By Mr. HATCH, for the Committee on the Judiciary:

Ellen Segal Huvelle, of the District of Columbia, to be United States District Judge for the District of Columbia.

Anna J. Brown, of Oregon, to be United States District Judge for the District of Oregon.

Charles A. Pannell, Jr., of Georgia, to be United States District Judge for the Northern District of Georgia.

Florence-Marie Cooper, of California, to be United States District Judge for the Central District of California.

Ronald M. Gould, of Washington, to be United States Circuit Judge for the Ninth Circuit.

Richard K. Eaton, of the District of Columbia, to be a Judge of the United States Court of International Trade.

(The above nominations were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. CRAIG (for himself and Mr. CRAPO):

S. 1705. A bill to direct the Secretary of the Interior to enter into land exchanges to acquire from the private owner and to convey to the State of Idaho approximately 1,240 acres of land near the City of Rocks National Reserve, Idaho, and for other purposes; to the Committee on Energy and Natural Resources.

By Mrs. HUTCHISON (for herself and Mr. GRAMM):

S. 1706. A bill to amend the Federal Water Pollution Control Act to exclude from stormwater regulation certain areas and activities, and to improve the regulation and limit the liability of local governments concerning co-permitting and the implementation of control measures; to the Committee on Environment and Public Works.

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

S. 1707. A bill to amend the Inspector General Act of 1978 (5 U.S.C. App.) to provide that certain designated Federal entities shall be establishments under such Act, and for other purposes; to the Committee on Governmental Affairs.

By Mr. MOYNIHAN (for himself, Mr. JEFFORDS, Mr. LEAHY, Mr. KERREY, Mr. ROBB, Mr. ROCKEFELLER, Mr. SARBANES, Mr. GRAMS, and Mr. LIEBERMAN):

S. 1708. A bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to require plans which adopt amendments that significantly reduce future benefit accruals to provide participants with adequate notice of the changes made by such amendments; to the Committee on Finance.

By Mr. KYL (for himself, Mr. MCCAIN, Mrs. HUTCHISON, Mr. DOMENICI, Mr. BINGAMAN, and Mrs. FEINSTEIN):

S. 1709. A bill to provide Federal reimbursement for indirect costs relating to the incarceration of illegal aliens and for emergency health services furnished to undocumented aliens; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Ms. SNOWE (for herself, Mr. HELMS, Mr. SARBANES, Mr. BIDEN, and Mr. BYRD):

S. Res. 198. Expressing sympathy for those killed and injured in the recent earthquakes in Turkey and Greece and commending Turkey and Greece for their recent efforts in opening a national dialogue and taking steps to further bilateral relations; considered and agreed to.

By Mr. REED (for himself, Ms. COLLINS, Mr. TORRICELLI, Mr. REID, Mr. LEVIN, Mr. WELLSTONE, Mr. LIEBERMAN, Mr. KERRY, Mr. KENNEDY, Mr. SARBANES, Mr. DORGAN, Mr. SCHUMER, Mr. AKAKA, Mr. INOUYE, Mr. CHAFEE, Mrs. BOXER, Ms. MIKULSKI, Mr. DODD, Mr. WYDEN, Mr. CONRAD, Mr. GRAHAM, Mr. DURBIN, Mr. DEWINE, Ms. LANDRIEU, Mr. JOHNSON, Mr. JEFFORDS, Mr. SMITH of Oregon, Mr. ROBB, and Mr. FRIST):

S. Res. 199. A resolution designating the week of October 24, 1999, through October 30, 1999, and the week of October 22, 2000, through October 28, 2000, as ''National Childhood Lead Poisoning Prevention Week''; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CRAIG (for himself and Mr. CRAPO):

S. 1705. A bill to direct the Secretary of the Interior to enter into land exchanges to acquire from the private owner and to convey to the State of Idaho approximately 1,240 acres of land near the City of Rocks National Reserve, Idaho, and for other purposes; to the Committee on Energy and Natural Resources.

CASTLE ROCK RANCH/HAGERMAN FOSSIL BEDS LAND EXCHANGE

● Mr. CRAIG. Mr. President, I rise today to introduce a bill to authorize the Castle Rocks Ranch/Hagerman Fossil Beds Land Exchange in my home state of Idaho.

Mr. President, in Idaho we have one of the foremost rock climbing destination sites in the world. It is called the City of Rocks National Reserve and is located in South Central Idaho. Most of the Reserve is owned by the National Park Service with parts of it being owned by the State of Idaho, the Forest Service, the Bureau of Land Management, and private landowners. The State of Idaho runs the Reserve with a cooperative agreement with the National Park Service.

The Reserve has unique geologic features—essentially, large rock formations jut out of the ground. I can't give it justice with my description—it is really something that must be seen, so I invite everyone to come to Idaho and visit the City of Rocks. Besides the rock formations, many of which are used extensively and known internationally for rock climbing, the site has unique historic significance. The California Trail, one of the major trails for Westward expansion during the 19th Century, passes through the Reserve. One of the Reserve's major attractions, Twin Sisters, was a landmark for this trail and is currently being protected for historic significance. Additionally, wagon trains often stopped in the area to maintain their wagons. During these stops, pioneers wrote their names on the rocks with wagon grease. Many of these names are still visible on the rocks today and serve as a record of our ancestors who passed through the area.

Near the Reserve exists the Castle Rock Ranch, an approximately 1,240 acre ranch containing similar rock formations, which are ideal for fork climbing. Additionally, the Ranch contains irrigated pasture land. The Ranch was recently purchased by The Conservation Fund and other conservation groups in order to put it into the public domain for recreation. It is currently being operated as a working ranch. However, the State of Idaho would like to acquire this Ranch to make it into a state park. They would open up the rock formations for rock climbing, provide for camping and hiking, and, where irrigated pasture land exists, trade that irrigated land for dry land inholdings within the Reserve. This would help local ranchers acquire irrigated land, which is more valuable than gold in Southern Idaho, and allow the state to consolidate inholdings within the Reserve.

A couple of counties to the West and across the mighty Snake River exists the Hagerman Fossil Beds National Monument. This National Monument contains the Hagerman Fossil Beds, which is important because it contains the world's most important fossil deposits from a time period known as the late Pliocene epoch, 3.5 million years ago. They represent the last glimpse of time before the Ice Age. Additionally, the beds contain the largest concentration of Hagerman Horse fossils in North America. While the State of Idaho owns the actual fossil beds, the National Park Service runs and maintains the facility.

The State of Idaho wants to divest its interest in the fossil beds and acquire the Castle Rock Ranch. Additionally, the National Park Service wants to acquire the Fossil Beds. This would make it easier for everyone to work to protect the resources we have and open up opportunities for recreation. Consequently, I am introducing this legislation.

In brief, the legislation would authorize the National Park Service to acquire the Castle Rock Ranch, exchange the Ranch with the State of Idaho for the Hagerman Fossil Beds, and mandate that the State exchange land within the Ranch for inholdings within the City of Rocks. In the end, the National Park Service would run and own the Hagerman Fossil Beds, the State of Idaho would own and run a state park in part of the Castle Rock Ranch, and voluntary inholders in the

City of Rocks would be able to trade their inholdings for irrigated land on the Castle Rock Ranch.

The only concern I have is the existence of an easement on the Hagerman Fossil Beds for the local irrigation company. This is the only way for farmers in the local area to get water to their farms—a necessity in that region. Section 4(e) of this legislation was included to ensure that this easement will continue to exist. It is vital to the existence of family farms in the area, and, for the record, it is not my intent to harm—and I will do all in my power to prevent this legislation from harming—this easement or the irrigation in the local area.

Mr. President, this is a unique proposal that makes fiscal sense for taxpayers and has garnered the support of the National Park Service, the State of Idaho, The Conservation Fund, The Access Fund (a national climbing group), other conservation groups, local legislators, and many local residents. I hope that my colleagues will recognize the importance of this legislation and work for its enactment.●

By Mr. MOYNIHAN (for himself, Mr. JEFFORDS, Mr. LEAHY, Mr. KERREY, Mr. ROBB, Mr. ROCKEFELLER, Mr. SARBANES, Mr. GRAMS, and Mr. LIEBERMAN):

S. 1708. A bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to require plans which adopt amendments that significantly reduce future benefit accruals to provide participants with adequate notice of the changes made by such amendments; to the Committee on Finance.

THE PENSION REDUCTION DISCLOSURE ACT OF 1999

Mr. MOYNIHAN. Mr. President, I rise today, joined by Senators JEFFORDS, LEAHY, GRAMS, KERREY, ROBB, ROCKEFELLER, and SARBANES, to introduce legislation to provide greater disclosure of the impact of pension plan conversions.

This is the second bill I have sponsored this session aimed at achieving transparency of the effects of traditional pension plan conversions to ''cash balance'' plans, which have become extremely controversial in recent months. At least 300 large U.S. companies have converted to cash balance plans in the last few years.

