strengthen democratic government and civil society in that country, and to make available funds under that Act to conduct a study of the feasibility of creating a new foundation toward that end; to the Committee on Foreign Relations.

By Mr. HARKIN:

S. 373. A bill to prohibit the acquisition of products produced by forced or indentured child labor; to the Committee on Governmental Affairs.

By Mr. CHAFEE (for himself, Mr. GRAHAM, Mr. LIEBERMAN, Mr. SPECTER, Mr. BAUCUS, Mr. ROBB, and Mr. BAYH):

S. 374. A bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage; to the Committee on Health, Education, Labor, and Pensions.

By Mr. STEVENS (for himself, Mr. INOUYE, Mr. MURKOWSKI, and Mr. AKAKA):

S. 375. A bill to create a rural business lending pilot program within the U.S. Small Business Administration, and for other purposes; to the Committee on Small Business.

By Mr. BURNS (for himself, Mr. MCCAIN, Mr. DORGAN, Mr. BRYAN, Mr. BROWNBACK, and Mr. CLELAND):

S. 376. A bill to amend the Communications Satellite Act of 1962 to promote competition and privatization in satellite communications, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. ENZI:

S. 377. A bill to eliminate the special reserve funds created for the Savings Association Insurance Fund and the Deposit Insurance Fund, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. KENNEDY (for himself and Mr. KERRY):

S. 378. A bill to provide for the non-preemption of State prescription drug benefit laws in connection with Medicare+Choice plans; to the Committee on Finance.

By Mr. ROCKEFELLER (for himself, Mr. DORGAN, Mr. WYDEN, Mr. HARKIN, and Mr. BINGAMAN):

S. 379. A bill to amend title 49, United States Code, to authorize the Secretary of Transportation to implement a pilot program to improve access to the national transportation system for small communities, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. CRAIG (for himself, Mr. BAUCUS, Mr. CRAPO, Mr. FRIST, Mr. ASHCROFT, Mr. THOMPSON, Mr. BURNS, Mr. BROWNBACK, Mr. INHOFE, Mr. HELMS, Mr. COCHRAN, Mr. ENZI, Mr. LOTT, Mr. THOMAS, Mr. GREGG, Mr. SESSIONS, and Mr. MURKOWSKI):

S. 380. A bill to reauthorize the Congressional Award Act; to the Committee on Governmental Affairs.

By Mr. INOUYE:

S. 381. A bill to allow certain individuals who provided service to the Armed Forces of the United States in the Philippines during World War II to receive a reduced SSI benefit after moving back to the Philippines; to the Committee on Finance.

By Mr. JOHNSON (for himself and Mr. DASCHLE):

S. 382. A bill to establish the Minuteman Missile National Historic Site in the State of South Dakota, and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. INOUYE:

S. Res. 32. A resolution to express the sense of the Senate reaffirming the cargo preference policy of the United States; to the Committee on Commerce, Science, and Transportation.

By Mr. BROWNBACK (for himself, Mr. WYDEN, Mr. MACK, Mr. SMITH of Oregon, Mr. HATCH, Mr. KERREY, Mr. FITZGERALD, Mr. HELMS, Mr. ASHCROFT, Mr. SCHUMER, Mr. TORRICELLI, Mr. GRAMS, and Mr. LAUTENBERG):

S. Con. Res. 5. A concurrent resolution expressing congressional opposition to the unilateral declaration of a Palestinian state and urging the President to assert clearly United States opposition to such a unilateral declaration of statehood; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 366. A bill to amend the National Trails System Act to designate El Camino Real de Tierra Adentro as a National Historic Trail; to the Committee on Energy and Natural Resources.

CAMINO REAL DE TIERRA ADENTRO NATIONAL HISTORIC TRAIL

• Mr. BINGAMAN. Mr. President, I rise today to introduce a bill to amend the National Trails System Act to designate El Camino Real de Tierra Adentro as a National Historic Trail. Senator DOMENICI is once again a cosponsor of this legislation which enjoyed bipartisan support in both the Senate and in the House in the last Congress. I want to thank Senator DOMENICI for his continued support of this bill.

While we passed this bill last year in the Senate, it appeared that there just wasn t enough time for the House to go through its process on the bill at the end of the 105th Congress. My hope is that we will be able to move this bill through the Senate quickly this year and that the House will pass it as well.

While this legislation is important to my home state of New Mexico, it also contributes to the national dialogue on the history of this country and who we are as a people. In history classes across the country, children learn about the establishment of European settlements on the East Coast, and the east to west migration which occurred under the banner of Manifest Destiny. However, the story of the northward exploration and settlement of this country by the Spanish is often overlooked. This legislation recognizes this important chapter in American history.

In the 16th century, building upon a network of trade routes used by the indigenous Pueblos along the Rio Grande, Spanish explorers established a migration route into the interior of the continent which they called ''El Camino Real de Tierra Adentro'', the Royal Road of the Interior. In 1598, almost a decade before the first English colonists landed at Jamestown, Virginia, Don Juan de Onate led a Spanish expedition which established the northern portion of El Camino Real which became the main route for communication and trade between the colonial Spanish capital of Mexico City and the Spanish provincial capitals at San Juan de Los Caballeros, San Gabriel and then Santa Fe, New Mexico.

For the next 223 years, until 1821, El Camino Real facilitated the exploration, conquest, colonization, settlement, religious conversion, and military occupation of the Spanish colonial borderlands. In the 17th century, caravans of wagons and livestock struggled for months to cross the desert and bring supplies up El Camino Real to missions, mining towns and settlements in New Mexico. As with later Anglo settlers who travelled from St. Louis to California during the 1800s, the Spanish settlers faced very harsh conditions moving into what would become the American Southwest. On one section known as the Jornada del Muerto, or Journey of Death, they traveled for 90 miles without water, shelter, or firewood.

The Spanish influence from those persevering colonists can still be seen today in the ethnic and cultural traditions of the southwestern United States.

As we enter the 21st century, it's essential that we embrace the diversity of people and cultures that make up our country. It is the source of our dynamism and strength. The inclusion of this trail into the National Historic Trail system is an important step towards advancing our understanding of our rich cultural history.

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. 366

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 ''El Camino Real de Tierra Adentro National Historic Trail Act.''

SEC. 2. FINDINGS.

The Congress finds the following:

(1) El Camino Real de Tierra Adentro (the Royal Road of the Interior), served as the primary route between the colonial Spanish capital of Mexico City and the Spanish provincial capitals at San Juan de Los Caballeros (1598–1600), San Gabriel (1600–1609) and then Santa Fe (1610–1821).

(2) The portion of El Camino Real de Tierra Adentro that resided in what is now the United States extended between El Paso, Texas and present San Juan Pueblo, New Mexico, a distance of 404 miles;

(3) El Camino Real is a symbol of the cultural interaction between nations and ethnic groups and of the commercial exchange that made possible the development and growth of the borderland;

(4) American Indian groups, especially the Pueblo Indians of the Rio Grande, developed trails for trade long before Europeans arrived;

(5) In 1598, Juan de Oñate led a Spanish military expedition along those trails to establish the northern portion of El Camino Real;

(6) During the Mexican National Period and part of the U.S. Territorial Period, El Camino Real de Tierra Adentro facilitated the emigration of people to New Mexico and other areas that would become the United States;

(7) The exploration, conquest, colonization, settlement, religious conversion, and military occupation of a large area of the borderlands was made possible by this route, whose historical period extended from 1598 to 1882;

(8) American Indians, European emigrants, miners, ranchers, soldiers, and missionaries used El Camino Real during the historic development of the borderlands. These travelers promoted cultural interaction among Spaniards, other Europeans, American Indians, Mexicans, and Americans;

(9) El Camino Real fostered the spread of Catholicism, mining, an extensive network of commerce, and ethnic and cultural traditions including music, folklore, medicine, foods, architecture, language, place names, irrigation systems, and Spanish law.

SEC. 3. AUTHORIZATION AND ADMINISTRATION.

Section 5 (a) of the National Trails System Act (16 U.S.C. 1244 (a)) is amended—

(1) by designating the paragraphs relating to the California National Historic Trail, the Pony Express National Historic Trail, and the Selma to Montgomery National Historic Trail as paragraphs (18), (19), and (20), respectively; and

(2) by adding at the end the following:

''(21) EL CAMINO REAL DE TIERRA ADENTRO.—

''(A) El Camino Real de Tierra Adentro (the Royal Road of the Interior) National Historic Trail, a 404 mile long trail from the Rio Grande near El Paso, Texas to present San Juan Pueblo, New Mexico, as generally depicted on the maps entitled 'United States Route: El Camino Real de Tierra Adentro', contained in the report prepared pursuant to subsection (b) entitled 'National Historic Trail Feasibility Study and Environmental Assessment: El Camino Real de Tierra Adentro, Texas-New Mexico', dated March 1997.

''(B) MAP.—A map generally depicting the trail shall be on file and available for public inspection in the Office of the National Park Service, Department of Interior.

''(C) ADMINISTRATION.—The Trail shall be administered by the Secretary of the Interior.

''(D) LAND ACQUISITION.—No lands or interests therein outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for El Camino Real de Tierra Adentro except with the consent of the owner thereof.

''(E) VOLUNTEER GROUPS; CONSULTATION.—The Secretary of the Interior shall—

''(i) encourage volunteer trail groups to participate in the development and maintenance of the trail; and

''(ii) consult with other affected Federal, State, and tribal agencies in the administration of the trail.

''(F) COORDINATION OF ACTIVITIES.—The Secretary of the Interior may coordinate with United States and Mexican public and non-governmental organizations, academic institutions, and, in consultation with the Secretary of State, the government of Mexico and its political subdivisions, for the purpose of exchanging trail information and research, fostering trail preservation and educational programs, providing technical assistance, and working to establish an international historic trail with complementary preservation and education programs in each nation.''.●

By Mr. BINGAMAN (for himself and Mr. DASCHLE):

S. 367. A bill to amend the Radiation Exposure Compensation Act to provide for partial restitution to individuals who worked in uranium mines, mills, or transport which provided uranium for the use and benefit of the United States Government, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

THE RADIATION EXPOSURE COMPENSATION IMPROVEMENT ACT

● Mr. BINGAMAN. Mr. President, I rise today with my colleague, Senator DASCHLE, to introduce the Radiation Exposure Compensation Improvement Act of 1999.

Mr. President, the Radiation Exposure Compensation Act, or RECA, was originally enacted in 1990 as a means of compensating the individuals who suffered from exposure to radiation as a result of the U.S. government's nuclear testing program and federal uranium mining activities. While the government can never fully compensate for the loss of a life or a reduction in the quality of life, RECA serves as a cornerstone for the national apology Congress extended to those adversely affected by the various radiation tragedies. In keeping with the spirit of that apology, the legislation I introduce today will further correct existing injustices and provide compassionate compensation for those whose lives and health were sacrificed as part of our nation's effort to win the cold war.

During the period of 1947 to 1961, the Federal Government controlled all aspects of the production of nuclear fuel. One such aspect was the mining of uranium in New Mexico, Colorado, Arizona, and Utah. Even though the Federal Government had adequate knowledge of the hazards involved in uranium mining, these miners, many of whom were Native Americans, were sent into inadequately ventilated mines with virtually no instruction regarding the dangers of ionizing radiation. These miners had no idea of those dangers. Consequently, they inhaled radon particles that eventually yielded high doses of ionizing radiation. As a result, these miners have a substantially elevated cancer rate and incidence of incapacitating respiratory disease. The health effects of uranium mining in the fifties and sixties remain the single greatest concern of many former uranium miners and millers and their families and friends.

In 1990, I was pleased to co-sponsor the original RECA legislation here in the Senate to provide compassionate compensation to uranium miners. I was very optimistic that after years of waiting, some degree of redress would be given to the thousands of miners in my state of New Mexico. Subsequently, I chaired the Senate oversight hearing on this issue in Shiprock, N.M. for the Senate Labor and Human Resources Committee in 1993 and began to learn that while our efforts in 1990 were well intentioned they were not proving to be as effective as hoped. I additionally heard from many of my constituents that the program was not working as intended and that changes were necessary. To that end, I worked to facilitate changes in the regulatory and administrative areas.

Unfortunately, I have continued to hear from many of my constituents that the program still does not work as intended. I have received compelling letters of need from constituents telling of the many barriers in the current statute that lead to denial of compensation. Letters come from widows unable to access the current compensation. Miners tied to oxygen tanks, in respiratory distress or dying from cancer write to tell me how they have been denied compensation under the current act. Additionally, family members write of the pain of fathers who worked in uranium processing mills. They recount how their fathers came home covered in the ''yellow cake'' or uranium oxide that was floating in the air of the mills. The story of their fathers' cancers and painful breathing are vivid in these letters but the current act does not address their needs.

Their points are backed by others as well. In fact, my legislation incorporates findings by the Committee on the Biological Effects of Ionizing Radiation (BEIR) which has, since 1990, enlarged scientific evidence about radiogenic cancers and the health effects of radiation exposure. In other words, because of their good work, we know more now than we did in 1990 and we need to make sure the compensation we provide keeps pace with our medical knowledge. The government has the responsibility to compensate all those adversely affected and who have suffered health problems because they were not adequately informed of the risks they faced while mining, milling, and transporting uranium ore.

Mr. President, the legislation I am introducing today is a starting point for amending the current Act designed with specific elements to better serve the individuals who apply for compensation under the Act. The legislation is designed to simplify RECA and broaden the scope of individuals who are eligible for compensation.

Mr. President, I would like to cite several of the key provisions in the Radiation Exposure Compensation Improvement Act of 1999. Currently RECA covers those exposed to radiation released in underground uranium mines that were providing uranium for the primary use and benefit of the nuclear weapons program of the U.S. government. The legislation would make all uranium workers eligible for compensation including above ground miners, millers, and transport workers. I am very concerned about the need to expand compensation to the categories of workers not covered by the current

law, specifically those in above ground, open pit mines, mill workers, and those employed to transport uranium ore. There is overwhelming evidence that these workers have developed cancer and other diseases as a result of their exposure to uranium. While attempts have been made to get the scientific data necessary to substantiate the link between their work situation and their health problems, barriers have been encountered and I am told that data will not be readily available. I believe that it is necessary to move forward in this area and not deny further compensation awaiting study results that in the end may not be deemed to be statistically valid because of the difficulty in obtaining access to records and the millers themselves.

RECA currently covers individuals termed ''downwinders'' who were in the areas of Nevada, Utah, and Arizona affected by atmospheric nuclear testing in the 1950's. This bill expands the geographical area eligible for compensation to include the Navajo Reservation because, based on a recent report of the National Cancer Institute, Navajo children during the 1950's received extremely high Iodine-131 thyroid doses during the period of heaviest fallout from the Nevada Test site. In addition, the bill expands the compensable diseases for the downwind population by adding salivary gland, urinary bladder, brain, colon, and ovarian cancers.

Currently, the law has disproportionately high levels of radiation exposure requirements for miners to qualify for compensation as compared to the ''downwinders.'' My legislation would set a standard of proof for uranium workers that is more realistic given the availability of mining and mill data. The bill also removes the provision that only permits a claim for respiratory disease if the uranium mining occurred on a reservation. Thus, the bill will allow for further filing of a claim by those miners, millers, and transport workers who did not have a work history on a reservation. In addition, the bill would change the current law so that requirements for written medical documentation is updated to allow for use of high resolution CAT scans and allow for written diagnoses by physicians in either the Department of Veterans Affairs or the Indian Health Service to be considered conclusive.

In 1990, we joined together in a bipartisan, bicameral effort and assured passage of the Radiation Exposure Compensation Act (RECA). Now we put forward this comprehensive amendment to RECA to correct omission, make RECA consistent with current medical knowledge, and to address what have become administrative borrow stories for the claimants. I look forward to the debate in the Senate on this issue and hope that we can move to amend the current statute to ensure our original intent—fair and rapid compensation to those who served their country so well.

Mr. President, I ask unanimous consent to have the text of the Radiation Improvement Compensation Act printed in the RECORD.

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

S. 367

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

SECTION 1. SHORT TITLE; FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the ''Radiation Exposure Compensation Improvement Act of 1999.''.

(b) FINDINGS.—Congress finds the following:

(1) The intent of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note), enacted in 1990, was to apologize to victims of the weapons program of the Federal Government, but uranium workers who have applied for compensation under the Act have faced a disturbing number of challenges.

(2) The congressional oversight hearing conducted by the Committee on Labor and Human Resources of the Senate has shown that since passage of the Radiation Exposure Compensation Act, former uranium workers and their families have not received prompt and efficient compensation.

(3) There is no plausible justification for the Federal Government's failure to warn and protect the lives and health of uranium workers.

(4) Progress on implementing the Radiation Exposure Compensation Act has been impeded by criteria for compensation that is far more stringent than for other groups for which compensation is provided.

(5) The President's Advisory Committee on Human Radiation Experiments recommended that amendments to the Radiation Exposure Compensation should be made.

(6) Uranium millers, aboveground miners, and individuals who transported uranium ore should be provided compensation that is similar to that provided for underground uranium miners in cases in which those individuals suffered disease or resultant death as a result of the failure of the Federal Government to warn of health hazards.

SEC. 2. TRUST FUND.

Section 3(d) of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note) is amended by striking ''of this Act'' and inserting ''of the Radiation Exposure Compensation Improvement Act of 1999.''.

SEC. 3. AFFECTED AREA; CLAIMS RELATING TO SPECIFIED DISEASES.

(a) AFFECTED AREA.—Section 4(b)(1) of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note) is amended—

(1) by striking ''and'' at the end of subparagraph (B); and

(2) by adding at the end the following:

''(D) those parts of Arizona, Utah, and New Mexico comprising the Navajo Nation Reservation that were subjected to fallout from nuclear weapons testing conducted in Nevada; and''.

(b) CLAIMS RELATING TO SPECIFIED DISEASES.—Section 4(b)(2) of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note) is amended—

(1) by striking ''the onset of the disease was between 2 and 30 years of first exposure,'' and inserting ''the onset of the disease was at least 2 years after first exposure, lung cancer (other than in situ lung cancer that is discovered during or after a post-mortem exam),'';

(2) by striking ''(provided initial exposure occurred by the age of 20)'' after ''thyroid'';

(3) by inserting ''male or'' before ''female breast'';

(4) by striking ''(provided initial exposure occurred prior to age 40)'' after ''female breast'';

(5) by striking ''(provided low alcohol consumption and not a heavy smoker)'' after ''esophagus'';

(6) by striking ''(provided initial exposure occurred before age 30)'' after ''stomach'';

(7) by striking ''(provided not a heavy smoker)'' after ''pharynx'';

(8) by striking ''(provided not a heavy smoker and low coffee consumption)'' after ''pancreas'';

(9) by inserting ''salivary gland, urinary bladder, brain, colon, ovary,'' after ''gall bladder,''; and

(10) by inserting before the period at the end the following: '', and chronic lymphocytic leukemia''.

SEC. 4. URANIUM MINING AND MILLING AND TRANSPORT.

(a) AMENDMENT TO HEADING.—Section 5 of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note) is amended by striking the section heading and inserting the following:

''SEC. 5. CLAIMS RELATING TO URANIUM MINING OR MILLING OR TRANSPORT.''.

(b) MILLING.—Section 5(a) of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note) is amended—

(1) by striking ''Any'' and inserting ''Any individual who was employed to transport or handle uranium ore or any''; and

(2) by inserting ''or in any other State in which uranium was mined, milled, or transported'' after ''Utah''.

(c) MINES.—Section 5(a) of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note), as amended by subsection (a) of this section, is amended by striking ''a uranium mine'' and inserting ''a uranium mine (including a mine located aboveground or an open pit mine in which uranium miners worked, or a uranium mill)''.

(d) DATES.—Section 5(a) of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note), as amended by subsections (b) and (c) of this section, is amended by striking ''January 1, 1947, and ending on December 31, 1971'' and inserting ''January 1, 1942, and ending on December 31, 1990''.

(e) AMENDMENT OF PERIOD OF EXPOSURE; EXPANSION OF COVERAGE; INCREASE IN COMPENSATION AWARDS; AND REMOVAL OF SMOKING DISTINCTION.—Section 5(a) of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note), as amended by subsections (b) through (d) of this section, is amended—

(1) by striking paragraph (1) and all that follows through the end of the subsection and inserting the following:

''(2) COMPENSATION.—Any individual shall receive $200,000 for a claim made under this Act if—

''(A) that individual—

''(i) was exposed to 40 or more working level months of radiation and submits written medical documentation that the individual, after exposure developed—

''(I) lung cancer,

''(II) a nonmalignant respiratory disease, or

''(III) any other medical condition associated with uranium mining or milling, or

''(ii) worked in uranium mining, milling, or transport for a period of at least 1 year and submits written medical documentation that the individual, after exposure, developed—

''(I) lung cancer,

''(II) a nonmalignant respiratory disease, or

''(III) any other medical condition associated with uranium mining, milling, or transport,

''(B) the claim for that payment is filed with the Attorney General by or on behalf of that individual, and

''(C) the Attorney General determines, in accordance with section 6, that the claim meets the requirements of this Act.''.

(2) by striking ''(a) ELIGIBILITY OF INDIVIDUALS.—Any'' and inserting the following: ''(a) ELIGIBILITY.—

''(1) IN GENERAL.—Any''; and

(3) in paragraph (1), as so designated, by striking the dash at the end and inserting a period.

(f) CLAIMS RELATED TO HUMAN RADIATION EXPERIMENTATION AND DEATH RESULTING FROM CAUSE OTHER THAN RADIATION.—Section 5 of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note) is amended—

(1) by redesignating subsection (b) as subsection (d); and

(2) by inserting after subsection (a) the following:

''(b) CLAIMS RELATING TO HUMAN USE RESEARCH AND DEATH RESULTING FROM NONRADIOLOGICAL CAUSES.—

''(1) IN GENERAL.—

''(A) PAYMENT.—Any individual described in subparagraph (B) shall receive $50,000 if—

''(i) a claim for that payment is filed with the Attorney General by or on behalf of that individual; and

''(ii) the Attorney General determines, in accordance with section 6, that the claim meets the requirements of this Act.

''(B) DESCRIPTION OF INDIVIDUALS.—An individual described in this subparagraph is an individual who—

''(i) was employed in a uranium mining, milling, or transport within any State referred to in subsection (a) at any time during the period referred to in that subsection, and

''(ii)(I) in the course of that employment, without the individual's knowledge or informed consent, was intentionally exposed to radiation for purposes of testing, research, study, or experimentation by the Federal Government (including any agency of the Federal Government) to determine the effects of that exposure on the human body; or

''(II) in the course of or arising out of the individual's employment, suffered death, that, because the individual or the estate of the individual was barred from pursuing recovery under a worker's compensation system or civil action available to similarly situated employees of mines or mills that are not uranium mines or mills, is not otherwise—

''(aa) compensable under subsection (a); or

''(bb) redressable.

''(2) PAYMENTS.—Payments under this subsection may be made only in accordance with section 6.''.

