Whereas, Under a separate program administered by the United States Department of Labor, states appropriated money for the match are required to draw down Welfare-to-Work funds; and

Whereas, The Welfare-to-Work program is separate from TANF and is focused on employing those with the greatest barriers to self-sufficiency; and

Whereas, Welfare reform is working in Pennsylvania because we are investing in services that help people move from welfare to work; and

Whereas, TANF funds are essential to the goals of moving recipients into work; therefore be it

Resolved, That the House of Representatives of the Commonwealth of Pennsylvania memorialized the Senate of the United States to honor its welfare reform agreement with the Governors by removing from the supplemental appropriations bill the $350 million offset from the TANF program before the bill goes to the Senate floor; and be it further

Resolved, That copies of this resolution be transmitted to the presiding officers of the Senate of the United States and to the members of the Senate from Pennsylvania.

POM–36. A resolution adopted by the House of the Legislature of the Commonwealth of Pennsylvania; to the Committee on Finance.

HOUSE RESOLUTION NO. 41

Whereas, In 1994 the states initiated the first lawsuits based on violations of state law by the tobacco industry; and

Whereas, The states, through leadership and years of commitment to pursuing lawsuits, achieved a comprehensive settlement with the tobacco industry; and

Whereas, After bearing all of the risks and expenses in the negotiations and litigation necessary to proceed with their lawsuit, a settlement was won by the states without any assistance from the Congress of the United States or the Federal Government; and

Whereas, On November 23, 1998, the states' Attorneys General and the tobacco companies announced a two-prong agreement focusing on advertising, marketing and lobbying and on monetary payments which the companies will make to the states; and

Whereas, The states' Attorneys General carefully crafted the tobacco agreement to reflect only state costs; and

Whereas, Medicaid costs were neither a major issue in negotiating the settlement nor an item mentioned in the final agreement; and

Whereas, The Federal Government is not entitled to take away from the states any of the funds negotiated on their behalf as a result of state lawsuits; and

Whereas, The Federal Government can initiate its own lawsuit or settlement with the tobacco industry; and

Whereas, The states are entitled to all of the funds awarded to them in the tobacco settlement agreement without Federal seizure; therefore be it

Resolved, That the House of Representatives of the Commonwealth of Pennsylvania memorialize the Pennsylvania congressional delegation to support and pass legislation protecting the states from Federal seizure of tobacco settlement funds by the Secretary of Health and Human Services of the United States as an overpayment under the Federal Medicaid program by amending section 1903(d)(3) of the Social Security Act (49 Stat. 620, 42 U.S.C. §1396b(d)(3)), specifically including S. 346 (105TH Congress) and H.R. 351 (105TH Congress); and be it further

Resolved, That copies of this resolution be transmitted to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. MCCAIN (for himself, Mr. FRIST, Mr. BURNS, Mr. BREAUX, and Mr. LOTT):

S. 832. A bill to extend the commercial space launch damage indemnification provisions of section 70113 of title 49, United States Code; to the Committee on Commerce, Science, and Transportation.

By Mr. FRIST (for himself, Mr. KENNEDY, Mr. JEFFORDS, and Mr. BINGAMAN):

S. 833. A bill to make technical corrections to the Health Professions Education Partnerships Act of 1998 with respect to the Health Education Assistance Loan Program; to the Committee on Health, Education, Labor, and Pensions.

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

S. 834. A bill to withhold voluntary proportional assistance for programs and projects of the International Atomic Energy Agency relating to the development and completion of the Bushehr nuclear power plant in Iran, and for other purposes; to the Committee on Foreign Relations.

By Mr. CHAFEE (for himself, Mr. BREAUX, Mr. AKAKA, Mrs. BOXER, Mr. DODD, Mr. EDWARDS, Mrs. FEINSTEIN, Mr. GRAHAM, Mr. KERRY, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LIEBERMAN, Mr. MACK, Mr. MOYNIHAN, Mrs. MURRAY, Mr. REED, Mr. ROBB, Mr. SARBANES, and Mr. WARNER):

S. 835. A bill to encourage the restoration of estuary habitat through more efficient project financing and enhanced coordination of Federal and non-Federal restoration programs, and for other purposes; to the Committee on Environment and Public Works.

By Mr. SPECTER (for himself, Mr. GRAHAM, Mr. COCHRAN, and Mr. ROBB):

S. 836. A bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require that group health plans and health insurance issuers provide women with adequate access to providers of obstetric and gynecological services; to the Committee on Health, Education, Labor, and Pensions.

By Mr. MCCONNELL (for himself, Mr. MOYNIHAN, Mr. LIEBERMAN, and Mr. MCCAIN):

S. 837. A bill to enable drivers to choose a more affordable form of auto insurance that also provides for more adequate and timely compensation for accident victims, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DOMENICI:

S. 838. A bill to amend the Juvenile Justice and Delinquency Prevention Act of 1974, and for other purposes; to the Committee on the Judiciary.

By Mr. KERREY (for himself, Mr. HARKIN, Mr. DASCHLE, Mr. CONRAD, and Mr. JOHNSON):

S. 839. A bill to restore and improve the farmer owned reserve program; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. GRASSLEY (for himself, Mr. TORRICELLI, and Mr. LEAHY):

S. 840. A bill to amend title 11, United States Code, to provide for health care and employee benefits, and for other purposes; to the Committee on the Judiciary.

By Mr. KENNEDY (for himself, Mr. ROCKEFELLER, and Mr. WELLSTONE):

S. 841. A bill to amend title XVIII of the Social Security Act to provide for coverage of outpatient prescription drugs under the medicare program; to the Committee on Finance.

By Mr. SANTORUM:

S. 842. A bill to limit the civil liability of business entities that donate equipment to nonprofit organizations; to the Committee on the Judiciary.

S. 843. A bill to limit the civil liability of business entities that provide facility tours; to the Committee on the Judiciary.

S. 844. A bill to limit the civil liability of business entities that make available to a nonprofit organization the use of a motor vehicle or aircraft; to the Committee on the Judiciary.

S. 845. A bill to limit the civil liability of business entities providing use of facilities to nonprofit organizations; to the Committee on the Judiciary.

By Mr. MCCAIN (for himself, Mr. BIDEN, Mr. HAGEL, Mr. LIEBERMAN, Mr. COCHRAN, Mr. DODD, Mr. LUGAR, Mr. ROBB, and Mr. KERRY):

S.J. Res. 20. A joint resolution concerning the deployment of the United States Armed Forces to the Kosovo region in Yugoslavia; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MCCAIN (for himself, Mr. FRIST, and Mr. BURNS):

S. 832. A bill to extend the commercial space launch damage indemnification provisions of section 70113 of title 49, United States Code; to the Committee on Commerce, Science, and Transportation.

COMMERCIAL SPACE LAUNCH INDUSTRY INDEMNIFICATION EXTENSION

Mr. MCCAIN. Mr. President, I rise to introduce a bill to extend the commercial space launch indemnification.

As a result of the discussions over the last year on the alleged China technology transfer situation, the need to ensure that the United States launch companies maintain a competitive position in the International launch market has never been greater. One of the more important features of the Commercial Space Launch Act (''CSLA'') to the commercial industry is the comprehensive risk allocation provisions. The provisions are comprised of: (1) cross-waivers of liability among launch participants; (2) a demonstration of financial responsibility; and (3) a commitment (subject to appropriations) by the U.S. Government to pay successful third party claims above $500 million.

Since its establishment, this three-pronged approach has been extremely attractive to the customers, contractors, and subcontractors of the U.S. launch licensee and to the contractors and subcontractors of its customers, as they are all participants in and beneficiaries of CSLA. As such, it has enabled the U.S. launch services industry to compete effectively with its foreign counterparts who offer similar coverage.

This ability to compete effectively will be threatened on December 31, 1999. At that time, the most important element of the CSLA insurance section, the U.S. Government payment of claims provision, is scheduled to sunset. Without this provision, the advances in market share that this burgeoning U.S. industry has made—an industry that is critical to U.S. national security, foreign policy and economic interests—will be lost.

The indemnification has been extended previously for a period of 5 years. This bill extends the authorization for this indemnification for an additional 10 years. With this length of extension, companies will be able to finalize strategic plans in a more stable environment.

Therefore, I, along with my cosponsors, urge the Members of this body to support this bill and to provide the needed legislation which will allow this key industry continuous operation in a safe and responsible manner.

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

S. 834. A bill to withhold voluntary proportional assistance for programs and projects of the International Atomic Energy Agency relating to the development and completion of the Bushehr nuclear power plant in Iran, and for other purposes; to the Committee on Foreign Relations.

THE IRAN NUCLEAR NONPROLIFERATION ACT OF 1999

Mr. CAMPBELL. Mr. President, today I address an issue that is of vital importance to the national security of our country and the stability of the Middle East. While Iran's development of nuclear technologies has been a growing concern for the last few years, recent developments demand a response to this serious situation.

Last November, Iran signed an accord with Russia to speed up completion of the Bushehr Nuclear Power Plant, calling for an expansion of the current design and construction of the $800 million, 1,000 megawatt light-water reactor in southern Iran. Despite serious United States objections and concerns about the project, Russia maintains its longstanding support for the project and the development of Iran's nuclear program. Though Russian and Iranian governments insist that the reactor will be used for civilian energy purposes, the United States national security community believes that the project is too easy a cover for Iran to obtain vital Russian nuclear weapons technology. Israeli Prime Minister Binyamin Netanyahu condemned the Iranian-Russian nuclear cooperation accord as a threat to the entire region, stating:

> The building of a nuclear reactor in Iran only makes it likelier that Iran will equip its ballistic missiles with nuclear warheads. . . . Such a development threatens peace, the whole region and in the end, the Russians themselves.

On January 13 of this year, the administration underscored the gravity of this situation and imposed economic sanctions against three Russian institutes for supplying Iran with nuclear technology. But, I believe more needs to be done.

While the Khatami government in Iran has made some reform efforts since it was elected in 1997, Iran continues to oppose the Middle East peace process, has broadened its efforts to increase its weapons of mass destruction, and remains subject to the influences of its hard-line defense establishment. As reports of Iran's human rights violations continue, State Department reports on international terrorism indicate Iran's continued assistance to terrorist forces such as Hamas, Hizballah, and the Palestinian Islamic Jihad. This clear and consistent record of behavior seriously calls to question Iran's active pursuit to enhance its nuclear facilities.

Though Iran's efforts to acquire weapons of mass destruction have been a growing global concern for several years, international fears were confirmed when in July of last year, Iran demonstrated the strength of its offensive muscle by test-firing its latest Shahab-3 missle. Capable of propelling a 2,200-pound warhead for a range of 800 miles, this missile now allows Iran to pose a significant threat to our allies in the Middle East.

The potential results of Iran's successful development of effective nuclear technologies hold horrific implications for the stability of the Middle East. As an original cosponsor of the Iran Missile Proliferation Sanctions Act of 1997, and signatory of two letters in the 105th Congress to the administration to raise this issue with the Russian leadership, I believe the Senate must continue the effort in light of this growing threat.

Today I am joined by Senator SESSIONS in introducing the Iran Nuclear Proliferation Prevention Act of 1999 as a means to hinder the development of Iran's nuclear weapons program. The House version of this legislation is also being introduced today by Congressman MENENDEZ of New Jersey. This bill requires the withholding of proportional voluntary United States assistance to the International Atomic Energy Agency (IAEA) for programs and projects supported by the Agency in Iran. This legislation specifically aims to limit the Agency's assistance of the Bushehr Nuclear Power Plant.

Last October, this legislation was passed in the House by a recorded vote of 405 to 13, but was not considered by the Senate before the adjournment of the 105th Congress. In the interest of United States national security and for that of our allies, it is vital we ensure that United States funds are not promoting the development of Iran's nuclear capabilities.

I ask unanimous consent that the bill be printed in the RECORD following my remarks and I urge my colleagues to support passage of this bill.

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

S. 834

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 ''Iran Nuclear Proliferation Prevention Act of 1999''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Iran remains the world's leading sponsor of international terrorism and is on the Department of State's list of countries that provide support for acts of international terrorism.

(2) Iran has repeatedly called for the destruction of Israel and Iran supports organizations, such as Hizballah, Hamas, and the Palestine Islamic Jihad, which are responsible for terrorist attacks against Israel.

(3) Iranian officials have stated their intent to complete at least three nuclear power plants by 2015 and are currently working to complete the Bushehr nuclear power plant located on the Persian Gulf coast.

(4) The United States has publicly opposed the completion of reactors at the Bushehr nuclear power plant because the transfer of civilian nuclear technology and training could help to advance Iran's nuclear weapons program.

(5) In an April 1997 hearing before the Subcommittee on Near Eastern and South Asian Affairs of the Committee on Foreign Relations of the Senate, the former Director of the Central Intelligence Agency, James Woolsey, stated that through the operation of the nuclear power reactor at the Bushehr nuclear power plant, Iran will develop substantial expertise relevant to the development of nuclear weapons.

(6) Construction of the Bushehr nuclear power plant was halted following the 1979 revolution in Iran because the former West Germany refused to assist in the completion of the plant due to concerns that completion of the plant could provide Iran with expertise and technology which could advance Iran's nuclear weapons program.

(7) In January 1995, Iran signed a $780,000,000 contract with the Russian Federation for Atomic Energy (MINATOM) to complete a VVER–1000 pressurized-light water reactor at the Bushehr nuclear power plant and in November 1998, Iran and Russia signed a protocol to expedite the construction of the nuclear reactor, setting a new timeframe of 52 months for its completion.

(8) In November 1998, Iran asked Russia to prepare a feasibility study to build 3 more nuclear reactors at the Bushehr site.

(9) Iran is building up its offensive military capacity in other areas as evidenced by its recent testing of engines for ballistic missiles capable of carrying 2,200 pound warheads more than 800 miles, within range of strategic targets in Israel.

(10) Iran ranks tenth among the 105 nations receiving assistance from the technical cooperation program of the International Atomic Energy Agency.

(11) Between 1995 and 1999, the International Atomic Energy Agency has provided and is expected to provide a total of $1,550,000 through its Technical Assistance and Cooperation Fund for the Iranian nuclear power program, including reactors at the Bushehr nuclear power plant.

(12) In 1999 the International Atomic Energy Agency initiated a program to assist Iran in the area of uranium exploration. At the same time it is believed that Iran is seeking to acquire the requisite technology to enrich uranium to weapons-grade levels.

(13) The United States provides annual contributions to the International Atomic Energy Agency which total more than 25 percent of the annual assessed budget of the Agency, and the United States also provides annual voluntary contributions to the Technical Assistance and Cooperation Fund of the Agency which total approximately 32 percent ($18,250,000 in 1999) of the annual budget of the program.

(14) The United States should not voluntarily provide funding for the completion of nuclear power reactors which could provide Iran with substantial expertise to advance its nuclear weapons program and potentially pose a threat to the United States or its allies.

(15) Iran has no need for nuclear energy because of its immense oil and natural gas reserves which are equivalent to 9.3 percent of the world's reserves, and Iran has 73,000,000,000 cubic feet of natural gas, an amount second only to the natural gas reserves of Russia.

SEC. 3. WITHHOLDING OF VOLUNTARY CONTRIBUTIONS TO THE INTERNATIONAL ATOMIC ENERGY AGENCY FOR PROGRAMS AND PROJECTS IN IRAN.

Section 307 of the Foreign Assistance Act of 1961 (22 U.S.C. 2227) is amended by adding at the end the following:

''(d) Notwithstanding subsection (c), the limitations of subsection (a) shall apply to programs and projects of the International Atomic Energy Agency in Iran, unless the Secretary of State determines, and reports in writing to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate, that such programs and projects are consistent with United States nuclear nonproliferation and safety goals, will not provide Iran with training or expertise relevant to the development of nuclear weapons, and are not being used as a cover for the acquisition of sensitive nuclear technology. A determination made by the Secretary of State under the preceding sentence shall be effective for the 1-year period beginning on the date of the determination.''.

SEC. 4. ANNUAL REVIEW BY SECRETARY OF STATE OF PROGRAMS AND PROJECTS OF THE INTERNATIONAL ATOMIC ENERGY AGENCY; UNITED STATES OPPOSITION TO PROGRAMS AND PROJECTS OF THE AGENCY IN IRAN.

(a) ANNUAL REVIEW.—

(1) IN GENERAL.—The Secretary of State shall undertake a comprehensive annual review of all programs and projects of the International Atomic Energy Agency in the countries described in section 307(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2227(a)) to determine if such programs and projects are consistent with United States nuclear nonproliferation and safety goals.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act and on an annual basis thereafter for 5 years, the Secretary shall prepare and submit to Congress a report containing the results of the review under paragraph (1).

(b) OPPOSITION TO CERTAIN PROGRAMS AND PROJECTS OF INTERNATIONAL ATOMIC ENERGY AGENCY.—The Secretary of State shall direct the United States representative to the International Atomic Energy Agency to oppose programs of the Agency that are determined by the Secretary pursuant to the review conducted under subsection (a)(1) to be inconsistent with nuclear nonproliferation and safety goals of the United States.

