''(g) ALLOCATION OF FUNDS.—At least half of the funds available under this subpart shall be awarded to units of local government with fewer than 100,000 residents.

''SEC. 2522. APPLICATIONS.

''(a) IN GENERAL.—To request a grant under this subpart, the chief executive of a State, unit of local government, or Indian tribe shall submit an application to the Director of the Bureau of Justice Assistance in such form and containing such information as the Director may reasonably require.

''(b) REGULATIONS.—Not later than 90 days after the date of the enactment of this subpart, the Director of the Bureau of Justice Assistance shall promulgate regulations to implement this section (including the information that must be included and the requirements that the States, units of local government, and Indian tribes must meet) in submitting the applications required under this section.

''(c) ELIGIBILITY.—A unit of local government that receives funding under the Local Law Enforcement Block Grant program (described under the heading 'Violent Crime Reduction Programs, State and Local Law Enforcement Assistance' of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998 (Public Law 105–119)) during a fiscal year in which it submits an application under this subpart shall not be eligible for a grant under this subpart unless the chief executive officer of such unit of local government certifies and provides an explanation to the Director that the unit of local government considered or will consider using funding received under the block grant program for any or all of the costs relating to the purchase of video cameras, but did not, or does not expect to use such funds for such purpose.

''SEC. 2523. DEFINITIONS.

''In this subpart—

''(1) the term 'Indian tribe' has the same meaning as in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e));

''(2) the term 'law enforcement officer' means any officer, agent, or employee of a State, unit of local government, or Indian tribe authorized by law or by a government agency to engage in or supervise the prevention, detection, or investigation of any violation of criminal law, or authorized by law to supervise sentenced criminal offenders;

''(3) the term 'State' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands; and

''(4) the term 'unit of local government' means a county, municipality, town, township, village, parish, borough, or other unit of general government below the State level.''.

(b) AUTHORIATION OF APPROPRIATIONS.—Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)) is amended by striking paragraph (23) and inserting the following:

''(23) There are authorized to be appropriated to carry out part Y—

''(A) $25,000,000 for each of fiscal years 2000 through 2002 for grants under subpart A of that part;

''(B) $40,000,000 for each of fiscal years 2000 through 2002 for grants under subpart B of that part; and

''(C) $25,000,000 for each of fiscal years 2000 through 2002 for grants under subpart C of that part.''.

SEC. 4. SENSE OF THE CONGRESS.

In the case of any equipment or products that may be authorized to be purchased with financial assistance provided using funds appropriated or otherwise made available by this Act, it is the sense of the Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products.

SEC. 5. TECHNOLOGY DEVELOPMENT.

Section 202 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3722) is amended by adding at the end the following:

''(e) BULLET RESISTANT TECHNOLOGY DEVELOPMENT.—

''(1) IN GENERAL.—The institute is authorized to—

''(A) conduct research and otherwise work to develop new bullet resistant technologies (i.e., acrylic, polymers, aluminized material, and transparent ceramics) for use in police equipment (including windshield glass, car panels, shields, and protective gear);

''(B) inventory bullet resistant technologies used in the private sector, in surplus military property, and by foreign countries;

''(C) promulgate relevant standards for, and conduct technical and operational testing and evaluation of, bullet resistant technology and equipment, and otherwise facilitate the use of that technology in police equipment.

''(2) PRIORITY.—In carrying out this subsection, the Institute shall give priority in testing and engineering surveys to law enforcement partnerships developed in coordination with High Intensity Drug Trafficking Areas.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $3,000,000 for fiscal years 2000 through 2002.''.

By Mr. CAMPBELL (for himself and Mr. HATCH):

S. 727. A bill to exempt qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed firearms and to allow States to enter into compacts to recognize other States' concealed weapons permits; to the Committee on the Judiciary.

LAW ENFORCEMENT PROTECTION ACT OF 1999

Mr. CAMPBELL. Mr. President, today I introduce a bill to authorize States to recognize each other's concealed weapons laws and exempt qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed firearms. This legislation is designed to support the rights of States and to facilitate the right of law-abiding citizens as well as law enforcement officers to protect themselves, their families, and their property. I am pleased to be joined by the chairman of the Judiciary Committee, Senator HATCH as an original cosponsor of this legislation.

The language of this bill is based on my bill, S. 837, in the 105th Congress and is similar to a provision in S. 3, the Omnibus Crime Control Act of 1997, introduced by Senator HATCH. In light of the importance of this provision to law-abiding gunowners and law enforcement officers, I am introducing this freestanding bill today for the Senate's consideration and prompt action.

This bill allows States to enter into agreements, known as ''compacts,'' to recognize the concealed weapons laws of those States included in the compacts. This is not a Federal mandate; it is strictly voluntary for those States interested in this approach. States would also be allowed to include provisions which best meet their needs, such as special provisions for law enforcement personnel.

This legislation would allow anyone possessing a valid permit to carry a concealed firearm in their respective State to also carry it in another State, provided that the States have entered into a compact agreement which recognizes the host State's right-to-carry laws. This is needed if you want to protect the security individuals enjoy in their own State when they travel or simply cross State lines to avoid a crazy quilt of differing laws.

Currently, a Federal standard governs the conduct of nonresidents in those States that do not have a right-to-carry statute. Many of us in this body have always strived to protect the interests of States and communities by allowing them to make important decisions on how their affairs should be conducted. We are taking to the floor almost every day to talk about mandating certain things to the States. This bill would allow States to decide for themselves.

Specifically, the bill allows that the law of each State govern conduct within that State where the State has a right-to-carry statute, and States determine through a compact agreement which out-of-State right-to-carry statute will be recognized.

To date, 31 States have passed legislation making it legal to carry concealed weapons. These State laws enable citizens of those States to exercise their right to protect themselves, their families, and their property.

The second major provision of this bill would allow qualified current and former law enforcement officers who are carrying appropriate written identification of that status to be exempt from State laws that prohibit the carrying of concealed weapons. This provision sets forth a checklist of stringent criteria that law enforcement officers must meet in order to qualify for this exemption status. Exempting qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed weapons, I believe, would add additional forces to our law enforcement community in our unwavering fight against crime.

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

Mr. President, I urge my colleagues to support this bill.

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

S. 727

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 ''Law Enforcement Protection Act of 1999''.

SEC. 2. EXEMPTION OF QUALIFIED CURRENT AND FORMER LAW ENFORCEMENT OFFICERS FROM STATE LAWS PROHIBITING THE CARRYING OF CONCEALED FIREARMS.

(a) IN GENERAL.—Chapter 44 of title 18, United States Code, is amended by inserting after section 926A the following:

''§ 926B. Carrying of concealed firearms by qualified current and former law enforcement officers

''(a) IN GENERAL.—Notwithstanding any provision of the law of any State or any political subdivision of a State, an individual may carry a concealed firearm if that individual is—

''(1) a qualified law enforcement officer or a qualified former law enforcement officer; and

''(2) carrying appropriate written identification.

''(b) EFFECT ON OTHER LAWS.—

''(1) COMMON CARRIERS.—Nothing in this section shall be construed to exempt from section 46505(B)(1) of title 49—

''(A) a qualified law enforcement officer who does not meet the requirements of section 46505(D) of title 49; or

''(B) a qualified former law enforcement officer.

''(2) FEDERAL LAWS.—Nothing in this section shall be construed to supersede or limit any Federal law or regulation prohibiting or restricting the possession of a firearm on any Federal property, installation, building, base, or park.

''(3) STATE LAWS.—Nothing in this section shall be construed to supersede or limit the laws of any State that—

''(A) grant rights to carry a concealed firearm that are broader than the rights granted under this section;

''(B) permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property; or

''(C) prohibit or restrict the possession of firearms on any State or local government property, installation, building, base, or park.

''(4) DEFINITIONS.—In this section:

''(A) APPROPRIATE WRITTEN IDENTIFICATION.—The term 'appropriate written identification' means, with respect to an individual, a document that—

''(i) was issued to the individual by the public agency with which the individual serves or served as a qualified law enforcement officer; and

''(ii) identifies the holder of the document as a current or former officer, agent, or employee of the agency.

''(B) QUALIFIED LAW ENFORCEMENT OFFICER.—The term 'qualified law enforcement officer' means an individual who—

''(i) is presently authorized by law to engage in or supervise the prevention, detection, or investigation of any violation of criminal law;

''(ii) is authorized by the agency to carry a firearm in the course of duty;

''(iii) meets any requirements established by the agency with respect to firearms; and

''(iv) is not the subject of a disciplinary action by the agency that prevents the carrying of a firearm.

''(C) QUALIFIED FORMER LAW ENFORCEMENT OFFICER.—The term 'qualified former law enforcement officer' means, an individual who is—

''(i) retired from service with a public agency, other than for reasons of mental disability;

''(ii) immediately before such retirement, was a qualified law enforcement officer with that public agency;

''(iii) has a nonforfeitable right to benefits under the retirement plan of the agency;

''(iv) was not separated from service with a public agency due to a disciplinary action by the agency that prevented the carrying of a firearm;

''(v) meets the requirements established by the State in which the individual resides with respect to—

''(I) training in the use of firearms; and

''(II) carrying a concealed weapon; and

''(vi) is not prohibited by Federal law from receiving a firearm.

''(D) FIREARM.—The term 'firearm' means, any firearm that has, or of which any component has, traveled in interstate or foreign commerce.''.

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 44 of title 18, United States Code, is amended by inserting after the item relating to section 926A the following:

''926B. Carrying of concealed firearms by qualified current and former law enforcement officers.''.

SEC. 3. AUTHORIZATION TO ENTER INTO INTERSTATE COMPACTS.

(a) IN GENERAL.—The consent of Congress is given to any 2 or more States—

(1) to enter into compacts or agreements for cooperative effort in enabling individuals to carry concealed weapons as dictated by laws of the State within which the owner of the weapon resides and is authorized to carry a concealed weapon; and

(2) to establish agencies or guidelines as they may determine to be appropriate for making effective such agreements and compacts.

(b) RESERVATION OF RIGHTS.—The right to alter, amend, or repeal this section is hereby expressly reserved by Congress.

By Mr. CAMPBELL:

S. 728. A bill to amend chapter 44 of title 18, United States Code, to increase the maximum term of imprisonment for offenses involving stolen firearms; to the Committee on the Judiciary.

STOLEN GUN PENALTY ENHANCEMENT ACT OF 1999

Mr. CAMPBELL. Mr. President, many crimes in our country are being committed with stolen guns. The extent of this problem is reflected in a number of recent studies and news reports. Therefore, today I am introducing the Stolen Gun Penalty Enhancement Act of 1999 to increase the maximum prison sentences for violating existing stolen gun laws.

Reports indicate that almost half a million guns are stolen each year. As of March 1995 there were over 2 million reports in the stolen gun file of the FBI's National Crime Information Center including 7,700 reports of stolen machine guns and submachine guns. In a 9 year period between 1985 and 1994, the FBI received an annual average of over 274,000 reports of stolen guns.

Studies conducted by the Bureau of Alcohol, Tobacco, and Firearms note that felons steal firearms to avoid background checks. A 1991 Bureau of Justice Statistics survey of State prison inmates notes that almost 10 percent had stolen a handgun, and over 10 percent of all inmates had traded or sold a stolen firearm.

This problem is especially alarming among young people. A Justice Department study of juvenile inmates in four states shows that over 50 percent of those inmates had stolen a gun. In the same study, gang members and drug sellers were more likely to have stolen a gun.

In my home State of Colorado, the Colorado Bureau of Investigation receives over 500 reports of stolen guns each month. As of this month, the Bureau has a total of 36,000 firearms on its unrecovered firearms list. It is estimated that one-third of these firearms are categorized as handguns.

All these studies and statistics show the extent of the problem of stolen guns. Therefore, the bill I am introducing today will increase the maximum prison sentences for violation of existing stolen gun laws.

Specifically, my bill increases the maximum penalty for violating four provisions of the firearms laws. Under title 18 of the U.S. Code, it is illegal to knowingly transport or ship a stolen firearm or stolen ammunition. It is also illegal to knowingly receive, possess, conceal, store, sell, or otherwise dispose of a stolen firearm or stolen ammunition.

The penalty for violating either of these provisions is a fine, a maximum term of imprisonment of 10 years, or both. My bill increases the maximum prison sentence to 15 years.

The third statutory provision makes it illegal to steal a firearm from a licensed dealer, importer, or manufacturer. For violating this provision, the maximum term of imprisonment would be increased to a maximum 15 years under by bill.

And the fourth provision makes it illegal to steal a firearm from any person, including a licensed firearm collector, with a maximum penalty of 10 years imprisonment. As with the other three provisions, my bill increases this maximum penalty to 15 years.

In addition to these amendments to title 18 of the U.S. Code, the bill I introduce today directs the United States Sentencing Commission to revise the Federal sentencing guidelines with respect to these firearms offenses.

Mr. President, I am a strong supporter of the rights of law-abiding gun owners. However, I firmly believe we need tough penalties for the illegal use of firearms.

The Stolen Gun Penalty Enhancement Act of 1999 will send a strong signal to criminals who are even thinking about stealing a firearm. I urge my colleagues to join in support of this legislation.

I ask unanimous consent that a copy of the bill be printed in the RECORD.

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

S. 728

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

SECTION 1. STOLEN FIREARMS.

(a) IN GENERAL.—Section 924 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking ''(i), (j),''; and

(B) by adding at the end the following:

''(7) Whoever knowingly violates subsection (i) or (j) of section 922 shall be fined under this title, imprisoned not more than 15 years, or both.'';

(2) in subsection (i)(1), by striking ''10 years'' and inserting ''15 years''; and

(3) in subsection (*l*), by striking ''10 years'' and inserting ''15 years''.

(b) SENTENCING COMMISSION.—The United States Sentencing Commission shall amend the Federal sentencing guidelines to reflect the amendments made by subsection (a).

By Mr. CRAIG (for himself, Mr. MURKOWSKI, Mr. LOTT, Mr. STEVENS, Mr. BURNS, Mr. SMITH of Oregon, Mr. CRAPO, Mr. SHELBY, Mr. HAGEL and Mr. BENNETT):

S. 729. A bill to ensure that Congress and the public have the right to participate in the declaration of national monuments on federal land; to the Committee on Energy and Natural Resources.

THE NATIONAL MONUMENT PUBLIC PARTICIPATION ACT OF 1999

Mr. CRAIG. Mr. President, I rise today to introduce legislation that ensures the public will have a say in the management of our public lands. I am pleased that Senators MURKOWSKI, LOTT, STEVENS, BURNS, GORDON SMITH, CRAPO, SHELBY, HAGEL, and BENNETT are joining me as original cosponsors.

After President Clinton's proclamation of four years ago, declaring nearly two million acres of southern Utah a national monument, I introduced the Idaho Protection Act of 1999. That bill would have required that the public and the Congress be included before a national monument could be established in Idaho. When I introduced that bill, I was immediately approached by other Senators seeking the same protection for their state. This bill, The National Monument Public Participation Act, will provide that protection to all states.

The National Monument Public Participation Act amends the Antiquities Act to require the Secretaries of the Interior and Agriculture to provide an opportunity for public involvement prior to the designation of a national monument. It establishes procedures to give the public and local, State, and federal governments adequate notice and opportunity to comment on, and participate in, the formulation of plans for the declaration of national monuments on public lands.

Under the 1906 Antiquities Act, the President has the unilateral authority to create a national monument where none existed before. In fact, since 1906, the law has been used some 66 times to set lands aside. It is important to note that with very few exceptions, these declarations occurred before enactment of the National Environmental Policy Act of 1969, which recognized the need for public involvement in such issues and mandated public comment periods before such decisions are made.

The most recent use of the Antiquities Act came on September 18, 1996, with Presidential Proclamation 6920, Establishment of the Grand Staircase-Escalante National Monument. Without including Utah's Governor, Senators, congressional delegation, the State legislature, county commissioners, or the people of Utah—President Clinton set off-limits forever approximately 1.7 million acres of Utah. What the President did in Utah, without public input, could also be done in Idaho or any other States where the federal government has a presence. That must not be allowed to happen.

My state of Idaho is 63 percent federal lands. Within Idaho's boundaries, we have one National Historic Park, one National Reserve, two National Recreation Areas, and five Wilderness Areas, just to name the major federally designated natural resource areas. This amounts to approximately 4.8 million acres, or to put things in perspective, the size of the state of New Jersey. Each of these designations has had public involvement and consent of Congress before being designated. As you can tell, the public process has worked in the past, in my state, and I believe it will continue to work in the future.

In Idaho, each of these National designations generated concerns among those affected by the designation, but with the public process, we were able to work through most of the concerns before the designation was made. Individuals who would be affected by the National designation had time to prepare, but Utah was not as fortunate. With the overnight designation of the Grand Staircase-Escalante National Monument, the local communities, and the State and federal agencies were left to pick up the pieces and work out all the ''details.''

The President's action in Utah has been a wake-up call to people across America.We all want to preserve what is best in our States, and I understand and support the need to protect valuable resources. That is why this bill will not, in any way, affect the ability of the federal government to make emergency withdrawals under the Federal Land Policy and Management Act of 1976 (FLPMA). If an area is truly worthy of a National Monument designation, Congress will make that designation during the time frame provided in FLPMA.

Our public lands are a national asset that we all treasure and enjoy. Westerners are especially proud of their public lands and have a stake in the management of these lands, but people everywhere also understand that much of their economic future is tied up in what happens on their public lands.

In the West, where public lands dominate the landscape, issues such as grazing, timber harvesting, water use, and recreation access have all come under attack by this administration seemingly bent upon kowtowing to a segment of our population that wants these uses kicked off our public lands.

Everyone wants public lands decisions to be made in an open and inclusive process. No one wants the President, acting alone, to unilaterally lock up enormous parts of any State. We certainly don't work that way in the West. There is a recognition that with common sense, a balance can be struck that allows jobs to grow and families to put down roots while at the same time protecting America's great natural resources.

In my view, the President's actions in Utah were beyond the pale, and for that reason—to protect others from suffering a similar fate I am introducing this bill. I ask unanimous consent that the text of the bill appear in the RECORD.

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

S. 729

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 ''National Monument Public Participation Act of 1999''.

SEC. 2. PURPOSE.

The purpose of this Act is to ensure that Congress and the public have the right and opportunity to participate in decisions to declare national monuments on Federal land.

SEC. 3. CLARIFICATION OF CONGRESSIONAL AND PUBLIC ROLES IN DECLARATION OF NATIONAL MONUMENTS.

The Act entitled ''An Act for the preservation of American antiquities'', approved June 8, 1906 (commonly known as the ''Antiquities Act of 1906'') (16 U.S.C. 431 et seq.), is amended by adding at the end the following:

''SEC. 5. CONGRESSIONAL AND PUBLIC ROLES IN NATIONAL MONUMENT DECLARATIONS.

''(a) IN GENERAL.—The Secretary of the Interior and the Secretary of Agriculture shall promulgate regulations that establish procedures to ensure that Federal, State, and local governments and the public have the right to participate in the formulation of plans relating to the declaration of a national monument on Federal land on or after the date of enactment of this section, including procedures—

''(1) to provide the public with adequate notice and opportunity to comment on and participate in the declaration of a national monument on Federal land; and

''(2) for public hearings, when appropriate, on the declaration of a national monument on Federal land.

''(b) OTHER DUTIES.—Prior to making any recommendations for declaration of a national monument in an area, the Secretary of the Interior and the Secretary of Agriculture shall—

''(1) ensure, to the maximum extent practicable, compliance with all applicable Federal land management and environmental laws, including the completion of a programmatic environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

''(2) cause mineral surveys to be conducted by the Geological Survey to determine the mineral values, if any, that may be present in the area;

''(3) cause an assessment of the surface resource values of the land to be completed and made available by the appropriate agencies;

''(4) identify all existing rights held on Federal land contained within the area by type and acreage; and

''(5) identify all State and private land contained within the area.

''(c) RECOMMENDATIONS.—On completion of the reviews and mineral surveys required under subsection (b), the Secretary of the Interior or the Secretary of Agriculture shall submit to the President recommendations as to whether any area on Federal land warrants declaration as a national monument.

''(d) FEDERAL ACTION.—Any study or recommendation under this section shall be considered a federal action for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

''(e) REPORTS.—Not later than 2 years after the receipt of a recommendation under subsection (c), the President shall—

''(1) advise the President of the Senate and the Speaker of the House of Representatives of the President's recommendation with respect to whether each area evaluated should be declared a national monument; and

''(2) provide a map and description of the boundaries of each area evaluated for declaration to the President of the Senate and the Speaker of the House of Representatives.

''(f) DECLARATION AFTER EFFECTIVE DATE.—A recommendation of the President for declaration of a national monument that is made after the effective date of this section shall become effective only if the declaration is approved by Act of Congress.''.

Mr. MURKOWSKI. Mr. President, I rise this afternoon in support of the National Monument Public Participation Act of 1999. This legislation puts the ''Public'' back into public land management and the ''Environment'' back into environmental protection.

Passage of this Act will insure that all the gains we have made over the past quarter century in creating an open participatory government which affords strong environmental protection for our public lands are protected.

For those of you who thought those battles were fought and ''won'' with the passage of National Environmental Protection Act in 1969, the Federal Land Policy Management Act in 1976, and the National Forest Management Act of 1976, I have bad news. There is one last battle to be fought.

Standing in this very Chamber on January 30, 1975, Senator Henry M. ''Scoop'' Jackson spoke to the passion Americans feel for their public lands. He said:

The public lands of the United States have always provided the arena in which we American's have struggled to fulfill our dreams. Even today dreams of wealth, adventure, and escape are still being acted out on these far flung lands. These lands and the dreams—fulfilled and unfulfilled—which they foster are a part of our national destiny. They belong to all Americans.

Amazingly, there exists today ''legal'' authorities by which the President, without public process or Congressional approval and without any environmental review, can create vast special management units. Special management units which can affect how millions of acres of our public lands are managed, what people can do on these lands, and what the future will be for surrounding communities.

This is a powerful trust to bestow upon anyone—even a President.

On September 12, 1996, the good people of Utah woke up to find themselves the most recent recipient of a philosophy that says: ''Trust us we're from the federal government, and we know what's best for you''. On that day, standing in the State of Arizona, the President invoked the 1906 Antiquities Act to create a 1.7 million acre Nation Monument in Southern Utah. By using this antiquated law the President was able to avoid this nation's environmental laws and ignore public participation laws. With one swipe of the pen, every shred of public input and environmental law promulgated in this country over the past quarter of a century was shoved into the trash heap of political expediency.

What happened in Utah is but the latest example of a small cadre of Administration officials deciding for all Americans how our public lands should be used. It is a classic example of a backroom deal, catering to special interests at the expense of the public. It is by no means the only one.

As a Senator from Alaska, I have a great deal of personal experience in this area. In 1978, President Jimmy Carter used this law to create ''17'' National Monuments in Alaska covering more than 55 millions acres of land. This was followed in short order by this Secretary of the Interior Cecil Andrus who withdrew an additional 50 million acres. All this land was withdrawn from multiple uses without any input from the people of Alaska, the public, or the Congress of the United States. All this occurred while Congress was considering legislation affecting these lands, while Congress was conducting workshops throughout Alaska and holding hearings in Washington, DC to involve the public.

With over 100 million acres of withdrawn land held over Alaska's head like the sword of Damocles, we were forced to cut the best deal we could. Twenty years later the people of my state are still struggling to cope with the weight of these decisions. President Carter cut his deal for his special interests to avoid the public debate on legislation, just as President Clinton did with the Grand Staircase/Escalante.

I would not be here this afternoon if the public, and Congress were not systematically being denied a voice in the creation of National Monuments. I would not be here if environmental procedures were being followed. But the people of this nation are being denied the opportunity to speak, Congress is being denied its opportunity to participate, and environmental procedure are being ignored. The only voice we hear is that of the President. Without bothering to ask what we thought about it, he told the citizens of Utah and the rest of the country that he knew better than they what was best for them.

It has been a long time since anyone has had the right to make those kinds of unilateral public land use decisions for the American public. Since passage of the Forest Service Organic Act and the Federal Land Policy and Management Act in 1976 we have had a rock hard system of law on how public land use decisions are to be made. Embodied within these laws are public participation. Agencies propose an action, they present that action to the public, the public debates the issue, bad decisions can be appealed, the courts resolve disputes, and finally the management unit is created. Where was this public participation in the special use designation of 1.7 million acres of federal land in southern Utah?

Since the passage of the National Environmental Policy Act in 1969 activities which effect the environment are subject to strict environmental reviews. Does anyone believe there is no environmental threat posed by the creation of a national monument?

The economic and social consequences of this decision will have enormous and irrevocable impacts not only on the land immediately affected, but on surrounding lands and communities. All these effects on the human environment would have been evaluated under the land management statutes and the environmental procedural review. Where is the NEPA compliance documentation associated with this action?

The Constitutions explicitly provides that ''The Congress shall have the power to dispose of, and make all needful rules and regulations respecting the territory or other property belonging to the United States.'' The creation of specialized public use designations such as National Parks and Wilderness Areas are debated within the Halls of Congress. These Debates provide for the financial and legal responsibilities which come with the creation of special management units. Where are the proceedings from those debates?

They simply do not exist because, in the heat of political expediency, the Administration determined that public process, environmental analyses, and Congressional deliberations were a waste of time.

Mr. President, either you believe in public process or you do not, you can't have it both ways. We can no longer trust the Administration to involve the public in major land use decisions and we can no longer tolerate the blanket evasion of the laws designed to protect our natural resources. The time has come for Congress to reassert its Constitutional responsibility under Article IV.

The legislation which Senator CRAIG and I offer today will require that any future designations of National Monuments to follow the public participation principals laid down in law over the past 25 years.

No poetic images, no flowery words, no smoke and mirrors, no special coverage on Good Morning America, just good old fashion public land management process.

Before these special land management units can be created, our legislation will require that agencies gather and analyze resource data affected by these land use decisions; that full public participation in the designation of

the units takes place (with all appeal rights protected); that there be compliance with the National Environmental Policy Act; and that Congress review and approve final designation. No longer will an administration be able to side-step public participation and environmental reviews to further its political agenda and cater to special interest.

Nobody—not even the President—should be above the law. The National Monument Participation Act will make all future land use decisions a joint responsibility of the public through the Congress, that they elect. This legislation reasserts the Constitutional role of the Congress in public land decisions.

I do not question the need for National Monuments. If the national benefit can be demonstrated, then by all means a national monument should be created. But, if they are to serve the common good, they must be created under the same system of land management law that has managed the use of the public domain for the past 25 years and pursuant to the document that has governed this Nation for the past 225 years.

There has always been a sacred bond between the American people and the lands they hold in common ownership. No one-regardless of high station or political influence—has the right to impose his will over the means by which the destiny of those land is decided.

This legislation re-establishes that bond.

Mr. BURNS. Mr. President, I rise today to join a number of my colleagues in introducing The National Monument Participation Act of 1999. This bill would amend the Antiquities Act of 1906 to clearly establish the roles for public participation and Congressional involvement in declaring national monuments on federal lands. This bill requires specific processes and requirements to ensure that the public, local, state, and Federal government are both informed and involved in the formulation of any plans to declare national monuments on federal lands.

It requires that the public be actively involved in the formulation of any plans to declare a national monument. Considering the recent controversy surrounding the designation of monuments with the stroke of a pen rather than through open debate and assessment, it only makes sense to include the public in any future designation decisions. I remind my colleagues and the administration that we are managing our land resources for the people. This bill suggests that perhaps we should listen to them before drastically changing the management of our land resources.

Additionally, the legislation requires that the Secretary of the Interior and the Secretary of Agriculture perform an assessment of current land uses on the land proposed for designation. This is necessary to provide information about the impact of declaring any national monument before recommendations are made by the President. It makes absolutely no sense to pursue designation changes without learning what is at stake. What mineral interests are affected? Does it change traditional grazing uses? These are questions that will have to be answered before new monuments are designated.

The legislation also requires that we look at the impact a monument would have on state or private land holdings. Once again, common sense is needed. If the federal designation change affects state an private lands, Congress must be informed of these impacts before a decision is finally reached. It is irresponsible to make decisions without the proper information.

Finally, this legislation would require the President to submit his decision on these recommendations to the Congress for final review and approval. If we are going to change our designations and impact local communities, Congress must weigh in on the decision.

Public involvement in federal decision making is critical today to ensure that local citizens are involved in the decision changing how federal lands near their homes are used. This bill will mandate broader involvement to ensure the public and the legislative branch have an opportunity to participate in any plans to establish new national monuments on federal lands. In addition, this ensures the information is available for the public and ourselves to understand the impacts of any proposed declaration and make an informed decision.

Overall, I believe this bill establishes a clear set of roles and responsibilities for all parties involved in the declaration of new national monuments on federal lands to ensure that such decisions are made in a manner that respects the rights of both local communities and the interests of the nation as a whole. I encourage my colleagues to carefully examine this legislation and lend their support to its ultimate passage.

• Mr. CRAPO. Mr. President, I rise today as an original co-sponsor of the National Monument Public Participation Act of 1999. I commend my colleague, Senator CRAIG, for bringing forward this important measure and am pleased to offer it my support.

The National Monument Public Participation Act of 1999 will establish guidelines for public and local, State, and federal government involvement in the designation and planning of national monuments. Currently, under the 1906 Antiquities Act, the President has the authority to proclaim a national monument and determine its composition and scope without any prior or subsequent public involvement. Although this authority has rarely been invoked since the implementation of the National Environmental Policy Act of 1969, which mandates public comment periods prior to federal land management actions, the recent exercise of this authority by the current Administration has called attention to the need to revise the Antiquities Act. These proposed amendments to the Antiquities Act reflect the contemporary recognition that public involvement in federal land management decisions is both proper and beneficial.

This measure, beyond requiring the Secretaries of the Interior and Agriculture to include the public and the different levels of government in the decision to designate and form national monuments, also directs the Secretaries to research and make available information about the land to be designated. Factors such as the mineral values present and identification of existing rights held on federal lands within the area to be designated have an obvious bearing on the decision of whether designation is appropriate and, if it is, how it should be structured. An understanding of these factors should be a part of an inclusive decision-making process and, hence, it is appropriate to require that they be explored and publicly shared prior to the designation of a national monument.

The strongest protection, however, that the National Monument Public Participation Act of 1999 provides for public oversight of national monument designation is the requirement that any recommendation of the President for declaration of land as a national monument shall become effective only if so provided by an Act of Congress. By subjecting proposals for monument designations to congressional approval, this Act ensures that when national monuments are established they are truly supported, both nationally and by local communities. This Act provides an important level of protection for public involvement in land use issues and I am pleased to offer it my support.

By Mr. DURBIN:

S. 730. A bill to direct the Consumer Product Safety Commission to promulgate fire safety standards for cigarettes, and for other purposes; to the Committee on Commerce, Science, and Transportation.

FIRE SAFE CIGARETTE ACT OF 1999

Mr. DURBIN. Mr. President, I rise today to talk about the First Safe Cigarette Act of 1999. This legislation would solve a serious fire safety problem, namely, fires that are caused by a carelessly discarded cigarette.

The statistics regarding cigarette-related fires are truly startling. In 1996 there were 169,500 cigarette-related first that resulted in 1,181 deaths, 2,931 injuries and $452 million in property damage. According to the National Fire Protection Association, one out of every four fire deaths in the United States in 1996 was attributed to tobacco products.

In my state of Illinois, cigarette-related fires have also caused too many senseless tragedies. In 1997, alone, there were more than 1,700 cigarette-related fires, of which more than 900

were in people's homes. These fires led to 109 injuries and 8 deaths. Also in 1997, smoking-related fires in Illinois led to property loss of more than $10.4 million. According to statistics from the U.S. Fire Administration, half of the known residential fire deaths in Illinois from 1993 to 1995 were from arson and careless smoking. During that three-year period, 69 deaths in Illinois were attributed to careless smoking.

A Technical Study Group (TSG) was created by the Federal Cigarette Safety Act in 1984 to investigate the technological and commercial feasibility of creating a self-extinguishing cigarette. This group was made up of representatives of government agencies, the cigarette industry, the furniture industry, public health organizations and fire safety organizations. The TSG produced two reports that concluded that it is technically feasible to reduce the ignition propensity of cigarettes.

The manufacture of less fire-prone cigarettes may require some advances in cigarette design and manufacturing technology, but the cigarette companies have demonstrated their capability to make cigarettes of reduced ignition propensity with no increase in tar, nicotine or carbon monoxide in the smoke. For example, six current commercial cigarettes have been tested which already have reduced ignition propensity. The technology is in place now to begin developing a performance standard for less fire prone cigarettes. Furthermore, the overall impact on other aspects of the United States society and economy will be minimal. Thus, it may be possible to solve this problem at costs that are much less than the potential benefits, which are saving lives and avoiding injuries and property damage.

The Fire Safe Cigarette Act would give the Consumer Product Safety Commission the authority to promulgate a fire safety standard for cigarettes. Eighteen months after the legislation is enacted, the Consumer Product Safety Commission would issue a rule creating a safety standard for cigarettes. Thirty months after the legislation is enacted, the standards would become effective for the manufacture and importation of cigarettes.

Here are some examples of changes that could be made to cigarettes that would reduce the likelihood of fire ignition: reduced circumference or thinner cigarettes, making the paper less porous, changing the density of the tobacco in cigarettes, and eliminating or reducing the citrate added to the cigarette paper. Also, there is limited evidence suggesting that the presence of a filter may reduce ignition propensity. Again, there are cigarettes on the market right now that show some of these characteristics and are less likely to smolder and cause fires.

While the number of people killed each year by fires is dropping because of safety improvements and other factors, too many Americans are dying because of a product that could be less likely to catch fire if simple changes were made. I strongly believe that this issue demands immediate and swift action in order to prevent further deaths and injuries.

An industry that can afford to spend more than $4 billion in advertising every year cannot claim it would be too expensive to make these changes. It is not unreasonable to ask these companies to make their products less likely to burn down a house.

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

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

S. 730

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

SECTION 1. SHORT TITLE, FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the ''Fire Safe Cigarette Act of 1999''.

(b) FINDINGS.—Congress finds that—

(1) cigarette ignited fires are the leading cause of fire deaths in the United States,

(2) in 1996 cigarette ignited fires caused—

(A) 1,083 deaths;

(B) 2,809 civilian injuries; and

(C) $420,000,000 in property damage;

(3) each year, more than 100 children are killed from cigarette-related fires;

(4) the technical work necessary to achieve a cigarette fire safety standard has been accomplished under the Cigarette Safety Act of 1984 (15 U.S.C. 2054 note) and the Fire Safe Cigarette Act of 1990 (15 U.S.C. 2054 note);

(5) it is appropriate for Congress to require the establishment of a cigarette fire safety standard for the manufacture and importation of cigarettes;

(6) the most recent study by the Consumer Product Safety Commission found that the cost of the loss of human life and personal property from the absence of a cigarette fire safety standard is $6,000,000,000 a year; and

(7) it is appropriate that the regulatory expertise of the Consumer Product Safety Commission be used to implement a cigarette fire safety standard.

SEC. 2. DEFINITIONS.

In this Act:

(1) COMMISSION.—The term ''Commission'' means the Consumer Product Safety Commission.

(2) CIGARETTE.—The term ''cigarette'' has the meaning given that term in section 3 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1332).

(3) STOCKPILING.—The term ''stockpiling'' means the manufacturing or importing of a cigarette during the period beginning on the date of promulgation of a rule under section 3(a) and ending on the effective date of that rule, at a rate greater than the rate at which cigarettes were manufactured or imported during the 1-year period immediately preceding the date of promulgation of that rule.

SEC. 3. CIGARETTE FIRE SAFETY STANDARD.

(a) IN GENERAL.—

(1) PROMULGATION OF CIGARETTE FIRE SAFETY STANDARD.—Not later than 18 months after the date of enactment of this Act, the Commission shall promulgate a rule that establishes a cigarette fire safety standard for cigarettes to reduce the risk of ignition presented by cigarettes.

(2) REQUIREMENTS.—In establishing the cigarette fire safety standard under paragraph (1), the Commission shall—

(A) consult with the Director of the National Institute of Standards and Technology and make use of such capabilities of the as the Commission considers necessary;

(B) seek the advice and expertise of the heads of other Federal agencies and State agencies engaged in fire safety; and

(C) take into account the final report to Congress made by the Commission and the Technical Study Group on Cigarette and Little Cigar Fire Safety established under section 3 of the Fire Safe Cigarette Act of 1990 (15 U.S.C. 2054 note), that includes a finding that cigarettes with a low ignition propensity were already on the market at the time of the preparation of the report.

(b) STOCKPILING.—The Commission shall include in the rule promulgated under subsection (a) a prohibition on the stockpiling of cigarettes covered by the rule.

(c) EFFECTIVE DATE OF RULE.—The rule promulgated under subsection (a) shall take effect not later than 30 months after the date of the enactment of this Act.

(d) PROCEDURE.—

(1) IN GENERAL.—The rule under subsection (a) shall be promulgated in accordance with section 553 of title 5, United States Code.

(2) CONSTRUCTION.—Except as provided in paragraph (1), no other provision of Federal law shall be construed to apply with respect to the promulgation of a rule under subsection (a), including—

(A) the Consumer Product Safety Act (15 U.S.C. 2051 et seq.);

(B) chapter 6 of title 5, United States Code;

(C) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(D) the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121) and the amendments made by that Act.

(e) JUDICIAL REVIEW.—

(1) GENERAL RULE.—

(A) IN GENERAL.—Any person who is adversely affected by the rule promulgated under subsection (a) may, at any time before the 60th day after the Commission promulgates the rule, file a petition with the United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which that person resides or has its principal place of business to obtain judicial review of the rule.

(B) PETITION.—Upon the filing of a petition under subparagraph (A), a copy of the petition shall be transmitted by the clerk of the court to the Secretary of Commerce. The Commission shall file in the court the record of the proceedings on which the Commission based the rule, in the same manner as is prescribed for the review of an order issued by an agency under section 2112 of title 28, United States Code.

(2) ADDITIONAL EVIDENCE.—

(A) IN GENERAL.—With respect to a petition filed under paragraph (1), the court may order additional evidence (and evidence in rebuttal thereof) to be taken before the Commission in a hearing or in such other manner, and upon such terms and conditions, as the court considers appropriate, if the petitioner—

(i) applies to the court for leave to adduce additional evidence; and

(ii) demonstrates, to the satisfaction of the court, that—

(I) such additional evidence is material; and

(II) there was no opportunity to adduce such evidence in the proceeding before the Commission.

(B) MODIFICATION.—With respect to the rule promulgated by the Commission under subsection (a), the Commission—

(i) may modify the findings of fact of the Commission, or make new findings, by reason of any additional evidence taken by a court under subparagraph (A); and

(ii) if the Commission makes a modification under clause (i), shall file with the court the modified or new findings, together with such recommendations as the Commission determines to be appropriate, for the modification of the rule, to be promulgated as a final rule under subsection (a).

(3) COURT JURISDICTION.—Upon the filing of a petition under paragraph (1), the court shall have jurisdiction to review the rule of the Commission, as modified under paragraph (2), in accordance with chapter 7 of title 5, United States Code.

(f) SMALL BUSINESS REVIEW.—Section 30 of the Small Business Act (15 U.S.C. 657) shall not apply with respect to—

(1) a cigarette fire safety standard promulgated by the Commission under subsection (a); or

(2) any agency action taken to enforce that standard.

SEC. 4. ENFORCEMENT.

(a) PROHIBITION.—No person may—

(1) manufacture or import a cigarette, unless the cigarette is in compliance with a cigarette fire safety standard promulgated under section 3(a); or

(2) fail to provide information as required under this Act.

(b) PENALTY.—A violation of subsection (a) shall be considered a violation of section 19 of the Consumer Product Safety Act (15 U.S.C. 2068).

SEC. 5. PREEMPTION.

(a) IN GENERAL.—This Act, including the cigarette fire safety standard promulgated under section 3(a), shall not be construed to preempt or otherwise affect in any manner any law of a State or political subdivision thereof that prescribes a fire safety standard for cigarettes that is more stringent than the standard promulgated under section 3(a).

(b) DEFENSES.—In any civil action for damages, compliance with the fire safety standard promulgated under section 3(a) may not be admitted as a defense.

By Mr. KENNEDY (for himself, Mr. JOHNSON, Mr. LEAHY, Mr. WELLSTONE, Mr. FEINGOLD, Mr. INOUYE, Mr. KERRY, and Mr. DODD):

S. 731. A bill to provide for substantial reductions in the price of prescription drugs for medicare beneficiaries; to the Committee on Finance.

THE PRESCRIPTION DRUG FAIRNESS FOR SENIORS ACT

Mr. KENNEDY. Mr. President, we are well on our way to doubling the budget of the National Institutes of Health. Scientists are discovering new cures and developing new therapies for previously incurable and untreatable illnesses on a regular basis. Breakthrough medications are modern medical miracles that allow people with previously crippling conditions to lead normal lives. Yet too many of our nation's elderly citizens are denied access to these life-saving and life-improving therapies because they lack basic coverage for prescription medications.

Today I am introducing the ''Prescription Drug Fairness for Seniors Act of 1999,'' the Senate companion bill to H.R. 664, introduced in the House last month by Representatives TOM ALLEN, JIM TURNER, MARION BERRY, HENRY WAXMAN, and sixty-one other House Members. This legislation responds to the need for affordable prescription drugs for senior citizens by requiring pharmaceutical companies to make the same discounts available to senior citizens that are offered to their most favored customers. Prescription drugs represent the largest single source of out-of-pocket costs for health services paid for by the elderly. The Prescription Drug Fairness Act will provide significant benefits to elderly citizens struggling to pay for the prescription drugs they need.

This Act represents one important way to improve senior citizens' access to affordable medications. Other steps are necessary as well to deal with the overall prescription drug crisis facing millions of elderly citizens. I plan to introduce legislation soon that will offer additional protections. Providing fair access to prescription drugs for senior citizens is a high priority, and I hope to see quick action by Congress on this critical issue this year.

Mr. President, I ask unanimous consent that the next 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. 731

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 ''Prescription Drug Fairness for Seniors Act of 1999''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) Manufacturers of prescription drugs engage in price discrimination practices that compel many older Americans to pay substantially more for prescription drugs than the drug manufacturers' most favored customers, such as health insurers, health maintenance organizations, and the Federal Government.

(2) On average, older Americans who buy their own prescription drugs pay twice as much for prescription drugs as the drug manufacturers' most favored customers. In some cases, older Americans pay over 15 times more for prescription drugs than the most favored customers.

(3) The discriminatory pricing by major drug manufacturers sustains their annual profits of $20,000,000,000, but causes financial hardship and impairs the health and well-being of millions of older Americans. More than 1 in 8 older Americans are forced to choose between buying their food and buying their medicines.

(4) Most federally funded health care programs, including medicaid, the Veterans Health Administration, the Public Health Service, and the Indian Health Service, obtain prescription drugs for their beneficiaries at low prices. Medicare beneficiaries are denied this benefit and cannot obtain their prescription drugs at the favorable prices available to other federally funded health care programs.

(5) Implementation of the policy set forth in this Act is estimated to reduce prescription drug prices for medicare beneficiaries by more than 40 percent.

(6) In addition to substantially lowering the costs of prescription drugs for older Americans, implementation of the policy set forth in this Act will significantly improve the health and well-being of older Americans and lower the costs to the Federal taxpayer of the medicare program.

(7) Older Americans who are terminally ill and receiving hospice care services represent some of the most vulnerable individuals in our Nation. Making prescription drugs available to medicare beneficiaries under the care of medicare-certified hospices will assist in extending the benefits of lower prescription drug prices to those most vulnerable and in need.

(b) PURPOSE.—The purpose of this Act is to protect medicare beneficiaries from discriminatory pricing by drug manufacturers and to make prescription drugs available to medicare beneficiaries at substantially reduced prices.

SEC. 3. PARTICIPATING MANUFACTURERS.

(a) IN GENERAL.—Each participating manufacturer of a covered outpatient drug shall make available for purchase by each pharmacy such covered outpatient drug in the amount described in subsection (b) at the price described in subsection (c).

(b) DESCRIPTION OF AMOUNT OF DRUGS.—The amount of a covered outpatient drug that a participating manufacturer shall make available for purchase by a pharmacy is an amount equal to the aggregate amount of the covered outpatient drug sold or distributed by the pharmacy to medicare beneficiaries.

(c) DESCRIPTION OF PRICE.—The price at which a participating manufacturer shall make a covered outpatient drug available for purchase by a pharmacy is the price equal to the lower of the following:

(1) The lowest price paid for the covered outpatient drug by any agency or department of the United States.

(2) The manufacturer's best price for the covered outpatient drug, as defined in section 1927(c)(1)(C) of the Social Security Act (42 U.S.C. 1396r–8(c)(1)(C)).

SEC. 4. SPECIAL PROVISION WITH RESPECT TO HOSPICE PROGRAMS.

For purposes of determining the amount of a covered outpatient drug that a participating manufacturer shall make available for purchase by a pharmacy under section 3, there shall be included in the calculation of such amount the amount of the covered outpatient drug sold or distributed by a pharmacy to a hospice program. In calculating such amount, only amounts of the covered outpatient drug furnished to a medicare beneficiary enrolled in the hospice program shall be included.

SEC. 5. ADMINISTRATION.

The Secretary shall issue such regulations as may be necessary to implement this Act.

SEC. 6. REPORTS TO CONGRESS REGARDING EFFECTIVENESS OF ACT.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, and annually thereafter, the Secretary shall report to Congress regarding the effectiveness of this Act in—

(1) protecting medicare beneficiaries from discriminatory pricing by drug manufacturers; and

(2) making prescription drugs available to medicare beneficiaries at substantially reduced prices.

(b) CONSULTATION.—In preparing such reports, the Secretary shall consult with public health experts, affected industries, organizations representing consumers and older Americans, and other interested persons.

(c) RECOMMENDATIONS.—The Secretary shall include in such reports any recommendations that the Secretary considers appropriate for changes in this Act to further reduce the cost of covered outpatient drugs to medicare beneficiaries.

SEC. 7. DEFINITIONS.

In this Act:

(1) PARTICIPATING MANUFACTURER.—The term ''participating manufacturer'' means

any manufacturer of drugs or biologicals that, on or after the date of enactment of this Act, enters into or renews a contract or agreement with the United States for the sale or distribution of covered outpatient drugs to the United States.

(2) COVERED OUTPATIENT DRUG.—The term ''covered outpatient drug'' has the meaning given that term in section 1927(k)(2) of the Social Security Act (42 U.S.C. 1396r–8(k)(2)).

(3) MEDICARE BENEFICIARY.—The term ''medicare beneficiary'' means an individual entitled to benefits under part A of title XVIII of the Social Security Act or enrolled under part B of such title, or both.

(4) HOSPICE PROGRAM.—The term ''hospice program'' has the meaning given that term under section 1861(dd)(2) of the Social Security Act (42 U.S.C. 1395x(dd)(2)).

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

SEC. 8. EFFECTIVE DATE.

The Secretary shall implement this Act as expeditiously as practicable and in a manner consistent with the obligations of the United States.

● Mr. JOHNSON. Mr. President, I am pleased to join my colleague, Senator EDWARD M. KENNEDY, today by introducing the ''Prescription Drug Fairness for Seniors Act of 1999''. Earlier this year, Representatives TOM ALLEN, JIM TURNER, MARION BARRY, AND HENRY WAXMAN were joined by sixty-one of their colleagues when they introduced H.R. 664, ''The Prescription Drug Fairness For Seniors Act of 1999'' in the U.S. House of Representatives.

This legislation addresses the critical issue facing our older Americans—the cost of their prescription drugs. Studies have shown that older Americans spend almost three times as much of their income (21%) on health care than those under the age of 65 (8%), and more than three-quarters of Americans aged 65 and over are taking prescription drugs. Even more alarming is the fact that seniors and others who buy their own prescription drugs, are forced to pay over twice as much for their drugs as are the drug manufacturers' most favored customers, such as the federal government and large HMOs.

The ''Prescription Drug Fairness for Seniors Act'' will protect senior citizens from drug price discrimination and make prescription drugs available to Medicare beneficiaries at substantially reduced prices. The legislation achieves these goals by allowing pharmacies that serve Medicare beneficiaries to purchase prescription drugs at the low prices available under the Federal Supply Schedule, similar to the Veterans Administration, Public Health Service and Indian Health Service. Estimated to reduce prescription drug prices for seniors by over 40%, this bill will help those seniors who often times have to make devastating choices between buying food or medications. Choices that no human being should have to make.

Research and development of new drug therapies is an important and necessary tool towards improving a persons quality of life. But due to the high price tag that often accompanies the latest drug therapies, seniors are often left without access to these new therapies, and ultimately, in far too many instances, without access to medication at all. This legislation is an important step towa4rds restoring the access to affordable medications for our medicare beneficiaries. I look forward to working on this important issue in the months to come and hope that Congress will work swiftly in a bipartisan manner to enact legislation that will benefit millions of senior citizens across our nation.●

● Mr. FEINGOLD. Mr. President, I rise to joint my colleagues, Senators KENNEDY, JOHNSON, LEAHY, WELLSTONE, INOUYE, KERRY and others in introducing the Prescription Drug Fairness for Seniors Act.

Mr. President, the sky-rocketing cost of prescription drugs has long been among the top 2 or 3 issues my constituents in Wisconsin call and write to me about. The problem of expensive prescription drugs is particularly acute among Wisconsin senior citizens who live on fixed incomes. Nationally, prescription drugs are Senior Citizens' largest single out-of-pocket health care expenditure: the average Senior spends $100–$200 month on prescription drugs.

As you may know, Mr. President, last fall, a study by the House Government Reform and Oversight Committee found that the average price seniors pay for prescription drugs is twice as high as that enjoyed by favored customers—big purchasers such as HMOs and the federal government. The Committee's report found a price differential in one case was 1400%, meaning that the retail price a typical senior citizen was $27.05, while the favored customer was charged only $1.75.

To be sure, Mr. President, the Committee's report did find that Wisconsin had lower price differentials compared to other parts of the country, an 85% differential compared to a high of 123% in California. But I think my constituents would find that a pretty hollow distinction. There's no doubt in my mind that paying 85% more than others are charged for the same product is unfair, plain and simple.

Mr. President, as we all know, traditional Medicare does not cover prescription drugs. While some Medicare managed care plans offer a prescription drug benefit, few of those managed care plans operate in Wisconsin or in other largely rural states. So, while pharmaceutical companies give lower prices to favored customers who buy in bulk, small community pharmacies such as we have throughout Wisconsin lack this purchasing power, meaning that Seniors who purchase their prescription drugs at those small pharmacies get the high prices passed on to them.

Mr. President, I regularly get calls from Seniors on tight, fixed incomes who tell me that they have to choose between buying groceries and buying their prescription drugs. I would guess that many of my colleagues receive similar calls from their constituents. Calls like these, and the fact that prices are only getting higher as scientific advances develop new medications, tell me that we must take action to make prescription drugs more affordable to Seniors.

The legislation my colleagues and I are introducing today will require that pharmaceutical companies offer senior citizens the same discounts that they offer to their most favored customers. Through this legislation, we take an important step in making costly but vitally important prescription drugs more affordable to the Seniors who need them.●

By Mr. TORRICELLI:

S. 732. A bill to require the Inspector General of the Department of Defense to conduct an audit of purchases of military clothing and related items made during fiscal year 1998 by certain military installations of the Army, Navy, Air Force, and Marine Corps; to the Committee on Armed Services.