(g) OTHER INJURY OR DISABILITY.—Section 5 of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note), as amended by subsection (f) of this section, is amended by adding after subsection (b) the following:

''(c) OTHER INJURY OR DISABILITY.—

''(1) IN GENERAL.—

''(A) PAYMENT.—Any individual described in subparagraph (B) shall receive $20,000 if—

''(i) a claim for that payment is filed with the Attorney General by or on behalf of that individual; and

''(ii) the Attorney General determines, in accordance with section 6, that the claim meets the requirements of this Act.

''(B) DESCRIPTION OF INDIVIDUALS.—An individual described in this subparagraph is an individual who—

''(i) was employed in a uranium mine or mill or transported uranium ore within any State referred to in subsection (a) at any time during the period referred to in that subsection; and

''(ii) submits written medical documentation that individual suffered injury or disability, arising out of or in the course of the individual's employment that, because the individual or the estate of the individual was barred from pursuing recovery under a worker's compensation system or civil action available to similarly situated employees of mines or mills that are not uranium mines or mills, is not otherwise—

''(I) compensable under subsection (a); or

''(II) redressable.

''(2) PAYMENTS.—Payments under this subsection may be made only in accordance with section 6.''.

(h) DEFINITIONS.—Subsection (d) of section 5 of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note), as redesignated by subsection (f) of this section, is amended—

(1) in paragraph (1)—

(A) by striking ''radiation exposure'' and inserting ''exposure to radon and radon progeny''; and

(B) by inserting ''based on a 6-day workweek,'' after ''every work day for a month,'';

(2) by striking paragraph (2) and inserting the following:

''(2) the term 'affected Indian tribe' means any Indian tribe, band, nation, pueblo, or other organized group or community, that is recognized as eligible for special programs and services provided by the United States to Indian tribes because of their status as Native Americans, whose people engaged in uranium mining or milling or were employed where uranium mining or milling was conducted;'';

(3) by striking paragraphs (3) and (4); and

(4) by adding at the end the following:

''(3) the term 'course of employment' means—

''(A) any period of employment in a uranium mine or uranium mill before or after December 31, 1971, or

''(B) the cumulative period of employment in both a uranium mine and uranium mill in any case in which an individual was employed in both a uranium mine and a uranium mill;

''(4) the term 'lung cancer' means any physiological condition of the lung, trachea, and bronchus that is recognized under that name or nomenclature by the National Cancer Institute, including any in situ cancer;

''(5) the term 'nonmalignant respiratory disease' means fibrosis of the lung, pulmonary fibrosis, corpulmonale related to pulmonary fibrosis, or moderate or severe silicosis or pneumoconiosis;

''(6) the term 'other medical condition associated with uranium mining, milling, or uranium transport' means any medical condition associated with exposure to radiation, heavy metals, chemicals, or other toxic substances to which miners and millers are exposed in the mining and milling of uranium;

''(7) the term 'uranium mill' includes milling operations involving the processing of uranium ore or vanadium-uranium ore, including carbonate and acid leach plants;

''(8) the term 'uranium transport' means human physical contact involved in moving uranium ore from 1 site to another, including mechanical conveyance, physical shoveling, or driving a vehicle;

''(9) the term 'uranium mine' means any underground excavation, including dog holes, open pit, strip, rim, surface, or other aboveground mines, where uranium ore or vanadium-uranium ore was mined or otherwise extracted;

''(10) the term 'working level' means the concentration of the short half-life daughters (known as 'progeny') of radon that will release (1.3×10^5) million electron volts of alpha energy per liter of air; and

''(11) the term 'written medical documentation' for purposes of proving a nonmalignant respiratory disease means, in any case in which the claimant is living—

''(A) a chest x-ray administered in accordance with standard techniques and the interpretive reports thereof by 2 certified 'B' readers classifying the existence of the nonmalignant respiratory disease of category 1/0 or higher according to a 1989 report of the International Labour Office (known as the 'ILO'), or subsequent revisions;

''(B) a high resolution computed tomography scan (commonly known as an 'HCRT scan') and any interpretive report for that scan;

''(C) a pathology report of a tissue biopsy;

''(D) a pulmonary function test indicating restrictive lung function (as defined by the American Thoracic Society); or

''(E) an arterial blood gas study.''.

SEC. 5. DETERMINATION AND PAYMENT OF CLAIMS.

(a) DETERMINATION AND PAYMENT OF CLAIMS, GENERALLY.—Section 6 of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by adding at the end the following: ''All reasonable doubt with regard to whether a claim meets the requirements of this Act shall be resolved in favor of the claimant.'';

(B) by redesignating paragraph (2) as paragraph (5); and

(C) by inserting after paragraph (1) the following:

''(2) EVIDENCE.—In support of a claim for compensation under section 5, the Attorney General shall permit the introduction of, and a claimant may use and rely upon, affidavits and other documentary evidence, including medical evidence, to the same extent as permitted by the Federal Rules of Evidence.

''(3) INTERPRETATION OF CHEST X-RAYS.—For purposes of this Act, a chest x-ray and the accompanying interpretive report required in support of a claim under section 5(a), shall—

''(A) be considered to be conclusive, and

''(B) be subject to a fair and random audit procedure established by the Attorney General.

''(4) CERTAIN WRITTEN DIAGNOSES.—

''(A) IN GENERAL.—For purposes of this Act, in any case in which a written diagnosis is made by a physician described in subparagraph (B) of a nonmalignant pulmonary disease or lung cancer of a claimant that is accompanied by written medical documentation that meets the definition of that term under subsection (b)(11), that written diagnosis shall be considered to be conclusive evidence of that disease.

''(B) DESCRIPTION OF PHYSICIANS.—A physician described in this subparagraph is a physician who—

''(i) is employed by—

''(I) the Indian Health Service of the Department of Health and Human Services, or

''(II) the Department of Veterans Affairs, and

''(ii) is responsible for examining or treating the claimant involved.'';

(2) in subsection (c)(2)—

(A) in subparagraph (A)(ii), by striking ''in a uranium mine'' and inserting ''in uranium mining, milling, or transport''; and

(B) in subparagraph (B)(ii), by striking ''by the Federal Government'' and inserting ''through the Department of Veterans Affairs'';

(3) in subsection (d)—

(A) by striking ''(d) ACTION ON CLAIMS.—The Attorney General'' and inserting the following:

''(d) ACTION ON CLAIMS.—

''(1) IN GENERAL.—The Attorney General''; and

(B) by adding at the end the following:

''(2) DETERMINATION OF PERIOD.—For purposes of determining the tolling of the 12-month period under paragraph (1), a claim under this Act shall be considered to have

been filed as of the date of the receipt of that claim by the Attorney General.

''(3) ADMINISTRATIVE REVIEW.—If the Attorney General denies a claim referred to in paragraph (1), the claimant shall be permitted a reasonable period of time in which to seek administrative review of the denial by the Attorney General.

''(4) FINAL DETERMINATION.—The Attorney General shall make a final determination with respect to any administrative review conducted under paragraph (3) not later than 90 days after the receipt of the claimant's request for that review.

''(5) EFFECT OF FAILURE TO RENDER A DETERMINATION.—If the Attorney General fails to render a determination during the 12-month period under paragraph (1), the claim shall be deemed awarded as a matter of law and paid.'';

(4) in subsection (e), by striking ''in a uranium mine'' and inserting ''uranium mining, milling, or transport'';

(5) in subsection (k), by adding at the end the following: ''With respect to any amendment made to this Act after the date of enactment of this Act, the Attorney General shall issue revised regulations, guidelines, and procedures to carry out that amendment not later than 180 days after the date of enactment of that amendment.''; and

(6) in subsection (*l*)—

(A) by striking ''(l) JUDICIAL REVIEW.—An individual'' and inserting the following:

''(l) JUDICIAL REVIEW.—

''(1) IN GENERAL.—An individual''; and

(B) by adding at the end the following:

''(2) ATTORNEY'S FEES.—If the court that conducts a review under paragraph (1) sets aside a denial of a claim under this Act as unlawful, the court shall award claimant reasonable attorney's fees and costs incurred with respect to the court's review.

''(3) INTEREST.—If, after a claimant is denied a claim under this Act, the claimant subsequently prevails upon remand of that claim, the claimant shall be awarded interest on the claim at a rate equal to 8 percent, calculated from the date of the initial denial of the claim.

''(4) TREATMENT OF ATTORNEY'S FEES, COSTS, AND INTEREST.—Any attorney's fees, costs, and interest awarded under this section shall—

''(A) be considered to be costs incurred by the Attorney General, and

''(B) not be paid from the Fund, or set off against, or otherwise deducted from, any payment to a claimant under this section.''.

(b) FURTHERANCE OF SPECIAL TRUST RESPONSIBILITY TO AFFECTED INDIAN TRIBES; SELF-DETERMINATION PROGRAM ELECTION.—In furtherance of, and consistent with, the trust responsibility of the United States to Native American uranium workers recognized by Congress in enacting the Radiation Exposure Compensation Act (42 U.S.C. 2210 note), section 6 of that Act, as amended by subsection (a) of this section, is amended—

(1) in subsection (a), by adding at the end the following: ''In establishing any such procedure, the Attorney General shall take into consideration and incorporate, to the fullest extent feasible, Native American law, tradition, and custom with respect to the submission and processing of claims by Native Americans.'';

(2) in subsection (b), by inserting after paragraph (3) the following:

''(4) PULMONARY FUNCTION STANDARDS.—In determining the pulmonary impairment of a claimant, the Attorney General shall evaluate the degree of impairment based on ethnic-specific pulmonary function standards.'';

(3) in subsection (b)(5)—

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

(B) by striking the period at the end of subparagraph (C) and inserting ''; and''; and

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

''(D) in consultation with any affected Indian tribe, establish guidelines for the determination of claims filed by Native American uranium miners, millers, and transport workers pursuant to section 5.'';

(4) in subsection (b), by adding after paragraph (5) the following:

''(6) SELF-DETERMINATION PROGRAM ELECTION.—

''(A) IN GENERAL.—The Attorney General on the request of any affected Indian tribe by tribal resolution, may enter into 1 or more self-determination contracts with a tribal organization of that Indian tribe pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) to plan, conduct, and administer the disposition and award of claims under this Act to the extent that members of the affected Indian tribe are concerned.

''(B) APPROVAL.—(i) On the request of an affected Indian tribe to enter into a self-determination contract referred to in subparagraph (A), the Attorney General shall approve or reject the request in a manner consistent with section 102 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f).

''(ii) The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) shall apply to the approval and subsequent implementation of a self-determination contract entered into under clause (i) or any rejection of such a contract, if that contract is rejected.

''(C) USE OF FUNDS.—Notwithstanding any other provision of law, funds authorized for use by the Attorney General to carry out the functions of the Attorney General under subsection (i) may be used for the planning, training, implementation, and administration of any self-determination contract that the Attorney General enters into with an affected Indian tribe under this section.''; and

(5) in subsection (c)(4), by adding at the end the following:

''(D) APPLICATION OF NATIVE AMERICAN LAW.—In determining the eligibility of individuals to receive compensation under this Act by reason of marriage, relationship, or survivorship, the Attorney General shall take into consideration and give effect to established law, tradition, and custom of affected Indian tribes.''.

SEC. 6. CHOICE OF REMEDIES.

Section 7(b) of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note) is amended to read as follows:

''(b) CHOICE OF REMEDIES.—

''(1) IN GENERAL.—Except as provided in paragraph (1), the payment of an award under any provision of this Act does not preclude the payment of an award under any other provision of this Act.

''(2) LIMITATION.—No individual may receive more than 1 award payment for any compensable cancer or other compensable disease.''.

SEC. 7. LIMITATION ON CLAIMS; RETROACTIVE APPLICATION OF AMENDMENTS.

Section 8 of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note) is amended to read as follows:

''SEC. 8. LIMITATION ON CLAIMS.

''(a) BAR.—After the date that is 20 years after the date of enactment of the Radiation Exposure Compensation Improvement Act no claim may be filed under this Act.

''(b) APPLICABILITY OF AMENDMENTS.—The amendments made to this Act by the Radiation Exposure Compensation Improvement Act shall apply to any claim under this Act that is pending or commenced on or after October 5, 1990, without regard to whether payment for that claim could have been awarded before the date of enactment of the Radiation Exposure Compensation Improvement Act as the result of previous filing and prior payment under this Act.''.

SEC. 8. REPORT.

Section 12 of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note) is amended—

(1) by striking the section heading and inserting the following:

''**SEC. 12. REPORTS.**'';

and

(2) by adding at the end the following:

''(c) URANIUM MILL AND MINE REPORT.—Not later than January 1, 2001, the Secretary of Health and Human Services in consultation with the Secretary of Energy shall prepare and submit to Congress a report that—

''(1) summarizes medical knowledge concerning adverse health effects sustained by residents of communities who reside adjacent to—

''(A) uranium mills or mill tailings,

''(B) aboveground uranium mines, or

''(C) open pit uranium mines; and

''(2) summarizes available information concerning the availability and accessibility of medical care that incorporates the best available standards of practice for individuals with malignancies and other compensable diseases relating to exposure to uranium as a result of uranium mining and milling activities;

''(3) summarizes the reclamation efforts with respect to uranium mines, mills, and mill tailings in Colorado, New Mexico, Arizona, Wyoming, and Utah; and

''(4) makes recommendations for further actions to ensure health and safety relating to the efforts referred to in paragraph (3).''.●

● Mr. DASCHLE. Mr. President, 9 years ago Congress took the landmark step of extending benefits through the Radiation Exposure Compensation Act of 1990 (RECA) to thousands of American victims of the Cold War who were unknowingly and wrongly exposed to life-threatening levels of radiation and other harmful materials as part of our nation's nuclear weapons program.

This law was long overdue, and was an important step by Congress to acknowledge the federal government's responsibility for its failure to warn or take adequate steps to protect victims of radioactive fallout from weapons testing and underground uranium miners who breathed harmful levels of radon as they worked to supply our nuclear weapons program. The law makes individuals who have developed cancer or other health problems as a result of their exposure to radiation eligible for up to $100,000 in compensation from the government.

In the 9 years since the passage of that bill, 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 5 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, for example, have developed serious respiratory problems as a result of exposure to uranium dusts and silica. Concerns have been raised about aboveground miners and uranium transportation workers as well.

It is the obligation of the 106th Congress to continue the work of the 101st. Not only is it incumbent upon us to extend the law to compensate underground miners unfairly left out of the original legislation, we need to extend the law to cover new groups of workers who face similar risks to their health. It is for that reason that I am joining with Senator BINGAMAN today to sponsor the Radiation Exposure Compensation Improvement Act of 1999. This legislation will expand RECA to cover underground miners in all states, as well as surface miners, transportation workers and uranium mill workers who have had health problems as a result of their work with uranium. I hope my colleagues will join us to pass this legislation quickly.

I also feel an obligation to correct the historical record. During my review of the scientific literature on the uranium industry and of testimony before Congress, I was concerned to see that South Dakota's former uranium industry has gone virtually unnoticed by the rest of the nation despite the fact that South Dakotans who worked in the industry appear to be suffering exactly the same long-term health consequences as residents of other states. For that reason, I would like to take a moment to outline the history of uranium mining and processing in my state.

Uranium was first discovered in South Dakota in the summer of 1951, along the fringe of the Black Hills where grasslands uplift into pine forest. As you know, 1951 was a difficult time in American history. The Cold War with the Soviet Union was deepening, and the United States was rapidly expanding its arsenal of nuclear weapons. To supply this new weapons program, the United States adopted a program of government price supports to create a domestic uranium industry under the jurisdiction of the Atomic Energy Commission (AEC).

Almost immediately, South Dakota became one of the AEC's suppliers. After uranium was discovered in South Dakota, the AEC established an office in Hot Springs to conduct airborne radiometric surveys, and small-scale prospecting began. South Dakota's first uranium ore was shipped by rail to Colorado for processing, until an ore-buying station was established by the AEC in the town of Edgemont in December of 1952. A uranium mill was constructed in Edgemont shortly afterwards.

Uranium mining and milling continued for nearly two decades in my state. According to the South Dakota School of Mines and Technology, there were over 100 uranium mines in the vicinity of Edgemont, of which at least 22 were underground. In their 20 years of operation between 1953 and 1973, these mines produced nearly 1 million short tons of ore and just over 3 million pounds of processed uranium.

Ore from South Dakota's mines was processed at the mill in Edgemont. According to a document provided to me by the Tennessee Valley Authority, which later acquired the mill and the responsibility for its cleanup, ''From 1956 through 1972 (when the uranium circuit was shut down and the mill stopped producing uranium concentrates), approximately 2,500,000 tons of mill tailings were produced onsite. Of this total, approximately 2,050,000 tons—82 percent—were produced under contract with the AEC for defense purposes. In fact, all of the uranium concentrates produced through December 31, 1966, and a portion of those produced until 1968 were sold to the AEC. The remaining 450,000 tons of mill tailings—18 percent—were produced under contracts for commercial sales.''

Mr. President, much of this information was difficult to come by, and to ensure that all those who need it in the future have full access to it.

As these records make clear, for over 20 years South Dakota played a significant role in supplying uranium for our nation's nuclear weapons program. Yet rarely will you find South Dakota mentioned in any of the debate over the long-term consequences of that program. I am determined to change that fact, and to ensure that all South Dakotans, and other individuals across the country, who are suffering from poor health, or who are surviving relatives of uranium workers who have died as a result of their work, are fairly compensated by the federal government for their losses.

As my colleagues know, in RECA Congress officially recognized that ''the lives and health of uranium miners and of individuals who were exposed to radiation were subjected to increased risk of injury and disease to serve the national security interests of the United States.'' However, the law only makes this determination for fallout victims and for underground uranium miners in 5 states. I believe it must be broadened to include underground uranium miners in all states. This is a matter of simple fairness. I can find no reasonable explanation for the failure of the law to include South Dakota and other states that had underground uranium mines whose workers would have been exposed to unsafe levels of radon. In addition, the law should be broadened to include uranium mill workers, surface miners and transportation workers to ensure that all those who may be suffering from health problems as a result of exposure to uranium dust or other harmful materials are compensated fairly. While there are strong grounds on which to expand the act to include all of these groups of workers, it is helpful to examine closely the evidence supporting the inclusion of one of these groups—mill workers—to better understand our reasons for seeking this change.

The grounds for expanding the act to include mill workers are largely the same as those which led Congress to pass RECA 9 years ago. The United States government, which created the domestic uranium industry through price supports in order to supply its nuclear weapons program, failed to adequately warn mill workers of potential risks to their health, to take reasonable measures to create a safe working environment, or to act on initial warnings and conduct long-term studies of mill workers to determine whether their health was being affected by their work.

The federal government recognized the potential risks of uranium production from the onset of our nuclear program, and in 1949 the Public Health Service (PHS) initiated a study of both underground miners and millers to determine whether they were suffering from any adverse health effects. Troublingly, a decision was also made by the federal government not to inform workers that their health could be at risk. As Senior District Judge Copple noted in his decision in Begay v. United States, ''In order to proceed with the epidemiological study, it was necessary to obtain the consent and voluntary cooperation of all mine operators. To do this, it was decided by PHS under the Surgeon General that the individual miners would not be told of possible potential hazards from radiation in the mines for fear that many miners would quit and others would be difficult to secure because of fear of cancer. This would seriously interrupt badly needed production of uranium.'' While the court's decision does not make clear whether that same decision applied to uranium millers, subsequent research has shown that over 80 percent of former mill workers felt they were not informed about the hazards of radiation during their employment.

The early results of this study, as described in a May 1952 report entitled, ''An Interim Report of a Health Study of the Uranium Mines and Mills,'' are disturbing. It notes that, ''In 1950, 13.8 percent of the white miners and 26.5 percent of the white millers showed more than the usual pulmonary fibrosis, as compared to 7.5 percent in a control group. In the same year, 20 percent of the Indian millers and 13.2 percent of the Indian miners showed more than the usual pulmonary fibrosis, as against none in the controls. Such a finding would indicate a tendency on the part of these individuals to develop silicosis from their exposure.'' Given these and other findings, the study notes the ''need for repeating the medical studies at frequent intervals.''

It is inexplicable to me that these critical follow-up studies which were so

strongly recommended by the Public Health Service took place only for underground uranium miners. No long-term, follow-up studies of uranium millers were conducted. This decision was made despite the fact that it was well established that uranium millers were being exposed to uranium dusts and silica, which increase the risk of non-malignant lung disease.

One of the reasons the health problems of mill workers appear to have been so neglected is that most officials assumed that risks could be controlled by adopting standards to prevent workers from breathing or swallowing dust produced by yellowcake or uranium ore. As the 1952 PHS study states, ''In general, it may be said that there are no health hazards in the mills which cannot be controlled by accepted industrial hygiene methods.'' Noting poor dust control in the mills, the PHS study concluded, ''Until adequate dust control has been established at this operation, the workers should be required to wear approved dust respirators. Daily baths and frequent changes of clothing by the workers in this area are also indicated.''

These recommendations appear to have been largely ignored. Recent studies of former uranium mill workers by Gary Madsen, Susan Dawson and Bryan Spykerman of the University of Utah paint a devastating picture of workplace conditions in uranium mills prior to the enforcement of stringent safety standards in the 1970's. Eighty percent of former mill workers interviewed by the researchers for one study said they were never informed about possible effects of radiation. Of workers who reported working in dusty conditions, 35 percent did not wear respirators, and 20 percent wore them infrequently or said they were not always available. Sixty-eight percent reported moderate to heavy amounts of dust on their clothing at work, and virtually all workers reported bringing their dust-covered clothes home to be washed. One respondent noted, ''We washed the clothes once a week. It was messy. We were expecting our first child. I had to shake my clothes outside. There was yellow sand left at the bottom of the washer. All of the clothes were washed together. Nobody told us the uranium was dangerous—a problem. My wife would get yellowcake on her. I would remove my coveralls in the kitchen. Put them in with the rest of the [family's] laundry.'' Others reported regularly seeing workers outside the mills with yellowcake under their fingernails or in their ears.

Mr. President, the dangerous conditions revealed by these studies show an inexcusable failure on the part of the federal government to ensure safe working conditions in an industry it created and controlled. And despite failing to enforce these standards or to even inform workers of the risk to their health, the government nonetheless decided to end long-term studies monitoring the health of mill workers. As a result, only a few studies have been conducted of the health impacts that uranium milling has had on workers. Dr. Larry Fine, Director of the Division of Surveillance, Hazard Evaluations and Field Studies of the National Institute for Occupational Safety and Health, summarized the results of these studies in recent testimony before Congress:

''Health concerns for uranium millers center on their exposures to uranium dusts and silica. Exposure to silica and relatively insoluble uranium compounds may increase the millers' risk of non-malignant respiratory disease, while exposure to relatively soluble forms of uranium may increase their risk of kidney disease. The two mortality studies of uranium millers have not had adequate population size or adequate time since exposure to detect even a moderate risk of lung cancer if present; neither study reported an elevated risk of lung cancer. One of the two completed mortality studies of millers found an increased risk for cancer of the lymphatic and hematopoietic organs (excluding leukemia), and the other found an increased risk for non-malignant respiratory disease and accidents. A non-significant excess in deaths from chronic kidney disease was also observed in the second study. There have been two medical studies of uranium millers, one of which found evidence for pulmonary fibrosis (possibly due to previous mining) and the other of which found evidence for kidney damage.''