SEC. 5. REPORTING REQUIREMENTS.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act and on an annual basis thereafter for 5 years, the Secretary of State, in consultation with the United States representative to the International Atomic Energy Agency, shall prepare and submit to Congress a report that—

(1) describes the total amount of annual assistance to Iran provided by the International Atomic Energy Agency, a list of Iranian officials in leadership positions at the Agency, the expected timeframe for the completion of the nuclear power reactors at the Bushehr nuclear power plant, and a summary of the nuclear materials and technology transferred to Iran from the Agency in the preceding year which could assist in the development of Iran's nuclear weapons program; and

(2) contains a description of all programs and projects of the International Atomic Energy Agency in each country described in section 307(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2227(a)) and any inconsistencies between the technical cooperation and assistance programs and projects of the Agency and United States nuclear nonproliferation and safety goals in these countries.

(b) ADDITIONAL REQUIREMENT.—The report required to be submitted under subsection (a) shall be submitted in an unclassified form, to the extent appropriate, but may include a classified annex.

SEC. 7. SENSE OF CONGRESS.

It is the sense of Congress that the United States should pursue internal reforms at the International Atomic Energy Agency that will ensure that all programs and projects funded under the Technical Cooperation and Assistance Fund of the Agency are compatible with United States nuclear nonproliferation policy and international nuclear nonproliferation norms.

By Mr. CHAFEE (for himself, Mr. BREAUX, Mr. AKAKA, Mrs. BOXER, Mr. DODD, Mr. EDWARDS, Mrs. FEINSTEIN, Mr. GRAHAM, Mr. KERRY, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LIEBERMAN, Mr. MACK, Mr. MOYNIHAN, Mrs. MURRAY, Mr. REED, Mr. ROBB, Mr. SARBANES, and Mr. WARNER):

S. 835. A bill to encourage the restoration of estuary habitat through more efficient project financing and enhanced coordination of Federal and non-Federal restoration programs, and for other purposes; to the Committee on Environment and Public Works.

ESTUARY HABITAT RESTORATION PARTNERSHIP ACT OF 1999

Mr. CHAFEE. Mr. President, I rise today to introduce legislation to protect our nation's estuaries—the Estuary Habitat Restoration Partnership Act of 1999. I am pleased to introduce this bill with Senator BREAUX and so many other distinguished members of the Senate. I am particularly pleased that there is strong bipartisan support among the 16 cosponsors of this bill. Such support underscores the importance of estuaries to our economy and to our environment.

To understand the importance of this bill, we must first understand exactly what estuaries are and why they are so significant. Estuaries are the bays, lagoons, and inlets created when rivers and oceans meet, mixing fresh and salt water, creating one of our most economically and environmentally valuable natural resources. They support diverse habitats—from shellfish beds to beaches to sea grass meadows. Estuaries are a crucial component of unique and fragile ecosystems that support marine mammals, birds, and wildlife.

There are many commercial and recreational uses that depend upon estuaries, making them integral to our economy as well. Coastal waters generate $54 billion in goods and services annually. The fish and shellfish industries alone contribute $83 million per year to the nation's economy. Estuaries are vital to more than 75 percent of marine fisheries in the United States, making those regions important centers for commercial and sport fishing, while supporting business and creating jobs.

The great natural beauty of estuaries coupled with the sporting, fishing, and other outdoor recreational activities they provide make coastal regions important areas for tourism. People come to hike, swim, boat, and enjoy nature in the 44,000 square miles of outdoor public recreation areas along our coasts. In fact, 180 million Americans visit our nation's coasts each year. That is almost 70 percent of the entire U.S. population. The large number of visitors has a strong economic impact. Coastal recreation and tourism generate $8 to $12 billion annually.

Estuaries are home to countless species unique to these ecosystems, including many that are threatened or endangered. From birds such as the bald eagle, to shellfish such as the American Oyster, to vegetation such as eelgrass—an amazing variety of wildlife relies upon those areas.

It's not only plants and animals that make their homes near estuaries. People are moving to these areas at a rapid rate. While coastal counties account for 11 percent of the land area of the continental U.S., at least half of all Americans call coastal and estuarine regions home. Coastal counties are growing at three times the rate of noncoastal counties. It is estimated that 100 million people live in such areas now, and by 2010 that number is expected to jump to 127 million.

Unfortunately, because so many of us enjoy living, working, and playing near estuaries, we have stressed the once-abundant resources of many of these water bodies. Population growth has been difficult to manage in a manner that protects estuaries. Housing developments, roads, and shopping centers have moved into areas crucial to the preservation of estuaries. They have also placed a more concentrated burden on estuaries from pollution caused by infrastructure required by greater number of people: more sewers, cars, and paved roads, among other things.

The result of this population growth is painfully evident. Estuary habitats across the nation are vanishing. Almost three-quarters of the original salt marshes in the Puget Sound have been destroyed. Ninety-five percent of the original wetlands in the San Francisco

Bay are gone. Louisiana estuaries are losing 25,000 areas of coastal marshes each year. That's an area about the size of Washington, D.C.

Those habitats that remain are beleaguered by problems and signs of distress can be seen in virtually every estuary. The 1996 National Water Quality inventory reported that nearly 40 percent of the nation's surveyed estuarine waters are too polluted for basic uses, such as fishing and swimming. Falling finfish and shellfish stocks due to overharvesting and pollution from nutrients and chemicals, proliferation of toxic algal blooms, and a reduction in important aquatic vegetation has signaled a decline in the condition of many estuaries.

Nutrients such as phosphorus and nitrogen carried from city treatment works and agricultural land flow down our rivers and into our estuaries, leading to over-enrichment of these waters. As a result, algal blooms flourish. These blooms rob the water of the dissolved oxygen and light that is crucial to the survival of grass beds that support shellfish and birds.

Nutrients have also contributed to the disappearance of eelgrass beds in Narragansett Bay on Rhode Island. While once eelgrass beds covered thousands of acres of the Bay floor, today that figure has fallen to only 100 acres or so. Sadly, the disappearance of eelgrass is not the only problem facing the Bay. Its valuable fish runs are disappearing. Salt marshes are also in decline. Fifty percent of the salt marsh acreage that once existed has been filled, and 70 percent is cut off from full tidal flow.

Nowhere has the problem of nutrient over-enrichment been demonstrated more dramatically of late than in the nation's largest estuary: the Chesapeake Bay. Nutrient pollution in the Bay has contributed to the toxic outbreak of the algae pfiesteria, or ''fish killer'', which has been responsible for massive fish kills in the Bay's waterways. While scientists believe pfiesteria has existed for thousands of years, only recently have we witnessed an alarming escalation in the appearance of the algae in its toxic, predatory form.

Unfortunately, the effects of pfiesteria have not been confined to the Chesapeake Bay region. Pfiesteria has also been identified in waters off the coast of North Carolina, indicative of a longer trend of harmful algal blooms in the U.S. and around the world. This trend correlates to an increase in nutrients in our waterways. Perhaps more distressing than the environmental threat posed by pfiesteria is the fact that pfiesteria has also been linked to negative health effects in humans.

Estuaries are also endangered by pathogens. Microbes from sewage treatment works and other sources have contaminated waters, making shellfish unfit for human consumption. In Peconsic Bay on Long Island, for instance, more than 4,700 acres of bay bottom is closed either seasonally or year-round due to pathogens.

Toxic chemicals such as PCBs, heavy metals, and pesticides degrade the environment of estuaries as well. Runoff from lawns, streets, and farms, sewage treatment plants, atmospheric deposition, and industrial discharges expose finfish and shellfish to the chemicals. The chemicals are persistent and tend to bioaccumulate, concentrating in the tissues of the fish. The fish may then pose a risk to human health if consumed.

In Massachusetts Bays, for instance, diseased lobster and flounder have been discovered in certain areas, prompting consumption advisories. Unfortunately, this problem is not an isolated one. In many of our nation's urban harbors polluted runoff creates ''hot spots'' of toxic contamination so severe that nothing can survive.

Estuaries are also threatened by newly introduced species. Overpopulation of new species can eradicate native populations. Eradication of even one native species has the potential to alter the food web, increase erosion, and interfere with navigation, agriculture, and fishing. In Tampa Bay, for example, native plant species have been replaced by newly introduced species, altering the Bay's ecological balance.

All of these changes to the condition of our estuaries threaten not only our environment, but the economies and jobs that rely upon estuaries. Indeed, the stresses we have placed on estuaries in the past may jeopardize our future enjoyment of the benefits they provide, unless we continue to strengthen the commitments we have made to protecting this resource. Thankfully, the fate of the nation's estuaries is far from decided. We are beginning to see signs that efforts made by many to restore and protect our estuaries are having a positive effect and turning the tide against degradation.

Nutrient levels in the Chesapeake Bay are declining due in part to programs designed to better manage fertilizer applications to farmland and lawns and to reduce point source discharges. People in New York have targeted sewer overflows, non-point runoff, and sewage treatment plants by implementing techniques to prevent stormwater pollution and mitigate runoff. By doing so, they hope to reduce the threat of pathogen contamination in Long Island Sound.

In Rhode Island, a non-profit group, Save the Bay, has partnered with school kids to do something about the loss of eelgrass beds in Narragansett Bay. The children are growing eelgrass in their schools and it is then planted in the Bay by Save the Bay. In this way, they hope to encourage growth of the beds that provide a home for shellfish and a food source for countless other Bay creatures.

In Florida, a partnership of volunteers, students, businesses, and federal, state, and local governments prepared sites and planted native vegetation on six acres of newly-constructed wetlands in a park adjacent to Tampa Bay. The students received job training, education, and summer employment, and the Bay received a helping hand fighting the invasive species that threaten those native to it.

The ''Estuary Habitat Restoration Partnership Act'' will further these efforts to preserve and restore estuaries. The Act is designed to make the best use of scarce resources by channeling them directly to those citizens and organizations that best know how to restore estuaries. It will help groups like those in Rhode Island and Tampa Bay continue their work while encouraging others to join them in projects of their own.

The ultimate goal is to restore 1,000,000 acres of estuary habitat by 2010. To achieve this goal, the bill establishes a streamlined council consisting of representatives from citizen organizations and state and federal governments. This ''Collaborative Council'' will serve two functions. The first function is to develop a comprehensive national estuary habitat restoration strategy. The strategy will be the basis for the second function of the Council: efficient coordination of federal and non-federal estuary restoration activities by providing a means for prioritizing and selecting habitat restoration projects.

In developing the strategy, the Council will review existing federal estuary restoration plans and programs, create a set of proposals for making the most of incentives to increase private-sector participation in estuary restoration, and make certain that the strategy is developed and implemented consistent with existing federal estuary management and restoration programs.

The Council's second function is to select habitat restoration projects presented to the Council by citizen organizations and other non-federal entities, based on the priorities outlined under the strategy. Those projects that have a high degree of support from non-federal sources for development, maintenance, and funding, fall within the restoration strategy developed by the Council, and are the most feasible will have the greatest degree of success in receiving funding.

A project must receive at least 35 percent of its funding from non-federal sources in order to be approved. Priority will be given to those projects where more than 50 percent of its support comes from non-federal sources. Priority status also requires that the project is part of an existing federal estuary plan and that it is located in a watershed that has a program in place to prevent water pollution that might re-impair the estuary if it were restored.

To achieve its 1,000,000 acre goal, the Act does not establish mandates or create a new bureaucracy. Instead, the Act encourages partnerships between

government and those that are most concerned and best able to effectively preserve estuaries—citizens. It will make the most of federal dollars by providing those citizens and organizations that are most affected by the health of our estuaries the opportunity and the incentive to continue their efforts to improve them through projects that they develop, implement, and monitor themselves.

This approach has several advantages. All estuaries are not the same, nor are the problems that face each estuary the same. Therefore, the Act allows citizens to tailor a project targeted to meet the specific challenges posed by the particular estuary in their region. In this way, we are doing the most to help protect estuaries while wasting none of our scarce federal funds. The Act also ensures the continued prudent use of funds through information-gathering, monitoring, and reporting on the projects.

Estuaries contribute to our economy and to our environment, and for these reasons alone they should be protected. But, they also contribute to the fabric of many of the communities that surround them. They define much of a region's history and cultures as well as the way people live and work there today.

For all of these reasons, then, we must make efficient use of the resources we have in order to assist those people that are protecting and restoring our estuaries. The Estuary Habitat Restoration Partnership Act is the best, most direct way to do just that. Therefore, I urge all of my colleagues to support this bill.

Mr. President, I ask unanimous consent that a section-by-section analysis of the bill be printed in the RECORD.

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

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section cites provides that the Act may be cited as ''The Estuary Habitat Restoration Partnership Act of 1999''.

Section 2. Findings

This section establishes Congress' findings. Congress finds that estuaries provide some of the most ecologically and economically productive habitat for an extensive variety of plants, fish, wildlife, and waterfowl. It also finds that estuaries and coastal regions of the United States are home to one-half the population of the United States and provide essential habitat for 75 percent of the Nation's commercial fish catch and 80 to 90 percent of its recreational fish catch.

It further finds that estuaries are gravely threatened by habitat alteration and loss from pollution, development, and overuse. Congress finds that successful restoration of estuaries demands the coordination of Federal, State, and local estuary habitat restoration programs and that the Federal, State, local, and private cooperation in estuary habitat restoration activities in existence on the date of enactment of this Act should be strengthened. Also, new public and public-private estuary habitat restoration partnerships should be established.

Section 3. Purposes

The bill establishes a program to restore one million acres of estuary habitat by the year 2010. the bill requires the coordination of existing Federal, State and local plans, programs, and studies. It authorizes partnerships among public agencies at all levels of government and between the public and private sectors. The bill authorizes estuary habitat restoration activities, and it requires monitoring and research capabilities to assure that restoration efforts are based on sound scientific understanding.

This measure will give a real incentive to existing State and local efforts to restore and protect estuary habitat. Although there are numerous estuary restoration programs already in existence, non-Federal entities have had trouble sifting through the often small, overlapping and fragmented habitat restoration programs. The bill will coordinate these programs and restoration plans, combine State, local and Federal resources and supplement needed additional funding to restore estuaries.

Section 4. Definitions

This section defines terms used throughout the Act. Among the most important definitions are:

''Estuary'' is defined as a body of water and its associated physical, biological, and chemical elements, in which fresh water from a river or stream meets and mixes with salt water from the ocean.

''Estuary Habitat'' is defined as the complex of physical and hydrologic features within estuaries and their associated ecosystems, including salt and fresh water coastal marshes, coastal forested wetlands and other coastal wetlands, tidal flats, natural shoreline areas, sea grass meadows, kelp beds, river deltas, and river and stream banks under tidal influence.

''Estuary Habitat Restoration Activity'' is defined as an activity that results in improving an estuary's habitat, including both physical and functional restoration, with a goal toward a self-sustaining ecologically-based system that is integrated with its surrounding landscape. Examples of restoration activities include: the control of non-native and invasive species; the reestablishment of physical features and biological and hydrologic functions; the cleanup of contamination; and the reintroduction of native species, through planting or natural succession.

Section 5. Establishment of the Collaborative Council

This section establishes an interagency Collaborative Council composed of the Secretary of the Army, the Under Secretary for Oceans and Atmosphere, Department of Commerce, the Administrator of the Environmental Protection Agency, and the Secretary of the Interior, through the Fish and Wildlife Service. The two principal functions of the Council are: (1) to develop a national strategy to restore estuary habitat; and (2) to select habitat restoration projects that will receive the funds provided in the bill.

The Army Corps of Engineers is to chair the Council. The Corps is to work cooperatively with the other members of the Council.

Section 6. Duties of the Collaborative Council

This section establishes a process to coordinate existing Federal, State and local resources and activities directed toward estuary habitat restoration. It also sets forth the process by which projects are to be selected by the Council for funding under this Title.

Habitat Restoration Strategy.—This section requires the Council to draft a strategy that will serve as a national framework for restoring estuaries. The strategy should coordinate Federal, State, and local estuary plans programs and studies.

In developing the strategy, the Council should consult with State, local and tribal governments and other non-Federal entities, including representatives from coastal States representing the Atlantic, Pacific, and the Gulf of Mexico; local governments from coastal communities; and nonprofit organizations that are actively participating in carrying out estuary habitat restoration projects.

Selection of Projects.—This section also requires the Council to establish application criteria for restoration projects. The Council is required to consider a number of factors in developing criteria. In addition to the factors mentioned in the legislation, the Council is to consider both the quantity and quality of habitat restored in relation to the overall cost of a project. The consideration of these factors will provide the information required to evaluate performance, at both the project and program levels, and facilitate the production of biennial reports in the strategy.

Subsection (b) of section 105 requires the project applicant to obtain the approval of State or local agencies, where such approval is appropriate. In States such as Oregon, where coastal beaches and estuaries are publicly owned and managed, proposals for estuary habitat restoration projects require the approval of the State before being submitted to the Council.

Priority Projects.—Among the projects that meet the criteria listed above, the Council shall give priority for funding to those projects that meet any of the factors cited in subsection(b)(4) of this section.

One of the priority factors is that the project be part of an approved estuary management or restoration plan. It is envisioned that funding provided through this legislation would assist all local communities in meeting the goals and objectives of estuary restoration, with priority given to those areas that have approved estuary management plans. For example, the Sarasota Bay area in Florida is presently implementing its Comprehensive Conservation and Management Plan (CCMP), which focuses on restoring lost habitat. This is being accomplished by: reducing nitrogen pollution to increase sea grass coverage; constructing salt water wetlands; and building artificial reefs for juvenile fish habitat. Narragansett Bay in Rhode Island also is in the process of implementing its CCMP. Current efforts to improve the Bay's water quality and restore its habitat address the uniqueness of the Narraganset Bay watershed.