BUY AMERICAN LEGISLATION

● Mr. TORRICELLI. Mr. President, I rise today to introduce legislation that will help ensure that American soldiers are using American made products. ''Buy American'' laws guarantee that our nation's military has access to a reliable domestic supply of uniforms, coats, and other apparel. This critical national security requirement has allowed U.S. garment manufacturers to consistently provide our armed forces with high-quality, durable clothing products made to exact military specifications.

Last year, I was deeply troubled to learn that an Inspector General audit found that 59 percent of government contracts at 12 military organizations failed to include the appropriate clause to implement Buy America laws. The results of this audit indicates a high likelihood that there have been widespread violations of these laws throughout the military.

In response to these findings, I have introduced legislation directing the Inspector General of the Department of Defense (DoD) to conduct an audit of fiscal year 1998 procurements of military clothing by four installations of the Army, Navy, Air Force, and Marine Corps. These audits will help determine whether contracting officers are complying with the law when they procure military clothing and related items.

Mr. President, the Buy American laws are an invaluable tool for ensuring our military readiness while supporting American jobs. Most of these jobs are created by small U.S. contractors. This legislation will provide an important follow-up audit to determine whether DoD is effectively enforcing the Buy American laws.

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

The bill follows:

S. 732

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

SECTION 1. AUDIT OF PROCUREMENT OF MILITARY CLOTHING AND CLOTHING-RELATED ITEMS BY CERTAIN MILITARY INSTALLATIONS.

(a) AUDIT REQUIREMENT.—The Inspector General of the Department of Defense shall perform an audit of purchases of military clothing and clothing-related items in excess of the micro-purchase threshold that were made during fiscal year 1998 by certain military installations to determine the extent to which such installations procured military clothing and clothing-related items in violation of the Buy American Act (41 U.S.C. 10a et seq.) and section 9005 of Public Law 102–396 (10 U.S.C. 2241 note) during that fiscal year.

(b) INSTALLATIONS TO BE AUDITED.—The audit under subsection (a)—

(1) shall include an audit of the procurement of military clothing and clothing-related items by four military installations of each of the Army, Navy, Air Force, and Marine Corps; and

(2) shall be limited to military installations in the United States or the possessions of the United States.

(c) DEFINITION.—As used in subsection (a), the term ''micro-purchase threshold'' has the meaning provided by 32(f) of the Office of Federal Procurement Policy Act (41 U.S.C. 428(f)).

(d) REPORT.—Not later than September 30, 2000, the Inspector General of the Department of Defense shall submit to Congress a report on the results of the audit performed under subsection (a).●

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

S. 733. A bill to enact the Passaic River Basin Flood Management Program; to the Committee on Environment and Public Works.

PROTECTION AND IMPROVEMENT OF THE PASSAIC RIVER BASIN

● Mr. TORRICELLI. Mr. President, I rise today, with Senator LAUTENBERG, to introduce a bill to create a comprehensive flood management plan for the Passaic River Basin.

In 1990, Congress, with my support, authorized a plan to create a 21-mile long tunnel, which would have stretched from Wayne to Newark Bay to divert flood water from the Pompton and Passaic Rivers in New Jersey. At the time it was believed that the tunnel was the best method to end recurring floods that caused deaths and property losses for the region's 2.5 million residents.

Flooding has plagued the Passaic River Basin since colonial times. The State of New Jersey attempted to present solutions to the public as early as 1870 with no success. After major floods in 1902 and 1903, a series of engineering studies were completed but never implemented. In 1936, the Corps of Engineers were directed by Congress to solve the flooding problems. Since that time (63 years), several proposals have been presented only to be rejected. Flooding in the Passaic River Basin, in 1993, caused $15 million in damage. The last major flooding, in 1984, killed three people, caused 9,400 evacuations and $425 million in damage.

Ten years ago, I supported the tunnel plan. I believed that it was the best possible answer for the region. I understood the plan for the tunnel to be environmentally and economically sound, and the most protective option for the public's health. It promised to create jobs for the region and solve the persistent flooding within the Passaic River Basin, which encompasses 132 towns in 10 counties.

It has now become clear that this project is no longer viable and does not enjoy the support of the state or most of the surrounding communities. So last year, along with so many other of my fellow New Jerseyans, I came to the realization that the flood tunnel was not the answer for the Passaic. At a cost of $1.8 billion, the plan was too expensive. As a matter of engineering, it was too complex. As a matter of environmental protection, it was too uncertain. More importantly, after countless hearings, counties and municipalities within the Passaic River Basin rejected the current plan.

It will be far less costly and more environmentally sound to control the flooding by shoring up the banks of the Passaic and Ramapo Rivers and purchasing properties in the flood zone so the river's natural wetlands may rebound. We should also fund plans to reduce flooding from combined sewer overflow systems in the state's older, larger cities, which dump raw sewage into waterways during heavy rainfall. Our plan would be more cost effective and more environmentally acceptable than the flood tunnel.

The proposed Passaic River Basin Flood Management Program selects a qualified acquisition and hazard mitigation plan as the preferred alternative for flood control in the Passaic River Basin, superseding the Passaic River flood tunnel.

The plan calls for acquiring freshwater wetlands in the State of New Jersey and lands in the Highlands Province of the States of New Jersey and New York to prevent increased flooding. In key sections of the floodplain of the Central Passaic River Basin structures would be acquired, demolished, removed or floodproofed. The plan also calls for the acquisition of river front land from Little Falls to Newark Bay along the Passaic River Basin. The plan would also authorize assistance in the implementation of remedial actions for the combined sewer overflows in the lower Passaic River Basin from the Great Falls to Newark Bay. Finally, it established an Oversight Committee for the implementation of the Program, and reaffirms authorization for completion of Joseph G. Minish Passaic River Waterfront Park and Historic Area, New Jersey.

The original legislation that created the tunnel, the Water Resources Development Act of 1990, also authorized many other very important projects for the Passaic River Basin region. The Streambank project called for the construction of environmental and other restoration measures, including bulkheads, recreation, greenbelt, and scenic overlook facilities. The Wetlands Bank program developed initiatives to restore, acquire, preserve, study, and enhance wetlands.

I want to make clear that our interest in this legislation is only to replace construction of the tunnel with a more environmentally and economically appropriate plan. I still support, and will continue to support, those sections of the Water Resources Development Act of 1990 that address issues other than the flood tunnel. Programs, such as the Streambank project and the Wetlands Bank, remain important building blocks for creating an effective flood management plan for the Passaic River Basin.●

By Mr. MURKOWSKI (for himself and Mr. REID):

S. 734. A bill entitled the ''National Discovery Trails Act of 1999''; to the Committee on Energy and Natural Resources.

NATIONAL DISCOVERY TRAILS ACT OF 1999

● Mr. MURKOWSKI. Mr. President, trails are one of America's most popular recreational resources. Millions of Americans hike, ski, jog, bike, ride horses, drive snow machines and all-terrain vehicles, observe nature, commute, and relax on trails throughout the country. A variety of trails are provided nationwide, including urban bike paths, bridle paths, community green ways, historic trails, motorized trails, and long distance hiking trails.

The American Discovery Trail, or ADT, will be established by this legislation. The ADT is being proposed as a continuous, coast to coast trail to link the nation's principal north-south trails and east-west historic trails with shorter local and regional trails into a nationwide network.

By establishing a system of Discovery Trails, this new category will recognize that using and enjoying trails close to home is equally as important as traversing remote wilderness trails. Long-distance trails are used mostly by people living close to the trail and by week-end'ers. Backpacking excursions are normally a few days to a couple of weeks. For example, of the estimated four million users of the Appalachian Trail each year, only about 100 to 150 walk the entire trail annually. This will be true of the American Discovery Trail as well, especially because of it proximity to urban locations throughout the country.

The ADT, the first of the Discovery Trails, will connect six of the national scenic trails, 10 of the national historic trails, 23 of the national recreational trails and hundreds of other local and regional trails. Until now, the element that has been missing in order to create a national system of ''connected'' trails is that the existing trails for the most part are not connected.

The ADT is about access. The trail will connect people to large cities, small towns and urban areas and to mountains, forest, desert and natural areas by incorporating local, regional and national trails together.

What makes the ADT so exciting is the way it has already brought people together. More than 100 organizations along the trail's 6,000 miles support the effort. Each state the trail passes through already has a volunteer coordinator who leads an active ADT committee. This strong grassroots effort, along with financial support from Backpacker magazine, Eco USA, The Coleman Company and others have helped take the ADT from dream to reality.

Only one more very important step on the trail needs to be taken. Congress needs to authorize the trail as part of our National Trails System.

The American Discovery Trail begins (or ends) with your two feet in the Pacific Ocean at Point Reyes National Seashore, just north of San Francisco. Next are Berkeley and Sacramento before the climb to the Pacific Crest National Scenic Trail and Lake Tahoe, in the middle of the Sierra Nevada Mountains.

Nevada will offer Historic Virginia City, home of the Comstock Lode, the Pony Express National Historic Trail, Great Basin National Park with Lehman Caves and Wheeler Peak.

Utah will provide National Forests and Parks along with spectacular red rock country, until you get to Colorado and Colorado National Monument and its 20,445 acres of sandstone monoliths and canyons. Then there's Grand Mesa over Scofield Pass, and Crested Butte, in the heart of ski country as you follow the Colorado and Continental Divide Trails into Evergreen.

At Denver the ADT divides and becomes the Northern and Southern Midwest routes. The Northern Midwest Route winds through Nebraska, Iowa, Illinois, Indiana and Ohio. The Southern Midwest Route leaves Colorado and the Air Force Academy and follows the tracks and wagon wheel ruts of thousands of early pioneers through Kansas and Missouri as well as settlements and historic places in Illinois, Indiana, Kentucky until the trail joins the Northern route in Cincinnati.

West Virginia is next, then Maryland to the C&O Canal into Washington D.C. The Trail passes the Mall, the White House, the Capitol, and then heads on to Annapolis. Finally, in Delaware, the ADT reaches its eastern terminus at Cape Henlopen State Park and the Atlantic Ocean.

Between the Pacific and Atlantic Oceans one will experience some of the most spectacular scenery in the world, thousands of historic sites, lakes, rivers and streams of every size. The trail offers an opportunity to discover America from small towns, to rural countryside, to large metropolitan areas,

When the President signs this legislation into law, a twelve year effort will have been achieved—the American Discovery Trail will have become a reality. The more people who use it, the better.●

By Mr. KENNEDY (for himself, Mrs. BOXER, Mr. DURBIN, and Mr. SCHUMER):

S. 735. A bill to protect children from firearms violence; to the Committee on the Judiciary.

CHILDREN'S GUN VIOLENCE PREVENTION ACT OF 1999

Mr. KENNEDY. Mr. President, it is a privilege to join Senator BOXER, Senator DURBIN, and Senator SCHUMER in introducing the Children's Gun violence Prevention Act of 1999.

The continuing epidemic of gun violence involving children demands action by Congress. The School tragedies in Arkansas, Pennsylvania, Oregon, Kentucky, and Mississippi in the last year are still very much in the nation's mind and on the nation's conscience. We deplore the senseless injury and loss of life, the families torn apart, and the communities in fear.

Sadly and tragically, the horrific shootings of last year do not tell the whole story. The fact is: We are losing 13 children every day in this country to gunshot wounds. Think about that—13 children die every single day because of guns. We must do more—much more—to prevent this senseless loss of children's lives.

We require aspirin bottles to be child-proof. We know how to make handguns child-proof too—and it is long past time we did so.

The legislation we propose today is an important step in meeting our responsibility for the safety of children. We can take common sense, reasonable steps to keep children safer from gun violence by developing and using cutting-edge technology and by educating families and communities about preventing gun violence involving children.

This legislation will help all of us to deal more responsibly with this festering crisis. Under this proposal, gun owners must take responsibility for securing their guns, so that children cannot use them. Gun dealers must be more vigilant in not selling guns and ammunition to children. Child-proof safety locks must be used. Other child safety features for guns must be developed.

America does more today to regulate the safety of toy guns than real guns—and it is a national disgrace. Practical steps can clearly be taken to protect children more effectively from guns, and to achieve greater responsibility by parents, gun manufacturers and gun dealers. This legislation calls for such steps—and it deserves to be enacted this year by this Congress.

I urge the Senate to act quickly on this important legislation, and I look forward to working with my colleagues to bring it to a vote. I ask unanimous consent that a more detailed description of the bill may be printed in the RECORD.

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

SUMMARY OF THE CHILDREN'S GUN VIOLENCE PREVENTION ACT

TITLE I: THE CHILDREN'S FIREARM SAFETY ACT

The bill establishes, after 18 months, new safety standards on the manufacture and importation of handguns, requiring a child-resistant trigger, a child resistant safety lock, a magazine safety, a manual safety, and satisfactory compliance with a drop test.

The bill authorizes the Consumer Product Safety Commission to study, test, and evaluate various technologies and means of making guns more child-resistant, and to report to Congress within 12 months on its findings.

TITLE II: CHILDREN'S FIREARM AGE LIMIT

The bill prohibits the sale of an assault weapon to anyone under the age of 18, and increases the criminal penalties for selling a gun to a juvenile.

TITLE III: RESPONSIBILITIES OF FIREARMS DEALERS

The bill requires the automatic revocation of the license of any dealer found to have willfully sold a gun to a juvenile.

It requires two forms of identification, including one government issued, for purchasers under the age of 24.

It requires gun store owners to implement minimum safety and security standards to prevent the theft of firearms.

TITLE IV: CHILDREN'S FIREARM ACCESS PREVENTION

The bill imposes fines on a gun owner of up to $10,000 if a child gains access to a loaded firearm, and criminal penalties of up to one year in prison if the gun is used in an act of violence.

TITLE V: CHILDREN'S FIREARM INJURY SURVEILLANCE

The bill authorizes $25 million over five years to be used for the creation and implementation of a children's firearm surveillance system by the Injury Prevention Center of the Centers for Disease Control and Prevention.

TITLE VI: CHILDREN'S GUN VIOLENCE PREVENTION EDUCATION

The bill creates an education program with the help of parent-teacher organizations, local law enforcement, and community-based organizations. The program will teach children what to do if they hear that a classmate has brought a gun to school, or if they are faced with a violent situation.

TITLE VII: CHILDREN'S FIREARM TRACKING

The bill expands the Youth Crime Gun Interdiction Initiative and creates a grant program for local law enforcement agencies for the tracing of guns used in juvenile crime.

By Mr. CHAFEE (for himself and Mrs. FEINSTEIN):

S. 737. A bill to amend title XIX of the Social Security Act to provide States with options for providing family planning services and supplies to women eligible for medical assistance under the Medicaid program; to the Committee on Finance.

FAMILY PLANNING STATE FLEXIBILITY ACT

Mr. CHAFEE. Mr. President, I am pleased today to join Senator FEINSTEIN in introducing the Family Planning State Flexibility Act, legislation to give states the option to expand their family planning coverage under Medicaid.

Family planning reduces the rate of unintended pregnancies and abortions by providing women with the knowledge and supplies necessary to time

their pregnancies to protect their health and the health of their children. The importance of family planning is clear. According to a study recently published in the New England Journal of Medicine women who wait 18 to 23 months after delivery before conceiving their next child lower the risk of adverse perinatal outcomes, including low birth weight, pre-term birth and small size for gestational age. In addition, women who wait less than six months between pregnancies are 40% more likely to have premature newborns and 30% to 40% more likely to have small babies.

In addition to improving health outcomes for childbearing women and their children, family planning is cost effective. Studies have found that for every $1 of public funds invested in family planning, $3 are saved in pregnancy and other related costs. This is particularly important for the Medicaid Program, which currently pays for 38% of all births in this country.

Recognizing that family planning is a vital service to women, a 1972 amendment to the Medicaid statute mandated inclusion of family planning services and supplies to women who are eligible for the program. Each state is free to determine the specific services and supplies provided. It is important to note that abortions are not considered a family planner service. Congress further noted the importance of family planning services by requiring the federal government to reimburse states for 90% of their family planning expenditures.

Eligible women are either those with children who have income below a threshold set by the state or those who are pregnant and have incomes up to 133% of poverty. States currently have the option to raise the income limit for pregnant women to 185% of poverty. Women who qualify for Medicaid due to pregnancy are currently eligible for family planning services for six months after delivery.

Recognizing the importance of family planning beyond the six month post-partum period, many states have applied for waivers to extend their coverage period or to include additional groups of women in the program. Thirteen states are currently operating under family planning waivers. Unfortunately, the waiver process can be extremely cumbersome and time consuming, which may discourage states from applying.

Our bill would allow states to expand their family planning coverage to women who earn up to 185% of poverty without having to spend the time and resources going through the waiver application process. States which are currently operating under waivers allowing for coverage of women who have higher incomes would continue using their current limit.

Family planning reduces unwanted pregnancies and abortions, improves the health of women and their children, reduces welfare dependency and is cost effective. I am very proud of this legislation which would provide these vital services to increased numbers of low-income women. I ask unanimous consent that the legislation and a congressional rationale be printed in the RECORD.

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

S. 737

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 ''Family Plnnning State Flexibility Act of 1999''.

SEC. 2. STATE OPTION TO PROVIDE FAMILY PLANNING SERVICES AND SUPPLIES TO WOMEN WITH INCOMES THAT DO NOT EXCEED A STATE'S INCOME ELIGIBILITY LEVEL FOR MEDICAL ASSISTANCE.

(a) IN GENERAL.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended—

(1) by redesignating section 1935 as section 1936; and

(2) by inserting after section 1934 the following:

STATE OPTION TO PROVIDE FAMILY PLANNING SERVICES AND SUPPLIES TO CERTAIN WOMEN

''SEC. 1935. (a) IN GENERAL.—Subject to subsections (b) and (c), a State may elect (through a State plan amendment) to make medical assistance described in section 1905(a)(4)(C) available to any woman whose family income does not exceed the greater of—

''(1) 185 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved; or

''(2) the eligibility income level (expressed as a percent of such poverty line) that has been specified under a waiver authorized by the Secretary or under section 1902(r)(2)), as of October 1, 1999, for a woman to be eligible for medical assistance under the State plan.

''(b) COMPARABILITY.—Medical assistance described in section 1905(a)(4)(C) that is made available under a State plan amendment under subsection (a) shall not be less in amount, duration, or scope than the medical assistance described in that section that is made available to any other individual under the State plan.

''(c) MAINTENANCE OF EFFORT.—No payment shall be made under section 1903(a)(5) for medical assistance made available under a State plan amendment under subsection (a) unless the State demonstrates to the satisfaction of the Secretary that, with respect to a fiscal year, the State share of funds expended for such fiscal year for all Federally funded programs under which the State provides or makes available family planning services is not less than the level of the State share expended for such programs during fiscal year 2000.

''(d) OPTION TO EXTEND COVERAGE DURING A POST-ELIGIBILITY PERIOD.—

''(1) INITIAL PERIOD.—A State plan amendment made under subsection (a) may provide that any woman who was receiving medical assistance described in section 1905(a)(4)(C) as a result of such amendment, and who becomes ineligible for such assistance because of hours of, or income from, employment, may remain eligible for such medical assistance through the end of the 6-month period that begins on the first day she becomes so ineligible.

''(2) ADDITIONAL EXTENSION.—A State plan amendment made under subsection (a) may provide that any women who has received medical assistance described in section 1905(a)(4)(C) during the entire 6-month period described in paragraph (1) may be extended coverage for such assistance for a succeeding 6-month period.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to medical assistance provided on and after October 1, 1999.

SEC. 3. STATE OPTION TO EXTEND THE POSTPARTUM PERIOD FOR PROVISION OF FAMILY PLANNING SERVICES AND SUPPLIES.

(a) IN GENERAL.—Section 1902(e)(5) of the Social Security Act (42 U.S.C. 1396a(e)(5)) is amended—

(1) by striking ''eligible under the plan, as though'' and inserting ''eligible under the plan—

''(A) as though'';

(2) by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(B) for medical assistance described in section 1905(a)(4)(C) for so long as the family income of such woman does not exceed the maximum income level established by the State for the woman to be eligible for medical assistance under the State plan (as a result of pregnancy or otherwise).''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to medical assistance provided on and after October 1, 1999.

RATIONALE

Congress finds that:

Each year in the United States, 3 million pregnancies, or half of all pregnancies, are unintended;

Contraceptives for both sexes are effective in reducing rates of unintended pregnancy. 85 percent of sexually active women who do not use any form of contraception will become pregnant in any single year, while just 3–6 percent of women taking birth control pills will become pregnant;

Contraceptives also help families to space their births, improving the mothers' health and reducing rates of infant mortality and low birthweight;

By helping to plan pregnancies, contraceptives help parents participate in the workforce and support themselves and their families;

By reducing rates of unintended pregnancy, contraceptives help reduce the need for abortion;

Family planning is cost effective: for every $1 invested in family planning, $3 are saved in pregnancy and other related costs;

Many low-income individuals in need of family planning do not qualify for Medicaid because they fail to meet stringent eligibility requirements;

Medicaid currently pays for 38 percent of all births in this country;

Medicaid provides family planning to many low-income women for only 60 days following a delivery, risking unintended pregnancies that jeopardize the health of women and their children;

In light of the significant health risks to women and children resulting from very short intervals between births, the Institute of Medicine recommends that Medicaid coverage of family planning should be extended to two years following a birth.

Currently, states can only extend Medicaid family planning services to larger populations of low-income individuals by applying to the federal government for a waiver, which can be a cumbersome and time consuming process;

Under current law, states have the option to cover pregnant women up to 185% of the federal poverty level without a waiver, but

states must get a waiver to provide family planning services to women with the same income who are trying to prevent pregnancy. Non-pregnant women should be put on parity with pregnant women with regard to coverage of family planning services.

● Mrs. FEINSTEIN. Mr. President, today I am introducing a bill with Senator CHAFEE to enable states to extend family planning services without getting a federal waiver from the U.S. Department of Health and Human Services.

Under our bill, states could do two things they cannot do under current law without the waiver of federal rules:

(1) States could expand by income level coverage for family planning services to ''near-poor'' women, women whose incomes are slightly above the currently allowed levels; and

(2) States could provide family planning for more than 60 days after a woman delivers a baby.

Our bill will enable states to automatically take these two steps without getting a federal waiver.

Every year in this country, there are 3 million pregnancies, half of which are unintended. To a poor woman, struggling to find a job, keep a job, or provide for the children she already has, an unplanned pregnancy can be devastating. In an effort to reduce unintended pregnancies, Medicaid provides a higher federal matching rate (90 percent, instead of the roughly 50 percent, in federal funds) for family planning services. This bill can further enhance these goals by preventing pregnancies and by helping women plan their pregnancies.

In addition, family planning saves money. Ironically, under current law, the group of women whom this bill covers become eligible for Medicaid once they are pregnant, so Medicaid then pays for their prenatal care, their delivery and 60 days of family planning following delivery. Medicaid pays for 38 percent of all births in the United States. Studies show that for every $1.00 invested in family planning, $3.00 are saved in pregnancy and health-related costs. Recognizing the value of expanding family planning services, 13 states have received waivers to make the expansions and California has applied for one.

It is my hope that the bill we introduce today can improve the health of women and their children by reducing unwanted pregnancies, welfare dependency, the incidence of abortion, the incidence of low-birth weight babies and the incidence of infant mortality. I urge my colleagues to support this legislation.●

By Mr. MURKOWSKI (for himself and Mr. CAMPBELL):

S. 739. A bill to amend the American Indian Trust Fund Management Reform Act to direct the Secretary of the Interior to contract with qualified financial institutions for the investment of certain trust funds, and for other purposes; to the Committee on Indian Affairs.

AMENDMENT TO INDIAN TRUST FUND MANAGEMENT REFORM ACT OF 1994

Mr. MURKOWSKI. Mr. President, I rise today to introduce an amendment to the Indian Trust Fund Management Reform Act of 1994 to provide Indian Tribal Trust fund beneficiaries the option of having their trust funds managed according to their wishes, which could add measurably to the value of their trust funds. For individual Indian trust fund beneficiaries, the legislation would allow them to earn greater returns through government-regulated trust departments than allowed by current law.

This bill is an outgrowth of a joint hearing held March 3rd of this year by the Senate Committees on Indian Affairs and Energy & Natural Resources to investigate the Department of Interior's efforts to reform the trust management systems for individual Indians and Indian Tribes.

The Secretary of the Interior, on behalf of the U.S. government, acts as the trustee for some 1,500 tribal trust funds for 338 Indian tribes with assets of $2.6 billion. He performs a similar service for 300,000 individual Indian accounts totaling some $500 million. For well over 100 years, these accounts have been in severe disarray, and in my mind, recent reform efforts under the Indian Trust Fund Management Act show few tangible signs of improvement.

Funds are unaccounted for, paperwork is missing, and Indians are uncertain about the accuracy of the amounts reported in their trust accounts. Recent newspaper reports tell of an ongoing inability or unwillingness on the part of the Departments of the Interior and Treasury to comply with requests from the U.S. District Court to produce documents relating to a small number of trust accounts. The Chairman of the Senate Committee on Indian Affairs, Senator BEN NIGHTHORSE CAMPBELL, has shown an unflagging commitment to ensure that the Indian trust fund debacle is cleaned up and put upon a sound footing for the Indian beneficiaries whose only sin has been to trust the word of the Federal Government.

While I look forward to working with Chairman CAMPBELL on his efforts to compel the Department of the Interior to institute the reforms necessary to come to grips with the ongoing problems of the Indian trust fund management, this bill is not designed to tackle that daunting task.

This will would grant Indian Tribes the option of having their funds treated the same way trust beneficiaries' funds are treated by prudent bank trust departments throughout this nation. Presently, federal law prohibits the Office of Trust Management from investing Indian trust funds in anything other than government-guaranteed instruments. This severely limits the rate of return Indians receive, to the point that they receive the lowest rate of return of any trust beneficiaries in the country.

Virtually all other trust funds in the country are managed under the ''prudent investor'' rule, which, when coupled with government regulation of trust departments, ensures that trust funds are managed conservatively but wisely for the long term best interests of the trust beneficiary.

The express prohibition against investment of Indian trust funds in all but government-guaranteed instruments has a dual effect on America's first—and poorest—residents. First, it restricts the growth of their trust funds. Second, it means that Indian trust funds will not be available for investment in Indian Country.

Under my proposal, the Secretary of the Interior, working with the Comptroller of the Currency, would contract with qualified financial institutions that are regulated by a federal bank regulatory agency for the investment of funds managed for Indian Tribes and individuals. Tribes would still have the option of keeping their money in government-guaranteed low-yield instruments if they so choose.

Those funds invested with government-regulated trust institutions would be managed according to the prudent investor rules governing all other trusts throughout the country. The U.S. government would still act as the guarantor of those funds through its regulatory and enforcement mechanisms. Because stated balances of trust funds may not be accurate due to historical mismanagement, the legislation is intended to ensure that if Indian trust funds are managed by private financial institutions, possible claims against the government for accurate balances are not extinguished.

Moreover, the Secretary would be directed, in the selection of a qualified financial institution, to comply with the Buy-Indian Act (25 U.S.C. 47). This would mean that if qualified Indian-owned financial institutions were properly regulated and certified, investment of Indian trust funds could act as investment capital for expanding economic opportunities in Indian country.

It is my hope that through the successful implementation of this legislation, we will see Indian people finally getting a fair return on their dollars, which might very well be generated from new enterprises via investments of their own monies. The American dream should not be allowed to be continued to be denied to the First Americans.

Mr. President, the Secretary of the Interior, is not an investment banker. There are a variety of things that the federal government does not do well, and the management of trust funds is one of them. We have financial institutions that are regulated and who have the experience of managing large trust funds. We have a large body of law governing the fiduciary responsibility of trustees. It is long past time for the Secretary to focus on the accounting of receipts and let those who know something about investments handle the actual management of these trust funds.

The present situation simply perpetuates the cycle of dependence for too many tribes and denies them the same reasonable expectation of return that all non-Indian trust beneficiaries have a right to expect.

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. 739

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

That the American Indian Trust Fund Management Reform Act (108 Stat. 4239, 25 U.S.C. 4041), as amended, is further amended by adding a new Title V as follows:

TITLE V—INVESTMENT OF FUNDS—TRIBAL OPTIONS

SEC. 501. TRIBAL OPTIONS.

(a) Within one year from the date of enactment of this title, the Secretary, with the advice and assistance of the Comptroller of the Currency, shall contract with qualified financial institutions that are regulated by a federal bank regulatory agency for the investment of all funds presently managed in trust status for Indian tribes and individual Indians by the United States, unless:

(1) the tribe whose money is held in trust requests in writing that the funds continue to be invested by the Department of the Interior, or

(2) contracting of the particular fund would be inconsistent with the United States' trust responsibility or would contravene any provision of law specifically related to that particular fund.

(b) The Secretary shall afford a tribe an opportunity to designate in writing a qualified financial institution to manage its funds. Unless a tribe designates a specific institution, the Secretary shall comply with the provisions of the Buy-Indian Act (25 U.S.C. 47) in the selection of a qualified financial institution pursuant to this title.

(c) Any contract entered into pursuant to this section shall, at a minimum, include provisions acceptable to the Secretary that will:

(1) direct that all funds are invested in a manner consistent with the requirements of the prudent investor rule applicable to the financial institution, the fiduciary responsibility of the institution, and the trust responsibility of the Secretary;

(2) within the requirements of paragraph (1), permit tribes to direct the financial institution regarding the kinds of instruments for investment;

(3) subject to the provisions of paragraphs (1) and (2), encourage the investment of funds in ways that directly benefit the affected tribe and Indian community;

(4) require that the financial institution be liable for any financial losses incurred by the trust beneficiary as a result of its failure to comply with the terms of its contract, the investment instructions provided by the tribe, its general fiduciary obligation, or the prudent investor rule;

(5) insure that the financial institution carry sufficient insurance or other surety satisfactory to the Secretary to compensate the trust beneficiary in connection with any liability and the Secretary in the event of a subrogation under subsection (d);

(6) allow the financial institution to recover its reasonable costs incurred in investing trust funds in investment instruments that are 100% guaranteed by the United States and be compensated for investing trust funds in other investment instruments by charging a commercially reasonable fee, approved by the Secretary, that shall be deducted from the corpus of the trust funds in the same manner as for private investors.

(d) No provision of this title, nor any action taken pursuant thereto, shall in any way diminish the trust responsibility of the United States for any funds presently managed in trust status or to the tribes or individual Indians who are the beneficial owners of such funds. The Secretary shall remain responsible for any losses incurred by a trust beneficiary for which a financial institution is liable under paragraph (c)(4) but shall be entitled to subrogation of any claim to the extent the beneficiary receives compensation from the United States.

(e) Any amounts transferred shall not result in the closure of the account in question and the Secretary shall be obligated to continue efforts to determine whether the account balance is accurate, including efforts to identify and secure documentation supporting such accounting balance.

Mr. CAMPBELL. Mr. President, today I am pleased to join my colleague Senator MURKOWSKI as an original co-sponsor of legislation to amend the American Indian Trust Fund Management Reform Act of 1994. This is the first step in reforming the way Indian trust funds are managed and invested for the benefit of the Indian tribes and their citizens.

On March 3, 1999, the Committee on Indian Affairs and the Committee on Energy and Natural Resources held a joint hearing on trust fund management practices in the Department of the Interior.

We held the hearing because the Secretary of the Interior issued an order in January that I believe undermined the authority of the Special Trustee for American Indians and violated the spirit and letter of the 1994 Act.

Nothing at the hearing changed my mind. As a result, I proposed an amendment to the FY 1999 Supplemental Appropriations bill to suspend the implementation of this order while we sort out the legitimacy and effectiveness of ongoing trust management reforms within the Department. This should be done through legislation and congressional oversight, not secretarial orders drafted with no tribal input.

Today's bill is the next step. It will enable Congress, Indian tribes, and the Administration to begin the difficult task of undoing 100 years of mismanagement and neglect by the United States.

Most Americans are unfamiliar with this issue so let me describe what we are talking about. Beginning in 1849, the federal government, as trustee for the tribes, built a system to identify and track Indian land holdings, land leases, income from those leases, and other Indian assets, and created ''trust funds'' to be managed for the benefit of their Indian beneficiaries.

Over the years, the United States has failed to keep track of the funds and the documents supporting the funds. In addition, the Department is prevented by law from investing these funds in anything other than U.S.-guaranteed investments which bring returns much lower than what is possible in the open market. For these reasons, the trustee has failed to adequately maintain this system and to maximize returns on investment, with Indians as the predictable losers once again. These facts raise the question of whether the federal government is the appropriate place for these accounts.

The money in these accounts, or that is supposed to be in these trust fund accounts, is Indian money that has been entrusted to the United States. It is not federal money. There are billions of dollars at stake: in 1997, the Department's Tribal Reconciliation Project stated that it was unable to reconcile some $2.4 billion in tribal funds.

For Indians that means they have no access to the money and do not receive the benefit from their own money.

There are at least three major aspects to the problem. First, efforts by the Department to identify and gather all documentation to determine accurate trust fund balances; second, the efforts to put in place new computers and management systems; and third, the need to provide Indian tribes with the flexibility to maximize the return on fund investments in the interim as the first two initiatives continue.

This legislation is aimed at the third of these problems. As the Committees work to fix the mistakes of the past, we can give tribes the flexibility and freedom to invest their money in the financial instruments they choose. This legislation will allow Indian tribes the option to leave their funds with the Department for management and investment or to transfer the funds to qualified financial institutions, including Indian-owned banks, in order to receive competitive returns on investment.

The bill will direct the Secretary of Interior to consult with the nation's top banker, the Comptroller of the Currency, in negotiating contracts with federally-approved financial institutions for the investment of funds now managed by the United States.

Let me be clear: tribes are not required to move their accounts into the private market. It is an option.

This bill does not represent a ''surrender'' in the efforts to find the missing funds and documents. In fact, just the opposite. Under the bill, the Secretary is obligated to continue to search for documents that will give a more accurate account balance to the tribes.

That brings up another troubling issue—the possibility that some documents will never be found. It is bad enough that some have been permanently lost due to neglect. But a story in today's Washington Times raises the possibility that, even worse, some documents may have been purposely destroyed. The story says that the plaintiffs suing the government over trust funds mismanagement have given the judge affidavits accusing Interior Department officials of destroying trust fund documents to conceal them from the court.

If this is true, it would be the worst violation of the trust responsibility in decades.

I should point out that this bill is the first, not the last, word on our efforts to clean up the trust funds mess and to give Indians the chance to take risks, generate higher rates of returns, and bring economic opportunities where none now exist. Also, this bill is subject to change. I welcome input from Indian Country as we work to perfect it.

As Chairman of the Committee on Indian Affairs, I am committed to working with and assisting the tribes in the many reforms that are necessary to bring increased hope and opportunities to their communities.

I urge my colleagues to join Senator MURKOWSKI and me in bringing real reform and real change to Indian trust funds management. After 150 years, it's about time we think and act boldly to bring this sad chapter in American history to a close.

Mr. President, I ask unanimous consent that a Washington Times article be printed in the RECORD.

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

[From the Washington Times, Mar. 25, 1999]

INTERIOR OFFICIALS ACCUSED OF DESTROYING INDIAN RECORDS

(By Jerry Seper)

Interior Department officials who told a federal judge they could not find records describing the department's oversight of American Indian trust funds have been accused in sworn affidavits of destroying the documents to conceal then from the court.

U.S. District Judge Royce C. Lamberth, who held Interior Secretary Bruce Babbitt in contempt last month for not turning over the records in a lawsuit, ordered hearings on the accusations yesterday after being told Tuesday the documents had been deliberately destroyed.

The suspected destruction was outlined in the affidavits given to the judge during a status hearing in a lawsuit brought by the Native American Rights Fund. The affidavits, brought by some of the many plaintiffs, were later ordered sealed pending yesterday's hearing, although that hearing—held in the judge's chambers—was scheduled to resume today.

The suit by the Rights Fund, which represents several Indian tribes involved in the trust fund, accuses the Interior and Treasury departments of mismanaging trust fund monies.

In November, Judge Lamberth ordered the departments to produce canceled checks and other documents showing the status of the trust fund, which involves more than 300,000 individual accounts and 2,000 tribal accounts. The departments oversee the receipt of money from land settlements, royalties and payments by companies that use Indian land.

The judge sought the records to allow attorneys for the Rights Fund to prepare for trial. The departments have never complied, giving the judge several reasons for the delay—including an Interior claim that some of the records were so tainted by rodent droppings in a New Mexico warehouse that to disturb them would put department officials at a health risk.

Interior officials have been unable to verify how much cash has been collected. An audit by the Arthur Andersen accounting firm said the Bureau of Indian Affairs cannot account for $2.4 billion in trust funds.

During a hearing March 3 before the Senate Indian Affairs Committee and the Senate Energy and Natural Resources Committee, Mr. Babbitt promised to correct the situation. ''You'll be the judge. I will do my best,'' Mr. Babbitt said when asked what he intended to do about mismanagement by the BIA.

Special trustee Paul Homan, assigned to oversee the fund, resigned in January. He said Mr. Babbitt stripped him of the authority he needed to do the job and that he was blocked by Interior officials who sought to undermine congressionally ordered reforms with continual rejections of his requests for money and manpower.

Mr. Homan said the department could ''no longer be trusted to keep and produce trust records.'' He urged the accounts be assigned to an independent agency.

Mr. Babbitt ordered a reorganization and requested more funding for next year. He also said a new accounting system was expected to be in place by the end of the year.

But acting special trustee Thomas Thompson said in a confidential memo last year that he was ''grateful'' he did not run the program. He outlined many concerns he had about an inability to implement the Trust Fund Management Reform Act of 1994. The act directs the department to oversee the fund and provide the necessary budget to do the job.

Mr. Thompson's memo was written before his appointment as Mr. Homan's successor. He has since told the Indian Affairs Committee that trust funds were being properly administered and that the program was sufficiently funded.

In a letter to Mr. Babbitt last week, Republication Sens. Ben Nighthorse Campbell of Colorado and Sen. Frank H. Murkowski of Alaska, chairman of the Energy and Natural Resources Committee, said they were concerned that Mr. Thompson appeared willing to endorse a process he had criticized.

''Before our committees, you vigorously testified about your commitment to clean up the trust fund fiasco,'' they wrote to Mr. Babbitt. ''We are not encouraged, however, when only hours after the hearing, your hand-picked acting trustee seems to reverse himself on an issue critical to the success of this effort.''

They said if the many problems Mr. Thompson's memo described had been corrected, Mr. Babbitt should list the improvements to the committees.

By Mr. CRAIG (for himself, Mr. CRAPO, Mr. BURNS, and Mr. GRAMS): S. 740. A bill to amend the Federal Power Act to improve the hydroelectric licensing process by granting the Federal Energy Regulatory Commission statutory authority to better coordinate participation by other agencies and entities, and for other purposes; to the Committee on Energy and Natural Resources.

HYDROELECTRIC LICENSING PROCESS IMPROVEMENT ACT OF 1999

Mr. CRAIG. Mr. President, the bill I introduce is the Hydroelectric Licensing Process Improvement Act of 1999. As its title suggests, the purpose of the bill is to improve the process by which non-federal hydroelectric projects are licensed by the Federal Energy Regulatory Commission.

I introduced a similar bill late in the 105th Congress after hearings on this issue in both the House and Senate. Hydropower represents ten percent of the energy produced in the United States, and approximately 85% of all renewable energy generation. This, Mr. President, is a significant portion of our nation's electricity, produced without air pollution or greenhouse gas emissions, and it is accomplished at relatively low cost.

The Commission for many years since its creation in 1920, controlled our nation's water power potential with uncompromising authority. However, since 1972, a number of environmental statutes, amendments to the Federal Power Act, Commission regulations, licensing and policy decisions, and several critical court decisions, has made the Commission's licensing process extremely costly, time consuming, and, at times, arbitrary. Indeed, the current Commission licensing program is burdened with mixed mandates and redundant bureaucracy and prone to gridlock and litigation.

Under current law, several federal agencies are required to set conditions for licenses without regard to the effects those conditions have on project economics, energy benefits, impacts on greenhouse gas emissions and values protected by other statutes and regulations. Far too often we have agencies fighting agencies and issuing inconsistent demands.

The consequent delays in processing hydropower applications result in significant business costs and lost capacity. For example, according to a September 1997 study of the U.S. Department of Energy, since 1987, of 52 peaking projects relicensed by the Commission, four projects increased capacity, and 48 decreased capacity. In simple terms, those 48 projects became less productive as a result of the relicensing process at the Commission than they were prior to relicensing. Ninety-two percent of the peaking projects since 1987 lost capacity.

In addition, faced with the uncertainties currently plaguing the relicensing process, some existing licensees are contemplating abandonment of their projects. This is of concern to the nation because two-thirds of all non-federal hydropower capacity is up for relicensing in the next fifteen years. By the year 2010, 220 projects will be subject to the relicensing process.

Publicly owned hydropower projects constitute nearly 50% of the total capacity that will be up for renewal. The problems resulting in lost capacity, coupled with the momentous changes occurring in the electricity industry and the increasing need for emissions free sources of power, all underscore the need for Congressional action to reform hydroelectric licensing.

Moreoever, the loss of a hydropower project means more than the loss of clean, efficient, renewable electric power. Hydropower projects provide drinking water, flood control, fish and wildlife habitat, irrigation, transportation, environmental enhancement

funding and recreation benefits. Also, due to its unique load-following capability, peaking capacity and voltage stability attributes, hydropower plays a critical role in maintaining our nation's reliable electric service.

My bill, which is currently co-sponsored by fellow Idahoan Senator MIKE CRAPO, and Senators CONRAD BURNS and ROD GRAMS, will remedy the inefficient and complex Commission licensing process by ensuring that federal agencies involved in the process act in a timely and accountable manner.

My bill does not change or modify any existing environmental laws, nor remove regulatory authority from various agencies. It does not call for the repeal of mandatory conditioning authority of appropriate federal agencies. Rather, it requires participating agencies to consider, and be accountable for, the full effects of their actions before imposing mandatory conditions on a Commission issued license.

It is clear to me and many of my colleagues here in the Senate that hydropower is at risk. Clearly, one of the most important tasks for energy policymakers in the 21st Century is to develop an energy strategy that will ensure an adequate supply of reasonably priced, reliable energy to all American consumers in an environmentally responsible manner. The relicensing of non-federal hydropower can and should continue to be an important and viable element in this strategy.

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. 740

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 ''Hydroelectric Licensing Process Improvement Act of 1999''.

SEC. 2. FINDINGS.

Congress finds that—

(1) hydroelectric power is an irreplaceable source of clean, economic, renewable energy with the unique capability of supporting reliable electric service while maintaining environmental quality;

(2) hydroelectric power is the leading renewable energy resource of the United States;

(3) hydroelectric power projects provide multiple benefits to the United States, including recreation, irrigation, flood control, water supply, and fish and wildlife benefits;

(4) in the next 15 years, the bulk of all non-Federal hydroelectric power capacity in the United States is due to be relicensed by the Federal Energy Regulatory Commission;

(5) the process of licensing hydroelectric projects by the Commission—

(A) does not produce optimal decisions, because the agencies that participate in the process are not required to consider the full effects of their mandatory and recommended conditions on a license;

(B) is inefficient, in part because agencies do not always submit their mandatory and recommended conditions by a time certain;

(C) is burdened by uncoordinated environmental reviews and duplicative permitting authority; and

(D) is burdensome for all participants and too often results in litigation; and

(6) while the alternative licensing procedures available to applicants for hydroelectric project licenses provide important opportunities for the collaborative resolution of many of the issues in hydroelectric project licensing, those procedures are not appropriate in every case and cannot substitute for statutory reforms of the hydroelectric licensing process.

SEC. 3. PURPOSE.

The purpose of this Act is to achieve the objective of relicensing hydroelectric power projects to maintain high environmental standards while preserving low cost power by—

(1) requiring agencies to consider the full effects of their mandatory and recommended conditions on a hydroelectric power license and to document the consideration of a broad range of factors;

(2) requiring the Federal Energy Regulatory Commission to impose deadlines by which Federal agencies must submit proposed mandatory and recommended conditions to a license; and

(3) making other improvements in the licensing process.

SEC. 4. PROCESS FOR CONSIDERATION BY FEDERAL AGENCIES OF CONDITIONS TO LICENSES.

(a) IN GENERAL.—Part I of the Federal Power Act (16 U.S.C. 791a et seq.) is amended by adding at the end the following:

''SEC. 32. PROCESS FOR CONSIDERATION BY FEDERAL AGENCIES OF CONDITIONS TO LICENSES.

''(a) DEFINITIONS.—In this section:

''(1) CONDITION.—The term 'condition' means—

''(A) a condition to a license for a project on a Federal reservation determined by a consulting agency for the purpose of the first proviso of section 4(e); and

''(B) a prescription relating to the construction, maintenance, or operation of a fishway determined by a consulting agency for the purpose of the first sentence of section 18.

''(2) CONSULTING AGENCY.—The term 'consulting agency' means—

''(A) in relation to a condition described in paragraph (1)(A), the Federal agency with responsibility for supervising the reservation; and

''(B) in relation to a condition described in paragraph (1)(B), the Secretary of the Interior or the Secretary of Commerce, as appropriate.

''(b) FACTORS TO BE CONSIDERED.—

''(1) IN GENERAL.—In determining a condition, a consulting agency shall take into consideration—

''(A) the impacts of the condition on—

''(i) economic and power values;

''(ii) electric generation capacity and system reliability;

''(iii) air quality (including consideration of the impacts on greenhouse gas emissions); and

''(iv) drinking, flood control, irrigation, navigation, or recreation water supply;

''(B) compatibility with other conditions to be included in the license, including mandatory conditions of other agencies, when available; and

''(C) means to ensure that the condition addresses only direct project environmental impacts, and does so at the lowest project cost.

''(2) DOCUMENTATION.—

''(A) IN GENERAL.—In the course of the consideration of factors under paragraph (1) and before any review under subsection (e), a consulting agency shall create written documentation detailing, among other pertinent matters, all proposals made, comments received, facts considered, and analyses made regarding each of those factors sufficient to demonstrate that each of the factors was given full consideration in determining the condition to be submitted to the Commission.

''(B) SUBMISSION TO THE COMMISSION.—A consulting agency shall include the documentation under subparagraph (A) in its submission of a condition to the Commission.

''(c) SCIENTIFIC REVIEW.—

''(1) IN GENERAL.—Each condition determined by a consulting agency shall be subjected to appropriately substantiated scientific review.

''(2) DATA.—For the purpose of paragraph (1), a condition shall be considered to have been subjected to appropriately substantiated scientific review if the review—

''(A) was based on current empirical data or field-tested data; and

''(B) was subjected to peer review.

''(d) RELATIONSHIP TO IMPACTS ON FEDERAL RESERVATION.—In the case of a condition for the purpose of the first proviso of section 4(e), each condition determined by a consulting agency shall be directly and reasonably related to the impacts of the project within the Federal reservation.

''(e) ADMINISTRATIVE REVIEW.—

''(1) OPPORTUNITY FOR REVIEW.—Before submitting to the Commission a proposed condition, and at least 90 days before a license applicant is required to file a license application with the Commission, a consulting agency shall provide the proposed condition to the license applicant and offer the license applicant an opportunity to obtain expedited review before an administrative law judge or other independent reviewing body of—

''(A) the reasonableness of the proposed condition in light of the effect that implementation of the condition will have on the energy and economic values of a project; and

''(B) compliance by the consulting agency with the requirements of this section, including the requirement to consider the factors described in subsection (b)(1).

''(2) COMPLETION OF REVIEW.—

''(A) IN GENERAL.—A review under paragraph (1) shall be completed not more than 180 days after the license applicant notifies the consulting agency of the request for review.

''(B) FAILURE TO MAKE TIMELY COMPLETION OF REVIEW.—If review of a proposed condition is not completed within the time specified by subparagraph (A), the Commission may treat a condition submitted by the consulting agency as a recommendation is treated under section 10(j).

''(3) REMAND.—If the administrative law judge or reviewing body finds that a proposed condition is unreasonable or that the consulting agency failed to comply with any of the requirements of this section, the administrative law judge or reviewing body shall—

''(A) render a decision that—

''(i) explains the reasons for a finding that the condition is unreasonable and may make recommendations that the administrative law judge or reviewing body may have for the formulation of a condition that would not be found unreasonable; or

''(ii) explains the reasons for a finding that a requirement was not met and may describe any action that the consulting agency should take to meet the requirement; and

''(B) remand the matter to the consulting agency for further action.

''(4) SUBMISSION TO THE COMMISSION.—Following administrative review under this subsection, a consulting agency shall—

''(A) take such action as is necessary to—

''(i) withdraw the condition;

''(ii) formulate a condition that follows the recommendation of the administrative law judge or reviewing body; or

''(iii) otherwise comply with this section; and

''(B) include with its submission to the Commission of a proposed condition—

''(i) the record on administrative review; and

''(ii) documentation of any action taken following administrative review.

''(f) SUBMISSION OF FINAL CONDITION.—

''(1) IN GENERAL.—After an applicant files with the Commission an application for a license, the Commission shall set a date by which a consulting agency shall submit to the Commission a final condition.

''(2) LIMITATION.—Except as provided in paragraph (3), the date for submission of a final condition shall be not later than 1 year after the date on which the Commission gives the consulting agency notice that a license application is ready for environmental review.

''(3) DEFAULT.—If a consulting agency does not submit a final condition to a license by the date set under paragraph (1)—

''(A) the consulting agency shall not thereafter have authority to recommend or establish a condition to the license; and

''(B) the Commission may, but shall not be required to, recommend or establish an appropriate condition to the license that—

''(i) furthers the interest sought to be protected by the provision of law that authorizes the consulting agency to propose or establish a condition to the license; and

''(ii) conforms to the requirements of this Act.

''(4) EXTENSION.—The Commission may make 1 extension, of not more than 30 days, of a deadline set under paragraph (1).

''(g) ANALYSIS BY THE COMMISSION.—

''(1) ECONOMIC ANALYSIS.—The Commission shall conduct an economic analysis of each condition submitted by a consulting agency to determine whether the condition would render the project uneconomic.

''(2) CONSISTENCY WITH THIS SECTION.—In exercising authority under section 10(j)(2), the Commission shall consider whether any recommendation submitted under section 10(j)(1) is consistent with the purposes and requirements of subsections (b) and (c) of this section.

''(h) COMMISSION DETERMINATION ON EFFECT OF CONDITIONS.—When requested by a license applicant in a request for rehearing, the Commission shall make a written determination on whether a condition submitted by a consulting agency—

''(1) is in the public interest, as measured by the impact of the condition on the factors described in subsection (b)(1);

''(2) was subjected to scientific review in accordance with subsection (c);

''(3) relates to direct project impacts within the reservation, in the case of a condition for the first proviso of section 4(e);

''(4) is reasonable;

''(5) is supported by substantial evidence; and

''(6) is consistent with this Act and other terms and conditions to be included in the license.''.

(b) CONFORMING AND TECHNICAL AMENDMENTS.—

(1) SECTION 4.—Section 4(e) of the Federal Power Act (16 U.S.C. 797(e)) is amended—

(A) in the first proviso of the first sentence by inserting after ''conditions'' the following: '', determined in accordance with section 32,''; and

(B) in the last sentence, by striking the period and inserting ''(including consideration of the impacts on greenhouse gas emissions)''.

(2) SECTION 18.—Section 18 of the Federal Power Act (16 U.S.C. 811) is amended in the first sentence by striking ''prescribed by the Secretary of Commerce'' and inserting ''prescribed, in accordance with section 32, by the Secretary of the Interior or the Secretary of Commerce, as appropriate''.