I am deeply concerned by our failure to study uranium mill workers more thoroughly and by the indications given by the evidence we do have that these workers are suffering long-term health consequences as a result of their work on behalf of our country. Unfortunately, it may now be too late to gather more conclusive evidence. These workers are growing older and some are now dying. Their numbers have grown so small that it may no longer be possible to conduct the type of conclusive study that should have been done years ago. We owe these mill workers the benefit of the doubt and should make them or their surviving families eligible for the same compensation that underground miners receive.

Indeed, I have heard from many South Dakotans who have waited long enough for compensation. They tell me of former miners and mill workers who have died of cancer or who suffer from respiratory disease they believe is directly related to their exposure to harmful materials in their workplace.

One of the most tragic stories I have heard was written to me in a letter from Sharon Kane, a widow in Sturgis, South Dakota. After working for 11 years in Edgemont's uranium mill, her husband, Joe, developed severe respiratory problems and was forced to leave his work at the mill. Unfortunately, his health problems continued. Joe died of bone cancer in 1987.

It is difficult for me to understand why or how our country let this happen. However, it is now up to us to ensure that all those who have suffered as a result of our nation's actions are fairly compensated. We must expand RECA to include uranium mill workers and other groups of workers who are suffering as a result of their exposure to uranium dust or other materials. We also must ensure the law is expanded to include underground uranium miners in all states. By doing so we can make good on our debt to workers who have sacrificed their health—and sometimes their lives—during the height of the Cold War in order to protect their country.

I hope my colleagues will join me in the effort to meet these goals.

Mr. President, I ask unanimous consent that a document entitled, ''Brief History of Uranium Mining in South Dakota, 1951–1973,'' produced by the Mine Safety and Health Administration and a letter from Sharon Kane be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

BRIEF HISTORY OF URANIUM MINING IN SOUTH DAKOTA, 1951–1973

Carnotite deposits were discovered in 1951 near Edgemont, South Dakota, in the Lakota member of the Dakota sandstone formation. Under the Atomic Energy Commission Raw Materials Program, all phases of exploration, development, metallurgy, and research were extended on an accelerated basis in 1952. Airborne and ground exploration disclosed several new uranium ore deposits east and west of the original Craven Canyon discovery in South Dakota. In addition, Northwest of Edgemont in the Powder River Basin of Wyoming, the Geological Survey located several small but high-grade deposits. Intensive exploration efforts were also conducted by private interests, including Homestead Mining Company in the Black Hills and adjacent area in Wyoming.

In 1953 administration contracts for defense minerals exploration were awarded to Mining Research Corp., C. G. Ortmayer, and Oxide Metals Corp. in Fall River County. Contracts were also given to Vroua Company and C. E. Weir for exploring in Custer County,

Homestake Mining Company began mining uranium ore near Carlile, Crook County, Wyoming in January 1953. This mining product was trucked to Edgemont, South Dakota, where the Atomic Energy Commission had a buying station.

During 1955 the Office of Defense Mobilization issued a Certificate of Necessity for an uranium-ore processing plant project to Mines Development Company, Inc. This plant was in Edgemont, South Dakota. Although appreciable quantities of uranium were recognized in South Dakota lignites, only a small amount was mined. This was due to the lack of acceptable uranium-recovery processes for uranium extraction from coal bearing materials.

Uranium Research and Development Company was granted a contract in 1956 in Fall River County by the Defense Minerals Exploration Administration.

Mines Development, Inc. had their uranium mill in operation by 1956. The initial capacity was rated as 300 tons of ore per day.

Two groups, Anderson, Wesley, and Others in Harding County and McAlester Fuel Co. in

Fall River County were given contracts involving uranium in 1957. South Dakota produced 69,632 tons of ore, valued at $804,946. The average grade percent in terms of U_3O_8 was 0.17 which was the lowest of any uranium producing state. The average grade percent increased to 0.20 in 1958. The rating of the Edgemont Plant was increased to 400 tons of ore per day.

Uranium-ore production in the United States reached a new high in 1959 with South Dakota being the ninth producing state and in 1960 became eighth state producer. The Atomic Energy Commission negotiated for new mills for the South Dakota lignite area but interested firms couldn't reach an agreement.

In 1960, the Atomic Energy Commission revised its regulations for the protection of employees in atomic energy industries and the general public against hazards arising from the possession or use of AEC-licensed radioactive materials. The revisions are embodied in amendments to Title 10, Chapter 1, Part 20, of the Code of Federal Regulations entitled ''Standards for Protection Against Radiation''. The amendments became effective on January 1, 1961.

The highest year for production of uranium ore for the United States was in 1961 but the total production dropped by 1962. Based on the amount of ore shipped, South Dakota became the seventh state producer. The state maintained this rating in 1963 but was the sixth state producer for 1964 and 1965.

Around 1967, mining of uraniferous lignite in Harding County, South Dakota, ceased as the operation was no longer profitable. Mining of sandstone ores also declined, and Mines Development, Inc., a subsidiary of Susquehanna Corp., conducted extensive exploration in the Dakotas and Wyoming in an effort to find additional ore for their mill.

The uranium mine and mill production for South Dakota in 1968 and 1969 placed the state as the seventh largest producing state. The year 1971 was the first full year that the U_3O_8 market was entirely private. The Atomic Energy Commission (AEC) terminated its U_3O_8 purchasing program at year end 1970 after acquiring U_3O_8 valued at nearly $3 billion since the program's inception in 1948, including a large stock pile.

By 1973, the mining of uranium in South Dakota ceased to be profitable and production stopped.

SEPTEMBER 8, 1998.

Senator TOM DASCHLE,
Rapid City, SD.

DEAR SIR: This letter is to urge you to vote in favor of the ''Radiation Workers Justice Act of 1998'', HR 3539.

My story is very likely similar to many others recited in order to initiate this bill and R.E.C.A. of 1990, however, to me the issues are deeply personal and intimate.

My late husband Kasper Jerome Kane (known to friends and family as Joe), was employed at the uranium milling operation at Edgemont, S.D. from 1959 to 1970. After several years in the mill, Joe began experiencing upper respiratory problems, especially while on duty at the mill. A detailed medical examination revealed pulmonary changes and enlargement of the heart due to the stress of the pulmonary condition. Our physician advised Joe to find a new line of work and to leave the mill as soon as possible, which he did. When Joe left his job, he cited his health as the reason. Administration of the mill at that time did not receive this information favorably (of course) and denied any accountability.

Joe chose to work at the mill out of his sense of responsibility to provide for a wife and two children in the best manner he could. His tenacity for life alone allowed him to leave the mill and begin his own business. Joe was active in his community and well loved by his neighbors and friends.

Even though his quality of life may have been compromised by his respiratory problems, Joe remained active in the lives of his teenage children and his community at large, until he was diagnosed with multiple myeloma (cancer of the bone marrow) in 1987. There is no way to prepare a family for the heart wrenching events about to face my children, their father and me.

Over the next three years, we lost our business, our home, ranch, and finally my best friend, my husband. Economic loss can be measured and sometimes compensated.

When Joe finally succumbed to cancer in 1990 at age 53, after rituals of chemotherapy and radiation, his valiant battle was over.

I have moved on with life, but there is not a day that I do not miss him and each time I hug a grandchild, I know what they have missed. Joe Kane was a fighter and a family man. Dependable and lived the values he preached.

I hope the bill presented will offer solace to those affected by radiogenic conditions and hope to those yet to need it.

Thank you for listening to my story.

Sincerely,

SHARON D. KANE,
Sturgis, SD.●

By Mr. CLELAND:

S. 369. A bill to provide States with the authority to permit certain employers of domestic workers to make annual wage reports; to the Committee on Finance.

TAX LEGISLATION

● Mr. CLELAND. Mr. President, today I am proud to introduce legislation to remove a tax reporting burden currently imposed on employers of domestic workers. This bill authorizes states to permit certain employers of domestic workers to make annual wage reports. I am pleased to report that this provision is also included as Section 405 of S. 331, the Work Incentives Improvement Act of 1999.

In 1994, Congress approved important legislation reforming the imposition of Social Security and Medicare taxes on domestic employees (the so-called ''nanny tax''). These new rules introduced more rationality into the tax system, and reduced the reporting requirements of domestic employers. Unfortunately, the legislation did not go as far as many had intended. To this end, I am asking you to co-sponsor my legislation which will help relieve households of certain filing requirements.

The Social Security Domestic Employment Reform Act of 1994 (P.L. 103–387) aimed to ease reporting requirements. Under the Act, domestic employers no longer need to file quarterly returns regarding Social Security and Medicare taxes nor the annual federal unemployment tax (FUTA) return. Rather, all federal reporting is now consolidated on an annual Schedule H filed at the same time as the employer's personal income tax return.

Nevertheless, the goal of the 1994 Act—to substantially reduce reporting requirements for domestic employers—has not been fully accomplished for employers who endeavor to comply with all aspects of the law. Under federal law, a state labor commissioner still may not authorize annual rather than quarterly filing of state employment taxes. The Deficit Reduction Act of 1984 compels employers to report wages quarterly to the state. This Act requires quarterly reporting in order to make information more accessible to state agencies that investigate unemployment claims. However, the burden of this provision far outweighs its benefit. The number of household employer tax filings is relatively minuscule. Representatives from the Georgia Department of Labor and their counterparts in several other states are confident that the investigation of unemployment claims will not be hindered by annual rather than quarterly reporting requirements.

Under FUTA, employers make quarterly reports and payments to state unemployment agencies, then pay an additional sum of federal tax (now once a year, as part of Schedule H). While the liability of employers for domestic employees was changed for Social Security and Medicare purposes, to exclude workers under the age of 18 and workers earning less than $1,000 per year, the employers' responsibility under FUTA was not changed. More importantly, the 1994 Act did not eliminate the requirement that employers must report employee wages quarterly to the states.

Congress was not unmindful of the relationship of FUTA to Social Security taxes at the time it passed the 1994 Act. Besides eliminating the FUTA return for domestic employers, the Act also contained language, which authorizes the Secretary of the Treasury to enter agreements with the states to permit the federal government to collect unemployment taxes on behalf of the states, along with all other domestic employee taxes, once a year. That statute, if used, would eliminate the need for domestic employers to report to state unemployment agencies. To date, no state has entered such an agreement. This is because the Social Security Act did not alter the quarterly reporting requirement.

In short, the federal requirement of quarterly state employment tax reports for purely domestic employers should be eliminated. To ease the reporting burden on domestic employers, my legislation proposes that states be allowed to provide for annual filing of household employment taxes. Please join me in the effort to finish the job of rationalizing the taxpayer obligations for domestic employment taxes. 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. 369

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

SECTION 1. AUTHORIZATION FOR STATE TO PERMIT ANNUAL WAGE REPORTS.

(a) IN GENERAL.—Section 1137(a)(3) of the Social Security Act (42 U.S.C. 1320b–7(a)(3)) is amended by inserting before the semicolon the following: '', and except that in the case of wage reports with respect to domestic service employment, a State may permit employers (as so defined) that make returns with respect to such service on a calendar year basis pursuant to section 3510 of the Internal Revenue Code of 1986 to make such reports on an annual basis''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to wage reports required to be submitted on and after the date of enactment of this Act.●

By Mr. GRAHAM (for himself, Mr. DEWINE, Mr. COVERDELL, Mr. DOMENICI, Ms. LANDRIEU, Mr. DODD, Mr. HATCH, Mr. FRIST, Mr. MACK, and Mr. HAGEL):

S. 371. A bill to provide assistance to the countries in Central America and the Caribbean affected by Hurricane Mitch and Hurricane Georges, to provide additional trade benefits to certain beneficiary countries in the Caribbean, and for other purposes; to the Committee on Finance.

THE CENTRAL AMERICAN AND CARIBBEAN RELIEF ACT OF 1999

● Mr. GRAHAM. Mr. President, I rise today to introduce the Central American and Caribbean Relief Act of 1999. I am joined in this by my colleagues Senators DEWINE, COVERDELL, DOMENICI, LANDRIEU, DODD, HATCH, FRIST, MACK, and HAGEL. This bill is a comprehensive disaster relief package that will help our Caribbean and Central American neighbors recover from the devastation caused by Hurricane Georges and Hurricane Mitch.

This past fall, two hurricanes ravaged our neighbors in Central America and the Caribbean, causing death and destruction that has not been seen in this hemisphere in over 200 years. First, Hurricane Georges hit the Puerto Rico, the Dominican Republic, Haiti, the Florida Keys, and the Gulf Coast of the United States in September of 1998, with a ferocity that resulted in 250 deaths and more than $1 billion in damage. Only a month later, Hurricane Mitch attacked Central America, killing more than 10,000 people and leaving 3 million homeless. Hurricane Mitch unleashed a series of destructive forces—floods, mudslides, disease—that have affected the lives of 3.2 million residents in five nations. In Honduras alone, over 30 percent of the population was displaced by Mitch. To put this in perspective, had the U.S. suffered comparable levels of damage, 80 million of our citizens would have been displaced. The scale of this disaster is truly astounding.

I had the opportunity to see this destruction for myself when I visited the region in January. I witnessed whole villages that were completely washed away, families crammed into open-air shelters, and children playing among the concrete remanents of bridges and buildings. I saw field after field destroyed by the heavy rains. The losses in the agricultural sector were staggering. In Honduras alone, an estimated 70% of the crops were destroyed, including 90% of the country's banana and grain crops. Because agriculture employs approximately half of the regional workforce, these losses have resulted in tremendous economic disruption.

The Central American and Caribbean Relief Act is a comprehensive plan that will help these struggling nations get back on their feet and rebuild their economies. First, the bill will expand the current trade benefits provided under the Caribbean Basin Initiative. During my recent visit to the region their was unanimous agreement, from the Presidents of the countries to members of the private sector, the CBI enhancement is the number one priority of their economic recovery plan. History shows that expanding trade with the Caribbean Basin helps our own economy, expanding U.S. exports to the region at the same time that we build important trading relations with our closest neighbors. Any disaster relief package that does not include CBI enhancement falls far short of the mark.

The second part of this package will continue and expand current humanitarian and disaster assistance activities in the region. This will help to rehabilitate agricultural production, rebuild bridges and roads, provide much needed housing, clear landmines, restore safe water and health care, and help prevent similar disasters in the future. This is a continuation of the heroic efforts that the U.S. Government has already undertaken in response to these hurricanes. U.S. forces have been there since the day the disaster struck, rescuing hundreds from certain death, moving 30 million pounds of relief supplies, and helping rebuild the regions critical infrastructure.

By working to improve economic development of the region, we will help prevent needless environmental damage, strengthen the development of democracy in the region, and protect against the proliferation of narcotics trafficking. An investment in the long-term recovery of the region, which is so important to the United States both economically and politically, will produce benefits for the entire Western Hemisphere.

The bill includes the following initiatives:

$600 million to expand funding for humanitarian efforts to meet needs for health, water/sanitation, road reconstruction, agricultural restoration, agricultural microcredit, food, shelter, disaster mitigation and other emergency relief;

Enhancement of the Caribbean Basin Initiative (CBI) to give the nation of Central America and the Caribbean the opportunity to quickly expand their economies and expand the manufacturing sector while they rebuild their agricultural base;

$16 million for bilateral debt forgiveness for Honduras;

A micro-credit initiative targeted at reviving agricultural production in the region;

$150 million to replenish Defense Department funds depleted in the immediate aftermath of the disaster, including the humanitarian relief fund that supports landmine detection and removal;

$70 million to expand New Horizons, a Department of defense program in the region that builds housing and roads, provides medical care, health services, and clean water to affected areas;

Authorization of an OPIC direct equity pilot program to assist U.S. businesses in the region, develop low income housing, and rebuild damaged infrastructure; and

$25 million for the Central American Emergency Trust Fund to be applied against multilateral debt and provide external financing needs.

As we move forward to address the devastation of this event, the choice facing the United States is clear: we can continue to provide emergency assistance to the region for the foreseeable future and prepare for waves of refugees, or we can act to implement a comprehensive disaster recovery program that will rebuild the economies of the affected nations, allowing them to provide for themselves. The choice is simple, because helping these nations recovery is in our own interest. Failure to act will hurt ourselves and our neighbors. The Central American and Caribbean Relief Act is an important opportunity for the United States to lend a hand to neighbors in need and help them get back on their feet.●

● Mr. DEWINE. Mr. President, today, the Senator from Florida, Mr. GRAHAM and I are introducing The Central American and Caribbean Relief Act of 1999. We are joined in this effort by the following original co-sponsors: Mr. COVERDELL, Mr. DOMENICI, Ms. LANDRIEU, Mr. DODD, Mr. HATCH, Mr. MACK, Mr. FRIST, and Mr. HAGEL. This important legislation is both timely and vital. I urge my colleagues to join us as co-sponsors and to work with us to pass it as soon as possible.

Last year, several of our neighboring countries suffered serious catastrophic natural disasters. First, Hurricane Georges struck Puerto Rico, the Dominican Republic and Haiti resulting in hundreds dead and billions of dollars in damage. These countries were just starting to recover when Hurricane Mitch rolled through various countries in Central America.

Hurricane Mitch left unspeakable devastation with over 9,000 dead, another 9,000 still missing, and millions homeless. The physical devastation will take decades to repair in Honduras and Nicaragua. And these countries are not alone: Guatemala, El Salvador, and Belize have suffered as well.

Mr. President, many senior officials in our government have visited these devastated regions—and I applaud their

interest and exhaustive efforts. I have visited this region numerous times within the past year and I plan to go back.

I applaud the extraordinary displays of teamwork, compassion, and generosity exhibited by the citizens of Ohio, as well as all Americans, in their effort to help the victims of Hurricane Mitch. Their unselfish donations to organizations such as the Northeast Ohio Salvation Army and the Ohio Hurricane Relief for Central America as well as the many other national and local relief agencies serve as an inspirational reminder of the global human community spirit we Americans so often display. And we certainly do not want to forget the quick response provided by our men in uniform, including Ohio's own 445th Air Reserve Wing, in saving lives and tackling the daunting task of helping to rebuild that region's infrastructure.

My concern, however, is that once Hurricane Mitch fades out of the headlines, there's a risk that this vitally important region itself will also disappear off America's sometimes limited radar screen of foreign policy attention. The time has come not to address the devastation that has passed, but to begin the development that is important to our hemisphere's future.

That is why the Central America and Caribbean Relief Act is so important. This act would provide (1) trade opportunities to help the region restore itself economically; (2) emergency assistance—feeding programs, and important and necessary infrastructure improvements; and (3) limited bilateral and multilateral debt reduction.

Mr. President, let me take a moment to comment on the highlights of this bill. First, this bill would provide several trade and investment initiatives. It will afford current beneficiaries of the Caribbean Basin Initiative similar treatment already afforded Mexican products under the North American Free Trade Agreement. It is important that these countries become more fully integrated into the international trading system, which also would benefit the U.S. through expanded export opportunities. The bill also would authorize additional funding for the Overseas Private Investment Corporation to enhance the ability of private enterprise to make its full contribution to the region's rebuilding and development process.

Second, this bill would provide bilateral assistance. I fully support the replenishment of funds exhausted by the Department of Defense in their humanitarian relief efforts. It is very important that our military's efforts in this area continue and that they maintain sufficient resources to effectively deploy against future natural disasters. We also included language based on the innovative ''Africa Seeds of Hope'' law, which I wrote and Congress passed last year. This language would authorize a micro-credit initiative targeted at reviving agricultural production in the region. This means that financial tools and resources would go directly to farmers and small businesses and bypass Government middlemen.

Finally, this bill would provide much needed debt relief. This debt relief clearly makes sense especially when keeping in mind that in many cases, the infrastructure these countries are paying for is precisely what has been destroyed by Hurricane Mitch—they are paying for what no longer exists.

Mr. President, let me explain why America should take the lead on this relief. Before the hurricanes, the people of Central America were emerging from a decade of civil war. Democracy has finally taken hold, but is not yet irreversible. The United States invested billions in the 1980s to expel communism from Central America. We succeeded. That investment—that partnership for democracy in Central America now hangs in the balance.

In the 1980s, it was fundamentally important to the entire hemisphere that Central America be a seedbed of reliable trading partners—not revolutionaries or brutal autocrats. The President's National Bipartisan Commission on Central America, chaired by Henry Kissinger, released a detailed report in 1984 that expressed our basic challenge. We needed then, and still need today, a comprehensive Central America policy—one that responds not to fleeting crises but to the basic needs of the region and the United States.

These needs do not change. They are the same three principles that formed the core of the philosophy of the Kissinger report: ''Democratic self-determination * * * encouragement of economic and social development that fairly benefits all * * * (and) cooperation in meeting threats to the security of the region.'' This report recognized how free markets and free societies work to strengthen each other.

U.S. policy has made excellent progress on all of these counts, but Hurricane Mitch provides a pointed reminder of how fragile—and reversible—the progress can be. History offers us a sober reminder that from misery, despair, and joblessness springs oppression. We must not forget that the seeds of the 1979 Sandinista Revolution in Nicaragua sprouted from the wreckage of the 1972 Managua earthquake. Indeed, it is only now that the old city center is being rebuilt where mangled, vacant buildings still stand as witness to Somoza's failed dictatorship.

Mr. President, today Nicaragua faces a new natural disaster—greater than that of 1972. The infrastructure in the northern provinces, the locus of revolutions throughout this century, is washed away. In Honduras, the government is confronted with thousands of miles of roads where not one bridge is left undamaged or undestroyed. At the devastated banana plantations of Honduras, 12,000 jobs hang in the balance. The tax base is non-existent because the businesses that provided the jobs are destroyed. The task facing these governments is enormous, and the resources to address these problems are meager.

People who cannot feed their families will turn to any source for assistance. Unless we partner with the people of Central America in the name of progress, the alternatives are clear. The pressure to emigrate to the United States could increase. Colombia's drug traffickers could oblige by putting dollars into their hands. And anti-democratic elements could use the devastation to serve their self-interests.

A peasant who has seen his home blown away and his employment gone will look for work wherever it is available. We saw a massive upsurge in migration during the tumultuous 1980's. The same is beginning to happen now. The number of Central Americans detained and expelled at Mexico's southern border has doubled recently. Mexican officials worry that this increase could be the beginning of a prolonged, large scale migration of Central Americans through Mexico to the United States.

Furthermore, a farmer who has seen his crop destroyed, and the only road to his markets washed away, will be liable to support revolutionary demagogues who vow convincingly that they can repair it. If the current elected governments are unable to repair the roads and give temporary assistance, that same farmer could become part of the next popular insurgency.

Central America is full of former revolutionaries who are capable of exploiting Mitch's misery to rebuild new insurgencies that will tax the resources of the current governments. Promises easily made by fast-talking demagogues can lead to future problems of the kind that we addressed and resolved in the 1980s.

Mr. President, the challenge we face in Central America remains the same as that posed by the Kissinger report: Do we want Central America to be our partner in building up a prosperous hemisphere—or a hotbed of revolutionary unrest? The choice is not entirely our own, but we can—and should—have a huge influence on behalf of freedom, prosperity, and stability. We must send an unmistakable signal to our Southern neighbors that our regional commitment is not tentative or fleeting. The U.S. has to seize the initiative over the long-term future of Central America—because if we don't, events will.