Section 7. Cost sharing of estuary habitat restoration projects

This section strengthens local and private sector participation in estuary restoration efforts by building public-private restoration partnerships. This section establishes a Federal cost-share requirement of no more than 65 percent of the cost of a project. The non-Federal share is required to be at least 35 percent of the cost of a project. Lands, easements, services, or other in-kind contributions may be used to meet non-Federal match requirement.

Section 8. Monitoring and maintenance

This section assures that available information will be used to improve the methods for assuring successful long-term habitat restoration. The Under Secretary for Oceans and Atmosphere (NOAA) shall maintain a database of restoration projects carried out under this Act, including information on project techniques, project completion, monitoring data, and other relevant information.

The Council shall publish a biennial report to Congress that includes program activities, including the number of acres restored; the percent of restored habitat monitored under a plan; and an estimate of the long-term success of different restoration techniques used in habitat restoration projects.

Section 9. Cooperative agreements and memoranda of understanding

This section authorizes the Council to enter into cooperative agreements and execute memoranda of understanding with Federal and State agencies, private institutions, and tribal entities, as is necessary to carry out the requirements of the bill.

Section 10. Distribution of appropriations for estuary habitat restoration activities

This section authorizes the Secretary to disburse funds to the other agencies responsible for carrying out the requirements of this Act. The Council members are to work together to develop an appropriate mechanism for the disbursement of funds between Council members. For instance, section 107 of the bill requires the Under Secretary to maintain a data base of restoration projects carried out under this legislation. NOAA shall utilize funds disbursed from the Secretary to maintain the data base.

Section 11. Authorization of appropriations

The total of $315,000,000 for fiscal years 2000 through 2004 is authorized to carry out estuary habitat restoration projects under this section. The $315,000,000 would be distributed as follows: $40,000,000 for fiscal year 2000; $50,000,000 for fiscal year 2001, and $75,000,000 for each of fiscal years 2002 through 2004.

Section 12. National estuary program

This section amends section 430(g)(2) of the Federal Water Pollution Control Act to provide explicit authority for the Administrator of the Environmental Protection Agency to issue grants not only for assisting activities necessary for the development of comprehensive conservation and management plans (CCMPs) but also for the implementation of CCMPs. Implementation for purposes of this section includes managing and overseeing the implementation of CCMPs consistent with section 320(b)(6) of the Act, which provides that management conferences, among other things, are to 'monitor the effectiveness of actions taken pursuant to the [CCMP].' Examples of implementation activities include: enhanced monitoring activities; habitat mapping; habitat acquisition; best management practices to reduce urban and rural polluted runoff; and the organization of workshops for local elected officials and professional water quality managers about habitat and water quality issues.

The National Estuary Program is an important partnership among Federal, State, and local governments to protect estuaries of national significance threatened by pollution. A major goal of the program has been to prepare CCMPs for the 28 nationally designated estuaries. To facilitate preparation of the plans, the Federal Government has provided grant funds, while State and local governments have developed the plans. The partnership has been a success in that 18 of 28 nationally designated estuaries have completed plans.

In order to continue and strengthen this partnership, grant funds should be eligible for use in the implementation of the completed plans as well as for their development. Appropriations for grants for CCMPs are authorized at $2,5000,000 for each of fiscal years 2000 and 2001. This increase reflects the growth in the National Estuary Program since the program was last authorized in 1987. In 1991 when the authorization expired, 17 local estuary programs existed; now there are 28 programs. The cost of implementing the 28 estuary programs will require significant resources. However, State and local governments should take primary responsibility for implementing CCMPs.

Section 13. General provisions

This section provides the Secretary of the Army with the authority to carry out responsibilities under this Act, and it clarifies that habitat restoration is one of the Corps' mission.

Mr. BREAUX. Mr. President, I am pleased and honored to join with my friend and colleague, Senator JOHN CHAFEE, Chairman of the Senate Committee on Environment and Public Works, to introduce legislation to restore America's estuaries. Our bill is entitled the ''Estuary Habitat Restoration Partnership Act of 1999.''

In the 105th Congress, on October 14, 1998, the Senate passed by unanimous consent S. 1222, the ''Estuary Habitat Restoration Partnership Act of 1998.'' I joined with Senator CHAFEE and 15 other Senators to introduce the bill on September 25, 1997. On July 9, 1998, I testified on its behalf during hearings held by Senator CHAFEE and the Committee on Environment and Public Works.

I am pleased that the Senate gave its unanimous approval to the bill's passage in the last Congress and look forward to such consent in the 106th Congress.

Estuaries are a national resource and treasure. As a nation, therefore, we should work together at all levels and in all sectors to help restore them.

Other Senators have joined with Senator CHAFEE and me as original cosponsors of the bill. Together, we want to draw attention to the significant value of the nation's estuaries and the need to restore them.

It is also my distinct pleasure today to say with pride that Louisianians have been in the forefront of this movement to recognize the importance of estuaries and to propose legislation to restore them. The Coalition to Restore Coastal Louisiana, an organization which is well-known for its proactive work on behalf of the Louisiana coast, has been from the inception an integral part of the national coalition, Restore America's Estuaries, which has proposed and supports the restoration legislation.

The Coalition to Restore Coastal Louisiana and Restore America's Estuaries are to be commended for their leadership and initiative in bringing this issue to the nation's attention.

In essence, the bill introduced today proposes a single goal and has one emphasis and focus. It seeks to create a voluntary, community-driven, incentive-based program which builds partnerships between the federal government, state and local governments and the private sector to restore estuaries, including sharing in the cost of restoration projects.

In Louisiana, we have very valuable estuaries, including the Ponchartrain, Barataria-Terrebonne, and Vermilion Bay systems. Louisiana's estuaries are vital because they have helped and will continue to help sustain local communities, their cultures and their economies.

I encourage Senators from coastal and non-coastal states alike to evaluate the bill and to join in its support with Senator CHAFEE, me and the other Senators who are original bill cosponsors.

I look forward to working with Senator CHAFEE and other Senators on behalf of the bill and with the Coalition to Restore Coastal Louisiana and Restore American's Estuaries.

By working together at all levels of government and in the private and public sectors, we can help to restore estuaries. We can, together, help to educate the public about the important roles which estuaries play in our daily lives through their many contributions to public safety and well-being, to the environment and to recreation and commerce.

By Mr. SPECTER (for himself, Mr. GRAHAM, Mr. COCHRAN, and Mr. ROBB):

S. 836. A bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require that group health plans and health insurance issuers provide women with adequate access to providers of obstetric and gynecological services; to the Committee on Health, Education, Labor, and Pensions.

ACCESS TO WOMEN'S HEALTH CARE ACT OF 1999

Mr. SPECTER. Mr. President, I have sought recognition to discuss an issue of great importance, and an issue on which I believe we can all agree. Regardless of health insurance type, payer, or scope, it is critical that women have direct access to caregivers who are trained to address their unique health needs. To help us ensure that all women have direct access to providers of obstetric and gynecological care within their health plans, I am joined by Senator BOB GRAHAM in introducing the ''Access to Women's Health Care Act of 1999.'' This legislation will allow women direct access to providers of obstetric and gynecological care, without requiring them to secure a time-consuming and cumbersome referral from a separate primary care physician. Senator GRAHAM and I are also pleased to have Senators COCHRAN and ROBB as original cosponsors of this vital legislation. I would like to extend thanks to the American College of Obstetricians and Gynecologists, whose members have worked diligently with Senator GRAHAM and myself in crafting this bill.

While many managed care plans provide some form of direct access to women's health specialists, some plans limit this access. Other plans deny direct access altogether, and require a referral from a primary care physician. Under the ''Access to Women's Health Care Act of 1999,'' women would be permitted to see a provider of obstetric and gynecological care without prior authorization. This approach is prudent and effective because it ensures that women have access to the benefits they pay for, without mandating a structural change in the plan's particular ''gatekeeper'' system.

It is important to note that 37 states have enacted laws promoting women's access to providers of obstetric and gynecological care. However, women in other states or in ERISA-regulated health plans are not protected from access restrictions or limitations. For many women, direct access to providers of obstetric and gynecological care is crucial because they are often the only providers that women see regularly during their reproductive years. These providers are often a woman's only point of entry into the health care system, and are caregivers who maintain a woman's medical record for much of her lifetime.

I believe it is clear that access to women's health care cuts across the intricacies of the complicated and often divisive managed care debate. During the past few years, Congress has debated many proposals which attempt to address growing problems in managed health care insurance. These proposals have been diverse, not only in their approach to the problems, but in the scope of the problems they seek to address. Most recently, during the 105th Congress, the House of Representatives passed a managed care reform proposal which, among many other reforms, included provisions requiring health plans to allow women direct access to obstetrician/gynecologists which participate in the plan. I would also note that this direct access provision has been included, in varying forms, in all of the major managed care reform proposals introduced in the Senate this year, including the bipartisan managed care reform bill, the ''Promoting Responsible Managed Care Act of 1999'' (S. 374), which I cosponsored. It is for these reasons that I offer this legislation today.

Only through bipartisanship and consensus-building can we come to an agreement on the difficult issue of addressing managed care reform. I believe that cutting through the cumbersome gatekeeper system to ensure women have access to the care they need is a good place to start, and I urge swift adoption of this legislation.

Mr. GRAHAM. Mr. President, I rise today, along with Senators SPECTER, COCHRAN and ROBB, to introduce the Access to Women's Health Care Act of 1999. This important legislation would provide women with direct access to providers of obstetric and gynecological services. It is critical that women have direct access to health care providers who are trained to address their unique health care needs.

Women's health has historically received little attention and it is time that we correct that. An obstetrician/gynecologist provides health care that encompasses the woman as a whole patient, while focusing on their reproductive systems. Access to obstetrician/gynecologists would improve the health of women by providing routine and preventive health care throughout the woman's lifetime. In fact, 60 percent of all visits to obstetrician/gynecologists are for preventive care.

According to a survey by the Commonwealth Fund, preventive care is better when women have access to obstetrician/gynecologists. The specialty of obstetrics/gynecology is devoted to the health care of women. Primary and preventive care are integral services provided by obstetrician/gynecologists. Complete physical exams, family planning, hypertension and cardiovascular surveillance, osteoporosis and smoking cessation counseling, are all among the services provided by obstetrician/gynecologists. For many women, an obstetrician/gynecologist is often the only physician they see regularly during their reproductive years.

Congress, so far, has been more reluctant to ensure direct access to women's health care providers than states. Thirty-seven states have stepped up to the plate and required at least some direct access for women's health care. We should commend these states for their efforts and work together so that women across the nation are afforded this important right.

I hope that with the help of my colleagues in Congress we will be able to improve women's health, by increasing their access to providers of obstetric/gynecological care. This provision has been included in varying forms in many of the managed care reform proposals this Congress.

By Mr. MCCONNELL (for himself, Mr. MOYNIHAN, Mr. LIEBERMAN, and Mr. MCCAIN):

S. 837. A bill to enable drivers to choose a more affordable form of auto insurance that also provides for more adequate and timely compensation for accident victims, and for other purposes; to the Committee on Commerce, Science, and Transportation.

AUTO CHOICE REFORM ACT

Mr. MCCONNELL. Mr. President, I rise today to introduce a progressive, bipartisan bill to allow hard-working Americans to keep more of what they earn.

Imagine for a moment a tax cut that could save families $193 billion over the next five years. Better yet, this tax cut would not add a single penny to the deficit. Sound impossible? Not really. It's called Auto Choice.

The Auto Choice Reform Act offers the equivalent of a massive across-the-board tax cut to every American motorist. Based on a study by the RAND Institute for Civil Justice, the Joint Economic Committee (''JEC'') in Congress issued a 1998 report estimating that Auto Choice could save consumers as much as $35 billion a year—at no cost to the government.

In fact, the 5-year net savings described in the JEC report could reach $193 billion. Let me say that again, Mr. President: a potential savings of $193 billion—that is $50 million more than five-year tax cut savings projected in our budget resolution.

So what does this mean for the average American?

It would mean that the average American driver could keep more of what he or she earns to the tune of nearly $200 per year, per vehicle. And, Mr. President, low-income families would be the greatest beneficiaries of this bill. According to the JEC, the typical low-income household spends more on auto insurance in two years than the entire value of their car. Auto choice would change that by allowing low-income drivers to save 36 percent on their overall automobile premium. For a low-income household, these savings are the equivalent of five weeks of groceries or nearly four months of electric bills.

And, Mr. President, let me say again—Auto Choice would not add one penny to the deficit. It wouldn't cost the government a cent.

I expect that there will be a good deal of discussion over the next few months about Auto Choice and the effort to repair the broken-down automobile insurance tort system. But, Mr. President, everything you will hear about Auto Choice can be summed up in two words: Choice and Savings.

Consumers want, need, and deserve both.

Very simply, the Auto Choice Reform Act offers consumers the choice of opting out of the current pain and suffering litigation lottery. The consumers who make this choice will achieve a substantial savings on automobile insurance premiums by reducing fraud, pain-and-suffering litigation and lawyer fees.

Mr. President, before you can truly comprehend the benefits of this pro-consumer, pro-inner city, pro-tax cut bill, you must understand the terrible costs of the current tort liability system.

The current trial-lawyer insurance system desperately needs an overhaul. And nobody knows this better than the American motorist—who is now paying on average nearly $800 per year per vehicle for automobile insurance. Between 1987 and 1994, average premiums rose 44 percent—nearly one-and-a-half times the rate of inflation.

Why are consumers forced to pay so much?

Because the auto insurance tort system is fundamentally flawed. It is clogged and bloated by fraud, wasteful litigation, and abuse.

Fundamental flaw #1: The first flaw of the current system is rampant fraud and abuse. In 1995, the F.B.I. announced a wave of indictments stemming from Operation Sudden Impact, the most wide-ranging investigation of criminal fraud schemes involving staged car accidents and massive fraud in the health care system. The F.B.I uncovered criminal enterprises staging bus and car accidents in order to bring lawsuits and collect money from innocent people, businesses and governments. In fact, F.B.I. Director Louis Freeh has estimated that every American household is burdened by an additional $200 in unnecessary insurance premiums to cover this enormous amount of fraud.

In addition to the pervasive criminal fraud that exists, the incentives of our

litigation system encourage injured parties to make excessive medical claims to drive up their damage claims in lawsuits. The RAND institute for Civil Justice, in a study released in 1995, concluded that 35 to 42 percent of claimed medical costs in car accident cases are excessive and unnecessary. Let me repeat that in simple English: well over one-third of doctor, hospital, physical therapy and other medical costs claimed in car accident cases are for nonexistent injuries or for unnecessary treatment.

The value of this wasteful health care? Four billion dollars annually. I don't need to remind anyone of the ongoing local and national debate over our health care system. While people have strongly-held differences over the causes and solutions to that problem, the RAND data make one thing certain—lawsuits, and the potential for hitting the jackpot, drive overuse and abuse of the health care system. Reducing those costs by $4 billion annually, without depriving one person of needed medial care, is clearly in our national interest.

Why would an injured party inflate their medical claims, you might ask. It's simple arithmetic. For every $1 of economic loss, a party stands to recover up to $3 in pain and suffering awards. In short, the more you go to the chiropractor, the more you get from the jury. And, the more you get from the jury, the more money your attorney puts in his own pocket.

Which leads us to Fundamental Flaw #2—that is, the excessive amounts of consumer dollars that are wasted on lawsuits and trial lawyers. Based on data from the Insurance Information Institute and the Joint Economic Committee, it is estimated that lawyers rake in nearly two times the amount of money that injured parties receive for actual economic losses. Surely we would all agree that a system is broken down when it pays lawyers more than it pays injured parties for actual economic losses.

Fundamental Flaw #3: Seriously injured people are grossly undercompensated under the tort system. A 1991 RAND study reveals that people with economic losses $25,000 and $100,000 recover on average barely half of their economic losses—and no pain-and-suffering damages. People with losses in excess of $100,000 recover only 9 percent of their economic losses—and no pain-and-suffering damages. So, the hard facts demonstrate that seriously-injured victims do not receive pain-and-suffering damages today—event though they are paying to play in a system that promises pain-and-suffering damages.

Fundamental Flaw #4: Not only does the current system force you to typically hire a lawyer just to recover from a car accident, it also forces you to wait for that payment. One study indicates that the average time to recover is 16 months, and of course, it takes much longer in serious injury cases.

Auto Choice gives consumers a way out of this system of high premiums, rampant fraud, and slow, inequitable compensation. Our bill would remove the perverse incentives of lawsuits, while ensuring that accident victims recover fully for their economic loss.

So, what is auto choice? Let me first answer with what it is not. It does not abolish lawsuits, and it does not eliminate the concept of fault within the legal system. Undoubtedly, there will be more equitable compensation of injured parties, and thus less reason to go to court—but the right to sue will not be abolished.

Auto Choice allows drivers to decide how they want to be insured. In establishing the choice mechanism, the bill unbundles economic and non-economic losses and allows the driver to choose whether to be covered for non-economic losses (that is, pain and suffering losses).