SEC. 5. COORDINATED ENVIRONMENTAL REVIEW PROCESS.

Part I of the Federal Power Act (16 U.S.C. 791a et seq.) (as amended by section 3) is amended by adding at the end the following:

''SEC. 33. COORDINATED ENVIRONMENTAL REVIEW PROCESS.

''(a) LEAD AGENCY RESPONSIBILITY.—The Commission, as the lead agency for environmental reviews under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for projects licensed under this part, shall conduct a single consolidated environmental review—

''(1) for each such project; or

''(2) if appropriate, for multiple projects located in the same area

''(b) CONSULTING AGENCIES.—In connection with the formulation of a condition in accordance with section 32, a consulting agency shall not perform any environmnental review in addition to any environmental review performed by the Commission in connection with the action to which the condition relates.

''(c) DEADLINES.—

''(1) IN GENERAL.—The Commission shall set a deadline for the submission of comments by Federal, State, and local government agencies in connection with the preparation of any environmental impact statement or environmental assessment required for a project.

''(2) CONSIDERATIONS.—In setting a deadline under paragraph (1), the Commission shall take into consideration—

''(A) the need of the license applicant for a prompt and reasonable decision;

''(B) the resources of interested Federal, State, and local government agencies; and

''(C) applicable statutory requirements.''.

SEC. 6. STUDY OF SMALL HYDROELECTRIC PROJECTS.

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Federal Energy Regulatory Commission shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Commerce of the House of Representatives a study of the feasibility of establishing a separate licensing procedure for small hydroelectric projects.

(b) DEFINITION OF SMALL HYDROELECTRIC PROJECT.—The Commission may by regulation define the term ''small hydroelectric project'' for the purpose of subsection (a), except that the term shall include at a minimum a hydroelectric project that has a generating capacity of 5 megawatts or less.

By Mr. GRAHAM (for himself, Mr. GRASSLEY, Mr. BAUCUS, Mr. HATCH, Mr. BREAUX, Mr. JEFFORDS, Mr. KERREY, Mr. ROBB, Mr. MACK, Mr. BOND, Mr. CHAFEE, Mr. THOMPSON, Mr. BINGAMAN and Mr. MURKOWSKI):

S. 741. A bill to provide for pension reform, and for other purposes; to the Committee on Finance.

PENSION COVERAGE AND PORTABILITY ACT

● Mr. GRAHAM. Mr. President, I rise today along with Senators GRASSLEY, BAUCUS, HATCH, BREAUX, JEFFORDS, KERREY, MACK, ROBB, MURKOWSKI, CHAFEE, THOMPSON, BOND, and BINGAMAN to introduce the Pension Coverage and Portability Act. I am honored to be here today, in a bipartisan group, and especially with my colleague Senator CHARLES GRASSLEY, who has put a tremendous effort into crafting many parts of this bill. He and I recognize that for our nation to solve what will be one of this generation's greatest challenges, building retirement security for today's workers, we need to move in a common sense, bipartisan fashion.

Many of the original cosponsors of this bill were key in crafting sections of this legislation over the last three years. Senator GRASSLEY's efforts here have expanded fairness for women and families, and focuses on the benefits of retirement education.

Senator BAUCUS has brought the ideas that expand pension coverage and ease the administrative burdens on America's small businesses.

Portability, so important as we become a more mobile society, received the attention of Senator JEFFORDS.

All businesses will have the hard work of Senator HATCH to thank for many of the regulatory relief, and administrative simplification elements of this bill.

Senator BREAUX focused on the ''big picture'' of retirement security by authoring the ESOP provisions.

And finally, Senators KERREY and ROBB provided valuable new input that helped shape his legislation.

Throughout the process of putting this bill together, our main task has been to listen. We have listened at town hall meetings, at the Retirement Security Summit I held last year in Tampa, and a Women's Summit I held in Orlando last April. I am also planning another Retirement Security Summit in Jacksonville this May to continue the dialogue on this important issue.

The ideas have come from pension actuaries, tax attorneys, Cabinet leaders, and some of the best ideas, from everyday people.

With reason, some of the public debate recently has focused on President Clinton's mantra ''Save Social Security First.'' And we all agree, on both sides of the aisle, that we need to ensure that social security is as viable for my nine grandchildren as it was for may parents and will be for me.

However, social security is only one part of the picture. Pensions and personal savings will make up an ever increasing part of retirement security. So when Congress takes action to ensure the future of social security, we are only addressing one-third of the problem.

Social Security may play less of a role for each generation. We must develop personal savings, and we must have years of work pay off in workers vesting in pensions.

Our bill will help hard working Americans build personal retirement savings through their employers, through 401(k)s, through payroll deduction IRAs, and through higher limits on savings.

Employers and workers both win. Employers get simpler pension systems with less administrative burden, and more loyal employees. And workers build secure retirement and watch savings accumulate over years of work.

We need to be able to offer business owners and their workers: uncumbersome portability, administrative simplicity, and the confidence that their plans are secure and well funded.

To achieve this goal, we focused on six areas: simplification, portability, expanded coverage for small business, pension security and enforcement, women's equity issues, and expanding retirement planning and education opportunities.

The largest section of this legislation deals with expanded coverage for small business. It's the largest section because small businesses have the greatest difficulty achieving retirement security. 51 million American workers have no retirement plan, 21 million of these employees work in small businesses.

The problem: statistics indicate that only a small percentage of workers in firms of less than 100 employees have access to a retirement plan. We take a step forward in eliminating one of the first hurdles that a small business faces when it establishes a pension plan. On one hand, the federal government is encouraging these businesses to start pension plans, and then we turn around and charge the small business, at times, up to one thousand dollars to register their plan with the Internal Revenue Service.

The solution: eliminate this fee for small businesses. We need to encourage small businesses to start plans, not discourage them with high registration fees.

Another problem for small businesses and others is people postponing retirement decisions until a later date. Many young people in their 20's and 30's don't think they need to worry about retirement security ''right now,'' it's a decision that can wait for later.

Our solution to this is to encourage businesses to have ''opt out'' plans for retirement savings. Instead of the worker having to actively decide to participate and fill out paperwork, he or she is automatically participating unless they actively decide not to.

Another problem this legislation addresses: retirement security for women and families. Historically speaking, women live longer than men, therefore, need greater savings for retirement. Yet our pension and retirement laws do not reflect this. Women are more mobile than men, moving in and out of the workforce due to family responsibilities, thus they have less of a chance to vest. Fewer than 32% of all women retirees receive a pension. Currently two-thirds of working women are employed in sectors of the economy that are unlikely to have a retirement plan: service and retail, and small business.

In an effort to address one of the problems—preparing for a longer life expectancy, we realistically adjust upwards the age in which you must start withdrawing funds.

Under current law, you must start withdrawing money from retirement plans at age seventy-and-a-half. However, a woman at age seventy can still have three decades in retirement. I know, because I represent many of them in Florida. At the Retirement Summit I hosted in Tampa, Florida, several retirees mentioned that they wanted to keep this money in retirement savings for as long as possible. We raise the seventy-and-a-half age to seventy-five for mandatory minimum distributions.

Second, we say that $100,000 of any IRA will be exempt from minimum distribution rules. This accomplishes two important goals: simplifying the bureaucracy for thousands of Americans who have less than this balance, and protecting a vital nest egg for the last years of retirement so that long term care and other expenses can be covered.

Another problem addressed in this section of the legislation is the mobility of our workforce. On average, Americans will have 7 different employers during their career which means they are often not at any job long enough to vest into retirement benefits.

Our legislation offers a solution—shrinking the 5 year vesting cycle to a three year cycle. We believe this is more reflective of job tenure in the 1990's and on into the next century.

As I mentioned earlier, the current U.S. worker will have seven different employers. We have the possibility of a generation of American workers who will retire with many small accounts—creating a complex maze of statements and features, different for each account. This is a problem—pensions should be portable from job to job.

One solution to this problem—allow employees to roll one retirement account into another as they move from job to job so that when they retire, they will have one retirement account. It's easier to monitor, less complicated to keep track of, and builds a more secure retirement for the worker.

Portability is important, but we must also reduce the red tape. The main obstacle that companies face in establishing retirement programs is bureaucratic administrative burden. For example: for small plans, it costs $228 per person per year just to comply with all the forms, tests and regulations.

We have a common sense remedy to one of the most vexing problems in pension administration: figuring out how much money to contribute to the company's plan. It's a complex formula of facts, statistics and assumptions. We want to be able to say to plans that have no problem with underfunding: to help make these calculations, you can use the prior year's data to help make the proper contribution. You don't have to re-sort through the numbers each and every year. If your plan is sound, use reliable data from the previous year, and then verify when all the final details are available. Companies will be able to calculate, and then budget accordingly—and not wait until figures and rates out of their control are released by outside sources.

I have said time and time again today that Americans are not saving, but those who are oftentimes hit limits on the amounts they can save. The problem is that most of these limits were established more than 20 years ago. Currently, for example, in a 401(k) plan the IRS limits the amount an employee can contribute to $10,000 a year.

Our solution is to raise that limit to $12,000, along with raising many other limits that affect savings in order to build a more secure retirement for working Americans.

The building of retirement security will also take some education. One of the major reasons Americans do not prepare for retirement is that they don't understand what benefits are available and what benefits they are acquiring.

Our solution to this dilemma is regular and easy to read benefit statements from employers reminding workers early in their career of the importance of retirement savings. These statements would clarify what benefits workers are accruing. And from this information each American will more easily be able to determine the personal savings they need in order to build a sound retirement.

With the introduction of this legislation today it is my goal to ensure that each American who works hard for thirty or forty years has gotten every opportunity for a secure and comfortable retirement.

I thank my colleagues who have worked so hard with me on this measure, and ask for the support of those in this Chamber on this important legislation.●

Mr. GRASSLEY. Mr. President, I rise to join my colleague, Senator GRAHAM, to introduce bipartisan pension reform legislation. This legislation, the Pension Coverage and Portability Act, will go a long way toward improving the pension system in this country.

Ideally, pension benefits should compromise about a third of a retired worker's income. But pension benefits make up only about one-fifth of the income in elderly households. Obviously, workers are reaching retirement with too little income from an employer pension. Workers who are planning for their retirement will need more pension income to make up for a lower Social Security benefit and to fit with longer life expectancies. While we have seen a small increase in the number of workers who are expected to receive a pension in retirement, only one half of our workforce is covered by a pension plan.

There is a tremendous gap in pension coverage between small employers and

large employers. Eighty-five percent of the companies with at least 100 workers offer pension coverage. Companies with less than 100 workers are much less likely to offer pension coverage. Only about 50 percent of the companies with less than 100 workers offer pension coverage. In order to close the gap in coverage between small and large employers, we need to understand the reasons small employers do not offer pension plans. Last year, the Employee Benefit Institute released to Small Employer Retirement Survey which was very instructive for legislators.

The survey identified the three main reasons employers gave for not offering a plan. The first reason is that small employer believe that employees prefer increased wages or other types of benefits. The second reason employers don't offer plans is the administrative cost. And the third most important reason for not offering a plan: uncertain revenue, which makes it difficult to commit to a plan.

Combine these barriers with the responsibilities of a small employer, and we can understand why coverage among small employers has not increased. Small employers who may just be starting out in business are already squeezing every penny. These employers are also people who open up to the business in the morning, talk to customers, do the marketing, pay the bills, and just do not know how they can take on the additional duties, responsibilies, and liabilities of sponsoring a pension plan.

I firmly believe that an increase in the number of people covered by pension plans will occur only when small employers have more substantial incentives to establish pension plans. The Pension Coverage and Portability Act contains provisions which will provide more flexibility for small employees, relief from burdensome rules and regulations, and a tax incentive to start new plans for their employees. One of the new top heavy provisions we have endorsed is an exemption from top heavy rules for employers who adopt the 401(k) safe harbor. This safe harbor takes effect this year. When the Treasury Department wrote the regulations and considered whether safe harbor plans should also have to satisfy the top heavy rules, they answered in the affirmative. As a result, a small employer would have to make a contribution of 7 percent of pay for each employee, a very costly proposition.

My colleagues and I also have included a provision which repeals user fees for new plan sponsors seeking determination letters from IRS. These fees can run from $100 to more than $1,000 depending on the type of plan. Given the need to promote retirement plan formation, we believe this ''rob Peter to pay Paul'' approach needs to be eliminated.

We have also looked at the lack of success of SIMPLE 401(k) plans. A survey by the Investment Company Institute found that SIMPLE IRAs have proven successful, with almost 340,000 workers participating in a plan. However, SIMPLE 401(k)s haven't enjoyed the same success. One reason may be that the limits on SIMPLE 401(k)s are tighter than for the IRAs. Our bill equalizes the compensation limits for these plan; in addition, we have increased the annual limit on SIMPLE to $8,000.

One of the more revolutionary proposals is the creation of a Salary Reduction SIMPLE with a limit of $4,000. Unlike other SIMPLEs, the employer makes no match or automatic contributions. The employer match is usually a strong incentive for a low-income employee to participate in a savings plan. We hope that small employers will look at this SIMPLE as a transition plan, in place for just a couple of year during the initial stage of business operation— then adopt a more expansive plan when the business is profitable.

A provision that was included in last year's legislation, the negative election trust or ''NET'' has been modified to address some practical administrative issues. What is the NET? Basically, it is a new type of safe harbor that would allow employers to automatically enroll employees in pension plans. Often, employees do not join the pension plan as soon as they begin employment with a new employer. If employees are left to their own devices, they may delay participating in the pension plan or even worse, never participate. This new safe harbor eases the nondiscrimination rules for employers who establish the NET if they achieve a participation rate of 70 percent.

The other targeted areas in the legislation include enhancing pension coverage for women. Women are more at risk of living in poverty as they age. They need more ways to save because of periodic departures from the workforce. To increase their saving capacity, we have included a proposal similar to legislation I sponsored earlier this year, S. 60, the Enhanced Savings Opportunities Act. Like S. 60, the proposal repeals the 25 percent of salary contribution limit on defined contribution plans. This limit has seriously impeded savings by women, as well as low- and mid-salary employees. Repealing the 25 percent cap in 415(c) is a simplifier, and will allow anyone covered by a defined contribution plan to benefit.

The bill also contains proposals which promote new opportunities to roll over accounts from an old employer to a new employer. The lack of portability among plans is one of the weak links in our current pension system. This new bill contains technical improvements which will help ease the implementation of portability among the different types of defined contribution plans.

Finally, I would like to point out a couple of other provisions in the bill. The first is the new requirement that plan sponsors automatically provide benefit statements to their participants on a periodic basis. For defined contribution plans, the statement would be required annually. For defined benefit plans, a statement would be required every three years. However, employers who provide an annual notice to employees of the availability of a benefit statement would not be required to provide automatic benefit statements to all employees.

Providing clear and understandable benefit statements to pension plan participants would encourage people to think about how much money they can expect to receive in retirement. Further, a benefit statement will help people ensure that the information their employer maintains about them is accurate.

This provision joins other proposals in a section targeted at encouraging retirement education. Education can make a difference to workers. In fact, in companies which provide investment education, we know workers benefitted because many of them changed their investment allocations to more accurately reflect their investment horizons.

The bill also looks to simplify and repeal some of the legal requirements which threaten plan security and increase costs for employers who sponsor pension plans. For example, the legislation seeks to repeal the full-funding limit. This limit prevents employers from pre-funding their defined benefit plans based on projected benefits. Instead, employers are limited to an amount that would allow them to pay the accrued benefits if the plan terminated. This lower funding level threatens the ability of employers to pay benefits, especially as the Baby Boom begins to retire.

To reduce the burdens of plan compliance, the legislation includes a number of proposals intended to peel away at the layers of laws and regulations that add costs to plan administration but don't add many benefits.

This legislation joins other strong proposals now pending in the House and here in the Senate. This legislation includes provisions which reflect some of those same proposals. I want to commend the sponsors of those bills. Our legislation has a lot in common with these other pension bills and we need to push for fast and favorable consideration of this legislation.

We have a window of opportunity to act. The Baby Boomers are coming. The letters from AARP are starting to arrive in their mailboxes. The Social Security Administration is starting to stagger the delivery of benefit checks in preparation for their retirement. It is likely that future retirees will not be able to rely on all of the benefits now provided by Social Security. We can look to the pension system to pick up where Social Security leaves off, but we need to act.

I thank the other co-sponsors of this legislation for all of their work, and I encourage our colleagues to give strong

consideration to co-sponsoring this bill. We already have a substantial number of Senate Finance Committee members, including BAUCUS, BREAUX, JEFFORDS, HATCH, KERREY, THOMPSON, MACK, CHAFEE, ROBB, and MURKOWSKI. I am also very pleased to have Senator BOND come aboard as a co-sponsor. As Chairman of the Small Business Committee, he is very aware of the problems we are trying to address in this legislation. We also have added Senator JEFF BINGAMAN as a co-sponsor.

I also want to recognize the groups that have worked with us over the last three years to develop this legislation. These organizations include: the Profit Sharing/401(k) Council, the Association of Private Pension & Welfare Plans, the ERISA Industry Council, and the Retirement Security Network which includes a large number of organizations who have all been important to our work.

With concerted, bipartisan action, we can improve the pension system. Pensions for today's workers will substantially improve the retirement outlook for millions of Americans. But we have some work to do if pensions are going to fulfill their promise.

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

S. 742. A bill to clarify the requirements for the accession to the World Trade Organization of the People's Republic of China; to the Committee on Finance.

LEGISLATION TO CLARIFY THE REQUIREMENTS FOR THE ACCESSION TO THE WORLD TRADE ORGANIZATION OF THE PEOPLE'S REPUBLIC OF CHINA

Mr. GRASSLEY. Mr. President, hearings on agricultural trade issues with the People's Republic of China that I chaired on March 15, 1999 in the International Trade Subcommittee of the Senate Committee on Finance highlighted the enormous significance to the United States of China's possible accession to the World Trade Organization.

As President Gerald Ford stated in a letter that I released during the hearing, ''The terms of any deal that we reach now with China about access to its markets may well determine the course of Sino-American economic relations for decades to come. If economic relations are not resolved constructively, there will be adverse developments diplomatically and politically between our two nations.''

We have just one opportunity to make sure that any market access agreement that we reach with China in the context of WTO accession talks gives the United States unrestricted entry to China's markets. That opportunity is now. And we can do that only if Congress asserts its constitutional responsibility to regulate foreign commerce and reviews any deal negotiated by the administration before China is admitted to the WTO.

It is for this reason that today I introduce legislation to clarify the requirements for the accession to the World Trade Organization of the People's Republic of China.

This legislation will do three things.

First, it clarifies the requirement in current law that the United States Trade Representative must consult with the Congress prior to casting a vote in favor of China's admission to the WTO. Under current law, the Administration could conceivably ''consult'' with the Congress minutes before casting a vote in the WTO Ministerial Conference or the WTO General Council to admit China. This bill says that Congress shall have at least 60 days to review all the relevant documents related to China's possible accession before a vote is taken.

Second, this legislation specifies the exact documents that the Administration must give to Congress for its review.

Finally, Congress shall have the opportunity to vote on China's admission to the WTO before China can be admitted.

This is an issue of historic importance, and enormous consequence. But unless the law is changed, I won't even have the chance to vote on whether the agreement negotiated for China's accession is good for Iowa, and good for America. My job in Congress is to make these tough decisions, not avoid them.

Mr. President, I believe that it would be the right thing for China to join the world trade community's official forum, and be subject to the discipline of multilateral trade rules. For fifty years, the WTO, and its predecessor, the General Agreement on Tariffs and Trade, has eliminated literally tens of thousands of tariff and non-tariff trade barriers. The result has been a dramatic increase in our collective prosperity, and a strengthening of world peace.

But China—or any other nation—should not be admitted to the WTO for political reasons. If the terms that we negotiate for China's accession are good terms, then China's accession will stand on its own merits. If the terms are not acceptable, if they don't guarantee unrestricted market access, then China should not be admitted. It's that simple.

I encourage all my colleagues to join me in this effort.

By Mr. HOLLINGS (for himself and Mr. HELMS):

S. 743, a bill to require prior congressional approval before the United States supports the admission of the People's Republic of China into the World Trade Organization, and to provide for the withdrawal of the United States from the World Trade Organization if China is accepted into the WTO without the support of the United States; to the Committee on Finance.

WORLD TRADE ORGANIZATION LEGISLATION

● Mr. HOLLINGS. Mr. President, for some time, many aspects of the U.S.-China relationship have concerned me. Since China's entrance into the WTO will be the most significant U.S.-China negotiation in the next several years, the contentious U.S.-China issues should be moving toward resolution before the conclusion of any agreement. Unfortunately, that is not currently the case. Most relevant to the WTO process is the exploding US-China trade deficit. In 1998, it reached a record $56.9 billion dollars. In fact, U.S. export to both Singapore ($15.6 billion) and Holland ($19 billion) were greater than exports to China ($14.2 billion). At the beginning of the decade, the deficit was a problematic but manageable $12.5 billion. Conversely, our large trading partners (the Europeans and Japan) have managed to maintain a relative trade balance with there Chinese counterparts. In fact, all of China's trade surplus is accounted for by the enormous imbalance with the United States.

Moreover, the continuing problems with Chinese human rights violations, espionage and possible technology transfers suggest that this is not the appropriate time for China to enter the WTO. Recently, the State Department released its annual human rights report concluding that the situation in China has degraded significantly over the past year. Additionally, we remain troubled by the allegations regarding the possible illegal transfer of technology to China, as well as lingering questions over Chinese espionage and involvement in U.S. elections. Any trade agreement with China would be premature before these issues are resolved.

Although none of these concerns are new, the Administration's efforts to resolve these issues have been unfortunately unsuccessful. Regretably, in fact, the pace of the China WTO negotiations appears to have increased. As a result, we believe that this legislation is both appropriate and timely. Congress must review any agreement, and all of the surrounding negotiations to ensure that it reflects traditional American values while protecting American interest.●

By Mr. MURKOWSKI:

S. 744. A bill to provide for the continuation of higher education through the conveyance of certain public lands in the State of Alaska to the University of Alaska, and for other purposes; to the Committee on Energy and Natural Resources.

UNIVERSITY OF ALASKA LAND GRANT ACT

Mr. MURKOWSKI. Mr. President, the University of Alaska (the University) is Alaska's oldest post-secondary school. The University was chartered prior to statehood and has played a vital role in educating Alaskans as well as students from around the world in the United States' only arctic and subarctic environment. Additionally, the University has served as an important

cornerstone in Alaska's history. For example, the University housed the Alaska Constitutional Convention where the fathers of statehood carved out the rights and privileges guaranteed to Alaska's citizens. Further, the University of Alaska is proud of the fact that it began life as the Alaska Agricultural and Mining College. However, Mr. President, what makes the University of Alaska truly unique is the fact that it is the only land grant college in the Nation that is virtually landless.

As my colleagues know, one of the oldest and most respected ways of financing America's educational system has been the land grant system. Established in 1785, this practice gives land to schools and universities for their use in supporting their educational endeavors. In 1862, Congress passed the Morrill Act which created the land grant colleges and universities as a way to underwrite the cost of higher education to more and more Americans. These colleges and universities received land from the federal government for facility location and, more importantly, as a way to provide sustaining revenues to these educational institutions.

The University of Alaska received the smallest amount of land of any state, with the exception of Delaware, that has a land grant college. Even the land grant college in Rhode Island received more land from the federal government than has the University of Alaska. In a state the size of Alaska, we should logically have one of the best and most fully funded land grant colleges in the country. Unfortunately, without the land promised under the land grant allocation system and earlier legislation, the University is unable to share as one of the premier land grant colleges in the country.

Previous efforts in Congress were made to fix this problem. These efforts date back to 1915, less than 50 years after the passage of the Morrill Act, when Alaska's Delegate James Wickersham shepherded a measure through Congress that set aside potentially more than a quarter of a million acres, in the Tanana Valley outside of Fairbanks, for the support of an agricultural college and school of mines. Following the practice established in the lower 48 for other land grant colleges, Wickersham's bill set aside every Section 33 of the unsurveyed Tanana Valley for the Alaska Agricultural College and School of Mines. Alaska's educational future looked very bright.

Many Alaskans saw the opportunity to set up an endowment system similar to that established by the University of Washington in the downtown center of Seattle, where valuable University lands are leased and provide funding for the University of Washington which uses those revenues in turn to provide for its programs and facilities.

Mr. President, before that land could be transferred to the Alaska Agricultural College and School of Mines (renamed the University of Alaska in 1935), the land had to be surveyed in order to establish the exact acreage included in the reserved land. The sections reserved for education could not be transferred to the College until they had been delineated. According to records of the time, it was unlikely, given the incredibly slow speed of surveying, that the land could be completely surveyed before the 21st century. Surveying was and is an extraordinarily slow process in Alaska's remote and unpopulated terrain. In all, only 19 section 33's—approximately 11,211 acres—were ever transferred to the University. Of this amount, 2,250 were used for the original campus and the remainder was left to support educational opportunities.

Recognizing the difficulties of surveying in Alaska, subsequent legislation was passed in 1929 that simply granted land for the benefit of the University. This grant totaled approximately 100,000 acres and to this day comprises the bulk of the University's roughly 112,000 acres of land—less than one third of what it was originally promised. In 1958, the Alaska Statehood Act was passed which extinguished the original land grants for all lands that remained unsurveyed. Thus, the University was left with little land with which to support itself and thus is unable to completely fulfill its mission as a land grant college.

Mr. President, the legislation I am introducing today would redeem the promises made to the University in 1915 and put it on an even footing with the other land grant colleges in the United States. The bill provides the University with the land needed to support itself financially and offers it the chance to grow and continue to act as a responsible steward of the land and educator of our young people. The legislation also provides a concrete timetable under which the University must select its lands and the Secretary of the Interior must act upon those selections.

This legislation also contains significant restrictions on the land the University can select. The University cannot select land located within a Conservation System Unit. The University cannot select old growth timber lands in the Tongass National Forest. Finally, the University cannot select land validly conveyed to the State or an ANCSA corporation, or land used in connection with federal or military institutions.

Additionally, under my bill the University must relinquish extremely valuable inholdings in Alaska once it receives its state/federal selection awarded under Section 2, of this bill. Therefore, the result of this legislation will mean the relinquishment of prime University inholdings in such magnificent areas as the Alaska Peninsula & Maritime National Wildlife Refuge, The Kenai Fjords National Park, Wrangell St. Elias National Park and Preserve, and Denali Park and Preserve. So, Mr. President, not only does this bill uphold a decades old promise to the University of Alaska, it further protects Alaska's parks and refuges.

Specifically, this bill would grant the University 250,000 acres of federal land. Additionally, the University would be eligible to receive an additional 250K acres on a matching basis with the state for a total of 500K additional acres. This, obviously, would be done through the state legislative process involving the Governor, the Legislature, and the University's Board of Regents.

Mr. President, the state matching provision is an important component of this legislation. Most agree with the premise that the University was shorted land. However, some believe it is solely the responsibility of the federal government to compensate the University with land while others believe it is solely the responsibility of the state to grant the University land. The legislation I am introducing today offers a compromise giving both the state and the federal government the opportunity to contribute while at the same time providing the federal government with valuable inholdings in parks and refuges.

Finally, this bill contains a provision that incorporates a concept put forth by the Governor of Alaska. This provision directs the Secretary of the Interior to attempt to conclude an agreement with the University and the Governor of Alaska providing for sharing NPRA leasing revenues in lieu of land selections north of latitude 69 degrees North. The provision restricts any agreement regarding revenue sharing to prevent the University from obtaining more than ten percent of such annual revenues or more than nine million dollars each fiscal year. If an agreement is reached and provides for disposition of some portion of NPRA mineral leasing revenues to the University, the Secretary shall submit the proposed agreement to Congress for ratification. If the Secretary fails to reach an agreement within two years of enactment, or if Congress fails to ratify such agreement within three years from enactment, the University may select up to 92,000 of its 250,000 initial land grant from lands within NPRA north of latitude 69.

Therefore, this bill has been substantially changed from versions introduced in previous Congresses in two dramatic ways. First, in response to concerns from the Administration and environmental organizations the old growth areas of the Tongass National Forest are off limits for selection by the University. The only areas of the Tongass that could be selected by the University are those areas previously harvested. It is important that the University be allowed to select lands in this area as having the ability to study and manage as such areas are important tools for the University's School of Forestry.

The second substantial change to the bill, which was previously noted, is the

revenue sharing component. This aspect provides an alternative means of providing for the needs of the University.

With the passage of this bill, the University of Alaska will finally be able to act fully as a land grant college. It will be able to select lands that can provide the University with a stable revenue source as well as provide responsible stewardship for the land.

This is an exciting time for the University of Alaska. The promise that was made more than 80 years ago could be fulfilled by passage of this legislation and Alaskans could look forward to a very bright future for the University of Alaska and those who receive an education there.

By Mr. ABRAHAM (for himself, Mr. KENNEDY, Mr. GRAMS, Mr. LEAHY, Mr. GRAHAM, Mr. BURNS, Mr. MCCAIN, Ms. SNOWE, Mr. DEWINE, Mr. JEFFORDS, Mr. GORTON, Mr. CRAIG, Mr. LEVIN, Mr. SCHUMER, Mrs. MURRAY, Mr. MURKOWSKI, Mr. MOYNIHAN, Mr. MACK, Mr. SMITH of Oregon, Mr. DORGAN, Mr. SANTORUM, Mr. COCHRAN, AND Mr. INOUYE):

S. 745. A bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to modify the requirements for implementation of an entry-exit control system; to the Committee on the Judiciary.

BORDER IMPROVEMENT AND IMMIGRATION ACT OF 1999

Mr. ABRAHAM. Mr. President, I rise to introduce the Border Improvement and Immigration Act of 1999. I would like to express my thanks to Senators KENNEDY, GRAMS, LEAHY, GRAHAM, BURNS, MCCAIN, SNOWE, DEWINE, JEFFORDS, GORTON, CRAIG, LEVIN, SCHUMER, MURRAY, MURKOWSKI, MOYNIHAN, MACK, SMITH (OR), DORGAN, SANTORUM, COCHRAN, and INOUYE for being original cosponsors of this legislation. The legislation will correct an unfortunate provision—Section 110 of the 1996 Immigration Act. In correcting this provision, this legislation will prevent the Immigration and Naturalization Service from effectively shutting down our borders to trade and tourism. The legislation has wide support and appeal and is endorsed by the U.S. Chamber of Commerce, National Association of Manufacturers, American Trucking Association, American Hotel and Motel Association, Travel Industry Association of America, Border Trade Alliance, American Association of Exporters and Importers, National Automobile Transporters Association, Fresh Produce Association of the Americas, American Association of Port Authorities, International Mass Retail Association, American Immigration Lawyers Association, International Warehouse Logistics Association, National Tour Association, Passenger Vessel Association and the U.S. Hispanic Chamber of Commerce.

As a number of my colleagues are aware, Mr. President, in 1996 both the House and the Senate versions of the omnibus immigration bill contained differing provisions requiring collection of data on those entering and exiting the United States at certain airports. In conference, without any debate, a mandatory entry-exit system to capture the records of ''every alien'' was added to that legislation.

Representative SMITH and Senator Simpson, chairmen of the respective House and Senate Subcommittees responsible for 1996 legislation, have both agreed in an exchange of letters with the Canadian Ambassador that this provision, ''Section 110'' of the bill, was not intended to cover, for example, Canadians at the northern border. However, because of the term ''every alien,'' the INS has interpreted the law to require this program be implemented at all land borders, in addition to air and sea ports of entry. To the credit of the INS, it concedes that it cannot implement such a system.

Put simply, Mr. President, Section 110 is a mistake, and we must correct it. Failure to do so will cost American jobs. It will effectively close our borders to honest trade and tourism while harming our efforts to fight drugs, terrorism and illegal aliens. It must be eliminated.

We risk a great deal if we fail to act, Mr. President. Last year alone, exports to Canada generated more that 72,000 jobs in key manufacturing industries and more than $4.68 billion in value added for the state of Michigan alone. Our trade with Canada is the most extensive and profitable in the world. And last year more than 116 million people entered the United States by land from Canada.

The extent of our trade with Canada has caused us to develop an intricate web of interdependence that requires a substantially open border. With ''just in time'' delivery becoming the norm in our automobile assembly lines and throughout our manufacturing sector, a delivery of parts delayed by as little as 20 minutes can cause expensive assembly line shutdowns which our economy can ill afford.

But delay is exactly what we will see if Section 110 is not eliminated. Dan Stamper, President of the Detroit International Bridge Company, has testified that even a very efficient system, say one taking 30 seconds for each person to be recorded entering or leaving the country, would mean enormous delays. More than 30,000 crossings per day take place at Detroit's Ambassador Bridge. Even if we say that 7,500 Canadians cross each day, that means 2,250 minutes of additional processing time. But there are only 1,440 minutes in a day. Traffic would be backed up literally for miles. Significant problems would be experienced on the Southern border as well.

Assembly lines will shut down. Tourists will stay home. Americans will lose jobs.

And for what? Nothing the American people want. The two pilot programs set up by the INS to test implementation of Section 110, one in Texas and one in upstate New York, were both shut down due to fierce community opposition.

Moreover, time and manpower diverted to Section 110's impossible directive will take away from efforts to deal with other problems facing the INS and the Customs service—problems like drug interdiction, the fight against terrorism, and the fight against illegal immigration. Drugs, terrorism and illegal immigration are real problems requiring a real investment on our part. We can't afford to undermine these programs to pursue a policy we know is nothing more than a mistake.

This legislation would eliminate the mandated automated entry-exit system at land and sea ports of entries and replace it with a feasibility study, required within one year of the passage of the bill, to examine whether any system could ever be developed and at an acceptable cost to American taxpayers, employers, employees, and the nation as a whole.

The bill would also authorize significant additional resources at the Northern and Southern borders to fight drugs and terrorism, and to facilitate the entry of legitimate trade and commerce. The legislation authorizes for fiscal year 2000 and 2001 a net increase of 535 INS inspectors for the Southwest land border and 375 inspectors for the Northern land border, in order to open all primary lanes on the Southwest and Northern borders during peak hours and enhance investigative resources. It would add 100 canine enforcement vehicles to be used by INS for inspection and enforcement at U.S. land borders. And it would provide for a net increase of 40 intelligence analysts and additional resources to be distributed among border patrol sectors that have jurisdiction over major metropolitan drug or narcotics distribution and transportation centers to fight against drug smuggling and money-laundering.

For the U.S. Customs Service, the bill would authorize significant additional resources in technology and manpower for peak hours and investigations, including new technology and a net increase of 535 inspectors and 60 special agents for the Southwest border and 375 inspectors for the Northern border. In addition, the bill provides a net increase of 285 inspectors and canine enforcement officers to be distributed at large cargo facilities as needed to process and screen cargo and reduce commercial waiting times on U.S. land borders. It would also authorize a net increase of 360 special agents, 40 intelligence analysts, and additional resources to be distributed among offices that have jurisdiction over major metropolitan drug or narcotics distribution and transportation centers for intensification of efforts against drug smuggling and money-laundering organizations. The bill also provides for a net increase of 50 positions and

additional resources to the Office of Internal Affairs to enhance investigative resources for anticorruption efforts.

Mr. President, this bill passed the U.S. Senate by unanimous consent last year, which helped lead to a significant success—a two and a half year delay in the mandate for implementing this system. The 30 month delay was based on a recognition that this program is unworkable. Unfortunately, it provided only a small reprieve that will expire at the beginning of the next Congress. We must build on our success achieved last year. It is time to act, to protect American jobs, to maintain our law enforcement priorities and to uphold common sense.

I want to thank again the many cosponsors of this legislation and 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. 745

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 ''Border Improvement and Immigration Act of 1999''.

SEC. 2. AMENDMENT OF THE ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT OF 1996.

(a) IN GENERAL.—Section 110(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1221 note) is amended to read as follows:

''(a) SYSTEM.—

''(1) IN GENERAL.—Subject to paragraph (2), not later than 2 years after the date of enactment of this Act, the Attorney General shall develop an automated entry and exit control system that will—

''(A) collect a record of departure for every alien departing the United States and match the record of departure with the record of the alien's arrival in the United States; and

''(B) enable the Attorney General to identify, through on-line searching procedures, lawfully admitted nonimmigrants who remain in the United States beyond the period authorized by the Attorney General.

''(2) EXCEPTION.—The system under paragraph (1) shall not collect a record of arrival or departure—

''(A) at a land border or seaport of the United States for any alien; or

''(B) for any alien for whom the documentary requirements in section 212(a)(7)(B) of the Immigration and Nationality Act have been waived by the Attorney General and the Secretary of State under section 212(d)(4)(B) of the Immigration and Nationality Act.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 110 Stat. 3009–546).

SEC. 3. REPORT ON AUTOMATED ENTRY-EXIT CONTROL SYSTEM.

(a) REQUIREMENT.—Not later than 1 year after the date of enactment of this Act, the Attorney General shall submit a report to the Committees on the Judiciary of the Senate and the House of Representatives on the feasibility of developing and implementing an automated entry-exit control system that would collect a record of departure for every alien departing the United States and match the record of departure with the record of the alien's arrival in the United States, including departures and arrivals at the land borders and seaports of the United States.

(b) CONTENTS OF REPORT.—Such report shall—

(1) assess the costs and feasibility of various means of operating such an automated entry-exit control system, including exploring—

(A) how, if the automated entry-exit control system were limited to certain aliens arriving at airports, departure records of those aliens could be collected when they depart through a land border or seaport; and

(B) the feasibility of the Attorney General, in consultation with the Secretary of State, negotiating reciprocal agreements with the governments of contiguous countries to collect such information on behalf of the United States and share it in an acceptable automated format;

(2) consider the various means of developing such a system, including the use of pilot projects if appropriate, and assess which means would be most appropriate in which geographical regions;

(3) evaluate how such a system could be implemented without increasing border traffic congestion and border crossing delays and, if any such system would increase border crossing delays, evaluate to what extent such congestion or delays would increase; and

(4) estimate the length of time that would be required for any such system to be developed and implemented.

SEC. 4. ANNUAL REPORTS ON ENTRY-EXIT CONTROL AND USE OF ENTRY-EXIT CONTROL DATA.

(a) ANNUAL REPORTS ON IMPLEMENTATION OF ENTRY-EXIT CONTROL AT AIRPORTS.—Not later than 30 days after the end of each fiscal year until the fiscal year in which Attorney General certifies to Congress that the entry-exit control system required by section 110(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended by section 2 of this Act, has been developed, the Attorney General shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a report that—

(1) provides an accurate assessment of the status of the development of the entry-exit control system;

(2) includes a specific schedule for the development of the entry-exit control system that the Attorney General anticipates will be met; and

(3) includes a detailed estimate of the funding, if any, needed for the development of the entry-exit control system.

(b) ANNUAL REPORTS ON VISA OVERSTAYS IDENTIFIED THROUGH THE ENTRY-EXIT CONTROL SYSTEM.—Not later than June 30 of each year, the Attorney General shall submit to the Committees on the Judiciary of the House of Representatives and the Senate a report that sets forth—

(1) the number of arrival records of aliens and the number of departure records of aliens that were collected during the preceding fiscal year under the entry-exit control system under section 110(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as so amended, with a separate accounting of such numbers by country of nationality;

(2) the number of departure records of aliens that were successfully matched to records of such aliens' prior arrival in the United States, with a separate accounting of such numbers by country of nationality and by classification as immigrant or nonimmigrant; and

(3) the number of aliens who arrived as nonimmigrants, or as visitors under the visa waiver program under section 217 of the Immigration and Nationality Act, for whom no matching departure record has been obtained through the system, or through other means, as of the end of such aliens' authorized period of stay, with an accounting by country of nationality and approximate date of arrival in the United States.

(c) INCORPORATION INTO OTHER DATABASES.—Information regarding aliens who have remained in the United States beyond their authorized period of stay that is identified through the system referred to in subsection (a) shall be integrated into appropriate databases of the Immigration and Naturalization Service and the Department of State, including those used at ports-of-entry and at consular offices.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS FOR BORDER CONTROL AND ENFORCEMENT ACTIVITIES OF THE IMMIGRATION AND NATURALIZATION SERVICE.

(a) AUTHORIZATION.—In order to enhance enforcement and inspection resources on the land borders of the United States, enhance investigative resources for anticorruption efforts and efforts against drug smuggling and money-laundering organizations, reduce commercial and passenger traffic waiting times, and open all primary lanes during peak hours at major land border ports of entry on the Southwest and Northern land borders of the United States, in addition to any other amounts appropriated, there are authorized to be appropriated for salaries, expenses, and equipment for the Immigration and Naturalization Service for purposes of carrying out this section—

(1) $119,604,000 for fiscal year 2000;

(2) $123,064,000 for fiscal year 2001; and

(3) such sums as may be necessary in each fiscal year thereafter.

(b) USE OF CERTAIN FISCAL YEAR 2000 FUNDS.—Of the amounts authorized to be appropriated under subsection (a)(1) for fiscal year 2000 for the Immigration and Naturalization Service, $19,090,000 shall be available until expended for acquisition and other expenses associated with implementation and full deployment of narcotics enforcement and other technology along the land borders of the United States, including—

(1) $11,000,000 for 5 mobile truck x-rays with transmission and backscatter imaging to be distributed to border patrol checkpoints and in secondary inspection areas of land border ports-of-entry;

(2) $200,000 for 10 ultrasonic container inspection units to be distributed to border patrol checkpoints and in secondary inspection areas of land border ports-of-entry;

(3) $240,000 for 10 Portable Treasury Enforcement Communications System (TECS) terminals to be distributed to border patrol checkpoints;

(4) $5,000,000 for 20 remote watch surveillance camera systems to be distributed to border patrol checkpoints and at secondary inspection areas of land border ports-of-entry;

(5) $180,000 for 36 AM radio ''Welcome to the United States'' stations located at permanent border patrol checkpoints and at secondary inspection areas of land border ports-of-entry;

(6) $875,000 for 36 spotter camera systems located at permanent border patrol checkpoints and at secondary inspection areas of land border ports-of-entry; and

(7) $1,600,000 for 40 narcotics vapor and particle detectors to be distributed to border patrol checkpoints and at secondary inspection areas of land border ports-of-entry.

(c) USE OF CERTAIN FUNDS AFTER FISCAL YEAR 2001.—Of the amounts authorized to be appropriated under paragraphs (2) and (3) of subsection (a) for the Immigration and Naturalization Service for fiscal year 2000 and each fiscal year thereafter, $4,773,000 shall be

for the maintenance and support of the equipment and training of personnel to maintain and support the equipment described in subsection (b), based on an estimate of 25 percent of the cost of such equipment.

(d) USE OF FUNDS FOR NEW TECHNOLOGIES.—

(1) IN GENERAL.—The Attorney General may use the amounts authorized to be appropriated for equipment under this section for equipment other than the equipment specified in subsection (b) if such other equipment—

(A)(i) is technologically superior to the equipment specified in subsection (b); and

(ii) will achieve at least the same results at a cost that is the same or less than the equipment specified in subsection (b); or

(B) can be obtained at a lower cost than the equipment authorized in subsection (b).

(2) TRANSFER OF FUNDS.—Notwithstanding any other provision of this section, the Attorney General may reallocate an amount not to exceed 10 percent of the amount specified in paragraphs (1) through (7) of subsection (b) for any other equipment specified in subsection (b).

(e) PEAK HOURS AND INVESTIGATIVE RESOURCE ENHANCEMENT.—Of the amounts authorized to be appropriated under paragraphs (1) and (2) of subsection (a) for the Immigration and Naturalization Service for fiscal years 1999 and 2000, $100,514,000 in fiscal year 2000 and $121,555,000 for fiscal year 2001 shall be for—

(1) a net increase of 535 inspectors for the Southwest land border and 375 inspectors for the Northern land border, in order to open all primary lanes on the Southwest and Northern borders during peak hours and enhance investigative resources;

(2) in order to enhance enforcement and reduce waiting times, a net increase of 100 inspectors and canine enforcement officers for border patrol checkpoints and ports-of-entry, as well as 100 canines and 5 canine trainers;

(3) 100 canine enforcement vehicles to be used by the Immigration and Naturalization Service for inspection and enforcement at the land borders of the United States;

(4) a net increase of 40 intelligence analysts and additional resources to be distributed among border patrol sectors that have jurisdiction over major metropolitan drug or narcotics distribution and transportation centers for intensification of efforts against drug smuggling and money-laundering organizations;

(5) a net increase of 68 positions and additional resources to the Office of the Inspector General of the Department of Justice to enhance investigative resources for anticorruption efforts; and

(6) the costs incurred as a result of the increase in personnel hired pursuant to this section.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS FOR BORDER CONTROL AND ENFORCEMENT ACTIVITIES OF THE UNITED STATES CUSTOMS SERVICE.

(a) AUTHORIZATION.—In order to enhance border investigative resources on the land borders of the United States, enhance investigative resources for anticorruption efforts, intensify efforts against drug smuggling and money-laundering organizations, process cargo, reduce commercial and passenger traffic waiting times, and open all primary lanes during peak hours at certain ports on the Southwest and Northern borders, in addition to any other amount appropriated, there are authorized to be appropriated for salaries, expenses, and equipment for the United States Customs Service for purposes of carrying out this section—

(1) $161,248,584 for fiscal year 2000;

(2) $185,751,328 for fiscal year 2001; and

(3) such sums as may be necessary in each fiscal year thereafter.

(b) USE OF CERTAIN FISCAL YEAR 2000 FUNDS.—Of the amounts authorized to be appropriated under subsection (a)(1) for fiscal year 2000 for the United States Customs Service, $48,404,000 shall be available until expended for acquisition and other expenses associated with implementation and full deployment of narcotics enforcement and cargo processing technology along the land borders of the United States, including—

(1) $6,000,000 for 8 Vehicle and Container Inspection Systems (VACIS);

(2) $11,000,000 for 5 mobile truck x-rays with transmission and backscatter imaging;

(3) $12,000,000 for the upgrade of 8 fixed-site truck x-rays from the present energy level of 450,000 electron volts to 1,000,000 electron volts (1–MeV);

(4) $7,200,000 for 8 1–MeV pallet x-rays;

(5) $1,000,000 for 200 portable contraband detectors (busters) to be distributed among ports where the current allocations are inadequate;

(6) $600,000 for 50 contraband detection kits to be distributed among border ports based on traffic volume and need as identified by the Customs Service;

(7) $500,000 for 25 ultrasonic container inspection units to be distributed among ports receiving liquid-filled cargo and ports with a hazardous material inspection facility, based on need as identified by the Customs Service;

(8) $2,450,000 for 7 automated targeting systems;

(9) $360,000 for 30 rapid tire deflator systems to be distributed to those ports where port runners are a threat;

(10) $480,000 for 20 Portable Treasury Enforcement Communications System (TECS) terminals to be moved among ports as needed;

(11) $1,000,000 for 20 remote watch surveillance camera systems at ports where there are suspicious activities at loading docks, vehicle queues, secondary inspection lanes, or areas where visual surveillance or observation is obscured, based on need as identified by the Customs Service;

(12) $1,254,000 for 57 weigh-in-motion sensors to be distributed among the ports on the Southwest border with the greatest volume of outbound traffic;

(13) $180,000 for 36 AM radio ''Welcome to the United States'' stations, with one station to be located at each border crossing point on the Southwest border;

(14) $1,040,000 for 260 inbound vehicle counters to be installed at every inbound vehicle lane on the Southwest border;

(15) $950,000 for 38 spotter camera systems to counter the surveillance of Customs inspection activities by persons outside the boundaries of ports where such surveillance activities are occurring;

(16) $390,000 for 60 inbound commercial truck transponders to be distributed to all ports of entry on the Southwest border;

(17) $1,600,000 for 40 narcotics vapor and particle detectors to be distributed to each border crossing on the Southwest border; and

(18) $400,000 for license plate reader automatic targeting software to be installed at each port on the Southwest border to target inbound vehicles.

(c) USE OF CERTAIN FUNDS AFTER FISCAL YEAR 2000.—Of the amounts authorized to be appropriated under paragraphs (2) and (3) of subsection (a) for the United States Customs Service for fiscal year 2001 and each fiscal year thereafter, $4,840,400 shall be for the maintenance and support of the equipment and training of personnel to maintain and support the equipment described in subsection (b), based on an estimate of 10 percent of the cost of such equipment.

(d) USE OF FUNDS FOR NEW TECHNOLOGIES.—

(1) IN GENERAL.—The Commissioner of Customs may use the amounts authorized to be appropriated for equipment under this section for equipment other than the equipment specified in subsection (b) if such other equipment—

(A)(i) is technologically superior to the equipment specified in subsection (b); and

(ii) will achieve at least the same results at a cost that is the same or less than the equipment specified in subsection (b); or

(B) can be obtained at a lower cost than the equipment authorized in paragraphs (1) through (18) of subsection (b).

(2) TRANSFER OF FUNDS.—Notwithstanding any other provision of this section, the Commissioner of Customs may reallocate an amount not to exceed 10 percent of the amount specified in paragraphs (1) through (18) of subsection (b) for any other equipment specified in such paragraphs.

(e) PEAK HOURS AND INVESTIGATIVE RESOURCE ENHANCEMENT.—Of the amounts authorized to be appropriated under paragraphs (1) and (2) of subsection (a) for the United States Customs Service for fiscal years 1999 and 2000, $112,844,584 in fiscal year 2000 and $180,910,928 for fiscal year 2001 shall be for—

(1) a net increase of 535 inspectors and 60 special agents for the Southwest border and 375 inspectors for the Northern border, in order to open all primary lanes on the Southwest and Northern borders during peak hours and enhance investigative resources;

(2) a net increase of 285 inspectors and canine enforcement officers to be distributed at large cargo facilities as needed to process and screen cargo (including rail cargo) and reduce commercial waiting times on the land borders of the United States;

(3) a net increase of 360 special agents, 40 intelligence analysts, and additional resources to be distributed among offices that have jurisdiction over major metropolitan drug or narcotics distribution and transportation centers for intensification of efforts against drug smuggling and money-laundering organizations;

(4) a net increase of 50 positions and additional resources to the Office of Internal Affairs to enhance investigative resources for anticorruption efforts; and

(5) the costs incurred as a result of the increase in personnel hired pursuant to this section.

Mr. MCCAIN. Mr. President, I am pleased to be an original co-sponsor of the Border Improvement and Immigration Act of 1999. I co-sponsored identical legislation that passed the Senate during the 105th Congress but did not become law. It is my hope that the Senate will once again move quickly on this legislation so that we may properly address the concerns of the many Americans who would be adversely affected by the ill-timed implementation of the automated entry-exit border control system mandated by immigration legislation passed by the 104th Congress.

Section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, codified as Public Law 104–208, required that the Attorney General develop within two years an automated entry-exit control system to allow for a better estimate of the number of visa overstayers in the United States. This system would be designed to collect records of arrival and departure for all aliens in the United States, thereby theoretically enabling the Attorney General to identify lawfully admitted non-immigrants

who remain in this country beyond an authorized period.

I have long been sympathetic to the concern of border communities and businesses that implementation of Section 110 by the statutory deadline of September 30, 1998, would severely disrupt trade and travel across America's borders. The governors of Arizona, Texas, and New Mexico, the Border Trade Alliance, and numerous businesses operating in the border region have contacted me to express their reservations about the consequences of implementing such a system. Even Section 110's most adamant advocates concede that the Administration has neither budgeted for nor begun to put in place the physical and technological infrastructure required to activate a system capable of monitoring the arrival and departure of every alien entering and departing the United States.