Mr. President, the Central American and Caribbean Relief Act is in our economic and national security interests. We must act and we must act now.●

● Mr. DOMENICI. Mr. President, just weeks after the calamity hit Central America last year, Senate Majority Leader LOTT asked me to lead to bipartisan fact-finding mission to the region. The objective of our trip was to assess Mitch's impact on the region's economy, priorities for U.S. aid, and the potential ramifications of this disaster on future trade with the region.

Senator FRIST joined me on this trip. His knowledge of health care and medicinal needs was a valuable addition to the trip. We were fortunate also to be joined by three individuals form the Administration: Secretary Andrew Cuomo, the Honorable Harriet Babbitt, Deputy Administrator at USAID, and the Honorable Josh Gotbaum, Office of Management and Budget.

I believe this tour was invaluable to all who participated. First, because of what we learned about the region and the devastation caused by Mitch. Second, because it expressed the spirit of bipartisanship that I hope will carry through in our efforts to help Central Americans rebuild and flourish as democratic neighbors.

As unlikely as it might sound, the ravages of Hurricane Mitch in Central America may have a silver lining. But the United States and other countries must act quickly and decisively. This is the message we heard form Central Americans themselves, as well as relief workers and American government officials, when we visited that storm-torn region in December. That's also the message I would like to convey to my Senate colleagues.

This relative optimism is remarkable. More than 10,000 lives were lost to the storm; 40 percent of the GDP in Nicaragua and Honduras was swept away; 3 million persons in the region now live in temporary shelters or without shelter at all. And, that's in a region with fewer people than the state of California!

Yet, even those 1,000 persons we saw crowded into a single small school, those 104 jammed in a cemetery chapel, agreed that a golden moment now exists to move forward in this historically troubled region.

The response from the United States already has been both effective and generous, with the first 30 days of the relief efforts exceeding the Berlin airlift. Our 6,000 military personnel have performed heroically, in a relatively unheralded but extraordinary operation. The military and other agencies delivered two thirds of the world's donations already in-region and have helped avoid the disease and starvation that usually takes root within a few weeks following such a calamity.

The response from Central American governments has been heartening, too. Don't forget that the United States has worked for more than a quarter of a century to help develop democratic movements in this region. If we fail to move quickly now, elements that oppose democracy could gain a foothold, rendering the sacrifices of money and arms of the past 25 years useless. Thus, we were gratified to hear all important government agencies and relief groups emphasize over and over again, ''We want your help, not forever, but so we can begin to help ourselves and continue building stable and democratic societies.''

As the initial relief phase of the effort comes to a close, and a period of reconstruction and rebuilding begins, the United States faces some tougher decisions about the nature of our assistance. These decisions are not simply whether we help our friends rebuild the bridges, houses, roads and towns they lost. We must also decide how we assist them in rebuilding the young and fragile institutions which are the products of the region's remarkable shift to democracy and functioning, growing economies.

Our policy must first offer debt relief under which these governments struggle. Nicaragua's government spends $220 million a year to pay its creditors and Honduras pays $341. Freeing up those resources, even temporarily, is more valuable to them than a simple infusion of cash.

Second, we must expeditiously pursue a reasonable option to allow these countries to strength mutually beneficial trade relationships. Relief and reconstruction are meaningless without an expectation of sustaining their benefits through the growth such trade will undoubtedly foster.

Third, we must push the European Union to uphold their promise to aid these countries by ending their discrimination against Central American bananas and other agricultural exports in favor to those from their former colonies.

Fourth, Central American governments must continue creating incentives for new investment and broader credit availability to the people through their own domestic legislation and regulation. The began on such a path before Mitch, and we must push and assist them in redoubling those efforts.

Finally, the need to rebuild the devastated infrastructure of the region cannot be underemphasized. Over 70 percent of the roads in Honduras were washed away. Crops cannot be harvested without roads to carry the produce. Poor water sanitation has brought about a public health nightmare. In addition to the direct assistance, we can offer the technology, financing and expertise at a level which these countries simply do not have at their disposal.

In pursuit of these goals, we commend the Administration for acting quickly and for using their authority to reprogram already enacted funds for the relief efforts. However, we must remember that the work is not done when the news cameras move to the next story, and a sustained, bipartisan effort with Congress will be required. This bill builds on the bipartisan necessary to formulate effective assistance to our neighbors in Central America and the Caribbean.

Carinal Obando y Bravo of Nicaragua best summed up for us the hope of the Central American people. Over 30 years they lived through natural disasters, wars, totalitarian governments, and now Mitch. Like before, he said the people will ''rise like a phoenix form the ashes.'' If we are committed and resourceful in that shared goal, we can help guarantee that the mythical image is not simply a myth.●

By Mr. BIDEN:

S. 372. A bill to make available funds under the Freedom Support Act to expand existing educational and professional exchanges with the Russian Federation to promote and strengthen democratic government and civil society in that country, and to make available funds under that Act to conduct a study of the feasibility of creating a new foundation toward that end; to the Committee on Foreign Relations.

RUSSIAN DEMOCRATIZATION ASSISTANCE ACT OF 1999

● Mr. BIDEN. Mr. President, today I introduce legislation designed to assist the transition to democracy, a free-market economy, and civil society in the Russian Federation.

Mr. President, the Russian Federation, which is currently undergoing severe political and economic crises, continues to possess thousands of nuclear warheads and the means to deliver them. If for no other reason, therefore, maintaining stability in Russia remains a vital national security concern of the United States.

I have stated in detail on earlier occasions my belief that for the foreseeable future the time has passed for massive infusions of economic assistance to Russia. Since the collapse of Soviet communism, the capitalist world has injected into Russia more than one hundred billion dollars in grants, loans, and credits. Ultimately, however, the Russians themselves must take responsibility for putting their own economic house in order.

With few exceptions, future American economic assistance to Russia should be predicated upon a systematic reform of its economic, tax, and criminal justice systems, and in greatly reducing the corruption that plagues nearly every facet of Russian life.

The one exception I mentioned last summer was emergency food assistance to forestall starvation during the brutal Russian winter. I am happy that the Administration under the lead of Secretary of Agriculture Glickman has embarked upon just such a rescue program.

But, Mr. President, in the absence of basic, large-scale economic aid, we must search for other means to assist Russia in its painful transition to democracy and free-enterprise capitalism.

We are often mesmerized by current problems. So it is important to remember that since the collapse of the Soviet Union at the end of 1991, the Russian Federation has, in fact, made significant progress in democratizing its government and society.

Building upon that progress, the continued development of democratic institutions and practice can, Mr. President, help to foster the stability in the Russian Federation that is squarely in America's national interest.

Educational and professional exchanges with the Russian Federation have proven to be an effective, and remarkably low-cost, mechanism for enhancing democratization in that country. Moreover, these exchanges hold the promise of long-term, lasting payoffs as the exchange participants move into positions of responsibility in public and private life.

With that in mind, Mr. President, I am introducing the Russian Democratization Assistance Act of 1999.

Recognizing that maintaining stability in the Russian Federation is a vital national security concern of the United States, this legislation authorizes the expansion of selected, already existing educational and professional exchanges with that country and authorizes a study of the feasibility of a Russia-based, internationally funded Foundation for Democracy.

Specifically, the legislation increases authorization for each of fiscal year 2000 and fiscal year 2001 for several programs with the Russian Federation that have a proven track-record of excellence. My colleagues will note the unusually low amounts of funding involved in each of these programs.

The annual authorization for the Russian portion of the Future Leaders Exchange Program, popularly known as the Bradley Scholarships after former Senator Bradley of New Jersey who sponsored the original legislation creating the program under the Freedom Support Act, will be increased to four million dollars from its current level of just over two million dollars. I am proud to have co-sponsored this program at its inception.

Under the Future Leaders Exchange Program, high school students from the former Soviet Union are selected in national, merit-based, open competitions to live for one academic year in the United States with a host family and to study at an American high school.

The United States Information Agency, now to be merged with the Department of State, works with two nonprofit organizations—the American Council of Teachers of Russian and Youth for Understanding—on the recruitment, selection, orientation, and travel of the foreign students, and with twelve youth exchange organizations around our country in their placement and monitoring. Alumni are encouraged to join organizations when they return home and to participate in follow-on activities coordinated by these two American organizations.

Mr. President, the Future Leaders Exchange is universally recognized as a huge success. And what an investment.

Annual authorized funding for the Russian portion of the Freedom Support Act Undergraduate Program would be increased to three million dollars from its current one-and-a-third million. In this program, foreign undergraduates are selected for one year of non-degree study in American universities, colleges, or community colleges in a variety of fields, including agriculture, business administration, communications and journalism, computer science, criminal justice studies, economics, education, environmental management, government, library and information sciences, public policy, and sociology.

The American Council of Teachers of Russian, and Youth for Understanding administer this program for the United States Government.

Another outstanding, highly relevant, program within the Freedom Support Act whose scope this legislation would increase is the Community Connections Program. The annual authorized funding for its Russian component would rise to fifteen million dollars from its current level of seven million.

In the Community Connections Program, entrepreneurs, local government officials, education officials, legal professionals, and non-governmental organization leaders are offered three-to-five week practical training opportunities in the United States. Forty local communities across this country host the participants, thereby creating grass-roots linkages between the United States and regions of Russia, which may enhance opportunities for exchanges to be sustained beyond the life of the assistance program.

A very small but highly topical program that my legislation would expand is the Freedom Support Act Fellowships in Contemporary Issues. The Russian component of this program currently receives only $370,000. This act would nearly triple that annual authorization to one million dollars.

Under the Contemporary Issues Program, government officials, leaders of non-governmental organizations, and private sector professionals from Russia receive three-month fellowships in the United States for research in several strategic areas. These include sustainable growth and development of economies in transition; democracy, human rights, and the rule of law; and the communications revolution and intellectual property rights.

This program is administered through a grant awarded to the International Research and Exchanges Board, an organization with decades of experience in exchanges with Eastern Europe and the former Soviet Union.

Finally, my legislation would greatly strengthen the Edmund S. Muskie Fellowship Program, named after our esteemed former colleague from Maine who later served the nation as Secretary of State. Annual authorized funding for the Russian portion of this program would rise to seven million dollars from its current level of nearly three-and-three-quarter million dollars.

Muskie Fellows receive fellowships for one-to-two years of graduate study at American universities in business administration, economics, law, or public administation. The program is administered by the American Council of Teachers of Russian and the American Council for Collaboration in Education and Language Study.

The Muskie Fellowship Program is particularly important, since it gives the next generation of Russian professors on-site exposure to American scholarship and American society. The so-called ''multiplier effect'' that these professors will have upon their students will last for decades.

Mr. President, the sum total authorization for these five innovative and highly successful exchange programs is only thirty million dollars per fiscal year. The benefits in enhancing democratization in Russia and in promoting Russian-American relations are significant. It is an investment in the future that we should make.

Mr. President, the second part of this legislation concerns a grant of fifty thousand dollars to conduct a feasibility study of a Russia-based, internationally funded foundation for democracy.

The assassination last November in St. Petersburg of Galina Starovoitova, a former Member of the State Duma and Russia's most prominent female politician, was universally perceived as a defining moment. Starovoitova's murder, as yet unsolved, is seen as symptomatic of the growing power of organized crime and nationalist and communist extremists to undermine the foundations of the fragile Russian democracy.

The shock of the assassination had not yet worn off when friends and admirers of Starovoitova around the world spontaneously began to consider ways to create something positive from the horror. Several individuals including Carl Gershman, President of the U.S. National Endowment for Democracy, and Michael McFaul, a Stanford professor who worked in Moscow for the Carnegie Endowment, have proposed creating a Russian democracy foundation in Starovoitova's name.

This Starovoitova foundation would be a non-governmental, non-partisan, strictly Russian but internationally funded center for the study and promotion of democratic practices. Its work would involve public education in a country where democracy increasingly is equated with crime, insider privatization, and mass poverty. The Starovoitova foundation could also train democratic activists for governmental and non-governmental service. Moreover, it might serve, in Professor McFaul's words, as a ''kind of Russian Civil Liberties Union,'' helping citizens defend their constitutional rights.

I have reason to believe that the Starovoitova foundation would find broad support within Russia and be able to attract funding from several other democratic countries around the world.

In a well-known phrase, Weimar Germany failed not because it had too many enemies, but because there were too few democrats. Weimar's tragic end need not be repeated in Russia. Galina

Starovoitova's murder already has motivated record numbers of voters to turn out for municipal elections in St. Petersburg with strong support for the democratic parties. The Starovoitova Foundation for Democracy could maintain this momentum, even as it memorializes a courageous politician.

The planning grant I am proposing would authorize the United States Government to engage an organization specializing in the study of Russia to investigate the depth and breadth of support for such an institution and, if there is the requisite support, the best way to proceed with organizing the foundation.

Mr. President, the Russian Democratization Assistance Act of 1999 is a targeted response to assist the Russian Federation as it struggles to move away from the legacy of seven decades of communist tyranny and misrule. It recognizes that Russia's problems are too large and too complex to be amenable to instant solutions. But by significantly expanding educational and professional exchanges with Russia, and by taking the first steps toward the creation of a foundation for democracy there, this legislation can make an important long-term contribution to democracy and stability.

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. 372

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 ''Russian Democratization Assistance Act of 1999''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The Russian Federation, which is currently undergoing severe political and economic crises, continues to possess thousands of nuclear warheads and the means to deliver them.

(2) Maintaining stability in Russia is a vital national security concern of the United States.

(3) Since the collapse of the Soviet Union at the end of 1991, the Russian Federation has made significant progress in democratizing its government and society.

(4) The continued development of democratic institutions and practice will foster stability in the Russian Federation.

(5) Educational and professional exchanges with the Russian Federation have proven to be an effective mechanism for enhancing democratization in that country.

SEC. 3. POLICY OF THE UNITED STATES.

It shall be the policy of the United States toward the Russian Federation—

(1) to promote and strengthen democratic government and civil society;

(2) to expand already existing educational and professional exchanges toward those ends; and

(3) to consider the feasibility of a Russia-based, internationally funded Foundation for Democracy to further democratic government and civil society.

SEC. 4. ALLOCATION OF FUNDS FOR INTERNATIONAL INFORMATIONAL AND EDUCATIONAL EXCHANGES WITH THE RUSSIAN FEDERATION.

Of the amount authorized to be appropriated to carry out chapter 11 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2295 et seq.; relating to support for the independent states of the former Soviet Union) for each of the fiscal years 2000 and 2001, the following amounts are authorized to be available for the following programs with the Russian Federation:

(1) For the ''Future Leaders Exchange'', $4,000,000.

(2) For the ''Freedom Support Act Undergraduate Program'', $3,000,000.

(3) For the ''Community Connections Program'', $15,000,000.

(4) For the ''Freedom Support Act Fellowships in Contemporary Issues'', $1,000,000.

SEC. 5. STUDY FOR ESTABLISHMENT OF RUSSIAN DEMOCRACY FOUNDATION.

(a) IN GENERAL.—The President is authorized to conduct a study of the feasibility of establishing a foundation for the promotion of democratic institutions in the Russian Federation.

(b) FOUNDATION TITLE.—It is the sense of Congress that any foundation established pursuant to subsection (a) should be known as the Starovoitova Foundation for Russian Democracy, in honor of Galina Starovoitova, a former member of the State Duma and Russia's leading female politician who was assassinated in St. Petersburg in November 1998.

(c) ALLOCATION OF FUNDS.—Of the amount authorized to be appropriated to carry out chapter 11 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2295 et seq.; relating to support for the independent states of the former Soviet Union) for fiscal year 2000, $50,000 is authorized to be available to carry out this section.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS FOR MUSKIE FELLOWSHIPS WITH THE RUSSIAN FEDERATION.

(a) IN GENERAL.—There is authorized to be appropriated to the President $7,000,000 for each of the fiscal years 2000 and 2001 to carry out the Edmund S. Muskie Fellowship Program under section 227 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (22 U.S.C. 2452 note) with the Russian Federation.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subsection (a) are authorized to remain available until expended.●

By Mr. HARKIN:

S. 373. A bill to prohibit the acquisition of products produced by forced or indentured child labor; to the Committee on Governmental Affairs.

THE INDENTURED CHILD LABOR PREVENTION ACT

● Mr. HARKIN. Mr. President, I ask unanimous consent that a copy of S. 373, the Forced and Indentured Child Labor Prevention Act, be printed in the RECORD.

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

S. 373

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 ''Forced and Indentured Child Labor Prevention Act''.

SEC. 2. PROHIBITION OF ACQUISITION OF PRODUCTS PRODUCED BY FORCED OR INDENTURED CHILD LABOR.

(a) PROHIBITION.—The head of an executive agency (as defined in section 105 of title 5, United States Code) may not acquire an item that appears on a list published under subsection (b) unless the source of the item certifies to the head of the executive agency that forced or indentured child labor was not used to mine, produce, or manufacture the item.

(b) PUBLICATION OF LIST OF PROHIBITED ITEMS.—

(1) IN GENERAL.—The Secretary of Labor, in consultation with the Secretary of the Treasury and the Secretary of State, shall publish in the Federal Register every other year a list of items that such officials have identified that might have been mined, produced, or manufactured by forced or indentured child labor.

(2) DATE OF PUBLICATION.—The first list shall be published under paragraph (1) not later than 120 days after the date of the enactment of this Act.

(c) REQUIRED CONTRACT CLAUSES.—

(1) IN GENERAL.—The head of an executive agency shall include in each solicitation of offers for a contract for the procurement of an item included on a list published under subsection (b) the following clauses:

(A) A clause that requires the contractor to certify to the contracting officer that the contractor or, in the case of an incorporated contractor, a responsible official of the contractor has made a good faith effort to determine whether forced or indentured child labor was used to mine, produce, or manufacture any item furnished under the contract and that, on the basis of those efforts, the contractor is unaware of any such use of child labor.

(B) A clause that obligates the contractor to cooperate fully to provide access for the head of the executive agency or the inspector general of the executive agency to the contractor's records, documents, persons, or premises if requested by the official for the purpose of determining whether forced or indentured child labor was used to mine, produce, or manufacture any item furnished under the contract.

(2) APPLICATION OF SUBSECTION.—This subsection shall apply with respect to acquisitions for a total amount in excess of the micro-purchase threshold (as defined in section 32(f) of the Office of Federal Procurement Policy Act (41 U.S.C. 428(f)), including acquisitions of commercial items for such an amount notwithstanding section 34 of the Office of Federal Procurement Act (41 U.S.C. 430).

(d) INVESTIGATIONS.—Whenever a contracting officer of an executive agency has reason to believe that a contractor has submitted a false certification under subsection (a) or (c)(1)(A) or has failed to provide cooperation in accordance with the obligation imposed pursuant to subsection (c)(1)(B), the head of the executive agency shall refer the matter, for investigation, to the Inspector General of the executive agency and, as the head of the executive agency determines appropriate, to the Attorney General and the Secretary of the Treasury.

(e) REMEDIES.—

(1) IN GENERAL.—The head of an executive agency may impose remedies as provided in this subsection in the case of a contractor under a contract of the executive agency if the head of the executive agency finds that the contractor—

(A) has furnished under the contract items that have been mined, produced, or manufactured by forced or indentured child labor or uses forced or indentured child labor in mining, production, or manufacturing operations of the contractor;

(B) has submitted a false certification under subparagraph (A) of subsection (c)(1); or

(C) has failed to provide cooperation in accordance with the obligation imposed pursuant to subparagraph (B) of such subsection.

(2) TERMINATION OF CONTRACTS.—The head of the executive agency, in the sole discretion of the head of the executive agency, may terminate a contract on the basis of any finding described in paragraph (1).

(3) DEBARMENT OR SUSPENSION.—The head of an executive agency may debar or suspend a contractor from eligibility for Federal contracts on the basis of a finding that the contractor has engaged in an act described in paragraph (1)(A). The period of the debarment or suspension may not exceed 3 years.

(4) INCLUSION ON LIST.—The Administrator of General Services shall include on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs (maintained by the Administrator as described in the Federal Acquisition Regulation) each person that is debarred, suspended, proposed for debarment or suspension, or declared ineligible by the head of an executive agency or the Comptroller General on the basis that the person uses forced or indentured child labor to mine, produce, or manufacture any item.

(5) OTHER REMEDIES.—This subsection shall not be construed to limit the use of other remedies available to the head of an executive agency or any other official of the Federal Government on the basis of a finding described in paragraph (1).

(f) REPORT.—Each year, the Administrator of General Services, with the assistance of the heads of other executive agencies, shall review the actions taken under this section and submit to Congress a report on those actions.

(g) IMPLEMENTATION IN THE FEDERAL ACQUISITION REGULATION.—

(1) IN GENERAL.—The Federal Acquisition Regulation shall be revised within 180 days after the date of enactment of this Act—

(A) to provide for the implementation of this section; and

(B) to include the use of forced or indentured child labor in mining, production, or manufacturing as a cause on the lists of causes for debarment and suspension from contracting with executive agencies that are set forth in the regulation.

(2) PUBLICATION.—The revisions of the Federal Acquisition Regulation shall be published in the Federal Register promptly after the final revisions are issued.

(h) EXCEPTION.—

(1) IN GENERAL.—This section shall not apply to a contract that is for the procurement of any product, or any article, material, or supply contained in a product, that is mined, produced, or manufactured in any foreign country or instrumentality, if—

(A) the foreign country or instrumentality is—

(i) a party to the Agreement on Government Procurement annexed to the WTO Agreement; or

(ii) a party to the North American Free Trade Agreement; and

(B) the contract is of a value that is equal to or greater than the United States threshold specified in the Agreement on Government Procurement annexed to the WTO Agreement or the North American Free Trade Agreement, whichever is applicable.

(2) WTO AGREEMENT.—For purposes of this subsection, the term ''WTO Agreement'' means the Agreement Establishing the World Trade Organization, entered into on April 15, 1994.

(i) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in subsection (c)(2), the requirements of this section apply on and after the date determined under paragraph (2) to any solicitation that is issued, any unsolicited proposal that is received, and any contract that is entered into by an executive agency pursuant to such a solicitation or proposal on or after such date.

(2) DATE.—The date referred to is paragraph (1) is the date that is 30 days after the date of the publication of the revisions of the Federal Acquisition Regulation under subsection (g)(2).●

By Mr. CHAFEE (for himself, Mr. GRAHAM, Mr. LIEBERMAN, Mr. SPECTER, Mr. BAUCUS, Mr. ROBB, and Mr. BAYH):

S. 374. A bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage; to the Committee on Health, Education, Labor, and Pensions.

THE PROMOTING RESPONSIBLE MANAGED CARE ACT OF 1999

● Mr. CHAFEE. Mr. President. I am pleased to be joined this morning by Senators GRAHAM, LIEBERMAN, SPECTER, BAUCUS, ROBB and BAYH in introducing the ''Promoting Responsible Managed Care Act of 1999.'' In introducing our bill from last year, we are especially pleased to have Senators ROBB and BAYH join us as original cosponsors.

As you know, the Senate was unable to consider this important issue before the close of the 105th Congress. Nonetheless, each party developed and introduced legislation, and the House actually passed a bill proposed by the Republican majority. To encourage discussion across the aisle, this group of Senators introduced a bipartisan reform bill—the only one thus far.

