health and safety and the political integrity of tribal governments;

6) Congress and the Federal courts have repeatedly recognized tribal justice systems as the most appropriate forums for the adjudication of disputes affected personal and property rights on Native lands;

7) Enhancing tribal court systems and improving access to those systems serves the dual Federal goals of tribal political self-determination and economic self-sufficiency;

8) There is both inadequate funding and an inadequate coordinating mechanism to meet the technical and legal assistance needs of tribal justice systems and this lack of adequate technical and legal assistance funding impairs their operation;

9) Tribal court membership organizations have served a critical role in providing training and technical assistance for development and enhancement of tribal justice systems;

10) Indian legal services programs, as funded partially through the Legal Services Corporation, have an established record of providing cost effective legal assistance to Indian people in tribal court forums, and also contribute significantly to the development of tribal courts and tribal jurisprudence; and

11) The provision of adequate technical assistance to tribal courts and legal assistance to both individuals and tribal courts is an essential element in the development of strong tribal court systems.

SEC. 3. PURPOSES.

The purposes of this Act are as follows:

(1) To carry out the responsibility of the United States to Indian tribes and members of Indian tribes by ensuring access to quality technical and legal assistance;

(2) To strengthen and improve the capacity of tribal court systems that address civil and criminal causes of action under the jurisdiction of Indian tribes;

(3) To strengthen tribal governments and the economies of Indian tribes through the enhancement and, where appropriate, development of tribal court systems for the administration of justice in Indian country by providing technical and legal assistance services;

(4) To encourage collaborative efforts between national or regional membership organizations and associations whose membership consists of judicial system personnel within tribal justice systems; non-profit entities which provide legal assistance services for Indian tribes, members of Indian tribes, and/or tribal justice systems; and

(5) To assist in the development of tribal judicial systems by supplementing prior Congressional efforts such as the Indian Tribal Justice Act (Public Law 103–176).

SEC. 4. DEFINITIONS.

For purposes of this Act:

(1) ATTORNEY GENERAL.—The term ''Attorney General'' means the Attorney General of the United States.

(2) INDIAN LANDS.—The term ''Indian lands'' shall include lands within the definition of ''Indian country'', as defined in 18 USC 1151; or ''Indian reservations'', as defined in section 3(d) of the Indian Financing Act of 1974, 25 USC 1452(d), or section 4(10) of the Indian Child Welfare Act, 25 USC 1903(10). For purposes of the preceding sentence, such section 3(d) of the Indian Financing Act shall be applied by treating the term ''former Indian reservations in Oklahoma'' as including only lands which are within the jurisdictional area of an Oklahoma Indian Tribe (as determined by the Secretary of Interior) and are recognized by such Secretary as eligible for trust land status under 25 CFR Part 151 (as in effect on the date of enactment of this sentence).

(3) INDIAN TRIBE.—The term ''Indian tribe'' means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native entity, which administers justice or plans to administer justice under its inherent authority or the authority of the United States and which is recognized as eligible for the special programs and services provided by the United States to Indian tribes because of their status as Indians.

(4) JUDICIAL PERSONNEL.—The term ''judicial personnel'' means any judge, magistrate, court counselor, court clerk, court administrator, bailiff, probation officer, officer of the court, dispute resolution facilitator, or other official, employee, or volunteer within the tribal judicial system.

(5) NON-PROFIT ENTITIES.—The term ''non-profit entity'' or ''non-profit entities'' has the meaning given that term in section 501(c)(3) of the Internal Revenue Code.

(6) OFFICE OF TRIBAL JUSTICE.—The term ''Office of Tribal Justice'' means the Office of Tribal Justice in the United States Department of Justice.

(7) TRIBAL JUSTICE SYSTEM.—The term ''tribal court'', ''tribal court system'', or ''tribal justice system'' means the entire judicial branch, and employees thereof, of an Indian tribe, including, but not limited to, traditional methods and fora for dispute resolution, tribal courts, appellate courts, including inter-tribal appellate courts, alternative dispute resolution systems, and circuit rider systems, established by inherent tribal authority whether or not they constitute a court of record.

TITLE I—TRAINING AND TECHNICAL ASSISTANCE, CIVIL AND CRIMINAL LEGAL ASSISTANCE GRANTS

SEC. 101. TRIBAL JUSTICE TRAINING AND TECHNICAL ASSISTANCE GRANTS

Subject to the availability of appropriations, the Attorney General, in consultation with the Office of Tribal Justice, shall award grants to national or regional membership organizations and associations whose membership consists of judicial system personnel within tribal justice systems which submit an application to the Attorney General in such form and manner as the Attorney General may prescribe to provide training and technical assistance for the development, enrichment, enhancement of tribal justice systems, or other purposes consistent with this Act.

SEC. 102. TRIBAL CIVIL LEGAL ASSISTANCE GRANTS.

Subject to the availability of appropriations, the Attorney General, in consultation with the Office of Tribal Justice, shall award grants to non-profit entities, as defined under section 501(c)(3) of the Internal Revenue Code, which provide legal assistance services for Indian tribes, members of Indian tribes, or tribal justice systems pursuant to federal poverty guidelines that submit an application to the Attorney General in such form and manner as the Attorney General may prescribe for the provision of civil legal assistance to members of Indian tribes and tribal justice systems, and/or other purposes consistent with this Act.

SEC. 103. TRIBAL CRIMINAL ASSISTANCE GRANTS.

Subject to the availability of appropriations, the Attorney General, in consultation with the Office of Tribal Justice, shall award grants to non-profit entities, as defined by section 501(c)(3) of the Internal Revenue Code, which provide legal assistance services for Indian tribes, members of Indian tribes, or tribal justice systems pursuant to federal poverty guidelines that submit an application to the Attorney General in such form and manner as the Attorney General may prescribe for the provision of criminal legal assistance to members of Indian tribes and tribal justice systems, and/or other purposes consistent with this Act. Funding under this Title may apply to programs, procedures, or proceedings involving adult criminal actions, juvenile delinquency actions, and/or guardian-ad-litem appointments arising out of criminal or delinquency acts.

SEC. 104. NO OFFSET.

No Federal agency shall offset funds made available pursuant to this Act for Indian tribal court membership organizations or Indian legal services organizations against other funds otherwise available for use in connection with technical or legal assistance to tribal justice systems or members of Indian tribes.

SEC. 105. TRIBAL AUTHORITY.

Nothing in this Act shall be construed to—

(1) encroach upon or diminish in any way the inherent sovereign authority of each tribal government to determine the role of the tribal justice system within the tribal government or to enact and enforce tribal laws;

(2) diminish in any way the authority of tribal governments to appoint personnel;

(3) impair the rights of each tribal government to determine the nature of its own legal system or the appointment of authority within the tribal government;

(4) alter in any way any tribal traditional dispute resolution fora;

(5) imply that any tribal justice system is an instrumentality of the United States; or

(6) diminish the trust responsibility of the United States to Indian tribal governments and tribal justice systems of such governments.

SEC. 106. AUTHORIZATION OF APPROPRIATIONS.

For purposes of carrying out the activities under this Act, there are authorized to be appropriated such sums as are necessary for fiscal years 2000 through 2004.

By Mr. CAMPBELL:

S. 1509. A bill to amend the Indian Employment, Training, and Related Services Demonstration Act of 1992, to emphasize the need for job creation on Indian reservations, and for other purposes; to the Committee on Indian Affairs.

INDIAN EMPLOYMENT, TRAINING AND JOB CREATION

Mr. CAMPBELL. Mr. President, I am pleased to introduce the Indian Employment, Training, and Related Services Demonstration Act Amendments of 1999.

This bill will amend Public Law 102–477, better known as ''the 477 law'' that authorizes Indian tribes and tribal organizations to bring together many federal employment and training programs, consolidate them into one plan, and in the process achieve an efficiency that otherwise would not be possible.

The 1992 Act allows tribes to submit one comprehensive plan, to one agency, and in the process to bring together resources from the Departments of Interior, Labor, Health and Human Services, and others for purposes of employment training.

The keys to the success of ''477'' is that it is entirely voluntary—with tribes deciding for themselves whether to take advantage of its benefits; and second, it involves no federal appropriations of funds to administer it. Participating tribes report that the elimination of paperwork and bureaucracy are as important as is the administrative flexibility that ''477'' provides to tribes.

The focus of the 1996 federal welfare reform laws now being implemented by states and Indian tribes is on getting and retaining employment.

For Native American communities, many of whom suffer unemployment rates in the 80 to 90 percent range, job opportunities are difficult to come by and as a result the success of the 1996 law in Native communities is threatened.

In the 106th Congress the Committee on Indian Affairs has put economic and business development on Native lands at the center of its agenda. In addition to regulatory reform, physical infrastructure, and access to capital, part of the agenda must be to find creative efforts to maximize scarce federal resources for Indian development.

By all accounts, the 1992 Act has been a success for Native people struggling to get employment and training and other services related to the world of work.

The bill I am introducing today will build on that success and liberalize tribal authority under the statute, authorize actual job-creation activities, permit regional consortia of Alaska Native entities to participate in the program, and require that the agencies and the ''477 tribes'' begin to take the next steps in enlarging the scope of ''477'' by bringing in the resources of additional agencies whose mission is related to human resource, physical infrastructure, and economic development assistance generally.

A feasibility study and report are due to the authorizing committees not later than one year after enactment of the legislation.

As the Self Governance model has already shown, putting tribes in the driver's seat results in better services to consumers, more efficient administrative frameworks, and often times a savings in federal resources. This bill will improve on an already-successful program and help Native communities provide employment training and jobs to their citizens.

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. 1509

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 ''Indian Employment, Training and Related Services Demonstration Act Amendments of 1999''.

SEC. 2. FINDINGS, PURPOSES.

(a) FINDINGS.—The Congress finds that:

(1) Indian tribes and Alaska Native organizations that have participated in carrying out programs under the Indian Employment, Training, and Related Services Demonstration Act of 1992 (25 U.S.C. 3401 et seq.) have—

(A) improved the effectiveness of employment-related services provided by those tribes and organizations to their members;

(B) enabled more Indian and Alaska Native people to prepare for and secure employment;

(C) assisted in transitioning tribal members from welfare to work; and

(D) otherwise demonstrated the value of integrating employment, training, education and related services.

(5) the initiatives under the Indian Employment, Training, and Related Services Demonstration Act of 1992 should be strengthened by ensuring that all federal programs that emphasize the value of work may be included within a demonstration program of an Indian or Alaska Native organization;

(6) the initiatives under the Indian Employment, Training, and Related Services Demonstration Act of 1992 should have the benefit of the support and attention of the officials with policymaking authority of

(A) the Department of the Interior;

(B) other federal agencies that administer programs covered by the Indian Employment, Training and Related Services Demonstration Act of 1992.

(b) PURPOSES.—The purposes of this Act are to demonstrate how Indian tribal governments and integrate the employment, training and related services they provide in order to improve the effectiveness of those services, reduce joblessness in Indian communities, foster economic development on Indian lands, and serve tribally-determined goals consistent with the policies of self-determination and self-governance.

SEC. 3. AMENDMENTS TO THE INDIAN EMPLOYMENT, TRAINING AND RELATED SERVICES DEMONSTRATION ACT OF 1992.

(a) DEFINITIONS.— Section 3 of the Indian Employment, Training, and Related Services Demonstration Act of 1992 (25 USC 3402) is amended—

(1) by redesignating paragraphs (1) through (3) as paragraphs (2) through (4), respectively; and

(2) by inserting before paragraph (2) the following:

''(1) FEDERAL AGENCY.—The term ''federal agency'' has the same meaning given the term ''agency'' in section 551(1) of title 5, United States Code''.

(b) PROGRAMS AFFECTED.—Section 5 of the Indian Employment, Training, and Related Services Demonstration Act of 1992 (25 USC 3404) is amended by striking ''job training, tribal work experience, employment opportunities, or skill development, or any program designed for the enhancement of job opportunities or employment training'' and inserting the following: ''assisting Indian youth and adults to succeed in the workforce, encouraging self-sufficiency, familiarizing Indian youth and adults with the world of work, facilitating the creation of job opportunities and any services related to these activities.''

''(c) PLAN REVIEW.—Section 7 of the Indian Employment, Training, and Related Services Demonstration Act of 1992 (25 USC 3406) is amended)—

(1) by striking ''Federal department'' and inserting ''Federal agency'';

(2) by striking Federal departmental'' and inserting ''Federal agency'';

(3) by striking ''department'' each place it appears and inserting ''agency''; and

(4) in the third sentence, by inserting ''statutory requirement'', after ''to waive any''.

''(d) PLAN APPROVAL.—Section 8 of the Indian Employment, Training, and Related Services Demonstration Act of 1992 (25 USC 3407) is amended—

(1) in the first sentence, by inserting before the period at the end the following; '', including any request for a waiver that is made as part of the plan submitted by the tribal government'';

(2) in the second sentence, by inserting before the period at the end the following: '', including reconsidering the disapproval of any waiver requested by the Indian tribe''.

''(e) JOB CREATION ACTIVITIES AUTHORIZED.—Section 9 of the Indian Employment, Training, and Related Services Demonstration Act of 1992 (25 USC 3407) is amended—

(1) by inserting ''(a) In General—'' before ''The plan submitted''; and

(2) by adding at the end the following:

''(b) JOB CREATION OPPORTUNITIES.—

(1) IN GENERAL.—Notwithstanding any other provisions of law, including any requirement of a program that is integrated under a plan under this Act, a tribal government may use a percentage of the funds made available under this Act (as determined under paragraph (2)) for the creation of employment opportunities, including providing private sector training placement under section 10.

(2) DETERMINATION OF PERCENTAGE.—The percentage of funds that a tribal government may use under this subsection is the greater of—

''(A) the rate of unemployment in the service area of the tribe up to a maximum of 25 percent; or

''(B) 10 percent.

''(c) LIMITATION.—The funds used for an expenditure described in subsection (a) may only include funds made available to the Indian tribe by a federal agency under a statutory or administrative formula''.

SEC. 3. ALASKA REGIONAL CONSORTIA.

The Indian Employment, Training, and Related Services Demonstration Act of 1992 is amended by adding at the end the following:

''SEC. 19. ALASKA REGIONAL CONSORTIA.

(a) IN GENERAL.—Notwithstanding any other provision of law, subject to subsection (b), the Secretary shall permit a regional consortium of Alaska Native villages or regional or village corporations (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) to carry out a project under a plan that meets the requirements of this Act through a resolution adopted by the governing body of that consortium or corporation.

(b) WITHDRAWAL.—Nothing in subsection (a) is intended to prohibit an Alaska Native village from withdrawing from participation in any portion of a program conducted pursuant to this Act.

SEC. 5. REPORT ON EXPANDING THE OPPORTUNITIES FOR PROGRAM INTEGRATION.

Not later than one year after the date of enactment of this Act, the Secretary, the Secretary of Health and Human Services, the Secretary of Labor, and the tribes and organizations participating in the integration initiative under this Act shall submit a report to the Committee on Indian Affairs of the Senate and the Committee on Resources of the House of Representatives on the opportunities for expanding the integration of human resource development and economic development programs under this Act, and the feasibility of establishing Joint Funding Agreements to authorize tribes to access and coordinated funds and resources from various agencies for purposes of human resources development, physical infrastructure development, and economic development assistance in general. Such report shall identify programs or activities which might be integrated and make recommendations for the removal of any statutory or other barriers to such integration.

SEC. 6. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on the date of enactment of this Act.

By Mr. MCCAIN (for himself, Mrs. HUTCHISON, Mrs. FEINSTEIN, and Mr. MURKOWSKI):

S. 1510. A bill to revise the laws of the United States appertaining to United States cruise vessels, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE UNITED STATES SHIP TOURISM DEVELOPMENT ACT OF 1999

Mr. MCCAIN. Mr. President, today I, with Senators HUTCHISON, FEINSTEIN, and MURKOWSKI, are introducing the United States Cruise Ship Tourism Development Act of 1999. The purposes of this bill is to provide increased domestic cruise opportunities for the American cruising public by temporarily reducing barriers to operation in the domestic cruise market. I want to start by thanking Senator HUTCHISON, who as Chairman of the Surface Transportation and Merchant Marine Subcommittee is continuing her efforts to help rebuild our nation's cruise ship industry. She along with Senators FEINSTEIN and MURKOWSKI are great partners to have as this legislation moves forward.

Americans today have a wide variety of choices when it comes to vacationing on large oceangoing cruise ships. However, due to barriers to entry that were created in 1886, the itineraries, with few exceptions, do not include domestic trade. Large cruise ship domestic trade options are currently limited to one ocean going cruise vessel in Hawaii. Also, the U.S. port calls on international itineraries are heavily concentrated in Florida and Alaska due to the proximity of these states to neighboring countries. This means that America's cruising public is denied the opportunity to cruise to many attractive U.S. port destinations, and those ports are denied the economic benefits of those visits.

We have an opportunity in this Congress to temporarily reduce barriers for entry into the domestic cruise ship trade, creating new U.S. jobs, and generating millions of dollars in new U.S. business without any cost to existing U.S. jobs. During the 105th Congress three separate bills addressing the domestic cruise ship trade were referred to the Commerce Committee. Unfortunately, we were not able to reach a consensus on any measure that would remove the barriers created in the law measure that would remove the barriers created in the law commonly referred to as the Passenger Vessel Services Act. I am hopeful that the bill that we are introducing today will see more success.

While I have made it clear in the past that I would like to do away with the trade barriers contained in the Passenger Vessel Services Act, this bill does not do that. What this bill does do is allow the Secretary of Transportation a limited time to waive certain coastwise trade restrictions. It is my strong belief that this will stimulate growth and opportunity within the domestice cruise ship trade with the beneficiaries being U.S. port cities and business, and more importantly, the millions of American citizens who want to be able to enjoy cruising between U.S. ports. I expect some of my colleagues on the on the Commerce Committee may want to make additional changes to this bill in Committee. I look forward to working these issues out with them in the coming months.

I believe it is important for this Congress to take action on this issue in order to maximize the economic growth potential of the domestic cruise ship trade and the cruising opportunities for America's public.

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

S. 1510

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 SECTIONS.

(a) SHORT TITLE.—This Act may be cited as the ''United States Cruise Ship Tourism Development Act of 1999''.

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

SEC. 2. DEFINITIONS.

In this Act:

(1) ELIGIBLE CRUISE VESSEL.—The term ''eligible cruise vessel'' means a cruise vessel that—

(A) is documented under the laws of the United States or the laws of another country;

(B) is not otherwise qualified to engage in the coastwise trade between ports in the United States;

(C) was delivered after January 1, 1980;

(D) provides a full range of overnight accommodations, entertainment, dining, and other services for its passengers;

(E) has a fixed smoke detection and sprinkler system installed throughout the accommodation and service spaces, or will have such a system installed within the time period required by the 1992 Amendments to the Safety of Life at Sea Convention of 1974; and

(F) displaces—

(i) greater than 20,000 gross registered tons; or

(ii) more than 9,000 gross registered tons and has an all-suites luxury configuration with a minimum of 240 square feet per revenue room.

(2) ITINERARY.—The term ''itinerary'' means the route travelled by a cruise vessel on a single voyage that begins at the first port of embarkation for passengers on that voyage, includes each port at which the vessel docks before the last port of disembarkation for such passengers, and ends at that last port of disembarkation.

(3) OPERATING DAY.—The term ''operating day'' means a day of the week on which a vessel embarks, transports, or disembarks passengers.

(4) OPERATOR.—The term ''operator'' means the owner, operator, or charterer.

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

(6) UNITED STATES-FLAG VESSEL.—The term ''United States-flag vessel'' means a vessel documented under subsection (a) or (d) of section 12102 of title 46, United States Code.

TITLE I—OPERATIONS UNDER PERMIT

SEC. 101. DOMESTIC CRUISE VESSEL.

(a) IN GENERAL.—Notwithstanding the provisions of section 8 of the Act of June 19, 1886 (46 U.S.C. App. 289), or any other provision of law, the Secretary may issue a permit for an eligible cruise vessel to operate in domestic itineraries in the transportation of passengers in the coastwise trade between ports in the United States.

(b) MAXIMUM OPERATING DAYS.—An eligible cruise vessel not documented under the laws of the United States that is operated under a permit issued by the Secretary under subsection (a) may not be operated under that permit for more than 200 operating days.

(c) EXPIRATION OF PERMIT AUTHORITY.—Except as otherwise provided in section 201 of this Act, a permit issued by the Secretary under subsection (a) shall terminate December 31, 2006.

(d) OPERATING WINDOW.—The authority of the Secretary to issue a permit under subsection (a) begins on the day after the date of enactment of this Act and terminates on the day that is 3 years after that date.

SEC. 102. DOMESTIC ITINERARY OPERATING REQUIREMENTS.

(a) IN GENERAL.—Except as provided in section 104 of this Act, the Secretary may not approve an itinerary for a voyage commencing less than 1 year after the date of enactment of this Act requested by an eligible cruise vessel that is not documented under the laws of the United States.

(b) REGULATORY REQUIREMENTS.—The Secretary may not issue a permit under section 101(a) for an eligible cruise vessel not documented under the laws of the United States unless the operator establishes to the satisfaction of the Secretary that, except as otherwise provided in this Act, the vessel will be operated in full compliance with all rules, regulations, and operating requirements relating to health, safety, environmental protection and other appropriate operational standards (as determined by the Secretary), that would apply to any United States-flag cruise vessel operating in domestic itineraries in the transportation of passengers under a permit issued under section 101(a). The Secretary shall issue final rules under this section within 180 days after the date of enactment of this Act.

(c) REPAIRS.—

(1) IN GENERAL.—The Secretary may not issue a permit under section 101(a) for an eligible cruise vessel unless the operator establishes to the satisfaction of the Secretary that—

(A) any repair, maintenance, alteration, or other preparation of the vessel for operation under a permit issued under section 101(a) has been, or will be, performed in a United States shipyard; and

(B) any repair or maintenance of the vessel after a permit is issued under that section and before the expiration of the operating limitation period in section 101(b) will be performed in a United States shipyard.

(2) WAIVER.—The Secretary may waive the requirements of paragraph (1) if the Secretary finds that the repair, maintenance, alterations, or other preparation services are not available in the United States or if an emergency dictates that the ship proceed to a foreign port.

(d) ESCROW ACCOUNT.—The Secretary may not issue a permit under section 101(a) for an eligible cruise vessel unless the operator agrees to deposit $5 for each passenger embarking on that vessel while operating under the permit into the escrow fund established under section 1108 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1270a).

(e) COMPLIANCE.—If the Secretary determines that an eligible cruise vessel is not in compliance with any commitment made to the Secretary by its operator under this Act, the permit issued for that vessel under section 101(a) shall be null and void.

SEC. 103. CERTAIN OPERATIONS PROHIBITED.

An eligible cruise vessel operating in domestic itineraries under a permit issued under section 101(a) may not—

(1) operate as a ferry;

(2) regularly carry for hire both passengers and vehicles or other cargo; or

(3) operate between or among the islands of Hawaii.

SEC. 104. LIMITED EMPLOYMENT OF FOREIGN-FLAG CRUISE SHIPS IN THE COASTWISE TRADE OF THE UNITED STATES.

(a) IN GENERAL.—Notwithstanding section 12106 of title 46, United States Code, section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), and section 8 of the Act of June 19, 1886 (46 U.S.C. App. 289), the Secretary may approve the employment in the coastwise trade of the United States of an eligible cruise vessel operating under a permit issued under section 101(a) of this Act for repositioning as provided by under subsection (b) or for charter as provided by subsection (c).

(b) REPOSITIONING.—An eligible cruise vessel not documented under the laws of the United States operating under a permit issued under section 101(a) of this Act may be employed in the coastwise trade during the first year after the date of enactment of this Act for not more than 2 voyages, the coastwise trade portion of which does not exceed 2 weeks and includes transportation of passengers for hire—

(1) from one coast of the United States through the Panama Canal to another coast of the United States; or

(2) along one coast of the United States during a voyage between 2 foreign countries.

(c) CHARTERS.—An eligible cruise vessel not documented under the laws of the United States operating under a permit issued under section 101(a) of this Act may be employed in the coastwise trade during the first year after the date of enactment of this Act if it is time-chartered to a charterer that—

(1) does not own or operate a cruise ship; and

(2) is not affiliated with an owner or operator of a cruise ship.

(d) PRIORITIES.—Section 105 applies to vessels employed in the coastwise trade under this section.

SEC. 105. PRIORITIES WITHIN DOMESTIC MARKETS.

(a) IN GENERAL.—The Secretary shall, by regulation, establish a priority system for cruise vessels providing passenger service in domestic itineraries within 180 days after the date of enactment of this Act.

(b) PRIORITY TO U.S.-BUILT OR U.S.-REBUILT VESSELS.—Under the regulations to be prescribed by the Secretary, a cruise vessel built or rebuilt in the United States and documented under the laws of the United States shall have priority over any other cruise vessel of comparable size operating in a comparable market under a permit issued under section 101(a).

(c) PRIORITY TO U.S.-FLAG VESSELS.—The Secretary shall prescribe regulations under which a cruise vessel documented under the laws of the United States that is not built or rebuilt in the United States has priority over an eligible cruise vessel of comparable size not documented under the laws of the United States that is operating in a comparable market.

(d) FACTORS CONSIDERED.—In determining and assigning priorities under the regulations, the Secretary shall consider, among other factors determined by the Secretary to be appropriate—

(A) the scope of a vessel's itinerary;

(B) the time frame within which the vessel will serve a particular itinerary; and

(C) the size of the vessel.

(e) IMPLEMENTATION.—

(1) INTINERARY SUBMISSION REQUIRED.—An eligible cruise vessel may not be operated in a domestic itinerary unless the operator has submitted a proposed itinerary for that vessel, in accordance with this subsection, for cruise itineraries for the calendar year beginning 2 years after the date on which the itinerary is required to be submitted under paragraph (2).

(2) TIME AND MANNER OF SUBMISSION.—Each operator of an eligible cruise vessel to be operated in a domestic itinerary shall submit a proposed itinerary to the Secretary in the form required by the Secretary in February

of each year beginning after the date of enactment of this Act.

(3) REVISIONS AND LATER SUBMISSIONS.—The Secretary shall permit late submissions and revisions of submissions after the final list of approved itineraries is published under paragraph (4)(C) and before the date that is 90 days before the start date of a requested itinerary, but a late submission or revision by a higher priority cruise vessel may not displace a priority assigned on the basis of timely submission by a lower priority cruise vessel. If operators of comparable vessels submit comparable requests within 30 days of each other, the priorities of this section apply at the discretion of the Secretary.

(4) SCHEDULING.—

(A) ACTION BY SECRETARY.—Within 60 days after receiving an itinerary submitted under this subsection, the Secretary shall—

(i) review the schedule for compliance with the priorities established by this section;

(ii) advise affected cruise ship operators of any specific itinerary that is not available and the reason it is not available; and

(iii) publish a proposed list of approved itineraries.

(B) OPERATORS RESPONSE.—If the Secretary advises an operator under subparagraph (A)(ii) that a requested itinerary is not available, the operator may respond to the Secretary's advice within 30 days after it is received by the operator by appealing the Secretary's decision or by submitting a new itinerary proposal.

(C) RESOLUTION OF CONFLICTS.—As soon as practicable after the end of the 30-day period described in subparagraph (B), the Secretary shall—

(i) resolve any appeals and consider new itinerary proposals;

(ii) advise cruise ship operators who responded under subparagraph (B) of the Secretary's decision with respect to the appeal or the new itinerary proposal; and

(iii) publish a final list of approved itineraries.

(f) ITINERARIES BEFORE FINAL LIST IS FIRST PUBLISHED.—

(1) REQUESTS.—For itineraries before the first calendar year for which the Secretary publishes a final list of approved itineraries under subsection (e), the operator of a cruise vessel may submit a request for an itinerary to be sailed before that calendar year.

(2) CONFLICTING HIGHER PRIORITY USE.—If the itinerary submitted by an operator under paragraph (1) conflicts with an itinerary in use by a vessel with a higher priority under this section, the Secretary shall disapprove the request and notify the operator of the disapproval and the reason for the disapproval within 5 days (Saturdays, Sundays, and legal public holidays (as defined in section 6103 of title 5, United States Code, excepted) after the request is received.

(3) NO INITIAL CONFLICT.—If the itinerary submitted by an operator under paragraph (1) does not conflict with an itinerary in use by a vessel with a higher priority under this section, the Secretary shall publish the request and the requested itinerary immediately. If, within 30 days after the request is published, the operator of a cruise vessel with a higher priority under this section requests the use of the published itinerary, then the Secretary shall deny the published request and approve the request for the higher priority vessel. If no operator of a cruise vessel with a higher priority under this section requests the use of the published itinerary within 30 days after it is published, the Secretary shall approve the requested itinerary and publish notice of the approval.

(4) PUBLICATION OF INTERIM ITINERARIES.—Until the first publication of a final list of approved itineraries under subsection (e), the Secretary shall publish, on a quarterly basis, a list of itineraries approved under this subsection.

(g) REPORT.—The Secretary shall issue an annual report on the number of operating days used by each cruise vessel assigned a priority under this section.

SEC. 106. CONSTRUCTION STANDARDS.

An eligible cruise vessel for which the Secretary has issued a permit under section 101(a) is deemed to be in compliance with the requirements of section 3309 of title 46, United States Code, if it meets the standards and conditions for the issuance of a control verification certificate for a cruise vessel documented under the laws of a foreign country embarking passengers in the United States.

TITLE II—POST-PERMIT OPERATIONS OF ELIGIBLE CRUISE VESSELS

SEC. 201. CONTINUED OPERATION IN DOMESTIC ITINERARY REQUIREMENTS.

(a) IN GENERAL.—After the expiration of its period of operations under a permit issued under section 101(a), an eligible cruise vessel not documented under the laws of the United States may not operate in domestic itineraries unless it meets the following conditions:

(1) DOCUMENTATION.—The vessel has been issued a certificate of documentation with a coastwise endorsement.

(2) OPERATING CREW; SUPPORT STAFF.—Each member of the vessel's operating crew licensed or certified by the United States Coast Guard is a citizen or resident alien of the United States as required by section 8103 of title 46, United States Code, and each individual employed aboard the vessel who is not a member of the operating crew is a citizen or permanent resident of the United States.

(b) CONSTRUCTION PLAN.—The operator of an eligible cruise vessel issued a permit under section 101(a) of this Act shall demonstrate to the satisfaction of the Secretary that, as of the date on which the vessel is documented under the laws of the United States—

(1) it has a plan for the construction of a cruise vessel in the United States; or

(2) it is a party to, or has made substantial progress toward entering into, an enforceable contract for the construction of such a vessel in the United States.

(c) EXPIRATION OF COASTWISE ENDORSEMENT.—The coastwise endorsement for an eligible cruise vessel operating under subsection (a) shall expire 24 months after the date on which construction is completed on the last vessel the operator of the eligible cruise vessel is obligated to construct in the United States under the contract described in subsection (b).

(d) REFLAGGING UNDER FOREIGN REGISTRY.—Notwithstanding section 9(c) of the Shipping Act, 1916 (46 U.S.C. App. 808), the operator of an eligible cruise ship issued a certificate of documentation with a coastwise endorsement, or a cruise vessel constructed under a contract described in subsection (a)(4), may place that vessel under foreign registry. The Secretary shall revoke the coastwise endorsement for any such vessel placed under foreign registry under this subsection permanently. Any vessel the coastwise endorsement for which is revoked under this subsection is not eligible thereafter for coastwise endorsement.

TITLE III—OTHER PROVISIONS

SEC. 301. AMENDMENT OF TITLE XI OF THE MERCHANT MARINE ACT, 1936.

(a) RISK FACTOR.—Section 1103(h) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1103(h)) is amended by adding at the end thereof the following:

''(5) For purposes of the risk factor described in paragraph (3)(I), the Secretary shall consider an applicant for a guarantee, or a commitment to guarantee, under subsection (a) an obligation in connection with a contract described in section 201(a)(4) of the United States Cruise Ship Tourism Development Act of 1999 to possess the necessary operating ability, experience, and expertise required if the applicant demonstrates to satisfaction of the Secretary that its personnel have the experience and ability to operate cruise vessels.''.

(b) QUALIFICATIONS.—Section 1104A(b) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1274(b)) is amended by adding at the end thereof the following:

''For purposes of paragraph (1), the Secretary shall consider an obligor with a contract described in section 201(b)(2) of the United States Cruise Ship Tourism Development Act of 1999 to possess the ability necessary to the adequate operation and maintenance of the cruise vessel that serves as security for the guarantee of the Secretary if the obligor demonstrates to the satisfaction of the Secretary that its personnel have the experience and ability to operate cruise vessels.''.

SEC. 302. APPLICATION WITH JONES ACT AND OTHER ACTS.

(a) IN GENERAL.—Nothing in this Act affects or otherwise modifies the authority contained in—

(1) Public Law 87-77 (46 U.S.C. App. 289b) authorizing the transportation of passengers and merchandise in Canadian vessels between ports in Alaska and the United States; or

(2) Public Law 98-563 (46 U.S.C. App. 289c) permitting the transportation of passengers between Puerto Rico and other United States ports.

(b) JONES ACT.—Nothing in this Act affects or modifies the Merchant Marine Act, 1920 (46 U.S.C. App. 861 et seq.).

SEC. 303. GLACIER BAY AND OTHER NATIONAL PARK SERVICE AREA PERMITS.

Notwithstanding the last sentence of section 3(g) of Public Law 91-383 (16 U.S.C. 1a-2(g)), the Secretary of the Interior, after consultation with the Secretary of Transportation, may issue new or otherwise available permits to United States-flag vessels carrying passengers for hire to enter Glacier Bay or any other area within the jurisdiction of the National Park Service. Any such permit shall not affect the rights of any person that, on the date of enactment of this Act, holds a valid permit to enter Glacier Bay or such other area.

By Mr. HARKIN (for himself, Mr. KENNEDY, Mr. DODD, Mr. ROBB, Mr. LEVIN, Mrs. MURRAY, and Mr. DASCHLE):

S. 1511. A bill to provide for education infrastructure improvement, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

21ST CENTURY SCHOOL MODERNIZATION ACT

• Mr. HARKIN. Mr. President, last month I had the honor of accompanying President Clinton and Education Secretary Richard Riley on a visit to Amos Hiatt Middle School in Des Moines, Iowa. We were joined by a high school teacher named Ruth Ann Gaines and an 8th grade student, Catherine Swoboda for a discussion on the need to modernize our nation's schools.

Hiatt Middle School opened its doors in 1925 and students spend all but a few hours a week in classrooms built during a time when Americans could not

imagine the technological advances that would occur by the end of the century.

In 1925, Americans were flocking to movie theaters to see—and hear—the first talking motion picture—Al Jolson's ''The Jazz Singer.'' The students who walked through the doors of the brand new Hiatt school that year could not imagine IMAX theaters with surround sound where a movie goer actually becomes a part of the film.

In 1925, consumers were lining up in department stores to buy novelties like electric phonographs, dial telephones, and self-winding watches. CDS, DVD players, cellular telephones or palm pilots were unthinkable.

And, the introduction of state-of-the art technologies like rural electrification and crop dusting were revolutionizing the lives of families and farmers alike.

There have been incredible technological and scientific advances in the past seven decades. Yet, our schools have not kept pace with the times. We continue to educate our children in schools built and equipped in bygone eras.

Mr. President, Iowa has a long and proud tradition when it comes to public education—a tradition which dates back to before statehood.

As a result of the Land Ordinance of 1785, every township in the new Western Territory was required to set aside 640 acres of land for support of public education. Iowa's first elementary school was established in 1830 and the first high school in 1850.

In 1858, the Iowa Free School Act laid the foundation for Iowa's public school system. By 1859 the state had 4,200 public schools—some in log cabins.

This long commitment to education has brought great results.

From 1870 on into this century, Iowa had the nation's highest literacy rate and the nation's highest test scores. Iowa students continue to do well but we must do better. Our public education system has served us well. But, the times have changed dramatically.

The thousands of one-room school houses that dotted the countryside served us well for many generations. But time marches on and so must our schools. Just as the pot-belly stove gave way to central heat; candles gave way for electric lights; the blackboard and chalk must make way for the computer. We must make sure that every child and every school can facilitate the technology of the 21st century. However, Iowa State University reports that we need at least $4 billion over the next ten years to repair and upgrade school buildings and Iowa and make sure they can effectively utilize educational technology.

Mr. President, the facts about the need to modernize and upgrade our nation's pubic school facilities are well known.

The General Accounting Office estimates that 14 million American children attend classes in schools that are unsafe or inadequate and it will cost $112 billion to upgrade existing public schools to overall good condition. In addition, GAO reports that 46 percent of schools lack adequate electrical wiring to support the full-scale use of technology.

Enrollment in elementary and secondary schools is at all time high and will continue to grow over the next 10 years making it necessary for the United States to build an additional 6,000 schools.

The American Society of Civil Engineers reports that public schools are in worse condition that any other sector of our national infrastructure. I ask unanimous consent that a report card on the nation's infrastructure be inserted in the record at the conclusion of my remarks.

To respond to this critical national problem, I am introducing the 21st Century School Modernization Act. I am pleased to have Senator KENNEDY, ROBB, LEVIN and MURRAY as cosponsors of this proposal.

This legislation reauthorizes direct federal grants to local school districts for the repair, renovation of construction of public schools. These grants are critically important to districts in impoverished areas that may not benefit from the tax-oriented proposals. Secondly, the bill builds a new partnership with states by creating State Infrastructure Banks to provide subsidized loans for school modernization purposes. Finally, the bill provides grants to assist school districts in the planning and design of new facilities that will serve as the center of the community.

The need to rebuild our nation's crumbling public schools is clear and I believe we must fight this battle on two critical fronts—this session's reauthorization of the Elementary and Secondary Education Act and by enacting legislation to provide targeted tax relief. The 21st Century School Modernization Act complements tax-oriented plans, such as those proposed by President Clinton and Senators DASCHLE, LAUTENBERG and ROBB, to provide school modernization tax credits to finance at least $25 billion in public school construction or renovation.

Mr. President, if the nicest thing our kids ever see are shopping malls, sports arenas, and movie theaters, and the most rundown place they see is their school, what signal are we sending them about the value we place on education and the future?

Let me give your some firsthand testimony from Jonathan Kozol's book, *Savage Inequalities*. Kozol writes about a school in Washington, D.C.'s low-income Anacostia district:

Tunisia, a fifth grader in Washington, D.C., tells Kozol:

It's like this. The school is dirty. There isn't any playground. There's a hole in the wall behind the principal's desk. What we need to do is first rebuild the school. Build a playground. Plant a lot of flowers. Paint the classrooms. Fix the hole in the principal's office. Buy doors for the toilet stalls in the girl's bathroom. Make it a beautiful clean building. Make it pretty. Way it is, I feel ashamed.

Tunisia tells the story better than any politician can. She faces it every day when the school bell rings. We can and we must do a better job for Tunisia and her peers.

This is a serious national problem. And, it demands a comprehensive national response. The 21st Century School Modernization Act is a key part of that comprehensive national response and I urge my colleagues to support this legislation.●

Mr. KENNEDY. Mr. President, I strongly support this proposal to invest more in rebuilding and modernizing the nation's schools. I commend Senator HARKIN for his leadership on this issue, and I urge my colleagues to support this legislation, which is necessary to help the nation meet the critical need to modernize and rebuild crumbling and overcrowded schools.

Schools, communities, and governments at every level have to do more to improve student achievement. Schools need smaller classes, particular in the early grades. They need stronger parent involvement. They need well-trained teachers in the classroom who keep up with current developments in their field and the best teaching practices. They need after-school instruction for students who need extra help, and after-school programs to engage students in constructive activities. They need safe, modern facilities with up-to-date technology.

But, all of these reforms will be undermined if facilities are inadequate. Sending children to dilapidated, overcrowded facilities sends a message to these children. It tells them they don't matter. No CEO would tolerate a leaky ceiling in the board room, and no teacher should have to tolerate it in the classroom. We need to do all we can to ensure that children are learning in safe, modern buildings.

I am also pleased to be a cosponsor of Senator ROBB'S Public School Modernization and Overcrowding Relief Act, which provides tax incentives to rebuild and modernize schools. Senator HARKIN'S bill is a necessary complement to that legislation. Although tax incentives are an important way to meet the nation's critical school infrastructure needs, they do not meet the needs of all communities. The neediest communities need our direct support—and they need it now.

Senator HARKIN'S legislation authorizes discretionary funds to help local school districts and states repair, renovate, and rebuild crumbling public schools. It provides targeted discretionary grants to public schools that have major needs. To do so, it creates a revolving loan fund at the state level, which would provide low-interest or no-interest loans to repair existing schools or construct new facilities. The legislation will also provide a grant to

help local school districts in the planning and design of new facilities that would include input from parents, teachers, and the community.

Nearly one third of all public schools are more than 50 years old. 14 million children in a third of the nation's schools are learning in substandard buildings. Half of all schools have at least one unsatisfactory environmental condition. The problems with ailing school buildings aren't the problems of the inner city alone. They exist in almost every community, urban, rural, or suburban.

In addition to modernizing and renovating dilapidated schools, communities need to build new schools in order to keep pace with rising enrollments and to reduce class sizes. Elementary and secondary school enrollment has reached an all-time high again this year of 53 million students, and will continue to grow.

The Department of Education estimates that 2,400 new public schools will be needed by 2003 to accommodate rising enrollments. The General Accounting Office estimates that it will cost communities $112 billion to repair and modernize the nation's schools. Congress should lend a helping hand and do all we can to help schools and communities across the country meet this challenge.

In Massachusetts, 41 percent of schools report that at least one building needs extensive repairs or should be replaced. 80 percent of schools report at least one unsatisfactory environmental factor. 48 percent have inadequate heating, ventilation, or air conditioning. And 36 percent report inadequate plumbing systems.

Last year, I visited Everett Elementary School in Dorchester. The school is experiencing serious overcrowding. The average class size is 28 students. The principal of the school gave up her office and moved into a closet in the hall in order to help accommodate rising enrollment. When the school wants to use the multi-purpose auditorium/library, the rolling bookcases are moved to the basement, and the library has to close for the rest of the day.

Two cafeterias at Bladensburg High School in Prince Georges County, Maryland were recently closed because they were infested with mice and roaches. A teacher commented, ''It's disgusting. It causes chaos when the mice run around the room.'' At an elementary school in Montgomery, Alabama, a ceiling which had been damaged by leaking water collapsed only 40 minutes after the children had left for the day.

Most of Los Angeles' school buildings are 30 to 70 years old. Enrollment rose from 539,000 in 1980 to 691,000 in 1998, an increase of 28 percent. District officials expect an additional 50,000 students over the next five years.

In Detroit, Michigan, over half—150 of the 263—school buildings were built before 1930. The average age is 61 years old, and some date to the 1800's. Detroit estimates that the city has $5 billion in unmet repair and new construction needs. Detroit voters approved a $1.5 billion, 15-year school construction program, but it's not enough.

New York City school enrollment has grown by 100,000 students, to a total of 1,083,000 since 1990. School officials expect up to an additional 90,000 students by 2004. P.S. 7 was built for 530 students, but 1,048 students are now enrolled. P.S. 108 was built for 280 students, however 808 students are now enrolled. New York City education officials have identified $7.5 billion in building needs.

Schools across the country are struggling to meet needs such as these, but they can't do it alone. The federal government should join with state and local governments and community organizations to ensure that all children have the opportunity for a good education in a safe and up-to-date school building.

Children need and deserve a good education in order to succeed in life. But they cannot obtain that education if school roofs are falling down around them, if sewage is backing up through faulty plumbing, if asbestos is flaking off the walls and ceilings, if schools lack computers and modern technology and classrooms are overcrowded. We need to help states and communities rebuild their crumbling schools, modernize old buildings, and expand facilities to accommodate reduced class sizes.

I urge my colleagues to support Senator HARKIN'S 21st Century Modernization Act. The time is now to do all we can to rebuild and modernize public schools, so that all children can learn in safe, well-equipped facilities.

By Mr. McCAIN:

S. 1512. A bill to provide educational opportunities for disadvantaged children, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

INTRODUCTION OF LEGISLATION REGARDING SCHOOL CHOICE

Mr. McCAIN. Mr. President, today, I am introducing legislation to authorize a three-year nationwide school choice demonstration program targeted at children from economically disadvantaged families. The program would expand educational opportunities for low-income children by providing parents and students the freedom to choose the best school for their unique academic needs, while encouraging schools to be creative and responsive to the needs of all students.

This legislation is identical to the school choice amendment which I offered on July 30, 1999 to S.1429, the Taxpayer Refund Act of 1999. I am gravely disappointed that the Senate failed to pass this amendment as a part of the Taxpayer Refund Act. However, I am committed to seeing it implemented before Congress adjourns this year and will be working with my colleagues on both sides of the aisle and on the Health, Education, Labor and Pensions Committee (HELP) to ensure that this measure is implemented before Congress adjourns, perhaps as a part of the legislation reauthorizing the Elementary and Secondary Education Act (ESEA).

This bill authorizes $1.8 billion annually for fiscal years 2001 through 2003 to be used to provide school choice vouchers to economically disadvantaged children through the nation. The funds would be divided among the states based upon the number of children they have enrolled in public schools. Then, each state would conduct a lottery among low-income children who attend the public schools with the lowest academic performance in their state. Each child selected in the lottery would receive $2,000 per year for three years to be used to pay tuition at any school of their choice in the state, including private or religious schools. The money could also be used to pay for transportation to the school or supplementary educational services to meet the unique needs of the individual student.

In total, this bill authorizes $5.4 billion for the three-year school choice demonstration program, as well as a GAO evaluation of the program upon its completion. The cost of this important test of school vouchers is fully offset by eliminating more than $5.4 billion in unnecessary and inequitable corporate tax loopholes which benefits the ethanol, sugar, gas and oil industries.

First, the legislation eliminates tax credits for ethanol producers, eliminating a $1.5 billion subsidy. Ethanol is an inefficient, expensive fuel that has not lived up to claims that it would reduce reliance on foreign oil or reduce impact on the environment. It takes more energy to produce a gallon of ethanol than the amount of energy that a gallon of ethanol contains. Ethanol tax credits are simply a subsidy for corn producers, and the amendment ends the taxpayers' support for this outdated program.

Second, the bill eliminates three subsidies enjoyed by the oil and gas industry, totaling $3.9 billion. It phases out oil and gas industry's special right to fully deduct capital costs for drilling, exploration and development; eliminates the 15 percent tax credit for recovering oil using particular methods; and ends special right of oil and gas property owners to claim unlimited passive losses under income and alternative minimum tax provisions. Subsidizing the cost of domestic production has not been shown to have reduced reliance on foreign oil or directly contributed to more efficient resource use or domestic productivity. This bill would end these special tax treatments.

Finally, this measure eliminates the special loan program for sugar producers and processors, worth $390 million. The federal government is burdened with an unnecessary and unprofitable loan program for bug sugar producers and enforcing mandated import

quotas on foreign sugar. Sugar price supports also force consumers to pay $1.4 billion every year in artificially inflated sugar prices. This bill simply eliminates the taxpayer-funded loan program in 2003 and immediately requires repayment of existing loans in case, rather than sugar.

These tax benefits and subsidies were originally intended to serve a limited purpose during times of economic recession and hardship in the 1970's. Our economy has long since recovered and I believe that these subsidies have outlived its purpose. The sunset of these programs will end these corporate welfare programs and return any remaining benefit back to our Nation's children.

Mr. President, we all know that one of the most important issues facing our nation is the education of our children. Providing a solid, quality education for each and every child in our nation is a critical component in their quest for personal success and fulfillment. A solid education for our children also plays a pivotal role in the success of our nation; economically, intellectually, civically and morally.

We must strive to develop and implement initiatives which strengthen and improve our education system thereby ensuring that our children are provided with the essential academic tools for succeeding professionally, economically and personally. I am sure we all agree that increasing the academic performance and skills of all our nation's students must be the paramount goal of any education reform we implement.

School vouchers are a viable method of allowing all American children access to high quality schools, including private and religious schools. Every parent should be able to obtain the highest quality education for their children, not just the wealthy. Tuition vouchers would finally provide low-income children trapped in mediocre, or worse, schools the same educational choices as children of economic privilege.

Some of my colleagues may argue that vouchers would divert money away from our nation's public schools and instead of instilling competition into our school systems we should be pouring more and more money into poor performing public schools. I respectfully disagree. While I support strengthening financial support for education in our nation, the solution to what ails our system is not simply pouring more and more money into it.

Currently our Nation spends significantly more money than most countries and yet our students scored lower than their peers from almost all of the forty countries which participated in the last Third International Mathematics and Science Study (TIMMS) test. Students in countries which are struggling economically, socially and politically, such as Russia, outscored U.S. children in math and scored far above them in advanced math and physics. Clearly, we must make significant changes beyond simply pouring more money into the current structure in order to improve our children's academic performance in order to remain a viable force in the world economy.

It is shameful that we are failing to provide many of our children with adequate training and quality academic preparation for the real world. The number of college freshman who require remedial courses in reading, writing and mathematics when they begin their higher education is unacceptably high. In fact, presently, more than 30 percent of entering freshman need to enroll in one or more remedial course when they start college. It does not bode well for our future economy if the majority of workers are not prepared with the basic skills to engage in a competitive global marketplace.

I concede that school vouchers are not the magic bullet for eradicating all that is wrong with our current educational system, but they are an important opportunity for providing improved academic opportunities for all children, not just the wealthy. Examination of the limited voucher programs scattered around our country reveal high levels of parent and student satisfaction, an increase in parental involvement, and a definite improvement in attendance and discipline at the participating schools. Vouchers encourage public and private schools, communities and parents to all work together to raise the level of education for all students. Through this bill, we have the opportunity to replicate these important attributes throughout all our nation's communities.

Thomas Jefferson said, ''The purpose of education is to create young citizens with knowing heads and loving hearts.'' If we fail to give our children the education they need to nurture their heads and hearts, then we threaten their futures and the future of our nation. Each of us is responsible for ensuring that our children have both the love in their hearts and the knowledge in their heads to not only dream, but to make their dreams a reality.

The time has come for us to finally conduct a national demonstration of school choice to determine the benefits or perhaps disadvantages of providing educational choices to all students, not just those who are fortunate enough to be born into a wealthy family. I urge my colleagues to support this bill and put the needs of America's school children ahead of the financial gluttony of big business.

Mr. President, I ask unanimous consent that a copy 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. 1512

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

TITLE I—EDUCATIONAL OPPORTUNITIES

SEC. 101. PURPOSES.

The purposes of this title are—

(1) to assist States to—

(A) give children from low-income families the same choices among all elementary and secondary schools and other academic programs as children from wealthier families already have;

(B) improve schools and other academic programs by giving parents in low-income families increased consumer power to choose the schools and programs that the parents determine best fit the needs of their children; and

(C) more fully engage parents in their children's schooling; and

(2) to demonstrate, through a 3-year national grant program, the effects of a voucher program that gives parents in low-income families—

(A) choice among public, private, and religious schools for their children; and

(B) access to the same academic options as parents in wealthy families have for their children.

SEC. 102. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this title (other than section 110) $1,800,000,000 for each of fiscal years 2001 through 2003.

(b) EVALUATION.—There is authorized to be appropriated to carry out section 110 $17,000,000 for fiscal years 2001 through 2004.

SEC. 103. PROGRAM AUTHORITY.

(a) IN GENERAL.—The Secretary shall make grants to States, from allotments made under section 104 to enable the States to carry out educational choice programs that provide scholarships, in accordance with this title.

(b) LIMIT ON FEDERAL ADMINISTRATIVE EXPENDITURES.—The Secretary may reserve not more than $1,000,000 of the amounts appropriated under section 102(a) for a fiscal year to pay for the costs of administering this title.

SEC. 104. ALLOTMENTS TO STATES.

(a) ALLOTMENTS.—The Secretary shall make the allotments to States in accordance with a formula specified in regulations issued in accordance with subsection (b). The formula shall provide that the Secretary shall allot to each State an amount that bears the same relationship to the amounts appropriated under section 102(a) for a fiscal year (other than funds reserved under section 103(b)) as the number of covered children in the State bears to the number of covered children in all such States.

(b) FORMULA.—Not later than 90 days after the date of enactment of this Act, the Secretary shall issue regulations specifying the formula referred to in subsection (a).

(c) LIMIT ON STATE ADMINISTRATIVE EXPENDITURES.—The State may reserve not more than 1 percent of the funds made available through the State allotment to pay for the costs of administering this title.

(d) DEFINITION.—In this section, the term ''covered child'' means a child who is enrolled in a public school (including a charter school) that is an elementary school or secondary school.

SEC. 105. ELIGIBLE SCHOOLS.

(a) ELIGIBILITY.—

(1) IN GENERAL.—Schools identified by a State under paragraph (2) shall be considered to be eligible schools under this title.

(2) DETERMINATION.—Not later than 180 days after the date the Secretary issues regulations under section 104(b), each State shall identify the public elementary schools and secondary schools in the State that are at or below the 25th percentile for academic performance of schools in the State.

(b) PERFORMANCE.—The State shall determine the academic performance of a school under this section based on such criteria as the State may consider to be appropriate.

SEC. 106. SCHOLARSHIPS.

(a) IN GENERAL.—

(1) SCHOLARSHIP AWARDS.—With funds awarded under this title, each State awarded a grant under this title shall provide scholarships to the parents of eligible children, in accordance with subsections (b) and (c). The State shall ensure that the scholarships may be redeemed for elementary or secondary education for the children at any of a broad variety of public and private schools, including religious schools, in the State.

(2) SCHOLARSHIP AMOUNT.—The amount of each scholarship shall be $2000 per year.

(3) TAX EXEMPTION.—Scholarships awarded under this title shall not be considered income of the parents for Federal income tax purposes or for determining eligibility for any other Federal program.

(b) ELIGIBLE CHILDREN.—To be eligible to receive a scholarship under this title, a child shall be—

(1) a child who is enrolled in a public elementary school or secondary school that is an eligible school; and

(2) a member of a family with a family income that is not more than 200 percent of the poverty line.

(c) AWARD RULES.—

(1) PRIORITY.—In providing scholarships under this title, the State shall provide scholarships for eligible children through a lottery system administered for all eligible schools in the State by the State educational agency.

(2) CONTINUING ELIGIBILITY.—Each State receiving a grant under this title to carry out an educational choice program shall provide a scholarship in each year of the program to each child who received a scholarship during the previous year of the program, unless—

(A) the child no longer resides in the area served by an eligible school;

(B) the child no longer attends school;

(C) the child's family income exceeds, by 20 percent or more, 200 percent of the poverty line; or

(D) the child is expelled or convicted of a felony, including felonious drug possession, possession of a weapon on school grounds, or a violent act against an other student or a member of the school's faculty.

SEC. 107. USES OF FUNDS.

Any scholarship awarded under this title for a year shall be used—

(1) first, for—

(A) the payment of tuition and fees at the school selected by the parents of the child for whom the scholarship was provided; and

(B) the reasonable costs of the child's transportation to the school, if the school is not the school to which the child would be assigned in the absence of a program under this title;

(2) second, if the parents so choose, to obtain supplementary academic services for the child, at a cost of not more than $500, from any provider chosen by the parents, that the State determines is capable of providing such services and has an appropriate refund policy; and

(3) finally, for educational programs that help the eligible child achieve high levels of academic excellence in the school attended by the eligible child, if the eligible child chooses to attend a public school.

SEC. 108. STATE REQUIREMENT.

A State that receives a grant under this title shall allow lawfully operating public and private elementary schools and secondary schools, including religious schools, if any, serving the area involved to participate in the program.

SEC. 109. EFFECT OF PROGRAMS.

(a) TITLE I.—Notwithstanding any other provision of law, if a local educational agency in the State would, in the absence of an educational choice program that is funded under this title, provide services to a participating eligible child under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.), the State shall ensure the provision of such services to such child.

(b) INDIVIDUALS WITH DISABILITIES.—Nothing in this title shall be construed to affect the requirements of part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.).

(c) AID.—

(1) IN GENERAL.—Scholarships under this title shall be considered to aid families, not institutions. For purposes of determining Federal assistance under Federal law, a parent's expenditure of scholarship funds under this title at a school or for supplementary academic services shall not constitute Federal financial aid or assistance to that school or to the provider of supplementary academic services.

(2) SUPPLEMENTARY ACADEMIC SERVICES.—

(A) IN GENERAL.—Notwithstanding paragraph (1), a school or provider of supplementary academic services that receives scholarship funds under this title shall, as a condition of participation under this title, comply with the provisions of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

(B) REGULATIONS.—The Secretary shall promulgate regulations to implement the provisions of subparagraph (A), taking into account the purposes of this title and the nature, variety, and missions of schools and providers that may participate in providing services to children under this title.

(d) OTHER FEDERAL FUNDS.—No Federal, State, or local agency may, in any year, take into account Federal funds provided to a State or to the parents of any child under this title in determining whether to provide any other funds from Federal, State, or local resources, or in determining the amount of such assistance, to such State or to a school attended by such child.

(e) NO DISCRETION.—Nothing in this title shall be construed to authorize the Secretary to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution or school participating in a program under this title.

SEC. 110. EVALUATION.

The Comptroller General of the United States shall conduct an evaluation of the program authorized by this title. Such evaluation shall, at a minimum—

(1) assess the implementation of educational choice programs assisted under this title and their effect on participants, schools, and communities in the school districts served, including parental involvement in, and satisfaction with, the program and their children's education;

(2) compare the educational achievement of participating eligible children with the educational achievement of similar non-participating children before, during, and after the program; and

(3) compare—

(A) the educational achievement of eligible children who use scholarships to attend schools other than the schools the children would attend in the absence of the program; with

(B) the educational achievement of children who attend the schools the children would attend in the absence of the program.

SEC. 111. ENFORCEMENT.

(a) REGULATIONS.—The Secretary shall promulgate regulations to enforce the provisions of this title.

(b) PRIVATE CAUSE.—No provision or requirement of this title shall be enforced through a private cause of action.

SEC. 112. DEFINITIONS.

In this title:

(1) CHARTER SCHOOL.—The term ''charter school'' has the meaning given the term in section 10310 of the Elementary and Secondary Education Act of 1965 (as redesignated in section 3(g) of Public Law 105–278; 112 Stat. 2687).

(2) ELEMENTARY SCHOOL; LOCAL EDUCATIONAL AGENCY; PARENT; SECONDARY SCHOOL; STATE EDUCATIONAL AGENCY.—The terms ''elementary school'', ''local educational agency'', ''parent'', ''secondary school'', and ''State educational agency'' have the meanings given the terms in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(3) POVERTY LINE.—The term ''poverty line'' means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) applicable to a family of the size involved.

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

(5) STATE.—The term ''State'' means each of the 50 States.

TITLE II—REVENUE PROVISIONS

SEC. 201. PHASEOUT OF OIL AND GAS EXPENSING OF DRILLING AND DEVELOPMENT COSTS.

Section 263(c) of the Internal Revenue Code of 1986 is amended by adding at the end the following new sentence: ''This subsection shall not apply to the applicable percentage of costs incurred in taxable years beginning after December 31, 1999. For purposes of the preceding sentence, the applicable percentage for any taxable year shall be determined in accordance with the following table:

''In the case of any taxable year beginning in—	The applicable percentage is—
2000	20
2001	40
2002	60
2003	80
After 2003	100.''

SEC. 202. SUNSET OF ALCOHOL FUELS INCENTIVES.

(a) IN GENERAL.—The following provisions of the Internal Revenue Code of 1986 are each repealed:

(1) Section 40 (relating to alcohol used as fuel).

(2) Section 4041(b)(2) (relating to qualified methanol and ethanol).

(3) Section 4041(k) (relating to fuels containing alcohol).

(4) Section 4081(c) (relating to taxable fuels mixed with alcohol).

(5) Section 4091(c) (relating to reduced rate of tax for aviation fuel in alcohol mixture, etc.).

(6) Section 6427(f) (relating to gasoline, diesel fuel, kerosene, and aviation fuel used to produce certain alcohol fuels).

(7) The headings 9901.00.50 and 9901.00.52 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007).

(b) EFFECTIVE DATE.—The repeals made by subsection (a) shall take effect on October 1, 1999.

SEC. 203. REPEAL OF ENHANCED OIL RECOVERY CREDIT.

Section 43 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''(f) TERMINATION.—In the case of taxable years beginning after December 31, 1999, the enhanced oil recovery credit is zero.''.

SEC. 204. REPEAL OF UNLIMITED PASSIVE LOSS DEDUCTIONS FOR OIL AND GAS PROPERTIES.

Section 469(c)(3) of the Internal Revenue Code of 1986 (relating to working interests in

oil and gas property) is amended by adding at the end the following:

''(C) TERMINATION.—This paragraph shall not apply with respect to any taxable year beginning after December 31, 1999.''

SEC. 205. SUGAR PROGRAM.

(a) ELIMINATION OF AUTHORITY TO USE SUGAR AS COLLATERAL FOR LOANS.—Section 156 of the Agricultural Market Transition Act (7 U.S.C. 7272) is amended—

(1) in subsection (d)—

(A) by striking ''(d)'' and all that follows through ''A loan under'' and inserting ''(d) TERM OF LOANS.—A loan under'';

(B) by striking paragraph (2); and

(C) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively, and indenting appropriately;

(2) by striking subsection (g); and

(3) by redesignating subsections (h) and (i) as subsections (g) and (h), respectively.

(b) ELIMINATION OF SUGAR PRICE SUPPORT AND PRODUCTION ADJUSTMENT PROGRAMS.—

(1) IN GENERAL.—Notwithstanding any other provision of law—

(A) a processor of any of the 2003 or subsequent crops of sugarcane or sugar beets shall not be eligible for a loan under any provision of law with respect to the crop; and

(B) the Secretary of Agriculture may not make price support available, whether in the form of a loan, payment, purchase, or other operation, for any of the 2003 and subsequent crops of sugar beets and sugarcane by using the funds of the Commodity Credit Corporation or other funds available to the Secretary.

(2) TERMINATION OF MARKETING QUOTAS AND ALLOTMENTS.—

(A) IN GENERAL.—Part VII of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359aa et seq.) is repealed.

(B) CONFORMING AMENDMENT.—Section 344(f)(2) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1344(f)(2)) is amended by striking ''sugar cane for sugar, sugar beets for sugar,''.

(3) GENERAL POWERS.—

(A) DESIGNATED NONBASIC AGRICULTURAL COMMODITIES.—Section 201(a) of the Agricultural Act of 1949 (7 U.S.C. 1446(a)) is amended by striking ''milk, sugar beets, and sugarcane'' and inserting ''and milk''.

(B) POWERS OF COMMODITY CREDIT CORPORATION.—Section 5(a) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c(a)) is amended by inserting after ''agricultural commodities'' the following: ''(other than sugar)''.

(C) SECTION 32 ACTIVITIES.—Section 32 of the Act of August 24, 1935 (49 Stat. 774, chapter 641; 7 U.S.C. 612c), is amended in the second sentence of the first paragraph—

(i) in paragraph (1), by inserting ''(other than sugar)'' after ''commodities''; and

(ii) in paragraph (3), by inserting ''(other than sugar)'' after ''commodity''.

(4) TRANSITION PROVISIONS.—This subsection and the amendments made by this subsection shall not affect the liability of any person under any provision of law as in effect before the application of this subsection and the amendments made by this subsection.

(5) CROPS.—This subsection and the amendments made by this subsection shall apply beginning with the 2003 crop of sugar beets and sugarcane.

By Mr. THOMPSON:

S. 1513. A bill for the relief of Jacqueline Salinas and her children Gabriela Salinas, Alejandro Salinas, and Omar Salinas; to the Committee on the Judiciary.

PRIVATE RELIEF BILL

Mr. THOMPSON. Mr. President, today I rise to introduce legislation to grant permanent resident status to Gabriela Salinas, 11, her mother Jacqueline, and her brothers, Alejandro, 11, and Omar, Jr., 4, all of whom currently live in Tennessee. Although I am aware that private relief legislation is enacted only in rare cases, I believe that the extraordinary circumstances surrounding the Salinas family merit consideration of this bill.

In March of 1996, Gabriela, then seven, and her father Omar Salinas left their home in Bolivia and traveled to New York City to seek lifesaving treatment at Mt. Sinai Medical Center for Gabriela's rare bone cancer, ewing sarcoma. Gabriela, however, was denied treatment at Mt. Sinai because her family was unable to afford the $250,000 deposit required by the hospital.

Days later, Gabriela and her father were flown into Memphis, Tennessee, for treatment at the internationally renowned St. Jude Children's Hospital. Actress Marlo Thomas, whose father founded St. Jude, after hearing of the Salinas family's misfortunes, arranged for Gabriela to receive pro bono treatment at St. Jude. Shortly after Gabriela's chemotherapy treatment began, her mother, Jacqueline, and her three siblings joined her and her father in Tennessee. The family received an outpouring of sympathy and support from the Memphis community and looked forward to returning to Bolivia once Gabriela's treatment was completed.

Tragically, however, on April 14, 1997, prior to the end of Gabriela's treatment, Omar and Gabriela's 3-year old sister, Valentina, were killed in a car accident on their way back from Washington, D.C. to renew their passports. Jacqueline, seven months pregnant at the time, was permanently paralyzed from the waist down. This terrible tragedy generated national media coverage. As Jacqueline, who gave birth to a healthy baby boy two months later, had no other means of financial support, St. Jude Hospital generously stepped in to care for the family. The hospital, in fact, has made a commitment to provide full financial support for Jacqueline and her children to live permanently in the United States.

Because they do not meet the requirements for permanent residence under current immigration law, however, the Salinas family will be forced to leave the United States following the expiration of their tourist visas. Although Jacqueline's son, Danny, nearly two years old, is a U.S. citizen, he will not be qualified to sponsor his mother for permanent residence until he reaches the age of twenty-one. Despite her background in teaching, Jacqueline does not qualify for permanent residence under any of the employment-based visa categories. Therefore, private relief legislation is the only means by which the family will be able to remain permanently in the United States.

Gabriela and her family have suffered through a long and difficult ordeal. Yet, with the compassion, generosity, and support of the people of Tennessee and the nation, they have managed to start a new life. The family has settled into a new home in Memphis. The children attend school in the community. And Gabriela continues to be treated under the care of some of the best doctors in the world. With the expiration of their tourist visas approaching, it is my hope that we can act soon to prevent another tragic setback for the Salinas family. I ask my colleagues to join me in supporting this legislation.

By Mr. CAMPBELL:

S. 1514. A bill to provide that countries receiving foreign assistance be conductive to United States business; to the Committee on Foreign Relations.

THE INTERNATIONAL ANTI-CORRUPTION ACT OF 1999

Mr. CAMPBELL. Mr. President, today I introduce the International Anti-Corruption Act of 1999 to address the growing problem of official and unofficial corruption abroad and the direct impact on U.S. business. This bill is based on S.1200, which I introduced in the 105th Congress.

As the Co-chairman of the Commission on Security and Cooperation in Europe, I intend to address this growing problem of corruption. Last month, I chaired a Commission hearing that focused on the issues of bribery and corruption in the OSCE region, an area stretching from Vancouver to Vladivostok. The Commission heard that, in economic terms, rampant corruption and organized crime in this vast region has cost U.S. businesses billions of dollars in lost contracts with direct implications for our economy.

Ironically, Mr. President, in some of the biggest recipients of U.S. foreign assistance—countries like Russia and Ukraine—the climate is either not conducive or outright hostile to American business. Last month, I also attended the annual session of the OSCE Parliamentary Assembly in St. Petersburg, Russia, where I had an opportunity to sit down with U.S. business representatives to learn, first-hand, the obstacles they face.

Mr. President, the time has come to stop providing aid as usual to those countries which line up to receive our assistance, only to turn around and fleece U.S. businesses conducting legitimate operations in these countries. For this reason, I am introducing the International Anti-Corruption Act of 1999 to require the State Department to submit a report and the President to certify by March 1 of each year that countries which are receiving U.S. foreign aid are, in fact, conducive to American businesses and investors. If a country is found to be hostile to American businesses, aid from the United States would be cut off. The certification would be specifically based on whether a country is making progress

in, and is committed to, economic reform aimed at eliminating corruption.

Under my bill, if the President certifies that a country's business climate is not conducive for U.S. businesses, that country will, in effect, be put on probation. The country would continue to receive U.S. foreign aid through the end of the fiscal year, but aid would be cut off on the first day of the next fiscal year unless the President certifies the country is making significant progress in implementing the specified economic indicators and is committed to recognizing the involvement of U.S. business.

My bill also includes the customary waiver authority where the national interests of the United States are at stake. For countries certified as hostile to or not conducive for U.S. business, aid can continue if the President determines it is in the national security interest of the United States. However, the determination expires after 6 months unless the President determines its continuation is important to our national security interest.

I also included a provision which would allow aid to continue to meet urgent humanitarian needs, including food, medicine, disaster and refugee relief, to support democratic political reform and rule of law activities, and to create private sector and nongovernmental organizations that are independent of government control, or to develop a free market economic system.

Mr. President, instead of jumping on the bandwagon to pump millions of additional tax dollars into countries which are hostile to U.S. businesses and investors, we should be working to root out the kinds of bribery and corruption that have an overall chilling effect on much needed foreign investment. Left unchecked, such corruption will continue to undermine fledgling democracies worldwide and further impede moves toward a genuine free market economy. I believe the legislation I am introducing today is a critical step this direction, and I urge my colleagues to support its passage.

I ask unanimous consent that the bill be printed in the RECORD.

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

S. 1514

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 ''International Anti-Corruption Act of 1999''.

SEC. 2. LIMITATIONS ON FOREIGN ASSISTANCE.

(a) REPORT AND CERTIFICATION.—

(1) IN GENERAL.—Not later than March 1 of each year, the President shall submit to the appropriate committees a certification described in paragraph (2) and a report for each country that received foreign assistance under part I of the Foreign Assistance Act of 1961 during the fiscal year. The report shall describe the extent to which each such country is making progress with respect to the following economic indicators:

(A) Implementation of comprehensive economic reform, based on market principles, private ownership, equitable treatment of foreign private investment, adoption of a legal and policy framework necessary for such reform, protection of intellectual property rights, and respect for contracts.

(B) Elimination of corrupt trade practices by private persons and government officials.

(C) Moving toward integration into the world economy.

(2) CERTIFICATION.—The certification described in this paragraph means a certification as to whether, based on the economic indicators described in subparagraphs (A) through (C) of paragraph (1), each country is—

(A) conducive to United States business;

(B) not conducive to United States business; or

(C) hostile to United States business.

(b) LIMITATIONS ON ASSISTANCE.—

(1) COUNTRIES HOSTILE TO UNITED STATES BUSINESS.—

(A) GENERAL LIMITATION.—Beginning on the date the certification described in subsection (a) is submitted—

(i) none of the funds made available for assistance under part I of the Foreign Assistance Act of 1961 (including unobligated balances of prior appropriations) may be made available for the government of a country that is certified as hostile to United States business pursuant to such subsection (a); and

(ii) the Secretary of the Treasury shall instruct the United States Executive Director of each multilateral development bank to vote against any loan or other utilization of the funds of such institution to or by any country with respect to which a certification described in clause (i) has been made.

(B) DURATION OF LIMITATIONS.—Except as provided in subsection (c), the limitations described in clauses (i) and (ii) of subparagraph (A) shall apply with respect to a country that is certified as hostile to United States business pursuant to subsection (a) until the President certifies to the appropriate committees that the country is making significant progress in implementing the economic indicators described in subsection (a)(1) and is no longer hostile to United States business.

(2) COUNTRIES NOT CONDUCIVE TO UNITED STATES BUSINESS.—

(A) PROBATIONARY PERIOD.—A country that is certified as not conducive to United States business pursuant to subsection (a), shall be considered to be on probation beginning on the date of such certification.

(B) REQUIRED IMPROVEMENT.—Unless the President certifies to the appropriate committees that the country is making significant progress in implementing the economic indicators described in subsection (a) and is committed to being conducive to United States business, beginning on the first day of the fiscal year following the fiscal year in which a country is certified as not conducive to United States business pursuant to subsection (a)(2)—

(i) none of the funds made available for assistance under part I of the Foreign Assistance Act of 1961 (including unobligated balances of prior appropriations) may be made available for the government of such country; and

(ii) the Secretary of the Treasury shall instruct the United States Executive Director of each multilateral development bank to vote against any loan or other utilization of the funds of such institution to or by any country with respect to which a certification described in subparagraph (A) has been made.

(C) DURATION OF LIMITATIONS.—Except as provided in subsection (c), the limitations described in clauses (i) and (ii) of subparagraph (B) shall apply with respect to a country that is certified as not conducive to United States business pursuant to subsection (a) until the President certifies to the appropriate committees that the country is making significant progress in implementing the economic indicators described in subsection (a)(1) and is conducive to United States business.

(c) EXCEPTIONS.—

(1) NATIONAL SECURITY INTEREST.—Subsection (b) shall not apply with respect to a country described in subsection (b) (1) or (2) if the President determines with respect to such country that making such funds available is important to the national security interest of the United States. Any such determination shall cease to be effective 6 months after being made unless the President determines that its continuation is important to the national security interest of the United States.

(2) OTHER EXCEPTIONS.—Subsection (b) shall not apply with respect to—

(A) assistance to meet urgent humanitarian needs (including providing food, medicine, disaster, and refugee relief);

(B) democratic political reform and rule of law activities;

(C) the creation of private sector and nongovernmental organizations that are independent of government control; and

(D) the development of a free market economic system.

SEC. 3. TOLL-FREE NUMBER.

The Secretary of Commerce shall make available a toll-free telephone number for reporting by members of the public and United States businesses on the progress that countries receiving foreign assistance are making in implementing the economic indicators described in section 2(a)(1). The information obtained from the toll-free telephone reporting shall be included in the report required by section 2(a).

SEC. 4. DEFINITIONS.

In this Act:

(1) APPROPRIATE COMMITTEES.—The term ''appropriate committees'' means the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

(2) MULTILATERAL DEVELOPMENT BANK.—The term ''multilateral development bank'' means the International Bank for Reconstruction and Development, the International Development Association, and the European Bank for Reconstruction and Development.

By Mr. HATCH (for himself, Mr. DASCHLE, Mr. CAMPBELL, Mr. BINGAMAN, and Mr. DOMENICI):

S. 1515. A bill to amend the Radiation Exposure Compensation Act, and for other purposes; to the Committee on Health, Education, Labor, and pensions.

RADIATION EXPOSURE COMPENSATION ACT AMENDMENTS OF 1999

Mr. HARKIN. Mr. President, I rise to introduce the ''Radiation Exposure Compensation Act Amendments of 1999,'' known as RECAA 1999. I am pleased to be joined by Senator BEN NIGHTHORSE CAMPBELL; the distinguished Senate Minority Leader, Senator TOM DASCHLE; Senator JEFF BINGAMAN; and Senator PETE DOMENICI in introducing this legislation.

These long awaited amendments will ensure that the United States government meets its responsibility to provide fair and compassionate compensation to the thousands of individuals adversely affected by the mining of uranium and from fallout during the testing of nuclear weapons in the early post-war years. These citizens helped our nation during the Cold War and we must not forget them.

In 1990, the Radiation Exposure Compensation Act (42 U.S.C. 2210) was enacted. RECA, which I was proud to sponsor, affirmed the responsibility of the federal government to compensate individuals who were harmed by the radioactive fallout from atomic testing, for which the government took few precautions to ensure safety. Additionally, workers who have suffered long-term health problems because they were not adequately informed of the dangers faced during uranium mining were eligible for compensation under the act.

Administered through the Department of Justice, RECA has been responsible for compensating approximately 6,000 individuals for their injuries, but we can and should help a lot more. While the passage of the 1990 law was a momentous event, I have been carefully monitoring the implementation of the RECA program.

I am disturbed over numerous reports from my Utah constituents concerning the burdensome process of filing claims with the Department of Justice. One complaint which I hear far too often is ''that it is easier to compensate a dead miner, than one living with disease.'' We cannot let this injustice continue. We have drafted the RECA Amendments of 1999 in response to these concerns.

We should not add a bureaucratic nightmare to the burden of disease and ill-health already carried by these citizens. Moreover, excessive regulatory hurdles have made it too difficult for some deserving individuals to be fairly compensated under the Act. We must streamline and speed up the application process. In addition, advances in our medical knowledge compel us to modify the 1990 Act to define better criteria for compensation and to include diseases that we now know have radiogenic causes.

Let me explain how this bill was developed. RECA originally defined a list of 13 compensable diseases based upon the 1988 Radiation Exposed Veterans Compensation Act and the findings of the 1980 report of the Committee on the Biological Effects of Ionizing Radiations (BEIR–III). In 1992, REVCA was amended based upon the findings of an updated BEIR–IV and –V Reports which defined a host of cancers that are considered for disability compensation due to radiation exposure.

In addition, the report of the President's Advisory Committee on Human Radiation Experiments, released in 1995, provides further scientific evidence for changes in the 1990 RECA law. The Committee reviewed 125 current studies and more than 200 public witnesses in evaluating the risks and diseases caused by exposure to radiation conducted in the Cold War period. The conclusions of the advisory committee report support the reduction in radiation level exposure, the elimination of distinction between smokers and nonsmokers for lung cancer, and the inclusion of other radiogenic diseases.

Based on the evidence in both the President's Advisory Committee and the BEIR–V Committee Reports, we have extended the number of eligible radiogenic pathologies by six to include: lung, brain, colon, ovary, bladder, and salivary gland cancers. In addition, specific non-cancer diseases, such as silicosis, have been incorporated. Adding these diseases, which have been documented by science as linked to radiation exposure, will more fairly compensate our fellow citizens who were exposed to this danger so long ago.

With the inclusion of these modifications, miners, millers, and uranium ore transporters will be eligible in 11 western states to seek equitable compensation for their sacrifice in our nation's effort to produce our nuclear defense arsenal. I have worked with Senators DASCHLE, CAMPBELL, and BINGAMAN in reviewing Atomic Energy Commission records to document the uranium/vanadium mines supported by the U.S. government during and after the Manhattan Project. Eleven western states were found to have mines dating from 1947 through 1970 from which the U.S. government purchased radioactive ore.

Furthermore, uranium mills in these areas testify to the need to include millers who were exposed to radioactive decay without the benefit of state or government-instituted safety precautions. The report ''Raw Materials Activities of the Manhattan Project on the Colorado Plateau,'' by William Chenoweth, a noted geologist, documents the tragedies of exposure endured by miners, millers, and ore transporters as they extracted, prepared and moved the radioactive ore for use in the nuclear arsenal. These changes would enable an estimated 6,000 individuals harmed by exposure to uranium radiation to seek compensation.

Of the thousands affected by radiation exposure, many of the downwinders, miners and millers were members of Indian tribes. Particularly noteworthy was the large number of U.S. atomic energy mines on Native American reservations. Many of these miners were not aware of the dangers that radiation exposure can cause, and the government did little to inform them of the risks. After RECA 1990 was passed into law, many complications have hindered members of Indian tribes from seeking their compensation. In working with the members of the Navajo Nation and other Native American tribes, we have developed legislation that largely addresses their concerns. The bill also instructs the Attorney General to take into account and make appropriate allowances for the laws, traditions, and customs of Indian tribes.

Finally, my bill also contains a grant program designed to provide for the early detection, prevention and education on radiogenic diseases. These programs will screen for the early warning signs of cancer, provide medical referrals, educate individuals on radiogenic cancers as well as prevention, and facilitate documentation of RECA claims. These grants will be available to a wide range of health care providers including: cancer centers, hospitals, Veterans Affairs medical centers, community health centers, and state departments of health.