In other words, if a driver wants to have the chance to recover pain and suffering, he says in the current system. If he wants to opt-out of the pain and suffering regime and receive lower premiums with prompt, guaranteed compensation for economic losses, then he chooses the personal injury protection system.

This choice, which sounds amazingly simple and imminently reasonable, is, believe it or not, currently unavailable anywhere in our country. Auto Choice will change that.

Let me briefly explain the choices that our bill will offer every consumer. A consumer will be able to choose one of two insurance systems.

The first choice in the Tort Maintenance System. Drivers who wish to stay in their current system would choose this system and be able to sue each other for pain and suffering. These drivers would essentially buy the same type of insurance that they currently carry—and would recover, or fail to recover, in the same way that they do today. The only change for these tort drivers would be that, in the event that they are hit by a personal protection driver, the tort driver would recover both economic and noneconomic damages from his own insurance policy. This supplemental first-party policy for tort drivers will be called tort maintenance coverage.

The second choice is the Personal Injury Protection System. Consumers choosing this system would be guaranteed prompt recovery of their economic losses, up to the levels of their own insurance policy. Personal protection drivers would achieve substantially reduced premiums because the personal injury protection system would dramatically reduce: (1) fraud, (2) pain and suffering lawsuits, and (3) attorney fees. These drivers would give up the chance to sue for pain and suffering damages in exchange for lower premiums, guaranteed compensation of economic losses, and relief from pain and suffering lawsuits.

Under both insurance systems—tort maintenance and personal protection—the injured party whose economic losses exceed his own coverage will have the chance to sue the other driver for excess economic losses. Moreover, tort drivers will retain the chance to sue each other for both economic and noneconomic loss. Critics who say the right to sue is abolished by this bill are plain wrong.

The advantages of personal protection coverage are enormous.

First, personal protection coverage assures that those who suffer injury, regardless of whether someone else is responsible, will be paid for their economic losses. The driver does not have to leave compensation up to the vagaries of how an accident occurs and how much coverage the other driver has. A driver whose car goes off a slippery road will be able to recover for his economic losses. Such a blameless driver could not recover under the tort system because no other person was at fault. No matter when and how a driver or a member of his family is injured, the driver will have peace of mind knowing that his insurance will help protect his family.

Second, the choice as to how much insurance protection to purchase is in the hands of the driver, who is in the best position to know how much coverage he and his family need. He can choose as much or as little insurance as his circumstances require, from $20,000 to $1 million of protection.

Third, people who elect the personal protection option will, in the event they are injured, be paid promptly, as their losses accrue.

Fourth, we will have more rational use of precious health care resources. Insuring on a first-party basis helps eliminate the incentives for excess medical claiming. When a person chooses to be compensated for actual economic loss, the tort system's incentives for padding one's claims disappear. If there's no pain-and-suffering lottery, then there's no reason to play the game.

Fifth, Auto Choice offers real benefits for low-income drivers because the savings are both dramatic and progressive. Low-income drivers will see the biggest savings because they pay a higher proportion of their disposal income in insurance costs. A study of low income residents of Maricopa County, Arizona, revealed that households below 50 percent of the poverty line spent an amazing 31.6 percent of disposable income on car insurance.

For many low-income families the choices are stark: car insurance and the ability to get to the job, or medicine, new clothing and extra food for the children. Too often these families feel forced to drive without any insurance. In fact, some areas in our country have uninsured motorist rates exceeding ninety percent. I would hope that this Senate would not sit back and allow our litigation system to promote this kind of lose-lose scenario for consumers.

Moreover, Auto Choice offers benefits to all taxpayers, even those who don't

drive. For example, local governments will save taxpayer dollars through decreased insurance and litigation costs. This will allow governments to use our tax dollars to more directly benefit the community. Think of all the additional police and firefighters that could be hired with money now spent on lawsuits, Or, schools and playgrounds that could be better equipped. New York City spends more on liability claims than it spends on libraries, botanical gardens, the Bronx Zoo, the Metropolitan Museum of Art and the Department of Youth Services, combined. Imagine the improved quality of life in our urban areas if governments were free of spending on needless lawsuits.

The bottom line? We think that consumers should be able to make one simple choice: ''Do you want to continue to pay nearly $800 per year per vehicle for auto insurance and have the chance to recover pain and suffering damages? Or would you rather save roughly $200 per year per vehicle, be promptly reimbursed for your economic losses, and forego pain and suffering damages?''

It's really that simple. And, we're not even going to tell them which answer is the right one. Because that's not up to us. It's up to the consumer. We simply want to give them the choice.

In closing, I'd like to quote The New York Times, which has summed up the benefits, and indeed, the simplicity of our bill: ''[Auto Choice] would give families the option of foregoing suits for nonmonetary losses in exchange for quick and complete reimbursement for every blow to their pocketbook. Everyone would win—except the lawyers.''

Mr. President, this bill is bipartisan and bicameral. I am proud today to again have the support of Senators MOYNIHAN and LIEBERMAN. We first introduced this bill in the 104th Congress, and I want to take a minute to say how much I appreciate their ongoing commitment to provide meaningful relief for consumers across the country, especially low-income families. And, we have now added another heavy hitter to our list of original cosponsors, Senator JOHN MCCAIN, the chairman of the Senate Commerce Committee.

I also want to thank House Majority Leader DICK ARMEY and Congressman JIM MORAN. They joined our team in the last Congress, and I am pleased to say that they will again be leading the charge in the House.

Auto Choice has broad support from across the spectrum. It should be obvious by the support and endorsements that Auto Choice is not conservative or liberal legislation. It is consumer legislation. To show this range of support, I ask unanimous consent that the RECORD include the statements in support of Auto Choice from the Republican Mayor of New York City, Rudolph Giuliani; the former Massachusetts Governor and Democratic presidential candidate, Michael Dukakis; and award-winning consumer advocate Andrew Tobias. I also ask unanimous consent that the RECORD include statements on behalf of Americans for Tax Reform, Citizens for a Sound Economy, and the U.S. Chamber of Commerce.

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

THE CITY OF NEW YORK,
OFFICE OF THE MAYOR,
New York, NY, April 13, 1999.

Hon. MITCH MCCONNELL,
U.S. Senate, Senate Russell Office Building, Washington, DC.

DEAR SENATOR MCCONNELL: I am writing to you in support of Auto-Choice insurance reform, which will dramatically reduce automobile insurance premiums for American motorists.

Drivers across the country are struggling with the burden of unjustly high automobile insurance premiums caused by excessive pain and suffering damages awarded in personal injury actions. Three out of every four dollars awarded in these actions are spent on this subjective component of tort recovery. Also contributing to high premiums are inflated and fraudulent insurance claims. The Federal Bureau of Investigation has estimated that more than $200 of an American family's average annual premiums go to pay for automobile insurance fraud. Because insurance companies have to cover these payments, our premiums are significantly higher than they ought to be.

New York City has proposed State legislation to remedy some of the ills afflicting our tort recovery system, such as capping pain and suffering awards. However, your assistance is needed nationwide to protect ordinary drivers who suffer from the incentives that invite plaintiff attorneys to sue without restraint, in the hope of obtaining a large, unearned contingency fee from a large pain and suffering recovery. Attorneys receive one third or more of a tort recovery, a sum that often bears no relationship to the amount of time or effort invested by the attorney, while drivers often pay premiums that are not commensurate with the protection actually afforded. That is grossly unfair.

I support Auto-Choice because it would be a major step forward in tort reform and would provide billions of dollars in relief to taxpayers. Auto-Choice gives motorists the option to choose between two insurance coverage plans. The personal protection plan permits drivers to insure for economic loss only. Under this option, injured drivers recover from their own insurance carrier for economic loss without regard to fault. No lawsuit would be required unless an injured driver seeks recovery of economic loss exceeding his or her own policy's coverage. Under the second plan, traditional tort liability coverage, motorists insure for economic and non-economic damages, and recover both from their own insurance carrier. Under either plan, drivers may sue uninsured or inebriated drivers for economic and non-economic damages. The result is a first party recovery framework that separates pain and suffering damages from tort recovery. With litigation incentives eliminated, motorists will pay only for protection actually provided at a price they can better afford. Injured drivers recover medical bills, lost wages and other pecuniary loss without the headache of protracted litigation. For those that think pain and suffering recovery is an important part of insurance coverage, that option is available to them in the bill—at the price they are willing to pay, for the amount of coverage they wish to have.

Families throughout the country would benefit considerably from savings on automobile insurance premiums generated by this bill. According to the Congressional Joint Economic Committee, within a five year period, Auto-Choice could give motorists a total of over $190 billion in disposable income that otherwise would go to insurance companies. The average annual premium nationwide would be reduced by $184, and in New York, drivers would see a $385 decrease in the average annual insurance premium. That means more disposable income available to spend and more incentive to save. Until now, the insured have had to endure paying what is, for all intents and purposes, an ''automobile insurance tax'' to subsidize non-economic tort awards and inflated insurance claims. With these new reforms, drivers will realize what is essentially a huge tax cut, without any countervailing decrease in government service delivery.

Without the benefits of Auto-Choice, drivers will continue to pay high premiums. As I have stated previously in testimony submitted in 1997 to the Senate Committee on Commerce, Science and Transportation concerning the introduction of Auto-Choice legislation in the Senate: ''Residents, as taxpayers, lose money that could otherwise be spent on essential services. Residents, as individuals, lose money otherwise available as disposable income. Residents, as consumers, lose money because the cost of goods and services increases as businesses have to pay higher insurance premiums. Finally, and perhaps most disturbingly, residents lose faith in our judicial system as a result of courts clogged with tort litigation only to be outdone by hospital emergency rooms clogged with ambulance-chasing lawyers.''

In short, Auto-Choice would make an important difference in the lives of New Yorkers and drivers throughout the country. I look forward to opportunities to work with you in support of this important reform.

Sincerely,

RUDOLPH W. GIULIANI,
Mayor.

NORTHEASTERN UNIVERSITY,
DEPARTMENT OF POLITICAL SCIENCE,
Boston, MA, April 7, 1999.

I enthusiastically endorse the ''choice'' auto insurance bill you are jointly sponsoring. Your action is an important act of bipartisan leadership on an issue that significantly affects all Americans.

The issue you address has been a great concern of mine throughout my political career ever since I sponsored the first no-fault auto insurance bill in the nation.

Given the horrendous high costs of auto insurance, coupled with its long delays, high overhead, and rank unfairness when it comes to payment, your ''choice'' reform takes the sensible approach of allowing consumers to choose how to insure themselves. In other words, your reform trusts the American people to decide for themselves whether to spend their money on ''pain and suffering'' coverage or food, medicine, life insurance or any other expenditure they deem more valuable for themselves and their families.

The bill is particularly important to the people who live in American cities where premiums are the highest. It is no surprise that the cost studies done by the Joint Economic Committee indicate that while your reform will make stunning cost savings available to all American consumers, its largest benefit will go to low income drivers living in urban areas.

The bill will also help resolve the country's problems with runaway health costs. By allowing consumers to remove themselves from a system whose perverse incentives trigger the cost of health care costs, your reform will lower the cost of health care for all Americans while ensuring that health care

expenditures are more clearly targeted to health care needs.

I look forward to assisting you to the fullest degree as you exercise your vitally needed leadership on behalf of America's consumers.

MICHAEL S. DUKAKIS.

MIAMI, FL,
March 25, 1999.

TO WHOM IT MAY CONCERN: As an independent journalist and private citizen, I have been studying and working for automobile insurance reform for twenty years. I have written a book on the subject.

It astounds and saddens me that the system in Michigan—a state that knows something about automobiles—has not been adopted anywhere else in America. Michigan's coverage provides the seriously injured accident victim VASTLY better insurance protection than anywhere else. Yet it costs less than average. It has worked well for 25 years, more than proving itself. It is not perfect, but most consumer advocates agree it is by far the most humane, efficient, and least fraud-ridden system in the country.

And yet the coalition of labor unions and consumer groups that helped pass the Michigan law has failed to duplicate this success anywhere else. And over time, things in most states have only gotten worse. More uninsured motorists, more fraud, higher premiums, and even more shamefully inadequate compensation to those most seriously injured.

Given that reality, Senators Lieberman and Moynihan, and Jim Moran in the House, have got it absolutely right in supporting Auto Choice legislation. It is not perfect either. But it allows the man or woman who earns $9 an hour, let alone less, to opt out of a system that forces him or her, in effect, to shoulder the cost of the $125-an-house insurance company lawyer who will fight his claim . . . shoulder also, the enormous cost of padded and fraudulent claims . . . and then, if he wins, typically fork over 33% or 40% of the settlement, plus expenses, to his own attorney.

These attorneys are good people. But as virtually every disinterested observer from Richard Nixon in 1934 to Consumers Union in 1962 and periodically thereafter has said, the current lawsuit system of auto insurance makes no sense. It makes no sense that more auto-injury premium dollars in many states go to lawyers than to doctors, hospitals, chiropractors and rehabilitation specialists combined. Yet that is the case. Give consumers the choice to opt out of this system. The only difference from 1934 and 1962 and 1973 (when Michigan enacted its good system) is . . . it's gotten worse.

Sincerely,

ANDREW TOBIAS.

AMERICANS FOR TAX REFORM,
Washington, DC, March 29, 1999.

Hon. MITCH MCCONNELL,
Russell Senate
Washington, DC.

DEAR SENATOR MCCONNELL: Americans for Tax Reform wholeheartedly endorses the ''Auto Choice Reform Act'' legislation to provide consumer choice in automobile insurance.

Automobile insurance rates have skyrocketed during the last ten years. Between 1987 and 1994, premiums rose more than 40 percent—one-and-a-half time the rate of inflation. In 1995, the average policy cost more than $750. Clearly, these costs must be reduced, and we believe your legislation will achieve this goal.

Auto choice provides savings of about 45 percent on average for personal injury premiums for drivers that choose the PIP option. Especially, auto choice aids low-income drivers, who would save about 36 percent on their overall premiums. Not only does this plan give savings, but it will enable more low-income workers to get better paying jobs.

Most importantly, your bill gives consumers something they really want—a chance to choose the kind of auto insurance that fits their individual needs.

Auto choice is an idea whose time has come. ATR supports your efforts to make it a reality.

Sincerely,

GROVER G. NORQUIST,
President.

CITIZENS FOR A SOUND ECONOMY,
Washington, DC, April 13, 1999.

Senator MITCH MCCONNELL,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR MCCONNELL: On behalf of Citizens for a Sound Economy and its 250,000 members, I wish to convey our strong support for the Auto Choice Reform Act of 1999.

Most Americans rightly believe that they pay too much for auto insurance. And year after year, state legislatures and insurance departments respond with price controls and underwriting restrictions, which only make matters worse. The Auto Choice Reform Act of 1999 is based on the realization that to reduce the cost of auto insurance, two elements of the accident compensation system must be addressed: Losses resulting from bodily injury, including damages for ''pain and suffering''; and the tort-based system for redressing those losses.

Under the tort-based compensation system that operates in most states, accident victims may not file bodily injury claims with their own insurance company. Instead, they must try to collect from the other driver's insurer—which they can do only if they succeed in establishing that the other driver was legally at fault for their injuries. Compensating accident victims in this way is costly, inefficient, and time consuming. Trial lawyers, who constitute one of the most powerful special interests in America, are the primary beneficiaries of the current system.

Those eligible for compensation under the current tort-based system are subject to a perverse pattern of recovery. People with minor injuries are often vastly overcompensated, while in many cases the seriously injured cannot recover nearly enough to cover their economic losses.

''Contingency'' fee arrangements, whereby insureds agree to pay their attorneys a percentage of whatever sum they receive as compensation for their losses, siphon away about a third of an injured person's recovery award. Meanwhile, insurance costs are driven up because of the tort system's promise to compensate victims for their ''noneconomic damages.'' A catchall term that generally refers to ''pain and suffering,'' noneconomic damages are wildly subjective and impossible to quantify. Usually the successful claimant simply collects some multiple of his economic losses—typically three times—as compensation for pain and suffering.

This system creates a powerful incentive to inflate economic damages, typically by claiming unverifiable soft-tissue injuries. In Michigan, where third-party liability for pain and suffering has been virtually eliminated thanks to the state's strong no-fault law, auto accident victims suffer about seven soft-tissue injuries (sprains, strains, pains and whiplash) for every 10 ''hard'' injuries (such as broken bones). By contrast, in California, where auto accident victims are compensated through the tort system, injured motorists claim about 25 soft-tissue injuries for every 10 verifiable hard injuries. The ratio of soft-tissue injuries to hard-tissue injuries is similar in other tort states and states with weak no-fault laws. Obviously, these disparities raise troubling questions about the legitimacy of many soft-tissue injury claims—troubling, because ultimately the cost of inflated medical damages is passed on to all drivers in the form of higher premiums.

If the Auto Choice Reform Act becomes law, drivers will be able to choose either pure no-fault coverage, or a package that would allow them to collect pain and suffering damages from their own insurer, or from the insurers of other drivers with similar premium coverage. ''Pain and suffering'' would thus become an insurable risk, limiting legal liability to cases involving egregious behavior, or where both parties have agreed to pay, in the form of higher premiums, for the privilege of engaging the legal system. Meanwhile, truly negligent drivers—those who cause accidents intentionally, or while impaired by drugs or alcohol—would continue to be liable for their behavior, in addition to being subject to criminal sanctions.