Cash balance plans combine certain features of ''defined benefit'' and ''defined contribution'' plans. Like defined contribution plans, cash balance plans provide each employee with an individual account representing a lump-sum benefit. Like traditional defined benefit plans, cash balance plan contributions are made primarily by the employer and are insured by the Pension Benefit Guaranty Corporation.

The calculation of benefits under cash balance plans, however, differs from other defined benefit plans. Whereas a traditional defined benefit plan grows slowly in the early years and more rapidly as one approaches retirement, cash balance plans de-accelerate this later-year growth and increase the early-year growth. Consequently, younger employees tend to do better under cash balance plans than under traditional plans, while older employees typically do worse. In some cases, an older worker's starting account balance may remain static for years—typically referred to as the ''wear away'' period.

The controversy over cash balance plans arises in part because present disclosure requirements are inadequate. Under present law, when an employer amends a defined benefit pension plan in a manner which significantly reduces the rate of future benefit accrual, the employer must provide participants with an advance written notice of the amendment. The law does not, however, require employers to disclose the effect the amendment will have on participants. In fact, it does not even require employers to disclose that benefits will be reduced. All that present law requires is that employers provide participants with a summary or copy of the plan amendment. Consequently, current law can be satisfied with a summary buried in an obscure document. In some cases, workers have complained that their employers purposefully obscured benefit reductions. As a result, employee anger over cash balance plans has grown, resulting in several class action lawsuits being filed in just the last three years.

The Pension Reduction Disclosure Act will strengthen existing law by requiring disclosure of information which will enable employees to determine the effects of benefit reductions. Specifically, before the plan is changed, each adversely-affected employee must receive illustrative examples showing the effects of the change on various employee groups. Moreover, each employee must have the opportunity to receive the benefit formulas for the old and new versions of the plan so that he or she can make specific comparisons of both plans. Then, 90 days after the plan is changed, each adversely-affected employee must have, upon request, the opportunity to receive an individual benefit comparison prepared by the employer. This information will provide employees with the knowledge they need regarding pension benefit reductions, while imposing minimal burden on employers.

The Pension Reduction Disclosure Act, is a modified version of legislation I introduced in March entitled The Pension Right to Know Act (S. 659). The new measure attempts to address concerns raised by employers concerning S. 659. For example, the new measure requires disclosure only for adversely-affected employees, not all employees, in order to meet employer concerns that S. 659 was too broad in its reach. Moreover, the new bill addresses employer concerns that it would be difficult to provide individual benefit comparisons before the amendment effective date due to a lack of individual data. Under the bill introduced today, individual benefit comparisons would be required no earlier than 90 days after the effective date, and then only upon request. (To enable employees to compare the old and new plans before the effective date, this bill provides illustrative examples and, upon request, the benefit formulas for the old and new plans.) Another change is that the new bill allows the Secretary of Treasury to develop alternative and simplified compliance methods where appropriate, as in cases where there is no fundamental change in the manner in which benefits are determined. Moreover, the Secretary may reduce the advance notice period from 45 days to 15 days in cases in which the 45-day requirement would be unduly burdensome because the amendment is contingent on a merger, acquisition, disposition or other similar transaction.

I believe that such disclosure not only is in the best interest of employees, but also of the employer. Several class action lawsuits have been filed in the last three years challenging conversions to cash balance plans. These suits will likely cost millions of dollars in attorneys' fees, but with proper disclosure they might not have occurred.

I want to acknowledge the work of the Clinton Administration in helping to craft this measure. The bill largely follows the outline of a proposal suggested by the Administration in July which was developed in collaboration with my staff. The Departments of Treasury and Labor have provided great insight and creativity in developing this bill, and I thank them for their assistance. Two of our distinguished House colleagues, Congressman ROBERT MATSUI of California and Congressman JERRY WELLER of Illinois, are introducing this legislation in the other chamber, so hopefully it will become law this year.

In closing, let me repeat what I have said in the past. I take no position on the underlying merit of cash balance plans. Ours is a voluntary pension system, and companies must do what is right for them and their employees. But I feel strongly that companies must fully and comprehensibly inform their employees regarding whatever pension benefits the company offers. Companies have no right to misrepresent or obfuscate the projected benefit employees will receive under a cash balance plan or any other pension arrangement, notwithstanding the fact that some pension consultants have advocated cash balance plans for that very purpose.

As I said upon introduction of my earlier legislation on this topic, it is time to let the sun shine on pension plan conversions. I urge the Senate to support this important measure.

I ask unanimous consent that a copy and summary of the bill be included in the RECORD.

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

S. 1708

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 ''Pension Reduction Disclosure Act of 1999''.

SEC. 2. NOTICE REQUIRED FOR CERTAIN PLAN AMENDMENTS REDUCING FUTURE BENEFIT ACCRUALS.

(a) GENERAL NOTICE REQUIREMENTS.—Section 204(h) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1054(h)) is amended to read as follows:

''(h) NOTICE REQUIREMENTS FOR PENSION PLAN AMENDMENTS REDUCING ACCRUALS.—

''(1) IN GENERAL.—If an applicable pension plan is amended so as to provide for a significant reduction in the rate of future benefit accrual of 1 or more applicable individuals, the plan administrator shall—

''(A) not later than the 45th day before the effective date of the amendment, provide the written notice described in paragraph (2) to each applicable individual (and to each employee organization representing applicable individuals), and

''(B) in the case of a large applicable pension plan—

''(i) include in the notice under paragraph (2) the additional information described in paragraph (3),

''(ii) make available the information described in paragraph (4) in accordance with such paragraph, and

''(iii) provide individual benefit statements in accordance with section 105(e).

''(2) BASIC WRITTEN NOTICE.—The notice under paragraph (1) shall include a summary of the important terms of the amendment, including—

''(A) the effective date of the amendment,

''(B) a statement that the amendment is expected to significantly reduce the rate of future benefit accrual,

''(C) a description of the classes of applicable individuals to whom the amendment applies, and

''(D) a description of how the amendment significantly reduces the rate of future benefit accrual.

''(3) ADDITIONAL INFORMATION TO BE PROVIDED BY LARGE APPLICABLE PENSION PLANS.—

''(A) IN GENERAL.—The information described in this paragraph is—

''(i) a description of the plan's benefit formulas (including formulas for determining early retirement benefits) both before and after the amendment and an explanation of the effect of the different formulas on applicable individuals,

''(ii) an explanation of the circumstances (if any) under which (for appropriate categories of applicable individuals) the amendment is reasonably expected to result in a temporary period after the effective date of the amendment during which there are no or minimal accruals,

''(iii) illustrative examples of normal or early retirement benefits meeting the requirements of subparagraph (B), and

''(iv) notice of each applicable individual's right to request, and of the procedures for requesting, the information required to be provided under paragraph (4) and under section 105(e).

''(B) ILLUSTRATIVE EXAMPLES.—Illustrative examples meet the requirements of this subparagraph if such examples illustrate the adverse effects of the plan amendment. Such examples shall be prepared by the plan administrator in accordance with regulations prescribed by the Secretary of the Treasury, and such regulations shall require that the examples—

''(i) reflect fairly the different categories of applicable individuals who are similarly affected by the plan amendment after consideration of all relevant factors,

''(ii) show a comparison of benefits for each such category of applicable individuals under the plan (as in effect before and after the effective date) at appropriate future dates, and

''(iii) illustrate any temporary period described in subparagraph (A)(ii).

Such comparison shall be based on benefits in the form of a life annuity and on actuarial assumptions each of which is reasonable (and is so certified by an enrolled actuary) when applied to all participants in the plan.

''(4) SUPPORTING INFORMATION RELATING TO CALCULATION OF BENEFITS.—

''(A) IN GENERAL.—Each individual who receives or who is entitled to receive the information described in paragraph (3) may (after so receiving or becoming so entitled) request the plan administrator to provide the information described in subparagraph (B).

''(B) INFORMATION.—The plan administrator shall, within 15 days after the date on which a request under subparagraph (A) is made, provide to the individual information (including benefit formulas and actuarial factors) which is sufficient—

''(i) to confirm the benefit comparisons in the illustrative examples described in paragraph (3)(B), and

''(ii) to enable the individual to use the individual's own personal information to make calculations of the individual's own benefits which are similar to the calculations made in such examples.

Nothing in this subsection shall be construed to require the plan administrator to provide to an individual such individual's personal information for purposes of clause (ii).

''(C) TIME LIMITATION ON REQUESTS.—This paragraph shall apply only to requests made during the 12-month period that begins on the later of the effective date of the amendment to which it relates or the date the notice described in paragraph (2) is provided.

''(5) SANCTIONS.—

''(A) IN GENERAL.—In the case of any egregious failure to meet any requirement of this subsection with respect to any plan amendment, the provisions of the applicable pension plan shall be applied as if such plan amendment entitled all applicable individuals to the greater of—

''(i) the benefits to which they would have been entitled without regard to such amendment, or

''(ii) the benefits under the plan with regard to such amendment.