Some may question the cost of our legislation. Let me set the record straight. The Congressional Budget Office estimates that the bill will cost close to $1 billion over the next 21 years. That averages out to just over $47 million a year. This estimate is significantly lower than other proposals that have been considered by Congress over the past several years. Ours is, I believe, a common sense approach that keeps to the intent of the original statute.

But, Mr. President, in considering the cost, it is important to remember what prompted the original statute. What justified this compensation program in the first place? The answer is that the federal government during the early years of the atomic testing program, exposed American citizens—our neighbors—to deadly nuclear fallout. Knowing that there would be adverse effects of exposure to fallout, the government exploded these bombs so that the fallout would blow ''downwind'' of the more heavily populated cities. There was no warning or instruction about minimizing exposure for the citizens in these rural areas. In my view, Mr. President, this bill is only fair and just. If we fail to provide even basic compensation for the hardships they have endured, we will *still* be taking them for granted.

I ask my colleagues to join me and Senators DASCHLE, CAMPBELL, BINGAMAN, and DOMENICI in meeting our nation's commitment to the thousands of individuals who were victims of radiation exposure while supporting our country's national defense. I believe we have an obligation to care for those who were injured, especially since, at the time, they were not adequately warned about the potential health hazards involved with their work. Now is our chance to compensate these men and women for their injuries. I urge my colleagues to support these Americans by cosponsoring the Radiation Exposure Compensation Act Amendments of 1999.

Mr. DASCHLE. Mr. President, today I am delighted to join in the introduction of the ''Radiation Exposure Compensation Act Amendments of 1999.''

For the last year, I have been working to extend the benefits of the Radiation Exposure Compensation Act (RECA) to South Dakotans who worked in uranium mines and a uranium mill in western South Dakota. This legislation would accomplish that goal, and I am very grateful to Senator HATCH for his hard work on this issue.

In the 9 years since the passage of RECA, we have had time to reflect upon its strengths and its shortcomings. During that time, it has become overwhelmingly clear that we have not fully met our obligation to victims of our nuclear program. Most seriously, we have arbitrarily and unfairly limited compensation for underground miners to those in only five States, despite the fact that underground miners in other states such as South Dakota faced exactly the same risk to their health. This fact alone requires us to amend RECA so that we can right this wrong.

However, we have also excluded other groups of workers, and their surviving families, from compensation for serious health problems and, in some cases, deaths, that have resulted from their work to help defend our Nation. Many of those who worked in uranium mills have developed serious respiratory problems as a result of exposure to uranium dusts and silica. Similar concerns have been raised about above-ground miners and uranium transportation workers as well.

This legislation would address those shortcomings and ensure that those who have suffered health problems because the government failed to warn them about the hazards of working with uranium are compensated. It is my hope that Congress will act on it this session so that we can provide compensation to these workers as quickly as possible.

There is one issue I hope we can address when this bill is considered in committee. Earlier this summer, I hosted a meeting of former uranium workers in Edgemont, SD. The most pressing concern of many of them was their inability to purchase affordable, quality health insurance due to the serious, ongoing health problems many of them have as a result of their work. Even if compensated by the Federal Government, they fear they are only one hospital stay away from bankruptcy. I hope that I can work with my colleagues over the next several months to determine how we can ensure that these workers, who sacrificed their health for their country, have access to affordable health insurance.

Finally, I have noted in the past the difficulty of tracking down documentation about South Dakota's uranium mining and milling activities. For that reason, I ask unanimous consent that a letter from the South Dakota Department of Environment and Natural Resources and a letter from the South Dakota School of Mines and Technology on this issue be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

DEPARTMENT OF ENVIRONMENT
AND NATURAL RESOURCES,
Pierre, SD, January 26, 1999.

Hon. TOM DASCHLE,
U.S. Senate,
Washington, DC.

DEAR SENATOR DASCHLE: Peter Hanson of your office requested that this letter be sent to you regarding past uranium mining activities in South Dakota. Both underground and surface uranium mining activities took place in South Dakota a few decades ago. While we can confirm that these activities took place, it is important to point out that South Dakota did not have a mining regulatory program during the years uranium mining took place. Therefore, there are no detailed records or statistical information in our files. Certain staff members have mainly collected the documents in our office as a result of interest in the subject. The information below is excerpted from some of these documents.

Uranium deposits of economic significance were discovered in 1951 in Fall River County, South Dakota, in what became know as the Edgemont mining district. Prospecting quickly intensified and by 1953 production of uranium ore increased to the point that the U.S. Atomic Energy Commission established a buying station in Edgemont. In 1956, a mill for processing uranium ore was completed in Edgemont. Commercial uranium deposits were also discovered in lignite beds of Harding County in 1954.

According to our records, including Mullen and Agnew (1959) and Bieniewski and Agnew (1964), production of uranium ore occurred in Fall River and Harding Counties, as well as some production in Custer, Lawrence, and Pennington Counties (and an ''unknown'' county).

The number of producing properties varied through the years. Bieniewski and McGregor (1965) indicate that in 1963 production of uranium ore was attributed to 37 operations, 19 of which were in Fall River County, 14 in Harding County, 3 in Custer County, and 1 in Pennington County. Production of ore reached a peak in 1964 (with 110,147 short tons of uranium ore produced) and then declined greatly in the late 1960's (USGS, 1975 and Stotelmeyer, et al., 1966). According to Stotelmeyer, et al. (1967), it appears that there were 49 uranium mining operations in 1964, 29 of which were in Fall River County, 15 in Harding County, and 5 in Custer County.

The mill at Edgemont stopped producing uranium concentrates in 1972. By the end of 1973, nearly one million tons of uranium ore containing about 3,200,000 pounds of U_3O_8 were produced from deposits in South Dakota (USGS, 1975).

Our records are very sketchy regarding the number of uranium mine employees. Bieniewski and Agnew (1964) indicate that the average number of men employed in uranium mines and mills in 1961 was 104, excluding officeworkers. A total of 204,216 man-hours were worked in 1961. There were 23 uranium mine and mill operations that year. There were 10 nonfatal injuries in 1961, which equated to a frequency rate of 49 injuries per million man-hours (Bieniewski and Agnew, 1964).

In 1962, preliminary figures indicated that the average number of men employed was 103. A total of 202,062 man-hours were worked in 1962. There were 20 operations that year. There were 16 nonfatal injuries in 1962, which equated to a frequency rate of 79.1 injuries per million man-hours (Bieniewski and Agnew, 1964).

We were unable to locate uranium employment statistics for other years. I wouldn't be surprised if there were more uranium mine employees in other years than those referenced in the 1961–1962 statistics above, such as during the peak production year of 1964.

We have provided Peter Hanson with some information and references on the subject. Among other things, that information includes reference citations to several documents, publications, and maps that refer to uranium mining and uranium deposits in South Dakota, some of which are referenced here. We also sent the web address of our department's web page on Inactive and Abandoned Mines in the Black Hills http://www.state.sd.us/denr/DES/mining/acidmine.htm

The names of some of the uranium mines are shown on the maps referred to above. If you would like copies of these maps, or of any of the other documents cited in the information sent to Mr. Hanson, please let us know.

You may wish to contact Dr. Arden Davis and Dr. Kate Webb at the South Dakota School of Mines and Technology for further information on uranium mining and abandoned uranium mines in South Dakota.

If you have any questions or need further assistance, please contact Tom Durkin with the Minerals and Mining Program at 605–773–4201.

Sincerely,

NETTIE H. MYERS,
Secretary.

SOUTH DAKOTA SCHOOL OF
MINES AND TECHNOLOGY,
Rapid City, SD, January 8, 1999.

Senator TOM DASCHLE,
Senate Hart Office Building,
Washington, DC.

DEAR SENATOR DASCHLE: This letter is to provide a brief background on uranium mining in South Dakota as well as documentation of underground uranium mining activity within the state. Mr. Peter Hanson of your office contacted us earlier this week about this subject. Dr. Cathleen Webb and I have conducted inventories of abandoned mines in the Black Hills area for the U.S. Forest Service and for the South Dakota Department of Environment and Natural Resources, so we are familiar with uranium mines in the western part of the state.

Uranium deposits were discovered in the southern Black Hills of South Dakota in 1951. By 1953, the former U.S. Atomic Energy Commission had established a station at Edgemont in Fall River County. A mill for processing uranium in Edgemont was completed in 1956. This mill served open-pit and underground mining operations in the southern Black Hills area. Uranium also was mined in Harding County, South Dakota.

Production of uranium ore in South Dakota reached its peak in 1964, according to the U.S. Geological Survey. In the late 1960's, production declined after federal price supports were eliminated and supply exceeded demand. The mill at Edgemont ceased production of uranium concentrates in 1972 and was de-commissioned in the 1980's. Most uranium mines in the Black Hills have been inactive or abandoned since the late 1960's or early 1970's.

Information from the former U.S. Atomic Energy Commission and the U.S. Geological Survey shows that nearly one million tons of uranium ore were mined in South Dakota from 1953 to 1972. More than one hundred mines operated at one time or another in the Edgemont area, although in some cases several claims were consolidated later into a single mine. Much of the mining was from open pits, but at least 22 mines had underground workings. These mines are listed

below. Photographs of some of these mine openings are reproduced on an enclosed page.

We hope this information will be helpful. If you have any questions, please feel free to contact us.

Sincerely,

ARDEN D. DAVIS,
Professor of Geological Engineering.
CATHLEEN J. WEBB,
Associate Professor of Chemistry.

Mr. CAMPBELL. Today I join my colleague, Senator HATCH, in introducing the Radiation Exposure Compensation Act Amendments of 1999. These amendments, which are desperately needed, will help to provide much needed relief and assistance to many victims of uranium exposure and make this Act more consistent with current medical knowledge.

From 1946 to 1971, the United States purchased domestically-mined uranium for our nuclear weapons arsenal. Many of these mines were located in western Colorado, affecting citizens in my state. With the uranium mined there, in my colleague's state of Utah and throughout the western United States, we were able to develop vast stores of nuclear weapons, which were the key to our national security. The cold war demanded that we keep producing these weapons in order to keep up with, and defend ourselves against, the former Soviet Union. It was not until many years later that scientists began to realize that, ironically, the uranium we were mining to help create weapons to protect us in a nuclear war, was actually killing those men who mined it. Also harmed were those brave men and women who participated in atmospheric tests of the weapons armed with the uranium.

By 1971, the Atomic Energy Commission had put in place, and fully implemented, ventilation and safety procedures which greatly reduced the threat of radiation exposure. But for those miners and test-site participants who were involved in the atomic weapons program in the years before the changes, there was little more available for them than a kind word and pat on the back as they developed cancer and other diseases.

In 1990, we took steps to change the way we treated these victims. I cosponsored a measure in the House which allowed victims of certain types of radiation exposure to file claims with the Department of Justice and collect up to $100,000 in damages. It was the first step toward acknowledging the unknown sacrifice many of those miners and test participants made to win the cold war.

With the passage of the law, the Committee on the Biological Effects of Ionizing Radiation (BEIR) began further researching the health effects of radiation exposure. Their studies have revealed that several other types of cancer and nonmalignant respiratory diseases are caused by exposure to radiation, in addition to those listed in the original act. Furthermore, the BEIR Committee has discovered that many of the factors we thought contributed to cancer, such as coffee consumption, actually have no effect. Additionally, the unnecessarily long length of exposure, sometimes as high as 500 working level months, was determined by experts to be excessive and difficult to accurately measure and prove. The findings of the BEIR Committee have led us to seek to update the original law, with the advice and input of many experts in the health and mining fields, by amending the act with the latest scientific research.

It's time to finish what we started in the 1990 act. These victims need to be treated fairly and receive adequate care. We also owe it to the other people who worked with uranium to continue studying the effects of their contribution on their health. That's why this bill expands coverage to other uranium victims and establishes grant programs for education and the prevention and early detection of radiogenic diseases.

I ask my colleagues to join us today in making good on our promise to these people who so dutifully served their nation.

Mr. DOMENICI. Mr. President, I rise today as a co-sponsor of this important bill to make some much needed changes to the Radiation Exposure Compensation Act. I am pleased to join my colleagues, including the chairmen of the Senate Judiciary and Indian Affairs Committees, in support of this legislation.

Mr. President, my home state of New Mexico is the birthplace of the atomic bomb. New Mexico's national laboratories have long been involved in developing and testing nuclear weapons. One of the unfortunate consequences of our country's rapid development of its nuclear arsenal was that many of those who worked in the earliest uranium mines, prior to the implementation of government health and safety standards in 1971, became afflicted with terrible illnesses.

I began to notice this problem more than 20 years ago, when I learned that miners had contracted an alarmingly high rate of lung cancer and other diseases commonly related to radiation exposure.

Many of the miners native Americans, mostly members of the Navajo Nation, with whom the U.S. Government has had a longstanding trust relationship based on the treaties and agreements between our country and the tribes. Some 1,500 Navajos worked in the uranium mines from 1947 to 1971. Many of them have since died of radiation-related illnesses.

All of the uranium miners, including the Navajos, performed a great service out of patriotic duty to this country. Their work helped us to win the cold war. Unfortunately, our Nation failed to fulfill its duty to protect the miners' health and some 20 years ago, I began the effort to see that the miners and their families received just compensation for their illnesses.

In 1978, in the 95th Congress, I introduced the first bill to compensate uranium miners who contracted radiation-related diseases. The bill was called the Uranium Miners Compensation Act, and it was the predecessor to the Radiation Exposure Compensation Act (RECA) which is law today.

The following year in 1979, I held the first field hearing on this issue in Grants, NM, to learn about the concerns and the health problems faced by uranium miners. In later years, I traveled to Shiprock, NM, and the Navajo Nation Indian Reservation to gather more information about the uranium mines and their families.

Twelve years after I introduced that first bill, President Bush signed RECA into law. At the time, RECA was intended to provide fair and swift compensation for those miners and downwinders who had contracted certain radiation-related illnesses.

Since the RECA trust fund began making awards in 1992, the Department of Justice has approved a total 3,135 claims valued at nearly $232 million. In my home state of New Mexico, there have been 371 claims approved with a value of nearly $37 million. For that work, the Department of Justice is to be commended.

The original RECA was a compassionate law which unfortunately has come to be administered in a bureaucratic, dispassionate and often unfair manner. Many claims have languished at the Department of Justice for far too long.

Miners and their families, particularly Navajos, often have waited many years for their claims to be processed. Many claims were denied because the miners were smokers and could not prove that their diseases were related solely to uranium mining. In other cases, miners faced problems establishing the requisite amount of working level months needed to make a successful claim. Native American claims by spousal survivors often were denied because of difficulties associated with documenting native American marriages.

This bill makes some important, common sense changes to the radiation compensation program to address the problems I have outlined. First, it expands the list of compensable diseases to include new cancers, including leukemia, thyroid, and brain cancer. It also includes certain noncancer diseases, including pulmonary fibrosis. Medical science has been able to link these diseases to uranium mining in the 10 years since the enactment of the original RECA. We now know that prolonged radiation exposure can cause many additional diseases. This bill uses the best available science to make sure that those who were injured by radiation exposure are compensated.

The bill also extends eligibility to above-ground and open-pit miners, millers and transport workers. The latest science tells us that the risks of disease associated with radiation exposure were not necessarily limited to those who worked in unventilated mines.

Most importantly, the bill requires the Department of Justice to take native American law and customs into account when deciding claims. I have heard countless stories about the inequities faced by the spouses of Navajo miners who have been unable to successfully document their traditional tribal marriages to the satisfaction of the Justice Department under current law and regulations. This bill will change that, and make it easier for spousal survivors to make successful claims.

Mr. President, I am pleased to cosponsor this important legislation. The Congressional Budget Office estimates that the bill will cost close to $1 billion over the next 21 years. That is far less than some of the other proposals floated in the House and Senate during the past few years. This is a commonsense approach, which addresses many of the problems with the existing program, without unnecessarily expanding the scope of the Radiation Exposure compensation Act. The chairman of the Senate Judiciary Committee has done a fine job crafting this bill and I have been pleased to work with him in that regard. I look forward to helping move this bill through the Senate.

By Mr. THOMPSON (for himself and Mr. LIEBERMAN):

S. 1516. A bill to amend title III of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11331 et seq.) to reauthorize the Federal Emergency Management Food and Shelter Program, and for other purposes; to the Committee on Governmental Affairs.

LEGISLATION TO RE-AUTHORIZE THE EMERGENCY FOOD AND SHELTER PROGRAM

Mr. LIEBERMAN. Mr. President, I am proud to join Chairman THOMPSON in introducing a bill that will re-authorize a small but highly effective program, the Emergency Food and Shelter Program, or EFS for short. The EFS program, which is administered by the Federal Emergency Management Agency, supplements community efforts to meet the needs of the homeless and hungry in all fifty states. I am pleased that my friend, Chairman THOMPSON, is sponsoring this legislation. Our Committee on Governmental Affairs has jurisdiction over the EFS program, and it is my hope that together we can generate even more bipartisan support for a program that makes a real difference with its tiny budget. The EFS program is a great help not only to the Nation's homeless population but also to working people who are trying to feed and shelter their families at entry-level wages. Services supplemented by the EFS funding, such as food banks and emergency rent/utility assistance programs, are especially helpful to families with big responsibilities but small paychecks.

One of the things that distinguishes the EFS program is the extent to which it relies on non-profit organizations. Local boards in counties, parishes, and municipalities across the country advertise the availability of funds, decide on non-profit and local government agencies to be funded, and monitor the recipient agencies. The local boards, like the program's National Board, are made up of charitable organizations including the National Council of Churches, the United Jewish Communities, Catholic Charities, USA, the Salvation Army, and the American Red Cross. By relying on community participation, the program keeps administrative overhead to an unusually low amount, less than 3%.

The EFS program has operated without authorization since 1994 but has been sustained by annual appropriations. The proposed bill will re-authorize the program for the next three years. It will also authorize modest funding increases over the amounts appropriated in recent years. From 1990 the EFS program was funded at approximately $130 million annually, but that number was cut back by appropriators in fiscal year 1996 and has held steady at $100 million since then. Creeping inflation has taken an additional bite: $130 million in 1990 dollars is equivalent to $165.6 million today. The draft legislation will authorize increases to $125 million in the coming fiscal year and an additional five million dollars each of the following two years. Although the increases will not bring the program's funding up to its previous levels, they will provide additional aid to community-based organizations struggling to meet the needs of the homeless and working poor in an era of steep budget cuts.

In summary, Mr. President, FEMA's Emergency Food and Shelter Program is a highly efficient example of the government relying on the country's non-profit organizations to help people in innovative ways. The EFS program aids the homeless and the hungry in a majority of the nation's counties and in all fifty states, and I ask my colleagues to support this program and our re-authorizing legislation.

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

There being no objection, the bill war order to be printed in the RECORD, as follows:

S. 1516

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

SECTION 1. AUTHORIZATION OF APPROPRIATIONS.

Section 322 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11352) is amended to read as follows:

"SEC. 322. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this title $125,000,000 for fiscal year 2000, $130,000,000 for fiscal year 2001, and $135,000,000 for fiscal year 2002.''.

SEC. 2. NAME CHANGE TO NOMINATING ORGANIZATION.

Section 301(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11331(b)) is amended by striking paragraph (5) and inserting the following:

''(5) United Jewish Communities.''.

SEC. 3. PARTICIPATION OF HOMELESS INDIVIDUALS ON LOCAL BOARDS.

Section 316(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11346(a)) is amended by striking paragraph (6) and inserting the following:

''(6) guidelines requiring each local board to include in their membership not less than 1 homeless individual, former homeless individual, homeless advocate, or recipient of food or shelter services, except that such guidelines may waive such requirement for any board unable to meet such requirement if the board otherwise consults with homeless individuals, former homeless individuals, homeless advocates, or recipients of food or shelter services.''.

By Mr. ALLARD:

S. 1517. A bill to amend title XVIII of the Social Security Act to ensure that Medicare beneficiaries have continued access under current contracts to managed health care by extending the Medicare cost contract program for 3 years.

THE MEDICARE COST CONTRACT EXTENSION ACT

• Mr. Allard. Mr. President, I am pleased to rise today to introduce the Medicare Managed Care Cost Contract Extension Act of 1999.

The Medicare Program traditionally offers participating HMOs two contracts to choose from: Medicare risk (Medicare+Choice) and Medicare cost. In an effort to expand and refine the Medicare+Choice program, Section 4002 of the Balanced Budget Act of 1997 terminates the Medicare cost contract program effective December 31, 2002. This termination of cost contracts will leave two options for a Medicare recipient, that of traditional Medicare fee-for-service and Medicare+Choice.

As of June of this year 358,658 Americans receive Medicare HMO service through Medicare cost contracts. The vast majority of these Americans live in rural areas where there are no Medicare+Choice options. In my house state of Colorado, 97 percent of Medicare cost contracting beneficiaries live in a county that does not currently have another Medicare HMO option. If the intention of the Balanced Budget Act and Medicare+Choice is to provide a standard, reliable option to Medicare fee-for-service coverage it has not yet accomplished this in rural areas. It appears to me that until Medicare+Choice coverage is available to rural cost contract recipients Congress should re-consider this sunset.

While I agree with the wisdom of the Balanced Budget Act, we have discovered a number of areas where the Act has not produced the results that Congress intended. As well meaning as the sunset provision for cost contracts may have been, I am confident that Congress has no intention of leaving rural Americans without a choice in their Medicare coverage.

The legislation I am introducing will postpone the sunset date by three years to December 31, 2005. I believe that this extension accomplishes a

number of things consistent with the Balanced Budget Act as it concerns cost contracting.

The Medicare Managed Care Cost Contract Extension Act of 1999 will not change current requirement that the Health Care Financing Administration produce a study on the impact of cost contracting termination. This study is currently due in January 2001. I think it is important that this report be delivered to Congress while there is still time to establish a permanent extension or another sensible solution that will maintain choice for Medicare recipients.

As we have seen in my home state of Colorado, Medicare+Choice options have not developed in rural areas currently served by Medicare cost contractors. The Balanced Budget Act may have intended to replace cost contracting services with Medicare+Choice options, but these options are not yet available. I believe it would be irresponsible to continue to move cost contract beneficiaries toward an option that is unavailable. If Medicare+Choice can effectively serve rural areas they should have time to establish themselves. Based on current trends in rural health care I do not believe that Medicare+Choice will be a viable option in 2002, and perhaps not any time in the foreseeable future.

I believe that Medicare beneficiaries deserve a choice in how they receive their health care, and for a few people in our nation the only nation to Medicare fee-for-service is through a cost contract. I hope that as we consider various proposals for Medicare reform that we will consider the 358,658 Americans who are facing the elimination of the Medicare option they chose to provide their health care.

By Mr. BAYH:

S. 1518. A bill to amend the Internal Revenue Code of 1986 to provide an income tax credit to long-term caregivers; to the Committee on Finance.

EDUCATIONAL TAX RELIEF FOR AMERICAN WORKERS

● Mr. BAYH. Mr. President, I am pleased to introduce legislation today that will help thousands of American workers with the financial burden associated with sending a daughter or son to college. In this climate of labor shortages, U.S. companies are looking for innovative ways to maintain and attract a dedicated and qualified workforce. Some companies have creatively turned to providing college scholarships for their employees' children. My legislation would allow employees to deduct these scholarships from their gross income. Under current law, an employee generally is not taxed on post-secondary education assistance provided by an employer for the benefit of the employee. My bill would extend this treatment to employer-provided education assistance for the employees' children, up to $2,000 per child.

As many of my colleagues know, employer-provided education assistance is considered an integral tool in keeping America's workforce well trained and equipped to deal with the changing face of the New Economy. Current law not only allows companies to keep an up-to-date labor pool, but also allows many workers to move from low-wage, level positions up the economic ladder of success. Extending tax-free treatment to the children of employees not only will help working families, but will contribute to our nation's competitiveness in an increasingly dynamic global economy.

My legislation is very simple. It allows employees whose companies provide educational scholarships for employees' children to exclude up to $2000 from gross income per child. An employee may not exclude more than $5,250 from gross income for employer education assistance. This is the limit established under Section 127(a)(2) of the Internal Revenue Code for employer education assistance. In essence, there would be ''family cap.'' Workers could deduct a $2,000 scholarship for their child and could also exclude up to $3,250 of educational benefits for themselves, however, the combined amounts could not exceed $5,250.

I believe that Congress should do all it can to help families with the soaring costs of higher education. In today's economy, American companies are no longer looking purely for a high-school diploma, but require that their workers have some sort of post-secondary education or training. Many working families struggle in providing this basic start which will help their children get well-paying jobs.

This piece of legislation is also a modest proposal. The Joint Committee on Taxation has scored this provision at $231 million over 10 years. I look forward to working with my colleagues in making sure that this provision is fully offset in a responsible manner.

Mr. President, I am pleased to lend my name to this initiative, for this legislation has been already introduced in a bi-partisan manner in the United States House of Representatives by Representatives LEVIN and ENGLISH. This bill has the support of over 60 Members of the House and I plan on working to ensure that this bill receives the same sort of bipartisan support that its companion in the House enjoys.●

By Mr. SMITH of Oregon (for himself, Mrs. BOXER, Mr. GRAMS, and Mr. DODD):

S. 1520. A bill to amend the U.S. Holocaust Assets Commission Act of 1998 to extend the period by which the final report is due and to authorize additional funding; to the Committee on Banking, Housing, and Urban Affairs.

U.S. HOLOCAUST ASSETS COMMISSION EXTENSION ACT OF 1999

Mr. SMITH of Oregon. Mr. President and Members of the Senate, next week our Nation will pass an important if unnoticed anniversary—the anniversary of one of the first official notifications we were given of the atrocities of the Holocaust.

On August 8, 1942, Dr. Gerhart Reigner, the World Jewish Congress representative in Geneva, sent a cable to both Rabbi Stephen Wise—the President of the World Jewish Congress—and a British Member of Parliament. In it, Dr. Reigner wrote about ''an alarming report'' that Hitler was planning that all Jews in countries occupied or controlled Germany ''should after deportation and concentration . . . be exterminated at one blow to resolve once and for all the Jewish question in Europe.'' Our Government's reaction to this news was not our greatest moment during that terrible era.

First, the State Department refused to give the cable to Rabbi Wise. After Rabbi Wise got a copy of the cable from the British, he passed it along to the Undersecretary of State, who asked him not to make the contents public until it could be confirmed. Rabbi Wise didn't make it public, but he did tell President Roosevelt, members of the cabinet, and Supreme Court Justice Felix Frankfurter about the cable. None of them chose to act publicly on its contents.

Our government finally did acknowledge the report some months later, but the question remains: how many lives could have been saved had we responded to this clear warning of the Holocaust earlier and with more vigor? The questions of how the United States responded to the Holocaust and, specifically, what was the fate of the Holocaust victims' assets that came into the possession or control of the United States government, is the focus of the Presidential Advisory Commission on Holocaust Assets in the United States, of which I am a member.

This bipartisan Commission—chaired by Edgar M. Bronfman—is composed of 21 individuals, including four Senators, four Members of the House, representatives of the Departments of the Army, Justice, State, and Treasury, the Chairman of the United States Holocaust Memorial Council, and eight private citizens.

The Commission is charged with conducting original research into what happened to the assets of Holocaust victims—including gold, other financial instruments and art and cultural objects—that passed into the possession or control of the Federal government, including the Federal Reserve. We are also to survey the research done by others about what happened to the assets of Holocaust victims that passed into non-Federal hands, including State governments, and report to the President, making recommendations for future actions, whether legislative or administrative.

The Commission was created last year by a unanimous Act of Congress, and has been hard at work since early this year. Perhaps the most important information that the Commission's preliminary research has uncovered is the fact that the question of the extent

to which assets of Holocaust victims fell into Federal hands is much, much larger than we thought even a year ago, when we first established this Commission.

Last month, at the quarterly, meeting of the Commissioners in Washington, we unveiled a ''map'' of Federal and related offices through which these assets may have flowed. To everyone's surprise, taking a sample year—1943—we found more than 75 separate entities that may have been involved.

The records of each of these offices must first be located and then scoured—page by page—at the National Archives and other record centers across the United States. In total, we must look at tens of million of pages to complete the historical record of this period.

Futhermore, to our nation's credit, we are currently declassifying millions of pages of World War II-era information that may shine light on our government's policies and procedures during that time. But, this salutary effort dramatically increases the work the Commission must do to fulfill the mandate we have given it.

In addition, as the Commission pursues its research, it is discovering new aspects of the story of Holocaust assets that hadn't previously been understood. The Commission's research *may* be unearthing an alarming trend to import into the United States through South America, art and other possessions looted from Holocaust victims. Pursuing these leads will require the review of additional thousands of documents.

The Commission is also finding aspects of previously known incidents that have not been carefully or credibly researched. The ultimate fate of the so-called ''Hungarian Gold Trains,''—for example—a set of trains containing the art, gold, and other valuables of Hungarian victims of the Nazis that was detained by the liberating US Army during their dash for Berlin has not been carefully investigated.

In another area of our research investigators are seeking to piece together the puzzle of foreign-owned intellectual property—some of which may have been owned by victims of Nazi genocide—the rights to which were vested in the Federal government under wartime law.

For all the reasons and more, I am introducing today with Senators BOXER, DODD and GRAMS the ''U.S. Holocaust Assets Commission Extension Act of 1999.'' This simple piece of legislation moves to December, 2000, the date of the final report of the Presidential Advisory Commission on Holocaust Assets in the United States, giving our investigators the time to do a professional an credible job on the tasks the Congress has assigned to them.

This bill also authorizes additional appropriations for the Commission to complete its work. I strongly urge all of my colleagues to join me in support of this necessary and simple piece of legislation.

As we approach the end of the millennium, the United States is without a doubt the strongest nation on the face of the earth. Our strength, however, is not limited to our military and economic might. Our nation is strong because we have the resolve to look at ourselves and our history honestly and carefully—even if the truth we find shows us a less-than-flattering light.

The Presidential Advisory Commission on Holocaust Assets in the United States is seeking the truth about the belongings of Holocaust victims that came into the possession or control of the United States government. All of my colleagues should support this endeavor, and we must give the Commission the time and support it needs by supporting the U.S. Holocaust Assets Commission Extension Act of 1999.

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. 1520

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 ''U.S. Holocaust Assets Commission Extension Act of 1999''.

SEC. 2. AMENDMENTS TO THE U.S. HOLOCAUST ASSETS COMMISSION ACT OF 1998.

(a) EXTENSION OF TIME FOR FINAL REPORT.—Section 3(d)(1) of the U.S. Holocaust Assets Commission Act of 1998 (22 U.S.C. 1621 nt.) is amended by striking ''December 31, 1999'' and inserting in lieu thereof ''December 31, 2000''.

(b) REAUTHORIZATION OF APPROPRIATIONS.—Section 9 of the U.S. Holocaust Assets Commission Act of 1998 (22 U.S.C. 1621 nt.) is amended—

(1) by striking ''$3,500,000'' and inserting in lieu thereof ''$6,000,000''; and

(2) by striking ''1999, and 2000,'' and inserting in lieu thereof ''1999, 2000, and 2001,''.

By Mr. AKAKA:

S. 1522. A bill to amend the Animal Welfare Act to ensure that all dogs and cats used by research facilities are obtained legally; to the Committee on Agriculture, Nutrition, and forestry.

PET SAFETY AND PROTECTION ACT OF 1999

● Mr. AKAKA. Mr. President, today I am introducing the Pet Safety and Protection Act of 1999, a bill to close a serious loophole in the Animal Welfare Act. Senators KENNEDY, DURBIN, INOUYE and LEBIN are cosponsors of the legislation.

Congress passed the Animal Welfare Act over 30 years ago to stop the mistreatment of animals and to prevent the unintentional sale of family pets for laboratory experiments. Despite the Animal Welfare Act's well-meaning intentions and the enforcement efforts of the Department of Agriculture, the Act routinely fails to provide pets and pet owners with reliable protection against the actions of some unethical dealers.

Medical research is an invaluable weapon in the battle against disease. New drugs and surgical techniques offer promise in the fight against AIDS, cancer, and a host of life-threatening diseases. Animal research has been, and continues to be, fundamental to advancements in medicine. I am not here to argue whether animals should or should not be used in research. Rather, I am concerned with the sale of stolen pets and stray animals to research facilities.

These are less than 40 ''random source'' animal dealers operating throughout the country who acquire tens of thousands of dogs and cats. ''Random source'' dealers are USDA licensed Class B dealers that provide animals for research. Many of these animals are family pets, acquired by so-called ''bunchers'' who sometimes resort to theft and deception as they collect animals and sell them to Class B dealers. ''Bunchers'' often respond to ''free pet to a good home'' advertisements, tricking animal owners into giving away their pets by posing as someone interested in adopting the dog or cat. Some random source dealers are known to keep hundreds of animals at a time in squalid conditions, providing them with little food or water. The mistreated animals often pass through several hands and across state lines before they are eventually sold by a random source dealer to a research laboratory.

Mr. President, the use of these animals in research is subject to legitimate criticism because of the fraud, theft, and abuse that I have just described. Dr. Robert Whitney, former director for the Office of Animal Care and Use at the National Institutes of Health echoed this sentiment when he stated, ''The continue existence of these virtually unregulatable Class B dealers erodes the public confidence in our commitment to appropriate procurement, care, and use of animals in the important research to better the health of both humans and animals.'' While I doubt that laboratories intentionally seek out stolen or fraudulently obtained dogs and cats as research subjects, the fact remains that these animals end up in research laboratories, and little is being done to stop it. Mr. President, it is clear to most observers, including animal welfare organizations around the country, that this problem persists because of random source animal dealers.

The Pet Safety and Protection Act strengthens the Animal Welfare Act by prohibiting the use of random source animal dealers as suppliers of dogs and cats to research laboratories. At the same time, the Pet Safety and Protection Act preserves the integrity of animal research by encouraging research laboratories to obtain animals from legitimate sources that comply with the Animal Welfare Act. Legitimate sources are USDA-licensed Class A dealers or breeders, municipal pounds that choose to release dogs and cats for

research purposes, legitimate pet owners who want to donate their animals to research, and private and federal facilities that breed their own animals. These four sources are capable of supplying millions of animals for research, far more cats and dogs than are required by current laboratory demand. Furthermore, at least in the case of using municipal pounds, research laboratories could save money since pound animals cost only a few dollars compared to the high fees charged by random animal dealers. The National Institutes of Health, in an effort to curb abuse and deception, has already adopted policies against the acquisition of dogs and cats from random source dealers.

The Pet Safety and Protection Act also reduces the Department of Agriculture's regulatory burden by allowing the Department to sue its resources more efficiently and effectively. Each year, hundreds of thousands of dollars are spent on regulating 40 random source dealers. To combat any future violations of the Animal Welfare Act, the Pet Safety and Protection Act increases the penalties under the Act to a minimum of $1,000 per violation.

The history of disregard for the provisions of the Animal Welfare Act by some animal dealers makes the Pet Safety and Protection Act necessary. Mr. President, the purpose of this Act to stop the fraudulent practices of some Class B Dealers. Most importantly, it ensures that animals used in research are not gained by theft or deceit, and are provided decent shelter, ventilation, sanitation, and nourishment. The bill in no way impairs or impedes research, but ends senseless neglect, brutality, and deceit.●

By Mrs. LINCOLN:

S. 1523. A bill to provide a safety net for agricultural producers through improvement of the marketing assistance loan program, expansion of land enrollment opportunities under the conservation reserve program, and maintenance of opportunities for foreign trade in United States agricultural commodities; to the Committee on Agriculture, Nutrition, and Forestry.

''HELP OUR PRODUCERS EQUITY (HOPE) ACT OF 1999

● Mrs. LINCOLN. Mr. President, I am introducing legislation today to provide a ray of hope for our farmers across the country. The situation is dire in the agricultural community. Commodity prices are at Depression era levels and are projected to remain low through this year and beyond. Despite the federal government's efforts over the past year to alleviate some the financial strain affecting the agriculture industry, a simple fact remains: we no longer have a policy that protects farmers when forces beyond their control drive prices down.

Farmers are the hardest working people I know. They work from dusk to dawn on land that has been past down from generation to generation. This heritage is in jeopardy of being lost due to depressed commodity prices and the lack of an adequate safety net for family farmers.

The agricultural industry is the backbone of rural communities. I'm not just hearing from farmers about this crisis. In the past weeks and months, I've talked with bankers, tractor and implement dealers, fertilizer distributors, and even the local barber shop. They are all concerned about the train wreck that will occur if nothing is done to provide an adequate safety net for producers. The bottom line in rural America: if farmers are hurting, everyone is hurting.

It's really ironic watching the news these days. We're too busy patting ourselves on the back over the strength of the stock market and a potential tax cut that we have all but forgotten those that are not benefitting from this record setting economy. This situation is very reminiscent of the roaring 20's that our country experienced earlier in the century, followed by the Great Depression of the 1930's. I hope and pray that it does not take a situation so severe and drastic to convince this Congress, and the nation, that our agricultural sector and domestic production needs our support.

The HOPE Act that I am introducing today is built on solid but simple principles and takes steps to reestablish a safety net for our nation's farmers. To reconstruct the safety we must restore the formula based marketing loan structure that existed prior to the 1996 Farm Bill. Loan rates were arbitrarily capped in 1996 and I feel that it is imperative to return this assistance loan back into a formula based, market-oriented program. In doing so, loan rates would more accurately reflect market trends and provide an adequate price floor for producers. No business in America can survive selling their products at levels below cost of production. With Depression era prices, that is the situation our farmers currently face. An adequate safety net must be restored. This legislation also extends the loan term by up to six months, allowing farmers more time to market their crops at the most advantageous price.

Secondly, my legislation would require the President to fully explain the benefits and costs of existing food sanctions. It does not make sense to force Cuba to purchase their rice from Asia when the United States is only 90 miles away. Without access to foreign markets, we cannot expect the agricultural community to survive. We cannot let our foreign policy objectives cloud common sense. These sanctions rarely impose significant hardship on the dictators against whom they are targeted. The unfortunate victims are the innocent citizens of these foreign lands and the U.S. producers who lose valuable markets when these restrictions are put into place. We require cost/benefit analysis from almost all sections for our government regulators. We should do no less in our agricultural trade arena.

I am also very committed to preserving our environment. The Conservation Reserve Program (CRP) and the Wetlands Reserve Program(WRP) are responsible for taking a great number of erodible acres out of production. Unfortunately, these programs are victims of their own success because they are near the maximum enrollment levels allowed by current law. I propose to expand these programs so that even more marginal acreage is eligible for participation.

I urge my colleagues to act quickly and address the growing crisis in the agriculture community. Everyone of us enjoys the safest, most abundant, and most affordable food supply in the world. Unfortunately, we often take that for granted in this nation. The consequences of doing nothing are far too great. This safe and abundant supply will not be there for this Nation or the world if we do not support our family farmers at this critical time.

By Mr. BREAUX:

S. 1524. A bill to amend title 49, United States Code, to provide for the creation of a certification program for Motor Carrier Safety Specialist and certain informational requirements in order to promote highway safety through a comprehensive review of motor carriers; to the Committee on Commerce, Science, and Transportation.

MOTOR CARRIER SAFETY SPECIALIST CERTIFICATION ACT

Mr. BREAUX. Mr. President, I rise to introduce the Motor Carrier Safety Specialist Act. The reason for the Act is to ensure that all inspectors performing compliance reviews on inter- and intra-state motor carriers are certified to a uniform standard and proficiency. This Act is in part a response to the recent bus accident in Louisiana by Custom Bus Charter, Inc. in which 22 people were killed, and in which the driver was found to have marijuana in his system.

In July 1996, just four months after the Federal Highway Administration (''FHWA'') inspected and assigned a Satisfactory rating to Customs Bus Charter, Inc., a private company under contract to the Department of Defense failed Custom Bus Charter, Inc. for not having a drug and alcohol testing program. The absence of a drug and alcohol testing program is a FHWA Critical violation for which the carrier should have been assigned, at best, a Conditional rating by FHWA. Furthermore, 27 percent of motor carriers that were assigned a Satisfactory rating by FHWA, failed to enter the DoD program because of Critical violations discovered by the DoD contractor. These examples demonstrate that FHWA does not have the resources and structure to certify inspectors, and that compliance reviews are not always performed in a consistent or accurate manner.

In addition to inconsistent inspection, FHWA cannot possibly collect sufficient safety information on the motor carrier industry. There are estimated to be more than 450,000 interstate motor carriers licensed to do business in the U.S. The Federal Highway Administration has the resources to conduct only a limited number of compliance reviews annually. While they intend to double the current level of inspections, this will only bring the total to approximately 8,000 inspections annually, less than 2 percent of the estimated motor carrier population, with more than twice that amount entering and exiting the market. Over 70 percent of existing motor carriers have never been inspected by FHWA, and fewer than 5 percent of the inspections conducted could be considered current, within the past three years.

Clearly, the problem is twofold: FHWA is in desperate need of more information regarding the compliance level of carriers licensed to do business, and, those individuals that collect the information through inspections must possess some uniform level of competence and consistency. Thus, this Act is needed to certify all Motor Carrier Safety Specialists, both in the private and pubic sectors, so that these professionals can perform consistent compliance reviews and provide safety data on motor carriers to the government, industry, and the public. The Act not only provides for certification and training of federal motor carrier safety specialists, but state, local, and third-party safety specialists as well.

Third-party, private auditors can provide additional information to assist FHWA in monitoring carrier performance. Previously, the FHWA has not accepted information from private sources because there is no certification of their proficiency. The Motor Carrier Safety Specialist Certification Board, a non-profit organization, would be formed by technical representatives of the transportation industry, for the expressed purpose of working with the Secretary of Transportation to establish a training and certification program for Motor Carrier Safety Specialists and to serve as a clearinghouse for motor carrier data from third-party auditors. This follows the policy contained in Office of Management and Budget Circular Number A–119 and directs agencies to use voluntary standards where possible and the model used successfully by the Environmental Protection Agency for referring federally-mandated certification to private organizations.

Further, FHWA needs accurate and current information on motor carriers in order to target its resources towards problem carriers. Investigations by the General Accounting Office and the Department of Transportation's Inspector General found that FHWA motor carrier data are inadequate and out-of-date, limiting FHWA's ability to identify and target ''at risk'' carriers. Private auditors could provide additional information to augment FHWA's database. The Motor Carrier Safety Specialist Certification Board would establish a program to collect and verify current information on motor carriers, and provide this information to the Federal Highway Administration to augment their database.

Finally, the public must play a role in removing unsafe carriers from U.S. highways by considering safety first when hiring a motor carrier. Simply put, if the public does not hire carriers that have poor safety performance, they will be put out of business and off our nation's highways. A media campaign must be implemented to educate the public on their role in increasing motor carrier safety, and about publicly available information systems that provide safety information on motor carriers. Two such internet-accessible systems are the publicly-funded FHWA SAFER system and the privately funded International Motor Carrier Audit Commission (IMCAC).

This program can be quickly implemented due to the support of existing groups that are equipped to carry out training, certification and clearinghouse functions, such as the Commercial Vehicle Safety Alliance (CVSA) which currently provides certification for roadside vehicle inspectors, and the International Motor Carrier Audit Commission (IMCAC) which currently provides safety data to the public.

I ask unanimous consent that the text of this bill be printed into the RECORD.

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

S. 1524

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 ''Motor Carrier Safety Specialist Certification Act''.

SEC. 2. FINDINGS AND PURPOSE.

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

(1) The Transportation Equity Act for the 21st Century provides for the Secretary of Transportation to work in partnership with States and other political jurisdictions to establish programs to improve motor carrier, commercial motor vehicle, and driver safety, to support a safe and efficient transportation system by focusing resources on strategic safety investments, to promote safe for-hire and private transportation, including transportation of passengers and hazardous materials, to identify high-risk carriers and drivers, and to invest in activities likely to generate maximum reductions in the number and severity of commercial motor vehicle crashes.

(2) The Department of Transportation's Office of Inspector General Report on the Federal Highway Administration's Motor Carrier Safety Program found that established policies and procedures do not ensure that motor carrier safety regulations are enforced.

(3) The Report also found that the Safety Status Measurement System (known as ''SafeStat''), which was implemented to identify and target motor carriers with high-risk safety records, cannot target all carriers with the worst records because its database is incomplete and inaccurate, and data input is not timely.

(4) Testimony by the General Accounting Office before the House of Representative's Subcommittee on Transportation and Related Agencies indicated that SafeStat's ability to target high-risk carriers is also limited by out-of-date census data.

(5) There are no procedures in place to certify Federal, State, and private motor carrier safety specialists and no standards to ensure consistent carrier compliance reviews.

(6) There are no established protocols for acceptance of data from third-party or non-Federal or non-State motor carrier safety specialists, which detail the safety factors of motor carriers.

(b) PURPOSE.—The purpose of this Act is to provide for the creation of a certification program for Motor Carrier Safety Specialists and to establish certain informational requirements in order to promote highway safety through a comprehensive review of motor carriers.

SEC. 3. CREATION OF A CERTIFICATION PROGRAM FOR MOTOR CARRIER SAFETY SPECIALISTS.

(a) IN GENERAL.—Chapter 311 of title 49, United States Code, is amended by adding at the end thereof the following:

''§31148. Certified motor carrier safety specialists

''(a) IN GENERAL.—The Secretary of Transportation, in consultation with the Motor Carrier Safety Specialist Certification Board, shall establish a program for the training and certification of Federal, State and local government, and nongovernmental motor carrier safety specialists by an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is—

''(1) exempt from taxation under section 501(c)(1) of such Code established for the exclusive purpose of developing and administering training, testing, and certification procedures for motor carrier safety specialists; and

''(2) designated by the Secretary as the entity for carrying out the requirements of this section.

''(b) CERTIFIED COMPLIANCE REVIEW REQUIRED.—No safety compliance review under this chapter, or required by this chapter, chapter 315, or the regulations in part 390 of title 49, Code of Federal Regulations, more than 3 years after the date of enactment of the Motor Carrier Safety Specialist Certification Act is valid unless it is conducted by a motor carrier safety specialist certified under the program established under subsection (a).''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 311 of title 49, United States Code, is amended by adding at the end thereof the following:

''31148. Certified motor carrier safety specialists.''.

SEC. 4. PHASE-IN OF CERTIFICATION REQUIREMENT.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Transportation shall establish the program required by section 31148(a) of title 49, United States Code, within 12 months after the date of enactment of this Act.

(b) CERTIFICATION OF FEDERAL MOTOR CARRIER SAFETY SPECIALIST.—THE SECRETARY SHALL ENSURE THAT—

(1) within 24 months after the date of enactment of this Act—

(A) at least 50 percent of the employees of the Department of Transportation who perform reviews to determine compliance of carriers in accordance with regulations promulgated by the Secretary of Transportation, and

(B) all State and local government employees who perform such compliance reviews, are certified under the program established under section 31148 of title 49, United States Code; and

(2) within 36 months after such date, all Federal, State and local employees, and all nongovernmental personnel, performing such compliance review are so certified.

SEC. 5. CLEARINGHOUSE FUNCTION.

(a) VERIFICATION OF INFORMATION.—Section 31106(a) of title 49, United States Code, is amended by adding at the end the following:

''(5) In carrying out the provisions of this section and section 31309, the Secretary shall accept and include information, subject to verification by a clearinghouse designated by the Motor Carrier Safety Specialist certification Board, obtained from non-governmental motor carrier safety specialists certified under section 31148. The Secretary of Transportation shall work with the Motor Carrier Safety Specialist Certification Board and State Governments to establish by January 1, 2001 data exchange protocols that will enable the Secretary of Transportation to process data received from motor carrier safety specialists certified under section 31148.''

(b) INFORMATION AVAILABLE TO PUBLIC.—Section 31105(e) of title 49, United States Code, is amended by adding at the end the following:

''The Secretary of Transportation shall ensure that information obtained from motor carrier safety specialists certified under section 31148 of title 49 United States Code is made available to the public, in accordance with such policy, in an easily accessible and understandable manner through the clearinghouse designated by the Motor Carrier Safety Specialist Certification Board no later than January 1, 2002.''

SEC. 6. PUBLIC EDUCATION FUNCTION.

The Secretary of Transportation shall work with the Motor Carrier Safety Specialist Certification Board to establish and carry out a public education campaign to promote the use of safety performance information available under chapter 311 of title 49, United States Code, for the purpose of encouraging the use of such information in the decision-making process for hiring motor carriers.

SEC. 7. DEFINITIONS

MOTOR CARRIER SAFETY SPECIALIST.—A Motor Carrier Safety Specialist is an individual who:

(1) is responsible for conducting regulatory compliance reviews and safety inspections of commercial motor carriers;

By Mrs. MURRAY (for herself and Mr. INOUYE):

S. 1525. A bill to provide for equitable compensation of the Spokane Tribe of Indians of the Spokane Reservation in settlement of its claims concerning its contribution to the production of hydropower by the Grand Coulee Dam, and for other purposes; to the Committee on Indian Affairs.

THE SPOKANE TRIBE SETTLEMENT ACT

Mrs. MURRAY. Mr. President, today I am pleased to introduce on behalf of myself and the distinguished Senator from Hawaii, Mr. INOUYE, ''The Spokane Tribe of Indians of the Spokane Reservation Grand Coulee Dam Equitable Compensation Act.'' This bill will provide a settlement of the claims of the Spokane Tribe for its contribution to the production of hydropower by the Grand Coulee Dam.

The Grand Coulee Dam is the largest concrete dam in the world, the largest electricity producer in the United States, and the third largest electricity producer in the world. Grand Coulee is one mile in width; its spillway is twice the height of Niagara Falls. It provides electricity and water to one of the world's largest irrigation projects, the one million acre Columbia Basin Project. The Grand Coulee is the backbone of the Northwest's federal power grid and agricultural economy.

To the Spokane Tribe, however, the Grand Coulee Dam brought an end to a way of life. The dam flooded their reservation on two sides. The Spokane River changed from a free flowing waterway that supported plentiful salmon runs, to barren slack water that now erodes the southern lands of the reservation. The benefits that accrued to the nation and the Northwest were made possible by uncompensated injury to the Native Americans of the Columbia and Spokane Rivers.

The legislation I am introducing seeks to compensate the Spokane Tribe for its losses. In 1994, Congress enacted similar settlement legislation to compensate the neighboring Confederated Colville Tribes. That legislation provided a onetime payment of $53 million for past damages and approximately $15 million annually from the proceeds from the sale of hydropower by the Bonneville Power Administration. The Spokane Tribe settlement legislation would provide a settlement proportional to that provided to the Colville Tribes, which was based on the percentage of lands appropriated from the respective tribes for the dam. This translates into 39.4% of the past and future compensation awarded the Colville Tribes.

Let me give my colleagues some of the background surrounding this issue. From 1927 to 1931, at the direction of Congress, the U.S. Army Corps of Engineers investigated the Columbia River and its tributaries. In its report to Congress, the Corps recommended the Grande Coulee site for hydroelectric development. In 1933, the Department of Interior federalized the project under the National Industrial Recovery Act, and in 1935, Congress authorized the project in the Rivers and Harbors Act.

In 1940, Congress enacted a statute to authorize the Interior Department to designate whichever Indian lands it deemed necessary for Grand Coulee construction and to receive all rights, title and interest the Indians had in them. In return, the Tribes received compensation in the amount determined by Interior Department appraisals. However, the only land that was appraised and for which Tribes were compensated was the newly flooded land, for which the Spokane Tribe received $4700. There is no evidence that the Department advised or that Congress knew that the Tribes' water rights were not extinguished. Neither was there evidence the Department know the Indian title and trust status for the Tribal land underlying the river beds had not been extinguished. No compensation was included for the power value contributed by the use of the Tribal resources or for the loss of the Tribal fisheries or other damages to Tribal resources.

As pointed out in a 1976 Opinion of Lawrence Aschenbrenner, the Acting Associate Solicitor, Division of Indian Affairs, Department of Interior

The 1940 act followed seven years of construction during which farm lands, and timber lands were flooded, and a fishery destroyed, and during which Congress was silent as to the Indian interests affected by the construction. Both the Congress and the Department of Interior appeared to proceed with the Grand Coulee project as if there were no Indians involved there. . . . There is no tangible evidence, currently available, to indicate that the Department ever consulted with the Tribes during the 1993–1940 period concerning the ongoing destruction of their land and resources and proposed compensation therefore. . . . It is our conclusion that the location of the dams on tribal land and the use of the water for power production, without compensation, violated the government's fiduciary duty toward the Tribes.

In 1994, the Colville legislation settled the claims of the Colville Tribes to a share of the hydropower revenues from the Grand Coulee Dam. This claim was among the claims which the Colville Tribes filed with the Indian Claims Commission (ICC) under the Act of August 13, 1946, which included a five year statute of limitations. While the Colville Tribes had been formally organized for more than 15 years, the Spokane Tribe did not formally organize until 16 days prior to the ICC statute of limitations deadline. In addition, while the BIA was aware of the potential claims of the Spokane Tribe to a portion of the hydropower revenues generated by Grand Coulee, there is no evidence that the BIA ever advised the Tribe of such claims. The settlement for the Spokane Tribes was not included with that for the Colville Tribes in 1994 because the Colvilles had concerns that the statute of limitations would hold up the legislation.

Since the 1970s, Congress and federal agencies have indicated that both the Colville and Spokane Tribes should be compensated. Since 1994, when an agreement was reached to compensate the Colville Tribes, Congress and federal agencies have expressed interest in providing equitable compensation to the Spokane Tribe. This legislation will provide for the long overdue settlement to which the Spokane Tribe is entitled. I urge my colleagues to support this bill.

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

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

S. 1525

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 ''Spokane Tribe of Indians of the Spokane Reservation Grand Coulee Dam Equitable Compensation Settlement Act''.

SEC. 2. FINDINGS.

The Congress find the following:

(1) From 1927 to 1931, at the direction of Congress, the Corps of Engineers investigated the Columbia River and its tributaries to determine sites where power could be produced at low cost.

(2) The Corps of Engineers listed a number of sites, including the site where the Grand Coulee Dam is now located, with recommendations that the power development be performed by local governmental authorities or private utilities under the Federal Power Act.

(3) Under section 10(e) of the Federal Power Act, licensees must pay Indian tribes for the use of reservation lands.

(4) The Columbia Basin Commission, an agency of the State of Washington, applied for, and in August 1933 received, a preliminary permit from the Federal Power Commission for water power development of the Grand Coulee Site.

(5) In the mid-1930's, the Federal Government, which is not subject to the Federal Power Act, federalized the Grand Coulee Dam project and began construction of the Grand Coulee Dam.

(6) At the time the Grand Coulee Dam project was federalized, the Federal Government knew and recognized that the Spokane Tribe and the Confederated Tribes of the Colville Reservation had compensable interests in the Grand Coulee Dam project, including but not limited to development of hydropower, extinguishment of a salmon fishery upon which the Spokane Tribe was almost totally dependent, and inundation of lands with loss of potential power sites previously identified by the Spokane Tribe.

(7) In an Act dated June 29, 1940 (54 Stat. 703; 16 U.S.C. 835d), Congress enacted legislation to grant to the United States all the rights of the Indians in lands of the Spokane Tribe and Colville Indian Reservations required for the Grand Coulee Dam project and various rights-of-way over Indian lands required in connection with the project. The Act provided that compensation for the lands and rights-of-way required shall be determined by the Secretary of the Interior in such amounts as such Secretary determines just and equitable.

(8) In furtherance of the Act of June 29, 1940, the Secretary of the Interior paid to the Spokane Tribe the total sum of $4,700. The Confederated Tribes of the Colville Reservation received a payment of $63,000.

(9) In 1994, following 43 years of litigation before the Indian Claims Commission, the United States Court of Federal Claims and the United States Court of Appeals for the Federal Circuit, Congress ratified an agreement between the Confederated Tribes of the Colville Reservation and the United States that provided for past damages and annual payments of $15,250,000 in perpetuity, adjusted annually, based on revenues for the sale of electric power and transmission of such power by the Bonneville Power Administration.

(10) In legal opinions issued throughout the years by the Department of the Interior Solicitor's Office a Task Force Study conducted from 1976 to 1980 ordered by the Senate Appropriations Committee, and in hearings before the Congress when the Confederated Tribes Act was enacted, it has repeatedly been recognized that the Spokane Tribe suffered similar damages and had a case legally comparable with that of the Confederated Tribes of the Colville Reservation with the sole exception that the 5-year statute of limitations provided in the Indian Claims Commission Act of 1946 prevented the Spokane Tribe from bringing its own action for fair and honorable dealings as provided in that Act.

(11) The failure of the Spokane Tribe to bring an action of its own before the Indian Claims Commission can be attributed to a combination of factors, including the failure of the Bureau of Indian Affairs to carry out its advisory responsibilities as required by the Indian Claims Commission Act (Act of August 13, 1946, ch. 959, 60 Stat. 1050) and an effort of the Commissioner of Indian Affairs to impose improper requirements on claims attorneys retained by Indian tribes which caused delays in retention of counsel and full investigation of the Spokane Tribe's potential claims.

(12) As a consequence of construction of the Grand Coulee Dam project, the Spokane Tribe has suffered the complete loss of the salmon fishery upon which it was dependent, the loss of identified hydropower sites it could have developed, the loss of hydropower revenues it would have received under the Federal Power Act had the project not been federalized, and it continues to lose hydropower revenues which the Federal Government recognized the Spokane Tribe was due at the time the project was constructed.

(13) Over 39 percent of the Indian-owned lands used for the Grand Coulee Dam project were Spokane Tribe lands.

SEC. 3. STATEMENT OF PURPOSE.

The purpose of this Act is to provide fair and equitable compensation to the Spokane Tribe on a basis that is proportionate to the compensation provided to the Confederated Tribes of the Colville Reservation for the damages and losses suffered as a consequence of construction and operation of the Grand Coulee Dam project.

SEC. 4. SETTLEMENT FUND ACCOUNT.

(a) ESTABLISHMENT OF ACCOUNT.—There is hereby established in the Treasury an interest bearing account to be known as the ''Spokane Tribe of Indians Settlement Fund Account''.

(b) DEPOSIT OF AMOUNTS.—

(1) INITIAL DEPOSIT.—Upon enactment of this Act and appropriation of funds, the Secretary of the Treasury shall deposit into the Fund Account a sum equal to 39.4 percent of the sum paid to the Confederated Tribes of the Colville Reservation in a lump sum pursuant to section 5(a) of the Confederated Tribes Act, adjusted by the consumer price index from the date of that payment of the Confederated Tribes until the date of enactment of this Act, as payment and satisfaction of the Spokane Tribe's claim for use of its lands for generation of hydropower for the period from 1940 through November 2, 1994, the date of the enactment of the Confederated Tribes Act.

(2) SUBSEQUENT DEPOSITS.—Commencing on September 30 of the first fiscal year following enactment of this Act and on September 30 of each of the 5 fiscal years following such fiscal year, the Administrator of the Bonneville Power Administration shall pay into the Fund Account a sum equal to 20 percent of 39.4 percent of the sum authorized to be paid to the Confederated Tribes of the Colville Reservation pursuant to section 5(b) of the Confederated Tribes Act through the end of the fiscal year during which this Act is enacted, adjusted by the consumer price index to maintain the purchasing power the Spokane Tribe would have had if annual payments had been made to the Spokane Tribe on the date annual payments commenced and were subsequently made to the Confederated Tribes of the Colville Reservation pursuant to section 5(b) of the Confederated Tribes Act.

(e) ANNUAL PAYMENTS.—On September 1 of the fiscal year following the enactment of this Act and of each fiscal year thereafter, payments shall be made by the Bonneville Power Administration, or any successor thereto, directly to the Spokane Tribe in an amount which is equal to 39.4 percent of the annual payment authorized to be paid to the Confederated Tribes of the Colville Reservation in the operative and each subsequent fiscal year pursuant to section 5(b) of the Confederated Tribes Act.

SEC. 5. USE AND TREATMENT OF SETTLEMENT FUNDS.

(a) TRANSFER OF FUNDS TO TRIBE.—The Secretary of the Treasury shall transfer all or any portion of the settlement funds described in section 4(a) to the Spokane Business Council not later than 60 days after such Secretary receives written notice of the adoption by the Spokane Business Council of a resolution requesting that such Secretary execute the transfer of such funds. Subsequent requests may be made and funds transferred if not all of the funds are requested at one time.

(b) USE OF INITIAL PAYMENT FUNDS.—

(1) GENERAL DISCRETIONARY FUNDS.—Twenty-five percent of the settlement funds described in section 4(a) and (b) shall be reserved by the Business Council and used for discretionary purposes of general benefit to all members of the Spokane Tribe.

(2) FUNDS FOR SPECIFIC PURPOSES.—Seventy-five percent of the settlement funds described in section 4(a) and (b) shall be used for the following:

(A) Resource development program.

(B) Credit program.

(C) Scholarship program.

(D) Reserve, investment, and economic development programs.

(c) USE OF ANNUAL PAYMENT FUNDS.—Annual payments made to the Spokane Tribe pursuant to section 4(c) may be used or invested by the Spokane Tribe in the same manner as other tribal governmental funds.

(d) APPROVAL OF SECRETARY NOT REQUIRED.—Notwithstanding any other provision of law, the approval of the Secretary of the Treasury or the Secretary of the Interior for any payment, distribution, or use of the principal, interest, or income generated by any settlement funds transferred or paid to the Spokane Tribe pursuant to this Act shall not be required and such Secretaries shall have no trust responsibility for the investment, supervision, administration, or expenditure of such funds once such funds are transferred to or paid directly to the Spokane Tribe.

(c) TREATMENT OF FUNDS FOR CERTAIN PURPOSES.—The payments or distributions of any portion of the principal, interest, and income generated by the settlement funds described in section 4 shall be treated in the same manner as payments or distributions from the Investment Fund described in section 6 of Public Law 99–346 (100 Stat. 677).

(f) TRIBAL AUDIT.—The settlement funds described in section 4, once transferred or paid to the Spokane Tribe, shall be considered Spokane Tribe governmental funds and, as other tribal governmental funds, be subject to an annual tribal governmental audit.

SEC. 6. REPAYMENT CREDIT.

Beginning in the fiscal year following enactment of this Act and continuing for so long as annual payments are made under this Act, the Administrator of the Bonneville Power Administration shall deduct from the interest payable to the Secretary of the Treasury from net proceeds as defined in section 13 of the Federal Columbia River Transmission System Act, a percentage of the payment made to the Spokane Tribe for the prior fiscal year. The actual percentage

of such deduction shall be calculated and adjusted to ensure that the Bonneville Power Administration receives a deduction comparable to that which it receives for payments made to the Confederated Tribes of the Colville Reservation pursuant to the Confederated Tribes Act. Each deduction made under this section shall be credited to the interest payments otherwise payable by the Administrator to the Secretary of the Treasury during the fiscal year in which the deduction is made, and shall be allocated pro rata to all interest payments on debt associated with the generation function of the Federal Columbia River Power System that are due during that fiscal year; except that, if the deduction in any fiscal year is greater than the interest due on debt associated with the generation function for the fiscal year, then the amount of the deduction that exceeds the interest due on debt associated with the general function shall be allocated pro rata to all other interest payments due during that fiscal year. To the extent that the deduction exceeds the total amount of any such interest, the deduction shall be applied as a credit against any other payments that the Administrator makes to the Secretary of the Treasury.

SEC. 7. SATISFACTION OF CLAIMS.

Payment under section 4 shall constitute full payment and satisfaction of the Spokane Tribe's claim to a fair share of the annual hydropower revenues generated by the Grand Coulee Dam project from 1940 through the fiscal year prior to the fiscal year during which this Act is enacted and represents the Spokane Tribe's proportional entitlement of hydropower revenues based on the lump sum payment for damages from 1940 through 1994 and the annual payments by the Bonneville Power Administration to the Colville Tribes commencing in fiscal year 1995 through the fiscal year that this Act is enacted.

SEC. 8. DEFINITIONS.

For the purposes of this Act—

(1) the term ''Confederated Tribes Act'' means the Confederated Tribes of the Colville Reservation Grand Coulee Dam Settlement Act (P.L. 103–436; 108 Stat. 4577);

(2) the term ''Fund Account'' means the Spokane Tribe of Indians Settlement Fund Account established under section 4(a); and

(3) the term ''Spokane Tribe'' means the Spokane Tribe of Indians of the Spokane Reservation.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

By Mr. ROCKEFELLER (for himself, Mr. ROBB, Mr. SARBANES, Mr. KERRY, Mr. KENNEDY, and Mr. DASCHLE):

S. 1526. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit to taxpayers investing in entities seeking to provide capital to create new markets in low-income communities; to the Committee on Finance.

NEW MARKETS TAX CREDIT

Mr. ROCKEFELLER. Mr. President, I rise today to introduce a new tool, the ''New Markets Tax Credit,'' to be used to expand economic development opportunities in low-income communities in West Virginia and across this country. I'm very pleased that my good friends, Senator ROBB, SARBANES, KENNEDY, and KERRY, are joining me in this effort.

Despite the unprecedented period of expansion of the U.S. economy, many urban and rural areas continue to be held back by stubborn problems such as high unemployment and underemployment, insufficient affordable housing, shortages of services such as day care and shopping centers, and perhaps most importantly, by a chronic shortage of the private investment capital needed to stimulate and support community development.

For example, in West Virginia, we have counties where the official unemployment rate is as high as 14%. Counties like Mingo, McDowell, Logan and Boone have seen devastating job losses in the past two decades. For these rural communities, the nation's current economic boom is a distant echo. It's not that these people do not want to work, or that the entrepreneurial spirit is lacking. A major factor is the lack of private sector equity investment for business growth.

I have been pursuing economic development opportunities for my state for over 30 years, and perhaps the largest problem I've encountered is the lack of venture capital. America's most depressed economic areas desperately need private investment. They get very little not only because they are unattractive, but also because of misperceptions and market failures. A lack of information, for instance, means that many companies may have an exaggerated idea of the risk of investing in deprived areas, and often have no idea of potential markets. Yes, it is true that private venture capital investment rose 24% in 1998, 76% of the total went to technology-based companies—primarily in California's Silicon Valley and New England's high-tech corridors. But only 5.7% of all venture capital in 1998 went to South Central, Southwest and Northwest regions combined. Obviously, this is a huge disparity that needs to be corrected.

The New Markets Tax Credit is designed to encourage $6 billion in private sector equity investment for business growth in low and moderate income rural and urban communities. It would do that by providing tax credits for investments of $1.2 billion annually. The investments would be made by banks, foundations, companies or individuals. These investors would acquire stock or other equity interests in selected community economic development entities whose primary mission is serving distressed communities. Urban and rural communities with high poverty and low median income would be targeted.

The tax credits would be issued by the U.S. Department of Treasury to the selected entities. These entities in turn would sell or syndicate the credit to investors. The tax credit ultimately delivered to the investor would be in the amount of 6 percent annually of the amount of the investment, for an approximate aggregate value to the investor of 25 percent of the ''present value'' of the original investment over the 7 years. A ''qualified investment'' by an investor would be a cash purchase of stock or other equity in a selected entity, which must be held for at least 7 years. Substantially all of the investment would be required to be used by the community economic development entity to make ''qualified low-income community investments,'' which would be equity investments in, or loans to, qualified active businesses in the low-income communities.

The goal of this tax credit will be to encourage private investors who may have never considered investing in high-risk areas to do so. By investing in the community through local businesses private investors can explore new markets and improve the quality of life for the people in the area. Community development organizations may use the funds from private investors to develop micro-enterprise, manufacturing businesses, commercial facilities, communities facilities, like child care facilities and senior centers and co-operatives. It has the potential to encourage $6 billion in venture capital to these high-risk areas. And because community development vehicles may not redeem the equity interest for at least seven years, capital stays in the community. The New Markets Tax Credit will create new relationships between investors, community development vehicles, and small businesses, which will foster continued support and lasting investment.

Mr. President, I believe that the New Markets Tax Credit may be one of the most promising and viable new idea for genuine economic development in distressed urban and rural communities in recent years. President Clinton has highlighted this proposal as part of his FY2000 budget, and just last month took the case to people across the country, those parts of our country which have been too long ignored can experience real benefit from this type of initiative. Communities, businesses, and investors are responding enthusiastically.

Hope that is backed up by a strong program of economic investment is needed in West Virginia and urban and rural communities throughout America. We have all heard the talk in the recent weeks as proponents of massive new tax breaks argue that we should send even more money back to those who have benefited the most from our historic economic expansion. I believe it would be irresponsible for us to create ways to provide additional tax relief to those in our society who need the least assistance before we make a concerted effort to revitalize the parts of our country, and to help the people of our country, who have been noticeably left out of the prosperity that went elsewhere. If we're going to do more for those who need it least, let us also commit to do what we can to propel those most in need of a helping hand into the future with real hope of economic success. The New Markets Tax Credit is one solid way to do just that.

I urge my colleagues to examine this proposal carefully and give it their full

support. I ask unanimous consent that a copy 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. 1526

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

SECTION 1. NEW MARKETS TAX CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business-related credits) is amended by adding at the end the following new section:

"SEC. 45D. NEW MARKETS TAX CREDIT.

''(a) ALLOWANCE OF CREDIT.—

''(1) IN GENERAL.—For purposes of section 38, in the case of a taxpayer who holds a qualified equity investment on a credit allowance date of such investment which occurs during the taxable year, the new markets tax credit determined under this section for such taxable year is an amount equal to 6 percent of the amount paid to the qualified community development entity for such investment at its original issue.

''(2) CREDIT ALLOWANCE DATE.—The term 'credit allowance date' means, with respect to any qualified equity investment—

''(A) the date on which such investment is initially made, and

''(B) each of the 6 anniversary dates of such date thereafter.

''(b) QUALIFIED EQUITY INVESTMENT.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified equity investment' means any equity investment in a qualified community development entity if—

''(A) such investment is acquired by the taxpayer at its original issue (directly or through an underwriter) solely in exchange for cash,

''(B) substantially all of the proceeds from such investment is used by the qualified community development entity to make qualified low-income community investments, and

''(C) such investment is designated for purposes of this section by the qualified community development entity.

Such term shall not include any equity investment issued by a qualified community development entity more than 7 years after the date that such entity receives an allocation under subsection (f). Any allocation not used within such 7-year period may be reallocated by the Secretary under subsection (f).

''(2) LIMITATION.—The maximum amount of equity investments issued by a qualified community development entity which may be designated under paragraph (1)(C) by such entity shall not exceed the portion of the limitation amount allocated under subsection (f) to such entity.

''(3) SAFE HARBOR FOR DETERMINING USE OF CASH.—The requirement of paragraph (1)(B) shall be treated as met if at least 85 percent of the aggregate gross assets of the qualified community development entity are invested in qualified low-income community investments.

''(4) TREATMENT OF SUBSEQUENT PURCHASERS.—The term 'qualified equity investment' includes any equity investment which would (but for paragraph (1)(A)) be a qualified equity investment in the hands of the taxpayer if such investment was a qualified equity investment in the hands of a prior holder.

''(5) REDEMPTIONS.—A rule similar to the rule of section 1202(c)(3) shall apply for purposes of this subsection.

''(6) EQUITY INVESTMENT.—The term 'equity investment' means—

''(A) any stock in a qualified community development entity which is a corporation, and

''(B) any capital interest in a qualified community development entity which is a partnership.

''(c) QUALIFIED COMMUNITY DEVELOPMENT ENTITY.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified community development entity' means any domestic corporation or partnership if—

''(A) the primary mission of the entity is serving, or providing investment capital for, low-income communities or low-income persons,

''(B) the entity maintains accountability to residents of low-income communities through representation on governing or advisory boards or otherwise, and

''(C) the entity is certified by the Secretary for purposes of this section as being a qualified community development entity.

''(2) SPECIAL RULES FOR CERTAIN ORGANIZATIONS.—The requirements of paragraph (1) shall be treated as met by—

''(A) any specialized small business investment company (as defined in section 1044(c)(3)), and

''(B) any community development financial institution (as defined in section 103 of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4702)).

''(d) QUALIFIED LOW-INCOME COMMUNITY INVESTMENTS.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified low-income community investment' means—

''(A) any equity investment in, or loan to, any qualified active low-income community business,

''(B) the purchase from another community development entity of any loan made by such entity which is a qualified low-income community investment if the amount received by such other entity from such purchase is used by such other entity to make qualified low-income community investments,

''(C) financial counseling and other services specified in regulations prescribed by the Secretary to businesses located in, and residents of, low-income communities, and

''(D) any equity investment in, or loan to, any qualified community development entity if substantially all of the investment or loan is used by such entity to make qualified low-income community investments described in subparagraphs (A), (B), and (C).

''(2) QUALIFIED ACTIVE LOW-INCOME COMMUNITY BUSINESS.—

''(A) IN GENERAL.—For purposes of paragraph (1), the term 'qualified active low-income community business' means, with respect to any taxable year, any corporation or partnership if for such year—

''(i) at least 50 percent of the total gross income of such entity is derived from the active conduct of a qualified business within any low-income community,

''(ii) a substantial portion of the use of the tangible property of such entity (whether owned or leased) is within any low-income community,

''(iii) a substantial portion of the services performed for such entity by its employees are performed in any low-income community,

''(iv) less than 5 percent of the average of the aggregate unadjusted bases of the property of such entity is attributable to collectibles (as defined in section 408(m)(2)) other than collectibles that are held primarily for sale to customers in the ordinary course of such business, and

''(v) less than 5 percent of the average of the aggregate unadjusted bases of the property of such entity is attributable to nonqualified financial property (as defined in section 1397B(e)).

''(B) PROPRIETORSHIP.—Such term shall include any business carried on by an individual as a proprietor if such business would meet the requirements of subparagraph (A) were it incorporated.

''(C) PORTIONS OF BUSINESS MAY BE QUALIFIED ACTIVE LOW-INCOME COMMUNITY BUSINESS.—The term 'qualified active low-income community business' includes any trades or businesses which would qualify as a qualified active low-income community business if such trades or businesses were separately incorporated.

''(3) QUALIFIED BUSINESS.—For purposes of this subsection, the term 'qualified business' has the meaning given to such term by section 1397B(d); except that—

''(A) in lieu of applying paragraph (2)(B) thereof, the rental to others of real property located in any low-income community shall be treated as a qualified business if there are substantial improvements located on such property,

''(B) paragraph (3) thereof shall not apply, and

''(C) such term shall not include any business if a significant portion of the equity interests in such business are held by any person who holds a significant portion of the equity investments in the community development entity.

''(e) LOW-INCOME COMMUNITY.—For purposes of this section—

''(1) IN GENERAL.—The term 'low-income community' means any population census tract if—

''(A) the poverty rate for such tract is at least 20 percent, or

''(B)(i) in the case of a tract not located within a metropolitan area, the median family income for such tract does not exceed 80 percent of statewide median family income, or

''(ii) in the case of a tract located within a metropolitan area, the median family income for such tract does not exceed 80 percent of the greater of statewide median family income or the metropolitan area median family income.

''(2) AREAS NOT WITHIN CENSUS TRACTS.—In the case of an area which is not tracted for population census tracts, the equivalent county divisions (as defined by the Bureau of the Census for purposes of defining poverty areas) shall be used for purposes of determining poverty rates and median family income.

''(3) TARGETED POPULATION.—The Secretary may prescribe regulations under which 1 or more targeted populations (within the meaning of section 3(20) of the Riegle Community Development and Regulatory Improvement Act of 1974 (12 U.S.C. 4702(20))) may be treated as low-income communities. Such regulations shall include procedures for identifying the area covered by any such community for purposes of determining entities which are qualified active low-income community businesses with respect to such community.

''(f) NATIONAL LIMITATION ON AMOUNT OF INVESTMENTS DESIGNATED.—

''(1) IN GENERAL.—There is a new markets tax credit limitation of $1,200,000,000 for each of calendar years 2000 through 2004.

''(2) ALLOCATION OF LIMITATION.—The limitation under paragraph (1) shall be allocated by the Secretary among qualified community development entities selected by the Secretary. In making allocations under the preceding sentence, the Secretary shall give priority to entities with records of having successfully provided capital or technical assistance to disadvantaged businesses or communities.

''(3) CARRYOVER OF UNUSED LIMITATION.—If the new markets tax credit limitation for

any calendar year exceeds the aggregate amount allocated under paragraph (2) for such year, such limitation for the succeeding calendar year shall be increased by the amount of such excess.

''(g) RECAPTURE OF CREDIT IN CERTAIN CASES.—

''(1) IN GENERAL.—If, at any time during the 7-year period beginning on the date of the original issue of a qualified equity investment in a qualified community development entity, there is a recapture event with respect to such investment, then the tax imposed by this chapter for the taxable year in which such event occurs shall be increased by the credit recapture amount.

''(2) CREDIT RECAPTURE AMOUNT.—For purposes of paragraph (1), the credit recapture amount is an amount equal to the sum of—

''(A) the aggregate decrease in the credits allowed to the taxpayer under section 38 for all prior taxable years which would have resulted if no credit had been determined under this section with respect to such investment, plus

''(B) interest at the overpayment rate established under section 6621 on the amount determined under subparagraph (A) for each prior taxable year for the period beginning on the due date for filing the return for the prior taxable year involved.

No deduction shall be allowed under this chapter for interest described in subparagraph (B).

''(3) RECAPTURE EVENT.—For purposes of paragraph (1), there is a recapture event with respect to an equity investment in a qualified community development entity if—

''(A) such entity ceases to be a qualified community development entity,

''(B) the proceeds of the investment cease to be used as required of subsection (b)(1)(B), or

''(C) such investment is redeemed by such entity.

''(4) SPECIAL RULES.—

''(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

''(B) NO CREDITS AGAINST TAX.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.

''(h) BASIS REDUCTION.—The basis of any qualified equity investment shall be reduced by the amount of any credit determined under this section with respect to such investment.

''(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out this section, including regulations—

''(1) which limit the credit for investments which are directly or indirectly subsidized by other Federal benefits (including the credit under section 42 and the exclusion from gross income under section 103),

''(2) which prevent the abuse of the provisions of this section through the use of related parties,

''(3) which impose appropriate reporting requirements

''(4) which apply the provisions of this section to newly formed entities.''

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—

(1) IN GENERAL.—Subsection (b) of section 38 of the Internal Revenue Code of 1986 is amended by striking ''plus'' at the end of paragraph (12), by striking the period at the end of paragraph (13) and inserting '', plus'', and by adding at the end the following new paragraph:

''(14) the new markets tax credit determined under section 45D(a).''

(2) LIMITATION ON CARRYBACK.—Subsection (d) of section 39 of such Code is amended by adding at the end the following new paragraph:

''(10) NO CARRYBACK OF NEW MARKETS TAX CREDIT BEFORE JANUARY 1, 2000.—No portion of the unused business credit for any taxable year which is attributable to the credit under section 45D may be carried back to a taxable year ending before January 1, 2000.''

(c) DEDUCTION FOR UNUSED CREDIT.—Subsection (c) of section 196 of the Internal Revenue Code of 1986 is amended by striking ''and'' at the end of paragraph (7), by striking the period at the end of paragraph (8) and inserting '', and'', and by adding at the end the following new paragraph:

''(9) the new markets tax credit determined under section 45D(a).''

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''Sec. 45D. New markets tax credit.''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to investments made after December 31, 1999.

Mr. ROBB. Mr. President, I am pleased to join my colleague, Senator ROCKEFELLER, in introducing the New Markets Tax Credit Act, innovative legislation that will benefit both rural and urban America.