In crafting our legislation, we omitted or modified those provisions which were anathema to either side. Thus, for example, we excluded Medical Savings Accounts, a feature of the Senate Republican Task Force bill, because this provision is a non-starter with Democrats. Likewise, we proposed allowing injured parties to seek redress in federal court as an alternative to the state court provision in the Democratic bill because that is a non-starter with Republicans.

Well, here it is, the 106th Congress. Why have the prospects brightened for legislation to improve the quality of managed care? First, voters sent a clear message on election day: they want action, not gridlock. Second, the Democrats gained five more seats in the House—the very margin by which that body rejected the ''Patient Bill of Rights'' last year. Third, both Speaker HASTERT and Senate Majority Leader LOTT have instructed their respective committees of jurisdiction to get down to work. Fourth, the President is anxious to begin a bipartisan dialogue.

Perhaps more important than any of these developments, though, is the fact that consumers want assurances they will actually get the medical care they need, when they need it. Regrettably, many have learned this is not always the case.

The opponents of reform have had a field day mischaracterizing what the managed care quality debate is about. It is not, as they allege, about erasing the gains managed care has made in bringing down costs and coordinating patient services. It is not about forcing plans to cover unnecessary, outmoded or harmful practices. Nor is it about forcing plans to pay for any service or treatment which is not a covered benefit. And, it is certainly not about giving doctors a blank check.

In fact, this debate is about making sure patients get what they pay for. It's about ensuring that patients receive medically necessary care; that an objective standard and credible medical evidence are used to guide physicians and insurers in making treatment and coverage determinations; that patients' medical records and the judgments of their physicians are given due consideration; and, that managed care plans do not base their medical decisions on practice guidelines developed by industry actuaries, but rather credible, independent, scientific bodies.

On a more tangible level, this legislation is about making sure that the infant suffering from chronic ear infections is fitted with drainage tubes—rather than being prescribed yet another round of ineffective antibiotics—to ameliorate the condition and prevent hearing loss. It is about making sure that the patient with a broken hip is not relegated to a wheelchair in perpetuity, but rather given the hip replacement surgery and physical therapy that prudent medical practice dictates.

Make no mistake about it: Without provisions to ensure that plans are held to the objective, time-tested standard of professional medical practice, federal legislation giving patients access to an external appeals process will be nothing more than a false promise.

The ''Promoting Responsible Managed Care Act'' would restore needed balance to our managed care system while preserving its benefits. Moreover, it would do so using the very same framework established by Congress with the enactment of the so-called Kassebaum-Kennedy law in 1996. That statute—which extends portability and guaranteed issue protections to patients—has two very important benefits. First, it applies to all privately insured Americans—not just those 48 million enrolled in self-funded ERISA plans. Second, it preserves states' rights to occupy the field if they so choose.

Thus, our bill would establish a minimum floor of federal patient protections for all 161 million privately insured Americans. Yet, it would also protect state authority to go beyond this federal floor, and would preserve the good work states have already undertaken in this area. It would also encourage states which have taken little or no action to do the right thing. Despite the flurry of activity, only 15

states have adopted the most basic patient protection—an external review procedure.

As the process moves ahead, we look forward to working with the Finance Committee and the Health, Education, Labor, and Pensions Committee to formulate legislation which will help to restore consumer confidence in managed care, and to ensure that patients receive all medically necessary and appropriate care.

Mr. President, I ask unanimous consent that the following documents be printed in the RECORD: a summary of the bill, a one-page description of our enforcement provisions, a three-page document on what national health organizations say about our bill, and a white paper entitled, ''Medical Necessity: The Real Issue in the Quality Debate.''

There being no objection, the items were ordered to be printed in the RECORD, as follows:

PROMOTING RESPONSIBLE MANAGED CARE ACT OF 1999

PRINCIPLES

Today, a majority of the U.S. population is enrolled in some form of managed care—a system which has enabled employers, insurers and taxpayers to achieve significant savings in the delivery of health care services. However, there is growing anxiety among many Americans that insurance health plan accountants—not doctors—are determining what services and treatments they receive. Congress has an opportunity to enact legislation this year which will ensure that patients receive the benefits and services to which they are entitled, without compromising the savings and coordination of care that can be achieved through managed care. However, to ensure the most effective result, legislation must embody the following principles:

It must be bipartisan and balanced.

It must offer all 161 million privately insured Americans—not just those in self-funded ERISA plans—a floor of basic federal patient protections.

It must include an objective standard of what constitutes medically necessary or appropriate care to ensure a meaningful external appeals process. Furthermore, that standard must be informed by valid and reliable evidence to support the treatment and coverage determinations made by providers and plans.

It must establish credible federal enforcement remedies to ensure that managed care plans play by the rules and that individuals harmed by such entities are justly compensated.

It should encourage managed care plans to compete on the basis of quality—not just price. ''Report card'' information will provide consumers with the information they need to make informed choices based on plan performance.

SUMMARY

The ''Promoting Responsible Managed Care Act of 1999'' blends the best features of both the Democratic and Republican plans. The legislation would restore public confidence in managed care through a comprehensive set of policy changes that would apply to all private health plans in the country. These include strengthened federal enforcement to ensure managed care plans play by the rules; compensation for individuals harmed by the decisions of managed care plans; an independent external system for processing complaints and appealing adverse decisions; information requirements to allow competition based on quality; and, a reasonable set of patient protection standards to ensure patients have access to appropriate medical care.

Scope of protection

Basic protections for all privately insured Americans. All private insurance plans would be required to meet basic federal patient protections regardless of whether they are regulated at the state or federal level. This approach follows the blueprint established with the enactment of the Health Insurance Portability and Accountability Act of 1996, which allows states to build upon a basic framework of federal protections.

Enforcement and compensation

Strengthened federal enforcement to ensure managed care plans play by the rules. To ensure compliance with the bill's provisions, current federal law would be strengthened by giving the Secretaries of Labor and Health & Human Services enhanced authorities to enjoin managed care plans from denying medically necessary care and to levy fines (up to $50,000 for individual cases and up to $250,000 for a pattern of wrongful conduct). This provision would ensure that enforcement of federal law is not dependent upon individuals bringing court cases to enforce plan compliance. Rather, it provides for real federal enforcement of new federal protections.

Compensation for individuals harmed by the decisions of managed care plans. All privately insured individuals would have access to federal courts for economic loss resulting from injury caused by the improper denial of care by managed care plans. Economic loss would be defined as any pecuniary loss caused by the decision of the managed care plan, and would include lost earnings or other benefits related to employment, medical expenses, and business or employment opportunities. Awards for economic loss would be uncapped and attorneys fees could be awarded at the discretion of the court.

Coverage determination, grievance and appeals

Coverage determinations. Plans would be required to make decisions as to whether to provide benefits, or payments for benefits, in a timely manner. The plan must have a process for making expedited determinations in cases in which the standard deadlines could seriously jeopardize the patient's life, health, ability to regain or maintain maximum function or (in the case of a child under the age of 6) development

Internal appeals. Patients would be assured the right to appeal the following: failure to cover emergency services, the denial, reduction or termination of benefits, or any decision regarding the clinical necessity, appropriateness, efficacy, or efficiency of health care services, procedures or settings. The plan would be required to have a timely internal review system, using health care professionals independent of the case at hand, and procedures for expediting decisions in cases in which the standard timeline could seriously jeopardize the covered individual's life, health, ability to regain or maintain maximum function, or (in the case of a child under the age of 6) development.

External appeals. Individuals would be assured access to an external, independent appeals process for cases of sufficient seriousness or which exceed a certain monetary threshold that were not resolved to the patient's satisfaction through the internal appeals process. The external appeal entity, not the plan, would have the authority to decide whether a particular plan decision is in fact externally appealable. In addition to the patient's medical record and the treating physician's proposed treatment, the range of evidence that is permissible in an external review would include valid and reliable research, studies and other evidence from impartial experts in the relevant field—the same types of evidence typically used by the courts in adjudicating health care quality cases. The external appeal process would require a fair, ''de novo'' determination, the plan would pay the costs of the process, and any decision would be binding on the plan.

Consumer information

Comparative information. Consumers would be given uniform comparative information on quality measures in order to make informed choices. Data would include: patient satisfaction, delivery of health care services such as immunizations, and resulting changes in beneficiary health. Variations would be allowed based on plan type.

Plan information. Patients would be provided with information on benefits, cost-sharing, access to services, grievance and appeals, etc. A grant program would be authorized to provide enrollees with information about their coverage options, and with grievance and appeals processes.

Confidentiality of enrollee records. Plans would be required to have procedures to safeguard the privacy of individually identifiable information.

Quality assurance. Plans would be required to establish an internal quality assurance program. Accredited plans would be deemed to have met this requirement, and variations would be allowed based on plan type.

Patient protection standards

Emergency services. Coverage of emergency services would be based upon the ''prudent layperson'' standard, and, importantly, would include reimbursement for post-stabilization and maintenance care. Prior authorization of services would be prohibited.

Enrollee choice of health professionals and providers. Patients would be assured that plans would: Allow women to obtain obstetrical/gynecological services without a referral from a primary care provider; allow plan enrollees to choose pediatricians as the primary care provider for their children; have a sufficient number, distribution and variety of providers; allow enrollees to choose any provider within the plan's network, who is available to accept such individual (unless the plan informs enrollee of limitations on choice); provide access to specialists, pursuant to a treatment plan; and in the case of a contract termination, allow continuation of care for a set period of time for chronic and terminal illnesses, pregnancies, and institutional care.

Access to approved services. Plans would be required to cover routine patient costs incurred through participation in an approved clinical trial. In addition, they would be required to use plan physicians and pharmacists in development of formularies, disclose formulary restrictions, and provide an exception process for non-formulary treatments when medically necessary.

Nondiscrimination in delivery of services. Discrimination on the basis of race, religion, sex, disability and other characteristics would be prohibited.

Prohibition of interference with certain medical communications. Plans would be prohibited from using ''gag rules'' to restrict physicians from discussing health status and legal treatment options with patients.

Provider incentive plans. Plans would be barred from using financial incentives as an inducement to physicians for reducing or limiting the provision of medically necessary services.

Provider participation. Plans would be required to provide a written description of their physician and provider selection procedures. This process would include a verification of a health care provider's license, and

plans would be barred from discriminating against providers based on race, religion and other characteristics.

Appropriate standards of care for mastectomy patients. Plans would be required to cover the length of hospital stay for a mastectomy, lumpectomy or lymph node dissection that is determined by the physician to be appropriate for the patient and consistent with generally accepted principles of professional medical practice.

Professional standard of medical necessity. Health plans would be prohibited from arbitrarily interfering with the decision of the treating physician if the services are medically necessary and a covered benefit. Medically necessary services are defined to be those which are consistent with generally accepted principles of professional medical practice. This professional standard of medical necessity has been a well-settled standard in our legal system for over two centuries, and is necessary to ensure a meaningful external appeals process. Treatment and coverage decisions would be measured against the same standard of medical necessity, and providers and insurers would both be guided by the same evidentiary requirements (described under external appeals).

PROMOTING RESPONSIBLE MANAGED CARE ACT OF 1999—ENFORCEMENT AND COMPENSATION MECHANISMS

Strengthened federal enforcement to ensure managed care plans play by the rules. To ensure compliance with the bill's provisions, current federal law would be strengthened by giving the Secretaries of Labor and Health & Human Services enhanced authorities to enjoin managed care plans from denying medically necessary care.

In addition, the Secretaries of Labor and Health & Human Services would be given new authority to levy substantial monetary penalties on managed care plans for wrongful conduct. Fines could be awarded as follows:

For failures on the part of plans that result in an unreasonable denial or delay in benefits that seriously jeopardize the individual's life, health, or ability to regain or maintain maximum function (or in the case of a child under the age of 6) development: Up to $50,000 for each individual involved in the case of a failure that does not reflect a pattern or practice of wrongful conduct and up to $250,000 if the failure reflects a pattern or practice of wrongful conduct.

For failures on the part of plans not described above: Up to $10,000 for each individual involved in the case of a failure that does not reflect a pattern or practice of wrongful conduct and up to $50,000 if the failure reflects a pattern or practice of wrongful conduct.

In the case of failures not corrected within the first week, the maximum amount of the penalties in all cases would be increased by $10,000 for each full succeeding week in which the failure is not corrected.

These provisions would ensure that enforcement of federal law is not dependent upon individuals bringing court cases to enforce plan compliance. Rather, it provides for real federal enforcement of new federal protections.

Compensation for individuals harmed by the decisions of managed care plans. All privately insured individuals would have access to federal courts for economic loss resulting from injury caused by the improper denial of care by managed care plans. Economic loss would be defined as any pecuniary loss caused by the decision of the managed care plan, and would include the loss of earnings or other benefits related to employment, medical expenses, and business or employment opportunities. Awards for economic loss would be uncapped and attorneys' fees could be awarded at the discretion of the court.

WHAT ORGANIZATIONS ARE SAYING ABOUT THE PROMOTING RESPONSIBLE MANAGED CARE ACT OF 1999

National Association of Children's Hospitals, Inc: ''The National Association of Children's Hospitals, which represents more than 100 children's hospitals across the country, strongly supports your legislation—and its provisions that ensure children's unique health care needs are protected as families seek access to appropriate pediatric health care in their health plans.''

National Mental Health Association: ''On behalf of the National Mental Health Association and its 330 affiliates nationwide, I am writing to express strong support for the Promoting Responsible Managed Care Act of 1999. . . . NMHA was particularly gratified to learn that you included language in your important compromise legislation which guarantees access to psychotropic medications. . . . Finally—alone among all the managed care bills introduced in this session of Congress—your legislation prohibits the involuntary disenrollment of adults with severe and persistent mental illnesses and children with serious mental and emotional disturbances.''

National Alliance for the Mentally Ill: ''On behalf of the 185,000 members and 1,140 affiliates of the National Alliance for the Mentally Ill, I am writing to express our strong support for the bipartisan managed care consumer protection legislation you . . . are developing. . . . Thank you for your efforts on behalf of people with severe mental illnesses. Your bipartisan approach to this difficult issue is an important step forward in placing the interests of consumers and families ahead of politics. NAMI looks forward to working with you to ensure passage of meaningful managed care consumer protection legislation in the 106th Congress.''

American Protestant Health Alliance: ''Your proposal strikes a balance which is most appropriate. As each of us is aware, often we have missed the opportunity to enact health policy changes, only to return later and achieve fewer gains than we might have earlier. It would be tragic if we allowed this year's opportunity to escape our grasp. We are pleased to stand with you in support of your proposal.''

American Academy of Pediatrics: ''As experts in the care of children, we believe that [your] legislation makes important strides toward ensuring that children get the medical attention they need and deserve. . . . Children are not little adults. Their care should be provided by physician specialists who are appropriately educated in the unique physical and developmental issues surrounding the care of infants, children, adolescents, and young adults. We are particularly pleased that you recognize this and have included access to appropriate pediatric specialists, as well as other protections for children, as key provisions of your legislation.''

American Cancer Society: ''. . . I commend you on your bipartisan effort to craft patient protection legislation that meets the needs of cancer patients under managed care. . . . Your legislation grants patients access to specialists, ensures continuity of care . . . and permits for specialists to serve as the primary care physician for a patient who is undergoing treatment for a serious or life-threatening illness. Most importantly, your bill promotes access to clinical trials for patients for whom satisfactory treatment is not available or standard therapy has not proven most effective. . . . We appreciate that your bill addresses all four of ACS' priorities in a way that will help assure that individuals affected or potentially affected by cancer will be assured improved access to quality care.''

American College of Physicians/American Society of Internal Medicine: ''We believe your bill contains necessary patient protections, as well as provisions designed to foster quality improvement, and therefore has the potential to improve the quality of care patients receive. The College is particularly pleased that your proposal covers all Americans, rather than only those individuals who are insured by large employers under ERISA. . . . We also appreciate that you have taken steps to address the concerns about making all health plans . . . accountable in a court of law for medical decisions that may result in death or injury to a patient.''

National Association of Chain Drug Stores: ''. . . we applaud your efforts . . . in crafting a bipartisan managed care proposal. . . . Your bill, 'Promoting Responsible Managed Care Act' takes a realistic step in improving the health care system for all Americans.''

Council of Jewish Federations: ''Your provisions on continuity of care also provide landmark protections for consumers in our community and in the broader community as well. Overall, your legislation provides important safeguards for consumers and providers that are involved in managed care.''

Families USA: ''We are pleased that your bill . . . would establish many protections important to consumers, such as access to specialists, prescription drugs and consumer assistance. In addition, your external appeals language addresses many consumer concerns in this area.''

Catholic Health Association: ''The Catholic Health Association of the United States (CHA) applauds your bipartisan leadership in Congress to help enact legislation this year protecting consumers who receive health care through managed care plans. The Chafee-Graham-Lieberman bill is a sound piece of legislation.''

National Association of Community Health Centers: ''We appreciate the bipartisan efforts you have undertaken to correct the deficiencies in the managed care system. . . . We applaud your inclusion of standards for the determination of medical necessity (Section 102) that are based on generally accepted principles of medical practice. . . . We also appreciate your inclusion of federally qualified health centers (FQHCs) as providers that may be included in the network.''

American College of Emergency Physicians: ''The American College of Emergency Physicians . . . is pleased to support your bill, the 'Promoting Responsible Managed Care Act of 1999.' We . . . are particularly pleased that your legislation would apply to all private insurance plans. . . . We also commend your leadership in proposing a bipartisan solution. . . . We strongly support provisions in the bill that would prevent health plans from denying patients coverage for legitimate emergency services.''

National Association of Public Hospitals & Health Systems: ''This legislation provides consumers with the information to make informed decisions about their managed care plans, offers consumers protections from disincentives to provide care, and provides consumers with meaningful claims review, appeals and grievance procedures. We applaud your leadership in this area and we look forward to working with you to shape final legislation. We note that many of the patient protections contained in your legislation are already applicable to [Medicaid and Medicare], and we believe that a nationwide level playing field is desirable for all patients and all payers. For these reasons . . . we believe

that many of the consumer protections in your legislation are necessary to prevent abuses and improve quality in managed care.''

Mental Health Liaison Group (14 national organizations): ''. . . we are writing to commend you for the introduction of [your legislation]. [It] takes a significant step forward in protecting children and adults with mental disorders who are now served by managed care health plans. . . . By establishing a clear grievance and appeals process, assuring access to mental health specialists, and assuring the availability of emergency services, your bill begins to establish the consumer protections necessary for the delivery of quality mental health care to every American.''

Medical Necessity: The Real Issue in the Quality Debate[1]

ISSUE

Without an objective standard of what constitutes medically necessary or appropriate care, federal legislation to ensure that patients receive the care for which they have paid will not be effective. For example, absent such a standard, what measures would an external appeals body use in determining whether a treatment or coverage decision was appropriate?

Thus, federal legislation should incorporate the professional standard of medical necessity. This has been a well-settled standard in our legal system for over two centuries, and is commonly defined as ''a service or benefit consistent with generally accepted principles of professional medical practice.'' In fact, many insurance contracts in force today include some version of this standard (see attached table).

BACKGROUND

The advent of managed care has blurred the lines between coverage and treatment decisions, since for all but the wealthiest Americans, an insurer's decision regarding coverage effectively determines whether the individual will receive care.

As a consequence, the quality of coverage decisions, that is to say—the standard used to decide a coverage question and the evidence considered in deciding whether the care that is sought meets the standard—becomes the central issue in the managed care debate.

As insurers began to move significantly into the coverage decision-making arena in the 1970s, they adopted the same standard used by the courts in adjudicating health care quality cases—the professional standard of medical necessity.

TRENDS IN THE MARKETPLACE

A review of recent cases (see attached table) suggests that while most insurers use this professional standard, some are beginning to write other standards into their contracts. Courts must abide by these standards unless they conflict with other statutes.

There are also indications that some insurers may be seeking, by contract, to limit the evidence they will consider in making their coverage determinations, instead relying only on the results of generalized studies (some of which may be of questionable value) that have some, but not conclusive, bearing on a given patient's case.

The cases also indicate that some insurers are attempting to make their decisions unreviewable by using terms such as, ''as determined by us.''

The result of these trends is arbitrary decision-making (based either on bad evidence, or no evidence at all) which, by failing to take into account individual patient needs, diminishes health care quality, and does not constitute good professional practice.

It is not possible for consumers to see these contracts under normal circumstances. However, when individuals challenge denials of coverage or treatment, contract clauses affecting millions of persons become public as part of the court decision.

A close examination of the contract provisions in the attached cases reveals, in some instances, the use of extraordinary standards that pose a significant departure from the professional standard of practice:

In *Fuja*, *Bedrick*, *Heasley*, and *McGraw*, all of the contracts underlying these cases omit coverage for ''conditions.'' Prudent medical professionals would not deny care for conditions, nor is it likely that there are any scientific studies which indicate that treatment of children and adults with ''conditions'' such as cerebal palsy, multiple sclerosis, or a developmental or congenital health problem, is not ''medically necessary.''

In *Metrahealth*, the contract requires a showing that care be ''absolutely essential and indispensable'' prior to its coverage. This verges on an emergency coverage definition and is at odds with the approach taken by prudent medical professionals.

In *Dowden*, use of the term ''essential'' achieves a similar result.

In *Dahl-Elmers*, the contract requires a showing that the care ''could not have been omitted without adversely affecting the insured person's condition or the quality of medical care.'' It is doubtful there are any scientific studies that demonstrate how much care can be withheld before a patient deteriorates. In fact, such a study would be unethical even to undertake. Thus, there is virtually no scientific evidence to support denial of coverage under this standard.

The standards employed in these contracts are in complete conflict with prudent medical practice by health professionals who rely on solid evidence of effectiveness. No reasonable physician would withhold treatment until a patient's condition satisfied any one of these standards.

These cases deal implicitly with the issue made explicit in *Harris* v. *Mutual of Omaha*, which is discussed in the New England Journal of Medicine article from which this paper was adapted. Specifically, because such contracts do not contain any evidentiary standards to inform purchasers of what constitutes reasonable medical practice, insurers are effectively free to use or disregard the evidence of their choosing. This freedom to ignore relevant evidence, such as the opinion of treating physicians, goes to the heart of *Harris*.

RECOMMENDATIONS

Because coverage standards and evidence are absolutely central, albeit poorly understood concepts, protecting against the diminution of quality of care should not be left to the marketplace. Neither consumers, nor employee benefit managers, have the expertise to recognize the implications of the language which appears in these contracts.

In light of these trends and their impact on health care quality, federal legislation should incorporate the professional standard of medical necessity as the framework against which a patient's medical care will be decided.

In addition, the legislation should specify the types of evidence that will be considered in determining whether the professional standard has been met in treatment and coverage decisions. In addition to the patient's medical record and the treating physician's proposed treatment, the courts have typically relied upon valid and reliable research, studies and other evidence from impartial experts in the relevant field.

Thus, enacting the professional standard of medical necessity into federal law would balance the interests of patients, providers and insurers. Treatment and coverage decisions would be measured against the same standard of medical necessity, and providers and insurers would both be guided by the same evidentiary requirements.