''(B) EGREGIOUS FAILURE.—For purposes of subparagraph (A), there is an egregious failure to meet the requirements of this subsection if such failure is—

''(i) an intentional failure (including any failure to promptly provide the required notice or information after the plan administrator discovers an unintentional failure to meet the requirements of this subsection),

''(ii) a failure to provide most of the individuals with most of the information they are entitled to receive under this subsection, or

''(iii) a failure which is determined to be egregious under regulations prescribed by the Secretary of the Treasury.

''(B) EXCISE TAX.—For excise tax on failure to meet requirements, see section 4980F of the Internal Revenue Code of 1986.

''(6) SPECIAL RULES.—

''(A) PLAIN LANGUAGE.—The notice required under paragraph (1) shall be written in a manner calculated to be understood by the average plan participant who is an applicable individual.

''(B) NOTICE TO DESIGNEES.—The notice and information required to be provided under this subsection may be provided to a person designated, in writing, by the person to which it would otherwise be provided.

''(7) ALTERNATIVE METHODS OF COMPLIANCE WITH ENHANCED DISCLOSURE REQUIREMENTS IN CERTAIN CASES.—The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out this subsection. The Secretary of the Treasury may—

''(A) prescribe alternative or simplified methods of complying with paragraphs (3) and (4) in situations where—

''(i) there is no fundamental change in the manner in which the accrued benefit of an applicable individual is determined under the plan, and

''(ii) such other methods are adequate to reasonably inform plan participants who are applicable individuals of the impact of the reductions,

''(B) reduce the advance notice period in paragraph (1)(A) from 45 days to 15 days before the effective date of the amendment for cases in which compliance with the 45-day advance notice requirement would be unduly burdensome because the amendment is contingent on a merger, acquisition, disposition, or other similar transaction involving plan participants who are applicable individuals or because 45 days advance notice is otherwise impracticable,

''(C) permit the comparison of benefits under paragraph (3)(B)(i) to be based on a form of payment other than a life annuity, or

''(D) specify actuarial assumptions that are deemed to be reasonable for purposes of the benefit comparisons under paragraph (3)(B)(i).

''(8) APPLICABLE INDIVIDUAL.—For purposes of this subsection, the term 'applicable individual' means, with respect to any plan amendment—

''(A) each participant in the plan, and

''(B) each beneficiary who is an alternate payee (within the meaning of section 206(d)(3)(K)) under a qualified domestic relations order (within the meaning of section 206(d)(3)(B)(i)),

whose future benefit accruals under the plan may reasonably be expected to be reduced by such plan amendment.

''(9) TERMS RELATING TO PLANS.—For purposes of this subsection—

''(A) APPLICABLE PENSION PLAN.—The term 'applicable pension plan' means—

''(i) a defined benefit plan, or

''(ii) an individual account plan which is subject to the funding standards of section 302.

''(B) LARGE APPLICABLE PENSION PLAN.—The term 'large applicable pension plan' means an applicable pension plan which had 100 or more active participants as of the last day of the plan year preceding the plan year in which the plan amendment becomes effective.''

(b) INDIVIDUAL STATEMENTS.—Section 105 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1025) is amended by adding at the end the following new subsection:

''(e)(1) The plan administrator of a large applicable pension plan shall furnish an individual statement described in paragraph (2) to each individual—

''(A) who receives, or is entitled to receive, under section 204(h) the information described in paragraph (3) thereof from such administrator, and

''(B) who requests in writing such a statement from such administrator.

''(2) The statement described in this paragraph is a statement which provides information which is substantially the same as the information in the illustrative examples

described in section 204(h)(3)(B) but which is based on data specific to the requesting individual and, if the individual so requests, information as of 1 other future date not included in such examples.

''(3) Paragraph (1) shall apply only to requests made during the 12-month period that begins on the later of the effective date of the amendment to which it relates or the date the notice described in section 204(h)(2) is provided. In no case shall an individual be entitled under this subsection to receive more than one such statement with respect to an amendment.

''(4) Notwithstanding section 502(c)(1), the statement required by paragraph (1) shall be treated as timely furnished if furnished on or before—

''(A) the date which is 90 days after the effective date of the plan amendment to which is relates, or

''(B) such later date as may be permitted by the Secretary of Labor.

''(5) Any term used in this subsection which is used in section 204(h) shall have the meaning given such term by such section.

''(6) A statement under this subsection shall not be taken into account for purposes of subsection (b).''

SEC. 3. EXCISE TAX ON FAILURE TO PROVIDE NOTICE BY DEFINED BENEFIT PLANS SIGNIFICANTLY REDUCING FUTURE BENEFIT ACCRUALS.

(a) IN GENERAL.—Chapter 43 of the Internal Revenue Code of 1986 (relating to qualified pension, etc., plans) is amended by adding at the end the following new section:

''SEC. 4980F. FAILURE OF DEFINED BENEFIT PLANS REDUCING BENEFIT ACCRUALS TO SATISFY NOTICE REQUIREMENTS.

''(a) IMPOSITION OF TAX.—There is hereby imposed a tax on the failure of a plan administrator of an applicable pension plan to meet the requirements of subsection (e) with respect to any applicable individual.

''(b) AMOUNT OF TAX.—

''(1) IN GENERAL.—The amount of the tax imposed by subsection (a) on any failure with respect to any applicable individual shall be $100 for each day in the noncompliance period with respect to such failure.

''(2) NONCOMPLIANCE PERIOD.—For purposes of this section, the term 'noncompliance period' means, with respect to any failure, the period beginning on the date the failure first occurs and ending on the date the failure is corrected.

''(c) LIMITATIONS ON AMOUNT OF TAX.—

''(1) OVERALL LIMITATION FOR UNINTENTIONAL FAILURES.—

''(A) IN GENERAL.—In the case of failures that are due to reasonable cause and not to willful neglect, the tax imposed by subsection (a) for failures during the taxable year of the employer (or, in the case of a multiemployer plan, the taxable year of the trust forming part of the plan) shall not exceed $500,000 ($1,000,000 in the case of a large applicable pension plan).

''(B) TAXABLE YEARS IN THE CASE OF CERTAIN CONTROLLED GROUPS.—For purposes of this paragraph, if all persons who are treated as a single employer for purposes of this section do not have the same taxable year, the taxable years taken into account shall be determined under principles similar to the principles of section 1561.

''(2) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved.

''(d) LIABILITY FOR TAX.—The following shall be liable for the tax imposed by subsection (a):

''(1) In the case of a plan other than a multiemployer plan, the employer.

''(2) In the case of a multiemployer plan, the plan.

''(e) NOTICE REQUIREMENTS FOR PENSION PLAN AMENDMENTS REDUCING ACCRUALS.—

''(1) IN GENERAL.—If an applicable pension plan is amended so as to provide for a significant reduction in the rate of future benefit accrual of 1 or more applicable individuals, the plan administrator shall—

''(A) not later than the 45th day before the effective date of the amendment, provide the written notice described in paragraph (2) to each applicable individual (and to each employee organization (as defined in section 3(4) of the Employee Retirement Income Security Act of 1974) representing applicable individuals), and

''(B) in the case of a large applicable pension plan—

''(i) include in the notice under paragraph (2) the additional information described in paragraph (3), and

''(ii) make available the information described in paragraph (4) in accordance with such paragraph.

''(2) BASIC WRITTEN NOTICE.—The notice under paragraph (1) shall include a summary of the important terms of the amendment, including—

''(A) the effective date of the amendment,

''(B) a statement that the amendment is expected to significantly reduce the rate of future benefit accrual,

''(C) a description of the classes of applicable individuals to whom the amendment applies, and

''(D) a description of how the amendment significantly reduces the rate of future benefit accrual.

''(3) ADDITIONAL INFORMATION TO BE PROVIDED BY LARGE APPLICABLE PENSION PLANS.—

''(A) IN GENERAL.—The information described in this paragraph is—

''(i) a description of the plan's benefit formulas (including formulas for determining early retirement benefits) both before and after the amendment and an explanation of the effect of the different formulas on applicable individuals,

''(ii) an explanation of the circumstances (if any) under which (for appropriate categories of applicable individuals) the amendment is reasonably expected to result in a temporary period after the effective date of the amendment during which there are no or minimal accruals,

''(iii) illustrative examples of normal or early retirement benefits meeting the requirements of subparagraph (B), and

''(iv) notice of each applicable individual's right to request, and of the procedures for requesting, the information required to be provided under paragraph (4) and under section 105(e) of Employee Retirement Income Security Act of 1974.

