By Ms. SNOWE:

S. 1956. A bill to amend title 38, United States Code, to enhance the assurance of efficiency, quality, and patient satisfaction in the furnishing of health care to veterans by the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans Affairs.

By Mr. SCHUMER (for himself, Mr. ROBB, and Ms. MIKULSKI):

S. 1957. A bill to provide for the payment of compensation to the families of the Federal employees who were killed in the crash of a United States Air Force CT-43A aircraft on April 3, 1996, near Dubrovnik, Croatia, carrying Secretary of Commerce Ronald H. Brown and 34 others; to the Committee on Armed Services.

By Mr. KOHL:

S. 1958. A bill to amend the Child Nutrition Act of 1966 to authorize the Secretary of Agriculture to make grants for startup costs of school breakfast programs; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HARKIN:

S. 1959. A bill to provide for the fiscal responsibility of the Federal Government; to the Committee on Finance.

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

S. 1960. A bill to provide for the appointment of 1 additional Federal district judge for the eastern district of Wisconsin, and for other purposes; to the Committee on the Judiciary.

By Mr. JOHNSON (for himself, Mr. KERREY, and Mr. WELLSTONE):

S. 1961. A bill to amend the Food Security Act of 1985 to expand the number of acres authorized for inclusion in the conservation reserve; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. ASHCROFT:

S. 1962. A bill to amend the Congressional Budget Act of 1974 to protect Social Security and Medicare surpluses through strengthened budgetary enforcement mechanisms; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. MCCAIN:

S. 1963. A bill to authorize a study of alternatives to the current management of certain Federal lands in Arizona; to the Committee on Energy and Natural Resources.

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

S. 1964. A bill to designate the United States Post Office located at 14071 Peyton Drive in Chino Hills, California, as the Joseph Ileto Post Office; to the Committee on Governmental Affairs.

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

S. 1965. A bill to direct the Secretary of the Interior, the Bureau of Reclamation, to conduct a feasibility study on the Jicarilla Apache Reservation in the State of New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HAGEL (for himself and Mr. ROBERTS):

S. 1966. A bill to provide for the immediate review by the Immigration and Naturalization Service of new employees hired by employers subject to Operation Vanguard or similar programs, and for other purposes; to the Committee on the Judiciary.

By Mr. COCHRAN (for himself and Mr. LOTT):

S. 1967. A bill to make technical corrections to the status of certain land held in trust for the Mississippi Band of Choctaw Indians, to take certain land into trust for that Band, and for other purposes; to the Committee on Indian Affairs.

By Mr. DORGAN:

S. 1968. A bill to amend the Federal securities laws to enhance oversight over certain derivatives dealers and hedge funds, reduce the potential for such entities to increase systemic risk in the financial markets, enhance investor protections, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. CRAIG (for himself, Mr. MURKOWSKI, and Mr. THOMAS):

S. 1969. A bill to provide for improved management of, and increases accountability for, outfitted activities by which the public gains access to and occupancy and use of Federal land, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SPECTER:

S. 1970. A bill to amend chapter 171 of title 28, United States Code, with respect to the liability of the United States for claims of military personnel for damages for certain injuries; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. BAUCUS (for himself and Mr. BURNS):

S. Res. 233. A resolution expressing the sense of the Senate regarding the urgent need for the department of Agriculture to resolve certain Montana civil rights discrimination cases; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. LEAHY (for himself, Mr. KENNEDY, Mrs. FEINSTEIN, Mr. JEFFORDS, Mr. TORRICELLI, Mrs. MURRAY, Mr. DURBIN, Mr. WELLSTONE, Mr. FEINGOLD, Mr. HARKIN, Mr. KERRY, Ms. MIKULSKI, and Mrs. BOXER):

S. Con. Res. 76. A concurrent resolution expressing the sense of Congress regarding a peaceful resolution of the conflict in the state of Chiapas, Mexico and for other purposes; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DASCHLE (for himself, Mr. HARKIN, Mr. INOUYE, Mr. REID, and Mr. JOHNSON):

S. 1955. A bill to allow patients access to drugs and medical devices recommended and provided by health care practitioners that are not approved by the Food and Drug Administration, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

ACCESS TO MEDICAL TREATMENT ACT

Mr. DASCHLE. Mr. President, today I am introducing the Access to Medical Treatment Act. I am pleased to be joined by Senators HARKIN, REID, INOUYE and JOHNSON in this effort to increase individuals' freedom of choice in health care.

At the outset, I want to extend my thanks to my friend Berkley Bedell, who formerly represented the 6th District of Iowa, for first bringing this issue to my attention and for his assistance in developing this bill. Berkley Bedell has experienced first-hand the life-saving potential of alternative treatments. His story underscores the need for the legislation I am introducing today and the importance of a national debate on ways to promote consumer choice and expand access to promising new medical treatments.

American consumers have already voted for expanded access to alternative treatments with their feet and their pocket-books. The Journal of the American Medical Association recently published a study by David Eisenberg and others that found that Americans spent nearly $27 billion on alternative therapies in 1997. Americans made more visits to alternative practitioners—a total of 629 million—than to primary care doctors. Expenditures for alternative medicine professional services increased 45.2 percent between 1990 and 1997 to $21.2 billion. Some type of alternative therapy is used by 46.3 percent of the American population.

Alternative therapies are also being incorporated into mainstream medical programs and practice. The curriculum of at least 22 of the nation's 125 medical schools include courses on alternative medicine. The National Institutes of Health now has a Center for Complementary and Alternative Medicine where work is underway to expand our knowledge of alternative therapies and their safe and effective use.

Despite the growing reliance on many types of alternative medicine, other alternative therapies remain unavailable because they do not fit the categories already carved out by Congress for exemption from the requirement to gain FDA approval. My bill would increase access to treatments that would normally be regulated by the FDA, but have not yet undergone the expensive and lengthy process currently required to gain FDA approval.

Given the popularity of alternative medicine among the American public and its growing acceptance among traditional medical practitioners, it would seem logical to remove some of the access barriers that consumers face when seeking certain alternative therapies. The time and expense currently required to gain FDA approval both discourages the exploration of innovative, life-saving treatments by individual practitioners, scientists and smaller companies and limits patient access to low-cost treatments.

Mr. President, the Access to Medical Treatment Act proposes one way to expand freedom of choice for medical consumers under carefully controlled situations. It asserts that individuals—especially those who face life-threatening afflictions for which conventional treatments have proven ineffective—should have the option of trying an alternative treatment, so long as they have been fully informed of the nature of the treatment, potential side effects, and given any other information necessary to meet carefully-crafted informed consent requirements. This is a choice that is rightly made by the consumer, and not dictated by the

Federal government. All treatments sanctioned by this Act must be prescribed by an authorized health care practitioner who has personally examined the patient. The practitioner must fully disclose all available information about the safety and effectiveness of any medical treatment, including questions that remain unanswered because the necessary research has not been conducted. Patients must be informed of any possible side effects or interactions with other drugs.

The bill carefully restricts the ability of practitioners to advertise or market unapproved drugs or devices or to profit financially from prescribing alternative medicine. This provision was included to ensure that practitioners keep the best interests of patients in mind and to retain incentives for seeking FDA approval. If an individual or a company wants to earn a profit from a product, they would be wise to go through the standard FDA approval process.

The bill protects patients by requiring practitioners to report any adverse reaction that could potentially have been caused by an unapproved drug or medical device. If an adverse reaction is reported, manufacture and distribution of the drug must cease pending a thorough investigation. If it is determined that the adverse reaction was caused by the drug or medical device, as a part of a total recall, the Secretary of the Department of Health and Human Services, along with the manufacturer, has the duty to inform all health care practitioners to whom the drug or device has been provided.

This legislation will help build a knowledge base regarding alternative treatments by requiring practitioners to report on effectiveness. This is critical because current information available about the effectiveness of many promising treatments is inadequate. The information generated through this Act will begin to reverse this reality, particularly because information will be collected and analyzed by the Center for Alternative Medicine at the National Institutes of Health.

In essence, this legislation addresses the fundamental balance between two seemingly irreconcilable interests: the protection of patients from dangerous and ineffective treatments and the preservation of the consumers' freedom to choose alternative therapies. The complexity of this policy challenge should not discourage us from seeking to solve it. I am convinced that the public good will be served by a serious attempt to reconcile these contradictory interests, and I am hopeful the discussion generated by introduction of this legislation will help point the way to its resolution.

Mr. President, this legislation represents an honest attempt to focus serious attention on the value of alternative treatments and overcome current obstacles to their safe development and utilization.

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:

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 ''Access to Medical Treatment Act''.

SEC. 2. DEFINITIONS.

In this Act:

(1) ADULTERATED.—The term ''adulterated'' means any unapproved drug or medical device that in whole or part consists of any filthy, putrid, or decomposed substance that has been prepared, packed, or held under unsanitary conditions where such drug or device may have been contaminated with such filthy, putrid, or decomposed substance and be injurious to health.

(2) ADVERTISING CLAIM.—The term ''advertising claim'' means any representation made or suggested by statement, word, device, sound, or any combination thereof with respect to medical treatment.

(3) COSTS.—The term ''costs'' means a charge to patients equal to the amount necessary to recover expenses for making or obtaining the unapproved drug or medical device and providing for its transport to the health care practitioner.

(4) DANGER.—The term ''danger'' means an adverse reaction, to an unapproved drug or medical device, that used as directed—

(A) causes serious harm to the patient in a case in which such harm would not have otherwise occurred; or

(B) causes harm that is more serious than side effects for drugs or medical devices approved by the Federal Food and Drug Administration for the same disease or condition.

(5) DRUG.—The term ''drug'' has the same meaning given that term in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)).

(6) HEALTH CARE PRACTITIONER.—The term ''health care practitioner'' means a physician or other individual who is a provider of health care, who is authorized under the law of a State to prescribe drugs or devices.

(7) INTERSTATE COMMERCE.—The term ''interstate commerce'' means commerce between any State or Territory and any place outside thereof, and commerce within the District of Columbia or within any other Territory not organized with a legislative body.

(8) LEGAL REPRESENTATIVE.—The term ''legal representative'' means a parent or other person who qualifies as a legal guardian under State law.

(9) MEDICAL DEVICE.—The term ''medical device'' has the same meaning given the term ''device'' in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)).

(10) PATIENT.—The term ''patient'' means any person who seeks medical treatment from a health care practitioner for a disease or health condition.

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

(12) UNAPPROVED DRUG OR MEDICAL DEVICE.—The term ''unapproved'', with respect to a drug or medical device, means a drug or medical device that is not approved or authorized for manufacture, sale, and distribution in interstate commerce under section 505, 513, or 515 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355, 360c, and 360e) or under section 351 of the Public Health Service Act (42 U.S.C. 201).

SEC. 3. ACCESS TO MEDICAL TREATMENT.

(a) IN GENERAL.—Notwithstanding sections 501(a)(2)(B), 501(e) through 501(h), 502(f)(1), 505, 513, and 515 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351(a)(2)(B), 351(e) through 351(h), 352(f)(1), 355, 360c, and 360e) and section 351 of the Public Health Service Act (42 U.S.C. 201) or any other provision of Federal law, a patient may receive, and a health care practitioner may provide or administer, any unapproved drug or medical device that the patient desires or the legal representative of the patient authorizes if—

(1) the unapproved drug or medical device is recommended by a health care practitioner within that practitioner's scope of practice under State law;

(2) the provision or administration of the unapproved drug or medical device is not a violation of the laws of the State or States in which the activity is carried out; and

(3) the health care practitioner abides by all of the requirements in subsection (b).

(b) REQUIREMENTS.—A health care practitioner may recommend, provide or administer any unapproved drug or medical device for a patient, pursuant to subsection (a), if that practitioner—

(1) does not violate State law by providing or administering the unapproved drug or medical device;

(2) does not violate the Controlled Substances Act (21 U.S.C. 801 et seq.) by providing or administering the unapproved drugs;

(3) has concluded based on generally accepted principles and current information that the unapproved drug or medical device, when used as directed, will not cause a danger to the patient;

(4) provides the recommendation under circumstances that give the patient sufficient opportunity to consider whether or not to use such a drug or medical device and that minimize the possibility of coercion or undue influence by the health care practitioner;

(5) discloses to the patient any financial interest that such a practitioner may have in the drug or medical device;

(6) has informed the patient in writing, prior to recommending, providing, or administering the unapproved drug or medical device—

(A) that the unapproved drug or medical device is not approved by the Secretary as safe and effective for the condition of the patient and is considered experimental;

(B) of the foreseeable risks and benefits of the unapproved drug or medical device, including any risk to an embryo or fetus, and expected possible side effects or discomforts that the patient may experience and any medical treatment available if side affects occur;

(C) of any appropriate alternative procedures or courses of treatment (including procedures or courses of treatment that may involve the use of a drug or medical device that has been approved by the Food and Drug Administration), if any, that may be advantageous for the patient's condition;

(D) of any interactions the unapproved drug or medical device may have with other drugs, if any;

(E) of the active and inactive ingredients of the unapproved drug and the mechanism of action of the medical device, if known;

(F) of the health condition for which the unapproved drug or medical device is provided, the method of administration that will be used, and the unit dose;

(G) of the procedures that will be employed by the health care practitioner in using such a drug or medical device;

(H) of the extent, if any, to which confidentiality of records identifying the patient will be maintained;

(I) for use of such a drug or medical device involving more than minimal risk, of the treatments available if injury occurs, what such treatments involve, and where additional information regarding such treatments may be obtained;

(J) of any anticipated circumstances under which the patient's use of such a drug or medical device may be terminated by the health care practitioner without regard to the patient's consent;

(K) that the use of an such a drug or medical device is voluntary and that the patient may suspend or terminate treatment at any time;

(L) of the consequences of a patient's decision to withdraw from the use of such a drug or medical device;

(M) if any information described in subparagraphs (A) through (L) cannot be provided by the health care practitioner because such information is not known at the time the practitioner provides or administers such drug or medical device, that such information cannot be provided by the practitioner; and

(N) of any other information or disclosures required by applicable State law for the administration of experimental drugs or medical devices to human subjects;

(7) has not made, except as provided in subsection (d), any advertising claims for the unapproved drug or medical device;

(8) does not impose a charge for the unapproved drug or medical device in excess of costs;

(9) complies with requirements for reporting a danger in section 4; and

(10) has received a signed affidavit from the patient or the patient's legal representative confirming that the patient or the legal representative—

(A) has received the written information required by this subsection and understands it; and

(B) desires treatment with the unapproved drug or medical device as recommended by the health care practitioner.

(c) MANDATORY DISCLOSURE.—Any manufacturer of an unapproved drug or medical device shall disclose, to any health care practitioner that has received such drug or medical device from such manufacturer, all information available to such manufacturer regarding such drug or medical device to enable such practitioner to comply with the requirements of subsection (b)(3) and make a determination regarding the danger posed by such drug or medical device. Compliance with this subsection shall not constitute a violation of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

(d) ADVERTISING CLAIMS EXCEPTION.—Subsection (b)(7) shall not apply to a health care practitioner's dissemination of information on the results of the practitioner's administration of the unapproved drug or medical device in a peer-reviewed journal, through academic or professional forums, or through statements by a practitioner to a patient. Subsection (b)(7) shall not apply to any accurate and truthful statement made in person by a health care practitioner to an individual or a prospective patient.