As its name suggests, the New Markets bill is designed to create new markets within our nation for investment, for job growth, and for renewal. While most of the nation experiences record economic growth, there are some places that have been left behind. Too many communities in both rural and urban America haven't been able to share the wealth, and without willing investors, that wealth may never come. Capitalism cannot flourish where there is no capital. This legislation we're introducing today addresses the need for investment in all our communities, and I believe the tax credits contained in this bill provide a way for America to lift as it climbs.

Under this bill, tax credits would be allocated to Community Development Entities located within the neighborhoods and rural areas where help is needed. Those who invest in these Community Development organizations would receive tax benefits, and the funds they invested would be used by the organizations to invest in local businesses, provide start-up capital, or make low interest loans. The investment decisions would be made at the local level by those who best know the community, would attract private enterprise to create economic growth, and would use federal tax credits to achieve these objectives. This local, federal, and private sector partnership holds the key to improving communities across this nation.

The New Markets Initiative can use both the business incubator and community action models that have proven so successful in many communities. An example of such success can be found at People, Incorporated in Southwest Virginia, a community action agency that promotes economic growth by leveraging funds and lending expertise to new or expanding businesses.

This legislation, along with the Enterprise Zone bill I recently introduced, gives lcoal communities the tools they need to spur economic growth where they live. Attracting investments to the neediest communities will pay dividends, not just in economic terms, but in quality of life terms as well. Prospering communities can provide quality education, improved transportation and better police protection. And improving communities can provide a draw for those who would otherwise be tempted to move out to the suburbs, thereby reducing the pressures that have created suburban sprawl and increasing commutes and diminishing open spaces.

Mr. President, I hope we can move this legislation quickly.

By Mr. REED:

S. 1527. A bill to amend section 258 of the Communications Act of 1934 to enhance the protections against unauthorized changes in subscriber selections of telephones service providers, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE ANTI-SLAMMING ACT OF 1999

Mr. REED. Mr. President, I rise today to make a few comments concerning legislation which I am introducing to deal with the problem of slamming.

Telephone ''slamming'' is the illegal practice of switching a consumer's long distance service without the individual's consent. This problem has increased dramatically over the last several years, as competition between long distance carriers has risen, and slamming is the top consumer complaint lodged at the Federal Communications Commission (FCC), with 11,278 reported complaints in 1995, and 16,500 in 1996. In both 1997 and 1998, more than 20,000 complaints were filed. It is very clear that this problem is on the rise, and unfortunately, this represents only the tip of the iceberg because most consumers never report violations to the FCC. One regional Bell company estimates that 1 in every 20 switches is fraudulent. Media reports indicate that as many as 1 million illegal transfers occur annually. Thus, slamming threatens to rob consumers of the benefit of a competitive market, which is now composed of over 500 companies which generate $72.5 billion in revenues. As a result of slamming, consumers face not only higher phone bills, but also the significant expenditure of time and energy in attempting to identify and reverse the fraud. The results of slamming are clear: higher phone bills and immense consumer frustration.

Mr. President, we are all aware of the stiff competition which occurs for customers in the long distance telephone

service industry. The goal of deregulating the telecommunications industry was to allow consumers to easily avail themselves of lower prices and better service. Hopefully, this option will soon be presented to consumers for in-state calls and local phone service. Indeed, better service at lower cost is a main objective of those who seek to deregulate the utility industry. Unfortunately, fraud threatens to rob many consumers of the benefits of a competitive industry.

Telemarketing is one of the least expensive and most effective forms of marketing, and it has exponentially expanded in recent years. By statute, the Federal Trade Commission (FTC) regulates most telemarketing, prohibiting deceptive or abusive sales calls, requiring that homes not be called at certain times, and that companies honor a consumer's request not to be called again. The law mandates that records concerning sales be maintained for two years. While the FTC is charged with primary enforcement, the law allows consumers, or state Attorneys General on their behalf, to bring legal action against violators. Yet, phone companies are exempt from these regulations, since they are subject to FCC regulation.

While the FCC has brought action against twenty-two of the industry's largest and smallest firms for slamming violations with penalties totaling over $1.8 million, this represents a minute fraction of the violations. FCC prosecution does not effectively address or deter this serious fraud. State officials have become more aggressive in pursuing violators. The California Public Utility Commission fined a company $2 million in 1997 after 56,000 complaints were filed against it. Arizona, Arkansas, Idaho, Illinois, Kansas, Minnesota, Mississippi, Missouri, New Jersey, Ohio, Vermont, and Wisconsin have all pursued litigation against slammers. Public officials of twenty-five states asked the FCC to adopt tougher rules against slammers.

As directed by the Telecommunications Act of 1996, the FCC has moved to close several loopholes which have allowed slamming to continue unabated. Most important, the FCC has proposed to eliminate the financial incentive which encourages many companies to slam by mandating that customers who are slammed do not have to pay fees to slammers for the first thirty days after the switch occurred. At present, a slammer can retain the profits generated from an illegal switch. Additionally, the FCC has proposed regulations which would require that a carrier confirm all switches generated by telemarketing through either (1) a letter of agency, known as a LOA, from the consumer; (2) a recording of the consumer verifying his or her choice on a toll-free line provided by the carrier; or (3) a record of verification by an appropriately qualified and independent third party. The regulations, which were recently finalized by the FCC, unfortunately have been blocked by court order until long distance carriers have time to analyze the implications of the rules. If and when these rules are finalized, I still believe that these remedies will be wholly inadequate to address the ever-increasing problem of slamming. The problem is that slammed consumers would still be left without conclusive proof that their consent was properly obtained and verified.

My legislation encompasses a three-part approach to stop slamming by strengthening the procedures used to verify consent obtained by marketers; increasing enforcement procedures by allowing citizens or their representatives to pursue slammers in court with the evidence necessary to win; and encouraging all stakeholders to use emerging technology to prevent fraud.

Mr. President, let me also thank the National Association of Attorneys General, the National Association of Regulatory Utility Commissioners which through both their national offices and individual members provided extensive recommendations to improve this bill. Additionally, I have found extremely helpful the input of several groups which advocate on behalf of consumers. I was particularly pleased to work with the Consumer Federation of America to address concerns which its members expressed.

Mr. President, let me take a few minutes to outline the specific provisions of my bill. My legislation requires that a consumer's consent to change service is verified so that discrepancies can be adjudicated quickly and efficiently. Like the 1996 Act, my bill requires a legal switch to include verification. However, my legislation enumerates the necessary elements of a valid verification. First, the bill requires verification to be maintained by the provider, either in the form of a letter from the consumer or by recording verification of the consumer's consent via the phone. The length that the verification must be maintained is to be determined by the FCC. Second, the bill stipulates the form that verification must take. Written verification remains the same as current regulations. Oral verification must include the voice of the subscriber affirmatively demonstrating that she wants her long distance provider to be changed; is authorized to make the change; and is currently verifying an imminent switch. The bill mandates oral verification to be conducted in a separate call from that of the telemarketer, by an independent, disinterested party. This verifying call must promptly disclose the nature and purpose of the call. Third, after a change has been executed, the new service provider must send a letter to the consumer, within five business days of the change in service, informing the consumer that the change, which he requested and verified, has been effected. Fourth, the bill mandates that a copy of verification be provided to the consumer upon request. Finally, the bill requires the FCC to finalize rules implementing these mandates within nine months of enactment of the bill.

These procedures should help ensure that consumers can efficiently avail themselves of the phone service they seek, without being exposed to random and undetectable fraudulent switches. If an individual is switched without his or her consent, the mandate of recorded, maintained verification will provide the consumer with the proof necessary to prove that the switch was illegal.

The second main provision of my legislation would provide consumers, or their public representatives, a legal right to pursue violators in court. Following the model of Senator HOLLINGS' 1991 Telephone Consumer Protection Act, my bill provides aggrieved consumers with a private right of action in any state court which allows, under specific slamming laws or more general consumer protection statutes such an action. The 1991 Act has been adjudicated to withstand constitutional challenges on both equal protection and tenth amendment claims. Thus, the bill has the benefit of specifying one forum in which to resolve illegal switches of all types of service: long distance, in-state, and local service.

Realizing that many individuals will not have the time, resources, or inclination to pursue a civil action, my bill also allows state Attorneys Generals, or other officials authorized by state law, to bring an action on behalf of citizens. Like the private right of action in suits brought by public officials damages are statutorily set at $1,000 or actual damages, whichever is greater. Treble damages are awarded in cases of knowing or willful violations. In addition to monetary awards, states are entitled to seek relief in the form of writs of mandamus, injunction, or similar relief. To ensure a proper role for the FCC, state actions must be brought in a federal district court where the victim or defendant resides. Additionally, state actions must be certified with the Commission, which maintains a right to intervening in an action. The bill makes express the fact that it has no impact on state authority to investigate consumer fraud or bring legal action under any state law.

Finally, Mr. President, my legislation recognizes that neither legislators nor regulators can solve tomorrow's problems with today's technology. Therefore, my bill mandates that the FCC provide Congress with a report on other, less burdensome but more secure means of obtaining and recording consumer consent. Such methods might include utilization of Internet technology or issuing PIN numbers or customer codes to be used before carrier changes are authorized. The bill requires that the FCC report to Congress on such methodology not later than 180 days after enactment of this bill.

Mr. President, I appreciate the opportunity to discuss my initiative to stop

slamming. Last year we came close to passing significant anti-slamming legislation. I hope that this issue can be addressed quickly this Congress. As a result, I would urge all my colleagues to cosponsor this legislation.

I ask unanimous consent that the full 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. 1527

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

SECTION 1. FINDINGS; PURPOSE.

(a) FINDINGS.—Congress makes the following findings:

(1) As the telecommunications industry has moved toward competition in the provision of long distance telephone services, consumers have increasingly elected to change the carriers that provide their long distance telephone services. As many as 50,000,000 consumers now change long distance telephone service providers each year.

(2) The fluid nature of the market for long distance telephone services has also allowed an increasing number of unauthorized changes of telephone service providers to occur. Such changes have been called ''slamming'', a term which denotes any practice in which a consumer's long distance telephone service provider is changed without the consumer's knowledge or consent.

(3) Slamming accounts for the largest number of consumer complaints received by the Common Carrier Bureau of the Federal Communications Commission. As many as 1,000,000 consumers are subject to the unauthorized change of telephone service providers each year.

(4) The increased costs which consumers face as a result of the unauthorized change of telephone service providers threaten to deprive consumers of the financial benefits created by a competitive marketplace in telephone services.

(5) The burdens placed upon consumers by unauthorized changes of telephone service providers will expand exponentially as competition enters into the markets for intraLATA and local telephone services.

(6) The Telecommunications Act of 1996 sought to combat unauthorized changes of telephone service providers by requiring that a provider who changes a subscriber without authorization pay the previously selected carrier an amount equal to all charges paid by the subscriber after the change. The Federal Communications Commission has proposed regulations to implement this requirement. Implementing these regulations will eliminate many of the financial incentives to execute unauthorized changes of telephone service providers. However, under current and proposed regulations consumers have, and will continue to face, difficulty in securing proof of unauthorized changes. Thus, enforcement of the regulations will be impeded by a lack of tangible proof of consumer consent to the change of telephone service providers.

(7) The interests of consumers require that telephone service providers maintain evidence of their verification of consumer consent to changes in telephone service providers. This evidence should take the form of a consumer's written consent or a recording of a consumer's oral consent obtained by the telephone service provider or a third party.

(8) Both Congress and the Federal Communications Commission should continue to examine electronic means by which consumers could most readily change telephone service providers while ensuring that such changes would result only from consumer action evidencing express consent to such changes.

(9) By providing consumers with a private right of action in State court, if State law permits, against those who have executed unauthorized changes of telephone service providers, Congress insures in a constitutional manner that neither Federal nor State courts will be overburdened with litigation, while also providing the proper forum for such actions given that competition will soon come to all segments of the telephone service market.

(10) The majority of consumers who have been subject to the unauthorized change of telephone service do not seek redress through the Federal Communications Commission. In light of the general responsibilities of the States for consumer protection, as well as the prosecutions against unauthorized changes already undertaken by the States, it is essential that the States be allowed to pursue actions on behalf of their citizens, while also preserving the proper role of the Federal Communications Commission in regulating the telecommunications industry.

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

(1) to protect consumers from unauthorized changes of telephone service providers;

(2) to allow the efficient prosecution of legal actions against telephone service providers who defraud consumers by transferring telephone service providers without consumer consent; and

(3) to facilitate the ready selection of telephone service providers by consumers.

SEC. 2. ENHANCEMENT OF PROTECTIONS AGAINST UNAUTHORIZED CHANGES IN SUBSCRIBER SELECTIONS OF TELEPHONE SERVICE PROVIDERS.

(a) VERIFICATION OF AUTHORIZATION.—

(1) IN GENERAL.—Subsection (a) of section 258 of the Communications Act of 1934 (47 U.S.C. 258) is amended—

(A) by striking ''(a) PROHIBITION.—No telecommunications'' and inserting the following:

''(a) PROHIBITION.—

''(1) IN GENERAL.—No telecommunications'';

(B) in paragraph (1), as so designated, by inserting after the first sentence the following: ''Such procedures shall require the verification of a subscriber's selection of a provider in written or oral form (including a signature or voice recording) and shall require the retention of such verification in such manner and form and for such time as the Commission considers appropriate.''; and

(C) by adding at the end the following:

''(2) VERIFICATION.—

''(A) IN GENERAL.—For purposes of paragraph (1), the verification of a subscriber's selection of a telephone exchange service or telephone toll service provider shall take the form of a written or oral communication (in the same language as the solicitation of the selection) in which the subscriber—

''(i) acknowledges the type of service to be changed as a result of the selection;

''(ii) affirms the subscriber's intent to select the provider as the provider of that service;

''(iii) affirms that the subscriber is authorized to select the provider of that service for the telephone number in question;

''(iv) acknowledges that the selection of the provider will result in a change in providers of that service;

''(v) acknowledges that only one provider may provide that service for that telephone number; and

''(vi) provides such other information as the Commission considers appropriate for the protection of the subscriber.

''(B) REQUIREMENTS FOR ORAL VERIFICATIONS.—An oral verification of a change in telephone service providers under this paragraph—

''(i) may not be made in the same communication in which the change is solicited;

''(ii) may be made only to a qualified and independent agent (as determined in accordance with regulations prescribed by the Commission) of the provider concerned; and

''(iii) shall include a prompt and clear disclosure by the agent that the purpose of the telephone call is to verify that the subscriber has consented to the change.

''(C) CONFIRMATION OF CHANGE.—A provider submitting or executing a change in telephone service providers shall notify the subscriber concerned by mail of the change not later than 5 business days after the date on which the change is executed. The confirmation shall be provided in the language in which the change was solicited.

''(D) AVAILABILITY OF VERIFICATIONS.—A provider shall make available to a subscriber a copy of a verification under this paragraph upon the request of the subscriber or an authorized representative of the subscriber.''.

(2) REGULATIONS.—The Federal Communications Commission shall complete the adoption of the regulations required under section 258(a) of the Communications Act of 1934 by reason of the amendments made by paragraph (1) not later than 270 days after the date of enactment of this Act.

(b) ADDITIONAL REMEDIES.—Such section is further amended by adding at the end the following:

''(c) PRIVATE RIGHT OF ACTION.—

''(1) PRIVATE RIGHT.—A person or entity may, if otherwise permitted by the laws or rules of court of a State, bring in an appropriate court of that State—

''(A) an action based on a violation of subsection (a) or the regulations prescribed under such subsection to enjoin such violation;

''(B) an action to recover for actual monetary loss from such a violation or to receive $1,000 in damages for each such violation, whichever is greater; or

''(C) both such actions.

''(2) TREBLE DAMAGES.—If the court finds that the defendant willfully or knowingly violated subsection (a) or the regulations prescribed under such subsection, the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under paragraph (1)(B).

''(3) COSTS OF LITIGATION.—The court, in issuing any final order in an action brought pursuant to this subsection may award costs of litigation (including reasonable attorney and expert witness fees) to the prevailing plaintiff whenever the court determines that such award is appropriate.

''(d) ACTIONS BY STATES.—

''(1) AUTHORITY OF STATES.—

''(A) IN GENERAL.—Whenever the attorney general of a State, or an official or agency designated by a State, has reason to believe that any person has engaged or is engaging in an activity or practice of activities with respect to residents of that State in violation of subsection (a) or the regulations prescribed under such subsection, the State may bring a civil action on behalf of its residents to enjoin such activities, an action to recover for the greater of actual monetary loss or $1,000 in damages for each violation, or both such actions.

''(B) TREBLE DAMAGES.—If the court finds the defendant willfully or knowingly violated such subsection or regulations, the court may, in its discretion, increase the

amount of the award to an amount equal to not more than 3 times the amount available under the subparagraph (A).

''(2) EXCLUSIVE JURISDICTION OF FEDERAL COURTS.—

''(A) IN GENERAL.—The district courts of the United States, the United States courts of any territory, and the District Court of the United States for the District of Columbia shall have exclusive jurisdiction over all civil actions brought under this subsection.

''(B) ADDITIONAL RELIEF.—Upon proper application, such courts shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding the defendant to comply with the provisions of subsection (a) or regulations prescribed under such subsection, including the requirement that the defendant take such action as is necessary to remove the danger of such violation. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

''(3) RIGHTS OF COMMISSION.—

''(A) NOTICE.—The State shall serve prior written notice of any such civil action upon the Commission and provide the Commission with a copy of its complaint, except in any case where such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action.

''(B) RIGHTS.—The Commission shall have the right—

''(i) to intervene in any action covered by subparagraph (A);

''(ii) upon so intervening, to be heard on all matters arising therein; and

''(iii) to file petitions for appeal.

''(4) VENUE; SERVICE OF PROCESS.—Any civil action brought under this subsection in a district court of the United States may be brought in the district wherein the defendant or victim is found, wherein the defendant is an inhabitant or transacts business, or wherein the violation occurred or is occurring, and process in such cases may be served in any district in which the defendant is an inhabitant or where the defendant may be found.

''(5) INVESTIGATORY POWERS.—For purposes of bringing a civil action under this subsection, nothing in this subsection shall prevent the attorney general of a State, or an official or agency designated by a State, from exercising the powers conferred on the attorney general or such official by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

''(6) EFFECT ON STATE COURT PROCEEDINGS.—Nothing in this subsection shall be construed to prohibit any official authorized by State law from proceeding in State court on the basis of an alleged violation of any civil or criminal statute of such State.

''(7) LIMITATION.—Whenever the Commission has instituted a civil action for violation of subsection (a) or there regulations prescribed under such subsection, no State may, during the pendency of such action instituted by the Commission, subsequently institute a civil action against any defendant named in the Commission's complaint for any violation as alleged in the Commission's complaint.

''(8) DEFINITION.—In this subsection, the term 'attorney general' means the chief legal officer of a State.''.

SEC. 3. REPORT ON ELECTRONIC MEANS FOR VERIFYING SUBSCRIBER AUTHORIZATIONS OF SELECTIONS OF TELEPHONE SERVICE PROVIDERS.

Not later than 180 days after the date of enactment of this Act, the Federal Communications Commission shall submit to Congress a report on the technological feasibility and practicability of permitting subscribers to authorize changes in telephone service providers by electronic means (including authorization by electronic mail or by use of personal identification numbers or other security mechanisms) without thereby increasing the likelihood of unauthorized changes in such providers.

By Mr. LOTT (for himself, Mr. DASCHLE, Mr. CHAFEE, Mrs. LINCOLN, Mr. WARNER, and Mr. BAUCUS):

S. 1528. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to clarify liability under that Act for certain recycling transactions; to the Committee on Environment and Public Works.

SUPERFUND RECYCLING ACT OF 1999

Mr. LOTT. Mr. President, today I am pleased to join my distinguished colleagues, Senate Minority Leader DASCHLE, and Senators WARNER, CHAFEE, BAUCUS, and LINCOLN, in introducing the Superfund Recycling Equity Act of 1999.

This legislation, similar to that which the distinguished minority leader and I introduced in the previous Congress, removes an unintended consequence of the Superfund statute that has inhibited the growth of recycling in our nation. I am certain that when the Congress passed the Comprehensive Emergency Response, Liability and Compensation Act (CERCLA), members of both bodies did not want, and did not suggest, that traditional recyclable materials—paper, glass, plastic, metals, textiles, and rubber—should be any more subject to Superfund liability than a competitive product made of virgin material. However, that is how the courts have interpreted Superfund.

Consequently, CERCLA has created a competitive disadvantage between virgin materials used as manufacturing feedstocks and recyclable materials used for precisely the same purpose. The courts have concluded that recyclables are materials that have been disposed of and are therefore subject to Superfund liability. Even most American schoolchildren know, recycling is good for the nation—that recycling is the exact opposite of disposal. Recycling serves important national goals by keeping materials from entering the waste stream. Through recycling we reclaim useful products and materials. We use recyclables as manufacturing feedstocks just as we do virgin raw materials, but using recyclables also helps to preserve the earth's scarce resources, reduces society's energy demand, lowers water and air pollution and reduces solid waste.

Mr. President, our bill corrects this unintended consequence of Superfund. It recognizes that recycling is not disposal. That recyclers are not subject to Superfund's liability scheme should the owners of mills, foundries or refineries, to which recyclers ship their material, contaminate their facilities.

Let me highlight an example of the unintended consequence that will continue to exist without this needed clarification. A recycler sends scrap metal as feedstock to be manufactured into a new product at a mill. The same mill also uses virgin metals to make the identical product. If the mill contaminates its facility with a hazardous substance, only the recyclable becomes subject to Superfund liability. Because recyclables are considered solid wastes, the recycler's actions are considered arranging for disposal, thus creating liability. However, the shipper of the virgin material is not liable under Superfund since it shipped a product and did not ''arrange for disposal.''

The Superfund Recycling Equity Act of 1999 is essential to correct Superfund's unintended bias against recycling. It will provide the same relief from Superfund liability for legitimate recyclers as that enjoyed by those who sell virgin materials. It will also ensure that, sham recyclers will not benefit from the provisions of this bill. The Superfund Recycling Equity Act contains conditions that can only be met by legitimate recyclers of paper, glass, plastic, metals, textiles and rubber. And, to be free of liability, recyclers must act in an environmentally sound manner and sell their product to manufacturers with environmentally responsible business practices.

It is also important to note what this bill will not do. It will not relieve from liability any recycler who has contaminated his own facility. Nor will it assist recyclers who have disposed of waste at landfills or other places at which waste was the cause of a release of hazardous substances to a site that is addressed by the Superfund program.

Mr. President, the Senate Minority Leader and I previously stated our intention that, should a more comprehensive Superfund bill fail to move toward conclusion in the Senate, we would work in a bipartisan fashion, toward the goal of Superfund relief for legitimate recyclers in the 1999 session of this Congress. Members of the Environment and Public Works, led by Chairman CHAFEE, Subcommittee Chairman SMITH, and Ranking Minority Member BAUCUS, have worked extraordinarily hard to try to bring a common sense Superfund bill to the Senate floor that addresses a series of issues, including relief for recyclers. Unfortunately, once again, differences appear to have stymied that effort. I congratulate my colleagues for their efforts to address this issue. However, realizing the chances of passing a more comprehensive Superfund reform bill are now somewhat remote, it is time to address the Superfund recycling issue.

The language offered today is similar to the bipartisan measure we introduced last year. In the last Congress, the Minority Leader and I were joined by 63 of our colleagues across party and ideological lines in support of the Superfund Recycling Equity Act (S. 2180). It is now time to complete our work and provide relief—relief for recyclers that is long overdue.

There is one remaining issue regarding polychlorinated biphenyls (PCBs) in recycled paper which has been the subject of negotiations between various parties and the Administration. It is my understanding that these parties are negotiating in good faith, and that many, but not all issues, have been resolved. I have said in the past, I would be willing to modify the Superfund recycling language if the original negotiating partners agreed to a proposed language change. That remains my position. Should there be an agreement among the original negotiators on the paper PCB issue subsequent to today's introduction, I will at the earliest appropriate moment make the agreed upon change.

Mr. President, Americans have properly embraced the benefits of recycling. Americans know that increased recycling means more efficient use of natural resources and a meaningful reduction in solid waste. By removing the threat of Superfund liability for recyclers, Congress will stimulate more recycling. I urge all of my colleagues to cosponsor this pro-environment bill.

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

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

S. 1528

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 ''Superfund Recycling Equity Act of 1999''.

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to promote the reuse and recycling of scrap material in furtherance of the goals of waste minimization and natural resource conservation while protecting human health and the environment;

(2) to create greater equity in the statutory treatment of recycled versus virgin materials; and

(3) to remove the disincentives and impediments to recycling created as an unintended consequence of the 1980 Superfund liability provisions.

SEC. 3. CLARIFICATION OF LIABILITY UNDER CERCLA FOR RECYCLING TRANSACTIONS.

(a) CLARIFICATION.—Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) is amended by adding at the end the following new section:

''SEC. 127. RECYCLING TRANSACTIONS.

''(a) LIABILITY CLARIFICATION.—As provided in subsections (b), (c), (d), and (e), a person who arranged for recycling of recyclable material shall not be liable under section 107(a)(3) or 107(a)(4) with respect to the material.

''(b) RECYCLABLE MATERIAL DEFINED.—For purposes of this section, the term 'recyclable material' means scrap paper, scrap plastic, scrap glass, scrap textiles, scrap rubber (other than whole tires), scrap metal, or spent lead-acid, spent nickel-cadmium, and other spent batteries, as well as minor amounts of material incident to or adhering to the scrap material as a result of its normal and customary use prior to becoming scrap; except that such term shall not include shipping containers of a capacity from 30 liters to 3,000 liters, whether intact or not, having any hazardous substance (but not metal bits and pieces or hazardous substance that form an integral part of the container) contained in or adhering thereto.

''(c) TRANSACTIONS INVOLVING SCRAP PAPER, PLASTIC, GLASS, TEXTILES, OR RUBBER.—Transactions involving scrap paper, scrap plastic, scrap glass, scrap textiles, or scrap rubber (other than whole tires) shall be deemed to be arranging for recycling if the person who arranged for the transaction (by selling recyclable material or otherwise arranging for the recycling of recyclable material) can demonstrate by a preponderance of the evidence that all of the following criteria were met at the time of the transaction:

''(1) The recyclable material met a commercial specification grade.

''(2) A market existed for the recyclable material.

''(3) A substantial portion of the recyclable material was made available for use as feedstock for the manufacture of a new saleable product.

''(4) The recyclable material could have been a replacement or substitute for a virgin raw material, or the product to be made from the recyclable material could have been a replacement or substitute for a product made, in whole or in part, from a virgin raw material.

''(5) For transactions occurring 90 days or more after the date of enactment of this section, the person exercised reasonable care to determine that the facility where the recyclable material was handled, processed, reclaimed, or otherwise managed by another person (hereinafter in this section referred to as a 'consuming facility') was in compliance with substantive (not procedural or administrative) provisions of any Federal, State, or local environmental law or regulation, or compliance order or decree issued pursuant thereto, applicable to the handling, processing, reclamation, storage, or other management activities associated with recyclable material.

''(6) For purposes of this subsection, 'reasonable care' shall be determined using criteria that include (but are not limited to)—

''(A) the price paid in the recycling transaction;

''(B) the ability of the person to detect the nature of the consuming facility's operations concerning its handling, processing, reclamation, or other management activities associated with recyclable material; and

''(C) the result of inquiries made to the appropriate Federal, State, or local environmental agency (or agencies) regarding the consuming facility's past and current compliance with substantive (not procedural or administrative) provisions of any Federal, State, or local environmental law or regulation, or compliance order or decree issued pursuant thereto, applicable to the handling, processing, reclamation, storage, or other management activities associated with the recyclable material. For the purposes of this paragraph, a requirement to obtain a permit applicable to the handling, processing, reclamation, or other management activity associated with the recyclable materials shall be deemed to be a substantive provision.

''(d) TRANSACTIONS INVOLVING SCRAP METAL.—

''(1) Transactions involving scrap metal shall be deemed to be arranging for recycling if the person who arranged for the transaction (by selling recyclable material or otherwise arranging for the recycling of recyclable material) can demonstrate by a preponderance of the evidence that at the time of the transaction—

''(A) the person met the criteria set forth in subsection (c) with respect to the scrap metal;

''(B) the person was in compliance with any applicable regulations or standards regarding the storage, transport, management, or other activities associated with the recycling of scrap metal that the Administrator promulgates under the Solid Waste Disposal Act subsequent to the enactment of this section and with regard to transactions occurring after the effective date of such regulations or standards; and

''(C) the person did not melt the scrap metal prior to the transaction.

''(2) For purposes of paragraph (1)(C), melting of scrap metal does not include the thermal separation of 2 or more materials due to differences in their melting points (referred to as 'sweating').

''(3) For purposes of this subsection, the term 'scrap metal' means bits and pieces of metal parts (e.g., bars, turnings, rods, sheets, wire) or metal pieces that may be combined together with bolts or soldering (e.g., radiators, scrap automobiles, railroad box cars), which when worn or superfluous can be recycled, except for scrap metals that the Administrator excludes from this definition by regulation.

''(e) TRANSACTIONS INVOLVING BATTERIES.—Transactions involving spent lead-acid batteries, spent nickel-cadmium batteries, or other spent batteries shall be deemed to be arranging for recycling if the person who arranged for the transaction (by selling recyclable material or otherwise arranging for the recycling of recyclable material) can demonstrate by a preponderance of the evidence that at the time of the transaction—

''(1) the person met the criteria set forth in subsection (c) with respect to the spent lead-acid batteries, spent nickel-cadmium batteries, or other spent batteries, but the person did not recover the valuable components of such batteries; and

''(2)(A) with respect to transactions involving lead-acid batteries, the person was in compliance with applicable Federal environmental regulations or standards, and any amendments thereto, regarding the storage, transport, management, or other activities associated with the recycling of spent lead-acid batteries;

''(B) with respect to transactions involving nickel-cadmium batteries, Federal environmental regulations or standards are in effect regarding the storage, transport, management, or other activities associated with the recycling of spent nickel-cadmium batteries, and the person was in compliance with applicable regulations or standards or any amendments thereto; or

''(C) with respect to transactions involving other spent batteries, Federal environmental regulations or standards are in effect regarding the storage, transport, management, or other activities associated with the recycling of such batteries, and the person was in compliance with applicable regulations or standards or any amendments thereto.

''(f) EXCLUSIONS.—

''(1) The exemptions set forth in subsections (c), (d), and (e) shall not apply if—

''(A) the person had an objectively reasonable basis to believe at the time of the recycling transaction—

''(i) that the recyclable material would not be recycled;

''(ii) that the recyclable material would be burned as fuel, or for energy recovery or incineration; or

''(iii) for transactions occurring before 90 days after the date of the enactment of this section, that the consuming facility was not in compliance with a substantive (not procedural or administrative) provision of any Federal, State, or local environmental law

or regulation, or compliance order or decree issued pursuant thereto, applicable to the handling, processing, reclamation, or other management activities associated with the recyclable material;

''(B) the person had reason to believe that hazardous substances had been added to the recyclable material for purposes other than processing for recycling;

''(C) the person failed to exercise reasonable care with respect to the management and handling of the recyclable material (including adhering to customary industry practices current at the time of the recycling transaction designed to minimize, through source control, contamination of the recyclable material by hazardous substances); or

''(D) with respect to any item of a recyclable material, the item contained polychlorinated biphenyls at a concentration in excess of 50 parts per million or any new standard promulgated pursuant to applicable Federal laws.

''(2) For purposes of this subsection, an objectively reasonable basis for belief shall be determined using criteria that include (but are not limited to) the size of the person's business, customary industry practices (including customary industry practices current at the time of the recycling transaction designed to minimize, through source control, contamination of the recyclable material by hazardous substances), the price paid in the recycling transaction, and the ability of the person to detect the nature of the consuming facility's operations concerning its handling, processing, reclamation, or other management activities associated with the recyclable material.

''(3) For purposes of this subsection, a requirement to obtain a permit applicable to the handling, processing, reclamation, or other management activities associated with recyclable material shall be deemed to be a substantive provision.

''(g) EFFECT ON OTHER LIABILITY.—Nothing in this section shall be deemed to affect the liability of a person under paragraph (1) or (2) of section 107(a). Nothing in this section shall be deemed to affect the liability of a person under paragraph (3) or (4) of section 107(a) with respect to materials that are not recyclable materials as defined in subsection (b) of this section.

''(h) REGULATIONS.—The Administrator has the authority, under section 115, to promulgate additional regulations concerning this section.

''(i) EFFECT ON PENDING OR CONCLUDED ACTIONS.—The exemptions provided in this section shall not affect any concluded judicial or administrative action or any pending judicial action initiated by the United States prior to enactment of this section.

''(j) LIABILITY FOR ATTORNEY'S FEES FOR CERTAIN ACTIONS.—Any person who commences an action in contribution against a person who is not liable by operation of this section shall be liable to that person for all reasonable costs of defending that action, including all reasonable attorney's and expert witness fees.

''(k) RELATIONSHIP TO LIABILITY UNDER OTHER LAWS.—Nothing in this section shall affect—

''(1) liability under any other Federal, State, or local statute or regulation promulgated pursuant to any such statute, including any requirements promulgated by the Administrator under the Solid Waste Disposal Act; or

''(2) the ability of the Administrator to promulgate regulations under any other statute, including the Solid Waste Disposal Act.''.

(b) TECHNICAL AMENDMENT.—The table of contents for title I of such Act is amended by adding at the end the following item:

''SEC. 127. Recycling transactions.''.

Mrs. LINCOLN. Mr. President, I am pleased to join my distinguished colleagues in introducing legislation to relieve legitimate recyclers from Superfund liability.

This legislation has become necessary because of an unintended consequence of the Comprehensive Emergency Response, Compensation, and Liability Act, more commonly called Superfund. Some courts have interpreted CERCLA to mean that the sale of certain traditional recyclable feedstocks is an arrangement for the treatment or disposal of a hazardous substance and, therefore, fully subject to Superfund liability. While there exists in law and legislative history no suggestion whatsoever that the Congress intended to impede recycling in America by providing a strong preference for the use of virgin materials through the Superfund liability scheme, that is precisely what has happened.

The Superfund Recycling Equity Act of 1999 is intended to place traditional recyclable materials which are used as feedstocks in the manufacturing process on an equal footing with their virgin, or primary feedstock, counterparts. Traditional recyclables are made from paper, glass, plastic, metals, batteries, textiles, and rubber.

During the 103rd Congress I first introduced a bill to relieve legitimate recyclers of scrap metal from unintended Superfund liability. The bill was developed in conjunction with the recycling industry, the environmental community, and the Administration. All of the parties worked closely together and consistently agreed that liability relief for recyclers is necessary and right.

The language in this bill is the culmination of a process that we have been working on since the 103rd Congress. Similar language was also introduced in the 104th and 105th Congresses with the most recent version garnering almost 400 Senate and House co-sponsors. I am sure you can see, Mr. President, the push to relieve these legitimate recyclers of this unintended liability has received broad, bi-partisan support.

The Superfund Recycling Equity Act of 1999 acknowledges that Congress did not intend to subject to Superfund liability those government and private entities that collect and process secondary materials for sale as feedstocks for manufacturing. This bill removes from liability those who collect, process, and sell to manufacturers paper, glass, plastic, metal textiles, and rubber recyclables. This bill also exempts from liability those individuals who collect lead acid, nickel, cadmium, and other batteries for the recycling of the valuable components. However, this bill does not exempt chemical, solvent, sludge, or slag recycling. It addresses traditional recyclables in a CERCLA context only. We do not intend it to be viewed as a precedent for any other amendment to Superfund or to any other environmental statute, whatsoever.

It should also be clearly understood that this bill addresses the product of recyclers, that is the recyclables they sell which are utilized to make new products. This does not affect liability for contamination that is created at a facility owned or operated by a recycler. Neither does it affect liability related to any process wastes sent by a recycler for treatment or disposal. In order to assure that only bonafide recycling facilities benefit from this bill, a number of tests have been established within the bill by which liability relief will be denied to sham recyclers.

I have consistently supported Superfund reforms beginning with my time in the House and continuing in the Senate. Unfortunately, comprehensive Superfund reforms have yet to garner broad support throughout the Congress and action on recyclers has been held up in the process. Relief for legitimate recyclers has been the one portion of Superfund reform that has consistently garnered widespread, bi-partisan support. The recycling industry should no longer be denied their legitimate exemption from Superfund liability because of broader issues that do not relate to them.

Mr. President, I am aware of ongoing negotiations concerning a section within this recycling bill that applies to PCBs in paper. I want to again stress that when we began preparing for this bill in 1993, we formed a coalition of parties that all agreed upon the language within the bill. This coalition has remained until this day. These parties are currently working to amend the language of the bill to resolve this concern. Upon final agreement, I will welcome an amendment to this bill to include the resolution language.

Mr. President, there are legitimate recyclers across our nation that stand to lose their livelihoods if we don't act immediately. Legitimate recyclers that reuse and recycle the scrap leftover from our everyday processes. Legitimate recyclers that reduce the waste we put in our landfills and produce a useful product. Legitimate recyclers that were not intended by the writers of CERCLA to be burdened with liability for taking scrap metal and other products and processing them into products equivalent to virgin material.

Mr. President, we have been working toward providing this needed liability relief for legitimate recyclers for over 6 years. It is time to pass this important legislation now. Doing so will not only relieve this unintended liability but will promote recycling in our country. I urge all my colleagues to join me in support of this legislation.

By Mr. GREGG:

S. 1530. A bill to amend the Family and Medical Leave Act of 1993 to clarify the Act, and for other purposes; to

the Committee on Health, Education, Labor, and Pensions.

FAMILY AND MEDICAL LEAVE CLARIFICATION ACT

• Mr. GREGG. Mr. President, today marks the sixth anniversary of the implementation of the Family and Medical Leave Act. This act, as my colleagues will recall, was intended to be used by families for critical periods such as after the birth or adoption of a child and leave to care for a child, spouse, or one's own ''serious medical condition.''

Since its passage, the Family and Medical Leave Act has had a significant impact on employers' leave practices and policies. According to the Commission on Family and Medical Leave two-thirds of covered work sites have changed some aspect of their policies in order to comply with the act.

Unfortunately, the Department of Labor's implementation of certain provisions of the act has resulted in significant unintended administrative burden and costs on employers; resentment by co-workers when the act is misapplied; invasions of privacy by requiring employers to ask deeply personal questions about employees and family members planning to take FMLA leave; disruptions to the workplace due to increased unscheduled and unplanned absences; unnecessary record keeping; unworkable notice requirements; and conflicts with existing policies.

Despite these problems, which have been well documented through three separate congressional hearings, including one I chaired three weeks ago, there are those in Congress and the administration who choose to ignore those problems and instead push for imposition of the law on even smaller businesses and for purposes well beyond those judged by Congress to be the most critical. These proponents of expansion will refer to a report issued by the U.S. Commission on Leave which failed to find significant problems associated with the act.

However, the fact of the matter is, the Commission on Leave's report was issued well before the final implementing regulations were in place—regulations which are in fact the source of much of the concern over the act's implementation.

Mr. President, to consider expansion at this time is not just irresponsible, it is unconscionable.

The Department of Labor's vague and confusing implementing regulations have resulted in the FMLA being misapplied, misunderstood and mistakenly ignored. Employers aren't sure if situations like pink eye, ingrown toe nails and even the common cold will be considered by the regulators and the courts to be serious health conditions.

Because of these concerns and well documented problems with the act, I am today introducing the Family and Medical Leave Clarification Act to make reasonable and much needed changes to clarify the Family and Medical Leave Act and restore the original congressional intent.

The FMLA Clarification Act has the strong support of The Society for Human Resource Management and close to 300 leading companies and associations who make up the Family and Medical Leave Act Technical Corrections Coalition. I have received a letter of support from the Coalition and ask that it be printed in the RECORD. This broad based coalition shares my belief that both employers and employees would benefit from making certain technical corrections to the FMLA—corrections that are needed to restore congressional intent and to reduce administrative and compliance problems experienced by employers who are making a good faith effort to comply with the act.

The bill I am introducing today does several important things:

First, it repeals the Department of Labor's current regulations for ''serious health condition'' and includes language from the Democrats' own Committee Report on what types of medical conditions (such as heart attacks, strokes, spinal injuries, etc) were intended to be covered.

In passing the FMLA, Congress stated that the term ''serious health condition'' is not intended to cover short-term conditions for which treatment and recovery are very brief, recognizing that ''it is expected that such condition will fall within the most modest sick leave policies.''

The Department of Labor's current regulations are extremely expansive, defining the term ''serious health condition'' as including, among other things, any absence of more than 3 days in which the employee sees any health care provider and receives any type of continuing treatment (including a second doctor's visit, or a prescription, or a referral to a physical therapist)—such a broad definition potentially mandates FMLA leave where an employee sees a health care provider once, receives a prescription drug, and is instructed to call the health care provider back if the symptoms do not improve; the regulations also define as a ''serious health condition'' any absence for a chronic health problem, such as arthritis, asthma, diabetes, etc., even if the employee does not see a doctor for that absence and is absent for less than three days.

Second, the bill amends the act's provisions relating to intermittent leave to give employers the right to require that intermittent leave be taken in minimum blocks of 4 hours. This would minimize the misuse of FMLA by employees who use FMLA as an excuse for regular tardiness and routine justification for early departures.

Third, the bill shifts to the employee the responsibility to request leave be designated as FMLA leave, and requires the employee to provide written application within 5 working days of providing notice to the employer for foreseeable leave. With respect to unforeseeable leave, the bill requires the employee to provide, at a minimum, oral notification of the need for the leave not later than the date the leave commences unless the employee is physically or mentally incapable of providing notice or submitting the application. Under that circumstance the employee is provided such additional time as necessary to provide notice.

Shifting the burden to the employee to request leave be designated as FMLA leave eliminates the need for the employer to question the employee and pry into the employee's and the employee's family's private matters, as required under current law, and helps eliminate personal liability for employer supervisors who should not be expected to be experts in the vague and complex regulations which even attorneys have a difficult time understanding. Under current law, it is the employer's responsibility in all circumstances to designate leave, paid or unpaid, as FMLA-qualifying. Failure to do so in a timely manner or to inform an employee that a specific event does not qualify as FMLA leave may result in that unqualified leave becoming qualified leave under FMLA. This scenario has actually been upheld in Court and has placed an enormous burden on employers to respond within 48 hours of an employee's leave request. In addition, the courts have held that there is personal liability for employers under the FMLA and that an individual manager may be sued and held individually liable for acts taken based upon or relating to the FMLA. See *Freemon* v. *Foley*, 911 F. Supp. 326 (N.D. Ill. 1995) (in case of first impression in 7th Circuit, court stated, ''We believe the FMLA extends to all those who controlled 'in whole or in part' [plaintiff's] ability to take leave of absence and return to her postion'').

Fourth, with respect to leave because of the employee's own serious health condition, the bill permits an employer to require the employee to choose between taking unpaid leave provided by the FMLA or paid absence under an employer's collective bargaining agreement or other sick leave, sick pay, or disability plan, program, or policy of the employer. This change provides incentive for employers to continue their generous sick leave policies while providing a disincentive to employers considering getting rid of such employee-friendly plans, including those negotiated by the employer and the employee's union representative. Paid leave would be subject to the employer's normal work rules and procedures for taking such leave, including work rules and procedures dealing with attendance requirements.

Despite the common belief that leave under the FMLA is necessarily unpaid, employers having generous sick leave policies, or who have worked out employee-friendly sick leave programs with unions in collective bargaining agreements, are being penalized by the FMLA. In fact, for many companies,

most FMLA leave has become paid leave. According to the U.S. Commission on Leave, 66.3 percent of FMLA leave is paid (46.7 percent fully paid). This existing paid leave sandwiched on top of the broad, yet vague, FMLA definitions has resulted in employees requesting or characterizing a variety of minor situations as FMLA leave.

Mr. President, the FMLA Clarification Act is a reasonable response to the hundreds of concerns that have been raised about the act. It leaves in place the fundamental protections of the law while attempting to make changes necessary to restore FMLA to its original intent and to respond to the very legitimate concerns that have been raised. In the spirit of the FMLA I urge my colleagues to mark it's anniversary by restoring the Family and Medical Leave Act to its original congressional intent.

I asked that the bill and a letter of support be printed in the RECORD.

The material follows:

S. 1530

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

SECTION 1. SHORT TITLE; REFERENCES; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Family and Medical Leave Clarification Act''.

(b) REFERENCES.—Except as otherwise expressly provided, wherever 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 Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.).

(c) TABLE OF CONTENTS.—The table of contents is as follows:

SEC. 2. FINDINGS.

Congress finds the following:

(1) The Family and Medical Leave Act of 1993 (referred to in this section as the ''Act'') is not working as Congress intended when Congress passed the Act in 1993. Many employers, including those employers that are nationally recognized as having generous family-friendly benefit and leave programs, are experiencing serious problems complying with the Act.

(2) The Department of Labor's overly broad regulations and interpretations have caused many of these problems by greatly expanding the Act's coverage to apply to many nonserious health conditions.

(3) Documented problems generated by the Act include significant new administrative and personnel costs, loss of productivity and scheduling difficulties, unnecessary paperwork and recordkeeping, and other compliance problems.

(4) The Act often conflicts with employers' paid sick leave policies, prevents employers from managing absences through their absence control plans, and results in most leave under the Act becoming paid leave.

(5) The Commission on Leave, established in title III of the Act (29 U.S.C. 2631 et seq.), which reported few difficulties with compliance with the Act, failed to identify many of the problems with compliance because the study on which the report was based was conducted too soon after the date of enactment of the Act and the most significant problems with compliance arose only when employers later sought to comply with the Act's final regulations and interpretations.

SEC. 3. DEFINITION OF SERIOUS HEALTH CONDITION.

Section 101(11) (29 U.S.C. 2611(11)) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(2) by aligning the margins of those clauses with the margins of clause (i) of paragraph (4)(A);

(3) by inserting before ''The'' the following: ''(A) IN GENERAL.—''; and

(4) by adding at the end the following:

''(B) EXCLUSIONS.—The term does not include a short-term illness, injury, impairment, or condition for which treatment and recovery are very brief.

''(C) EXAMPLES.—The term includes an illness, injury, impairment, or physical or mental condition such as a heart attack, a heart condition requiring extensive therapy or a surgical procedure, a stroke, a severe respiratory condition, a spinal injury, appendicitis, pneumonia, emphysema, severe arthritis, a severe nervous disorder, an injury caused by a serious accident on or off the job, an ongoing pregnancy, a miscarriage, a complication or illness related to pregnancy, such as severe morning sickness, a need for prenatal care, childbirth, and recovery from childbirth, that involves care or treatment described in subparagraph (A).''.

SEC. 4. INTERMITTENT LEAVE.

Section 102(b)(1) (29 U.S.C. 2612(b)(1)) is amended by striking the period at the end of the second sentence and inserting the following: '', as certified under section 103 by the health care provider after each leave occurrence. An employer may require an employee to take intermittent leave in increments of up to ½ of a workday. An employer may require an employee who travels as part of the normal day-to-day work or duty assignment of the employee and who requests intermittent leave or leave on a reduced schedule to take leave for the duration of that work or assignment if the employer cannot reasonably accommodate the employee's request.''.

SEC. 5. REQUEST FOR LEAVE.

Section 102(e) (29 U.S.C. 2612(e)) is amended by inserting after paragraph (2) the following:

''(3) REQUEST FOR LEAVE.—If an employer does not exercise, under subsection (d)(2), the right to require an employee to substitute other employer-provided leave for leave under this title, the employer may require the employee who wants leave under this title to request the leave in a timely manner. If an employer requires a timely request under this paragraph, an employee who fails to make a timely request may be denied leave under this title.

''(4) TIMELINESS OF REQUEST FOR LEAVE.—For purposes of paragraph (3), a request for leave shall be considered to be timely if—

''(A) in the case of foreseeable leave, the employee—

''(i) provides the applicable advance notice required by paragraphs (1) and (2); and

''(ii) submits any written application required by the employer for the leave not later than 5 working days after providing the notice to the employer; and

''(B) in the case of unforeseeable leave, the employee—

''(i) notifies the employer orally of the need for the leave—

''(I) not later than the date the leave commences; or

''(II) during such additional period as may be necessary, if the employee is physically or mentally incapable of providing the notification; and

''(ii) submits any written application required by the employer for the leave—

''(I) not later than 5 working days after providing the notice to the employer; or

''(II) during such additional period as may be necessary, if the employee is physically or mentally incapable of submitting the application.''.

SEC. 6. SUBSTITUTION OF PAID LEAVE.

Section 102(d)(2) (29 U.S.C. 2612(d)(2)) is amended by adding at the end the following:

''(C) PAID ABSENCE.—Notwithstanding subparagraphs (A) and (B), with respect to leave provided under subparagraph (D) of subsection (a)(1), where an employer provides a paid absence under the employer's collective bargaining agreement, a welfare benefit plan under the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.), or under any other sick leave, sick pay, or disability plan, program, or policy of the employer, the employer may require the employee to choose between the paid absence and unpaid leave provided under this title.''.

SEC. 7. REGULATIONS.

(a) EXISTING REGULATIONS.—

(1) REVIEW.—Not later than 90 days after the date of enactment of this Act, the Secretary of Labor shall review all regulations issued before that date to implement the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.), including the regulations published in sections 825.114 and 825.115 of title 29, Code of Federal Regulations.

(2) TERMINATION.—The regulations, and opinion letters promulgated under the regulations, shall cease to be effective on the effective date of final regulations issued under subsection (b)(2)(B), except as described in subsection (c).

(b) REVISED REGULATIONS.—

(1) IN GENERAL.—The Secretary of Labor shall issue revised regulations implementing the Family and Medical Leave Act of 1993 that reflect the amendments made by this Act.

(2) NEW REGULATIONS.—The Secretary of Labor shall issue—

(A) proposed regulations described in paragraph (1) not later than 90 days after the date of enactment of this Act; and

(B) final regulations described in paragraph (1) not later than 180 days after that date of enactment.

(3) EFFECTIVE DATE.—The final regulations take effect 90 days after the date on which the regulations are issued.

(c) TRANSITION.—The regulations described in subsection (a) shall apply to actions taken by an employer prior to the effective date of final regulations issued under subsection (b)(2)(B), with respect to leave under the Family and Medical Leave Act of 1993.

SEC. 8. EFFECTIVE DATE.

The amendments made by this Act shall take effect 180 days after the date of enactment of this Act.

THE FMLA TECHNICAL
CORRECTIONS COALITION,
7505 INZER STREET,
Springfield, VA, August 5, 1999.

Hon. JUDD GREGG,
Chairman, Subcommittee on Children and Families,
U.S. Senate, Washington, DC

DEAR CHAIRMAN GREGG: On behalf of the nearly 300 members of the Family and Medical Leave Act Technical Corrections Coalition, I am writing to commend you for introducing the Family and Medical Leave Clarification Act and to offer our support. This

essential legislation would address the well-documented problems with the law's misapplication by restoring the law to reflect the original intent of Congress.

The Coalition is a diverse, broad-based, nonpartisan group of nearly 300 leading companies and associations. Members of the Coalition are fully committed to complying with both the spirit and the letter of the FMLA and strongly believe that employers should provide policies and programs to accommodate the individual work-life needs of their employees. At the same time, the Coalition believes that the FMLA should be fixed to protect those employees that Congress aimed to assist while streamlining administrative problems that have arisen. Since the FMLA is not working properly, the Coalition does not support expansions to the Act.

Thank you for the opportunity to testify before the Subcommittee during your July 14, 1999 hearing. The most disturbing finding of the hearing was the fact that the greatest cost of the FMLA's misapplication is the cost to employees themselves. A strong public record has now been thoroughly established. Numerous witnesses have now documented the unintended consequences of the FMLA's misapplication in three Congressional hearings;

1. The May 9, 1996 hearing in the Senate Subcommittee on Children and Families; 2. The June 10, 1997 hearing in the House Subcommittee on Oversight and Investigations, Committee on Education and the Workforce; and 3. Your July 14, 1999 hearing in your Senate Subcommittee on Children and Families.

The hearings demonstrated that the FMLA's definition of serious health condition is vague and overly broad due to the Department of Labor's (DOL's) interpretations. Additionally, the hearings documented that the intermittent leave provisions as misapplied by the DOL are complicated and difficult to administer, causing many serious workplace problems.

In addition, many companies expressed that Congress should consider allowing employers to permit employees to take either a paid leave package under an existing collective bargaining agreement or the 12 weeks of FMLA protected leave, whichever is greater.

It is now time for the Senate to move forward to enact ''The Family and Medical Leave Clarification Act'' on a bipartisan basis. It is our strong hope that the Family and Medical Leave Clarification Act will be fully embraced by all the original authors of the FMLA and advance quickly in the Senate with a bipartisan spirit.

Technical corrections do not need to be polarizing, combative or controversial, but they do need to be done as soon as possible, so that the FMLA operates in the manner and in the spirit that Congress intended.

We thank you for your leadership on this critical legislation and look forward to working with you to ensure its success. The entire FMLA Technical Corrections Coalition looks forward to working with you toward that end.

Respectfully,

DEANNA R. GELAK, SPHR,
Executive Director.●

By Mr. MOYNIHAN:

S. 1531. A bill to amend the Act establishing Women's Rights National Historical Park to permit the Secretary of the Interior to acquire title in fee simple to the Hunt House located in Waterloo, New York; to the Committee on Energy and Natural Resources.

LEGISLATION AUTHORIZING THE PURCHASE OF THE HUNT HOUSE

● Mr. MOYNIHAN. Mr. President, I rise to introduce a bill that would authorize the Secretary of the Interior to purchase the Hunt House in Seneca Falls, New York. This summer the owners of the Hunt House put it on the market for $139,000. Of four historic buildings in Seneca Falls that should be part of the Women's Rights National Historical Park, the Hunt House is the only one that is not. It was the site of the gathering of five women (the founding mothers, you might say) who decided to hold the nation's first women's rights convention. That convention took place in Seneca Falls in July, 1848. The Women's Rights Park is a monument to the idea they espoused that summer, that women should have equal right with men; one of the most influential ideas of the last 150 years.

Adding the Hunt House to the Park would complete it. The problem is that the Department was not given the authorization to purchase the Hunt House in the bill I offered 20 years ago so that speculation would not drive up the price of the house when it eventually went on the market. That worked. But now the lack of an authorization should not keep us from being able to acquire the house at all. This bill simply removes the restriction against a fee simple purchase by the Park Service. I hope my colleagues will offer their support, and I ask that the text of the bill be printed in the RECORD.

The bill follows:

S. 1531

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

SECTION 1. ACQUISITION OF HUNT HOUSE.

Section 1601(d) of Public Law 97–607 (94 Stat. 3547; 16 U.S.C. 410*ll*(d)) is amended—

(1) in the first sentence, by inserting after ''park,'' the following: ''including the Hunt House designated under subsection (c)(8),''; and

(2) in the last sentence, by striking ''McClintock'' and inserting ''Hunt''.

By Mr. DURBIN (for himself, Mr. LEVIN, Mr. SCHUMER, and Mr. MOYNIHAN):

S. 1532. A bill to amend title 10, United States Code, to restrict the sale or other transfer of armor piercing ammunition and components of armor piercing ammunition disposed of by the Army; to the Committee on Armed Services.

MILITARY ARMOR PIERCING AMMUNITION RESALE LIMITATION ACT OF 1999

Mr. DURBIN. President, under the Conventional Demilitarization Program, the Department of Defense sells .50 caliber ammunition that has been on the shelf too long and could misfire or is otherwise unserviceable to a private company. That company refurbishes some of that ammunition and sells it to civilian buyers.

Our colleagues in the House, Representatives ROD BLAGOJEVICH and HENRY WAXMAN, asked the General Accounting Office to investigate the availability of armor-piercing .50 caliber ammunition in the United States. GAO investigators found that ''U.S.-made armor piercing fifty caliber ammunition is readily available in the United States and that this widespread availability is directly attributable to the little-known Conventional Demilitarization Program within the Department of Defense.''

I want to be sure that my colleagues know what .50 caliber rifles and ammunition can do. They can rip through bullet-proof glass, armor-plated limousines, tanks, helicopters, or aircraft from more than a mile away with deadly accuracy. They can hit targets from four miles away. Their shells can pierce five or six walls with no problem. That is just what the armor-piercing variety can do. The armor-piercing incendiary .50 caliber ammunition can do everything I just mentioned, but then can also start a fire or explode on impact. So if the sniper missed the person inside the limousine or tank or airplane with an armor piercing shell, he could instead shoot an incendiary shell and cause the target to catch fire or blow up.

Nobody goes deer hunting with a .50 caliber rifle. No one shoots a bear with .50 caliber rifle. There would be little left of the hapless animal, although I suppose fragments of it could come already barbecued if a .50 caliber incendiary shell were used.

What is this weapon good for? It is an appropriate and necessary weapon for the United States Armed Forces and has some important law enforcement uses. Its usefulness was demonstrated time and again in the Gulf War to shoot Iraqi tanks, armored vehicles, and bunkers. It is terrific for blowing up land mines and other small unexploded ordnance. The tracer variety is important for military targeting at night.

Otherwise, it is extremely useful for assassins, terrorists, drug cartels, and doomsday cults. Since 1992, the Bureau of Alcohol, Tobacco and Firearms has initiated 28 gun traces involving .50 caliber semiautomatic rifles. Many of these traces led to terrorists, outlaw motorcycle gangs, international and domestic drug traffickers, and violent criminals.

The General Accounting Office conducted an undercover investigation that revealed that ammunition dealers use an ''ask no questions'' approach to the purchase of .50 caliber ammunition. Even after undercover GAO investigators made clear to ammunition dealers that they wanted to be sure the ammunition could pierce an armor-plated limousine or could shoot down a helicopter, the dealers were perfectly willing to sell it.

In fact, there are fewer restrictions on the sale of .50 caliber weapons than on handguns. Yet a leading manufacturer of new .50 caliber ammunition, Arizona Ammunition, Inc., says it does not sell .50 caliber armor piercing, incendiary, and tracer ammunition to the general public ''because they have no sporting application.'' That leaves

the U.S. Department of Defense demilitarization contract as the source of U.S.-made .50 caliber ammunition for the civilian market.

Today I have introduced a bill that would require DoD contractors for the disposal of .50 caliber surplus military ammunition to agree not to sell the refurbished ammunition to civilians. The Defense Department must include in its contract a provision that refurbished .50 caliber may not be sold to non-military or law enforcement organizations or personnel. The Defense Department should no longer be the indirect source of ammunition that could be used for assassination, terrorism, or drug trafficking.

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

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

S. 1532

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 ''Military Armor Piercing Ammunition Resale Limitation Act of 1999''.

SEC. 2. RESALE OF ARMOR PIERCING AMMUNITION DISPOSED OF BY THE ARMY.

(a) RESTRICTION.—(1) Chapter 443 of title 10, United States Code, is amended by adding at the end the following:

''§ 4688. Armor piercing ammunition and components: condition on disposal

''(a) LIMITATION ON RESALE OR OTHER TRANSFER.—Whenever the Secretary of the Army carries out a disposal (by sale or otherwise) of armor piercing ammunition, or a component of armor piercing ammunition, the Secretary shall require as a condition of the disposal that the recipient agree in writing not to sell or otherwise transfer any of the ammunition (reconditioned or otherwise), or any component of that ammunition, to any purchaser in the United States other than a law enforcement or other governmental agency.

''(b) DEFINITION.—In this section, the term 'armor piercing ammunition' means a center-fire cartridge the military designation of which includes the term 'armor penetrator' or 'armor piercing', including a center-fire cartridge designated as armor piercing incendiary (API) or armor-piercing incendiary-tracer (API–T).''.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following:

''4688. Armor piercing ammunition and components: condition on disposal.''.

(b) APPLICABILITY.—Section 4688 of title 10, United States Code (as added by subsection (a)), shall apply with respect to any disposal of ammunition or components referred to in that section after the date of the enactment of this Act.

By Ms. SNOWE (for herself and Mr. MCCAIN):

S. 1534. A bill to reauthorize the Coastal Zone Management Act, and for other purposes; to the Committee on Commerce, Science, and Transportation.

COASTAL ZONE MANAGEMENT ACT OF 1999

Ms. SNOWE. Mr. President, I rise today to introduce the Coastal Zone Management Act of 1999. I am pleased that Senator MCCAIN, Chairman of the Commerce Committee, is a cosponsor of this legislation. This bill reauthorizes the Coastal Zone Management Act (CZMA) through Fiscal Year 2004. This legislation will improve the qualify of life for those Americans fortunate enough to live in coastal communities and the millions of others who visit these regions each year. First and foremost, the bill recognizes the many benefits of economic development, and balances those needs with the protection of our valuable public resources.

The United States has more than 95,000 miles of coastline along the Atlantic, Pacific, and Arctic Oceans, Gulf of Mexico, and the Great Lakes. Nearly 53 percent of all Americans live in these coastal regions, but that accounts for only 11 percent of the country's total land area. This small portion of our country supports approximately 200 sea ports, contains most of our largest cities, and serves as critical habitat for a variety of plants and animals.

To help meet the growing challenges facing these coastal areas, Congress enacted the CZMA in 1972. The CZMA provides incentives to states to develop comprehensive programs that balance the many competing uses of coastal resources and to meeting the needs for the future growth of coastal communities.

As a voluntary program, the framework of the CZMA provides guidelines for state plans to address multiple environmental, societal, cultural, and economic objectives. This allows the states the flexibility necessary to prioritize management issues and utilize existing state regulatory programs and statutes wherever possible. Obviously, each state's priorities and needs are unique. That is why this bill provides maximum flexibility to states to address the diverse problems affecting our coastal areas.

The coastal zones managed under the CZMA range from the arctic to tropical islands, from sandy to rocky shorelines, and from urban to rural areas. Because of these varying habitats and resource types, no two state plan and the same, nor should they be.

Likewise, there are multiple uses of the coastal zone. Coastal managers are asked to strike a balance among residential, commercial, recreational, and industrial development; harbor development and maintenance; shoreline erosion and commercial and recreational fishing. Coastal programs address these competing needs for resources, steer activities to appropriate areas of the coast, and attempt to minimize the effects of these activities on coastal resources. As you may imagine, being able to balance economic development while protecting public resources requires careful strategies, substantial financial resources, and cooperation among stakeholders.

So far, 32 of the 35 eligible coastal states and U.S. territories have federally approved coastal zone management plans under the CZMA. Two of the remaining eligible states are currently completing their plans. I am proud to say that my state of Maine has had a federally approved plan since 1978. The approved plans cover 99% of the eligible U.S. coastline.

Another component of the CZMA is the National Estuarine Research Reserve System. These reserves not only provide habitat for a wide variety of fish, invertebrates, birds, and mammals, but they also serve as natural laboratories for research and education. There are currently 22 of these reserves in 18 states.

Mr. President, this bill authorizes $100 million to carry out the objectives of the CZMA for fiscal year 2000. The authorization level increases by $5 million each year to $120 million in FY 2004. Of the annual $5 million increase, $3.5 million would be targeted for the base state-grant programs; $1 million would be authorized for coastal zone enhancement and coastal community grant programs; and $500,000 would be authorized for the national Estuarine Research Reserve System. This bill will enable the states to build upon the successes of their management plans an confront emerging problems along our coasts. Further, this bill allows each state to maintain the flexibility it requires in order to address the specific needs of its coastal communities.

Because flexibility at the state level is a critical element of this bill, titled the Coastal Zone Management Act of 1999 allows states to establish partnerships with local communities to encourage wise and sustainable development of their public resources. As the United States' population continues to increase in coastal communities, it is imperative that we provide those communities with the capability to plan for growth. This will enable coastal communities to address open space needs, environmental protection, and infrastrasture needs.

Finally, let me say that the foundation of this legislation is the existing federal/state partnership that has made the CZMA so effective. The federal funds to implement CZMA management plans are matched by state matching monies. Some states have capitalized on the opportunities presented by the CZMA by leveraging even more money than the required match. In my state, the State of Maine, for example, the importance of investing in coastal areas has been clearly recognized and the CZMA federal funds have been matched at a rate of seven state dollars per federal dollar. Given examples like this, the potential for this reauthorization could produce several hundred million dollars for coastal zone management programs.

I believe the legislation that I am introducing today will provide states with the necessary funding and framework to meet the challenges facing our coastal communities in the 21st Century.

Mr. President, this is a solid, reasonable and realistic bill that enjoys bipartisan support on the Commerce Committee. I look forward to moving this bill at the earliest opportunity.

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

S. 1534

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 ''Coastal Zone Management Act of 1999''.

SEC. 2. AMENDMENT OF COASTAL ZONE MANAGEMENT ACT.

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 Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.).

SEC. 3. FINDINGS.

Section 302 (16 U.S.C. 1451) is amended—

(1) by redesignating paragraphs (a) through (m) as paragraphs (1) through (13);

(2) by inserting ''ports,'' in paragraph (3) (as so redesignated) after ''fossil fuels,'';

(3) by inserting ''including coastal waters and wetlands,'' in paragraph (4) (as so redesignated) after ''zone,'';

(4) by striking ''therein,'' in paragraph (4) (as so redesignated) and inserting ''dependent on that habitat,'';

(5) by striking ''well-being'' in paragraph (5) (as so redesignated) and inserting ''quality of life'';

(6) by striking paragraph (11) (as so redesignated) and inserting the following:

''(11) Land and water uses in the coastal zone and coastal watersheds may significantly affect the quality of coastal waters and habitats, and efforts to control coastal water pollution from activities in these areas must be improved;''; and

(7) by adding at the end thereof the following:

''(14) There is a need to enhance cooperation and coordination among States and local communities, to encourage local community-based solutions that address the impacts and pressures on coastal resources and on public facilities and public service caused by continued coastal demands, and to increase State and local capacity to identify public infrastructure and open space needs and develop and implement plans which provide for sustainable growth, resource protection and community revitalization.''.

SEC. 4. POLICY.

Section 303 (16 U.S.C. 1452) is amended—

(1) by striking ''the States'' in paragraph (2) and inserting ''State and local governments'';

(2) by striking ''waters,'' each place it appears in paragraph (2)(C) and inserting ''waters and habitats,'';

(3) by striking ''agencies and State and wildlife agencies; and'' in paragraph (2)(J) and inserting ''and wildlife management; and'';

(4) by inserting ''other countries,'' after ''agencies,'' in paragraph (5);

(5) by striking ''and'' at the end of paragraph (5);

(6) by striking ''zone.'' in paragraph (6) and inserting ''zone;''; and

(7) by adding at the end thereof the following:

''(7) to create and use a National Estuarine Research Reserve System as a Federal, State, and community partnership to support and enhance coastal management and stewardship; and

''(8) to encourage the development, application, and transfer of innovative coastal and estuarine environmental technologies and techniques for the long-term conservation of coastal ecosystems.''.

SEC. 5. CHANGES IN DEFINITIONS.

Section 304 (16 U.S.C. 1453) is amended—

(1) by striking ''and the Trust Territories of the Pacific Islands,'' in paragraph (4);

(2) by striking paragraph (8) and inserting the following:

''(8) The term 'estuarine reserve' means a coastal protected area which may include any part or all of an estuary and any island, transitional area, and upland in, adjoining, or adjacent to the estuary, and which constitutes to the extent feasible a natural unit, established to provide long-term opportunities for conducting scientific studies and educational and training programs that improve the understanding, stewardship, and management of estuaries.''; and

(3) by adding at the end thereof the following:

''(19) The term 'coastal nonpoint pollution control plan' means a plan submitted by a coastal state to the Secretary under section 306(d)(16).''.

SEC. 6. REAUTHORIZATION OF MANAGEMENT PROGRAM DEVELOPMENT GRANTS.

Section 305(a) (16 U.S.C. 1454(a)) is amended by striking ''1997, 1998, and 1999,'' and inserting ''2000, 2001, 2002, 2003, and 2004,''.

SEC. 7. REAUTHORIZATION OF ADMINISTRATIVE GRANTS.

(a) PURPOSES.—Section 306(a) (16 U.S.C. 1455(a)) is amended by inserting ''including developing and implementing coastal nonpoint pollution control program components,'' after ''program,''.

(b) ACQUISITION CRITERIA.—Section 306(d)(10)(B) (16 U.S.C. 1455(d)(10)(B)) is amended by striking ''less than fee simple'' and inserting ''other''.

SEC. 8. COASTAL RESOURCE IMPROVEMENT PROGRAM.

Section 306A (16 U.S.C. 1455a) is amended—

(1) by adding at the end of subsection (a) the following:

''(3) The term 'qualified local entity' means—

''(A) any local government;

''(B) any areawide agency referred to in section 204(a)(1) of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3334 (a)(1));

''(C) any regional agency;

''(D) any interstate agency; and

''(E) any reserve established under section 315.'';

(2) by inserting ''or other important coastal habitats'' in subsection (b)(1) after ''306(d)(9)'';

(3) by inserting ''or historic'' in subsection (b)(2) after ''urban'';

(4) by adding at the end of subsection (b) the following:

''(5) The coordination and implementation of approved coastal nonpoint pollution control plans.

''(6) The preservation, restoration, enhancement or creation of coastal habitats.'';

(5) by striking ''and'' after the semicolon in subsection (c)(2)(D);

(6) by striking ''section.'' in subsection (c)(2)(E) and inserting ''section ;'';

(7) by adding at the end of subsection (c)(2) the following:

''(F) work, resources, or technical support necessary to preserve, restore, enhance, or create coastal habitats; and

''(G) the coordination and implementation of approved coastal nonpoint pollution control plans.''; and

(8) by striking subsections (d), (e), and (f) and inserting after subsection (c) the following:

''(d) SOURCE OF FEDERAL GRANTS; STATE MATCHING CONTRIBUTIONS.—

''(1) IN GENERAL.—If a coastal state chooses to fund a project under this section, then—

''(A) it shall submit to the Secretary a combined application for grants under this section and section 306;

''(B) it shall match the combined amount of such grants in the ratio required by section 306(a) for grants under that section; and

''(C) the Federal funding for the project shall be a portion of that State's annual allocation under section 306(a).

''(2) USE OF FUNDS.—Grants provided under this section may be used to pay a coastal state's share of costs required under any other Federal program that is consistent with the purposes of this section.

''(e) ALLOCATION OF GRANTS TO QUALIFIED LOCAL ENTITY.—With the approval of the Secretary, the eligible coastal State may allocate to a qualified local entity a portion of any grant made under this section for the purpose of carrying out this section; except that such an allocation shall not relieve that State of the responsibility for ensuring that any funds so allocated are applied in furtherance of the State's approved management program.

''(f) ASSISTANCE.—The Secretary shall assist eligible coastal States in identifying and obtaining from other Federal agencies technical and financial assistance in achieving the objectives set forth in subsection (b).''.

SEC. 9. COASTAL ZONE MANAGEMENT FUND.

(a) TREATMENT OF LOAN REPAYMENTS.—Section 308(a)(2) (16 U.S.C. 1456a(a)(2)) is amended to read as follows:

''(2) Loan repayments made under this subsection—

''(A) shall be retained by the Secretary and deposited into the Coastal Zone Management Fund established under subsection (b); and

''(B) subject to amounts provided in Appropriations Acts, shall be available to the Secretary for purposes of this title and transferred to the Operations, Research, and Facilities account of the National Oceanic and Atmospheric Administration to offset the costs of implementing this title.''.

(b) USE OF AMOUNTS IN FUND.—Section 308(b) (16 U.S.C. 1456a(b)) is amended by striking paragraphs (2) and (3) and inserting the following:

''(2) Subject to Appropriation Acts, amounts in the Fund shall be available to the Secretary to carry out the provisions of this Act.''.

SEC. 10. COASTAL ZONE ENHANCEMENT GRANTS.

Section 309 (16 U.S.C. 1456b) is amended—

(1) by striking subsection (a)(1) and inserting the following:

''(1) Protection, restoration, enhancement, or creation of coastal habitats, including wetlands, coral reefs, marshes, and barrier islands.'';

(2) by inserting ''and removal'' after ''entry'' in subsection (a)(4);

(3) by striking ''on various individual uses or activities on resources, such as coastal wetlands and fishery resources.'' in subsection (a)(5) and inserting ''of various individual uses or activities on coastal waters, habitats, and resources, including sources of polluted runoff.'';

(4) by adding at the end of subsection (a) the following:

''(10) Development and enhancement of coastal nonpoint pollution control plan components, including the satisfaction of conditions placed on such programs as part of the Secretary's approval of the programs.

''(11) Significant emerging coastal issues as identified by coastal states, in consultation with the Secretary and qualified local entities.'';

(5) by striking ''proposals, taking into account the criteria established by the Secretary under subsection (d).'' in subsection (c) and inserting ''proposals.'';

(6) by striking subsection (d) and redesignating subsection (e) as subsection (d); and

(7) by striking subsection (f) and redesignating subsection (g) as subsection (e).

SEC. 11. COASTAL COMMUNITY PROGRAM.

The Act is amended by inserting after section 309 the following:

''SEC. 309A. COASTAL COMMUNITY PROGRAM.

''(a) COASTAL COMMUNITY GRANTS.—The Secretary may make grants to any coastal state that is eligible under subsection (b)—

''(1) to assist coastal communities in assessing and managing growth, public infrastructure, and open space needs in order to provide for sustainable growth, resource protection and community revitalization;

''(2) to provide management-oriented research and technical assistance in developing and implementing community-based growth management and resource protection strategies in qualified local entities;

''(3) to fund demonstration projects which have high potential for improving coastal zone management at the local level; and

''(4) to assist in the adoption of plans, strategies, policies, or procedures to support local community-based environmentally-protective solutions to the impacts and pressures on coastal uses and resources caused by development and sprawl that will—

''(A) revitalize previously developed areas;

''(B) undertake conservation activities and projects in undeveloped and environmentally sensitive areas;

''(C) emphasize water-dependent uses; and

''(D) protect coastal waters and habitats.

''(b) ELIGIBILITY.—To be eligible for a grant under this section for a fiscal year, a coastal state shall—

''(1) have a management program approved under section 306; and

''(2) in the judgment of the Secretary, be making satisfactory progress in activities designed to result in significant improvement in achieving the coastal management objectives specified in section 303(2)(A) through (K).

''(c) SOURCE OF FEDERAL GRANTS; STATE MATCHING CONTRIBUTIONS.—If a coastal state chooses to fund a project under this section, then—

''(1) it shall submit to the Secretary a combined application for grants under this section and section 309;

''(2) it shall match the amount of the grant under this section on the basis of a total contribution of section 306, 306A, and this section so that, in aggregate, the match is 1:1; and

''(3) the Federal funding for the project shall be a portion of that State's annual allocation under section 309.

''(d) ALLOCATION OF GRANTS TO QUALIFIED LOCAL ENTITY.—

''(1) IN GENERAL.—With the approval of the Secretary, the eligible coastal State may allocate to a qualified local entity amounts received by the State under this section.

''(2) ASSURANCES.—A coastal state shall ensure that amounts allocated by the State under paragraph (1) are used by the qualified local entity in furtherance of the State's approved management program, specifically furtherance of the coastal management objectives specified in section 303(2).

''(e) ASSISTANCE.—The Secretary shall assist eligible coastal States and qualified local entities in identifying and obtaining from other Federal agencies technical and financial assistance in achieving the objectives set forth in subsection (a).''.

SEC. 12. TECHNICAL ASSISTANCE.

Section 310(b) (16 U.S.C. 1456c(b)) is amended by adding at the end thereof the following:

''(4) The Secretary may conduct a program to develop and apply innovative coastal and estuarine environmental technology and methodology through a cooperative program. The Secretary may make extramural grants in carrying out the purpose of this subsection.''.

SEC. 13. PERFORMANCE REVIEW.

Section 312(a) (16 U.S.C. 1458(a)) is amended by adding ''coordinated with National Estuarine Research Reserves in the State'' after ''303(2)(A) through (K)''.

SEC. 14. WALTER B. JONES AWARDS.

Section 314 (16 U.S.C. 1461) is amended—

(1) by striking ''shall, using sums in the Coastal Zone Management Fund established under section 308'' in subsection (a) and inserting ''may, using sums available under this Act'';

(2) by striking ''field.'' in subsection (a) and inserting the following: ''field of coastal zone management. These awards, to be known as the 'Walter B. Jones Awards', may include—

''(1) cash awards in an amount not to exceed $5,000 each;

''(2) research grants; and

''(3) public ceremonies to acknowledge such awards.'';

(3) by striking ''shall—'' in subsection (b) and inserting ''may select annually if funds are available under subsection (a)—''; and

(4) by striking subsection (e).

SEC. 15. NATIONAL ESTUARINE RESEARCH RESERVE SYSTEM.

(a) Section 315(a) (16 U.S.C. 1461(a)) is amended by striking ''consists of—'' and inserting ''is a network of areas protected by Federal, State, and community partnerships which promotes informed management of the Nation's estuarine and coastal areas through interconnected programs in resource stewardship, education and training, and scientific understanding consisting of—''.

(b) Section 315(b)(2)(C) (16 U.S.C. 1461(b)(2)(C)) is amended by striking ''public education and interpretation; and''; and inserting ''education, interpretation, training, and demonstration projects; and''.

(c) Section 315(c) (16 U.S.C. 1461(c)) is amended—

(1) by striking ''RESEARCH'' in the subsection caption and inserting ''RESEARCH, EDUCATION, AND RESOURCE STEWARDSHIP'';

(2) by striking ''conduct of research'' and inserting ''conduct of research, education, and resource stewardship'';

(3) by striking ''coordinated research'' in paragraph (1)) and inserting ''coordinated research, education, and resource stewardship'';

(4) by striking ''research'' before ''principles'' in paragraph (2);

(5) by striking ''research programs'' in paragraph (2) and inserting ''research, education, and resource stewardship programs'';

(6) by striking ''research'' before ''methodologies'' in paragraph (3);

(7) by striking ''data,'' in paragraph (3) and inserting ''information,'';

(8) by striking ''research'' before ''results'' in paragraph (3);

(9) by striking ''research purposes;'' in paragraph (3) and inserting ''research, education, and resource stewardship purposes;'';

(10) by striking ''research efforts'' in paragraph (4) and inserting ''research, education, and resource stewardship efforts'';

(11) by striking ''research'' in paragraph (5) and inserting ''research, education, and resource stewardship''; and

(12) by striking ''research'' in the last sentence.

(d) Section 315(d) (16 U.S.C. 1461(d)) is amended—

(1) by striking ''ESTUARINE RESEARCH.—'' in the subsection caption and inserting ''ESTUARINE RESEARCH, EDUCATION, AND RESOURCE STEWARDSHIP.—'';

(2) by striking ''research purposes'' and inserting ''research, education, and resource stewardship purposes'';

(3) by striking paragraph (1) and inserting the following:

''(1) giving reasonable priority to research, education, and stewardship activities that use the System in conducting or supporting activities relating to estuaries; and'';

(4) by striking ''research.'' in paragraph (2) and inserting ''research, education, and resource stewardship activities.''; and

(5) by adding at the end thereof the following:

''(3) establishing partnerships with other Federal and State estuarine management programs to coordinate and collaborate on estuarine research.''.