It has been estimated that the amount of information to be recorded in the database of such an automated entry-exit system would be larger than that held by the Library of Congress, the largest physical repository of information in the world. Clearly, it would be disastrous to implement Section 110 before we are capable of making it work.

Given these reservations, I wrote Attorney General Janet Reno on January 14, 1998, to highlight the potentially harmful impact of the statutory deadline for implementation of Section 110 on Arizona's border communities. I also sponsored S. 1360, the Border Improvement and Immigration Act of 1998, to require a feasibility study of Section 110 before it is implemented. Ultimately, the 105th Congress addressed this issue in the Fiscal Year 1999 Omnibus Appropriations bill.

After learning that conferees to the bill were considering delaying implementation of the automated entry-exit system on the southwest border for only one year, while indefinitely delaying or even removing its applicability to the northern border, I initiated a letter with Senator KYL to the House and Senate conferees urging them to delay implementation of the program by 30 months for both borders. Ultimately, the conferees agreed to this 30-month delay. I was gratified that the final version of the FY 1999 Omnibus bill reflected our request not to discriminate against the southwest border by imposing a deadline for installation of an entry-exit system that could not realistically be met.

Like other provisions of the FY 1999 Omnibus Appropriations bill, however, this compromise on Section 110 was a quick fix, not a lasting solution. The language in the bill setting a new deadline for implementation of an automated entry-exit system was designed to prevent the Immigration and Naturalization Service from being in technical violation of the law by failing to carry out the mandate of Section 110 by the 1998 deadline. The extension of that deadline by 30 months provides Congress with the opportunity to more thoughtfully assess the long-term feasibility of an automated entry-exit system for all ports of entry into the United States.

The Border Improvement and Immigration Act of 1999 would indefinitely extend the deadline for implementation of Section 110 and require a detailed feasibility study to determine how and whether the requirement can ultimately be met. The legislation would also authorize substantial new resources for INS and Customs Service border enforcement activities. Specifically, it would authorize the expenditure of $588 million over the next two years to enhance border enforcement against illegal immigration and drug trafficking, as well as investigate corruption and money-laundering along the border; add 1,200 new INS inspectors, canine enforcement officers, intelligence analysts, and investigators to bolster enforcement against illegal aliens and narcotics trafficking; and add 1,700 new Customs inspectors, special agents, intelligence analysts, and canine enforcement officers to man ports of entry and investigate criminal activity along the border.

The legislation would also provide the high-technology tools, including x-ray, ultrasonic, motion-detecting, remote-watch, and particle-detector sensors, that will enable INS and Customs officials to more effectively interdict narcotics and illegal immigrants. Finally, it would enhance investigative resources for border enforcement and anti-corruption efforts, intensify efforts against drug smuggling and money-laundering organizations, allow for more rapid cargo processing, and reduce commercial and passenger traffic waiting times at ports of entry.

As a founding member and Co-Chairman of the Senate Border Caucus, whose priorities include improving border enforcement and facilitating U.S. trade with Mexico, I believe this bill advances our national interest in better controlling our nation's borders without unduly hindering flows of cross-border trade and travel. The Border Improvement and Immigration Act of 1999 deserves this Congress' support.

Mr. GRAMS. Mr. President, I join Senator ABRAHAM, Chairman of the Judiciary Immigration Subcommittee, Mr. President. Minnesota and Michigan are two states which share a common border with Canada, and so I am proud to join my colleague, Senator ABRAHAM as co-sponsor of his bill to ensure Canada will continue to receive current treatment of its traveling citizens by requiring a feasibility study of Section 110 of the IIRIRA bill. There has been great concern, especially in Minnesota as to how the immigration law we passed in 1996 will affect the northern U.S. border. Right now the fear is the law is being misinterpreted by the Immigration and Naturalization Service.

Minnesota has about 817 miles of shared border with Canada and we share many interests with our northern neighbor—tourism, trade and family visits among the most prevalent. In the last few years, passage back and forth over the Minnesota/Canadian border has been more open and free flowing, especially since the North American Free Trade Agreement (NAFTA) went into effect. There were 116 million travelers entering the U.S. from Canada in 1996 over the land border. As our relationship with Canada is increasingly interwoven, we have sought a less restrictive access to each country.

The Immigration Bill of 1996 was intended to focus on illegal aliens entering this country from Mexico and living in the United States illegally. The new law states that ''every alien'' entering and leaving the United States would have to register at all the borders—land, sea and air. The Immigration and Naturalization Service was tasked with the effort to set up automated pilot sites along the border to discover the most effective way to implement this law, which was to become effective on September 30, 1998.

The INS was quietly going about establishing a pilot site on the New York State border when the reality sunk in. A flood of calls from constituents came into the offices of all of us serving Canadian border states. Canadian citizens and the Canadian government, also, registered opposition to this new restriction. It became quite clear that no one had considered how the new law affected Canada. Current law already waives the document requirement for most Canadian nationals, but still requires certain citizens to register at border crossings. That system has worked. There have been very few problems at the northern border with drug trafficking and illegal aliens.

In an effort to resolve this situation, I joined other Senators in a letter to INS Commissioner Meissner asking for her interpretation of this law. Other bills were introduced addressing this issue in the last Congress and action was taken extending the implementation of this Section until March 30, 2001.

However, today, we must make it very clear that Congress did not intend to impose additional documentary requirements on Canadian nationals; Senator ABRAHAM's bill will restore our intent.

This legislation will not precipitously open the flood gates for illegal aliens to pass through—it will still require those who currently need documentation to continue to produce it and remain registered in a new INS system. This will allow the INS to keep track of that category of non-immigrant entering our country to ensure they leave when their visas expire. Senator ABRAHAM's bill will not unfairly treat our friends on the Canadian side that have been deemed not to need documentation—they will still be able to pass freely back and forth across the border.

But this bill will enable us to avoid the huge traffic jams and confusion

which would no doubt occur if every alien was to be registered in and out of the U.S. Such registration would discourage trade and visits to our country. It would delay shipments of important industrial equipment, auto parts, services and other shared ventures that have long thrived along the northern border. It will discourage the economic revival that northern Minnesotans are experiencing, helped by Canadian shoppers and tourists.

Mr. President, I do not believe Congress intended to create this new mandate. We sought to keep illegal aliens and illegal drugs out, not our trading partners and visiting consumers. Through the Abraham bill, we will still do that while keeping the door opened to our neighbors from the north. The bill is good foreign policy, good public policy and good economic policy. We all will benefit while retaining our ability to keep track of non-immigrants who enter our borders.

Mr. President, I thank Senator ABRAHAM for his leadership on this important matter. Many Minnesotans, through letters, calls and personal appeals, have showed their opposition to a potential crisis. This is, also, an unacceptable burden on our Canadian neighbors and those who depend upon their free access that effects the economics of all border states.

By Mr. LEVIN (for himself, Mr. THOMPSON, Mr. VOINOVICH, Mr. ROBB, Mr. ABRAHAM, Mr. ROCKEFELLER, Mr. ROTH, Mr. DASCHLE, Mr. STEVENS, Mr. MOYNIHAN, Mr. COCHRAN, Mr. BREAUX, Mr. FRIST, Mr. ENZI, Mr. GRAMS, Mr. GRASSLEY, and Mrs. LINCOLN):

S. 746. A bill to provide for analysis of major rules, to promote the public's right to know the costs and benefits of major rules, and to increase the accountability of quality of Government; to the Committee on Governmental Affairs.

THE REGULATORY IMPROVEMENT ACT

Mr. LEVIN. Mr. President, today I am introducing, along with Senator THOMPSON, the Regulatory Improvement Act of 1999. This is the same legislation we developed in the last Congress, and it includes the changes we agreed to last year with the Administration. This is the legislation the President has agreed to sign if we present it to him in this form. And I am hopeful we can get it to him this year and get these important processes enacted into law. Senator THOMPSON and I are pleased to be joined in this effort by Senators VOINOVICH, ROBB, ABRAHAM, ROCKEFELLER, ROTH, DASCHLE, STEVENS, MOYNIHAN, COCHRAN, BREAUX, FRIST, ENZI, GRAMS, GRASSLEY, and LINCOLN.

The Regulatory Improvement Act would put into law basic requirements for cost-benefit analysis and risk assessment of major rules and executive oversight of the rulemaking process.

Mr. President, I've fought for regulatory reform since 1979, the year I came to the Senate. As for an overall regulatory reform bill, I've supported such legislation since 1980, when the Senate first passed S. 1080, the Laxalt Leahy bill only to have it die later that year in the House. Those of us who believe in the benefits of regulation to protect health and safety have a particular responsibility to make sure that regulations are sensible and cost-effective. When they aren't, the regulatory process—which is so vital to our health and well being—comes under constant attack and the regulations which we count on to protect us fail to achieve the maximum effectiveness. We miss the opportunity to do more with the resources we have. By requiring a regulatory process that is open and requires agencies to use good science and common sense, we immunize that process from attack and improve the quality of our regulations.

Based on the principles of better cost-benefit analysis and risk assessment, more flexibility for the regulated industries to reach legislative goals in a variety of ways, more cooperative efforts between government and industry and less ''us versus them'' attitudes, Senator THOMPSON and I, in cooperation with the Administration, have developed this bill.

Let me highlight some important features of this legislation.

The bill would put into statute requirements for cost-benefit analysis and risk assessment of major rules and executive oversight of the rulemaking process. It requires agencies to do a cost-benefit analysis when issuing rules that cost $100 million, or are otherwise designated by the Administrator of the Office of Information and Regulatory Affairs (OIRA) as having other significant impacts. The agency must determine whether the benefits of the rule justify its costs; whether the rule is more cost-effective, or provides greater net benefits, than other regulatory options considered by the agency; and whether the rule adopts a flexible regulatory option. If the agency determines that the rule does not do so, the agency is required to explain the reasons why it selected the rule, including any statutory provision that required the agency to select the rule.

We say right from the beginning, in the section on findings, that cost-benefit analysis and risk assessment are useful tools to help agencies issue reasonable regulations. However, as we explicitly state, they do not replace the need for good judgment and the agencies' consideration of social values in deciding when and how to regulate.

The bill requires an agency issuing a major rule to evaluate the benefits and costs of a ''reasonable number of reasonable alternatives reflecting the range of regulatory options that would achieve the objective of the statute as addressed by the rulemaking.'' The bill doesn't require an agency to look at all the possible alternatives, just a reasonable number; but it does require the agency to pick a selection of options that are available to it within the range of the rulemaking objective.

We define benefits very broadly. Nothing in this bill suggests that the only benefits assessed by an agency should be quantifiable. On the contrary, this bill explicitly recognizes that many important benefits may be nonquantifiable, and that agencies have the right and authority to fully consider such benefits when doing the cost-benefit analysis and when determining whether the benefits justify the costs.

If the rule involves a risk to health, safety or the environment, the bill requires the agency to do a quality risk assessment to analyze the benefits of the rule. All required risk assessments and cost-benefit analyses for rules costing $500 million would undergo independent peer review. During the cost-benefit analysis and risk assessment, the rulemaking agency is required to consider substitution risks—that is, risks that could be expected to result from the implementation of the regulatory option selected by the agency—and to compare the risk being regulated with other risks with which the public may be familiar.

The risk assessment requirement establishes basic elements for performing risk assessments, many of which will provide transparency for an agency's development of a rule, and it requires guidelines for such assessments to be issued by OIRA in consultation with the Office of Science and Technology Policy.

Peer review is required by this bill for both cost-benefit analyses and risk assessments, but only once per rule. Peer review is not required at both the proposed and final rule stages.

The cost-benefit analysis, cost-benefit determinations, and risk assessment are required to be included in the rulemaking record and to be considered by the court, to the extent relevant, only in determining whether the final rule is arbitrary and capricious. In addition, if the agency fails to perform the cost-benefit analysis, risk assessment or peer review, the court may remand or invalidate the rule, giving due regard to prejudicial error, and in any event shall order the agency to perform the missing assessment or analysis.

The bill codifies the review procedure now conducted by the Office of Information and Regulatory Affairs (OIRA) and requires public disclosure of OIRA's review process.

Finally, the bill requires the Director of OMB to contract for a study on the comparison of risks to human health, safety and the environment and a study to develop a common basis for risk communication with respect to carcinogens and noncarcinogens and the incorporation of risk assessments into cost-benefit analyses.

Mr. President, the cost-benefit analyses and risk assessments required by the bill are intended to be transparent to the public. Agencies should not hide the important information that forms the basis of their regulatory actions.

Another important provision of this bill is the one that requires the agency to make a reasonable determination whether the benefits of the rule justify the costs and whether the regulatory option selected by the agency is substantially likely to achieve the objective of the rulemaking in a more cost effective manner or with greater net benefits than the other regulatory options considered by the agency. This is not in any way a decisional criteria that the agency must meet. If, as the agency is free to do, it chooses a regulatory option where the benefits do not justify the costs or that is not more cost effective or does not provide greater net benefits than the other options, the agency is required to explain why it did what it did and list the factors that caused it to do so. Those factors could be a statute, a policy judgment, uncertainties in the data and the like. There is no added judicial scrutiny of a rule provided for or intended by this section. The final rule must still stand or fall based on whether the court finds that the rule is arbitrary or capricious in light of the whole rulemaking record. That is the current standard of judicial review.

The bill says that if an agency ''cannot'' make the determinations required by the bill, it has to say why it can't. Use of the word ''cannot'' does not mean that an agency rule can be overturned by a court for its failure to pick an option that would permit the agency to make the determinations required by the bill. The agency is free to use its discretion to regulate under the substantive statute, and there is no implication that such rule must meet the standards described in the determinations subsection. This legislation requires only that the agency be up front with the public as to just how cost-beneficial and cost-effective its regulatory proposal is.

Judicial review has been of great concern to those of us who want real regulatory reform without bottling up important regulations in the courts. There is no judicial review permitted of the cost-benefit analysis or risk assessment required by this bill outside of judicial review of the final rule. The analysis and assessment are included in the rulemaking record, but there is no judicial review of the content of those items or the procedural steps followed or not followed by the agency in the development the analysis or assessment. Only the total failure to actually do the cost-benefit analysis or risk assessment would allow the court to remand the rule to the agency.

Finally, as I noted, the bill reflects agreement with the Administration. Among the key aspects of that agreement are added clarification on the avoidance of a so-called ''supermandate;'' clarification of the provisions for peer review; and deletion of provisions that would have required periodic reviews of existing rules.

So those are some highlights. A hearing on the bill in the Governmental Affairs Committee is planned for April.

We are pleased that we have the support of the state and local government organizations, namely the National Governor's Association, the National League of Cities, the Council of State Governments, the National Conference of State Legislatures, the U.S. Conference of Mayors, and the National Association of Counties, as well as dozens of business organizations, the school boards, state environmental directors, and leading experts and scholars across the country.

I feel strongly that this bill will improve the regulatory process, will build confidence in the regulatory programs that are so important to this society's well-being, and will result in better, more protective regulations because we will be directing our resources in more cost-effective ways.

I thank Senator THOMPSON and his staff, Paul Noe, for their persistent and hard work in keeping this effort going. I ask unanimous consent that the July 15, 1998, letter to me from Jacob Lew, Director of OMB, be included in the RECORD.

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

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, July 15, 1998.

Hon. CARL LEVIN,
Committee on Governmental Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR LEVIN: Thank you for your letter of July 1, 1998, in which you respond to the views on S. 981 that we expressed in former OMB Director Frank Raines' letter of March 6, 1998.

President Clinton has been a strong supporter of responsible regulatory reform. In addition to signing into a law a number of important pieces of reform legislation, he and Vice President Gore are taking a wide range of administrative steps to improve the regulatory process. For example, under the guidance of Executive Order 12866, agencies are developing flexible performance standards and using market incentives whenever possible; are applying benefit-cost analysis to achieve objectives in the most cost-effective manner; and are reaching out to the affected parties, particularly our State and local partners, to understand better the intended and unintended consequences of a proposed regulatory action. Under the leadership of the Vice President's National Partnership for Reinventing Government, agencies are improving delivery of services, reducing red tape, and reforming practices to focus on customer service. The Administration's goal in these actions is to streamline and reduce the burden of government on its citizens, improve services, and restore the basic trust of public in its government.

The debate on comprehensive regulatory reform legislation is one that has sparked great passion and has provoked, as you aptly note in your letter, ''distrust and friction among the interested parties.'' We heartily agree with you that, to say the least, ''[t]he path to this point has not been easy.'' In part, this has been the result of earlier versions of this legislation proposed by others that sought not to improve the nation's regulatory system, but to burden and undermine it. In a variety of ways these bills would have created obstacles and hurdles to the government's ability to function effectively and to protect the health, safety, and environment of its citizens. In particular, these bills would have created a supermandate, undoing the many protections for our citizens that are carefully crafted into specific statutes. In addition, strict judicial review and complex analytic, risk assessment, peer review, and lookback provisions would have hampered rather than helped the government's ability to make reasonable decisions and would have opened the door to new rounds of endless litigation.

We appreciate your thoughtful efforts over the past year to respond to issues that we and others have raised. In your latest letter you continue to take seriously our concerns. Indeed, the changes you indicate that you are willing to make would resolve our concerns, and if the bill emerges from the Senate and House as you now propose, with no changes, the President would find it acceptable and sign it.

I should note, however, that our experience with past efforts to resolve these differences suggests that good ideas and the resolution of differences can be destroyed during the long process at getting a bill to the President's desk, and the nuances and balance that we have all sought in this legislation could be easily disrupted. Many of the terms used carry great meaning, and further modification is likely to renew the concerns that have animated our past opposition to bills of this type. Accordingly, we look forward to working with you to ensure that any bill the Congress passes on this subject is fully consistent with the one on which we have reached agreement.

Sincerely,

JACOB J. LEW,
Acting Director.

Mr. THOMPSON. Mr President, I am pleased to join Senator LEVIN and a bipartisan group of our colleagues in introducing legislation to promote smarter regulation by the federal government. The Regulatory Improvement Act is an effort by many of us who want to improve the quality of government to find a common solution. I am pleased that we are introducing this bill with Senators VOINOVICH, ROBB ABRAHAM, ROCKEFELLER, ROTH, DASCHLE, STEVENS, MOYNIHAN, COCHRAN, BREAUX, FRIST, LINCOLN, ENZI, GRAMS, and GRASSLEY. The supporters of this bill represent a real diversity of political viewpoints, but we share the same goals. We want an effective government that protects public health, well-being and the environment. We want our government to achieve those goals in the most sensible and efficient way possible. We want to do the best we can with what we've got, and to do more good at less cost if possible. The Regulatory Improvement Act will help us do that.

The Regulatory Improvement Act is based on a simple premise: people have a right to know how and why government agencies make their most important and expensive regulatory decisions. This legislation also will improve the quality of government decision making—which will lead to a more effective Federal government. And it will make government more accountable to the people it serves.

The Regulatory Improvement Act will require the Federal government to make better use of modern decision-making tools (such as risk assessment

and benefit-cost analysis), which are currently under-used. Right now, these tools are simply options—options that aren't used as much or as well as they should be. Under this legislation, agencies will carefully consider and disclose the benefits and costs of different regulatory alternatives and seek out the smartest, most flexible solutions. This legislation also will help the Federal government set smarter priorities—to better focus money and other resources on the most serious problems.

This legislation not only gives people the right to know; it gives them the right to see—to see how the government works, or how it doesn't. And by providing people with information the government uses to make decisions, it gives people a real opportunity to influence those decisions. The bill empowers people and their State and local officials to provide input into the Federal rulemaking system. It will make the Federal government more mindful of how unfunded mandates can burden communities and interfere with local priorities. That is why our governors, mayors, state legislators, and county officials support the Regulatory Improvement Act.

We have worked hard to build a solid foundation for smarter regulatory decisionmaking. Last March, the Governmental Affairs Committee favorably reported the Regulatory Improvement Act, then S. 981, by a 10–5 vote. At the time of the markup, the Administration sent a letter to me and Senator LEVIN expressing a number of concerns with the bill. We worked to resolve those concerns, which largely involved adding clarifying language to the bill. In addition, some sections of the bill were modified, and a couple were dropped. On July 15, Jack Lew, the Director of OMB, sent us a letter on behalf of the Administration. The letter states that the President supports the legislation. I am pleased that the White House recognizes the importance of the legislation to deliver the effective and efficient regulatory system that the American people expect and deserve.

This legislation will add transparency to the current rulemaking process, raise the quality of regulatory analyses so smarter decisions can be made, and help expedite important safeguards—to reduce risks and save lives. It will help us get more of the good things sensible regulation can deliver. That's why the Regulatory Improvement Act has broad bipartisan support and is endorsed by state and local officials, government reformers and scholars, small business owners, farmers, corporate leaders, and school board members. I look forward to working with my colleagues to pass this much-needed legislation.

Mr. President, I ask unanimous consent that letters of support from the National Governors' Association, the National League of Cities, the Council of State Governments, the National Conference of State Legislatures, the U.S. Conference of Mayors, and the National Association of Counties be printed in the RECORD.

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

NATIONAL GOVERNORS ASSOCIATION,
March 24, 1999.

Hon. FRED D. THOMPSON,
U.S. Senate, Washington, DC.
Hon. CARL LEVIN,
U.S. Senate, Washington, DC.

DEAR SENATORS THOMPSON AND LEVIN: The nation's Governors support the ''Regulatory Improvement Act of 1999.'' The proposed legislation would greatly assist the state and local governments in assessing the costs and benefits of major regulations. This bill would lead to improved quality of federal regulatory programs and rules, increase federal government accountability, and encourage open communication among federal agencies, state and local governments, the public, and Congress regarding federal regulatory priorities.

We applaud your efforts to encourage greater accountability with regard to the burden of costly federal regulations on state and local governments. The changes proposed would, we believe, benefit all of our taxpayers and constituents. We look forward to working with you in securing enactment of this legislation.

Sincerely,

GOVERNOR THOMAS R. CARPER.
GOVERNOR MICHAEL O. LEAVITT

NATIONAL LEAGUE OF CITIES,
March 24, 1999.

Hon. FRED THOMPSON,
U.S. Senate, Washington, DC.

DEAR SENATOR THOMPSON: The National League of Cities (NLC) applauds your efforts in introducing the Regulatory Improvement Act. NLC represents 135,000 mayors and council members from municipalities across the country. Over 75 percent of our members are from small cities and towns with populations of less than 50,000. Costly regulations without and science or significant benefits to health and safety are detrimental and burdensome to cities and towns.

Local governments could reap substantial benefits from the improvements in the regulatory process that are included in this legislation. These improvements would help municipal officials avert preemptive and costly regulations that are placed on local governments and gain a more powerful voice in the regulatory rulemaking process. The National League of Cities strongly supports enforceable cost-benefit analysis and relative risk assessment for actions by federal agencies that significantly impact state and local governments.

The Regulatory Improvement Act would also clarify the intent of the 1995 Unfunded Mandates Reform Act (UMRA) by requiring agencies to develop an effective process for local input into the development of regulatory proposals and prevent regulatory proposals that contain significant unfunded federal mandates. This type of partnership could save cities millions of dollars in burdensome regulation and assist the federal government in gaining community buy-in when regulation is necessary.

The Regulatory Improvement Act will provide a means for testing costs of future regulation on local governments with oversight by the Office of Information and Regulatory Affairs. While the 1995 Unfunded Mandates Reform Act makes great strides towards helping local governments prevent costly regulations, now is the time to clarify the law to provide for cost-benefit analysis and risk assessment. If your staff has any questions, please have them contact Kristin Cormier, NLC Legislative Counsel.

Sincerely,

CLARENCE E. ANTHONY,
President, Mayor, South Bay, FL.

THE COUNCIL OF STATE GOVERNMENTS,
WASHINGTON OFFICE,
March 25, 1999.

Hon. FRED THOMPSON,
U.S. Senate, Washington, DC.
Hon. CARL LEVIN,
U.S. Senate, Washington, DC.

DEAR SENATORS: The Council of State Governments (CSG) supports your introduction of the Regulatory Improvement Act. This bill would codify requirements that would compel the federal government to consider the impact and costs of new and current regulations on state and territorial governments, as well as gain the input of local, state, and tribal governments in the regulatory process. CSG represents a national constituency composed of state and territorial elected officials from all three branches of government. Costly regulations without sound science or significant benefits to health and safety are detrimental and burdensome to the jurisdictions administered by our members.

State governments could reap substantial benefits through improvements in the regulatory process included in this legislation. These improvements would help state officials avert preemptive and costly regulations that are placed on state governments and gain a more powerful voice in the federal regulatory rulemaking process. The Council of State Governments strongly supports enforceable cost-benefit analysis and relative risk assessments for every action by any and every federal agency that significantly impacts state and local governments.

The Regulatory Improvement Act could clarify the intent of the 1995 Unfunded Mandates Reform Act (UMRA). By expanding on UMRA language to require federal agencies to develop an effective process to permit meaningful and timely input from elected state, local and tribal government into the development of federal regulatory proposals containing significant intergovernmental mandates, state governments will be enabled to make the case that certain costs currently being arbitrarily imposed upon them are truly unnecessary and overly burdensome. This type of partnership between the federal and state governments will benefit both parties by saving the states millions of dollars, while simultaneously ensuring community ''buy-in'' when federal regulations are necessary.

The Regulatory Improvement Act will provide a means for testing costs of future regulation on state governments with oversight by the Office of Information and Regulatory Affairs. While the 1995 Unfunded Mandates Reform Act makes great strides towards helping local governments prevent costly regulations, now is the time to clarify the law to account for cost benefit analysis and risk assessment.

Sincerely,

GOVERNOR TOMMY G. THOMPSON,
State of Wisconsin, President, CSG.
SENATOR KENNETH D. MCCLINTOCK,
Chairman, CSG.

NATIONAL CONFERENCE
OF STATE LEGISLATURES,
March 25, 1999.

Hon. FRED THOMPSON,
Chairman.
Hon. CARL LEVIN,
Washington, DC.

DEAR CHAIRMAN THOMPSON AND SENATOR LEVIN: I am writing to offer the strong support of the National Conference of State Legislatures for legislation you will soon introduce that will require cost-benefit analyses and risk assessments for federal regulations that impact state and local governments. This legislation builds on executive order 12866 by codifying many of its provisions. The analyses and assessments included in your legislation are essential for ensuring that government resources are utilized to produce maximum benefits for consumers and those who are regulated.

We are pleased that your legislation will institute an early consultation process with state and local government officials and their representatives on proposed regulations that may have significant intergovernmental mandates. We are also reassured that you will include independent agencies in the regulatory consultation and cost-benefits analysis/risk assessment processes. This will widen the potential benefit of your legislation and give state and local governments a consultation opportunity that we have not had under other laws and regulatory processes.

Enactment of both the Regulatory Improvement Act as well as Regulatory Right to Know Act will bolster federalism. Both are a part of a larger federalism agenda that the National Conference of State Legislatures and our state and local government assessment partners are supporting this year.

I appreciate the leadership you are providing by introducing the Regulatory Improvement Act and look forward to working with you to ensure its enactment during the 106th Congress. NCSL will certainly work to build cosponsorship and support for this legislation so that it can be enacted expeditiously.

Sincerely,

WILLIAM T. POUND, *Executive Director.*

THE U.S. CONFERENCE OF MAYORS,
March 25, 1999.

Hon. FRED THOMPSON,
U.S. Senate, Washington, DC.

DEAR SENATOR THOMPSON: On behalf of The U.S. Conference of Mayors, I am writing to express our strong support for the Regulatory Improvement Act (RIA). If enacted, we believe this legislation will greatly improve the way federal agencies develop rules and regulations affecting state and local governments. We are once again delighted that you and Senator Carl Levin will cosponsor this legislation, which enjoys broad bipartisan support.

Since the passage of the Unfunded Mandates Reform Act (UMRA) of 1995, members of Congress have become more sensitive to the cost and the impact of new unfunded mandates on state and local governments. Unfortunately, UMRA has had very little effect on the federal regulatory process. We believe this will change once the Levin-Thompson bill is approved. Each federal agency will be required to conduct a risk assessment and cost-benefit analysis on all major rules. If they do not, federal courts will have authority to remand or invalidate such rules.

In closing, I want to thank you and Senator Levin for cosponsoring this important legislation. By requiring federal agencies to be more sensitive to the cost and benefit of new rules, we believe the number of costly mandates imposed on state and local governments will be reduced in the future. Be assured that the nation's mayors stand ready to work with you in any way we can to ensure the passage of this legislation. Feel free to contact Larry Jones of the Conference staff if you have any questions.

Sincerely,

DEEDEE CORRADINI,
Mayor of Salt Lake City.

SUPPORTING THE REGULATORY IMPROVEMENT ACT

Whereas, in February 1998, the General Accounting Office released a report that concludes that the Unfunded Mandates Reform Act of 1995, which in part was enacted to limit the ability of federal agencies to impose new costly unfunded mandates on state and local governments, has had only limited impact on federal agencies' rulemaking actions; and

Whereas, state and local leaders are concerned that federal agencies are continuing to impose new costly rules on state and local governments with very little accountability; and

Whereas, in response to the GAO report, Senators Fred Thompson and Carl Levin introduced the Regulatory Improvement Act, a proposal that would require federal agencies to conduct cost-benefit analysis, risk assessment and peer review before issuing any new major rule (costing over $100 million annually or deemed by the Office of Management and Budget to have a significant impact on the economy); and

Whereas, under the proposed legislation federal agencies that issue new rules before conducting the required cost-benefit analysis, risk assessment and peer review would be subjected to judicial review and courts would be required to invalidate such rules; and

Whereas, the bill would require each federal agency to develop an effective process to allow elected representatives of state and local governments to provide meaningful and timely input into the regulatory process consistent with UMRA; now therefore be it

Resolved, That the U.S. Conference of Mayors urges all members of the U.S. Senate to vote in favor of the Regulatory Improvement Act; and be it

Further Resolved that The U.S. Conference of Mayors urges that similar legislation be introduced in the U.S. House of Representatives and urges all members to vote in favor of such legislation.

NACO,
March 24, 1999.

Hon. FRED THOMPSON,
Chair, Senate Committee on Governmental Affairs, Washington, DC.

DEAR SENATOR THOMPSON: On behalf of the National Association of Counties (NACo) I am pleased to express our support for your legislation, The Regulatory Improvement Act. NACo applauds your efforts on behalf of the counties throughout the nation that have for decades faced an ever-increasing number of unfunded regulatory mandates from federal departments and agencies.

NACo supports legislation that would require federal departments and agencies to conduct a cost benefit analysis to determine that the benefits to be derived from issuing a new regulation outweight the costs to state and local government.

Sincerely,

BETTY LOU WARD,
President, NACo,
Commissioner, Wake County, NC.

● Mr. VOINOVICH. Mr. President, I am pleased to join my colleagues as an original co-sponsor of the Regulatory Improvement Act. I commend Senators THOMPSON and LEVIN for their bipartisan work to pass legislation to enable federal regulators to do a better job of protecting public health, safety and the environment. This is the same bill that the Administration, state and local governments and the business community supported last year.

I am a public servant who cares deeply about the needs of our environment and the health and well-being of our citizens. I sponsored legislation to create the Ohio Environmental Agency when I served in the state legislature, and I fought to end oil and gas drilling in the Lake Erie Bed. As Governor, I increased funding for environmental protection by over 60 percent.

However, over the years, I also have become increasingly concerned about the unnecessary and burdensome costs that are imposed on our citizens and state and local governments through federal laws and regulations.

Efforts to address these cost burdens began back in 1994 when I worked with Senators ROTH, GLENN and KEMPTHORNE and the state-local government coalition to draft an unfunded mandates reform bill. We succeeded in passing the Unfunded Mandates Reform Act (UMRA) in the 104th Congress.

Following this success, I worked closely with the state-local government coalition on our next priority—passage of effective safe drinking water reforms—which was enacted with broad bipartisan support in 1996.

These efforts are notable because they represent common-sense reforms that make government more accountable based on public awareness of risks, costs and benefits. These statutes set key precedents for the reforms that are envisioned in the regulatory Improvement Act. In many respects, this bill builds on these achievements. Senator THOMPSON has said that this bill represents phase 2 of UMRA and I strongly agree.

I specifically mention the drinking water program today because of its close similarity to the Regulatory Improvement Act. In both, agencies are required to conduct an analysis of incremental costs and benefits of alternative standards, while providing those agencies with flexibility in making final regulatory decisions.

If we agree that these analytical tools are good enough for the water that we drink, they certainly must be good enough for other regulations.

However, both UMRA and the drinking water amendments have had limited applications. The Regulatory Improvement Act is needed to provide across-the-board cost-benefit analysis and risk assessment procedures at all federal agencies. This bill will result in greater protection of public health and the environment while alleviating cost burdens on state and local governments and the private sector.

GAO reported last year that UMRA has had little effect on the way federal agencies make rulemaking decisions. The report specifically points out that the Regulatory Improvement Act

would improve the quality of regulatory analysis. I think it is time that we make federal agencies—not just Congress—accountable for the decisions they make.

While many federal regulations have been well intended, not all have achieved their purpose and many have unnecessarily passed significant burdens onto our citizens and state and local governments.

It is crucial that federal, state and local governments work in partnership to determine how we can best allocate resources for protection of health and the environment. As a nation, we spend vast sums on regulations. A report commissioned by the U.S. Small Business Administration estimates that regulations will cost the economy about $709 billion 1999—more than $7,000 for the average American household.

Unfortunately, this burden on consumers and American businesses has not always resulted in maximum health or environmental protection. At times, it has diverted scarce resources that could be used for other priorities such as education, crime prevention and more effective protection of health and the environment.

The challenge facing public officials today is determining how best to protect the health of our citizens and our environment with limited resources. We need to do a much better job ensuring that regulations' costs bear a reasonable relationship with their benefits, and we need to do a better job of setting priorities and spending our resources wisely.

I believe that the Regulatory Improvement Act will help achieve these goals. First, I believe this bill will increase the public's knowledge of how and why agencies make major rules. In essence, this bill asks regulatory agencies to answer several simple, but vital questions: What is the nature of the risk being considered? What are the benefits of the proposed regulation? How much will it cost? And, are there better, less burdensome ways to achieve the same goals?

I am particularly pleased that the bill provides opportunities for state and local government officials to consult with agencies as rules are being developed so that regulators are more sensitive to state and local needs and the burden of unfunded mandates. This only makes sense since states and local governments often have the responsibility of implementing and enforcing these regulations.

Second, requiring federal agencies to conduct cost-benefit analyses, publish those results, disclose any estimates of risks and explain whether any of these factors were considered in finalizing rules will increase government accountability to the people it serves.

And finally, this bill will improve the quality of government decision-making by allowing the government to set priorities and focus on the worst risks first. Careful thought, reasonable assumptions, peer review and sound science will help target problems and find better solutions.

This bill does not mandate outcomes, but it does impose common-sense discipline and accountability in the rulemaking process. I think it is time to move forward with this bipartisan measure.●

By Mrs. HUTCHISON:

S. 747. A bill to amend title 49, United States Code, to promote rail competition, and for other purposes; to the Committee on Commerce, Science, and Transportation.

SURFACE TRANSPORTATION BOARD REAUTHORIZATION AND RAIL SERVICE IMPROVEMENT ACT

Mrs. HUTCHISON. Mr. President, I rise to introduce the Surface Transportation Board Reauthorization and Improvement Act of 1999.

My highest priority as chairman of the Surface Transportation Subcommittee of the Commerce Committee this year is to pass a re-authorization bill—one that provides some ability for shippers to obtain improved service and rates, while maintaining the ability of railroads to make a return and, indeed, grow.

The bill I am introducing seeks to improve competition and the procedures at the Board that shippers and carriers rely upon to adjudicate their rate disputes. At the same time, it recognizes the need for the railroad industry to maintain sound financial footing, capable of maintaining the railroad infrastructure.

Last year, at the behest of Chairman MCCAIN and me, the Board initiated a hearing process on competition issues and developed an extensive record on these issues. Specifically, the Board held two days of hearings and received testimony from 60 witnesses. It heard shipper complaints of inadequate service, higher rates, and concentration in the railroad industry. The Board also listened to carriers who stressed that, especially in a growing economy, capacity and infrastructure investment is the key to meeting their customers' needs.

In addition, the Board held a hearing in December at my request on the proposals offered by Houston shippers, the Greater Houston Partnership and the Railroad Commission of Texas.

As a result of these hearings, the Board has done what is within its authority to help shippers obtain some relief. It undertook two important rulemakings. One provides for alternative rail availability during a service failure. The other streamlines rail rate cases by dispensing with consideration of ''product and geographic competition'' in determining market dominance for rate cases.

I commend the Board for making these rules, and —frankly—for going no further. It's refreshing to find a regulatory body that does not attempt to develop a new policy in the absence of Congressional guidance.

This bill picks up where the Board's actions left off. First, it codifies the Board's decision to streamline the market dominance test and the procedure for providing alternative rail availability during a service failure. Second, it begins the process of reforming the procedure that small shippers use for rate cases. A recent GAO report highlights the cost, in time and money, of the current process.

This bill also sets into motion changes in the Board's revenue adequacy finding, making it a more helpful and real-world standard. It balances the bottleneck issue, enhances the Board's emergency powers and establishes an arbitration system that could lead to better-shipper carrier dialogue. Finally, it clarifies, in a balanced way and without dictating specific outcomes, that competition remains part of the rail merger and national rail policy of this country.

It is clear that Congress has a job to do in re-authorizing the Surface Transportation Board and addressing some of the difficult issues associated with it. This bill is a first step. I want to strongly convey that I do not see it as a final product. While I view it as fair to all parties, I am ready to consider changes to improve the bill and ensure its enactment. To that end, I encourage my colleagues to work with me toward the common purpose of reauthorizing the Board and making some common sense improvements.

I ask unanimous consent to have the bill printed in the RECORD.

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

S. 747

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 ''Surface Transportation Board Reauthorization and Improvement Act of 1999''.

SEC. 2. PROMOTION OF COMPETITION WITHIN THE RAIL INDUSTRY.

Section 10101 of title 49, United States Code, is amended by—

(1) redesignating paragraphs (1) through (7) as paragraphs (2) through (8);

(2) inserting before paragraph (2), as redesignated, the following:

''(1) to encourage and promote effective competition within the rail industry;'';

(3) striking ''revenues,'' in paragraph (4), as redesignated, and inserting ''revenues to ensure appropriate rail infrastructure;'';

(4) redesignating paragraphs (8) through (15) as paragraphs (10) through (17); and

(5) inserting before paragraph (10), as redesignated, the following:

''(9) to discourage artificial barriers to interchange and car supply which can impede competition between shortline, regional, and Class I carriers and block effective rail service to shippers;''.

SEC. 3 EXTENSION OF TIME LIMIT ON EMERGENCY SERVICE ORDERS.

Section 11123 of title 49, United States Code, is amended by—

(1) striking ''30'' in subsection (a) and inserting ''60'';

(2) striking ''30'' in subsection (c)(1) and inserting ''60''; and

(3) adding at the end of subsection (c) the following:

''(4) The Board may provide up to 2 extensions, totalling not more than 180 days, of the 240-day period under paragraph (1).''.

SEC. 4. PROCEDURAL RELIEF FOR SMALL RATE CASES.

(a) DISCOVERY LIMITED.—Section 10701(d) of title 49, United States Code, is amended by—

(1) inserting ''(A)'' in paragraph (3) before ''The Board''; and

(2) adding at the end thereof the following:

(''(B) Unless the Board finds that there is a compelling need to permit discovery in a particular proceeding, discovery shall not be permitted in a proceeding handled under the guidelines established under subparagraph (A).''.

(b) ADMINISTRATIVE RELIEF.—Not later than 180 days after the date of enactment of this Act, the Surface Transportation Board shall—

(1) review the rules and procedures applicable to rate complaints and other complaints filed with the Board by small shippers;

(2) identify any such rules or procedures that are unduly burdensome to small shippers; and

(3) take such action, including rulemaking, as is appropriate to reduce or eliminate the aspects of the rules and procedures that the Board determines under paragraph (2) to be unduly burdensome to small shippers.

(c) LEGISLATIVE RELIEF.—The Board shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives if the Board determines that additional changes in the rules and procedures described in subsection (b) are appropriate and require commensurate changes in statutory law. In making that notification, the Board shall make recommendations concerning those changes.

SEC. 5. CODIFICATION OF MARKET DOMINANCE RELIEF.

Setion 10707(d)(1)(A) of title 49, United States Code, is amended by adding at the end thereof the following: ''In making a determination under this section, the Board may not consider evidence of product or geographic competition.''.

SEC. 6. RAIL REVENUE ADEQUACY DETERMINATIONS.

(a) Section 10101(3) of title 49, United States Code, is amended by striking ''revenues, as determined by the Board;'' and inserting ''revenues;''.

(b) Section 10701(d)(2) of title 49, United States Code, is amended by striking ''revenues, as established by the Board under section 10704(a)(2) of this title.'' and inserting ''revenues.''.

(c) Section 10701(d) of title 49, United States Code, is amended by adding at the end thereof the following:

''(4) To facilitate the process by which the Board gives due consideration to the policy that rail carriers shall earn adequate revenues, the Board shall convene a 3-member panel of outside experts to make recommendations as to an appropriate methodology by which the adequacy of a carrier's revenues should be considered. The panel shall issue a report containing its recommendations within 270 days after the date of enactment of the Surface Transportation Board Amendments of 1999.''.

SEC. 7. BOTTLENECK RATES.

(a) THROUGH ROUTES.—Section 10703 of title 49, United States Code, is amended—

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

(2) adding at the end thereof the following:

''(b) CONNECTING CARRIERS.—When a shipper and rail carrier enter into a contract under section 10709 for transportation that would require a through route with a connecting carrier and there is no reasonable alternative route that could be constructed without participation of that connecting carrier, the connecting carrier shall, upon request, establish a through route and a rate that can be used in conjunction with transportation provided pursuant to the contract, unless the connecting carrier shows that—

''(1) the interchange requested is not operationally feasible; or

''(2) the through route would significantly impair the connecting carrier's ability to serve its other traffic. The connecting carrier shall establish a rate and through route within 21 days unless the Board has made a determination that the connecting carrier is likely to prevail in its claim under paragraph (1) or (2).''.

(b) BOARD'S AUTHORITY TO PRESCRIBE DIVISION OF JOINT RATES.—Section 10705(b) of title 49, United States Code, is amended by striking ''The Board shall'' and inserting ''Except as provided in section 10703(b), the Board shall''.

(c) COMPLAINTS.—Section 11701 of title 49, United States Code, is amended—

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

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

''(c) Where transportation over a portion of a through route is governed by a contract under section 10709, a rate complaint must be limited to the rates that apply to the portion of the through route not governed by such a contract.''.

SEC. 8. SIMPLIFIED DISPUTE RESOLUTION.

Within 180 days after the date of enactment of this Act, the Surface Transportation Board shall promulgate regulations adopting a simplified dispute resolution mechanism with the following features:

(1) IN GENERAL.—The simplified dispute resolution mechanism will utilize expedited arbitration with a minimum of discovery and may be used to decide disputes between parties involving any matter subject to the jurisdiction of the Board, other than rate reasonableness cases that would be decided under constrained market pricing principles.

(2) APPLICABLE STANDARDS.—Arbitrators will apply existing legal standards.

(3) MANDATORY IF REQUESTED.—Use of the simplified dispute resolution mechanism is required whenever at least one party to the dispute requests.

(4) 90-DAY TURNAROUND.—Arbitrators will issue their decisions within 90 days after being appointed.

(5) PAYMENT OF COSTS.—Each party will pay its own costs, and the costs of the arbitrator and other administrative costs of arbitration will be shared equally between and among the parties.

(6) DECISIONS PRIVATE; NOT PRECEDENTIAL.—Except as otherwise provided by the Board, decisions will remain private and will not constitute binding precedent.

(7) DECISIONS BINDING AND ENFORCEABLE.—Except as otherwise provided in paragraph (8), decisions will be binding and enforceable by the Board.

(8) RIGHT TO APPEAL.—Any party will have an unqualified right to appeal any decision to the Board, in which case the Board will decide the matter de novo. In making its decision, the Board may consider the decision of the arbitrator and any evidence and other material developed during the arbitration.

(9) MUTUAL MODIFICATION.—Any procedure or regulation adopted by the Board with respect to the simplified dispute resolution may be modified or eliminated by mutual agreement of all parties to the dispute.

SEC. 9. PROMOTION OF COMPETITIVE RAIL SERVICE OPTIONS.

Section 11324 of title 49, United States Code, is amended—

(1) by striking ''and'' in paragraph (4) of subsection (b);

(2) by striking ''system.'' in paragraph (5) of subsection (b) and inserting ''system; and'';

(3) by adding at the end of subsection (b) the following:

''(6) means and methods to encourage and expand competition between and among rail carriers in the affected region or the national rail system.''; and

(4) by inserting after the second sentence in subsection (c) the following: ''The Board may impose conditions to encourage and expand competition between and among rail carriers in the affected region or the national rail system, if such conditions do not cause substantial harm to the benefits of the transaction to the affected carriers or the public.''.

SEC. 10. CLARIFICATION OF STB AUTHORITY TO GRANT TEMPORARY ACCESS RELIEF.

(a) Section 10705 of title 49, United States Code, is amended by adding at the end thereof the following:

''(d) The Board may grant temporary relief under this section when the Board finds it necessary and appropriate to do so to remedy inadequate service. The authority provided in this section is in addition to the authority of the Board to provide temporary relief under sections 11102 and 11123 of this title.''.

(b) Section 11102 of title 49, United States Code, is amended by adding at the end thereof the following:

''(e) The Board may grant temporary relief under subsections (a) and (c) when the Board finds it necessary and appropriate to do so to remedy inadequate service. The authority provided in this section is in addition to the authority of the Board to provide temporary relief under sections 10705 and 11123 of this title.''.

(c) Section 11123 of title 49, United States Code, is amended by adding at the end thereof the following:

''(e) The authority provided in this section is in addition to the authority of the Board to provide temporary relief under sections 10705 and 11102 of this title.''.

SEC. 11. HOUSEHOLD GOODS COLLECTIVE ACTIVITIES.

Section 13703(d) of title 49, United States Code, is amended by inserting ''(other than an agreement affecting only the transportation of household goods, as defined on December 31, 1995)'' after ''agreement'' in the first sentence.

SEC. 12. AUTHORIZATION LEVELS.

There are authorized to be appropriated to the Surface Transportation Board $16,000,000 for fiscal year 1999, $17,000,000 for fiscal year 2000, $17,555,000 for fiscal year 2001, and $18,129,000 for fiscal year 2002.

SEC. 13. CHAIRMAN DESIGNATED WITH SENATE CONFIRMATION.

Section 701(c)(1) of title 49, United States Code, is amended by striking ''President'' and inserting ''President, by and with the advice and consent of the Senate,''.

By Mr. MURKOWSKI:

S. 748. A bill to improve Native hiring and contracting by the Federal Government within the State of Alaska, and for other purposes; to the Committee on Energy and Natural Resources.

NATIVE HIRE AND CONTRACTING LEGISLATION

Mr. MURKOWSKI. Mr. President, this legislation requires the Secretary of the Interior to issue a report to the Congress that details the specific steps the Department of the Interior will take to contract activities and programs of the Department to Alaska Natives.

Legislation already exists for contracting with and hiring Alaska Natives. Sections 1307 and 1308 of the Alaska National Interest Lands Conservation Act and section 638 of the Indian Self-Determination and Education Assistance Act are clear on these matters. The problem is that the law have been largely ignored.

Outside of a few studies that were contracted to Native Associations during the past two years, the record of the Department in contracting and local hiring is abysmal.

I have been told by representatives of this Administration that there are obstacles in both contracting with and hiring local Natives. When pressed, the obstacles are not well explained, if at all.

Mr. President, if there are valid obstacles, we should know specifically what they are so that Congress can address them. If there are not obstacles, then the Administration should begin to implement the law. My legislation requires a complete explanation of the ''Obstacles'' and a plan for implementing the law in accordance with the Alaska National Interest Lands Conversation Act and the Indian Self-Determination and Education Assistance Act.

In addition to the report required by this legislation, the Secretary is also directed to initiate a pilot program to contract various National Park Service functions, operations and programs in northwest Alaska to local Native entities.

Mr. President, the National Park Service, the Bureau of Land Management, the Fish and Wildlife Service, and the other agencies within the Department have an opportunity to hire and contract with local Alaska Natives who were born, raised and live near and in our parks, refuges and public lands in Alaska. These individuals are more familiar with the area than persons hired from outside Alaska. They know the history, they know the hazards, they know about living and working in arctic conditions. Given the levels of unemployment in the area, it makes absolutely no sense not to hire these individuals.

I do not understand why any of one of these agencies or bureaus keep filing positions with persons from the lower 48—individuals who have little experience in Alaska—when they have a qualified individuals in the immediate area.

If we can just get the Federal agencies in the State of Alaska to read sections 1307 and 1308 of ANILCA and section 638 of ISEAA it would be a major step in the right direction. If Alaska Natives are given the opportunity to contract with and be employed by the Federal agencies in my State, everyone wins, no one loses, and the American public will be better served.●

By Mr. KENNEDY (for himself, Mr. STEVENS, Mr. DODD, Mr. JEFFORDS, and Mr. KERRY:)

S. 749. A bill to establish a program to provide financial assistance to States and local entities to support early learning programs for prekindergarten children, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, today Senators STEVENS, DODD, JEFFORDS, KERRY and I are introducing legislation to create an Early Learning Trust Fund. With this legislation, we intend to improve the availability and quality of early learning programs so that all children can begin school ready to learn.

This is a truly bipartisan bill, and it is a privilege to be working closely with Senators of both parties on this issue that is so critical to the nation's future—the education of our children. Senator STEVENS' knowledge of childhood development and brain research is outstanding, and his commitment to this issue is impressive. He understands the impact that early education can have on a child's development. Senator KERRY shares this interest as well. His work on the importance of brain development during the early childhood years has helped educate the Senate on this issue. Senator JEFFORDS' long standing interest in education and school readiness is exemplary. I have great respect for his leadership as Chairman of the Health, Education, Labor, and Pensions Committee on education and many other issues to improve the well-being of children. Senator DODD's leadership on the Subcommittee for Children and Families has been outstanding. He has always been a champion for children's issues and we are proud to have him as a cosponsor of this legislation.

Over 23 million children under 6 live in the United States, and all of these children deserve the opportunity to start school ready to learn. In order for them to do so, we must make significant investments in children, long before they ever walk through the schoolhouse door.

Recent brain research documents the importance of the first few years of life for child development. During this time, children develop essential learning and social skills that they will need and use throughout their lives.

For children to reach their full potential, they must begin school ready to learn. Ten years ago, the nation's governors developed a set of educational goals to improve the quality of education in the United States. The number one goal was that by the year 2000, all children should enter school ''ready to learn.'' While it is no longer possible to meet this objective by the year 2000, we must do all we can. We cannot afford to let another decade pass without investing more effectively in children's educational development.

Quality early education programs help children in a number of ways, and have a particularly strong impact on low-income children, who are at the greatest risk of school failure. Children who attend high quality preschool classes have stronger language, math, and social skills than children who attended classes of inferior quality.

These early skills translate into greater school readiness. First graders who begin school with strong language and learning skills are more motivated to learn to read well, and they benefit more from classroom instruction. Quality early education programs also have important long range consequences, and are closely associated with increased academic achievement, higher adult earnings, and far less involvement with the criminal justice system.

Research consistently demonstrates that early education programs improve school readiness. But too many children have no access to these programs. Sixty-one percent of children age 3–5 whose parents earn $50,000 or more a year are enrolled in pre-kindergarten classes. But, only 36% of children in the same age group in families earning less than $15,000 are enrolled in such classes. Clearly, many children are not receiving the educational boost they need to begin school ''ready to read, ready to learn, and ready to succeed.''