SEC. 4. CESSATION OF USE, AND REPORTING OF, DANGEROUS DRUGS AND MEDICAL DEVICES.

(a) DUTY TO PROTECT PATIENT.—If a health care practitioner discovers that an unapproved drug or medical device causes a danger to a patient, the practitioner shall immediately cease use and recommendation of the unapproved drug or medical device and provide to the manufacturer of the unapproved drug or medical device and the Director of the Centers for Disease Control and Prevention—

(1) a written evaluation of the patient's medical condition before and after administration of the unapproved drug or medical device;

(2) a written evaluation of the adverse reaction, including its physiological manifestations, duration, and the effect of cessation of treatment upon the patient's condition;

(3) any other information the health care practitioner deems pertinent to an evaluation of the adverse reaction;

(4) the name, occupation, business address, and business telephone number of the physician;

(5) the name of the unapproved drug or medical device and a description of the method of administration and operation, dosage, and duration of treatment;

(6) the lot number, if any, of the unapproved drug or medical device; and

(7) an affidavit pursuant to section 1746 of title 28, United States Code, confirming that all statements made to the manufacturer are accurate.

(b) MANUFACTURER'S DUTY TO REPORT.—Any manufacturer of an unapproved drug or medical device that receives information provided under subsection (a) shall immediately—

(1) cease sale and distribution of the unapproved drug or medical device pending completion of an investigation to determine the actual cause of the danger;

(2) notify all health care practitioners to whom the manufacturer has provided the unapproved drug or medical device of the information provided to the manufacturer under subsection (a); and

(3) report to the Secretary in writing that an unapproved drug or medical device (identified by name, known method of operation, unit dose, and intended use) that the manufacturer provided to a health care practitioner for administration under this Act has been reported to be a danger to a patient and confirming that the manufacturer—

(A) has ceased sale and distribution of the unapproved drug or medical device pending completion of an investigation to determine the actual cause of the danger; and

(B) has notified health care practitioners to which the unapproved drug or medical device has been sent of the information it has received.

(c) INVESTIGATION.—

(1) IN GENERAL.—The Director of the Centers for Disease Control and Prevention, upon receipt of the information described in subsection (a), shall conduct an investigation of the unapproved drug or medical device that a health care practitioner has determined to cause a danger to a patient in order to make a determination of the actual cause of such danger.

(2) REPORT TO SECRETARY.—The Director of the Centers for Disease Control and Prevention shall prepare and submit a report to the Secretary regarding the determination made under paragraph (1), including a determination concerning whether the unapproved drug or medical device is or is not the actual cause of danger or whether the actual cause of danger cannot be determined.

(3) DUTY OF SECRETARY.—Upon receipt of the report described in paragraph (2), the Secretary shall—

(A) if the Director of the Centers for Disease Control and Prevention determines that the cause of such danger is the unapproved drug or medical device, direct the manufacturer of such drug or medical device to—

(i) cease manufacture, sale, and distribution of such drug or medical device; and

(ii) notify all health care practitioners to whom the manufacturer has provided such drug or medical device to cease using or recommending such drug or medical device, and to return such drug or medical device to the manufacturer as part of a complete recall;

(B) if the Director of the Centers for Disease Control and Prevention determines that the cause of such danger is not such drug or medical device, direct the manufacturer of such drug or medical device to inform all health care practitioners to whom the manufacturer has provided such drug or medical device of such a determination; and

(C) if the Director of the Centers of Disease Control and Prevention cannot determine the cause of the danger, direct the manufacturer of the drug or medical device to inform all health care practitioners to whom the manufacturer has provided such drug or medical device of such a determination.

(d) SECRETARY'S DUTY TO INFORM.—Upon receipt of the report described in subsection (b)(3), the Secretary shall promptly disseminate information concerning the danger to all health care practitioners in the United States, to the Director of the National Center for Complementary and Alternative Medicine, and to agencies of the States that have responsibility for regulating unsafe or adulterated drugs and medical devices.

SEC. 5. REPORTING OF RESULTS OF UNAPPROVED DRUGS AND MEDICAL DEVICES.

(a) REPORTING OF RESULTS.—If a health care practitioner provides or administers an unapproved drug or medical device, that in the opinion of the health care practitioner, produces results that are more beneficial than results produced from any drug or medical device approved by the Food and Drug Administration, or produces other results regarding the effectiveness of the treatment relative to treatments approved by the Food and Drug Administration for the same condition, the practitioner shall provide to the manufacturer—

(1) the results of the administration of the drug or device;

(2) a written evaluation of the patient's medical condition before and after administration of the unapproved drug or medical device;

(3) the name, occupation, business address, and business telephone number of the physician;

(4) the name of the unapproved drug or medical device and a description of the method of operation and administration, dosing, and duration of treatment; and

(5) an affidavit pursuant to section 1746 of title 28, United States Code, confirming that all statements made to the manufacturer are accurate.

(b) MANUFACTURER'S DUTY TO REPORT.—Any manufacturer of an unapproved drug or medical device that receives information under subsection (a) shall provide to the Director of the National Center for Complementary and Alternative Medicine—

(1) a complete copy of the information;

(2) the name, business address, and business telephone number of the manufacturer;

(3) the name, business address, and business telephone number of the health care practitioner who supplied information to the manufacturer;

(4) the name of the unapproved drug or medical device;

(5) the known method of operation and administration of the unapproved drug or medical device;

(6) the per unit dose; and

(7) the intended use of the unapproved drug or medical device.

(c) DIRECTOR'S DUTY TO MAKE PUBLIC.—The Director of the National Center for Complementary and Alternative Medicine shall review and analyze information received pursuant to subsection (b) about an unapproved

drug or medical device and make available, on an Internet website and in writing upon request by any individual, an annual review and analysis of such information, and include a statement that such drug or medical device is not approved by the Food and Drug Administration.

SEC. 6. OTHER LAWS NOT AFFECTED BY THIS ACT.

This Act shall not be construed to have any effect on section 503A of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353a) nor does this Act supersede any law of a State or political subdivision of a State, including laws governing rights and duties among health care practitioners and patients. This Act shall also not apply to statements or claims permitted or authorized under sections 403 and 403B of such Act (21 U.S.C. 343, 343-2). This Act shall not in any way adversely affect the distribution and marketing of vitamins and supplements.

SEC. 7. AUTHORIZED ACTIVITIES OF HEALTH CARE PRACTITIONERS.

(a) INTRODUCTION IN INTERSTATE COMMERCE.—To the extent necessary to comply with this Act, a health care practitioner may—

(1) introduce an unapproved drug or medical device into interstate commerce;

(2) deliver an unapproved drug or medical device for introduction into such commerce;

(3) transport an unapproved drug or medical device in such commerce;

(4) receive an unapproved drug or medical device in such commerce and deliver the unapproved drug or medical device; and

(5) hold an unapproved drug or medical device for sale after shipment of the unapproved drug or medical device in such commerce.

(b) RULE OF CONSTRUCTION.—This Act shall not be construed to limit or interfere with the authority of a health care practitioner to prescribe, recommend, provide or administer to a patient for any condition or disease any unapproved drug or medical device lawful under the law of the State or States in which the health care practitioner practices.

SEC. 8. PENALTY.

A health care practitioner or manufacturer found to have knowingly violated this Act shall be denied coverage under this Act.

Mr. HARKIN. Mr. President, I am pleased to join Senator DASCHLE today for the introduction of the Access to Medical Treatment Act. This bill will allow greater freedom of choice and increased access in the realm of medical treatments, while preventing abuses of unscrupulous entrepreneurs. The Access to Medical Treatment Act allows individual patients and their properly licensed health care provider to use certain alternative and complementary therapies not approved by the Food and Drug Administration (FDA).

Mr. President, we have made several important changes to the legislation from last Congress.

We have improved the informed consent protections for patients by modeling them after the NIH's human subject protection regulations. The patient must be fully informed, orally and in writing of: the nature, content and methods of the medical treatment; that the treatment is not approved by the FDA; the anticipated benefits AND risks of the treatment; any reasonably foreseeable side effects that may result; the results of past applications of the treatment by the health care provider and others; the comparable benefits and risks of any available FDA-approved treatment conventionally used for the patient's condition; and any financial interest the provider has in the product.

Providers and manufacturers are required to report to the Centers for Disease Control and Prevention (CDC) any adverse effects, and must immediately cease use and manufacture of the product, pending a CDC investigation. The CDC is required to conduct an investigation of any adverse effects, and if the product is shown to cause any danger to patients, the physician and manufacturers are required to immediately inform all providers who have been using the product of the danger.

Our legislation ensures the public's access to reliable information about complementary and alternative therapies by requiring providers and manufacturers to report the results of the use of their product to the National Center for Complementary and Alternative Medicine at NIH, which is then required to compile and analyze the information for an annual report.

In addition, the provider and manufacturer may make no advertising claims regarding the safety and effectiveness of the treatment of therapy, and FDA has the authority to determine that the labeling of the treatment is not false or misleading.

Mr. President, this legislation preserves the consumer's freedom to choose alternative therapies while addressing the fundamental concern of protecting patients from dangerous treatments and those who would advocate unsafe and ineffective therapies.

It wasn't long ago that William Roentgen was afraid to publish his discovery of X-rays as a diagnostic tool. He knew they would be considered an ''alternative medical practice'' and widely rejected by the medical establishment. As everyone knows, X-rays are a common diagnostic tool today. Well into this century, many scientists resisted basic antiseptic techniques as quackery because they refused to accept the germ theory of disease. I think we can all be thankful the medical profession came around on that one.

In addition, the Office of Technology Assessment reported in a 1978 study that only about 25 percent of the practices of mainstream medicine were based on scientific evidence. And there is little evidence that has changed in the past two decades.

Today's consumers want alternatives. They want less invasive, less expensive preventive options. Americans want to stay healthy. And they are speaking with their feet and their pocketbooks. Mr. President, Americans spend $30 billion annually on unconventional therapies. According to a recent survey published in the Journal of the American Medical Association (JAMA), nearly one-half of Americans use some kind of complementary and alternative medicine. These practices, which range from acupuncture, to chiropractic care, to naturopathic, herbal and homeopathic remedies, are not simply complementary and alternative, but integral to how millions of Americans manage their health and treat their illnesses.

This legislation simply provides patients the freedom to use—with strong consumer protections—the complementary and alternative therapies and treatments that have the potential to relieve pain and cure disease. I thank Senator DASCHLE for his leadership on this issue, and urge my colleagues to cosponsor this bill.

By Ms. SNOWE:

S. 1956. A bill to amend title 38, United States Code, to enhance the assurance of efficiency, quality, and patient satisfaction in the furnishing of health care to veterans by the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

THE VETERANS HEALTH CARE QUALITY ASSURANCE ACT

Ms. SNOWE. Mr. President, I rise today to introduce the Veterans Health Care Quality Assurance Act of 1999.

This legislation contains a number of proposals designed to ensure that access to high quality medical services for our veterans is not compromised as the Department of Veterans Affairs—the VA—strives to increase efficiency in its nationwide network of veterans hospitals.

Mr. President, the VA administers the largest health care network in the U.S., including 172 hospitals, 73 home care programs, over 800 community-based outpatient clinics, and numerous other specialized care facilities.

Moreover, there are approximately 25 million veterans in the U.S., including approximately 19.3 million wartime veterans, and the number of veterans seeking medical care in VA hospitals is increasing. The FY99 VA medical care caseload was projected to increase by 160,000 veterans over the FY98 level, and is projected to increase by an additional 54,000 in FY00, reaching a total of 3.6 million veterans, an increase from 2.7 million in FY97. In FY00, outpatient visits at VA medical facilities are projected to increase by 2.5 million to 38.3 million. The average age of veterans is increasing as well, and this is expected to result in additional demands for health care services, including more frequent and long-term health needs.

The VA is attempting to meet this unprecedented demand for health care services without substantial increases in funding, largely through efforts to increase efficiency. Not surprisingly, these seemingly competing objectives are generating serious concerns about the possibility that quality of care and/or patient satisfaction are being sacrificed.

Mr. President, many VA regional networks and medical center directors report that timely access to high quality health care is being jeopardized,

and that is why I am introducing the Veterans Health Care Quality Assurance Act, legislation which seeks to ensure that no veteran's hospital is targeted unfairly for cuts, and that efforts to ''streamline'' and increase efficiency are not followed by the unintended consequence of undermining quality of care or patient satisfaction.

I believe that all veterans hospitals should be held to the same equitable VA-wide standards, and that quality and satisfaction must be guaranteed. Toward that end, the Veterans Health Care Quality Assurance Act calls for audits of every VA hospital every three years. This will ensure that each facility is subject to an outside, independent review of its operations on a regular basis, and each audit will include findings on how to improve services to our veterans.

The legislation will also establish an Office of Quality Assurance within the VA to ensure that steps taken to increase efficiency in VA medical programs do not undermine quality or patient satisfaction. This office will collect and disseminate information on efforts that have proven to successfully increase efficiency and resource utilization without undermining quality or patient satisfaction. The director of this new Office of Quality Assurance should be an advocate for veterans and would be placed in the appropriate position in the VA command structure to ensure that he or she is consulted by the VA Secretary and Under Secretary for Veterans Health on matters that impact quality or satisfaction.

The bill would require an initial report to Congress within six months of enactment, which would include a survey of each VA regional network and a report on each network's efforts to increase efficiency, as well as an assessment of the extent to which each network and VA hospital is or is not implementing the same uniform, VA-wide policies to increase efficiency.

Under the bill's reporting requirement, the VA would also be required to publish—annually—an overview of VA-wide efficiency goals and quality/satisfaction standards that each veterans facility should be held to. Further, the VA would be required to report to Congress on each hospital's standing in relation to efficiency, quality, and satisfaction criteria, and how each facility compares to the VA-wide average.

In an effort to encourage innovation in efforts to increase efficiency within the agency, the bill would encourage the dissemination and sharing of information throughout the VA in order to facilitate implementation of uniform, equitable efficiency standards.

Finally, Mr. President, the bill includes provisions calling for sharing of information on efforts to maximize resources and increase efficiency without compromising quality of care and patient satisfaction; exchange and mentoring initiatives among and between networks in order to facilitate sharing of such information; incentives for networks to increase efficiency and meet uniform quality/patient satisfaction targets; and formal oversight by the VA to ensure that all networks are meeting uniform efficiency criteria and that efforts to increase efficiency are equitable between networks and medical facilities.

Last week America celebrated Veterans Day 1999—81 years after the Armistice was signed in France that silenced the guns and ended the carnage of World War I. World War I was supposed to be ''the war to end all wars'' . . . the war that made the world safe for democracy. Sadly, that was not to be, and America has been repeatedly reminded that the defense of democracy is an on-going duty.

Mr. President, keeping our promise to our veterans is also an ongoing duty. The debt of gratitude we owe to our veterans can never be fully repaid. What we can and must do for our veterans is repay the financial debt we owe to them. Central to that solemn duty is ensuring that the benefits we promised our veterans when they enlisted are there for them when they need them.