(e) Section 315(e) (16 U.S.C. 1461(e)) is amended—

(1) by striking ''reserve,'' in paragraph (1)(A)(i) and inserting ''reserve; and'';

(2) by striking ''and constructing appropriate reserve facilities, or'' in paragraph (1)(A)(ii) and inserting ''including resource stewardship activities and constructing reserve facilities.'';

(3) by striking paragraph (1)(A)(iii);

(4) by striking paragraph (1)(B) and inserting the following:

''(B) to any coastal State or public or private person for purposes of—

''(i) supporting research and monitoring associated with a national estuarine reserve that are consistent with the research guidelines developed under subsection (c); or

''(ii) conducting educational, interpretive, or training activities for a national estuarine reserve that are consistent with the education guidelines developed under subsection (c).'';

(5) by striking ''therein or $5,000,000, whichever amount is less.'' in paragraph (3)(A) and inserting ''therein. Non-Federal costs associated with the purchase of any lands and waters, or interests therein, which are incorporated into the boundaries of a reserve up to 5 years after the costs are incurred, may be used to match the Federal share.'';

(6) by striking ''and (iii)'' in paragraph (3)(B);

(7) by striking ''paragraph (1)(A)(iii)'' in paragraph (3)(B) and inserting ''paragraph (1)(B)'';

(8) by striking ''entire System.'' in paragraph (3)(B) and inserting ''System as a whole.''; and

(9) by adding at the end thereof the following:

''(4) The Secretary may—

''(A) enter into cooperative agreements, financial agreements, grants, contracts, or other agreements with any nonprofit organization, authorizing the organization to solicit donations to carry out the purposes and policies of this section, other than general administration of reserves or the System and which are consistent with the purposes and policies of this section; and

''(B) accept donations of funds and services for use in carrying out the purposes and policies of this section, other than general administration of reserves or the System and which are consistent with the purposes and policies of this section.

Donations accepted under this section shall be considered as a gift or bequest to or for the use of the United States for the purpose of carrying out this section.''.

(f) Section 315(f)(1) (16 U.S.C. 1461(f)(1)) is amended by inserting ''coordination with other State programs established under sections 306 and 309A,'' after ''including''.

SEC. 16. COASTAL ZONE MANAGEMENT REPORTS.

Section 316 (16 U.S.C. 1462) is amended—

(1) by striking ''to the President for transmittal'' in subsection (a);

(2) by striking ''zone and an evaluation of the effectiveness of financial assistance under section 308 in dealing with such consequences;'' and insert ''zone;'' in the provision designated as (10) in subsection (a);

(3) by adding ''education,'' after the ''studies,'' in the provision designated as (12) in subsection (a);

(4) by striking ''Secretary'' in the first sentence of subsection (c)(1) and inserting ''Secretary, in consultation with coastal States, and with the participation of affected Federal agencies,'';

(5) by striking the second sentence of subsection (c)(1) and inserting the following: ''The Secretary, in conducting such a review, shall coordinate with, and obtain the views of, appropriate Federal agencies.'';

(6) by striking ''shall promptly'' in subsection (c)(2) and inserting ''shall, within 4 years after the date of enactment of the Coastal Zone Management Act of 1999,''; and

(7) by adding at the end of subsection (c)(2) the following: ''If sufficient funds and resources are not available to conduct such a review, the Secretary shall so notify the Congress.''.

SEC. 17. AUTHORIZATION OF APPROPRIATIONS.

Section 318 (16 U.S.C. 1464) is amended—

(1) by striking paragraphs (1) and (2) of subsection (a) and inserting the following:

''(1) for grants under sections 306 and 306A,—

''(A) $55,500,000 for fiscal year 2000;

''(B) $59,000,000 for fiscal year 2001;

''(C) $62,500,000 for fiscal year 2002;

''(D) $66,000,000 for fiscal year 2003; and

''(E) $69,500,000 for fiscal year 2004;

''(2) for grants under sections 309 and 309A,—

''(A) $20,000,000 for fiscal year 2000;

''(B) $21,000,000 for fiscal year 2001;

''(C) $22,000,000 for fiscal year 2002;

''(D) $23,000,000 for fiscal year 2003; and

''(E) $24,000,000 for fiscal year 2004;

''(3) for grants under section 315,—

''(A) $7,000,000 for fiscal year 2000;

''(B) $7,500,000 for fiscal year 2001;

''(C) $8,000,000 for fiscal year 2002;

''(D) $8,500,000 for fiscal year 2003; and

''(E) $9,000,000 for fiscal year 2004;

''(4) for grants to fund construction projects at estuarine reserves designated under section 315, $12,000,000 for each of fiscal years 2000, 2001, 2002, 2003, and 2004; and

''(5) for costs associated with administering this title, $5,500,000 for fiscal year 2000 and such sums as are necessary for fiscal years 2001-2004.'';

(2) by striking ''306 or 309.'' in subsection (b) and inserting ''306.'';

(3) by striking ''during the fiscal year, or during the second fiscal year after the fiscal year, for which'' in subsection (c) and inserting ''within 3 years from when'';

(4) by striking ''under the section for such reverted amount was originally made available.'' in subsection (c) and inserting ''to States under this Act.''; and

(5) by adding at the end thereof the following:

''(d) PURCHASE OF OTHERWISE UNAVAILABLE FEDERAL PRODUCTS AND SERVICES.—Federal funds allocated under this title may be used by grantees to purchase Federal products and services not otherwise available.

''(e) RESTRICTION ON USE OF AMOUNTS FOR PROGRAM, ADMINISTRATIVE, OR OVERHEAD COSTS.—Except for funds appropriated under subsection (a)(5), amounts appropriated under this section shall be available only for grants to States and shall not be available for other program, administrative, or overhead costs of the National Oceanic and Atmospheric Administration or the Department of Commerce.''.

SECTION-BY-SECTION OF THE COASTAL ZONE MANAGEMENT ACT OF 1999

Section 1. Section 1 provides the title of the Bill: Coastal Zone Management Act of 1999.

Section 2. Section 2 specifies that amendments and repeals shall be applied to the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) (CZMA).

Section 3. Section 3 amends the CZMA congressional findings to update emerging issues and to reflect the need for Federal and state support of local community-based comprehensive planning and solutions to local problems.

Section 4. Section 4 amends the congressional declarations of policy to support the National Estuarine Research Reserve System (NERRS) and to encourage the use of innovative technologies in the coastal zone.

Section 5. Section 5 amends the CZMA definitions to clarify the terms ''estuarine reserve'' and ''coastal nonpoint pollution control plan'' and to clarify that ''coastal state'' no longer includes the trust territories of the Pacific Island, i.e. the now independent nation of Palau.

Section 6. Section 6 amends section 305(a) of the CZMA to ensure that resources are available to the remaining states without approved coastal management programs to complete such program development.

Section 7. Section 7 amends section 306 to reauthorize the base administrative grant program and clarifies which programs are eligible for grants under this section.

Section 8. Section 8 amends section 306A, the coastal resource improvement grants, by defining the term ''qualified local entity.'' Section 8 broadens the objectives to which that Secretary of Commerce (Secretary) may allocate funds and provides states with the option of allocating funds for restoration and preservation of coastal habitats as well as the continued implementation of the states' coastal nonpoint plans.

Section 9. Section 9 amends section 308, the coastal zone management fund, by moving CZMA program administration to section 318, transfer load repayments to the Operations, Research and Facilities account, and deletes the annual reporting requirement.

Section 10. Section 10 amends section 309, the coastal zone enhancement grants, by adding two new objectives to which the Secretary may allocate funds and provides states with the option of allocating funds for restoration and preservation of coastal habitats as well as the continued implementation of the states' coastal nonpoint plans. Section 10 also amends section 309(d) by removing outdated sections and amends section 309(f) to remove the $10,000,000 cap on annual section 309 allocations to conform with increasing authorization levels.

Section 11. The Coastal Community Program creates a new grant option section 309A) for states that want to focus on coastal community-based initiatives. This section demonstrates the need for Federal and state support of community-based planning, strategies, and solutions to local sprawl and development issues in the coastal zone. This section allows the Secretary to make grants to states through the base program allocation formula and requires that the states match the amount of the grant so that section 306, 306A and this section, in aggregate, equal a 1:1 match. It will also revitalize previously developed areas, promote conservation projects in environmentally sensitive areas, emphasize water dependent uses, and protect coastal habitats.

Section 12. Section 12 amends section 310, technical assistance, to allow the Secretary to conduct a cooperative program to apply innovative technologies to the coastal zone.

Section 13. Section 13 amends section 312(a), performance review, by adding coordination with the national estuarine research reserves to the review of performance process.

Section 14. Section 14 amends section 314 of the CZMA to allow the Secretary the discretion to issue the Walter B. Jones Awards if funds are available.

Section 15. Section 15 amends section 315 of the CZMA to clarify and strengthen the National Estuarine Research Reserve System. A majority of the amendments are technical changes to include training, education and stewardship concepts. This section clarifies the NERRS description and allows the Secretary to enter into contracts and agreements with non-profit organizations to carry out projects that support reserves and to accept donations of funds or services for projects consistent with the purposes of section 315.

Section 16. Section 16 amends section 316 of the CZMA to clarify the requirements for the reports to Congress and to provide to Congress a report on federal agency coordination and cooperation in coastal management.

Section 17. Section 17 amends section 318, authorization of appropriations, to authorize CZMA funding, providing a separate line items for 306 and 306A, 309 and 309A, 315, a NERRS construction fund, and administrative costs.

● Mr. MCCAIN. Mr. President, I rise today in support of the National Marine Sanctuaries Amendments Act of 1999. I want to thank Senator Snowe for sponsoring this legislation. This bill will help guide the use of the our marine environment into the next century. Again, I wish to thank Senator SNOWE for her leadership in this area.

The 12 existing national marine sanctuaries protect our marine resources while facilitating ''compatible'' public and private uses of the ocean. The National Marine Sanctuaries Program reflects a responsible balance between conservation and multiple uses, such as commercial fishing and recreational activities. In addition, the national sanctuaries provide for important research, outreach, and educational activities involving unique marine assets.

To date, the sanctuary program has been unable to reach its full potential due to a lack of funding. This bill will make existing sanctuaries fully operational for the first time in the history of the program. The bill we are introducing today authorizes $30 million in FY 2000 and incrementally increases the annual authorization by $2 million a year to $38 million in FY 2004. The bill will also allow for the completion of basic tasks which have been neglected in the past at sanctuaries, such as a review of each sanctuary management plan and habitat characterizations. The research and educational opportunities provided by this legislation are quite promising and will allow our children and future generations to learn to value our ocean resources.

The bill also provides for the implementation of meaningful enforcement plans and allows sanctuaries to partner with states or other entities to enhance enforcement efforts. Furthermore, interference with an enforcement agent could result in a criminal penalty.

Mr. President, this is a strong bill that enjoys bipartisan support on the Commerce Committee. With this legislation, Senator SNOWE and I envision a reasonable balance between conservation and the compatible multiple uses of our ocean resources in marine sanctuaries. I look forward to moving this bill in the near future and request the support of my colleagues.●

By Mr. GRAMS:

S. 1535. A bill to amend title XVIII of the Social Security Act to provide for coverage of outpatient prescription drugs under part B of the Medicare program, and for other purposes; to the Committee on Finance.

MEDICARE ENSURING PRESCRIPTION DRUGS FOR SENIORS ACT

● Mr. GRAMS. Mr. President, I rise today to introduce legislation I've drafted to provide a prescription drug benefit for Medicare beneficiaries.

While I firmly believe we must deal directly with the structural problems facing the Medicare program, I also understand the very real need to provide prescription drug coverage now.

Mr. President, Americans might be surprised to learn there are estimates that about half the people who have ever—ever—reached age 65 are alive today. It's a revealing statistic—one we should be proud of because America has had much to do with the success in lengthening the life expectancy of nearly everyone in the world. Whether it's through government-funded research at the National Institutes of Health or private research funded through foundations, it has all contributed to this success.

In 1900, the average American could expect to see their 47th birthday. Today, Americans can expect to celebrate 29 more birthdays—living to the age of 76. Clearly, this increased life expectancy can be attributed to many things, but the advances made in pharmaceuticals is, perhaps, the most significant contributor.

When the Medicare program was being discussed by Congress in the 1960s, no one could foresee the enormous change our health care system would experience over the course of thirty years. Of course, we couldn't have expected them to know how different things would be today.

In the 1960s, health care was predominately hospital or clinic oriented and as a result, Medicare focused on hospital stays. Indeed, even months before the final Medicare package was passed there was debate over whether physician visits should be included in the program. Now, we find ourselves with a program going broke, but in need of reform—a program largely successful for the past 30 years, but woefully inadequate in meeting the needs of today's seniors.

Mr. President, one of the first witnesses before the Bipartisan Commission on the Future of Medicare, Robert Reischauer, described Medicare's problems as the four ''i's:'' insolvency, inadequacy, inefficiency and inequity. I couldn't agree more.

As I alluded to earlier, perhaps the best example of the inadequacy of the current Medicare program is the lack of a prescription drug benefit. While I continue to believe the best way for us to include a prescription drug benefit in Medicare is through overall reform, I also believe it is important for us to explore different ways we can meet the challenge of adding the benefit without undermining the entire program.

In putting together my plan for providing a prescription benefit, I tried to keep in mind the root of our dilemma. Many make the mistake of thinking access to needed pharmaceuticals is the problem. It's not—affording the increasing number and cost of prescriptions is the real problem facing seniors today.

Mr. President, my plan, the ''MEDS Act of 1999,'' would work like this:

Single seniors with incomes of $927 per month or less, will be eligible to receive their prescription drugs with a 25 percent co-payment and no deductible. Married seniors with incomes of $1,244 per month or less will be eligible for the same co-payment of 25 percent with no deductible.

The income figures are the equivalent of 135 percent of the federal poverty level.

Seniors above the income limits will be protected through a monthly deductible of $150. For amounts over those deductibles, Medicare will pay 75 percent of the prescription cost.

Mr. President, rather than using a yearly deductible, which, in the first months, forces many seniors to use more of their monthly income on prescription drugs than they can often afford, my plan uses a monthly deductible allowing seniors to budget their drug costs every month.

In addition, it ensures that if a senior, such a your parent or grandparent, is seriously ill in one month, Medicare will cover 75 percent of their drug costs with no caps on the benefit. Meaning, they get the help they need when they need it.

While I understand there will be concerns about how we determine when a beneficiary has reached their $150 deductible, particularly on a monthly basis, I contend that we have the knowledge and technology necessary to structure the program nearly any way we wish—we simply have to use it.

Mr. President, America's seniors understand that if their drug costs are $50 a month, it doesn't make sense for them to buy a drug insurance policy for $100 a month. In this case, prescription drug coverage is not the issue. The issue is, can the senior trying to get by an $600 a month afford the $50 or $75 a month to pay for their medications? And, in the event of a major illness, can a senior bear the entire cost of treatment during that particular month?

My plan would make sure that person gets relief when the costs become too much to handle. It is truly a safety net for seniors and especially for those who would not otherwise be able to reap the benefits of modern medicine.

I believe this is a responsible, credible plan for America's seniors. I hope it will serve as a starting point for an honest, rational and responsible discussion about who needs help and how much.

While I applaud the President for putting forward a plan, I believe it falls short in one important way—it doesn't help those who need it most.

President Clinton's plan requires all seniors to pay $288 in monthly premiums and a co-payment of 50 percent up to $2,000. Under the President's plan, the most benefit any senior could get is $712 and, by capping the benefit at $2,000, it abandons seniors when they need help most.

The debate over prescription drug coverage and overall Medicare reform may be political for some, but I know seniors in Minnesota who have difficulty paying for their prescriptions don't think much of political games played by politicians in Washington. They won't care who takes credit for this or that. They just want to know they won't go broke or hungry to pay for the medicines they need to stay alive. The plan I introduce today, the Medicare Ensuring Prescription Drugs for Seniors (MEDS) Act, will help ensure that they won't.●

By Mr. DEWINE:

S. 1536. A bill to amend the Older Americans Act of 1965 to extend authorizations of appropriations for programs under the Act, to modernize programs and services for older individuals, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

THE OLDER AMERICANS ACT OF 1999

● Mr. DEWINE. Mr. President, I am very pleased to introduce The Older Americans Act of 1999—a bill that will reauthorize some of the most important, vital, and successful programs the Federal government provides to senior citizens.

The Older Americans Act created and is responsible for:

Programs that provide nutrition both at home and at senior community centers;

Programs that protect the elderly from abuse, neglect, and unhealthy nursing homes;

Programs that offer valuable jobs to seniors;

Programs that furnish transportation; and

Programs that render in-home services such as assistance with house-hold tasks.

As we approach the new millennium, these services and many others become more and more important—in fact, essential—to the continued well-being and prosperity of our nation's senior community. We are an aging nation. Today, 12.7% of the United States' population is over the age of 65. By the year 2030, that number will grow to 20%, and there is no indication that this trend will subside. Americans are living longer; many of them are healthier, wealthier, and better educated than Americans from two generations or even one generation ago.

The Older Americans Act is a key component in ensuring not only valuable supportive services to lower-income older Americans, but also in establishing new and reliable services from which every older American can benefit.

First, I want to focus on the services this reauthorization guarantees will continue—and for which, we hope, it will secure additional funding. The largest, and one of the most important, portions of the Older Americans Act has always been nutrition programming. There are two essential and equally important parts of the Act's nutrition programming: meals served in senior citizens centers, and meals delivered to individuals' homes.

Providing meals in congregate settings allows people to eat with friends, take advantage of other social or informative opportunities, and be assured of a healthy diet.

Home delivered meal programs give homebound individuals similar assurances of a healthy diet. Additionally, programs such as Meal-On-Wheels also often give homebound seniors their only contact with the community. Those who deliver meals will also often help with minor chores and make sure that the senior they are visiting is in good general health.

Under this reauthorization, congregate meal funding is protected by maintaining the law's language allowing a State to transfer no more than 30% of its congregate meal funding to home-delivered programs. Likewise, States will receive increased flexibility, through a waiver process, to request that any necessary amount be moved from congregate meal funds to meet the growing needs of homebound seniors.

Another established service that would be improved by this bill is advocacy and protection. After a hearing that the Subcommittee on Aging dedicated to the issue of elder abuse, we made sure to include protection for elders not only from physical abuse and neglect, but also from financial abuse and exploitation. We also tied State and local advocacy and protection services directly to State and local law enforcement agencies as well as to the court system.

During another of the Subcommittee on Aging's several hearings, we discussed the Senior Community Employment Service Program—the only Federally funded jobs program geared specifically for older Americans. The bill makes sure that the initial focus of the program, to provide seniors opportunities in community service jobs, stays intact. However, in light of the changing demographics among many senior communities and more and more seniors staying very active and capable for longer periods of time, the bill creates another focus: employment in the private sector and in a wider array of jobs.

To do this, the bill creates strong links between the recently passed Workforce Investment Act and the Senior Community Employment Service Program. This will allow qualified seniors easy access to their State's workforce investment system and enhance their opportunity to choose which jobs they want. Likewise, these links will provide seniors in the State workforce investment systems easy access to the Senior Community Employment Service Program.

Mr. President, as I mentioned, in addition to highlighting and improving the essential services that the Older Americans Act has provided so well for so long, this reauthorization also establishes new and equally reliable services from which every older American will be able to benefit.

I thank Senator GRASSLEY, and the Senate's Special Committee on Aging, for all his work, hearings, research, and help in developing two such services. The first is the National Family Caregiver Support Act, and the second is the Older Americans Act's new Pension Counseling program.

The National Family Caregiver Support Act, through a network of Area Agencies on Aging and service providers, will provide family members—nonprofessional or informal caregivers—valuable information and assistance about how to begin and continue caring for an aging relative. During another of our Subcommittee hearings, we heard moving testimony from a woman who decided that instead of placing her mother in a costly nursing home that would provide questionable care, she would bring her mother home and give her the care and attention she believed her mother needed and deserved.

She did this at no small cost to herself. She had to discontinue her doctorate program. She had to find a job that had more accommodating hours and unfortunately with lower pay. She found that the State agency on aging and other bureaucratic ''assistance'' were more trouble than they were worth.

She needed advice about lifting her mother, feeding her mother, medications, and many other challenges. Most of all, however, she said she just needed a break. The critical part of the National Family Caregiver Support Act would give her that break in the form of respite care; someone to take over for her for a weekend, a day, even a few hours so she could shop for herself, complete some overtime work, or just rest.

The Caregiver Support Act also introduces an inter-generational element. During the Subcommittee's field hearing in Cleveland, we heard from grandmothers who, for any number of reasons, were now caring for their grandchildren. In some cases, their own children were addicted to drugs or in prison. Rather than relinquish their grandchildren to foster care, they took on the responsibilities of raising them. These women, and many other older Americans who now are raising children for the second time around, also need help. They need guidance, information, and respite care. Our bill would do that.

Another new initiative is the Pension Counseling program. This program would provide desperately needed assistance to retirees who are in jeopardy of losing their pensions or are having difficulty receiving their pensions payments. As more and more individuals retire with more complicated pension, cost sharing, and IRA retirement plans, this will become an invaluable service.

Mr. President, the Older Americans Act of 1999 will accomplish some long overdue changes. Reauthorizing this Act is a key step toward preparing this nation for the aging boom of the next few decades. However, I want to emphasize that as promising as this legislation is—and as encouraged as I am by its introduction—it is still a work in progress. There are outstanding issues that need further attention and that require additional compromise. I look forward to working with all of my colleagues to resolve these issues throughout the August recess.

I would like to thank Senator MILKULSKI, the Subcommittee's ranking member, for all her work, expertise, and assistance in developing this bill. I would also like to thank Senator GREGG for establishing the ground work as the Subcommittee's previous Chairman and for his expertise and input. Thank you also to Senators HUTCHINSON, JEFFORDS, MCCAIN, KENNEDY, and WYDEN for all they and their staffs have contributed to the bill.

I look forward to continuing our work on this bill, to quickly resolving any outstanding concerns, and moving on to final passage of a new and long awaited Older Americans Act.●

By Mr. CHAFEE (for himself and Mr. SMITH of New Hampshire):

S. 1537. A bill to reauthorize and amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980; to the Committee on Environment and Public Works.

SUPERFUND AMENDMENTS AND REAUTHORIZATION ACT OF 1999

Mr. CHAFEE. Mr. President, I rise today to introduce the Superfund Amendments and Reauthorization Act of 1999. This bill is based on S. 1090, the Superfund Program Completion Act of

1999, a bill that I introduced, along with Senators SMITH and LOTT, earlier this year.

Last year, the Committee reported a comprehensive Superfund bill to the Senate. However, gaining a consensus on a comprehensive bill was not possible last year, and the bill was not called up. The most controversial issues were cleanup standards, paying ''polluters,'' and natural resource damages.

In S. 1090, we narrowed the scope of the bill greatly to get relief now for many parties—small businesses, local governments, municipal solid waste contributors—and we did it fairly, while strengthening the role of the states.

Our goal was always to report a bill that enjoyed wide support. Unfortunately, Senator SMITH and I were not able to move S. 1090 out of the committee. We spent several months negotiating with members on both sides of the aisle. The bill that Senator SMITH and I introduce today serves as a record of our progress in trying to craft a broadly-supported Superfund reform bill.

The bill contains numerous changes from S. 1090. Some changes were made prior to the markup. Others are based on amendments filed for the markup, and others in response to negotiations over the last week.

Our bills retains the key features of S. 1090. The Brownfields title will provide $100 million in grants for state, tribal and local governments to identify, assess and redevelop Brownfields sites. It protects prospective purchasers of contaminated sites, innocent owners of properties adjacent to the source of contamination, and innocent property owners who exercised due diligence upon purchase.

The bill exempts recyclers, small businesses, contributors of very small amounts of hazardous waste, and contributors of small amounts of municipal solid waste. The bill limits the liability of larger generators or transporters of municipal solid waste. The bill limits the liability of larger generators or transporters of municipal solid waste, as well as owners or operators of co-disposal landfills where municipal solid waste is disposed. The bill limits the liability of so-called de minimis parties—generally one percent contributors or less—as well as municipalities and small businesses with a limited ability to pay.

Importantly, this liability relief is provided fairly. EPA is directed to pay for the shares of exempted parties from a $200 million annual orphan share instead of merely shifting the liability onto the remaining nonexempt parties. Importantly, responsible parties still must proceed with the cleanup if $200 million is insufficient to cover all orphan shares in a given year.

The bill also requires EPA to perform an impartial fair-share allocation at Superfund NPL sites and to give all parties an opportunity to settle for their allocated amount. Allocation is preceded by a period for EPA-directed alternative dispute resolution. Parties that do not participate or settle remain liable to Superfund's underlying liability provisions, which remain unchanged.

The bill starts the process of bringing the National Priority List cleanup program to an orderly end. EPA notes that cleanup is complete or underway at more than 90 percent of the sites on the current NPL. EPA is cleaning up the sites at a rate of 85 per year, but it has listed only an average of about 26 sites per year. Last year, the General Accounting Office surveyed the states and EPA about the approximately 3,000 sites identified as possible National Priority List sites, but not yet listed. Only 232 of these sites were identified by either EPA, a state, or both, as likely to be listed on the NPL. The Superfund NPL cleanup program is closer to the end of its mission than to the beginning. The authorized funding levels in the bill, which decrease during the five-year authorization period, are consistent with the expected decrease in Superfund's workload.

The ramp-down of the NPL cleanup program has important implications for state cleanup programs. The bill provides $100 million per year for state cleanup programs. Therefore, the bill requires EPA to plan how it will proceed at the 3,000 sites still awaiting a decision regarding NPL listing. Further, under our bill, new listings on the National Priority List must be approved by the Governor of the affected state.

What is most important, the bill provides finality at sites cleaned up in state cleanup programs unless a state asks for help, fails to take action, or a true emergency is present. We know that the vast majority of sites not already listed on the NPL will be cleaned up by the states, not EPA. A strong finality provision will give greater confidence to prospective developers that state cleanup decisions will not be second-guessed by EPA. I would note that the bill includes new safeguards, not present in S.1090 as-introduced, to ensure a robust federal safety net if a state fails to meet its obligations.

How does this bill differ from S. 1090? In preparation for the markup, members filed several amendments that Senator SMITH and I plan to accept. Senator BOND filed several amendments to improve the brownfields provisions and protect law enforcement activities from Superfund liability. Senator THOMAS filed an amendment to clarify the liability of common carriers and railroad spur track owners. Senator INHOFE filed an amendment to encourage the recycling of used oil, and another to improve the state cleanup program provisions. Senator SMITH and I filed an amendment to study the costs of the Superfund program over the next ten years. All of these amendments are included in the new bill.

Senator SMITH and I have also included an amendment that we filed containing narrow provisions in two areas not originally addressed in S.1090: natural resource damages, and remedy. We offered the language in our negotiations in order to try to accommodate the concerns of Republicans members who felt that the scope of the bill was too narrow. We felt these provisions would solve most of the concerns that were raised without completely reopening the debates on NRD and remedy.

The new remedy provisions would accomplish three things. First, it makes improvements to the system of identifying and applying the applicable relevant and appropriate requirements of other federal and state laws in Superfund cleanups. Second, the existing statutory preference for permanent remedies that use treatment is replaced by a preference limited to so-called ''hot spots.'' This comports with EPA's current practice, where 70% of all cleanup plans include containment instead of removal of the hazardous substance. Finally, new provisions establish procedures for the use of facility-specific risk assessments and the use of science in decision-making. This provision was closely modeled on the recent Safe Drinking Water Act Amendment.

The new natural resource damages provision makes four significant changes to the NRD program.

First, it provides a clear statement as to what costs a responsible party will be required to bear under a natural resource damage claim. A responsible party will be liable for only for the reasonable costs of restoring the resource—that is for reinstating the human uses and environmental functions of the resource.

Second, it would eliminate recovery for any damages based on the nonuse values associated with an injured resource. Proponents of nonuse damages have argued that these damages are an important element of recovery in cases where a resource like the Grand Canyon is injured or destroyed. Our provision addresses this issue more directly. Instead, it recognizes that certain resources, such as endangered species, or wilderness areas, or certain national monuments are truly unique and therefore warrant special consideration. The language provides that where a unique resource has been damaged and is irreplaceable, the trustees may seek enhanced or expedited restoration.

Third, it set parameters for determining whether the costs associated with a restoration measure are reasonable. Under this bill, the reasonableness of the costs will be determined based on four factors: technical feasibility, cost-effectiveness, the time period in which recovery will be achieved; and whether the response action or natural recovery will reinstate the uses of a resource in a reasonable period of time. This provision is not intended to require a cost-benefit analysis. However, it is intended to require that trustees select cost-effective restoration measures.

Fourth, it clarifies the prohibition against double recovery. It would protect responsible parties against claims under section 107(f) if damages have already been recovered for the same injury to the same resource under CERCLA, State or Tribal law.

It is clear that we have moved a long way to try to reach an accommodation on both the right and the left. Perhaps this new bill can serve as the rallying-point if prospects for Superfund improve later in the Congress. In closing, I want to thank Senator SMITH for his efforts on Superfund over the years.

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. 1537

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 ''Superfund Amendments and Reauthorization Act of 1999''.

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

TITLE I—BROWNFIELDS REVITALIZATION

SEC. 101. BROWNFIELDS.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) is amended by adding at the end the following:

''SEC. 127. BROWNFIELDS.

''(a) DEFINITIONS.—In this section:

''(1) BROWNFIELD FACILITY.—

''(A) IN GENERAL.—The term 'brownfield facility' means real property, the expansion or redevelopment of which is complicated by the presence or potential presence of a hazardous substance.

''(B) INCLUSION.—The term 'brownfield facility' includes real property that is contaminated with cocaine, heroin, methamphetamine, or any other controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), a precursor chemical to a controlled substance, or a residual chemical from the manufacture of a controlled substance.

''(C) EXCLUSIONS.—The term 'brownfield facility' does not include—

''(i) any portion of real property that, as of the date of submission of an application for assistance under this section, is the subject of an ongoing removal under this title;

''(ii) any portion of real property that has been listed on the National Priorities List or is proposed for listing as of the date of the submission of an application for assistance under this section;

''(iii) any portion of real property with respect to which cleanup work is proceeding in substantial compliance with the requirements of an administrative order on consent, or judicial consent decree that has been entered into, or a permit issued by, the United States or a duly authorized State under this Act, the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321), the Toxic Substances Control Act (15 U.S.C. 2601 et seq.), or the Safe Drinking Water Act (42 U.S.C. 300f et seq.);

''(iv) a land disposal unit with respect to which—

''(I) a closure notification under subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.) has been submitted; and

''(II) closure requirements have been specified in a closure plan or permit;

''(v) a facility that is owned or operated by a department, agency, or instrumentality of the United States; or

''(vi) a portion of a facility, for which portion, assistance for response activity has been obtained under subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) from the Leaking Underground Storage Tank Trust Fund established under section 9508 of the Internal Revenue Code of 1986.

''(C) FACILITIES OTHER THAN BROWNFIELD FACILITIES.—That a facility may not be a brownfield facility within the meaning of subparagraph (A) has no effect on the eligibility of the facility for assistance under any provision of Federal law other than this section.

''(2) ELIGIBLE ENTITY.—

''(A) IN GENERAL.—The term 'eligible entity' means—

''(i) a general purpose unit of local government;

''(ii) a land clearance authority or other quasi-governmental entity that operates under the supervision and control of or as an agent of a general purpose unit of local government;

''(iii) a government entity created by a State legislature;

''(iv) a regional council or group of general purpose units of local government;

''(v) a redevelopment agency that is chartered or otherwise sanctioned by a State;

''(vi) a State; and

''(vii) an Indian Tribe.

''(B) EXCLUSION.—The term 'eligible entity' does not include any entity that is not in substantial compliance with the requirements of an administrative order on consent, judicial consent decree that has been entered into, or a permit issued by, the United States or a duly authorized State under this Act, the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Toxic Substances Control Act (15 U.S.C. 2601 et seq.), or the Safe Drinking Water Act (42 U.S.C. 300f et seq.) with respect to any portion of real property that is the subject of the administrative order on consent, judicial consent decree, or permit.

''(3) SECRETARY.—The term 'Secretary' means the Secretary of Housing and Urban Development.

''(b) BROWNFIELD SITE CHARACTERIZATION AND ASSESSMENT GRANT PROGRAM.—

''(1) ESTABLISHMENT OF PROGRAM.—The Administrator shall establish a program to provide grants for the site characterization and assessment of brownfield facilities.

''(2) ASSISTANCE FOR SITE CHARACTERIZATION AND ASSESSMENT AND RESPONSE ACTIONS.—

''(A) IN GENERAL.—On approval of an application made by an eligible entity, the Administrator may make grants to the eligible entity to be used for the site characterization and assessment of 1 or more brownfield facilities.

''(B) SITE CHARACTERIZATION AND ASSESSMENT.—A site characterization and assessment carried out with the use of a grant under subparagraph (A)—

''(i) shall be performed in accordance with section 101(35)(B); and

''(ii) may include a process to identify and inventory potential brownfield facilities.

''(c) BROWNFIELD REMEDIATION GRANT PROGRAM.—

''(1) ESTABLISHMENT OF PROGRAM.—In consultation with the Secretary, the Administrator shall establish a program to provide grants to be used for response actions (excluding site characterization and assessment) at 1 or more brownfield facilities.

''(2) ASSISTANCE FOR RESPONSE ACTIONS.—On approval of an application made by an eligible entity, the Administrator, in consultation with the Secretary, may make grants to the eligible entity to be used for response actions (excluding site characterization and assessment) at 1 or more brownfield facilities.

''(d) GENERAL PROVISIONS.—

''(1) MAXIMUM GRANT AMOUNT.—

''(A) IN GENERAL.—The total of all grants under subsections (b) and (c) shall not exceed, with respect to any individual brownfield facility covered by the grants, $350,000.

''(B) WAIVER.—The Administrator may waive the $350,000 limitation under subparagraph (A) based on the anticipated level of contamination, size, or status of ownership of the facility, so as to permit the facility to receive a grant of not to exceed $600,000.

''(2) PROHIBITION.—

''(A) IN GENERAL.—No part of a grant under this section may be used for payment of penalties, fines, or administrative costs.

''(B) EXCLUSIONS.—For the purposes of subparagraph (A), the term 'administrative cost' does not include the cost of—

''(i) investigation and identification of the extent of contamination;

''(ii) design and performance of a response action; or

''(iii) monitoring of natural resources.

''(3) AUDITS.—The Inspector General of the Environmental Protection Agency shall conduct such reviews or audits of grants under this section as the Inspector General considers necessary to carry out the objectives of this section. Audits shall be conducted in accordance with the auditing procedures of the General Accounting Office, including chapter 75 of title 31, United States Code.

''(4) LEVERAGING.—An eligible entity that receives a grant under this section may use the funds for part of a project at a brownfield facility for which funding is received from other sources, but the grant shall be used only for the purposes described in subsection (b) or (c).

''(5) AGREEMENTS.—Each grant made under this section shall be subject to an agreement that—

''(A) requires the eligible entity to comply with all applicable State laws (including regulations);

''(B) requires that the eligible entity shall use the grant exclusively for purposes specified in subsection (b) or (c);

''(C) in the case of an application by an eligible entity under subsection (c), requires payment by the eligible entity of a matching share (which may be in the form of a contribution of labor, material, or services) of at least 20 percent of the costs of the response action for which the grant is made, is from non-Federal sources of funding.

''(D) contains such other terms and conditions as the Administrator determines to be necessary to carry out this section.

''(e) GRANT APPLICATIONS.—

''(1) SUBMISSION.—

''(A) IN GENERAL.—Any eligible entity may submit an application to the Administrator, through a regional office of the Environmental Protection Agency and in such form as the Administrator may require, for a grant under this section for 1 or more brownfield facilities.

''(B) COORDINATION.—In developing application requirements, the Administrator shall coordinate with the Secretary and other Federal agencies and departments, such that eligible entities under this section are made aware of other available Federal resources.

''(C) GUIDANCE.—The Administrator shall publish guidance to assist eligible entities in obtaining grants under this section.

''(2) APPROVAL.—The Administrator, in consultation with the Secretary, shall make an annual evaluation of each application received during the prior fiscal year and make grants under this section to eligible entities that submit applications during the prior year and that the Administrator, in consultation with the Secretary, determines have the highest rankings under the ranking criteria established under paragraph (3).

''(3) RANKING CRITERIA.—The Administrator, in consultation with the Secretary, shall establish a system for ranking grant applications that includes the following criteria:

''(A) The extent to which a grant will stimulate the availability of other funds for environmental remediation and subsequent redevelopment of the area in which the brownfield facilities are located.

''(B) The potential of the development plan for the area in which the brownfield facilities are located to stimulate economic development of the area on completion of the cleanup, such as the following:

''(i) The relative increase in the estimated fair market value of the area as a result of any necessary response action.

''(ii) The demonstration by applicants of the intent and ability to create new or expand existing business, employment, recreation, or conservation opportunities on completion of any necessary response action.

''(iii) If commercial redevelopment is planned, the estimated additional full-time employment opportunities and tax revenues expected to be generated by economic redevelopment in the area in which a brownfield facility is located.

''(iv) The estimated extent to which a grant would facilitate the identification of or facilitate a reduction of health and environmental risks.

''(v) The financial involvement of the State and local government in any response action planned for a brownfield facility and the extent to which the response action and the proposed redevelopment is consistent with any applicable State or local community economic development plan.

''(vi) The extent to which the site characterization and assessment or response action and subsequent development of a brownfield facility involves the active participation and support of the local community.

''(vii) Such other factors as the Administrator considers appropriate to carry out the purposes of this section.

''(C) The extent to which a grant will enable the creation of or addition to parks, greenways, or other recreational property.

''(D) The extent to which a grant will meet the needs of a community that has an inability to draw on other sources of funding for environmental remediation and subsequent redevelopment of the area in which a brownfield facility is located because of the small population or low income of the community.''.

SEC. 102. CONTIGUOUS PROPERTIES.

(a) IN GENERAL.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(a)) is amended by adding at the end the following:

''(o) CONTIGUOUS PROPERTIES.—

''(1) NOT CONSIDERED TO BE AN OWNER OR OPERATOR.—

''(A) IN GENERAL.—A person that owns or operates real property that is contiguous to or otherwise similarly situated with respect to real property on which there has been a release or threatened release of a hazardous substance and that is or may be contaminated by the release shall not be considered to be an owner or operator of a vessel or facility under paragraph (1) or (2) of subsection (a) solely by reason of the contamination if—

''(i) the person did not cause, contribute, or consent to the release or threatened release;

''(ii) the person is not affiliated through any familial or corporate relationship with any person that is or was a party potentially responsible for response costs at the facility;

''(iii) the person exercised appropriate care with respect to each hazardous substance found at the facility by taking reasonable steps to stop any continuing release, prevent any threatened future release and prevent or limit human or natural resource exposure to any previously released hazardous substance;

''(iv) the person provides full cooperation, assistance, and access to persons that are responsible for response actions at the vessel or facility from which there has been a release or threatened release, including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial response actions at the vessel or facility;

''(v) the person does not impede the effectiveness or integrity of any institutional control employed at the vessel or facility; and

''(vi) the person complies with any request for information or administrative subpoena issued by the President under this Act.

''(B) GROUND WATER.—With respect to hazardous substances in ground water beneath a person's property solely as a result of subsurface migration in an aquifer from a source or sources outside the property, appropriate care shall not require the person to conduct ground water investigations or to install ground water remediation systems.

''(2) ASSURANCES.—The Administrator may—

''(A) issue an assurance that no enforcement action under this Act will be initiated against a person described in paragraph (1); and

''(B) grant a person described in paragraph (1) protection against a cost recovery or contribution action under section 113(f).''.

(b) NATIONAL PRIORITIES LIST.—

(1) IN GENERAL.—Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605) is amended—

(A) in subsection (a)(8)—

(i) in subparagraph (B), by inserting ''and'' after the semicolon at the end; and

(ii) by adding at the end the following:

''(C) provision that in listing a facility on the National Priorities List, the Administrator shall not include any parcel of real property at which no release has actually occurred, but to which a released hazardous substance, pollutant, or contaminant has migrated in ground water that has moved through subsurface strata from another parcel of real estate at which the release actually occurred, unless—

''(i) the ground water is in use as a public drinking water supply or was in such use at the time of the release; and

''(ii) the owner or operator of the facility is liable, or is affiliated with any other person that is liable, for any response costs at the facility, through any direct or indirect familial relationship, or any contractual, corporate, or financial relationship other than that created by the instruments by which title to the facility is conveyed or financed.''; and

(B) by adding at the end the following:

''(h) LISTING OF PARTICULAR PARCELS.—

''(1) DEFINITION.—In subsection (a)(8)(C) and paragraph (2) of this subsection, the term 'parcel of real property' means a parcel, lot, or tract of land that has a separate legal description from that of any other parcel, lot, or tract of land the legal description and ownership of which has been recorded in accordance with the law of the State in which it is located.

''(2) STATUTORY CONSTRUCTION.—Nothing in subsection (a)(8)(C) limits the Administrator's authority under section 104 to obtain access to and undertake response actions at any parcel of real property to which a released hazardous substance, pollutant, or contaminant has migrated in the ground water.''.

(2) REVISION OF NATIONAL PRIORITIES LIST.—

(A) IN GENERAL.—The President shall annually revise the National Priorities List to conform with the amendments made by paragraph (1), based on individual delisting recommendations made by each Regional Administrator of the Environmental Protection Agency.

(B) DELISTED PARCELS.—In complying with this paragraph, the President shall delist not more than 20 individual parcels of real property from the National Priorities List in any 1 calendar year.

(c) CONFORMING AMENDMENT.—Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) is amended by striking ''of this section'' and inserting ''and the exemptions and limitations stated in this section''.

SEC. 103. PROSPECTIVE PURCHASERS AND WINDFALL LIENS.

(a) DEFINITION OF BONA FIDE PROSPECTIVE PURCHASER.—Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601) is amended by adding at the end the following:

''(39) BONA FIDE PROSPECTIVE PURCHASER.—The term 'bona fide prospective purchaser' means a person that acquires ownership of a facility after the date of enactment of this paragraph, or a tenant of such a person, that establishes each of the following by a preponderance of the evidence:

''(A) DISPOSAL PRIOR TO ACQUISITION.—All deposition of hazardous substances at the facility occurred before the person acquired the facility.

''(B) INQUIRIES.—

''(i) IN GENERAL.—The person made all appropriate inquiries into the previous ownership and uses of the facility and the facility's real property in accordance with generally accepted good commercial and customary standards and practices.

''(ii) STANDARDS AND PRACTICES.—The standards and practices referred to in paragraph (35)(B)(ii) or those issued or adopted by the Administrator under that paragraph shall be considered to satisfy the requirements of this subparagraph.

''(iii) RESIDENTIAL USE.—In the case of property for residential or other similar use purchased by a nongovernmental or noncommercial entity, a facility inspection and title search that reveal no basis for further investigation shall be considered to satisfy the requirements of this subparagraph.

''(C) NOTICES.—The person provided all legally required notices with respect to the discovery or release of any hazardous substances at the facility.

''(D) CARE.—The person exercised appropriate care with respect to each hazardous substance found at the facility by taking reasonable steps to stop any continuing release, prevent any threatened future release and prevent or limit human or natural resource exposure to any previously released hazardous substance.

''(E) COOPERATION, ASSISTANCE, AND ACCESS.—The person provides full cooperation, assistance, and access to persons that are responsible for response actions at the vessel or facility, including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial response actions at the vessel or facility.

''(F) INSTITUTIONAL CONTROL.—The person does not impede the effectiveness or integrity of any institutional control employed at the vessel or facility.

''(G) REQUESTS; SUBPOENAS.—The person complies with any request for information or administrative subpoena issued by the President under this Act.

''(H) NO AFFILIATION.—The person is not affiliated through any familial or corporate relationship with any person that is or was a party potentially responsible for response costs at the facility.''.

(b) AMENDMENT.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) (as amended by section 102) is amended by adding at the end the following:

''(p) PROSPECTIVE PURCHASER AND WINDFALL LIEN.—

''(1) LIMITATION ON LIABILITY.—Notwithstanding subsection (a), a bona fide prospective purchaser whose potential liability for a release or threatened release is based solely on the purchaser's being considered to be an owner or operator of a facility shall not be liable as long as the bona fide prospective purchaser does not impede the performance of a response action or natural resource restoration.

''(2) LIEN.—If there are unrecovered response costs at a facility for which an owner of the facility is not liable by reason of subsection (n)(1) and each of the conditions described in paragraph (3) is met, the United States shall have a lien on the facility, or may obtain from an appropriate responsible party a lien on any other property or other assurances of payment satisfactory to the Administrator, for such unrecovered costs.

''(3) CONDITIONS.—The conditions referred to in paragraph (2) are the following:

''(A) RESPONSE ACTION.—A response action for which there are unrecovered costs is carried out at the facility.

''(B) FAIR MARKET VALUE.—The response action increases the fair market value of the facility above the fair market value of the facility that existed 180 days before the response action was initiated.

''(C) SALE.—A sale or other disposition of all or a portion of the facility has occurred.

''(4) AMOUNT.—A lien under paragraph (2)—

''(A) shall not exceed the increase in fair market value of the property attributable to the response action at the time of a subsequent sale or other disposition of the property;

''(B) shall arise at the time at which costs are first incurred by the United States with respect to a response action at the facility;

''(C) shall be subject to the requirements of subsection (l)(3); and

''(D) shall continue until the earlier of satisfaction of the lien or recovery of all response costs incurred at the facility.''.

SEC. 104. SAFE HARBOR INNOCENT LANDHOLDERS.

(a) AMENDMENT.—Section 101(35) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(35)) is amended—

(1) in subparagraph (A)—

(A) in the matter that precedes clause (i), by striking ''deeds or'' and inserting ''deeds, easements, leases, or''; and

(B) in the matter that follows clause (iii)—

(i) by striking ''he'' and inserting ''the defendant''; and

(ii) by striking the period at the end and inserting '', has provided full cooperation, assistance, and facility access to the persons that are responsible for response actions at the facility, including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial response action at the facility, and has taken no action that impeded the effectiveness or integrity of any institutional control employed under section 121 at the facility.''; and

(2) by striking subparagraph (B) and inserting the following:

''(B) REASON TO KNOW.—

''(i) ALL APPROPRIATE INQUIRIES.—To establish that the defendant had no reason to know of the matter described in subparagraph (A)(i), the defendant must show that—

''(I) at or prior to the date on which the defendant acquired the facility, the defendant undertook all appropriate inquiries into the previous ownership and uses of the facility in accordance with generally accepted good commercial and customary standards and practices; and

''(II) the defendant took reasonable steps to stop any continuing release, prevent any threatened future release, and prevent or limit human or natural resource exposure to any previously released hazardous substance.

''(ii) STANDARDS AND PRACTICES.—The Administrator shall by regulation establish as standards and practices for the purpose of clause (i)—

''(I) the American Society for Testing and Materials (ASTM) Standard E1527–94, entitled 'Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process'; or

''(II) alternative standards and practices under clause (iii).

''(iii) ALTERNATIVE STANDARDS AND PRACTICES.—

''(I) IN GENERAL.—The Administrator may by regulation issue alternative standards and practices or designate standards developed by other organizations than the American Society for Testing and Materials after conducting a study of commercial and industrial practices concerning the transfer of real property in the United States.

''(II) CONSIDERATIONS.—In issuing or designating alternative standards and practices under subclause (I), the Administrator shall consider including each of the following:

''(aa) The results of an inquiry by an environmental professional.

''(bb) Interviews with past and present owners, operators, and occupants of the facility and the facility's real property for the purpose of gathering information regarding the potential for contamination at the facility and the facility's real property.

''(cc) Reviews of historical sources, such as chain of title documents, aerial photographs, building department records, and land use records to determine previous uses and occupancies of the real property since the property was first developed.

''(dd) Searches for recorded environmental cleanup liens, filed under Federal, State, or local law, against the facility or the facility's real property.

''(ee) Reviews of Federal, State, and local government records (such as waste disposal records), underground storage tank records, and hazardous waste handling, generation, treatment, disposal, and spill records, concerning contamination at or near the facility or the facility's real property.

''(ff) Visual inspections of the facility and facility's real property and of adjoining properties.

''(gg) Specialized knowledge or experience on the part of the defendant.

''(hh) The relationship of the purchase price to the value of the property if the property was uncontaminated.

''(ii) Commonly known or reasonably ascertainable information about the property.

''(jj) The degree of obviousness of the presence or likely presence of contamination at the property, and the ability to detect such contamination by appropriate investigation.

''(iv) SITE INSPECTION AND TITLE SEARCH.—In the case of property for residential use or other similar use purchased by a nongovernmental or noncommercial entity, a facility inspection and title search that reveal no basis for further investigation shall be considered to satisfy the requirements of this subparagraph.''.

(b) STANDARDS AND PRACTICES.—

(1) ESTABLISHMENT BY REGULATION.—The Administrator of the Environmental Protection Agency shall issue the regulation required by section 101(35)(B)(ii) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as added by subsection (a)) not later than 1 year after the date of enactment of this Act.

(2) INTERIM STANDARDS AND PRACTICES.—Until the Administrator issues the regulation described in paragraph (1), in making a determination under section 101(35)(B)(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as added by subsection (a)), there shall be taken into account—

(A) any specialized knowledge or experience on the part of the defendant;

(B) the relationship of the purchase price to the value of the property if the property was uncontaminated;

(C) commonly known or reasonably ascertainable information about the property;

(D) the degree of obviousness of the presence or likely presence of contamination at the property; and

(E) the ability to detect the contamination by appropriate investigation.

TITLE II—STATE RESPONSE PROGRAMS

SEC. 201. STATE RESPONSE PROGRAMS.

(a) DEFINITIONS.—Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601) (as amended by section 103(a)) is amended by adding at the end the following:

''(40) FACILITY SUBJECT TO STATE CLEANUP.—The term 'facility subject to State cleanup' means a facility that—

''(A) is not listed or proposed for listing on the National Priorities List; or

''(B) has been proposed for listing on the National Priorities List, but for which the Administrator has notified the State in writing that the Administrator has deferred final listing of the facility pending completion of a remedial action under State authority at the facility.

''(41) QUALIFYING STATE RESPONSE PROGRAM.—The term 'qualifying State response program' means a State program that includes the elements described in section 128(b).''.

(b) QUALIFYING STATE RESPONSE PROGRAMS.—Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) (as amended by section 101(a)) is amended by adding at the end the following:

''SEC. 128. QUALIFYING STATE RESPONSE PROGRAMS.

''(a) ASSISTANCE TO STATES.—The Administrator shall provide grants to States to establish and expand qualifying State response programs that include the elements listed in subsection (b).

''(b) ELEMENTS.—The elements of a qualifying State response program are the following:

''(1) Oversight and enforcement authorities or other mechanisms that are adequate to ensure that—

''(A) response actions will protect human health and the environment and be conducted in accordance with applicable Federal and State law; and

''(B) in the case of a voluntary response action, if the person conducting the voluntary response action fails to complete the necessary response activities, including operation and maintenance or long-term monitoring activities, the necessary response activities are completed.

''(2) Adequate opportunities for public participation, including prior notice and opportunity for comment in appropriate circumstances, in selecting response actions.

''(3) Mechanisms for approval of a response action plan, or a requirement for certification or similar documentation from the State to the person conducting a response action indicating that the response is complete.

''(c) ENFORCEMENT IN CASES OF A RELEASE SUBJECT TO A STATE PLAN.—

''(1) ENFORCEMENT.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), in the case of a release or threatened release of a hazardous substance at a facility subject to State cleanup, neither the President nor any other person may use any authority under this Act to take an enforcement action against any person regarding any matter that is within the scope of a response action that is being conducted or has been completed under State law.

''(B) EXCEPTIONS.—The President may bring an enforcement action under this Act with respect to a facility described in subparagraph (A) if—

''(i) the enforcement action is authorized under section 104;

''(ii) the State requests that the President provide assistance in the performance of a response action and that the enforcement bar in subparagraph (A) be lifted;

''(iii) at a facility at which response activities are ongoing the Administrator—

''(I) makes a written determination that the State is unwilling or unable to take appropriate action, after the Administrator has provided the Governor notice and an opportunity to cure; and

''(II) the Administrator determines that the release or threat of release constitutes a public health or environmental emergency under section 104(a)(4);

''(iv) the Administrator determines that contamination has migrated across a State line, resulting in the need for further response action to protect human health or the environment; or

''(v) in the case of a facility at which all response actions have been completed, the Administrator—

''(I) makes a written determination that the State is unwilling or unable to take appropriate action, after the Administrator has provided the Governor notice and an opportunity to cure; and

''(II) makes a written determination that the facility presents a substantial risk that requires further remediation to protect human health or the environment, as evidenced by—

''(aa) newly discovered information regarding contamination at the facility;

''(bb) the discovery that fraud was committed in demonstrating attainment of standards at the facility; or

''(cc) a failure of the remedy or a change in land use giving rise to a clear threat of exposure.

''(C) EPA NOTIFICATION.—

''(i) IN GENERAL.—In the case of a facility at which there is a release or threatened release of a hazardous substance, pollutant, or contaminant and for which the Administrator intends to undertake an administrative or enforcement action, the Administrator, prior to taking the administrative or enforcement action, shall notify the State of the action the Administrator intends to take and wait for an acknowledgment from the State under clause (ii).

''(ii) STATE RESPONSE.—Not later than 48 hours after receiving a notice from the Administrator under clause (i), the State shall notify the Administrator if the facility is currently or has been subject to a cleanup conducted under State law.

''(iii) PUBLIC HEALTH OR ENVIRONMENTAL EMERGENCY.—If the Administrator finds that a release or threatened release constitutes a public health or environmental emergency under section 104(a)(4), the Administrator may take appropriate action immediately after giving notification under clause (i) without waiting for State acknowledgment.

''(2) COST OR DAMAGE RECOVERY ACTIONS.—Paragraph (1) shall not apply to an action brought by a State, Indian Tribe, or general purpose unit of local government for the recovery of costs or damages under this Act.

''(3) SAVINGS PROVISION.—

''(A) EXISTING AGREEMENTS.—A memorandum of agreement, memorandum of understanding, or similar agreement between the President and a State or Indian tribe defining Federal and State or tribal response action responsibilities that was in effect as of the date of enactment of this section with respect to a facility to which paragraph (1)(C) does not apply shall remain effective until the agreement expires in accordance with the terms of the agreement.

''(B) NEW AGREEMENTS.—Nothing in this subsection precludes the President from entering into an agreement with a State or Indian tribe regarding responsibility at a facility to which paragraph (1)(C) does not apply.

''(4) STATE REIMBURSEMENT AND CERTIFICATION.—

''(A) IN GENERAL.—On making a finding under this section that a State is unwilling or unable to take appropriate action to address a public health or environmental emergency, the President may require that the State reimburse the Hazardous Substance Superfund for response costs incurred by the United States.

''(B) CERTIFICATION.—On making a finding under this section that a State is unwilling or unable to take appropriate action to address a public health or environmental emergency at 3 separate facilities within any 1-year period, the President may notify the Governor of the State that this section shall not apply in the State until the President certifies that the State's cleanup program is adequate to ensure that response actions will protect human health and the environment.''.

SEC. 202. NATIONAL PRIORITIES LIST COMPLETION.

(a) IN GENERAL.—Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605) is amended by striking subsection (b) and inserting the following:

''(b) NATIONAL PRIORITIES LIST COMPLETION.—

''(1) IN GENERAL.—Not later than 2 years after the date of enactment of this paragraph, the President shall complete the evaluation of all facilities classified as awaiting a National Priorities List decision to determine the risk or danger to public health or welfare or the environment posed by each facility as compared with the other facilities.

''(2) REQUIREMENT OF REQUEST BY THE GOVERNOR OF A STATE.—No facility shall be added to the National Priorities List without the President having first received the concurrence of the Governor of the State in which the facility is located.''.

(b) INDEPENDENT CERCLA COST ANALYSIS.—

(1) IN GENERAL.—From amounts appropriated under section 111(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611(a)), the Administrator shall fund a cooperative agreement for an independent analysis of the projected 10-year costs for the implementation of the program under that Act.

(2) COMPLETION.—The independent analysis under paragraph (1) shall be completed not later than 180 days after the date of enactment of this Act.

SEC. 203. FEDERAL EMERGENCY REMOVAL AUTHORITY.

Section 104(c)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604(c)(1)) is amended—

(1) in subparagraph (C), by striking ''consistent with the remedial action to be taken'' and inserting ''not inconsistent with any remedial action that has been selected or is anticipated at the time of any removal action at a facility,'';

(2) by striking ''$2,000,000'' and inserting ''$5,000,000''; and

(3) by striking ''12 months'' and inserting ''3 years''.

SEC. 204. STATE COST SHARE.

Section 104(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604(c)) is amended—

(1) by striking ''(c)(1) Unless'' and inserting the following:

''(c) MISCELLANEOUS LIMITATIONS AND REQUIREMENTS.—

''(1) CONTINUANCE OF OBLIGATIONS FROM FUND.—Unless'';

(2) in paragraph (1), by striking ''taken obligations'' and inserting ''taken, obligations'';

(3) by striking ''(2) The President'' and inserting the following:

''(2) CONSULTATION.—The President''; and

(4) by striking paragraph (3) and inserting the following:

''(3) STATE COST SHARE.—

''(A) IN GENERAL.—The Administrator shall not provide any funding for remedial action under this section unless the State in which the release occurs first enters into a contract or cooperative agreement with the Administrator that provides assurances that the State will pay, in cash or through in-

kind contributions, 10 percent of the costs of—

''(i) the remedial action; and

''(ii) operation and maintenance costs.

''(B) STATE-OPERATED FACILITIES.—Notwithstanding subparagraph (A), the Administrator may require a State contribution, in cash or in-kind, of 50 percent of the costs of any sums expended in response to a release at a facility that was operated by the State or a political subdivision of the State, either directly or through a contractual relationship or otherwise, at the time of any disposal of hazardous substances therein.

''(C) ACTIVITIES WITH RESPECT TO WHICH STATE COST SHARE IS REQUIRED.—No State cost share shall be required except for remedial actions under this section.

''(D) INDIAN TRIBES.—The requirements of this paragraph shall not apply in the case of remedial action to be taken on land or water—

''(i) held by an Indian Tribe;

''(ii) held by the United States in trust for an Indian Tribe;

''(iii) held by a member of an Indian Tribe (if the land or water is subject to a trust restriction on alienation); or

''(iv) within the borders of an Indian reservation.''.

TITLE III—FAIR SHARE LIABILITY ALLOCATIONS AND PROTECTIONS

SEC. 301. LIABILITY EXEMPTIONS AND LIMITATIONS.

(a) DEFINITIONS.—Section 101 of the Comprehensive Environmental Response, Liability, and Compensation Act of 1980 (42 U.S.C. 9601) (as amended by section 201(a)) is amended by adding at the end the following:

''(42) CODISPOSAL LANDFILL.—The term 'codisposal landfill' means a landfill that—

''(A) was listed on the National Priorities List as of the date of enactment of this paragraph;

''(B) received for disposal municipal solid waste or sewage sludge; and

''(C) may also have received, before the effective date of requirements under subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.), any hazardous waste, if the landfill contains predominantly municipal solid waste or sewage sludge that was transported to the landfill from outside the facility.

''(43) MUNICIPAL SOLID WASTE.—

''(A) IN GENERAL.—The term 'municipal solid waste' means waste material generated by—

''(i) a household (such as a single- or multifamily residence) or a public lodging (such as a hotel or motel); or

''(ii) a commercial, institutional, or industrial source, to the extent that—

''(I) the waste material is substantially similar to waste normally generated by a household or public lodging (without regard to differences in volume); or

''(II) the waste material is collected and disposed of with other municipal solid waste or municipal sewage sludge as part of normal municipal solid waste collection services, and, with respect to each source from which the waste material is collected, qualifies for a de micromis exemption under section 107(r).

''(B) INCLUSIONS.—The term 'municipal solid waste' includes food and yard waste, paper, clothing, appliances, consumer product packaging, disposable diapers, office supplies, cosmetics, glass and metal food containers, elementary or secondary school science laboratory waste, and household hazardous waste.

''(C) EXCLUSIONS.—The term 'municipal solid waste' does not include combustion ash generated by resource recovery facilities or municipal incinerators or waste from manufacturing or processing (including pollution control) operations.

''(44) MUNICIPALITY.—

''(A) IN GENERAL.—The term 'municipality' means a political subdivision of a State (including a city, county, village, town, township, borough, parish, school district, sanitation district, water district, or other public entity performing local governmental functions).

''(B) INCLUSIONS.—The term 'municipality' includes a natural person acting in the capacity of an official, employee, or agent of any entity described in subparagraph (A) in the performance of a governmental function.

''(45) SEWAGE SLUDGE.—The term 'sewage sludge' means solid, semisolid, or liquid residue removed during the treatment of municipal waste water, domestic sewage, or other waste water at or by publicly owned treatment works.''.

(b) EXEMPTIONS AND LIMITATIONS.—

(1) IN GENERAL.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) (as amended by section 103(b)) is amended by adding at the end the following:

''(q) LIABILITY EXEMPTION FOR MUNICIPAL SOLID WASTE AND SEWAGE SLUDGE.—No person shall be liable to the United States or to any other person (including liability for contribution) under this section for any response costs at a facility listed on the National Priorities List to the extent that—

''(1) the person is liable solely under paragraph (3) or (4) of subsection (a);

''(2) the person is liable based on an arrangement for disposal or treatment of, an arrangement with a transporter for transport for disposal or treatment of, or an acceptance for transport for disposal or treatment at a facility of, municipal solid waste;

''(3) the person provides full cooperation, assistance, and access to persons that are responsible for response actions at the vessel or facility, including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial response actions at the vessel or facility;

''(4) the person does not impede the effectiveness or integrity of any institutional control employed at the vessel or facility;

''(5) the person complies with any request for information or administrative subpoena issued by the President under this Act; and

''(6) the person is—

''(A) an owner, operator, or lessee of residential property from which all of the person's municipal solid waste was generated;

''(B) a business entity that, during the tax year preceding the date of transmittal of written notification that the business is potentially liable, employs not more than 100 individuals; or

''(C) a nonprofit organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that employs not more than 100 individuals, from which all of the person's municipal solid waste was generated.

''(r) DE MICROMIS CONTRIBUTOR EXEMPTION.—

''(1) IN GENERAL.—In the case of a vessel or facility listed on the National Priorities List, no person described in paragraph (3) or (4) of subsection (a) shall be liable to the United States or to any other person (including liability for contribution) for any response costs under this section if the activity specifically attributable to the person resulted in the disposal or treatment of not more than 200 pounds or 110 gallons of material containing a hazardous substance at the vessel or facility before the date of enactment of this subsection, or such greater amount as the Administrator may determine by regulation.

''(2) EXCEPTION.—Paragraph (1) shall not apply in a case in which the Administrator determines that material described in paragraph (1) has contributed or may contribute significantly, individually, to the amount of response costs at the facility.

''(s) SMALL BUSINESS EXEMPTION.—

''(1) IN GENERAL.—No person shall be liable to the United States or to any person (including liability for contribution) under this section for any response costs at a facility listed on the National Priorities List if—

''(A) the person is liable solely under paragraph (3) or (4) or subsection (a);

''(B) the person is a business that—

''(i) during the taxable year preceding the date of transmittal of notification that the business is a potentially responsible party, had full- and part-time employees whose combined time was equivalent to 75 or fewer full-time employees; or

''(ii) for that taxable year reported $3,000,000 or less in gross revenue;

''(C) the activity specifically attributable to the person resulted in the disposal or treatment of material containing a hazardous substance at the vessel or facility before the date of enactment of this subsection;

''(D) the person is not affiliated through any familial or corporate relationship with any person that is or was a party potentially responsible for response costs at the facility;

''(E) the person provides full cooperation, assistance, and access to persons that are responsible for response actions at the vessel or facility, including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial response actions at the vessel or facility;

''(F) the person does not impede the effectiveness or integrity of any institutional control employed at the vessel or facility; and

''(G) the person complies with any request for information or administrative subpoena issued by the President under this Act.

''(2) EXCEPTION.—Paragraph (1) shall not apply in a case in which the material containing a hazardous substance referred to in subparagraph (A) contributed significantly or could contribute significantly to the cost of the response action with respect to the facility.

''(t) MUNICIPAL SOLID WASTE AND SEWAGE SLUDGE EXEMPTION AND LIMITATIONS.—

''(1) CONTRIBUTION OF MUNICIPAL SOLID WASTE AND MUNICIPAL SEWAGE SLUDGE.—

''(A) IN GENERAL.—The condition stated in this subparagraph is that the liability of the potentially responsible party is for response costs based on paragraph (3) or (4) of subsection (a) and on the potentially responsible party's having arranged for disposal or treatment of, arranged with a transporter for transport for disposal or treatment of, or accepted for transport for disposal or treatment of, municipal solid waste or municipal sewage sludge at a facility listed on the National Priorities List.

''(B) SETTLEMENT AMOUNT.—

''(i) IN GENERAL.—The President shall offer a settlement to a party referred to in clause (i) with respect to liability under paragraph (3) or (4) of subsection (a) on the basis of a payment of $5.30 per ton of municipal solid waste or municipal sewage sludge that the President estimates is attributable to the party.

''(ii) REVISION.—

''(I) IN GENERAL.—The President may revise the settlement amount under clause (i) by regulation.

''(II) BASIS.—A revised settlement amount under subclause (I) shall reflect the estimated per-ton cost of closure and post-closure activities at a representative facility containing only municipal solid waste.

''(C) CONDITIONS.—The provisions for settlement described in this subparagraph shall not apply with respect to a facility where there is no waste except municipal solid waste or municipal sewage sludge.

''(D) ADJUSTMENT FOR INFLATION.—The Administrator may by guidance periodically adjust the settlement amount under subparagraph (B) to reflect changes in the Consumer Price Index (or other appropriate index, as determined by the Administrator).

''(2) MUNICIPAL OWNERS AND OPERATORS.—

''(A) AGGREGATE LIABILITY OF LARGE MUNICIPALITIES.—

''(i) IN GENERAL.—With respect to a codisposal landfill that is owned or operated in whole or in part by municipalities with a population of 100,000 or more (according to the 1990 census), and that is not subject to the criteria for solid waste landfills published under subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) at part 258 of title 40, Code of Federal Regulations (or a successor regulation), the aggregate amount of liability of such municipal owners and operators for response costs under this section shall be not greater than 20 percent of such costs.

''(ii) INCREASED AMOUNT.—The President may increase the percentage under clause (i) to not more than 35 percent with respect to a municipality if the President determines that the municipality committed specific acts that exacerbated environmental contamination or exposure with respect to the facility.

''(iii) DECREASED AMOUNT.—The President may decrease the percentage under clause (i) with respect to a municipality to not less than 10 percent if the President determines that the municipality took specific acts of mitigation during the operation of the facility to avoid environmental contamination or exposure with respect to the facility.

''(B) AGGREGATE LIABILITY OF SMALL MUNICIPALITIES.—

''(i) IN GENERAL.—With respect to a codisposal landfill that is owned or operated in whole or in part by municipalities with a population of less than 100,000 (according to the 1990 census), that is not subject to the criteria for solid waste landfills published under subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) at part 258 of title 40, Code of Federal Regulations (or a successor regulation), the aggregate amount of liability of such municipal owners and operators for response costs under this section shall be not greater than 10 percent of such costs.

''(ii) INCREASED AMOUNT.—The President may increase the percentage under clause (i) to not more than 20 percent with respect to a municipality if the President determines that the municipality committed specific acts that exacerbated environmental contamination or exposure with respect to the facility.

''(iii) DECREASED AMOUNT.—The President may decrease the percentage under clause (i) with respect to a municipality to not less than 5 percent if the President determines that the municipality took specific acts of mitigation during the operation of the facility to avoid environmental contamination or exposure with respect to the facility.

''(3) APPLICABILITY.—This subsection shall not apply to—

''(A) a person that acted in violation of subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.) at a facility that is subject to a response action under this title, if the violation pertains to a hazardous substance the release of threat of release of which caused the incurrence of response costs at the facility;

''(B) a person that owned or operated a codisposal landfill in violation of the applicable requirements for municipal solid waste landfill units under subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) after October 9, 1991, if the violation pertains to a hazardous substance the release of threat of release of which caused the incurrence of response costs at the facility; or

''(C) a person under section 122(p)(2)(G).

''(4) PERFORMANCE OF RESPONSE ACTIONS.—As a condition of a settlement with a municipality under this subsection, the President may require that the municipality perform or participate in the performance of the response actions at the facility.

''(5) NOTICE OF APPLICABILITY.—The President shall provide a potentially responsible party with notice of the potential applicability of this section in each written communication with the party concerning the potential liability of the party.

''(u) RECYCLING TRANSACTIONS.—

''(1) LIABILITY CLARIFICATION.—As provided in paragraphs (2), (3), (4), and (5) of this subsection, a person who arranged for the recycling of recyclable material or transported such material shall not be liable under paragraphs (3) or (4) of subsection (a) with respect to such material. A determination whether or not any person shall be liable under paragraph (3) or (4) of subsection (a) for any transaction not covered by paragraphs (2) and (3), (4), or (5) of this subsection shall be made, without regard to paragraphs (2), (3), (4) and (5) of this subsection, on a case-by-case basis, based on the individual facts and circumstances of such transaction.

''(2) RECYCLABLE MATERIAL DEFINED.—For purposes of this subsection, the term 'recyclable material' means scrap paper, scrap plastic, scrap glass, scrap textiles, scrap rubber (other than whole tires), scrap metal, or spent lead-acid, spent nickel-cadmium, and other spent batteries, as well as minor amounts of material incident to or adhering to the scrap material as a result of its normal and customary use prior to becoming scrap; except that such term shall not include—

''(A) shipping containers with a capacity from 30 liters to 3,000 liters, whether intact or not, having any hazardous substance (but not metal bits and pieces or hazardous substance that form an integral part of the container) contained in or adhering thereto; or

''(B) any item of material containing polychlorinated biphenyls (PCBs) in excess of 50 parts per million (ppm) or any new standard promulgated pursuant to applicable Federal laws.

''(3) TRANSACTIONS INVOLVING SCRAP PAPER, PLASTIC, GLASS, TEXTILES, OR RUBBER.—Transactions involving scrap paper, scrap plastic, scrap glass, scrap textiles, or scrap rubber (other than whole tires) shall be deemed to be arranging for recycling if the person who arranged for the transaction (by selling recyclable material or otherwise arranging for the recycling of recyclable material) can demonstrate by a preponderance of the evidence that all of the following criteria were met at the time of the transaction:

''(A) The recyclable material met a commercial specification grade.

''(B) A market existed for the recyclable material.

''(C) A substantial portion of the recyclable material was made available for use as feedstock for the manufacture of a new saleable product.

''(D) The recyclable material could have been a replacement or substitute for a virgin raw material, or the product to be made from the recyclable material could have been a replacement or substitute for a product made, in whole or in part, from a virgin raw material.

''(E) For transactions occurring 90 days or more after the date of enactment of this subsection, the person exercised reasonable care to determine that the facility where the recyclable material was handled, processed, reclaimed, or otherwise managed by another person (hereinafter in this subsection referred to as a 'consuming facility') was in compliance with substantive (not procedural or administrative) provisions of any Federal, State, or local environmental law or regulation, or compliance order or decree issued pursuant thereto, applicable to the handling, processing, reclamation, storage, or other management activities associated with recyclable material.

''(F) For purposes of this paragraph, 'reasonable care' shall be determined using criteria that include (but are not limited to)—

''(i) the price paid in the recycling transaction;

''(ii) the ability of the person to detect the nature of the consuming facility's operations concerning its handling, processing, reclamation, or other management activities associated with recyclable material; and

''(iii) the result of inquiries made to the appropriate Federal, State, or local environmental agency (or agencies) regarding the consuming facility's past and current compliance with substantive (not procedural or administrative) provisions of any Federal, State, or local environmental law or regulation, or compliance order or decree issued pursuant thereto, applicable to the handling, processing, reclamation, storage, or other management activities associated with the recyclable material. For the purposes of this subparagraph, a requirement to obtain a permit applicable to the handling, processing, reclamation, or other management activity associated with the recyclable materials shall be deemed to be a substantive provision.

''(4) TRANSACTIONS INVOLVING SCRAP METAL.—

''(A) Transactions involving scrap metal shall be deemed to be arranging for recycling if the person who arranged for the transaction (by selling recyclable material or otherwise arranging for the recycling of recyclable material) can demonstrate by a preponderance of the evidence that at the time of the transaction—

''(i) the person met the criteria set forth in paragraph (3) with respect to the scrap metal;

''(ii) the person was in compliance with any applicable regulations or standards regarding the storage, transport, management, or other activities associated with the recycling of scrap metal that the Administrator promulgates under the Solid Waste Disposal Act subsequent to the enactment of this subsection and with regard to transactions occurring after the effective date of such regulations or standards; and

''(iii) the person did not melt the scrap metal prior to the transaction.

''(B) For purposes of subparagraph (A)(iii), melting of scrap metal does not include the thermal separation of 2 or more materials due to differences in their melting points (referred to as 'sweating').

''(C) For purposes of this paragraph, the term 'scrap metal' means—

''(i) bits and pieces of metal parts (e.g., bars, turnings, rods, sheets, wire) or metal pieces that may be combined together with bolts or soldering (e.g., radiators, scrap automobiles, railroad box cars), which when worn or superfluous can be recycled; and

''(ii) notwithstanding subparagraph (A)(iii), metal byproducts from copper and copper-based alloys that—

''(I) are not 1 of the primary products of a secondary production process;

''(II) are not solely or separately produced by the production process;

''(III) are not stored in a pile or surface impoundment; and

''(IV) are sold to another recycler that is not speculatively accumulating such metal byproducts;

except for scrap metals that the Administrator excludes from this definition by regulation.

''(5) TRANSACTIONS INVOLVING BATTERIES.—Transactions involving spent lead-acid batteries, spent nickel-cadmium batteries, or other spent batteries shall be deemed to be arranging for recycling if the person who arranged for the transaction (by selling recyclable material or otherwise arranging for the recycling of recyclable material) can demonstrate by a preponderance of the evidence that at the time of the transaction—

''(A) the person met the criteria set forth in paragraph (3) with respect to the spent lead-acid batteries, spent nickel-cadmium batteries, or other spent batteries, but the person did not recover the valuable components of such batteries; and

''(B)(i) with respect to transactions involving lead-acid batteries, the person was in compliance with applicable Federal environmental regulations or standards, and any amendments thereto, regarding the storage, transport, management, or other activities associated with the recycling of spent lead-acid batteries;

''(ii) with respect to transactions involving nickel-cadmium batteries, Federal environmental regulations or standards are in effect regarding the storage, transport, management, or other activities associated with the recycling of spent nickel-cadmium batteries, and the person was in compliance with applicable regulations or standards or any amendments thereto; or

''(iii) with respect to transactions involving other spent batteries, Federal environmental regulations or standards are in effect regarding the storage, transport, management, or other activities associated with the recycling of such batteries, and the person was in compliance with applicable regulations or standards or any amendments thereto.

''(6) EXCLUSIONS.—

''(A) The exemptions set forth in paragraphs (3), (4), and (5) shall not apply if—

''(i) the person had an objectively reasonable basis to believe at the time of the recycling transaction—

''(I) that the recyclable material would not be recycled;

''(II) that the recyclable material would be burned as fuel, or for energy recovery or incineration; or

''(III) for transactions occurring before 90 days after the date of the enactment of this subsection, that the consuming facility was not in compliance with a substantive (not procedural or administrative) provision of any Federal, State, or local environmental law or regulation, or compliance order or decree issued pursuant thereto, applicable to the handling, processing, reclamation, or other management activities associated with the recyclable material;

''(ii) the person had reason to believe that hazardous substances had been added to the recyclable material for purposes other than processing for recycling; or

''(iii) the person failed to exercise reasonable care with respect to the management and handling of the recyclable material (including adhering to customary industry practices current at the time of the recycling transaction designed to minimize, through source control, contamination of the recyclable material by hazardous substances).

''(B) For purposes of this paragraph, an objectively reasonable basis for belief shall be determined using criteria that include (but are not limited to) the size of the person's business, customary industry practices (including customary industry practices current at the time of the recycling transaction designed to minimize, through source control, contamination of the recyclable material by hazardous substances), the price paid in the recycling transaction, and the ability of the person to detect the nature of the consuming facility's operations concerning its handling, processing, reclamation, or other management activities associated with the recyclable material.

''(C) For purposes of this paragraph, a requirement to obtain a permit applicable to the handling, processing, reclamation, or other management activities associated with recyclable material shall be deemed to be a substantive provision.

''(D) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection—

''(i) affects any rights, defenses, or liabilities under section 107(a) of any person with respect to any transaction involving any material other than a recyclable material subject to paragraph (1) of this subsection; or

''(ii) relieves a plaintiff of the burden of proof that the elements of liability under section 107(a) are met under the particular circumstances of any transaction for which liability is alleged.

''(v) RECYCLING TRANSACTIONS INVOLVING USED OIL.—

''(1) DEFINITION OF USED OIL.—In this subsection, the term 'used oil' has the meaning given the term in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903), except that the term—

''(A) includes any synthetic oil; and

''(B) does not include an oil that is subject to regulation under section 6(e)(10)(A) of the Toxic Substances Control Act (15 U.S.C. 2605(e)(10)(A)).

''(2) TRANSACTIONS INVOLVING USED OIL.—Transactions involving recyclable material that consists of used oil shall be considered to be arranging for recycling if the person that arranged for the transaction (by selling recyclable material or otherwise arranging for the recycling of recyclable material)—

''(A) did not mix the recyclable material with a hazardous substance following the removal of the used oil from service; and

''(B) demonstrates by a preponderance of the evidence that—

''(i) at the time of the transaction, the recyclable material was sent to a facility that recycled used oil by using it as a feedstock for the manufacture of a new saleable product; or

''(ii)(I) at the time of the transaction, the recyclable material or the product to be made from the recyclable material could have been a replacement or substitute, in whole or in part, for a virgin raw material;

''(II) in the case of a transaction occurring on or after the date that is 90 days after the date of enactment of this section, the person exercised reasonable care to determine that the facility where the recyclable material would be handled, processed, reclaimed, or otherwise managed by another person was in compliance with substantive provisions of any Federal, State, or local environmental law (including a regulation promulgated or a compliance order or decree issued under the law) that is applicable to the handling, processing, reclamation, storage, or other management activities associated with the recyclable material; and

''(III) the person was in compliance with any regulations or standards for the management of used oil promulgated under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) that were in effect on the date of the transaction.

''(3) REASONABLE CARE.—For purposes of this subsection, reasonable care shall be determined using criteria that include—

''(A) the price paid in the recycling transaction;

''(B) the ability of the person to detect the nature of the consuming facility's operations concerning its handling, processing, reclamation, or other management activities associated with the recyclable material; and

''(C) the result of inquiries made to the appropriate Federal, State, or local environmental agency (or agencies) regarding the consuming facility's past and current compliance with substantive provisions of any Federal, State, or local environmental law (including a regulation promulgated or a compliance order or decree issued under the law), applicable to the handling, processing, reclamation, storage, or other management activities associated with recyclable material.

''(w) LIMITATION OF LIABILITY OF RAILROAD OWNERS.—

''(1) IN GENERAL.—Notwithstanding subsection (a), a person that substantially complies with paragraph (2) with respect to a facility shall not be liable under this Act to the extent that liability is based solely on the status of the person as a railroad owner or operator of a spur track (including a spur track over land subject to an easement), to a facility that is owned or operated by a person that is not affiliated with the railroad owner or operator, if—

''(A) the spur track provides access to a main line or branch line track that is owned or operated by the railroad;

''(B) the spur track is not more than 10 miles long; and

''(C) the railroad owner or operator does not cause or contribute to a release or threatened release at the spur track.