''(B) ILLUSTRATIVE EXAMPLES.—Illustrative examples meet the requirements of this subparagraph if such examples illustrate the adverse effects of the plan amendment. Such examples shall be prepared by the plan administrator in accordance with regulations prescribed by the Secretary, and such regulations shall require that the examples—

''(i) reflect fairly the different categories of applicable individuals who are similarly affected by the plan amendment after consideration of all relevant factors,

''(ii) show a comparison of benefits for each such category of applicable individuals under the plan (as in effect before and after the effective date) at appropriate future dates, and

''(iii) illustrate any temporary period described in subparagraph (A)(ii).

Such comparison shall be based on benefits in the form of a life annuity and on actuarial assumptions each of which is reasonable (and is so certified by an enrolled actuary) when applied to all participants in the plan.

''(4) SUPPORTING INFORMATION RELATING TO CALCULATION OF BENEFITS.—

''(A) IN GENERAL.—Each individual who receives or who is entitled to receive the information described in paragraph (3) may (after so receiving or becoming so entitled) request the plan administrator to provide the information described in subparagraph (B).

''(B) INFORMATION.—The plan administrator shall, within 15 days after the date on which a request under subparagraph (A) is made, provide to the individual information (including benefit formulas and actuarial factors) which is sufficient—

''(i) to confirm the benefit comparisons in the illustrative examples described in paragraph (3)(B), and

''(ii) to enable the individual to use the individual's own personal information to make calculations of the individual's own benefits which are similar to the calculations made in such examples.

Nothing in this subsection shall be construed to require the plan administrator to provide to an individual such individual's personal information for purposes of clause (ii).

''(C) TIME LIMITATION ON REQUESTS.—This paragraph shall apply only to requests made during the 12-month period that begins on the later of the effective date of the amendment to which it relates or the date the notice described in paragraph (2) is provided.

''(5) SPECIAL RULES.—

''(A) PLAIN LANGUAGE.—The notice required under paragraph (1) shall be written in a manner calculated to be understood by the average plan participant who is an applicable individual.

''(B) NOTICE TO DESIGNEES.—The notice or information required to be provided under this subsection may be provided to a person designated, in writing, by the person to which it would otherwise be provided.

''(6) ALTERNATIVE METHODS OF COMPLIANCE WITH ENHANCED DISCLOSURE REQUIREMENTS IN CERTAIN CASES.—The Secretary shall prescribe such regulations as may be necessary to carry out this subsection. The Secretary may—

''(A) prescribe alternative or simplified methods of complying with paragraphs (3) and (4) in situations where—

''(i) there is no fundamental change in the manner in which the accrued benefit of an applicable individual is determined under the plan, and

''(ii) such other methods are adequate to reasonably inform plan participants who are applicable individuals of the impact of the reductions,

''(B) reduce the advance notice period in paragraph (1)(A) from 45 days to 15 days before the effective date of the amendment for cases in which compliance with the 45-day advance notice requirement would be unduly burdensome because the amendment is contingent on a merger, acquisition, disposition, or other similar transaction involving plan participants who are applicable individuals or because 45 days advance notice is otherwise impracticable,

''(C) permit the comparison of benefits under paragraph (3)(B)(i) to be based on a form of payment other than a life annuity, or

''(D) specify actuarial assumptions that are deemed to be reasonable for purposes of the benefit comparisons under paragraph (3)(B)(i).

''(7) APPLICABLE INDIVIDUAL.—For purposes of this subsection, the term 'applicable individual' means, with respect to any plan amendment—

''(A) each participant in the plan, and

''(B) each beneficiary who is an alternate payee (within the meaning of section 414(p)(8)) under a qualified domestic relations order (within the meaning of section 414(p)(1)),

whose future benefit accruals under the plan may reasonably be expected to be reduced by such plan amendment.

''(8) TERMS RELATING TO PLANS.—For purposes of this subsection—

''(A) APPLICABLE PENSION PLAN.—The term 'applicable pension plan' means—

''(i) a defined benefit plan, or

''(ii) an individual account plan which is subject to the funding standards of section 412.

Such term shall not include any governmental plan (within the meaning of section 414(d)) or any church plan (within the meaning of section 414(e)) with respect to which the election provided by section 410(d) has not been made.

''(B) LARGE APPLICABLE PENSION PLAN.—The term 'large applicable pension plan' means an applicable pension plan which had 100 or more active participants as of the last day of the plan year preceding the plan year in which the plan amendment becomes effective.''

(b) CONFORMING AMENDMENT.—The table of sections for chapter 43 of such Code is amended by adding at the end the following new item:

''Sec. 4980F. Failure of defined benefit plans reducing benefit accruals to satisfy notice requirements.''

SEC. 4. EFFECTIVE DATES.

(a) IN GENERAL.—The amendments made by this Act shall apply to plan amendments taking effect after the date of the enactment of this Act.

(b) SPECIAL RULES.—

(1) IN GENERAL.—The amendments made by this Act shall not apply to any plan amendment for which there was written notice before July 12, 1999, which was reasonably expected to notify substantially all of the plan participants or their representatives.

(2) TRANSITION.—Until such time as the Secretary of the Treasury issues regulations under sections 4980F(e)(3) and (4) of the Internal Revenue Code of 1986 and section 204(h)(3) and (4) of the Employee Retirement Income Security Act of 1974 (as added by the amendments made by this section), a plan shall be treated as meeting the requirements of such sections if it makes a good faith effort to comply with such requirements.

(3) NOTICE AND INFORMATION NOT REQUIRED TO BE FURNISHED BEFORE 120TH DAY AFTER ENACTMENT.—The period for providing any notice or information required by the amendments made by this section shall not end before the date which is 120 days after the date of the enactment of this Act.

THE PENSION REDUCTION DISCLOSURE ACT OF 1999

Present Law.—Under present law, when an employer amends a defined benefit pension plan in a manner which significantly reduces the rate of future benefit accrual, the employer must provide participants with an advance written notice of the amendment. The law does not, however, require employers to disclose the effect the amendment will have on participants.

SUMMARY OF PROVISIONS OF THE PENSION REDUCTION DISCLOSURE ACT

Notice Requirements for Pension Plan Amendments Reducing Future Benefit Accruals.—At least 45 days before the effective date of a pension plan amendment that reduces the rate of future benefit accruals, employees adversely affected by the amendment must receive notice of a reduction, as described below.

Basic Notice.—Pension plans with fewer than 100 participants must provide a basic written notice including: the effective date of the amendment; a statement that the amendment is expected to significantly reduce the rate of future benefit accrual; a description of the classes of applicable individuals to whom the amendment applies; and a description of how the amendment significantly reduces the rate of future benefit accrual.

Enhanced Notice.—Pension plans with 100 or more participants must provide the following information in addition to the basic written notice.

A description of the plan's benefit formulas before and after the amendments, and an explanation of the effects of the different formulas on participants;

An explanation of the circumstances under which any ''wearaway'' or other temporary suspension of benefit accruals may occur;

Illustrative examples showing the adverse effects of the plan amendment by comparing expected benefit accruals for various categories of participants (e.g., participants of similar age and years of service) under the old and new versions of the plan.

Alternative methods of compliance with enhanced notice in certain cases. The Secretary of the Treasury may prescribe alternative or simplified methods of compliance with the enhanced notice requirements in situations where there is no fundamental change in the manner in which benefits are determined (e.g., where the benefit formula is reduced from 1.25 percent of compensation to 1.0 percent of compensation). The Secretary may also reduce the advance notice period from 45 days to 15 days for cases in which compliance with the 45-day requirement would be unduly burdensome because the amendment is contingent on a merger, acquisition, disposition, or other similar transaction or because 45 days advance notice is otherwise impracticable.

In the case of plans with 100 or more participants, the plan must provide adversely-affected participants, within 15 days of request, the specific benefit formulas and actuarial factors used in the preparation of the illustrative examples. The information must be sufficient to confirm the benefit comparisons provided in the illustrative examples and to enable participants to make calculations of their own benefits under the old and new versions of the plan that are similar to the calculations made in the examples.

Individual Benefit Statements.—In the case of plans with 100 or more participants, an adversely-affected participant may request and receive an individual benefit statement providing information which is substantially the same as the information in the illustrative examples described above, but which is based on data specific to the requesting individual. If the individual so requests, the individual statement must reflect one other future date not included in the examples. As with current law regarding accrued benefit calculations, individual statements must be provided within 30 days of request. The earliest required date for providing individual statements shall be 90 days after the amendment effective date.

SANCTIONS FOR NONCOMPLIANCE

Egregious Failure to Supply Notice.—Employers failing to provide most of the required notice information to most affected participants, or intentionally failing to provide notice information to any affected participant, shall provide the greater of the benefits available under the old and new versions of the plan and shall also be subject to an excise tax of $100 per day for every day of the noncompliance period.

Nonegregious Failure to Supply Notice.—Employers failing to provide the required notice information, but not in the egregious manner described above, shall be subject to an excise tax of $100 per day for every day of the noncompliance period.