I consider it a great honor to represent veterans, these brave Americans. So many of them continue to make contributions in our communities upon their transition from military to civilian life—through youth activities and scholarship programs, homeless assistance initiatives, efforts to reach out to fellow veterans in need, and national leadership on issues of importance to veterans and all Americans. The least we can do is make good on our promise, such as the promise of access to high quality health care.

I have nothing but the utmost respect for those who have served their country, and this legislation is but a small tribute to the men and women and their families who have served this country with courage, honor and distinction. They answered the call to duty when their country needed them, and this is a component of my on-going effort to ensure that we, as elected officials, answer their call when they need us.

I urge my colleagues to join me in supporting this legislation.

By Mr. KOHL:

S. 1958. A bill to amend the Child Nutrition Act of 1966 to authorize the Secretary of Agriculture to make grants for startup costs of school breakfast programs; to the Committee on Agriculture, Nutrition, and Forestry.

LEGISLATION TO IMPROVE PARTICIPATION IN THE SCHOOL BREAKFAST PROGRAM

Mr. KOHL. Mr. President, I rise to introduce legislation that will go far in helping children start their school day ready to learn.

The relationship between a healthy breakfast and both behavior and academic achievement has been documented by a number of studies. Fortunately, participation of schools in the School Breakfast program has increased steadily since the program was made permanent in 1975. According to the School Breakfast Scorecard, a report recently released by the Food Research and Action Center (FRAC), a record number of schools—70,000—provided breakfast to school children last year. And nearly half of our states have 80 percent or more of their schools serving both lunch and breakfast under the National School Lunch and School Breakfast programs.

That's good news. The bad news is that the gulf between states with the highest rates of school participation in breakfast and those with the lowest is wide. 20 percent of our states have fewer than 55 percent of their schools participating in both breakfast and lunch; that's a full 20 points below the national average. In my home state of Wisconsin, only 30 percent of the schools that serve lunch also serve breakfast.

By another measure—participation of low-income children in both school lunch and breakfast—the results from the Scorecard are equally concerning. Nationally, only 42 percent of the kids receiving a free or reduced price lunch are also receiving breakfast; some states have fewer than 25 percent of kids receiving a free or reduced price lunch also receiving school breakfast.

The bill I am introducing today would help states provide an additional financial incentive for schools to participate in the school breakfast program. While there are a number of reasons that schools do not offer their children a school breakfast, certainly the barrier most difficult to overcome is the cost of the meals throughout the year. In short, the cost of the school breakfast program may simply be too high for some schools and school districts.

My bill authorizes, subject to appropriations, grants from the U.S. Department of Agriculture (USDA) to allow states to provide schools with an additional five cent per meal reimbursement during the first year in which they provide the school breakfast program. This additional reimbursement may be used to supplement both the existing federal per meal reimbursement and any additional per meal reimbursement provided by the state. To ensure that the grants are as effective as possible they are targeted to those states with poor school breakfast participation rates and that also have a program in place to promote school breakfast participation. State educational agencies will have the discretion to determine, based on participation rates, which schools or school districts will receive the supplemental assistance.

Providing a nutritious breakfast is the first step in ensuring that kids are ready to learn when they sit down at their desks each morning. The legislation I am introducing will go far in helping states and schools reach that goal and I encourage my colleagues to support it.

Mr. President, I ask unanimous consent that the text of this legislation and letters of support for my bill from Wisconsin State Superintendent John Benson and Wisconsin School Food Service Association President Renee Slotten-Beauchamp be printed in the RECORD.

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

S. 1958

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

SECTION 1. FINANCIAL INCENTIVE GRANTS FOR SCHOOL BREAKFAST PROGRAMS.

Section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) is amended by adding at the end the following:

''(f) STARTUP GRANTS FOR SCHOOL BREAKFAST PROGRAMS.—

''(1) DEFINITION OF ELIGIBLE SCHOOL.—In this subsection, the term 'eligible school' means a school that agrees to operate the school breakfast program established with the assistance provided under this subsection for a period of not less than 3 years.

''(2) GRANTS.—The Secretary may make grants to State educational agencies, from funds made available to the Secretary, for a fiscal year, to assist eligible schools in initiating school breakfast programs.

''(3) PAYMENT RATES.—A State educational agency shall use grants made available under this subsection during the first fiscal year an eligible school initiates a school breakfast program—

''(A) to increase by not more than 5 cents the annually adjusted payment for each breakfast served by the eligible school; or

''(B) to assist eligible schools with non-recurring expenses incurred in initiating school breakfast programs.

''(4) FUNDS SUPPLEMENTARY.—A grant under this subsection shall supplement any payment to which a State educational agency is entitled under subsection (b).

''(5) PLAN.—To be eligible to receive a grant under this subsection, a State educational agency shall submit to the Secretary a plan to initiate school breakfast programs conducted in the State, including a description of the manner in which the State educational agency shall provide technical assistance and funding to eligible schools in the State to initiate the programs.

''(6) STATE EDUCATIONAL AGENCY PREFERENCES.—In making a grant under this subsection for a fiscal year to initiate school breakfast programs, the Secretary shall provide a preference to a State educational agency that—

''(A) has in effect a State law that promotes the expansion of State participation in the school breakfast program during the year;

''(B) has significant public or private resources that will be used to carry out the expansion of the school breakfast program during the year;

''(C)(i) has not more than 55 percent of schools in the State that are participating in the school lunch program also participating in the school breakfast program; or

''(ii) has not more than 30 percent of the students in the State receiving free or reduced price lunch also receiving free or reduced price breakfasts; and

''(D) serves an unmet need among low-income children, as determined by the Secretary.

''(7) REALLOCATION.—The Secretary shall act in a timely manner to recover and reallocate to other State educational agencies or States any amount made available to a State educational agency or State under this subsection that is not used by the agency or State within a reasonable period (as determined by the Secretary).

''(8) APPLICATION.—The Secretary shall allow application by State educational agencies on an annual basis for grants under this subsection.

''(9) PREFERENCES BY STATE EDUCATIONAL AGENCIES AND STATES.—In allocating funds within the State, each State educational agency shall give preference for assistance under this subsection to an eligible school that demonstrates the greatest need for assistance for a school breakfast program, based on the percentage of children not participating in the school breakfast program, as determined by the State educational agency.

''(10) MAINTENANCE OF EFFORT.—The expenditure of funds from State and local sources for the maintenance of the school breakfast program shall not be diminished as a result of grants made available under this subsection.''.

STATE OF WISCONSIN,
DEPARTMENT OF PUBLIC INSTRUCTION,
Madison, WI, November 5, 1999.

Hon. HERB KOHL,
US Senate, Washington, DC.

DEAR SENATOR KOHL:

This letter is in support of your proposed amendment for Startup Grants for School Breakfast Programs. I believe this legislation will provide an essential incentive for schools to implement a School Breakfast Program (SBP). Understanding that breakfast is an important component for academic achievement as well as the health of our nation's children, I am very concerned with Wisconsin's low participation in the SBP.

The federal startup grants for SBP will enhance the many public and private efforts within our state to increase the number of schools offering breakfast. Our state legislature has supported my budget initiative for a ten cents per breakfast reimbursement, effective in fiscal year 2001. Statewide public and nonpublic collaborative initiatives to promote the importance of breakfast include the Good Breakfast for Good Learning Breakfast Awareness Campaign, now in its third year. Public and private hunger prevention coalitions are actively promoting school breakfast. Professional organizations, such the Wisconsin School Food Service Association and the Wisconsin Dietetic Association have taken a lead in school breakfast promotion efforts.

However, the bottom line is that schools cannot absorb financial loss in the Child Nutrition Programs. Fear that the SBP will have a negative impact on the school district's general fund has been detrimental to the promotional efforts identified above. The startup grants for SBP will help alleviate those fears and allow the children in this state to have access to a nourishing breakfast at the start of the school day.

I would like to commend your efforts to help the children in this state and the nation reach their full potential through promotion of School Breakfast Program.

Sincerely,

JOHN T. BENSON,
State Superintendent.

WISCONSIN SCHOOL
FOOD SERVICE ASSOCIATION,
November 17, 1999.

Hon. HERB KOHL,
U.S. Senate, Washington DC.

DEAR SENATOR KOHL:

This letter is in support of your proposed amendment for Startup Grants for School Breakfast Programs.

The Wisconsin School Food Service Association with its 1700 members, along with other allied associations have been working to increase the number of schools in Wisconsin offering breakfast. We understand the connection between good nutrition at breakfast and academic achievement. We see firsthand how difficult it is for a hungry child to concentrate on learning.

The federal startup grants for School Breakfast Programs will help our efforts to expand school breakfast participation. A real concern for many school districts is the cost of implementing and maintaining the program. During the 1997–98 school year Wisconsin schools lost an average of $0.23 per breakfast served. Our association believes school food and nutrition programs deserve adequate funding and reasonable regulations to help maintain financial integrity and nutritional quality of meals. As a commitment to the children of Wisconsin we made state funding for school Breakfast Programs a high legislative priority this year. Our state legislature recently supported a ten-cent per breakfast reimbursement, which will be in effect for the fiscal year 2001. Federal Startup Grants would help districts implement school Breakfast Programs.

The Wisconsin School Food Service Association feels the children of Wisconsin and the nation deserve every educational opportunity to reach their full potential. School breakfast is one of those opportunities.

Our association commends you for your efforts to expand School Breakfast.

Sincerely,

RENEE SLOTTEN-BEAUCHAMP R.D., D.C.
President.

By Mr. HARKIN:

S. 1959. A bill to provide for the fiscal responsibility of the Federal Government; to the Committee on Finance.

THE FISCAL RESPONSIBILITY ACT

Mr. HARKIN. Mr. President, today as we are debating how to protect Social Security and Medicare while making necessary investments in our nation's future, I am introducing legislation designed to provide some options for reducing spending. In an effort to promote greater fiscal responsibility within the federal government, ''The Fiscal Responsibility Act'' would eliminate special interest tax loopholes, reduce corporate welfare, eliminate unnecessary government programs, reduce wasteful spending, enhance government efficiency and require greater accountability.

The reforms contained in this bill would result in savings of up to $20 billion this year and up to $140 billion over the next five years. These savings could be used to pay down the federal debt, shore up Social Security and Medicare, provide middle-class tax relief, and/or pay for needed investment in education, health care and other priorities.

While I recognize that everyone won't agree on each of the provisions of this measure, I believe it is important for us to put forward options to be considered. I hope that we can work together on a bipartisan basis to produce a set of reforms such as these to lay a path of fiscal responsibility as we move into the next century.

The following is a summary of the bill's major provisions:

Elimination of Unnecessary Government Programs.

A number of outdated or unnecessary programs would be eliminated, including Radio Marti, TV Marti and certain nuclear energy research initiatives. These changes would save over $150 million this year.

Reduction of Wasteful Spending and Government Efficiency Improvements.

$13 billion a year is lost to Medicare waste and abuse. This would be substantially reduced through a series of comprehensive reforms. In addition, taxpayer support for the cost of certain nuclear energy lobbying activities would be eliminated.

A number of common sense steps would be implemented to improve the efficiency of government activities.

Spending by government agencies on travel, printing, supplies and other items would be frozen at 1998 levels. This change would save $2.8 billion this year and about $12 billion over 5 years.

Pentagon spending would be tied to the rate of inflation. This would force the Pentagon to reduce duplication and other inefficiencies identified by government auditors and outside experts. This change would save taxpayers $9.2 billion this year and approximately $69 billion over the next 5 years.

Enhancing the government's ability to collect student loan defaults would save taxpayers $892 million this year and $1 billion over five years.

Eliminating Special Interest Tax Loopholes and Give-Aways.

Tobacco use causes 400,000 deaths a year and costs taxpayers billions in preventable health care costs. And, yet, taxpayers are forced to cough up about $2 billion a year to subsidize the advertising and marketing of this deadly product. The tax deductibility of tobacco promotion would be ended and these funds would be saved.

A loophole that allows estates valued above $10 million to elude taxation would be closed.

The federal government allows mining companies to extract minerals from federally-owned lands at an actual cost of pennies on the dollar. This special interest giveaway would be ended, saving taxpayers $750 million over the next five years.

American citizens temporarily working in foreign countries can earn up to $70,000 without paying any U.S. taxes. This unfair provision would be eliminated, bringing in an estimated $15.7 billion over the next 5 years.

A foreign tax credit that allows big oil and gas companies to escape paying their fair share for royalties would be limited. This common sense change would generate $3.1 billion over 5 years to reduce the debt our kids and grandkids will inherit.

Increased Accountability.

Tobacco companies hook 3,000 children a day on their deadly products. One in three of these kids will be sentenced to an early death. Tobacco companies should be held accountable. Accordingly, a goal of reducing teen smoking by at least 15 percent each year would be set. If tobacco companies fail to meet this goal, they would have to pay a penalty. Such a system would generate approximately $6 billion this year and $20 billion over the next 5 years. It would also significantly reduce the number of young children who become addicted to tobacco.

Mr. President, I urge my colleagues to review the provisions in this bill and look forward to moving forward next year on a fiscally responsible budget plan.

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

S. 1960. A bill to provide for the appointment of 1 additional Federal district judge for the eastern district of Wisconsin, and for other purposes; to the Committee on the Judiciary.

THE FEDERAL JUDGESHIP FOR NORTHEASTERN WISCONSIN ACT

Mr. KOHL. Mr. President, I rise today to introduce the Federal Judgeship for Northeastern Wisconsin Act of 1999. This bill would create one additional judgeship in the eastern district of Wisconsin and seat it in Green Bay, at the center of a region in desperate need of a district court. Let me explain how an additional judgeship could alleviate the stress that the current system places on business, law enforcement agents, witnesses, victims and individual litigants in northeastern Wisconsin.

First, while the four full-time district court judges for the eastern district of Wisconsin currently preside in Milwaukee, for most litigants and witnesses in northeastern Wisconsin, Milwaukee is well over 100 miles away. In fact, as the courts are currently arranged, the northern portion of the eastern district is more remote from a Federal court than any other major population center, commercial or industrial, in the United States. Thus, litigants and witnesses must incur substantial costs in traveling from northern Wisconsin to Milwaukee—costs in terms of time, money, resources, and effort. Indeed, driving from Green Bay to Milwaukee takes nearly two hours each way. Add inclement weather or a departure point north of Green Bay—such as Oconto or Marinette—and often the driving time alone actually exceeds the amount of time witnesses spend testifying.

Second, Mr. President, the few Wisconsin Federal judges serve a disproportionately large population. Last year, I commissioned a study by the General Accounting Office which revealed that Wisconsin Federal judges have to serve the highest population among all federal judges. Each sitting Federal judge in Wisconsin serves an average population of 859,966, while the remaining federal judges across the country—more than 650—serve less than half that number, with an average of 417,000 per judge. For example, while Louisiana has fewer residents than Wisconsin, it has 22 Federal judges, nearly four times as many as our state.

Third, Mr. President, Federal crimes remain unacceptably high in northeastern Wisconsin. These crimes range from bank robbery and kidnaping to Medicare and Medicaid fraud. However, without the appropriate judicial resources, a crackdown on Federal crimes in the upper part of the state will be made enormously more difficult. Additionally, under current law, the Federal Government is required to prosecute all felonies committed by Indians that occur on the Menominee Reservation. The reservation's distance from the Federal prosecutors and courts—more than 150 miles—makes these prosecutions problematic. And because the Justice Department compensates attorneys, investigators and sometimes witnesses for travel expenses, the existing system costs all of us. Without an additional judge in Green Bay, the administration of justice, as well as the public's pocketbook, will suffer enormously.