EXAMPLES OF MEDICAL NECESSITY CLAUSES IN EMPLOYEE HEALTH BENEFIT CONTRACTS

Case name	Contractual definition of medical necessity
Friends Hospital v. *MetraHealth Service Corp.,* 9 F. Supp.2d 528 (E.D. Penn. 1998).	''A health care facility admission, level of care, procedure, service or supply is medically necessary if it is absolutely essential and indispensable for assuring the health and safety of the patient as determined by the * * * plan * * * with review and advice of competent medical professionals.''
McGraw v. *Prudential Ins. Co. of America,* 137 F.3d 1253 (10th Cir. 1998)	''To be considered 'needed', a service or supply must be determined by Prudential to meet all of these tests: (a) It is ordered by a Doctor (b) It is recognized throughout the Doctor's profession as safe and effective, is required for the diagnosis or treatment of the particular sickness or Injury, and is employed appropriately in a manner and setting consistent with generally accepted United States medical standards. (c) It is neither Educational nor Experimental nor Investigational in nature.''
Gates v. *King & Blue Cross & Blue Shield of Virginia,* Inc., 129 F.3d 1259 (4th Cir. 1997).	''The Plan defines medically necessary as: Services, drugs, supplies, or equipment provided by a hospital or covered provider of health care services that the carrier determines: (a) are appropriate to diagnose or treat the patient's condition, illness or injury; (b) are consistent with standards of good medical practice in the U.S. (c) are not primarily for the personal comfort or convenience of the patient, the family, or the provider
Dowden v. *Blue Cross & Blue Shield of Texas, Inc.,* 126 F.3d 641 (5th Cir. 1997).	Services that are ''essential to, consistent with and provided for the diagnosis or the direct care and treatment of the condition, sickness, disease, injury, or bodily malfunction,'' and treatments ''consistent with accepted standards of medical practice.''
Bedrick v. *Travelers Ins. Co.,* 93 F.3d 149 (4th Cir. 1996)	1. Services that are appropriate and required for the diagnosis or treatment of the accidental injury or sickness; 2. It is safe and effective according to accepted clinical evidence reported by generally recognized medical professionals and publications; There is not a less intrusive or more appropriate diagnostic or treatment alternative that could have been used in lieu of the service or supply given.

[1]This paper was adapted from two sources. The first is an article which appeared in the New England Journal of Medicine, January 21, 1999, titled, ''Who Should Determine When Health Care Is Medically Necessary?'' authored by Sara Rosenbaum, J.D., George Washington University School of Public Health and Health Services, David M. Frankford, J.D., Rutgers University School of Law, Brad Moore, M.D., M.P.H., and Phyllis Borzi, J.D., George Washington University Medical Center. The second source is a special analysis of recent ERISA coverage decisions prepared by professor Rosenbaum.

EXAMPLES OF MEDICAL NECESSITY CLAUSES IN EMPLOYEE HEALTH BENEFIT CONTRACTS—Continued

Case name	Contractual definition of medical necessity
Florence Nightingale Nursing Svc., Inc. v. *Blue Cross/Blue Shield of Alabama,* 41 F.3d 1476 (11th Cir. 1995).	The services and supplies furnished must ''be appropriate and necessary for the symptoms, diagnosis, or treatment of the Member's condition, disease, ailment, or injury; and be provided for the diagnosis or direct care of Member's medical condition; and be in accordance with standards of good medical practice accepted by the organized medical community * * * *
Trustees of the NW Laundry and Dry Cleaners Health & Welfare Trust Fund v. *Burzynski,* 27 F.3d 153 (5th Cir. 1994).	1. The treatment must be ''appropriate and consistent with the diagnosis (in accord with accepted standards of community practice).'' 2. Treatments ''could not be omitted without adversely affecting the covered person's condition or the quality of medical care.''
Fuja v. *Benefit Trust Life Ins. Co.,* 18 F.3d 1405 (7th Cir. 1994)	Services that are ''required and appropriate for care of the Sickness or the Injury; and that are given in accordance with generally accepted principles of medical practices in the U.S. at the time furnished; and are not deemed to be experimental, educational or investigational. . .
Lee v. *Blue Cross/Blue Shield of Alabama,* 10 F.3d 1547 (10th Cir. 1994)	''Appropriate and necessary for treatment of the insured's condition, provided for the diagnosis or care of the insured's condition, in accordance with standards of good medical practice, and not solely for the insured's convenience.''
Heil v. *Nationwide Life Inc. Co.,* 9 F.3d 107 (6th Cir. 1993)	Services for which there is ''general acceptance by the medical profession as appropriate for a covered condition and [that] are determined safe, effective, and non-investigational by professional standards.''
Heasely v. *Belden & Blake Corp.,* 2 F.3d 1249 (3rd Cir. 1993)	Services and procedures ''considered necessary to the amelioration of sickness or injury by generally accepted standards of medical practice in the local community.''
Dahl-Eimers v. *Mutual of Omaha Life Inc. Co.,* 986 F.2d 1379 (11th Cir. 1993)	(a) ''Appropriate and consistent with the diagnosis in accord with accepted standards of community practice; (b) Not considered experimental; and (c) Could not have been omitted without adversely affecting the injured person's condition or the quality of medical care.''•

By Mr. STEVENS (for himself, Mr. INOUYE, Mr. MURKOWSKI, and Mr. AKAKA):

S. 375. A bill to create a rural business lending pilot program within the U.S. Small Business Administration, and for other purposes; to the Committee on Small Business.

• Mr. STEVENS. Mr. President, I have in the past brought to the attention of the Senate one of the most significant economic problems facing Alaska—the underdevelopment of the business sector in the rural areas of Alaska. Today I am introducing the Rural Business Lending Act to help fix this problem in my state and in Hawaii. Senators INOUYE, MURKOWSKI, and AKAKA join me as cosponsors.

Many of my colleagues have heard me speak of Alaska's vast size, of our lack of a highway system, and of the problems faced by small Alaska communities because of their remoteness and because they are islands surrounded by a sea of federal land. Our economic problems are in some ways more like the problems of third-world countries than the problems of towns in the contiguous 48 states. More than 130 Alaska villages and communities have populations under 3,000, and almost 80 percent of these communities are not connected to any road or highway system. They can be reached only by small plane or boat. Many do not have a bank branch office or any other lending source.

The nearest banks—which, even within Alaska are likely to be hundreds of miles away—often cannot make loans in rural communities due to the cost of servicing the loans, the cost of transportation, higher credit risks and other unknown risks, the seasonality of the economy, and the collateral limitations inherent to remote real estate. Most Alaska villages have few, if any, privately- or independently-owned small businesses.

The Rural Business Lending Act would attempt to help with these problems. The bill would create a pilot loan guarantee program in Alaska and Hawaii administered by the U.S. Small Business Administration (SBA). The pilot program is modeled after the SBA 7(a) program that was in effect prior to changes made in 1995. These changes dramatically reduced small business lending by banks and other financial institutions in Alaska. Among other things, the changes: (1) decreased the portion of a loan that SBA could guarantee under the 7(a) Program, from 90 percent of the loan amount down to a sliding scale of only up to 80 percent; and (2) increased the guarantee fee for 7(a) loans from 2 percent of the loan amount up to a sliding scale of between 2 percent and 3.875 percent. Another change was that the SBA discontinued servicing loans that have gone into default. This change is particularly detrimental in Alaska and Hawaii, because of the transportation costs involved in servicing a loan, and in small Alaska communities because it is difficult for the employee of a bank branch to take action against his neighbor on a loan.

Before these changes went into effect, the SBA 7(a) lending program provided much of the critical financing for rural Alaska businesses. For instance, the SBA guaranteed 315 loans totaling $29 million with fiscal year 1995 funds—170 of which went to businesses in what we consider rural areas of Alaska (generally not on the road system). By comparison, the SBA guaranteed only 88 loans in Alaska—and only 48 in rural areas—with fiscal year 1998 funds, after the changes had gone into effect. The total amount of the loans between fiscal year 1995 and fiscal year 1998 decreased by over 60 percent, from $29 million down to $10 million. It appears this downward trend is continuing during the Fiscal Year 1999 cycle.

Prior to the changes, the National Bank of Alaska was one of SBA's biggest 7(a) lending program participants, having made over 91 loans totaling more than $15 million during the fiscal year 1995 cycle. Three years later, during the fiscal year 1998 cycle, the National Bank of Alaska made no loans under the 7(a) program. There is no question that the changes have negatively affected the availability of loan funds and credit in rural Alaska and other rural areas.

The bill I am introducing today is intended to make the 7(a) program more viable in the rural parts of Alaska and Hawaii. The Rural Business Lending Act would create a 3-year ''Rural Business Lending Program'' in the 49th and 50th states that would be similar to 7(a) Program before the 1995 changes. It would allow up to 90 percent of loan amounts to be guaranteed, cap the guarantee fee at 1 percent, require the SBA to service loans on which it honors a guarantee, and allow the SBA to waive annual loan fees (one-half of one percent of the outstanding loan balance under existing law) if necessary to increase lending. Loans under the ''Rural Business Lending Program'' would be available only in communities with a population of 9,000 or fewer. The program would be required to be administered from the SBA's Alaska and Hawaii offices, where the unique characteristics and needs of rural small businesses are more likely to be understood. The SBA would be required to report to Congress after two years on the effectiveness of the program so that consideration could be given to making it permanent or expanding it to other areas.

This legislation will ensure that small businesses in rural Alaska and Hawaii have similar access to the national 7(a) Program that other small businesses have. The national 7(a) program should not provide opportunities only to businesses in urban settings. The changes in the Act are intended to revive the SBA 7(a) Program in rural parts of Alaska and Hawaii, creating a model that perhaps can be applied more broadly in the future. I look forward to working with other Senators on the enactment of this legislation that is so critical to small businesses in Alaska and Hawaii, and ultimately perhaps, to small businesses in rural areas throughout the United States.•

By Mr. BURNS (for himself, Mr. MCCAIN, Mr. DORGAN, Mr. BRYAN, Mr. BROWNBACK, and Mr. CLELAND):

S. 376. A bill to amend the Communications Satellite Act of 1962 to promote competition and privatization in satellite communications, and for other purposes; to the Committee on Commerce, Science, and Transportation.

OPEN-MARKET REORGANIZATION FOR THE BETTERMENT OF INTERNATIONAL TELECOMMUNICATIONS (ORBIT) ACT

• Mr. BURNS. Mr. President, I rise today to introduce the ''Open-market Reorganization for the Betterment of International Telecommunications (ORBIT)'' bill, an important piece of

legislation that will modernize our nation's laws and policies regarding the provision of international satellite communications services. I also thank the help and hard work of my colleagues who are original cosponsors of this bill, including the Chairman of the Commerce Committee, Senator MCCAIN, and Senator BROWNBACK, Senator BRYAN, Senator DORGAN and Senator CLELAND.

Dramatic technological and marketplace changes have reshaped global satellite communications in the thirty-six years since enactment of the Communications Satellite Act of 1962. These changes necessitate that we update our nation's satellite laws to establish a new policy framework for vibrant international satellite communications in the 21st century.

The bill I introduce today reflects a reasoned and balanced approach that will enable more private companies, as opposed to government entities, to bring advanced satellite communications service to every corner of the globe—including poor, remote and lesser developed countries. This bill puts the full weight of the United States squarely behind the privatization of INTELSAT, an intergovernmental organization embracing 142 countries, which, in turn, will transform the international satellite communications marketplace into a more robust and genuinely competitive arena. The beneficiaries of this legislation will be American companies and their workers who will have new opportunities to offer satellite communications services worldwide and consumers who will be able to enjoy a choice among multiple service providers of ever more advanced communications services at lower cost.

When the Soviet Union launched Sputnik in 1957, the United States responded immediately and aggressively to recapture the lead in the advancement of satellite technology. Our nation understood the tremendous potential of satellite technology, but at the same time recognized that because of the cost, risk and uncertainty, no individual company would develop it alone. Therefore, the U.S. enacted the Communications Satellite Act of 1962 which created COMSAT, a private company, to develop by itself, or presumably with the assistance of other foreign entities, a commercial worldwide satellite communications system. Subsequently, the international treaty organization, INTELSAT, was created to provide mainly telephone and data services around the world. COMSAT and INTELSAT have worked together over the last three decades to introduce satellite communications services here and abroad.

The INTELSAT/COMSAT experiment has been a magnificent success. INTELSAT, has grown to include 142 member countries, utilizing a network of 24 satellites that offer voice, data and video services around the world. In the last fifteen years, technological advances, improved large-scale financing options, and enriched market conditions have created a favorable climate for new companies to provide services that only INTELSAT had previously been able to offer. However, while the success of INTELSAT has spurred multiple private commercial companies to penetrate the global satellite market, these private companies have expressed serious concern about the existence of INTELSAT, in its present form, and the unlevel playing field upon which they must compete with INTELSAT. My legislation addresses their concerns.

This legislation prods INTELSAT to transform itself from a multi-governmentally owned and controlled monopoly to a fully privatized company. The legislation articulates the new United States policy that INTELSAT must privatize as soon as possible, but no later than January 1, 2002 and it creates a process to encourage and verify that this privatization effort occurs in a pro-competitive manner.

This legislation puts clear and specific restrictions on INTELSAT's ability to expand its service offerings into new areas, such as direct broadcast satellite services and Ka-band communications, pending privatization. At the same time, it preserves INTELSAT's ability to provide its customers services they currently enjoy. INTELSAT customers are not artificially denied services to which they already have access.

INTELSAT also is offered incentives to privatize. One of INTELSAT's most important business objectives is to obtain direct access to the lucrative U.S. domestic market. My legislation does not hand this over to INTELSAT and the other 141 member countries without commercial reform. Rather, it withholds this desired benefit until privatization is complete. I should add that with the introduction of this legislation, I call on the FCC to halt its pending rulemaking to allow Intelsat to directly access the U.S. market before privatization. This rulemaking undermines a central tenet of this bill, and would exceed the agency's authority in any event. I urge the FCC to let Congress resolve this issue through the legislative process.

This legislation provides the President of the United States with the authority to certify that INTELSAT has privatized in a sufficiently pro-competitive manner that it will not harm competition in the U.S. satellite marketplace. The President is required to consider a whole array of criteria such as the owner structure of INTELSAT, its independence from the intergovernmental organization, and its relinquishment of privileges and immunities. These criteria will ensure that INTELSAT is transformed into a commercially competitive company without any unfair advantages. If the privatization does not occur within the time frame provided in my legislation, January 1, 2002, the President is required to withdraw the U.S. from INTELSAT.

I believe that the House and the Senate, working constructively together, can enact international satellite competition legislation this year. In particular, I want to commend the Chairman of the House Commerce Committee, Representative BLILEY, for all the good work he did last Congress in passing H.R. 1872 through the House. I am confident that our shared objectives will enable us to resolve differences on a number of specific issues and obtain the broad, bipartisan support needed to move this legislation quickly. I especially look forward to working with my colleagues on both sides of the aisle in the Senate to reaching swift agreement on this bill which will enhance America's competitive position as we enter the 21st century.●

By Mr. ENZI:

S. 377. A bill to eliminate the special reserve funds created for the Savings Association Insurance Fund and the Deposit Insurance Fund, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

SAIF SPECIAL RESERVE ELIMINATION BILL

● Mr. ENZI. Mr. President, I rise to introduce legislation on behalf of myself and the Senator from South Dakota, Senator JOHNSON. This legislation would eliminate the Savings Association Insurance Fund (SAIF) special reserve. The Federal Deposit Insurance Corporation (FDIC) has indicated that this is one of their top priorities. We feel this legislation is important because capitalization of the special reserve could potentially destabilize the SAIF.

The Special Reserve of the Savings Association Insurance Fund (SAIF) was established on January 1, 1999. It was created by the Deposit Insurance Act of 1996 to provide a backup to the SAIF and further protect the taxpayers from another costly bailout of failed financial institutions. The law stipulated that the amount in the SAIF special reserve should equal the amount by which the SAIF reserve ratio exceeded the designated reserve ratio on January 1, 1999. The designated reserve ratio is 1.25 percent of estimated insured deposits. As a result, on January first of this year, about $1 billion was transferred from the SAIF to the special reserve of the SAIF. Now the SAIF, because it does not include the amount set aside in the special reserve, is capitalized at 1.25 percent of insured deposits.

The problem with this newly established special reserve is that it has the potential to destabilize the SAIF. Since $1 billion was transferred into the special reserve, thereby reducing the SAIF to the minimum required reserve level of 1.25 percent, the chances that the reserve ratio could drop below that level due to adverse circumstances has increased significantly. If this ever occurs, the FDIC may assess new insurance premiums since the 1996 amendments do not allow the special reserve

funds to be used in the calculation of the SAIF. And new premium on thrifts resulting from the special reserve would be unfair and discriminatory.

In addition, the special reserve funds cannot be used unless the SAIF reachers a dangerously low level. Current law does not allow the FDIC to access the funds in the special reserve until the reserve ratio reaches 0.625 percent of the designated ratio, and the FDIC expects the ratio to remain at or below that level for each of the next four quarters. This does not allow the FDIC to properly manage the SAIF.

The Enzi/Johnson bill also makes conforming and technical amendments requested by the FDIC. These changes would delete provisions of the Deposit Insurance Act of 1996 relating to the merger of the two deposit insurance funds. The Bank Insurance Fund (BIF) and the SAIF were not merged by the target date of January 1, 1999, because savings associations are still in existence. Therefore, these provisions are unnecessary.

In conclusion, I urge my colleagues to pass this vitally important legislation before a change in the SAIF would create a budgetary impact. It represents an appropriate solution to what could be a major deposit insurance problem.●

By Mr. ROCKEFELLER (for himself, Mr. DORGAN, Mr. WYDEN, Mr. HARKIN, and Mr. BINGAMAN):

S. 379. A bill to amend title 49, United States Code, to authorize the Secretary of Transportation to implement a pilot program to improve access to the national transportation system for small communities, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE AIR SERVICE RESTORATION ACT OF 1999

● Mr. ROCKEFELLER. Mr. President, today I am pleased to introduce the Air Service Restoration Act of 1999, together with my colleagues Senators DORGAN, WYDEN, HARKIN and BINGAMAN.

In the past several years there has been a growing debate in the Congress and across the nation about the state of our aviation industry. The primary concerns heard again and again are that a decline in air service to small and rural communities and increasing consolidation among airlines and in certain essential markets are hurting consumers and stifling economic development.

I know these concerns well from the experience of my home State of West Virginia. By virtually any measure West Virginia is the State that has been hardest hit by air service declines in the twenty years since deregulation. With the notable exception of a few important upgrades and new opportunities in the last year, West Virginia's air service has been far inferior to that provided other communities—the planes are uncomfortable, the prices are high, and the schedules are thin and subject to frequent cancellations. As a result, at a time when the rest of the nation has experienced a 75 percent increase in air traffic, passenger enplanements statewide in West Virginia have declined by nearly 40 percent.

The real tragedy of poor air service isn't passenger inconvenience or frustration, however, it's the negative impact on economic development. In today's global marketplace air service has become the single most important mode of transportation. When it comes to economic growth, there is no substitute for good air service, and the lack of quality, affordable service can and does hold us back, stunting economic growth in West Virginia just as it does in small and rural communities across the country. We must act now to stem this tide—to restore and promote air service to under-served areas—or we will never be able to close the gap in a meaningful and sustained way.

This legislation is designed not only to build on the successes of airline deregulation but also to take responsibility for its failures. It contains four major provisions:

First, the centerpiece of the bill is a five-year $100 million pilot program for up to 40 small and under-served communities, with grants of up to $500,000 to each community for local initiatives to attract and promote service.

Second, the Department of Transportation would have the authority to facilitate links between pilot communities and major airports by requiring joint fares and interline agreements between dominant airlines at hub airports and new service providers at under-served airports.

Third, to address a key infrastructure concern of small and rural airports, the bill establishes a pilot program allowing communities facing the loss of an air traffic control tower to instead share the cost of funding the tower, on a contract basis, in proportion to the cost-benefit ratio of the tower.

Fourth, the bill calls on the Department of Transportation to review airline industry marketing practices—practices which many believe are exacerbating the decline in air service to small communities—and, if necessary, promulgate regulations to curb abuses.

The legislation we introduce today should begin to afford small and rural community air service the priority they deserve in our national transportation policy. It is similar to a bill I and my colleagues introduced last year, many provisions of which were adopted by the full Senate in the failed FAA and AIP reauthorization bill of 1998. Variations on some of these provisions have also been included in the 1999 reauthorization bill introduced last month by Senators MCCAIN, HOLLINGS, GORTON and myself. I am hopeful that we will successfully enact this legislation, to protect and restore small community air service, this year.

Admittedly, airline deregulation has been a real success story in much of the nation, with lower fares, better service, and more choices for many passengers, as well as tremendous financial success and stability for commercial airlines. But as I have said in the past, airline deregulation has handed out the benefits of air travel unevenly, and we face today an ever-widening gap between the air transportation ''haves'' and ''have-nots''. We in the Congress have a responsibility to foster and maintain a truly national air transportation system, and we fail our small and rural communities when we leave them with the choice between high-cost, poor-quality service or no service at all.

This legislation and this year offer a real opportunity to re-double our efforts to connect small and rural communities to our air transportation system in a meaningful way. I commend the efforts of Senators DORGAN, WYDEN, HARKIN and BINGAMAN to solve this daunting national problem, and I hope our colleagues will join us in the endeavor.

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. 379

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 ''Air Service Restoration Act''.

SEC. 2. FINDINGS.

The Congress finds that—

(1) a national transportation system providing safe, high quality service to all areas of the United States is essential to interstate commerce and the economic well-being of cities and towns throughout the United States;

(2) taxpayers throughout the United States have supported and helped to fund the United States aviation infrastructure and have a right to expect that aviation services will be provided in an equitable and fair manner to every region of the country;

(3) some communities have not benefited from airline deregulation and access to essential airports and air services has been limited;

(4) air service to a number of small communities has suffered since deregulation;

(5) studies by the Department of Transportation have documented that, since the airline industry was deregulated in 1978—

(A) 34 small communities have lost service and many small communities have had jet aircraft service replaced by turboprop aircraft service;

(B) out of a total of 320 small communities, the number of small communities being served by major air carriers declined from 213 in 1978 to 33 in 1995;

(C) the number of small communities receiving service to only one major hub airport increased from 79 in 1978 to 134 in 1995; and

(D) the number of small communities receiving multiple-carrier service decreased from 136 in 1978 to 122 in 1995; and

(6) improving air service to small- and medium-sized communities that have not benefited from fare reductions and improved

service since deregulation will likely entail a range of Federal, State, regional, local, and private sector initiatives.

SEC. 3. PURPOSE.

The purpose of this Act is to facilitate, through a pilot program, incentives and projects that will help communities to improve their access to the essential airport facilities of the national air transportation system through public-private partnerships and to identify and establish ways to overcome the unique policy, economic, geographic, and marketplace factors that may inhibit the availability of quality, affordable air service to small communities.