Maximum Excise Tax Where Failure Due to Reasonable Cause.—In a case where the failure was due to reasonable cause and not willful neglect, the excise tax is limited to $1 million for plans with 100 or more participants and $500,000 for plans with fewer than 100 participants.

● Mr. JEFFORDS. Mr. President, I am pleased to join Senators MOYNIHAN, LEAHY, ROBB, KERREY, ROCKEFELLER and GRAMS of Minnesota in the introduction of the Pension Reduction Disclosure Act. This bill greatly expands current law and will provide improved disclosure of the impact of the conversion of a traditional defined benefit pension plan to a cash balance or other hybrid pension plan. We believe that current law protections are insufficient to protect the interests of plan participants. The Pension Reduction Disclosure Act is an important first step in improving worker pension protections. I am also pleased that the President supports this bill.

Appropriate disclosure for cash balance pension plans is a serious public policy issue affecting the retirement benefits of millions of Americans. At a minimum, employees should have meaningful notice when their employer plans to reduce pension benefits in the switch from a traditional to a cash balance plan.

This bill does that.

First, employers have not always been candid with employees about what the changes in pension plans will mean for the employee's retirement. Our bill will require that they spell it out in black and white, and do so in language that anyone who is not an actuary or tax attorney can understand.

Second, plan sponsors will have to provide this information in a timely manner, so that employees can engage their employer and seek changes if they choose to do so. As we have seen at IBM and elsewhere, companies can misjudge the impact of these changes on their workforce.

Third, plan sponsors will be required to provide their employees with specifics about the effect that the change will have on their retirement benefits so that individuals can understand the financial impact that the conversion will have on their pension. Once we pass this bill, my guess is that employers will think long and hard about what changes they want to make to their pension plans.

Long-serving, loyal employees should not wake up to find their pension benefits slashed without even the chance to confront their employer. We can't expect people to save for retirement if the sand is forever shifting under their feet.

This bill addresses but one part of the conversion issue. But I think it deserves widespread bipartisan support. I believe that there are more issues at stake for workers, such as my own concerns regarding the pension benefit

''wear away''. However, the Pension Reduction Disclosure Act is a good first step we ought to take to address the legitimate concerns that have been raised about these plans.

We don't have a lot of time, but I hope we can send this bill to the President for his signature before we adjourn this fall.●

Mr. LEAHY. Mr. President, I am pleased to join Senator MOYNIHAN and Senator JEFFORDS as a cosponsor of the Pension Reduction Disclosure Act of 1999. I believe this bill is a good first step to providing American workers with the information they deserve to know about changes to their pensions. President Clinton has endorsed our legislation and is ready to sign it into law.

As the controversy surrounding IBM's decision to convert its traditional pension plan to a cash balance plan taught many Vermonters, Congress needs to revise our laws to require greater disclosure of pension changes. When IBM first announced its pension switch, many Vermont IBMers told me that they did not have enough information to judge the new plan's impact on their pensions. They discovered that current Federal law does not even require an employer to explain to its employees how any future pension benefits will be reduced. This is not right.

Unfortunately, Vermont IBMers are not alone. At least 325 companies, with more than $330 billion in pension-defined benefit assets, have adopted cash-balance plans in recent years. This phenomenon is the biggest development in the pension world in years. But, as we all know now thanks to the tireless efforts of IBMers in Vermont and elsewhere, there is a dark side to this corporate trend: the fact that many experienced workers face deep cuts in their promised pensions when their company switches to a cash-balance plan.

The Pension Reduction Disclosure Act would require all employers, regardless of the size of their pension plan, to notify their employees of pension plan changes that would reduce the future benefit accrual rate at least 45 days in advance of the change. In addition, this legislation would require employers to explain any differences in future accrual rates between the old and new plan in a clear and meaningful fashion, by providing employees with detailed examples showing the difference between the old and new plans.

This bill complements the Pension Right to Know Act, which Senator MOYNIHAN and I introduced earlier in the year. Our earlier bill would require employers to provide employees with individualized comparisons of future benefits under the old and new plans 15 days prior to the conversion for pension plans covering 1000 or more employees. Our legislation today also complements the Older Workers Pension Protection Act, S. 1600, which Senator HARKIN, Senator JEFFORDS and I introduced last month to prevent the wear away of an employee's promised pension benefits after a cash balance plan conversion.

Now is the time for Congress to act to ensure that all employers fully disclose the negative effects of their pension plan changes. Employees have a right to know how their futures will be affected by a company's decision to change its pension plan.

By Mr. KYL (for himself, Mr. MCCAIN, Mrs. HUTCHISON, Mr. DOMENICI, Mr. BINGAMAN, and Mrs. FEINSTEIN):

S. 1709. A bill to provide Federal reimbursement for indirect costs relating to the incarceration of illegal aliens and for emergency health services furnished to undocumented aliens; to the Committee on the Judiciary.

THE STATE CRIMINAL ALIEN ASSISTANCE PROGRAM II AND LOCAL MEDICAL EMERGENCY REIMBURSEMENT ACT

Mr. KYL. Mr. President, I rise today to introduce the State Criminal Alien Assistance Program II and Local Medical Emergency Reimbursement Act. Senators MCCAIN, HUTCHISON, DOMENICI, BINGAMAN, and FEINSTEIN join me.

Border counties and other jurisdictions throughout the Southwest are incurring overwhelming costs to process and incarcerate illegal immigrants who commit crimes. Hospitals are also bearing steep costs to treat illegal immigrants for medical emergencies.

Regarding the first issue, it should be pointed out that, when states and localities do not have the resources to deal with criminal illegal immigrants, disasters can happen. Just last week, it was discovered that illegal immigrants who, in some cases, had committed serious crimes in Maricopa County, Arizona—including first degree murder in one of the cases—were permitted to post bond to the county, were then released to the Immigration and Naturalization Service, and were then allowed to return to their home country. Needless to say, those cases did not go to trial. Because the alleged criminal aliens never returned for their court date, justice was not served.

I continue to work toward better cooperation between the INS and local criminal justice systems, to make sure that illegal immigrants who are charged with crimes prosecuted under state law—and murder is prosecuted under state law—are held in Arizona. That means before, during, and after trial. It means, if the person is convicted, serving out his time in Arizona.

I will continue to work toward full funding for the federal program Congress created in 1995 to reimburse states and localities for the costs of incarcerating criminal illegal immigrants, the State Criminal Alien Assistance Program (SCAAP). Incarceration of criminal illegal immigrants costs state and local governments over $1 billion a year. Last year's Commerce-Justice-State Appropriations bill provided $585 million for the program, and reimbursed states approximately 39 cents on the dollar for such costs. I will work to increase federal funding for SCAAP, and will work to ensure that the FY 2000 C–J–S funding bill maintains, at the very least, the FY 1999 funding level of $585 million.

It is my hope that the bill I am introducing today will further enhance the ability of states and localities to prevent the release of criminal illegal immigrants by giving them the resources they need, not only to incarcerate but to process and sentence such individuals. My bill creates SCAAP II and provides an additional authorization of $200 million per year between 2001 and 2004 to states and localities for such expenditures. When illegal immigrants commit crimes and are then caught, they drain the budgets of a locality's sheriff, justice court, county attorney, clerk of the court, superior and juvenile court, and juvenile detention departments, as well as using up a county's indigent defense budget. And, even though illegal immigration is a federal responsibility, states and local jurisdictions all along the southwestern border have incurred 100 percent of specifically processing-related costs to date. This bill will change that.

Unfortunately, we do not yet know the full financial burden the states and localities are bearing. I am hopeful that the FY 2000 Commerce-Justice-State Appropriations bill conference report will include funding for a study that will lay out realistic estimates of these costs.

What is known is that such expenditures comprise approximately 39 percent of the aforementioned budgets of just one Arizona county, Santa Cruz, with a population of just 36,000 residents. As a recent report conducted by the University of Arizona detailed, ''such illegal entry pressures place inequitable demands on the resources and taxpayers of Santa Cruz County.''

Other counties throughout the Southwest are in the same boat. Maricopa County, Arizona, for example, incurs costs of $9 million to incarcerate illegal criminal immigrants. It is unclear what its costs are to process and sentence such aliens. Cochise County incurs costs of approximately $406,000 per year to incarcerate criminal illegal immigrants and, therefore, must also incur significant costs to process and sentence these individuals. Providing resources to states and localities with such burdens will help prevent the release of criminals onto our nation's streets, and is clearly the financial responsibility of the federal government.

The second issue addressed by this bill is the burden borne by hospitals in southwestern states. The federal government is obligated to fully reimburse states, localities, and hospitals for the emergency medical treatment of illegal immigrants.