Fourth, many manufacturing and retail companies are located in northeastern Wisconsin. These companies often require a Federal court to litigate complex price-fixing, contract, and liability disputes with out-of-State businesses. But the sad truth is that many of these legitimate cases are never even filed —precisely because the northern part of the State lacks a Federal court. Mr. President, this hurts businesses not only in Wisconsin, but across the Nation.

Fifth, the creation of an additional judgeship in the Eastern District of Wisconsin is justified based on caseload. The Judicial Conference, the administrative and statistical arm of the Federal judiciary, makes biannual recommendations to Congress regarding the necessity of additional judgeships using a system of weighted filings—that is, the total number of cases modified by the average level of case complexity. In the Judicial Conference's most recent recommendations, new positions were justified where a district's workload exceeded 435 weighted filings per judge. Such high caseloads are common in the eastern district of Wisconsin, peaking in 1996 with an overwhelming 453 weighted filings. On this basis, an additional judgeship for the eastern district of Wisconsin is warranted.

Mr. President, our legislation is simple, effective and straightforward. It creates an additional judgeship for the eastern district, requires that one judge hold court in Green Bay, and gives the chief judge of the eastern district flexibility to designate which judge holds court there. And this legislation would increase the number of Federal district judges in Wisconsin for the first time since 1978. During that period, nearly 150 new Federal district judgeships have been created nationwide, but not a single one in Wisconsin.

And don't take my word for it, Mr. President, ask the people who would be most affected: since 1994, each and every sheriff and district attorney in northeastern Wisconsin has urged me to create a Federal district court in

Green Bay. I ask unanimous consent that a letter from these law enforcement officials be included in the RECORD at the conclusion of my remarks. I also ask unanimous consent that a letter from the U.S. Attorney for the eastern district of Wisconsin, Tom Schneider, also be included. This letter expressed the support of the entire Federal law enforcement community in Wisconsin—including the FBI, the DEA and the BATF—for the legislation we are introducing. They needed this additional judicial resource in 1994, and certainly, Mr. President, that need has only increased over the last five years.

Perhaps most important, the people of Green Bay also agree on the need for an additional Federal judge, as the endorsement of our proposal by the Green Bay Chamber of Commerce demonstrates.

In conclusion, Mr. President, having a Federal judge in Green Bay will reduce costs and inconvenience while increasing judicial efficiency. But most important, it will help ensure that justice is more available and more affordable to the people of northeastern Wisconsin. For these sensible reasons, I urge my colleagues to support this legislation, either separately or as part of an omnibus judgeship bill that I hope Congress will consider next session. The Judicial Conference has recommended the creation of over 60 new judgeships, yet not one has been created since 1990. Should such a bill be considered, I will be right there to ensure that Northeastern Wisconsin is included.

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

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

S. 1960

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Federal Judgeship for Northeastern Wisconsin Act of 1999''.

SEC. 2. ADDITIONAL FEDERAL DISTRICT JUDGE FOR THE EASTERN DISTRICT OF WISCONSIN.

(a) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate, 1 additional district judge for the eastern district of Wisconsin.

(b) TABLES.—In order that the table contained in section 133(a) of title 28, United States Code, reflects the change in the total number of permanent district judgeships authorized under subsection (a), such table is amended by amending the item relating to Wisconsin to read as follows:

''Wisconsin:
''Eastern 5
''Western ..... 2''.

(c) HOLDING OF COURT.—The chief judge of the eastern district of Wisconsin shall designate 1 judge who shall hold court for such district in Green Bay, Wisconsin.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act, including such sums as may be necessary to provide appropriate space and facilities for the judicial position created by this Act.

AUGUST 8, 1994.

U.S Senator HERB KOHL,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR KOHL: We are writing to urge your support for the creation of a Federal District Court in Green Bay. The Eastern District of Wisconsin includes the 28 eastern-most counties from Forest and Florence Counties in the north to Kenosha and Walworth Counties in the south.

Green Bay is central to the northern part of the district which includes approximately one third of the district's population. Currently, all Federal District Judges hold court in Milwaukee.

A federal court in Green Bay would make federal proceedings much more accessible to the people of northern Wisconsin and would alleviate many problems for citizens and law enforcement. Travel time of 3 or 4 hours each way makes it difficult and expensive for witnesses and officers to go to court in Milwaukee. Citizen witnesses are often reluctant to travel back and forth to Milwaukee. It often takes a whole day to travel to come to court and testify for a few minutes. Any lengthy testimony requires an inconvenient and costly overnight stay in Milwaukee. Sending officers is costly and takes substantial amounts of travel time, thereby reducing the number of officers available on the street. Many cases are simply never referred to federal court because of this cost and inconvenience.

In some cases there is no alternative. For example, the Federal government has the obligation to prosecute all felony offenses committed by Indians on the Menominee Reservation. Yet the Reservation's distance from the Federal Courts and prosecutors in Milwaukee poses serious problems. Imagine the District Attorney of Milwaukee being located in Keshena or Green Bay or Marinette and trying to coordinate witness interviews, case preparation, and testimony.

As local law enforcement officials, we try to work closely with other local, state and federal agencies, and we believe establishing a Federal District Court in Green Bay will measurably enhance these efforts. Most important, a Federal Court in Green Bay will make these courts substantially more accessible to the citizens who live here.

We urge you to introduce and support legislation to create and fund an additional Federal District Court in Green Bay.

Gary Robert Bruno, Shawano and Menominee County District Attorney.
Jay Conley, Oconto County District Attorney.
John DesJardins, Outagamie County District Attorney.
Douglas Drexler, Florence County District Attorney.
Guy Dutcher, Waushara County District Attorney.
E. James FitzGerald, Manitowoc County District Attorney.
Kenneth Kratz, Calumet County District Attorney.
Jackson Main, Jr., Kewaunee County District Attorney.
David Miron, Marinette County District Attorney.
Joseph Paulas, Winnebago County District Attorney.
Gary Schuster, Door County District Attorney.
John Snider, Waupaca County District Attorney.
Ralph Uttke, Langlade County District Attorney.
Demetrio Verich, Forest County District Attorney.
John Zakowski, Brown County District Attorney.
William Aschenbrener, Shawano County Sheriff.
Charles Brann, Door County Sheriff.
Todd Chaney, Kewaunee County Sheriff.
Michael Donart, Brown County Sheriff.
Patrick Fox, Waushare County Sheriff.
Bradley Gehring, Outagamie County Sheriff.
Daniel Gillis, Calumet County Sheriff.
James Kanikula, Marinette County Sheriff.
Norman Knoll, Forest County Sheriff.
Thomas Kocourek, Manitowoc County Sheriff.
Robert Kraus, Winnebago County Sheriff.
William Mork, Waupaca County Sheriff.
Jeffrey Rickaby, Florence County Sheriff.
David Steger, Langlade County Sheriff.
Kenneth Woodworth, Oconto County Sheriff.
Richard Awonhopay, Chief, Menominee Tribal Police.
Richard Brey, Chief of Police, Manitowoc.
Patrick Campbell, Chief of Police, Kaukauna.
James Danforth, Chief of Police, Oneida Public Safety.
Donald Forcey, Chief of Police, Neenah.
David Gorski, Chief of Police, Appleton.
Robert Langan, Chief of Police, Green Bay.
Michael Lien, Chief of Police, Two Rivers.
Mike Nordin, Chief of Police, Sturgeon Bay.
Patrick Ravet, Chief of Police, Marinette.
Robert Stanke, Chief of Police, Menasha.
Don Thaves, Chief of Police, Shawano.
James Thorne, Chief of Police, Oshkosh.

U.S. DEPARTMENT OF JUSTICE,
Milwaukee, WI, August 9, 1994.

To: The District Attorney's, Sheriffs and Police Chiefs Urging the Creation of a Federal District Court in Green Bay.
From: Thomas P. Schneider, United States Attorney, Eastern District of Wisconsin.

Thank you for your letter of August 8, 1994, urging the creation of a Federal District Court in Green Bay. You point out a number of facts in your letter:

(1) Although 1/3 of the population of the Eastern District of Wisconsin is in the northern part of the district, all of the Federal District Courts are located in Milwaukee.

(2) A federal court in Green Bay would be more accessible to the people of northern Wisconsin. It would substantially reduce witness travel time and expenses, and it would make federal court more accessible and less costly for local law enforcement agencies.

(3) The federal government has exclusive jurisdiction over most felonies committed on the Menominee Reservation, located approximately 3 hours from Milwaukee. The distance to Milwaukee is a particular problem for victims, witnesses, and officers from the Reservation.

I have discussed this proposal with the chiefs of the federal law enforcement agencies in the Eastern District of Wisconsin, including the Federal Bureau of Investigation, Federal Drug Enforcement Administration, Bureau of Alcohol, Tobacco and Firearms, Secret Service, U.S. Marshal, U.S. Customs Service, and Internal Revenue Service-Criminal Investigation Division. All express support for such a court and give additional reasons why it is needed.

Over the past several years, the FBI, DEA, and IRS have initiated a substantial number of investigations in the northern half of the district. In preparation for indictments and trials, and when needed to testify before the Grand Jury or in court, officers regularly travel to Milwaukee. Each trip requires 4 to 6 hours of round trip travel per day, plus the actual time in court. In other words, the

agencies' already scarce resources are severely taxed. Several federal agencies report that many cases which are appropriate for prosecution are simply not charged federally because local law enforcement agencies do not have the resources to bring these cases and officers back and forth to Milwaukee.

Nevertheless, there have been a substantial number of successful federal investigations and prosecutions from the Fox Valley area and other parts of the Northern District of Wisconsin including major drug organizations, bank frauds, tax cases, and weapons cases.

It is interesting to note that the U.S. Bankruptcy Court in the Eastern District of Wisconsin holds hearings in Green Bay, Manitowoc, and Oshkosh, all in the northern half of the district. For the past four years approximately 29 percent of all bankruptcy filings in the district were in these three locations.

In addition, we continue to prosecute most felonies committed on the Menominee Reservation. Yet, the Reservation's distance from the federal courts in Milwaukee poses serious problems. A federal court in Green Bay is critically important if the federal government is to live up to its moral and legal obligation to enforce the law on the Reservation.

In summary, I appreciate and understand your concerns and I join you in urging the creation of a Federal District Court in Green Bay.

THOMAS P. SCHNEIDER,
United States Attorney.
Eastern District of Wisconsin.

By Mr. JOHNSON (for himself, Mr. KERREY, and Mr. WELLSTONE):

S. 1961. A bill to amend the Food Security Act of 1985 to expand the number of acres authorized for inclusion in the conservation reserve; to the Committee on Agriculture, Nutrition, and Forestry.

THE CONSERVATION RESERVE PROGRAM ACREAGE EXPANSION ACT

● Mr. JOHNSON. Mr. President, I rise today to introduce legislation which would increase the acreage cap currently in place for the Conservation Reserve Program (CRP) under the United States Department of Agriculture (USDA).

CRP continues to be a popular alternative for landowners who wish to take a portion of their land out of production for conservation purposes. While the program serves a multitude of beneficial purposes, there are items of the program that we must continue to work on in Congress. As a start, I am introducing companion legislation to Congressman COLLIN PETERSON's (D–MN) bill in the House to increase the acreage allotted in CRP up to 45 million acres.

CRP has undergone significant changes as a result of the 1996 Farm Bill. Wildlife benefits provided by certain grass species and conservation practices are now heavily emphasized in the Environmental Benefits Index (EBI) which sets forth eligibility into the program. While many of these changes have been welcomed because of the favorable effect they have on conservation and the environment, I have some concerns with certain requirements farmers face in relation to the EBI requirements.

First, producers with existing CRP contracts that have tracts of land accepted for re-enrollment into CRP have indicated that in certain cases, they were required to plow under at least half of the existing grass stand on those tracts in order to plant new grass seeds to meet the EBI criteria. Those participants are concerned this may lead to soil erosion instead of soil conservation on tracts that are already highly erodible because plowing up half of grass stand exposes that land to the unpredictable forces of weather. Moreover, it often requires more than one growing season for new grass species to take root and establish adequate cover in order to protect habitat. That said, both producers and conservationists have expressed concern to me that this requirement may place habitat protection in a precarious position in some instances. Finally, the costs of seed varieties called for in the EBI, especially for native grass species, have skyrocketed to a point here it is oftentimes cost-prohibitive for producers to meet the requirements of establishing a new grass stand. These and other matters I plan to address with the input of all interested parties as we proceed with the legislation.

However, on the whole CRP remains a very popular program in my home state of South Dakota and across the country. During the twelve signups held between 1986 and 1992, 36.4 million acres were enrolled in CRP. USDA estimates that the average erosion rate on enrolled acres was reduced from 21 to less than 2 tons per acre per year. Retiring these lands also expanded wildlife habitat, enhanced water quality, and restored soil. The annual value of these benefits has been estimated from less than $1 billion to more than $1.5 billion; some estimates of these benefits approach or exceed annual costs, especially in areas of heavy participation. While major changes cannot occur to CRP until we undertake a renewed effort to change the Farm Bill, I am hopeful that Congress reconsider the current Farm Bill in 2000.

In addition to supporting CRP, I have co-sponsored S. 1426, the Conservation Security Act of 1999. This bill creates a voluntary incentive program to encourage conservation activities by landowners. This bill includes a variety of solid conservation practices that landowners may choose from in order to qualify for certain incentives. Some of the conservation practices include conservation tillage, runoff control, buffer strips, wetland restoration, and wildlife management.

I believe the Conservation Security Act is a strong piece of legislation that would benefit agriculture producers, wildlife, and the environment. I will continue to support and work with Senator HARKIN in seeing this legislation move forward.●

By Mr. ASHCROFT:

S. 1962. A bill to amend the Congressional Budget Act of 1974 to protect Social Security and Medicare surpluses through strengthened budgetary enforcement mechanisms; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have 30 days to report or be discharged.

THE SOCIAL SECURITY AND MEDICARE SAFE DEPOSIT BOX ACT

Mr. ASHCROFT. 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. 1962

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 ''Social Security and Medicare Safe Deposit Box Act of 1999''.

SEC. 2. PROTECTION OF SOCIAL SECURITY AND MEDICARE SURPLUSES.

(a) MEDICARE SURPLUSES OFF-BUDGET.—Notwithstanding any other provision of law, the net surplus of any trust fund for part A of Medicare shall not be counted as a net surplus for purposes of—

(1) the budget of the United States Government as submitted by the President;

(2) the congressional budget; or

(3) the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) POINTS OF ORDER TO PROTECT SOCIAL SECURITY AND MEDICARE SURPLUSES.—Section 312 of the Congressional Budget Act of 1974 is amended by adding at the end the following new subsection:

''(g) POINTS OF ORDER TO PROTECT SOCIAL SECURITY AND MEDICARE SURPLUSES.—

''(1) CONCURRENT RESOLUTIONS ON THE BUDGET.—It shall not be in order in the House of Representatives or the Senate to consider any concurrent resolution on the budget, or conference report thereon or amendment thereto, that would set forth an on-budget deficit for any fiscal year.