''(2) REQUIREMENTS FOR LIMITATION OF LIABILITY.—The requirement of this paragraph is that—

''(A) to the extent that the person has operational control over a facility—

''(i) the person provides full cooperation to, assistance to, and access to the facility by, persons that are responsible for response actions at the facility (including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial response action at the facility); and

''(ii) the person takes no action to impede the effectiveness or integrity of any institutional control employed under section 121 at the facility; and

''(B) the person complies with any request for information or administrative subpoena issued by the President under this Act.

''(x) RELIGIOUS, CHARITABLE, SCIENTIFIC, AND EDUCATIONAL ORGANIZATIONS.—

''(1) LIMITATION ON LIABILITY.—Subject to paragraph (2), if an organization described in section 101(20)(I) holds legal or equitable title to a vessel or facility as a result of a charitable gift that is allowable as a deduction under section 170, 2055, or 2522 of the Internal Revenue Code of 1986 (determined without regard to dollar limitations), the liability of the organization shall be limited to the lesser of the fair market value of the vessel or facility or the actual proceeds of the sale of the vessel or facility received by the organization.

''(2) CONDITIONS.—In order for an organization described in section 101(20)(I) to be eligible for the limited liability described in paragraph (1), the organization shall—

''(A) substantially comply with the requirement of subsection (y) with respect to the vessel or facility;

''(B) provide full cooperation and assistance to the United States in identifying and locating persons who recently owned, operated, or otherwise controlled activities at the vessel or facility;

''(C) establish by a preponderance of the evidence that all active disposal of hazardous substances at the vessel or facility occurred before the organization acquired the vessel or facility; and

''(D) establish by a preponderance of the evidence that the organization did not cause or contribute to a release or threatened release of hazardous substances at the vessel or facility.

''(3) LIMITATION.—Nothing in this subsection affects the liability of a person other than a person described in section 101(20)(I) that meets the conditions specified in paragraph (2).''.

(2) TRANSITION RULES.—

(A) IN GENERAL.—The exemptions under subsections (q), (r), (s), (v), and (w) of section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(q), 9607(r), 9607(s)) (as added by paragraph (1)) shall not apply to any administrative settlement or any settlement or judgment approved by a United States Federal District Court—

(i) before the date of enactment of this Act; or

(ii) not later than 180 days after the date of enactment of this Act.

(B) EFFECT ON PENDING OR CONCLUDED ACTIONS.—The exemptions provided in subsection (u) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(u)) (as added by paragraph (1)) shall not affect any concluded judicial or administrative action or any pending judicial action initiated by the United States prior to the date of enactment of this Act.

(c) SERVICE STATION DEALERS.—Section 114(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9614(c)) is amended—

(1) in paragraph (1)—

(A) by striking ''No person'' and inserting ''A person'';

(B) by striking ''may recover'' and inserting ''may not recover'';

(C) by striking ''if such recycled oil'' and inserting ''unless the service station dealer''; and

(D) by striking subparagraphs (A) and (B) and inserting the following:

''(A) mixed the recycled oil with any other hazardous substance; or

''(B) did not store, treat, transport, or otherwise manage the recycled oil in compliance with any applicable regulations or standards promulgated under section 3014 of the Solid Waste Disposal Act (42 U.S.C. 6935) and other applicable authorities that were in effect on the date of such activity.''; and

(2) by striking paragraph (4).

SEC. 302. EXPEDITED SETTLEMENT FOR CERTAIN PARTIES.

(a) PARTIES ELIGIBLE.—Section 122(g) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9622(g)) is amended—

(1) by striking the subsection heading and inserting the following:

''(g) EXPEDITED FINAL SETTLEMENT.—'';

(2) in paragraph (1)—

(A) by redesignating subparagraph (B) as subparagraph (C);

(B) by striking ''(1)'' and all that follows through subparagraph (A) and inserting the following:

''(1) PARTIES ELIGIBLE.—

''(A) IN GENERAL.—As expeditiously as practicable, the President shall—

''(i) notify each potentially responsible party that meets 1 or more of the conditions stated in subparagraphs (B), (C), and (D) of the party's eligibility for a settlement; and

''(ii) offer to reach a final administrative or judicial settlement with the party.

''(B) DE MINIMIS CONTRIBUTION.—The condition stated in this subparagraph is that the liability is for response costs based on paragraph (3) or (4) of section 107(a) and the party's contribution of a hazardous substance at a facility is de minimis. For the purposes of this subparagraph, a potentially responsible party's contribution shall be considered to be de minimis only if the President determines that both of the following criteria are met:

''(i) MINIMAL AMOUNT OF MATERIAL.—The amount of material containing a hazardous substance contributed by the potentially responsible party to the facility is minimal relative to the total amount of material containing hazardous substances at the facility. The amount of a potentially responsible party's contribution shall be presumed to be minimal if the amount is 1 percent or less of the total amount of material containing a hazardous substance at the facility, unless the Administrator promptly identifies a greater threshold based on site-specific factors.

''(ii) HAZARDOUS EFFECTS.—The material containing a hazardous substance contributed by the potentially responsible party does not present toxic or other hazardous effects that are significantly greater than the toxic or other hazardous effects of other material containing a hazardous substance at the facility.'';

(C) in subparagraph (C) (as redesignated by subparagraph (A))—

(i) by redesignating clauses (i) through (iii) as subclauses (I) through (III), respectively, and adjusting the margins appropriately;

(ii) by striking ''(C) The potentially responsible party'' and inserting the following:

''(C) OWNERS OF REAL PROPERTY.—

''(i) IN GENERAL.—The condition stated in this subparagraph is that the potentially responsible party''; and

(iii) by striking ''This subparagraph (B)'' and inserting the following:

''(ii) APPLICABILITY.—Clause (i)''; and

(D) by adding at the end the following:

''(D) REDUCTION IN SETTLEMENT AMOUNT BASED ON LIMITED ABILITY TO PAY.—

''(i) IN GENERAL.—The condition stated in this subparagraph is that—

''(I) the potentially responsible party is—

''(aa) a natural person;

''(bb) a small business; or

''(cc) a municipality;

''(II) the potentially responsible party demonstrates an inability to pay or has only a limited ability to pay response costs, as determined by the Administrator under a regulation promulgated by the Administrator, after—

''(aa) public notice and opportunity for comment; and

''(bb) consultation with the Administrator of the Small Business Administration and the Secretary of Housing and Urban Development; and

''(III) in the case of a potentially responsible party that is a small business, the potentially responsible party does not qualify for the small business exemption under section 107(s) because of the application of section 107(s)(2).

''(ii) SMALL BUSINESSES.—

''(I) DEFINITION OF SMALL BUSINESS.—In this subparagraph, the term 'small business' means a business entity that—

''(aa) during the taxable year preceding the date of transmittal of notification that the business is a potentially responsible party, had full- and part-time employees whose combined time was equivalent to that of 75 or fewer full-time employees or for that taxable year reported $3,000,000 or less in gross revenue; and

''(bb) is not affiliated through any familial or corporate relationship with any person that is or was a party potentially responsible for response costs at the facility.

''(II) CONSIDERATIONS.—At the request of a small business, the President shall take into consideration the ability of the small business to pay response costs and still maintain its basic business operations, including—

''(aa) consideration of the overall financial condition of the small business; and

''(bb) demonstrable constraints on the ability of the small business to raise revenues.

''(III) INFORMATION.—A small business requesting settlement under this paragraph shall promptly provide the President with all information needed to determine the ability of the small business to pay response costs.

''(IV) DETERMINATION.—A small business shall demonstrate the extent of its ability to pay response costs, and the President shall perform any analysis that the President determines may assist in demonstrating the impact of a settlement on the ability of the small business to maintain its basic operations. The President, in the discretion of the President, may perform such an analysis for any other party or request the other party to perform the analysis.

''(V) ALTERNATIVE PAYMENT METHODS.—If the President determines that a small business is unable to pay its total settlement amount immediately, the President shall consider such alternative payment methods as may be necessary or appropriate.

''(iii) MUNICIPALITIES.—

''(I) CONSIDERATIONS.—The President shall consider the inability or limited ability to pay of a municipality to the extent that the municipality provides information with respect to—

''(aa) the general obligation bond rating and information about the most recent bond issue for which the rating was prepared;

''(bb) the amount of total available funds (other than dedicated funds or State assistance payments for remediation of inactive hazardous waste sites);

''(cc) the amount of total operating revenues (other than obligated or encumbered revenues);

''(dd) the amount of total expenses;

''(ee) the amounts of total debt and debt service;

''(ff) per capita income and cost of living;

''(gg) real property values;

''(hh) unemployment information; and

''(ii) population information.

''(II) EVALUATION OF IMPACT.—A municipality may submit for consideration by the President an evaluation of the potential impact of the settlement on the provision of municipal services and the feasibility of making delayed payments or payments over time.

''(III) RISK OF DEFAULT OR VIOLATION.—A municipality may establish an inability to pay for purposes of this subparagraph by showing that payment of its liability under this Act would—

''(aa) create a substantial demonstrable risk that the municipality would default on debt obligations existing as of the time of the showing, go into bankruptcy, be forced to dissolve, or be forced to make budgetary cutbacks that would substantially reduce the level of protection of public health and safety; or

''(bb) necessitate a violation of legal requirements or limitations of general applicability concerning the assumption and maintenance of fiscal municipal obligations.

''(IV) OTHER FACTORS RELEVANT TO SETTLEMENTS WITH MUNICIPALITIES.—In determining an appropriate settlement amount with a municipality under this subparagraph, the

President may consider other relevant factors, including the fair market value of any in-kind services that the municipality may provide to support the response action at the facility.

''(iv) OTHER POTENTIALLY RESPONSIBLE PARTIES.—This subparagraph does not affect the President's authority to evaluate the ability to pay of a potentially responsible party other than a natural person, small business, or municipality or to enter into a settlement with such other party based on that party's ability to pay.

''(E) ADDITIONAL CONDITIONS FOR EXPEDITED SETTLEMENTS.—

''(i) BASIS OF DETERMINATION.—If the President determines that a potentially responsible party is not eligible for settlement under this paragraph, the President shall state the reasons for the determination in writing to any potentially responsible party that requests a settlement under this paragraph.''.

(b) SETTLEMENT OFFERS.—Section 122(g) of the Comprehensive Environment Response, Liability, and Compensation Act of 1980 (42 U.S.C. 9622(g)) is amended—

(1) by redesignating paragraph (6) as paragraph (7); and

(2) by inserting after paragraph (5) the following:

''(6) SETTLEMENT OFFERS.—

''(A) NOTIFICATION.—As soon as practicable after receipt of sufficient information to make a determination, the Administrator shall notify any person that the Administrator determines is eligible under paragraph (1) of the person's eligibility for the expedited final settlement.

''(B) OFFERS.—As soon as practicable after receipt of sufficient information, the Administrator shall submit a written settlement offer to each person that the Administrator determines, based on information available to the Administrator at the time at which the determination is made, to be eligible for a settlement under paragraph (1).

''(C) INFORMATION.—At the time at which the Administrator submits an offer under paragraph (1), the Administrator shall, at the request of the recipient of the offer, make available to the recipient any information available under section 552 of title 5, United States Code, on which the Administrator bases the settlement offer, and if the settlement offer is based in whole or in part on information not available under that section, so inform the recipient.''.

SEC. 303. FAIR SHARE SETTLEMENTS AND STATUTORY ORPHAN SHARES.

(a) IN GENERAL.—Section 122 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9622) is amended by adding at the end the following:

''(n) FAIR SHARE ALLOCATION.—

''(1) PROCESS.—The President shall initiate an impartial fare share allocation, conducted by a neutral third party, at National Priorities List facilities, if—

''(A) there is more than 1 potentially responsible party that is not—

''(i) eligible for an exemption or limitation under subsection (q), (r), (s), (t), (u), (v), (w), or (x) of section 107;

''(ii) eligible for a settlement under subsection (g); or

''(iii) insolvent, bankrupt, or defunct; and

''(B) 1 or more of the potentially responsible parties agree to bear the costs of the allocation (which shall be considered to be response costs under this Act) under such conditions as the President may prescribe.

''(2) PRE-ALLOCATION SETTLEMENTS.—

''(A) IN GENERAL.—Before initiating the allocation, the President may—

''(i) provide a 90-day period of negotiation; and

''(ii) extend the period of negotiation described in clause (i) for an additional 90 days.

''(B) ALTERNATIVE DISPUTE RESOLUTION.—The President may use the services of an alternative dispute resolution neutral to assist in negotiations.

''(C) SETTLEMENT.—On expiration of a negotiation period described in subparagraph (A), the President may offer to settle the liability of 1 or more of the parties.

''(D) RESPONSE ACTION.—

''(i) IN GENERAL.—As a condition of a settlement under this subsection, the President may require 1 or more parties to conduct a response action at the facility.

''(ii) FUNDING AND COSTS.—An agreement for a required response action described in clause (i) may include mixed funding under this section, including the forgiveness of past costs.

''(3) EXPEDITED ALLOCATION.—

''(A) IN GENERAL.—At the request of any party subject to the allocation, the allocator may first accept the President's estimate of the statutory orphan share specified under subsection (o).

''(B) SETTLEMENT BASED ON STATUTORY ORPHAN SHARE.—The President may offer to settle the liability of any party based on—

''(i) the statutory orphan share as accepted by the allocator;

''(ii) the party's pro rata share of the statutory orphan; and

''(iii) other terms and conditions acceptable to the United States.

''(4) FACTORS.—In conducting an allocation under this subsection, the allocator, without regard to any theory of joint and several liability, shall estimate the fair share of each potentially responsible party using principles of equity, the best information reasonably available to the President, and the following factors:

''(A) the quantity of hazardous substances contributed by each party;

''(B) the degree of toxicity of hazardous substances contributed by each party;

''(C) the mobility of hazardous substances contributed by each party;

''(D) the degree of involvement of each party in the generation, transportation, treatment, storage, or disposal of hazardous substances;

''(E) the degree of care exercised by each party with respect to hazardous substances, taking into account the characteristics of the hazardous substances;

''(F) the cooperation of each party in contributing to any response action and in providing complete and timely information to the United States or the allocator; and

''(G) such other equitable factors as the President considers appropriate.

''(5) SCOPE.—A fair share allocation under this subsection shall include any response costs at a National Priorities List facility that are not addressed in an administrative settlement or a settlement or a judgment approved by a United States Federal District Court.

''(6) SETTLEMENTS BASED ON ALLOCATIONS.—

''(A) IN GENERAL.—A party may settle any liability to the United States for response costs under this Act for its allocated fair share, including a reasonable risk premium that reflects uncertainties existing at the time of settlement.

''(B) COMPLETION OF OBLIGATIONS.—A person that is undertaking a response action under an administrative order issued under section 106 or has entered into a settlement decree with the United States of a State as of the date of enactment of this subsection shall complete the person's obligations under the order or settlement decree.

''(C) JOINT REJECTION.—The President and the Attorney General may jointly reject an allocation report, in writing, if—

''(i) the allocation does not provide a basis for settlement that is fair, reasonable, and consistent with the objectives of this Act; or

''(ii) the allocation process was directly and substantially affected by bias, procedural error, fraud, or unlawful conduct.

''(D) SUBSEQUENT ALLOCATION.—

''(i) IN GENERAL.—If the Administrator and the Attorney General jointly reject an allocation report under subparagraph (C), the President shall initiate another impartial fair share allocation.

''(ii) COSTS.—The United States shall bear 50 percent of the costs of a subsequent allocation if an initial allocation is rejected under subparagraph (C)(i).

''(7) UNFUNDED AND UNATTRIBUTABLE SHARES.—Any share attributable to an insolvent, defunct, or bankrupt party, or a share that cannot be attributed to any particular party, shall be allocated among any responsible parties not described in subsection (q), (r), (s), (t), (u), (v), (w), or (x) of section 107 or subsection (g) of this section.

''(8) SAVINGS.—The President may use the authority under this section to enter into settlement agreements with respect to any response action that is the subject of an allocation at any time.

''(9) EFFECT ON PRINCIPLES OF LIABILITY.—Except as provided in paragraph (4), the authorization of an allocation process under this section shall not modify or affect the principles of liability under this title as determined by the courts of the United States.

''(o) STATUTORY ORPHAN SHARES.—

''(1) IN GENERAL.—For purposes of this section, the statutory orphan share is the difference between—

''(A) the liability of a party described in subsection (q), (s), (t), (u), (v), (w), or (x) of section 107 or subsection (g) of this section; and

''(B) the President's estimate of the liability of the party, notwithstanding any exemption from or limitation on liability in this Act, for response costs that are not addressed in an administrative settlement or a settlement or judgment approved by a United States district court.

''(2) DETERMINATION OF STATUTORY ORPHAN SHARES.—The President shall include an estimate of the statutory orphan share of a party described in section 107(t) or subsection (g) of this section, based on the best information reasonably available to the President, at any time at which the President seeks judicial approval of a settlement with the party.

''(3) TRANSITION RULE AND SUBSEQUENT SETTLEMENTS.—

''(A) IN GENERAL.—Each settlement presented for judicial approval on or after the date that is 1 year after the date of enactment of this subsection shall include an estimate of the statutory orphan share for each party described in subsections (q), (s), and (u) of section 107 that is otherwise liable at a facility for costs addressed in the settlement.

''(B) SUBSEQUENT SETTLEMENTS.—The President shall include in a subsequent settlement at the same facility a revised statutory orphan share estimate if the President—

''(i) determines that the subsequent settlement includes a new statutory orphan share; or

''(ii) has good cause to revise an earlier statutory orphan share estimate.

''(4) FINAL SETTLEMENTS.—

''(A) IN GENERAL.—An administrative settlement, or a judicially-approved consent decree or settlement, shall identify the statutory orphan share owing if the consent decree or settlement includes all funding necessary to complete remedial project construction for the last operable unit at the facility.

''(B) FUNDING AND REIMBURSEMENT.—A consent decree or settlement described in subparagraph (A) shall include funding of statutory orphan shares in accordance with this section to the extent funds are available.

''(C) FACILITIES UNDER UNILATERAL ORDER ONLY.—

''(i) IN GENERAL.—At a facility proceeding under an order under section 106(a) that includes all funding necessary to complete remedial project construction for the last operable unit at the facility, if the order has been issued to 1 or more parties, and all other potentially responsible parties not subject to the order at the facility are described in subsection (q), (r), (s), (t), (u), (v), (w), or (x) of section 107 or subsection (g) of this section or are insolvent, bankrupt, or defunct, the Administrator shall, on petition by the party performing under section 106(b), calculate the statutory orphan share for the facility.

''(ii) PAYMENT.—Payment of any statutory orphan share under this subparagraph shall be made in accordance with subsection (p)(2)(J), as if the parties had settled.

''(p) GENERAL PROVISIONS APPLICABLE TO STATUTORY ORPHAN SHARES AND FAIR SHARE SETTLEMENTS.—

''(1) IN GENERAL.—A fair share settlement under subsection (n) and a statutory orphan share under subsection (o) shall be subject to paragraph (2).

''(2) PROVISIONS APPLICABLE TO STATUTORY ORPHAN SHARES AND FAIR SHARE SETTLEMENTS.—

''(A) STAY OF LITIGATION AND ENFORCEMENT.—

''(i) IN GENERAL.—All contribution and cost recovery actions under this Act against each party described in section 107(t) and subsection (g) of this section are stayed until the Administrator offers those parties a settlement.

''(ii) SUSPENSION OF STATUTE OF LIMITATIONS.—Any statute of limitations applicable to an action described in clause (i) is suspended during the period that a stay under this subparagraph is in effect.

''(B) FAILURE OR INABILITY TO COMPLY.—If the President fails to fund a statutory orphan share, reimburse a party, or include a statutory orphan share estimate in any settlement when required to do so under this Act, the President shall not—

''(i) issue any new order under section 106 at the facility to any non-Federal party; or

''(ii) commence or maintain any new or existing action to recover response costs at the facility.

''(C) AMOUNTS OWED.—

''(i) HAZARDOUS SUBSTANCE SUPERFUND MANAGEMENT.—The President may provide partial statutory orphan share funding and partial reimbursement payments to a party on a schedule that ensures an equitable distribution of payments to all eligible parties on a timely basis.

''(ii) PRIORITY.—The priority for partial payments shall be based on the length of time that has passed since the payment obligation arose.

''(iii) PAYMENT FROM FUNDS MADE AVAILABLE FOR SUBSEQUENT FISCAL YEARS.—Any amounts payable in excess of available appropriations in any fiscal year shall be paid from amounts made available for subsequent fiscal years, along with interest on the unpaid balances at the rate equal to that of the current average market yield on outstanding marketable obligations of the United States with a maturity of 1 year.

''(D) CONTRIBUTION PROTECTION.—

''(i) IN GENERAL.—A settlement under this subsection, subsection (g), or section 107(t) shall provide complete protection from all claims for contribution or cost recovery for response costs that are addressed in the settlement.

''(ii) COSTS BEYOND SCOPE OF ALLOCATION.—In the case of response costs at a facility that, as a result of a prior, administrative or judicially-approved settlement at the facility, are not within the scope of an allocation under subsection (n), a party shall retain the right to seek cost recovery or contribution from any other party in accordance with the prior settlement, except that no party may seek contribution for any response costs at the facility from—

''(I) a party described in subsection (q), (r), (s), (u), (v), (w), or (x) of section 107; or

''(II) a party that has settled its liability under section 107(t) or subsection (g) of this section.

''(E) LIABILITY FOR ATTORNEY'S FEES FOR CERTAIN ACTIONS.—A person that, after the date of enactment of this subsection, commences a civil action for contribution under this Act against a person that is not liable by operation of subsections (q), (r), (s), or (u) of section 107, or has resolved its liability to the United States under subsection (n), subsection (g), or section 107(t), shall be liable to that person for all reasonable costs of defending the action, including all reasonable attorney's fees and expert witness fees.

''(F) ILLEGAL ACTIVITIES.—Subsections (q), (r), (s), (t), (u), (v), (w), and (x) of section 107 and subsection (g) of this section shall not apply to—

''(i) any person whose liability for response costs under section 107(a) is otherwise based on any act, omission, or status that is determined by a court or administrative body of competent jurisdiction, within the applicable statute of limitation, to have been a violation of any Federal or State law pertaining to the treatment, storage, disposal, or handling of hazardous substances if the violation pertains to a hazardous substance, the release or threat of release of which caused the incurrence of response costs at the vessel or facility;

''(ii) a person described in section 107(o); or

''(iii) a bona fide prospective purchaser.

''(G) EXCEPTION.—

''(i) IN GENERAL.—The President may decline to reimburse or offer a settlement to a potentially responsible party under subsections (g) and (n) if the President makes a decision concerning a reimbursement or offer of a settlement under clause (ii).

''(ii) REQUIREMENTS FOR REIMBURSEMENT OR OFFER OF A SETTLEMENT.—A potentially responsible party may be denied a reimbursement or settlement under clause (i)—

''(I) to the extent that the person or entity has operational control over a vessel or facility, if—

''(aa) the person or entity fails to provide full cooperation to, assistance to, and access to the vessel or facility to persons that are responsible for response actions at the vessel or facility (including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial response actions at the vessel or facility); or

''(bb) the person or entity acts in such a way as to impede the effectiveness or integrity of any institutional control employed at the vessel or facility; or

''(II) if the person or entity fails to comply with any request for information or administrative subpoena issued by the President under this Act.

''(H) BASIS OF DETERMINATION.—If the President determines that a potentially responsible party is not eligible for settlement under this paragraph, the President shall state the reasons for the determination in writing to any potentially responsible party that requests a settlement under this paragraph.

''(I) WAIVER.—

''(i) RESPONSE COSTS IN ALLOCATION.—A party that settles its liability under this subsection waives the right to seek cost recovery or contribution under this Act for any response costs that are addressed in the allocation.

''(ii) RESPONSE COSTS OF FACILITY.—A party that settles its liability under subsection (g) or section 107(t) waives its right to seek cost recovery or contribution under this Act for any response costs at the facility.

''(J) PERFORMANCE OF RESPONSE ACTIONS.—

''(i) IN GENERAL.—Except as provided in subparagraph (B), the President may require, as a condition of settlement under subsection (n) and section 107(t), that 1 or more parties conduct a response action at the facility.

''(ii) REIMBURSEMENT.—

''(I) IN GENERAL.—The President shall reimburse a party that settles its liability under subsection (n) or section 107(t) for response costs incurred in performing a response action that exceed the amount of a settlement approved under subsection (n) or section 107(t).

''(II) PRO RATA REIMBURSEMENT.—The President shall provide equitable pro rata reimbursement to such parties on at least an annual basis.

''(iii) RESPONSE ACTIONS.—No party described in subsections (q), (r), (s), (u), (v), (w) or (x) of section 107 or subsection (g) of this section may be required to perform a response action as a condition of settlement or ordered to conduct a response action under section 106.

''(K) JUDICIAL REVIEW.—

''(i) IN GENERAL.—A court shall not approve any settlement under this Act unless the settlement includes an estimate of the statutory orphan share that is fair, reasonable and consistent with this Act.

''(ii) STATUTORY ORPHAN SHARE SETTLEMENT.—If a court determines that an estimate of a statutory orphan share is not fair, reasonable, or consistent with this Act, the court may—

''(I) approve the settlement; and

''(II) disapprove and remand the estimate of the statutory orphan share.''.

(b) REGULATIONS.—The President shall issue regulations to implement this title not later than 180 days after the date of enactment of this Act.

(c) TECHNICAL AMENDMENT.—Section 106(b)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9706(b)(1)) is amended by adding at the end the following: 'The conduct or approval of an allocation of liability under this Act, including any settlement of liability with a party based on the allocation, shall not constitute sufficient cause for any party (including a party that settled its liability based on the allocation) to willfully violate, or fail or refuse to comply with, any order of the President under subsection (a).''.

(d) LAW ENFORCEMENT AGENCIES NOT INCLUDED AS OWNER OR OPERATOR.—Section 101(20)(D) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(20(D)) is amended by inserting after ''or control'' the following: ''through seizure or otherwise in connection with law enforcement activity, or''.

(e) COMMON CARRIERS.—Section 107(b)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(b)(3)) is amended by striking ''a published tariff and acceptance'' and inserting ''a contract''.

SEC. 304. TREATMENT OF RELIGIOUS, CHARITABLE, SCIENTIFIC, AND EDUCATIONAL ORGANIZATIONS AS OWNERS OR OPERATORS.

Section 101(20) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(20)) is amended by adding at the end the following:

''(H) RELIGIOUS, CHARITABLE, SCIENTIFIC, AND EDUCATIONAL ORGANIZATIONS.—The term 'owner or operator' includes an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is organized and operated exclusively for religious, charitable, scientific, or educational purposes and that holds legal or equitable title to a vessel or facility.''.

TITLE IV—REMEDY SELECTION AND NATURAL RESOURCE DAMAGES

SEC. 401. SELECTION AND IMPLEMENTATION OF REMEDIAL ACTIONS.

(a) PREFERENCE FOR TREATMENT.—Section 121(b) of the Comprehensive Environmental Response Compensation, and Liability Act of 1980 (42 U.S.C. 9621(b)) is amended by striking paragraph (1) and inserting the following:

''(1) PREFERENCE FOR TREATMENT.—

''(A) IN GENERAL.—For any discrete area containing a principal hazardous constituent of a hazardous substance, pollutant, or contaminant that, based on site specific factors, presents a substantial risk to human health or the environment because of—

''(i) the high toxicity of the principal hazardous constituent; or

''(ii) the high mobility of the principal hazardous constituent;

the remedy selection process shall include a preference for a remedial action that includes treatment that reduces the risk posed by the principal hazardous constituent over remedial actions that do not include such treatment.

''(B) FINAL CONTAINMENT.—With respect to a discrete area described in subparagraph (A), the President may select a final containment remedy at a landfill or mining site or similar facility if—

''(i)(I) the discrete area is small relative to the overall volume of waste or contamination being addressed;

''(II) the discrete area is not readily identifiable and accessible; and

''(III) without the presence of the discrete area, containment would have been selected as the appropriate remedy under this subsection for the larger body of waste or larger area of contamination in which the discrete area is located; or

''(ii) the volume and size of the discrete area is extraordinary compared to other facilities listed on the National Priorities List, and, because of the volume, size, and other characteristics of the discrete area, it is highly unlikely that any treatment technology will be developed that could be implemented at a reasonable cost.''.

(b) COMPLIANCE WITH FEDERAL AND STATE LAWS.—Section 121(d)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9621(d)(2)) is amended by striking subparagraph (C) and inserting the following:

''(C) COMPLIANCE WITH FEDERAL AND STATE LAWS.—

''(i) APPLICABLE REQUIREMENTS.—

''(I) IN GENERAL.—Subject to clause (iii), a remedial action shall require, at the completion of the remedial action, a level or standard of control for each hazardous substance, pollutant, and contaminant that at least attains the substantive requirements of all promulgated standards, requirements, criteria, and limitations, under—

''(aa) each Federal environmental law, that are legally applicable to the conduct or operation of the remedial action or to the level of cleanup for hazardous substances, pollutants, or contaminants addressed by the remedial action;

''(bb) any State environmental or facility siting law, that are more stringent than any Federal standard, requirement, criterion, or limitation and are legally applicable to the conduct or operation of the remedial action or to the level of cleanup for hazardous substances, pollutants, or contaminants addressed by the remedial action, and that the State demonstrates are of general applicability, publishes and identifies to the President in a timely manner as being applicable to the remedial action, and has consistently applied to other remedial actions in the State; and

''(cc) any more stringent standard, requirement, criterion, or limitation relating to an environmental or facility siting law promulgated by the State after the date of enactment of the Superfund Amendments and Reauthorization Act of 1999 that the State demonstrates is of general applicability, publishes and identifies to the President in a timely manner as being applicable to the remedial action, and has consistently applied to other remedial actions in the State.

''(II) CONTAMINATED MEDIA.—Compliance with substantive provisions of section 3004 of the Solid Waste Disposal Act (42 U.S.C. 6924) shall not be required with respect to return, replacement, or disposal of contaminated media (including residuals of contaminated media and other solid wastes generated onsite in the conduct of a remedial action) into the same media in or very near then-existing areas of contamination onsite at a facility.

''(ii) APPLICABILITY OF REQUIREMENTS TO RESPONSE ACTIONS CONDUCTED ONSITE.—No procedural or administrative requirement of any Federal, State, or local law (including any requirement for a permit) shall apply to a response action that is conducted onsite at a facility if the response action is selected and carried out in compliance with this section.

''(iii) WAIVER PROVISIONS.—

''(I) IN GENERAL.—The President may select a remedial action at a facility that meets the requirements of subparagraph (B) that does not attain a level or standard of control that is at least equivalent to an applicable requirement described in clause (i)(I) if the President makes any of the following findings:

''(aa) PART OF REMEDIAL ACTION.—The selected remedial action is only part of a total remedial action that will attain the applicable requirements of clause (i)(I) when the total remedial action is completed.

''(bb) GREATER RISK.—Attainment of the requirements of clause (i)(I) will result in greater risk to human health or the environment than alternative options.

''(cc) TECHNICAL IMPRACTICABILITY.—Attainment of the requirements of clause (i)(I) is technically impracticable.

''(dd) EQUIVALENT TO STANDARD OF PERFORMANCE.—The selected remedial action will attain a standard of performance that is equivalent to that required under clause (i)(I) through use of another method or approach.

''(ee) INCONSISTENT APPLICATION.—With respect to a State requirement made applicable under clause (i)(I), the State has not consistently applied (or demonstrated the intention to apply consistently) the requirement in similar circumstances to other remedial actions in the State.

''(ff) BALANCE.—In the case of a remedial action to be funded predominantly under section 104 using amounts from the Fund, a selection of a remedial action that attains the level or standard of control described in clause (i)(I) will not provide a balance between the need for protection of public health and welfare and the environment at the facility, and the need to make amounts from the Fund available to respond to other facilities that may present a threat to public health or welfare or the environment, taking into consideration the relative immediacy of the threats presented by the various facilities.

''(II) PUBLICATION.—The President shall publish any findings made under subclause (I), including an explanation and appropriate documentation and an explanation of how the selected remedial action meets the requirements of this section.

''(D) NO STANDARD.—If no applicable Federal or State standard is established for a specific hazardous substance, pollutant, or contaminant, a remedial action shall attain a standard that the President determines to be protective of human health and the environment.''

SEC. 402. USE OF RISK ASSESSMENT IN REMEDY SELECTION.

(a) IN GENERAL.—Section 121(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9621(a)) is amended by adding at the end the following: ''In selecting an appropriate remedial action, the President shall conduct and utilize a facility-specific risk evaluation in accordance with section 129.''.

(b) FACILITY-SPECIFIC RISK EVALUATIONS.—Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) (as amended by section 201(b)) is amended by adding at the end the following:

''SEC. 129. FACILITY-SPECIFIC RISK EVALUATIONS.

''(a) IN GENERAL.—The goal of a facility-specific risk evaluation performed under this Act is to provide informative and understandable estimates that neither minimize nor exaggerate the current or potential risk posed by a facility.

''(b) RISK EVALUATION PRINCIPLES.—

''(1) IN GENERAL.—A facility-specific risk evaluation shall—

''(A)(i) use chemical-specific and facility-specific data in preference to default assumptions whenever it is practicable to obtain such data; or

''(ii) if it is not practicable to obtain such data, use a range and distribution of realistic and scientifically supportable default assumptions;

''(B) ensure that the exposed population and all current and potential pathways and patterns of exposure are evaluated;

''(C) consider the current or reasonably anticipated future use of the land and water resources in estimating exposure; and

''(D) consider the use of institutional controls that comply with the requirements of section 121.

''(2) CRITERIA FOR USE OF SCIENCE.—Any chemical-specific and facility-specific data or default assumptions used in connection with a facility-specific risk evaluation shall be consistent with the criteria for the use of science in decisionmaking stated in subsection (e).

''(3) INSTITUTIONAL CONTROLS.—In conducting a risk assessment to determine the need for remedial action, the President may consider only institutional controls that are in place at the facility at the time at which the risk assessment is conducted.

''(c) USES.—A facility-specific risk evaluation shall be used to—

''(1) determine the need for remedial action;

''(2) evaluate the current and potential hazards, exposures, and risks at the facility;

''(3) screen out potential contaminants, areas, or exposure pathways from further study at a facility;

''(4) evaluate the protectiveness of alternative remedial actions proposed for a facility;

''(5) demonstrate that the remedial action selected for a facility is capable of protecting human health and the environment considering the current and reasonably anticipated future use of the land and water resources; and

''(6) establish protective concentration levels if no applicable requirement under section 121(d)(2)(c) exists or if an otherwise applicable requirement is not sufficiently protective of human health and the environment.

''(d) RISK COMMUNICATION PRINCIPLES.—In carrying out this section, the President shall ensure that the presentation of information on public health effects is comprehensive, informative, and understandable. The document reporting the results of a facility-specific risk evaluation shall specify, to the extent practicable—

''(1) each population addressed by any estimate of public health effects;

''(2) the expected risk or central estimate of risk for the specific populations;

''(3) each appropriate upper-bound or lower-bound estimate of risk;

''(4) each significant uncertainty identified in the process of the assessment of public health effects and research that would assist in resolving the uncertainty; and

''(5) peer-reviewed studies known to the President that support, are directly relevant to, or fail to support any estimate of public health effects and the methodology used to reconcile inconsistencies in the scientific data.

''(e) USE OF SCIENCE IN DECISIONMAKING.—In carrying out this section, the President shall use—

''(1) the best available peer-reviewed science and supporting studies conducted in accordance with sound and objective scientific practices; and

''(2) data collected by accepted methods or best available methods (if the reliability of the method and the nature of the decision justifies use of the data).

''(f) REGULATIONS.—Not later than 18 months after the date of enactment of this section, the President shall issue a final regulation implementing this section.''.

SEC. 403. NATURAL RESOURCE DAMAGES.

Section 107(f)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, (42 U.S.C. 9607(f)(1)), is amended by striking the fifth sentence (beginning ''The measure of damages'') and inserting the following: ''The measure of damages in any action under subsection (a)(4)(C) may include only the reasonable costs of: (i) restoring, replacing or acquiring the equivalent (referred to collectively as ''restoration'') of an injured, destroyed or lost natural resource to reinstate the human uses and environmental functions of the natural resource; (ii) providing a substantially equivalent resource during the period of any interim lost use of the injured, destroyed or lost resource to the extent that a substitute resource providing the uses is not otherwise reasonably available; and (iii) assessing the damages. Where a unique resource has been destroyed, lost, or cannot be restored, the measure of damages may include the reasonable costs of expediting or enhancing the restoration of appropriate substitute resources. For purposes of this paragraph, reasonable costs of alternative restoration measures shall be determined based on the following factors: technical feasibility; cost effectiveness; the period of time required for restoration; and whether a response action or natural recovery will reinstate the uses provided by a natural resource within a reasonable period of time.''.

SEC. 404. DOUBLE RECOVERY.

Section 107(f)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(f)(1))) is amended by striking the sixth sentence (beginning ''There shall be no'') and inserting the following: ''A person shall not be liable for damages under this paragraph for an injury to, destruction of, or loss of a natural resource, or a loss of the uses provided by the natural resource, that have been recovered under this Act or any other Federal, State or Tribal law for the same injury to, destruction of, or loss of the natural resource or loss of the uses provided by the natural resource.''.

TITLE V—FUNDING

SEC. 501. USES OF HAZARDOUS SUBSTANCE SUPERFUND.

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by striking sections 111 and 112 (9611, 9612) and inserting the following:

''SEC. 111. USES OF HAZARDOUS SUBSTANCE SUPERFUND.

''(a) IN GENERAL.—

''(1) SPECIFIC USES.—The President shall use amounts appropriated out of the Hazardous Substance Superfund only—

''(A) for the performance of response actions;

''(B) to enter into mixed funding agreements in accordance with section 122; and

''(C) to reimburse a party for response costs incurred in excess of the allocated share of the party as described in a final settlement under section 122.

''(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Hazardous Substances Superfund for the purposes specified in paragraph (1), not more than the following amounts:

''(A) For fiscal year 2000, $1,165,000,000, of which not more than $200,000,000 shall be used for the purposes set forth in subparagraphs (B) and (C) of paragraph (1).

''(B) For fiscal year 2001, $1,165,000,000, of which not more than $200,000,000 shall be used for the purposes set forth in subparagraphs (B) and (C) of paragraph (1).

''(C) For fiscal year 2002, $1,120,000,000, of which not more than $200,000,000 shall be used for the purposes set forth in subparagraphs (B) and (C) of paragraph (1).

''(D) For fiscal year 2003, $1,075,000,000, of which not more than $200,000,000 shall be used for the purposes set forth in subparagraphs (B) and (C) of paragraph (1). and

''(E) For fiscal year 2004, $1,025,000,000, of which not more than $200,000,000 shall be used for the purposes set forth in subparagraphs (B) and (C) of paragraph (1).

''(b) CLAIMS AGAINST HAZARDOUS SUBSTANCE SUPERFUND.—Claims against the Hazardous Substance Superfund shall not be valid or paid in excess of the total amount in the Hazardous Substance Superfund at any 1 time.

''(c) REGULATIONS.—

''(1) OBLIGATION OF FUNDS.—The President may promulgate regulations designating 1 or more Federal officials that may obligate amounts in the Hazardous Substance Superfund in accordance with this section.

''(2) NOTICE TO POTENTIAL INJURED PARTIES.—

''(A) IN GENERAL.—The President shall promulgate regulations with respect to the notice that shall be provided to potential injured parties by an owner and operator of any vessel or facility from which a hazardous substance has been released.

''(B) SUBSTANCE.—The regulations under subparagraph (A) shall describe the notice that would be appropriate to carry out this title.

''(C) COMPLIANCE.—

''(i) IN GENERAL.—On promulgation of regulations under subparagraph (A), an owner and operator described in that subparagraph shall provide notice in accordance with the regulations.

''(ii) PRE-PROMULGATION RELEASES.—In the case of a release of a hazardous substance that occurs before regulations under subparagraph (A) are promulgated, an owner and operator described in that subparagraph shall provide reasonable notice of any release to potential injured parties by publication in local newspapers serving the affected area.

''(iii) RELEASES FROM PUBLIC VESSELS.—The President shall provide such notification as is appropriate to potential injured parties with respect to releases from public vessels.

''(d) NATURAL RESOURCES.—

''(1) IN GENERAL.—Except as provided in paragraph (2), funds may not be used under this Act for the restoration, rehabilitation, or replacement or acquisition of the equivalent of any natural resource until a plan for the use of the funds for those purposes has been developed and adopted, after adequate public notice and opportunity for hearing and consideration of all public comment, by—

''(A) affected Federal agencies;

''(B) the Governor of each State that sustained damage to natural resources that are within the borders of, belong to, are managed by, or appertain to the State; and

''(C) the governing body of any Indian tribe that sustained damage to natural resources that—

''(i) are within the borders of, belong to, are managed by, appertain to, or are held in trust for the benefit of the tribe; or

''(ii) belong to a member of the tribe, if those resources are subject to a trust restriction on alienation.

''(2) EMERGENCY ACTION EXEMPTION.—Funds may be used under this Act for the restoration, rehabilitation, or replacement or acquisition of the equivalent of any natural resource only in circumstances requiring action to—

''(A) avoid an irreversible loss of a natural resource;

''(B) prevent or reduce any continuing danger to a natural resource; or

''(C) prevent the loss of a natural resource in an emergency situation similar to those described in subparagraphs (A) and (B).

''(e) POST-CLOSURE LIABILITY FUND.—The President shall use the amounts in the Post-closure Liability Fund for—

''(1) any of the purposes specified in subsection (a) with respect to a hazardous waste disposal facility for which liability has been transferred to the Post-closure Liability Fund under section 107(k); and

''(2) payment of any claim or appropriate request for costs of a response, damages, or other compensation for injury or loss resulting from a release of a hazardous substance from a facility described in paragraph (1) under—

''(A) section 107; or

''(B) any other Federal or State law.

''(f) INSPECTOR GENERAL.—

''(1) AUDIT.—In each fiscal year, the Inspector General of the Environmental Protection Agency shall conduct an annual audit of—

''(A) all agreements and reimbursements under subsection (a); and

''(B) all other activities of the Environmental Protection Agency under this Act.

''(2) REPORT.—The Inspector General of the Environmental Protection Agency shall submit to Congress an annual report that—

''(A) describes the results of the audit under paragraph (1); and

''(B) contains such recommendations as the Inspector General considers to be appropriate.

''(g) FOREIGN CLAIMS.—To the extent that this Act permits, a foreign claimant may assert a claim to the same extent that a United States claimant may assert a claim if—

''(1) the release of a hazardous substance occurred—

''(A) in the navigable waters of a foreign country of which the claimant is a resident; or

''(B) in or on the territorial sea or adjacent shoreline of a foreign country described in subparagraph (A);

''(2) the claimant is not otherwise compensated for the loss of the claimant;

''(3) the hazardous substance was released from a facility or vessel located adjacent to or within the navigable waters under the jurisdiction of, or was discharged in connection with activities conducted under—

''(A) section 20(a)(2) of the Outer Continental Shelf Lands Act (43 U.S.C. 1346(a)(2)); or

''(B) the Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.); and

''(4)(A) recovery is authorized by a treaty or an executive agreement between the United States and the foreign country; or

''(B) the Secretary of State, in consultation with the Attorney General and other appropriate officials, certifies that the foreign country provides a comparable remedy for United States claimants.

''(h) AUTHORIZATION OF APPROPRIATIONS OUT OF THE GENERAL FUND.—

''(1) HEALTH ASSESSMENTS AND HEALTH CONSULTATIONS.—There are authorized to be appropriated to the Agency for Toxic Substances and Disease Registry to conduct health assessments and health consultations under this Act, and for epidemiologic and laboratory studies, preparation of toxicologic profiles, development and maintenance of a registry of persons exposed to hazardous substances to allow long-term health effects studies, and diagnostic services not otherwise available to determine whether persons in populations exposed to hazardous substances in connection with a release or suspected release are suffering from long-latency diseases:

''(A) For fiscal year 2000, $60,000,000.

''(B) For fiscal year 2001, $55,000,000.

''(C) For fiscal year 2002, $55,000,000.

''(D) For fiscal year 2003, $50,000,000.

''(E) For fiscal year 2004, $50,000,000.

''(2) HAZARDOUS SUBSTANCE RESEARCH, DEMONSTRATION, AND TRAINING.—

''(A) IN GENERAL.—There are authorized to be appropriated not more than the following amounts for the purposes of section 311(a):

''(i) For fiscal year 2000, $40,000,000.

''(ii) For fiscal year 2001, $40,000,000.

''(iii) For fiscal year 2002, $40,000,000.

''(iv) For each of fiscal years 2003 and 2004, $40,000,000.

''(B) TRAINING LIMITATION.—Not more than 15 percent of the amounts appropriated under subparagraph (A) shall be used for training under section 311(a) for any fiscal year.

''(C) UNIVERSITY HAZARDOUS SUBSTANCE RESEARCH CENTERS.—Not more than $5,000,000 of the amounts available in the Hazardous Substance Superfund may be used in any of fiscal years 2000 through 2004 for the purposes of section 311(d).

''(3) BROWNFIELD GRANT PROGRAMS.—There are authorized to be appropriated to carry out section 127 $100,000,000 for each of fiscal years 2000 through 2004.

''(4) QUALIFYING STATE RESPONSE PROGRAMS.—There are authorized to be appropriated to maintain, establish, and administer qualifying State response programs during the first 5 full fiscal years following the date of enactment of this paragraph under a formula established by the Administrator, $100,000,000 for each of fiscal years 2000 through 2004.

''(5) DEPARTMENT OF JUSTICE.—There is authorized to be appropriated to the Attorney General, for enforcement of this Act, $30,000,000 for each of fiscal years 2000 through 2004.

''(6) PROHIBITION OF TRANSFER.—None of the funds authorized to be appropriated under this subsection may be transferred to any other Federal agency.''.

(b) CONFORMING AMENDMENTS.—

(1) RESPONSE ACTIONS.—Section 104(c) of the Comprehensive Environmental Response Compensation, and Liability Act of 1980 (42 U.S.C. 9604(c)) is amended—

(A) in paragraph (1), by striking ''obligations from the Fund, other than those authorized by subsection (b) of this section,'' and inserting '', such response actions''; and

(B) in paragraph (7), by striking ''shall be from funds received by the Fund from amounts recovered on behalf of such fund under this Act'' and inserting ''shall be from appropriations out of the general fund of the Treasury''.

(2) INFORMATION GATHERING AND ANALYSIS.—Section 105(g)(4) of the Comprehensive Environmental Response Compensation, and Liability Act of 1980 (42 U.S.C. 9605(g)(4)) is amended by striking ''expenditure of monies from the Fund for''.

(3) PRESIDENT.—Section 107(c)(3) of the Comprehensive Environmental Response Compensation, and Liability Act of 1980 (42 U.S.C. 9607(c)(3)) is amended in the first sentence by striking ''Fund'' and inserting ''President''.

(4) OTHER LIABILITY.—Section 109(d) of the Comprehensive Environmental Response Compensation, and Liability Act of 1980 (42 U.S.C. 9609(d)) is amended by striking the second sentence.

(5) SOURCE OF FUNDING.—Section 119(c)(3) of the Comprehensive Environmental Response Compensation, and Liability Act of 1980 (42 U.S.C. 9619(c)(3)) is amended—

(A) in the second sentence, by striking ''For purposes of section 111, amounts'' and inserting ''Amounts''; and

(B) in the third sentence—

(i) by striking ''If sufficient funds are unavailable in the Hazardous Substance Superfund established under subchapter A of chapter 98 of the Internal Revenue Code of 1954 to make payments pursuant to such indemnification or if the Fund is repealed, there'' and inserting ''There''; and

(ii) by striking ''payments'' and inserting ''expenditures''.

(6) REMEDIAL ACTION USING HAZARDOUS SUBSTANCE SUPERFUND.—Section 121(d)(4)(F) of the Comprehensive Environmental Response Compensation, and Liability Act of 1980 (42 U.S.C. 9621(d)(4)(F)) is amended—

(A) by striking '' using the Fund''; and

(B) by striking ''amounts from the Fund'' and inserting ''funds''.

(7) AVAILABILITY OF FUNDING.—Section 122(f)(4)(F) of the Comprehensive Environmental Response Compensation, and Liability Act of 1980 (42 U.S.C. 9622(f)(4)(F)) is amended by striking ''the Fund or other sources of''.

Mr. SMITH of New Hampshire. Mr. President, I am pleased to join the distinguished chairman of the Committee on Environment and Public Works in introducing the Superfund Amendments and Reauthorization Act of 1999 (SARA). This bill is the result of several months of negotiations in the Committee, and reflects input we received from Senators on both sides of the aisle, state and local officials, the Administration, environmental groups, and the regulated community.

My colleagues who are familiar with our original bill, S. 1090, will notice several changes made in this new legislation.

Perhaps most significantly, we have added new titles on remedy selection and natural resource damages. These new provisions are similar to those contained in S. 8, the Superfund Cleanup Acceleration Act in the 105th Congress. Some may remember that the Environment and Public Works Committee reported S. 8 in May of 1998, but we never were able to debate the bill on the Senate floor.

Our remedy selection provisions are fairly straightforward. We would codify EPA's policy on the preference for treatment of principal threats, with an exception for sites, such as mining sites, at which such a preference would be inappropriate. We require remedies to achieve a degree of cleanup that complies with applicable Federal and State standards. We also set forth requirements for site specific risk assessments.

On natural resource damages (NRD), we deal with the major issues that have been debated over the last 10 years or more. SARA's NRD provisions:

Provide a clear definition of the objective of restoration; require costs assessed against responsible parties to be reasonable, based on the restoration measure's technical feasibility, cost effectiveness, timeliness, and consideration of natural recovery as a restoration alternative; prohibit recoveries for so-called ''nonuser'' damages and appropriately limit lost use damages; provide for the expedited or enhanced restoration of substitute resources where a unique resource that cannot be replaced has been destroyed, lost or damaged; provide responsible parties with the right to de novo review—or a full trial on all aspects of the claims against them; and, preclude double recovery against responsible parties.

In addition to these new titles, we have also made several changes to S. 1090 as introduced.

First, we have increased authorized funding levels in the first two years of the five-year period covered by the bill and made the ramp-down in funding less severe in the final three years.

Second, we deleted the cap on new NPL listings and revised the requirement for removing clean contiguous property parcels from NPL listings.

Third, we made extensive changes to the allocation system to provide additional flexibility. We added authorization for early settlements without an allocation, as well as an expedited allocation based only on an estimate of the orphan share.

Fourth, we expressly preserve strict, joint and several liability for those parties who choose not to participate in a settlement. We also ensure that EPA's existing authority to issue orders and engage in removal actions is not unduly limited.

Mr. President, these modifications have, in my view, improved the bill substantially. We are introducing this new bill for the information of our colleagues, and in an effort to generate more support for this legislation.

Unfortunately, these revisions to our Superfund bill were not sufficient to garner support from a majority of the Members on the Committee. That is disappointing to me, and I would urge my colleagues to take a good look at the bill we introduce today. It represents strong reform of the troubled Superfund program. It will accelerate cleanup by injecting greater fairness into the system, providing more resources for state and local cleanup efforts, and providing finality for decisions made under those state programs.

Our legislation continues to make major reforms in six areas. Specifically, SARA:

Directs EPA to finish the job that was started nearly two decades ago by completing the evaluation of the 3,000 remaining sites on the CERLA Information System (CERCLIS).

Clearly allocates responsibility between states and EPA for future cleanups.

Protects municipalities, small businesses, recyclers, and other parties from unfair liability—while making the system fairer for everyone else.

Provides states $100 million per year and full authority for their own cleanup programs.

Revitalizes communities with $100 million in annual brownfields redevelopment grants.

Requires fiscal responsibility by EPA and saves taxpayers money.

Our legislation will result in more hazardous waste sites being cleaned up—and in fewer dollars being wasted on litigation. It will give much-needed and much-deserved liability relief to innocent landowners, contiguous property owners, prospective purchasers, municipalities, small businesses, and recyclers. Unlike EPA's administrative reforms, this bill does not shift costs from politically popular parties to those left holding the bag. Instead, it requires payment of a statutory orphan share and authorizes the use of the Superfund Trust Fund for those shares.

For those left trapped in the Superfund liability scheme, SARA requires an allocation process to determine a party's fair share in an expedited settlement—instead of fighting it out for years in court.

In addition to increasing fairness, SARA provides much needed guidance and direction to a sometimes wayward EPA. It recognizes and builds upon the growth and strength of State hazardous waste cleanup programs. It provides new resources to States and localities for their cleanup and redevelopment efforts. As many of my colleagues know, the fear of Superfund liability has resulted in an estimated 450,000 abandoned or underutilized properties, or ''Brownfields,'' that lay fallow because private developers and municipalities don't want to be dragged into Superfund's litigation quagmire. With new resources and appropriate liability protections, our bill will allow the cleanup of those sites, spurring economic redevelopment in cities, towns, and rural areas across America.

We take a different approach to the brownfields redevelopment issue than the Administration seeks. Along with many of my colleagues, I believe that economic redevelopment is primarily a State and local issue. Our approach provides the resources and freedom States need to make progress on this front, rather than giving EPA new authority to get into the commercial real estate and redevelopment business. That is not EPA's role, nor should it be.

Where EPA does have a role is in identifying and addressing risks at uncontrolled hazardous waste sites. Our legislation ensures that EPA regains its focus on that mission.

Earlier this year, the General Accounting Office (GAO) reported that ''completion of construction at existing sites'' and reducing new entries into the program was the Environmental Protection Agency's top Superfund priority. Unfortunately, EPA's narrow focus on generating construction completion statistics appear to have divested resources from EPA's fundamental mission—protecting human health and the environment from releases of hazardous waste.

GAO reported last year that 3,000 sites still await a National Priorities List decision by EPA. Most of those sites have been in the CERCLIS inventory for more than a decade. According to the report, however, more than 1,200 of them are actually ineligible for listing on the NPL, for a variety of reasons. Some of the sites were classified erroneously, while others either do not require cleanup, have already been cleaned up, or have final cleanup underway. EPA's failure to remove the specter of an NPL listing at these sites has likely caused significant economic and social harm to the surrounding communities. EPA needs to focus on that task.

In addition, far too many of the sites that are still potentially eligible for listing have received little or no attention from EPA. EPA admitted taking no cleanup action at all at 336 sites and provided no information for another 48 sites. The only action taken at 719 sites was an initial site assessment. EPA's inattention may be due to the fact that EPA and state officials together identified only 232 of the sites as worthy of being added to NPL. In that case, however, the appropriate response is to archive the sites while ensuring that any necessary cleanup occurs under some other Federal or State program. EPA needs to focus on that task as well.

Unfortunately, there is also disagreement between EPA and state officials about even those 232 sites. EPA identified 132 that may be listed on the NPL in the future, but state officials agreed on only 26 of those. Conversely, state officials identified a different group of 100 sites as worthy of an NPL listing in the future.

EPA agreed with GAO's recommendation that it ''develop a joint strategy'' with the States for addressing these sites. After nearly 20 years and $20 billion in taxpayer funded EPA appropriations, it is disturbing that the agency only now is developing such strategy. Nonetheless, Congress has an obligation to provide direction and assistance to EPA in this effort. The Superfund Amendments and Reauthorization Act provides that direction by:

Requiring EPA to finish evaluating and/or archiving old sites stuck in the CERCLIS inventory, thus correcting the current imbalance between evaluating uncontrolled sites and amassing construction completed statistics.

Providing EPA with a schedule of 30 NPL listings per year, to ensure that it and the States appropriately allocate sites for cleanup under Superfund, RCRA, or State response programs.

Increasing current law limits on EPA removal actions to provide greater flexibility in responding to sites that, at least initially, should be the responsibility of the Federal government, but ultimately do not require an NPL listing.

These provisions will ensure that the limited universe of sites remaining in the Superfund pipeline are dealt with quickly and safely.

In addition to keeping EPA focused on the task at hand, our bill provides increased resources and authority to the States, in recognition of the progress made by State cleanup programs in the last decade.

Superfund is notable among the major Federal environmental statutes not only for its abysmal track record, but also for its heavy reliance on EPA action rather that state implementation. In other environmental programs—RCRA, the Clean Water Act, the Safe Drinking Water Act—EPA typically sets general program direction and provides technical support while leaving implementation and enforcement to the states. In the Superfund program, however, EPA takes a direct role in both enforcement and cleanup. This leadership role was originally justified by a perceived inability or alleged unwillingness on the part of states to perform or oversee cleanups. The situation today is far different.

The Environmental Law Institute reported last year that States have now completed 41,000 cleanups, with another 13,700 in progress. The Association of State and Territorial Solid Waste Management Officials (ASTSWMO) reports that ''States are not only addressing more sites at any given time, but are also completing more sites through streamlined State programs. State programs have matured and increased in their infrastructure capacity.''

Most now recognize that states have made great strides in their programs,

and even EPA in May of 1998 released a ''Plan to Enhance the Role of States and Tribes in the Superfund Program.'' Not surprisingly, while that plan appears to provide some increased opportunities for state leadership, it also envisions a significant, on-going role for EPA.

The Superfund Amendments and Reauthorization Act, on the other hand, assists, recognizes, and builds on the growth of state cleanup programs. SARA also responds to pleas from ASTSWMO, the National Governors Association, and others to remove the ever-present threat of EPA over-filing and third party lawsuits under Superfund when a site is being cleaned up under a State program. SARA recognizes the fact that States should be the leaders in cleaning up hazardous waste sites by:

Providing $100 million annually for State core and voluntary response programs to allow States to build on their impressive record of accomplishment in this area.

Providing finality, except in cases of emergency or at a State's request, for cleanups conducted under State law.

Requiring EPA to work with the States so that sites listed on the NPL are those the Governor of the State agrees warrant an NPL listing.

Mr. President, the legislation we introduce today has the strong support of the nation's small businesses, Governors, Mayors, and state cleanup officials. I urge my colleagues to support it as well.

By Mr. LEAHY (for himself, Mr. JEFFORDS, Mrs. HUTCHISON, Mr. FEINGOLD, and Mr. MOYNIHAN):

S. 1538. A bill to amend the Communications Act of 1934 to clarify State and local authority to regulate the placement, construction,and modification of broadcast transmission and telecommunications facilities, and for other purposes; to the Committee on Commerce, Science, and Transportation.

TELECOMMUNICATIONS TOWERS LEGISLATION

Mr. LEAHY. Mr. President, it is going on two years since I first submitted comments to the Federal Communications Commission regarding their proposed rules to preempt State and local governments in the placement and construction of telecommunications towers. Close to two years later, I am still working to ensure that the voice of States and local governments are heard in the continuing fight over telecommunications tower construction.

I am proud to be joined by Senators JEFFORDS, HUTCHISON, FEINGOLD, and MOYNIHAN in introducing legislation which will mandate that states and towns cannot be ignored in the spread of telecommunications towers. This bill recognizes that states and towns do have choices in this cellular age.

I became greatly alarmed two years ago, when the Federal Communications Commission proposed rules which would preempt State and local governments in the siting of telecommunications towers. This rule is still pending, and it has been by no means the only or final attempts to minimize the role of State and local governments in the clamor to erect telecommunications towers.

For instance, some may recall the '''E–911'' bill that was introduced last Congress which would have prohibited State and local governments from having any say over the placement or construction of telecommunications towers on federal lands. Keep in mind that federal courthouses and post offices are included in this category.

I continue to be very concerned that the rights of citizens are being jeopardized by the interests of telecommunications companies.

As I have said before, I do not want Vermont turned into a pincushion, with 200 foot towers indiscriminately sprouting up on every mountain and in every valley.

The state of Vermont must have a role in deciding where telecommunications towers are going to go. Vermont citizens and communities should be able to participate in the important decisions affecting their families and their future.

Twenty-nine years ago, Vermont enacted landmark legislation, known as Act 250, to carefully establish procedures to balance the interests of development with the interests of the environment, health and safety, resource conservation and the protection of Vermont's natural beauty. I do not want Act 250's legacy to be undermined by the interests of telecommunications companies.

Another factor that should remain at the forefront of this debate is the existence of alternative communication technologies.

For instance, some companies are working to offer phone service throughout the United States that is based on low-earth-orbit satellites. Over time, this will provide a satellite communications link from any place in the world, even where no tower-based system is available. Emergency communications—911 and disaster assistance—will be greatly aided with this development.

In addition, I have previously discussed how the towerless PCS-Over-Cable and PCS-Over-Fiber technology provides digital cellular phone service by using small antennas rather than large towers. These small antennas can be quickly attached to existing telephone poles, lamp posts or buildings and can provide quality wireless phone service without the use of towers. This technology is cheaper than most tower technology in part because the PCS-Over-Cable wireless provider does not have to purchase land to erect large towers.

Since there are viable and reasonable alternatives to providing wireless phone service through the use of towers, I think that towns should have some say in this matter. And I think that mayors, town officials and local citizens will agree with me.

Also, consider this: the Federal Aviation Administration presently has limited authority to regulated the siting of towers, and because of this, airport officials work with local governments in the siting of towers. Silencing local governments will have a direct effect on airline safety, according to the representatives of the airline industry that we have heard from.

In fact, in a comment letter responding to the FCC's 1997 proposed rule at preemption, the National Association of State Aviation Officials stated that preemption ''is contrary to the most fundamental principles of aviation safety * * * the proposed rule could result in the creation of hazards to aircraft and passengers at airports across the United States, as well as jeopardize safety on the ground.'' I cannot think of anyone who would want towers constructed irrespective of the negative and potentially dangerous impacts they may have on airplane flight and landing patterns.

There is also a growing concern about potential health hazards associated with using cellular telephones. Though there was a major push by the U.S. federal government to research effects of electric and magnetic fields on biological systems, as is evidenced by the five-year Electric and Magnetic Fields Research and Public Information Dissemination Program, there has been no similar effort to research potential health effects of radio frequency emissions associated with wireless communications and wireless broadcast facilities. This omission should no longer be overlooked.

As I have said before, I am for progress, but not for ill-considered, so-called progress at the expense of Vermont families, towns and homeowners. Vermont can protect its rural and natural beauty while still providing for the amazing opportunities offered by these technological advances.

I am proud to continue in my commitment to the preservation of State and local authority over the siting and construction of telecommunications towers. I ask unanimous consent that this legislation be printed the RECORD.

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

S. 1538

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

SECTION 1. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) The placement of Telecommunications Facilities near residential properties can greatly reduce the value of such properties, destroy the views from such properties, and reduce substantially the desire to live in the area.

(2) States and local governments should be able to exercise control over the placement, construction, and modification of such facilities through the use of zoning, planned

growth, and other land use regulations relating to the protection of the environment and public health, safety and welfare of the community.

(3) There are alternatives to the construction of facilities to meet telecommunications and broadcast needs, including, but not limited to, alternative locations, colocation of antennas on existing towers or structures, towerless PCS-Over-Cable or PCS-Over-Fiber telephone service, satellite television systems, low-Earth orbit satellite communication networks, and other alternative technologies.

(4) There are alternative methods of designing towers to meet telecommunications and broadcast needs, including the use of small towers that do not require blinking aircraft safety lights, break skylines, or protrude above tree canopies and that are camouflaged or disguised to blend with their surroundings, or both.

(5) On August 19, 1997, the Federal Communications Commission issued a proposed rule, MM Docket No. 97–182, which would preempt the application of State and local zoning and land use ordinances regarding the placement, construction and modification of broadcast transmission facilities. It is in the interest of the Nation that the Commission not adopt this rule.

(6) It is in the interest of the Nation that the memoranda opinions and orders and proposed rules of the Commission with respect to application of certain ordinances to the placement of such towers (WT Docket No. 97–192, ET Docket No. 93–62, RM–8577, and FCC 97–303, 62 F.R. 47960) be modified in order to permit State and local governments to exercise their zoning and land use authorities, and their power to protect public health and safety, to regulate the placement of telecommunications or broadcast facilities and to place the burden of proof in civil actions, and in actions before the Commission and State and local authorities relating to the placement, construction, and modification of such facilities, on the person or entity that seeks to place, construct, or modify such facilities.

(7) PCS-Over-Cable, PCS-Over-Fiber, and satellite telecommunications systems, including low-Earth orbit satellites, offer a significant opportunity to provide so-called ''911'' emergency telephone service throughout much of the United States.

(8) According to the Comptroller General, the Commission does not consider itself a health agency and turns to health and radiation experts outside the Commission for guidance on the issue of health and safety effects of radio frequency exposure.

(9) The Federal Aviation Administration does not have adequate authority to regulate the placement, construction and modification of telecommunications facilities near airports or high-volume air traffic areas such as corridors of airspace or commonly used flyways. The Commission's proposed rules to preempt State and local zoning and land-use regulations for the siting of such facilities will have a serious negative impact on aviation safety, airport capacity and investment, and the efficient use of navigable airspace.

(10) The telecommunications industry and its experts should be expected to have access to the best and most recent technical information and should therefore be held to the highest standards in terms of their representations, assertions, and promises to governmental authorities.

(11) There has been a substantial effort by the Federal Government to determine the effects of electric and magnetic fields on biological systems, as is evidenced by the Electric and Magnetic Fields Research and Public Information Dissemination (RAPID) Program, which was established by section 2118 of the Energy Policy Act of 1992 (Public Law 102–486; 42 U.S.C. 13478). This five-year program, which was coordinated by the National Institute of Environmental Health Sciences and the Department of Energy, examined the possible effects of electric and magnetic fields on human health. Despite the success of this program, there has been no similar effort by the Federal Government to determine the possible effects on human health of radio frequency emissions associated with telecommunications facilities. The RAPID program could serve as the excellent model for a Federally-sponsored research project.

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

(1) To repeal certain limitations on State and local authority regarding the placement, construction, and modification of personal wireless service facilities and related facilities as such limitations arise under section 332(c)(7) of the Communications Act of 1934 (47 U.S.C. 332(c)(7)).

(2) To permit State and local governments—

(A) in cases where the placement, construction, or modification of telecommunications facilities and other facilities is inconsistent with State and local regulations, laws or decisions, to require the use of alternative telecommunication or broadcast technologies when such alternative technologies are available;

(B) to regulate the placement, modification and construction of such facilities so that their placement, construction and or modification will not interfere with the safe and efficient use of public airspace or otherwise compromise or endanger public safety; and

(C) to hold applicants for permits for the placement, construction, or modification of such telecommunication facilities, and providers of services using such towers and facilities, accountable for the truthfulness and accuracy of representations and statements placed in the record of hearings for such permits, licenses or approvals.

SEC. 2. STATE AND LOCAL AUTHORITY OVER PLACEMENT, CONSTRUCTION, AND MODIFICATION OF TELECOMMUNICATIONS FACILITIES.

(a) REPEAL OF LIMITATIONS ON REGULATION OF PERSONAL WIRELESS FACILITIES.—Section 332(c)(7)(B) of the Communications Act of 1934 (47 U.S.C. 332(c)(7)(B)) is amended—

(1) in clause (i), by striking ''thereof—'' and all that follows through the end and inserting ''thereof shall not unreasonably discriminate among providers of functionally equivalent services.'';

(2) by striking clause (iv);

(3) by redesignating clause (v) as clause (iv); and

(4) in clause (iv), as so redesignated—

(A) in the first sentence, by striking ''30 days after such action or failure to act'' and inserting ''30 days after exhaustion of any administrative remedies with respect to such action or failure to act''; and

(B) by striking the third sentence and inserting the following: ''In any such action in which a person seeking to place, construct, or modify a telecommunications facility is a party, such person shall bear the burden of proof, regardless of who commences the action.''

(b) PROHIBITION ON ADOPTION OF RULE REGARDING PREEMPTION OF STATE AND LOCAL AUTHORITY OVER BROADCAST TRANSMISSION FACILITIES.—Notwithstanding any other provision of law, the Federal Communications Commission may not adopt as a final rule or otherwise the proposed rule set forth in ''Preemption of State and Local Zoning and Land Use Restrictions on Siting, Placement and Construction of Broadcast Station Transmission Facilities'', MM Docket No. 97–182, released August 19, 1997.

(c) AUTHORITY OVER PLACEMENT, CONSTRUCTION, AND MODIFICATION OF OTHER TRANSMISSION FACILITIES.—Part I of title III of the Communications Act of 1934 (47 U.S.C. 301 et seq.) is amended by adding at the end the following:

''SEC. 337. STATE AND LOCAL AUTHORITY OVER PLACEMENT, CONSTRUCTION, AND MODIFICATION OF TELECOMMUNICATIONS FACILITIES.

''(a) IN GENERAL.—Notwithstanding any other provision of this Act, no provision of this Act may be interpreted to authorize any person or entity to place, construct, or modify telecommunications facilities in a manner that is inconsistent with State or local law, or contrary to an official decision of the appropriate State or local government entity having authority to approve, permit, license, modify, or deny an application to place, construct, or modify a tower, if alternate technology is capable of delivering the broadcast or telecommunications signals without the use of a tower.

''(b) AUTHORITY REGARDING PRODUCTION OF SAFETY AND INTERFERENCE STUDIES.—No provision of this Act may be interpreted to prohibit a State or local government from—

''(1) requiring a person or entity seeking authority to place, construct or modify telecommunications facilities or broadcast transmission facilities within the jurisdiction of such government to produce—

''(A) environmental studies, engineering reports, or other documentation of the compliance of such facilities with radio frequency exposure limits established by the Commission and compliance with applicable laws and regulations governing the effects of the proposed facility or the health, safety and welfare of the local residents in the community; and

''(B) documentation of the compliance of such facilities with applicable Federal, State, and local aviation safety standards or aviation obstruction standards regarding objects effecting navigable airspace; or

''(2) refusing to grant authority to such person to locate such facilities within the jurisdiction of such government if such person fails to produce any studies, reports, or documentation required under paragraph (1).

''(c) CONSTRUCTION.—Nothing in this section may be construed to prohibit or otherwise limit the authority of a State or local government to ensure compliance with or otherwise enforce any statements, assertions, or representations filed or submitted by or on behalf of an applicant with the State or local government for authority to place, construct or modify telecommunications facilities or broadcast transmission facilities within the jurisdiction of the State or local government.''.

SEC. 3. ASSESSMENT OF RESEARCH ON EFFECTS OF RADIO FREQUENCY EMISSIONS ON HUMAN HEALTH.

(a) ASSESSMENT.—The Secretary of Health and Human Services shall carry out an independent assessment on the effects of radio frequency emission on human health. The Secretary shall carry out the independent assessment through grants to appropriate public and private entities selected by the Secretary for purposes of the independent assessment.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated for the Secretary of Health and Human Services for fiscal year 2000, $10,000,000 for purposes of grants for the independent assessment required by subsection (a). Amounts appropriated pursuant to the authorization of appropriation in the preceding sentence shall remain available until expended.

(c) The Secretary of Health and Human Services shall produce a report on existing research evaluating the biological effects to human health of short term, high-level, as well as long-term, low-level exposures to radio frequency emissions to Congress no later than January 1, 2001.

Mr. FEINGOLD. Mr. President, I am pleased to stand together today with my distinguished colleague, Senator LEAHY, the ranking member of the Judiciary Committee, on a bill that protects the rights of state and local governments.

Mr. President, the bill that Senator LEAHY introduced today addresses an egregious affront to state and local authority. Indeed, the Federal Communications Commission's proposed rule on telecommunications tower siting is an explicit transfer of power to the federal government.

Mr. President, the FCC would have the American people believe that it understands state and local land use issues better than the folks back home. It's proposed rule, itself promoted by a special interest group, would preempt state and local zoning and land use restrictions on the siting and construction of telecommunications towers. This is not the way the Federal government should be operating.

The FCC's proposed rule would set specific time limits within state and local governments must act in response to requests for approval of the placement, construction or modification of these towers. In addition, the rule would ''remove from local consideration certain types of restrictions on the siting and construction of transmission facilities.'' And finally, the rule would preempt all state and local laws that impair the ability of licensed broadcasters to construct or modify towers unless the state or local government can prove that their regulation is ''reasonable in relation to a clearly defined and expressly stated health or safety objective.

Mr. President, the proposal infringes on the rights of states and localities to make important zoning decisions in accordance with their own development objectives. It infringes also on the rights of residents of states and localities to fully enjoy the protection of rules requiring notification of adjacent land owners, hearing requirements and appeal periods. Under the proposed rule, the Federal government would impose specific time periods during which zoning disputes between entities seeking to build or modify towers and the state or locality must be resolved.

The rule also appears to preempt entirely a local or state law regarding tower placement even if that law is intended to ensure the health or safety of the community. The rule would allow health and safety concerns to be overridden by the federal interest in the construction of transmission facilities and in the promotion of fair and effective competition among electronic media. It is unclear why the business operations of telecommunications companies should override local health and safety concerns.

State or local zoning or land use laws designed to address historic or aesthetic objectives also would be preempted under this rule.

Mr. President, states and localities should be able to maintain the right to control development within their own jurisdictions without undue interference from the Federal government. Federal preemption of zoning decisions should be the exception rather than the rule. The proposed rule would make federal preemption of legitimate local and state zoning and land use laws commonplace.

Why would we allow this end run around state and local authority, Mr. President? It goes completely against the philosophy of state and local autonomy that so many of my colleagues support.

To try and get to the bottom of this, Mr. President, I'd like to Call the Bankroll, which I do from time to time during my remarks on this floor. I'm going to offer some information about the political donations that have been made by the telecommunications giants that have a huge stake in the wireless communications industry. That industry has been lobbying hard in favor of the FCC rule, which empowers the federal government to overrule local communities that don't want a tower in their town.

During the least election cycle, the following telecommunications companies with a stake in the wireless market gave millions upon millions of dollars to candidates and the political parties:

• Bell Atlantic gave more than $920,000 in soft money and nearly $885,000 in PAC money;

• Wireless manufacturer Motorola gave $100,000 in soft and money and nearly $110,000 in PAC money;

• The Cellular Telecommunications Industry Association, the lobbying arm of the wireless industry, gave more than $100,000 in soft money and more than $85,000 to candidates;

• And AT&T gave nearly $825,000 in soft money to the parties and nearly $820,000 in PAC money to candidates.

Certainly, this FCC rule is not the only thing these companies are lobbying for, Mr. President. But whenever wealthy interests wants something, they have the weight of their contributions behind them. Those contributions influence what we do, and they deserve to be noted in this discussion. I think it's vitally important that we keep these contributions in mind as we evaluate the proposed rule, and we try to understand why the FCC would propose it, and why a Congress full of members who support state and local autonomy would stand for it.

But Mr. President, now I'd like to get to the good news—the bill authored by the distinguished senior senator from Vermont, which would repeal limitations on state and local authority regarding the placement of, construction of and modifications to telecommunications towers. It would do so by prohibiting the FCC from adopting as final the proposed rule. And the bill does so in a responsible manner.

Senator LEAHY's bill incorporates aviation industry concerns by allowing state and local governments to require tower construction applications to be accompanied by documentation showing compliance with applicable state and local aviation standards. It acknowledges alternative technologies which can be used in place of towers, including satellite and cable. It authorizes state and local governments to require evidence from companies showing that the proposed tower would comply with federal health and environmental standards. And it maintains the authority of state and local governments to ensure that companies comply with statements, assertions and representations made while applying for permission to locate a broadcast facility.

Mr. President, as new telecommunication towers have sprouted up by the thousands from coast to coast, so has the ire of our residents. To quote my distinguished colleague from Vermont, I too don't want Wisconsin turned into a giant pin cushion with 200-foot towers sticking out of every hill and valley.

Mr. President, Wisconsin will be a leader in the information age, but Wisconsinites deserve the right to determine where towers are located within Wisconsin. More than a few Wisconsin communities, large and small, have voiced their clear opposition to the heavy hand of the Federal government on this issue. Various communities and groups, from the city of Milwaukee and the Milwaukee Regional Cable Commission to the cities of Fond du Lac and Brookfield to the Dodge County Board of Supervisors, the Lincoln County Zoning Committee, and the Oneida County Planning and Zoning Committee have contacted me to voice their opposition to the proposed rule.

And other communities that have voiced opposition to recent tower siting plans, including Delafield, Fox Point, Bayside, Elm Grove, Germantown, Heartland, Mequon, Muskego, St. Francis, and Whitefish Bay.

One resident of Cassian, Wisconsin, summed up the feeling of many Wisconsinites: ''We don't want to become a tower farm.''

Mr. President, the FCC clearly has overstepped its regulatory bounds. We should empower state and local governments, not emasculate them. I hope my colleagues will support the rights of our states and municipalities, not more Federal autocracy. I commend my colleague for introducing this important piece of legislation.

I yield the floor.

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

S. 1539. A bill to provide for the acquisition, construction, and improvement of child care facilities or equipment, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

CHILD CARE FACILITIES FINANCING ACT

● Mr. DODD. Mr. President, I am pleased to join Senator DEWINE in introducing the Child Care Facilities Financing Act. This bill would help ease a significant crisis in this country—the shortage of adequate child care, particularly in low-income communities.

The demand for child care is not being met by the current supply, especially for low-income children. Approximately 50% of children from families with household incomes of $10,000 or less are enrolled in child care or early education programs, whereas over 75% of children from families with household incomes over $75,000 are enrolled in such programs.

According to the GAO, the child care supply shortage will worsen as work participation rates required under welfare reform increase over the next few years. The situation is particularly troublesome for infant and school-aged care. For example, in Chicago, the percentage of the demand that can be met by the known supply of child care providers will be only 12% for infants and 17% for school-aged children in the year 2002 if a greater supply is not created. The situation is even more dire in poor neighborhoods.

One factor contributing to the child care shortage is the difficulty that would-be providers face in financing child care facility development. Child care providers are often viewed by financial institutions as risky for loans. Child care equipment and facility needs are unique, making for poor collateral. In low-income neighborhoods, child care providers face severely restricted revenues and low real estate values. In urban areas, would-be child care providers must contend with buildings in poor physical condition and high property costs. In all areas, reimbursement rates for child care subsidies are generally too low to cover the recovery cost of purchasing or developing facilities, especially after allowing for the cost of running the program. In addition, new providers often have no business training, and may need to learn how to manage their finances and business.

The Child Care Facilities Financing Act would provide grants to intermediary organizations, enabling them to provide financial and technical assistance to existing or new child care providers —including both center-based and home-based child care. The financial assistance may be in the form of loans, grants, investments, or other assistance, allowing for flexibility depending on the situation of the child care provider. The assistance may be used for acquisition, construction, or renovation of child care facilities or equipment. It may also be used for improving child care management and business practices. Additionally, intermediary organizations are required to match grant dollars with significant private sector investments, leveraging federal funding and creating valuable public/private partnerships.

The added benefit in providing this kind of assistance is that it will spur further community and economic development. When parents can work with the knowledge that their children are adequately cared for, they become more reliable and productive workers. When the economic situation of families improve, distressed communities become revitalized.

Let me provide you with an example from my state of how financial assistance for child care development has helped alleviate dire situations. In one low-income neighborhood in New Haven, CT, there are 2500 children under the age of 5, but only 200 spaces in licensed child care facilities. For more than a decade, the LULAC Head Start program served this community by operating a part-day early childhood program in a poorly lit church basement. There has been a waiting list of over 100 children for this program. Recently, however, this basement program closed, and the 54 children it served were moved to an already overcrowded location.

Fortunately for LULAC, Connecticut has a new child care financing program. The Child Care Facilities Loan Fund Program is a public-private partnership that provides financial assistance for child care facilities development, targeting school readiness programs in underserved areas. LULAC has finally received desperately needed financial assistance to develop the Hill Parent Child Center. A new facility is being constructed, specially adapted for child care use. The center will now be able to provide multicultural child care, school readiness, and Head Start services for 172 low-income children in New Haven.