According to a preliminary Congressional Budget Office estimate provided two years ago, the total annual cost to treat illegal immigrants for medical emergencies is roughly $2.8 billion a

year. It is roughly estimated that the federal government reimburses states for approximately half of those costs. That means states must pay the remaining $1.4 billion. The state of Arizona estimates that it incurs unreimbursed costs of $20 million annually to treat undocumented immigrants on an emergency basis.

This legislation will provide states, localities, and hospitals an additional $200 million per year to help absorb the costs of adherence to federal law, under which all individuals, regardless of immigration status or ability to pay, must be provided with medical treatment in a medical emergency. I have heard from individual doctors in Arizona, and hospitals as well, conveying their frustration in the face of these daunting costs.

Mr. President, I hope we can address these very pressing issues in the coming months, and that Members will consider joining my cosponsors and me in support of 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. 1709

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 ''State Criminal Alien Assistance Program II and Local Medical Emergency Reimbursement Act''.

TITLE I—STATE CRIMINAL ALIEN ASSISTANCE PROGRAM II

SEC. 101. SHORT TITLE.

This Act may be cited as the ''State Criminal Alien Assistance Program II Act of 1999''.

SEC. 102. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) Federal policies and strategies aimed at curbing illegal immigration and criminal alien activity implemented along our Nation's southwest border influence the number of crossings, especially their location.

(2) States and local governments were reimbursed approximately 60 percent of the costs of the incarceration of criminal aliens in fiscal year 1996 when only 90 jurisdictions applied for such reimbursement. In subsequent years, the number of local jurisdictions receiving reimbursement has increased. For fiscal year 1999, 280 local jurisdictions applied, and reimbursement amounted to only 40 percent of the costs incurred by those jurisdictions.

(3) Certain counties, often with a small taxpayer base, located on or near the border across from sometimes highly populated areas of Mexico, suffer a substantially disproportionate share of the impact of criminal illegal aliens on its law enforcement and criminal justice systems.

(4) A University of Arizona study released in January 1998 reported that at least 2 of the 4 counties located on Arizona's border of Mexico, Santa Cruz, and Cochise Counties, are burdened with this problem—

(A) for example, in 1998, Santa Cruz County had 12.7 percent of Arizona's border population but 50 percent of alien crossings and 32.5 percent of illegal alien apprehensions;

(B) for fiscal year 1998, it is estimated that, of its total criminal justice budget of 5,000,000 ($5,033,000), Santa Cruz County spent $1,900,000 (39 percent) to process criminal illegal aliens, of which over half was not reimbursed by Federal monies; and

(C) Santa Cruz County has not obtained relief from this burden, despite repeated appeals to Federal and State officials.

(5) In the State of Texas, the border counties of Cameron, Dimmit, El Paso, Hidalgo, Kinney, Val Verde, and Webb bore the unreimbursed costs of apprehension, prosecution, indigent defense, and other related services for criminal aliens who served more than 142,000 days in county jails.

(6) Throughout Texas nonborder counties bore similar unreimbursed costs for apprehension, prosecution, indigent defense, and other related services for criminal aliens who served more than 1,000,000 days in county jails.

(7) The State of Texas has incurred substantial additional unreimbursed costs for State law enforcement efforts made necessary by the presence of criminal illegal aliens.

(8) The Federal Government should reimburse States and units of local government for the related costs incurred by the State for the imprisonment of any illegal alien.

(b) PURPOSE.—The purpose of this title is—

(1) to assist States and local communities by providing financial assistance for expenditures for illegal juvenile aliens, and for related costs to States and units of local government that suffer a substantially disproportionate share of the impact of criminal illegal aliens on their law enforcement and criminal justice systems; and

(2) to ensure equitable treatment for those States and local governments that are affected by Federal policies and strategies aimed at curbing illegal immigration and criminal alien activity implemented on the southwest border.

SEC. 103. REIMBURSEMENT OF STATES FOR INDIRECT COSTS RELATING TO THE INCARCERATION OF ILLEGAL ALIENS.

Section 501 of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1365) is amended—

(1) in subsection (a), by striking ''for'' and all that follows through ''State'' and inserting ''for—

''(1) the costs incurred by the State for the imprisonment of any illegal alien or Cuban national who is convicted of a felony by such State; and

''(2) the indirect costs related to the imprisonment described in paragraph (1).'';

(2) by striking subsection (c) and inserting the following:

''(c) INDIRECT COSTS DEFINED.—In subsection (a), the term 'indirect costs' includes—

''(1) court costs, county attorney costs, and criminal proceedings expenditures that do not involve going to trial;

''(2) indigent defense; and

''(3) unsupervised probation costs.''; and

(3) by amending subsection (d) to read as follows:

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $200,000,000 to carry out subsection (a)(2) for each of the fiscal years 2001 through 2004.''.

SEC. 104. REIMBURSEMENT OF STATES FOR COSTS OF INCARCERATING JUVENILE ALIENS.

(a) IN GENERAL.—Section 501 of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1365), as amended by section 103 of this Act, is further amended—

(1) in subsection (a)(1), by inserting ''or illegal juvenile alien who has been adjudicated delinquent or committed to a juvenile correctional facility by such State or locality'' before the semicolon;

(2) in subsection (b), by inserting ''(including any juvenile alien who has been adjudicated delinquent or has been committed to a correctional facility)'' before ''who is in the United States unlawfully''; and

(3) by adding at the end the following:

''(f) JUVENILE ALIEN DEFINED.—In this section, the term 'juvenile alien' means an alien (as defined in section 101(a)(3) of the Immigration and Nationality Act) who has been adjudicated delinquent or committed to a correctional facility by a State or locality as a juvenile offender.''.

(b) ANNUAL REPORT.—Section 332 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1366) is amended—

(1) by striking ''and'' at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting ''; and''; and

(3) by adding at the end the following:

''(5) the number of illegal juvenile aliens (as defined in section 501(f) of the Immigration Reform and Control Act) that are committed to State or local juvenile correctional facilities, including the type of offense committed by each juvenile.''.

(c) CONFORMING AMENDMENT.—Section 241(i)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1231(i)(3)(B)) is amended—

(1) by striking ''or'' at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting ''; or''; and

(3) by adding at the end the following:

''(iv) is a juvenile alien with respect to whom section 501 of the Immigration Reform and Control Act of 1986 applies.''.

SEC. 105. REIMBURSEMENT OF STATES BORDERING MEXICO OR CANADA.

Section 501 of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1365), as amended by sections 103 and 104 of this Act, is further amended by adding at the end the following new subsection:

''(g) MANNER OF ALLOTMENT OF REIMBURSEMENTS.—Reimbursements under this section shall be allotted in a manner that takes into account special consideration for any State that—

''(1) shares a border with Mexico or Canada; or

''(2) includes within the State an area in which a large number of undocumented aliens reside relative to the general population of the area.''.

TITLE II—REIMBURSEMENT OF STATES AND LOCALITIES FOR EMERGENCY HEALTH SERVICES TO UNDOCUMENTED ALIENS.

SEC. 201. AUTHORIZATION OF ADDITIONAL FEDERAL REIMBURSEMENT OF EMERGENCY HEALTH SERVICES FURNISHED TO UNDOCUMENTED ALIENS.

(a) TOTAL AMOUNT AVAILABLE FOR ALLOTMENT.—To the extent of available appropriations under subsection (e), there are available for allotments under this section for each of fiscal years 2002 through 2005, $200,000,000 for payments to certain States under this section.

(b) STATE ALLOTMENT AMOUNT.—

(1) IN GENERAL.—The Secretary shall compute an allotment for each fiscal year beginning with fiscal year 2001 and ending with fiscal year 2004 for each of the 17 States with the highest number of undocumented aliens. The amount of such allotment for each such State for a fiscal year shall bear the same ratio to the total amount available for allotments under subsection (a) for the fiscal year as the ratio of the number of undocumented aliens in the State in the fiscal year bears to the total of such numbers for all such States for such fiscal year. The amount of allotment to a State provided under this paragraph for a fiscal year that is not paid out

under subsection (c) shall be available for payment during the subsequent fiscal year.

(2) DETERMINATION.—For purposes of paragraph (1), the number of undocumented aliens in a State under this section shall be determined based on estimates of the resident illegal alien population residing in each State prepared by the Statistics Division of the Immigration and Naturalization Service as of October 1992 (or as of such later date if such date is at least 1 year before the beginning of the fiscal year involved).

(c) USE OF FUNDS.—

(1) IN GENERAL.—From the allotments made under subsection (b) for a fiscal year, the Secretary shall pay to each State amounts described in a State plan, submitted to the Secretary, under which the amounts so allotted will be paid to local governments, hospitals, and related providers of emergency health services to undocumented aliens in a manner that—

(A) takes into account—

(i) each eligible local government's, hospital's or related provider's payments under the State plan approved under title XIX of the Social Security Act for emergency medical services described in section 1903(v)(2)(A) of such Act (42 U.S.C. 1396b(v)(2)(A)) for such fiscal year; or

(ii) an appropriate alternative proxy for measuring the volume of emergency health services provided to undocumented aliens by eligible local governments, hospitals, and related providers for such fiscal year; and

(B) provides special consideration for local governments, hospitals, and related providers located in—

(i) a county that shares a border with Mexico or Canada; or

(ii) an area in which a large number of undocumented aliens reside relative to the general population of the area.