Our bill provides 10 billion dollars over five years to states to strengthen and expand early education programs for children under 6. By increasing the number of children who have early learning opportunities, we will ensure that many more children begin school ready to learn.

The ''Early Learning Trust Fund'' will provide each state with funds to strengthen and improve early education. Governors will receive the grants, and communities, along with parents, will decide how these funds can best be used. The aid will be distributed based on a formula which takes into account the total number of young children in each state, and the Department of Health and Human Services will allocate funds to the states. To assist in this process, governors will appoint a state council of representatives from the office of the governor, relevant state agencies, Head Start, parental organizations, and resource and referral agencies—all experts in the field of early education. The state councils will be responsible for setting priorities, approving and implementing state plans to improve early education.

States will have the flexibility to invest in an array of strategies that give young children the building blocks to become good readers and good students. States may use their funds to support a wide range of activities including: (1) strengthening pre-kindergarten services and helping communities obtain the resources necessary to offer children a good start; (2) helping communities make the best use of early learning programs to ensure that their resources are used most effectively; (3) ensuring that special needs children have access to the early learning services they need to reach their full potential; (4) strengthening Early

Head Start to meet the learning needs of very young children; and (5) expanding Head Start to include full-day, year-round services to help children of working parents begin school ready to learn. The specific strategy that states decide to adopt is not the central issue—improving school readiness is the central issue. And this bill will give states the flexibility and funding they need to achieve this goal.

Children and families across the country will benefit from the Early Learning Trust Fund. Massachusetts has more than 480,000 children under the age of 6, and a significant number will be helped by this legislation. Far too many children are currently on waiting lists today for assistance like this. We cannot tell these children, ''Wait until you grow up to receive the education you deserve.''

Those on the front lines trying to meet these needs in their communities will receive reinforcements. For example, in Massachusetts, the Community Partnerships for Children provide full-day early care and education to 15,300 three- and four-year-olds from low-income families. The Early Learning Trust Fund will expand and strengthen exemplary initiatives such as this.

Investment in early education is strongly supported by organizations across the country, including the Children's Defense Fund, the National Governors' Association, Fight Crime: Invest in Kids, the National Association of Child Care Resource and Referral Services, the National Association for State Legislatures, and the National Association for the Education of Young Children. These organizations agree that investments in children in the early years not only make sense, but make an enormous difference.

Our nation's greatest resource is its children. We must do all we can to ensure that they reach their full potential. Improving school readiness is an essential first step. I urge my colleagues to support this important initiative. I look forward to its enactment, and I ask unanimous consent that the text of the bill may be printed in the RECORD.

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

S. 749

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Early Learning Trust Fund Act''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) brain development research shows that the first 3 years of a child's life are critical to a child's brain development and the child's future success;

(2) high quality early learning programs can increase the literacy rate, the high school graduation rate, the employment rate, and the college enrollment rate for prekindergarten children who participate in the programs;

(3) high quality early learning programs can decrease the incidence of teenage pregnancy, welfare dependency, arrest, and juvenile delinquency for children who participate in these programs;

(4) high quality early learning programs can provide a strong base for prekindergarten children in language and cognitive skills and can motivate the children to learn to read in order to benefit from classroom instruction;

(5) many working families cannot afford early learning programs for their prekindergarten children;

(6) only 36 percent of children who are between the ages of 3 and 5, not enrolled in kindergarten, and living in families in which the parents earn less than $15,000, are enrolled in prekindergarten, while 61 percent of children of a similar age who live in families in which the parents earn $50,000 or more are enrolled in prekindergarten;

(7) because of the growing number of prekindergarten children in single-parent families or families in which both parents work, there is a great need for affordable high quality, full day, full calendar year early learning programs;

(8) many children who could benefit from a strong early learning experience are enrolled in child care programs that could use additional resources to prepare the children to enter school ready to succeed; and

(9) the low salaries paid to staff in early learning programs, the lack of career progression for such staff, and the lack of child development specialists involved in the early learning programs makes it difficult to attract and retain trained staff to help the children enter school ready to read.

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

(1) to make widely available to prekindergarten children a high quality, child-centered, developmentally appropriate early learning program;

(2) to make widely available to parents of prekindergarten children who desire the services, a full day, full calendar year program in which they can enroll their prekindergarten children;

(3) to make efficient use of Federal, State, and local resources for early learning programs by promoting collaboration and coordination of such programs and supports at the Federal, State, and local levels;

(4) to assist State and local governments in expanding or improving early learning programs that use existing facilities that meet State and local safety code requirements;

(5) to provide resources to ensure that all children enter elementary school ready to learn how to read; and

(6) to assist State and local governments in providing training for teachers and staff of early learning programs, and to promote the use of salary scales that take into account training and experience.

SEC. 3. DEFINITIONS.

In this Act:

(1) EARLY LEARNING PROGRAMS.—The term ''early learning programs'' means programs that provide the services described in section 9 that are for children who have not attended kindergarten or elementary school.

(2) FULL CALENDAR YEAR.—The term ''full calendar year'' means all days of operation of businesses in the locality, excluding—

(A) legal public holidays, as defined in section 6103 of title 5, United States Code; and

(B) a single period of 14 consecutive days during the summer.

(3) FULL DAY.—The term ''full day'' means the hours of normal operation of businesses in the locality.

(4) LOCAL EDUCATIONAL AGENCY; STATE EDUCATIONAL AGENCY.—The terms ''local educational agency'' and ''State educational agency'' have the meanings given the terms in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(5) LOCALITY.—The term ''locality'' means a city, county, borough, township, or other general purpose unit of local government, or an Indian reservation or Indian Tribe. For purposes of this Act, 2 or more localities acting together may be considered a locality.

(6) PARENT.—The term ''parent'' means a biological parent, an adoptive parent, a stepparent, or a foster parent of a child, including a legal guardian or other person standing in loco parentis.

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

(8) SERVICE PROVIDER.—The term ''service provider'' means any public or private early learning program, including a local educational agency, a Head Start agency under the Head Start Act (42 U.S.C. 9831 et seq.), or a community-based organization that receives funds under this Act.

(9) TRAINING.—The term ''training'' means instruction in early childhood development that—

(A) is required for certification by existing State and local laws, regulations, and policies;

(B) is required to receive a nationally recognized credential or its equivalent, such as the child development associate credential, in a State with no certification procedure; and

(C) is received in a postsecondary education program in which the individual has accomplished significant course work in early childhood education or early childhood development.

SEC. 4. EARLY LEARNING PROGRAM.

The Secretary shall establish and maintain an early learning program that provides full day, full calendar year early learning services.

SEC. 5. STATE ALLOTMENTS.

(a) IN GENERAL.—The Secretary shall make allotments to eligible States to pay for the cost of enabling the States and localities to establish full day, full calendar year early learning programs.

(b) ALLOTMENTS.—From the amount appropriated under section 12 for each fiscal year, the Secretary shall allot, to each eligible State, an amount that bears the same relationship to the amount appropriated as the total number of individuals under age 6 in the State bears to the total number of such individuals in all States.

(c) MATCHING REQUIREMENT.—The Secretary may not make a grant to a State under subsection (a) unless that State agrees that, with respect to the costs to be incurred by the State in carrying out the program for which the grant was awarded, the State will make available (directly or through donations from public or private entities) non-Federal contributions in an amount equal to not less than $1 dollar for every $4 dollars of Federal funds provided under the grant. The State share of the cost may be provided in cash or in kind, fairly evaluated, including plant, equipment, or services.

(d) ANNUAL REVIEW.—The allotments provided under subsection (b) shall be subject to annual review by the Secretary.

SEC. 6. STATE APPLICATIONS.

(a) IN GENERAL.—To be eligible to receive an allotment under section 5, the Governor of a State shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

(b) CONTENTS.—Each application submitted pursuant to subsection (a) shall include—

(1) a statement ensuring that the Governor of the State has established or designated a State Council that complies with section

7(c), including a list of the members of the State Council in order to demonstrate such compliance;

(2) a statement ensuring that the State Council as described in section 7(c) has developed and approved the application submitted under this section;

(3) a statement describing the manner in which the State will allocate funds made available through the allotment to localities; and

(4) a State plan that describes the performance goals to be achieved, and the performance measures to be used to assess progress toward such goals, under the plan which—

(A) shall be developed pursuant to guidance provided by the State and local government authorities, and experts in early childhood development; and

(B) shall be designed to improve child development through—

(i) improved access to and increased coordination with health care services;

(ii) increased access to enhanced early learning environments;

(iii) increased parental involvement;

(iv) increased rates of accreditation by nationally recognized accreditation organizations; and

(v) expansion of full day, full year services.

SEC. 7. STATE ADMINISTRATION.

(a) IN GENERAL.—To be eligible to receive assistance under section 5, the Governor of a State shall appoint a Lead State Agency as described in subsection (b) and, after consultation with the leadership of the State legislature, a State Council as described in subsection (c).

(b) LEAD STATE AGENCY.—

(1) IN GENERAL.—The Lead State Agency as described in subsection (a) shall allocate funds received under section 5 to localities.

(2) LIMITATION.—The Lead State Agency shall allocate not less than 90 percent of such funds that have been provided to the State for a fiscal year to 1 or more localities.

(3) FUNCTIONS OF AGENCY.—In addition to allocating funds under paragraph (1), the Lead State agency shall—

(A) advise and assist localities in the performance of their duties;

(B) develop and submit the State application and the State plan required under section 6;

(C) evaluate and approve applications submitted by localities;

(D) prepare and submit to the Secretary an annual report, after approval by the State Council, which shall include a statement describing the manner in which funds received under section 5 are expended and documentation of the increased number of—

(i) children in full day, full year Head Start programs, as provided under the Head Start Act (42 U.S.C. 9831 et seq.);

(ii) infants and toddlers in programs that provide comprehensive Early Head Start services, as provided under the Head Start Act (42 U.S.C. 9831 et seq.);

(iii) prekindergarten children, including those with special needs, in early learning programs; and

(iv) children in child care that receive enhanced educational and comprehensive services and supports, including parent involvement and education;

(E) conduct evaluations of early learning programs;

(F) ensure that training and research is made available to localities and that such training and research reflects the latest available brain development and early childhood research related to early learning; and

(G) improve coordination between localities carrying out early learning programs and persons providing early intervention services under part C of the Individuals with Disabilities Education Act (20 U.S.C. 1431 et seq.).

(4) LOCAL APPLICATION.—

(A) IN GENERAL.—To be eligible to receive assistance under paragraph (1), a locality, in cooperation with the Local Council described in paragraph (5), shall submit an application to the Lead State Agency at such time, in such manner, and containing such information as the Lead State Agency may require.

(B) CONTENTS.—Each application submitted pursuant to paragraph (1) shall include a statement ensuring that the locality has established a Local Council, as described in paragraph (5) and a local plan that includes—

(i) a needs and resources assessment of early learning services and a statement describing how programs will be financed to reflect the assessment; and

(ii) a statement of performance goals to be achieved in adherence to the State plan and a statement of how localities will ensure that programs will meet the performance measures in the State plan.

(5) LOCAL COUNCIL.—

(A) IN GENERAL.—To be eligible to receive assistance under paragraph (1), a locality shall establish a Local Council as described in subsection (c), which shall be composed of local agencies responsible for carrying out the programs under this Act and parents and other individuals concerned with early childhood development issues in the locality. The Local Council shall be responsible for assisting localities in preparing and submitting the application described in paragraph (4).

(B) DESIGNATING EXISTING ENTITY.—To the extent that a State has a Local Council or an entity that functions as such before the date of enactment of this Act that is comparable to the Local Council described in subparagraph (A), the locality shall be considered to be in compliance with this paragraph.

(c) STATE COUNCIL.—

(1) IN GENERAL.—The State Council as described in subsection (a) shall be composed of a group of representatives of agencies, institutions, and other entities, as described in paragraphs (2) and (3), that provide child care or early learning services in the State.

(2) MEMBERSHIP.—Except as provided in paragraph (6), the Governor shall appoint to the State Council at least 1 representative from—

(A) the office of the Governor;

(B) the State educational agency;

(C) the State agency administering funds received under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.);

(D) the State social services agency;

(E) the State Head Start association;

(F) organizations representing parents within the State; and

(G) resource and referral agencies within the State.

(3) ADDITIONAL MEMBERS.—In addition to representatives appointed under subparagraph (2), the Governor may appoint to the State Council additional representatives from—

(A) the State Board of Education;

(B) the State health agency;

(C) the State labor or employment agency;

(D) organizations representing teachers;

(E) organizations representing business; and

(F) organizations representing labor.

(4) REPRESENTATION.—To the extent practicable, the Governor shall appoint representatives under subparagraphs (2) and (3) in a manner that is diverse or balanced according to the race, ethnicity, and gender of its members.

(5) FUNCTIONS OF THE COUNCIL.—The State Council shall—

(A) conduct a needs and resources assessment, or use such an assessment if conducted not later than 2 years prior to the date of enactment of this Act, to—

(i) determine where early learning programs are lacking or are inadequate within the State, with particular attention to poor urban and rural areas, and what special services are needed within the State, such as services for children whose native language is a language other than English; and

(ii) identify all existing State-funded early learning programs, and, to the extent practical, other programs serving prekindergarten children in the State, including parent education programs, and to specify which programs might be expanded or upgraded with the use of funds received under section 5; and

(B) based on the assessment described in subparagraph (A), determine funding priorities for amounts received under section 5 for the State.

(6) DESIGNATING AN EXISTING ENTITY AS STATE COUNCIL.—To the extent that a State has a State Council or a entity that functions as such before the date of enactment of this Act that is comparable to the State Council described in this subsection, the State shall be considered to be in compliance with this subsection.

SEC. 9. LOCAL ALLOCATIONS.

(a) IN GENERAL.—Each locality that receives funds under section 8 shall, in accordance with the needs and resource assessment described in section 8(c)(5), provide funds to service providers to—

(1) increase the number of children served in Early Head Start programs carried out under section 645A of the Head Start Act (42 U.S.C 9840a);

(2) increase the number of children served in State prekindergarten education programs;

(3) increase the number of Head Start programs providing full working day, full calendar year Head Start services; and

(4) enhance the education and comprehensive services and support services provided through the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.) to child care programs and providers, including health screening and diagnosis of children, parent involvement and parent education, nutrition services and education, staff and personnel training in early childhood development, and upgrading the salaries of early childhood development professional staff, and the development of salary schedules for staff with varying levels of experience, expertise, and training.distribute such funds to service providers.

(b) PREFERENCE.—In making allocations under subsection (a), a locality shall give preference to—

(1) programs that meet the needs of children in households in which each parent is employed;

(2) programs assisting low-income families; and

(3) programs that make referrals for enrollment under the State Children's Health Insurance Program established under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.), or referrals for enrollment of children under the medicaid program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(c) APPLICATION.—Each service provider desiring to receive funds under subsection (a) shall submit an application to a locality at such time, in such manner, and containing such information as the locality may reasonably require.

(d) ANNUAL REPORT.—Each locality that receives funds under section 8 shall submit an annual report to the State Council that

contains the information described in section 7(b)(3)(C) and a description of the manner in which programs receiving assistance under this Act will be coordinated with other early learning programs in the locality.

(e) ADMINISTRATIVE COSTS.—Not more than 5 percent of the amounts received by a locality under section 8 shall be used to pay for administrative expenses for the locality or Local Council.

SEC. 10. SUPPLEMENT NOT SUPPLANT.

Funds appropriated pursuant to this Act shall be used to supplement and not supplant other Federal, State, and local public funds expended to provide services for early learning childhood development programs.

SEC. 11. FEDERAL ADMINISTRATION.

The Secretary, in consultation with the Secretary of Education, shall develop and issue program guidance instructions for carrying out the programs authorized under this Act.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated and there is appropriated to carry out this Act, $2,000,000,000 for each of the fiscal years 2000 through 2004.

By Mr. LEAHY (for himself, Mr. DASCHLE, Mr. KENNEDY, and Mr. TORRICELLI):

S. 751. A bill to combat nursing home fraud and abuse, increase protections for victims of telemarketing fraud, enhance safeguards for pension plans and health care benefit programs, and enhance penalties for crimes against seniors, and for other purposes; to the Committee on the Judiciary.

THE SENIORS SAFETY ACT OF 1999

Mr. LEAHY. Mr. President, today I am introducing the Seniors Safety Act of 1999, a bill to protect older Americans from crime.

The Seniors Safety Act contains a comprehensive package of proposals developed with the assistance of the Department of Justice that address the most prevalent crimes perpetrated against seniors, including proposals to reduce health care fraud and abuse, combat nursing home fraud and abuse, prevent telemarketing fraud, safeguard pension and employee benefit plans from fraud, bribery and graft. In addition, this legislation would help seniors whose pension plans are defrauded to obtain restitution. Finally, the bill authorizes the collection of appropriate data and examination by the Attorney General to develop new strategies to fight crime against seniors.

Seniors over the age of 55 make up the most rapidly growing sector of our society. In Vermont alone, the number of seniors grew by more than nine percent between 1990 and 1997, now comprising almost twelve percent of Vermont's total population. According to recent census estimates, the number of seniors over 65 will more than double by the year 2050.

It is an ugly fact that criminal activity against seniors that causes them physical harm and economic damage is a significant problem. While the violent and property crime rates have been falling generally, according to the Justice Department's Bureau of Justice Statistics, in 1997 the violent victimization rates for persons over 50 years of age were no lower than they had been in 1993. In 1997, these older Americans experienced approximately 680 thousand incidents of violent crime, including rape, robbery, and general assault.

We need to do better job at protecting seniors and ensuring that they enjoy the same decreasing violent and property crime rate as other segments of our society. The Seniors Safety Act contains provisions to enhance penalties for criminal offenses that target seniors and fraudulent acts that result in physical or economic harm to seniors. In addition, to assist Congress and law enforcement authorities in developing new and effective strategies to deter crimes against seniors, the Act authorizes comprehensive examination of the factors associated with crimes against seniors and the inclusion of data on seniors in the National Crime Victims Survey.

One particular form of criminal activity—telemarketing fraud—disproportionately impacts Americans over the age of 50, who account for over a third of the estimated $40 billion lost to telemarketing fraud each year. The Seniors Safety Act continues the progress we made last year on passage of the Telemarketing Fraud Prevention Act to address the problem of telemarketing fraud schemes that too often succeed in swindling seniors of their life savings. Some of these schemes are directed from outside the United States, making criminal prosecution more difficult.

The Act would provide the Attorney General with a new, significant crime fighting tool to deal with telemarketing fraud. Specifically, the Act would authorize the Attorney General to block or terminate telephone service to telephone facilities that are being used to conduct such fraudulent activities. This authority may be used to shut-down telemarketing fraud schemes directed from foreign sources by cutting off their telephone service and, once discovered, would protect victims from that particular telemarketing scheme. Of course, committed swindlers may just get another telephone number, but even relatively brief interruptions in their fraudulent activities may save some seniors from falling victim to the scheme.

Another crime prevention provision in the Seniors Safety Act is the establishment by the Federal Trade Commission of a ''Better Business Bureau''-type clearinghouse. This would provide seniors, their families, or others who may be concerned about the legitimacy of a telemarketer with information about prior complaints made about the particular company and any prior convictions for telemarketing fraud. In addition, seniors and other consumers who believe they have been swindled would be provided with information for referral to the appropriate law enforcement authorities.

Criminal activity that undermines the safety and integrity of pension plans and health benefit programs pose threats to all of us, but the damage is felt most acutely by seniors who have planned their retirements in reliance on the benefits promised by those programs. Seniors who have worked faithfully and honestly for years should not reach their retirement years only to find that the funds which they were relying upon have been stolen. This is a significant problem. According the Attorney General's 1997 Annual Report, an interagency working group on pension abuse brought 70 criminal cases representing more than $90 million in losses to pension plans in 29 districts around the country in that year alone.

The Seniors Safety Act would add to the arsenal of authority that federal prosecutors have to prevent and punish the defrauding of retirement arrangements. Specifically, the Act would create new criminal and civil penalties for defrauding pension plans or obtaining money or property from such plans by means of false or fraudulent pretenses. In addition, the Act would enhance penalties for bribery and graft in connection with employee benefit plans. The only people enjoying the benefits of pension plans should be the people who have worked hard to fund those plans, not crooks who get the money by fraud.

Spending on health care in this country amounts to roughly 15 percent of the gross national product, or more than $1 trillion each year. Estimated losses due to fraud and abuse are astronomical. A December 1998 report by the National Institute of Justice (NIJ) states that these losses ''may exceed 10 percent of annual health care spending, or $100 billion per year.'' By contrast to health care fraud, which covers deliberate criminal efforts to steal money, the term ''abuse'' describes billing errors or manipulation of billing codes that can result in billing for a more highly reimbursed service or product than the one provided.

As electronic claims processing—with no human involvement —becomes more prevalent to save administrative costs, more sophisticated computer-generated fraud schemes are surfacing. Some of these schemes generate thousands of false claims designed to pass through automated claims processing to payment, and result in the theft of millions of dollars from federal and private health care programs. Defrauding Medicare, Medicaid and private health plans harms taxpayers and increases the financial burden on the beneficiaries. Beneficiaries pay the price for health care fraud in their copayments and contributions. In addition, some forms of fraud may result in inadequate medical care and be dangerous for patients. Unfortunately, the NIJ reports that many health care fraud schemes ''deliberately target vulnerable populations, such as the elderly or Alzheimer's patients, who are less willing or able to complain or alert law enforcement.''

Fighting health care fraud has been a top priority of this Administration and

this Attorney General. The attention our federal law enforcement officials are paying to this problem is paying off: the number of criminal convictions in health care fraud cases grew over 300 percent from 1992 to 1997. These cases included convictions for submitting false claims to Medicare and Medicaid, and other insurance plans; fake billings by foreign doctors; and needless prescriptions for durable medical equipment by doctors in exchange for kickbacks from manufacturers. In 1997 alone, $1.2 billion was awarded or negotiated as a result of criminal fines, civil settlements and judgments in health care fraud matters.

We can and must do more, however. The Seniors Safety Act would give the Attorney General authority to get an injunction to stop false claims and illegal kickback schemes involving federal health care programs. This Act would also provide the law enforcement authorities with additional investigatory tools to uncover, investigate and prosecute health care offenses in both criminal and civil proceedings. The use of civil laws is considered by the Justice Department to be a ''critical component of our enforcement policy.'' In fact, the Department has recovered $1.8 billion in False Claims Act (FCA) civil enforcement actions since 1986, when Congress amended the FCA to address fraud against the Medicare and Medicaid programs. The Seniors Safety Act will permit criminal prosecutors to share information more easily with their civil counterparts.

In addition, whistle-blowers, who tip-off law enforcement about false claims, would be authorized under the Seniors Safety Act to seek court permission to review information obtained by the government to enhance their assistance in FCA law suits. Such qui tam, or whistle-blower, suits have, in the Justice Department's estimation, dramatically increased detection of and monetary recoveries for health care fraud. More half of the $1.2 billion the Department was awarded in health care fraud cases in FY 1997 were related to allegations in qui tam cases. This is a successful track record. According to the Department in its most recent health care fraud report, ''qui tam plaintiffs often work with DOJ to build a strong chain of evidence that can be used during settlement discussions or at trial.'' The Act would allow whistleblowers and their qui tam suits to become even more effective tools in the fight against health care fraud.

Finally, the Act would extend anti-fraud and anti-kickback safeguards to the Federal Employees Health Benefits program. These are all important steps that will help cut down on the enormous health care fraud losses.

Long-term care planning specialists estimate that over forty percent of those turning 65 years of age will need nursing home care, and that 20 percent of those seniors will spend five years or more in nursing homes. Indeed, many of us already have or will live through the experience of having our parents, family members or other loved ones—or even ourselves—spend time in a nursing home. We owe it to them and to ourselves to give the residents of nursing homes the best care they can get.

The Justice Department's Health Care Fraud Report for Fiscal Year 1997 cites egregious examples of nursing homes that pocketed Medicare funds instead of providing residents with adequate care. In one case, five patients died as result of the inadequate provision of nutrition, wound care and diabetes management by three Pennsylvania nursing homes. Yet another death occurred when a patient, who was unable to speak, was placed in a scalding tub of 138-degree water.

This Act provides additional piece of mind to residents of nursing homes and those of us who may have loved ones there by giving federal law enforcement the authority to investigate and prosecute operators of nursing homes for willfully engaging in patterns of health and safety violations in the care of nursing home residents. The Act also protects whistle-blowers from retaliation for reporting such violations.

The Seniors Safety Act has six titles, described below.

Title I, titled ''Strategies for Preventing Crimes Against Seniors'': directs the Attorney General to study the types of crimes and risk factors associated with crimes against seniors. In addition, authority is provided in this title for the Attorney General to include statistics on the incidence of crimes against seniors in the annual National Crime Victims Survey. Collection and analysis of this data is critical to develop effective strategies to protect seniors from crime and respond effectively to the justice needs of seniors.

Title II, titled ''Combating Crimes Against Seniors'': provides enhanced penalties for crimes targeting seniors, for health care fraud and other fraud offenses, and the creation of new criminal and civil penalties to protect pension and employee benefit plans.

Specifically, the U.S. Sentencing Commission is directed to review the sentencing guidelines and enhance penalties, as appropriate, to adequately reflect the economic and physical harms associated with crimes targeted at seniors, and with health care fraud offenses. This bill would also increase the penalties under the mail fraud statute and wire fraud statute for fraudulent schemes that result in serious injury or death.

In addition, this title of the Seniors Safety Act provides new tools in the form of a new criminal provision and civil penalties for law enforcement to investigate and prosecute persons who defraud pension plans or other retirement arrangements. In addition, the Act increases the penalty for corruptly bribing or receiving graft to influence the operation and management of employee benefit plans from three to five years.

Title III, titled ''Preventing Telemarketing Fraud'': addresses telemarketing fraud in two ways: by providing a ''Better Business''-style hotline to provide information and log complaints about telemarketing fraud, and by allowing the Attorney General to block or terminate telephone service to numbers being used to perpetrate telemarketing fraud crimes.

Title IV, titled ''Combating Health Care Fraud'': provides important investigative and crime prevention tools to law enforcement authorities to uncover and punish health care fraud, including authority to obtain injunctive relief, grand jury disclosure for civil actions, and issuance of administrative subpoenas. In addition, the Act would better protect the Federal Employees Health Benefits Program by extending the anti-kickback and anti-fraud prohibitions to cover this program.

Attorney General's injunction authority: The Act would authorize the Attorney General to seek injunctive relief to prevent persons suspected of committing or about to commit a health care fraud or illegal kickback offense from disposing or dissipating fraudulently obtained proceeds.

Authorized Investigative Demand Procedures: The Attorney General is currently authorized to issue administrative subpoenas during investigations of criminal health care fraud cases, but cannot do the same in related civil cases. The Act would extend that authority to civil cases, subject to stringent privacy safeguards.

Grand Jury Disclosure: Currently, grand jury information may not be disclosed in related civil suits, except under limited circumstances, resulting in duplicative work on the part of government civil attorneys. The Act would allow federal prosecutors to seek a court order allowing the sharing of grand jury information regarding health care offenses with government civil attorneys for use in civil or other regulatory proceedings.

Extension of anti-fraud safeguards: The Federal Employee Health Benefits Act is currently exempt from anti-fraud safeguards available to both Medicaid and Medicare. The Act would remove the exemption and subject the Federal Employee Health Benefits Program to anti-fraud and anti-kickback protections.

Title V, titled ''Protecting Residents of Nursing Homes'': contains the ''Nursing Home Resident Protection Act of 1999'' to establish a new federal crime, with substantial criminal and civil penalties, against operators of nursing homes who engage, knowingly and willfully, in a pattern of health and safety violations that results in significant physical or mental harm to persons residing in residential health care facilities. In addition, whistleblowers, who tip off officials about poor nursing home conditions, would be authorized to sue for damages, attorney's fees and other relief should there be any retaliation.

Title VI, titled ''Protecting the Rights of Senior Crime Victims'': would authorize the Attorney General to use forfeited funds to pay restitution to victims of fraudulent activity, and the courts to require the forfeiture of proceeds from violations of retirement offenses. In addition, the Act would exempt false claims law actions from a stay by bankruptcy proceedings and ensure that debts due to the United States from false claims law actions are not dischargeable in bankruptcy, in order to pay restitution to fraud victims or regulatory agencies.

The Seniors Safety Act of 1999 provides a new safety net for seniors to protect them from the criminal activity that affects them the most. I commend the Administration and particularly the Vice President for his attention to this issue, and the Attorney General for her work and assistance on this legislation. We should move to consider and pass this legislation before the end of the 106th Congress.

I ask unanimous consent that a copy of the Seniors Safety Act and a sectional analysis be printed in the RECORD.

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

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

S. 751

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Seniors Safety Act of 1999''.

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

SEC. 2. FINDINGS AND PURPOSES.

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

(1) The number of older Americans is growing both numerically and proportionally in the United States. Since 1990, the population of seniors has increased by almost 5,000,000, and is now 20.2 percent of the United States population.

(2) In 1997, 7 percent of victims of serious violent crime were age 50 or older.

(3) In 1997, 17.7 percent of murder victims were age 55 or older.

(4) According to the National Crime Victimization Survey, persons aged 50 and older experienced approximately 673,460 incidents of violent crime, including rape and sexual assaults, robberies and general assaults, during 1997.

(5) Older victims of violent crime are almost twice as likely as younger victims to be raped, robbed, or assaulted at or in their own homes.

(6) Approximately half of Americans who are 50 years old or older feel afraid to walk alone at night in their own neighborhoods.

(7) Seniors over the age of 50 reportedly account for 37 percent of the estimated $40,000,000,000 in losses each year due to telemarketing fraud.

(8) In 1998, Congress enacted legislation to provide for increased penalties for telemarketing fraud that targets seniors.

(9) There has not been a comprehensive study of crimes committed against seniors since 1994.

(10) It has been estimated that approximately 43 percent of those turning 65 can expect to spend some time in a long-term care facility, and approximately 20 percent can expect to spend 5 years or longer in a such a facility.

(11) In 1997, approximately $82,800,000,000 was spent on nursing home care in the United States and over half of this amount was spent by the medicaid and medicare programs.

(12) Losses to fraud and abuse in health care reportedly cost the United States an estimated $100,000,000,000 in 1996.

(13) The Inspector General for the Department of Health and Human Services has estimated that about $12,600,000,000 in improper medicare benefit payments, due to inadvertent mistake, fraud and abuse, were made during fiscal year 1998.

(14) Incidents of health care fraud and abuse remain high despite awareness of the problem.

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

(1) combat nursing home fraud and abuse;

(2) enhance safeguards for pension plans and health care programs;

(3) develop strategies for preventing and punishing crimes that target or otherwise disproportionately affect seniors by collecting appropriate data to measure the extent of crimes committed against seniors and determine the extent of domestic and elder abuse of seniors; and

(4) prevent and deter criminal activity, such as telemarketing fraud, that results in economic and physical harm against seniors and ensure appropriate restitution.

SEC. 3. DEFINITIONS.

In this Act—

(1) the term ''crime'' means any criminal offense under Federal or State law;

(2) the term ''nursing home'' means any institution or residential care facility defined as such for licensing purposes under State law, or if State law does not employ the term nursing home, the equivalent term or terms as determined by the Secretary of Health and Human Services, pursuant to section 1908(e) of the Social Security Act (42 U.S.C. 1396g(e)); and

(3) the term ''senior'' means an individual who is more than 55 years of age.

TITLE I—STRATEGIES FOR PREVENTING CRIMES AGAINST SENIORS

SEC. 101. STUDY OF CRIMES AGAINST SENIORS.

(a) IN GENERAL.—The Attorney General shall conduct a study relating to crimes against seniors, in order to assist in developing new strategies to prevent and otherwise reduce the incidence of those crimes.

(b) ISSUES ADDRESSED.—The study conducted under this section shall include an analysis of—

(1) the nature and type of crimes perpetrated against seniors, with special focus on—

(A) the most common types of crimes that affect seniors;

(B) the nature and extent of telemarketing fraud against seniors;

(C) the nature and extent of elder abuse inflicted upon seniors;

(D) the nature and extent of financial and material fraud targeted at seniors; and

(E) the nature and extent of health care fraud and abuse targeting seniors;

(2) the risk factors associated with seniors who have been victimized;

(3) the manner in which the Federal and State criminal justice systems respond to crimes against seniors;

(4) the feasibility of States establishing and maintaining a centralized computer database on the incidence of crimes against seniors that will promote the uniform identification and reporting of such crimes;

(5) the nature and extent of crimes targeting seniors, such as health care fraud and telemarketing fraud originating from sources outside the United States;

(6) the effectiveness of State programs funded under the 1987 State Elder Abuse Prevention Program in preventing and reducing the abuse and neglect of seniors; and

(7) other effective ways to prevent or reduce the occurrence of crimes against seniors.

(c) REPORT.—Not later than 18 months after the date of enactment of this Act, the Attorney General shall submit to the Committees on the Judiciary of the House of Representatives and the Senate a report describing the results of the study under this section, which shall also include—

(1) an assessment of any impact of the sentencing enhancements promulgated by the United States Sentencing Commission pursuant to section 6(b) of the Telemarketing Fraud Prevention Act of 1998 (28 U.S.C. 994 note), including—

(A) the number of crimes for which sentences were enhanced under that section; and

(B) the effect of those enhanced sentences in deterring telemarketing fraud crimes targeting seniors;

(2) an assessment of the factors that result in the inclusion of seniors on the lists of names, addresses, phone numbers, or Internet addresses compiled by telemarketers or sold to telemarketers as lists of potentially vulnerable consumers (i.e. ''mooch lists''); and

(3) an assessment of the nature and extent of nursing home fraud and abuse, which shall include—

(A) the number of cases and financial impact on seniors of fraud and abuse involving nursing homes each year;

(B) procedures used effectively by State, local and Federal authorities to combat nursing home fraud and abuse; and

(C) a description of strategies available to consumers to protect themselves from nursing home fraud and an evaluation of the effectiveness of such strategies.

SEC. 102. INCLUSION OF SENIORS IN NATIONAL CRIME VICTIMIZATION SURVEY.

Beginning not later than 2 years after the date of enactment of this Act, as part of each National Crime Victimization Survey, the Attorney General shall include statistics relating to—

(1) crimes targeting or disproportionately affecting seniors; and

(2) crime risk factors for seniors, including the times and locations at which crimes victimizing seniors are most likely to occur; and

(3) specific characteristics of the victims of crimes who are seniors, including age, gender, race or ethnicity, and socioeconomic status.

TITLE II—COMBATING CRIMES AGAINST SENIORS

SEC. 201. ENHANCED SENTENCING PENALTIES BASED ON AGE OF VICTIM.

(a) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, if appropriate, amend section 3A1.1(a) of the Federal sentencing guidelines to include the age of a crime victim as 1 of the criteria for determining whether the application of a sentencing enhancement is appropriate.

(b) REQUIREMENTS.—In carrying out this section, the Commission shall—

(1) ensure that the Federal sentencing guidelines and the policy statements of the Commission reflect the serious economic and physical harms associated with criminal activity targeted at seniors due to their particular vulnerability;

(2) consider providing increased penalties for persons convicted of offenses in which the victim was a senior in appropriate circumstances;

(3) consult with individuals or groups representing seniors, law enforcement agencies, victims organizations, and the Federal judiciary, as part of the review described in subsection (a);

(4) ensure reasonable consistency with other Federal sentencing guidelines and directives;

(5) account for any aggravating or mitigating circumstances that may justify exceptions, including circumstances for which the Federal sentencing guidelines provide sentencing enhancements;

(6) make any necessary conforming changes to the Federal sentencing guidelines; and

(7) ensure that the Federal sentencing guidelines adequately meet the purposes of sentencing set forth in section 3553(a)(2) of title 18, United States Code.

(c) REPORT.—Not later than December 31, 2000, the Commission shall submit to Congress a report on issues relating to the age of crime victims, which shall include—

(1) an explanation of any changes to sentencing policy made by the Commission under this section; and

(2) any recommendations of the Commission for retention or modification of penalty levels, including statutory penalty levels, for offenses involving seniors.

SEC. 202. STUDY AND REPORT ON HEALTH CARE FRAUD SENTENCES.

(a) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, if appropriate, amend the Federal sentencing guidelines and the policy statements of the Commission with respect to persons convicted of offenses involving fraud in connection with a health care benefit program (as defined in section 24(b) of title 18, United States Code).

(b) REQUIREMENTS.—In carrying out this section, the Commission shall—

(1) ensure that the Federal sentencing guidelines and the policy statements of the Commission reflect the serious harms associated with health care fraud and the need for aggressive and appropriate law enforcement action to prevent such fraud;

(2) consider providing increased penalties for persons convicted of health care fraud in appropriate circumstances;

(3) consult with individuals or groups representing victims of health care fraud, law enforcement agencies, the health care industry, and the Federal judiciary as part of the review described in subsection (a);

(4) ensure reasonable consistency with other Federal sentencing guidelines and directives;

(5) account for any aggravating or mitigating circumstances that might justify exceptions, including circumstances for which the Federal sentencing guidelines provide sentencing enhancements;

(6) make any necessary conforming changes to the Federal sentencing guidelines; and

(7) ensure that the Federal sentencing guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

(c) REPORT.—Not later than December 31, 2000, the Commission shall submit to Congress a report on issues relating to offenses described in subsection (a), which shall include—

(1) an explanation of any changes to sentencing policy made by the Commission under this section; and

(2) any recommendations of the Commission for retention or modification of penalty levels, including statutory penalty levels, for those offenses.

SEC. 203. INCREASED PENALTIES FOR FRAUD RESULTING IN SERIOUS INJURY OR DEATH.

Sections 1341 and 1343 of title 18, United States Code, are each amended by inserting before the last sentence the following: ''If the violation results in serious bodily injury (as defined in section 1365 of this title), such person shall be fined under this title, imprisoned not more than 20 years, or both, and if the violation results in death, such person shall be fined under this title, imprisoned for any term of years or life, or both.''.

SEC. 204. SAFEGUARDING PENSION PLANS FROM FRAUD AND THEFT.

(a) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

''§ 1348. Fraud in relation to retirement arrangements

''(a) RETIREMENT ARRANGEMENT DEFINED.—In this section—

''(1) IN GENERAL.—The term 'retirement arrangement' means—

''(A) any employee pension benefit plan subject to any provision of title I of the Employee Retirement Income Security Act of 1974;

''(B) any qualified retirement plan within the meaning of section 4974(c) of the Internal Revenue Code of 1986;

''(C) any medical savings account described in section 220 of the Internal Revenue Code of 1986; or

''(D) fund established within the Thrift Savings Fund by the Federal Retirement Thrift Investment Board pursuant to subchapter III of chapter 84 of title 5.

''(2) EXCEPTION FOR GOVERNMENTAL PLAN.—Such term does not include any governmental plan (as defined in section 3(32) of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(32))), except as provided in paragraph (1)(D).

''(3) CERTAIN ARRANGEMENTS INCLUDED.—Such term shall include any arrangement that has been represented to be an arrangement described in any subparagraph of paragraph (1) (whether or not so described).

''(b) PROHIBITION AND PENALTIES.—Whoever executes, or attempts to execute, a scheme or artifice—

''(1) to defraud any retirement arrangement or other person in connection with the establishment or maintenance of a retirement arrangement; or

''(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any retirement arrangement or other person in connection with the establishment or maintenance of a retirement arrangement;

shall be fined under this title, imprisoned not more than 10 years, or both.

''(c) ENFORCEMENT.—

''(1) IN GENERAL.—Subject to paragraph (2), the Attorney General may investigate any violation of and otherwise enforce this section.

''(2) EFFECT ON OTHER AUTHORITY.—Nothing in this subsection may be construed to preclude the Secretary of Labor or the head of any other appropriate Federal agency from investigating a violation of this section in relation to a retirement arrangement subject to title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.) or any other provision of Federal law.''.

(b) TECHNICAL AMENDMENT.—Section 24(a)(1) of title 18, United States Code, is amended by inserting ''1348,'' after ''1347,''.

(c) CONFORMING AMENDMENT.—The analysis for chapter 63 of title 18, United States Code, is amended by adding at the end the following:

''1348. Fraud in relation to retirement arrangements.''.

SEC. 205. ADDITIONAL CIVIL PENALTIES FOR DEFRAUDING PENSION PLANS.

(a) IN GENERAL.—

(1) ACTION BY ATTORNEY GENERAL.—Except as provided in subsection (b)—

(A) the Attorney General may bring a civil action in the appropriate district court of the United States against any person who engages in conduct constituting an offense under section 1348 of title 18, United States Code, or conspiracy to violate such section 1348; and

(B) upon proof of such conduct by a preponderance of the evidence, such person shall be subject to a civil penalty in an amount equal to the greatest of—

(i) the amount of pecuniary gain to that person;

(ii) the amount of pecuniary loss sustained by the victim; or

(iii) not more than—

(I) $50,000 for each such violation in the case of an individual; or

(II) $100,000 for each violation in the case of a person other than an individual.

(2) NO EFFECT ON OTHER REMEDIES.—The imposition of a civil penalty under this subsection does not preclude any other statutory, common law, or administrative remedy available by law to the United States or any other person.

(b) EXCEPTION.—No civil penalty may be imposed pursuant to subsection (a) with respect to conduct involving a retirement arrangement that—

(1) is an employee pension benefit plan subject to title I of Employee Retirement Income Security Act of 1974; and

(2) for which the civil penalties may be imposed under section 502 of Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132).

(c) DETERMINATION OF PENALTY AMOUNT.—In determining the amount of the penalty under subsection (a), the district court may consider the effect of the penalty on the violator or other person's ability to—

(1) restore all losses to the victims; or

(2) provide other relief ordered in another civil or criminal prosecution related to such conduct, including any penalty or tax imposed on the violator or other person pursuant to the Internal Revenue Code of 1986.''.

SEC. 206. PUNISHING BRIBERY AND GRAFT IN CONNECTION WITH EMPLOYEE BENEFIT PLANS.

Section 1954 of title 18, United State Code, is amended to read as follows:

''§ 1954. Bribery and graft in connection with employee benefit plans

''(a) DEFINITIONS.—In this section—

''(1) the term 'employee benefit plan' means any employee welfare benefit plan or employee pension benefit plan subject to any provision of title I of the Employee Retirement Income Security Act of 1974;

''(2) the terms 'employee organization', 'administrator', and 'employee benefit plan sponsor' mean any employee organization, administrator, or plan sponsor, as defined in title I of the Employment Retirement Income Security Act of 1974; and

''(3) the term 'applicable person' means a person who is—

''(A) an administrator, officer, trustee, custodian, counsel, agent, or employee of any employee benefit plan;

''(B) an officer, counsel, agent, or employee of an employer or an employer any of whose employees are covered by such plan;

''(C) an officer, counsel, agent, or employee of an employee organization any of whose members are covered by such plan;

''(D) a person who, or an officer, counsel, agent, or employee of an organization that, provides benefit plan services to such plan; or

''(E) a person with actual or apparent influence or decisionmaking authority in regard to such plan.

''(b) BRIBERY AND GRAFT.—Whoever—

''(1) being an applicable person, receives or agrees to receive or solicits, any fee, kickback, commission, gift, loan, money, or thing of value, personally or for any other person, because of or with the intent to be corruptly influenced with respect to any action, decision, or duty of that applicable person relating to any question or matter concerning an employee benefit plan;

''(2) directly or indirectly, gives or offers, or promises to give or offer, any fee, kickback, commission, gift, loan, money, or thing of value, to any applicable person, because of or with the intent to be corruptly influenced with respect to any action, decision, or duty of that applicable person relating to any question or matter concerning an employee benefit plan; or

''(3) attempts to give, accept, or receive any thing of value with the intent to be corruptly influenced in violation of this subsection;

shall be fined under this title, imprisoned not more than 5 years, or both.

''(c) EXCEPTIONS.—Nothing in this section may be construed to apply to any—

''(1) payment to or acceptance by any person of bona fide salary, compensation, or other payments made for goods or facilities actually furnished or for services actually performed in the regular course of his duties as an applicable person; or

''(2) payment to or acceptance in good faith by any employee benefit plan sponsor, or person acting on the sponsor's behalf, of any thing of value relating to the sponsor's decision or action to establish, terminate, or modify the governing instruments of an employee benefit plan in a manner that does not violate title I of the Employee Retirement Income Security Act of 1974, or any regulation or order promulgated thereunder, or any other provision of law governing the plan.''.

TITLE III—PREVENTING TELEMARKETING FRAUD

SEC. 301. CENTRALIZED COMPLAINT AND CONSUMER EDUCATION SERVICE FOR VICTIMS OF TELEMARKETING FRAUD.

(a) CENTRALIZED SERVICE.—

(1) REQUIREMENT.—The Federal Trade Commission shall, after consultation with the Attorney General, establish procedures to—

(A) log and acknowledge the receipt of complaints by individuals who certify that they have a reasonable belief that they have been the victim of fraud in connection with the conduct of telemarketing (as that term is defined in section 2325 of title 18, United States Code, as amended by section 302(a) of this Act);

(B) provide to individuals described in subparagraph (A), and to any other persons, information on telemarketing fraud, including—

(i) general information on telemarketing fraud, including descriptions of the most common telemarketing fraud schemes;

(ii) information on means of referring complaints on telemarketing fraud to appropriate law enforcement agencies, including the Director of the Federal Bureau of Investigation, the attorneys general of the States, and the national toll-free telephone number on telemarketing fraud established by the Attorney General; and

(iii) information, if available, on the number of complaints of telemarketing fraud against particular companies and any record of convictions for telemarketing fraud by particular companies for which a specific request has been made; and

(C) refer complaints described in subparagraph (A) to appropriate entities, including State consumer protection agencies or entities and appropriate law enforcement agencies, for potential law enforcement action.

(2) CENTRAL LOCATION.—The service under the procedures under paragraph (1) shall be provided at and through a single site selected by the Commission for that purpose.

(3) COMMENCEMENT.—The Commission shall commence carrying out the service not later than 1 year after the date of enactment of this Act.

(b) CREATION OF FRAUD CONVICTION DATABASE.—

(1) REQUIREMENT.—The Attorney General shall establish and maintain a computer database containing information on the corporations and companies convicted of offenses for telemarketing fraud under Federal and State law. The database shall include a description of the type and method of the fraud scheme for which each corporation or company covered by the database was convicted.

(2) USE OF DATABASE.—The Attorney General shall make information in the database available to the Federal Trade Commission for purposes of providing information as part of the service under subsection (a).

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 302. BLOCKING OF TELEMARKETING SCAMS.

(a) EXPANSION OF SCOPE OF TELEMARKETING FRAUD SUBJECT TO ENHANCED CRIMINAL PENALTIES.—Section 2325(1) of title 18, United States Code, is amended by striking ''telephone calls'' and inserting ''wire communications utilizing a telephone service''.

(b) BLOCKING OR TERMINATION OF TELEPHONE SERVICE ASSOCIATED WITH TELEMARKETING FRAUD.—

(1) IN GENERAL.—Chapter 113A of title 18, United States Code, is amended by adding at the end the following:

''§ 2328. Blocking or termination of telephone service

''(a) IN GENERAL.—If a common carrier subject to the jurisdiction of the Federal Communications Commission is notified in writing by the Attorney General, acting within the Attorney General's jurisdiction, that any wire communications facility furnished by such common carrier is being used or will be used by a subscriber for the purpose of transmitting or receiving a wire communication in interstate or foreign commerce for the purpose of executing any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, in connection with the conduct of telemarketing, the common carrier shall discontinue or refuse the leasing, furnishing, or maintaining of the facility to or for the subscriber after reasonable notice to the subscriber.

''(b) PROHIBITION ON DAMAGES.—No damages, penalty, or forfeiture, whether civil or criminal, shall be found or imposed against any common carrier for any act done by the common carrier in compliance with a notice received from the Attorney General under this section.

''(c) RELIEF.—

''(1) IN GENERAL.—Nothing in this section may be construed to prejudice the right of any person affected thereby to secure an appropriate determination, as otherwise provided by law, in a Federal court, that—

''(A) the leasing, furnishing, or maintaining of a facility should not be discontinued or refused under this section; or

''(B) the leasing, furnishing, or maintaining of a facility that has been so discontinued or refused should be restored.

''(2) SUPPORTING INFORMATION.—In any action brought under this subsection, the court may direct that the Attorney General present evidence in support of the notice made under subsection (a) to which such action relates.

''(d) DEFINITIONS.—In this section:

''(1) REASONABLE NOTICE TO THE SUBSCRIBER.—

''(A) IN GENERAL.—The term 'reasonable notice to the subscriber', in the case of a subscriber of a common carrier, means any information necessary to provide notice to the subscriber that—

''(i) the wire communications facilities furnished by the common carrier may not be used for the purpose of transmitting, receiving, forwarding, or delivering a wire communication in interstate or foreign commerce

for the purpose of executing any scheme or artifice to defraud in connection with the conduct of telemarketing; and

''(ii) such use constitutes sufficient grounds for the immediate discontinuance or refusal of the leasing, furnishing, or maintaining of the facilities to or for the subscriber.

''(B) INCLUDED MATTER.—The term includes any tariff filed by the common carrier with the Federal Communications Commission that contains the information specified in subparagraph (A).

''(2) WIRE COMMUNICATION.—The term 'wire communication' has the meaning given that term in section 2510(1) of this title.

''(3) WIRE COMMUNICATIONS FACILITY.—The term 'wire communications facility' means any facility (including instrumentalities, personnel, and services) used by a common carrier for purposes of the transmission, receipt, forwarding, or delivery of wire communications.''.

(2) CONFORMING AMENDMENT.—The analysis for that chapter is amended by adding at the end the following:

''2328. Blocking or termination of telephone service.''.

TITLE IV—PREVENTING HEALTH CARE FRAUD

SEC. 401. INJUNCTIVE AUTHORITY RELATING TO FALSE CLAIMS AND ILLEGAL KICKBACK SCHEMES INVOLVING FEDERAL HEALTH CARE PROGRAMS.

(a) IN GENERAL.—Section 1345(a) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by striking '', or'' and inserting a semicolon;

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

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

''(D) committing or about to commit an offense under section 1128B of the Social Security Act (42 U.S.C. 1320a–7b);''; and

(2) in paragraph (2), by inserting ''a violation of paragraph (1)(D) or'' before ''a banking''.

(b) CIVIL ACTIONS.—

(1) IN GENERAL.—Section 1128B of the Social Security Act (42 U.S.C. 1320a–7b) is amended by adding at the end the following:

''(g) CIVIL ACTIONS.—

''(1) IN GENERAL.—The Attorney General may bring an action in the appropriate district court of the United States to impose upon any person who carries out any activity in violation of this section with respect to a Federal health care program a civil penalty of not more than $50,000 for each such violation, or damages of 3 times the total remuneration offered, paid, solicited, or received, whichever is greater.

''(2) EXISTENCE OF VIOLATION.—A violation exists under paragraph (1) if 1 or more purposes of the remuneration is unlawful, and the damages shall be the full amount of such remuneration.

''(3) PROCEDURES.—An action under paragraph (1) shall be governed by—

''(A) the procedures with regard to subpoenas, statutes of limitations, standards of proof, and collateral estoppel set forth in section 3731 of title 31, United States Code; and

''(B) the Federal Rules of Civil Procedure.

''(4) NO EFFECT ON OTHER REMEDIES.—Nothing in this section may be construed to affect the availability of any other criminal or civil remedy.