By curtailing litigation and attorney involvement in the claim-settlement process, the Auto Choice Reform Act would have a dramatic impact on auto insurance rates. The RAND Institute for Civil Justice estimates that drivers choosing the no-fault option would reduce their premiums by 21 percent on average.

The Auto Choice Reform Act would yield even greater benefits to low-income motorists, who are increasingly dependent upon personal auto transportation at a time when welfare rolls are being cut and jobs are being transferred from the central city to the suburbs. Happily, the Congressional Joint Economic Committee has determined that low-income drivers could cut their premiums by as much as 48 percent if the Auto Choice Reform Act becomes law.

In sum, by allowing policyholders to opt out of the tort system, the Auto Choice Insurance Reform Act would rely on market forces—rather than price controls and hidden cross-subsidies—to drive down auto insurance premiums.

Serious efforts to reform auto insurance at the state level have been stymied repeatedly by the trial lawyers' lobby. Inflated medical bills, attorney fees, court costs, and exorbitant pain-and-suffering awards continue to impose tremendous costs on the automobile insurance system—costs that insurers must pass on to consumers in the form of escalating premiums. Because they profit handsomely from the inefficiencies wrought by this system, trial lawyers and their political allies will doubtless make every effort to defeat the Auto Choice Reform Act of 1999. Their desire to maintain the status quo must not be permitted to prevail over the interests of America's motorists.

Sincerely yours,

ROBERT R. DETLEFSEN, Ph.D.,
Director, Insurance
Reform Project.

CHAMBER OF COMMERCE,
OF THE UNITED STATES OF AMERICA,
Washington, DC, April 15, 1999.

Hon. MITCH MCCONNELL,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCONNELL: I am writing on behalf of the U.S. Chamber of Commerce, the world's largest business federation, representing more than three million businesses and organizations of every size, sector, and region, to commend you for your continued leadership and sponsorship of the Auto Choice Reform Act.

This legislation would provide motorists and businesses with a very valuable option. They could cut their automobile insurance premiums by over 20 percent by voluntarily opting out of coverage for pain and suffering injuries in auto accidents. Those choosing this option would continue to receive full compensation for medical bills, lost wages and other economic losses, and would receive payment quickly—within 30 days. Those who wish to retain coverage similar to that presently available could do simply by paying higher rates.

As the largest business federation, the U.S. Chamber of Commerce supports this legislation and a similar bill in the House of Representatives because they provide a more affordable and efficient insurance option for businesses and motorists. Last year, the Joint Economic Committee (JEC) estimated that enactment of Auto Choice legislation could allow consumers to receive an annual auto insurance premium reduction of over $27 billion. This amounts to an average annual savings of $184 per car. Of particular importance to businesses, the JEC also estimated that commercial vehicle owners could see their auto insurance premiums decline by over 27 percent for a total business savings of $8 billion per year. This is equivalent to a huge tax cut for all Americans.

The U.S. Chamber pledges to continue to support this important legislation. Through our grassroots network and media outreach, we will inform the business community and public about the key benefits of this proposal. We thank and commend you for your leadership on the Auto Choice Reform Act and look forward to working with you for its successful passage.

Sincerely,

B. BRUCE JOSTEN.

Mr. MOYNIHAN. Mr. President, I am pleased to be an original cosponsor of the Auto Choice Reform Act of 1999, a bill submitted by my distinguished colleague, Senator MCCONNELL. This legislation is designed to create a new option in auto insurance for consumers who would prefer a system that guarantees quick and complete compensation. This alternative system would change most insurance coverage to a first-party system from a third-party system and it would separate economic and noneconomic compensation by unbundling the premium. Therefore, drivers would be allowed to insure themselves for only economic loss or for both economic and noneconomic loss.

I simply would remark that this issue has been with us for 30-odd years and I wish to provide some of the background and a particular perspective.

The automobile probably has generated more externalities, as economists and authors Alan K. Campbell and Jesse Burkhead remarked, than any other device or incident in human history. And one of them is the issue of insurance, litigation, and compensation in the aftermath of what are called ''accidents'' but are nothing of the kind and are the source of so much misunderstanding.

When a certain number of ''accidents'' occur (I think that in 1894, if memory serves, there were two automobiles in St. Louis, MO, and they managed to collide—at least, it has been thought thus ever since), they become statistically predictable collisions—foreseeable events—in a complex transportation system such as the one we have built.

This began to be a subject of epidemiology in the 1940's, and by the 1950's, we had the hang of it. We knew what we were dealing with and how to approach it.

The first thing that we did—I think it fair to say it was done in New York under the Harriman administration, of which I was a member—was to introduce the concept of passenger safety into highway and vehicle design. Safety initiatives were undertaken, first at the State level. The, in 1966, Congress passed two bills, the National Traffic and Motor Vehicle Safety Act and the Highway Safety Act, to establish pervasive Federal regulation. At the time, the last thing in the world an automobile manufacturer would suggest was that its product was a car in which one could safely have an accident! Perhaps other motorists, driving other companies cars, had accidents. It took quite a bit of learning—social learning—but eventually it happened: safety features such as padded steering wheels and dashboards, seat belts, and airbags became integral design considerations. Now it is routine; we take such features for granted. It wasn't always thus. Social learning.

And then the issue of insurance and litigation and so forth arose. In 1967, if I could say, which would be 32 years ago, I wrote an article for The New York Time Magazine, which simply said, ''Next, a new auto insurance policy.'' By ''next,'' I meant a natural evolution, building on the epidemiological knowledge we had developed regarding the incidence of collisons and the trauma they caused to drivers, passengers, and pedestrians. And I had a good line here, I think: ''Automobile accident litigation has become a twentieth-century equivalent of Dickens's Court of Chancery, eating up the pittance of widows of orphans, a vale from which few return with their respect for justice undiminished.''

The are several fundamental problems with the current system of auto insurance, as I explained back then. First, determining fault, necessary in a tort system, is no easy task in most instances. Typically, there are few witnesses. And the witnesses certainly aren't ''expert.'' The collisions are too fast, too disorienting. And adjudicating a case typical occurs long after the collision. Memories fade.

More important, as I remarked at the time, is that ''no one involved (in the insurance system) has any incentive to moderation or reasonableness. The victim has every reason to exaggerate his losses. It is some other person's insurance company that must pay. The company has every reason to resist. It is somebody else's customer who is making the claim.'' This leads to excessive litigation, costly legal fees, and inefficient, inequitable compensation.

A 1992 survey of the nation's most populous counties by the U.S. Department of Justice found that tort cases make up about one-half of all civil cases filed in state courts. Auto collision-related lawsuits account for 60 percent of these tort cases—more than all other types of tort lawsuits combined. Such lawsuits are time consuming: 31 percent of automobile tort cases take over one year to process. They are clogging our courts, displacing other types of civil litigation far more important to society.

And for all the time, money, and effort these lawsuits consume, they do not compensate victims adequately. On average, victims with losses between $25,000 and $100,000 recover just over half (56 percent) of their losses, and those persons with losses over $100,000 receive just nine cents on the dollar in compensation.

''Auto Choice,'' as our legislation is known, will curtail excessive litigation by changing insurance coverage to a first-party system—at the driver's option. Individuals will insure themselves against economic damages regardless of fault. They can, if they wish, insure for non-economic losses, too. They simply pay a higher premium. In the event they sustain damages in a collision, under Auto Choice, they bypass litigation altogether, and they receive just and adequate compensation in a timely fashion.

I earnestly hope that Congress will enact this important legislation this year. It will benefit all American motorists. Its savings are bigger than any tax cut Congress is likely to enact, and they won't affect our ability to balance the budget. But even more important, I think, is the fact that ''auto choice'' will take some of the strain off our overburdened judiciary. I don't know if we can calculate the value of such a benefit.

Mr. LIEBERMAN. Mr. President, I rise in strong support of the bill we are introducing today: the Auto Choice Reform Act of 1999. If enacted, this bill would save American consumers tens of billions of dollars, while at the same time producing an auto insurance system that operates more efficiently and promises drivers better and quicker compensation.

America's drivers are plagued today by an auto accident insurance and compensation system that is too expensive and that does not work. We currently pay an average of approximately $775 annually for our auto insurance per car. This is an extraordinarily large sum, and one that is particularly difficult for people of modest means—and almost impossible for poor people—to afford. A study of Maricopa County, AZ, drives this point home. That study found that families living below 50 percent of the poverty line spend nearly one-third of their household income on premiums when they purchase auto insurance.

Perhaps those costs would be worth it if they meant that people injured in

car accidents were fully compensated for their injuries. But under the current tort system, that often is not the case, particularly for people who are seriously injured. Because of the need to prove fault and the ability to receive compensation only through someone else's insurance policy, some injured drivers—like those in one car accidents or those who are found to have been at fault themselves—are left without any compensation at all. Others must endure years of litigation before receiving compensation for their injuries. In the end, many people who suffer minimal injuries in auto accidents end up overcompensated, while victims of serious injuries often fail to receive full restitution. Indeed, the extent to which seriously injured drivers are undercompensated in the current tort system is staggering: victims with economic losses—things like lost wages and medical bills—between $25,000 and $100,000 recover only 56 percent of their losses on average, while those with over $100,000 in economic losses get only about 9 percent back on average. Recite those numbers to anyone who tells you the current system works just fine the way it is.

The current system most hurts the very people who can afford it the least—the nation's poor and drivers who live in the nation's inner cities. The $775 average premium I mentioned is already far too much for people of modest means to afford. But for many residents of the inner cities a $775 premium is just a dream. As a report issued by Congress' Joint Economic Committee last year starkly detailed, inner city residents pay what can only be called a ''tort tax''—insurance rates that are often double those of their suburban neighbors. For example, a married man with no accidents or traffic violations living in Philadelphia pays $1,800 for an insurance policy that would cost him less than half that if he moved just over the line, out of Philadelphia County. The average annual premium for a 38-year old woman with a clean driving record living in central Los Angeles approaches $3,500. The statistic that I think best drives home the disproportionate amount poor people spend on auto insurance is this one: the typical low-income household spends more on auto insurance over two years than the entire value of their car.

The results of these high costs shouldn't surprise us. They lead many inner-city drivers to choose to drive uninsured, which is to say our auto insurance system makes outlaws of them and puts the rest of us in jeopardy, because people injured by an uninsured driver may have no place to go for compensation. Other inner-city residents simply decide not to own cars, something that in itself should trouble us. As the JEC's Report details, the lack of car ownership, combined with the dearth of jobs in the inner-cities, severely limits the ability of many city residents to find employment and lift themselves out of poverty.

The Auto Choice bill would go a long way towards solving all of these problems. By simply giving consumers a choice to opt out of the tort system, Auto Choice would bring all drivers who want it lower premiums. Auto Choice would save drivers nationally an average of 23 percent, or $184, annually—a total of over $35 billion. Connecticut drivers would see an average savings of $217 annually. Low-income drivers would see even more dramatic savings—an average of 36 percent nationally or 33 percent in Connecticut.

Here's how our plan would work: All drivers would be required to purchase a certain minimum level of insurance, but they would get to choose the type of coverage they want. Those drivers who value immediate compensation for their injuries and lower premiums would be able to purchase what we call ''personal injury protection insurance.'' If the driver with that type of coverage is injured in an accident, he or she would get immediate compensation for economic losses up to the limits of his or her policy, without regard to who was at fault in the accident.

If their economic losses exceeded those policy limits, the injured party could sue the other driver for the extra economic loss on a fault basis; The only thing the plaintiff could not do is sue the other driver for noneconomic losses, the so-called pain and suffering damages.

Those drivers who did not want to give up the ability to collect pain and suffering damages could choose a different option, called tort maintenance coverage. Drivers with that type of policy would be able to cover themselves for whatever level of economic and noneconomic damages they want, and they would then be able to collect those damages, also from their own insurance company, after proving fault.

As I mentioned earlier, the savings from this new Choice system would be dramatic—again, an average of $184 annually nationally, up to $35 billion each and every year under our proposal.

Our Auto Choice plan ensures that most injured people would be compensated immediately and that we all can purchase auto insurance at a reasonable rate. Mr. President, this bill would be a boon to the American driver and to the American economy. I look forward to working with my colleagues to see it enacted into law.

Mr. MCCAIN. Mr. President, I rise to join my colleagues in introducing legislation to provide consumers with a true choice when they purchase auto insurance. Not simply a choice between to insurance companies, but a choice between two different systems of insurance.

The current tort based liability system is expensive and inefficient. It pays more money to lawyers than for victims legitimate medical bills and lost wages. A study conducted in my home state of Arizona found that a low-income family spends as much as 31 percent of their disposable income on car insurance. As a result, families put off basic necessities such as rent, medical care and sometimes groceries. The current system needs to be changed.

The system proposed in our bill would allow consumers a more affordable alternative designed to provide adequate and timely compensation for accident victims and less need for layers. Under the new system when an accident occurs, the consumer's insurance company would compensate them for their economic losses, such as repair costs, medical bills and lost wages. In exchange, the consumer forgoes the right to sue for non-economic losses such as pain and suffering.

Consumers choosing to remain in the current system can bring suit as they do now. These consumers would purchase additional coverage to cover their non-economic damages in the event they have an accident with someone in the new system.

The purpose of this legislation is to allow consumers to choose the type of insurance that meets their needs. It also provides state legislatures a choice. This legislation allows states to ''opt out'' should they disagree with this proposal. States can ''opt out'' in two ways. First, the legislature can enact legislation declaring they will not participate in the new system. Secondly, the state insurance commissioner can find that the measure will not reduce bodily injury premiums by 30 percent. This opt out provision is reasonable and will give states a true choice.

Again, I am pleased to join my colleagues in introducing this measure. I look forward to moving it through the legislative process.

By Mr. DOMENICI:

S. 838. A bill to amend the Juvenile Justice and Delinquency Prevention Act of 1974, and for other purposes; to the Committee on the Judiciary.

JUVENILE CRIME CONTROL AND COMMUNITY PROTECTION ACT OF 1999

Mr. DOMENICI. Mr. President, I rise today to introduce the ''Juvenile Crime Control and Community Protection Act of 1999.'' I believe that juvenile crime is one of the most important issues facing our nation today. It's one we should address in the 106th Congress.

In recent years, I have held field hearings in my home state of New Mexico to hear the concerns and problems faced by all of the people affected by juvenile crime—the police, prosecutors, judges, social workers and most importantly—the victims who reside in our communities.

I think that the sentiments expressed by most of my constituents at the hearing are the same ones felt by people all over the country:

(1) many of our nation's youth are out of control;

(2) other children and teenagers do not have enough constructive things to

do to keep them from falling into delinquent or criminal behavior;

(3) the current system does very little, if anything, to protect the public from youth violence; and

(4) the current system has failed victims.

The time has come for a new federal role to assist the states with their efforts to get tough on violent young criminals.

The federal government can play a larger role in punishing and preventing youth violence without tying the hands of state and local governments or preventing them from implementing innovative solutions to the problem.

This new federal role should, however, expect states to get tough on youth violence and reward them for enacting law enforcement and prosecution policies designed to take violent juvenile criminals off of the street.

With those goals in mind, the bill I introduce today makes some fundamental changes to the crime fighting partnership which exists between the states and the federal government.

It combines strict law enforcement and prosecution policies for the most violent offenders with more federal resources—more than three times the amount available under current law—to help states fight crime and prevent juveniles from entering the justice system in the first place.

This bill authorizes a total of $500 million to provide the states with two separate grant programs—one, with virtually no strings attached, based on the current state formula grants—and a second new incentive grant program for states which enact certain ''best practices'' to combat and prevent juvenile violence. I want to talk a little bit about each.

The bill authorizes $300 million, divided into two $150 million pots, for a new grant program for states which enact certain ''get tough'' reforms to their juvenile justice systems. States will have access to the first $150 million if they enact three practices:

(1) *Mandatory adult prosecution* for juveniles age 14 and older who commit certain serious violent crimes;

(2) *Graduated sanctions,* so that every offense, no matter how small, receives some punishment; and

(3) *Adult records,* including fingerprints and photographs, for juvenile criminals.

States which implement these practices and enact another five of 20 suggested reforms will be eligible to receive additional funds from the second $150 million. Some of these suggested reforms include:

(1) Victims' rights, including the right to be notified of the sentencing and release of the offender;

(2) Mandatory victim restitution;

(3) Public access to juvenile proceedings;

(4) Parental responsibility laws for acts committed by juveniles released to their parents' custody;

(5) Zero tolerance for deadbeat juvenile parents—a requirement that juveniles released from custody attend school or vocational training and support their children;

(6) Zero tolerance for truancy;

(7) Character counts training programs; and

(8) Mentoring.

These programs are a combination of reforms which will positively impact victims, get tough on juvenile offenders, and provide states with resources to implement prevention programs to keep juveniles out of trouble in the first place.

The bill also increases to $200 million the amount available to states under the current OJJDP grant program. It also eliminates many of the strings placed on states as a condition of receiving those grants.