(2) SPECIAL RULES.—For purposes of this subsection:

(A) A provider shall be considered to be ''related'' to a hospital to the extent that the provider furnishes emergency health services to an individual for whom the hospital also furnishes emergency health services.

(B) Amounts paid under this subsection shall not duplicate payments made under title XIX of the Social Security Act for the provision of emergency medical services described in section 1903(v)(2)(A) of such Act (42 U.S.C. 1396b(v)(2)(A)).

(d) DEFINITIONS.—In this section:

(1) HOSPITAL.—The term ''hospital'' has the meaning given such term in section 1861(e) of the Social Security Act (42 U.S.C. 1395x(e).

(2) PROVIDER.—The term ''provider'' includes a physician, another health care professional, and an entity that furnishes emergency ambulance services.

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

(4) STATE.—The term ''State'' means the 50 States and the District of Columbia.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $200,000,000 for each of fiscal years 2001 through 2005.

Mr. MCCAIN. Mr. President, I rise today in support of legislation Senator KYL and I are introducing with a number of our border-state colleagues to provide appropriate Federal reimbursement to states and localities whose budgets are disproportionately affected by the costs associated with illegal immigration. The premise of our bill, and of current law governing this type of Federal reimbursement to the states, is that controlling illegal immigration is principally the responsibility of the Federal government, not the states.

Our legislation would expand the amount and scope of Federal funding to the states for incarceration and medical costs that arise from the detention or treatment of illegal immigrants. Such funding currently flows to all 50 states, the District of Columbia, and two U.S. territories. Although our bill gives special consideration to border States and States with unusually high concentrations of illegal aliens in residence, it would benefit communities across the Nation. It deserves the Senate's prompt consideration and approval.

Many of my colleagues are probably not aware that the Federal government, under the existing State Criminal Alien Assistance Program (SCAAP), reimbursed states and counties burdened by illegal immigration for less than 40 percent of eligible alien incarceration costs in Fiscal Year 1998. Border counties estimate that more than 25 percent of their criminal justice budgets are spent processing criminal aliens. In my State of Arizona, Santa Cruz County last year spent 39 percent of its total criminal justice budget to process criminal illegal aliens, of which over half was not reimbursed by the Federal government. In its last budget cycle, New Mexico's tiny Luna County spent $375,000 on immigrant detention costs but received only $32,000 from the Federal government to offset jail expenses. Overall, SCAAP reimbursed states and counties along the border for only 33.7 percent of the cost of incarcerating illegal aliens in FY 1997 and 39.9 percent in FY 1998.

The State of California spent nearly $600 million last year to keep criminal aliens behind bars, but was reimbursed for only $183 million of those expenses. In Texas, prosecution of drug and immigration crime, principally in the form of illegal entry into the United States, accounted for an astonishing 70 percent of criminal filings during fiscal 1998. That figure represents a one-year increase of 58 percent in the number of immigration cases brought before the courts, an increase that was not matched by Federal reimbursement for associated legal expenses and incarceration costs to the state and its counties.

Earlier this year, the House voted to fund SCAAP at $585 million for FY 2000. This level is insufficient, but would at least roughly maintain existing levels of Federal support to states and localities for alien incarceration costs. Astonishingly, the Senate, in its version of the fiscal year 2000 Commerce, Justice, State, and the Judiciary Appropriations bill, proposed to slash SCAAP funding by 83 percent, to only $100 million, for reasons that escape me. In the words of the U.S./Mexico Border Counties Coalition, ''Given this program's history of not meeting its obligations to state and local governments even at higher levels of funding, this latest action will in essence leave state and local taxpayers to foot the Federal government's bill for the incarceration of criminal undocumented immigrants.''

A June 21, 1999, letter from the Governors of Arizona, California, New York, New Jersey, and Illinois to members of the United States Senate makes the same point: ''Control of the nation's borders is under the exclusive jurisdiction of the Federal government, yet State and local governments bear the brunt of the costs when the Federal government fails to meet its responsibility to prevent illegal immigration. By cutting funding for SCAAP by 83 percent, the Senate is abandoning its responsibility and forcing the states to pay for a Federally mandated service.'' It is my hope that Congress will restore SCAAP funding to at least $500 million, as the President requested for fiscal 2000 to help meet the needs of local communities across the country.

The legislation Senator KYL and I are introducing today would actually expand the State Criminal Alien Assistance Program by authorizing funding for state and local needs that currently go unmet. Although states receive Federal reimbursement for part of the cost of incarcerating illegal adult aliens, the Federal government does not reimburse States or units of local government for expenditures for illegal juvenile aliens. Nor does it reimburse states and localities for costs associated with processing criminal illegal aliens, including court costs, county attorney costs, costs for criminal proceedings that do not involve going to trial, indigent defense costs, and unsupervised probation costs. Our legislation would authorize the Federal government to reimburse such costs to States and localities that suffer a substantially disproportionate share of the impact of criminal illegal aliens on their law enforcement and criminal justice systems. It would also authorize additional Federal reimbursement for emergency health services furnished by States and localities to undocumented aliens.

Reimbursement to States and localities for criminal alien incarceration is woefully underfunded according to the existing limited criteria for SCAAP, which do not take into account the full detention and processing costs for illegal aliens. Nor does the existing SCAAP provide necessary support to local communities for the cost of emergency care for illegal immigrants, a growing problem in the Southwest, and one exacerbated by the increasingly desperate measures taken by undocumented aliens to cross our border with Mexico. Our legislation thus authorizes the expansion of SCAAP to cover costs wrongly borne by local communities under current law—costs which are a Federal responsibility and should not be shirked by those in Washington who do not live with the problem of illegal immigration in their midst.

As my colleagues know, illegal immigrants who successfully transit our

Southwest border rapidly disperse throughout the United States. That SCAAP funds flow to all 50 states reflects the pressures such aliens place on public services around the country. I hope the Senate will act expeditiously on this important legislation to alleviate those pressures by compensating state and local units for the costs they incur as unwitting hosts to undocumented aliens, even as we continue to fund border enforcement measures to reduce the flow of illegal immigrants into this country.

Mr. BINGAMAN. Mr. President, I rise to join with my colleagues from Arizona, California, and Texas in introducing the ''State Criminal Alien Assistance Program II and Local Medical Emergency Reimbursement Act of 1999.''

The purpose of the bill is to expand to scope of the current SCAAP law to allow counties and states to be reimbursed not only for the costs of incarcerating illegal aliens, but also for the costs of prosecuting them, defending them and detaining them. Currently, SCAAP only pays for the costs of incarcerating illegal aliens convicted of a felony in the United States. This means that counties and states do not get reimbursed for the indirect and direct costs leading to such a conviction. Because many illegal aliens arrested for drug smuggling or alien smuggling by federal agents are prosecuted by the county prosecutors, this has put an enormous strain on the county's prosecution budgets and has burdened the already struggling indigent defense programs. With the expansion of SCAAP, the counties will finally get some relief.

Another positive change to the SCAAP law is the addition of juvenile incarceration as a reimbursable expense. Many drug traffickers are using teenagers to transport drugs across the border, knowing that we do not currently have a good system for dealing with criminal illegal juvenile aliens. Because these teens' parents are not living in the United States, the county jails are required to detain the teens pending adjudication. The other option is to let the teens go. Neither option is good from a law enforcement perspective, but the cost of detaining a juvenile places an enormous burden on the counties' juvenile detention facilities. I am pleased that this bill considered the counties' concerns and included the costs of detaining juveniles as a reimbursable expense.

In 1994 I supported the original SCAAP bill. Between 1996 and 1999, the federal government has reimbursed the State of New Mexico $4.5 million for costs incurred in incarcerating criminal illegal aliens under this program. New Mexico counties have been reimbursed more than $1.4 million for similar costs. However, this $6 million reimbursement represents but a small fraction of the actual costs expended by New Mexico jails and prisons. This bill seeks to increase the amount available for reimbursement by raising the amount authorized to $200 million between 2002 and 2005.

The second part of this bill addresses another problem facing the border states. Because many towns near the US–Mexico border are a mere stones throw away from much larger Mexican towns and cities, many Mexican nationals often cross the border illegally in search of emergency medical services due to the lack of adequate facilities in Mexico. This bill will reimburse the health care providers required to provide emergency medical services to illegal aliens.