''(2) SUBSEQUENT LEGISLATION.—It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report if—

''(A) the enactment of that bill or resolution as reported;

''(B) the adoption and enactment of that amendment; or

''(C) the enactment of that bill or resolution in the form recommended in that conference report,

would cause or increase an on-budget deficit for any fiscal year.

''(3) DEFINITION.—For purposes of this section, the term 'on-budget deficit', when applied to a fiscal year, means the deficit in the budget as set forth in the most recently agreed to concurrent resolution on the budget pursuant to section 301(a)(3) for that fiscal year.''.

(c) CONTENT OF CONCURRENT RESOLUTION ON THE BUDGET.—Section 301(a) of the Congressional Budget Act of 1974 is amended—

(1) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(2) by inserting after paragraph (5) the following new paragraph:

''(6) the receipts, outlays, and surplus or deficit in the Federal Old-Age and Survivors

Insurance Trust Fund and the Federal Disability Insurance Trust Fund, combined, established by title II of the Social Security Act;''.

(d) SUPER MAJORITY REQUIREMENT.—

(1) POINT OF ORDER.—Section 904(c)(1) of the Congressional Budget Act of 1974 is amended by inserting ''312(g),'' after ''310(d)(2),''.

(2) WAIVER.—Section 904(d)(2) of the Congressional Budget Act of 1974 is amended by inserting ''312(g),'' after ''310(d)(2),''.

SEC. 4. PROTECTION OF SOCIAL SECURITY AND MEDICARE SURPLUSES.

(a) IN GENERAL.—Chapter 11 of subtitle II of title 31, United States Code, is amended by adding before section 1101 the following:

''§ 1100. Protection of social security and medicare surpluses

''The budget of the United States Government submitted by the President under this chapter shall not recommend an on-budget deficit for any fiscal year covered by that budget.''.

(b) CHAPTER ANALYSIS.—The chapter analysis for chapter 11 of title 31, United States Code, is amended by inserting before the item for section 1101 the following:

''1100. Protection of Social Security and Medicare Surpluses.''.

SEC. 5. EFFECTIVE DATE.

This Act shall take effect upon the date of its enactment and the amendments made by this Act shall apply to fiscal year 2001 and subsequent fiscal years.

By Mr. MCCAIN:

S. 1963. A bill to authorize a study of alternatives to the current management of certain Federal lands in Arizona; to the Committee on Energy and Natural Resources.

ALTERNATIAVE LAND MANAGEMENT STUDY FOR THE BARRY GOLDWATER MILITARY TRAINING RANGE

● Mr. MCCAIN. Mr. President, I rise today to introduce legislation that will require a comprehensive study of alternative land management options for areas comprising the Barry Goldwater military training range and Organ Pipe National Monument in Arizona.

Earlier this year, the Congress finalized the Department of Defense Authorization Act for fiscal year 2000 which included language to renew a land-withdrawal for the Barry Goldwater training range for an additional twenty-five years to the year 2024. The final proposal transferred land management of the natural and cultural resources within the range to the Air Force and the Navy, a decision that was fully supported by both the Interior Department and the President's Council on Environmental Quality.

In practical effect, the Air Force and Marine Corps have been performing the management functions at the Goldwater range for many years, and doing a very good job of it, according to most observers. In fact, the Department of Defense already dedicates significant resources to land and natural resource management of the Range. The decision to formally transfer management recognizes the superior fiscal and manpower resources available to the military Services, who also have the most compelling interest in maintaining future training access to the range, which can only be accomplished by effectively addressing environmental concerns regarding its use.

During consideration of the legislative environmental impact statements and subsequent renewal proposals, no one disagreed that essential military training should continue on the range. However, several environmental groups registered concerns about the Administration's proposal for DOD management of the Range and expressed their fears that the military Services would be inappropriate and ineffective natural resources managers. I took personal interest in these expressed concerns and advocated for the strongest possible language in the final withdrawal bill to redress any potential problems should the land management of these areas ever be jeopardized under primary military authority.

However, in response to continuing apprehension about proper land management in the newly passed withdrawal package, I worked with the concerned individuals to develop language directing the Department of the Interior to study and make recommendations for alternative land management scenarios for the range. Such a comprehensive study would provide information to guide the Administration and the Congress in taking appropriate future action to ensure that the cultural and natural resources on the range will continue to be preserved and protected in future years.

Although I was unable to convince my colleagues that studying various land management options should be added to the Defense authorization package, I am continuing to explore appropriate land management options for the long-term. I do so because it is important that we assure that the best possible protection will be provided to the unique natural and cultural resources of these areas, consistent with the primary purpose of the range.

While the Barry Goldwater Range will continue to serve its vital purpose, we have an obligation to ensure proper stewardship of our natural resources. This study will provide us with the critical information necessary to fulfill that obligation. Once an alternative management study is completed, I will ensure that any recommendations for improved management of the Goldwater Range are considered and acted on, as necessary, by the Congress.

I strongly urge my colleagues to work with me to pass this legislation to ensure that the Goldwater Range is managed by the agency most qualified to protect the public's interest and preserve the precious land and natural resources of these pristine areas for future generations.●

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

S. 1964. A bill to designate the United States Post Office located at 14071 Peyton Drive in Chino Hills, California, as the Joseph Ileto Post Office; to the Committee on Governmental Affairs.

DESIGNATION OF THE JOSEPH ILETO POST OFFICE

Mrs. FEINSTEIN. Mr. President, today I am pleased to be joined by Senator BOXER in introducing a bill to designate the United States Post Office located at 14071 Peyton Drive in Chino Hills, California, as the ''Joseph Ileto Post Office.'' This post office would be designated in memory and in celebration of the life of Joseph Santos Ileto, the Filipino American postal worker who was brutally gunned down during his postal route in August by Buford Furrow, Jr., a white supremacist. Only hours earlier, this same assailant opened fire on the North Valley Jewish Community Center, wounding three young children, one teenager, and one elderly woman.

Joseph Ileto touched many lives. He was a kind-hearted, intelligent man who gave so much to those he loved and even to those he did not know. He was known for his unselfishness and his willingness to give a helping hand to anyone in need. In fact, the day Joseph Ileto was killed, he was filling in for another mail carrier, as he had done so many times before. His life and death exemplify the ultimate sacrifice of public service, which we too often take for granted. As a U.S. Postal Service employee, he served our nation with honor and dignity and died doing his job.

My heart goes out to the Ileto family, who is grieving over the death of their son, brother, and friend. Despite the sadness of their loss, they can be proud that the life and spirit of Joseph Ileto lives on. His death only confirms the urgency in which we as a community must take a strong stand against hate crimes and racism. The number of hate crimes in the U.S. has increased during the last five years, and the time is now to have dialogue and pass meaningful legislation to address this issue. As a first step, it is my hope that we can expedite passage this bill, to remember and honor the life of Joseph Ileto.

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. 1964

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

SECTION 1. DESIGNATION OF JOSEPH ILETO POST OFFICE.

The United States Post Office located at 14071 Peyton Drive in Chino Hills, California, shall be known and designated as the ''Joseph Ileto Post Office''.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the post office referred to in section 1 shall be deemed to be a reference to the Joseph Ileto Post Office.

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

S. 1965. A bill to direct the Secretary of the Interior, the Bureau of Reclamation, to conduct a feasibility study on

the Jicarilla Apache Reservation in the State of New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

LEGISLATION AUTHORIZING THE BUREAU OF RECLAMATION TO CONDUCT A FEASIBILITY STUDY REGARDING WATER SUPPLY TO THE JICARILLA APACHE INDIAN RESERVATION IN NEW MEXICO

Mr. DOMENICI. Mr. President, I am pleased to be joined by Senator BINGAMAN in introducing legislation authorizing the Bureau of Reclamation to conduct a feasibility study regarding water supply on the Jicarilla Apache Indian Reservation in New Mexico. There are major deficiencies with regard to safe water supplies for residents of the Jicarilla Apache Reservation, since the federally owned municipal water system is severely dilapidated.

The United States has a trust responsibility to ensure that adequate and safe water supplies are available to meet the economic, environmental, water supply, and public health needs of the Jicarilla Apache Indian Reservation . Today, the House of Representatives passed identical legislation to help resolve this problem.

The Jicarilla Apache Tribe is a federally recognized Indian nation in northern New Mexico, with over 3,000 citizens. In the 1920s, the Bureau of Indian Affairs (BIA) constructed a water delivery system to serve federal facilities on the Reservation. In the 1960s, the system was extended to serve tribal facilities and members, but for the last 20 years this federal owned and operated water system has been deteriorating due to inadequate federal funding for regular maintenance and improvements.

No capital improvements have been made to the system for at least ten years. Currently, the system is not in compliance with Federal safe drinking water standards or pollutant discharge standards.

In October of 1988, the inlet system collapsed and caused a devastating five-day water outage on the Reservation. That catastrophe required emergency assistance from the National Guard. A home burned to the ground without necessary water to fight the fire. After that experience, the Tribe expended its own funds to make some repairs, and began a large-scale evaluation of the system. The Tribe has discovered serious problems with the system.

Line breaks are common and frequent, and existing supply facilities are near or at maximum capacity. The Jicarilla Apaches have had to ration water for the last seven summers.

According to a recent EPA report, the water system on the Jicarilla Reservation is the third worst system operating in a six-state region. In addition to being out of compliance with federal drinking water standards, the sewage plant has been operating without a federal discharge permit, exposing the BIA to fines up to $25,000 per day.

Sewage lagoons are operating at 200% capacity, and wastewater spillage threatens not only the Jicarilla Apaches, but down-stream communities in New Mexico and beyond. The Jicarilla Apache Tribal Council has enacted a resolution declaring a state of emergency due to the continued operation of these unsafe water systems.

The Tribe has been forced to expend their own funds due to the serious health threats posed by the unsafe system. In addition to the severe health threats that these systems pose, their inadequate and unsafe condition has virtually suspended social and economic development on the Reservation.

The water deficiencies have forced the Tribe to place a moratorium on new projects, including housing, school, senior center, post office, and health care facility construction. These projects cannot be completed, even though many are already funded, because the existing infrastructure cannot support any further development. While the federal government is entirely responsible to maintain and operate the federal water systems which serve the Reservation, the BIA lacks the resources improve the system.

The water system on the Jicarilla Apache Reservation is one of only two or three such systems still being maintained by the BIA. The BIA does not even own equipment necessary for routine sewer cleaning. While the BIA has continued federal responsibility for these systems, BIA no longer budgets for water delivery systems.

In fact, Kevin Gover of the BIA referred the Tribe to the Bureau of Reclamation for assistance. The Bureau of Reclamation has the needed expertise to help, having experience in providing water to Native Americans through irrigation projects, as well as providing water supplies to other rural communities.

The Tribe wants to eventually own and operate the water system, and wishes to enter into a relationship with the Bureau of Reclamation for completion of rehabilitation of this project. This legislation will allow the Bureau of Reclamation to conduct a feasibility study to determine the best method for developing a safe and adequate municipal, rural, and industrial water supply for the residents of the Jicarilla Apache Indian Reservation in the State of New Mexico.

We want to help the Jicarilla Apaches end their water crisis, and secure congressional authorization for the necessary studies the Bureau of Reclamation has the expertise to conduct. I ask unanimous consent that our proposed legislation and the Jicarilla Apache Counsel Resolution be printed in the RECORD.

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

S. 1965

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

SECTION 1. FINDINGS.

Congress finds that—

(1) there are major deficiencies with regard to adequate and sufficient water supplies available to resident of the Jicarilla Apache Reservation in the State of New Mexico.

(2) the existing municipal water system that serves the Jicarilla Apache Reservation is under the ownership and control of the Bureau of Indian Affairs and is outdated, dilapidated, and cannot adequately and safely serve the existing and future growth needs of the Jicarilla Apache Tribe;

(3) the federally owned municipal water system on the Jicarilla Apache Reservation has been unable to meet the minimum Federal water requirements necessary for discharging wastewater into a public watercourse and has been operating without a Federal discharge permit;

(4) the federally owned municipal water system that serves the Jicarilla Apache Reservation has been cited by the United States Environmental Protection Agency for violations of Federal safe drinking standards and poses a threat to public health and safety both on and off the Jicarilla Apache Reservation;

(5) the lack of reliable supplies of potable water impedes economic development and has detrimental effects on the quality of life and economic self-sufficiency of the Jicarilla Apache Tribe;

(6) due to the severe health threats and impediments to economic development, the Jicarilla Apache Tribe has authorized and expended $4,500,000 of tribal funds for the repair and replacement of the municipal water system on the Jicarilla Apache Reservation; and

(7) the United States has a trust responsibility to ensure that adequate and safe water supplies are available to meet the economic, environmental, water supply, and public health needs of the Jicarilla Apache Indian Reservation.

SEC. 2. AUTHORIZATION.

(a) AUTHORIZATION.—Pursuant to reclamation laws, the Secretary of the Interior, through the Bureau of Reclamation and in consultation and cooperation with the Jicarilla Apache Tribe, shall conduct a feasibility study to determine the most feasible method of developing a safe and adequate municipal, rural, and industrial water supply for the residents of the Jicarilla Apache Indian Reservation in the State of New Mexico.

(b) REPORT.—Not later than 1 year after funds are appropriated to carry out this Act, the Secretary of the Interior shall transmit to Congress a report containing the results of the feasibility study required by subsection (a).

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $200,000 to carry out this Act.