Although this story had a happy ending, many more children in New Haven and other places in Connecticut still need child care. And most states do not have a child care financing system in place.

Working parents and their children need adequate child care. Increasing the supply of child care will create a better economy as more parents move from welfare to work, and it will create more choices for parents to gain control over their families' lives. I hope that you will join Senator DEWINE and me in taking an important step toward lifting our nation out of its current child care crisis.

By Mr. JOHNSON:

S. 1540. A bill to amend the Internal Revenue Code of 1986 to correct the inadvertent failure in the Taxpayer Relief Act of 1997 to apply to exception for developable sites to Round I Empowerment Zone and Enterprise Communities; to the Committee on Finance.

EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES TECHNICAL CORRECTION LEGISLATION

● Mr. JOHNSON Mr. President, I rise today to introduce legislation that would provide a technical correction to laws governing Empowerment Zones and Enterprise Communities (EZ/EC).

In the second round of EZ/EC designations, language was included to allow for investments in 'developable sites.' The developable sites provision provides local leaders with needed flexibility to pursue community and economic development initiatives that advance the goals of the EZ/EC program, but that may include areas adjacent to the local EZ/EC boundaries. Unfortunately, the existing language only applies to Round II EZ/ECs. My bill would expand the existing 'developable site' criteria to Round I EZ/ECs.

The addition of the developable site option represents a thoughtful improvement to administering the EZ/EC program. Thoughtful, worthy initiatives should not go unrealized because of restrictions imposed by a line on a map. The developable site option is a critical tool and it should be applied equally to Round I and Round II awardees. This legislation would not authorize new funding, but it would assist EZs and ECs to invest in meaningful projects located adjacently to their established service area.

I ask my colleagues to join me in this effort to provide equal treatment for Round I EZ/ECs to pursue comprehensive investments for growth and prosperity which may include projects encompassing areas tangential to the designated EZ/EC service area.●

By Mr. JOHNSON:

S. 1541. A bill to amend the Employee Retirement Income Security Act of 1974 to require annual informational statements by plans with qualified cash or deferred arrangements, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

401 (K) RIGHT TO KNOW ACT

● Mr. JOHNSON. Mr. President, I rise today to introduce legislation, the 401(k) Right To Know Act, to require that 401(k) plan providers implement procedures to disclose the administrative fees that they charge their customers. However, I hope the need for the legislation can be effectively eliminated by voluntary action on the part of the plan providers to disclose fees.

I am concerned that millions of American families work and save for their retirement through 401(k) plans without having an opportunity to fully evaluate and compare the costs of such plans. National news publications have suggested that some plans may be charging plan participants up to 2.5% of assets annually to manage their accounts. While I believe families should be free to choose among competing plans and to participate in retirement savings vehicles of their choice, I am troubled that information about fees is not fully disclosed.

I believe that we have an obligation to make sure that families have access to basic information about fees. Congress encourages people to participate in 401(k) retirement plans by providing considerable tax advantages. We should give equal care to making sure that

businesses and families have the information necessary to protect their nest eggs from excessive, undisclosed fees that threaten to siphon off the rewards of their work and prudence.

Recently the Department of Labor, the American Bankers Association, the American Council of Life Insurance, and the Investment Company Institute announced a plan to address these concerns and provide information about 401(k) fees. I applaud this responsible and important effort. The agreements reached should be given fair consideration and an opportunity to be implemented. It is my sincere hope, that these efforts will be supported by all 401(k) plan providers and that consumers will utilize and benefit from fee disclosure.

Nonetheless, I want to go on record to articulate my lingering concern for the lack of disclosure currently provided and make known my conviction to pursue legislative action should the industry fail to fully implement the goals of disclosure recently agreed upon. Again, I want to reiterate that I believe the recent announcement is an important step to resolve this issue. My goal is to make sure consumers have accurate and timely information about fees readily available to them. I will be monitoring the progress closely and remain hopeful that legislative action will not be necessary to achieve disclosure of 401(k) fees.

By Mr. BURNS (for himself, Mr. WYDEN, Mr. LOTT, and Mr. HOLLINGS):

S. 1547. A bill to amend the Communications Act of 1934 to require the Federal Communications Commission to preserve low-power television stations that provide community broadcasting, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE COMMUNITY BROADCASTERS PROTECTION ACT OF 1999

Mr. BURNS. Madame President, I am very pleased to introduce the ''Community Broadcasters Protection Act of 1999,'' along with my colleagues Senator WYDEN, Senator LOTT and Senator HOLLINGS.

This critical legislation was championed last year by my good friend and former colleague Senator Ford. The Commerce Committee unanimously reported this bill on October 2, 1998 but unfortunately there was not sufficient time to complete action on the bill.

Low power television stations (LPTV) offer their communities significant services including valuable local and other specialized programming to unserved and underserved audiences throughout the United States. As secondary service broadcasters, they remain vulnerable to displacement and encounter huge problems with capital formation but have significant infrastructure requirements.

This legislation has a very simple but important purpose. It provides an opportunity for LPTV licensees to convert their temporary licenses to permanent licenses. While the opportunity is available to all licensees, the legislation provides that only those who do a significant amount of local programming in their service areas are eligible for the class A permanent licenses. To ensure a serious and high quality level of local broadcasting by all class A licensees, this bill also requires that all class A licensees comply with the operating rules for full power stations.

I would like to emphasize that this bill takes into account the hearings that were held last year before the House Subcommittee on Telecommunications, during which the Federal Communications Commission noted that the previous bill was not sufficiently flexible to address unforeseen engineering-related problems concerning the transition to digital television. The current bill provides that flexibility to ensure that the Commission can make whatever engineering changes that are necessary, even channel changes, to ensure that every full power station in the U.S. can achieve digital television service replication of its analog service area.

I thank my colleagues for their support on this vital piece of legislation and look forward to seeing it passed by the Senate and into law.

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. 1547

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 ''Community Broadcasters Protection Act of 1999''.

SEC. 2. FINDINGS.

The Congress finds that:

(1) Since the creation of low-power television licenses by the Federal Communications Commission, a number of license holders have operated their stations in a manner beneficial to the public good providing broadcasting to their communities that would not otherwise be available.

(2) These low-power broadcasters have operated their stations in a manner consistent with the programming objectives and hours of operation of full-power broadcasters providing worthwhile services to their respective communities while under sever license limitations compared to their full-power counterparts.

(3) License limitations, particularly the temporary nature of the license, have blocked many low-power broadcasters from having access to capital, and have severely hampered their ability to continue to provide quality broadcasting, programming, or improvements.

(4) The passage of the Telecommunications Act of 1996 has added to the uncertainty of the future status of these stations by the lack of specific provisions regarding the permanency of their licenses, or their treatment during the transition to high definition, digital television.

(5) It is in the public interest to promote diversity in television programming formats by encouraging low power television stations that serve foreign language communities. These communities should not lose their access to foreign language programming as a result of the transition to digital television.

SEC. 3. PRESERVATION OF LOW-POWER COMMUNITY TELEVISION BROADCASTING.

(a) Section 336 of the Communications Act of 1934 (47 U.S.C. 336) is amended:

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

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

''(f) Preservation of Low-Power Community Television Broadcasting.

''(1) Creation of Class A Licenses. Within 120 days after the date of enactment of the Community Broadcasters Protection Act of 1999, the Commission shall prescribe regulations to establish a class A television to be available to licensees of qualifying low-power television stations. Such license shall be subject to the same license terms, and renewal standards as the licenses for full-power television stations except as provided in this section, and each class A licensee shall be accorded primary status as a television broadcaster as long as the station continues to meet the requirements for a qualifying low-power station in paragraph (2). Within 30 days after the date of enactment of the Community Broadcasters Protection Act of 1999, the Commission shall send a notice to the licensees of all low-power television licenses that describes the requirements for Class A designation. Within 60 days after the date of enactment of the Community Broadcasters Protection Act of 1999, licensees intending to seek Class A designation shall submit to the Commission a certification of eligibility based on the qualification requirements of this Act. Absent a material deficiency, the Commission shall grant certification of eligibility to apply for Class A status. The Commission shall act to preserve the contours of low-power television licensees pending the final resolution of a Class A application. Under the requirements set forth in paragraph (2)(A) and (B) and paragraph (6) of this subsection, a licensee may submit an application for Class A designation under this paragraph only within 30 days after final regulations are adopted, except as provided for in Paragraph (6)(A). The Commission shall, within 30 days after receipt of an application that is acceptable for filing, award such a Class A television station license to any licensee of a qualifying low-power television station. If, after granting certification of eligibility or a Class A license, unforeseen technical problems arise that require an engineering solution to a station's allotted parameters or channel assignment in the digital television Table of Allotments, the Commission may make such modifications as are necessary to ensure replication of the digital television applicant's service area as provided for in section 622 of the Commission's regulations (47 C.F.R. 602).

''(2) Qualifying low-power television stations. For purposes of this subsection, a station is a qualifying low-power television station if:

''(A) during the 90 days preceding the date of enactment of the Community Broadcasters Protection Act of 1999:

''(i) such station broadcast a minimum of 18 hours per day;

''(ii) such station broadcast an average of at least 3 hours per week of programming that was produced within the market area served by such station, or the market area served by a group of commonly controlled stations that carry common local programming not otherwise available to their communities; and

''(iii) such station was in compliance with the Commission's requirements applicable to low-power television stations; and

''(B) from and after the date of its application for a Class A license, the station is in

compliance with the Commission's operating rules for full power television stations; or

''(C) the Commission determines that the public interest, convenience, and necessity would be served by treating the station as a qualifying low-power television station for purposes of this section, or for other reasons determined by the Commission.

''(3) Common ownership. No low-power television station that is authorized as of the date of enactment of the Community Broadcasters Protection Act of 1999 shall be disqualified for a class A license based on common ownership with any medium of mass communication.

''(4) Issuance of licenses for advanced television services to qualifying low-power television stations. The Commission is not required to issue any additional licenses for advanced television services to the licensees of the class A television stations but shall accept such license applications proposing facilities that will not cause interference to any other broadcast facility authorized on the date of filing of the Class A advanced television application. Such new license or the original license of the applicant shall be forfeited at the end of the digital television transition. Low-power television station licensees may, at the option of licensee, elect to convert to the provision of advanced television services on its analog channel, but shall not be required to convert to digital operation until the end of the digital television transition.

''(5) No preemption of section 337. Nothing in this section preempts section 337 of this Act.

''(6) Interim qualification.

''(A) Stations operating within certain bandwidth. The Commission may not grant a Class A license to a low power television station operating between 698 and 806 megahertz, but the Commission shall provide to low power television stations assigned to and temporarily operating in that bandwidth the opportunity to meet the qualification requirements for a Class A license.

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

S. 1548. A bill to establish a program to help States expand the existing education system to include a least 1 year of early education preceding the year a child enters kindergarten; to the Committee on Health, Education, Labor, and Pensions.

THE EARLY EDUCATION ACT OF 1999

Mrs. BOXER. Mr. President, I am pleased to introduce today what I think is a very innovative proposal to move our education system into the 21st century.

There has been a growing body of research suggesting that a child's early years are critical to the development of the brain, and that early brain development is an important component of educational and intellectual achievement. Yet, in every state in this country, school does not officially begin until a child is 5 to 6 years old. Many children are missing some critical years.

I submit that as we enter the next century, if we are going to have the best educational system, we must start reaching children at an earlier age.

Head Start does that. Private preschool does that. But Head Start is only for low-income children, and there are not enough slots for all those children eligible to participate. And private preschools are often so expensive that they are out of reach for many middle-class working families.

We need to start thinking outside the box. One way to do that is to redefine what our educational system is. If education before kindergarten—before the age of 5—is so critical, maybe school should start a year earlier.

The legislation that I am introducing today—the Early Education Act—would begin the process of expanding the existing public education system to include at least one year of early education preceding the year a child enters kindergarten. My bill would set up a 10-state demonstration program over the next 5 years for states that want to move in this direction. The Federal Government would provide seed money of up to 50 percent of the costs for participating states to expand elementary school to include at least one year of early education, with that program open to all students in a school district that participates within the state.

A few states, most notably Georgia, are already implementing programs. Several other states, including my state of California, are planning to. In fact, I want to commend our state schools superintendent Delaine Eastin for all of her work in this area.

But even those states that are committed to this idea are finding that resources can be a significant barrier. And so what I want to do is to help states out. Let's see if early education—in those states that are interested—really does make a difference.

We know what the evidence so far shows. Compared to children with similar backgrounds who have not participated in early education programs, children who do participate in such programs perform better on reading and math tests, are more likely to make normal academic progress throughout elementary school, show greater learning retention and creativity, and are more enthusiastic about school.

If these evaluations are accurate—and that is, in part, what my bill is intended to find out—early education has the potential to make significant improvements in the education of our children.

I am pleased to be joined in this effort by Senator BINGAMAN. And I want to recognize Representative ANNA ESHOO, who is introducing the House version of this bill. I encourage my colleagues to join us in working to adapt our educational system for the 21st century.

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. 1548

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 ''Early Education Act of 1999''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) In 1989 the Nation's governors established a goal that all children would have access to high quality early education programs by the year 2000.

(2) Research suggests that a child's early years are critical to the development of the brain. Early brain development is an important component of educational and intellectual achievement.

(3) The National Research Council reported that early education opportunities are necessary if children are going to develop the language and literacy skills necessary to learn to read.

(4) Evaluations of early education programs demonstrate that compared to children with similar backgrounds who have not participated in early education programs, children who participate in such programs—

(A) perform better on reading and mathematics achievement tests;

(B) are more likely to stay academically near their grade level and make normal academic progress throughout elementary school;

(C) are less likely to be held back a grade or require special education services in elementary school;

(D) show greater learning retention, initiative, creativity, and social competency; and

(E) are more enthusiastic about school and are more likely to have good attendance records.

(5) Studies have estimated that for every dollar invested in quality early education, about 7 dollars are saved in later costs.

SEC. 3. EARLY EDUCATION.

Title X of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8001 et seq.) is amended by adding at the end the following:

''PART L—EARLY EDUCATION

''SEC. 10995. EARLY EDUCATION.

''(a) DEFINITION OF EARLY EDUCATION.—In this part the term 'early education' means not less than a half-day of schooling each week day during the academic year preceding the academic year a child enters kindergarten.

''(b) PURPOSE.—The purpose of this section is to establish a program to develop the foundation of early literacy and numerical training among young children by helping State educational agencies expand the existing education system to include early education for all children.

''(c) PROGRAM AUTHORIZED.—

''(1) IN GENERAL.—The Secretary is authorized to award grants to not less than 10 State educational agencies to enable the State educational agencies to expand the existing education system with programs that provide early education.

''(2) MATCHING REQUIREMENT.—The amount provided to a State educational agency under paragraph (1) shall not exceed 50 percent of the cost of the program described in the application submitted pursuant to subsection (d).

''(3) REQUIREMENTS.—Each program assisted under this section—

''(A) shall be carried out by one or more local educational agencies, as selected by the State educational agency;

''(B) shall be carried out—

''(i) in a public school building; or

''(ii) in another facility by, or through a contract or agreement with, a local educational agency;

''(C) shall be available to all children served by a local educational agency carrying out the program; and

''(D) shall only involve instructors who are licensed or certified in accordance with applicable State law.

''(d) APPLICATION.—Each State educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may require. Each application shall—

''(1) include a description of—

''(A) the program to be assisted under this section; and

''(B) how the program will meet the purpose of this section; and

''(2) contain a statement of the total cost of the program and the source of the matching funds for the program.

''(e) SECRETARIAL AUTHORITY.—In order to carry out the purpose of this section, the Secretary—

''(1) shall establish a system for the monitoring and evaluation of, and shall annually report to Congress regarding, the programs funded under this section; and

''(2) may establish any other policies, procedures, or requirements, with respect to the programs.

''(f) SUPPLEMENT NOT SUPPLANT.—Funds made available under this section shall be used to supplement, not supplant, other Federal, State, or local funds, including funds provided under Federal programs such as Head Start and the Even Start Family Literacy Program under part B of title I.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $300,000,000 for each of the fiscal years 2000 through 2004.''.

By Mr. HARKIN (for himself Mr. HOLLINGS, and Mr. DORGAN):

S. 1549. A bill to inform and empower consumers in the United States through a voluntary labeling system for wearing apparel or sporting goods made without abusive and exploitative child labor, and for other purposes; to the Committee on Commerce, Science, and Transportation.

CHILD LABOR FREE CONSUMER INFORMATION ACT OF 1999

Mr. HARKIN. Mr. President, today I am introducing legislation that will inform and empower consumers in the United States through a voluntary labeling system for wearing apparel and sporting goods made without the use of abusive and exploitative child labor. I am joined in my efforts by Senators HOLLINGS and DORGAN. I want to thank them for working with me on this important effort.

This is the third time I have come to the floor of the Senate to introduce this bill, and I will continue to introduce it until it becomes law.

I'd like to ask my colleagues to take a moment to look around. Maybe it's the shirt you have on right now. Or the silk tie or blouse. Or the tennis shoes you wear on weekends.

Chances are that you have purchased something—perhaps many things—made with abusive and exploitative child labor. And chances are you were completely unaware that was the case. You will find a label that tells you what size it is, how to care for it and what it costs. But it doesn't tell you about the person who made it.

Mr. President, recently, the International Labor Organization (ILO) released a very grim report about the number of children who toil away in abhorrent conditions. The ILO estimates that over two hundred and fifty million children worldwide under the age of 15 are working instead of receiving a basic education. Many of these children begin working in factories at the age of 6 or 7, some even younger. They are poor, malnourished, and often forced to work 60-hour weeks for little or no pay.

Now when I speak about child labor, I am not talking about 17 year-olds helping out on the family farm or running errands after school. I am speaking about children, often under 12 years old, who are forced to work long hours in hazardous and dangerous conditions many as slaves instead of going to school.

On September 23, 1993, the Senate appropriately put itself on record as expressing its principled opposition to the abhorrent practice of exploiting children for commercial gain and asserting that it should be the policy of the United States to prohibit the importation of products made through the use of abusive and exploitative child labor by passing a Sense of the Senate Resolution I introduced. In my view, this was the first step toward ending child labor.

Americans in Des Moines or Dallas or Detroit may say, ''What does this have to do with us?'' It is quite simple. By protecting the rights of workers everywhere, we will be protecting jobs and opportunities here at home. A U.S. worker cannot compete with a 12 year old working 12 hours a day for 12 cents.

In 1998, the United States imported almost 50 percent of the wearing apparel sold in this country and the garment industry netted $34 billion. According to the Department of Commerce, last year, the United States imported 494.1 million pairs of athletic footwear and produced only 65.3 million here at home.

As I have traveled around the country and spoken with people about the issue of abusive and exploitative child labor, I have found that consumers—ordinary Americans—want to get involved. They want information. They want to know if the products they are buying are made by children.

According to a survey sponsored by Marymount University, more than three out of four Americans said they would avoid shopping at stores if they were aware that the good sold there were made by exploitative and abusive child labor. They also said that they would be willing to pay an extra $1 on a $20 garment if it were guaranteed to be made under legitimate circumstances.

Mr. President it is obvious that consumers don't want to reward companies with their hard earned dollars by buying products made with abusive and exploitative child labor.

This issue demands our attention. Our legislation, the Child Labor Free Consumer Information Act 1999, will inform and empower consumers in the United States through a voluntary labeling system for wearing apparel and sporting goods made without abusive and exploitative child labor. In my view, a system of voluntary labeling holds the best promise of giving consumers the information they want—and giving the companies that manufacture these products the recognition they deserve.

The crux of this legislation is to provide the framework for members of the wearing apparel and sporting goods industry, labor organizations, consumer advocacy and human rights groups along with the Secretaries of Commerce, Treasury and Labor to establish the labeling standard and develop a system to assure compliance that items were not made with abusive and exploitative child labor. Thus, ensuring consumers that the garment or pair of tennis shoes they purchase was made without abusive and exploitative child labor.

In my view, Congress can't do it alone through legislation. The Department of Labor can't do it alone through enforcement. It takes all of us from the private sector to labor and human rights groups to take responsibility, to come together to end abusive and exploitative child labor. And I am pleased to say there has recently been promising action to that end.

Mr. President, when the private sector decides to take speak up—it certainly can make a difference. In Bangladesh, the Bangladesh Garment Manufacturers and Exporters Association has agreed to work with the International Labor Organization to take children out of the garment factories and put them into school—where they belong. As of May 1999, more than 353 schools for former child workers have opened, serving nearly 10,000 children. So, if we can do it in Bangladesh, then we can do it elsewhere.

Mr. President, let me be clear, companies can choose to use the label or not to. This bill is not about big government telling the private sector what to do. This bill is centered around this fundamental principle: Let the Buyer Be Aware. This ''Truth in Labeling'' initiative is based on the principle that a fully informed American consumer will make the right, and moral, choice and vote against abusive and exploitative child labor with their pocketbook.

We have seen such an approach work effectively with the Rugmark label for hand-knotted carpets from India. It is operating in some European countries. Consumers who want to buy child labor-free carpets can just look for the Rugmark label. I visited the Rugmark headquarters in New Delhi, India last year. Mr. President, this initiative is working. It has succeeded in taking children out of the factories and putting them into schools while providing consumers with the information they need. To date, 1.25 million of carpets have received the Rugmark label.

Mr. President, the progress that has been made on eradicating abusive and exploitative child labor is irreversible.

Therefore we must continue to more forward. And I believe my bill allows us to do just that. It allows the consumer to know more about the products they buy and give companies that use the label the recognition they deserve.

Our nation began this century by working to end abusive and exploitative child labor in America, let us close this century by ending child labor around the world. I urge my colleagues to support this legislation.

I ask unanimous consent that a copy of my bill be printed in the RECORD.

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

S. 1549

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Child Labor Free Consumer Information Act of 1999''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the Secretary of Labor has conducted at least 5 detailed studies that document the fact that abusive and exploitative child labor exists worldwide;

(2) the Secretary of Labor has also determined, through the studies referred to in paragraph (1), that child laborers are often forced to work beyond their physical capacities or under conditions that threaten their health, safety, and development, and are denied basic educational opportunities;

(3) in most instances, countries that have abusive and exploitative child labor also experience a high adult unemployment rate;

(4) the International Labor Organization (commonly known as the ''ILO'') in 1999 estimated that—

(A) approximately 250,000,000 children who are ages 5 through 14 are working in developing countries; and

(B) many of those children manufacture wearing apparel or sporting goods that are offered for sale in the United States;

(5) consumers in the United States spend billions of dollars each year on wearing apparel and sporting goods;

(6) consumers in the United States have the right to information on whether the articles of wearing apparel (including any section of that wearing apparel) or sporting goods that the consumers purchase are made without abusive and exploitative child labor;

(7) the rugmark labeling and monitoring system is a successful model for eliminating abusive and exploitative child labor in the rug industry;

(8) the labeling of wearing apparel or sporting goods would provide the information referred to in paragraph (6) to consumers; and

(9) it is important to recognize United States businesses that have effective programs to ensure that products sold in the United States are not made with abusive and exploitative child labor.

TITLE I—CHILD LABOR FREE LABELING STANDARDS

SEC. 101. CHILD LABOR FREE LABELING STANDARDS.

(a) ESTABLISHMENT OF LABELING STANDARDS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Labor, in consultation with the Child Labor Free Commission established under section 201, shall issue regulations to ensure that a label using the terms ''Not Made With Child Labor'', ''Child Labor Free'', or any other term or symbol referring to child labor does not make a false statement or suggestion that an article or section of wearing apparel or sporting good was not made with child labor. The regulations developed under this section shall encourage the use of an easily identifiable symbol or term indicating that the article or section of wearing apparel or sporting good was not made with child labor.

(2) NOTIFICATION ON USE.—

(A) IN GENERAL.—A producer, importer, exporter, distributor, or other person intending to use any label referred to in paragraph (1) shall submit a notification to the Commission for review under subparagraph (C).

(B) NOTIFICATION.—The notification referred to in subparagraph (A) shall include information concerning the source of the article or section of wearing apparel or sporting good to which the label will be affixed, including information on—

(i) the country in which the article or section of wearing apparel or sporting good is manufactured;

(ii) the name and location of the manufacturer; and

(iii) any outsourcing by the manufacturer in the manufacture of the article or section of wearing apparel or sporting good.

(C) REVIEW OF NOTIFICATION.—Upon receipt of the notification, the Commission shall review the notification and inform the Secretary of Labor concerning the findings of the review. The permission of the Secretary of Labor shall be required for the use of the label. The Secretary of Labor, in consultation with the Commission, shall establish procedures for granting permission to use a label under this subparagraph.

(3) FEE.—The Secretary of Labor is authorized to charge a fee to cover the expenses of the Commission in reviewing a notification under paragraph (2). The level of fees charged under this paragraph shall not exceed the administrative costs incurred in reviewing a notification. Fees collected under this paragraph shall be available to the Secretary of Labor for expenses incurred in the review and response of the Commission under this subsection.

(4) APPLICABILITY.—The regulations issued under paragraph (1) shall apply to any label contained in or affixed to—

(A) an article or section of wearing apparel or sporting good that is exported from or offered for sale in the United States;

(B) any packaging for an article or section of wearing apparel or sporting good referred to in subparagraph (A); or

(C) any advertising for an article or section of wearing apparel or sporting good referred to in subparagraph (A).

(5) EFFECTIVE DATE.—The regulations issued under paragraph (1) shall take effect on the date that is 180 days after the date of publication as final regulations.

(b) VIOLATION OF SECTION 5 OF THE FEDERAL TRADE COMMISSION ACT.—It is a violation of section 5 of the Federal Trade Commission Act (15 U.S.C. 45) for any producer, importer, exporter, distributor, or seller of any article or section of wearing apparel or sporting good that is exported from or offered for sale in the United States—

(1) to falsely indicate on the label of that article or section of wearing apparel or sporting good, the packaging of the article or section of wearing apparel or sporting good, or any advertising for the article or section of wearing apparel or sporting good that the article or section of wearing apparel or sporting good was not made with child labor; or

(2) to otherwise falsely claim or suggest that the article (or section of that article) of wearing apparel or sporting good was not made with child labor.

(c) AMENDMENT TO THE FEDERAL TRADE COMMISSION ACT.—Section 5(m)(1) of the Federal Trade Commission Act (15 U.S.C. 45(m)(1)) is amended—

(1) in subparagraph (A), by striking ''The Commission'' and inserting ''Except as provided in subparagraph (D), the Commission'';

(2) in subparagraph (B), by striking ''If the Commission'' and inserting ''Except as provided in subparagraph (D), if the Commission''; and

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

''(D)(i)(I) In lieu of the applicable civil penalty under subparagraph (A) or (B), in any case in which the Commission commences a civil action for a violation of section 101 of the Child Labor Free Consumer Information Act of 1999 under subparagraph (A), under subparagraph (B) for an unfair or deceptive practice that is considered to be a violation of this section by reason of section 101(b) of such Act, or under subparagraph (C) for a continuing failure that is considered to be a violation of this section by reason of section 101(b) of such Act, if that violation—

''(aa) is a knowing or willful violation, the amount of a civil penalty for the violation shall be determined under clause (ii); or

''(bb) is not a knowing or willful violation, no penalty shall be assessed against the person, partnership, or corporation that committed the violation.

''(II) For purposes of this subparagraph, if in an action referred to in subclause (I), the Commission asserts that a violation is a knowing and willful violation, the defendant shall bear the burden of proving otherwise.

''(ii) The amount of a civil penalty for a violation under clause (i)(I)(aa) that is committed shall be—

''(I) for an initial violation, an amount equal to the greater of—

''(aa) 2 times the retail value of the articles of wearing apparel or sporting goods mislabeled; or

''(bb) $200,000; and

''(II) for any subsequent violation, an amount equal to the greater of—

''(aa) 4 times the retail value of the articles of wearing apparel or sporting goods mislabeled; or

''(bb) $400,000.''.

(d) SPECIAL FUND TO ASSIST CHILDREN.—

(1) CREATION OF FUND.—There is established in the United States Treasury a special fund to be known as the ''Free the Children Fund''.

(2) TRANSFERS INTO FUND.—There are appropriated to the special fund amounts equivalent to the penalties collected under this section (including the amendments made by this section). The Secretary of the Treasury shall, upon request of the Secretary of Labor, make the amounts in the special fund available to the Secretary of Labor for use by the Secretary of Labor for educational and other programs described in paragraph (3).

(3) AVAILABILITY.—Amounts deposited into the special fund shall be available for educational and other programs with the goal of eliminating child labor.

(e) OTHER INDUSTRIES.—The Commission may, as appropriate, develop labeling standards similar to the labeling standards developed under this section for any industry that is not otherwise covered under this Act and recommend to the Secretary of Labor that those standards be promulgated. If the standards are promulgated by the Secretary of Labor—

(1) the provisions of this Act and the amendments made by this Act shall apply to the labeling covered by those standards in the same manner as they apply to any other standards promulgated by the Secretary of Labor under this section; and

(2) it shall be a violation of section 5 of the Federal Trade Commission Act (15 U.S.C. 45) for any producer, importer, exporter, distributor, or seller of any good that is covered under the labeling standards and that is exported from or offered for sale in the United States—

(A) to falsely indicate on the label of that good, the packaging of the good, or any related advertising that the good was not made with child labor; or

(B) to otherwise falsely claim or suggest that the good was not made with child labor.

SEC. 102. REVIEW OF PETITIONS BY THE CHILD LABOR FREE COMMISSION.

(a) IN GENERAL.—In addition to the procedures established under section 5 of the Federal Trade Commission Act (15 U.S.C. 45), the Child Labor Free Commission established under section 201 shall assist the Federal Trade Commission by reviewing petitions under this section.

(b) CONTENTS OF PETITIONS.—A petition under this section shall—

(1) be submitted in such form and in such manner as the Federal Trade Commission, in consultation with the Secretary of Labor and the Child Labor Free Commission, shall prescribe;

(2) contain the name of the—

(A) petitioner; and

(B) person or entity involved in the alleged violation of the labeling standards under section 101; and

(3) provide a detailed explanation of the alleged violation, including all available evidence.

(c) REVIEW BY COMMISSION.—

(1) IN GENERAL.—The Commission shall, to the maximum extent practicable, not later than 90 days after receiving a petition, review the petition to determine whether there appears to have been a violation of the labeling standards.

(2) ACTION BY THE FEDERAL TRADE COMMISSION.—

(A) IN GENERAL.—Upon completion of a review conducted under paragraph (1), the Commission shall forward the petition to the Secretary of Labor, together with a report by the Commission containing a determination by the Commission concerning the merits of the petition, including whether a violation of the labeling standards occurred and whether there appears to have been a knowing and willful (within the meaning of section 5(m)(1)(D)(i) of the Federal Trade Commission Act, as added by section 101(c) of this Act) or repeated violation of those standards.

(B) DUTIES OF THE SECRETARY OF LABOR.—Upon receipt of the petition and report, the Secretary of Labor shall—

(i) forward a copy of the petition and report to the Federal Trade Commission for review by the Federal Trade Commission; and

(ii) review the petition and report.

(3) TEMPORARY WITHDRAWAL OF PERMISSION; ORDER TO CEASE AND DESIST.—

(A) TEMPORARY WITHDRAWAL OF PERMISSION.—If the Secretary of Labor determines, on the basis of the report referred to in paragraph (2), that there is a substantial likelihood that a violation of the labeling standards promulgated under section 101 has occurred, the Secretary of Labor may temporarily withdraw the permission granted under section 101(a)(2)(C) and inform the Federal Trade Commission of the action and the reason for the action.

(B) ORDER TO CEASE AND DESIST.—If the Federal Trade Commission concurs with a determination of the Child Labor Free Commission in the report referred to in subparagraph (A) that a violation of the labeling standards has occurred, the Federal Trade Commission shall take such action as may be necessary under the Federal Trade Commission Act (15 U.S.C. 41 et seq.) to cause the person or entity in violation of the labeling standards under section 101 to cease and desist from violating those standards immediately upon that concurrence.

TITLE II—CHILD LABOR FREE COMMISSION

SEC. 201. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the ''Child Labor Free Commission''.

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 17 members, of whom—

(A) 1 shall be the Secretary of Commerce or a designee of the Secretary of Commerce;

(B) 1 shall be the Secretary of the Treasury or a designee of the Secretary of the Treasury;

(C) 1 shall be the United States Trade Representative or a designee of the United States Trade Representative;

(D) 1 shall be the Secretary of Labor or a designee of the Secretary of Labor, who shall serve as the Chairperson of the Commission;

(E) 3 shall be representatives of nongovernmental organizations that work toward the eradication of abusive and exploitative child labor and the promotion of human rights, appointed by the Secretary of Labor;

(F) 3 shall be representatives of labor organizations, appointed by the Secretary of Labor;

(G) 3 shall be representatives of the wearing apparel industry, appointed by the Secretary of Labor;

(H) 3 shall be representatives of the sporting goods industry, appointed by the Secretary of Labor; and

(I) 1 additional member shall be appointed by the Secretary of Labor.

(2) DATE.—The appointments of the members of the Commission shall be made not later than 60 days after the date of enactment of this Act.

(c) PERIOD OF APPOINTMENT; VACANCIES.—

(1) PERIOD OF APPOINTMENT.—Each member of the Commission shall serve for a term of 4 years, except that in appointing the initial members of the Commission, the Secretary of Labor shall stagger the terms of the members who are not officers or employees of the United States.

(2) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) INITIAL MEETING.—Not later than 30 days
after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(e) MEETINGS.—The Commission shall meet at the call of the Chairperson or at the request of a majority of the members.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings or other meetings.

SEC. 202. DUTIES OF THE COMMISSION.

The Commission shall—

(1) assist the Secretary of Labor in developing labeling standards under section 101;

(2) assist the Secretary of Labor in developing and implementing a system to ensure compliance with the labeling standards established under section 101, including—

(A) receiving, reviewing, and making recommendations for the resolution of petitions received under section 102 that allege noncompliance with the labeling standards under section 101;

(B) making recommendations to the Secretary of Labor for the removal of labels subject to the standards under section 101 that are found to be in violation of those standards;

(C) assisting the Secretary of Labor in developing and implementing a system to promote the increased use of the labeling standards under section 101;

(D) publishing, not less frequently than annually, a list of persons and entities that have notified the Commission of their intent to use a label under section 101(a)(2); and

(E) publishing, not less frequently than annually, a list of persons and entities found to be in violation of any provision of this Act; and

(3) not later than 1 year after the date of the establishment of the Commission, commence a study into the feasibility of developing an easily identifiable labeling standard that the Secretary of Labor may issue to encourage the use of voluntary labels that ensure consumers that an article of wearing apparel or sporting good was made without the use of sweatshop or exploited adult labor.

SEC. 203. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the duties of the Commission under this title.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the duties of the Commission under this title. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 204. COMMISSION PERSONNEL MATTERS.

(a) NON-FEDERAL MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall serve without compensation.

(b) FEDERAL MEMBERS.—Each member of the Commission who is an officer or employee of the United States shall serve without compensation in addition to that received for that member's services as an officer or employee of the United States.

SEC. 205. ADMINISTRATIVE AND SUPPORT SERVICES.

The Secretary of Labor shall, to the extent permitted by law, provide the Commission with such administrative services, funds, facilities, staff, and other support services as may be necessary for the performance of its functions.

SEC. 206. PERMANENCY.

Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

TITLE III—RECOGNITION OF EXEMPLARY CORPORATE EFFORTS

SEC. 301. ANNUAL REPORT.

Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Secretary of Labor shall issue a report concerning companies that are making exemplary progress in ensuring that products made, sold, or distributed by those companies are not made with abusive and exploitative child labor.

SEC. 302. ADDITIONAL METHODS.

In addition to the reports made under section 301, the Secretary of Labor in consultation with the Commission shall develop and implement other methods of providing recognition for exemplary programs carried out

by companies to ensure that products made, sold, or distributed by those companies are not made with abusive and exploitative child labor.

TITLE IV—DEFINITIONS

SEC. 401. DEFINITIONS.

In this Act:

(1) CHILD.—The term ''child'' means—

(A) an individual who has not attained the age of 15 years, as measured by the Julian calendar; or

(B) an individual who has not attained the age of 14 years, as measured by the Julian calendar, in the case of an individual who resides in a country that, by law, defines a child as such an individual.

(2) COMMISSION.—The term ''Commission'' means the Child Labor Free Commission established under section 201.

(3) LABEL.—The term ''label'' means a display of written, printed, or graphic matter on or affixed to an article of wearing apparel or a sporting good or on the packaging of the article or a sporting good that meets the standards described in section 101(a).

(4) MADE WITH CHILD LABOR.—

(A) IN GENERAL.—A manufactured article or section of wearing apparel or a sporting good shall be considered to have been made with child labor if the article or section—

(i) was fabricated, assembled, or processed in whole or in part; or

(ii) contains any part that was fabricated, assembled, or processed in whole or in part, by any child described in subparagraph (B).

(B) COVERED CHILDREN.—A child is described in this subparagraph if that child engaged in the fabrication, assembly, or processing of the article or section—

(i) under circumstances that the Secretary of Labor considers to be abusive or exploitative;

(ii) under circumstances tantamount to involuntary servitude; or

(iii) under—

(I) exposure to toxic substances or working conditions that otherwise pose serious health hazards; or

(II) working conditions that result in the child's being deprived of basic educational opportunities.

(5) PRODUCER.—The term ''producer'' includes a contractor or subcontractor of a manufacturer of all or part of a good.

(6) SPORTING GOOD.—The term ''sporting good'' shall have the meaning provided that term by the Secretary of Labor.

(7) WEARING APPAREL.—The term ''wearing apparel'' shall have the meaning provided that term by the Secretary of Labor.

By Mr. WELLSTONE:

S. 1550. A bill to extend certain Medicare community nursing organization demonstration projects; to the Committee on Finance.

LEGISLATION TO EXTEND CERTAIN MEDICARE COMMUNITY NURSING ORGANIZATION DEMONSTRATION PROJECTS

● Mr. WELLSTONE. Mr. President, I am introducing legislation which will extend Medicare funding for Community Nursing Organization (CNO) demonstration projects within the Health Care Financing Administration. These CNO programs are intended to reduce the breakup in the delivery of health care services, to reduce the use of costly emergency care services, and to improve the continuity of home health and ambulatory care for Medicare beneficiaries. CNOs are responsible for providing home health care, case management, outpatient physical and speech therapy, ambulance services, prosthetic devices, durable medical equipment, and any optional HCFA-approved services appropriate to prevent the need to institutionalize Medicare enrollees.

In Minnesota, the Healthy Seniors Project provides seniors with information and services that have provided an extra level of health care and peace of mind. Through various seminars, programs, and other informational services, these seniors have received information on legal and financial matters specifically as they pertain to senior citizens, as well as information on the services available to help them function and remain in their homes.

These CNO projects are consistent with congressional efforts to introduce a wider range of managed care options to Medicare beneficiaries. Their authorization needs to be extended in order to ensure a fair testing of the CNO managed care concept. We need an extension of this demonstration project to continue to provide an important example of how coordinated care can provide additional benefits without increasing Medicare costs. In addition, we need to further evaluate the impact of the CNO contribution to Medicare patients and to assess their capacity for operating under a fixed budget. Finally, this extension will not increase Medicare expenditures. In fact, CNOs actually save Medicare dollars by providing better and more accessible health care in homes and community settings, rather than unnecessary hospitalizations and nursing home admissions.

Mr. President, I urge my colleagues to support these important cost-saving demonstration projects for another three years.●

By Mr. HARKIN (for himself, Mr. HOLLINGS, Mr. DORGAN, Mr. LEVIN, Ms. MIKULSKI, and Mr. KENNEDY):

S. 1551. A bill to prohibit the importation of goods produced abroad with child labor, and for other purposes; to the Committee on Finance.

CHILD LABOR DETERRENCE ACT OF 1999

Mr. HARKIN. Mr. President, today I am introducing the Child Labor Deterrence Act of 1999. The bill I am introducing today prohibits the importation of any product made, whole or in part, by children under the age of 15 who are employed in manufacturing or mining. This is the fifth time I have come to the floor of the Senate to introduce this bill, and I will continue to introduce it until it becomes law. I would like to thank Senators HOLLINGS, DORGAN, LEVIN, MIKULSKI and KENNEDY for joining me in this important effort as original cosponsors of this legislation.

The International Labor Organization (ILO) estimates that over two hundred and fifty million children worldwide under the age of 15 are working instead of receiving a basic education. Many of these children begin working in factories at the age of 6 or 7, some even younger. They are poor, malnourished, and often forced to work 60-hour weeks for little or no pay.

Child labor is most prevalent in countries with high adult unemployment rates. According to the ILO, some 61 percent of child workers, nearly 153 million children, are found in Asia; 32 percent, or 80 million, are in Africa and 7 percent, or 175 million, live in Latin America. Adult unemployment rates in some nations runs over 20 percent. In Latin America, for example, about one in every ten children are workers. Furthermore, in many nations where child labor is prevalent, more money is spent and allocated for military expenditures than for education and health services.

The situation is as deplorable as it is enormous. In many developing countries children represent a substantial part of the work force and can be found in such industries as rugs, toys, textiles, mining, and sports equipment manufacturing.

For instance, it is estimated that 65% of the wearing apparel that Americans purchase is assembled or manufactured abroad, therefore, increasing the chance that these items were made by abusive and exploitative child labor. In the rug industry, Indian and Pakistan produce 95% of their rugs for export. Some of the worst abuses of child labor have been documented in these countries, including bonded and slave labor.

Children may also be crippled physically by being forced to work too early in life. For example, a large-scale ILO survey in the Philippines found that more than 60 percent of working children were exposed to chemical and biological hazards, and that 40 percent experienced serious injuries or illnesses.

These practices are often underground, but the ILO report points out that children are still being sold outright for a sum of money. Other times, landlords buy child workers from their tenants, or labor ''contractor'' pay rural families in advance in order to take their children away to work in carpet-weaving, glass manufacturing or prostitution. Child slavery of this type has long been reported in South Asia, South-East Asia and West Africa, despite vigorous official denial of its existence.

Additionally, children are increasingly being bought and sold across national borders by organized networks. The ILO report states that at least five such international networks trafficking in children exist: from Latin America to Europe and the Middle East; from South and South-East Asia to northern Europe and the Middle East; a European regional market; an associated Arab regional market; and, a West Africa export market in girls.

In Pakistan, the ILO reported in 1991 that an estimated half of the 50,000 children working as bonded labor in Pakistan's carpet-weaving industry will never reach the age of 12—victims of disease and malnutrition.

I have press reports from India of children freed from virtual slavery in

the carpet factories of northern India. Twelve-year-old Charitra Chowdhary recounted his story—he said, ''If we moved slowly we were beaten on our backs with a stick. We wanted to run away but the doors were always locked.''

Mr. President, that's what this bill is about, children, whose dreams and childhood are being sold for a pittance—to factor owners and in markets around the globe.

It's about protecting children around the globe and their future. It's about eliminating a major form of child abuse in our world. It's about breaking the cycle of poverty by getting these kids out of factories and into schools. It's about raising the standard of living in the Third World so we can compete on the quality of goods instead of the misery and suffering of those who make them. It's about assisting Third World governments to enforce their laws by ending the role of the United States in providing a lucrative market for goods made by abusive and exploitative child labor and encouraging other nations to do the same.

Mr. President, unless the economic exploitation of children is eliminated, the potential and creative capacity of future generations will forever be lost to the factory floor.

Mr. President, the Child Labor Deterrence Act of 1999 is intended to strengthen existing U.S. trade laws and help Third World countries enforce their child labor laws. The bill directs the U.S. Secretary of Labor to compile and maintain a list of foreign industries and their respective host countries that use child labor in the production of exports to the United States. Once the Secretary of Labor identifies a foreign industry, the Secretary of the Treasury is instructed to prohibit the importation of a product from an identified industry. The entry ban would not apply if a U.S. importer signs a certificate of origin affirming that they took reasonable steps to ensure that products imported from identified industries are not made by child labor. In addition, the President is urged to seek an agreement with other governments to secure an international ban on trade in the products of child labor. Further, any company or individual who would intentionally violate the law would face both civil and criminal penalties.

This legislation is not about imposing our standards on the developing world. It's about preventing those manufacturers in the developing world who exploit child labor from imposing their standards on the United States. They are forewarned. If manufacturers and importers insist on investing in child labor, instead of investing in the future of children, I will work to assure that their products are barred from entering the United States.

Mr. President, as I said when I first introduced this bill five years ago, it is time to end this human tragedy and our participation in it. It is time for greater government and corporate responsibility. No longer can officials in the Third World or U.S. importers turn a blind eye to the suffering and misery of the world's children. No longer do American consumers want to provide a market for goods produced by the sweat and toil of children. By providing a market for goods produced by child labor, U.S. importers have become part of the problem by perpetuating the impoverishment of poor families. Through this legislation, importers now have the opportunity to become part of the solution by ending this abominable practice.

Mr. President, countries do not have to wait until poverty is eradicated or they are fully developed before eliminating the economic exploitation of children. In fact, the path to development is to eliminate child labor and increase expenditures on children such as primary education. In far too many countries, governments spend millions on military expenditures and fail to provide basic educational opportunities to its citizens. As a result, over 130 million children are not in primary school.

In conclusion, Mr. President, this legislation places no undue burden on U.S. importers. I know of no importer, company, or department store that would willingly promote the exploitation of children. I know of no importer, company, or department store that would want their products and image tainted by having their products produced by child labor. And I know that no American consumer would knowingly purchase something made with abusive and exploitative child labor. These entities take reasonable steps to ensure the quality of their goods; they should also be willing to take reasonable steps to ensure that their goods are not produced by child labor.

Mr. President, I urge my colleagues to support this legislation. I ask unanimous consent that a copy of my bill be printed into the RECORD.

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

S. 1551

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Child Labor Deterrence Act of 1999''.

SEC. 2. FINDINGS; PURPOSE; POLICY.

(a) FINDINGS.—Congress makes the following findings:

(1) Principle 9 of the Declaration of the Rights of the Child proclaimed by the General Assembly of the United Nations on November 20, 1959, states that ''. . . the child shall not be admitted to employment before an appropriate minimum age; he shall in no case be caused or permitted to engage in any occupation or employment which would prejudice his health or education, or interfere with his physical, mental, or moral development . . .''.

(2) Article 2 of the International Labor Convention No. 138 Concerning Minimum Age For Admission to Employment states that ''The minimum age specified in pursuance of paragraph 1 of this article shall not be less than the age of compulsory schooling and, in any case, shall not be less than 15 years.''.

(3) The new International Labor Convention addressing the worst forms of child labor calls on member States to take immediate and effective action to prohibit and eliminate such labor. According to the convention, the worst forms of child labor are—

(A) slavery;

(B) debt bondage;

(C) forced or compulsory labor;

(D) the sale or trafficking of children, including the forced or compulsory recruitment of children for use in armed conflict;

(E) child prostitution;

(F) the use of children in the production and trafficking of narcotics; and

(G) any other work that, by its nature or due to the circumstances in which it is carried out, is likely to harm the health, safety, or morals of children.

(4) According to the International Labor Organization, an estimated 250,000,000 children under the age of 15 worldwide are working, many of them in dangerous industries like mining and fireworks.

(5) Children under the age of 15 constitute approximately 22 percent of the workforce in some Asian countries, 41 percent of the workforce in parts of Africa, and 17 percent of the workforce in many countries in Latin America.

(6) The number of children under the age of 15 who are working, and the scale of their suffering, increase every year, despite the existence of more than 20 International Labor Organization conventions on child labor and national laws in many countries which purportedly prohibit the employment of under age children.

(7) In many countries, children under the age of 15 lack either the legal standing or means to protect themselves from exploitation in the workplace.

(8) The prevalence of child labor in many developing countries is rooted in widespread poverty that is attributable to unemployment and underemployment, precarious incomes, low living standards, and insufficient education and training opportunities among adult workers.

(9) The employment of children under the age of 15 commonly deprives the children of the opportunity for basic education and also denies gainful employment to millions of adults.

(10) The employment of children under the age of 15, often at pitifully low wages, undermines the stability of families and ignores the importance of increasing jobs, aggregated demand, and purchasing power among adults as a catalyst to the development of internal markets and the achievement of broadbased, self-reliant economic development in many developing countries.

(11) United Nations Children's Fund (commonly known as UNICEF) estimates that by the year 2000, over 1,000,000 adults will be unable to read or write at a basic level because such adults were forced to work as children and were thus unable to devote the time to secure a basic education.

(b) PURPOSE.—The purpose of this Act is to curtail the employment of children under the age of 15 in the production of goods for export by—

(1) eliminating the role of the United States in providing a market for foreign products made by such children;

(2) supporting activities and programs to extend primary education, rehabilitation, and alternative skills training to child workers, to improve birth registration, and to improve the scope and quality of statistical information and research on the commercial exploitation of such children in the workplace; and

(3) encouraging other nations to join in a ban on trade in products described in paragraph (1) and to support those activities and programs described in paragraph (2).

(c) POLICY.—It is the policy of the United States—

(1) to actively discourage the employment of children under the age of 15 in the production of goods for export or domestic consumption;

(2) to strengthen and supplement international trading rules with a view to renouncing the use of under age children in the production of goods for export as a means of competing in international trade;

(3) to amend Federal law to prohibit the entry into commerce of products resulting from the labor of under age children; and

(4) to offer assistance to foreign countries to improve the enforcement of national laws prohibiting the employment of children under the age of 15 and to increase assistance to alleviate the underlying poverty that is often the cause of the commercial exploitation of such children.

SEC. 3. UNITED STATES INITIATIVE TO CURTAIL INTERNATIONAL TRADE IN PRODUCTS OF CHILD LABOR.

In pursuit of the policy set forth in this Act, the President is urged to seek an agreement with the government of each country that conducts trade with the United States for the purpose of securing an international ban on trade in products of child labor.

SEC. 4. DEFINITIONS.

In this Act:

(1) CHILD.—The term ''child'' means—

(A) an individual who has not attained the age of 15, as measured by the Julian calendar; or

(B) an individual who has not attained the age of 14, as measured by the Julian calendar, in the case of a country identified under section 5 whose national laws define a child as such an individual.

(2) EFFECTIVE IDENTIFICATION PERIOD.—The term ''effective identification period'' means, with respect to a foreign industry or host country, the period that—

(A) begins on the date of that issue of the Federal Register in which the identification of the foreign industry or host country is published under section 5(e)(1)(A); and

(B) terminates on the date of that issue of the Federal Register in which the revocation of the identification referred to in subparagraph (A) is published under section 5(e)(1)(B).

(3) ENTERED.—The term ''entered'' means entered, or withdrawn from a warehouse for consumption, in the customs territory of the United States.

(4) EXTRACTION.—The term ''extraction'' includes mining, quarrying, pumping, and other means of extraction.

(5) FOREIGN INDUSTRY.—The term ''foreign industry'' includes any entity that produces, manufactures, assembles, processes, or extracts an article in a host country.

(6) HOST COUNTRY.—The term ''host country'' means any foreign country, and any possession or territory of a foreign country that is administered separately for customs purposes (including any designated zone within such country, possession, or territory) in which a foreign industry is located.

(7) MANUFACTURED ARTICLE.—The term ''manufactured article'' means any good that is fabricated, assembled, or processed. The term also includes any mineral resource (including any mineral fuel) that is entered in a crude state. Any mineral resource that at entry has been subjected to only washing, crushing, grinding, powdering, levigation, sifting, screening, or concentration by flotation, magnetic separation, or other mechanical or physical processes shall be treated as having been processed for the purposes of this Act.

(8) PRODUCTS OF CHILD LABOR.—An article shall be treated as being a product of child labor—

(A) if, with respect to the article, a child was engaged in the manufacture, fabrication, assembly, processing, or extraction, in whole or in part; and

(B) if the labor was performed—

(i) in exchange for remuneration (regardless to whom paid), subsistence, goods, or services, or any combination of the foregoing;

(ii) under circumstances tantamount to involuntary servitude; or

(iii) under exposure to toxic substances or working conditions otherwise posing serious health hazards.

(9) SECRETARY.—The term ''Secretary'', except for purposes of section 5, means the Secretary of the Treasury.

SEC. 5. IDENTIFICATION OF FOREIGN INDUSTRIES AND THEIR RESPECTIVE HOST COUNTRIES THAT UTILIZE CHILD LABOR IN EXPORT OF GOODS.

(a) IDENTIFICATION OF INDUSTRIES AND HOST COUNTRIES..—

(1) IN GENERAL.—The Secretary of Labor (in this section referred to as the ''Secretary'') shall undertake periodic reviews using all available information, including information made available by the International Labor Organization and human rights organizations (the first such review to be undertaken not later than 180 days after the date of enactment of this Act), to identify any foreign industry that—

(A) does not comply with applicable national laws prohibiting child labor in the workplace;

(B) utilizes child labor in connection with products that are exported; and

(C) has on a continuing basis exported products of child labor to the United States.

(2) TREATMENT OF IDENTIFICATION.—For purposes of this Act, the identification of a foreign industry shall be treated as also being an identification of the host country.

(b) PETITIONS REQUESTING IDENTIFICATION.—

(1) FILING.—Any person may file a petition with the Secretary requesting that a particular foreign industry and its host country be identified under subsection (a). The petition must set forth the allegations in support of the request.

(2) ACTION ON RECEIPT OF PETITION.—Not later than 90 days after receiving a petition under paragraph (1), the Secretary shall—

(A) decide whether or not the allegations in the petition warrant further action by the Secretary in regard to the foreign industry and its host country under subsection (a); and

(B) notify the petitioner of the decision under subparagraph (A) and the facts and reasons supporting the decision.

(c) CONSULTATION AND COMMENT.—Before identifying a foreign industry and its host country under subsection (a), the Secretary shall—

(1) consult with the United States Trade Representative, the Secretary of State, the Secretary of Commerce, and the Secretary of the Treasury regarding such action;

(2) hold at least 1 public hearing within a reasonable time for the receipt of oral comment from the public regarding such a proposed identification;

(3) publish notice in the Federal Register—

(A) that such an identification is being considered;

(B) of the time and place of the hearing scheduled under paragraph (2); and

(C) inviting the submission within a reasonable time of written comment from the public; and

(4) take into account the information obtained under paragraphs (1), (2), and (3).

(d) REVOCATION OF IDENTIFICATION.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary may revoke the identification of any foreign industry and its host country under subsection (a) if information available to the Secretary indicates that such action is appropriate.

(2) REPORT OF SECRETARY.—No revocation under paragraph (1) may take effect earlier than the 60th day after the date on which the Secretary submits to the Congress a written report—

(A) stating that in the opinion of the Secretary the foreign industry and host country concerned do not utilize child labor in connection with products that are exported; and

(B) stating the facts on which such opinion is based and any other reason why the Secretary considers the revocation appropriate.

(3) PROCEDURE.—No revocation under paragraph (1) may take effect unless the Secretary—

(A) publishes notice in the Federal Register that such a revocation is under consideration and invites the submission within a reasonable time of oral and written comment from the public on the revocation; and

(B) takes into account the information received under subparagraph (A) before preparing the report required under paragraph (2).

(e) PUBLICATION.—The Secretary shall—

(1) promptly publish in the Federal Register—

(A) the name of each foreign industry and its host country identified under subsection (a);

(B) the text of the decision made under subsection (b)(2)(A) and a statement of the facts and reasons supporting the decision; and

(C) the name of each foreign industry and its host country with respect to which an identification has been revoked under subsection (d); and

(2) maintain and publish in the Federal Register a current list of all foreign industries and their respective host countries identified under subsection (a).

SEC. 6. PROHIBITION ON ENTRY.

(a) PROHIBITION.—

(1) IN GENERAL.—Except as provided in paragraph (2), during the effective identification period for a foreign industry and its host country no article that is a product of that foreign industry may be entered into the customs territory of the United States.

(2) EXCEPTION.—Paragraph (1) shall not apply to the entry of an article—

(A) for which a certification that meets the requirements of subsection (b) is provided and the article, or the packaging in which it is offered for sale, contains, in accordance with regulations prescribed by the Secretary, a label stating that the article is not a product of child labor;

(B) that is entered under any subheading in subchapter IV or VI of chapter 98 of the Harmonized Tariff Schedule of the United States (relating to personal exemptions); or

(C) that was exported from the foreign industry and its host country and was en route to the United States before the first day of the effective identification period for such industry and its host country.

(b) CERTIFICATION THAT ARTICLE IS NOT A PRODUCT OF CHILD LABOR.—

(1) FORM AND CONTENT.—The Secretary shall prescribe the form and content of documentation, for submission in connection with the entry of an article, that satisfies the Secretary that the exporter of the article in the host country, and the importer of the article into the customs territory of the United States, have undertaken reasonable

steps to ensure, to the extent practicable, that the article is not a product of child labor.

(2) REASONABLE STEPS.—For purposes of paragraph (1), ''reasonable steps'' include—

(A) in the case of the exporter of an article in the host country—

(i) having entered into a contract, with an organization described in paragraph (4) in that country, providing for the inspection of the foreign industry's facilities for the purpose of certifying that the article is not a product of child labor, and affixing a label, protected under the copyright or trademark laws of the host country, that contains such certification; and

(ii) having affixed to the article a label described in clause (i); and

(B) in the case of the importer of an article into the customs territory of the United States, having required the certification and label described in subparagraph (A) and setting forth the terms and conditions of the acquisition or provision of the imported article.

(3) WRITTEN EVIDENCE.—The documentation required by the Secretary under paragraph (1) shall include written evidence that the reasonable steps set forth in paragraph (2) have been taken.

(4) CERTIFYING ORGANIZATIONS.—

(A) IN GENERAL.—The Secretary shall compile and maintain a list of independent, internationally credible organizations, in each host country identified under section 5, that have been established for the purpose of—

(i) conducting inspections of foreign industries,

(ii) certifying that articles to be exported from that country are not products of child labor, and

(iii) labeling the articles in accordance with paragraph (2)(A).

(B) ORGANIZATION.—Each certifying organization shall consist of representatives of nongovernmental child welfare organizations, manufacturers, exporters, and neutral international organizations.

SEC. 7. PENALTIES.

(a) UNLAWFUL ACTS.—It shall be unlawful, during the effective identification period applicable to a foreign industry and its host country—

(1) to attempt to enter any article that is a product of that industry if the entry is prohibited under section 6(a)(1); or

(2) to violate any regulation prescribed under section 8.

(b) CIVIL PENALTY.—Any person who commits an unlawful act set forth in subsection (a) shall be liable for a civil penalty not to exceed $25,000.

(c) CRIMINAL PENALTY.—In addition to being liable for a civil penalty under subsection (b), any person who intentionally commits an unlawful act set forth in subsection (a) shall be, upon conviction, liable for a fine of not less than $10,000 and not more than $35,000, or imprisonment for 1 year, or both.

(d) CONSTRUCTION.—The unlawful acts set forth in subsection (a) shall be treated as violations of the customs laws for purposes of applying the enforcement provisions of the Tariff Act of 1930 (19 U.S.C. 1202 et seq.), including—

(1) the search, seizure, and forfeiture provisions;

(2) section 592 (relating to penalties for entry by fraud, gross negligence, or negligence); and

(3) section 619 (relating to compensation to informers).

SEC. 8. REGULATIONS.

The Secretary shall prescribe regulations to carry out the provisions of this Act.

SEC. 9. UNITED STATES SUPPORT FOR DEVELOPMENTAL ALTERNATIVES FOR UNDER AGE CHILD WORKERS.

In order to carry out section 2(c)(4), there is authorized to be appropriated to the President the sum of—

(1) $30,000,000 for each of fiscal years 2000 through 2004 for the United States contribution to the International Labor Organization for the activities of the International Program on the Elimination of Child Labor; and

(2) $100,000 for fiscal year 2000 for the United States contribution to the United Nations Commission on Human Rights for those activities relating to bonded child labor that are carried out by the Subcommittee and Working Group on Contemporary Forms of Slavery.

By Mr. REID:

S. 1552. A bill to eliminate the limitation on judicial jurisdiction imposed by section 377 of the Illegal Immigration Reform and Immigration Responsibility Act of 1996, and for other purposes; to the Committee on the Judiciary.

LEGAL AMNESTY RESTORATION ACT OF 1999

Mr. REID. Mr. President, I rise today to introduce the Legal Amnesty Restoration Act of 1999.

This legislation would repeal the limitation on judicial jurisdiction imposed by an obscure, but very lethal provision of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. Tucked into that massive piece of legislation was a provision, Section 377, which, in effect, stripped the Federal courts of jurisdiction to adjudicate legalization claims against the Immigration and Naturalization Service. Through this limitation, Section 377 has caused significant hardships, and denied due process and fundamental fairness, for hundreds of thousands of hard working immigrants, including several thousand in my home State of Nevada.

As a direct result of the 1996 legislation, the Ninth Circuit Court of Appeals, with its hands tied by the 377 language, issued a series of rulings in which it dismissed the claims of class members and revoked thousands of work permits and stays from deportation. In Nevada alone, up to 18,000 people had been affected. Good, hard-working people who have been in the United States and paying taxes for more than ten years, suddenly lost their jobs and the ability to support their families.

I say to my colleagues that I have met with many of these people on several occasions, and I have been, firsthand, the pain that this cruel process had caused. Men and women who once knew the dignity of a decent, legal wage have been forced to seek work underground in the effort to make ends meet. Families who lived in homes have been disrupted by an inability to pay the mortgage. Parents who had fulfilled dreams of sending their children to college have seen those dreams turn into nightmares. Children who know that something is desperately wrong by the simple fact that Mom and Dad have not been working for almost a year.

Mr. President, allow me to add a brief history of what has caused these most unfortunate consequences. During the 99th Congress, we passed the Immigration Reform and Control Act of 1986. This law provided a one-time opportunity for certain aliens already in the United States who met specific criteria to legalize their status. In order to do so, these aliens had to show that they had resided continuously in the United States since January 1, 1982.

The statute established a one-year period from May of 1987 to May of 1988, during which the INS was directed to accept and adjudicate applications from persons who wished to legalize their status. In implementing the congressionally-mandated legislation program, however, the INS created new criteria and a number of eligibility rules that were nowhere to be found in the 1986 legislation. The result was that thousands of persons who were in fact eligible for legalization were told they were ineligible or were blocked from filing legislation applications.

Several class-action lawsuits were initiated, and several federal district courts entered interim relief orders blocking deportations while the additional INS restrictions were debated in the courts. These orders also typically required the INS to grant class members temporary employment authorization pending a final resolution of the legal cases. However, by the time the Supreme Court ruled in 1993 that the INS had indeed contravened the 1986 legislation, the one-year period for applying for legalization had obviously passed.

The Court, therefore, divided these people into three different classes for the purposes of determining their standing to sue for the opportunity to submit a legalization application. These Classes are summarized as follows:

Class I: Class members who actually attempted to file applications with the Immigration and Naturalization Service, but were physically prevented from doing so. This policy has led to the term ''front-desked'' class members.

Class II: Class members who did not actually attempt to file an application, but for whom the INS's ''front-desking'' policy was a ''substantial cause'' for their failure to apply.

Class III: Class members who were discouraged from even visiting an INS office because of the INS's very publicized effort at misinforming them that they were ineligible and should not even apply.

While conceding that it had unlawfully narrowed eligibility for legalization, the INS was clearly dissatisfied with the Supreme Court decision. Consequently, the agency employed a different, much more clever approach. Rather than affording the people within these classes due process of law, the INS succeeded in slipping an obscure amendment into the massive 1996 Illegal Immigrant Reform and Responsibility Act which, in effect, stripped the federal courts of their jurisdiction over the claims of Class II and Class III

members. That provision was Section 377, and is now, unfortunately, the law of the land.

Mr. President, as I stated earlier, my legislation would repeal Section 377 of the Illegal Immigration Reform and Responsibility Act of 1996. This course of action would allow the courts, including those with the Ninth Circuit Court of Appeals where Nevada is situated, to reinstate the work permits which were revoked effective September 30, 1998. The restoration of these work permits is critical, for it would allow those immigrants who satisfy the specified criteria to financially support themselves and their families through legal employment while they seek legalized status.

In order to ensure that the Immigration and Naturalization Service implements the legalization program mandated by the Congress in 1986, my legislation would change the date of registry from 1973 to 1984. Those immigrants who were wrongfully denied the opportunity to legalize their status will finally be afforded that which they deserved thirteen years ago. Ironically, it was also during 1986 that the Congress last changed the date of registry.

Making this change, quite simply, just makes sense. We changed the date in 1986 because we recognized that undocumented immigrants who had been in the United States continuously for more than fifteen years were highly unlikely to leave. Furthermore, illegal, undocumented immigrants do not pay their fair share of taxes. This was precisely the rationale considered by the 99th Congress when it debated and passed the Immigration Reform and Control Act of 1986; legislation intentionally circumvented by the INS.

Finally, Mr. President, my legislation would extend the date of registry through 1990 for a narrow class of persons who have been subjected to fraudulent or illegal activity on the part of INS officials or employees. This aspect of my bill is very important to the immigrant community in Nevada as several local INS officials have been convicted, indicted and/or accused of illegal activity in the process of granting or denying benefits to immigrants.

Mr. President, I don't pretend that my legislation will solve all the problems of our immigration and legalization procedures. However, there comes a time when a strong, moral government of the people must make every effort to correct the mistakes of the past. My legislation simply recognizes that the United States government, through the Immigration and Naturalization Services, made some serious errors which, in the name of due process and fundamental fairness, must be remedied.

By Mr. DOMENICI (for himself and Mr. KENNEDY):

S. 1555. A bill to provide sufficient funds for the research necessary to enable an effective public health approach to the problems of youth suicide and violence, and to develop ways to intervene early and effectively with children and adolescents who suffer depression or other mental illness, so as to avoid the tragedy of suicide, violence, and longterm illness and disability; to the Committee on Health, Education, Labor, and Pensions.

PUBLIC HEALTH RESPONSE TO YOUTH SUICIDE AND VIOLENCE ACT OF 1999

Mr. DOMENICI. Mr. President, I rise today with great pleasure to introduce the ''Public Health Response to Youth Suicide and Violence Act of 1999.'' I would also like to thank my colleague Senator KENNEDY for joining me as a co-sponsor of this legislation.

All too often we read in the paper or see on TV another tragedy involving our children. These stories about violence, death, and suicide have become all too familiar and commonplace in our nation. Unfortunately, the children who commit these acts often suffer from a mental illness.

As I have said many times before the human brain is the organ of the mind and just like the other organs of our body, it is subject to illness. And just as illnesses to our other organs require treatment, so too do illnesses of the brain.

And while we have learned so much more about mental illness and medical science can accurately diagnosis mental illnesses and treat those afflicted, the same cannot be said for children and adolescents. Unfortunately, we still know very little about the causes of mental illness in children and adolescents and moreover, the appropriate treatment for these illnesses.

Before I proceed there is one thing I want to make absolutely clear: I am not for one minute saying we should lessen our focus on law enforcement or incarceration of convicted offenders. Instead, I am simply saying we might be able to prevent some of the tragedies I have mentioned if we knew more about the cause and appropriate treatment for mental illness in children and adolescents.

Today, suicide is the 3rd leading cause of death among individuals between the age of 15 to 24 and the 4th leading cause of death in those 10 to 14 years of age. Estimates show about 1 in 10 children and adolescents suffer from a mental illness that is severe enough to cause some level of impairment. Additionally, many parents with a child suffering from a serious mental disorder believe their child will become violent without appropriate treatment.

Beyond the possibility of suicide and violence, children not receiving treatment for mental disorders not only suffer, cannot learn, and may not form healthy relationships with peers or family, but face an increased likelihood of incarceration as juveniles and adults.

I have come to the conclusion that we must make a renewed investment into discovering the cause and the appropriate treatment of mental illness in children and adolescents. Why is it that certain children may be afflicted with a mental illness and others are not? What is the best course of treatment for a child diagnosed with a mental illness?

Everyone acknowledges that there is a critical lack of information in the area of child and adolescent mental illnesses and in particular the causes and appropriate treatment of such illnesses.

With this in mind, I cannot think of a better entity to take the lead in this endeavor to increase our research and understanding of child and adolescent mental illness than the National Institute of Mental Health. The Institute is already at the forefront of mental illness research and I believe it is uniquely qualified to address the connection between mental illness and youth suicide and violence.

The ''Public Health Response to Youth Suicide and Violence Act of 1999'' simply seeks to reduce incidences of youth suicide and violence through increased research by the National Institutes of Mental Health (NIMH) of children and adolescents suffering from depression or other mental illness.

By providing for increased research the Bill addresses a critical lack of knowledge in the area of child and adolescent mental illnesses and in particular the causes and appropriate treatment of such illnesses that often lead to youth suicide and violence.

The Bill authorizes $200 million for FY 2000 to expand and intensify research aimed at better understanding the underlying causes of mental disorders that lead to youth suicide and violence.

The Bill contains mandatory activities to be carried out by the Director of NIMH that include developing researchers who are trained in the area of childhood mental disorders in order to better understand the development of brain and mental disorders in children, pursue research into the relationship between mental disorders and youth violence and suicide and to develop effective treatments for these disorders.

Additionally, the Director of NIMH will work with the Director of the Centers for Disease Control and Prevention and other appropriate agencies to develop a model to train primary care physicians, nurses, school psychologists, teachers, and other responsible individuals about mental disorders in children.

The Bill also contains permissible activities the Director of NIMH may carry out that include examining the potential of public health programs that combine individual, family, and community level interventions to address suicide and violence and to identify related best practices. Additionally, the Director may develop and evaluate programs aimed at prevention, early recognition, and intervention of depression, youth suicide, and violence in diverse school and community settings.

In conclusion, I would simply restate that I believe expanding research to reduce incidences of youth suicide and violence through increased research of children and adolescents suffering from depression or other mental illness is necessary and I would urge my colleagues to support this important piece of legislation.

Mr. President, I ask unanimous consent that a copy of the bill and a summary of the bill be printed in the RECORD.

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

S. 1555

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 ''Public Health Response to Youth Suicide and Violence Act of 1999''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Suicide is the third leading cause of death among young people 15 to 24 years of age, following unintentional injuries and homicide, and is the fourth leading cause of death in those 10 to 14 years of age. Scientific research has found that there are an estimated 8 to 25 attempted suicides to 1 completion, and the strongest risk factors for attempted suicide in youth are depression and alcohol or drug use.

(2) There is a critical need for additional research into the underlying causes of youth violence-both suicide and violence against others. 50 percent of parents with a child suffering from a serious mental disorder believe their child would become violent without appropriate treatment and services.

(3) A public health model should seek to ascertain ways to identify children and adolescents who are depressed or suffering from other mental or emotional disorders that might result in violent behavior against themselves or others, as well as long-term illness disability, and to intervene before that occurs.

(4) Not enough is known about serious mental disorders in adolescents and children, devastating illnesses which often lead to school failure, suicide, and violence. A primary reason for this is the lack of trained scientific investigators in this area of research. It is critical that increased efforts be made to strengthen the scientific expertise and capability in the area of child mental disorders.

(5) About 1 in 10 children and adolescents suffer from mental illness severe enough to cause some level of impairment, but fewer than 1 in 5 of these children receives treatment. Children who go untreated not only suffer, cannot learn, and may not form healthy relationships with peers or family, but face an increased likelihood of eventual incarceration as juveniles and adults.

(6) Prevention of youth suicide and violence requires a long-term commitment to comprehensive, cost effective, and sustainable interventions directed at known risk factors, and to the evaluation of their success in diverse community settings by targeting multiple risk factors that predispose them to suicide, delinquency and violence.

(7) Much more information is needed concerning the psychotherapeutic and service system treatment of serious mental illness in children as well as barriers to appropriate and effective treatment and services for these children, in the health care and educational systems.

SEC. 3. EXPANSION OF ACTIVITIES.

Subpart 16 of part C of title IV of the Public Health Service Act (42 U.S.C. 285p et seq) is amended by adding at the end the following:

''SEC. 464U-1. EXPANSION OF RESEARCH ACTIVITIES WITH RESPECT TO CHILDREN.

''(a) IN GENERAL.—The Director of the National Institute of Mental Health shall use amounts made available under this section to carry out activities to expand and intensify research aimed at better understanding the underlying developmental and other causes of mental disorders that lead to youth suicide and violence.

''(b) MANDATORY ACTIVITIES.—To carry out the purpose described in subsection (a), the Director of the Institute shall—

''(1) work to develop investigators who are trained in the area of childhood mental disorders in order to continue the effort to understand the developing brain and mental disorders in children and to strengthen the capacity to ascertain the factors underlying suicide and other violent behavior in youth;

''(2) expand support for basic research that has led to a better understanding of the structure, function and circuitry of the brain, and which promises to yield even more understanding as neuroimaging techniques become even more sophisticated;

''(3) carry out activities to further encourage research to clarify—

''(A) the relationship between mental disorders and youth violence and suicide;

''(B) the first emergence of mental illnesses in children, including schizophrenia, bipolar disorder, and obsessive-compulsive disorder;

''(C) effective early treatments for such illnesses and disorders; and

''(D) in collaboration with the Director of the Centers for Mental Health Services, where appropriate, the manner in which to effectively disseminate information derived under this paragraph to care-providers in the community;

''(4) in order to address the major problem of lack of recognition of mental disorders, and to ensure appropriate diagnosis and treatment, continue to encourage, in collaboration with the Administrator of the Agency for Health Care Policy and Research, where appropriate, services research aimed at better understanding the impact of mental disorders on children, on their families, on the health care system, and on schools as well as services research aimed at improving care-provider and educator knowledge of mental disorders in children;

''(5) seek to develop, conduct research on, and in collaboration with the Director of the Center for Mental Health Services, where appropriate, disseminate information about, mechanisms for avoiding the inappropriate criminalization of children with mental disorders and the appropriate treatment of any such children in criminal settings;

''(6) in collaboration with the Director of the Centers for Disease Control and Prevention, carry out additional activities to better understand the scope and effect of childhood mental disorders, including epidemiological monitoring and surveillance of childhood mental illness, suicide and incidence of violence;

''(7) in collaboration with the Director of the Centers for Disease Control and Prevention, families dealing with mental illness in their children, and other appropriate agencies, carry out activities to develop a model curriculum of education about mental disorders in children for use in the training of primary care physicians, nurses, school psychologists, teachers, and others individuals responsible for the care of children on an ongoing basis; and

''(8) in collaboration with the Director of the Centers for Disease Control and Prevention, establish a system to provide technical assistance to schools and communities to provide public health information and best practices to enable such schools and communities to handle high-risk youth.

''(c) PERMISSIBLE ACTIVITIES.—To carry out the purpose described in subsection (a), the Director of the Institute may carry out activities—

''(1) relating to research concerning the effects of early trauma and exposure to violence on further childhood development;

''(2) that ensure that the goals of all intervention development under this section include a focus on both effectiveness and sustainability;

''(3) for the development and evaluation of programs aimed at prevention, early recognition, and intervention for depression, youth suicide and violence in diverse school and community settings to determine their effectiveness and sustainability;

''(4) to examine the feasibility of public health programs combining individual, family and community level interventions to address suicide and violence and identify related best practices; and

''(5) to disseminate information to families, schools, and communities concerning the recognition of childhood depression, suicide risk, substance abuse, and Attention Deficit Hyperactivity Disorder in order to decrease the stigma associated with seeking help for such conditions.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $200,000,000 for fiscal year 2000, and such sums as may be necessary for each of fiscal years 2001 through 2004.''.

PUBLIC HEALTH RESPONSE TO YOUTH SUICIDE AND VIOLENCE ACT OF 1999

The Bill seeks to reduce incidences of youth suicide and violence through increased research by the National Institutes of Mental Health (NIMH) of children and adolescents suffering from depression or other mental illness.

By providing for increased research the Bill addresses a critical lack of knowledge in the area of child and adolescent mental illnesses and in particular the causes and appropriate treatment of such illnesses that often lead to youth suicide and violence.

THE NEED FOR INCREASED RESEARCH INTO CHILD AND ADOLESCENT MENTAL ILLNESS

Tody suicide is the 3rd leading cause of death among individuals between the age of 15 to 24 and about 1 in 10 children and adolescents suffer from a mental illness that is severe enough to cause some level of impairment.

Beyond possible suicide and violence, children not receiving treatment for mental disorder not only suffer, cannot learn, and may not form healthy relationships with peers or family, but face an increased likelihood of incarceration as juveniles and adults.

INCREASED RESEARCH BY THE NATIONAL INSTITUTE FOR MENTAL HEALTH

The Bill authorizes $200 million for FY 2000 and such sums as may be necessary thereafter to expand and intensify research aimed at better understanding the underlying causes of mental disorders that lead to youth suicide and violence.

Mandatory activities by the Director of NIMH include developing researchers who are trained in the area of childhood mental disorders in order to better understand the development of brain and mental disorders in children. Pursue research into the relationship between mental disorders and youth violence and suicide and to develop effective treatments for these disorders.

Additionally, the Director or NIMH will work with the Director of the Centers for Disease Control and Prevention and other appropriate agencies to develop a model to train primary care physicians, nurses, school psychologists, teachers, and other responsible individuals about mental disorders in children.

Permissible activities by the Director of NIMH include examining the potential of public health programs that combine individual, family, and community level interventions to address suicide and violence to identify related best practices. Additionally, the Director may carry out activities that develop and evaluate programs aimed at prevention, early recognition, and intervention of depression, youth suicide, and violence in diverse school and community settings.

Mr. KENNEDY. Mr. President, it is a privilege to join Senator ABRAHAM as a sponsor of the INS Reform and Border Security Act. This legislation will remedy many of the problems that currently plague the Immigration and Naturalization Service. It will ensure strong enforcement of our immigration laws, and also ensure that immigration and citizenship services are provided expeditiously and with greater respect for dignity of those who benefit from these services.

These two missions—enforcement and services—are equally important. Both are suffering under the current INS structure. The services are in especially dire straits. Over two million would-be US citizens are now trapped in an INS backlog. Individuals languish for years waiting for their naturalization and permanent resident applications to be processed. Files are lost. Fingerprints go stale. Courteous behavior is too often the exception, rather than the rule. Application fees continue to increase—yet poor service and long delays continue as well.

On the enforcement side, the immigration laws are being applied inconsistently. Detention and parole policies and procedures vary widely from district to district. All too frequently, national priorities and directives are ignored at the district level.

Many of these problems are not new. During Commissioner Doris Meissner's impressive tenure, the INS has made significant progress in trying to address the agency's problems. She has done an excellent job under the current structure. But, that structure has proven to be unworkable.

The goal of INS Reform and Border Security Act is to put the INS house in order. It will untangle the overlapping and often confusing organizational structure of the agency and replace it with two clear chains of command—one for enforcement and the other for services. These two equally important divisions will report, through their respective directors, to an Associate Attorney General who will head the Immigration Affairs Agency. This shared central authority over the two branches will ensure a uniform and harmonious immigration policy. Coordination of the two branches is imperative for the efficient functioning of the agency, and for maintaining a coherent immigration policy.

There is strong bipartisan agreement that the INS must be reformed. But restructuring must be done right. Successful reform must separate the enforcement and service functions while maintaining a strong central authority for uniform policy-making, clear accountability, and fiscal responsibility. The INS Reform and Border Security Act accomplishes these aims. The new immigration will be a major improvement over the current INS. I urge my colleagues to join in supporting the INS Reform and Border Security Act.