SEC. 4. ESTABLISHMENT OF SMALL COMMUNITY AVIATION DEVELOPMENT PROGRAM

Section 102 is amended by adding at the end thereof the following:

''(g) SMALL COMMUNITY AIR SERVICE DEVELOPMENT PROGRAM.—

''(1) ESTABLISHMENT.—The Secretary shall establish a 5-year pilot aviation development program to be administered by a program director designated by the Secretary.

''(2) FUNCTIONS.—The program director shall—

''(A) function as a facilitator between small communities and air carriers;

''(B) carry out section 41743 of this title;

''(C) carry out the airline service restoration program under sections 41744, 41745, and 41746 of this title;

''(D) ensure that the Bureau of Transportation Statistics collects data on passenger information to assess the service needs of small communities;

''(E) work with and coordinate efforts with other Federal, State, and local agencies to increase the viability of service to small communities and the creation of aviation development zones; and

''(F) provide policy recommendations to the Secretary and the Congress that will ensure that small communities have access to quality, affordable air transportation services.

''(3) REPORTS.—The program director shall provide an annual report to the Secretary and the Congress beginning in 2000 that—

''(A) analyzes the availability of air transportation services in small communities, including, but not limited to, an assessment of the air fares charged for air transportation services in small communities compared to air fares charged for air transportation services in larger metropolitan areas and an assessment of the levels of service, measured by types of aircraft used, the availability of seats, and scheduling of flights, provided to small communities.

''(B) identifies the policy, economic, geographic and marketplace factors that inhibit the availability of quality, affordable air transportation services to small communities; and

''(C) provides policy recommendations to address the policy, economic, geographic and marketplace factors inhibiting the availability of quality, affordable air transportation services to small communities.''.

SEC. 5. COMMUNITY-CARRIER AIR SERVICE PROGRAM.

(a) IN GENERAL.—Subchapter II of chapter 417 is amended by adding at the end thereof the following:

''§ 41743. Air service program for small communities

''(a) COMMUNITIES PROGRAM.—Under advisory guidelines prescribed by the Secretary of Transportation, a small community or a consortia of small communities or a State may develop an assessment of its air service requirements, in such form as the program director designated by the Secretary under section 102(g) may require, and submit the assessment and service proposal to the program director.

''(b) SELECTION OF PARTICIPANTS.—In selecting community programs for participation in the communities program under subsection (a), the program director shall apply criteria, including geographical diversity and the presentation of unique circumstances, that will demonstrate the feasibility of the program. For purposes of this subsection, the application of geographical diversity criteria means criteria that—

''(1) will promote the development of a national air transportation system; and

''(2) will involve the participation of communities in all regions of the country.

''(c) CARRIERS PROGRAM.—The program director shall invite part 121 air carriers and regional/commuter carriers (as such terms are defined in section 41715(d) of this title) to offer service proposals in response to, or in conjunction with, community aircraft service assessments submitted to the office under subsection (a). A service proposal under this paragraph shall include—

''(1) an assessment of potential daily passenger traffic, revenues, and costs necessary for the carrier to offer the service;

''(2) a forecast of the minimum percentage of that traffic the carrier would require the community to garner in order for the carrier to start up and maintain the service; and

''(3) the costs and benefits of providing jet service by regional or other jet aircraft.

''(d) PROGRAM SUPPORT FUNCTION.—The program director shall work with small communities and air carriers, taking into account their proposals and needs, to facilitate the initiation of service. The program director—

''(1) may work with communities to develop innovative means and incentives for the initiation of service;

''(2) may obligate funds authorized under section 6 of the Air Service Restoration Act to carry out this section;

''(3) shall continue to work with both the carriers and the communities to develop a combination of community incentives and carrier service levels that—

''(A) are acceptable to communities and carriers; and

''(B) do not conflict with other Federal or State programs to facilitate air transportation to the communities;

''(4) designate an airport in the program as an Air Service Development Zone and work with the community on means to attract business to the area surrounding the airport, to develop land use options for the area, and provide data, working with the Department of Commerce and other agencies;

''(5) take such other action under this chapter as may be appropriate.

''(e) LIMITATIONS.—

''(1) COMMUNITY SUPPORT.—The program director may not provide financial assistance under subsection (c)(2) to any community unless the program director determines that—

''(A) a public-private partnership exists at the community level to carry out the community's proposal;

''(B) the community will make a substantial financial contribution that is appropriate for that community's resources, but of not less than 25 percent of the cost of the project in any event;

''(C) the community has established an open process for soliciting air service proposals; and

''(D) the community will accord similar benefits to air carriers that are similarly situated.

''(2) AMOUNT.—The program director may not obligate more than $100,000,000 of the amounts authorized under section 6 of the Air Service Restoration Act over the 5 years of the program.

''(3) NUMBER OF PARTICIPANTS.—The program established under subsection (a) shall not involve more than 40 communities or consortia of communities.

''(f) REPORT.—The program director shall report through the Secretary to the Congress annually on the progress made under this section during the preceding year in expanding commercial aviation service to smaller communities.

''§ 41744. Pilot program project authority

''(a) IN GENERAL.—The program director designated by the Secretary of Transportation under section 102(g)(1) shall establish a 5-year pilot program—

''(1) to assist communities and States with inadequate access to the national transportation system to improve their access to that system; and

''(2) to facilitate better air service link-ups to support the improved access.

''(b) PROJECT AUTHORITY.—Under the pilot program established pursuant to subsection (a), the program director may—

''(1) out of amounts authorized under section 6 of the Air Service Restoration Act, provide financial assistance by way of grants to small communities or consortia of small communities under section 41743 of up to $500,000 per year; and

''(2) take such other action as may be appropriate.

''(c) OTHER ACTION.—Under the pilot program established pursuant to subsection (a), the program director may facilitate service by—

''(1) working with airports and air carriers to ensure that appropriate facilities are made available at essential airports;

''(2) collecting data on air carrier service to small communities; and

''(3) providing policy recommendations to the Secretary to stimulate air service and competition to small communities.

''(d) ADDITIONAL ACTION.—Unsder the pilot program established pursuant to subsection (a), the Secretary shall work with air carriers providing service to participating communities and major air carriers serving large hub airports (as defined in section 41731(a)(3)) to facilitate joint fare arrangements consistent with normal industry practice.

''§ 41745. Assistance to communities for service

''(a) IN GENERAL.—Financial assistance provided under section 41743 during any fiscal year as part of the pilot program established under section 41744(a) shall be implement for not more than—

''(1) 4 communities within any State at any given time; and

''(2) 40 communities in the entire program at any time.

For purposes of this subsection, a consortium of communities shall be treated as a single community.

''(b) ELIGIBILITY.—In order to participate in a pilot project under this subchapter, a State, community, or group of communities shall apply to the Secretary in such form and at such time, and shall supply such information, as the Secretary may require, and shall demonstrate to the satisfaction of the Secretary that—

''(1) the applicant has an identifiable need for access, or improved access, to the national air transportation system that would benefit the public;

''(2) the pilot project will provide material benefits to a broad section of the travelling public, businesses, educational institutions, and other enterprises whose access to the national air transportation system is limited;

''(3) the pilot project will not impede competition; and

(4) the applicant has established, or will establish, public-private partnerships in connection with the pilot project to facilitate service to the public.

''(c) COORDINATION WITH OTHER PROVISIONS OF SUBCHAPTER.—The Secretary shall carry out the 5-year pilot program authorized by this subchapter in such a manner as to complement action taken under the other provisions of this subchapter. To the extent the Secretary determines to be appropriate, the Secretary may adopt criteria for implementation of the 5-year pilot program that are the same as, or similar to, the criteria developed under the preceding sections of this subchapter for determining which airports are eligible under those sections. The Secretary shall also, to the extent possible, provide incentives where no direct, viable, and feasible alternative service exists, taking into account geographical diversity and appropriate market definitions.

''(d) MAXIMIZATION OF PARTICIPATION.—The Secretary shall structure the program established pursuant to section 41744(a) in a way designed to—

''(1) permit the participation of the maximum feasible number of communities and States over a 5-year period by limiting the number of years of participation or otherwise; and

''(2) obtain the greatest possible leverage from the financial resources available to the Secretary and the applicant by—

''(A) progressively decreasing, on a project-by-project basis, any Federal financial incentives provided under this chapter over the 5-year period; and

''(B) terminating as early as feasible Federal financial incentives for any project determined by the Secretary after its implementation to be—

''(i) viable without further support under this subchapter; or

''(ii) failing to meet the purposes of this chapter or criteria established by the Secretary under the pilot program.

''(e) SUCCESS BONUS.—If Federal financial incentives to a community are terminated under subsection (d)(2)(B) because of the success of the program in that community, then that community may receive a one-time incentive grant to ensure the continued success of that program.

''(f) PROGRAM TO TERMINATE IN 5 YEARS.—No new financial assistance may be provided under this subchapter for any fiscal year beginning more than 5 years after the date of enactment of the Air Service Restoration Act.

''§ 41746. Additional authority

''In carrying out this chapter, the Secretary—

''(1) may provide assistance to States and communities in the design and application phase of any project under this chapter, and oversee the implementation of any such project;

''(2) may assist States and communities in putting together projects under this chapter to utilize private sector resources, other Federal resources, or a combination of public and private resources;

''(3) may accord priority to service by jet aircraft;

''(4) take such action as may be necessary to ensure that financial resources, facilities, and administrative arrangements made under this chapter are used to carry out the purposes of the Air Service Restoration Act; and

''(5) shall work with the Federal Aviation Administration on airport and air traffic control needs of communities in the program.

''§ 41747. Air traffic control services pilot program

''(a) IN GENERAL.—To further facilitate the use of, and improve the safety at, small airports, the Administrator of the Federal Aviation Administration shall establish a pilot program to contract for Level I air traffic control services at 20 facilities not eligible for participation in the Federal Contract Tower Program.

''(b) PROGRAM COMPONENTS.—In carrying out the pilot program established under subsection (a), the Administrator may—

''(1) utilize current, actual, site-specific data, forecast estimates, or airport system plan data provided by a facility owner or operator;

''(2) take into consideration unique aviation safety, weather, strategic national interest, disaster relief, medical and other emergency management relief services, status of regional airline service, and related factors at the facility;

''(3) approve for participation any facility willing to fund a pro rata share of the operating costs used by the Federal Aviation Administration to calculate, and, as necessary, a 1:1 benefit-to-cost ration, as required for eligibility under the Federal Contract Tower Program; and

''(4) approve for participation no more than 3 facilities willing to fund a pro rata share of construction costs for an air traffic control tower so as to achieve, at a minimum, a 1:1 benefit-to-cost ratio, as required for eligibility under the Federal Contract Tower Program, and for each of such facilities the Federal share of construction costs does not exceed $1,000,000.

''(c) REPORT.—One year before the pilot program established under subsection (a) terminates, the Administrator shall report to the Congress on the effectiveness of the program, with particular emphasis on the safety and economic benefits provided to program participants and the national air transportation system.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for subchapter II of chapter 417 is amended by inserting after the item relating to section 41742 the following:

''41743. Air service program for small communities.
''41744. Pilot program project authority.
''41745. Assistance to communities for service.
''41746. Additional authority.
''41747. Air traffic control services pilot program.''.

(c) WAIVER OF LOCAL CONTRIBUTION.—Section 41736(b) is amended by inserting after paragraph (4) the following:

''Paragraph (4) does not apply to any community approved for service under this section during the period beginning October 1, 1991, and ending December 31, 1997.''.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation such sums as may be necessary to carry out section 41747 of title 49, United States Code.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

To carry out sections 41743 through 41746 of title 49, United States Code, for the 4 fiscal-year period beginning with fiscal year 2000 there are authorized to be appropriated to the Secretary of Transportation not more than $100,000,000.

SEC. 7. MARKETING PRACTICES.

Section 41712 is amended by—

(1) inserting ''(a) IN GENERAL.—'' before ''On''; and

(2) adding at the end thereof the following:

''(b) MARKETING PRACTICES THAT ADVERSELY AFFECT SERVICE TO SMALL OR MEDIUM COMMUNITIES.—Within 180 days after the date of enactment of the Air Service Restoration Act, the Secretary shall review the marketing practices of air carriers that may inhibit the availability of quality, affordable air transportation services to small and medium-sized communities, including—

''(1) marketing arrangements between airlines and travel agents;

''(2) code-sharing partnerships;

''(3) computer reservation system displays;

''(4) gate arrangements at airports;

''(5) exclusive dealing arrangements; and

''(6) any other marketing practice that may have the same effect.

''(c) REGULATIONS.—If the Secretary finds, after conducting the review required by subsection (b), that marketing practices inhibit the availability of such service to such communities, then, after public notice and an opportunity for comment, the Secretary shall promulgate regulations that address the problem.''.

SEC. 8. NONDISCRIMINATORY INTERLINE INTERCONNECTION REQUIREMENTS.

(a) IN GENERAL.—Subchapter I of chapter 417 is amended by adding at the end thereof the following:

''§ 41717. Interline agreements for domestic transportation

''(a) NONDISCRIMINATORY REQUIREMENTS.—If a major air carrier that provides air service to an essential airport facility has any agreement involving ticketing, baggage and ground handling, and terminal and gate access with another carrier, it shall provide the same services to any requesting air carrier that offers service to a community selected for participation in the program under section 41743 under similar terms and conditions and on a nondiscriminatory basis within 30 days after receiving the request, as long as the requesting air carrier meets such safety, service, financial, and maintenance requirements, if any, as the Secretary may by regulation establish consistent with public convenience and necessity. The Secretary must review any proposed agreement to determine if the requesting carrier meets operational requirements consistent with the rules, procedures, and policies of the major carrier. This agreement may be terminated by either party in the event of failure to meet the standards and conditions outlined in the agreement.

''(b) DEFINITIONS.—In this section the term 'essential airport facility' means a large hub airport (as defined in section 41731(a)(3)) in the contiguous 48 States in which one carrier has more than 50 percent of such airport's total annual enplanements.''.

(b) CLERICAL AMENDMENT.—The chapter analysis for subchapter I of chapter 417 is amended by adding at the end thereof the following:

''41717. Interline agreements for domestic transportation.''.●

● Mr. DORGAN. Mr. President, I am pleased to introduce legislation today, along with other colleagues, that is designed to inject more airline competition and improve air service to small communities. Since the deregulation of the airline industry two decades ago, hundreds of small communities have experienced service degradation and many have lost service altogether. Vast geographic regions of our country have suffered unacceptable geographic isolation as the airlines have withdrawn service in smaller communities. This trend needs the serious attention of the Congress and the Department of Transportation.

Included in this legislation are several provisions designed to promote airline competition and develop air service to the many rural areas of the country that have suffered the consequences of laissez-faire deregulation. The consequence can be summed up in one phrase: ''unregulated monopolies.''

Unregulated monopolies result in a number of effects: (1) higher prices and fewer choices for consumers and (2) the elimination of competition and the establishment of entry barriers that make competition a nearly impossible task.

While deregulation has been a wonderful success for the people who travel between the major metropolitan areas of the country, it has been an unmitigated disaster for most rural areas and smaller communities. Transportation Department studies have documented that 167 communities has lost air service in the past two decades and hundreds have suffered service degradation manifested by loss of jet service or loss of access to a major hub airport.

In a report by the General Accounting Office issued in October, 1997 entitled, ''Airline Deregulation: Barriers to Entry Continue to Limit Competition in Several Key Domestic Markets'' [GAO/RCED–97–4], operating limitations and marketing practices of large, dominate carriers restrict entry and competition to an extent not anticipated by Congress when it deregulated the airline industry. The GAO identified a number of entry barriers and anti-competitive practices which are stifling competition and contributing to higher fares. The GAO issued a similar report in 1990 and the 1996 report said that not only has the situation not improved for new entrants, but things have gotten worse.

These mega carriers have created theifdoms, securing dominate market shares at regional hubs. Since deregulation, all major airlines have created hub-and-spoke systems where they funnel arrivals and departures though hub airports where they dominate traffic. Today, all but 3 hubs are dominated by a single airline where the carrier has between 60 and 90 percent of all the arrivals, departures, and passengers at the hub.

The fact is that deregulation has lead to greater concentration and stifling competition. The legislative history of the Civil Aeronautics Act of 1938 shows that Congress was as deeply concerned about destructive competition as it was with the monopolization of air transportation services. Thus, the CAA sought to ensure that a competitive economic environment existed. As we can see, deregulation is realizing the fears anticipated by the Congress in 1938. Competition has not become the general rule. Rather, competition is the exception in an unregulated market controlled largely by regional monopolies.

Deregulation has also resulted in disproportionate air fares. It has been demonstrated that hub concentration has translated into higher fares and rural communities that are dependent upon concentrated hubs have seen higher fares.

Studies from DOT and the GAO have demonstrated that in the 15 out of 18 hubs in which a single carrier controls more than 50% of the traffic, passengers are paying more than the industry norm. The GAO studied 1988 fares at 15 concentrated airports and compared those with fares at 38 competitive hub airports. The GAO found that fares at the concentrated hubs were 27% higher.

The difference between regulation and deregulation is not a change from monopoly control to free market competition. Rather, the change is from having regulated monopolies serving 93% of the market to deregulated monopolies serving 85% of the market, according to Dempsey. Today, nearly two-thirds of our nation's city-pairs are unregulated monopolies where a monopoly carrier can charge whatever they wish in 2 our of 3 city-pairs in the domestic market.

A January 1991 GAO Report on Fares and Concentration at Small-City Airports found that passengers flying from small-city airports on average paid 34 percent more when they flew to a major airport dominated by one or two airlines than when they flew to a major airport that was not concentrated. The report also found that when both the small airport and the major hub were concentrated, fares were 42 percent higher than if there was competition at both ends.

A July 1993 GAO Report on Airline Competition concluded that airline passengers generally pay higher fares at 14 concentrated airports than at airports with more competition. The report found that fares at concentrated airports were about 22 percent higher than fares at 35 less concentrated airports. The same report found that the number of destinations served directly by only one airline rose 56 percent to 64 percent from 1985 to 1992, while the number of destinations served by 3 or more airlines fell from 19% to 11% during that same period. This report confirmed similar conclusion reached in previous GAO studies conducted in 1989 and 1990.

The fact is that deregulation, while paving the road to concentration and consolidation, has allowed regional monopolies to control prices in non-competitive markets. While the entrance of low cost carriers has introduced competition in dense markets, the main difference between today and pre-deregulation is that the monopolies are unregulated.

Concentration, not competition, is the current trend in the airline industry. In 1938, when the Federal Government began to regulate air transportation services, there were 16 carriers who accounted for all the total traffic in the U.S. domestic market. By 1978 (the year Congress passed deregulation legislation) the same 16 carriers (reduced to 11 through mergers) still accounted for 94% of the total traffic.

Today, those same 11 carriers (now reduced to 7 through mergers and bankruptcies) account for over 80% of the total traffic [measured in terms of revenue passenger miles]. When these 7 carriers (American; Continental; Delta; Northwest; United; and US Air) are combined with their code-share partner, they account for more than 95% of the total air traffics in the domestic U.S.

One expert estimated in 1992 that since deregulation, over 120 new airlines appeared. However, more than 200 have gone bankrupt or been acquired in mergers.

Between 1970 and 1988, there were 51 airline mergers and acquisitions—20 of those were approved by the Department of Transportation after 1985, when it assumed all jurisdiction over merger and acquisition requests. In fact, DOT approved every airline merger submitted to it after it assumed jurisdiction over mergers from the Civil Aeronautics Board in 1984. Fifteen independent airlines operating at the beginning of 1986 had been merged into six mega carriers by the end of 1987. And, these six carriers increased their market share from 71.3% in 1978 to 80.5% in 1990.

At a hearing last year in the Senate Commerce Committee, Alfred Kahn, the father of airline deregulation, testified and offered some interesting reflections on the results of airline deregulation. I recounted for him the unprecedented concentration in the market that was fostered by the deregulation he helped create and asked him if he foresaw this and if the competition he expected to merge has been realized. He responded with great disappointment saying that the industry concentration has perverted the purpose of deregulation and he pinned much of the blame for this result on the mergers. He said: ''While I do not want to mention anyone by name, but one of the problems is that there was one Secretary of Transportation who never met a merger she did not like.''

These mega carriers have created competition free zones, securing dominate market shares at regional hubs. Since deregulation, all major airlines have created hub-and-spoke systems where they funnel arrivals and departures though hub airports where they dominate traffic. Today, all but 3 hubs are dominated by a single airline where the carrier has between 60 and 90 percent of all the arrivals, departures, and passengers at the hub.

The non-aggression pacts between the major airline carriers are also being manifested in code-share partnerships—which are virtual mergers—where they pledge not to compete but to combine their route systems to further solidify their control over their regional monopolies.

Northwest has announced a deal with Continental; while United and Delta are teaming up; and American and US Air are establishing a partnership. While code-share partnerships are not mergers, but the impact on market concentration may be the same.

The proposed partnerships between the major carriers (and their code-share partners) will have the following shares of the U.S. domestic market:

Delta/United: 35 percent; American/US Air: 26 percent; and Northwest/Continental: 21 percent for a total of 82 percent.

In contrast, the rest of the carriers share less than 20% combined—the largest share of which is Southwest Airlines at 6.4%.

This legislation would establish the Small Community Air Service Development Program which could go a long way to address the small community air service problems. Earlier this year, Senator MCCAIN and others introduced S. 82, the ''Air Transportation Improvement Act,'' which contains provisions establishing this program. However, the authorization level proposed in that legislation does not provide adequate enough resources for this demonstration program to make much of a difference. Thus, this bill would establish a 5-year pilot program, authorized at $20 million per year—which is half the amount currently provided annually to the Essential Air Service Program. In contrast, S. 82 provides only $30 million total over a 4-year period. At that level, very few communities will be able to participate and their air service deficiencies will unfortunately continue.

In addition, the bill requires the Department of Transportation to review the marketing practices of the major airlines and to take action to rectify problems that impede air service to small and medium sized communities. Numerous GAO reports have highlighted the anti-competitive nature of some airline policies toward travel agents; bias in computer reservation systems; and certain gate arrangements at some airports. These barriers to entry need to be addressed and this legislation would address those problems.

This measure also includes a provision to facilitate air service to underserved communities and encourage airline competition through non-discriminatory interconnection requirements between air carriers. This provision simply imposes a nondiscrimination requirement on air carriers with market dominance at large hub airports—which are the bottleneck access points to the national air transportation system—with respect to interline agreements in order to allow competitors to interconnect into the large hub airports. Interline arrangements will allow passengers to move more efficiently between carriers when transferring between while maintaining the independent identities of competing carriers.

Barriers to competition in the airline industry have grown more insurmountable under the hub and spoke system where the major carriers dominate the large hubs, granting them regional monopolies. These dominate carriers are selective with their cooperation with other carriers; limiting their interline and joint fare agreements only to carriers that will not directly compete with them. In a circumstance where a major airline dominates access to the large hub airports, carriers not afforded the cooperation of the major airlines face an insurmountable barrier to entry.

The principle of this amendment is simple: if an air carrier has market dominance at a large hub airport, then that carrier cannot discriminate amongst carriers with whom it provides cooperation to allow passengers to transfer between each carrier's network at the dominate hub. This amendment would not impose any code-sharing or other business agreements on marketing or promotion. Rather, it requires cooperation and prevents anti-competitive discrimination with respect to interline agreements between carriers.