The border counties in New Mexico have repeatedly expressed their concern about the lack of federal assistance for emergency medical services provided to undocumented immigrants. Yet, under current law, New Mexico border communities are not eligible to be reimbursed for providing such emergency medical services. This has placed a significant financial burden on the public and private hospitals who are just trying to do what they think is right—provide emergency treatment to those in need. This lack of federal assistance has been very detrimental to New Mexico because the number of undocumented immigrants seeking medical attention in New Mexico is very high compared with the population of the New Mexico border community.

Between January 1, 1999 and August 31, 1999, Mimbres Memorial Hospital in Deming, New Mexico reported that 22 percent of its patients that were unable to pay for their medical care were residents of Mexico. These individuals accounted for $379,311 in charges that had to be absorbed by this hospital. In a town of roughly 10,000 people, this is a sizeable amount for a local hospital to write-off as uncollectible.

With the passage of this bill, New Mexico will be eligible to participate in this federal reimbursement program. Because the authorized amount for this program will be increased to $200 million between 2002 and 2005, this change will not affect the reimbursements to other states. This increase in funding is sorely needed to adequately address the financial burdens that illegal immigration imposes on the border communities.

I commend my fellow members of the Senate Southwest Border Caucus for working together on a bill what will make these necessary changes to the SCAAP program and address the financial hardship that illegal immigration imposes on our border communities.

I thank Senator KYL for introducing this bill and I encourage the Senate to take up this bill and pass this worthwhile legislation.

● Mrs. FEINSTEIN. Mr. President I am pleased to join my colleague Senator KYL in introducing the ''State Criminal Alien Assistance Program II and Local Medical Emergency Reimbursement Act.''

The control of illegal immigration is a Federal responsibility. However, more and more, this burden is shifting to the states. The ''State Criminal Alien Assistance Program II and Local Medical Emergency Reimbursement Act'' (SCAAP II), properly shifts the fiscal burden of illegal immigration into the hands of the Federal Government. This bill builds upon the existing Federal obligations under the ''State Criminal Alien Assistance Program'' (SCAAP I) by providing $200 million for each of the fiscal years 2002 through 2005 to help border communities defray the indirect costs of illegal immigration, and an additional $200 million to help state and local governments cope with the cost of providing emergency medical care to illegal immigrants.

The issue of illegal immigration, is one of national consequence that requires a Federal response. Unfortunately, Federal reimbursements have consistently failed to cover the actual costs borne by States and local communities confronting the effects of illegal immigration. For those communities that continue to shoulder this burden, the control of illegal immigration has become an unfunded mandate.

Mr. President, while I consider illegal immigration an issue that pervades communities across the nation, I would like to share with my colleagues how this issue has affected my home State of California. As you might imagine, the border counties in California are among the hardest hit in terms of dollars spent on incarceration, court costs, and emergency medical care for those who have entered the U.S. illegally.

San Diego County, for example, spent an estimated $10.1 million in 1998 to cover the costs of illegal alien incarceration and spends an estimated $50 million annually to provide emergency medical care for illegal immigrants. Imperial County estimates that it spent more than $4 million last year in detention costs and another $1.36 million in emergency medical expenses.

I am greatly concerned about the disproportionate burden these costs impose on the criminal justice system, hospitals and residents of San Diego and Imperial Counties, especially given the counties' limited tax base and fiscal resources. Given what I have witnessed in my own state, it is not hard for me to understand the frustration and concern of communities in a growing number of other states. Similar burdens have fallen on border communities in states like Arizona, New Mexico, and Texas. Each year, the costs borne by states to respond to illegal immigration continue to soar, while Federal involvement remains minimal at best.

Unfortunately, we can only expect these costs for border states to swell over the next few years as border enforcement initiatives force illegal migration to shift further eastward from San Diego County to neighboring southern States and counties as well as to the more porous northern state borders. In launching Operation Gatekeeper, for example, the INS has

achieved considerable success in deterring illegal border crossings along the San Diego border.

At the same time, Gatekeeper has had the effect of shifting a large volume of migrant crossings to the more rugged East San Diego County mountain area and the desert region of Imperial County where there have been numerous instances of illegal immigrants in need of emergency care. One county hospital in El Centro, for example, reports that the Border Patrol has dropped off countless numbers of undocumented aliens found in the desert suffering from hypothermia or dehydration, or from broken limbs and fractured skulls as result of failed attempts at scaling the fence along the San Diego border.

The more ''fortunate'' border crossers are being detained at state and county jails. Although states receive Federal reimbursement for some of the direct costs of incarcerating adult illegal immigrants, the Federal Government does not reimburse states and localities for the indirect costs relating to the incarceration or the control of illegal aliens, including: court costs, county attorney costs, indigent defense, criminal juvenile detention, and unsupervised probation costs. Nor does it compensate state and local hospitals for the emergency medical care provided to illegal immigrants who are not in Federal custody.

Mr. President, I join my colleagues in introducing the SCAAP II bill in hopes that it will alleviate some of the fiscal strains illegal immigration has imposed on border states and communities. I look forward to working with my colleagues to move it through the Senate.●

ADDITIONAL COSPONSORS

S. 59

At the request of Mr. THOMPSON, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 59, a bill to provide Government-wide accounting of regulatory costs and benefits, and for other purposes.

S. 80

At the request of Ms. SNOWE, the name of the Senator from Georgia (Mr. COVERDELL) was added as a cosponsor of S. 80, a bill to establish the position of Assistant United States Trade Representative for Small Business, and for other purposes.

S. 472

At the request of Mr. GRASSLEY, the name of the Senator from North Carolina (Mr. EDWARDS) 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 Alaska (Mr. MURKOWSKI) 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. 659

At the request of Mr. MOYNIHAN, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 659, a bill to amend the Internal Revenue Code of 1986 to require pension plans to provide adequate notice to individuals whose future benefit accruals are being significantly reduced, and for other purposes.

S. 792

At the request of Mr. MOYNIHAN, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 792, a bill to amend title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to provide States with the option to allow legal immigrant pregnant women, children, and blind or disabled medically needy individuals to be eligible for medical assistance under the medicaid program, and for other purposes.

S. 914

At the request of Mr. SMITH, the name of the Senator from Washington (Mr. GORTON) was added as a cosponsor of S. 914, a bill to amend the Federal Water Pollution Control Act to require that discharges from combined storm and sanitary sewers conform to the Combined Sewer Overflow Control Policy of the Environmental Protection Agency, and for other purposes.

S. 1017

At the request of Mr. MACK, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1017, A bill to amend the Internal Revenue Code of 1986 to increase the State ceiling on the low-income housing credit.

S. 1029

At the request of Mr. COCHRAN, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 1029, a bill to amend title III of the Elementary and Secondary Education Act of 1965 to provide for digital education partnerships.

S. 1044

At the request of Mr. KENNEDY, the names of the Senator from Nevada (Mr. REID) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 1044, a bill to require coverage for colorectal cancer screenings.

S. 1053

At the request of Mr. BOND, the name of the Senator from Alaska (Mr. MURKOWSKI) was added as a cosponsor of S. 1053, a bill to amend the Clean Air Act to incorporate certain provisions of the transportation conformity regulations, as in effect on March 1, 1999.

S. 1091

At the request of Mr. DEWINE, the name of the Senator from Kentucky (Mr. MCCONNELL) was added as a cosponsor of S. 1091, a bill to amend the Public Health Service Act to provide for the establishment of a pediatric research initiative.

S. 1144

At the request of Mr. VOINOVICH, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 1144, a bill to provide increased flexibility in use of highway funding, and for other purposes.

S. 1187

At the request of Mr. DORGAN, the names of the Senator from Louisiana (Ms. LANDRIEU), the Senator from Louisiana (Mr. BREAUX), the Senator from South Dakota (Mr. DASCHLE), and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 1187, a bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the Lewis and Clark Expedition, and for other purposes.

S. 1263

At the request of Mr. JEFFORDS, the name of the Senator from Wyoming (Mr. THOMAS) was added as a cosponsor of S. 1263, a bill to amend the Balanced Budget Act of 1997 to limit the reductions in medicare payments under the prospective payment system for hospital outpatient department services.

S. 1277

At the request of Mr. GRASSLEY, the names of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from North Carolina (Mr. EDWARDS) were added as cosponsors of S. 1277, a bill to amend title XIX of the Social Security Act to establish a new prospective payment system for Federally-qualified health centers and rural health clinics.

S. 1384

At the request of Mr. ABRAHAM, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1384, a bill to amend the Public Health Service Act to provide for a national folic acid education program to prevent birth defects, and for other purposes.

S. 1419

At the request of Mr. MCCAIN, the names of the Senator from Vermont (Mr. JEFFORDS) and the Senator from Nebraska (Mr. HAGEL) were added as cosponsors of S. 1419, a bill to amend title 36, United States Code, to designate May as ''National Military Appreciation Month.''

S. 1485

At the request of Mr. NICKLES, the names of the Senator from Maryland (Mr. SARBANES) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 1485, a bill to amend the Immigration and Nationality Act to confer United States citizenship automatically and retroactively on certain