While the Justice Department has said that the overall juvenile crime rate in the United States dropped again last year, the juvenile crime statistics also tell us that our young people are more violent than ever. In 1996 in my home state of New Mexico, there were 36,927 referrals to the state juvenile parole and probation office. 39% of those referred have a history of 10 or more contacts with the justice system. The number of these referrals for VIOLENT offenses, including murder, robbery, assault and rape increased 64 percent from 1993 to 1997.

I mention these numbers not only because they make it clear that many of our children are more violent than ever, but also because they have led to a growing problem in my home state, a problem which this bill will help fix. More juvenile arrests create the need for more space to house juvenile criminals. But, because of burdensome federal ''sight and sound separation'' rules, New Mexico has been unable to implement a safe, reasonable solution to alleviate overcrowding at its juvenile facilities.

Instead, the state has been forced to consider sending juvenile prisoners to Iowa and Texas to avoid violating the federal rules and losing their funding. That is unacceptable and this bill will fix that.

Mr. President, juvenile crime is the number one concern in my state. From Albuquerque to Las Cruces, Roswell to Farmington, and in even smaller cities like Clovis and Silver City, I hear the same thing from my constituents: our children are out of control and we need help. This bill will provide that help, in a way which will preserve the traditional role state and local law enforcement authorities play in the fight against crime. More resources to get tough on violent offenders and provide youth with more constructive things to do to keep them out of trouble, with fewer strings from the federal government. That's what this bill will do, and I hope my colleagues will support my efforts to make this a priority issue for this Congress.

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. 838

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 ''Juvenile Crime Control and Community Protection Act of 1999''.

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

SEC. 2. SEVERABILITY.

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

TITLE I—REFORM OF EXISTING PROGRAMS

SEC. 101. FINDINGS AND PURPOSES.

(a) FINDINGS.—Section 101 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601) is amended—

(1) by striking subsection (a) and inserting the following:

''(a) FINDINGS.—Congress finds that—

''(1) the Nation's juvenile justice system is in trouble, including dangerously overcrowded facilities, overworked field staff, and a growing number of children who are breaking the law;

''(2) a redesigned juvenile corrections program for the next century should be based on 4 principles, including—

''(A) protecting the community;

''(B) accountability for offenders and their families;

''(C) restitution for victims and the community; and

''(D) community-based prevention;

''(3) existing programs have not adequately responded to the particular problems of juvenile delinquents in the 1990's;

''(4) State and local communities, which experience directly the devastating failure of the juvenile justice system, do not have sufficient resources to deal comprehensively with the problems of juvenile crime and delinquency;

''(5) limited State and local resources are being unnecessarily wasted complying with overly technical Federal requirements for 'sight and sound' separation currently in effect under the 1974 Act, while prohibiting the commingling of adults and juvenile populations would achieve this important purpose without imposing an undue burden on State and local governments;

''(6) limited State and local resources are being unnecessarily wasted complying with the overly restrictive Federal mandate that no juveniles be detained or confined in any jail or lockup for adults, which mandate is particularly burdensome for rural communities;

''(7) the juvenile justice system should give additional attention to the problem of juveniles who commit serious crimes, with particular attention given to the area of sentencing;

''(8) local school districts lack information necessary to track serious violent juvenile offenders, information that is essential to promoting safety in public schools;

''(9) the term 'prevention' should mean both ensuring that families have a greater chance to raise their children so that those children do not engage in criminal or delinquent activities, and preventing children who have engaged in such activities from becoming permanently entrenched in the juvenile justice system;

''(10) in 1994, there were more than 330,000 juvenile arrests for violent crimes, and between 1985 and 1994, the number of juvenile criminal homicide cases increased by 144 percent, and the number of juvenile weapons cases increased by 156 percent;

''(11) in 1994, males age 14 through 24 constituted only 8 percent of the population, but accounted for more than 25 percent of all homicide victims and nearly half of all convicted murderers;

''(12) in a survey of 250 judges, 93 percent of those judges stated that juvenile offenders should be fingerprinted, 85 percent stated that juvenile criminal records should be made available to adult authorities, and 40 percent stated that the minimum age for facing murder charges should be 14 or 15;

''(13) studies indicate that good parenting skills, including normative development, monitoring, and discipline, clearly affect whether children will become delinquent, and adequate supervision of free-time activities, whereabouts, and peer interaction is critical to ensure that children do not drift into delinquency;

''(14) school officials lack the information necessary to ensure that school environments are safe and conducive to learning;

''(15) in the 1970's, less than half of our Nation's cities reported gang activity, while 2 decades later, a nationwide survey reported a total of 23,388 gangs and 664,906 gang members on the streets of United States cities in 1995;

''(16) the high incidence of delinquency in the United States results in an enormous annual cost and an immeasurable loss of human life, personal security, and wasted human resources; and

''(17) juvenile delinquency constitutes a growing threat to the national welfare, requiring immediate and comprehensive action by the Federal Government to reduce and eliminate the threat.''; and

(2) in subsection (b)—

(A) by striking ''further''; and

(B) by striking ''Federal Government'' and inserting ''Federal, State, and local governments''.

(b) PURPOSES.—Section 102 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5602) is amended to read as follows:

''SEC. 102. PURPOSES.

''The purposes of this title and title II are—

''(1) to assist State and local governments in promoting public safety by supporting juvenile delinquency prevention and control activities;

''(2) to give greater flexibility to schools to design academic programs and educational services for juvenile delinquents expelled or suspended for disciplinary reasons;

''(3) to assist State and local governments in promoting public safety by encouraging accountability through the imposition of meaningful sanctions for acts of juvenile delinquency;

''(4) to assist State and local governments in promoting public safety by improving the extent, accuracy, availability, and usefulness of juvenile court and law enforcement records and the openness of the juvenile justice system to the public;

''(5) to assist teachers and school officials in ensuring school safety by improving their access to information concerning juvenile offenders attending or intending to enroll in their schools or school-related activities;

''(6) to assist State and local governments in promoting public safety by encouraging the identification of violent and hardcore juveniles and in transferring such juveniles out of the jurisdiction of the juvenile justice system and into the jurisdiction of adult criminal court;

''(7) to provide for the evaluation of federally assisted juvenile crime control programs, and training necessary for the establishment and operation of such programs;

''(8) to ensure the dissemination of information regarding juvenile crime control programs by providing a national clearinghouse; and

''(9) to provide technical assistance to public and private nonprofit juvenile justice and delinquency prevention programs.''.

SEC. 102. DEFINITIONS.

Section 103 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603) is amended—

(1) in paragraph (3), by inserting ''punishment,'' after ''control,'';

(2) in paragraph (22)(iii), by striking ''and'' at the end;

(3) in paragraph (23), by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:

''(24) the term 'serious violent crime' means—

''(A) murder or nonnegligent manslaughter, or robbery;

''(B) aggravated assault committed with the use of a dangerous or deadly weapon, forcible rape, kidnaping, felony aggravated battery, assault with intent to commit a serious violent crime, and vehicular homicide committed while under the influence of an intoxicating liquor or controlled substance; or

''(C) a serious drug offense;

''(25) the term 'serious drug offense' means an act or acts which, if committed by an adult subject to Federal criminal jurisdiction, would be punishable under section 401(b)(1)(A) or 408 of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A), 848) or section 1010(b)(1)(A) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)(A)); and

''(26) the term 'serious habitual offender' means a juvenile who—

''(A) has been adjudicated delinquent and subsequently arrested for a capital offense, life offense, first degree aggravated sexual offense, or serious drug offense;

''(B) has had not fewer than 5 arrests, with 3 arrests chargeable as felonies if committed by an adult and not fewer than 3 arrests occurring within the most recent 12-month period;

''(C) has had not fewer than 10 arrests, with 2 arrests chargeable as felonies if committed by an adult and not fewer than 3 arrests occurring within the most recent 12-month period; or

''(D) has had not fewer than 10 arrests, with 8 or more arrests for misdemeanor crimes involving theft, assault, battery, narcotics possession or distribution, or possession of weapons, and not fewer than 3 arrests occurring within the most recent 12-month period.''.

SEC. 103. OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION.

Section 204 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5614) is amended—

(1) in subsection (a)(1)—

(A) by striking ''shall develop'' and inserting the following: ''shall—

''(A) develop'';

(B) by inserting ''punishment,'' before ''diversion''; and

(C) in the first sentence, by striking ''States'' and all that follows through the end of the paragraph and inserting the following: ''States; and

''(B) annually submit the plan required by subparagraph (A) to the Congress.'';

(2) in subsection (b)—

(A) in paragraph (1), by adding ''and'' at the end; and

(B) by striking paragraphs (2) through (7) and inserting the following:

''(2) reduce duplication among Federal juvenile delinquency programs and activities conducted by Federal departments and agencies.'';

(3) by redesignating subsection (h) as subsection (f); and

(4) by striking subsection (i).

SEC. 104. ANNUAL REPORT.

Section 207 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5617) is amended to read as follows:

''SEC. 207. ANNUAL REPORT.

''Not later than 180 days after the end of a fiscal year, the Administrator shall submit to the President, the Speaker of the House of Representatives, the President pro tempore of the Senate, and the Governor of each State, a report that contains the following with respect to such fiscal year:

''(1) SUMMARY AND ANALYSIS.—A detailed summary and analysis of the most recent data available regarding the number of juveniles taken into custody, the rate at which juveniles are taken into custody, the number of repeat juvenile offenders, the number of juveniles using weapons, the number of juvenile and adult victims of juvenile crime and the trends demonstrated by the data required by subparagraphs (A), (B), and (C). Such summary and analysis shall set out the information required by subparagraphs (A), (B), (C), and (D) separately for juvenile nonoffenders, juvenile status offenders, and other juvenile offenders. Such summary and analysis shall separately address with respect to each category of juveniles specified in the preceding sentence—

''(A) the types of offenses with which the juveniles are charged, data on serious violent crimes committed by juveniles, and data on serious habitual offenders;

''(B) the race and gender of the juveniles and their victims;

''(C) the ages of the juveniles and their victims;

''(D) the types of facilities used to hold the juveniles (including juveniles treated as adults for purposes of prosecution) in custody, including secure detention facilities, secure correctional facilities, jails, and lockups;

''(E) the number of juveniles who died while in custody and the circumstances under which they died;

''(F) the educational status of juveniles, including information relating to learning disabilities, failing performance, grade retention, and dropping out of school;

''(G) the number of juveniles who are substance abusers; and

''(H) information on juveniles fathering or giving birth to children out of wedlock, and whether such juveniles have assumed financial responsibility for their children.

''(2) ACTIVITIES FUNDED.—A description of the activities for which funds are expended under this part.

''(3) STATE COMPLIANCE.—A description based on the most recent data available of the extent to which each State complies with section 223 and with the plan submitted under that section by the State for that fiscal year.

''(4) SUMMARY AND EXPLANATION.—A summary of each program or activity for which assistance is provided under part C or D, an evaluation of the results of such program or activity, and a determination of the feasibility and advisability of replacing such program or activity in other locations.

''(5) EXEMPLARY PROGRAMS AND PRACTICES.—A description of selected exemplary delinquency prevention programs and accountability-based youth violence reduction practices.''.

SEC. 105. BLOCK GRANTS FOR STATE AND LOCAL PROGRAMS.

Section 221 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5631) is amended—

(1) in subsection (a)—

(A) by inserting ''(1)'' before ''The Administrator''; and

(B) by inserting before the period at the end the following: '', including—

''(A) initiatives for holding juveniles accountable for any act for which they are adjudicated delinquent;

''(B) increasing public awareness of juvenile proceedings;

''(C) improving the content, accuracy, availability, and usefulness of juvenile court and law enforcement records (including fingerprints and photographs); and

''(D) education programs such as funding for extended hours for libraries and recreational programs which benefit all juveniles''; and

(2) in subsection (b), by striking paragraph (1) and inserting the following:

''(1) Of amounts made available to carry out this part in any fiscal year, $10,000,000 or 1 percent (whichever is greater) may be used by the Administrator—

''(A) to establish and maintain a clearinghouse to disseminate to the States information on juvenile delinquency prevention, treatment, and control; and

''(B) to provide training and technical assistance to States to improve the administration of the juvenile justice system.''.

SEC. 106. STATE PLANS.

Section 223 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633) is amended—

(1) in subsection (a)—

(A) by striking the second sentence;

(B) by striking paragraph (3) and inserting the following:

''(3) provide for an advisory group, which—

''(A) shall—

''(i)(I) consist of not less than 5 members appointed by the chief executive officer of the State; and

''(II) consist of a majority of members (including the chairperson) who are not full-time employees of the Federal Government, or a State or local government;

''(ii) include members who have training, experience, or special knowledge concerning—

''(I) the prevention and treatment of juvenile delinquency;

''(II) the administration of juvenile justice, including law enforcement; and

''(III) the representation of the interests of the victims of violent juvenile crime and their families; and

''(iii) include as members at least 1 locally elected official representing general purpose local government;

''(B) shall participate in the development and review of the State's juvenile justice plan prior to submission to the supervisory board for final action;

''(C) shall be afforded an opportunity to review and comment, not later than 30 days after the submission to the advisory group, on all juvenile justice and delinquency prevention grants submitted to the State agency designated under paragraph (1);

''(D) shall, consistent with this title—

''(i) advise the State agency designated under paragraph (1) and its supervisory board; and

''(ii) submit to the chief executive officer and the legislature of the State not less frequently than annually recommendations regarding State compliance with this subsection; and

''(E) may, consistent with this title—

''(i) advise on State supervisory board and local criminal justice advisory board composition;

''(ii) review progress and accomplishments of projects funded under the State plan; and

''(iii) contact and seek regular input from juveniles currently under the jurisdiction of the juvenile justice system;'';

(C) in paragraph (10)—

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

(ii) in subparagraph (O), by striking the period at the end and inserting ''; and''; and

(iii) by adding at the end the following:

''(P) programs implementing the practices described in paragraphs (6) through (12) and (17) and (18) of section 242(b);'';

(D) by striking paragraph (13) and inserting the following:

''(13) provide assurances that, in each secure facility located in the State (including any jail or lockup for adults), there is no commingling in the same cell or community room of, or any other regular, sustained, physical contact between any juvenile detained or confined for any period of time in that facility and any adult offender detained or confined for any period of time in that facility, except that this paragraph may not be construed to prohibit the use of a community room or other common area of the facility by such juveniles and adults at different times, or to prohibit the use of the same staff for both juvenile and adult inmates;'';

(E) by striking paragraphs (8), (9), (12), (14), (15), (17), (18), (19), (24), and (25);

(F) by redesignating paragraphs (10), (11), (13), (16), (20), (21), (22), and (23) as paragraphs (8) through (15), respectively;

(G) in paragraph (14), as redesignated, by adding ''and'' at the end; and

(H) in paragraph (15), as redesignated, by striking the semicolon at the end and inserting a period; and

(2) by striking subsections (c) and (d).

SEC. 107. REPEALS.

The Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.) is amended—

(1) in title II—

(A) by striking parts C, E, F, G, and H;

(B) by striking part I, as added by section 2(i)(1)(C) of Public Law 102–586; and

(C) by amending the heading of part I, as redesignated by section 2(i)(1)(A) of Public Law 102–586, to read as follows:

''PART E—GENERAL AND ADMINISTRATIVE PROVISIONS''; and

(2) by striking title V, as added by section 5(a) of Public Law 102–586.

TITLE II—INCENTIVE GRANTS FOR ACCOUNTABILITY-BASED REFORMS

SEC. 201. INCENTIVE GRANTS FOR ACCOUNTABILITY-BASED REFORMS.

Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.) is amended by inserting after part B the following:

''PART C—INCENTIVE GRANTS FOR ACCOUNTABILITY-BASED REFORMS

''SEC. 241. AUTHORIZATION OF GRANTS.

''The Administrator shall provide juvenile delinquent accountability grants under section 242 to eligible States to carry out this title.

''SEC. 242. ACCOUNTABILITY-BASED INCENTIVE GRANTS.

''(a) ELIGIBILITY FOR GRANT.—To be eligible to receive a grant under section 241, a State shall submit to the Administrator an application at such time, in such form, and containing such assurances and information as the Administrator may require by rule, including assurances that the State has in effect (or will have in effect not later than 1 year after the date on which the State submits such application) laws, or has implemented (or will implement not later than 1 year after the date on which the State submits such application)—

''(1) policies and programs that ensure that all juveniles who commit an act after attaining 14 years of age that would be a serious violent crime if committed by an adult are treated as adults for purposes of prosecution, unless on a case-by-case basis, as a matter of law or prosecutorial discretion, the transfer of such juveniles for disposition in the juvenile system is determined to be in the interest of justice, except that the age of the juvenile alone shall not be determinative of whether such transfer is in the interest of justice;

''(2) graduated sanctions for juvenile offenders, ensuring a sanction for every delinquent or criminal act, ensuring that the sanction is of increasing severity based on the nature of the act, and escalating the sanction with each subsequent delinquent or criminal act; and

''(3) a system of records relating to any adjudication of juveniles less than 15 years of age who are adjudicated delinquent for conduct that if committed by an adult would constitute a serious violent crime, which records are—

''(A) equivalent to the records that would be kept of adults arrested for such conduct, including fingerprints and photographs;

''(B) submitted to the Federal Bureau of Investigation in the same manner in which adult records are submitted;

''(C) retained for a period of time that is equal to the period of time that records are retained for adults; and

''(D) available to law enforcement agencies, prosecutors, the courts, and school officials.