The principle underlying this provision is similar to the fundamental principle driving local competition in telecommunications markets. When Congress de-regulated the telecommunications industry three years ago, the fundamental element to promote competition in that legislation was the requirement that the incumbent carriers would be required, by law, to allow their competitors to interconnect into their network. In a situation where the incumbent dominates or controls the local bottleneck (in phone service it is the local loop and in aviation it is the large hub airports through which most all air traffic flows) the only way to permit competition is to require interconnection. If the incumbent carriers are permitted to exclude passengers from competing airlines to flow between their system and that of their competitors, the major carriers that dominate the hubs will ensure that there is no possibility of successful competition.

The interline provision is similar to the interconnection requirements imposed upon local phone monopolies. In order to develop competition in the local market, we had to impose, by law, the requirement that the monopoly must allow its competitors to interconnect into their networks. The interline provision is the aviation equivalent of that requirement (except that under this provision, the only requirement is that dominant carriers who control access to the air service bottlenecks cannot discriminate amongst the carriers it provides cooperation to permit passengers to transfer between networks). In light of what has been required of other industries under the goal of promoting competition (e.g., telecommunications), a non-discriminatory interline requirement makes sense if one wants to see a competitive industry.

This provision is not about re-regulation—it is about fulfilling the goal of deregulation by encouraging competition and allowing competition to be the regulator. Fostering competition is a mandate of the Airline Deregulation Act. This amendment is consistent with the mandate under current law that the Secretary foster competition. Under the Airline Deregulation Act, Section 40101 of Title 49, U.S.C., the Department of Transportation is directed to: avoid unreasonable industry concentration [Sec. 40101(a)(10)]; encourage, develop, and maintain an air transportation system relying on actual and potential competition [Sec. 40101(a)(12)]; and encourage entry into air transportation markets by new and existing carriers [Sec. 40101(a)(13)].

The interline provision will strengthen the economic viability of air service to small rural communities and enhance the ability of regional commuters and new entrants to provide essential air service. It also will prevent the major airlines from engaging in the anti-competitive behavior of excluding smaller and new entrants from the national air transportation network.

When the Congress eliminated the old Civil Aeronautics Board (CAB) in 1984, there was concern, at that time, about the abuses employed by the major airlines to selectively use interline agreements as an unfair competitive practice. During the debate on the Conference Report on the CAB Sunset Act, Congressman Norman Mineta said:

> In recent months there have also been concerns that the larger carriers in the industry might use the right to interline with them as a device to restrict competition. This could be accomplished by selective refusals to interline or by selective refusals on reasonable terms, based on competitive considerations. Under section 411 of the Federal Aviation Act, the CAB has authority to act against unfair competitive practices arising from agreements to interline. The conference bill transfers this authority to the Department of Transportation and we expect the Department to carefully monitor interlining practices to be sure that there are no abuses. This will help preserve the system of interlining and the major benefits it brings to consumers.

The only way to allow for competition in this environment is to impose conditions on the major carriers to cooperate with their competitors. Interline and joint fares are necessary to ensure that the dominant carriers will not kill potential competitors by denying them access to the essential facilities of the air transportation industry: the major hubs. These facilities have been built with public funds and all carriers should have access to those facilities. Interline and joint fares will help create that access.

This legislation is not a silver bullet that will alleviate all the air service problems facing certain parts of the country. However, it does carefully target certain known problems that impede airline competition and it establishes a badly needed program to assist small communities in improving their air service. I hope my colleagues will support this legislation.●

By Mr. CRAIG (for himself, Mr. BAUCUS, Mr. CRAPO, Mr. FRIST, Mr. ASHCROFT, Mr. THOMPSON, Mr. BURNS, Mr. BROWNBACK, Mr. INHOFE, Mr. HELMS, Mr. COCHRAN, Mr. ENZI, Mr. LOTT, Mr. THOMAS, Mr. GREGG, Mr. SESSIONS, and Mr. MURKOWSKI):

S. 380. A bill to reauthorize the Congressional Award Act; to the Committee on Governmental Affairs.

THE CONGRESSIONAL AWARD REAUTHORIZATION ACT OF 1999

● Mr. CRAIG. Mr. President, I join my colleague from Montana, Mr. BAUCUS, today to introduce the Congressional Award Reauthorization Act of 1999—a bill to reauthorize the Congressional Award program for another five years.

The Congressional Award program was first authorized and signed into law in 1979. Since then it has received the support of Congress and Presidents Carter, Reagan, Bush, and Clinton for one very simple reason—it helps encourage and recognize excellence among America's young people.

The program is non-competitive; participants challenge only themselves. Young people from all walks of life and levels of ability can work to earn a Congressional Award. Participants range from the academically and physically gifted, to those with severe physical, mental, and socio-economic challenges.

The Congressional Award is an earned award; young people are not selected for it. Participants strive for either a Bronze, Silver, or Gold Award. At each level, 50% of the required minimum hours to earn the Award are in Volunteer Service (a minimum of 100 hours for Bronze, 200 for Silver, and 400 for Gold). Since the inception of the program, the minimum number of volunteer hours for recipients has exceeded one million hours. All of this time was spent improving individual's lives and each of our communities.

Congressional Award recipients receive no material reward through the program for their efforts except for the medal and certificate which are presented to them in recognition of, and thanks for, what they have done.

There are currently around 2000 young people from across the country pursing the award, with more entering the program each day. Each of these young people exemplify the qualities of commitment to service and citizenship that our country embodies, and which we promote through our own service in Congress. We believe the least we can do for them is encourage them in their efforts and recognize their achievements through the Congressional Award program.

The program is one of the best investments Congress can make. It requires no annual appropriation—all of its funding is raised from private sources—yet it does so much for so many people.

The authorization for the Congressional Award program expires this year. The bill I introduce today will reauthorize the program for five years and make two minor changes in the way the program is administered. I encourage each one of my colleagues to show their support for every young person who has received or is working on a Congressional Award by supporting this legislation.

Mr. President, 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. 380

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

SECTION 1. CONGRESSIONAL AWARD ACT AMENDMENTS OF 1999.

(a) CHANGE OF ANNUAL REPORTING DATE.—Section 3(e) of the Congressional Award Act (2 U.S.C. 802(e)) is amended in the first sentence by striking ''April 1'' and inserting ''June 1''.

(b) MEMBERSHIP REQUIREMENTS.—Section 4(a)(1) of the Congressional Award Act (2 U.S.C. 803(a)(1)) is amended—

(1) in subparagraphs (A) and (D), by striking ''Member of the Congressional Award Association'' and inserting ''recipient of the Congressional Award''; and

(2) in subparagraphs (B) and (C), by striking ''representative of a local Congressional Award Council'' and inserting ''a local Congressional Award program volunteer''.

(c) EXTENSION OF REQUIREMENTS REGARDING FINANCIAL OPERATIONS OF CONGRESSIONAL AWARD PROGRAM; NONCOMPLIANCE WITH REQUIREMENTS.—Section 5(c)(2)(A) of the Congressional Award Act (2 U.S.C. 804(c)(2)(A)) is amended by striking ''and 1998'' and inserting ''1998, 1999, 2000, 2001, 2002, 2003, and 2004''.

(d) TERMINATION.—Section 9 of the Congressional Award Act (2 U.S.C. 808) is amended by striking ''October 1, 1999'' and inserting October 1, 2004''.●

By Mr. INOUYE:

S. 381. A bill to allow certain individuals who provided service to the Armed Forces of the United States in the Philippines during World War II to receive a reduced SSI benefit after moving back to the Philippines.

VETERANS LEGISLATION

● Mr. INOUYE. Mr. President, I rise to introduce a bill that would allow Filipino World War II veterans to receive 75 percent of their Supplemental Security Income (SSI) benefits after moving back to the Philippines. The reduced benefits reflect the lower cost of living and per capita income in the Philippines. In order to be eligible, Filipino veterans must be receiving SSI benefits as of the date of enactment of this legislation, and must have served in the Philippine Commonwealth Army and recognized guerilla units during World War II before December 31, 1946. Under current law, individuals who receive SSI benefits must relinquish those benefits should they choose to reside outside the United States.

There are approximately 25,000 Filipino veterans who became naturalized citizens under the Immigration Act of 1990. Due to their age, the 1990 Act was subsequently amended to allow these veterans to be naturalized in the Philippines. It is unclear how many Filipino veterans reside in the United States as a result of the 1990 Act. However, some veterans came with the expectation of receiving pension benefits and a recognition of their military service. Instead, many are on welfare, living in poverty-stricken areas, and financially unable to petition their families to immigrate to the United States. Passage of this measure would help provide for these veterans upon return to their families in the Philippines.

As some of my colleagues know, I am an advocate for the Filipino veterans of World War II. I have sponsored several measures on their behalf to correct an injustice and seek equal treatment for their valiant military service in our Armed Forces. Members of the Philippine Commonwealth Army were called into the service of the United States Forces of the Far East, and under the command of General Douglas MacArthur joined our American soldiers in fighting some of the fiercest battles of World War II. Regretfully, the Congress betrayed our Filipino allies by enacting the Rescission Act of 1946. The 1946 Act, now codified as 38 U.S.C. 107 deems the military service of Filipino veterans as not active service for purposes of any law of the United States conferring rights, privileges or benefits. The measure I introduce today will not diminish my efforts to correct this injustice. As long as it takes, I will continue to seek equal treatment on behalf of the Filipino veterans of World War II.

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

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

S. 381

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

SECTION 1. PROVISION OF REDUCED SSI BENEFIT TO CERTAIN INDIVIDUALS WHO PROVIDED SERVICE TO THE ARMED FORCES OF THE UNITED STATES IN THE PHILIPPINES DURING WORLD WAR II AFTER THEY MOVE BACK TO THE PHILIPPINES.

(a) IN GENERAL.—Notwithstanding sections 1611(b), 1611(f)(1), and 1614(a)(1)(B)(i) of the Social Security Act (42 U.S.C. 1382(b), (f)(1), 1382c(a)(1)(B)(i))—

(1) the eligibility of a qualified individual for benefits under the supplemental security income program under title XVI of such Act (42 U.S.C. 1381 et seq.) shall not terminate by reason of a change in the place of residence of the individual to the Philippines; and

(2) the benefits payable to the individual under such program shall be reduced by 25 percent for so long as the place of residence of the individual is in the Philippines.

(b) QUALIFIED INDIVIDUAL DEFINED.—In subsection (a), the term ''qualified individual'' means an individual who—

(1) as of the date of enactment of this Act, is receiving benefits under the supplemental security income program under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.); and

(2) before December 31, 1946, served in the organized military forces of the Government of the Commonwealth of the Philippines while such forces were in the service of the Armed Forces of the United States pursuant to the military order of the President dated July 26, 1941, including among such military forces organized guerrilla forces under commanders appointed, designated, or subsequently recognized by the Commander in Chief, Southwest Pacific Area, or other competent military authority in the Army of the United States.●

ADDITIONAL COSPONSORS

S. 3

At the request of Mr. GRAMS, the names of the Senator from Oklahoma (Mr. INHOFE), the Senator from New Hampshire (Mr. SMITH), and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 3, a bill to amend the Internal Revenue Code of 1986 to reduce individual income tax rates by 10 percent.

S. 5

At the request of Mr. DEWINE, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 5, a bill to reduce the transportation and distribution of illegal drugs and to strengthen domestic demand reduction, and for other purposes.

S. 7

At the request of Mr. DASCHLE, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 7, a bill to modernize public schools for the 21st century.

S. 10

At the request of Mr. DASCHLE, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 10, a bill to provide health protection and needed assistance for older Americans, including access to health insurance for 55 to 65 year olds, assistance for individuals with long-term care needs, and social services for older Americans.

S. 13

At the request of Mr. SESSIONS, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 13, a bill to amend the Internal Revenue Code of 1986 to provide additional tax incentives for education.

S. 14

At the request of Mr. COVERDELL, the names of the Senator from Idaho (Mr. CRAIG), and the Senator from Missouri (Mr. ASHCROFT) were added as cosponsors of S. 14, a bill to amend the Internal Revenue Code of 1986 to expand the use of education individual retirement accounts, and for other purposes.

S. 33

At the request of Mr. THURMOND, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 33, a bill to amend title II of the Americans with Disabilities Act of 1990 and section 504 of the Rehabilitation Act of 1973 to exclude prisoners from the requirements of that title and section.

S. 74

At the request of Mr. DASCHLE, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 74, a bill to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes.

S. 98

At the request of Mr. MCCAIN, the names of the Senator from Hawaii (Mr. INOUYE), the Senator from Nebraska (Mr. HAGEL), and the Senator from Tennessee (Mr. FRIST) were added as cosponsors of S. 98, a bill to authorize appropriations for the Surface Transportation Board for fiscal years 1999, 2000, 2001, and 2002, and for other purposes.

S. 147

At the request of Mr. ABRAHAM, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 147, a bill to provide for a reduction in regulatory costs by maintaining Federal average fuel economy standards applicable to automobiles in effect at current levels until changed by law, and for other purposes.

S. 170

At the request of Mr. SMITH, the names of the Senator from Pennsylvania (Mr. SANTORUM), and the Senator from Nebraska (Mr. KERREY) were added as cosponsors of S. 170, a bill to permit revocation by members of the clergy of their exemption from Social Security coverage.

S. 185

At the request of Mr. ASHCROFT, the names of the Senator from Hawaii (Mr. INOUYE), the Senator from North Dakota (Mr. CONRAD), and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of S. 185, a bill to establish a Chief Agricultural Negotiator in the Office of the United States Trade Representative.

S. 211

At the request of Mr. MOYNIHAN, the names of the Senator from Maryland (Mr. SARBANES), the Senator from Nebraska (Mr. KERREY), and the Senator from New Jersey (Mr. TORRICELLI) were added as cosponsors of S. 211, a bill to amend the Internal Revenue Code of 1986 to make permanent the exclusion for employer-provided educational assistance programs, and for other purposes.

S. 247

At the request of Mr. HATCH, the names of the Senator from Vermont (Mr. JEFFORDS), and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 247, a bill to amend title 17, United States Code, to reform the copyright law with respect to satellite retransmissions of broadcast signals, and for other purposes.

S. 258

At the request of Mr. MCCAIN, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 258, a bill to authorize additional rounds of base closures and realignments under the Defense Base Closure and Realignment Act of 1990 in 2001 and 2003, and for other purposes.

S. 314

At the request of Mr. BOND, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 314, a bill to provide for a loan guarantee program to address the Year 2000 computer problems of small business concerns, and for other purposes.

S. 315

At the request of Mr. ASHCROFT, the names of the Senator from South Dakota (Mr. JOHNSON), the Senator from Idaho (Mr. CRAPO), the Senator from Kansas (Mr. BROWNBACK), and the Senator from North Dakota (Mr. CONRAD) were added as cosponsors of S. 315, a bill to amend the Agricultural Trade Act of 1978 to require the President to report to Congress on any selective embargo on agricultural commodities, to provide a termination date for the embargo, to provide greater assurances for contract sanctity, and for other purposes.

S. 322

At the request of Mr. CAMPBELL, the names of the Senator from Louisiana (Ms. LANDRIEU), the Senator from Minnesota (Mr. GRAMS), the Senator from Vermont (Mr. JEFFORDS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Oregon (Mr. SMITH), the Senator from Nebraska (Mr. KERREY), and the Senator from West Virginia (Mr. ROCKEFELLER) were added as cosponsors of S. 322, a bill to amend title 4, United States Code, to add the Martin Luther King Jr. holiday to the list of days on which the flag should especially be displayed.

S. 327

At the request of Mr. HAGEL, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 327, a bill to exempt agricultural products, medicines, and medical products from U.S. economic sanctions.

S. 331

At the request of Mr. JEFFORDS, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 331, a bill to amend the Social Security Act to expand the availability of health care coverage for working individuals with disabilities, to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide such individuals with meaningful opportunities to work, and for other purposes.

S. 343

At the request of Mr. BOND, the name of the Senator from Missouri (Mr. ASHCROFT) was added as a cosponsor of S. 343, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for 100 percent of the health insurance costs of self-employed individuals.

S. 344

At the request of Mr. BOND, the name of the Senator from Missouri (Mr. ASHCROFT) was added as a cosponsor of S. 344, A biil to amend the Internal Revenue Code of 1986 to provide a safe harbor for determining that certain individuals are not employees.

S. 346

At the request of Mrs. HUTCHISON, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. 346, a bill to amend title XIX of the Social Security Act to prohibit the recoupment of funds recovered by States from one or more tobacco manufacturers.

SENATE CONCURRENT RESOLUTION 5—EXPRESSING CONGRESSIONAL OPPOSITION TO THE UNILATERAL DECLARATION OF A PALESTINIAN STATE AND URGING THE PRESIDENT TO ASSERT CLEARLY UNITED STATES OPPOSITION TO SUCH A UNILATERAL DECLARATION OF STATEHOOD

Mr. MURKOWSKI (for himself, Mr. WYDEN, Mr. MACK, Mr. SMITH of Oregon, Mr. HATCH, Mr. KERREY of Nebraska, Mr. FITZGERALD, Mr. HELMS, Mr. ASHCROFT, Mr. SCHUMER, Mr. TORRICELLI, Mr. GRAMS, and Mr. LAUTENBERG) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 5

Whereas at the heart of the Oslo peace process lies the basic, irrevocable commitment made by Palestinian Chairman Yasir Arafat that, in his words, ''all outstanding issues relating to permanent status will be resolved through negotiations'';

Whereas resolving the political status of the territory controlled by the Palestinian Authority while ensuring Israel's security is one of the central issues of the Israeli-Palestinian conflict;

Whereas a declaration of statehood by the Palestinians outside the framework of negotiations would, therefore, constitute a most fundamental violation of the Oslo process;

Whereas Yasir Arafat and other Palestinian leaders have repeatedly threatened to declare unilaterally the establishment of a Palestinian state;

Whereas the unilateral declaration of a Palestinian state would introduce a dramatically destabilizing element into the Middle East, risking Israeli countermeasures, a quick descent into violence, and an end to the entire peace process; and

Whereas in light of continuing statements by Palestinian leaders, United States opposition to any unilateral Palestinian declaration of statehood should be made clear and unambiguous: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That—

(1) the final political status of the territory controlled by the Palestinian Authority can only be determined through negotiations and agreement between Israel and the Palestinian Authority;

(2) any attempt to establish Palestinian statehood outside the negotiating process will invoke the strongest congressional opposition; and

(3) the President should unequivocally assert United States opposition to the unilateral declaration of a Palestinian State, making clear that such a declaration would be a grievous violation of the Oslo accords and that a declared state would not be recognized by the United States.

SENATE RESOLUTION 32—TO EXPRESS THE SENSE OF THE SENATE REAFFIRMING THE CARGO PREFERENCE POLICY OF THE UNITED STATES

Mr. INOUYE submitted the following resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. RES. 32

Resolved,

Whereas the maritime policy of the United States expressly provides that the United States have a merchant marine sufficient to carry a substantial portion of the international waterborne commerce of the United States;

Whereas the maritime policy of the United States expressly provides that the United States have a merchant marine sufficient to serve as a fourth arm of defense in time of war and national emergency;

Whereas the Federal Government has expressly recognized the vital role of the United States merchant marine during Operation Desert Shield and Operation Desert Storm;

Whereas cargo reservation programs of Federal agencies are intended to support the privately owned and operated United States-flag merchant marine by requiring a certain percentage of government-impelled cargo to be carried on United States-flag vessels;

Whereas when Congress enacted Federal cargo reservation laws Congress contemplated that Federal agencies would incur higher program costs to use the United States-flag vessels required under such laws;

Whereas section 2631 of title 10, United States Code, requires that all United States military cargo be carried on United States-flag vessels;

Whereas Federal law requires that cargo purchased with loan funds and guarantees from the Export-Import Bank of the United States established under section 635 of title 12, United States Code, be carried on United States-flag vessels;

Whereas section 901b of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241f) requires that 75 percent of the gross tonnage of certain agricultural exports that are the subject of an export activity of the Commodity Credit Corporation or the Secretary of Agriculture be carried on United States-flag vessels;

Whereas section 901(b) of such Act (46 U.S.C. App. 1241(b)) requires that at least 50 percent of the gross tonnage of other ocean borne cargo generated directly or indirectly by the Federal Government be carried on United States-flag vessels;

Whereas cargo reservation programs are very important for the shipowners of the United States who require compensation for maintaining a United States-flag fleet;

Whereas the United States-flag vessels that carry reserved cargo provide quality jobs for seafarers of the United States;

Whereas, according to the most recent statistics from the Maritime Administration, in 1997, cargo reservation programs generated $900,000,000 in revenue to the United States fleet and accounted for one-third of all revenue from United States-flag foreign trade cargo;

Whereas the Maritime Administration has indicated that the total volume of cargoes moving under the programs subject to Federal cargo reservation laws is declining and will continue to decline;

Whereas, in 1970 Congress found that the degree of compliance by Federal agencies with the requirements of the cargo reservation laws was chaotic, uneven, and varied from agency to agency;

Whereas, to ensure maximum compliance by all agencies with Federal cargo reservation laws, Congress enacted the Merchant Marine Act of 1970 (Public Law 91–469) to centralize monitoring and compliance authority for all cargo reservation programs to the Maritime Administration;

Whereas, notwithstanding section 901(b) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(b)), and the purpose and policy of the Federal cargo reservation programs, compliance by Federal agencies with Federal cargo reservation laws continues to be inadequate;

Whereas the Maritime Administrator cited the limited enforcement powers of the Maritime Administration with respect to Federal agencies that fail to comply with section 901(b) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(b)) and other Federal cargo reservation laws; and

Whereas the Maritime Administrator recommended that Congress grant the Maritime Administration the authority to settle any cargo reservation disputes that may arise between a ship operator and a Federal agency: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) each Federal agency shall administer programs of the Federal agency that are subject to Federal cargo reservation laws (including regulations of the Maritime Administration) to ensure that such programs are in compliance with the intent and purpose of such cargo reservation laws; and

(2) the Maritime Administration shall closely and strictly monitor any cargo that is subject to such cargo reservation laws and shall provide directions and decisions to such Federal agencies as will ensure maximum compliance with the cargo preference laws.

• Mr. INOUYE. Mr. President, the law of the land, specifically section (1) of the Merchant Marine Act of 1936, declares that the United States shall have a merchant marine sufficient to, among other things, carry a substantial portion of our international waterborne commerce and to serve as a fourth arm of defense in time of war and national emergency.

The importance of these requirements has been dramatically illustrated by the vital role of our merchant marine in World War II, Korea, Vietnam, during operations Desert Shield and Desert Storm, and most recently in Haiti, Somalia, and Bosnia.

While the privately owned and operated U.S.-flag merchant marine has performed so magnificently and effectively in times of crisis, it has also made extraordinary efforts to ensure that a substantial portion of commercial cargo bound to and from the United States moves on U.S. vessels. Given the chronic overtonnaging in international shipping, cut-throat competition, and the competitive edge our trading partners give their national flags, this has not been easy. In addition to competition with subsidized foreign carriers, U.S.-flag carriers are forced to complete with flag of convenience carriers. Over two-thirds of the