By Mr. REED (for himself, Mrs. MURRAY, Mr. KENNEDY, Mr. HARKIN, and Mr. BINGAMAN):

S. 1556. A bill to amend the Elementary and Secondary Education Act of 1965 to strengthen the involvement of parents in the education of their children, and for the other purposes; to the Committee on Heath, Education, Labor, and Pensions.

PARENTAL ACCOUNTABILITY, RECRUITMENT, AND EDUCATION NATIONAL TRAINING ACT OF 1999

Mr. REED. Mr. President, I rise today to introduce the Parental Accountability, Recruitment, and Education National Training (PARENT) Act of 1999, which seeks to increase parental involvement in the educational lives of their children.

Mr. President, research, experience, and reason tell us that providing parents with opportunities to play active roles in their children's schools empowers them to help their children excel. When parents are actively involved in their child's education, not only do their own children go further, but their child's school also improves to the benefit of all students. And, as I have witnessed in Rhode Island, and I am sure my colleagues can attest to this in their home states, our best schools are not simply those with the finest teachers and principals, but those which strive to engage parents in the education of their children.

A recent National PTA survey revealed that 91% of parents recognize the importance of involvement in their children's schools. Unfortunately, even as we extol the virtue of parental involvement, we must recognize that reality falls far short of the goal. The National PTA survey also found that roughly half the parents surveyed felt they were inadequately informed about ways in which they could participate in schools, or even gain access to basic information about their children's studies and their children's teachers. There are also other obstacles to greater parental involvement, such as working parents who find it difficult to get to schools and be involved or parents who have had negative schooling experiences and are wary of entering schools to participate in their children's education.

With 73% of parents favoring a federal effort to help schools get parents more involved with their children's education, the upcoming reauthorization of the Elementary and Secondary Education Act (ESEA) provides an opportunity to help bring schools and parents together, and to ensure parents have the tools to meaningfully and effectively get involved in their children's education. While the ESEA currently contains parental involvement provisions, they mainly apply to Title I schools and students, and have not been fully implemented.

That is why I am pleased to be joined by Senators MURRAY, KENNEDY, HARKIN, and BINGAMAN and Representative LYNN WOOLSEY in the other body in introducing the PARENT Act. This legislation would amend the Elementary and Secondary Education Act (ESEA) to bolster existing and add new parental involvement provisions.

The PARENT Act requires that all schools implement effective, research-based parental involvement best practices. It also seeks to improve parental access to information about their children's education and the school's parental involvement policies; ensure that professional development activities provide training to teachers and administrators on how to foster relationships with parents and encourage parental involvement; utilize technology to expand efforts to connect schools and teachers with parents; and promote parental involvement in drug and violence prevention programs. In addition, the PARENT Act requires any state seeking funding under ESEA to describe, implement, and evaluate parental involvement policies and practices.

To succeed in the endeavor of increasing parental involvement, we must depend on parents, teachers, and school administrators throughout the country to work collaboratively to implement effective programs. However, federal leadership is needed to provide schools, teachers, and parents with the tools adequate to this task.

Mr. President, the bottom line of federal support for education is to increase student achievement. Parental involvement is an essential component to ensuring that our students succeed. This legislation is strongly supported by the National PTA, and I urge my colleagues to join Senators MURRAY, KENNEDY, HARKIN, BINGAMAN, and me in supporting the PARENT Act, and working for its inclusion in the ESEA reauthorization.

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

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

S. 1556

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 ''Parental Accountability, Recruitment, and Education National Training Act of 1999''.

SEC. 2. REFERENCES.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment

to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.).

SEC. 3. FINDINGS.

Congress makes the following findings:

(1) Parents are the first and most influential educators of their children.

(2) The Federal Government must provide leadership, technical assistance, and financial support to States and local educational agencies, as partners, in helping the agencies implement successful and effective parental involvement policies and programs that lead to improved student achievement.

(3) State and local education officials, as well as teachers, principals, and other staff at the school level, must work as partners with the parents of the children they serve.

(4) Research has documented that, regardless of the economic, ethnic, or cultural background of the family, parental involvement in a child's education is a major factor in determining success in school.

(5) Parental involvement in a child's education contributes to positive outcomes such as improved grades and test scores, higher expectations for student achievement, better school attendance, improved homework completion rates, decreased violence and substance abuse, and higher rates of graduation and enrollment in postsecondary education.

(6) Numerous education laws now require meaningful parental involvement, including title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), the Goals 2000: Educate America Act (20 U.S.C. 5801 et seq.), the Head Start Act (42 U.S.C. 9831 et seq.), and the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), and elements of these laws should be extended to other Federal education programs.

SEC. 4. BASIC PROGRAMS.

(a) STATE PLAN.—Section 1111 (20 U.S.C. 6311) is amended—

(1) in subsection (b)(2)(B)(ii), by striking ''other measures'' and inserting ''academic achievement and other measures, such as a school or local educational agency's responsibilities under sections 1118 and 1119'';

(2) in subsection (c)(1)(B), by inserting before the semicolon the following: '', and parental involvement under section 1118'';

(3) by redesignating subsections (d) through (g) as subsections (e) through (h), respectively; and

(4) by inserting after subsection (c) the following:

''(d) PARENTAL INVOLVEMENT.—Each State plan shall demonstrate that the State has identified or developed effective research-based best practices designed to foster meaningful parental involvement. Such best practices shall—

''(1) be disseminated to all schools and local educational agencies in the State;

''(2) be implemented in all schools in the State; and

''(3) address the full range of parental involvement activities required under section 1118.''.

(b) LOCAL EDUCATIONAL AGENCY PLANS.—Section 1112 (20 U.S.C. 6312) is amended—

(1) in subsection (c)(1)—

(A) by redesignating subparagraphs (D) through (H) as subparagraphs (E) through (I); and

(B) by inserting after subparagraph (C) the following:

''(D) work in consultation with schools as the schools develop and implement their plans or activities under sections 1118 and 1119;''; and

(2) in subsection (e)(3), by inserting before the period the following: ''and if such agency's parental involvement activities are in accordance with section 1118''.

(c) SCHOOLWIDE PROGRAMS.—Section 1114 (20 U.S.C. 6314) is amended—

(1) in subsection (b)(1)(E), by inserting after ''involvement'' the following: ''in accordance with section 1118''; and

(2) in subsection (b)(2)(A)(iv), by inserting after ''results'' the following: ''in a language the family can understand''.

(d) TARGETED ASSISTANCE.—Section 1115(c)(1)(H) (20 U.S.C. 6315(c)(1)(H)) is amended by inserting after ''involvement'' the following: ''in accordance with section 1118''.

(e) ASSESSMENTS.—Section 1116 (20 U.S.C. 6317) is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively;

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

''(3) review the effectiveness of the actions and activities the schools are carrying out under this part with respect to parental involvement, professional development, and other activities assisted under this Act;''; and

(C) in paragraph (4) (as redesignated by subparagraph (3))—

(i) by inserting ''of yearly progress'' after ''annual review''; and

(ii) by striking ''of all'' and inserting ''and the review conducted under paragraph (3), with respect to all'';

(2) in subsection (c)(4), by inserting after ''elements of student performance problems'' the following: '', that addresses school problems, if any, in implementing the parental involvement requirements in section 1118 and the professional development requirements in section 1119,''; and

(3) in subsection (d)(1)—

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

(B) by redesignating subparagraph (B) as subparagraph (C);

(C) by inserting after subparagraph (A) the following:

''(B) annually review the effectiveness of the action or activities carried out under this part by each local educational agency receiving funds under this part with respect to parental involvement, professional development, and other activities assisted under this Act; and''; and

(D) in subparagraph (C) (as redesignated by subparagraph (B))—

(i) by inserting ''of yearly progress'' after ''State review''; and

(ii) by inserting '', and of the review conducted under subparagraph (B)'' after ''1111(b)(3)(I)''.

(f) STATE ASSISTANCE.—Section 1117 (20 U.S.C. 6318) is amended—

(1) in subsection (a)(1), by inserting ''parental involvement,'' after ''including''; and

(2) in subsection (c)—

(A) in paragraph (1)(C)—

(i) by inserting ''parents,'' after ''including''; and

(ii) by inserting ''parental involvement programs,'' after ''successful''; and

(B) by inserting at the end the following:

''(4) PARENTAL INVOLVEMENT.—Each State shall collect and disseminate effective parental involvement practices to local educational agencies and schools. Such practices shall—

''(A) be based on the most current research on effective parental involvement that fosters achievement to high standards for all children;

''(B) be geared toward lowering barriers to greater participation in school planning, review, and improvement experienced by parents; and

''(C) be implemented by the State in local educational agencies and schools requesting such assistance from the State.''.

(g) PARENTAL INVOLVEMENT.—Section 1118 (20 U.S.C. 6319) is amended—

(1) in subsection (a)(2)(B), by inserting before the semicolon the following: ''activities that will lead to improved student achievement for all students'';

(2) in subsection (b)(1), by inserting before the last sentence the following: ''Parents shall be notified of the policy in their own language.'';

(3) in subsection (e)(1), by striking ''participating parents'' and inserting ''all parents of children served by the school or agency, as appropriate,'';

(4) in subsection (g), by adding at the end the following: ''Such local educational agencies and schools may use information, technical assistance, and other support from the parental information and resource centers to create parent resource centers in schools.''; and

(5) by adding at the end the following:

''(h) STATE REVIEW.—The State educational agency shall review the local educational agency's parental involvement policies and practices to determine if such policies and practices are meaningful and targeted to improve home and school communication, student achievement, and parental involvement in school planning, review, and improvement.''.

SEC. 5. PROFESSIONAL DEVELOPMENT.

(a) PURPOSES.—Section 2002(2) (20 U.S.C. 6602(2)) is amended—

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

(2) in subparagraph (F), by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

''(G) incorporates training in effective practices in order to encourage and offer opportunities to get parents involved in their child's education in ways that will foster student achievement and well-being; and

''(H) includes special training for teachers and administrators to develop the skills necessary to work most effectively with parents.''.

(b) AUTHORIZED ACTIVITIES.—Section 2102(c) (20 U.S.C. 6622(c)) is amended—

(1) in paragraph (13), by striking ''and'' after the semicolon;

(2) in paragraph (14), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(15) the development and dissemination of model programs that teach teachers and administrators how best to work with parents and how to encourage the parent's involvement in the full range of parental involvement activities described in section 1118.''.

(c) STATE APPLICATIONS.—Section 2205(b)(2) (20 U.S.C. 6645(b)(2)) is amended—

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

(2) by redesignating subparagraph (O) as subparagraph (P); and

(3) by inserting after subparagraph (N) the following:

''(O) describe how the State will train teachers to foster relationships with parents and encourage parents to become collaborators with schools in their children's education; and''.

(d) STATE-LEVEL ACTIVITIES.—Section 2207 (20 U.S.C. 6647) is amended—

(1) by redesignating paragraphs (12) and (13) as (13) and (14), respectively; and

(2) by inserting after paragraph (11) the following:

''(12) providing professional development programs that enable teachers, administrators, and pupil services personnel to effectively communicate with and involve parents in the education process to support

school planning, review, improvement, and classroom instruction, and to work effectively with parent volunteers;''.

(e) LOCAL PLAN AND APPLICATION FOR IMPROVING TEACHING AND LEARNING.—Section 2208 (20 U.S.C. 6648) is amended—

(1) in subsection (c)(2), by inserting ''parents,'' after ''administrators,''; and

(2) in subsection (d)(1)—

(A) by redesignating subparagraphs (I) and (J) as subparagraphs (J) and (K), respectively; and

(B) by inserting after subparagraph (H) the following:

''(I) describe the specific professional development strategies that will be implemented to improve parental involvement in education and how such agency will be held accountable for implementing such strategies.''.

(f) LOCAL ALLOCATION.—Section 2210(b)(3) (20 U.S.C. 6650(b)(3)) is amended—

(1) by redesignating subparagraphs (P) and (Q) as subparagraphs (Q) and (R), respectively; and

(2) by inserting after subparagraph (O) the following:

''(P) professional development activities designed to enable teachers, administrators, and pupil services personnel to communicate with parents regarding student achievement on assessments.''.

SEC. 6. TECHNOLOGY FOR EDUCATION.

(a) FINDINGS.—Section 3111 (20 U.S.C. 6811) is amended—

(1) in paragraph (6), by inserting ''and by facilitating mentor relationships,'' after ''by means of telecommunications,'';

(2) in paragraph (14), by striking ''and'' after the semicolon;

(3) in paragraph (15), by striking the period and inserting a semicolon; and

(4) by adding at the end the following:

''(16) access to education technology and teachers trained in how to incorporate the technology into their instruction leads to improved student achievement, motivation, and school attendance;

''(17) the use of technology in education can enhance the educational opportunities schools can offer students with special needs; and

''(18) the introduction of education technology increases parental involvement, which has been shown to improve student achievement.''.

(b) STATEMENT OF PURPOSE.—Section 3112 (20 U.S.C. 6812) is amended—

(1) in paragraph (11), by striking ''and'' after the semicolon;

(2) in paragraph (12), by striking the period and inserting ''; and''; and

(3) by adding after paragraph (12), the following:

''(13) development and support for technology and technology programming that will enhance and facilitate meaningful parental involvement.''.

(c) NATIONAL LONG-RANGE TECHNOLOGY PLAN.—Section 3121(c)(4) (20 U.S.C. 6831(c)(4)) is amended—

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

(2) in subparagraph (F), by inserting ''and'' after the semicolon; and

(3) by adding at the end the following:

''(G) increased parental involvement in schools through the use of technology;''.

(d) FEDERAL LEADERSHIP.—Section 3122(c) (20 U.S.C. 6832(c)) is amended—

(1) in paragraph (15), by striking ''and'' after the semicolon;

(2) in paragraph (16), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(17) the development, demonstration, and evaluation of model technology programs designed to improve parental involvement.''.

(e) LOCAL USES OF FUNDS.—Section 3134 (20 U.S.C. 6844) is amended—

(1) in paragraph (5), by striking ''and'' after the semicolon;

(2) in paragraph (6), by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

''(7) utilizing technology to develop or expand efforts to connect schools and teachers with parents to promote meaningful parental involvement and foster increased communication about curriculum, assignments, and assessments; and

''(8) providing ongoing training and support for parents to help the parents learn and use the technology being applied in their children's education, so as to equip the parents to reinforce and support their children's learning.''.

(f) LOCAL APPLICATIONS.—Section 3135 (20 U.S.C. 6845) is amended—

(1) in paragraph (1)(D)—

(A) in clause (i), by striking ''and'' after the semicolon;

(B) in clause (ii), by inserting ''and'' after the semicolon; and

(C) by adding at the end the following:

''(iii) a description of how parents will be informed of, and trained in, the use of technologies, so that the parents will be equipped to reinforce at home the instruction their children receive at school;'';

(2) in paragraph (3)—

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

(B) by adding at the end the following:

''(C) improve parental involvement in schools;'';

(3) in paragraph (4)(B), by striking the period and inserting ''; and''; and

(4) by adding at the end the following:

''(5) describe how the local educational agency will effectively use technology to promote parental involvement and increase communication with parents.''.

(g) NATIONAL CHALLENGE GRANTS.—Section 3136(c) (20 U.S.C. 6846(c)) is amended—

(1) in paragraph (4), by striking ''and'' after the semicolon;

(2) in paragraph (5), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(6) the project will enhance parental involvement by providing parents the means and the skills needed to more fully participate in their child's learning.''.

SEC. 7. DRUG-FREE SCHOOLS AND COMMUNITIES.

(a) STATE APPLICATIONS.—Section 4112 (20 U.S.C. 7112) is amended—

(1) in subsection (b)—

(A) in paragraph (3), by inserting '', including how the agency will receive input from parents regarding the use of such funds'' after ''4113(b)''; and

(B) in paragraph (6), by inserting '', and how such review will include input from parents'' after ''4115''; and

(2) in subsection (c)—

(A) in paragraph (5), by striking ''and'' after the semicolon;

(B) in paragraph (6), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(7) a specific description of how input from parents will be sought regarding the use of funds under section 4114(a).''.

(b) EVALUATION AND REPORTING.—Section 4117 (20 U.S.C. 7117) is amended—

(1) in subsection (b)(1)—

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

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

(C) by adding at the end the following:

''(C) on the State's efforts to inform parents of and include parents in violence and drug prevention efforts.''; and

(2) in the first sentence of subsection (c), by striking the period and inserting ''and a description of how parents were informed of and participated in violence and drug prevention efforts.''.

SEC. 8. INNOVATIVE EDUCATION PROGRAM STRATEGIES.

(a) DEFINITION.—Section 6003 (20 U.S.C. 7303) is amended—

(1) by striking ''children, and (3)'' and inserting ''children, (3) adopting meaningful parental involvement policies and practices, and (4)''; and

(2) by adding at the end the following:

''(F) A climate that promotes meaningful parental involvement in the classroom and in site-based activities.''.

(b) STATE APPLICATIONS.—Section 6202(a) (20 U.S.C. 7332(a)) is amended—

(1) in paragraph (6), by striking ''and'' after the semicolon;

(2) in paragraph (7), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(8) provides information on the parental involvement policies and practices promoted by the State.''.

(c) TARGETED USES OF FUNDS.—Section 6301(b) (20 U.S.C. 7351(b)) is amended—

(1) in paragraph (8), by striking ''and'' after the semicolon;

(2) in paragraph (9), by striking the period and inserting ''; and''; and

(3) by inserting after paragraph (9) the following:

''(10) programs to promote the meaningful involvement of parents.''.

(d) LOCAL APPLICATIONS.—Section 6303(a)(1)(A) (20 U.S.C. 7353(a)(1)(A)) is amended by inserting '', including parental involvement,'' before ''designed''.

SEC. 9. GENERAL PROVISIONS.

(a) DEFINITION.—Section 14101 (20 U.S.C. 8801) is amended—

(1) by redesignating paragraphs (23) through (29) as paragraphs (24) through (30), respectfully; and

(2) by inserting after paragraph (22) the following:

''(23) PARENTAL INVOLVEMENT.—The term 'parental involvement' means the participation of parents on all levels of a school's operation, including all of the activities described in section 1118.''.

(b) PARENTAL INVOLVEMENT.—Title XIV (20 U.S.C. 8801 et seq.) is amended by adding at the end the following:

''PART H—PARENTAL INVOLVEMENT

''SEC. 14901. PARENTAL INVOLVEMENT.

''(a) STATE PARENTAL INVOLVEMENT PLAN.—In order to receive Federal funding for any program authorized under this Act, a State educational agency shall (as part of a consolidated application, or other State plan or application submitted under this Act) submit to the Secretary—

''(1) a description of the agency's parental involvement policies, consistent with section 1118, including specific details about—

''(A) how Federal funds will be used to implement such policies; and

''(B) successful research-based practices in schools throughout the State; and

''(2) a description of how such policies will be evaluated with respect to increased parental involvement in the schools throughout the State.

''(b) PARENTAL REVIEW OF STATE PARENTAL INVOLVEMENT PLAN.—Prior to making the submission described in subsection (a), a State educational agency shall involve parents in the development of the policies described in such subsection by—

''(1) providing public notice of the policies in a manner and language understandable to parents;

''(2) providing the opportunity for parents and other interested individuals to comment on the policies; and

''(3) including the comments received with the submission.

''(c) LANGUAGE APPLICABILITY.—Each State educational agency and local educational agency that is required to establish a parental involvement plan or policy under a program assisted under this Act shall make available, to the parents of children eligible to participate in the program, the plan or policy in the language most familiar to the parents and in an easily understandable manner.''.

Mr. KENNEDY. Mr. President, I commend Senator REED for introducing this important legislation. I am proud to co-sponsor this bill to ensure that parents have a stronger role in the education of their children.

The first and most important teachers in children's lives are their parents. It is parents who help children begin learning about the world. It is parents who provide motivation and encouragement for academic success. And it is parents who provide indispensable lessons of character. The central role that parents play in the lives of their children requires strong parental involvement in education.

Involving parents in education increases the achievement of all students. Research has repeatedly shown that a child with an involved parent is more likely to attend school regularly, is less likely to engage in violence or substance abuse, and will do better academically and on standardized tests. These fundamental principles apply without regard to the economic status or ethnic background of the parents.

Parental involvement is also a vital part of a child's literacy. Children excel in reading when reading is a regular part of their early education. Students who have a greater array of reading material in the home have higher reading achievement.

We know that increased parental involvement works. In Worcester, the Belmont Community School has instituted a school-wide reading initiative called ''Books and Beyond,'' which is helping children improve their reading skills and encourage their desire to read. Its success is largely due to special workshops and classes for parents, which emphasizes parental involvement, adult literacy training, and strong parent-school partnerships.

The Hueco Elementary School in El Paso, Texas, supports parent involvement in a number of ways. It offers parenting classes throughout the year, including training for parents to support learning at home. It works to increase communication with parents through a Parent Communication Council that meets monthly. Hueco has also hired a successful parent coordinator to help teachers involve parents. This effort has paid off. Now parents have a strong role in the school. They participate in classroom instruction, and they are able to improve their own education. Average attendance has risen to 97 percent. Students whose parents attend workshops and participate in other activities have more success in school and fewer disciplinary problems.

The federal government has a responsibility to be part of the effort to enhance parental involvement. The legislation we are introducing will help states and school districts to create strong ties with parents. It strengthens parental involvement programs in Title I, and encourages schools to use proven techniques for helping teachers and parents work together. It also provides support for connecting schools and parents through technology, and it increases the role of parents in the Safe and Drug-Free Schools and Communities program.

Strong parent involvement will help ensure strong schools. We should do all we can to make sure that federal support for improving public schools provides a strong role for parents. By doing so, we help create the brighter future that all the nation's children deserve.

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

S. 1558. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit for holders of Community Open Space bonds the proceeds of which are used for qualified environmental infrastructure projects, and for other purposes; to the Committee on Commerce, Science, and Transportation.

COMMUNITY OPEN SPACE BONDS ACT OF 1999

Mr. BAUCUS. Mr. President, I am pleased to introduce the Community Open Space Bonds Act of 1999 with my colleague, the senior Senator from Utah. This bill is designed to give state and local governments more resources to protect open space, preserve water quality, and redevelop brownfield sites. It provides communities with zero-cost financing options for those activities in an entirely voluntary and locally-driven way. There is no Federal land-use planning involved.

The demand for these kinds of community-protection and quality of life activities is plain to see. Open space ballot initiatives in last year's elections were hugely successful. States and local governments set aside nearly $7.5 billion over the next several years to deal with environmental issues raised by growth. Smart growth planning ideas are sweeping the nation. States are steering their investments to preserving open space and encouraging smarter development.

These ideas are coming straight from state and local officials and community leaders. People are discussing how they want their communities to look and feel for the first time in decades. Last fall, a state-wide conference in my home state entitled ''Big Sky or Big Sprawl'' brought together Montanans from all over the state to exchange ideas on how to prepare for growth and keep our state ''the last best place.''

This new attention to the impacts of growth is happening for many reasons. Some claim that transportation planning has not kept up with communities' needs for choices and access, causing congestion and lost productivity. Some say that building codes and subdivision regulations have encouraged the development of agricultural and open space areas at the expense of existing suburbs. Some maintain that the tax code drives development in outlying areas while urban and downtown business districts fail. Others suggest that the Federal government's policies on location of post offices and Federal offices has pushed growth out of small and large cities alike.

Whatever the cause, growth is exploding across the land. For instance, Los Angeles' land use grew by 300 percent between 1970 and 1990, while population grew by only 45 percent. In the same period, Cleveland actually lost 11 percent of its population, but grew by 33 percent in size.

The problem is not growth per se, but the inefficient way that current growth is using today's infrastructure. Some cities like Bozeman, Montana, have had to resort to impact assessment fees in the outlying areas so that the established city's system would not have to subsidize growth away from the already built up areas. The challenge is to encourage growth while maintaining open space and other factors that make our communities desirable places to live and work.

Because of our quality of life in the West, people are moving there in droves. We pride ourselves on having lots of space and we want growth.

But, growth in environmentally sensitive and water restricted areas poses some unique problems. We have vast amounts of public land that are getting harder and harder to access as growth crowds these areas. That means fewer hunters, fishermen, hikers, and outdoor enthusiasts, can use these lands easily.

One result of this growth is that the character of the West is changing rapidly. For instance, Montana grew faster than the rest of the nation in the 1990s. That rate of growth, especially when it is concentrated in a small number of areas, concerns people. They start turning to their state and local government representatives for action to preserve the character of their communities.

A recent poll showed that most Americans believe that government at all levels could do a better job of protecting and creating parks and conserving open space. That same poll showed that they are willing to pay for such programs and that they view these programs as a relatively high priority. Leaders at all levels of government should heed these results.

Mr. President, the bill we are introducing today is intended to help address this need. We want to give communities the flexible resources they need to creatively manage growth-related problems at the local level.

In developing the Community Open Space Bonds Act of 1999, we started with the proposal included in the Administration's FY2000 budget request. We have improved upon it to make it more responsive to local needs and to be equitable in its treatment of small and Western communities.

However, the basic idea is still the same. States and local governments, including tribal governments, can compete for the authority to issue bonds on which the Federal government will pay the interest costs. The proceeds from the sale of the bonds can be used to acquire open space, build parks, protect water quality, improve access to public lands and redevelop brownfield areas. Up to $1.9 billion in bonding authority could be issued over each of the next five years. The Federal government would pay the interest costs by giving bondholders a tax credit against their income at the corporate AA credit rate.

Rather than having Federal agencies making all the decisions about who gets bonding authority, we are establishing a Community Open Space Bonds Board. This Board will be dominated by non-Federal interest, such as Governors, County Commissioners, Mayors, etc. and will be given specific guidance to use in developing application criteria. This guidance will stress the need for an equitable distribution of bonding authority to all regions of the country and to all sizes of communities and for all the different qualifying purposes. We have also guaranteed that each state or a community in such a state will get at least one allocation of bonding authority per year.

We think these modifications improve the original proposal and are worthy of support by our colleagues from both sides of the aisle. We stand ready to work with them to address their concerns and get this bill enacted.

Mr. President, local governments across the country are looking for new and low-cost ways to maintain and preserve the quality of life in their area. Community Open Space Bonds are a great opportunity for all our citizens to improve the long term health and economic viability of our communities. I am hopeful we can pursue this opportunity in a bipartisan and constructive way.

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. 1558

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 ''Community Open Space Bonds Act of 1999''.

SEC. 2. CREDIT FOR HOLDERS OF COMMUNITY OPEN SPACE BONDS.

(a) IN GENERAL.—Part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to credits against tax) is amended by adding at the end the following new subpart:

''Subpart H—Nonrefundable Credit for Holders of Community Open Space Bonds

''Sec. 54. Credit to holders of Community Open Space bonds.

''SEC. 54. CREDIT TO HOLDERS OF COMMUNITY OPEN SPACE BONDS.

''(a) ALLOWANCE OF CREDIT.—In the case of a taxpayer who holds a Community Open Space bond on a credit allowance date which occurs during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to credit allowance dates during such year on which the taxpayer holds such bonds.

''(b) AMOUNT OF CREDIT.—

''(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any credit allowance date for a Community Open Space bond is an amount equal to the product of—

''(A) the credit rate determined by the Secretary under paragraph (2), multiplied by

''(B) the face amount of the bond held by the taxpayer on the credit allowance date.

''(2) DETERMINATION.—During each calendar month, the Secretary shall determine a credit rate which shall apply to bonds issued during the following calendar month. The credit rate for any 3-month period ending on a credit allowance date is the percentage which the Secretary estimates will on average equal the yield on corporate bonds outstanding on the day before the date of such determination.

''(3) SPECIAL RULE FOR ISSUANCE AND REDEMPTION.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed.

''(c) LIMITATION BASED ON AMOUNT OF TAX.—

''(1) IN GENERAL.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this part (other than this subpart and subpart C).

''(2) CARRYFORWARD OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to each of the 5 taxable years following the unused credit year and added to the credit allowable under subsection (a) for each such taxable year, subject to the application of paragraph (1) to such taxable year.

''(d) COMMUNITY OPEN SPACE BOND.—For purposes of this section—

''(1) IN GENERAL.—The term 'Community Open Space bond' means any bond issued as part of an issue if—

''(A) 95 percent or more of the proceeds of such issue are to be used for a qualified environmental infrastructure project,

''(B) the bond is issued by a State or local government,

''(C) the issuer—

''(i) designates such bond for purposes of this section,

''(ii) has a reasonable expectation that at least 10 percent of the proceeds of such issue will be spent for qualifying environmental infrastructure projects within 6 months of the date such bonds are issued,

''(iii) certifies such proceeds will be used with due diligence for qualified environmental infrastructure projects, and

''(iv) has a reasonable expectation that any property acquired or improved in connection with the proceeds of such issue, other than property improved in connection with a qualified environmental infrastructure project described in paragraph (2)(A)(v), shall continue to be dedicated to a qualified use for a period of not less than 15 years from the date of such issue,

''(D) such bond satisfies public approval requirements similar to the requirements of section 147(f)(2),

''(E) except as provided in paragraph (4)(B), the payment of the principal of such issue is secured by taxes of general applicability imposed by a general purpose governmental unit, and

''(F) the term of each bond which is part of such issue does not exceed 15 years.

''(2) QUALIFIED ENVIRONMENTAL INFRASTRUCTURE PROJECT.—

''(A) IN GENERAL.—The term 'qualified environmental infrastructure project' means—

''(i) acquisition of qualified property for use as open space, wetlands, public parks, or greenways, or to improve access to public lands by non-motorized means,

''(ii) construction, rehabilitation, or repair of a visitor facility in connection with qualified property, including nature centers, campgrounds, and hiking or biking trails,

''(iii) remediation of qualified property to enhance water quality by—

''(I) restoring natural hydrology or planting trees and streamside vegetation,

''(II) controlling erosion,

''(III) restoring wetlands, or

''(IV) treating conditions caused by the prior disposal of toxic or other waste,

''(iv) acquisition of a qualified easement in order to maintain the use and character of the property in connection to which such easement is granted as open space, including an easement to allow access to public land by non-motorized means, and

''(v) environmental assessment and remediation of real property and public infrastructure owned by a governmental unit and located in an area where or on which there has been a release (or threat of release) or disposal of any hazardous substance (within the meaning of section 198), but not including any property described in subparagraph (D).

''(B) QUALIFIED PROPERTY.—The term 'qualified property' means real property—

''(i) which is, or is to be, owned by—

''(I) a governmental unit, or

''(II) an organization described in section 501(c)(3) and exempt from taxation under section 501(a) and which has as one if its purposes environmental preservation, and

''(ii) which is reasonably anticipated to be available for use by members of the general public, unless such use would change the character of the property and be contrary to the qualified use of the property.

''(C) SAFE HARBOR FOR MANAGEMENT CONTRACTS.—For purposes of subparagraph (B), property shall not be treated as qualified property if any rights or benefits of such property inure to a private person other than rights or benefits under a management contract or similar type of operating agreement to which rules similar to the rules applicable to tax-exempt bonds apply.

''(D) CERCLA PROPERTY.—Property is described in this subparagraph if any portion of such property is included, or proposed to be included, in the national priorities list under section 105(a)(8)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605(a)(8)(B)).

''(E) LIMIT ON DISPOSITION OF PROPERTY.—Any disposition of any interest in property

acquired or improved in connection with a qualified environmental project described in this paragraph (except a project described in subparagraph (A)(v)) shall contain an option (recorded pursuant to applicable State or local law) to purchase such property for an amount equal to the original acquisition price of such property for any interested organizations described in subparagraph (B)(i)(II) if such organization purchases such property subject to a restrictive covenant requiring a continued qualified use of such property.

''(3) TEMPORARY PERIOD EXCEPTION.—

''(A) IN GENERAL.—A bond shall not be treated as failing to meet the requirement of paragraph (1)(A) solely by reason of the fact that the proceeds of the issue of which such bond is a part—

''(i) are invested for a reasonable temporary period (but not more than 36 months) until such proceeds are needed for the purpose for which such issue was issued, or

''(ii) are used within 90 days of the close of such temporary period to redeem bonds which are a part of such issue.

Any earnings on such proceeds during the period under clause (i) shall be treated as proceeds of the issue for purposes of applying paragraph (1)(A).

''(B) INVESTMENT OF PROCEEDS.—For purposes of subparagraph (A), proceeds shall only be invested in—

''(i) Government securities, and

''(ii) in the case of a sinking fund established by the issuer, State and local government securities issued by the Treasury.

''(4) SPECIAL RULES FOR PROJECTS DESCRIBED IN PARAGRAPH (2)(A)(v).—

''(A) LIMIT ON USE OF PROCEEDS FOR PROJECT.—This subsection shall not apply to any bond issued as part of an issue if an amount of the proceeds from such issue are used for a qualified environmental infrastructure project described in paragraph (2)(A)(v) and involving public infrastructure in excess of an amount equal to 5 percent of the total amount of such proceeds used for all projects described in such paragraph (2)(A)(v).

''(B) PRIVATE USE AND REPAYMENT OF PROCEEDS.—In the case of proceeds of an issue which are used for a qualified environmental infrastructure project described in paragraph (2)(A)(v), the issue of which such bonds are a part shall not fail to meet the requirements of this subsection solely because the proceeds of a disposition of any interest in such property are used to redeem such bonds as long as the purchaser of such property makes an irrevocable election not to claim any deduction with respect to such project under section 198.

''(5) RECAPTURE OF CREDIT AMOUNT.—

''(A) IN GENERAL.—If, during the taxable year, any bond that is part of an issue under this section fails to meet the requirements of this subsection—

''(i) such bond shall not be treated as a Community Open Space bond for such taxable year and any succeeding taxable year, and

''(ii) the issuer of such bond shall be liable for payment to the United States of the credit recapture amount.

Such payment shall be made at such time and in such manner as determined by the Secretary.

''(B) CREDIT RECAPTURE AMOUNT.—For purposes of subparagraph (A), the credit recapture amount is an amount equal to the sum of—

''(i) the aggregate amount of credit allowed with respect to such bond for the 3 preceding taxable years, plus

''(ii) interest (at the underpayment rate established under section 6621) on the credit amount from the date such credit was allowed to the payment date under subparagraph (A).

''(e) LIMITATIONS ON AMOUNT OF BONDS DESIGNATED.—

''(1) IN GENERAL.—There is a Community Open Space bond limitation for each calendar year equal to—

''(A) $1,900,000,000 for each of years 2000 through 2004, and

''(B) except as provided in paragraph (3), zero after 2004.

''(2) ALLOCATION OF LIMITATION AMONG STATES AND LOCAL GOVERNMENTS.—

''(A) IN GENERAL.—The limitation amount to be allocated under paragraph (1) for any calendar year shall be allocated among States and local governments with an approved application on a competitive basis by the Community Open Space Bonds Board (referred to in this subsection as the 'Board') established under section 3 of the Community Open Space Bonds Act of 1999.

''(B) APPROVED APPLICATION.—For purposes of subparagraph (A), the term 'approved application' means an application which is approved by the Board, and which includes such information as the Board requires.

''(C) ALLOCATION TO EACH STATE.—The Board shall, in accordance with the criteria for approval of applications, allocate amounts in any calendar year to at least 1 approved application from each State, or local government of such State, which submits such application.

''(3) CARRYOVER OF UNUSED LIMITATION.—If for any calendar year—

''(A) the limitation amount under paragraph (1), exceeds

''(B) the aggregate limitation amount allocated to States and local governments under this section,

the limitation amount under paragraph (1) for the following calendar year shall be increased by the amount of such excess. No limitation amount shall be carried forward under this paragraph more than 3 years.

''(f) OTHER DEFINITIONS; SPECIAL RULES.—For purposes of this subpart—

''(1) BOND.—The term 'bond' includes any obligation.

''(2) CREDIT ALLOWANCE DATE.—The term 'credit allowance date' means—

''(A) March 15,

''(B) June 15,

''(C) September 15, and

''(D) December 15.

Such term includes the last day on which the bond is outstanding.

''(3) QUALIFIED EASEMENT.—The term 'qualified easement' means a perpetual easement—

''(A) which would be a qualified conservation contribution under section 170(h) if such easement were a contribution under such section, and

''(B) which is to be held by an entity described in subclause (I) or (II) of subsection (d)(2)(B)(i).

''(4) QUALIFIED USE.—The term 'qualified use' means, with respect to property, a use which is consistent with the purpose of the qualified environmental infrastructure project related to such property.

''(5) STATE.—The term 'State' includes the District of Columbia, any possession of the United States, and any Indian tribe (as defined in section 45A(c)(6)).

''(6) PARTNERSHIP; S CORPORATION; AND OTHER PASS-THRU ENTITIES.—Under regulations prescribed by the Secretary, in the case of a partnership, trust, S corporation, or other pass-thru entity, rules similar to the rules of section 41(g) shall apply with respect to the credit allowable under subsection (a).

''(g) CREDIT INCLUDED IN GROSS INCOME.—Gross income includes the amount of the credit allowed to the taxpayer under this section and the amount so included shall be treated as interest income.

''(h) BONDS HELD BY REGULATED INVESTMENT COMPANIES.—If any Community Open Space bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

''(i) CREDITS MAY BE STRIPPED.—Under regulations prescribed by the Secretary—

''(1) IN GENERAL.—There may be a separation (including at issuance) of the ownership of a Community Open Space bond and the entitlement to the credit under this section with respect to such bond. In case of any such separation, the credit under this section shall be allowed to the person which, on the credit allowance date, holds the instrument evidencing the entitlement to the credit and not to the holder of the bond.

''(2) CERTAIN RULES TO APPLY.—In the case of a separation described in paragraph (1), the rules of section 1286 shall apply to the Community Open Space bond as if it were a stripped bond and to the credit under this section as if it were a stripped coupon.

''(j) TREATMENT FOR ESTIMATED TAX PURPOSES.—Solely for purposes of sections 6654 and 6655, the credit allowed by this section to a taxpayer by reason of holding a Community Open Space bond on a credit allowance date shall be treated as if it were a payment of estimated tax made by the taxpayer on such date.

''(k) CREDIT MAY BE TRANSFERRED.—Nothing in any law or rule of law shall be construed to limit the transferability of the credit allowed by this section through sale and repurchase agreements.

''(l) REPORTING.—Issuers of Community Open Space bonds shall submit reports similar to the reports required under section 149(e).''

(b) REPORTING.—Subsection (d) of section 6049 of the Internal Revenue Code of 1986 (relating to returns regarding payments of interest) is amended by adding at the end the following:

''(8) REPORTING OF CREDIT ON COMMUNITY OPEN SPACE BONDS.—

''(A) IN GENERAL.—For purposes of subsection (a), the term 'interest' includes amounts includible in gross income under section 54(f) and such amounts shall be treated as paid on the credit allowance date (as defined in section 54(f)(2)).

''(B) REPORTING TO CORPORATIONS, ETC.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A) of this paragraph, subsection (b)(4) of this section shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i).

''(C) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.''

(c) CLERICAL AMENDMENTS.—

(1) The table of subparts for part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''Subpart H. Nonrefundable Credit for Holders of Community Open Space Bonds.''

(2) Section 6401(b)(1) of such Code is amended by striking ''and G'' and inserting ''G, and H''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 1999.

SEC. 3. COMMUNITY OPEN SPACE BONDS BOARD.

(a) ESTABLISHMENT.—There is established in the Executive Branch a board to be known

as the Community Open Space Bonds Board (in this section referred to as the ''Board'').

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Board shall be composed of 18 members, as follows:

(A) 3 members shall be individuals who are not otherwise Federal officers or employees and who are appointed by the President, by and with the advice and consent of the Senate.

(B) 8 members, not be affiliated with the same political party, shall be individuals who represent Governors, or other chief executive officers, of a State, mayors, and county commissioners and who are appointed by the President, by and with the advice and consent of the Senate.

(C) 1 member shall be the Administrator of the Environmental Protection Agency or the Administrator's designee.

(D) 1 member shall be the Secretary of Agriculture or the Secretary's designee.

(E) 1 member shall be the Secretary of Housing and Urban Development or the Secretary's designee.

(F) 1 member shall be the Secretary of Interior or the Secretary's designee.

(G) 1 member shall be the Secretary of Transportation or the Secretary's designee.

(H) 1 member shall be the Secretary of the Treasury or the Secretary's designee.

(I) 1 member shall be the Director of the Federal Emergency Management Agency or the Director's designee.

(2) QUALIFICATIONS AND TERMS.—

(A) QUALIFICATIONS.—Members of the Board described in paragraph (1)(A) shall be appointed without regard to political affiliation and solely on the basis of their professional experience and expertise in 1 or more of the following areas:

(i) Tax-exempt organizations which have as a principal purpose environmental protection and land conservation.

(ii) Community planning.

(iii) Real estate investment and bond financing.

In the aggregate, the members of the Board described in paragraph (1)(A) should collectively bring to bear expertise in all of the areas described in the preceding sentence and should represent each position contained in such paragraph and different regions of the country.

(B) TERMS.—Each member who is described in subparagraph (A) or (B) of paragraph (1) shall be appointed for a term of 3 years, except that of the members first appointed—

(i) 3 member shall be appointed for a term of 1 year,

(ii) 4 members shall be appointed for a term of 2 years, and

(iii) 4 members shall be appointed for a term of 3 years.

(C) REAPPOINTMENT.—An individual who is described in subparagraph (A) or (B) of paragraph (1) may be appointed to no more than one 3-year term on the Board.

(D) VACANCY.—Any vacancy on the Board shall be filled in the same manner as the original appointment. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of that term.

(3) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Board have been appointed, the Board shall hold its first meeting. Subsequent meetings shall be determined by the Board by majority vote or held at the call of the Chairperson.

(4) QUORUM.—A majority of the members of the Board shall constitute a quorum, but a lesser number of members may hold hearings.

(5) CHAIRPERSON.—The member described in paragraph (1)(C) shall serve as the Chairperson of the Board.

(6) REMOVAL.—

(A) IN GENERAL.—Any member of the Board appointed under subparagraph (A) or (B) of paragraph (1) may be removed at the will of the President.

(B) SECRETARIES; DIRECTOR; ADMINISTRATOR.—An individual described in subparagraphs (C) through (I) of paragraph (1) shall be removed upon termination of service in the office described in each such subparagraph.

(c) DUTIES OF THE BOARD.—

(1) IN GENERAL.—The Board shall review applications for allocation of the Community Open Space bond limitation amounts under section 54(e)(2) of the Internal Revenue Code of 1986 and approve applications in accordance with published criteria.

(2) CRITERIA FOR APPROVAL.—The Board shall promulgate a regulation to develop criteria for approval of applications under paragraph (1), taking into consideration the following guidelines:

(A) A distribution pattern of the overall limitation amount available for the year which results in the financing of each category of qualified environmental infrastructure project and results in an even distribution among different regions of the country and sizes of communities.

(B) State or local government support of proposed projects.

(C) Proposed projects which meet local and regional environmental protection or planning goals and leverage or make more efficient or innovative the use of other public or private resources.

(D) Proposed projects which are intended to maintain the viability of existing central business districts, preserve the community's distinct character and values, and encourage the reuse of property already served by public infrastructure.

(E) The extent of expected improvement in environmental quality, outdoor recreation opportunities, and access to public lands.

(3) ANNUAL REPORT.—The Board shall annually report with respect to the conduct of its responsibilities under this section to the President and Congress and such report shall include—

(A) the overall progress of the Community Open Space bond program, and

(B) the overall limitation amount allocated during the year and a description of the amount, region, and qualified environmental infrastructure project financed by each allocation.

(4) CONFLICT OF INTEREST.—The Board shall carry out its duties under this subsection in such a way to ensure that all conflicts of interest of its members are avoided.

(d) POWERS OF THE BOARD.—

(1) HEARINGS.—The Board may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Board considers advisable to carry out the purposes of this section.

(2) INFORMATION FROM FEDERAL AGENCIES.—The Board may secure directly from any Federal department or agency such information as the Board considers necessary to carry out the provisions of this section, including the published and unpublished data and analytical products of the Bureau of Labor Statistics. Upon request of the Chairperson of the Board, the head of such department or agency shall furnish such information to the Board.

(3) POSTAL SERVICES.—The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(e) BOARD PERSONNEL MATTERS.—

(1) COMPENSATION OF MEMBERS.—Each member of the Board who is not otherwise an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level III of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Board. All members of the Board who otherwise are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(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.—

(A) IN GENERAL.—The Chairperson of the Board may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Board to perform its duties. The employment of an executive director shall be subject to confirmation by the Board.

(B) COMPENSATION.—The Chairperson of the Board may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level IV of the Executive Schedule under section 5316 of such title.

(4) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Board without additional reimbursement (other than the employee's regular compensation), and such detail shall be without interruption or loss of civil service status or privilege.

(5) 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, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

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

(1) STATE.—The term 'State' includes the District of Columbia, any possession of the United States, and any Indian tribe (as defined in section 45A(c)(6)).

(2) QUALIFIED ENVIRONMENTAL INFRASTRUCTURE PROJECT.—The term 'qualified environmental infrastructure project' has the same meaning given that term in section 54(d)(2) of the Internal Revenue Code of 1986.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Board such sums as are necessary to carry out the purposes of this section.

(h) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(2) INITIAL NOMINATIONS.—The President shall submit the initial nominations under subparagraphs (A) and (B) of subsection (b)(1) to the Senate not later than 90 days after the date of the enactment of this Act.

(3) REGULATIONS.—Not later than January 1, 2000, the Board shall publish in the Federal

Register the guidelines and criteria for submission and approval of applications under subsection (c).

By Mr. LAUTENBERG:

S. 1559. A bill to amend title 49, United States Code, to enhance the safety of motor carrier operations and the Nation's highway system, including highway-rail crossings, by amending existing safety laws to strengthen commercial driver licensing, to improve compliance, and for other purposes; to the Committee on Commerce, Science, and Transportation.

MOTOR CARRIER SAFETY ACT OF 1999

Mr. LAUTENBERG. Mr. President, I rise to introduce legislation to save lives on our highways the Motor Carrier Safety Act of 1999.

Every year over 5000 people die due to truck and bus accidents. Since 1992, violent truck crash fatalities have increased more than 18 percent. Large trucks are only three percent of the total national vehicle fleet—but 22 percent of all passenger vehicle deaths in multiple-vehicle crashes involve trucks.

Whether we share the road with a truck or ride on an interstate bus, Americans need to be sure their nation's roads are safe.

Last December in New Jersey, three intercity buses crashed in five days. That accident rate is unacceptable. We can and must prevent these accidents with stronger oversight of commercial drivers' licenses and the carriers that operate both bus and truck companies.

Mr. President, my legislation addresses our commercial vehicle death epidemic with a multi-faceted approach to combating this problem.

First, my legislation institutes a strong Commercial Driver's License (CDL) program. All convictions for moving violations, whether in a commercial vehicle or not, are put on the truck or bus drivers' record. A new applicant must have a alcohol and drug free driving record for 3 years before receiving a CDL. All new drivers would be required to have in-vehicle training. It would authorize up to a 5 percent transfer of state's Federal highway funds to motor carrier safety programs if a state does not institute the new CDL program.

Second, the legislation focuses on the carriers. All new carriers are required to have training on the Federal Motor Carrier Safety regulations before they receive authority to operate. To close unsafe carriers, they are required to submit information to target high-risk operations and the definition of a hazardous carrier is strengthened.

Third, the installation of on-board recorders or other technologies to manage drivers' hours-of-service will be required.

Fourth, the legislation supports improve data collection and research for safety issues including vehicle safety and driver performance, (2) improved crash data, and (3) driver compensation and safety.

Fifth, the legislation funds grassroots safety campaigns to raise public awareness of the importance of motor carrier safety and discourage drivers from taking safety risks.

Finally, the legislation has both incentives for the states to implement motor carrier safety improvements and rewards to the states who improve motor carrier safety fatalities by five percent of the previous year.

Mr. President, we must do more to prevent unnecessary deaths caused by the lack of oversight of commercial vehicles.

With this legislation, citizens will feel more secure about driving on our roads and highways.

I hope that my colleagues will join me in support of this legislation.

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

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

S. 1559

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

TITLE I—MOTOR CARRIER SAFETY

SEC. 101. SHORT TITLE.

This title may be cited as the ''Motor Carrier Safety Act of 1999''.

SEC. 102. COMMERCIAL DRIVERS' LICENSES.

(a) DRIVER'S LICENSE CRITERIA.—Section 31305(a) of title 49, United States Code, is amended by—

(1) striking ''and'' after the semicolon in paragraph (7);

(2) redesignating paragraph (8) as paragraph (9); and

(3) adding a new paragraph (8) after paragraph (7) as follows:

''(8) shall ensure that an individual who operates or will operate a commercial motor vehicle has received training, including in-vehicle training, in the safe operation of a motor vehicle of the type the individual operates or will operate; and''.

(b) MOVING TRAFFIC VIOLATIONS.—Section 31311(a) of title 49, United States Code, is amended by—

(1) redesignating paragraph (17) as paragraph (18); and

(2) adding a new paragraph (17) after paragraph (16) as follows:

''(17) The State shall record on a driver's commercial driver's license record each conviction for a moving traffic violation, including such a conviction for a violation committed in a noncommercial motor vehicle.''.

(c) DRUG- OR ALCOHOL-RELATED VIOLATIONS.—Section 31311(a) of title 49, United States Code, is further amended by adding a new paragraph at the end as follows:

''(19) The State may not issue a commercial driver's license to an individual within 3 years after the date the individual was convicted of any drug- or alcohol-related traffic violation, including a conviction for a violation committed in a noncommercial motor vehicle.''.

(d) DIVERSION OR SPECIAL LICENSING PROGRAMS.—Section 31311(a)(10) of title 49, United States Code, is amended by adding a new sentence at the end as follows: ''The State may not issue a special license or permit to a commercial driver's license holder that permits the driver to drive a commercial motor vehicle during a period in which the individual is disqualified from operating a commercial motor vehicle or the individual's driver's license is revoked, suspended, or canceled.''.

(e) TRANSFER OF AMOUNTS FOR STATE NONCOMPLIANCE.—(1) Section 31314 of title 49, United States Code, is amended to read as follows:

''§ 31314. Transfer of amounts for State noncompliance

''(a) IN GENERAL.—On October 1, 2001, or as soon thereafter as practicable, and each October 1 thereafter, if a State has not complied substantially with all requirements of section 31311(a) of this title, the Secretary of Transportation shall transfer up to 5 percent of the amount required to be apportioned to the State on that date under each of paragraphs (1), (3), and (4) of section 104(b) of title 23 to the amount made available to the State to carry out section 31102.

''(b) TRANSFER OF OBLIGATION AUTHORITY.—If the Secretary transfers under this section any funds to the apportionment to a State under section 31102 of this title for a fiscal year, the Secretary shall transfer an equal amount of obligation authority distributed for the fiscal year to the State.

''(c) LIMITATION ON APPLICABILITY OF OBLIGATION LIMITATION.—Notwithstanding any other provision of law, no limitation on the total of obligations to carry out section 31102 of this title shall apply to funds transferred under this section to the apportionment of a State under such section.''.

(2) Item 31314 in the analysis of chapter 313 of title 49, United States Code, is amended to read as follows:

''31314. Transfer of amounts for State noncompliance.''.

SEC. 103. SAFETY FITNESS OF OWNERS AND OPERATORS.

Section 31144(b)(1) of title 49, United States Code, is amended by inserting the following before the period at the end of that paragraph: '', including a requirement that no owner or operator that begins commercial motor vehicle operations after the date of enactment of this section will be determined to be fit unless such owner or operator has attended a program for the education of owners and operators that covers, at a minimum, safety, size and weight, and financial responsibility regulations administered by the Secretary. The Secretary shall assess a fee to defray the cost of the program. The Secretary may use third parties to provide the education program.''.

SEC. 104. REDISTRIBUTION OF UNUSED FEDERAL-AID OBLIGATION AUTHORITY.

Section 1102(d) of the Transportation Equity Act for the 21st Century (Public Law 105–178) is amended by inserting at the end the following: '', except that, beginning in fiscal year 2001 through fiscal year 2003, no redistribution shall be made to a State that fails to reduce the number of fatalities in a year resulting from commercial motor vehicle crashes by at least 5 percent, based on the most recent year for which such data are available compared to the previous year. For purposes of this section 'commercial motor vehicle' has the meaning specified in section 31301 of title 49, United States Code.''.

SEC. 105. ON-BOARD RECORDERS.

(a) FEDERAL REGULATIONS.—The Secretary of Transportation, after notice and opportunity for comment, shall issue regulations requiring, as appropriate, the installation and use of on-board recorders or other technologies on commercial motor vehicles to manage the hours of service of drivers.

(b) DEFINITIONS.—In this section ''commercial motor vehicle'' has the meaning specified in section 31132 of title 49, United States Code.

(c) DEADLINES.—The regulations required under subsection (a) of this section shall be

developed pursuant to a rulemaking proceeding initiated within 120 days after enactment of this section and shall be issued not later than 2 years after the date of enactment.

SEC. 106. DRIVER COMPENSATION AND SAFETY STUDY.

(a) STUDY.—The Secretary of Transportation shall conduct a study to identify methods used to compensate drivers of commercial motor vehicles, examine how different methods may affect safety and compliance with Federal and State motor carrier safety requirements, including hours of service regulations, and identify ways safety could be improved through changes in driver compensation. Such study should include an examination of compensation incentives which could improve safety and compliance with safety regulations.

(b) CONSULTATION.—In carrying out the study, the Secretary shall consult with private and for-hire motor carriers, independent owner operators, organized labor, drivers, safety organizations, and State and local governments.

(c) REPORT.—Not later than 3 years after the date of enactment of this section, the Secretary shall transmit to Congress a report on the results of the study with any recommendations the Secretary determines appropriate as a result of the study.

(d) AVAILABILITY OF AMOUNTS.—$250,000 per fiscal year for fiscal years 2001 through 2003 are made available from the Highway Trust Fund (other than the Mass Transit Account) for the Secretary of Transportation to carry out this section.

(e) CONTRACT AUTHORITY; DATE AVAILABLE FOR OBLIGATION.—The amounts made available by this section from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section shall be available for obligation on October 1, or as soon thereafter as practicable, of the fiscal year for which they are available for obligation.

SEC. 107. PUBLIC INFORMATION AND EDUCATION.

The Secretary of Transportation shall expend from administrative funds deducted under section 104(a) of title 23, United States Code, not more than $500,000 for each fiscal year, beginning in fiscal year 2001, to carry out public information and education programs to prevent crashes involving commercial motor vehicles. The Secretary shall make grants to at least 3 entities from among States, local governments, law enforcement organizations, private sector entities, nonprofit organizations, or commercial motor vehicle driver organizations to develop and implement programs to discourage drivers of commercial motor vehicles and drivers of passenger vehicles and motor carriers from taking safety risks. Such programs may be based on methods used in other public safety campaigns to improve driver performance.

SEC. 108. PERIODIC REFILING OF MOTOR CARRIER IDENTIFICATION REPORTS.

(a) FEDERAL REGULATIONS.—The Secretary of Transportation shall amend section 385.21 of title 49, Code of Federal Regulations, to require periodic updating of the Motor Carrier Identification Report, Form MCS–150, by each motor carrier conducting operations in interstate or foreign commerce.

(b) AVAILABILITY OF AMOUNTS.—$5,500,000 per year, for fiscal years 2001 through 2003, are made available from the Highway Trust Fund (other than the Mass Transit Account) to the Secretary of Transportation to carry out this section.

(c) ADMINISTRATIVE COSTS.—The Secretary may use, for the administration of this section, amounts made available under subsection (b) of this section for each of fiscal years 2001 through 2003.

(d) CONTRACT AUTHORITY; DATE AVAILABLE FOR OBLIGATION.—The amounts made available by this section from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section shall be available for obligation on October 1, or as soon thereafter as practicable, of the fiscal year for which they are available for obligation.

SEC. 109. AIDING AND ABETTING.

(a) Chapter 5 of title 49, United States Code, is amended by inserting the following after section 526:

"§ 527. Aiding and abetting

''A person who knowingly aids, abets, counsels, commands, induces, or procures a violation of a regulation or order issued by the Secretary of Transportation under chapter 311 or section 31502 of this title shall be subject to civil and criminal penalties under this chapter to the same extent as the motor carrier or driver who commits a violation.''.

(b) The analysis of chapter 5 of title 49, United States Code, is amended by adding the following at the end:

''527. Aiding and abetting.''.

SEC. 110. IMMINENT HAZARD.

Section 521(b)(5) of title 49, United States Code, is amended by revising subparagraph (B) to read as follows:

''(B) In this paragraph 'imminent hazard' means any violation, or series of violations, of the statutes or regulations specified in subparagraph (A) of this paragraph that could result in a highway crash if not discontinued within 24 hours.''.

SEC. 111. INNOVATIVE TRAFFIC LAW PILOT PROGRAM.

(a) PILOT PROGRAM.—The Secretary of Transportation shall carry out a pilot program in cooperation with 1 or more States to develop innovative methods of improving compliance with traffic laws, including those pertaining to highway-rail grade crossings. Such methods may include the use of photography and other imaging technologies.

(b) REPORT.—Not later than 3 years after the start of the pilot program, the Secretary shall transmit to Congress a report on the results of the pilot program, together with any recommendations as the Secretary determines appropriate.

(c) AVAILABILITY OF AMOUNTS.—$500,000 per year, for fiscal years 2001 through 2003, are made available from the Highway Trust Fund (other than the Mass Transit Account) to the Secretary of Transportation to carry out this section.

(d) CONTRACT AUTHORITY; DATE AVAILABLE FOR OBLIGATION.—The amounts made available by this section from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section shall be available for obligation on October 1, or as soon thereafter as practicable, of the fiscal year for which they are made available for obligation.

SEC. 112. RESEARCH ON HEAVY VEHICLE SAFETY AND DRIVER PERFORMANCE.

(a) RESEARCH ON HEAVY VEHICLE SAFETY AND DRIVER PERFORMANCE.—The Secretary, through the National Highway Traffic Safety Administration, shall conduct research on heavy vehicle safety, including measures to improve braking and stability, measures to improve vehicle compatibility in crashes between heavier and lighter vehicles, and measures to improve the performance of motor vehicle drivers.

(b) AVAILABILITY OF AMOUNTS.—$5,000,000 per year, for fiscal years 2001 through 2003, are made available from the Highway Trust Fund (other than the Mass Transit Account) to the Secretary of Transportation to carry out this section.

(c) CONTRACT AUTHORITY; DATE AVAILABLE FOR OBLIGATION.—The amounts made available by this section from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section shall be available for obligation on October 1, or as soon thereafter as practicable, of the fiscal year for which they are made available for obligation.

SEC. 113. IMPROVED DATA ANALYSIS SYSTEM.

(a) IN GENERAL.—The Secretary of Transportation shall carry out a program, in cooperation with the States, to improve the collection and analysis of data on crashes involving commercial vehicles.

(b) PROGRAM ADMINISTRATION.—The Secretary shall administer the program through the National Highway Traffic Safety Administration, which shall be responsible for entering into agreements with the States to collect data, train State employees to assure the quality and uniformity of the data, and report the data by electronic means to a central data repository.

(c) PROGRAM DEVELOPMENT.—The National Highway Traffic Safety Administration and the Federal Highway Administration shall develop a data program in cooperation with the States, motor carriers, and other data users to determine data needs; develop data definitions to assure high-quality, compatible data; and create an accessible database that will improve commercial vehicle safety. The program should also incorporate driver citation and conviction information into the data system. Emphasis should also be placed on highway and traffic data.

(d) USE OF DATA.—The National Highway Traffic Safety Administration shall be responsible for integrating the data; generating reports from the data; and making the database available electronically to the Federal Highway Administration, the States, motor carriers, and other interested parties for problem identification, program evaluation, planning, and other safety-related activities.

(e) REPORT.—Not later than 3 years after the start of the improved data program, the Secretary shall transmit to Congress a report on the program, together with any recommendations as the Secretary determines appropriate.

(f) AVAILABILITY OF AMOUNTS.—Of the amounts made available under section 31107 of title 49, United States Code, $10,000,000 per year, for fiscal years 2001 through 2003, may be used by the Secretary of Transportation to carry out this section.

(g) CONTRACT AUTHORITY; DATE AVAILABLE FOR OBLIGATION.—The amounts made available by this section from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section shall be available for obligation on October 1, or as soon thereafter as practicable, of the fiscal year for which they are made available for obligation.

SEC. 114. AUTHORIZATIONS—FISCAL YEARS 2001 THROUGH 2003.

(a) GRANTS.—Section 31104(a) of title 49, United States Code, is amended by revising paragraphs (4) through (6) to read as follows:

''(4) Not more than $125,500,000 for fiscal year 2001.

''(5) Not more than $130,500,000 for fiscal year 2002.

''(6) Not more than $135,500,000 for fiscal year 2003.''.

(b) INFORMATION SYSTEMS.—Section 31107(a) of title 49, United States Code, is amended by—

(1) striking ''and'' in paragraph (2); and

(2) revising paragraphs (3) and (4) to read as follows:

''(3) $36,500,000 for each of fiscal years 2001 and 2002; and

''(4) $39,500,000 for fiscal year 2003.''.

TITLE II—HIGHWAY-RAIL GRADE CROSSING SAFETY

SEC. 201. SHORT TITLE.

This title may be cited as the ''Highway-Rail Grade Crossing Safety Act of 1999''.

SEC. 202. EMERGENCY NOTIFICATION OF GRADE CROSSING PROBLEMS.

Section 20152 of title 49, United States Code, is amended to read as follows:

''§ 20152. Emergency notification of grade crossing problems

''(a) PROGRAM.—(1) The Secretary of Transportation shall promote the establishment of emergency notification systems utilizing toll-free telephone numbers that the public can use to convey to railroad carriers, either directly or through public safety personnel, information about malfunctions of automated warning devices or other safety problems at highway-rail grade crossings.

''(2) To assist in encouraging widespread use of such systems, the Secretary may provide technical assistance and enter into cooperative agreements. Such assistance shall include appropriate emphasis on the public safety needs associated with operation of small railroads.

''(b) REPORT.—Not later than 24 months following enactment of the Highway-Rail Grade Crossing Safety Act of 1999, the Secretary shall report to Congress the status of such emergency notification systems, together with any recommendations for further legislation that the Secretary considers appropriate.

''(c) CLARIFICATION OF TERM.—In this section, the use of the term 'emergency' does not alter the circumstances under which a signal employee subject to the hours of service law limitations in chapter 211 of this title may be permitted to work up to 4 additional hours in a 24-hour period when an 'emergency' under section 21104(c) of this title exists and the work of that employee is related to the emergency.''.

SEC. 203. VIOLATION OF GRADE CROSSING SIGNALS.

(a) IN GENERAL.—Section 20151 of title 49, United States Code, is amended—

(1) by amending the section heading to read as follows:

''§ 20151. Strategy to prevent railroad trespassing and vandalism and violation of grade crossing signals'';

(2) in subsection (a)—

(A) by striking ''and vandalism affecting railroad safety'' and inserting '', vandalism affecting railroad safety, and violations of highway-rail grade crossing signals'';

(B) by inserting '', concerning trespassing and vandalism,'' after ''such evaluation and review''; and

(C) by inserting ''The second such evaluation and review, concerning violations of highway-rail grade crossing signals, shall be completed not later than 1 year after the date of enactment of the Highway-Rail Grade Crossing Safety Act of 1999'' after ''November 2, 1994.'';

(3) in the subsection heading of subsection (b), by inserting ''FOR TRESPASSING AND VANDALISM PREVENTION'' after ''OUTREACH PROGRAM'';

(4) in subsection (c)—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(B) by inserting ''(1)'' after ''MODEL LEGISLATION.—''; and

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

''(2) Not later than 2 years after the date of enactment of the Highway-Rail Grade Crossing Safety Act of 1999, the Secretary, after consultation with State and local governments and railroad carriers, shall develop and make available to State and local governments model State legislation providing for civil or criminal penalties, or both, for violations of highway-rail grade crossing signals.''; and

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

''(d) DEFINITION.—In this section 'violation of highway-rail grade crossing signals' includes any action by a motor vehicle operator, unless directed by an authorized safety office—

''(1) to drive around or through a grade crossing gate in a position intended to block passage over railroad tracks;

''(2) to drive through a flashing grade crossing signal;

''(3) to drive through a grade crossing with passive warning signs without determining that the grade crossing could be safely crossed before any train arrives; and

''(4) in the vicinity of a grade crossing, that creates a hazard of an accident involving injury or property damage at the grade crossing.''.

(b) CONFORMING AMENDMENT.—The item relating to section 20151 in the table of sections for subchapter II of chapter 201 of title 49, United States Code, is amended to read as follows:

''20151. Strategy to prevent railroad trespassing and vandalism and violation of grade crossing signals.''.

SEC. 204. NATIONAL HIGHWAY-RAIL CROSSING INVENTORY.

(a) AMENDMENT.—Subchapter II of chapter 201 of title 49, United States Code, is amended by adding at the end the following:

''§ 20154. National highway-rail crossing inventory

''(a) MANDATORY INITIAL REPORTING OF CROSSING INFORMATION.—No later than September 30, 2001, each railroad carrier shall—

''(1) report to the Secretary of Transportation certain information, as specified by the Secretary by rule or order issued after notice and opportunity for public comment or by guidelines, concerning each highway-rail crossing through which the carrier operates; or

''(2) otherwise ensure that the information has been reported to the Secretary by that date.

''(b) MANDATORY PERIODIC UPDATING OF CROSSING INFORMATION.—On a periodic basis beginning no later than September 30, 2003, and not less often than September 30 of every third year thereafter, or as otherwise specified by the Secretary of Transportation by rule or order issued after notice and opportunity for public comment or by guidelines, each railroad carrier shall—

''(1) report to the Secretary certain current information, as specified by the Secretary by rule or order issued after notice and opportunity for public comment or by guidelines, concerning each highway-rail grade crossing through which it operates; or

''(2) otherwise ensure that the information has been reported to the Secretary by that date.

''(c) DEFINITIONS.—In this section—

''(1) 'highway-rail crossing' means a location within a State where a public highway, road, street, or private roadway, including associated sidewalks and pathways, crosses 1 or more railroad tracks either at grade or grade separated; and

''(2) 'State' means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.''.

(b) TABLE OF SECTIONS AMENDMENT.—The table of sections for chapter 201 of title 49, United States Code, is amended by adding after item 20153 the following:

''20154. National highway-rail crossing inventory.''.

(c) AMENDMENT.—Section 130 of title 23, United States Code, is amended—

(1) by amending the section heading to read as follows:

''§ 130. Highway-rail crossings'';

and

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

''(k) NATIONAL HIGHWAY-RAIL CROSSING INVENTORY.—

''(1) MANDATORY INITIAL REPORTING OF CROSSING INFORMATION.—No later than September 30, 2001, each State shall—

''(A) report to the Secretary of Transportation certain information, as specified by the Secretary by rule or order issued after notice and opportunity for public comment or by guidelines, concerning each highway-rail crossing located within its borders; or

''(B) otherwise ensure that the information has been reported to the Secretary by that date.

''(2) MANDATORY PERIODIC UPDATING OF CROSSING INFORMATION.—On a periodic basis beginning no later than September 30, 2003, and not less often than by September 30, of every third year thereafter, or as otherwise specified by the Secretary of Transportation by rule or order issued after notice and opportunity for public comment or by guidelines, each State shall—

''(A) report to the Secretary certain current information, as determined by the Secretary by rule or order issued after notice and opportunity for public comment or by guidelines, concerning each highway-rail crossing located within its borders; or

''(B) otherwise ensure that the information has been reported to the Secretary by that date.

''(3) DEFINITIONS.—In this subsection—

''(A) 'highway-rail crossing' means a location where a public highway, road, street, or private roadway, including associated sidewalks and pathways, crosses 1 or more railroad tracks either at grade or grade separated; and

''(B) 'State' means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.''.

(d) TABLE OF SECTIONS AMENDMENT.—The table of sections for chapter 1 of title 23, United States Code, is amended by striking the existing item for section 130 and inserting the following:

''130. Highway-rail crossings.''.

(e) CIVIL PENALTIES.—(1) Section 21301(a)(1) of title 49, United States Code, is amended—

(A) by striking the period at the end of the first sentence and inserting ''or with section 20154 of this title.''; and

(B) in the second sentence, by inserting ''or violating section 20154'' between ''chapter 201'' and ''is liable''.

(2) Section 21301(a)(2) of title 49, United States Code, is amended by inserting after the first sentence the following: ''The Secretary shall subject a person to a civil penalty for a violation of section 20154 of this title.''.

By Mr. KYL (for himself and Mr. MCCAIN):

S. 1560. A bill to establish the Shivwits Plateau National Conservation Area; to the Committee on Energy and Natural Resources

SHIVWITS PLATEAU NATIONAL CONSERVATION AREA ESTABLISHMENT ACT

Mr. KYL. Mr. President, I rise today along with my colleague Senator MCCAIN to introduce legislation creating a national conservation area on

the Shivwits Plateau/Parashant Canyon area of northwest Arizona. I am introducing this legislation to conserve, protect, and enhance for the benefit of present and future generations the existing landscapes, native wildlife and vegetation as well as the prehistoric, historic, scenic, and traditional human values of the area. This is a bill about the future, and I think it is important that we recognize the unique value of this land and its link to our past.

I have personally toured this area and was impressed with its vast landscapes and scenic vistas. I came away with the conviction that the area deserves additional protective status. The area is remote, yet it supports a few human activities, such as ranching, hunting, sightseeing, camping and hiking. I believe those uses can continue without threatening the natural environment or any historic or prehistoric artifacts that may be found in the area.

Designation of these lands as a national conservation area will serve these goals by increasing attention to and interest in the area by both the public and the federal government. By spotlighting this area, the Bureau of Land Management will be compelled, and empowered, to increase the monetary and personnel resources allocated to this area, and better focus its management on preserving and protecting the conservation area's unique values.

This bill also requires the BLM to develop and carry out forest-restoration projects on both ponderosa pine and pinon-juniper forests within the conservation area. The goal of these projects will be to restore our forests to their pre-settlement conditions. The forest-health crisis in our southwestern forests is acute, and efforts are currently underway by the BLM at Mount Trumbull to address this problem. This legislation builds on those efforts.

Designation as a national conservation area may also result in the limiting of some future human activities like mining. There are no current threats to the area, so existing traditional human uses can and should be allowed to continue. In this case, protecting the environment and continuing existing uses are not mutually exclusive. This bill preserves both the land and the traditional lifestyle of the area.

Proposals have been made to designate this area as a national monument. Such an action, however, would be done by presidential fiat under the Antiquities Act—that would subvert the public process. We do not want a repeat of the stealthy, election year political maneuver that resulted in the creation of the Escalante/Grand Staircase National Monument in 1996. The people of Arizona and Utah, and their elected representatives, deserve better. We must have a say in this process, including the ability to meaningfully review and comment upon any proposal to change the management of the area. It is only fair that the people who would be most affected by such a designation have that opportunity. I am addressing the need for local input into this process by introduction of this bill. The first step in seeking public input is through the legislative process itself. The legislative process will ensure that the public has a voice. The next step is the section of the bill creating an advisory committee of interested parties to assist the BLM in the land-planning process.

National monument status for this area would also forever preclude any type of mining activity. This would be a totally irresponsible action. Let me stress that at this time there are no active mining activities, nor does it appear that any are planned for the foreseeable future within the proposed conservation area. However, we do not know for certain what mineral deposits may be located in the area, or in what quantity. We do know that there are some uranium and copper deposits. The nation does not currently need these resources, but prudence would dictate that we not lock up these minerals with no possibility for future extraction. While we appear to have adequate uranium resources for current needs, policy or conditions may change and our national interest may be served by allowing them to be extracted in the future.

This legislation strikes a balance between the desire to preserve the land in its present state, and potential future national needs. Under the bill, the lands will be withdrawn from mineral entry under the 1872 mining law, but are subject to mineral leasing at the discretion of the Secretary of the Interior. This is consistent with the current status of other specially designated federal lands such as the Lake Mead and Glen Canyon National Recreation Areas. It is also consistent with the Secretary of the Interior's segregation of the area. Under the federal mineral leasing laws, the Secretary has broad discretion regarding whether to allow mining in a particular area; the amount of royalties to charge; the duration of the lease; environmental considerations; and reclamation. Thus, authorizing the Secretary to approve mineral leasing within the conservation area protects the national interest in these minerals while also preserving the environment.

Mr. President, I am proud to introduce this important piece of legislation. I ask unanimous consent that the bill be printed in the RECORD.

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

S. 1560

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 ''Shivwits Plateau National Conservation Area Establishment Act''.

SEC. 2. PURPOSE.

The purpose of this Act is to establish the Shivwits Plateau National Conservation Area to conserve, protect, and enhance for the benefit and enjoyment of present and future generations the landscapes, native wildlife and vegetation, and prehistoric, historic, scenic, and traditional human values of the conservation area (including ranching, hunting, sightseeing, camping and hiking).

SEC. 3. DEFINITIONS.

In this Act:

(1) CONSERVATION AREA.—The term ''conservation area'' means the Shivwits Plateau National Conservation Area established by section 2.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

SEC. 4. ESTABLISHMENT OF SHIVWITS PLATEAU NATIONAL CONSERVATION AREA, ARIZONA.

(a) IN GENERAL.—There is established the Shivwits Plateau National Conservation Area in the State of Arizona.

(b) AREAS INCLUDED.—The Shivwits Plateau National Conservation Area shall be comprised of approximately 381,800 acres of land administered by the Secretary in Mohave County, Arizona, as generally depicted on the map entitled ''Shivwits Plateau National Conservation Area—Proposed'', numbered ____, dated ____.

(c) MAP AND LEGAL DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall submit to Congress a map and legal description of the conservation area.

(2) FORCE AND EFFECT.—The map and legal description shall have the same force and effect as if included in this Act.

(3) PUBLIC AVAILABILITY.—Copies of the map and legal description shall be on file and available for public inspection in—

(A) the Office of the Director of the Bureau of Land Management; and

(B) the appropriate office of the Bureau of Land Management in Arizona.

SEC. 5. MANAGEMENT OF CONSERVATION AREA.

(a) IN GENERAL.—The Secretary shall manage the conservation area in a manner that conserves, protects, and enhances all of the values specified in section 2 under the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), this Act, and other applicable law.

(b) HUNTING AND FISHING.—The Secretary shall permit hunting and fishing in the conservation area in accordance with the laws of the State of Arizona.

(c) GRAZING.—

(1) IN GENERAL.—The Secretary shall permit the grazing of livestock in the conservation area.

(2) APPLICABLE LAW.—The Secretary shall ensure that grazing in the conservation area is conducted in accordance with all laws (including regulations) that apply to the issuance and administration of grazing leases on other land under the jurisdiction of the Bureau of Land Management.

(d) FOREST RESTORATION.—The Secretary shall develop and carry out forest restoration projects on Ponderosa Pine forests and Pinion-Juniper forests in the conservation area, with the goal of restoring the land in the conservation area to presettlement condition.

(e) ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—The Secretary shall establish an advisory committee for the conservation area, to be known as the ''Shivwits Plateau National Conservation Area Advisory Committee'', the purpose of which shall be to advise the Secretary with respect to the preparation and implementation of the management plan required by section 6.

(2) REPRESENTATION.—The advisory committee shall be comprised of 9 members appointed by the Secretary, of whom—

(A) 1 shall be a grazing permittee in good standing with the Bureau of Land Management who has maintained a grazing allotment within the boundaries of the conservation area for not less than 5 years;

(B) 1 shall be the chairperson of the Kaibab Band of Paiute Indians;

(C) 1 shall be an individual with a recognized background in ecological restoration, research, and application, to be appointed from among nominations made by Northern Arizona University;

(D) 1 shall be the Arizona State Land Commissioner;

(E) 1 shall be an Arizona State Game and Fish Commissioner;

(F) 1 shall be an official of the State of Utah (other than an elected official), to be appointed from among nominations made by the Arizona Strip Regional Planning Task Force;

(G) 1 shall be a representative of a recognized environmental organization;

(H) 1 shall be a local elected official from the State of Arizona, to be appointed from among nominations made by the Arizona Strip Regional Planning Task Force; and

(I) 1 shall be a local elected official from the State of Utah, to be appointed from among nominations made by the Arizona Strip Regional Planning Task Force.

(3) TERMS.—

(A) IN GENERAL.—A member of the advisory committee shall be appointed for a term of 3 years, except that, of the members first appointed, 3 members shall be appointed for a term of 1 year and 3 members shall be appointed for a term of 2 years.

(B) REAPPOINTMENT.—A member may be reappointed to serve on the advisory committee on expiration of the member's term.

SEC. 6. MANAGEMENT PLAN.

(a) EXISTING MANAGEMENT PLANS.—The Secretary shall manage the conservation area under resource management plans in effect or the date of enactment of this Act, including the Arizona Strip Resource Management Plan, the Parashant Interdisciplinary Plan, and the Mt. Trumbull Interdisciplinary Plan.

(b) FUTURE MANAGEMENT PLANS.— Future revisions of management plans for the conservation area shall be adopted in compliance with the goals and objectives of this Act.

SEC. 7. ACQUISITION OF LAND.

(a) IN GENERAL.—The Secretary may acquire State or private land or interests in land within the boundaries of the conservation area only by—

(1) donation;

(2) purchase with donated or appropriated funds from a willing seller; or

(3) exchange with a willing party.

(b) EXCHANGES.—

(1) IN GENERAL.—During the 2-year period beginning on the date of enactment of this Act, the Secretary shall make a diligent effort to acquire, by exchange, from willing parties all State trust lands, subsurface rights, and valid mining claims within the conservation area.

(2) INVERSE CONDEMNATION.—If an exchange requested by a property owner is not completed by the end of the period, the property owner that requested the exchange may, at any time after the end of the period—

(A) declare that the owner's State trust lands, subsurface rights, or valid mining claims within the conservation area have been taken by inverse condemnation; and

(B) seek compensation from the United States in United States district court.

(c) VALUATION OF PRIVATE PROPERTY.—

(1) IN GENERAL.—The United States shall pay the fair market value for any property acquired under this section.

(2) ASSESSMENT.—The value of the property shall be assessed as if the conservation area did not exist.

SEC. 8. MINERAL ASSESSMENT PROGRAM AND RELATIONSHIP TO MINING LAWS.

(a) ASSESSMENT PROGRAM.—Not later than 2 years after the date of enactment of this Act, the Secretary shall assess the oil, gas, coal, uranium, and other mineral potential on Federal land in the conservation area.

(b) PEER REVIEW.—The mineral assessment program shall—

(1) be subject to review by the Arizona State Department of Mines and Mineral Resources; and

(2) shall not be considered to be complete until the results of the assessment are approved by the Arizona State Department of Mines and Mineral Resources.

(c) RELATION TO MINING LAWS.—Subject to valid existing rights, the public land within the conservation area is withdrawn from mineral location, entry, and patent under chapter 6 of the Revised Statutes (commonly known as the ''General Mining Law of 1872'') (30 U.S.C. section 21 et seq.).

(d) MINERAL LEASING.—The Secretary shall permit the removal of—

(1) nonleasable minerals from land or an interest in land within the national conservation area in the manner prescribed by section 10 of the Act of August 4, 1939 (43 Stat. 38); and

(2) leasable minerals from land or an interest in lands within the conservation area in accordance with the Act of February 25, 1920 (commonly known as the ''Mineral Lands Leasing Act of 1920'') (30 U.S.C. 181 et seq.) or the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.).

(e) DISPOSITION OF FUNDS FROM PERMITS AND LEASES.—

(1) RECEIPTS FROM PERMITS AND LEASES.—Receipts derived from permits and leases issued on land in the conservation area under the Act of February 25, 1920 (30 U.S.C. 181 et seq.) or the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.), shall be disposed of as provided in the applicable Act.