''(h) INJUNCTIVE RELIEF.—The Attorney General may commence a civil action in an appropriate district court of the United States to enjoin a violation of this section, as provided in section 1345 of title 18, United States Code.''.

(2) CONFORMING AMENDMENT.—The heading of section 1128B of the Social Security Act (42 U.S.C. 1320a–7b) is amended by inserting ''AND CIVIL'' after ''CRIMINAL''.

SEC. 402. AUTHORIZED INVESTIGATIVE DEMAND PROCEDURES.

Section 3486 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting '', or any allegation of fraud or false claims (whether criminal or civil) in connection with a Federal health care program (as defined in section 1128B(f) of the Social Security Act (42 U.S.C. 1320a–7b(f))),'' after ''Federal health care offense,''; and

(2) by adding at the end the following:

''(f) PRIVACY PROTECTION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), any record (including any book, paper, document, electronic medium, or other object or tangible thing) produced pursuant to a subpoena issued under this section that contains personally identifiable health information may not be disclosed to any person, except pursuant to a court order under subsection (e)(1).

''(2) EXCEPTIONS.—A record described in paragraph (1) may be disclosed—

''(A) to an attorney for the government for use in the performance of the official duty of the attorney (including presentation to a Federal grand jury);

''(B) to such government personnel (including personnel of a State or subdivision of a State) as are determined to be necessary by an attorney for the government to assist an attorney for the government in the performance of the official duty of that attorney to enforce Federal criminal law;

''(C) as directed by a court preliminarily to or in connection with a judicial proceeding; and

''(D) as permitted by a court—

''(i) at the request of a defendant in an administrative, civil, or criminal action brought by the United States, upon a showing that grounds may exist for a motion to exclude evidence obtained under this section; or

''(E) at the request of an attorney for the government, upon a showing that such matters may disclose a violation of State criminal law, to an appropriate official of a State or subdivision of a State for the purpose of enforcing such law.

''(3) MANNER OF COURT ORDERED DISCLOSURES.—If a court orders the disclosure of any record described in paragraph (1), the disclosure shall be made in such manner, at such time, and under such conditions as the court may direct and shall be undertaken in a manner that preserves the confidentiality and privacy of individuals who are the subject of the record, unless disclosure is required by the nature of the proceedings, in which event the attorney for the government shall request that the presiding judicial or administrative officer enter an order limiting the disclosure of the record to the maximum extent practicable, including redacting the personally identifiable health information from publicly disclosed or filed pleadings or records.

''(4) DESTRUCTION OF RECORDS.—Any record described in paragraph (1), and all copies of that record, in whatever form (including electronic) shall be destroyed not later than 90 days after the date on which the record is produced, unless otherwise ordered by a court of competent jurisdiction, upon a showing of good cause.

''(5) EFFECT OF VIOLATION.—Any person who knowingly fails to comply with this subsection may be punished as in contempt of court.

''(g) PERSONALLY IDENTIFIABLE HEALTH INFORMATION DEFINED.—In this section, the term 'personally identifiable health information' means any information, including genetic information, demographic information, and tissue samples collected from an individual, whether oral or recorded in any form or medium, that—

''(1) relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual; and

''(2) either—

''(A) identifies an individual; or

''(B) with respect to which there is a reasonable basis to believe that the information can be used to identify an individual.''.

SEC. 403. EXTENDING ANTIFRAUD SAFEGUARDS TO THE FEDERAL EMPLOYEE HEALTH BENEFITS PROGRAM.

Section 1128B(f)(1) of the Social Security Act (42 U.S.C. 1320a–7b(f)(1)) is amended by striking ''(other than the health insurance program under chapter 89 of title 5, United States Code)''.

SEC. 404. GRAND JURY DISCLOSURE.

Section 3322 of title 18, United States Code, is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

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

''(c) GRAND JURY DISCLOSURE.—Subject to section 3486(f), upon ex parte motion of an attorney for the government showing that such disclosure would be of assistance to enforce any provision of Federal law, a court may direct the disclosure of any matter occurring before a grand jury during an investigation of a Federal health care offense (as defined in section 24(a) of this title) to an attorney for the government to use in any investigation or civil proceeding relating to fraud or false claims in connection with a Federal health care program (as defined in section 1128B(f) of the Social Security Act (42 U.S.C. 1320a–7b(f))).''.

SEC. 405. INCREASING THE EFFECTIVENESS OF CIVIL INVESTIGATIVE DEMANDS IN FALSE CLAIMS INVESTIGATIONS.

Section 3733 of title 31, United States Code, is amended—

(1) in subsection (a)(1), in the second sentence, by inserting '', except to the Deputy Attorney General or to an Assistant Attorney General'' before the period at the end; and

(2) in subsection (i)(2)(C), by adding at the end the following: ''Disclosure of information to a person who brings a civil action under section 3730, or such person's counsel, shall be allowed only upon application to a United States district court showing that such disclosure would assist the Department of Justice in carrying out its statutory responsibilities.''.

TITLE V—PROTECTING RESIDENTS OF NURSING HOMES

SEC. 501. SHORT TITLE.

This title may be cited as the ''Nursing Home Resident Protection Act of 1999''.

SEC. 502. NURSING HOME RESIDENT PROTECTION.

(a) PROTECTION OF RESIDENTS IN NURSING HOMES AND OTHER RESIDENTIAL HEALTH CARE FACILITIES.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

''§ 1349. Pattern of violations resulting in harm to residents of nursing homes and related facilities.

''(a) DEFINITIONS.—In this section:

''(1) ENTITY.—The term 'entity' means any residential health care facility (including facilities that do not exclusively provide residential health care services), any entity that manages a residential health care facility, or

any entity that owns, directly or indirectly, a controlling interest or a 50 percent or greater interest in 1 or more residential health care facilities including States, localities, and political subdivisions thereof.

''(2) FEDERAL HEALTH CARE PROGRAM.—The term 'Federal health care program' has the meaning given that term in section 1128B(f) of the Social Security Act.

''(3) PATTERN OF VIOLATIONS.—The term 'pattern of violations' means multiple violations of a single Federal or State law, regulation, or rule or single violations of multiple Federal or State laws, regulations, or rules, that are widespread, systemic, repeated, similar in nature, or result from a policy or practice.

''(4) RESIDENTIAL HEALTH CARE FACILITY.—The term 'residential health care facility' means any facility (including any facility that does not exclusively provide residential health care services) including skilled and unskilled nursing facilities and mental health and mental retardation facilities, that—

''(A) receives Federal funds, directly from the Federal Government or indirectly from a third party on contract with or receiving a grant or other monies from the Federal government, to provide health care; or

''(B) provides health care services in a residential setting and, in any calendar year in which a violation occurs, is the recipient of benefits or payments in excess of $10,000 from a Federal health care program.

''(5) STATE.—The term 'State' means each of the several States of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

''(b) PROHIBITION AND PENALTIES.—Whoever knowingly and willfully engages in a pattern of violations that affects the health, safety, or care of individuals residing in a residential health care facility or facilities, and that results in significant physical or mental harm to 1 or more of such residents, shall be punished as provided in section 1347, except that any organization shall be fined not more than $2,000,000 per residential health care facility.

''(c) CIVIL PROVISIONS.—

''(1) IN GENERAL.—The Attorney General may bring an action in a district court of the United States to impose on any individual or entity that engages in a pattern of violations that affects the health, safety, or care of individuals residing in a residential health care facility, and that results in physical or mental harm to 1 or more such residents, a civil penalty or—

''(A) in the case of an individual (other than an owner, operator, officer or manager of such a residential health care facility), not more than $10,000;

''(B) in the case of an individual who is an owner, operator, officer, or manager of such a residential health care facility, not more than $100,000 for each separate facility involved in the pattern of violations under this section; or

''(C) in the case of a residential health care facility, not more than $1,000,000 for each pattern of violations, and in the case of an entity, not more than $1,000,000 for each separate residential health care facility involved in the pattern of violations owned or managed by that entity.

''(2) OTHER APPROPRIATE RELIEF.—If the Attorney General has reason to believe that an individual or entity is engaging in or is about to engage in a pattern of violations that would affect the health, safety, or care of individuals residing in a residential health care facility, and that results in or has the potential to result in physical or mental harm to 1 or more such residents, the Attorney General may petition an appropriate district court of the United States for appropriate equitable and declaratory relief to eliminate the pattern of violations.

''(3) PROCEDURES.—In any action under this subsection—

''(A) a subpoena requiring the attendance of a witness at a trial or hearing may be served at any place in the United States;

''(B) the action may not be brought more than 6 years after the date on which the violation occurs;

''(C) the United States shall be required to prove each charge by a preponderance of the evidence;

''(D) the civil investigative demand procedures set forth in the Antitrust Civil Process Act (15 U.S.C. 1311 et seq.) and regulations promulgated pursuant thereto shall apply to any investigation; and

''(E) the filing or resolution of a matter shall not preclude any other remedy that is available to the United States or any other person.

''(d) PROHIBITION AGAINST RETALIATION.—Any person who is the subject of retaliation, either directly or indirectly, for reporting a condition that may constitute grounds for relief under this section may bring an action in an appropriate district court of the United States for damages, attorneys' fees, and other relief.''.

(b) AUTHORIZED INVESTIGATIVE DEMAND PROCEDURES.—Section 3486(a)(1) of title 18, United States Code, is amended by inserting ''or act or activity involving section 1349 of this title'' after ''Federal health care offense''.

(c) CONFORMING AMENDMENT.—The analysis for chapter 63 of title 18 United States Code, is amended by adding at the end the following:

''1349. Pattern of violations resulting in harm to residents of nursing homes and related facilities.''.

TITLE VI—PROTECTING THE RIGHTS OF ELDERLY CRIME VICTIMS

SEC. 601. USE OF FORFEITED FUNDS TO PAY RESTITUTION TO CRIME VICTIMS AND REGULATORY AGENCIES.

Section 981(e) of this title 18, United States Code, is amended—

(1) in each of paragraphs (3), (4), and (5), by striking ''in the case of property referred to in subsection (a)(1)(C)'' and inserting ''in the case of property forfeited in connection with an offense resulting in a pecuniary loss to a financial institution or regulatory agency'';

(2) by striking paragraph (6) and inserting the following:

''(6) as restoration to any victim of the offense giving rise to the forfeiture, including, in the case of a money laundering offense, any offense constituting the underlying specified unlawful activity; or''; and

(3) in paragraph (7), by striking ''in the case of property referred to in subsection (a)(1)(D)'' and inserting ''in the case of property forfeited in connection with an offense relating to the sale of assets acquired or held by any Federal financial institution or regulatory agency, or person appointed by such agency, as receiver, conservator, or liquidating agent for an financial institution''.

SEC. 602. VICTIM RESTITUTION.

Section 413 of the Controlled Substances Act (21 U.S.C. 853) is amended by adding at the end the following:

''(r) VICTIM RESTITUTION.—

''(1) SATISFACTION OF ORDER OF RESTITUTION.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), a defendant may not use property subject to forfeiture under this section to satisfy an order of restitution.

''(B) EXCEPTION.—If there are 1 or more identifiable victims entitled to restitution from a defendant, and the defendant has no assets other than the property subject to forfeiture with which to pay restitution to the victim or victims, the attorney for the Government may move to dismiss a forfeiture allegation against the defendant before entry of a judgment of forfeiture in order to allow the property to be used by the defendant to pay restitution in whatever manner the court determines to be appropriate if the court grants the motion. In granting a motion under this subparagraph, the court shall include a provision ensuring that costs associated with the identification, seizure, management, and disposition of the property are recovered by the United States.

''(2) RESTORATION OF FORFEITED PROPERTY.—

''(A) IN GENERAL.—If an order of forfeiture is entered pursuant to this section and the defendant has no assets other than the forfeited property to pay restitution to 1 or more identifiable victims who are entitled to restitution, the Government shall restore the forfeited property to the victims pursuant to subsection (i)(1) once the ancillary proceeding under subsection (n) has been completed and the costs of the forfeiture action have been deducted.

''(B) DISTRIBUTION OF PROPERTY.—On motion of the attorney for the Government, the court may enter any order necessary to facilitate the distribution of any property restored under this paragraph.

''(3) VICTIM DEFINED.—In this subsection, the term 'victim'—

''(A) means a person other than a person with a legal right, title, or interest in the forfeited property sufficient to satisfy the standing requirements of subsection (n)(2) who may be entitled to restitution from the forfeited funds pursuant to section 9.8 of part 9 of title 28, Code of Federal Regulations (or any successor to that regulation); and

''(B) includes any person who is the victim of the offense giving rise to the forfeiture, or of any offense that was part of the same scheme, conspiracy, or pattern of criminal activity, including, in the case of a money laundering offense, any offense constituting the underlying specified unlawful activity.''.

SEC. 603. BANKRUPTCY PROCEEDINGS NOT USED TO SHIELD ILLEGAL GAINS FROM FALSE CLAIMS.

(a) CERTAIN ACTIONS NOT STAYED BY BANKRUPTCY PROCEEDINGS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the commencement or continuation of an action under section 3729 of title 31, United States Code, does not operate as a stay under section 105(a) or 362(a)(1) of title 11, United States Code.

(2) CONFORMING AMENDMENT.—Section 362(b) of title 11, United States Code, is amended—

(A) in paragraph (17), by striking ''or'' at the end;

(B) in paragraph (18), by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(19) the commencement or continuation of an action under section 3729 of title 31.''.

(b) CERTAIN DEBTS NOT DISCHARGEABLE IN BANKRUPTCY.—Section 523 of title 11, United States Code, is amended by adding at the end the following:

''(f) A discharge under section 727, 1141, 1228(a), 1228(b), or 1328(b) does not discharge a debtor from a debt owed for violating section 3729 of title 31.''.

(c) REPAYMENT OF CERTAIN DEBTS CONSIDERED FINAL.—

(1) IN GENERAL.—Chapter 1 of title 11, United States Code, is amended by adding at the end the following:

''§ 111. False claims

''No transfer on account of a debt owed to the United States for violating 3729 of title

31, or under a compromise order or other agreement resolving such a debt may be avoided under section 544, 545, 547, 548, 549, 553(b), or 742(a).''.

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 11, United States Code, is amended by adding at the end the following:

''111. False claims.''.

SEC. 604. FORFEITURE FOR RETIREMENT OFFENSES.

(a) CRIMINAL FORFEITURE.—Section 982(a) of title 18, United States Code, is amended by adding at the end the following:

''(9) CRIMINAL FORFEITURE.—

''(A) IN GENERAL.—The court, in imposing sentence on a person convicted of a retirement offense, shall order the person to forfeit property, real or personal, that constitutes or that is derived, directly or indirectly, from proceeds traceable to the commission of the offense.

''(B) RETIREMENT OFFENSE DEFINED.—In this paragraph, the term 'retirement offense' means a violation of any of the following provisions of law, if the violation, conspiracy, or solicitation relates to a retirement arrangement (as defined in section 1348 of title 18, United States Code):

''(i) Section 664, 1001, 1027, 1341, 1343, 1348, 1951, 1952, or 1954 of title 18, United States Code.

''(ii) Sections 411, 501, or 511 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1111, 1131, 1141).''.

(b) CIVIL FORFEITURE.—Section 981(a)(1) of title 18, United States Code, is amended by adding at the end the following:

''(G) Any property, real or personal, that constitutes or is derived, directly or indirectly, from proceeds traceable to the commission of a violation of, a criminal conspiracy to violated or solicitation to commit a crime of violence involving a retirement offense (as defined in section 982(a)(9)(B)).''.

SENIORS SAFETY ACT OF 1999—SECTION BY SECTION ANALYSIS

SEC. 1. SHORT TITLE. The Act may be cited as the Seniors Safety Act of 1999.

SEC. 2. FINDINGS AND PURPOSES. The Act enumerates 14 findings on the incidence of crimes against seniors, the large percentages of seniors who can expect to spend time in nursing homes, the amount of Federal money spent on nursing home care and the estimated losses due to fraud and abuse in the health care industry.

The purposes of the Act are to combat abuse in nursing homes, enhance safeguards for pension plans and health benefit programs, develop strategies for preventing and punishing crimes against seniors as well as collecting information about such crimes, preventing and deterring criminal activity that results in economic and physical harm to seniors, and ensuring appropriate restitution.

SEC. 3. DEFINITIONS. Definitions are provided for the following terms: (1) ''Crime'' is defined as any criminal offense under Federal or State law; (2) ''Nursing home'' is defined as any institution or residential care facility defined as such for licensing purposes under state law, or the federal equivalent; and (3) ''Seniors'' is defined as individuals who are more than 55 years old.

TITLE I—STRATEGIES FOR PREVENTING CRIMES AGAINST SENIORS

SEC. 101. STUDY OF CRIMES AGAINST SENIORS.

The Act directs the Attorney General to conduct a study addressing, inter alia, the types of crimes and risk factors associated with crimes against seniors, and develop new strategies to prevent and reduce crimes against seniors. The results of this study shall be reported to the Senate and House Judiciary Committees within 18 months.

SEC. 102. INCLUSION OF SENIORS IN THE NATIONAL CRIME VICTIMS SURVEY.

The Act provides that within two years of its enactment, the Attorney General shall include in the National Crime Victimization Survey (NCVS) statistics relating to crimes and risk factors associated with crimes against seniors.

TITLE II—COMBATING CRIMES AGAINST SENIORS

SEC. 201. ENHANCED SENTENCING PENALTIES BASED ON AGE OF VICTIM.

(a) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION. The U.S. Sentencing Commission is directed to review and, if appropriate, amend the sentencing guidelines to include age as one of the criteria for determining whether a sentencing enhancement is appropriate.

(b) REQUIREMENTS. During its review, the Sentencing Commission shall: ensure that the guidelines adequately reflect the economic and physical harms associated with criminal activity targeted at seniors; consider providing increased penalties for offenses where the victim was a senior; consult with seniors, victims, judiciary, and law enforcement representatives; assure reasonable consistency with other relevant directives and guidelines; account for circumstances which may justify exceptions, including any circumstances already warranting sentencing enhancements; make any necessary conforming changes; and assure that the guidelines adequately meet the purposes of sentencing.

(c) REPORT. The sentencing commission shall report the results of the review required under (a) and include any recommendations for retention or modification of the current penalty levels by December 31, 2000.

SEC. 202. STUDY AND REPORT ON HEALTH CARE FRAUD SENTENCES.

(a) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION. The U.S. Sentencing Commission is directed to review and, if appropriate, amend the sentencing guidelines applicable to health care fraud offenses.

(b) REQUIREMENTS. During its review, the Sentencing Commission shall: ensure that the guidelines reflect the serious harms associated with health care fraud and the need for law enforcement to prevent such fraud; consider enhanced penalties for persons convicted of health care fraud; consult with representatives of industry, judiciary, law enforcement, and victim groups; account for mitigating circumstances; assure reasonable consistency with other relevant directives and guidelines; make any necessary conforming changes; and assure that the guidelines adequately meet the purposes of sentencing.

(c) REPORT. The Sentencing Commission shall report the results of the review required under (a) and include any recommendations for retention or modification of the current penalty levels for health care fraud offenses, by December 31, 2000.

SEC. 203. INCREASED PENALTIES FOR FRAUD RESULTING IN SERIOUS INJURY OR DEATH.

This section increases the penalties under the mail fraud statute, 18 U.S.C. § 1341, and the wire fraud statute, 18 U.S.C. § 1343, for fraudulent schemes that result in serious injury or death. Existing law provides such an enhancement for a narrow class of health care fraud schemes (see 18 U.S.C. 1347). This provision would extend this penalty enhancement to other forms of fraud under the mail and wire fraud statutes that result in death or serious injury. The maximum penalty if serious bodily harm occurred would be up to twenty years; if a death occurred, the maximum penalty would be a life sentence.

SEC. 204. SAFEGUARDING PENSION PLANS FROM FRAUD AND THEFT.

(a) IN GENERAL. This section would add new section 1348 to title 18, United States Code.

§1348: Fraud in Relation to Retirement Arrangements:

(a) This section defines retirement arrangements and provides an exception for plans established by the Employee Retirement Income Security Act (ERISA).

(b) This section punishes, with up to ten years' imprisonment, the act of defrauding retirement arrangements, or obtaining by means of false or fraudulent pretenses money or property of any retirement arrangement. Retirement arrangements would include employee pension benefit plans under the Employee Retirement Income Security Act (ERISA), qualified retirement plans under section 4974(c) of the Internal Revenue Code (IRC), medical savings accounts under section 220 of the IRC, and funds established within the Thrift Savings Fund. This provision is modeled on existing statutes punishing bank fraud (see 18 U.S.C. § 1344) and health care fraud (see 18 U.S.C. § 1347). Any government plan defined under section 3(32) of title I of the ERISA, except funds established by the Federal Retirement Thrift Investment Board, is exempt from this section.

(c) The Attorney General is given authority to investigate offenses under the new section, but this authority expressly does not preclude other appropriate Federal agencies, including the Secretary of Labor, from investigating violations of ERISA.

(b) CONFORMING AMENDMENT. The table of sections for chapter 63 of title 18 United States Code, is modified to list new section ''1348. Fraud in relation to retirement arrangements.''

SEC. 205. ADDITIONAL CIVIL PENALTIES FOR DEFRAUDING PENSION PLANS.

(a) IN GENERAL. This section would authorize the Attorney General to bring a civil action for a violation, or conspiracy to violate, new section 18 U.S.C. § 1348, relating to retirement fraud. Proof of such a violation established by a preponderance of the evidence would subject the violator to a civil penalty of the greater of the amount of pecuniary gain to the offender, the pecuniary loss to the victim, or up to $50,000 in the case of an individual, or $100,000 for an organization. Imposition of this civil penalty has no effect on other possible remedies.

(b) EXCEPTION. No civil penalties would be imposed for conduct involving an employee pension plan subject to penalties under ERISA, 29 U.S.C. § 1132.

(c) DETERMINATION OF PENALTY AMOUNT. In determining the amount of the penalty, the court is authorized to consider the effect of the penalty on the violator's ability to restore all losses to the victims and to pay other important tax or criminal penalties.

SEC. 206. PUNISHING BRIBERY AND GRAFT IN CONNECTION WITH EMPLOYEE BENEFIT PLANS.

This section would amend section 1954 of title 18, United States Code, by changing the title to ''Bribery and graft in connection with employee benefit plans,'' and increasing the maximum penalty for bribery and graft in regard to the operation of an employee benefit plan from 3 to 5 years imprisonment. This section also broadens existing law under section 1954 to cover corrupt attempts to give or accept bribery or graft payments, and to proscribe bribery or graft payments to persons exercising de facto influence or control over employee benefit plans. Finally, this amendment clarifies that a violation

under section 1954 requires a showing of corrupt intent to influence the actions of the recipient of the bribe or graft.

TITLE III—PREVENTING TELEMARKETING CRIME.

SEC. 301. CENTRALIZED COMPLAINT AND CONSUMER EDUCATION SERVICE FOR VICTIMS OF TELEMARKETING FRAUD.

(a) CENTRALIZED SERVICE. This section directs the Commissioner of the Federal Trade Commission to establish a ''Better Business''-style hotline to serve as a central information clearinghouse for victims of telemarketing fraud within one year. As part of this service, the FTC is required to establish procedures for logging in complaints of telemarketing fraud victims, providing information on telemarketing fraud schemes, referring complaints to appropriate law enforcement officials, and providing complaint or prior conviction information about specific companies.

(b) CREATION OF FRAUD CONVICTION DATABASE. The Attorney General is directed to establish a database of telemarketing fraud convictions secured against corporations or companies, for the use as described in (a).

(c) AUTHORIZATION OF APPROPRIATIONS. Authorization is provided for such sums as are necessary to carry out the section.

SEC. 302. BLOCKING OF TELEMARKETING SCAMS.

(a) EXPANSION OF SCOPE OF TELEMARKETING FRAUD SUBJECT TO ENHANCED CRIMINAL PENALTIES. Section 2325 of title 18, United States Code, is amended by replacing the term ''telephone calls'' with ''wire communication utilizing a telephone service'' to clarify that telemarketing fraud schemes executed using cellular telephone services are subject to the enhanced penalties for such fraud under 18 U.S.C. § 2326.

(b) BLOCKING OR TERMINATION OF TELEPHONE SERVICE ASSOCIATED WITH TELEMARKETING FRAUD. This section adds new section 2328 to title 18, United States Code, to authorize the termination of telephone service used to carry on telemarketing fraud, and is similar to the legal authority provided under 18 U.S.C. § 1084(d), regarding termination of telephone service used to engage in illegal gambling. The new section 2328 requires telephone companies, upon notification in writing from the Department of Justice that a particular phone number is being used to engage in fraudulent telemarketing or other fraudulent conduct, and after notice to the customer, to terminate the subscriber's telephone service. The common carrier is exempt from civil and criminal penalties for any actions taken in compliance with any notice received from the Justice Department under this section. Persons affected by termination may seek an appropriate determination in Federal court that the service should not be discontinued or removed, and the court may direct the Department of Justice to present evidence supporting the notification of termination. Definitions are provided for ''wire communication facility'' and ''reasonable notice to the subscriber.''

TITLE IV—PREVENTING HEALTH CARE FRAUD.

SEC. 401. INJUNCTIVE AUTHORITY RELATING TO FALSE CLAIMS AND ILLEGAL KICKBACK SCHEMES INVOLVING FEDERAL HEALTH CARE PROGRAMS.

(a) IN GENERAL. This section extends the provisions of 18 U.S.C. § 1345, which authorizes injunctions against frauds, to authorize the Attorney General to take immediate action to halt illegal health care fraud kickback schemes under the Social Security Act (42 U.S.C. § 1320a-7b). Under existing law, (18 U.S.C. § 1345 (a)(1)(C)), Federal prosecutors are able to obtain injunctive relief in connection with a wide variety of Federal health care offenses. This authority has proven to be extremely valuable in putting a halt to fraudulent behavior, but such relief is not available in connection with kickback offenses under section 1128B of the Social Security Act (42 U.S.C. §1320a-7b). Because of the large amounts of money involved in these kinds of cases, the Attorney General should have the authority to enjoin kickback schemes while they are in progress.

(b) CIVIL ACTIONS. This section would amend 42 U.S.C. § 1320a-7b by adding a new subsection (g) authorizing the Attorney General to seek a civil penalty of up to $50,000 per violation, or three times the remuneration, whichever is greater, for each offense under this section with respect to a Federal health care program. This penalty is in addition to other criminal and civil penalties. The procedures are governed by the Federal Rules of Civil Procedure and 31 U.S.C. 3731. If one or more of the purposes of the remuneration is unlawful, a violation exists and damages shall be the full amount of the remuneration.

SEC. 402. AUTHORIZED INVESTIGATIVE DEMAND PROCEDURES.

This section would amend section 3486 of title 18, United States Code, to authorize the Attorney General or her designee to issue administrative subpoenas—called ''authorized investigative demands''—to investigate civil health care fraud cases. Under section 248 of the Health Insurance Portability and Accountability Act of 1996 (Pub. L. 104–191), the Attorney General or her designee is authorized to issue an administrative subpoena in connection with an investigation relating to a Federal health care offense, defined under 18 U.S.C. § 24 to include only criminal offenses. In civil cases, however, the Department's attorneys must rely upon subpoenas issued by the office of the Inspector General of the Department of Health and Human Services or upon civil investigative demands. To facilitate the Department of Justice's ability to investigate civil health care fraud cases in an effective and efficient manner, this provision allows the Attorney General or her designee to issue an administrative subpoena in connection with any health care fraud case, criminal or civil.

This section also provides privacy safeguards for personally identifiable health information that may be obtained in response to an administrative subpoena and divulged in the course of a federal investigation. Information provided in response to a grand jury subpoena is generally required, under Rule 6(e) of the Federal Rules of Criminal Procedure, to be kept secret. By contrast, this secrecy rule would not apply to information obtained in response to an administrative subpoena. This section therefore protects the privacy and confidentiality of personally identifiable health information by limiting its disclosure to a federal prosecutor in the performance of official duties, to other government personnel where necessary to assist in the enforcement of Federal criminal law, or when directed by a court. The section requires that such information be destroyed within 90 days from production, unless otherwise ordered by a court. ''Personally identifiable health information'' is defined to mean any information relating to the physical or mental condition of an individual, the provision of, or payments for, health care, that either identifies an individual or with respect to which there is a reasonable basis to believe that the information can be used to identify an individual.

SEC. 403. EXTENDING ANTI-FRAUD SAFEGUARDS TO THE FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM.

This section removes the anti-fraud exemption for the Federal Employee Health Benefits (FEHB) Act currently contained in section 1128B(f)(1) of the Social Security Act, thereby extending anti-fraud and anti-kickback safeguards applicable to the Medicare and Medicaid program to the FEHB. This would allow the Attorney General to use the same civil enforcement tools to fight fraud perpetrated against the FEHB program as are available to other Federal health care programs, and to recover civil penalties against persons or entities engaged in illegal kickback schemes under the anti-kickback provisions of the Social Security Act (42 U.S.C. §1320a-7b). Removal of this exemption would allow enhanced penalties for repeat offenders, additional anti-kickback enforcement, enhanced civil monetary penalties, and full participation in the Health Care Fraud and Abuse Control Account. Civil penalties are particularly important in health care fraud, since the complex business arrangements often employed in connection with kickback schemes pose difficulties in proving the necessary scienter needed to sustain a criminal prosecution.

SEC. 404. GRAND JURY DISCLOSURE.

This section would amend section 3322 of title 18, United States Code, to authorize federal prosecutors to seek a court order to share grand jury information regarding health care offenses, as defined in 18 U.S.C. § 24, with other federal prosecutors for use in civil proceedings or investigations relating to fraud or false claims in connection with any Federal health care program. Under current law, grand jury information may not be shared for use by government attorneys in civil investigations except ''when so directed by a court preliminarily to or in connection with a judicial proceeding,'' and may require a hearing at which ''other persons as the court may direct'' are given a ''reasonable opportunity to appear and be heard.'' F.R.Cr.P. 6(e)(3)(C)(i) & (D). The important policy reasons for protecting the secrecy of grand juries and allowing only narrow access to grand jury proceedings by Federal civil prosecutors are fully set forth in United States v. Sells Engineering, Inc., 463 U.S. 418 (1983).

Mindful of the reasons for grand jury secrecy, the proposed amendment would permit grand jury information regarding health care offenses to be shared with Federal civil prosecutors, only after ex parte court review and a finding that the information would assist in enforcement of federal laws or regulations. Simplifying the sharing of grand jury information by avoiding the need for a judicial proceeding or the possibility of a hearing, would avoid subverting the grand jury secrecy rule while enhancing the effectiveness of the Department of Justice's overall health care anti-fraud effort. In particular, by facilitating the sharing of information between criminal investigators and civil prosecutors, this proposal would enable the Justice Department to proceed more quickly and efficiently to recover losses to federal health care programs and to prevent wrongdoers from dissipating illegally obtained assets before the Government can take action to recover the government's losses. Privacy safeguards for personally identifiable health care information proposed in section 401 of this Act would also apply to information shared under this new provision.

SEC 405. INCREASING THE EFFECTIVENESS OF CIVIL INVESTIGATIVE DEMANDS IN A FALSE CLAIMS INVESTIGATION.

This section amends section 3733 of title 31, United States Code, to permit the Attorney General to delegate authority to issue civil

investigative demands to the Deputy Attorney General or an Assistant Attorney General. The Deputy Attorney General and Assistant Attorneys General already are authorized under current law to cause such discovery demands to be served.

In addition, section 3733 is amended to permit a person who initiated an investigation or proceeding under 31 U.S.C. § 3730, or such person's counsel (i.e., whistle-blowers who have brought a qui tam suit under the False Claims Act) to seek permission from a district court to obtain information disclosed to the Justice Department in response to civil investigative demands. Whistle blowers who relay information for false claims actions to the government are often able to provide valuable assistance to the government in pursuing false claims law investigations and actions. This assistance may be further enhanced if they have an opportunity to review information obtained by the Justice Department in connection with the investigation.

TITLE V—PROTECTING RESIDENTS OF NURSING HOMES

SEC. 501. NURSING HOME RESIDENT PROTECTION ACT.

This title may be cited as the ''Nursing Home Resident Protection Act of 1999.''

SEC. 502. NURSING HOME RESIDENT PROTECTION.

(a) PROTECTION OF RESIDENTS IN NURSING HOMES AND OTHER RESIDENTIAL HEALTH CARE FACILITIES. This section would add new section 1349 to title 18, United States Code, to punish persons who engage in a pattern of willful violations of Federal laws, regulations, rules, or State laws governing the health, safety, or care of individuals residing in residential health care facilities, and allows the Attorney General to bring civil penalties against those entities. It also provides additional ''whistle blower'' protection by allowing a person who is retaliated against for reporting nursing home conditions to bring a civil action for damages, attorney's fees, and other costs.

(b) AUTHORIZED INVESTIGATIVE DEMAND PROCEDURES. This section would amend section 3486(a)(1) of title 18, United States Code, to authorize the Attorney General or a designated representative to issue administrative subpoenas in cases under new section 1349 of title 18, United States Code.

(c) CONFORMING AMENDMENT. The table of sections for chapter 63 of title 18 United States Code, is modified to list new section ''1349. Pattern of violations resulting in harm to residents of nursing homes and related facilities.''

TITLE VI—PROTECTING THE RIGHTS OF ELDERLY CRIME VICTIMS

SEC. 601. USE OF FORFEITED FUNDS TO PAY RESTITUTION TO CRIME VICTIMS AND REGULATORY AGENCIES. This section would amend section 981(e) of title 18, United States Code, to allow the use of forfeited funds to pay restitution to crime victims and regulatory agencies.

SEC. 602. VICTIM RESTITUTION. The section adds a new subsection ''(r) VICTIM RESTITUTION'' to the Controlled Substances Act (21 U.S.C. §853) to allow the government to move to dismiss forfeiture proceedings to allow the defendant to use the property subject to forfeiture for the payment of restitution to victims. If forfeiture proceedings are complete and there is no other source of restitution available to the victims, the Government may return the forfeited property so it may be used for restitution.

SEC. 603. BANKRUPTCY PROCEEDINGS NOT USED TO SHIELD ILLEGAL GAINS FROM FALSE CLAIMS.

(a) CERTAIN ACTIONS NOT STAYED BY BANKRUPTCY PROCEEDINGS. This section provides that an action under the False Claims Act may be brought and continued despite concurrent bankruptcy proceedings.

(b) CERTAIN DEBTS NOT DISCHARGEABLE IN BANKRUPTCY. This section prohibits the discharge in bankruptcy of debts resulting from judgments or settlements in Medicare and Medicaid fraud cases under the False Claims Act. Currently, in some cases, persons who rip off the Medicare or Medicaid system can avoid repaying their ill-gotten gains or penalties by filing for bankruptcy.

(c) REPAYMENT OF CERTAIN DEBTS CONSIDERED FINAL. This section adds a new §111 to chapter I of title II of the United States Code which provides that no debt owed for a violation of the False Claims act or under a compromise order or other agreement resolving such a debt may be avoided under bankruptcy provisions.

SEC. 604. FORFEITURE FOR RETIREMENT OFFENSES.

(a) CRIMINAL FORFEITURE. This section adds a new subsection to 18 U.S.C. § 982(a) to require the forfeiture of proceeds of a criminal retirement offense, including a violation of new section 1348 of title 18, United States Code.

(b) CIVIL FORFEITURE. This section adds a new subsection to 18 U.S.C. § 981(a)(1) to permit the civil forfeiture of proceeds from a criminal retirement offense.

Mr. DASCHLE. Mr. President, I am pleased to join Senators LEAHY and TORRICELLI in introducing The Seniors Safety Act. All too often, seniors are primary targets for financial exploitation and subjected to neglect and physical abuse, and as our country's senior population continues to grow, the plague of crimes against the elderly has the potential to spiral out of control. The Seniors Safety Act combats this very serious issue by increasing penalties for crimes against seniors, improving law enforcement tools necessary to prevent telemarketing and healthcare fraud, safeguarding pension and benefit plans from fraud and bribery, and preventing nursing home abuse.

Seniors are often targeted by criminals because of their lack of mobility, isolation, and dependence on others. The criminals targeting seniors should be subject to enhanced penalties, and we must develop new strategies to combat their crimes. The Seniors Safety Act requires the sentencing commission to review and consider amending sentencing guidelines to include age as one criterion for enhancing a sentence and enhances the penalty for fraudulent schemes that result in serious injury or death. In addition, the bill directs the Attorney General to conduct a comprehensive review of crimes against seniors in order to develop new ways to combat criminals who target older Americans.

Federal investigators estimate that senior citizens constitute nearly 80 percent of telemarketing scam victims. In 1996, the AARP estimated that 14,000 companies nationwide were illegally defrauding citizens of their hard-earned money through telemarketing schemes. The fraud committed by only 300 telemarketers exposed by the FBI in 1995 resulted in an estimated $58 million loss from 52,000 seniors in just two years. The Seniors Safety Act puts in place important law enforcement tools needed to stop telemarketing fraud. The Act gives federal officials the ability to cut off a fraudulent telemarketer's telephone service. It also creates a hotline for victims of telemarketing fraud. Through the hotline, victims can register complaints against companies, can receive information regarding common fraudulent schemes and be referred to the appropriate enforcement agency. A database of complaints will be established so that victims can check for previous complaints against a particular company.

Health care fraud also disproportionately harms older Americans. The Seniors Safety Act provides important new tools to law enforcement officials for use in health care fraud investigations. The bill authorizes the Attorney General to get injunctions to stop false claims and health care kickbacks and to issue administrative subpoenas for health care offenses. With court permission, the Attorney General would also be permitted to share grand jury information for use in civil investigations of health care fraud and abuse. In addition, the bill extends existing anti-fraud safeguards applicable to Medicare and Medicaid to the Federal Employee Health Benefits Act.

We must protect the economic security of our country's senior citizens by safeguarding pension and employee benefit plans from fraud and misuse. For this reason, an important provision of the Seniors Safety Act creates a new ''retirement fraud'' crime modeled on existing bank fraud and health care fraud statutes. The bill provides for civil penalties for commission of a retirement fraud crime, and increases the existing penalties for theft or embezzlement and bribery and graft with respect to the operation of an employee benefit plan.

In 1997, the Department of Health and Human Services reported a 14 percent increase in nursing home abuse since 1994. Our society must provide a safe environment for older Americans who move into nursing homes. This bill will combat nursing home fraud and abuse by creating new federal and criminal penalties against persons or companies who willfully engage in a pattern of health and safety violations. The bill will also protect persons who report health and safety violations by allowing them to bring a civil cause of action for acts of retaliation against them.

Finally, we must provide greater protections for senior crime victims. The Seniors Safety Act will do just that by requiring criminals to forfeit ill-gotten gains and property acquired by defrauding pension plans to the victims. The bill also prevents criminals from using the bankruptcy laws to avoid paying judgments by prohibiting judgments or settlements in Medicare or Medicaid fraud cases from being discharged in bankruptcy proceedings and

allows False Claims Act actions to proceed despite concurrent bankruptcy proceedings.

These and other provisions in The Seniors Safety Act will make a real difference—a positive difference—in protecting the senior citizens of this country. This comprehensive bill is a vital part of our ongoing effort to secure the safety of our families and our communities, and I encourage my colleagues on both sides of the aisle to give it their full support.

• Mr. TORRICELLI. Mr. President, today, Senator LEAHY, Senator DASCHLE, and I introduced the Seniors Safety Act of 1999. Senator LEAHY has referred to this legislation as ''a new safety net for seniors.'' It is that, but it is also much more. Indeed, this bill is a potent weapon designed to track down and punish those criminals who would prey on the trust and good will of America's seniors. This bill puts the crooks on notice that crimes against seniors, from violent assaults in the streets, to abuses in nursing homes, to frauds perpetrated over the telephone lines, will not be tolerated.

Seniors represent the most rapidly growing sector of our population—in the next 50 years, the number of Americans over the age of 65 will more than double. Unless we take action now, the frequency and sophistication of crimes against seniors will likewise skyrocket. The Seniors Safety Act of 1999 was developed to address, head-on the crimes which most directly affect the senior community, including telemarketing fraud, and abuse and fraud in the health care and nursing home industries. It increases penalties and provides enhancements to the sentencing guidelines for criminals who target seniors. It protects seniors against the illegal depletion of precious pension and employee benefit plan funds through fraud, graft, bribery, and helps victimized seniors obtain restitution. Any finally, this bill authorizes the Attorney General to study the problem of crime against senors, and design new techniques to fight it.

Criminal enterprises that engage in telemarketing fraud are some of the most insidious predators out there. Americans are fleeced out of over $40 billion dollars every year, and the effect on seniors is grossly disproportionate According to the American Association of Retired Persons, ''The repeated victimization of the elderly is the cornerstone of illegal telemarketing.'' A study has found that 56 percent of the names on the target lists of fraudulent telemarketers are the names of Americans aged 50 or older. Of added concern is the fact that many of the perpetrators have migrated out of the United States for fear of prosecution, and continue to conduct their illegal activities from abroad.

In one heartbreaking story, a recently-widowed New Jersey woman was bilked out of $200,000 by a deceitful telemarketing firm from Canada, who claimed that the woman had won a $150,000 sweepsteaks—the price could be hers, for a fee. A series of these calls followed, convincing this poor woman, already in a fragile mind-state after her husband's death, to send more and more money for what they claimed was an increasingly large prize, which, of course, never materialized.

Our bill authorizes the Attorney General to effectively put these vultures, even the international criminals, out of business by blocking or terminating their U.S. telephone service. In addition, it authorizes the FTC to create a consumer clearinghouse which would provide seniors, and others who might have questions about the legitimacy of a telephone sales pitch, with information regarding prior complaints about a particular telemarketing company or prior fraud convictions. Furthermore, this clearing house would give seniors who may have been cheated an open channel to the appropriate law enforcement authorities.

In 1997, older Americans were victimized by violent crime over 680,000 times. The crimes against them range from simple assault, to armed robbery, to rape. While national crime rates in general are falling, seniors have not shared in the benefits of that drop.

This Act singles out criminals who prey on the senior population and penalizes them for the physical and economic harm they cause. In addition, we intend to place this growing problem in the spotlight, an urge Congress and federal and state law enforcement agencies to continue to develop solutions. To this end, we have authorized a comprehensive examination of crimes against seniors, and the inclusion of data on seniors in the National Crime Victims Survey.

Seniors across the country have worked their entire lives, secure in the belief that their pensions and health benefits would be there to provide for them in their retirement years. Far too often, seniors wake up one morning to find that their hard-earned benefits have been stolen. In 1997 alone, $90 million in losses to pension funds were uncovered. Older Americans who depend on that money to live are left out in the cold, while criminals enjoy the fruit of a lifetime of our seniors' labor. The Seniors Safety Act gives federal prosecutors another powerful weapon to punish pension fund thieves. The Act creates new civil and criminal penalties for defrauding pension of benefit plans, or obtaining money from them under false or fraudulent pretenses.

The defrauding of Medicare, Medicaid, and private health insurers has become big business for criminals who prey on the elderly. According to a National Institutes of Health study, losses from fraud and abuse may exceed $100 billion per year. Overbilling and false claims filing have become rampant as automated claims processing is more prevalent. Similarly, the Department of Justice has noted numerous cases where unscrupulous nursing home operators have simply pocketed Medicare funds, rather than providing adequate care for their residents. In one horrendous case, five diabetic patients died from malnutrition and lack of medical care. In another, a patient was burned to death when a mute patient was placed by untrained staff in a tub of scalding water. These terrible abuses would never have occurred had the facilities spent the federal funds they received to implement proper health and safety procedures. This bill goes after fraud and abuse by providing resources and tools for authorities to investigate and prosecute offenses in civil and criminal courts, and enhances the ability of the Justice Department to use evidence brought in by qui tam (whistleblower) plaintiffs.

This Act delivers needed protections to our seniors. It sends a message to the cowardly perpetrators of fraud and other crimes against older Americans, that their actions will be fiercely prosecuted, whether they be here or abroad. And it clearly states that we refuse to allow seniors to be victimized by this most heinous form of predation.

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

S. 752. a bill to facilitate the recruitment of temporary employees to assist in the conduct of the 2000 decennial census of population, and for other purposes; to the Committee on Government Affairs.

LEGISLATION TO INCREASE THE NUMBER OF LOW INCOME CENSUS ENUMERATORS

• Mr. MOYNIHAN. Mr. President, I rise to introduce, along with my colleague, Senator BINGAMAN, a bill that will encourage people receiving public assistance to seek work next year as enumerators for the 2000 census. In the previous census over 350,000 people went from door to door seeking information about those who did not return the census forms they received in the mail. In spite of the best efforts of this army of enumerators, some eight million people were not counted, and a disproportionate number of them were minorities.

The Bureau of the Census is going to great lengths to improve on the 1990 count, but finding the tens of millions of people who do not return their forms is an enormous undertaking. We know that many of those who must be sought out live in the low income areas of our cities, and many others are among the rural poor. This bill would allow those receiving financial assistance under any federal program, TANF and others, to be employed as enumerators during calendar year 2000 without having their income count against their eligibility for benefits from those programs. The bill further allows these enumerators to have their employment count towards eligibility for Social Security, Medicare, and other benefit programs.

Mr. President, encouraging those who live in the low income areas of our population to serve as enumerators will help to open the doors of their neighbors and those who live nearby. It

will help count more of those most difficult to count. And it will provide employment to those who may not be able to find it for various reasons that include lack of transportation to far-off jobs.

This bill will help produce a more accurate census and provide employment to those most in need of it. It is a most worthwhile piece of legislation and I encourage my colleagues to support it. I also ask that the text of the bill be included in the RECORD.

The bill follows:

S. 752

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 ''Decennial Census Improvement Act of 1999''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the Constitution of the United States requires that the number of persons in the United States be enumerated every 10 years in order to permit the apportionment of representatives among the several States;

(2) information collected through a decennial census of the population conducted under section 141 of title 13, United States Code, is also used to determine—

(A) the boundaries of—

(i) congressional districts within States;

(ii)(I) the districts for the legislature of each State; and

(II) other political subdivisions within the States; and

(B) the allocation of billions of dollars of Federal and State funds;

(3) the Constitution of the United States requires that the enumerations referred to in paragraph (2) be made in such manner as the Congress ''shall by law direct'';

(4) in the 1990 decennial census, the Bureau of the Census used a combination of mail questionnaires and personal interviews, involving more than 350,000 enumerators, to collect the census data; and

(5) in 1993, the Bureau of the Census concluded that legislation ensuring that pay for temporary census enumerators in the 2000 decennial census would not be used to reduce benefits under Federal assistance programs would make it easier for the Bureau to hire individuals in low-income neighborhoods as temporary census enumerators in those neighborhoods.

SEC. 3. MEASURES TO FACILITATE THE RECRUITMENT OF TEMPORARY EMPLOYEES.

(a) PURPOSES FOR WHICH COMPENSATION SHALL NOT BE TAKEN INTO ACCOUNT.—

(1) IN GENERAL.—Section 23 of title 13, United States Code, is amended by adding at the end the following:

''(d)(1) As used in this subsection, the term 'temporary census position' means a temporary position within the Bureau of the Census established for purposes relating to the 2000 decennial census of population conducted under section 141 (as determined under regulations that the Secretary shall prescribe).

''(2) Notwithstanding any other provision of law, compensation for service performed by an individual in a temporary census position shall not cause—

''(A) that individual or any other individual to become ineligible for any benefits described in paragraph (3)(A); or

''(B) a reduction in the amount of any benefits described in paragraph (3)(A) for which that individual or any other individual would otherwise be eligible.

''(3) This subsection shall—

''(A) apply with respect to benefits provided under any Federal program or any State or local program financed in whole or in part with Federal funds (including the Social Security program under the Social Security Act (42 U.S.C. 301 et seq.) and the Medicare program under title XVIII of that Act);

''(B) apply only with respect to compensation for service performed during calendar year 2000; and

''(C) not apply if the individual performing the service involved is appointed (or first appointed to any other temporary census position) before January 1, 2000.''.

(2) RULE OF CONSTRUCTION.—The amendment made by paragraph (1) shall not affect the application of Public Law 101–86 (13 U.S.C. 23 note), as amended by subsection (b).

(b) EXEMPTION FROM PROVISIONS RELATING TO REEMPLOYED ANNUITANTS AND FORMER MEMBERS OF THE UNIFORMED SERVICES.—Public Law 101–86 (13 U.S.C. 23 note) is amended—

(1) by striking the title and inserting the following: ''An Act to provide that a Federal annuitant or former member of a uniformed service who returns to Government service, under a temporary appointment, to assist in carrying out the 2000 decennial census of population shall be exempt from certain provisions of title 5, United States Code, relating to offsets from pay and other benefits.'';

(2) in section 1(b), by striking ''the 1990 decennial census'' and inserting ''the 2000 decennial census''; and

(3) in section 4, by striking ''December 31, 1990.'' and inserting ''December 31, 2000.''.●

By Mr. DASCHLE (for himself, Mr. SARBANES, Mr. DODD, Mr. KERRY, Mr. BRYAN, Mr. JOHNSON, Mr. REED, Mr. SCHUMER, Mr. BAYH, and Mr. EDWARDS):

S. 753. A bill to enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, and other financial service providers; and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

THE FINANCIAL SERVICES ACT OF 1999

Mr. DASCHLE. Mr. President, today, with the distinguished Ranking Member of the Banking Committee, the senior Senator from Maryland, Mr. SARBANES, we are introducing the ''Financial Services Act of 1999.'' We are joined by all Democratic members of the Banking Committee.

The President has indicated through his Secretary of the Treasury, Robert Rubin, that he can support our approach and sign it into law.

This bill makes a clear and unambiguous statement: we want financial services modernization enacted this year.

This should not be a partisan issue. Our bill is based on last year's H.R. 10, which enjoyed wide bipartisan support. It was approved last year by the Senate Banking Committee by a vote of 16 to 2. Most Republicans supported it. It was supported by virtually every major financial services industry group.

A similar bill was adopted by a bipartisan 51 to 8 vote this year in the House Banking Committee.

Sadly, reform efforts suffered a major setback this year in the Senate Banking Committee when the majority forced through a bill on a party line vote of 11 to 9.

Mr. President, financial services reform is now on two tracks toward reform. There is the veto track, and the Banking Committee bill is on it over the Community Reinvestment Act and other concerns.

There is also the track toward enactment, which this bill and the House Banking bill are on.

But it can't be ''take it or leave it'' on either side. We have agreed with the distinguished Majority Leader [Mr. LOTT] to discuss this issue immediately after recess in an effort to find common ground.

The choice is clear: it's either partisan brinksmanship—or bipartisan accomplishment. We reject the former and stand ready to deliver on the latter.

Mr. SARBANES. Mr. President, today the Democratic members of the Senate Banking Committee—myself, Senators DODD, KERRY, BRYAN, JOHNSON, REED, SCHUMER, BAYH, and EDWARD—are joining with the Democratic Leader, Senator DASCHLE, in introducing the Financial Services Act of 1999.

Senator DASCHLE and the Democratic members of the Senate Banking Committee strongly support financial services modernization legislation. Last year, every Democratic member of the Committee voted for financial services modernization in the form of H.R. 10, the Financial Services Act of 1998. That bill was reported by the Committee on a bipartisan vote of 16 to 2. In a Committee markup of financial services legislation on March 4 of this year, every Democratic member of the Committee voted for financial services modernization in the form of a substitute amendment that I offered. The substitute amendment contained the text of last year's bill with the addition of a provision that would permit banks to conduct expanded financial service activities through operating subsidiaries. The substitute amendment was defeated on a party line vote of 11 to 9.