THE JICARILLA APACHE TRIBE—RESOLUTION NO. 99–R–314–06

Whereas, the Jicarilla Apache Tribe is a federally recognized Indian tribe organized under Section 17 of the Indian Reorganization Act of 1934, 25 U.S.C. §476 (1988); and

Whereas, the inherent powers of the Jicarilla Apache Tribe are vested in the Jicarilla Apache Tribal Council pursuant to Article XI, Section 1 of the Revised Constitution of the Jicarilla Apache Tribe; and

Whereas, the Jicarilla Apache Tribal Council is authorized by Article XI, Section I(d) of the Revised Constitution of the Jicarilla Apache Tribe to enact ordinances to promote the peace, safety, property, health and general welfare of the people of the Reservation and is authorized by Article X of the Revised Constitution to enact ordinances and resolutions on matters of permanent interest to

the members of the tribe and on matters relating to particular individuals, officials or circumstances; and

Whereas, the Jicarilla Apache Tribal Council has the power to authorize tribal officials to act on its behalf for regulatory and other purposes; and

Whereas, the lack of adequate and safe drinking water facilities on the Jicarilla Apache Reservation leads to serious health problems among tribal members and other residents of the Reservation, such as early loss of life and morbidity and diseases; and

Whereas, the current water treatment plant, water delivery infrastructure and sewage systems that serve the Jicarilla Apache Reservation are owned and operated by the United States, through the Jicarilla Agency Bureau of Indian Affairs (''BIA''); and

Whereas, the Federal Government has a trust responsibility to provide safe drinking water to the Jicarilla Apache people and the United States has failed to carry out this responsibility by not providing the BIA adequate resources to properly maintain and operate the water systems;

Whereas, in October 1998, due to the lack of adequate Federal resources to properly maintain and operate the water systems, the inlet system, which diverts water from the Navajo River, collapsed causing a catastrophic five-day water outage on the Jicarilla Apache Reservation, which necessitated emergency relief by the National Guard; and

Whereas, the Jicarilla Apache Tribe worked around the clock to restore water and expended tribal funds to do so, and as a result of the water outage, the Jicarilla Apache Tribe began investigating and evaluating the operation of the water systems and discovered numerous additional problems; and

Whereas, the water treatment plant, which treats water diverted from the Navajo River prior to being released for public consumption in Dulce, New Mexico, has been the subject of various notices of environmental noncompliance by the United States Environmental Protection Agency (''EPA'');

Whereas, the sewage facilities that serve the Jicarilla Apache Reservation are not in compliance with Federal law and are operating without a federal discharge permit, which exposes the BIA to fines up to $25,000 a day, and to meet the national requirements, a new waste water plant must be constructed; and

Whereas, although the Federal Government is responsible for maintaining and operating its own water systems that serve the Reservation, the Tribe has been forced to take action out of its own funds due to the serious health threats the these deficient and unsafe systems have on the people within and near the Reservation; and

Whereas, based on the analysis and recommendation of the Tribe's engineers and consultants, the Tribal Council has authorized the construction of a new inlet system, waste water treatment plant, and sewage facilities and the upgrade and rehabilitation of the water delivery infrastructure; and

Whereas, Congress amended the Safe Drinking Water Act, in 1996 and found, among other things, that:

(1) safe drinking water is essential to the protection of public health;

(2) because the requirements of the Safe Drinking Water Act (42 U.S.C. 300f et seq.) now exceed the financial and technical capacity of some public water systems, especially many small public water systems, the Federal Government needs to provide assistance to communities to help the communities meet Federal drinking water requirements;

(3) more effective protection of public health requires prevention of drinking water contamination through well-trained system operators, water systems with adequate managerial, technical and financial capacity and enhanced protection of source waters of public water systems;

(4) compliance with the requirements of the Safe Drinking Water Act continues to be a concern at public water systems experiencing technical and financial limitations and Federal, State and local governments need more resources and more effective authority to attain the objectives of the Safe Drinking Water Act;

(5) Federal health services to maintain and improve the health of the Indians are consistent with and required by the Federal Government's trust relationship with the American Indian people;

Whereas, the repair and replacement authorization by the Tribal Council is consistent with the Congressional purposes of ensuring safe drinking water to the public; and

Whereas, Indian tribes are recognized as domestic nations under the protection of the United States Government and possessed with the inherent powers of government; and

Whereas, pursuant to the Federal trust relationship between the Federal government and Indian tribes arising from the United States Constitution, United States Supreme Court caselaw, numerous treaties, statutes, and regulations, the Federal government had fiduciary duties to Indian tribes to protect tribal self-government and to provide and ensure adequate and safe drinking water; and

Whereas, in accordance with the Federal policy of Indian Self-Determination, the Federal government has pledged to assist Indian tribes in making reservations permanent homes from Indian people; and

Whereas, The Federal Indian policy of Self-Determination and the Federal trust responsibility to Indian tribes requires that the Federal government conduct government-to-government consultations with Indian tribes on matters affecting tribal interests and to promote tribal economic development, tribal governments, tribal self-sufficiency, which includes proper and adequate and safe drinking water facilities.

Now, Therefore, Be It Resolved, by the Tribal Council of the Jicarilla Apache Tribe that the Tribal Council hereby declares that the Jicarilla Apache Reservation is in a state of critical emergency due to the continued operation of the unsafe water systems that serve the Jicarilla Apache Reservation.

Be It Further Resolved, by the Tribal Council of the Jicarilla Apache Tribe that the Tribal Council, hereby authorizes the Vice-President and his staff to do all acts immediate and necessary to address this emergency, including but not limited to, executing contracts, consulting on a government-to-government basis with Congressional members and the Executive Branch, including the Federal agencies and the White House and lobbying for congressional appropriations.

And Be It Further Resolved, by the Tribal Council of the Jicarilla Apache Tribe that the Jicarilla Apache Tribe calls upon the United States Congress and the United States Department of Interior's Bureau of Indian Affairs and Bureau of Reclamation, the Department of Health and Human Services and the United States Environmental Protection Agency, to exercise their Federal Trust Responsibility and work with the Jicarilla Apache Tribe on a government-to-government basis to address this emergency.

By Mr. COCHRAN (for himself and Mr. LOTT):

S. 1967. A bill to make technical corrections to the status of certain land held in trust for the Mississippi Band of Choctaw Indians, to take certain land into trust for that Band, and for other purposes; to the Committee on Indian Affairs.

MISSISSIPPI BAND OF CHOCTAW INDIANS

● Mr. COCHRAN. Mr. President, today I am introducing a bill to make technical corrections to the status of certain land held in trust for the Mississippi Band of Choctaw Indians, and to take certain land into trust for the Band.

Mr. President, the lands involved in this bill are lands currently owned by the tribe. Over the last 20 years, the tribe has attempted to transfer the land to reservation land, through the regular processes of the Department of Interior and the Bureau of Indian Affairs. The land transfer applications have the support of the State of Mississippi and the local neighboring governments.

Countless times over the years, the tribe has been told by the Department that land transfer applications have been lost and that action would occur soon.

Housing, a school and a medical clinic are among the construction plans that are detained because of the inaction by the Department and BIA. Mr. President, this tribe is simply out of time. The school waiting to be replaced has over two pages of safety violations from the BIA. The medical clinic will not pass its next inspection. Thousands of Mississippi Choctaw citizens have substandard living conditions because of the lack of available housing.

Mr. President, the Choctaws are held up as the best example of self determination. Yet, the federal government seems determined to throw obstacles in the course of their success. The history of these land acquisition applications and the treatment of the tribe is intolerable.

The Congressional Budget Office has reviewed the bill and advises it has no budgetary impact. I urge the Senate to pass this bill.●

By Mr. CRAIG (for himself, Mr. MURKOWSKI, and Mr. THOMAS):

S. 1969. A bill to provide for improved management of, and increases accountability for, outfitted activities by which the public gains access to and occupancy and use of Federal land, and for other purposes; to the Committee on Energy and Natural Resources.

THE OUTFITTER POLICY ACT OF 1999

Mr. CRAIG. Mr. President, I am pleased to introduce today in conjunction with my colleagues Senator MURKOWSKI and Senator THOMAS the Outfitter Policy Act of 1999.

This legislation is very similar to legislation I introduced in the past congress. As that legislation did, this bill would put into law many of the management practices by which federal land management agencies have successfully managed the outfitter and guide industry on National Forests, National Parks and other federal lands over many decades.

The bill recognizes that many Americans want and seek out the skills and experience of commercial outfitters and guides to help them enjoy a safe and pleasant journey through our forests and deserts and over the rivers and lakes that are the spectacular destinations for many visitors to our federal lands.

The Outfitter Policy Act would assure the public continued opportunities for reasonable and safe access to the special areas found throughout our public lands. It establishes high standards that will be met for the health and welfare of visitors who choose outfitted services. It will help guarantee that quality professional services. It will help guarantee that will be available for their recreational and educational experiences on federal land.

This legislation is needed because the management of outfitting and guiding services by this Administration had created problems that threaten to destabilize many of these typically small, independent outfitter and guide businesses. In addressing these problems, this legislation relies heavily on practices that have historically worked well for outfitters, visitors, and other users groups, as well as for federal land managers in the field. When the bill is enacted, it will assure that these past levels of service are continued and enhanced.

Previous hearings and discussions on prior versions of this legislation helped to refine the bill I am introducing today. This process provided the intended opportunity for discussion. It allowed for the examination of the historical practices that have offered consistent, reliable outfitter services to the public. The legislation I am now introducing is a result of that process.

I look forward to considering this legislation in the coming session of the 106th Congress.

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. 1969

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 ''Outfitter Policy Act of 1999''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the experience, skills, trained staff, and investment in equipment that are provided by authorized outfitters are necessary to provide access to Federal land to members of the public that need or desire commercial outfitted activities to facilitate their use and enjoyment of recreational or educational opportunities on Federal land;

(2) such activities constitute an important contribution toward meeting the recreational and educational objectives of resource management plans approved and administered by agencies of the Department of Agriculture and the Department of the Interior;

(3) an effective relationship between those agencies and authorized outfitters requires implementation of agency policies and programs that provide for—

(A) a reasonable opportunity for an authorized outfitter to realize a profit;

(B) a fair and reasonable return to the United States through appropriate fees;

(C) renewal of outfitter permits based on a performance evaluation system that rewards outfitters that meet required performance standards and discontinues outfitters that fail to meet those standards; and

(D) transfer of an outfitter permit to the qualified purchaser of the operation of an authorized outfitter, an heir or assign, or another qualified person or entity; and

(4) the provision of opportunities for outfitted visitors to Federal land to engage in fishing and hunting is best served by continued recognition that the States retain primary authority over the taking of fish and wildlife on Federal land.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to establish terms and conditions of access to, and occupancy and use of, Federal land by visitors who require or desire the assistance of an authorized outfitter; and

(2) to establish a stable regulatory climate that encourages a qualified person or entity to provide, and to continue to invest in the ability to provide, outfitted visitors with access to, and occupancy and use of, Federal land.

SEC. 4. DEFINITIONS.

In this Act:

(1) ACTUAL USE.—The term ''actual use'' means the portion of a principal allocation of outfitter use that an authorized outfitter uses in conducting commercial outfitted activities during a period, for a type of use, for a location, or in terms of another measurement of the term or outfitted activities covered by an outfitter permit.

(2) ALLOCATION OF USE.—

(A) IN GENERAL.—The term ''allocation of use'' means a method or measurement of access that—

(i) is granted by the Secretary to an authorized outfitter for the purpose of facilitating the occupancy and use of Federal land by an outfitted visitor;

(ii) takes the form of—

(I) an amount or type of commercial outfitted activity resulting from an apportionment of the total recreation capacity of a resource area; or

(II) in the case of a resource area for which recreation capacity has not been apportioned, a type of commercial outfitted activity conducted in a manner that is not inconsistent with or incompatible with an approved resource management plan; and

(iii) is calibrated in terms of amount of use, type of use, or location of a commercial outfitted activity, including user days or portions of user days, seasons or other periods of operation, launch dates, assigned camps, or other formulations of the type or amount of authorized activity.

(B) INCLUSION.—The term ''allocation of use'' includes the designation of a geographic area, zone, or district in which a limited number of authorized outfitters are authorized to operate.

(3) AUTHORIZED OUTFITTER.—

(A) IN GENERAL.—The term ''authorized outfitter'' means a person that conducts a commercial outfitted activity on Federal land under an outfitter authorization.

(B) INCLUSION.—The term ''authorized outfitter'' includes an outfitter that conducts a commercial outfitted activity on Federal land under an outfitter authorization awarded under an agreement between the Secretary and a State or local government that provides for the regulation by a State or local agency of commercial outfitted activities on Federal land.

(4) COMMERCIAL OUTFITTED ACTIVITY.—The term ''commercial outfitted activity'' means an authorized outfitted activity—

(A) that is available to the public;

(B) that is conducted under the direction of paid staff; and

(C) for which an outfitted visitor is required to pay more than shared expenses (including payment to an authorized outfitter that is a nonprofit organization).

(5) FEDERAL AGENCY.—The term ''Federal agency'' means—

(A) the Forest Service;

(B) the Bureau of Land Management;

(C) the United States Fish and Wildlife Service; and

(D) the Bureau of Reclamation.

(6) FEDERAL LAND.—

(A) IN GENERAL.—The term ''Federal land'' means all land and interests in land administered by a Federal agency.

(B) EXCLUSION.—The term ''Federal land'' does not include—

(i) land held in trust by the United States for the benefit of an Indian tribe or individual; or

(ii) land held by an Indian tribe or individual subject to a restriction by the United States against alienation.

(7) INSTITUTIONAL RECREATION PROGRAM.—The term ''institutional recreation program'' means a program of recreational activities on Federal land that may include the conduct of an outfitted activity on Federal land sponsored and guided by—

(A) an institution with a membership or limited constituency, such as a religious, conservation, youth, fraternal, or social organization; or

(B) an educational institution, such as a college or university.

(8) LIMITED OUTFITTER AUTHORIZATION.—The term ''limited outfitter authorization'' means an outfitter authorization under section 6(f).

(9) LIVERY.—The term ''livery'' means the dropping off or picking up of visitors, supplies, or equipment on Federal land.

(10) OUTFITTED ACTIVITY.—

(A) IN GENERAL.—The term ''outfitted activity'' means an activity—

(i) such as outfitting, guiding, supervision, education, interpretation, skills training, assistance, or livery operation conducted for a member of the public in an outdoor environment; and

(ii) that uses the recreational, natural, historical, or cultural resources of Federal land.

(B) EXCLUSION.—The term ''outfitted activity'' does not include a service provided under the National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b).

(11) OUTFITTED VISITOR.—The term ''outfitted visitor'' means a member of the public that relies on an authorized outfitter for access to and occupancy and use of Federal land.

(12) OUTFITTER.—The term ''outfitter'' means a person that conducts a commercial outfitted activity, including a person that, by local custom or tradition, is known as a ''guide''.

(13) OUTFITTER AUTHORIZATION.—The term ''outfitter authorization'' means—

(A) an outfitter permit; or

(B) a limited outfitter authorization.

(14) OUTFITTER PERMIT.—The term ''outfitter permit'' means an outfitter permit under section 6.

(15) PRINCIPAL ALLOCATION OF OUTFITTER USE.—The term ''principal allocation of outfitter use'' means a commitment by the Secretary in an outfitter permit for an allocation of use to an authorized outfitter in accordance with section 9.

(16) RESOURCE AREA.—The term ''resource area'' means a management unit that is described by or contained within the boundaries of—

(A) a national forest;

(B) an area of public land;

(C) a wildlife refuge;

(D) a congressionally designated area;

(E) a hunting zone or district; or

(F) any other Federal planning unit (including an area in which outfitted activities are regulated by more than 1 Federal agency).

(17) SECRETARY.—The term ''Secretary'' means—

(A) with respect to Federal land administered by the Forest Service, the Secretary of Agriculture, acting through the Chief of the Forest Service or a designee;

(B) with respect to Federal land administered by the Bureau of Land Management, the Secretary of the Interior, acting through the Director of the Bureau of Land Management or a designee;

(C) with respect to Federal land administered by the United States Fish and Wildlife Service, the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service or a designee; and

(D) with respect to Federal land administered by the Bureau of Reclamation, the Secretary of the Interior, acting through the Commissioner of Reclamation or a designee.

(18) TEMPORARY ALLOCATION OF USE.—The term ''temporary allocation of use'' means an allocation of use to an authorized outfitter in accordance with section 9.

SEC. 5. NONOUTFITTER USE AND ENJOYMENT.

Nothing in this Act enlarges or diminishes the right or privilege of occupancy and use of Federal land under any applicable law (including planning process rules and any administrative allocation), by a commercial or noncommercial individual or entity that is not an authorized outfitter or outfitted visitor.

SEC. 6. OUTFITTER AUTHORIZATIONS.

(a) IN GENERAL.—

(1) PROHIBITION.—No person or entity, except an authorized outfitter, shall conduct a commercial outfitted activity on Federal land.