''(b) STANDARDS FOR HANDLING AND DISCLOSING INFORMATION.—School officials referred to in subsection (a)(3)(D) shall be subject to the same standards and penalties to which law enforcement and juvenile justice system employees are subject under Federal and State law for handling and disclosing information referred to in that paragraph.

''(c) ADDITIONAL AMOUNT BASED ON ACCOUNTABILITY-BASED YOUTH VIOLENCE REDUCTION PRACTICES.—A State that receives a grant under subsection (a) is eligible to receive an additional amount of funds added to such grant if such State demonstrates that the State has in effect, or will have in effect, not later than 1 year after the deadline established by the Administrator for the submission of applications under subsection (a) for the fiscal year at issue, not fewer than 5 of the following practices:

''(1) VICTIMS' RIGHTS.—Increased victims' rights, including—

''(A) the right to be treated with fairness and with respect for the dignity and privacy of the victim;

''(B) the right to be reasonably protected from the accused offender;

''(C) the right to be notified of court proceedings; and

''(D) the right to information about the conviction, sentencing, imprisonment, and release of the offender.

''(2) RESTITUTION.—Mandatory victim and community restitution, including statewide programs to reach restitution collection levels of not less than 80 percent.

''(3) ACCESS TO PROCEEDINGS.—Public access to juvenile court delinquency proceedings.

''(4) PARENTAL RESPONSIBILITY.—Juvenile nighttime curfews and parental civil liability for serious acts committed by juveniles released to the custody of their parents by the court.

''(5) ZERO TOLERANCE FOR DEADBEAT JUVENILE PARENTS.—A requirement as conditions of parole that—

''(A) any juvenile offender who is a parent demonstrates parental responsibility by working and paying child support; and

''(B) the juvenile attends and successfully completes school or pursues vocational training.

''(6) SERIOUS HABITUAL OFFENDERS COMPREHENSIVE ACTION PROGRAM (SHOCAP).—

''(A) IN GENERAL.—Implementation of a serious habitual offender comprehensive action program which is a multidisciplinary interagency case management and information sharing system that enables the juvenile and criminal justice system, schools, and social service agencies to make more informed decisions regarding early identification, control, supervision, and treatment of juveniles who repeatedly commit serious delinquent or criminal acts.

''(B) MULTIDISCIPLINARY AGENCIES.—Establishment by units of local government in the State under a program referred to in subparagraph (A), of a multidisciplinary agency comprised of representatives from—

''(i) law enforcement organizations;

''(ii) school districts;

''(iii) State's attorneys offices;

''(iv) court services;

''(v) State and county children and family services; and

''(vi) any additional organizations, groups, or agencies deemed appropriate to accomplish the purposes described in subparagraph (A), including—

''(I) juvenile detention centers;

''(II) mental and medical health agencies; and

''(III) the community at large.

''(C) IDENTIFICATION OF SERIOUS HABITUAL OFFENDERS.—Each multidisciplinary agency established under subparagraph (B) shall adopt, by a majority of its members, criteria to identify individuals who are serious habitual offenders.

''(D) INTERAGENCY INFORMATION SHARING AGREEMENT.—

''(i) IN GENERAL.—Each multidisciplinary agency established under subparagraph (B) shall adopt, by a majority of its members, an interagency information sharing agreement to be signed by the chief executive officer of each organization and agency represented in the multidisciplinary agency.

''(ii) DISCLOSURE OF INFORMATION.—The interagency information sharing agreement shall require that—

''(I) all records pertaining to serious habitual offenders shall be kept confidential to the extent required by State law;

''(II) information in the records may be made available to other staff from member organizations and agencies as authorized by the multidisciplinary agency for the purposes of promoting case management, community supervision, conduct control, and tracking of the serious habitual offender for the application and coordination of appropriate services; and

''(III) access to the information in the records shall be limited to individuals who provide direct services to the serious habitual offender or who provide community conduct control and supervision to the serious habitual offender.

''(7) COMMUNITY-WIDE PARTNERSHIPS.—Community-wide partnerships involving county, municipal government, school districts, appropriate State agencies, and nonprofit organizations to administer a unified approach to juvenile delinquency.

''(8) ZERO TOLERANCE FOR TRUANCY.—Implementation by school districts of programs to curb truancy and implement certain and swift punishments for truancy, including parental notification of every absence, mandatory Saturday school makeup sessions for truants or weekends in jail for truants and denial of participation or attendance at extracurricular activities by truants.

''(9) ALTERNATIVE SCHOOLING.—A requirement that, as a condition of receiving any State funding provided to school districts in accordance with a formula allocation based on the number of children enrolled in school in the school district, each school district shall establish one or more alternative schools or classrooms for juvenile offenders or juveniles who are expelled or suspended for disciplinary reasons and shall require that such juveniles attend the alternative schools or classrooms. Any juvenile who refuses to attend such alternative school or classroom shall be immediately detained pending a hearing. If a student is transferred from a regular school to an alternative school for juvenile offenders or juveniles who are expelled or suspended for disciplinary reasons such State funding shall also be transferred to the alternative school.

''(10) JUDICIAL JURISDICTION.—A system under which municipal and magistrate courts have—

''(A) jurisdiction over minor delinquency offenses such as truancy, curfew violations, and vandalism; and

''(B) short term detention authority for habitual minor delinquent behavior.

''(11) ELIMINATION OF CERTAIN INEFFECTIVE PENALTIES.—Elimination of 'counsel and release' or 'refer and release' as a penalty for juveniles with respect to the second or subsequent offense for which the juvenile is referred to a juvenile probation officer.

''(12) REPORT BACK ORDERS.—A system of 'report back' orders when juveniles are placed on probation, so that after a period of time (not to exceed 2 months) the juvenile appears before and advises the judge of the progress of the juvenile in meeting certain goals.

''(13) PENALTIES FOR USE OF FIREARM.—Mandatory penalties for the use of a firearm during a violent crime or a drug felony.

''(14) STREET GANGS.—A prohibition on engaging in criminal conduct as a member of a street gang and imposition of severe penalties for terrorism by criminal street gangs.

''(15) CHARACTER COUNTS.—Establishment of character education and training for juvenile offenders.

''(16) MENTORING.—Establishment of mentoring programs for at-risk youth.

''(17) DRUG COURTS AND COMMUNITY-ORIENTED POLICING STRATEGIES.—Establishment of courts for juveniles charged with drug offenses and community-oriented policing strategies.

''(18) RECORDKEEPING AND FINGERPRINTING.—Programs that provide that, whenever a juvenile who has not achieved his or her 14th birthday is adjudicated delinquent (as defined by Federal or State law in a juvenile delinquency proceeding) for conduct that, if committed by an adult, would constitute a felony under Federal or State law, the State shall ensure that a record is kept relating to the adjudication that is—

''(A) equivalent to the record that would be kept of an adult conviction for such an offense;

''(B) retained for a period of time that is equal to the period of time that records are kept for adult convictions;

''(C) made available to prosecutors, courts, and law enforcement agencies of any jurisdiction upon request; and

''(D) made available to officials of a school, school district, or postsecondary school where the individual who is the subject of the juvenile record seeks, intends, or is instructed to enroll, and that such officials are held liable to the same standards and penalties that law enforcement and juvenile justice system employees are held liable to, for handling and disclosing such information.

''(19) EVALUATION.—Establishment of a comprehensive process for monitoring and evaluating the effectiveness of State juvenile justice and delinquency prevention programs in reducing juvenile crime and recidivism.

''(20) BOOT CAMPS.—Establishment of State boot camps with an intensive restitution or work and community service requirement as part of a system of graduated sanctions.

''SEC. 243. GRANT AMOUNTS.

''(a) ALLOCATION AND DISTRIBUTION OF FUNDS.—

''(1) ELIGIBILITY.—Of the total amount made available to carry out part C for each fiscal year, subject to subsection (b), each State shall be eligible to receive the sum of—

''(A) an amount that bears the same relation to one-third of such total as the number of juveniles in the State bears to the number of juveniles in all States;

''(B) an amount that bears the same relation to one-third of such total as the number of juveniles from families with incomes below the poverty line in the State bears to the number of such juveniles in all States; and

''(C) an amount that bears the same relation to one-third of such total as the average annual number of part 1 violent crimes reported by the State to the Federal Bureau of Investigation for the 3 most recent calendar years for which such data are available, bears to the number of part 1 violent crimes reported by all States to the Federal Bureau of Investigation for such years.

''(2) MINIMUM REQUIREMENT.—Each State shall be eligible to receive not less than 3.5 percent of one-third of the total amount appropriated to carry out part C for each fiscal year, except that the amount for which the Virgin Islands of the United States, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands is eligible shall be not less than $100,000 and the amount for which Palau is eligible shall be not less than $15,000.

''(3) UNAVAILABILITY OF INFORMATION.—For purposes of this subsection, if data regarding the measures governing allocation of funds under paragraphs (1) and (2) in any State are unavailable or substantially inaccurate, the Administrator and the State shall utilize the best available comparable data for the purposes of allocation of any funds under this section.

''(b) ALLOCATED AMOUNT.—The amount made available to carry out part C for any fiscal year shall be allocated among the States as follows:

''(1) 50 percent of the amount for which a State is eligible under subsection (a) shall be allocated to that State if it meets the requirements of section 242(a).

''(2) 50 percent of the amount for which a State is eligible under subsection (a) shall be

allocated to that State if it meets the requirements of subsections (a) and (c) of section 242.

''(c) AVAILABILITY.—Any amounts made available under this section to carry out part C shall remain available until expended.

''SEC. 244. ACCOUNTABILITY.

''A State that receives a grant under section 241 shall use accounting, audit, and fiscal procedures that conform to guidelines prescribed by the Administrator, and shall ensure that any funds used to carry out section 241 shall represent the best value for the State at the lowest possible cost and employ the best available technology.

''SEC. 245. LIMITATION ON USE OF FUNDS.

''(a) NONSUPPLANTING REQUIREMENT.—Funds made available under section 241 shall not be used to supplant State funds, but shall be used to increase the amount of funds that would, in the absence of Federal funds, be made available from State sources.

''(b) ADMINISTRATIVE AND RELATED COSTS.—Not more than 2 percent of the funds appropriated under section 299(a) for a fiscal year shall be available to the Administrator for such fiscal year for purposes of—

''(1) research and evaluation, including assessment of the effect on public safety and other effects of the expansion of correctional capacity and sentencing reforms implemented pursuant to this part; and

''(2) technical assistance relating to the use of grants made under section 241, and development and implementation of policies, programs, and practices described in section 242.

''(c) CARRYOVER OF APPROPRIATIONS.—Funds appropriated under section 299(a) shall remain available until expended.

''(d) MATCHING FUNDS.—The Federal share of a grant received under this part may not exceed 90 percent of the costs of a proposal, as described in an application approved under this part.''.

TITLE III—GENERAL PROVISIONS

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

Section 299 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671) is amended by striking subsections (a) through (e) and inserting the following:

''(a) OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION.—There are authorized to be appropriated for each of fiscal years 2000, 2001, 2002, 2003, and 2004, such sums as may be necessary to carry out part A.

''(b) BLOCK GRANTS FOR STATE AND LOCAL PROGRAMS.—There is authorized to be appropriated $200,000,000 for each of fiscal years 2000, 2001, 2002, 2003, and 2004, to carry out part B.

''(c) INCENTIVE GRANTS FOR ACCOUNTABILITY-BASED REFORMS.—There is authorized to be appropriated $300,000,000 for each of fiscal years 2000, 2001, 2002, 2003, and 2004, to carry out part C.

''(d) SOURCE OF APPROPRIATIONS.—Funds authorized to be appropriated by this section may be appropriated from the Violent Crime Reduction Trust Fund.''.

By Mr. GRASSLEY (for himself, Mr. TORRICELLI, and Mr. LEAHY):

S. 840. A bill to amend title 11, United States Code, to provide for health care and employee benefits, and for other purposes; to the Committee on the Judiciary.

BANKRUPTCY LEGISLATION

Mr. GRASSLEY. Mr. President, I rise today to introduce legislation that would modify our bankruptcy laws to deal with bankruptcies in the health care sector. According to testimony I received in the Subcommittee on Administrative Oversight and the Courts, almost one-third of our hospitals could face foreclosure because they are not financially sound. And a number of nursing homes are in terrible financial trouble. I believe that chapter 11 and chapter 9 of the Bankruptcy Code could be vitally important in keeping troubled hospitals in business. The bill we are proposing will ensure that chapter 11 will work fairly and efficiently in the unfortunate event that we face a rash of health care bankruptcies. The bill will also make sure the health care businesses which liquidate under Chapter 7 don't just throw patients by the wayside in a rush to sell assets and pay creditors.

Currently, the Bankruptcy Code does an adequate job of helping debtors reorganize and helping creditors recover losses. However, the code does not provide protection for the interests of patients. This bill contains several important reforms to protect patients when health care providers declare bankruptcy. Specifically, the bill addresses the disposal of patient records, the costs associated with closing a health care business, the duty to transfer patients upon the closing of a health care facility and the appointment of an ombudsman to protect patient rights.

Section 102 covers the disposal of patient records. The legislation provides clear and specific guidance to trustees who may not be aware of state law requirements for maintaining the patient records or the confidentiality issues associated with patient records. Section 102 is necessary given the patient's need for the records and the apparent lack of clear instruction, whether statutory or otherwise, describing a proper procedure in dealing with patient records when closing a facility.

Section 103 brings the costs associated with closing a health care business, including any expenses incurred by disposing of patient records and transferring patients to another health care facility, within the administrative expense umbrella of the Bankruptcy Act.

Section 104 provides for an ombudsman to act as an advocate for the patient. This change will ensure that judges are fully aware of all the facts when they guide a health care provider through bankruptcy. Prior to a chapter 11 filing or immediately thereafter, the debtor employs a health care crisis consultant to help it in its reorganization effort. The first step is usually cutting costs. Sometimes, this step may result in a lower quality of patient care. The appointment of an ombudsman should balance the interests between the creditor and the patient. These interests need balancing because the court appointed professionals owe fiduciary duties to creditors and the estate but not necessarily to the patients. There will be occasions which illustrate that what may be in the best interest of creditors may not always be consistent with the patients' best interest. The trustee's interest, for example, is to maximize the amount of the estate to pay off the creditors. The more assets the trustees disburses, the more his payment will be. On the other hand, the ombudsman is designed to insure continued quality of care at least above some minimum standard. Such quality of care standards currently exist throughout the health care environment, from the health care facility itself to State standards and Federal standards.

Consider the following excerpt from the Los Angeles Times on September 28, 1997 which describes the unconscionable, pathetic, and traumatizing consequences of sudden nursing home closings:

> It could not be determined Saturday how many more elderly and chronically ill patients may be affected by the health care company's financial problems. Those at the Reseda Care Center in the San Fernando Valley, including a 106-year-old woman, were rolled into the street late Friday in wheelchairs and on hospital beds, bundled in blankets as relatives scurried to gather up clothes and other personal belongings.

The presence of an ombudsman probably would result in fewer instances similar to what I just described, where trustees quickly close health care facilities without notifying appropriate state and federal agencies and without notifying the bankruptcy court.

Section 1105 requires a trustee to use reasonable and best efforts to transfer patients in the face of a health care business closing. This provision is both useful and necessary in that it outlines a trustee's duty with respect to a transfer of vulnerable patients.

For all these reasons, I urge you to join me and my colleagues in supporting this bill which will protect the interests of patients in health care bankruptcies.

Mr. LEAHY. Mr. President, I am pleased to join Senator GRASSLEY and Senator TORRICELLI in introducing legislation to protect patient privacy when a hospital, nursing home, HMO or other institution holding medical records is involved in a bankruptcy proceeding that leads to liquidation.

Of course, in the best case scenario any institution holding patient health care records would continue to follow applicable state or federal law requiring proper storage and safeguards. The fact is, however, under current law during a business liquidation an individual would have to wait until there has been a serious breach of their privacy rights before anyone stepped in to ensure that patient privacy is protected. Under current law it is questionable what protection these most sensitive personal records would have during a liquidation.

The reality of this situation and the practical questions of what recourse an individual would have if their personal medical records were not properly safeguarded against a business that is going out of business makes this provision essential. Our legislation would

set in law the procedure that an institution holding medical records would have to follow during a liquidation proceeding.

The bottom line is that we do not want to have to wait until there has been a breach of privacy before steps are taken to protect patient privacy. Once privacy is breached—there is nothing one can really do to give that back to an individual.

I have been working on the overall issue of medical privacy for many years. I look forward to working with Senator GRASSLEY and Senator TORRICELLI on this issue to make sure that patient privacy rights are protected in bankruptcy.

By Mr. KENNEDY (for himself, Mr. ROCKEFELLER, and Mr. WELLSTONE):

S. 841. A bill to amend title XVIII of the Social Security Act to provide for coverage of outpatient prescription drugs under the Medicare Program; to the Committee on Finance.