The bill being introduced today consists of the substitute amendment that was offered in the Banking Committee markup. We introduce this legislation because it meets certain basic goals. These include permitting affiliations among firms within the financial services industry, preserving the safety and soundness of the financial system, protecting consumers, maintaining the separation of banking and commerce, and expanding access to credit for all communities in our country. Unfortunately, the bill reported out of the Senate Banking Committee does not meet these goals and was opposed by every Democratic member of the Committee.

We are disappointed that the Committee Majority has abandoned the consensus so carefully developed last year. The broad, bipartisan margin of support enjoyed by last year's bill reflected the compromises struck during

the course of its consideration. It was not opposed by a single major financial services industry association.

The legislation being introduced today reflects compromises among Committee Members and among industry groups on a wide range of issues, including the Community Reinvestment Act, consumer protections, and the separation of banking and commerce. The decision by the Committee Majority to abandon these compromises has resulted in less than unanimous industry support for the Committee-passed bill. In addition, civil rights groups, community groups, consumer organizations, and local government officials strongly oppose the Committee-passed bill.

We are disappointed as well that the Committee Majority has refused to recognize that enactment of financial services legislation entails accommodation of views not only of members of the Congress, but in particular the view of the White House and the Treasury Department. On March 2, before the Committee's markup, President Clinton wrote:

This Administration has been a strong proponent of financial legislation that would reduce costs and increase access to financial services for consumers, businesses, and communities . . . I agree that reform of the laws governing our nation's financial services industry would promote the public interest. However, I will veto the Financial Services Modernization Act if it is presented to me in its current form.

The President warned that the bill ''would undermine the effectiveness of the Community Reinvestment Act,'' ''would deny financial services firms the freedom to organize themselves in the way that best serve their customers,'' ''would . . . provide inadequate consumer protections,'' and ''could expand the ability of depository institutions and nonfinancial firms to affiliate . . .'' None of these concerns was fully addressed by the Committee Majority at markup. Unless the concerns of the Administration are addressed, it is clear the Committee-passed bill will not be enacted into law.

We believe the bill we are introducing today is a balanced, prudent approach to financial services modernization legislation. It could not only be passed by the Congress, but signed into law by the President. It is clearly the approach most likely to lead to the enactment of financial services modernization legislation in this Congress.

By Mr. EDWARDS (for himself and Mr. HELMS):

S. 754. A bill to designate the Federal building located at 310 New Bern Avenue in Raleigh, North Carolina, as the ''Terry Sanford Federal Building''; read the first time.

THE ''TERRY SANFORD COMMEMORATION ACT''

Mr. EDWARDS. Mr. President, I rise today to introduce the ''Terry Sanford Commemoration Act of 1999.'' This measure would name the federal building in Raleigh, North Carolina after a great man, Terry Sanford.

We lost Terry Sanford almost a year ago. The loss was great. He served North Carolina throughout his entire life. He was a Governor, a state Senator, a U.S. Senator, and a university president . He was trained as a lawyer. He wrote books, served as a paratrooper during World Was II, worked as an FBI agent and ran for President of the United States—twice.

Senator Sanford died on April 18, 1998 after a long fight with esophageal cancer.

He was a towering figure, a hero, to many North Carolinians. And we miss him.

There is no doubt that when the history of North Carolina in the 20th Century is written, Terry Sanford will occupy many pages. And he will be given a great deal of credit for the great strides taken by North Carolina. Whatever Terry Sanford touched he made better.

Senator Sanford's mother was a school teacher. His love of education must have started there. When he was governor he did whatever it took to increase funding for education. He even talked state legislators into voting for a food tax in order to fund education—that was not easy. Among other things, he helped found the North Carolina School for the Arts which was a pioneer, and to this day remains a leader in arts education. After he finished his term as governor, he became President of Duke University. And he brought unparalleled ambition, vision and energy to making Duke University great.

But the list of Senator Sanford's accomplishments does not stop with education. He launched innovative anti-poverty programs. He helped start the North Carolina State Board of Science and Technology. He was largely responsible for the creation of an environmental health sciences facility in Research Triangle Park. He helped calm the student protests over the Vietnam War.

And finally, in the midst of a turbulent and difficult time, Terry helped us find a path across the racial divide. In his 1961 inaugural address, he let us know and understand that ''no group of our citizens can be denied the right to participate in the opportunities of first-class citizenship.''

He later said: ''The most difficult thing I did was the most invisible thing. That was to turn the attitude on the race.'' He turned the attitude in small and large ways. He invited prominent leaders in the African-American community to the Governor's Mansion for breakfast to talk about how to solve the race problem. Many of them later said that they never dreamed a day would come when their state's governor would invite them to breakfast. He started the Good Neighbor Council, which is now the North Carolina Human Relations Commission, to give structure and authority to his commitment to creating jobs for people regardless of race.

And the thing about Senator Sanford is that he never stopped. Late in life, when he was no longer a Senator, University President or Governor, he kept coming up with great ideas and kept working to see them through to completion. He was a friend to me. And I valued his advice and counsel.

Naming a building can never capture the spirit and heart of a man like Terry Sanford. But it is a fitting tribute.

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

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

S. 754

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 'Terry Sanford Commemoration Act of 1999'.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Terry Sanford served the State of North Carolina and the Nation with enthusiasm, bravery, and distinction in many important ways, including—

(A) as a paratrooper in World War II;

(B) as an agent with the Federal Bureau of Investigation;

(C) as a North Carolina State senator;

(D) as Governor of North Carolina;

(E) as a professor of public policy at Duke University;

(F) as President of Duke University;

(G) as a United States Senator from North Carolina;

(H) as a patron of the arts; and

(I) as a loving and committed husband and father.

(2) Terry Sanford fought tirelessly and selflessly throughout his life to improve the lives of his fellow citizens through public education, racial healing, economic development, eradication of poverty, and promotion of the arts.

(3) Terry Sanford exemplified the best qualities mankind has to offer.

(4) Terry Sanford lived an exemplary life and is owed a debt of gratitude for his untiring service to the State of North Carolina and his fellow Americans.

SEC. 3. DESIGNATION.

The Federal building located at 310 New Bern Avenue in Raleigh, North Carolina, shall be known and designated as the 'Terry Sanford Federal Building'.

SEC. 4. REFERENCES.

Any reference in law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 3 shall be deemed to be a reference to the 'Terry Sanford Federal Building'.

By Mr. HATCH (for himself, Mr. NICKLES, Mr. THURMOND, Mr. BIDEN, Mr. KENNEDY, Mr. SESSIONS, Mr. ABRAHAM, Mr. KOHL, Mr. LIEBERMAN, Mr. HELMS, Mr. SCHUMER, and Mr. DEWINE):

S. 755. A bill to extend the period for compliance with certain ethical standards for Federal prosecutors; read the first time.

LEGISLATION TO EXTEND THE PERIOD FOR COMPLIANCE WITH CERTAIN ETHICAL STANDARDS FOR FEDERAL PROSECUTORS

Mr. HATCH. Mr. President, I am pleased to be joined by a diverse, bipartisan group of Senators in introducing

this simple, technical bill to extend the effective date of a provision included in last year's omnibus appropriations bill. My cosponsors include Senators NICKLES, BIDEN, THURMOND, KENNEDY, SESSIONS, ABRAHAM, KOHL, SCHUMER, LIEBERMAN, DEWINE, and Helms. I urge all of my colleagues to support our bill.

My colleagues will recall that last year's omnibus appropriations bill included a provision originating in the House, relating to the application of state bar rules to federal prosecutors. The so-called McDade amendment proposed the addition of a new section, Section 530B, to title 28 of the United States Code, which would effect the ethical standards required of federal prosecutors.

Although I am prepared to, I do not want to address the merits of this issue today, and our bill does not do so. Suffice it to say, however, that including this provision was so controversial that a bipartisan majority of the Judiciary Committee opposed its inclusion in the omnibus bill. In fact, our strong opposition resulted in a six month delay in the provision's effective date being included as well.

When we included this six month grace period, the Senate anticipated that the time might be used to address the serious concerns with the underlying measure. Due to arguably unanticipated events, we have not been able to do so. Our amendment simply maintains the status quo, extending the grace period an additional six months. A bipartisan group of 12 Senators, including myself and 3 former chairmen of the Senate Judiciary Committee signed a letter, urging the distinguished Chairman and Ranking Member of the Appropriations Committee to include this amendment in this supplemental appropriations bill.

This letter was signed by Senators THURMOND, KENNEDY, BIDEN, DEWINE, SESSIONS, ABRAHAM, KYL, FEINSTEIN, KOHL, NICKLES, WARNER, and myself. I ask unanimous consent that the letter appear in the RECORD following my remarks.

Let me assure my colleagues, our bill will not, as some might suggest, result in looser ethical standards for federal prosecutors. The same high standards that have always applied will continue in force. Indeed, I have considerable sympathy for the values Section 530B seeks to protect. Anyone who at one time or another has been the subject of unfounded ethical or legal charges knows the frustration of clearing one's name. And no one wants more than I to ensure that all federal prosecutors are held to the highest ethical standards. As Justice Sutherland put it in 1935, the prosecutor's job is not just to win a case, but to see ''that justice shall be done. . . . It is as much his duty to refrain from improper methods calculated to produce a wrongful conviction as it is to use every legitimate means to bring about a just one.'' But Section 530B, as it was enacted last year, is not in my view the way to ensure these standards are met.

Although well-intentioned, section 530B is not the measured and well tailored law needed to address the legitimate concerns contemplated by Congress, and will have serious unintended consequences. Indeed, if allowed to take effect in its present form, section 530B could cripple the ability of the Department of Justice to enforce federal law.

The federal government has a legitimate and important role in the investigation and prosecution of complex multi-state terrorism, drug, fraud or organized crime conspiracies, in rooting out and punishing fraud against federally funded programs such as Medicare, Medicaid, and Social Security, in appropriate enforcement of the federal civil rights laws, in investigating and prosecuting complex corporate crime, and in punishing environmental crime.

It is in these very cases that current Section 530B, if unchanged, will have its most serious adverse effects. Federal prosecutors in these cases, which frequently encompass several states, will be subject to the differing state and local rules of each of those states. Their decisions will be subject to review by the ethics review boards in each of these states at the whim of defense counsel, even if the federal prosecutor is not licensed in that state.

At a minimum, the law will discourage the close prosecutorial supervision of investigations that ensure that suspect's rights are not abridged. More likely, however, in its current form, section 530B will hinder the effective investigation and prosecution of violations of federal law.

Several important investigative and prosecutorial practices, perfectly legal and acceptable under federal law and in federal court, under current section 530B will be subject to state bar rules. For instance, in many states, federal attorneys will not be permitted to speak with witnesses alleged to be represented, especially witnesses to corporate misconduct. The use of undercover investigations or federal-court authorized wiretaps may be challenged as illegal in those states where these practices are barred or curtailed by state law or rule, hindering federal criminal investigations. In other states, current section 530B might be construed to require—contrary to long-established federal grand jury practice—that prosecutors present exculpatory evidence to the grand jury.

In short, current section 530B will likely affect adversely enforcement of our antitrust laws, our environmental laws prohibiting the dumping of hazardous waste, our labor laws, our civil rights laws, and the integrity of every federal benefits program.

Despite these potentially severe consequences, this legislation received no meaningful consideration in the Senate last Congress. Rather, it was included without an opportunity for Senate debate in an unamendable omnibus appropriations bill conference report. The first Senate consideration of this matter occurred just this week, with a hearing in the Judiciary Committee's Criminal Justice Oversight Subcommittee. The testimony at that hearing shed important light on many of the concerns about section 530B that I have described.

Yet, our bill does not repeal section 530B, or change one letter of it. Our bill simply delays its effective date for six additional months, to provide the Senate an appropriate time in which to address these matters with our colleagues in the House. We believe that it is in the best interest of the Congress, the Department of Justice, and our state and federal courts, to resolve concerns over this issue under current law, as anticipated by the Congress when it enacted the grace period.

The provisions of the McDade amendment are slated to go into effect on April 19, 1999, if no further action is taken. I urge my colleagues to support the swift enactment of our legislation, to provide the time needed to reach a reasonable resolution to this complex issue.

By Mr. LUGAR (for himself, Mr. KERREY, Mr. HAGEL, Mr. THOMAS, Mr. SMITH of Oregon, Mr. GRAMS, MR. ROBB, Mrs. FEINSTEIN, Mr. BINGAMAN, Mr. MURKOWSKI, Mr. COCHRAN, Mr. DOMENICI, Mr. LOTT, Mr. SANTORUM, Mr. BURNS, Mr. ALLARD, Mr. JOHNSON, Mrs. HUTCHISON, Mr. CHAFEE, Mr. GORTON, Mr. BREAUX, Mrs. MURRAY, Mr. DORGAN, Mr. CRAPO, Mr. BAUCUS, Mrs. LINCOLN, Mr. CONRAD, Mr. BOND, and Mr. ROBERTS):

S. 757. A bill to provide a framework for consideration by the legislative and executive branches of unilateral economic sanctions in order to ensure coordination of United States policy with respect to trade, security, and human rights; to the Committee on Foreign Relations.

THE SANCTIONS POLICY REFORM ACT

Mr. LUGAR. Mr. President, I am pleased to introduce the ''Sanctions Policy Reform Act of 1999,'' a bill that would establish a more deliberative, commonsense approach to U.S. sanctions policy. I am joined by nearly thirty colleagues from both sides of the aisle. A companion bipartisan bill was introduced in the House of Representatives on March 24, 1999. We introduced a similar sanctions reform bill in the 105th Congress and gained thirty-nine co-sponsors in the Senate.

Our interest in reforming U.S. economic sanctions policy stems from a number of compelling and disturbing findings. The net effect of our self-imposed economic sanctions is that they deny access to U.S. markets abroad, reduce our trade balance, contribute to job loss, complicate our foreign policy and antagonize friends and allies. Unilateral economic sanctions are truly a blunt instrument of foreign policy.

Unilateral economic sanctions have become a policy of first use, rather than last resort, when pursuing a foreign policy objective. Sanctions are tempting alternatives to careful diplomatic negotiations and to the use of force to accomplish foreign policy goals. Unilateral economic sanctions have become more frequent in recent years and have been used against more countries, both friends and adversaries, for an increasing variety of actions which we find offensive.

Unilateral economic sanctions can give a competitive edge to foreign companies by precluding U.S. companies from exporting. Over time, foreign competitors will establish trade connections with a U.S. sanctioned country, solidify their trade ties and make it difficult for U.S. companies to reenter those markets. This is costly to the U.S. economy, to American exports, to American jobs and to our overall foreign policy.

There have been a large number of studies on unilateral economic sanctions and they provide startling estimates of the sanctions' costs. The report of the President's Export Council, for example, cited 75 countries representing more than half of the world's population that have been subject to or threatened by U.S. unilateral economic sanctions. In another study, the Institute for International Economics concluded that, in 1995, alone, economic sanctions cost U.S. exports between $15–19 billion, and eliminated upwards to 200,000 U.S. jobs, many in high wage export sector. More recently, the administration revealed the results of its internal inventory of U.S. sanctions and found that there are now more than 280 identifiable sanctions provisions that are either in force or in law.

Unilateral economic sanctions rarely succeed in accomplishing their stated foreign policy objectives. Unilateral economic sanctions sometimes do more damage to our interests than to those against whom they are aimed. For this reason alone, we should re-think the way in which we manage our sanctions policy.

Mr. President, a cardinal principle of foreign policy is that when we act internationally, our actions should do less harm to ourselves than to others. Unilateral economic sanctions, unfortunately, often fail this crucial test of public policy.

In fact, Mr President, unilateral economic sanctions often impose long-term adverse effects on the U.S. economy. Once foreign competitors establish a presence in international markets that are abandoned by the United States, the potential losses can magnify. Over time, the cumulative effect of sanctions will not only include the loss of commercial contracts, but also the loss of confidence in American suppliers and in the United States as a reliable business partner. The frequent resort to unilateral economic sanctions to achieve foreign policy goals, however meritorious these goals may be, runs the risk of weakening our export performance which has contributed so greatly to our economic prosperity.

Mr. President, unilateral economic sanctions give the illusion of action by substituting for more decisive action or by serving as a palliative for those who demand that some action be taken—any action—by the United States against a country with whom we have a disagreement. Yet, the evidence is powerful that they rarely attain the foreign policy goals they are intended to achieve.

The bill we are introducing today includes a number of changes from last year's bill which we believe will strengthen the cause of sanctions reform. These new provisions include language that would provide the President more flexibility in meeting procedural requirements he would otherwise have to meet when considering new unilateral economic sanctions. The bill includes a permanent waiver authority on the Nuclear Prevention Proliferation Act of 1994, the so-called Glenn Amendment, which mandates the automatic imposition of sanctions on countries which detonate a nuclear device for weapons development. We also included an additional procedural ''speed bump'' to improve the deliberative process in the Congress.

Mr. President, our legislation is prospective. With only one exception, our bill does not affect existing U.S. sanctions. The only provision in our bill which reaches back to current unilateral economic sanctions gives the President permanent authority to waive the sanctions in the Nuclear Proliferation Prevention Act, the Glenn Amendment. Our bill applies only to unilateral sanctions and to those sanctions intended to achieve foreign policy or national security objectives. It would exclude, by definition, U.S. trade laws that have well-established procedures and precedents. The bill does not address the complex issue of state and local sanctions designed to achieve foreign policy goals.

Our proposed legislation does not prohibit unilateral economic sanctions or prevent a vote in the Congress on any proposed new sanction. There are situations where other foreign policy options have been exhausted and where the actions of other countries are so outrageous or so threatending to the United States and national interests that our response, short of the use of force, must be firm and unambiguous. In such instances, economic sanctions may be an appropriate instrument of American foreign policy.

Our legislation seeks to establish clear guidelines and informational requirements to help us improve our deliberations and to understand better the consequences of our actions before we implement new economic sanctions. We should know before voting or imposing any new sanctions what the costs and gains to the United States and our friends and allies are likely to be. There should be an analysis of the impact of any new sanctions on our reputation as a reliable supplier, the other policy options that have been explored, and whether the proposed sanctions are likely to contribute to the foreign policy objectives sought in the legislation. Comparable requirements are also mandated in the bill for those new sanctions contemplated by the President under his authorities.

If the Congress and the President decide to implement new sanctions, our bill requires periodic evaluations from the President detailing the degree to which the sanctions have accomplished U.S. goals, the impact they are having on our economic, political and humanitarian interests, and their effects on other foreign policy goals and interests.

The bill provides for more active and timely consultations between Congress and the President. It provides Presidential authority to permit the President to waive the procedural requirements he must otherwise meet if he exercises his current authorities to impose a new sanction. The waiver authority can be exercised if the President determines that it is in the national interests to do so.

Our bill includes a sunset provision which means that any new unilateral economic sanction must expire after 2 years duration unless the Congress or the President acts to re-authorize them. Too often sanctions have lingered on the books long after anyone remembers and long after they are having any effect.

It includes language on contract sanctity to help ensure that the United States is a reliable supplier, but it also includes appropriate exceptions to protect against contracts that might otherwise be illegal or contrary to U.S. interests.

Our bill gives special attention to American agriculture because American farmers and ranchers face a disproportionate burden from U.S. economic sanctions. Agricultural commodities are our most vulnerable exports because they are the most easily replaced by other exporters. American exporters lose access to some fourteen percent of the world rice market, some ten percent of the world wheat market and some five percent of the world corn market due to our sanctions.

Because of this, we included discretionary authority in the bill to provide for compensatory agricultural assistance if agricultural markets are severely disrupted by the imposition of unilateral economic sanctions. No new appropriations would be required for this authority. The bill opposes the use of food and medicines as a tool of foreign policy, except in the most severe circumstances, and urges that economic sanctions be targeted as narrowly as possible on the targeted country in order to minimize harm to innocent people and humanitarian activities.

Let me reiterate that nothing in this bill prohibits new unilateral economic

sanctions or prevents a vote in the Congress on proposed new sanctions. The steps detailed in this bill provide for better policy procedures and more informed analysis so that proposed new sanctions are preceded by a more deliberative process by which the President and the Congress can make reasoned and balanced choices affecting the totality of American values and interests.

Mr. President, I feel strongly about this bill and this issue. It goes to the heart of the manner by which we conduct our commercial relations abroad and the way we manage our overall foreign policy. We need to do a better job on both. This legislation is designed to do just that.

I hope my colleagues will join me and the other original co-sponsors by taking a close look at this legislation and the reforms that we are attempting to accomplish. I welcome their support and believe that if we deal with the unilateral economic sanctions issue in a careful and systematic manner, we can make a significant positive contribution to the conduct of American foreign policy and to our national interest.

Mr. President, I ask unanimous consent that the bill be included in the RECORD, along with a section-by-section description of the bill.

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

S. 757

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 ''Sanctions Policy Reform Act''.

SEC. 2. PURPOSE.

It is the purpose of this Act to establish an effective framework for consideration by the legislative and executive branches of unilateral economic sanctions in order to ensure coordination of United States policy with respect to trade, security, and human rights.

SEC. 3. STATEMENT OF POLICY.

It is the policy of the United States—

(1) to pursue United States interests through vigorous and effective diplomatic, political, commercial, charitable, educational, cultural, and strategic engagement with other countries, while recognizing that the national security interests of the United States may sometimes require the imposition of economic sanctions on other countries;

(2) to foster multilateral cooperation on vital matters of United States foreign policy, including promoting human rights and democracy, combating international terrorism, proliferation of weapons of mass destruction, and international narcotics trafficking, and ensuring adequate environmental protection;

(3) to promote United States economic growth and job creation by expanding exports of goods, services, and agricultural commodities, and by encouraging investment that supports the sale abroad of products and services of the United States;

(4) to maintain the reputation of United States businesses and farmers as reliable suppliers to international customers of quality products and services, including United States manufactures, technology products, financial services, and agricultural commodities;

(5) to avoid the use of restrictions on exports of agricultural commodities as a foreign policy weapon;

(6) to oppose policies of other countries designed to discourage economic interaction with countries friendly to the United States or with any United States national, and to avoid use of such policies as instruments of United States foreign policy; and

(7) when economic sanctions are necessary—

(A) to target them as narrowly as possible on those foreign governments, entities, and officials that are responsible for the conduct being targeted, thereby minimizing unnecessary or disproportionate harm to individuals who are not responsible for such conduct; and

(B) to the extent feasible, to avoid any adverse impact of economic sanctions on the humanitarian activities of United States and foreign nongovernmental organizations in a country against which sanctions are imposed.

SEC. 4. DEFINITIONS.

As used in this Act:

(1) UNILATERAL ECONOMIC SANCTION.—

(A) IN GENERAL.—The term ''unilateral economic sanction'' means any prohibition, restriction, or condition on economic activity, including economic assistance, with respect to a foreign country or foreign entity that is imposed by the United States for reasons of foreign policy or national security, including any of the measures described in subparagraph (B), except in a case in which the United States imposes the measure pursuant to a multilateral regime and the other members of that regime have agreed to impose substantially equivalent measures.

(B) PARTICULAR MEASURES.—The measures referred to in subparagraph (A) are the following:

(i) The suspension of, or any restriction or prohibition on, exports or imports of any product, technology, or service to or from a foreign country or entity.

(ii) The suspension of, or any restriction or prohibition on, financial transactions with a foreign country or entity.

(iii) The suspension of, or any restriction or prohibition on, direct or indirect investment in or from a foreign country or entity.

(iv) The imposition of increased tariffs on, or other restrictions on imports of, products of a foreign country or entity, including the denial, revocation, or conditioning of nondiscriminatory (most-favored-nation) trade treatment.

(v) The suspension of, or any restriction or prohibition on—

(I) the authority of the Export-Import Bank of the United States to give approval to the issuance of any guarantee, insurance, or extension of credit in connection with the export of goods or services to a foreign country or entity;

(II) the authority of the Trade and Development Agency to provide assistance in connection with projects in a foreign country or in which a particular foreign entity participates; or

(III) the authority of the Overseas Private Investment Corporation to provide insurance, reinsurance, or financing or conduct other activities in connection with projects in a foreign country or in which a particular foreign entity participates.

(vi) A requirement that the United States representative to an international financial institution vote against any loan or other utilization of funds to, for, or in a foreign country or particular foreign entity.

(vii) A measure imposing any restriction or condition on economic activity of any foreign government or entity on the ground that such government or entity does business in or with a foreign country.

(viii) A measure imposing any restriction or condition on economic activity of any person that is a national of a foreign country, or on any government or other entity of a foreign country, on the ground that the government of that country has not taken measures in cooperation with, or similar to, sanctions imposed by the United States on a third country.

(ix) The suspension of, or any restriction or prohibition on, travel rights or air transportation to or from a foreign country.

(x) Any restriction on the filing or maintenance in a foreign country of any proprietary interest in intellectual property rights (including patents, copyrights, and trademarks), including payment of patent maintenance fees.

(C) MULTILATERAL REGIME.—As used in this paragraph, the term ''multilateral regime'' means an agreement, arrangement, or obligation under which the United States cooperates with other countries in restricting commerce for reasons of foreign policy or national security, including—

(i) obligations under resolutions of the United Nations;

(ii) nonproliferation and export control arrangements, such as the Australia Group, the Nuclear Supplier's Group, the Missile Technology Control Regime, and the Wassenaar Arrangement;

(iii) treaty obligations, such as under the Chemical Weapons Convention, the Treaty on the Non-Proliferation of Nuclear Weapons, and the Biological Weapons Convention; and

(iv) agreements concerning protection of the environment, such as the International Convention for the Conservation of Atlantic Tunas, the Declaration of Panama referred to in section 2(a)(1) of the International Dolphin Conservation Act (16 U.S.C. 1361 note), the Convention on International Trade in Endangered Species, the Montreal Protocol on Substances that Deplete the Ozone Layer, and the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes.

(D) ECONOMIC ASSISTANCE.—The term ''economic assistance'' means—

(i) any assistance under part I or chapter 4 of part II of the Foreign Assistance Act of 1961 (including programs under title IV of chapter 2 of part I of that Act, relating to the Overseas Private Investment Corporation), other than—

(I) assistance under chapter 8 of part I of that Act,

(II) disaster relief assistance, including any assistance under chapter 9 of part I of that Act,

(III) assistance which involves the provision of food (including monetization of food) or medicine, or

(IV) assistance for refugees; and

(ii) the provision of agricultural commodities, other than food, under the Agricultural Trade Development and Assistance Act of 1954.

(E) FINANCIAL TRANSACTION.—As used in this paragraph, the term ''financial transaction'' has the meaning given that term in section 1956(c)(4) of title 18, United States Code.

(F) INVESTMENT.—As used in this paragraph, the term ''investment'' means any contribution or commitment of funds, commodities, services, patents, or other forms of intellectual property, processes, or techniques, including—

(i) a loan or loans;

(ii) the purchase of a share of ownership;

(iii) participation in royalties, earnings, or profits; and

(iv) the furnishing or commodities or services pursuant to a lease or other contract.

(G) EXCLUSIONS.—The term ''unilateral economic sanction'' does not include—

(i) any measure imposed to remedy unfair trade practices or to enforce United States rights under a trade agreement, including under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), title VII of that Act (19 U.S.C. 1671 et seq.), title III of the Trade Act of 1974 (19 U.S.C. 2411 et seq.), sections 1374 and 1377 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 3103 and 3106), and section 3 of the Act of March 3, 1933 (41 U.S.C. 10b–1);

(ii) any measure imposed to remedy market disruption or to respond to injury to a domestic industry for which increased imports are a substantial cause or threat thereof, including remedies under sections 201 and 406 of the Trade Act of 1974 (19 U.S.C. 2251 and 2436), and textile import restrictions (including those imposed under section 204 of the Agricultural Act of 1956 (7 U.S.C. 1784));

(iii) any action taken under title IV of the Trade Act of 1974 (19 U.S.C. 2431 et seq.), including the enactment of a joint resolution under section 402(d)(2) of that Act;

(iv) any measure imposed to restrict imports of agricultural commodities to protect food safety or to ensure the orderly marketing of commodities in the United States, including actions taken under section 22 of the Agricultural Adjustment Act (7 U.S.C. 624);

(v) any measure imposed to restrict imports of any other products in order to protect domestic health or safety;

(vi) any measure authorized by, or imposed under, a multilateral or bilateral trade agreement to which the United States is a signatory, including the Uruguay Round Agreements, the North American Free Trade Agreement, the United States-Israel Free Trade Agreement, and the United States-Canada Free Trade Agreement; and

(vii) any prohibition or restriction on the sale, export, lease, or other transfer of any defense article, defense service, or design and construction service under the Arms Export Control Act, or on any financing provided under that Act.

(2) NATIONAL EMERGENCY.—The term ''national emergency'' means any unusual or extraordinary threat, which has its source in whole or substantial part outside the United States, to the national security, foreign policy, or economy of the United States.

(3) AGRICULTURAL COMMODITY.—The term ''agricultural commodity'' has the meaning given that term in section 102(1) of the Agricultural Trade Act of 1978 (7 U.S.C. 5602(1)).

(4) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means the Committee on Agriculture, the Committee on International Relations, the Committee on Ways and Means, and the Committee on Banking and Financial Services of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry, the Committee on Finance, and the Committee on Foreign Relations of the Senate.

(5) CONTRACT SANCTITY.—The term ''contract sanctity'', with respect to a unilateral economic sanction, refers to the inapplicability of the sanction to—

(A) a contract or agreement entered into before the sanction is imposed, or to a valid export license or other authorization to export; and

(B) actions taken to enforce the right to maintain intellectual property rights, in the foreign country against which the sanction is imposed, which existed before the imposition of the sanction.

(6) UNILATERAL ECONOMIC SANCTION LEGISLATION.—The term ''unilateral economic sanction legislation'' means a bill or joint resolution that imposes, or authorizes the imposition of, any unilateral economic sanction.

SEC. 5. GUIDELINES FOR UNILATERAL ECONOMIC SANCTIONS LEGISLATION.

It is the sense of Congress that any unilateral economic sanction legislation that is introduced in or reported to a House of Congress on or after the date of enactment of this Act should—

(1) state the foreign policy or national security objective or objectives of the United States that the economic sanction is intended to achieve;

(2) provide that the economic sanction terminate 2 years after it is imposed, unless specifically reauthorized by Congress;

(3) provide contract sanctity, except that contract sanctity shall not be required in any case—

(A) in which execution of the contract is contrary to law;

(B) in which the contract involves assets that will be frozen as a consequence of the proposed sanction; or

(C) in which the contract provides for the supply of goods or services directly to a specific person, government agency, or military unit that is expressly named as a target of the proposed sanction;

(4) provide authority for the President both to adjust the timing and scope of the sanction and to waive the sanction, if the President determines it is in the national interest to do so;

(5)(A) target the sanction as narrowly as possible on foreign governments, entities, and officials that are responsible for the conduct being targeted;

(B) not include restrictions on the provision of medicine, medical equipment, or food; and

(C) seek to minimize any adverse impact on the humanitarian activities of United States and foreign nongovernmental organizations in any country against which the sanction may be imposed;

(6) provide, to the extent that the Secretary of Agriculture finds, that—

(A) the proposed sanction is likely to restrict exports of any agricultural commodity or is likely to result in retaliation against exports of any agricultural commodity from the United States; and

(B) the sanction is proposed to be imposed, or is likely to be imposed, on a country or countries that constituted, in the preceding calendar year, the market for more than 3 percent of all export sales from the United States of an agricultural commodity; and

(7) provide that the Secretary of Agriculture expand agricultural export assistance under United States market development, food assistance, or export promotion programs to offset the likely damage to incomes of producers of the affected agricultural commodity, to the maximum extent permitted by law and by the obligations of the United States under the Agreement on Agriculture referred to in section 101(d)(2) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(2)).

SEC. 6. REQUIREMENTS FOR UNILATERAL ECONOMIC SANCTIONS LEGISLATION.

(a) PUBLIC COMMENT.—Not later than 15 days prior to the consideration by the committee of primary jurisdiction of any unilateral economic sanction legislation, the chairman of the committee shall cause to be printed in the Congressional Record a notice that provides an opportunity for interested members of the public to submit comments to the committee on the proposed sanction.

(b) COMMITTEE REPORTS.—In the case of any unilateral economic sanction legislation that is reported by a committee of the House of Representatives or the Senate, the committee report accompanying the legislation shall contain a statement of whether the legislation meets all the guidelines specified in paragraphs (1) through (6) of section 5 and, if the legislation does not, an explanation of why it does not. The report shall also include a specific statement of whether the legislation includes any restrictions on the provision of medicine, medical equipment, or food.

(c) FLOOR CONSIDERATION IN THE HOUSE OF REPRESENTATIVES AND SENATE.—

(1) FLOOR CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.—A motion in the House of Representatives to proceed to the consideration of any unilateral economic sanctions legislation shall not be in order unless the House has received in advance the appropriate report or reports under subsection (d).

(2) CONSIDERATION IN THE SENATE.—A motion in the Senate to proceed to the consideration of any unilateral economic sanctions legislation shall not be in order unless the Senate has received in advance the appropriate report or reports under subsection (d).

(d) REPORTS.—

(1) REPORT BY THE PRESIDENT.—Not later than 30 days after a committee of the House of Representatives or the Senate reports any unilateral economic sanction legislation or the House of Representatives or the Senate receives such legislation from the other House of Congress, the President shall submit to the House receiving the legislation a report containing—

(A) an assessment of—

(i) the likelihood that the proposed unilateral economic sanction will achieve its stated objective within a reasonable period of time; and

(ii) the impact of the proposed unilateral economic sanction on—

(I) humanitarian conditions, including the impact on conditions in any specific countries on which the sanction is proposed to be or may be imposed;

(II) humanitarian activities of United States and foreign nongovernmental organizations;

(III) relations with United States allies;

(IV) other United States national security and foreign policy interests; and

(V) countries and entities other than those on which the sanction is proposed to be or may be imposed;

(B) a description and assessment of—

(i) diplomatic and other steps the United States has taken to accomplish the intended objectives of the unilateral sanction legislation;

(ii) the likelihood of multilateral adoption of comparable measures;

(iii) comparable measures undertaken by other countries;

(iv) alternative measures to promote the same objectives, and an assessment of their potential effectiveness;

(v) any obligations of the United States under international treaties or trade agreements with which the proposed sanction may conflict;

(vi) the likelihood that the proposed sanction will lead to retaliation against United States interests, including agricultural interests; and

(vii) whether the achievement of the objectives of the proposed sanction outweighs any likely costs to United States foreign policy, national security, economic, and humanitarian interests, including any potential harm to United States business, agriculture, and consumers, and any potential harm to the international reputation of the United States as a reliable supplier of products, technology, agricultural commodities, and services.

(2) REPORT BY THE SECRETARY OF AGRICULTURE.—Not later than 30 days after a committee of the House of Representatives

or the Senate reports any unilateral economic sanction legislation affecting the export of agricultural commodities from the United States or the House of Representatives or the Senate receives such legislation from the other House of Congress, the Secretary of Agriculture shall submit to the House receiving the legislation a report containing an assessment of—

(A) the extent to which any country or countries proposed to be sanctioned or likely to be sanctioned are markets that accounted for, in the preceding calendar year, more than 3 percent of all export sales from the United States of any agricultural commodity;

(B) the likelihood that exports of agricultural commodities from the United States will be affected by the proposed sanction or by retaliation by any country proposed to be sanctioned or likely to be sanctioned, and specific commodities which are most likely to be affected;

(C) the likely effect on incomes of producers of the specific commodities identified by the Secretary;

(D) the extent to which the proposed sanction would permit foreign suppliers to replace United States suppliers; and

(E) the likely effect of the proposed sanction on the reputation of United States farmers as reliable suppliers of agricultural commodities in general, and of the specific commodities identified by the Secretary.

(3) REPORT BY THE CONGRESSIONAL BUDGET OFFICE.—Any bill or joint resolution that imposes a unilateral economic sanction shall be treated as including a Federal private sector mandate for purposes of part B of title IV of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 658 et seq.) and the Congressional Budget Office shall report accordingly. The report shall include an assessment of—

(A) the likely short-term and long-term costs of the proposed sanction to the United States economy, including the potential impact on United States trade performance, employment, and growth;

(B) the impact the proposed sanction will have on the international reputation of the United States as a reliable supplier of products, agricultural commodities, technology, and services; and

(C) the impact the proposed sanction will have on the economic well-being and international competitive position of United States industries, firms, workers, farmers, and communities.

(e) RULES OF THE HOUSE OF REPRESENTATIVES AND SENATE.—This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such these rules are deemed a part of the rules of each House, respectively, and they supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

SEC. 7. REQUIREMENTS FOR EXECUTIVE ACTION.

(a) NOTICE.—

(1) IN GENERAL.—

(A) NOTICE OF INTENT TO IMPOSE SANCTION.—Notwithstanding any other provisions of law, the President shall publish notice in the Federal Register at least 45 days in advance of the imposition of any new unilateral economic sanction under any provision of law with respect to a foreign country or foreign entity, of the President's intention to implement such sanction. The purpose of such notice shall be to allow the formulation of an effective sanction that advances United States national security and economic interests, and to provide an opportunity for negotiations to achieve the objectives specified in the law authorizing imposition of a unilateral economic sanction.

(B) WAIVER OF ADVANCE NOTICE REQUIREMENT.—The President may waive the provisions of subparagraph (A) in the case of any new unilateral economic sanction that involves freezing the assets of a foreign country or entity (or in the case of any other sanction) if the President determines that the national interest would be jeopardized by the requirements of this section.

(C) AUTHORITY TO NEGOTIATE.—Notwithstanding any other provision of law, the President is authorized to negotiate with the foreign government against which a unilateral economic sanction is proposed to resolve the underlying reasons for the sanction during the 45-day period following the publication of notice in the Federal Register.

(2) NEW UNILATERAL ECONOMIC SANCTION.—For purposes of this section, the term ''new unilateral economic sanction'' means a unilateral economic sanction imposed pursuant to a law enacted after the date of enactment of this Act or a sanction imposed after such date of enactment pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).

(b) CONSULTATION.—

(1) IN GENERAL.—The President shall consult with the appropriate congressional committees regarding a proposed new unilateral economic sanction, including consultations regarding efforts to achieve or increase multilateral cooperation on the issues or problems prompting the proposed sanction.

(2) CLASSIFIED CONSULTATIONS.—The consultations described in paragraph (1) may be conducted on a classified basis if disclosure would threaten the national security of the United States.

(c) PUBLIC COMMENT.—The President shall publish a notice in the Federal Register of the opportunity for interested persons to submit comments on any proposed new unilateral economic sanction.

(d) REQUIREMENTS FOR EXECUTIVE BRANCH SANCTIONS.—Any new unilateral economic sanction imposed by the President—

(1) shall—

(A) include an assessment of whether—

(i) the sanction is likely to achieve a specific United States foreign policy or national security objective within a reasonable period of time, which shall be specified; and

(ii) the achievement of the objectives of the sanction outweighs any costs to United States national interests;

(B) provide contract sanctity, except that contract sanctity shall not be required in any case—

(i) in which execution of the contract is contrary to law;

(ii) in which the contract involves assets that will be frozen as a consequence of the proposed sanction; or

(iii) in which the contract provides for the supply of goods or services directly to a specific person, government agency, or military unit that is expressly named as a target of the proposed sanction;

(C) terminate not later than 2 years after the sanction is imposed, unless specifically extended by the President in accordance with this section;

(D)(i) be targeted as narrowly as possible on foreign governments, entities, and officials that are responsible for the conduct being targeted; and

(ii) seek to minimize any adverse impact on the humanitarian activities of United States and foreign nongovernmental organizations in a country against which the sanction may be imposed; and

(E) not include any restriction on the export, financing, support, or provision of medicine, medical equipment, medical supplies, food, or other agricultural commodity (including fertilizer), other than restrictions imposed in response to national security threats, where multilateral sanctions are in place, or restrictions involving a country where the United States is engaged in armed conflict;

(2) should provide, to the extent that the Secretary of Agriculture finds, that—

(A) a new unilateral economic sanction is likely to restrict exports of any agricultural commodity from the United States or is likely to result in retaliation against exports of any agricultural commodity from the United States; and

(B) the sanction is proposed to be imposed, or is likely to be imposed, on a country or countries that constituted, in the preceding calendar year, the market for more than 3 percent of all export sales from the United States of an agricultural commodity; and

(3) should provide that the Secretary of Agriculture expand agricultural export assistance under United States market development, food assistance, and export promotion programs to offset the likely damage to incomes of producers of the affected agricultural commodity, to the maximum extent permitted by law and by the obligations of the United States under the Agreement on Agriculture referred to in section 101(d)(2) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(2)).

(e) REPORT BY THE PRESIDENT.—

(1) IN GENERAL.—Prior to imposing any new unilateral economic sanction, the President shall provide a report to the appropriate congressional committees on the proposed sanction. The report shall include the report of the International Trade Commission under subsection (g) (if timely submitted prior to the filing of the report). The report may be provided on a classified basis if disclosure would threaten the national security of the United States. The President's report shall contain the following:

(A) An explanation of the foreign policy or national security objective or objectives intended to be achieved through the proposed sanction.

(B) An assessment of—

(i) the likelihood that the proposed new unilateral economic sanction will achieve its stated objectives within the stated period of time; and

(ii) the impact of the proposed new unilateral economic sanction on—

(I) humanitarian conditions, including the impact on conditions in any specific countries on which the sanction is proposed to be imposed;

(II) humanitarian activities of United States and foreign nongovernmental organizations;

(III) relations with United States allies; and

(IV) other United States national security and foreign policy interests, including countries and entities other than those on which the sanction is proposed to be imposed.

(C) A description and assessment of—

(i) diplomatic and other steps the United States has taken to accomplish the intended objectives of the proposed sanction;

(ii) the likelihood of multilateral adoption of comparable measures;

(iii) comparable measures undertaken by other countries;

(iv) alternative measures to promote the same objectives, and an assessment of their potential effectiveness;

(v) any obligations of the United States under international treaties or trade agreements with which the proposed sanction may conflict;

(vi) the likelihood that the proposed sanction will lead to retaliation against United States interests, including agricultural interests; and

(vii) whether the achievement of the objectives of the proposed sanction outweighs any likely costs to United States foreign policy, national security, economic, and humanitarian interests, including any potential harm to United States business, agriculture, and consumers, and any potential harm to the international reputation of the United States as a reliable supplier of products, technology, agricultural commodities, and services.

(2) REPORT ON OTHER SANCTIONS.—In the case of any unilateral economic sanction that is imposed after the date of enactment of this Act, other than a new unilateral economic sanction described in subsection (a)(2) or a sanction that is a continuation of a sanction in effect on the date of enactment of this Act, the President shall not later than 30 days after imposing such sanction submit to Congress a report described in paragraph (1) relating to such sanction. The report may be provided on a classified basis if disclosure would threaten the national security of the United States.

(f) REPORT BY THE SECRETARY OF AGRICULTURE.—Prior to the imposition of a new unilateral economic sanction by the President, the Secretary of Agriculture shall submit to the appropriate congressional committees a report that shall contain an assessment of—

(1) the extent to which any country or countries proposed to be sanctioned are markets that accounted for, in the preceding calendar year, more than 3 percent of all export sales from the United States of any agricultural commodity;

(2) the likelihood that exports of agricultural commodities from the United States will be affected by the proposed sanction or by retaliation by any country proposed to be sanctioned, including specific commodities which are most likely to be affected;

(3) the likely effect on incomes of producers of the specific commodities identified by the Secretary;

(4) the extent to which the proposed sanction would permit foreign suppliers to replace United States suppliers; and

(5) the likely effect of the proposed sanction on the reputation of United States farmers as reliable suppliers of agricultural commodities in general, and of the specific commodities identified by the Secretary.

(g) REPORT BY THE UNITED STATES INTERNATIONAL TRADE COMMISSION.—Before imposing a new unilateral economic sanction, the President shall make a timely request to the United States International Trade Commission for a report on the likely short-term and long-term costs of the proposed sanction to the United States economy, including the potential impact on United States trade performance, employment, and growth, the international reputation of the United States as a reliable supplier of products, agricultural commodities, technology, and services, and the economic well-being and international competitive position of United States industries, firms, workers, farmers, and communities.

(h) WAIVER AUTHORITY.—The President may waive any of the requirements of subsections (a), (b), (c), (e)(1), (f), and (g), in the event that the President determines that such a waiver is in the national interest of the United States. In the event of such a waiver, the requirements waived shall be met during the 60-day period immediately following the imposition of the new unilateral economic sanction, and the sanction shall terminate 90 days after being imposed unless such requirements are met. The President may waive any of the requirements of paragraphs (1)(B), (1)(D), (1)(E), and (2) of subsection (d) in the event that the President determines that the new unilateral economic sanction is related to actual or imminent armed conflict involving the United States.

(i) SANCTIONS REVIEW COMMITTEE.—

(1) ESTABLISHMENT.—There is established within the executive branch of Government an interagency committee, which shall be known as the Sanctions Review Committee, which shall have the responsibility of coordinating United States policy regarding unilateral economic sanctions and of providing appropriate recommendations to the President prior to any decision regarding the implementation of any unilateral economic sanction. The Committee shall be composed of the following 11 members, and any other member the President considers appropriate:

(A) The Secretary of State.

(B) The Secretary of the Treasury.

(C) The Secretary of Defense.

(D) The Secretary of Agriculture.

(E) The Secretary of Commerce.

(F) The Secretary of Energy.

(G) The United States Trade Representative.

(H) The Director of the Office of Management and Budget.

(I) The Chairman of the Council of Economic Advisers.

(J) The Assistant to the President for National Security Affairs.

(K) The Assistant to the President for Economic Policy.

(2) CHAIR.—The President shall designate one of the members specified in paragraph (1) to serve as Chair of the Sanctions Review Committee.

(j) INAPPLICABILITY OF OTHER PROVISIONS.—This section applies notwithstanding any other provision of law.

SEC. 8. ANNUAL REPORTS.

(a) ANNUAL REPORT.—Not later than 6 months after the date of enactment of this Act, and annually thereafter, unless otherwise required under existing law, the President shall submit to the appropriate congressional committees a report detailing with respect to each country or entity against which a unilateral economic sanction has been imposed—

(1) the extent to which the sanction has achieved foreign policy or national security objectives of the United States with respect to that country or entity;

(2) the extent to which the sanction has harmed humanitarian interests in that country, the country in which that entity is located, or in other countries; and

(3) the impact of the sanction on other national security and foreign policy interests of the United States, including relations with countries friendly to the United States, and on the United States economy.

(b) REPORT BY THE UNITED STATES INTERNATIONAL TRADE COMMISSION.—Not later than 6 months after the date of enactment of this Act, and annually thereafter, the United States International Trade Commission shall report to the appropriate congressional committees on the costs, individually and in the aggregate, of all unilateral economic sanctions in effect under United States law, regulation, or Executive order. The calculation of such costs shall include an assessment of the impact of such measures on the international reputation of the United States as a reliable supplier of products, agricultural commodities, technology, and services.

SEC. 9. PRESIDENTIAL WAIVER AUTHORITY.

(a) WAIVER AUTHORITY.—The President may waive the application of any sanction or prohibition (or portion thereof) contained in section 101 or 102 of the Arms Export Control Act, section 620E(e) of the Foreign Assistance Act of 1961, or section 2(b)(4) of the Export Import Bank Act of 1945 if the President determines that such a waiver would advance the purposes of such Acts or the national security interests of the United States.

(b) CONSULTATION.—Prior to exercising the waiver authority provided in subsection (a), the President shall consult with the appropriate congressional committees. Such consultations may be conducted on a classified basis if disclosure would threaten the national security of the United States.

(c) REPORTS.—At least once every 6 months after exercising the waiver authority in subsection (a), the President shall report to Congress with respect to the actions taken since the submission of the preceding report, and the reasons that continuation of any waiver under subsection (a) remains in the national security interest of the United States.

SEC. 10. EFFECTIVE DATE.

This Act shall take effect on the date that is 20 days after the date of enactment of this Act.

SANCTIONS POLICY REFORM ACT OF 1999—SECTION-BY-SECTION

Section 1: Short title. The act may be cited as the ''Enhancement of Trade, Security and Human Rights through Sanctions Reform Act''

Section 2: Purpose. The purpose of the Act is to establish an effective framework for consideration of unilateral economic sanctions and to make unilateral economic sanctions, when imposed, more effective.

Section 3: Statement of Policy. This section sets forth U.S. policy to pursue American security, trade and humanitarian interest through broad-ranging engagement with other countries, while recognizing the need at times to impose sanctions as a last resort. It supports multilateral cooperation as an alternative to unilateral U.S. sanctions. It seeks to promote U.S. economic growth through trade and to maintain America's reputation as a reliable supplier. It opposes boycotts and use of agricultural embargoes as a foreign policy weapon. It urges that economic sanctions be targeted as narrowly as possible, to minimize harm to innocent people or to humanitarian activities.

Section 4: Definitions. This section defines ''unilateral economic sanction'' as any restriction or condition on economic activity with respect to a foreign country or entity imposed for reasons of foreign policy or national security. This definition excludes multilateral sanctions, where other countries have agreed to adopt ''substantially equivalent'' measures. The definition also excludes U.S. trade laws, Jackson-Vanik, and munitions list controls. This section also defines ''appropriate committees,'' and ''contract sanctity.''

Section 5: Guidelines for Unilateral Economic Sanctions Legislation. This section provides that any bill or joint resolution imposing or authorizing a unilateral economic sanction should state the U.S. foreign policy or national security objective, terminate after two years unless specifically reauthorized, protect contract sanctity, provide Presidential authority to adjust or waive the sanction in the national interest, target the sanction as narrowly as possible against the parties responsible for the offending conduct, and provide for expanded export promotion if sanctions target a major export market for American farmers.

Section 6: Requirements for report Accompanying the Bill. The committee reporting sanctions legislation shall request reports from the President and Secretary of Agriculture. These reports shall be included in the committee report. If the legislation does not meet any Section guideline, the committee report shall explain why not. The President's report shall contain an assessment of the likelihood that the proposed sanction will achieve its stated objective within a reasonable time. It must weight the likely foreign policy, national security, economic, and humanitarian benefits against the costs of acting unilaterally. The report will also assess alternatives, such as prior diplomatic and other U.S. steps and comparable multilateral measures.

The Secretary of Agriculture's report shall assess the likely extent of the proposed legislation in terms of market share in affected countries, the likelihood that U.S. agricultural exports will be affected, and the impact on the reputation of U.S. farmers as reliable suppliers.

Section 6 also considers unilateral sanctions as unfunded federal mandates for purposes of the Unfunded Mandates Act. The Congressional Budget Office shall assess the likely short- and long-term cost of the proposed sanctions to the U.S. economy.

Section 7: Requirements for Executive Action. The President may impose a unilateral sanction no less than 45 days after announcing his intention to do so, during which time he shall consult with Congressional committees and publish a notice in the Federal Register seeking public comment. Any Executive sanction must meet the same guidelines that Section 5 applies to the Congress and must, in addition, include a clear finding that the sanction is likely to achieve a specific U.S. foreign policy or national security objective within a reasonable period of time.

Sanction 7 also requires—prior to the imposition of a unilateral sanction—the President and the Secretary of Agriculture to provide to the appropriate Congressional committees reports that contain the same assessment as required in the reports described in Section 6. The President shall also request a report by the U.S. International Trade Commission on the likely short- and long-term costs of the proposed sanctions to the U.S. economy, including the potential impact on U.S. competitiveness.