(2) CONDUCT OF OUTFITTED ACTIVITIES.—An authorized outfitter shall not conduct an outfitted activity on Federal land except in accordance with an outfitter authorization.

(3) SPECIAL RULE FOR ALASKA.—With respect to a commercial outfitted activity conducted in the State of Alaska, the Secretary shall not establish or impose a limitation on access by an authorized outfitter that is inconsistent with the access ensured under subsections (a) and (b) of section 1110 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3170).

(b) TERMS AND CONDITIONS.—An outfitter authorization shall specify—

(1) the rights and obligations of the authorized outfitter and the Secretary; and

(2) other terms and conditions of the authorization.

(c) CRITERIA FOR AWARD OF AN OUTFITTER PERMIT.—The Secretary shall establish criteria for award of an outfitter permit that—

(1) identify skilled, experienced, and financially capable persons or entities with knowledge of the resource area to offer and conduct commercial outfitted activities;

(2) provide a stable regulatory climate in accordance with this Act and other law (including regulations) that encourages a qualified person or entity to provide, and to continue to invest in the ability to provide, commercial outfitted activities;

(3) offer a reasonable opportunity for an authorized outfitter to realize a profit; and

(4) subordinate considerations of revenue to the United States to the objectives of—

(A) providing recreational or educational opportunities for the outfitted visitor;

(B) providing for the health and welfare of the public; and

(C) conserving resources.

(d) AWARD.—

(1) IN GENERAL.—The Secretary may award an outfitter permit under this Act if—

(A) the commercial outfitted activity to be authorized is not inconsistent with or incompatible with an approved resource management plan applicable to the resource area in which the commercial outfitted activity is to be conducted; and

(B) the authorized outfitter meets the criteria established under subsection (c)(1).

(2) USE OF COMPETITIVE PROCESS.—

(A) IN GENERAL.—Except as otherwise provided by this Act, the Secretary shall use a competitive process to select an authorized outfitter to which an outfitter permit is to be awarded.

(B) EXCEPTION FOR CERTAIN ACTIVITIES.—The Secretary may award an outfitter permit to an applicant without conducting a competitive selection process if the Secretary determines that—

(i) the applicant meets criteria established by the Secretary under subsection (c); and

(ii) there is no competitive interest in the commercial outfitted activity to be conducted.

(C) EXCEPTION FOR RENEWALS AND TRANSFERS.—The Secretary shall award an outfitter permit to an applicant without conducting a competitive selection process if the authorization is a renewal or transfer of an existing outfitter permit under section 11 or 12.

(e) PROVISIONS OF OUTFITTER PERMITS.—

(1) IN GENERAL.—An outfitter permit shall provide for—

(A) the health and welfare of the public;

(B) conservation of resource values;

(C) a fair and reasonable return to the United States through an authorization fee in accordance with section 7;

(D) a term of 10 years;

(E) the obligation of an authorized outfitter to defend and indemnify the United States in accordance with section 8;

(F) a principal allocation of outfitter use, and, if appropriate, a temporary allocation of use, in accordance with section 9;

(G) a plan to conduct performance evaluations in accordance with section 10;

(H) renewal or termination of an outfitter permit in accordance with section 11;

(I) transfer of an outfitter permit in accordance with section 12;

(J) a means of modifying an outfitter permit to reflect material changes from the terms and conditions specified in the outfitter permit;

(K) notice of a right of appeal and judicial review in accordance with section 14; and

(L) such other terms and conditions as the Secretary may require.

(2) EXTENSIONS.—The Secretary may award not more than 3 temporary 1-year extensions of an outfitter permit, unless the Secretary determines that extraordinary circumstances warrant additional extensions.

(f) LIMITED OUTFITTER AUTHORIZATIONS.—

(1) IN GENERAL.—The Secretary may issue a limited outfitter authorization to an applicant for incidental occupancy and use of Federal land for the purpose of conducting a commercial outfitted activity on a limited basis.

(2) TERM.—A limited outfitter authorization shall have a term of not to exceed 2 years.

(3) REISSUANCE OR RENEWAL.—A limited outfitter authorization may be reissued or renewed at the discretion of the Secretary.

SEC. 7. AUTHORIZATION FEES.

(a) AMOUNT OF FEE.—

(1) IN GENERAL.—An outfitter permit shall provide for payment to the United States of a fair and reasonable authorization fee, as determined by the Secretary.

(2) DETERMINATION OF AMOUNT OF FEE.—In determining the amount of an authorization fee, the Secretary shall take into consideration—

(A) the obligations of the outfitter under the outfitter permit;

(B) the provision of a reasonable opportunity for net profit in relation to capital invested; and

(C) economic conditions.

(b) ESTABLISHMENT OF AMOUNT APPLICABLE TO AN OUTFITTER PERMIT.—

(1) IN GENERAL.—The amount of the authorization fee paid to the United States for the term of an outfitter permit shall be specified in the outfitter permit.

(2) REQUIREMENTS.—The amount of the authorization fee—

(A)(i) shall be expressed as—

(I) a simple charge per day of actual use; or

(II) an annual or seasonable flat fee;

(ii) if calculated as a percentage of revenue, shall be determined based on adjusted gross receipts; or

(iii) with respect to a commercial outfitted activity conducted in the State of Alaska, shall be based on a simple charge per user day;

(B) shall be subordinate to the objectives of—

(i) conserving resources;

(ii) protecting the health and welfare of the public; and

(iii) providing reliable, consistent performance in conducting outfitted activities; and

(C) shall be required to be paid by an authorized outfitter to the United States on a reasonable schedule during the operating season.

(3) ADJUSTED GROSS RECEIPTS.—For the purpose of paragraph (2)(A)(ii), the Secretary shall—

(A) take into consideration revenue from the gross receipts of the authorized outfitter from commercial outfitted activities conducted on Federal land; and

(B) exclude from consideration any revenue that is derived from—

(i) fees paid by the authorized outfitter to any unit of Federal, State, or local government for—

(I) hunting or fishing licenses;

(II) entrance or recreation fees; or

(III) other purposes (other than commercial outfitted activities conducted on Federal land);

(ii) goods and services sold to outfitted visitors that are not within the scope of authorized outfitter activities conducted on Federal land; or

(iii) operations on non-Federal land.

(4) SUBSTANTIALLY SIMILAR SERVICES IN A SPECIFIC GEOGRAPHIC AREA.—

(A) IN GENERAL.—Except as provided in subparagraph (B), if more than 1 outfitter permit is awarded to conduct the same or similar commercial outfitted activities in the same resource area, the Secretary shall establish an identical fee for all such outfitter permits.

(B) EXCEPTION.—The terms and conditions of an existing outfitter permit shall not be subject to modification or open to renegotiation by the Secretary because of the award of a new outfitter permit at the same resource area for the same or similar commercial outfitted activities.

(5) ACTUAL USE.—

(A) IN GENERAL.—For the purpose of calculating an authorization fee for actual use under clauses (ii) and (iii) of paragraph (2)(A), the sum of authorization fees proportionately assessed per outfitted visitor in a single calendar day for commercial outfitted

activities at more than 1 resource area shall be not greater than the equivalent fee charged for 1 full user day.

(B) RECONSIDERATION OF FEE.—The authorization fee may be reconsidered during the term of the outfitter permit in accordance with paragraph (6) or section 9(c)(3) at the request of the Secretary or the authorized outfitter.

(6) ADJUSTMENT OF FEES.—The amount of an authorization fee—

(A) shall be determined as of the date of the outfitter permit; and

(B) may be modified to reflect—

(i) changes relating to the terms and conditions of the outfitter permit, including 1 or more outfitter permits described in paragraph (5);

(ii) extraordinary unanticipated changes affecting operating conditions, such as natural disasters, economic conditions, or other material adverse changes from the terms and conditions specified in the outfitter permit;

(iii) changes affecting operating or economic conditions determined by other governing entities, such as the availability of State fish or game licenses; or

(iv) the imposition of new or higher fees assessed under other law.

(c) ESTABLISHMENT OF AMOUNT APPLICABLE TO A LIMITED OUTFITTER AUTHORIZATION.—The Secretary shall determine the amount of an authorization fee, if any, under a limited outfitter authorization.

SEC. 8. LIABILITY AND INDEMNIFICATION.

(a) IN GENERAL.—An authorized outfitter shall defend and indemnify the United States for costs or expenses associated with injury, death, or damage to any person or property caused by the authorized outfitter's negligence, gross negligence, or willful and wanton disregard for persons or property arising directly out of the authorized outfitter's conduct of a commercial outfitted activity under an outfitter authorization.

(b) NO LIABILITY.—An authorized outfitter—

(1) shall have no responsibility to defend or indemnify the United States, its agents, employees, or contractors, or third parties for costs or expenses associated with injury, death, or damage to any person or property caused by the acts, omissions, negligence, gross negligence, or willful and wanton misconduct of the United States, its agents, employees, or contractors, or third parties;

(2) shall not incur liability of any kind to the United States, its agents, employees, or contractors, or third parties as a result of the award of an outfitter authorization or as a result of the conduct of a commercial outfitted activity under an outfitter authorization absent a finding by a court of competent jurisdiction of negligence, gross negligence, or willful and wanton disregard for persons or property on the part of the authorized outfitter; and

(3) shall have no responsibility to defend or indemnify the United States, its agents, employees, or contractors, or third parties for costs or expenses associated with injury, death, or damage to any person or property resulting from the inherent risks of the commercial outfitted activity conducted by the authorized outfitter under the outfitter authorization or the inherent risks present on Federal land.

(c) AGREEMENTS.—An authorized outfitter may enter into contracts or other agreements with outfitted visitors, including agreements providing for release, waiver, indemnification, acknowledgment of risk, or allocation of risk.

SEC. 9. ALLOCATION OF USE.

(a) IN GENERAL.—In a manner that is not inconsistent with or incompatible with an approved resource management plan applicable to the resource area in which a commercial outfitted activity occurs, the Secretary—

(1) shall provide a principal allocation of outfitter use to an authorized outfitter under an outfitter permit; and

(2) may provide a temporary allocation of use to an authorized outfitter under an outfitter permit.

(b) RENEWALS, TRANSFERS, AND EXTENSIONS.—The Secretary shall provide a principal allocation of outfitter use to an authorized outfitter that—

(1) in the case of the renewal of an outfitter permit, is not inconsistent with or incompatible with the terms and conditions of an approved resource management plan applicable to the resource area in which the commercial outfitted activity occurs; or

(2) in the case of the transfer or temporary extension of an outfitter permit, is the same amount of principal allocation of outfitter use provided to the current authorized outfitter.

(c) WAIVER.—

(1) IN GENERAL.—At the request of an authorized outfitter, the Secretary may waive any obligation of the authorized outfitter to use all or part of the amount of allocation of use provided under the outfitter permit, if the request is made in sufficient time to allow the Secretary to temporarily reallocate the unused portion of the allocation of use in that season or calendar year.

(2) RECLAIMING OF ALLOCATION OF USE.—Unless the Secretary has reallocated the unused portion of an allocation of use in accordance with paragraph (1), the authorized outfitter may reclaim any part of the unused portion in that season or calendar year.

(3) NO FEE OBLIGATION.—An outfitter permit fee may not be charged for any amount of allocation of use subject to a waiver under paragraph (1).

(d) ADJUSTMENT TO ALLOCATION OF USE.—The Secretary—

(1) may adjust an allocation of use assigned to an authorized outfitter to reflect—

(A) material change arising from approval of a change in the resource management plan for the area of operation; or

(B) requirements arising under other law; and

(2) shall provide an authorized outfitter with documentation supporting the basis for any adjustment in the principal allocation of outfitter use, including new terms and conditions that result from the adjustment.

(e) TEMPORARY ALLOCATION OF USE.—

(1) IN GENERAL.—A temporary allocation of use may be provided to an authorized outfitter at the discretion of the Secretary for a period not to exceed 2 years.

(2) RENEWALS, TRANSFERS, AND EXTENSIONS.—A temporary allocation of use may be renewed, transferred, or extended at the discretion of the Secretary.

SEC. 10. EVALUATION OF PERFORMANCE UNDER OUTFITTER PERMITS.

(a) EVALUATION PROCESS.—

(1) IN GENERAL.—The Secretary shall develop a process for annual evaluation of the performance of an authorized outfitter in conducting a commercial outfitted activity under an outfitter permit.

(2) EVALUATION CRITERIA.—Criteria to be used by the Secretary to evaluate the performance of an authorized outfitter shall—

(A) be objective, measurable, and reasonably attainable; and

(B) include—

(i) standards generally applicable to all commercial outfitted activities;

(ii) standards specific to a resource area, an individual outfitter operation, or a type of commercial outfitted activity; and

(iii) such other terms and conditions of the outfitter permit as are agreed to by the Secretary and the authorized outfitter as measurements of performance.

(3) SPECIAL RULE FOR ALASKA.—With respect to commercial outfitted activities conducted in the State of Alaska, objectives relating to conservation of natural resources and the taking of fish and game shall not be inconsistent with the laws (including regulations) of the Alaska Department of Fish and Game.

(4) REQUIREMENTS.—In evaluating the level of performance of an authorized outfitter, the Secretary shall—

(A) appropriately account for factors beyond the control of the authorized outfitter, including conditions described in section 7(b)(6)(B);

(B) ensure that the effect of any performance deficiency reflected by the performance rating is proportionate to the severity of the deficiency, including any harm that may have resulted from the deficiency; and

(C) allow additional credit to be earned for elements of performance that exceed the requirements of the outfitter permit.

(b) LEVELS OF PERFORMANCE.—The Secretary shall define 3 levels of performance, as follows:

(1) Good, indicating a level of performance that fulfills the terms and conditions of the outfitter permit.

(2) Marginal, indicating a level of performance that, if not corrected, will result in an unsatisfactory level of performance.

(3) Unsatisfactory, indicating a level of performance that fails to fulfill the terms and conditions of the outfitter permit.

(c) PERFORMANCE EVALUATION.—

(1) EVALUATION SYSTEM.—The Secretary shall establish a performance evaluation system that assures the public of continued availability of dependable commercial outfitted activities and discontinues any authorized outfitter that fails to meet the required standards.

(2) PROCEDURE.—An authorized outfitter shall be entitled—

(A) to be present, or represented, at inspections of operations or facilities, which inspections shall be limited to the operations and facilities of the authorized outfitter located on Federal land;

(B) to receive written notice of any conduct or condition that, if not corrected, might lead to a performance evaluation of marginal or unsatisfactory, which notice shall include an explanation of needed corrections and provide a reasonable period of time in which the corrections may be made without penalty; and

(C) to receive written notice of the results of the performance evaluation not later than 30 days after the conclusion of the authorized outfitter's operating season, including the level of performance and the status of corrections that may have been required.

(d) MARGINAL PERFORMANCE.—If an authorized outfitter's level of performance for a year is determined to be marginal, and the authorized outfitter fails to complete the corrections within the time period specified under subsection (c)(2)(B), the level of performance shall be determined to be unsatisfactory for the year.

(e) DETERMINATION OF ELIGIBILITY FOR RENEWAL.—

(1) IN GENERAL.—The results of all annual performance evaluations of an authorized outfitter shall be reviewed by the Secretary in the year preceding the year in which the outfitter permit expires to determine whether the authorized outfitter's overall performance during the term has met the requirements for renewal under section 11.