(2) RECIPTS FROM DISPOSITION OF NONLEASABLE MINERALS.—Receipts from the disposition of nonleasable minerals within the conservation area shall be disposed of in the same manner as proceeds of the sale of public land.

SEC. 9. EFFECT ON WATER RIGHTS.

Nothing in this Act—

(1) establishes a new or implied reservation to the United States of any water or water-related right with respect to land included in the conservation area; or

(2) authorizes the appropriation of water, except in accordance with the substantive and procedural law of the State of Arizona.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

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

By Mr. ABRAHAM:

S. 1561. A bill to amend the Controlled Substances Act to add gamma hydroxybutyric acid and ketamine to the schedules of control substances, to provide for a national awareness campaign, and for other purposes; to the Committee on the Judiciary.

DATE-RAPE DRUG CONTROL ACT OF 1999

Mr. ABRAHAM. Mr. President, I rise to introduce the Date Rape Drug Control Act of 1999. This legislation will address a growing epidemic in our land that is taking too many lives.

Mr. President, so-called date-rape drugs are becoming increasingly common in our nation. These drugs, so named because they are used in order to incapacitate women and make them vulnerable to sexual assault, are finding their way into nightclubs, onto campuses and into homes. They are being used by sexual predators against young—sometimes very young—women. The results are terrible and often tragic. Women victimized by drugs like gamma hydroxybutyric acid (or GHB) and Ketamine may be raped, they may become violently ill, and they may die.

Mr. President, I'd like to give just one example of the horrible consequences of drugs like GHB and Ketamine. In January of this year three young girls, none of them yet 16, were at a party given by a 25 year-old man in Woodhaven, Michigan. 15 year-old Samantha Reid drank a Mountain Dew—a soft drink—and passed out within minutes. She vomited in her sleep, and she died. Her friend, Melanie Sindone, also 15, passed out and lapsed into a coma, but has fortunately survived. The third young woman, Jessica VanWassehnova, had traces of GHB in her blood and only had a minor reaction of nausea. The three teenage boys are now facing manslaughter and felony poison charges.

These two girls had no reason to believe that they were drinking anything dangerous. But they were wrong. Their drinks had been laced with both GHB and Ketamine. Men at the party apparently put these drugs in the girls' drinks, to a tragic result.

Mr. President, this was a terrible series of events, and one that has been repeated far too many times. Our young women are being raped and killed by sexual predators using GHB and Ketamine. And that must stop.

The Date Rape Drug Control Act will provide law enforcement personnel with the tools they need to fight the date-rape epidemic. It directs that GHB and Ketamine be classified as Schedule I controlled substances, as drugs like heroin and cocaine are today. In addition, the bill authorizes additional reporting requirements that will enhance the ability of authorities to track the manufacture, distribution and dispensing of GHB and similar products. And it directs the Secretary of Health and Human Services to submit annual reports to Congress estimating the number of incidents of date-rape drug abuse that occurred during the most recent year for which data are available.

Finally, Mr. President, this bill requires the Secretary, in consultation with the Attorney General, to develop a plan for carrying out a national campaign to educate individuals about the dangers of date-rape drugs, the fact that they are controlled substances and the penalties involved for violating the Controlled Substances Act, how to recognize symptoms indicating that an individual may be a victim of date-rape drugs, and how to respond when an individual has these symptoms.

The last provision is crucial, Mr. President, because those who use date-rape drugs depend on stealth in praying upon their victims. Young women who are on the look-out, who know what to look for and can recognize the signs of date-rape drug use will be at much lower risk of falling victim to GHB or Ketamine.

It is time to act, Mr. President, to save young people, and young women in particular, from these deadly drugs and from the predators who use them. I ask my colleagues to give this important legislation their full support.

Mr. President, I ask unanimous consent that the text of the Date-Rape Drug Control Act of 1999 and a section-by-section analysis be printed in the RECORD.

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

S. 1561

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 ''Date-Rape Drug Control Act of 1999''.

SEC. 2. FINDINGS.

Congress finds as follows:

(1) Gamma hydroxybutyric acid (also called G, Liquid X, Liquid Ecstasy, Grievous Bodily Harm, Georgia Home Boy, Scoop) has become a significant and growing problem in law enforcement. At least 20 States have scheduled such drug in their drug laws and law enforcement officials have been experiencing an increased presence of the drug in driving under the influence, sexual assault, and overdose cases especially at night clubs and parties.

(2) A behavioral depressant and a hypnotic, gamma hydroxybutyric acid (''GHB'') is being used in conjunction with alcohol and other drugs with detrimental effects in an increasing number of cases. It is difficult to isolate the impact of such drug's ingestion since it is so typically taken with an ever-changing array of other drugs and especially alcohol which potentiates its impact.

(3) GHB takes the same path as alcohol, processes via alcohol dehydrogenase, and its symptoms at high levels of intake and as impact builds are comparable to alcohol ingestion/intoxication. Thus, aggression and violence can be expected in some individuals who use such drug.

(4) If taken for human consumption, common industrial chemicals such as gamma butyrolactone and 1.4-butanediol are swiftly converted by the body into GHB. Illicit use of these and other GHB analogues and precursor chemicals is a significant and growing law enforcement problem.

(5) A human pharmaceutical formulation of gamma hydroxybutyric acid is being developed as a treatment for cataplexy, a serious and debilitating disease. Cataplexy, which causes sudden and total loss of muscle control, affects about 65 percent of the estimated 180,000 Americans with narcolepsy, a sleep disorder. People with cataplexy often are unable to work, drive a car, hold their children or live a normal life.

SEC. 3. ADDITION OF GAMMA HYDROXYBUTYRIC ACID AND KETAMINE TO SCHEDULES OF CONTROLLED SUBSTANCES; GAMMA BUTYROLACTONE AS ADDITIONAL LIST I CHEMICAL.

(a) ADDITION TO SCHEDULE I.—

(1) IN GENERAL.—Section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)) is amended by adding at the end of schedule I the following:

''(d) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following substance having a depressant effect on the central nervous system, or which contains any of their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

''(1) Gamma hydroxybutyric acid.''.

(2) SECURITY OF FACILITIES.—For purposes of any requirements that relate to the physical security of registered manufacturers and registered distributors, gamma hydroxybutyric acid and its salts, isomers, and salts of isomers manufactured, distributed, or possessed in accordance with an exemption approved under section 505(i) of the Federal Food, Drug, and Cosmetic Act shall be treated as a controlled substance in schedule III under section 202(c) of the Controlled Substances Act.

(b) ADDITION TO SCHEDULE III.—Schedule III under section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)) is amended in (b)—

(1) by redesignating (4) through (10) as (6) through (12), respectively; and

(2) by redesignating (3) as (4);

(3) by inserting after (2) the following:

''(3) Gamma hydroxybutyric acid and its salts, isomers, and salts of isomers contained in a drug product for which an application has been approved under section 505 of the Federal Food, Drug, and Cosmetic Act.''; and

(4) by inserting after (4) (as so redesignated) the following:

''(5) Ketamine and its salts, isomers, and salts of isomers.''.

(c) ADDITIONAL LIST I CHEMICAL.—Section 102(34) of the Controlled Substances Act (21 U.S.C. 802(34)) is amended—

(1) by redesignating subparagraph (X) as subparagraph (Y); and

(2) by inserting after subparagraph (W) the following subparagraph:

''(X) Gamma butyrolactone.''.

(d) RULE OF CONSTRUCTION REGARDING CONTROLLED SUBSTANCE ANALOGUES.—Section 102(32) of the Controlled Substances Act (21 U.S.C. 802(32)) is amended—

(1) in subparagraph (A), by striking ''subparagraph (B)'' and inserting ''subparagraph (C)'';

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following new subparagraph (B):

''(B) The designation of gamma butyrolactone or any other chemical as a listed chemical pursuant to paragraph (34) or (35) does not preclude a finding pursuant to subparagraph (A) that the chemical is a controlled substance analogue.''.

(e) PENALTIES REGARDING SCHEDULE I.—

(1) IN GENERAL.—Section 401(b)(1)(C) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(C)) is amended in the first sentence by inserting after ''schedule I or II,'' the following: ''gamma hydroxybutyric acid in schedule III,''.

(2) CONFORMING AMENDMENT.—Section 401(b)(1)(D) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(D)) is amended by inserting ''(other than gamma hydroxybutyric acid)'' after ''schedule III''.

(f) DISTRIBUTION WITH INTENT TO COMMIT CRIME OF VIOLENCE.—Section 401(b)(7)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(7)(A)) is amended by inserting ''or controlled substance analogue'' after ''distributing a controlled substance''.

SEC. 4. AUTHORITY FOR ADDITIONAL REPORTING REQUIREMENTS FOR GAMMA HYDROXYBUTYRIC PRODUCTS IN SCHEDULE III.

Section 307 of the Controlled Substances Act (21 U.S.C. 827) is amended by adding at the end the following:

''(h) In the case of a drug product containing gamma hydroxybutyric acid for which an application has been approved under section 505 of the Federal Food, Drug, and Cosmetic Act, the Attorney General may, in addition to any other requirements that apply under this section with respect to such a drug product, establish any of the following as reporting requirements:

''(1) That every person who is registered as a manufacturer of bulk or dosage form, as a packager, repackager, labeler, relabeler, or distributor shall report acquisition and distribution transactions quarterly, not later than the 15th day of the month succeeding the quarter for which the report is submitted, and annually report end-of-year inventories.

''(2) That all annual inventory reports shall be filed no later than January 15 of the year following that for which the report is submitted and include data on the stocks of the drug product, drug substance, bulk drug, and dosage forms on hand as of the close of business December 31, indicating whether materials reported are in storage or in process of manufacturing.

''(3) That every person who is registered as a manufacturer of bulk or dosage form shall report all manufacturing transactions both inventory increases, including purchases, transfers, and returns, and reductions from inventory, including sales, transfers, theft, destruction, and seizure, and shall provide data on material manufactured, manufactured from other material, use in manufacturing other material, and use in manufacturing dosage forms.

''(4) That all reports under this section must include the registered person's registration number as well as the registration numbers, names, and other identifying information of vendors, suppliers, and customers, sufficient to allow the Attorney General to track the receipt and distribution of the drug.

''(5) That each dispensing practitioner shall maintain for each prescription the name of the prescribing practitioner, the prescribing practitioner's Federal and State registration numbers, with the expiration dates of these registrations, verification that the prescribing practitioner possesses the appropriate registration to prescribe this controlled substance, the patient's name and address, the name of the patient's insurance provider and documentation by a medical practitioner licensed and registered to prescribe the drug of the patient's medical need for the drug. Such information shall be available for inspection and copying by the Attorney General.

''(6) That section 310(b)(3) (relating to mail order reporting) applies with respect to gamma hydroxybutyric acid to the same extent and in the same manner as such section applies with respect to the chemicals and drug products specified in subparagraph (A)(i) of such section.''.

SEC. 5. DEVELOPMENT OF FORENSIC FIELD TESTS FOR GAMMA HYDROXYBUTYRIC ACID.

The Attorney General shall make a grant for the development of forensic field tests to assist law enforcement officials in detecting the presence of gamma hydroxybutyric acid and related substances.

SEC. 6. ANNUAL REPORT REGARDING DATE-RAPE DRUGS; NATIONAL AWARENESS CAMPAIGN.

(a) ANNUAL REPORT.—The Secretary of Health and Human Services (in this section

referred to as the ''Secretary'') shall periodically submit to Congress reports each of which provides an estimate of the number of incidents of the abuse of date-rape drugs (as defined in subsection (c)) that occurred during the most recent one-year period for which data are available. The first such report shall be submitted not later than January 15, 2000, and subsequent reports shall be submitted annually thereafter.

(b) NATIONAL AWARENESS CAMPAIGN.—

(1) DEVELOPMENT OF PLAN; RECOMMENDATIONS OF ADVISORY COMMITTEE.—

(A) IN GENERAL.—The Secretary, in consultation with the Attorney General, shall develop a plan for carrying out a national campaign to educate individuals described in subparagraph (B) on the following:

(i) The dangers of date-rape drugs.

(ii) The applicability of the Controlled Substances Act to such drugs, including penalties under such Act.

(iii) Recognizing the symptoms that indicate an individual may be a victim of such drugs, including symptoms with respect to sexual assault.

(iv) Appropriately responding when an individual has such symptoms.

(B) INTENDED POPULATION.—The individuals referred to in subparagraph (A) are young adults, youths, law enforcement personnel, educators, school nurses, counselors of rape victims, and emergency room personnel in hospitals.

(C) ADVISORY COMMITTEE.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall establish an advisory committee to make recommendations to the Secretary regarding the plan under subparagraph (A). The committee shall be composed of individuals who collectively possess expertise on the effects of date-rape drugs and on detecting and controlling the drugs.

(2) IMPLEMENTATION OF PLAN.—Not later than 180 days after the date on which the advisory committee under paragraph (1) is established, the Secretary, in consultation with the Attorney General, shall commence carrying out the national campaign under such paragraph in accordance with the plan developed under such paragraph. The campaign may be carried out directly by the Secretary and through grants and contracts.

(3) EVALUATION BY GENERAL ACCOUNTING OFFICE.—Not later than two years after the date on which the national campaign under paragraph (1) is commenced, the Comptroller General of the United States shall submit to Congress an evaluation of the effects with respect to date-rape drugs of the national campaign.

(c) DEFINITION.—For purposes of this section, the term ''date-rape drugs'' means gamma hydroxybutyric acid and its salts, isomers, and salts of isomers and such other drugs or substances as the Secretary, after consultation with the Attorney General, determines to be appropriate.

DATE-RAPE DRUG CONTROL ACT OF 1999—SECTION-BY-SECTION ANALYSIS

Section 1. Short Title.

''Date-Rape Drug Control Act of 1999''

Sec. 2. Findings.

This section sets out congressional findings regarding the use of gamma hydroxybutyric acid, ketamine, and gamma butyrolactone to facilitate sexual and other assaults.

Sec. 3. Addition of Gamma Hydroxybutyric Acid and Ketamine (GHB) to Schedules of Controlled Substances; Gamma Butyrolactone as Additional List 1 Chemical.

This section amends section 202(c) the Controlled Substances Act to add gamma hydroxybutric acid and its salts to the list of Schedule I drugs, unless these substances are specifically excepted or listed in another schedule.

For purposes of requirements in the Controlled Substances Act relating to the physical security of the facilities of registered manufacturers, gamma hydroxybutyric acid and its salts, isomers, and salts of isomers which are manufactured, distributed or possessed in accordance with an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (i.e., an investigational new drug exemption or ''IND'') shall be treated as a controlled substance in Schedule III of the Controlled Substances Act (as opposed to Schedule I).

This section also amends section 202(c) of the Controlled Substances Act to add Ketamine and its salts, isomers, and salts of isomer to the list of Schedule III drugs and section 102(34) of the Controlled Substances Act to add gamma butyrolactone (GBL) to the list of List I chemicals.

Further, under this section, gamma hydroxbutyric acid and its salts, isomers, and salts of isomers which are contained in a drug that has been approved by the Food and Drug Administration (FDA) is scheduled under Schedule III. However, the section imposes Schedule I penalties (as opposed to the penalties that would apply under Schedule III).

This section amends section 102(32) of the Controlled Substances Act to include that the designation of gamma butyrolactone or any other chemical as a ''List I'' or a ''List II'' precursor chemical does not preclude a finding that the chemical is a controlled substance analogue.

Section 401(b)(7)(A) of the Controlled Substances Act is amended by including penalties for distribution of a ''controlled substance analogue'' with the intent to commit a crime of violence (including rape).

Sec. 4. Authority for Additional Reporting Requirements for Gamma Hydroxybutyric Products in Schedule III.

This section amends section 307 of the Controlled Substances Act for approved drugs containing gamma hydroxybutyric acid to permit the Attorney General to establish additional reporting requirements that may enhance the ability of authorities to track the manufacturing, distribution, and dispensing of these drugs, including mail order distribution and dispensing.

Sec. 5. Development of Forensic Field Tests for Gamma Hydroxybutric Acid.

This section requires the Attorney General to make a grant for the development of forensic field tests to assist law enforcement officials in detecting the presence of gamma hdroxybutric acid and related substances.

Sec. 6. Annual Report Regarding Date-rape Drugs; National Awareness Campaign.

This section requires the Secretary of Health and Human Services to submit annual reports to Congress estimating the number of incidents of date-rape drug abuse that occurred during the most recent year for which data are available. The first report is due January 15, 2000.

This section also requires the Secretary, in consultation with the Attorney General, to develop a plan for carrying out a national campaign to educate individuals about the dangers of date-rape drugs, the fact that they are controlled substances and the penalties involved for violating the Controlled Substances Act, how to recognize the symptoms indicating an individual may be a victim of date-rape drugs, and how to appropriately respond when an individual has such symptoms. This campaign is directly not only at young adults and youths, but also at law enforcement personnel, educator, school nurses, counselors of rape victims, and hospital emergency room personnel.

To advise the Secretary on the plan, this section directs the Secretary to establish an advisory committee composed of individuals possessing expertise on the effects of date-rape drugs and on detecting and controlling drugs. The advisory committee must be established within 180 days after the enactment of this legislation. Within 180 days after the advisory committee is established, the Secretary must implement the campaign.

No later than two years after the campaign begins, the Comptroller General is directed to submit to Congress an evaluation of its effectiveness and recommendations for improving its effectiveness, if appropriate.

This section defines ''date-rape drugs'' as GHB and its salts and such other drugs as the Secretary, after consultation with the Attorney General, determines to be appropriate.

By Mr. NICKLES:

S. 1562. A bill to amend the Internal Revenue Code of 1986 to classify certain franchise operation property as 15-year depreciable property; to the Committee on Finance.

SMALL BUSINESS FRANCHISE PROPERTY RECOVERY ACT OF 1999

Mr. NICKLES. Mr. President, today I am pleased to introduce the ''Small Business Franchise Property Recovery Act of 1999.'' This bill would amend the Internal Revenue Code of 1986 to classify certain franchise operation property as 15-year depreciable property.

As my colleagues may recall, the recovery period for real estate property and building improvements was generally extended to 39 years in 1984 primarily for revenue reasons. Since that time, growing concerns have been voiced that having such an extended recovery period is neither justifiable nor based on sound tax policy. In many cases, 39 years is far longer than the normal use life of the property. Congress has directed the Treasury Department by early next year to provide us with a study and recommendations for overhauling the tax code's depreciation provisions. I look forward to receiving the Treasury's report, but in the interim, I do not believe we should defer addressing obvious depreciation inequities. Therefore, I am offering this bill now to shorten the depreciation period for real property and buildings for all franchisees from 39 years to 15 years.

Mr. President, franchisees-such as those who operate quick-service food restaurants generally enter into a franchise agreement with the franchisor that terminates after a set period of time (e.g., 15 or 20 years). There typically is no guaranteed right to renew the agreement. Franchisees often must undertake major renovations and improvements to the property at least once during the franchisee period.

Under current law, the real estate and buildings owned by franchisees generally must be written off over 39 years. This extended depreciation period bears no relation to economic reality and is roughly double the normal use life of the franchise property.

The ''Small Business Property Recovery Act of 1999'' would reduce the 39

year recovery period for such franchisee property to 15 years. This shorter period, which tracks the convenience store precedent, would essentially reflect the property's use life. This would be fairer to the small and closely held businesses that operate quick-service restaurants and other franchises. It also would enable them to free-up more capital to expand their businesses and create more jobs.

I urge my colleagues on both sides of the aisle to cosponsor this bill. I would also note that Representative RAMSTAD recently has introduced a similar bill, H.R. 2451, in the House. I look forward to working with him and others to help secure the passage of this legislation.

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

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

S. 1562

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 ''Small Business Franchise Property Recovery Act of 1999''.

SEC. 2. CLASS LIFE FOR FRANCHISE OPERATIONS.

(a) IN GENERAL.—Section 168(e)(3)(E) of the Internal Revenue Code of 1996 (classifying certain property as 15-year property) is amended by striking ''and'' at the end of the clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following new clause:

''(iv) any section 1250 property which is a franchise operation subject to section 1253.''.

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 168(g)(3) of such Code is amended by inserting after the item relating to subparagraph (E)(iii) in the table contained therein the following new item:

''(E)(iv) ..... 15''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property which is placed in service on or after the date of the enactment of this Act and to which section 168 of the Internal Revenue Code of 1986 applies after the amendment made by section 201 of the Tax Reform Act of 1986. A taxpayer may elect (in such form and manner as the Secretary of the Treasury may prescribe) to have such amendments apply with respect to any property placed in service before such date and to which such section so applies.

By Mr. ABRAHAM (for himself, Mr. KENNEDY, and Mr. HAGEL):

S. 1563. A bill to establish the Immigration Affairs Agency within the Department of Justice, and for other purposes; to the Committee on the Judiciary.

INS REFORM AND BORDER SECURITY ACT OF 1999

Mr. ABRAHAM. Mr. President, I rise to introduce the INS Reform and Border Security Act. Today, there is widespread agreement that the Immigration and Naturalization Service does not handle either its service or its law enforcement functions well. On the enforcement side, the INS has shown an inability to recruit, hire, and retain the Border Patrol agents mandated by Congress. The agency's detention policies are at best inconsistent. Its computer systems and methods for tracking and deporting criminal aliens has proven inadequate. And the list could continue. On the service side, the situation is similarly troubling. Stories of lost files, misplaced fingerprints, and broken-hearted applicants are far too common. Congressional offices are overwhelmed with the number of requests from constituents seeking help with their cases at INS. The INS is generally unable to update an individual on the status of his or her case. Any the backlogs have become so lengthy at the INS that few can anticipate action on their case, whether for citizenship or adjustment of status, within 18 months. The system is broken.

In the February 1999 Government Performance Project report, administered by the Syracuse University, the INS came in dead last among 15 federal agencies. INS received an overall grade of C-, while gathering grades of D in both management and human resources, and C in information technology. These grades were perhaps generous. A DOJ Inspector General report recently concluded that the INS ''still does not adequately manage'' its computer system and expressed concerns that much money has been wasted on an $800 million computer system.

The current structure of the INS—concentrated in District Offices around the country that combine service and enforcement functions—is a cause of a number of its problems. These offices are run by District Directors who are not required to have law enforcement backgrounds. Moreover, they can hold their posts for 15 years or more, resulting in ''fiefdoms'' that make it difficult to improve service or enforcement, or for headquarters to receive adherence from the field for policy changes. By combining the service and enforcement functions in one entity, the agency has taken on dual missions that in many ways are incompatible. Serious problems have resulted in expecting the INS to be the good service provider by day in facilitating legal immigration and naturalization, and the tough ''cop'' by night combating illegal immigration and criminal aliens. This is a point I made in my first speech as chairman of the immigration subcommittee and it remains my view today. Permitting the INS to move forward with its current structure and organization only ensures an endless recurrence of the same problems we have seen for years at the agency.

The INS Reform and Border Security Act would represent fundamental change. It would eliminate the Immigration and Naturalization Service. The legislation will create a new Immigration Affairs Agency within the Justice Department, led by an Associate Attorney General for Immigration Affairs, that will contain two separate bureaus—The Bureau of Immigration Service and Adjudication (BISA) and the Bureau of Enforcement and Border Affairs (BEBA). This will allow for concentrated effort and personnel devoted to improving their respective service and enforcement functions. Inspections, which has a combined service and enforcement function, will be a separate entity within the Immigration Affairs Agency.

The legislation would also increase accountability by creating three Senate-confirmed positions, one each for the Associate Attorney General for Immigration Affairs, the Director of the Service Bureau and the Director of the Enforcement Bureau. The bill would also create the position of Chief Financial Officer in both the Service and Enforcement bureaus, creating additional fiscal accountability.

The bill will ensure the coordination of important functions. Specifically, by ensuring that an Associate Attorney General for Immigration Affairs will be in charge, the formulation and coordination of policy between the Service and Enforcement Bureaus will take place. There is a risk that without an individual charged with policy coordination, policy anarchy could ensue.

The legislation will provide for enhanced enforcement of our immigration laws. Separating out enforcement will help ensure that enforcement is sufficiently supported and that individuals overseeing enforcement functions possess a law enforcement background. Moreover, the bill would move the Enforcement Bureau toward the best practices of the Federal Bureau of Investigation, which is considered a more effective law enforcement entity than the current INS. The FBI is successful in coordinating activities between the central office and field offices and in supporting agents in the fields, which are vital for sound law enforcement. Finally, the bill would require the addition of 1,000 more border patrol in fiscal years 2002, 2003, and 2004.

The INS Reform and Border Security Act should result in important service improvements. Separating service and enforcement will help ensure that those individuals working in the service side understand their jobs to include the fair, equitable, accurate, and courteous service. In fact, the legislation requires that all employee evaluations include the fair and equitable treatment of immigrants as a top priority. The legislation creates the Office of the Ombudsman, which will assist individuals in resolving service or case problems and identify and propose changes in the Service Bureau to improve service. The Ombudsman can appoint local representatives to resolve serious service breakdowns. In addition, the legislation models the Service Bureau's organization on the Social Security Administration by creating regional commissioners and area directors charged with service implementation. The bill would place statutory time limits on the processing of temporary visas and visas for permanent residence and seeks to ensure that services are adequately funded.

To improve the culture of employees, the bill includes a series of measures, including employee buyouts and the ability to bring in outside management executives, that are modeled on those passed by Congress in the 1998 IRS reform bill.

The legislation has already achieved a great consensus, having been endorsed by the U.S. Border Patrol Chief Patrol Agent's Association, the Federal Law Enforcement Officers Association, the American Immigration Lawyers Association, the Hebrew Immigrant Aid Society, and other organizations.

In particular, I would like to thank my cosponsors Senators KENNEDY and HAGEL for working with on this important piece of 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. 1563

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 ''INS Reform and Border Security Act of 1999''.

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

SEC. 2. IMMIGRATION LAWS OF THE UNITED STATES DEFINED.

In this Act, the term ''immigration laws of the United States'' means the following:

(1) The Immigration and Nationality Act.

(2) The Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

(3) The Immigration and Nationality Technical Corrections Act of 1994.

(4) The Immigration Act of 1990.

(5) The Immigration Reform and Control Act of 1986.

(6) The Refugee Act of 1980.

(7) Such other statutes, Executive orders, regulations, or directives that relate to the admission to, detention in, or removal from the United States of aliens, or that otherwise relate to the status of aliens in the United States.

TITLE I—IMMIGRATION AFFAIRS AGENCY

SEC. 101. ESTABLISHMENT OF IMMIGRATION AFFAIRS AGENCY.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established within the Department of Justice the Immigration Affairs Agency (in this Act referred to as the ''Agency'').

(2) COMPONENTS.—The Agency shall consist of—

(A) the Office of the Associate Attorney General for Immigration Affairs established in section 102;

(B) the Bureau of Immigration Services and Adjudications established in section 103; and

(C) the Bureau of Enforcement and Border Affairs established in section 105.

(b) ASSOCIATE ATTORNEY GENERAL FOR IMMIGRATION AFFAIRS.—

(1) IN GENERAL.—The Agency shall be headed by an Associate Attorney General for Immigration Affairs, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) COMPENSATION AT RATE OF PAY FOR EXECUTIVE LEVEL III.—Section 5314 of title 5, United States Code, is amended by adding at the end the following:

''Associate Attorney General for Immigration Affairs, Department of Justice.''.

(3) CONFORMING AMENDMENTS.—(A) Section 103(c) of the Immigration and Nationality Act is amended—

(i) by striking the first sentence; and

(ii) in the second sentence, by striking ''He'' and inserting ''The Associate Attorney General for Immigration Affairs''.

(B) Section 103 of such Act is amended by striking ''Commissioner'' and inserting ''Associate Attorney General for Immigration Affairs''.

(C) Section 5315 of title 5, United States Code, is amended by striking the following:

''Commissioner of Immigration and Naturalization, Department of Justice.''.

(c) REPEALS.—The following provisions of law are repealed:

(1) Section 4 of the Act of February 14, 1903, as amended (32 Stat. 826; relating to the establishment of the Immigration and Naturalization Service).

(2) Section 7 of the Act of March 3, 1891, as amended (26 Stat. 1085; relating to the establishment of the office of the Commissioner of Immigration and Naturalization).

(3) Section 201 of the Act of June 20, 1956 (70 Stat. 307; relating to the compensation of assistant commissioners and district director).

(4) Section 1 of March 2, 1895 (28 Stat. 780; relating to special immigrant inspectors).

(d) REFERENCES.—Except as otherwise provided in sections 103 and 105, any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to the Immigration and Naturalization Service shall be deemed to refer to the Immigration Affairs Agency.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Agency such sums as may be necessary to carry out its functions.

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

SEC. 102. OFFICE OF THE ASSOCIATE ATTORNEY GENERAL FOR IMMIGRATION AFFAIRS.

(a) POLICY AND ADMINISTRATIVE FUNCTIONS DEFINED.—In this section, the term ''immigration policy and administrative functions'' includes the following functions under the immigration laws of the United States:

(1) Inspections at ports of entry in the United States.

(2) Policy and planning formulation on immigration matters.

(3) Information technology, information resources management, and maintenance of records and databases, and the coordination of records and other information of the two bureaus within the Agency.

(4) Such other functions as involve providing resources and other support for the Bureau of Immigration Services and Adjudications (established in section 103) and the Bureau of Enforcement and Border Affairs (established in section 105).

(b) ESTABLISHMENT OF OFFICE.—

(1) IN GENERAL.—There is established within the Agency the Office of the Associate Attorney General for Immigration Affairs (in this title referred to as the ''Office'').

(2) GENERAL COUNSEL.—

(A) IN GENERAL.—There shall be within the Office of the Associate Attorney General for Immigration Affairs a General Counsel, who shall be appointed by the Attorney General.

(B) COMPENSATION.—Section 5316 of title 5, United States Code, is amended by adding at the end the following:

''General Counsel, Immigration Affairs Agency.''.

(3) CHIEF FINANCIAL OFFICER FOR THE IMMIGRATION AFFAIRS AGENCY.—

(A) IN GENERAL.—There shall be a position of Chief Financial Officer for the Immigration Affairs Agency and this position shall be a career reserved position within the Senior Executive Service and shall have the authorities and functions described in section 902 of title 31, United States Code, in relation to financial activities related to immigration policy and administrative functions. For purposes of section 902(a)(1) of such title, the Associate Attorney General for Immigration Affairs shall be deemed to be the head of the agency. The provisions of section 903 of such title (relating to Deputy Chief Financial Officers) shall also apply in the same manner as the previous sentence.

(B) COMPENSATION.—Section 5316 of title 5, United States Code, is amended by adding at the end the following:

''Chief Financial Officer, Immigration Affairs Agency.''.

(c) RESPONSIBILITIES OF THE OFFICE.—Under the direction of the Attorney General, the Office of the Associate Attorney General for Immigration Affairs shall be responsible for carrying out the immigration policy and administrative functions of the Agency.

(d) DELEGATION OF AUTHORITY BY THE ATTORNEY GENERAL.—All immigration policy and administrative functions vested by statute in, or exercised by—

(1) the Attorney General, or

(2) the Commissioner of Immigration and Naturalization, the Immigration and Naturalization Service, or officers, employees, or components thereof,

immediately prior to the effective date of this title shall be exercised by the Attorney General through the Associate Attorney General for Immigration Affairs.

(e) REFERENCES.—Any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to—

(1) the Commissioner of Immigration and Naturalization or any other officer or employee of the Immigration and Naturalization Service (insofar as such references refer to any immigration policy and administrative function) shall be deemed to refer to the Associate Attorney General for Immigration Affairs; or

(2) the Immigration and Naturalization Service (insofar as such references refer to any immigration policy and administrative function) shall be deemed to refer to the Office of the Associate Attorney General for Immigration Affairs.

SEC. 103. ESTABLISHMENT OF BUREAU OF IMMIGRATION SERVICES AND ADJUDICATIONS.

(a) IMMIGRATION ADJUDICATION AND SERVICE FUNCTIONS DEFINED.—In this section, the term ''immigration adjudication and service functions'' means the following functions under the immigration laws of the United States:

(1) Adjudications of nonimmigrant and immigrant visa petitions.

(2) Adjudications of naturalization petitions.

(3) Adjudications of asylum and refugee applications.

(4) Determinations concerning custody, parole, and conditions of parole regarding applicants for asylum detained at ports of entry who do not have prior nonpolitical criminal records and who have been found to have a credible fear of persecution, and responsibility for the detention of any such applicant with respect to whom a determination has been made that detention is required.

(5) Adjudications performed at Service centers.

(6) All other adjudications under the immigration laws of the United States.

(b) ESTABLISHMENT OF BUREAU.—

(1) IN GENERAL.—There is established within the Agency a bureau to be known as the Bureau of Immigration Services and Adjudications (in this section referred to as the ''Service Bureau'').

(2) SENSE OF CONGRESS.—It is the sense of Congress that the structure of the Service Bureau should be based on the organization of the Social Security Administration.

(3) DIRECTOR.—The head of the Service Bureau shall be the Director of Immigration Services and Adjudications who—

(A) shall be appointed by the President, by and with the advice and consent of the Senate; and

(B) shall report directly to the Associate Attorney General for Immigration Affairs.

(4) COMPENSATION AT LEVEL IV OF EXECUTIVE SCHEDULE.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

''Director of Immigration Services and Adjudications, Immigration Affairs Agency.''.

(c) RESPONSIBILITIES OF THE BUREAU.—Subject to the policy guidance of the Associate Attorney General for Immigration Affairs, the Service Bureau shall be responsible for carrying out the immigration adjudication and service functions of the Agency.

(d) DELEGATION OF AUTHORITY BY THE ATTORNEY GENERAL.—All immigration adjudication and service functions vested by statute in, or exercised by—

(1) the Attorney General, or

(2) the Commissioner of Immigration and Naturalization, the Immigration and Naturalization Service, or officers, employees, or components thereof,

immediately prior to the effective date of this title shall be exercised by the Attorney General through the Associate Attorney General for Immigration Affairs and the Director of the Service Bureau.

(e) CHIEF FINANCIAL OFFICER FOR THE BUREAU OF IMMIGRATION SERVICES AND ADJUDICATIONS.—

(1) IN GENERAL.—There shall be a position of Chief Financial Officer for the Bureau of Immigration Services and Adjudications and this position shall be a career reserved position within the Senior Executive Service and shall have the authorities and functions described in section 902 of title 31, United States Code, in relation to financial activities of the Service Bureau. For purposes of section 902(a)(1) of such title, the Director of the Service Bureau shall be deemed to be the head of the agency. The provisions of section 903 of such title (relating to Deputy Chief Financial Officers) shall also apply to such Bureau in the same manner as the previous sentence applies to such Bureau.

(2) COMPENSATION.—Section 5316 of title 5, United States Code, is amended by adding at the end the following:

''Chief Financial Officer, Bureau of Immigration Services and Adjudications of the Immigration Affairs Agency.''.

(f) REGIONAL COMMISSIONERS.—There shall be within the Service Bureau Regional Commissioners who shall be responsible for carrying out the functions of the Bureau within specified geographic regions. The Director of the Service Bureau shall establish the number of Regional Commissioners based on workload and economies of scale.

(g) AREA DIRECTORS.—The Director of the Service Bureau shall appoint Area Directors who shall report to the Regional Commissioner in his or her region. In States with large populations there may be more than one Area Director. Each Area Director is in charge of field offices within his or her area.

(h) FIELD OFFICE MANAGERS.—A Field Office Manager is in charge of each field office. The field offices, located in cities and other places around the country, are the Service Bureau's main source of contact with the public. Congress encourages the development of telephone service centers to improve service and efficiency, which may or may not be located in the same location as service centers under subsection (k).

(i) TERM OF SERVICE.—No Field Office Manager or Area Director may hold his or her post in a single geographic region for more than 6 years without a break of at least 2 years. The Attorney General may waive this subsection for extraordinary reasons.

(j) SERVICE CENTERS.—In addition, there shall be Service Centers, located depending on the workloads and economies of scale. The head of each Service Center shall report to the Regional Commissioner in the region in which the Service Center is situated.

(k) QUALITY ASSURANCE.—There shall be within the Service Bureau an Office of Quality Assurance, modeled on the corresponding office of the Social Security Administration, that shall develop procedures and conduct audits to—

(1) ensure that national policies are correctly implemented;

(2) determine whether Service Bureau policies or practices result in poor file management or poor or inaccurate service; and

(3) report findings recommending corrective action to the Director of the Service Bureau.

(l) OFFICE OF PROFESSIONAL RESPONSIBILITY.—There shall be within the Service Bureau an Office of Professional Responsibility that shall have the responsibility of receiving charges of misconduct or ill treatment made by the public and investigating the charges and providing an appropriate remedy or disposition.

(m) TRAINING OF PERSONNEL.—The Director of the Service Bureau, in consultation with the Associate Attorney General for Immigration Affairs, shall have responsibility for the training of all personnel of the Service Bureau.

(n) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Service Bureau such sums as may be necessary to carry out its functions.

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

(o) REFERENCES.—Any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to—

(1) the Commissioner of Immigration and Naturalization or any other officer or employee of the Immigration and Naturalization Service (insofar as such references refer to any immigration adjudication and service function) shall be deemed to refer to the Director of the Service Bureau; or

(2) the Immigration and Naturalization Service (insofar as such references refer to any immigration adjudication and service function) shall be deemed to refer to the Service Bureau.

SEC. 104. OFFICE OF THE OMBUDSMAN WITHIN THE SERVICE BUREAU.

(a) IN GENERAL.—There is established within the Service Bureau the Office of the Ombudsman, which shall be headed by the Ombudsman.

(b) OMBUDSMAN.—

(1) APPOINTMENT.—The Ombudsman shall be appointed by the Director of the Service Bureau after consultation with the Associate Attorney General for Immigration Affairs and without regard to the provisions of title 5, United States Code,relating to appointments in the competitive service or the Senior Executive Service. The Ombudsman shall report directly to the Director of the Service Bureau.

(2) COMPENSATION.—The Ombudsman shall be entitled to compensation at the same rate as the highest rate of basic pay established for the Senior Executive Service under section 5382 of title 5, United States Code, or, if the Attorney General so determines, at a rate fixed under section 9503 of such title.

(c) FUNCTIONS OF OFFICE.—The functions of the Office of the Ombudsman shall include to—

(1) assist individuals in resolving service or case problems with the Agency or Service Bureau;

(2) identify areas in which individuals have problems in dealings with the Immigration Affairs Agency or Service Bureau;

(3) to the extent possible, propose changes in the administrative practices of the Agency or Service Bureau to mitigate problems identified under paragraph (2);

(4) monitor the coverage and geographic allocation of local offices of the Service Bureau; and

(5) ensure that the local telephone number for each local office of the Service Bureau is published and available to individuals served by the office.

(e) PERSONNEL ACTIONS.—The Ombudsman shall have the responsibility and authority to appoint local or regional representatives of the Ombudsman's Office as in the Ombudsman's judgment may be necessary to address and rectify serious service problems.

(f) RESPONSIBILITIES OF DIRECTOR OF THE SERVICE BUREAU.—The Director of the Service Bureau shall establish procedures requiring a formal response to all recommendations submitted to the Director by the Ombudsman within 3 months after submission of the Ombudsman's reports or recommendations. The Director of the Service Bureau shall meet regularly with the Ombudsman to identify and correct serious service problems.

(g) ANNUAL REPORTS.—

(1) OBJECTIVES.—Not later than June 30 of each calendar year, the Ombudsman shall report to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate on the objectives of the Office of the Ombudsman for the fiscal year beginning in such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information.

(2) ACTIVITIES.—Not later than December 31 of each calendar year, the Ombudsman shall submit a report to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate on the activities of the Ombudsman during the fiscal year ending in that calendar year. Any such report shall contain a full and substantive analysis, in addition to statistical information, and shall—

(A) identify the initiatives the Office of the Ombudsman has taken on improving services and the responsiveness of the Agency and the Service Bureau;

(B) contain a summary of the most serious problems encountered by individuals, including a description of the nature of such problems;

(C) contain an inventory of the items described in subparagraphs (A) and (B) for which action has been taken, and the result of such action;

(D) contain an inventory of the items described in subparagraphs (A) and (B) for which action remains to be completed and the period during which each item has remained on such inventory;

(E) contain an inventory of the items described in subparagraphs (A) and (B) 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 Agency or Service Bureau official who is responsible for such inaction;

(F) contain recommendations as may be appropriate to resolve problems encountered by individuals;

(G) include such other information as the Ombudsman may deem advisable.

SEC. 105. ESTABLISHMENT OF BUREAU OF ENFORCEMENT AND BORDER AFFAIRS.

(a) IMMIGRATION ENFORCEMENT FUNCTIONS DEFINED.—In this section, the term ''immigration enforcement functions'' means the following functions under the immigration laws of the United States:

(1) The Border Patrol program.

(2) The detention program (except as specified in section 103(a)).

(3) The deportation program.

(4) The intelligence program.

(5) The investigations program.

(b) ESTABLISHMENT OF BUREAU.—

(1) IN GENERAL.—There is established within the Agency a bureau to be known as the Bureau of Enforcement and Border Affairs (in this section referred to as the ''Enforcement Bureau'').

(2) ENFORCEMENT BUREAU.—It is the sense of Congress that the Enforcement Bureau be organized in accordance with the ''best practices'' of other federal law enforcement agencies, including the Federal Bureau of Investigation and the Drug Enforcement Agency.

(3) DIRECTOR.—The head of the Enforcement Bureau shall be the Director of the Bureau of Enforcement and Border Affairs who—

(A) shall be appointed by the President, by and with the advice and consent of the Senate; and

(B) shall report directly to the Associate Attorney General for Immigration Affairs.

(4) COMPENSATION AT LEVEL IV OF EXECUTIVE SCHEDULE.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

''Director of Enforcement and Border Affairs, Immigration Affairs Agency.''.

(c) RESPONSIBILITIES OF THE BUREAU.—Subject to the policy guidance of the Associate Attorney General for Immigration Affairs, the Enforcement Bureau shall be responsible for carrying out the immigration enforcement functions of the Agency.

(d) DELEGATION OF AUTHORITY BY THE ATTORNEY GENERAL.—All immigration enforcement functions vested by statute in, or exercised by—

(1) the Attorney General, or

(2) the Commissioner of Immigration and Naturalization, the Immigration and Naturalization Service, or officers, employees, or components thereof,

immediately prior to the effective date of this title shall be exercised by the Attorney General through the Associate Attorney General for Immigration Affairs and the Director of the Enforcement Bureau.

(e) CHIEF FINANCIAL OFFICER FOR THE BUREAU OF ENFORCEMENT AND BORDER AFFAIRS.—

(1) IN GENERAL.—There shall be a position of Chief Financial Officer for the Bureau of Enforcement and Border Affairs and this position shall be a career reserved position within the Senior Executive Service and shall have the authorities and functions described in section 902 of title 31, United States Code, in relation to financial activities of the Enforcement Bureau. For purposes of section 902(a)(1) of such title, the Director of the Enforcement Bureau shall be deemed to be the head of the agency. The provisions of section 903 of such title (relating to Deputy Chief Financial Officers) shall also apply to such Bureau in the same manner as the previous sentence applies to such Bureau.

(2) COMPENSATION.—Section 5316 of title 5, United States Code, is amended by adding at the end the following:

''Chief Financial Officer, Bureau of Enforcement and Border Affairs of the Immigration Affairs Agency.''.

(f) ORGANIZATION.—The Director of the Enforcement Bureau shall establish field offices in major cities and regions of the United States. The locations shall be selected according to trends in illegal immigration, alien smuggling, criminal aliens, the need for regional centralization, and the need to manage resources efficiently. Field offices shall also establish satellite offices as needed.

(g) OFFICE OF PROFESSIONAL RESPONSIBILITY.—There shall be within the Enforcement Bureau an Office of Professional Responsibility that shall have the responsibility of receiving charges of misconduct or ill treatment made by the public and investigating the charges and providing an appropriate remedy or disposition.

(h) TRAINING OF PERSONNEL.—The Director of the Enforcement Bureau, in consultation with the Associate Attorney General for Immigration Affairs, shall have responsibility for determining the law enforcement training for all personnel of the Enforcement Bureau.

(i) REFERENCES.—Any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to—

(1) the Commissioner of Immigration and Naturalization or any other officer or employee of the Immigration and Naturalization Service (insofar as such references refer to any immigration enforcement function) shall be deemed to refer to the Director of the Enforcement Bureau; or

(2) the Immigration and Naturalization Service (insofar as such references refer to any immigration enforcement function) shall be deemed to refer to the Enforcement Bureau.

(j) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Enforcement Bureau such sums as may be necessary to carry out its functions.

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

SEC. 106. EXERCISE OF AUTHORITIES.

Except as otherwise provided by law, a Federal official to whom a function is transferred pursuant to this title may, for purposes of performing the function, exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date of the transfer of the function pursuant to this title.

SEC. 107. SAVINGS PROVISIONS.

(a) LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, grants, loans, contracts, agreements, certificates, licenses, and privileges—

(1) that have been issued, made, granted, or allowed to become effective by the President, the Attorney General, the Commissioner of the Immigration and Naturalization Service, their delegates, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred pursuant to this title; and

(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date);

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, any other authorized official, a court of competent jurisdiction, or operation of law.

(b) PROCEEDINGS.—Sections 101 through 105 and this section shall not affect any proceedings or any application for any benefits, service, license, permit, certificate, or financial assistance pending on the effective date of this title before an office whose functions are transferred pursuant to this title, but such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this section shall be considered to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(c) SUITS.—This title shall not affect suits commenced before the effective date of this title, and in all such suits, proceeding shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this title had not been enacted.

(d) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Department of Justice or the Immigration and Naturalization Service, or by or against any individual in the official capacity of such individual as an officer or employee in connection with a function transferred pursuant to this section, shall abate by reason of the enactment of this Act.

(e) CONTINUANCE OF SUITS.—If any Government officer in the official capacity of such officer is party to a suit with respect to a function of the officer, and pursuant to this

title such function is transferred to any other officer or office, then such suit shall be continued with the other officer or the head of such other office, as applicable, substituted or added as a party.

(f) ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.—Except as otherwise provided by this title, any statutory requirements relating to notice, hearings, action upon the record, or administrative or judicial review that apply to any function transferred pursuant to this title shall apply to the exercise of such function by the head of the office, and other officers of the office, to which such function is transferred pursuant to such section.

SEC. 108. TRANSFER AND ALLOCATION OF APPROPRIATIONS AND PERSONNEL.

(a) IN GENERAL.—

(1) TRANSFERS.—The personnel of the Department of Justice employed in connection with the functions transferred pursuant to this title (and functions that the Attorney General determines are properly related to the functions of the Office, the Service Bureau, or the Enforcement Bureau would, if so transferred, further the purposes of the Office and the respective Bureau), and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available to the Immigration and Naturalization Service in connection with the functions transferred pursuant to this title, subject to section 202 of the Budget and Accounting Procedures Act of 1950, shall be transferred to the Office or the Bureau, as the case may be, for appropriate allocation by the Associate Attorney General for Immigration Affairs for the Office or the Bureau, as the case may be. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated. The Attorney General shall retain the right to adjust or realign transfers of funds and personnel effected pursuant to this title for a period of 2 years after the date of the establishment of the Agency.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the transfers made pursuant to this title.

(b) DELEGATION AND ASSIGNMENT.—Except as otherwise expressly prohibited by law or otherwise provided in this title, the Associate Attorney General for Immigration Affairs, the Director of the Service Bureau, and the Director of the Enforcement Bureau to whom functions are transferred pursuant to this title may delegate any of the functions so transferred to such officers and employees of the Office of the Associate Attorney General for Immigration Affairs, the Service Bureau, and the Enforcement Bureau, respectively, as the Associate Attorney General or such Director may designate, and may authorize successive redelegations of such functions as may be necessary or appropriate. No delegation of functions under this subsection or under any other provision of this title shall relieve the official to whom a function is transferred pursuant to this title of responsibility for the administration of the function.

(c) AUTHORITIES OF ATTORNEY GENERAL.—

(1) INCIDENTAL TRANSFERS.—The Attorney General (or a delegate of the Attorney General), at such time or times as the Attorney General (or the delegate) shall provide, may make such determinations as may be necessary with regard to the functions transferred pursuant to this title, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out the provisions of this title. The Attorney General shall provide for such further measures and dispositions as may be necessary to effectuate the purposes of this title.

(2) TREATMENT OF SHARED RESOURCES.—

(A) IN GENERAL.—The Associate Attorney General for Immigration Affairs is authorized to provide for an appropriate allocation, or coordination, or both, of resources involved in supporting shared support functions for the Office, the Service Bureau, the Enforcement Bureau, and offices within the Department of Justice. The Associate Attorney General for Immigration Affairs shall maintain oversight and control over the shared computer databases and systems and records management.

(B) DATABASES.—The Associate Attorney General for Immigration Affairs, with the assistance of the Attorney General, shall ensure that the Immigration Affairs Agency's databases and those of the Service Bureau and the Enforcement Bureau are integrated with the databases of the Executive Office for Immigration Review in such a way as to permit—

(i) the electronic docketing of each case by date of service upon an alien of the notice to appear in the case of a removal proceeding (or an order to show cause in the case of a deportation proceeding); and

(ii) the tracking of the status of any alien throughout the alien's contact with United States immigration authorities without regard to whether the entity with jurisdiction over the alien is the Immigration Affairs Agency, the Service Bureau, the Enforcement Bureau, or the Executive Office for Immigration Review.

SEC. 109. EXECUTIVE OFFICE FOR IMMIGRATION REVIEW AND ATTORNEY GENERAL LITIGATION AUTHORITIES NOT AFFECTED.

Nothing in this title may be construed to authorize or require the transfer or delegation of any function vested in, or exercised by—

(1) the Executive Office for Immigration Review of the Department of Justice, or any officer, employee, or component thereof, or

(2) the Attorney General with respect to the institution of any prosecution, or the institution or defense of any action or appeal, in any court of the United States established under Article III of the Constitution,

immediately prior to the effective date of this title.

SEC. 110. DEFINITIONS.

For purposes of this title:

(1) FUNCTION.—The term ''function'' includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

(2) OFFICE.—The term ''office'' includes any office, administration, agency, bureau, institute, council, unit, organizational entity, or component thereof.

SEC. 111. EFFECTIVE DATE.

This title, and the amendments made by this title, shall take effect 18 months after the date of enactment of this Act.

TITLE II—PERSONNEL FLEXIBILITIES

SEC. 201. IMPROVEMENTS IN 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 J—Immigration Affairs Agency Personnel

''CHAPTER 96—PERSONNEL FLEXIBILITIES RELATING TO THE IMMIGRATION AFFAIRS AGENCY

''Sec.

''§ 9601. Immigration Affairs Agency personnel flexibilities

''(a) Any flexibilities provided by sections 9602 through 9610 of this chapter shall be exercised in a manner consistent with—

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

''(2) provisions relating to preference eligibles;

''(3) except as otherwise specifically provided, section 5307 (relating to the aggregate limitation on pay);

''(4) except as otherwise specifically provided, chapter 71 (relating to labor-management relations); and

''(5) subject to subsections (b) and (c) of section 1104, as though such authorities were delegated to the Attorney General under section 1104(a)(2).

''(b) The Attorney General shall provide the Office of Personnel Management with any information that Office requires in carrying out its responsibilities under this section.

''(c) Employees within a unit to which a labor organization is accorded exclusive recognition under chapter 71 shall not be subject to any flexibility provided by sections 9607 through 9610 of this chapter unless the exclusive representative and the Immigration Affairs Agency have entered into a written agreement which specifically provides for the exercise of that flexibility. Such written agreement may be imposed by the Federal Services Impasses Panel under section 7119.

''§ 9602. Pay authority for critical positions

''(a) When the Attorney General seeks a grant of authority under section 5377 for critical pay for 1 or more positions at the Immigration Affairs Agency, the Office of Management and Budget may fix the rate of basic pay, notwithstanding sections 5377(d)(2) and 5307, at any rate up to the salary set in accordance with section 104 of title 3.

''(b) Notwithstanding section 5307, no allowance, differential, bonus, award, or similar cash payment may be paid to any employee receiving critical pay at a rate fixed under subsection (a), in any calendar year if, or to the extent that, the employee's total annual compensation will exceed the maximum amount of total annual compensation payable at the salary set in accordance with section 104 of title 3.

''§ 9603. Streamlined critical pay authority

''(a) Notwithstanding section 9602, and without regard to the provisions of this title governing appointments in the competitive service or the Senior Executive Service and chapters 51 and 53 (relating to classification and pay rates), the Attorney General may, for a period of 10 years after the date of enactment of this section, establish, fix the compensation of, and appoint individuals to, designated critical administrative, technical, and professional positions needed to carry out the functions of the Immigration Affairs Agency, if—

''(1) the positions—

''(A) require expertise of an extremely high level in an administrative, technical, or professional field; and

''(B) are critical to the Immigration Affairs Agency's successful accomplishment of an important mission;

''(2) exercise of the authority is necessary to recruit or retain an individual exceptionally well qualified for the position;

''(3) the number of such positions does not exceed 40 at any one time;

''(4) designation of such positions are approved by the Attorney General;

''(5) the terms of such appointments are limited to no more than 4 years;

''(6) appointees to such positions were not Immigration Affairs Agency employees prior to July 1, 1999;

''(7) total annual compensation for any appointee to such positions does not exceed the highest total annual compensation payable at the rate determined under section 104 of title 3; and

''(8) all such positions are excluded from the collective bargaining unit.

''(b) Individuals appointed under this section shall not be considered to be employees for purposes of subchapter II of chapter 75.

''§ 9604. Recruitment, retention, relocation incentives, and relocation expenses

''(a) For a period of 10 years after the date of enactment of this section and subject to approval by the Office of Personnel Management, the Attorney General may provide for variations from sections 5753 and 5754 governing payment of recruitment, relocation, and retention incentives.

''(b) For a period of 10 years after the date of enactment of this section, the Attorney General may pay from appropriations made to the Immigration Affairs Agency allowable relocation expenses under section 5724a for employees transferred or reemployed and allowable travel and transportation expenses under section 5723 for new appointees, for any new appointee appointed to a position for which pay is fixed under section 9602 or 9603 after July 1, 1999.

''§ 9605. Performance awards for senior executives

''(a) For a period of 10 years after the date of enactment of this section, Immigration Affairs Agency senior executives who have program management responsibility over significant functions of the Immigration Affairs Agency may be paid a performance bonus without regard to the limitation in section 5384(b)(2) if the Attorney General finds such award warranted based on the executive's performance.

''(b) In evaluating an executive's performance for purposes of an award under this section, the Attorney General shall take into account the executive's contributions toward the successful accomplishment of goals and objectives established under the Government Performance and Results Act of 1993 and other performance metrics or plans established in consultation with the Attorney General.

''(c) Any award in excess of 20 percent of an executive's rate of basic pay shall be approved by the Attorney General.

''(d) Notwithstanding section 5384(b)(3), the Attorney General shall determine the aggregate amount of performance awards available to be paid during any fiscal year under this section and section 5384 to career senior executives in the Immigration Affairs Agency. Such amount may not exceed an amount equal to 5 percent of the aggregate amount of basic pay paid to career senior executives in the Immigration Affairs Agency during the preceding fiscal year. The Immigration Affairs Agency shall not be included in the determination under section 5384(b)(3) of the aggregate amount of performance awards payable to career senior executives in the Department of the Justice other than the Immigration Affairs Agency.

''(e) Notwithstanding section 5307, a performance bonus award may not be paid to an executive in a calendar year if, or to the extent that, the executive's total annual compensation will exceed the maximum amount of total annual compensation payable at the rate determined under section 104 of title 3.''.

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

''SUBPART J—IMMIGRATION AFFAIRS AGENCY PERSONNEL

''96. Personnel flexibilities relating to the Immigration Affairs Agency ..... 9601.''.

SEC. 202. VOLUNTARY SEPARATION INCENTIVE PAYMENTS.

(a) DEFINITION.—In this section, the term ''employee'' means an employee (as defined by section 2105 of title 5, United States Code) who is employed by the Immigration Affairs Agency serving under an appointment without time limitation, and has been currently employed for a continuous period of at least 3 years, but does not include—

(1) a reemployed annuitant under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or another retirement system;

(2) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under the applicable retirement system referred to in paragraph (1);

(3) an employee who is in receipt of a specific notice of involuntary separation for misconduct or unacceptable performance;

(4) an employee who, upon completing an additional period of service as referred to in section 3(b)(2)(B)(ii) of the Federal Workforce Restructuring Act of 1994 (5 U.S.C. 5597 note), would qualify for a voluntary separation incentive payment under section 3 of such Act;

(5) an employee who has previously received any voluntary separation incentive payment by the Federal Government under this section or any other authority and has not repaid such payment;

(6) an employee covered by statutory reemployment rights who is on transfer to another organization; or

(7) any employee who, during the 24-month period preceding the date of separation, has received a recruitment or relocation bonus under section 5753 of title 5, United States Code, or who, within the 12-month period preceding the date of separation, received a retention allowance under section 5754 of title 5, United States Code.

(b) AUTHORITY TO PROVIDE VOLUNTARY SEPARATION INCENTIVE PAYMENTS.—

(1) IN GENERAL.—The Associate Attorney General for Immigration Affairs may pay voluntary separation incentive payments under this section to any employee to the extent necessary to carry out the plan to reorganize the Immigration Affairs Agency under title I.

(2) AMOUNT AND TREATMENT OF PAYMENTS.—A voluntary separation incentive payment—

(A) shall be paid in a lump sum after the employee's separation;

(B) shall be paid from appropriations or funds available for the payment of the basic pay of the employees;

(C) shall be equal to the lesser of—

(i) an amount equal to the amount the employee would be entitled to receive under section 5595(c) of title 5, United States Code; or

(ii) an amount determined by an agency head not to exceed $25,000;

(D) may not be made except in the case of any qualifying employee who voluntarily separates (whether by retirement or resignation) before January 1, 2003;

(E) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit; and

(F) shall not be taken into account in determining the amount of any severance pay to which the employee may be entitled under section 5595 of title 5, United States Code, based on any other separation.

(c) ADDITIONAL IMMIGRATION AFFAIRS AGENCY CONTRIBUTIONS TO THE RETIREMENT FUND.—

(1) IN GENERAL.—In addition to any other payments which it is required to make under subchapter III of chapter 83 of title 5, United States Code, the Immigration Affairs Agency shall remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund an amount equal to 15 percent of the final basic pay of each employee who is covered under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, to whom a voluntary separation incentive has been paid under this section.

(2) DEFINITION.—In paragraph (1), the term ''final basic pay'', with respect to an employee, means the total amount of basic pay which would be payable for a year of service by such employee, computed using the employee's final rate of basic pay, and, if last serving on other than a full-time basis, with appropriate adjustment therefore.

(d) EFFECT OF SUBSEQUENT EMPLOYMENT WITH THE GOVERNMENT.—An individual who has received a voluntary separation incentive payment under this section and accepts any employment for compensation with the Government of the United States, or who works for any agency of the United States Government through a personal services contract, within 5 years after the date of the separation on which the payment is based, shall be required to pay, prior to the individual's first day of employment, the entire amount of the incentive payment to the Immigration Affairs Agency.

(e) USE OF VOLUNTARY SEPARATIONS.—The Immigration Affairs Agency may redeploy or use the full-time equivalent positions vacated by voluntary separations under this section to make other positions available to more critical locations or more critical occupations.

SEC. 203. BASIS FOR EVALUATION OF IMMIGRATION AFFAIRS AGENCY EMPLOYEES.

(a) FAIR AND EQUITABLE TREATMENT.—The Immigration Affairs Agency shall use the fair and equitable treatment of aliens by employees as one of the standards for evaluating employee performance.

(b) EFFECTIVE DATE.—This section shall apply to evaluations conducted on or after the date of the enactment of this Act.

SEC. 204. EMPLOYEE TRAINING PROGRAM.

(a) IN GENERAL.—Not later than 180 days after the effective date of this Act, the Director of the Service Bureau and the Director of the Enforcement Bureau, in consultation with the Associate Attorney General for Immigration Affairs, shall each implement an employee training program for the personnel of their respective bureaus and shall each submit an employee training plan to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives.

(b) CONTENTS.—The plan submitted under subsection (a) shall—

(1) detail a schedule for training and the fiscal years during which the training will occur;

(2) detail the funding of the program and relevant information to demonstrate the priority and commitment of resources to the plan;

(3) with respect to the Service Bureau, after consultation by the Associate Attorney General for Immigration Affairs with the Director of the Service Bureau, detail a comprehensive employee training program to ensure adequate customer service training;

(4) detail any joint training of both Service Bureau and Enforcement Bureau personnel in appropriate areas;

(5) review the organizational design of customer service; and

(6) provide for the implementation of a performance development system.

SEC. 205. EFFECTIVE DATE.

Except as otherwise provided in this title, this title, and the amendments made by this title, shall take effect 18 months after the date of enactment of this Act.

TITLE III—ADDITIONAL PROVISIONS

SEC. 301. EXPEDITED PROCESSING OF DOCUMENTS.

(a) 30-DAY PROCESSING OF ''H–1B'', ''L'', ''O'', OR ''P–1'' NONIMMIGRANTS.—Section 214(c)(1) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(1)) is amended by adding at the end the following: ''The Attorney General shall provide a process for reviewing and acting upon petitions under this subsection with respect to nonimmigrants described in section 101(a)(15) (H)(i)(b), (L), (O), or (P)(i) within 30 days after the date a completed petition has been filed.''.

(b) 30-DAY PROCESSING OF ''R'' NONIMMIGRANTS.—Section 214(c) of the Immigration and Nationality Act (8 U.S.C. 1184(c)) is amended by adding at the end the following:

''(10) The Attorney General shall provide a process for reviewing and acting upon petitions under the subsection with respect to nonimmigrants described in section 101(a)(15)(R) within 30 days after the date a completed petition has been filed.''.

(c) 60-DAY PROCESSING OF IMMIGRANTS.—Section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) is amended by adding at the end the following:

''(j) The Attorney General shall provide a process for reviewing and acting upon petitions under this section within 60 days after the date a completed petition has been filed under this section.''.

(d) 90-DAY PROCESSING OF ADJUSTMENT OF STATUS APPLICATIONS.—Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) is amended by adding at the end the following new subsection:

''(l) The Attorney General shall provide a process for reviewing and acting upon petitions under this subsection within 90 days after the date a completed petition has been filed.''.

(e) 90-DAY PROCESSING OF IMMIGRANT VISA APPLICATIONS.—Section 222 of the Immigration and Nationality Act (8 U.S.C. 1202) is amended by adding at the end the following new subsection:

''(h) The Secretary of State shall provide a process for reviewing and acting upon petitions under this section within 90 days after the date a completed application has been filed.''.

(f) REENTRY PERMITS.—Section 223 of the Immigration and Nationality Act (8 U.S.C. 1203) is amended by adding at the end the following new subsection:

''(f) EXCEPTION.—No permit shall be required for a permanent resident who is transferred abroad temporarily as a result of employment with a United States employer or its overseas parent, subsidiary, or affiliate.''.

(g) ELECTRONIC FILING.—Not later than one year after the date of enactment of this Act, the Attorney General shall establish a demonstration project regarding the feasibility of electronic filing of petitions with respect to nonimmigrants described in section 101(a)(15) (H), (L), (O), (P)(i), or (R) of the Immigration and Nationality Act. The demonstration project shall utilize a representative number of employers who seek to employ those nonimmigrants. The demonstration project shall make provision for payment by the employer of related fees through the establishment of an account with the Immigration and Naturalization Service or through a credit card. Within 2 years of the date of enactment of this Act, the Attorney General shall consider the feasibility of offering electronic filing to all petitioners.''.

(h) REPORT.—Section 214(c)(8) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(8)) is amended by adding at the end the following new subparagraph:

''(F) The average processing time of each such type of petition shall be reported annually and quarterly.''.

(i) EFFECTIVE DATE.—The amendments made by this section shall take effect 6 months after the effective date of Title I.

SEC. 302. FUNDING ADJUDICATION AND NATURALIZATION SERVICES.

Section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)) is amended—

(1) by striking '': *Provided further*,'' and all that follows through ''immigrants.'' and inserting the following: ''Each fee collected for the provision of an adjudication or naturalization service may be used only to fund adjudication or naturalization services or the costs of similar services provided without charge to asylum or refugee applicants.''; and

(2) by adding at the end the following new sentences: ''Nothing in this subsection shall be construed to modify the conditions specified in section 286(s) for the expenditure of the proceeds for the fee authorized under section 214(c)(9). There are authorized to be appropriated such sums as may be necessary to carry out the provisions of section 207 through 209 of this Act.''.

SEC. 303. INCREASE IN BORDER PATROL AGENTS AND SUPPORT PERSONNEL.

Section 101(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 is amended by striking ''and 2001'' and inserting ''2001, 2002, 2003, and 2004''.

By Mr. SARBANES (for himself, Mr. EDWARDS, Mr. BAYH, and Mr. KERRY):

S. 1565. A bill to license America's Private Investment Companies and provide enhanced credit to stimulate private investment in low-income communities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

AMERICA'S PRIVATE INVESTMENT COMPANIES (APIC)

• Mr. SARBANES. Mr. President, I am pleased to introduce today legislation to establish ''America's Private Investment Companies,'' or APIC. This legislation is part of President Clinton's ''New Markets Initiative,'' which I am also pleased to be able to support.

The New Markets Initiative, of which APIC is a crucial element, is an important response to economic problems that persist in many neighborhoods and communities in our urban and rural areas. These communities have been bypassed by the increased investment, job growth, and income increases that have characterized this unprecedented period of economic expansion. Indeed, the areas that would benefit from the New Markets Initiative are experiencing increased poverty levels, increased isolation, and ongoing joblessness and decay.

Yet, research increasingly shows that most of these areas represent good economic opportunities for American business. Michael Porter, a renowned business analyst who has written widely on competitiveness at both the firm and national levels, has written that a

> . . . major advantage of the inner city as a business location is a large, underserved local market. . . . In fact, inner cities are the largest underserved market in America, with many tens of billions of dollars of unmet consumer and business demand.

Another group called Social Compact has done intensive studies of buying power in a number of communities around the country. These studies confirm Porter's earlier work. Social Compact estimated retail spending power in two communities in Chicago. Residents in the first community have median incomes of over $67,000 million whereas the median income in the second community is under $30,000. Yet, on a per acre basis, the lower income community has more than twice the spending power of the wealthier area.

Moreover, as labor markets grow tighter and tighter, inner cities have the advantage of an ''available, loyal workforce,'' to again quote Mr. Porter.

However, we need a catalyst to encourage business to take advantage of these opportunities. The APIC program provides that push. This bill gives the Department of Housing and Urban Development (HUD), together with the Small Business Administration (SBA), authority to provide low-cost loans on a matching basis to specially constituted investment companies, called APICs, that raise private equity capital for investment in businesses in low-income areas.

Individual APICs will operate in a manner similar to Small Business Investment Companies (SBICs), a very successful program that helps fund start up small business. APIC will target its investment funds to larger businesses that locate in these underserved areas, with particular emphasis on those businesses that create good jobs in those neighborhoods.

The APIC program is essentially a private-sector venture in partnership with the public sector. The managers of the individual APICs will make the investment decisions according to the program goals and criteria. They will have their money, and the money of their investors, at risk, making the government's loan much more secure.

This program requires a very small federal investment—just $36 million in credit subsidy—to create an estimated $1 billion in debt financing available. This debt will, in turn, generate $500 million in private equity per year, or $7.5 billion over the next five years. APICs would use these funds, for example, to help a business establish a new back-office facility, factory, or distribution plant in a low income area. APICs could invest in the development of multi-tenant shopping centers, or in industrial parks. Combined with the New Market Tax Credit being introduced by my colleagues Senator ROCKEFELLER and Senator ROBB, APIC will help create important new economic opportunities in parts of America that have not yet been touched by

the economic prosperity most of us enjoy.

Mr. President, I ask that letters of support be printed in the RECORD.

The letters follow:

NEW YORK CITY INVESTMENT FUND,
August 2, 1999.

Senator PAUL SARBANES,
U.S. Senate,
Washington, DC.

DEAR SENATOR SARBANES: We are writing in support of a new initiative proposed by the Department of Housing and Urban Development and the Small Business Administration, known as America's Private Investment Companies Bill. We have provided input into the proposed legislation and believe that this bill could leverage significant new private capital for investment in communities that are not fully participating in our otherwise thriving national economy.

We established the New York City Investment Fund in 1996 to stimulate business development and job-generating activities across the five boroughs, with a particular emphasis on low and moderate-income communities. Our investors include many of the city's leading financial institutions, corporations and business leaders, each of whom put up $1 million and committed the resources of their organization to support our work. With $80 million under management, the Fund has already invested some $20 million in projects that will generate more than 4,000 new jobs. Most important, we have mobilized the city's business and financial leadership to become personally involved with our portfolio projects, providing business expertise and strategic alliances that are essential for bringing disadvantaged communities into the economic mainstream.

Based on our experience, we can confirm that there is a severe shortage of equity and debt financing for largescale projects in low-income areas. Issues associated with site assemblage, brownfields remediation, high construction costs in urban centers, and low property appraisals in the inner city all contribute to the need for federal incentives to stimulate investment in job-generating development projects targeted to these areas. At the same time, many existing businesses operating in these areas cannot attract conventional financing to modernize or expand. We have seen a number of opportunities where our Fund's resources could have been useful, but only if we could leverage additional risk capital from other sources. The APIC program would be a unique source of capital and partial loan guarantees that our Fund could definitely put to work in the inner city communities of New York for new development and retention/expansion of businesses that may otherwise disappear.

We urge you to move this bill forward, in conjunction with the proposed New Markets Tax Credit proposal, and express our willingness to work with the federal government to carry out the mission of APIC once it is enacted.

Sincerely,

HENRY R. KRAVIS.
KATHRYN WYLDE.

LOCAL INITIATIVES
SUPPORT CORPORATION,
July 30, 1999,

Hon. PAUL SARBANES,
U.S. Senate, Senate Committee on Banking and Financial Services, Washington, DC.

DEAR SENATOR SARBANES: Local Initiatives Support Corporation strongly supports the proposed America's Private Investment Companies (APICs) legislation and urges you to make its enactment a priority. We believe that APICs, along with their companion New Markets Tax Credits, offer the most exciting opportunity in a generation for the economic development of low-income urban and rural communities.

LISC is the nation's largest nonprofit resource for low-income community development. In almost 20 years, LISC has raised over $3 billion from the private sector to invest in low-income urban and rural areas through nonprofit community development corporations (CDCs). Last year alone, LISC provided over $600 million through 41 local programs and a national rural initiative.

Each year more distressed communities are becoming ripe for economic development. For example, LISC is involved in 20 major retail projects, at a total cost of $250 million, in some of the toughest neighborhoods in America. Smart business leaders are beginning to discover that these untapped markets offer profitable opportunities. The expanding economy is one reason. More important, though, have been the many years of painstaking work rebuilding housing, removing blight, reducing crime, and restoring confidence.

We know from experience that this progress does not come easily. Assembling land and constructing a modern business facility are costly and time consuming, and arranging the financing is difficult. But the payoff for communities and the nation—in jobs, income, reinvestment, services, and social stability—is well worth it.

That's why APICs are the right idea at the right time. They would help experienced community developers to mobilize private capital to seize economic development activities. These new instruments reflect what works—markets discipline, private risk taking and decision making, and genuine partnership among communities, business leaders, and government. APICs would have to raise at least one dollar of private equity investment to attract two dollars of federally guaranteed loans. Moreover, the private investors would have to lose their entire stake before any federally guarantee can be called. This structure will generate prudent underwriting without excessive government interference. The APICs structure permits a modest $37 million in credit subsidies to generate $1.5 billion in economic development—a remarkably cost-effective federal investment.

I hope you will enthusiastically support APICs and the New Markets Tax Credits. We would be pleased to work with you on this exciting agenda.

Sincerely,

MICHAEL RUBINGER,
President and Chief Executive Officer.●

By Mr. ALLARD:

S.J. Res. 31. A joint resolution proposing an amendment to the Constitution of the United States granting the President the authority to exercise an item veto of individual appropriations in an appropriations bill; to the Committee on the Judiciary.

THE LINE-ITEM VETO CONSTITUTIONAL AMENDMENT

● Mr. ALLARD. Mr. President, the federal budget is prominent right now as we discuss the spending policies that will guide Congress through the coming fiscal years. In the midst of these discussions, I would like to bring up an important issue that many members have supported in the past. I am here today to introduce a line-item veto constitutional amendment.

Prior to my election to the Senate I served in the House of Representatives. In that body I introduced a constitutional line-item veto on several occasions. This was motivated by my view that the greatest threat to our economy was deficit spending which is still adding to the accumulated $5.6 trillion national debt. As a Member of the Senate, I introduced this legislation again in 1997. This occurred just after a Federal district court declared the enacted statutory line-item veto, or more accurately, enhanced rescission authority, to be unconstitutional.

In 1996, Congress gave the President what is generally referred to as expanded rescission authority when it passed the Line Item Veto Act. All Presidents, beginning with George Washington, had impoundment authority similar to what the Line Item Veto Act intended until Congress limited rescission authority in 1974 under the Impoundment Control Act.

Ultimately the Supreme Court upheld the district court ruling in *Clinton* v. *City of New York*, where the Line Item Veto Act was ruled unconstitutional on grounds that it violates the presentment clause. Now a presidential line-item veto can only be provided by amending the Constitution, and that is what I seek to do with this legislation.

Governors in 43 states have some type of line item veto. This is consistent with the approach taken in most state constitutions of providing a greater level of detail concerning the budget process than is contained in the U.S. Constitution. In my view, the line item veto has been an important factor in the more responsible budgeting that occurs at the state level.

Colorado gives line item veto authority to the governor, and that power, along with a balanced budget requirement in the state constitution, has worked well and insured that Colorado has been governed in a fiscally responsible manner regardless of who served in the legislature or in the governor's office.

I believe it is time that we take the approach of the states. In order to do this we must enact a Constitutional Amendment. Under article I, section 7 of the Constitution, the President's veto authority has been interpreted to mean that he must sign or veto an entire piece of legislation.

The Constitution reads: ''Every Bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a Law, be presented to the President of the United States; If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, * * *'' this section then proceeds to outline the procedures by which Congress may override this veto with a two-thirds vote of both houses.

The amendment that I am introducing today amends this language as it pertains to appropriations bills. It specifically provides that the President shall have the power to disapprove any appropriation of an appropriations bill at the time the President approves the bill.

This change will make explicit that the President is no longer confined to

either vetoing or signing an entire bill, but that he may choose to single out certain appropriations for veto and still sign a portion of the bill.

A constitutional amendment ensuring that the President has line-item veto authority over congressional spending bills is an important tool in our continuing efforts to restore fiscal responsibility to the Federal government.

Mr. President, I look forward to further discussion on this important issue. We must seriously consider a constitutional amendment to allow the line item veto, and I hope that my colleagues will support this amendment or similar language in the Senate.●

ADDITIONAL COSPONSORS

S. 35

At the request of Mr. GRASSLEY, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 35, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for the long-term care insurance costs of all individuals who are not eligible to participate in employer-subsidized long-term care health plans.

S. 72

At the request of Ms. SNOWE, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 72, a bill to amend title 38, United States Code, to restore the eligibility of veterans for benefits resulting from injury or disease attributable to the use of tobacco products during a period of military service, and for other purposes.

S. 88

At the request of Mr. BUNNING, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S. 88, a bill to amend title XIX of the Social Security Act to exempt disabled individuals from being required to enroll with a managed care entity under the medicaid program.

S. 201

At the request of Mr. DODD, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 201, a bill to amend the Family and Medical Leave Act of 1993 to apply the Act to a greater percentage of the United States workforce, and for other purposes.

S. 309

At the request of Mr. MCCAIN, the names of the Senator from Michigan (Mr. LEVIN) and the Senator from Georgia (Mr. CLELAND) were added as cosponsors of S. 309, a bill to amend the Internal Revenue Code of 1986 to provide that a member of the uniformed services shall be treated as using a principal residence while away from home on qualified official extended duty in determining the exclusion of gain from the sale of such residence.

S. 391

At the request of Mr. KERREY, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. 391, a bill to provide for payments to children's hospitals that operate graduate medical education programs.

S. 469

At the request of Mr. BREAUX, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 469, a bill to encourage the timely development of a more cost effective United States commercial space transportation industry, and for other purposes.

S. 472

At the request of Mr. GRASSLEY, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 472, a bill to amend title XVIII of the Social Security Act to provide certain medicare beneficiaries with an exemption to the financial limitations imposed on physical, speech-language pathology, and occupational therapy services under part B of the medicare program, and for other purposes.

S. 484

At the request of Mr. CAMPBELL, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 484, a bill to provide for the granting of refugee status in the United States to nationals of certain foreign countries in which American Vietnam War POW/MIAs or American Korean War POW/MIAs may be present, if those nationals assist in the return to the United States of those POW/MIAs alive.

S. 512

At the request of Mr. GORTON, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 512, a bill to amend the Public Health Service Act to provide for the expansion, intensification, and coordination of the activities of the Department of Health and Human Services with respect to research on autism.

S. 619

At the request of Mr. WELLSTONE, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 619, a bill to provide for a community development venture capital program.

S. 635

At the request of Mr. MACK, the name of the Senator from Washington (Mr. GORTON) was added as a cosponsor of S. 635, a bill to amend the Internal Revenue Code of 1986 to more accurately codify the depreciable life of printed wiring board and printed wiring assembly equipment.

S. 662

At the request of Mr. CHAFEE, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of S. 662, a bill to amend title XIX of the Social Security Act to provide medical assistance for certain women screened and found to have breast or cervical cancer under a federally funded screening program.

S. 664

At the request of Mr. CHAFEE, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 664, a bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax to individuals who rehabilitate historic homes or who are the first purchasers of rehabilitated historic homes for use as a principal residence.

S. 693

At the request of Mr. HELMS, the name of the Senator from Missouri (Mr. ASHCROFT) was added as a cosponsor of S. 693, a bill to assist in the enhancement of the security of Taiwan, and for other purposes.

S. 709

At the request of Mr. DASCHLE, the name of the Senator from Nebraska (Mr. KERREY) was added as a cosponsor of S. 709, a bill to amend the Housing and Community Development Act of 1974 to establish and sustain viable rural and remote communities, and to provide affordable housing and community development assistance to rural areas with excessively high rates of outmigration and low per capita income levels.

S. 758

At the request of Mr. ASHCROFT, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 758, a bill to establish legal standards and procedures for the fair, prompt, inexpensive, and efficient resolution of personal injury claims arising out of asbestos exposure, and for other purposes.

S. 764

At the request of Mr. THURMOND, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 764, a bill to amend section 1951 of title 18, United States Code (commonly known as the Hobbs Act), and for other purposes.

S. 805

At the request of Mr. DURBIN, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 805, a bill to amend title V of the Social Security Act to provide for the establishment and operation of asthma treatment services for children, and for other purposes.

S. 820

At the request of Mr. CHAFEE, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 820, a bill to amend the Internal Revenue Code of 1986 to repeal the 4.3-cent motor fuel excise taxes on railroads and inland waterway transportation which remain in the general fund of the Treasury.

S. 867

At the request of Mr. ROTH, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 867, a bill to designate a portion of the Arctic National Wildlife Refuge as wilderness.

S. 880

At the request of Mr. BUNNING, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from