In case of national emergency, the bill allows the President temporarily to waive most Section 7 requirements in order to act immediately. If the President acts on an emergency basis, the waived requirements must be met within sixty days. Finally, the President shall establish an interagency Sanctions Review Committee to improve coordination of U.S. policy regarding unilateral sanctions.

Section 8: Annual Reports. The President must submit to the appropriate committees a report each year detailing the extent to which sanctions have achieved U.S. objectives, as well as their impact on humanitarian and other U.S. interests, including relations with friendly countries. The U.S. International Trade Commission shall report to the Congress on the costs, individually and in the aggregate, of all unilateral economic sanctions in effect under U.S. law, regulation, or Executive order, including the impact on U.S. competitiveness.

By Mr. ASHCROFT (for himself, Mr. HATCH, Mr. DODD, Mr. SESSIONS, Mr. LIEBERMAN, Mr. GRASSLEY, Mr. TORRICELLI, Mr. SMITH of New Hampshire, and Mr. SCHUMER):

S. 758. A bill to establish legal standards and procedures for the fair, prompt, inexpensive, and efficient resolution of personal injury claims arising out of asbestos exposure, and for other purposes; to the Committee on the Judiciary.

FAIRNESS IN ASBESTOS COMPENSATION ACT OF 1999

Mr. ASHCROFT. Mr. President, I rise today to introduce the Fairness in Asbestos Compensation Act of 1999. I want to thank all of the Senators who have cosponsored this bill. This bill is a bipartisan effort and the diverse group of Senators who support the bill reflects a serious effort to solve a serious problem, not an effort to gain partisan advantage. I particularly want to thank Senator DODD for his assistance on this bill and Senator HATCH for his leadership in introducing similar legislation in the last Congress.

I am introducing this bill and I support this bill for a simple reason—it makes sense. The problems caused by the manufacture and use of asbestos are well-documented. Although some companies initially denied responsibility and resisted suits to recover for asbestos-related injuries in court, the injuries associated with asbestos and the liability of manufacturers for those injuries are now well-established.

The courts—both state and federal—have done an admirable job of establishing the facts and legal rules concerning asbestos. That is a job the courts do well. However, now that the basic facts and liability rules have been established, the courts are being asked simply to process claims. That is not a job the courts do particularly well. The rules governing court actions give parties rights to dispute facts that have been conclusively established in other proceedings. All the while the meter is running for the lawyers on both sides. Dollars that could go to compensate deserving victims, instead go to lawyers and court costs.

In the asbestos context, these problems are exacerbated by the finite resources available to compensate victims. What is more, the legal rules concerning both punitive damages and what constitutes a sufficient injury to bring suit make for jury awards that do not correspond to the seriousness of the injury. Someone filing suit because of a preliminary manifestation of a minor injury, such as pleural thickening, that may never lead to more severe symptoms may receive more compensation than another person with more serious asbestos-related injuries. None of this is to suggest that it is somehow wrong for plaintiffs with a minor injury to file suit. To the contrary, some state rules concerning when injury occurs obligate plaintiffs to file suits or risk having their suit dismissed as time-barred. What is more, in light of the finite number of remaining solvent asbestos defendants, potential plaintiffs have every incentive to file suit as soon as legally permissible.

The Fairness in Asbestos Compensation Act of 1999 attempts to address these problems by establishing an administrative claims systems that aims to compensate victims of asbestos rationally and efficiently. The Act accomplishes this goal by classifying claimants according to the severity of their injuries, ensuring that those with more serious injuries receive greater awards, securing a compensation fund so that victims whose conditions are not yet manifest can recover in the future, and eliminating the statute of limitations and injury rules that force plaintiffs into court prematurely. Although I wish I could claim some pride of authorship in these mechanisms, these basic features were all part of a proposed global asbestos settlement agreement worked out by representatives of both plaintiffs and defendants.

The Supreme Court rejected the proposed global asbestos settlement in Amchem Products versus Windsor. The District Court had certified a settlement class under Rule 23 that included extensive medical and compensation criteria that both plaintiffs and defendants had accepted. The Supreme Court ruled that this type of global, nationwide settlement of tort claims brought under fifty different state laws could not be sustained under Rule 23. The Court recognized that such a global settlement would conserve judicial resources and likely would promote the public interest. Nonetheless, the Court concluded that Rule 23 was too thin a reed to support this massive settlement, and that if the parties desired a nationwide settlement they needed to direct their attention to the Congress, rather than the Courts.

I believe the Supreme Court was right on both counts—the proposed settlement criteria were in the public interest, but the proposed class simply could not be sustained under Rule 23. The Rules Enabling Act and the inherent limits on the power of federal courts preclude an interpretation of Rule 23 that would result in a federal court overriding or homogenizing varying state laws. However, as the Supreme Court pointed out, Congress has the power to do directly what the courts lack the power to do through a strained interpretation of Rule 23.

This bill takes up the challenge of the Supreme Court and addresses the tragic problem of asbestos. The bill incorporates the medical and compensation criteria agreed to by the parties in the Amchem settlement and employs them as the basis for a legislative settlement. In the simplest terms, the legislation proposes an administrative claims process to compensate individuals injured by asbestos as a substitute for the tort system (although individuals retain an ability to opt-in to the tort system after using the administrative claims system to narrow the issues in dispute). The net effect of this legislation should be to funnel a greater percentage of the pool of limited resources to injured plaintiffs, rather than to lawyers for plaintiffs and defendants.

I want to be clear, however, that I am not here to suggest that this is a perfect bill. This bill represents a complex solution to a complex problem. A number of groups will be affected by this legislation, and it may be necessary to make changes to ensure that no one is unfairly disadvantaged by this legislation. But that said, I am confident that we can make the needed changes. We have a bipartisan group of Senators who have agreed to cosponsor this legislation, and the bill represents a sufficient improvement in efficiency over the existing litigation quagmire that there should be ample room to work out any differences.

Finally, let me also note that this bill also plays a minor but important role in preserving a proper balance in the separation of powers. I have been a strong and consistent critic of judicial activism. Judges who make legal rules out of whole cloth in the absence of constitutional or statutory text damage the standing of the judiciary and our constitutional structure. On the other hand, when judges issue opinions in which they recognize that a particular outcome might well be in the public interest, but nonetheless is not supported by the existing law, they reinforce the proper, limited role of the judiciary. Too often, federal judges are tempted to reach the result they favor as a policy matter without regard to the law. When judges succumb to that temptation, they are justly criticized. But when they resist that temptation, their self-restraint should be recognized and applauded. The Court in Amchem rightly recognized a problem that the judiciary acting alone could not solve. By offering a legislative solution to that problem the bill provides the proper incentives for courts to be restrained and reinforces the proper roles of Congress and the Judiciary.

In short, this bill provides a proper legislative solution to the asbestos litigation problem. It ensures that, in an area in which extensive litigation has already established facts and assigned responsibility, scarce dollars compensate victims, not lawyers. I want to thank my co-sponsors for their work on the bill. I look forward to working with them to ensure final passage of this legislation. The courts have completed their proper role in ascertaining facts and liability. It is time for Congress to step in to provide a better mechanism to direct scarce resources to deserving victims.

● Mr. DODD. Mr. President, I am pleased to join with my colleague, Senator ASHCROFT, to introduce the ''Fairness in Asbestos Compensation Act of 1999''. This legislation would expedite the provision of financial compensation to the victims of asbestos exposure by establishing a nationwide administrative system to hear and adjudicate their claims.

Mr. President, millions of American workers have been exposed to asbestos on the job. Tragically, many have contracted asbestos-related illnesses, which can be devastating and deadly. Others will surely become similarly afflicted. These individuals—who have or will become terribly ill due to no fault of their own—deserve swift and fair compensation to help meet the costs of health care, lost income, and other economic and non-economic losses.

Unfortunately, many victims of asbestos exposure are not receiving the efficient and just treatment they deserve from our legal system. Indeed, it can be said that the current asbestos litigation system is in a state of crisis. Today, more than 150,000 lawsuits clog the state and federal courts. In 1996 along, more than 36,000 new suits were filed. Those who have been injured by asbestos exposure must often wait years for compensation. And when that compensation finally arrives, it is often eaten up by attorneys' fees and other transaction costs.

In the early 1990's, an effort was made to improve the management of federal asbestos litigation. Cases were consolidated, and a settlement to resolve them administratively was agreed to between defendant companies and plaintiffs' attorneys. This settlement also obtained the backing of the Building and Construction Trades Union of the AFL–CIO. Regrettably, the settlement was overturned by the Third Circuit Court of Appeals in 1996. Though the Court termed the settlement ''arguably a brilliant partial solution'', it found that the class of people created by the settlement—namely, those exposed to asbestos—was too large and varied to be certified pursuant to Rule 23 of the Federal Rules of Civil Procedure. The Supreme Court affirmed that decision. In its decision, the Court effectively invited the Congress to provide for the existence of such a settlement as a fair and efficient way to resolve asbestos litigation claims.

Hence this bill. In simple terms, it codifies the settlement reached between companies and the representatives of workers who were exposed to asbestos on the job. It would establish a body to review claims by those who believe that they have become ill due to exposure to asbestos. It would provide workers with mediation and binding arbitration to promote the fair and swift settlement of their claims. It would allow plaintiffs to seek additional compensation if their non-malignant disease later developed into cancer. And it would limit attorneys' fees so as to ensure that a claimant receives a just portion of any settlement amount.

All in all, Mr. President, this is a good bill. However, it is not a perfect bill. My office has received comments on the bill from representatives of a number of parties affected by asbestos litigation. I hope and expect that those comments will be given the consideration that they deserve by the Judiciary Committee and the full Senate as this legislation moves forward.●

Mr. HATCH. Mr. President, I am pleased to be an original co-sponsor of the legislation, the ''Fairness in Asbestos Compensation Act of 1999,'' which Senator ASHCROFT is introducing today. This legislation's other sponsors include: Senator DODD, Senator SESSIONS, Senator LIEBERMAN, Senator GRASSLEY, Senator TORRICELLI, Senator SMITH, and Senator SCHUMER.

State and federal courts are overwhelmed by up to 150,000 asbestos lawsuits today, and there are new suits being filed. Unfortunately, those who are truly sick with asbestos and various asbestos-related cancers and illnesses spend years in court before receiving any compensation, and then usually lose more than half of that compensation to attorneys' fees and other costs. One cause of this extraordinary delay in compensation is the large number of lawsuits filed by those who, without any symptoms or signs of asbestos-related illness, bring suits for future medical monitoring and fear of cancer.

Mr. President, I am concerned that as juries award enormous compensation and outrageous punitive damages to non-impaired plaintiffs, others with actual illnesses receive little or no compensation. As legal and financial resources are tied up and exhausted, it is increasingly unclear whether those who are truly inflicted with asbestos-caused diseases will be able to recover anything at all in the years ahead.

Courts have tried unsuccessfully to cope with this problem. The major parties involved attempted to compromise on a solution that included prompt compensation. The Third Circuit Court of Appeals overturned one such compromise, known as the Amchem or Georgine agreement, on civil procedural rule grounds, but found the settlement to be ''arguably a brilliant partial solution.'' Justice Ruth Bader Ginsburg, writing for the Supreme Court, upheld the Appellate decision and stated, ''[t]he argument is sensibly made that a nationwide administrative claims processing regime would provide the most secure, fair and efficient means of compensating victims of asbestos exposure. Congress, however, has not adopted such a solution.'' The Court accurately recognized that Congress is the most appropriate body to resolve the asbestos crisis. That is what this legislation is aimed to do.

Mr. President, through the hundreds of thousands of cases that already have been litigated in the court system, the legal and scientific issues relating to asbestos litigation have been thoroughly explored. This, along with the recent court decisions demonstrate that the asbestos litigation issue is now ripe for a legislative solution.

This bill we introduce today will correct the asbestos litigation crisis problems. It is crafted to reflect as closely as possible the original settlement agreed to by the involved parties in the Amchem settlement. This bill will eliminate the asbestos litigation burden in the courts, get fair compensation for those who currently are sick,

and enable the businesses to manage their liabilities in order to ensure that compensation will be available for future claimants. It is important to note that no tax-payer money will fund this bill.

We have carefully crafted this legislation so that it is at least as favorable—and, in many cases, more favorable—to claimants as the original Amchem settlement. As this bill makes its way through the legislative process, I look forward to working with Senator ASHCROFT and my colleagues to further refine the language in order to achieve the maximum public benefit from this legislation.

By Mr. MURKOWSKI (for himself, Mr. TORRICELLI, Mr. BURNS, and Mr. REID):

S. 759. A bill to regulate the transmission of unsolicited commercial electronic mail on the Internet, and for other purposes.

INBOX PRIVACY ACT OF 1999

Mr. MURKOWSKI. Mr. President, I rise today to introduce the Inbox Privacy Act of 1999 on behalf of myself, Senators TORRICELLI, BURNS and REID. Our legislation provides a solution to the burden of junk e-mail, also known as spam, that now plagues the Internet. There are five main components to this legislation:

Online marketers must honestly identify themselves

Consumers have the ultimate decision as to what comes into their inbox

Consumers and domain owners can stop further transmissions of spam to those who do not want to receive it

Internet Service Providers are relieved from the burdens associated with spam

A federal solution is provided to a nationwide problem while giving states, ISP's, and the Federal Trade Commission authority to go after those who flood the Internet with fraudulent emails.

The burden of spam is evident in my home state of Alaska. Unlike urban and suburban areas of the nation where a local telephone call is all it takes to log onto the Internet, rural areas of Alaska and many other states have no such local access.

Every minute connected to the Internet, whether it is for researching a school project, checking a bank balance, searching for the latest information on the weather at the local airport, or even shopping online incurs a per minute long distance charge. The extra financial cost of the longer call to download spam may only be a small amount on a day to day basis, but over the long term this cost is a very real financial disincentive to using the Internet. Some estimates place the cost at over $200 per year for rural Americans.

If Internet commerce is to continue to expand, all Internet consumers must be able to avoid costs for the receipt of advertising material such as spam that they do not want to receive. As I've said before, the Internet is not a tool for every huckster to sell the Brooklyn Bridge.

Last Congress I was the author of Title III of S. 1618 which unanimously passed the Senate and was supported by a variety of interested Internet groups. Some wanted an outright ban on such solicitations, but banning non-fraudulent Internet commerce is a dangerous precedent to set, particularly where the problem today is caused by fraudulent marketers. I also recognize that there are First Amendment concerns raised by any Internet content legislation and am pleased that our approach has the support of civil liberties organizations.

The most significant difference between this legislation and Title III of S. 1618 is the addition of a domain-wide opt-out system that allows Internet domain owners to put up an electronic stop sign to signify their desire to not receive unsolicited commercial email to addresses served by their domain. However, to ensure that the Internet consumer has the ultimate choice, consumers would be able to inform their ISP of their continuing desire to receive junk e-mail. While I doubt that there will be too many Internet consumers who want to receive junk e-mail, Congress should not make the decision for them by banning junk e-mail outright, no matter how annoying it may be. Not only should consumers have the ultimate choice, but if Congress bans junk e-mail, what else on the Internet will we ban next?

Finally, I have included a state enforcement provision that allows all states to enforce a national standard on junk e-mail. As Congress has seen before in the Internet Tax Freedom debate, a unified approach to any Internet legislation is key to promoting the development of the Internet. Just as having 50 state tax policies on Internet transactions represents a poor policy decision, so would having 50 state policies on spam legislation. My approach solves this dilemma by setting such a national standard that provides for even greater protection that what a few states have already enacted. By setting a national standard, it also solves the constitutional dilemma that many states face regarding long-arm jurisdiction.

Mr. President, the Inbox Privacy Act represents a significant step forward for Internet consumers and domain owners and I urge its adoption by my colleagues.

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

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

S. 759

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 ''Inbox Privacy Act of 1999''.

SEC. 2. TRANSMISSIONS OF UNSOLICITED COMMERCIAL ELECTRONIC MAIL.

(a) PROHIBITION ON TRANSMISSION TO PERSONS DECLINING RECEIPT.—

(1) IN GENERAL.—A person may not initiate the transmission of unsolicited commercial electronic mail to another person if such other person submits to the person a request that the initiation of the transmission of such mail by the person to such other person not occur.

(2) FORM OF REQUEST.—A request under paragraph (1) may take any form appropriate to notify a person who initiates the transmission of unsolicited commercial electronic mail of the request, including an appropriate reply to a notice specified in subsection (d)(2).

(3) CONSTRUCTIVE AUTHORIZATION.—

(A) IN GENERAL.—Subject to subparagraph (B), for purposes of this subsection, a person who secures a good or service from, or otherwise responds electronically to an offer in a commercial electronic mail message shall be deemed to have authorized the initiation of transmissions of unsolicited commercial electronic mail from the person who initiated transmission of the message.

(B) NO AUTHORIZATION FOR REQUEST FOR TERMINATION.—A reply to a notice specified in subsection (d)(2) shall not constitute authorization for the initiation of transmissions of unsolicited commercial electronic mail under this paragraph.

(b) PROHIBITION ON TRANSMISSION TO DOMAIN OWNERS DECLINING RECEIPT.—

(1) IN GENERAL.—Except as provided in paragraph (2), a person may not initiate the transmission of unsolicited commercial electronic mail to any electronic mail addresses served by a domain if the domain owner has elected not to receive transmissions of such mail at the domain in accordance with subsection (c).

(2) EXCEPTIONS.—The prohibition in paragraph (1) shall not apply in the case of the following:

(A) A domain owner initiating transmissions of commercial electronic mail to its own domain.

(B) Any customer of an Internet service provider or interactive computer service provider included on a list under subsection (c)(3)(C).

(c) DOMAIN-WIDE OPT-OUT SYSTEM.—

(1) IN GENERAL.—A domain owner may elect not to receive transmissions of unsolicited commercial electronic mail at its own domain.

(2) NOTICE OF ELECTION.—A domain owner making an election under this subsection shall—

(A) notify the Federal Trade Commission of the election in such form and manner as the Commission shall require for purposes of section 4(c); and

(B) if the domain owner is an Internet service provider or interactive computer service provider, notify the customers of its Internet service or interactive computer service, as the case may be, in such manner as the provider customarily employs for notifying such customers of matters relating to such service, of—

(i) the election; and

(ii) the authority of the customers to make the election provided for under paragraph (3).

(3) CUSTOMER ELECTION TO CONTINUE RECEIPT OF MAIL.—

(A) ELECTION.—Any customer of an Internet service provider or interactive computer service provider receiving a notice under

paragraph (2)(B) may elect to continue to receive transmissions of unsolicited commercial electronic mail through the domain covered by the notice, notwithstanding the election of the Internet service provider or interactive computer service provider under paragraph (1) to which the notice applies.

(B) TRANSMITTAL OF MAIL.—An Internet service provider or interactive computer service provider may not impose or collect any fee for the receipt of unsolicited commercial electronic mail under this paragraph (other than the usual and customary fee imposed and collected for the receipt of commercial electronic mail by its customers) or otherwise discriminate against a customer for the receipt of such mail under this paragraph.

(C) LIST OF CUSTOMERS MAKING ELECTION.—

(i) REQUIREMENT.—An Internet service provider or interactive computer service provider shall maintain a list of each of its current customers who have made an election under subparagraph (A).

(ii) AVAILABILITY OF LIST.—Each such provider shall make such list available to the public in such form and manner as the Commission shall require for purposes of section 4(c).

(iii) PROHIBITION ON FEE.—A provider may not impose or collect any fee in connection with any action taken under this subparagraph.

(d) INFORMATION TO BE INCLUDED IN ALL TRANSMISSIONS.—A person initiating the transmission of any unsolicited commercial electronic mail message shall include in the body of such message the following information:

(1) The name, physical address, electronic mail address, and telephone number of the person.

(2) A clear and obvious notice that the person will cease further transmissions of commercial electronic mail to the recipient of the message at no cost to that recipient upon the transmittal by that recipient to the person, at the electronic mail address from which transmission of the message was initiated, of an electronic mail message containing the word ''remove'' in the subject line.

(e) ROUTING INFORMATION.—A person initiating the transmission of any commercial electronic mail message shall ensure that all Internet routing information contained in or accompanying such message is accurate, valid according to the prevailing standards for Internet protocols, and accurately reflects the routing of such message.

SEC. 3. DECEPTIVE ACTS OR PRACTICES IN CONNECTION WITH SALE OF GOODS OR SERVICES OVER THE INTERNET.

(a) AUTHORITY TO REGULATE.—

(1) IN GENERAL.—The Federal Trade Commission may prescribe rules for purposes of defining and prohibiting deceptive acts or practices in connection with the promotion, advertisement, offering for sale, or sale of goods or services on or by means of the Internet.

(2) COMMERCIAL ELECTRONIC MAIL.—The rules under paragraph (1) may contain specific provisions addressing deceptive acts or practices in the initiation, transmission, or receipt of commercial electronic mail.

(3) NATURE OF VIOLATION.—The rules under paragraph (1) shall treat any violation of such rules as a violation of a rule under section 18 of the Federal Trade Commission Act (15 U.S.C. 57a), relating to unfair or deceptive acts or practices affecting commerce.

(b) PRESCRIPTION.—Section 553 of title 5, United States Code, shall apply to the prescription of any rules under subsection (a).

SEC. 4. FEDERAL TRADE COMMISSION ACTIVITIES WITH RESPECT TO UNSOLICITED COMMERCIAL ELECTRONIC MAIL.

(a) INVESTIGATION.—

(1) IN GENERAL.—Subject to paragraph (2), upon notice of an alleged violation of a provision of section 2, the Federal Trade Commission may conduct an investigation in order to determine whether or not the violation occurred.

(2) LIMITATION.—The Commission may not undertake an investigation of an alleged violation under paragraph (1) more than 2 years after the date of the alleged violation.

(3) RECEIPT OF NOTICES.—The Commission shall provide for appropriate means of receiving notices under paragraph (1). Such means shall include an Internet web page on the World Wide Web that the Commission maintains for that purpose.

(b) ENFORCEMENT POWERS.—If as a result of an investigation under subsection (a) the Commission determines that a violation of a provision of section 2 has occurred, the Commission shall have the power to enforce such provision as if such violation were a violation of a rule prescribed under section 18 of the Federal Trade Commission Act (15 U.S.C. 57a), relating to unfair or deceptive acts or practices affecting commerce.

(c) INFORMATION ON ELECTIONS UNDER DOMAIN-WIDE OPT-OUT SYSTEM.—

(1) INITIAL SITE FOR INFORMATION.—The Commission shall establish and maintain an Internet web page on the World Wide Web containing information sufficient to make known to the public for purposes of section 2 the domain owners who have made an election under subsection (c)(1) of that section and the persons who have made an election under subsection (c)(3) of that section.

(2) ALTERNATIVE SITE.—The Commission may from time to time select another means of making known to the public the information specified in paragraph (1). Any such selection shall be made in consultation with the members of the Internet community.

(d) ASSISTANCE OF OTHER FEDERAL AGENCIES.—Other Federal departments and agencies may, upon request of the Commission, assist the Commission in carrying out activities under this section.

SEC. 5. ACTIONS BY STATES.

(a) IN GENERAL.—Whenever the attorney general of a State has reason to believe that the interests of the residents of the State have been or are being threatened or adversely affected because any person is engaging in a pattern or practice of the transmission of electronic mail in violation of a provision of section 2, or of any rule prescribed pursuant to section 3, the State, as parens patriae, may bring a civil action on behalf of its residents to enjoin such transmission, to enforce compliance with such provision or rule, to obtain damages or other compensation on behalf of its residents, or to obtain such further and other relief as the court considers appropriate.

(b) NOTICE TO COMMISSION.—

(1) NOTICE.—The State shall serve prior written notice of any civil action under this section on the Federal Trade Commission and provide the Commission with a copy of its complaint, except that if it is not feasible for the State to provide such prior notice, the State shall serve written notice immediately after instituting such action.

(2) RIGHTS OF COMMISSION.—On receiving a notice with respect to a civil action under paragraph (1), the Commission shall have the right—

(A) to intervene in the action;

(B) upon so intervening, to be heard in all matters arising therein; and

(C) to file petitions for appeal.

(c) ACTIONS BY COMMISSION.—Whenever a civil action has been instituted by or on behalf of the Commission for violation of a provision of section 2, or of any rule prescribed pursuant to section 3, no State may, during the pendency of such action, institute a civil action under this section against any defendant named in the complaint in such action for violation of any provision or rule as alleged in the complaint.

(d) CONSTRUCTION.—For purposes of bringing a civil action under subsection (a), nothing in this section shall prevent an attorney general from exercising the powers conferred on the attorney general by the laws of the State concerned to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary or other evidence.

(e) VENUE; SERVICE OF PROCESS.—Any civil action brought under subsection (a) in a district court of the United States may be brought in the district in which the defendant is found, is an inhabitant, or transacts business or wherever venue is proper under section 1391 of title 28, United States Code. Process in such an action may be served in any district in which the defendant is an inhabitant or in which the defendant may be found.

(f) DEFINITIONS.—In this section:

(1) ATTORNEY GENERAL.—The term ''attorney general'' means the chief legal officer of a State.

(2) STATE.—The term ''State'' means any State of the United States, the District of Columbia, Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, the Republic of Palau, and any possession of the United States.

SEC. 6. ACTIONS BY INTERNET SERVICE PROVIDERS AND INTERACTIVE COMPUTER SERVICE PROVIDERS.

(a) ACTIONS AUTHORIZED.—In addition to any other remedies available under any other provision of law, any Internet service provider or interactive computer service provider adversely affected by a violation of section 2(b)(1) may, within 1 year after discovery of the violation, bring a civil action in a district court of the United States against a person who violates such section.

(b) RELIEF.—

(1) IN GENERAL.—An action may be brought under subsection (a) to enjoin a violation referred to in that subsection, to enforce compliance with the provision referred to in that subsection, to obtain damages as specified in paragraph (2), or to obtain such further and other relief as the court considers appropriate.

(2) DAMAGES.—

(A) IN GENERAL.—The amount of damages in an action under this section for a violation specified in subsection (a) may not exceed $50,000 per day in which electronic mail constituting such violation was received.

(B) RELATIONSHIP TO OTHER DAMAGES.—Damages awarded under this subsection for a violation under subsection (a) are in addition to any other damages awardable for the violation under any other provision of law.

(C) COST AND FEES.—The court may, in issuing any final order in any action brought under subsection (a), award costs of suit, reasonable costs of obtaining service of process, reasonable attorney fees, and expert witness fees for the prevailing party.

(c) VENUE; SERVICE OF PROCESS.—Any civil action brought under subsection (a) in a district court of the United States may be brought in the district in which the defendant or in which the Internet service provider or interactive computer service provider is located, is an inhabitant, or transacts business or wherever venue is proper under section 1391 of title 28, United States Code.

Process in such an action may be served in any district in which the defendant is an inhabitant or in which the defendant may be found.

SEC. 7. PREEMPTION.

This Act preempts any State or local laws regarding the transmission or receipt of commercial electronic mail.

SEC. 8. DEFINITIONS.

In this Act:

(1) COMMERCIAL ELECTRONIC MAIL.—The term ''commercial electronic mail'' means any electronic mail or similar message whose primary purpose is to initiate a commercial transaction, not including messages sent by persons to others with whom they have a prior business relationship.

(2) INITIATE A TRANSMISSION.—

(A) IN GENERAL.—The term ''initiate the transmission'', in the case of an electronic mail message, means to originate the electronic mail message.

(B) EXCLUSION.—Such term does not include any intervening action to relay, handle, or otherwise retransmit an electronic mail message, unless such action is carried out in intentional violation of a provision of section 2.

(3) INTERACTIVE COMPUTER SERVICE PROVIDER.—The term ''interactive computer service provider'' means a provider of an interactive computer service (as that term is defined in section 230(e)(2) of the Communications Act of 1934 (47 U.S.C. 230(e)(2)).

(4) INTERNET.—The term ''Internet'' has the meaning given that term in section 230(e)(1) of the Communications Act of 1934 (47 U.S.C. 230(e)(1)).

INBOX PRIVACY ACT OF 1999

• Mr. TORRICELLI. Mr. President, thank Senator MURKOWSKI, my distinguished colleague from Alaska, with whom I have worked many months in this effort. I also thank Senator BURNS, Chairman of the Communications subcommittee, who has greatly assisted us with this legislation and Senator REID for joining with us on this important legislation.

Last year, I recognized the growing threat to Internet commerce and communication posed by the proliferation of unsolicited junk e-mail, or so-called ''Spam.'' Junk e-mail is an unfortunate side effect of the burgeoning world of Internet communication and commerce. While Internet traffic doubles every 100 days, as much as 30 percent of that traffic is junk e-mail.

Like many other Americans, I have an America Online account and am inundated with unsolicited messages, peddling every item imaginable. Similarly, I receive junk e-mail daily at my official senate e-mail address, along with the complaints of dozens of constituents who forward me the Spam that they receive.

The incentive to abuse the Internet is obvious. Sending an e-mail to as many as 10 million people can cost as little as a couple of hundred dollars. Today, unsolicited commercial e-mailers are hiding their identities, falsifying their return addresses and refusing to respond to complaints or removal requests. Because the senders of these e-mails are generally unknown, they avoid any possible retribution from consumers. Their actions approach fraud, but our current law are not strong enough to stop them.

I have long been concerned about executive—indeed any—government regulation of the Internet. Many of the best qualities of American life are represented and enhanced by the Internet, and I fear government regulation has the possibility to stifle the creativity and development of cyberspace.

However, a failure to address the problem of junk e-mail now poses a greater threat to the Internet than do minimal regulations. The massive amount of junk e-mail in an already strained system is increasingly responsible for slowdowns, and even breakdowns, of Internet services. For example, just last March spammers crashed Pacific Bell's Network, leaving customers without service for 24 hours.

Let me be clear, this legislation is not a de facto regulation of the Internet. In fact, it does not go as a complete ban on junk e-mail as some have suggested. While I understand the concerns of those who seek a complete ban, I believe that the government should not hastily pass broad legislation to regulate the Internet. The Inbox Privacy Act will address the spam problem by giving citizens and Internet service providers the power to stop unwanted e-mail. But Congress must move quickly to address this situation before junk e-mail becomes a serious impediment to the flow of ideas and commerce on the Internet.•

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

S. 760. A bill to include the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands in the 50 States Commemorative Coin Program; to the Committee on Banking, Housing, and Urban Affairs.

COMMEMORATIVE COIN AMENDMENTS ACT OF 1999

Mr. MURKOWSKI. Mr. President, I am joined today by Senator JEFF BINGAMAN in introducing the Commemorative Coin Amendments Act of 1999. Our legislation would extend the new commemorative quarter program to include the District of Columbia, Puerto Rico, Guam, American Samoa, the U.S. Virgin Islands, and the Northern Mariana Islands. As one of the few Members of Congress who can remember when my home state was a territory and as Chairman of the Energy and Natural Resources Committee with jurisdiction over the territories of the United States, I feel that it is more than appropriate for the U.S. Mint to recognize the contributions of these six entities.

However, Mr. President, the reason for minting these six coins goes beyond historical significance. Americans who work in the mining and transportation industries will benefit from my legislation. The U.S. Treasury will benefit as collectors remove quarters from circulation. The government spends 5 cents to mint each quarter. Any quarter removed from circulation by collectors earns the U.S. Treasury a profit of 20 cents. A study by Coopers and Lybrand found that the the federal Treasury could take in more than $2 billion dollars for the first fifty quarter designs. Six more coins will certainly add to that revenue windfall.

Mr. President, let me turn to the historical reasons for this bill. The District of Columbia was the only land designated by the U.S. Constitution. It has served as the home of Congress and the White House for all but brief periods of time. Within its boundaries reside the Archives of the United States, home of the original Constitution and Declaration of Independence. The District of Columbia is home to numerous monuments honoring important Americans who have changed the course of history as well as events that have changed the course of our nation. The District of Columbia was where Martin Luther King spoke his moving ''I have a dream'' address. And finally, it is the place that the world looks to for political and economic leadership.

The inclusion of the territories of the United States in this legislation serves as an important reminder of our history. With very few exceptions, such as Texas and those States that formed the original thirteen Colonies, all of my colleagues come from States that at one time were territories. Four of us actually remember the days when our constituents were not represented in the Senate and were afforded only a non-voting delegate in the House. The history of our Nation is written in the development of the territories—the social and economic forces that forged our Nation.

Our current inhabited territories are an integral part of that heritage and are also a part of our future. Guam, the southernmost of the Mariana Islands, and the Commonwealth of Puerto Rico were acquired at the conclusion of the Spanish- American war, as was the Philippines. Their acquisition and subsequent development was the focus of a spirited debate in Congress, the Administration, and eventually in the Supreme Court over the nature and applicability of provisions of the Constitution. Not since the Louisiana Purchase a century earlier had there been such a debate over the boundaries of the United States. Guam, acquired in one war, was occupied by Japan in another. The sacrifices of the residents of Guam prior to liberation led to the granting of citizenship and the establishment of full local self-government. Former President Bush was forced to ditch his plane during the conflict in the Marianas and our former colleague, Senator Heflin, was wounded in the liberation of Guam.

Puerto Rico, with a population approaching 4 million and an economy larger than many States, has set the mark in political self-government for those territories that are not fully under the Constitution. Puerto Rico was the first territory to achieve local self-government pursuant to a locally

drafted Constitution other than as part of either Statehood or Independence. Since that time, however, both American Samoa and the Commonwealth of the Northern Marianas have adopted local constitutions and both Guam and the Virgin Islands exercise similar authorities under their Organic legislation. Puerto Rico has the longest continually occupied capital in the United States, San Juan, and was the site where one of its Governors, Ponce de Leon, sailed for Florida.

American Samoa was acquired under Treaties of Cession in 1900 and 1904 following the Tripartite Agreement between Great Britain, Germany, and the United States. The history of the Samoas demonstrates both the European conflicts in the Pacific as well as the emergence of the United States as a Pacific power. American Samoa, the only territory south of the Equator, demonstrates the diversity that marks this Nation. American Samoa is the only territory where the residents are nationals rather than citizens of the United States. Past Governors, such as Peter Coleman, have been important representatives of the United States in the Pacific community and respected leaders.

The United States Virgin Islands were purchased from Denmark in 1916 for $25 million. The purchase did not provoke the divisive debates that surrounded the Louisiana Purchase nor some of the merriment that accompanied the purchase of Alaska. The Danish heritage continues to be evident in the capitol at Charlotte Amalie on St. Thomas as well as at Christiansted National Historic Site on St. Croix, the heart of the former Danish West Indies. Salt River Bay, on St. Croix, is the only known site where members of the Columbus expedition actually set foot on what is now United States soil.

The Commonwealth of the Northern Mariana Islands is the newest territory of the United States. The area had been part of a League of Nations Mandate to Japan prior to World War II and saw some of the fiercest fighting of the Pacific theater, especially on Saipan. The attacks on Hiroshima and Nagasaki which brought the war to an end were launched from Tinian. After the war, the area became part of a United Nation's Trust Territory of the Pacific Islands. In 1976 the United States approved a Covenant to establish a Commonwealth of the Northern Mariana Islands, a document that had been negotiated with representatives of the Marianas government and approved in a local U.N. observed plebescite. Formal extension of United States sovereignty came with the termination of the Trusteeship by the Security Council a decade later. As an interesting historical note, the acquisition of the Northern Mariana Islands ends the artificial division created in 1898 when the United States acquired Guam and Spain sold the remainder of its possessions in the Marianas to Germany.

Mr. President, the District of Columbia and the territories are an important part of our heritage and our future. They encompass territory where our nation's government resides, where Columbus landed in the Virgin Islands, and where ''America's Day Begins'' in the Pacific. It is altogether fitting that their unique character and contributions be recognized by the issuance of appropriate coins.

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

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

S. 760

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 ''Commemorative Coin Amendments Act of 1999''.

SEC. 2. AMENDMENT TO COIN PROGRAM.

Section 5112(*l*) of title 31, United States Code, is amended by adding at the end the following:

''(8) INCLUSION OF NON-STATES.—

''(A) IN GENERAL.—During the 1-year period beginning at the end of the period described in paragraph (1)(A), quarter dollar coins shall be minted and issued having designs on the reverse side that are emblematic of each of the 6 non-States.

''(B) APPLICABILITY.—The requirements of paragraphs (2) through (6) shall apply to coins issued in commemoration of the non-States, except that, for purposes of this paragraph—

''(i) references in those paragraphs to 'States' and 'the 50 States' shall be construed to be references to the 6 non-States;

''(ii) references in these paragraphs to the '10-year period' shall be construed to be references to the 1-year period described in subparagraph (A) of this paragraph; and

''(iii) references in those paragraphs to the '50 designs' shall be construed to be references to the 6 designs relating to the non-States.

''(C) ORDER.—Coins shall be minted and issued for non-States in the order in which they appear in subparagraph (D).

''(D) DEFINITION.—In this paragraph, the term 'non-States' means—

''(i) the District of Columbia;

''(ii) the Commonwealth of Puerto Rico;

''(iii) Guam;

''(iv) American Samoa;

''(v) the United States Virgin Islands; and

''(vi) the Commonwealth of the Northern Mariana Islands.''.

By Mr. GRAHAM:

S. 762. A bill to direct the Secretary of the Interior to conduct a feasibility study on the inclusion of the Miami Circle in Biscayne National Park; to the Committee on Energy and Natural Resources.

MIAMI CIRCLE FEASIBILITY STUDY

● Mr. GRAHAM. Mr. President, several months ago, workers preparing land for development at the mouth of the Miami River began to notice a mysterious circular formation in the limestone bedrock that forms the foundation of the City of Miami. Further examination revealed that this site, where the river meets the bay, was utilized by the prehistoric Tequesta civilization for over 2,000 years, perhaps serving as an astronomical tool or as a cultural center for their complex maritime society. Floridians marveled at this clue to our past, and Miami is rediscovering and rejoicing in the Ancient Tequesta culture which, so many centuries before us, survived and flourished in an environment once dominated by sawgrass and gators, not condos and cruise ships.

I strongly believe that we have a responsibility to save and study reminders of our heritage. So in order to save this particular landmark, I urge you to join me in asking the National Park Service to examine the feasibility of including the Miami Circle as a component of Biscayne National Park. This is an appropriate way of fulfilling our responsibility to preserve this historically significant Tequesta site. Since 1980, Biscayne National Park has stretched from Biscayne Bay near Miami to the northernmost Florida Keys, covering 180,000 acres, 95 percent of which is water. The Park is already home to over one hundred known archaeological sites, the majority of which are submerged, as well as ten historic structures. Among those archaeological sites are several smaller, ''satellite'' Tequesta camps. Protection of the Miami Circle within the boundaries of the Park, in conjunction with these other camps, would allow for comprehensive site comparison, investigation and study. We must take seriously our responsibility as guardians of this cultural landmark and recognize that only through conservation and analysis will we be able to fully grasp the magnitude of this discovery.

Discussions with experts in the field of historic preservation have made me aware that the challenges faced by the people of the State of Florida in their efforts to save the Circle are not unlike those encountered during other attempts to save threatened monuments to their heritage—be they tornado-damaged barns that housed soldiers during the Civil War or missing links in the Underground Railroad discovered in the course of site preparation for development. I'm working with experts in this field to identify ways that the federal government might become a partner in these types of emergency situations so that sites of cultural significance will not fall victim to natural occurrences or development. I hope to introduce legislation soon that will give Americans the opportunity to save historic landmarks that they have identified in their own communities.

There is no Federal emergency fund or program to save the Miami Circle. However, the annexation of the 2.2 acre Miami Circle property into Biscayne National Park, if found to be appropriate in a feasibility study, will save the Miami Circle from bulldozers and cement pourers, will allow us to gain a greater understanding of the Tequesta culture, and will be a valuable asset to our National Parks System. We will not only be preserving a valuable piece

of history, but will also provide a fitting gateway to one of our Nation's newest National Parks.●

By Mr. SMITH of New Hampshire (for himself, Mr. SHELBY, and Mr. HELMS):

S.J. Res. 16. A joint resolution proposing a constitutional amendment to establish limited judicial terms of office; to the Committee on the Judiciary.

CONSTITUTIONAL AMENDMENT TO ESTABLISH LIMITED JUDICIAL TERMS OF OFFICE

Mr. SMITH of New Hampshire. Mr. President, I rise to introduce the Term Limits for Judges Amendment to the Constitution of the United States. I first introduced this proposal in the 105th Congress, with Senators SHELBY and HELMS as co-sponsors. I am pleased that both of those distinguished colleagues are joining me again as original co-sponsors.

Mr. President, the Framers of our Constitution intended that the judicial branch created by Article III would have a limited role. In Federalist No. 78, Alexander Hamilton argued that the judicial branch ''will always be the least dangerous to the political rights of the Constitution.'' Courts, wrote Hamilton, ''have neither force nor will but merely judgment'' and ''can take no active resolution whatever.'' Even as he advocated the ratification of the Constitution, however, Hamilton also issued a warning. ''The courts,'' he said, ''must declare the sense of the law; and if they should be disposed to exercise will instead of judgment the consequence would equally be the substitution of their pleasure to that of the legislative body.''

More than two hundred years after Alexander Hamilton issued his warning, it is abundantly clear that the abuse of judicial power that he feared has become a reality. In recent years, for example, activist judges have repeatedly abused their authority by blocking the implementation of entirely constitutional measures enacted through state ballot referenda simply because they disagree with the policy judgments of the voters. Activist judges have taken control or prisons and school districts. Activist judges have even ordered tax increases. Worst of all, activist judges have created new rules to protect criminal defendants that result in killers, rapists and other violent individuals being turned loose to continue preying on society. Former U.S. Attorney General Edwin Meese estimates that over 100,000 criminal cases each year cannot be successfully prosecuted because of these court-created rules.

Mr. President, judicial activism has become such a severe problem that former U.S. Appeals Court Judge Robert Bork has proposed that the Constitution should be amended to give the Congress the power to overturn Supreme Court decisions. I believe, however, that a better solution is a constitutional amendment providing term limits for judges.

The Term Limits for Judges Amendment would put an end to life tenure for judges. Judges at all three levels of the Article III judiciary—Supreme Court, Appeals Courts, and District Courts—would be nominated by the President and, by and with the advice and consent of the Senate, appointed for 10-year terms. After completing such a term, a judge would be eligible for reappointment, subject to Senate confirmation. Since under the Twenty-Second Amendment no person can be President for more than 10 consecutive years, no judge could be appointed twice by the same President. Finally, judges appointed before the Amendment takes effect would be protected by a ''grandfather'' clause.

Mr. President, activist judges are routinely violating the separation of powers by usurping legislative and executive powers. This widespread abuse of judicial authority is constitutional in dimension and it is serious enough to warrant a constitutional response. Term limits for judges would establish a check on the power of activists judges. No longer could they abuse their authority with impunity. Under the Term Limits for Judges Amendment, judges who abuse their offices by imposing their own policy views instead of interpreting the laws in good faith could be passed over for new terms by the President or rejected for reappointment by the Senate. Moreover, the Term Limits for Judges Amendment would make the President and the Senate more accountable to the people for their judicial selections.

Mr. President, I ask unanimous consent to have the text of the Term Limits for Judges Amendment printed in the RECORD.

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

S.J. RES. 16

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States.

''ARTICLE—

''The Chief Justice and the judges of both the Supreme Court and the inferior courts shall hold their offices for the term of ten years. They shall be eligible for nomination and, by and with the advice and consent of the Senate, for appointment by the President to additional terms. This article shall not apply to any Chief Justice or judge who was appointed before it becomes operative.''

By Mr. SHELBY:

S.J. Res. 17. A joint resolution proposing an amendment to the Constitution of the United States which requires (except during time of war and subject to suspension by the Congress) that the total amount of money expended by the United States during any fiscal year not exceed the amount of certain revenue received by the United States during such fiscal year and not exceed 20 per centum of the gross national product of the United States during the previous calendar year; to the Committee on the Judiciary.

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

● Mr. SHELBY. Mr. President, I rise today to introduce a balanced budget amendment to the Constitution. This is the same amendment which I have introduced in every Congress since the 97th Congress. Throughout my entire tenure in Congress, during the good economic times and the bad, I have devoted much time and attention to this idea because I believe that the most significant thing that the federal government can do to enhance the lives of all Americans and future generations is to ensure that we have a balanced federal budget.

Mr. President, our Founding Fathers, wise men indeed, had great concerns regarding the capability of those in government to operate within budgetary constraints. Alexander Hamilton once wrote that ''. . . there is a general propensity in those who govern, founded in the constitution of man, to shift the burden from the present to a future day.'' Thomas Jefferson commented on the moral significance of this ''shifting of the burden from the present to the future.'' He said: ''the question whether one generation has the right to bind another by the deficit it imposes is a question of such consequence as to place it among the fundamental principles of government. We should consider ourselves unauthorized to saddle posterity with our debts and morally bound to pay them ourselves.''

Mr. President, I completely agree with these sentiments. History has shown that Hamilton was correct. Those who govern have in fact saddled future generations with the responsibility of paying for their debts. Over the past 30 years, annual deficits became routine and the federal government built up massive debt. Furthermore, Jefferson's assessment of the significance of this is also correct: intergenerational debt shifting is morally wrong.

Mr. President, some may find it strange that I am talking about the problems of budget deficits and the need for a balanced budget amendment at a time when the budget is actually in balance. However, I raise this issue now, as I have time and time again in the past, because of the seminal importance involved in establishing a permanent mechanism to ensure that our annual federal budget is always balanced.

Mr. President, a permanently balanced budget would have a considerable impact in the everyday lives of the American people. A balanced budget would dramatically lower interest rates thereby saving money for anyone with a home mortgage, a student loan, a car loan, credit card debt, or any other interest rate sensitive payment responsibility. Simply by balancing its books, the federal government would put real money into the hands of hard working people. In all practical sense,

the effect of such fiscal responsibility on the part of the government would be the same as a significant tax cut for the American people. Moreover, if the government demand for capital is reduced, more money would be available for private sector use, which in turn, would generate substantial economic growth and create thousands of new jobs.

More money in the pockets of Americans, more job creation by the economy, a simple step could make this reality—a balanced budget amendment.

Furthermore, a balanced budget amendment would also provide the discipline to keep us on the course towards reducing our massive national debt. Currently, the federal government pays hundreds of billion of dollars in interest payments on the debt each year. This means we spend billions of dollars each year on exactly, nothing. At the end of the year we have nothing of substance to show for these expenditures. These expenditures do not provide better educations for our children, they do not make our nation safer, they do not further important medical research, they do not build new roads. They do nothing but pay the obligations created by the fiscal irresponsibility of those whose came earlier. In the end, we need to ensure that we continue on the road to a balanced budget so that we can end the wasteful practice of making interest payments on the deficit.

However, Mr. President, opponents of a balanced budget amendment act like it is something extraordinary. In reality, a balanced budget amendment will only require the government to do what every American already has to do: balance their checkbook. It is simply a promise to the American people, and more importantly, to future generations of Americans, that the government will act responsibility.

Mr. President, thankfully the budget is currently balanced. However, there are no guarantees that it will stay as such. We could see dramatic changes in economic conditions. The drain on the government caused by the retirement of the Baby Boomers may exceed expectations. Future leaders may fall pray to the ''general propensity . . . to shift the burden'' that Alexander Hamilton wrote about so long ago. We need to establish guarantees for future generations. The balanced budget amendment is the best such mechanism available.●

ADDITIONAL COSPONSORS

S. 39

At the request of Mr. STEVENS, the names of the Senator from Mississippi (Mr. LOTT), the Senator from South Dakota (Mr. DASCHLE), the Senator from Hawaii (Mr. INOUYE), the Senator from Colorado (Mr. CAMPBELL), the Senator from Nevada (Mr. REID), the Senator from Indiana (Mr. LUGAR), the Senator from Washington (Mrs. MURRAY), the Senator from Alaska (Mr. MURKOWSKI), the Senator from Maryland (Ms. MIKULSKI), the Senator from Georgia (Mr. CLELAND), the Senator from Montana (Mr. BURNS), the Senator from California (Mrs. BOXER), the Senator from Oregon (Mr. WYDEN), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Mississippi (Mr. COCHRAN), the Senator from New Mexico (Mr. DOMENICI), the Senator from Nevada (Mr. BRYAN), the Senator from Nebraska (Mr. HAGEL), and the Senator from North Carolina (Mr. HELMS) were added as cosponsors of S. 39, a bill to provide a national medal for public safety officers who act with extraordinary valor above the call of duty, and for other purposes.

S. 51

At the request of Mr. BIDEN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 51, a bill to reauthorize the Federal programs to prevent violence against women, and for other purposes.

S. 60

At the request of Mr. GRASSLEY, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 60, a bill to amend the Internal Revenue Code of 1986 to provide equitable treatment for contributions by employees to pension plans.

S. 74

At the request of Mr. DASCHLE, the names of the Senator from Hawaii (Mr. AKAKA) and the Senator from Wisconsin (Mr. FEINGOLD) were added as cosponsors of S. 74, a bill to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes.

S. 216

At the request of Mr. MOYNIHAN, the names of the Senator from Utah (Mr. HATCH) and the Senator from Oklahoma (Mr. NICKLES) were added as cosponsors of S. 216, a bill to amend the Internal Revenue Code of 1986 to repeal the limitation on the use of foreign tax credits under the alternative minimum tax.

S. 247

At the request of Mr. HATCH, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 247, a bill to amend title 17, United States Code, to reform the copyright law with respect to satellite retransmissions of broadcast signals, and for other purposes.

S. 332

At the request of Mr. BROWNBACK, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 332, a bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Kyrgyzstan.

S. 376

At the request of Mr. BURNS, the names of the Senator from Tennessee (Mr. FRIST), the Senator from West Virginia (Mr. ROCKEFELLER), and the Senator from Michigan (Mr. ABRAHAM) were added as cosponsors of S. 376, a bill to amend the Communications Satellite Act of 1962 to promote competition and privatization in satellite communications, and for other purposes.

S. 394

At the request of Mr. DORGAN, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from Montana (Mr. BURNS) were added as cosponsors of S. 394, a bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to permit a State to register a Canadian pesticide for distribution and use within that State.

S. 409

At the request of Mr. KENNEDY, the names of the Senator from California (Mrs. FEINSTEIN), the Senator from New Mexico (Mr. BINGAMAN), and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. 409, a bill to authorize qualified organizations to provide technical assistance and capacity building services to microenterprise development organizations and programs and to disadvantaged entrepreneurs using funds from the Community Development Financial Institutions Fund, and for other purposes.

S. 439

At the request of Mr. BRYAN, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 439, a bill to amend the National Forest and Public Lands of Nevada Enhancement Act of 1988 to adjust the boundary of the Toiyabe National Forest, Nevada.

S. 443

At the request of Mr. LAUTENBERG, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 443, a bill to regulate the sale of firearms at gun shows.

S. 472

At the request of Mr. GRASSLEY, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 472, a bill to amend title XVIII of the Social Security Act to provide certain medicare beneficiaries with an exemption to the financial limitations imposed on physical, speech-language pathology, and occupational therapy services under part B of the medicare program, and for other purposes.

S. 505

At the request of Mr. GRASSLEY, the names of the Senator from Mississippi (Mr. COCHRAN), the Senator from Maine (Ms. SNOWE), and the Senator from Kentucky (Mr. MCCONNELL) were added as cosponsors of S. 505, a bill to give gifted and talented students the opportunity to develop their capabilities.

S. 531

At the request of Mr. ABRAHAM, the names of the Senator from Arkansas (Mrs. LINCOLN) and the Senator from Mississippi (Mr. LOTT) were added as cosponsors of S. 531, a bill to authorize the President to award a gold medal on