(2) FAILURE TO EVALUATE.—If, in any year of the term of an outfitter permit, the Secretary fails to evaluate the performance of the authorized outfitter by the date that is

60 days after the conclusion of the authorized outfitter's operating season, the performance of the authorized outfitter in that year shall be considered to have been good.

(3) NOTICE.—Not later than 60 days after the end of the year preceding the year in which an outfitter permit expires, the Secretary shall provide the authorized outfitter with the cumulative results of performance evaluations conducted under this subsection during the term of the outfitter permit.

(4) UNSATISFACTORY PERFORMANCE IN FINAL YEAR.—If an authorized outfitter receives an unsatisfactory performance rating under subsection (d) in the final year of the term of an outfitter permit, the review and determination of eligibility for renewal of the outfitter permit under paragraph (1) shall be revised to reflect that result.

SEC. 11. RENEWAL OR TERMINATION OF OUTFITTER PERMITS.

(a) RENEWAL AT EXPIRATION OF TERM.—

(1) IN GENERAL.—On expiration of the term of an outfitter authorization, the Secretary shall renew the authorization in accordance with paragraph (2).

(2) DETERMINATION BASED ON ANNUAL PERFORMANCE RATING.—The Secretary shall renew an outfitter authorization under paragraph (1) at the request of the authorized outfitter and subject to the requirements of this Act if the Secretary determines that the authorized outfitter has received not more than 1 unsatisfactory annual performance rating under section 10 during the term of the outfitter permit.

(b) TERMINATION.—An outfitter permit may be terminated only if the Secretary determines that—

(1) the authorized outfitter has failed to correct a condition for which the authorized outfitter received notice under section 10(c)(2)(B) and the condition is considered by the Secretary to be significant with respect to the health and welfare of outfitted visitors or the conservation of resources;

(2) the authorized outfitter is repeatedly in arrears in the payment of fees under section 7; or

(3) the authorized outfitter's conduct demonstrates repeated and willful disregard for—

(A) the health and welfare of outfitted visitors; or

(B) the conservation of resources on which the commercial outfitted activities are conducted.

SEC. 12. TRANSFERABILITY OF OUTFITTER PERMITS.

(a) IN GENERAL.—An outfitter permit shall not be transferred (including assigned or otherwise conveyed or pledged) by the authorized outfitter without prior written notification to, and approval by, the Secretary.

(b) APPROVAL.—

(1) IN GENERAL.—The Secretary shall approve a transfer of an outfitter permit unless the Secretary determines that the transferee does not have sufficient professional, financial, and other resources or business experience to be capable of performing under the outfitter permit for the remainder of the term of the outfitter permit.

(2) QUALIFIED TRANSFEREES.—Subject to section 6(d)(1), the Secretary shall approve a transfer of an outfitter permit—

(A) to a purchaser of the operation of the authorized outfitter;

(B) at the request of the authorized outfitter, to an assignee, partner, or stockholder or other owner of an interest in the operation of the authorized outfitter; or

(C) on the death of the authorized outfitter, to an heir or assign.

(c) NO MODIFICATION AS CONDITION OF APPROVAL.—The terms and conditions of an outfitter permit shall not be subject to modification or open to renegotiation by the Secretary because of a transfer described in subsection (a), unless the terms and conditions of the outfitter permit that is proposed to be transferred have become inconsistent or incompatible with an approved resource management plan for the resource area as a result of a modification to the plan.

(d) CONSIDERATION PERIOD.—

(1) THRESHOLD FOR AUTOMATIC APPROVAL.—Subject to paragraph (2), if the Secretary fails to approve or disapprove the transfer of an outfitter permit within 90 days after the date of receipt of an application containing the information required with respect to the transfer, the transfer shall be deemed to have been approved.

(2) EXTENSION.—The Secretary and the authorized outfitter making application for transfer of an outfitter permit may agree to extend the period for consideration of the application.

(e) CONTINUANCE OF OUTFITTER PERMIT.—If the transfer of an outfitter permit is not approved by the Secretary or if the transfer is not subsequently made, the outfitter permit shall remain in effect.

SEC. 13. RECORDKEEPING REQUIREMENTS.

(a) IN GENERAL.—An authorized outfitter shall keep such reasonable records as the Secretary may require to enable the Secretary to determine that all the terms of the outfitter authorization have been and are being carried out.

(b) BURDEN ON AUTHORIZED OUTFITTER.—The recordkeeping requirements established by the Secretary shall incorporate simplified procedures that do not impose an undue burden on an authorized outfitter.

(c) ACCESS TO RECORDS.—The Secretary, or an authorized representative of the Secretary, shall, until the end of the fifth calendar year beginning after the end of the business year of an authorized outfitter, have access to and the right to examine any books, papers, documents, and records of the authorized outfitter relating to each outfitter authorization held by the authorized outfitter during the business year.

SEC. 14. APPEALS AND JUDICIAL REVIEW.

(a) APPEALS PROCEDURE.—The Secretary shall by regulation—

(1) grant an authorized outfitter full access to administrative remedies under the Secretary's authority at the time of an appeal; and

(2) establish an expedited procedure for consideration of appeals of Federal agency decisions to deny, suspend, fail to renew, or terminate an outfitter permit.

(b) JUDICIAL REVIEW.—An authorized outfitter that is adversely affected by a final decision of the Secretary under this Act may commence a civil action in United States district court.

SEC. 15. INSTITUTIONAL RECREATION PROGRAMS.

(a) IN GENERAL.—The Secretary shall manage the occupancy and use of Federal land by institutional recreation programs that conduct outfitted activities under this Act.

(b) REQUIREMENTS.—In managing an institutional recreation program authorized under this Act, the Secretary shall require that the program—

(1) operate in a manner that is not inconsistent with or incompatible with an approved resource management plan applicable to the resource area in which the outfitted activity is conducted;

(2) provide for the health and welfare of members of the sponsoring organization or affiliated participants; and

(3) ensure the conservation of resources.

SEC. 16. CONSISTENCY WITH OTHER LAW AND RIGHTS.

(a) CONSISTENCY WITH OTHER LAW.—Each program of outfitted activities carried out on Federal land shall be consistent with the mission of the administering Federal agency and all laws (including regulations) applicable to the outfitted activities.

(b) CONSISTENCY WITH RIGHTS OF UNITED STATES.—Nothing in this Act limits or restricts any right, title, or interest of the United States in or to any land or resource.

SEC. 17. REGULATIONS.

Not later than 2 years after the date of enactment of this Act, the Secretary shall promulgate such regulations as are appropriate to carry out this Act.

SEC. 18. RELATIONSHIP TO OTHER LAW.

(a) NATIONAL PARK OMNIBUS MANAGEMENT ACT OF 1998.—Nothing in this Act supersedes or otherwise affects any provision of title IV of the National Park Omnibus Management Act of 1998 (16 U.S.C. 5951 et seq.).

(b) STATE OUTFITTER LICENSING LAW.—This Act does not preempt any outfitter or guide licensing law (including any regulation) of any State or territory.

SEC. 19. TRANSITION PROVISIONS.

(a) IN GENERAL.—

(1) OUTFITTERS WITH SATISFACTORY RATINGS.—An outfitter that holds a permit, contract, or other authorization to conduct commercial outfitted activities (or an extension of such a permit, contract, or other authorization) in effect on the date of enactment of this Act shall be entitled, on request or on expiration of the authorization, to the issuance of an outfitter permit under this Act if a recent performance evaluation determined that the outfitter's aggregate performance under the permit, contract, or other authorization was good or was the equivalent of good, satisfactory, or acceptable under a rating system in use before the date of enactment of this Act.

(2) OUTFITTERS WITH NO RATINGS.—For the purpose of paragraph (1), if no recent performance evaluation exists with respect to an outfitter, the outfitter's aggregate performance under the permit, contract, or other authorization shall be deemed to be good.

(b) EFFECT OF ISSUANCE OF OUTFITTER PERMIT.—The issuance of an outfitter permit under subsection (a) shall not adversely affect any right or obligation that existed under the permit, contract, or other authorization (or an extension of the permit, contract, or other authorization) on the date of enactment of this Act.

By Mr. SPECTER:

S. 1970. A bill to amend chapter 171 of title 28, United States Code, with respect to the liability of the United States for claims of military personnel for damages for certain injuries; to the Committee on the Judiciary.

FERES DOCTRINE REVERSAL LEGISLATION

Mr. SPECTER. Mr. President, I seek recognition to introduce a bill which will overturn what has come to be known as the ''Feres doctrine.'' In the 1950 case of Feres v. U.S., the Supreme Court held that the United States Government is not liable under the Federal Tort Claims Act for injuries to military personnel where the injuries are sustained ''incident to service.'' Under the Feres doctrine, therefore, a soldier would not be able to seek compensation from the government for injuries sustained due to government negligence unless the soldier happened to be on leave or furlough at the time he or she sustained the injuries.

Over the years, we have seen the Feres doctrine produce anomalous results which reflect neither the will of

the Congress nor basic common sense. For instance, under Feres, a soldier who is the victim of medical malpractice at an army hospital cannot sue the government for compensation. Likewise, his family cannot sue for compensation if the soldier dies from the malpractice. But a civilian who suffers from the same malpractice would be entitled to file suit against the government. Likewise, if a soldier driving home from work on an army base is hit by a negligently driven army truck, he is barred from suing the government for compensation. If the soldier dies in the accident, his family will be barred from suing for compensation. Meanwhile, a civilian hit by the same truck would have a cause of action against the United States. Unfortunately, the individuals hurt by the Feres doctrine are the men and women of our armed forces—people whom we should protect and reward, not punish.

The recent decision of the Third Circuit Court of Appeals in O'Neil v. United States illustrates the troubling results produced by the Feres doctrine. In O'Neil, the family of slain Naval officer Kerryn O'Neil was barred from pursuing a wrongful death claim against the government under the Feres doctrine. O'Neil was murdered by her former fiance, George Smith, a Navy ensign. The two met at the U.S. Naval Academy and were stationed at the same Naval base in California. After Ms. O'Neil broke off their engagement, Mr. Smith began to stalk her. One night while Ms. O'Neil was sitting in her on-base apartment watching a movie with a friend, Smith came to her building and killed her, her friend, and then himself.

After the murders, Kerryn O'Neil's family learned that Mr. Smith had scored in the 99.99th percentile for aggressive/destructive behavior in Navy psychological tests. Under Naval procedures, these results should have been forwarded to the Department of Psychiatry at the Naval Hospital for a full psychological evaluation. Had their claim not been barred, the O'Neils would have argued that the Navy was negligent in failing to follow up on these extreme test results. I do not know whether the O'Neil's deserved to be compensated under the Act—this depends on the specific facts and the case law in this area. But it does seem clear to me that the O'Neils should not have been barred from pursuing their claim because their daughter's fatal injuries were sustained ''incident to service.''

Of course, there are situations in which soldiers should not be allowed to sue the government in tort. For example, in a combat situation, countless judgment calls are made which result in death or injuries to soldiers. We cannot have lawyers and juries second guessing the decisions made by field commanders and combatants in the heat of battle. But such considerations do not necessitate that military personnel should lose the right to sue the government in any context.

The bill I introduce today will reverse the court-created Feres doctrine and return the law to the way it was originally intended by Congress. My bill is very short and simple. It amends the Federal Tort Claims Act to specifically provide that the Act applies to military personnel on active duty the same as it applies to anyone else. My bill further specifies that military personnel will be limited by the exceptions to government liability already included in the Act, including the bar on liability for injuries sustained by military personnel in combat and the bar on liability for claims which arise in a foreign country. In short, my bill will ensure that members of our armed forces will be entitled to damages they deserve when injured through the negligence or wrongful actions of the Federal government or its agents, except for certain limited cases contemplated by Congress when it originally passed the Act.

Congress passed the Federal Tort Claims Act in 1946 to give the general consent of the government to be sued in tort, subject to several specific restrictions. Under the common law doctrine of sovereign immunity, the United States cannot be sued without such specific consent. The Act provides that the government will be held liable ''in the same manner and to the same extent as a private individual under the circumstances.'' Thus, the Act makes the United States liable for the torts of its employees and agents to the extent that private employers are liable under state law for the torts of their employees and agents.

The Act contains many exceptions to government liability, but it does not contain an explicit exception for injuries sustained by military personnel incident to service. In fact, one of the Act's exceptions prevents ''any claim arising out of the combatant activities of the military or naval forces, or the Coast Guard during time of war.'' By including this exception, Congress clearly contemplated the special case of military personnel and decided that certain limits must be placed on government liability in this context. But by drawing this exception narrowly and limiting it to combat situations, Congress rejected any broad exception for injuries sustained ''incident to service.'' The Supreme Court did far more than interpret our statute when it significantly broadened the limited combat exception provided by Congress. This bill leaves intact the government's exemption for injuries sustained in combat.

The Feres doctrine has been the subject of harsh criticism by some of the leading jurists in the nation. In the 1987 case of United States v. Johnson, a 5 to 4 majority of the Supreme Court held that the Feres doctrine bars suits on behalf of military personnel injured incident to service even in cases of torts committed by employees of civilian agencies. Justice Scalia wrote a scathing dissent in Johnson, in which he was joined by Justices Brennan, Marshall, and Stevens. Scalia wrote that Feres was ''wrongly decided and heartily deserves the widespread, almost universal criticism it has received.''

Judge Edward Becker, the Chief Judge of the Third Circuit Court of Appeals, has also spoken out strongly against the Feres doctrine. He has noted that ''the scholarly criticism of the doctrine is legion'' and has urged the Supreme Court to grant cert. to reconsider Feres. Judge Becker has written to me that given the failure of the Court to overturn Feres thus far, I should introduce legislation doing so.

Even in the Feres opinion itself, the Supreme Court expressed an uncharacteristic doubt about its decision. The justices recognized that they may be misinterpreting the Federal Tort Claims Act. They called upon Congress to correct their mistake if this were the case. The Court wrote:

> There are few guiding materials for our task of statutory construction. No committee reports or floor debates disclose what effect the statute was designed to have on the problem before us, or that it even was in mind. Under these circumstances, no conclusion can be above challenge, but if we misinterpret the Act, at least Congress possesses a ready remedy.

Congress does possess a ready remedy, and I call upon my colleagues to exercise it. The bill I introduce today will eliminate the judicially created Feres doctrine and revive the original framework of the Federal Tort Claims Act. There is no reason to deny compensation to the men and women of our armed services who are injured or killed in domestic accidents or violence outside the heat of combat. I hope that when we resume our business next year my colleagues will join me in supporting and passing this legislation.

ADDITIONAL COSPONSORS

S. 211

At the request of Mr. MOYNIHAN, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor 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. 279

At the request of Mr. MCCAIN, the name of the Senator from Tennessee (Mr. FRIST) was added as a cosponsor of S. 279, a bill to amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age.

S. 345

At the request of Mr. ALLARD, the names of the Senator from Minnesota (Mr. GRAMS) and the Senator from West Virginia (Mr. BYRD) were added as cosponsors of S. 345, a bill to amend the Animal Welfare Act to remove the limitation that permits interstate movement of live birds, for the purpose of fighting, to States in which animal fighting is lawful.