ACCESS TO RX MEDICATIONS IN MEDICARE ACT OF 1999

Mr. KENNEDY. Mr. President, today Senator JAY ROCKEFELLER and I are introducing the Access to Rx Medications in Medicare Act. This legislation will add a long overdue benefit to Medicare—coverage of prescription drugs. Medicare is a promise to senior citizens. It says ''Work hard, contribute to Medicare during your working years, and you will be guaranteed health security in your retirement years.'' But too often that promise is broken, because of Medicare's failure to protect the elderly against the high cost of prescription drugs.

Our legislation will provide every senior citizen or disabled person with Medicare coverage for up to $1,700 worth of prescription drugs a year, and additional coverage for those with very high drug costs. Medicare will contract with the private sector organizations in regions across the country to administer and deliver the new coverage. Beneficiaries in traditional Medicare will select an organization to provide them with the benefit. Beneficiaries enrolled in Medicare+Choice organizations will receive coverage through their plan. Seniors who have equivalent or greater coverage through retiree health plans can continue that coverage or enroll in the new program. The bill will also required private Medigap plans to include supplemental coverage.

Fourteen million beneficiaries have no prescription drug coverage. Millions more have coverage that is unaffordable, inadequate, or uncertain. The average senior citizen fills 18 prescriptions a year, and takes four to six prescription drugs daily. Many of them face monthly bills of $100, $200, or even more to fill their prescriptions. The lack of prescription drug coverage condemns many senior citizens to second-class medicine. Too often, they decide to go without the medication essential for effective health care, because they have to pay other bills for food or heat or shelter. These difficult choices will only worsen in the years ahead, since so many of the miracle cures of the future will be based on pharmaceutical products.

This legislation is a lifeline for every senior citizen who needs prescription drugs to treat an illness or maintain their health. It assures that today's and tomorrow's senior citizens will be able to share in the medical miracles that we can expect in the new century of the life sciences. It addresses the greatest single gap in Medicare—and the one that is the greatest anachronism in Medicare today.

When Medicare was first enacted in 1965, its coverage was patterned after typical private insurance policies at the time—when only a minority of such policies covered prescription drugs. Today, prescription drug coverage is virtually universal in private plans, but Medicare is still caught in its 1965 time warp.

This legislation has been carefully developed to respond to the legitimate concerns of the pharmaceutical and biotechnology industry. We have consulted with many leading firms on the development of this plan, and we believe that the industry will work with us to refine it and enact it. The most profitable industry in America has a strong interest in assuring that the miracle cures it creates are affordable for senior citizens.

Prescription drug coverage under Medicare will not come cheaply, and I intend to work with my colleagues in Congress to find the fairest way to pay for this benefit. It may well be necessary to allocate a portion of the budget surplus to defray the cost. The hard work of American families has created the surplus. Assuring it should be as high a priority for the Congress as it is for the American people. We know that improper or inadequate use of prescription drugs now costs Medicare an estimated at least $20 billion annually in avoidable hospital and physician costs. Clearly, a well-constructed prescription drug benefit can achieve large savings by reducing these avoidable costs. The bottom line is that there are many possible ways to pay for this benefit. A consensus on the best financing will develop as Congress considers this issue.

This legislation is literally a matter of life and death for millions of elderly and disabled citizens served by Medicare in communities throughout America. It is time for Congress to listen to their voices, and the voices of their children and grandchildren, too.

I ask unanimous consent that the text of this legislation and accompanying materials be printed in the RECORD.

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

S. 841

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 ''Access to Rx Medications in Medicare Act of 1999''.

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

SEC. 2. MEDICARE COVERAGE OF OUTPATIENT PRESCRIPTION DRUGS.

(a) COVERAGE.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

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

(2) by striking the period at the end of subparagraph (T) and inserting ''; and''; and

(3) by adding at the end the following:

''(U) covered outpatient drugs (as defined in subsection (i)(1) of section 1849) pursuant to the procedures established under such section;''.

(b) PAYMENT.—Section 1833(a)(1) of the Social Security Act (42 U.S.C. 1395l(a)(1)) is amended—

(1) by striking ''and (S)'' and inserting ''(S)''; and

(2) by striking the semicolon at the end and inserting the following: '', and (T) with respect to covered outpatient drugs (as defined in subsection (i)(1) of section 1849), the amounts paid shall be the amounts established by the Secretary pursuant to such section;''.

SEC. 3. SELECTION OF ENTITIES TO PROVIDE OUTPATIENT DRUG BENEFIT.

Part B of title XVIII of the Social Security Act (42 U.S.C. 1395j et seq.) is amended by adding at the end the following:

''SEC. 1849. SELECTION OF ENTITIES TO PROVIDE OUTPATIENT DRUG BENEFIT.

''(a) ESTABLISHMENT OF BIDDING PROCESS.—

''(1) IN GENERAL.—The Secretary shall establish procedures under which the Secretary accepts bids from eligible entities and awards contracts to such entities in order to provide covered outpatient drugs to eligible beneficiaries in an area. Such contracts may be awarded based on shared risk, capitation, or performance.

''(2) AREA.—

''(A) REGIONAL BASIS.—The contract entered into between the Secretary and an eligible entity shall require the eligible entity to provide covered outpatient drugs on a regional basis.

''(B) DETERMINATION.—In determining coverage areas under this section, the Secretary shall take into account the number of eligible beneficiaries in an area in order to encourage participation by eligible entities.

''(3) SUBMISSION OF BIDS.—Each eligible entity desiring to provide covered outpatient drugs under this section shall submit a bid

to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require. Such bids shall include the amount the eligible entity will charge enrollees under subsection (e)(2) for covered outpatient drugs under the contract.

''(4) ACCESS.—The Secretary shall ensure that—

''(A) an eligible entity complies with the access requirements described in subsection (f)(5);

''(B) if an eligible entity employs formularies pursuant to subsection (f)(6)(A), such entity complies with the requirements of subsection (f)(6)(B); and

''(C) an eligible entity makes available to each beneficiary covered under the contract the full scope of benefits required under paragraph (5).

''(5) SCOPE OF BENEFITS.—The Secretary shall ensure that all covered outpatient drugs that are reasonable and necessary to prevent or slow the deterioration of, and improve or maintain, the health of eligible beneficiaries are offered under a contract entered into under this section.

''(6) NUMBER OF CONTRACTS.—The Secretary shall, consistent with the requirements of this section and the goal of containing medicare program costs, award at least 2 contracts in an area, unless only 1 bidding entity meets the minimum standards specified under this section and by the Secretary.

''(7) DURATION OF CONTRACTS.—Each contract under this section shall be for a term of at least 2 years but not more than 5 years, as determined by the Secretary.

''(8) BENCHMARK FOR CONTRACTS.—The Secretary shall not enter into a contract with an eligible entity under this section unless the Secretary determines that the average cost (excluding any cost-sharing) for all covered outpatient drugs provided to beneficiaries under the contract is comparable to the average cost charged (exclusive of any cost-sharing) by large private sector purchasers for such drugs.

''(b) ENROLLMENT.—

''(1) IN GENERAL.—The Secretary shall establish a process through which an eligible beneficiary shall make an election to enroll with any eligible entity that has been awarded a contract under this section and serves the geographic area in which the beneficiary resides. In establishing such process, the Secretary shall use rules similar to the rules for enrollment and disenrollment with a Medicare+Choice plan under section 1851.

''(2) REQUIREMENT OF ENROLLMENT.—Excluding an eligible beneficiary enrolled in a group health plan described in section 4 of the Access to Rx Medications in Medicare Act of 1999, an eligible beneficiary not enrolled in a Medicare+Choice plan under part C must enroll with an eligible entity under this section in order to be eligible to receive covered outpatient drugs under this title.

''(3) ENROLLMENT IN ABSENCE OF ELECTION BY ELIGIBLE BENEFICIARY.—In the case of an eligible beneficiary that fails to make an election pursuant to paragraph (1), the Secretary shall provide, pursuant to procedures developed by the Secretary, for the enrollment of such beneficiary with an eligible entity that has a contract under this section that covers the area in which such beneficiary resides.

''(4) AREAS NOT COVERED BY CONTRACTS.—The Secretary shall develop procedures for the provision of covered outpatient drugs under this title to eligible beneficiaries that reside in an area that is not covered by any contract under this section.

''(5) BENEFICIARIES RESIDING IN DIFFERENT LOCATIONS.—The Secretary shall develop procedures to ensure that an eligible beneficiary that resides in different regions in a year is provided benefits under this section throughout the entire year.

''(c) PROVIDING INFORMATION TO BENEFICIARIES.—The Secretary shall provide for activities under this section to broadly disseminate information to medicare beneficiaries on the coverage provided under this section. Such activities shall be similar to the activities performed by the Secretary under section 1851(d).

''(d) PAYMENTS TO ELIGIBLE ENTITIES.—The Secretary shall establish procedures for making payments to an eligible entity under a contract.

''(e) COST-SHARING.—

''(1) DEDUCTIBLE.—Benefits under this section shall not begin until the eligible beneficiary has met a $200 deductible.

''(2) COPAYMENT.—

''(A) IN GENERAL.—Subject to subparagraph (B), the eligible beneficiary shall be responsible for making payments in an amount not greater than 20 percent of the cost (as stated in the contract) of any covered outpatient drug that is provided to the beneficiary. Pursuant to subsection (a)(4)(B), an eligible entity may reduce the payment amount that an eligible beneficiary is responsible for making to the entity.

''(B) BASIC BENEFIT.—Subject to subparagraph (C), if the aggregate amount of covered outpatient drugs provided to an eligible beneficiary under this section for any calendar year (based on the cost of covered outpatient drugs stated in the contract) exceeds $1,700—

''(i) the beneficiary may continue to purchase covered outpatient drugs under the contract based on the contract price, but

''(ii) the copayment under subparagraph (A) shall be 100 percent.

''(C) STOP-LOSS PROTECTION.—The copayment amount under subparagraph (A) shall be 0 percent once an eligible beneficiary's out-of-pocket expenses for covered outpatient drugs under this section reach $3,000.

''(D) INFLATION ADJUSTMENT.—

''(i) IN GENERAL.—In the case of any calendar year beginning after 2000, each of the dollar amounts in subparagraphs (B) and (C) shall be increased by an amount equal to—

''(I) such dollar amount, multiplied by

''(II) an adjustment, as determined by the Secretary, for changes in the per capita cost of prescription drugs for beneficiaries under this title.

''(ii) ROUNDING.—If any dollar amount after being increased under clause (i) is not a multiple of $10, such dollar amount shall be rounded to the nearest multiple of $10.

''(f) CONDITIONS FOR AWARDING CONTRACT.—The Secretary shall not award a contract to an eligible entity under subsection (a) unless the Secretary finds that the eligible entity is in compliance with such terms and conditions as the Secretary shall specify, including the following:

''(1) QUALITY AND FINANCIAL STANDARDS.—The eligible entity meets quality and financial standards specified by the Secretary.

''(2) INFORMATION.—The eligible entity provides the Secretary with information that the Secretary determines is necessary in order to carry out the bidding process under this section, including data needed to implement subsection (a)(8) and data regarding utilization, expenditures, and costs.

''(3) EDUCATION.—The eligible entity establishes educational programs that meet the criteria established by the Secretary pursuant to subsection (g)(1).

''(4) PROCEDURES TO ENSURE PROPER UTILIZATION AND TO AVOID ADVERSE DRUG REACTIONS.—The eligible entity has in place procedures to ensure the—

''(A) appropriate utilization by eligible beneficiaries of the benefits to be provided under the contract; and

''(B) avoidance of adverse drug reactions among eligible beneficiaries enrolled with the entity.

''(5) ACCESS.—The eligible entity ensures that the covered outpatient drugs are accessible and convenient to eligible beneficiaries covered under the contract, including by offering the services in the following manner:

''(A) SERVICES DURING EMERGENCIES.—The offering of services 24 hours a day and 7 days a week for emergencies.

''(B) CONTRACTS WITH RETAIL PHARMACIES.—The offering of services—

''(i) at a sufficient (as determined by the Secretary) number of retail pharmacies; and

''(ii) to the extent feasible, at retail pharmacies located throughout the eligible entity's service area.

''(6) RULES RELATING TO PROVISION OF BENEFITS.—

''(A) PROVISION OF BENEFITS.—In providing benefits under a contract under this section, an eligible entity may—

''(i) employ mechanisms to provide benefits economically, including the use of—

''(I) formularies (pursuant to subparagraph (B));

''(II) alternative methods of distribution; and

''(III) generic drug substitution; and

''(ii) use incentives to encourage eligible beneficiaries to select cost-effective drugs or less costly means of receiving drugs.

''(B) FORMULARIES.—If an eligible entity uses a formulary to contain costs under this Act—

''(i) the eligible entity shall—

''(I) ensure participation of practicing physicians and pharmacists in the development of the formulary;

''(II) include in the formulary at least 1 drug from each therapeutic class;

''(III) provide for coverage of otherwise covered non-formulary drugs when recommended by prescribing providers; and

''(IV) disclose to current and prospective beneficiaries and to providers in the service area the nature of the formulary restrictions, including information regarding the drugs included in the formulary, copayment amounts, and any difference in the cost-sharing for different types of drugs; but

''(ii) nothing shall preclude an entity from—

''(I) requiring higher cost-sharing for drugs provided under clause (i)(III), subject to limits established in subsection (e)(2)(A), except that an entity shall provide for coverage of a nonformulary drug on the same basis as a drug within the formulary if such nonformulary drug is determined by the prescribing provider to be medically indicated;

''(II) educating prescribing providers, pharmacists, and beneficiaries about medical and cost benefits of formulary products; and

''(III) requesting prescribing providers to consider a formulary product prior to dispensing of a nonformulary drug, as long as such request does not unduly delay the provision of the drug.

''(7) PROCEDURES TO COMPENSATE PHARMACISTS FOR COUNSELING.—The eligible entity shall compensate pharmacists for providing the counseling described in subsection (g)(2)(B).

''(8) CLINICAL OUTCOMES.—

''(A) REQUIREMENT.—The eligible entity shall comply with clinical quality standards as determined by the Secretary.

''(B) DEVELOPMENT OF STANDARDS.—The Secretary, in consultation with appropriate medical specialty societies, shall develop clinical quality standards that are applicable to eligible entities. Such standards shall be based on current standards of care.

''(9) PROCEDURES REGARDING DENIALS OF CARE.—The eligible entity has in place procedures to ensure—

''(A) the timely review and resolution of denials of care and complaints (including those regarding the use of formularies under paragraph (6)) by enrollees, or providers, pharmacists, and other individuals acting on behalf of such individual (with the individual's consent) in accordance with requirements (as established by the Secretary) that are comparable to such requirements for Medicare+Choice organizations under part C; and

''(B) that beneficiaries are provided with information regarding the appeals procedures under this section at the time of enrollment.

''(g) EDUCATIONAL REQUIREMENTS TO ENSURE APPROPRIATE UTILIZATION.—

''(1) ESTABLISHMENT OF PROGRAM CRITERIA.—The Secretary shall establish a model for comprehensive educational programs in order to assure the appropriate—

''(A) prescribing and dispensing of covered outpatient drugs under this section; and

''(B) use of such drugs by eligible beneficiaries.

''(2) ELEMENTS OF MODEL.—The model established under paragraph (1) shall include the following elements:

''(A) On-line prospective review available 24 hours a day and 7 days a week in order to evaluate each prescription for drug therapy problems due to duplication, interaction, or incorrect dosage or duration of therapy.

''(B) Consistent with State law, guidelines for counseling eligible beneficiaries enrolled under a contract under this section regarding—

''(i) the proper use of prescribed covered outpatient drugs; and

''(ii) interactions and contra-indications.

''(C) Methods to identify and educate providers, pharmacists, and eligible beneficiaries regarding—

''(i) instances or patterns concerning the unnecessary or inappropriate prescribing or dispensing of covered outpatient drugs;

''(ii) instances or patterns of substandard care;

''(iii) potential adverse reactions to covered outpatient drugs;

''(iv) inappropriate use of antibiotics;

''(v) appropriate use of generic products; and

''(vi) the importance of using covered outpatient drugs in accordance with the instruction of prescribing providers.

''(h) PROTECTION OF PATIENT CONFIDENTIALITY.—Insofar as an eligible organization maintains individually identifiable medical records or other health information regarding enrollees under a contract entered into under this section, the organization shall—

''(1) safeguard the privacy of any individually identifiable enrollee information;

''(2) maintain such records and information in a manner that is accurate and timely; and

''(3) assure timely access of such enrollees to such records and information.

''(i) DEFINITIONS.—In this section:

''(1) COVERED OUTPATIENT DRUG.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'covered outpatient drug' means any of the following products:

''(i) A drug which may be dispensed only upon prescription, and—

''(I) which is approved for safety and effectiveness as a prescription drug under section 505 of the Federal Food, Drug, and Cosmetic Act;

''(II)(aa) which was commercially used or sold in the United States before the date of enactment of the Drug Amendments of 1962 or which is identical, similar, or related (within the meaning of section 310.6(b)(1) of title 21 of the Code of Federal Regulations) to such a drug, and (bb) which has not been the subject of a final determination by the Secretary that it is a 'new drug' (within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act) or an action brought by the Secretary under section 301, 302(a), or 304(a) of such Act to enforce section 502(f) or 505(a) of such Act; or

''(III)(aa) which is described in section 107(c)(3) of the Drug Amendments of 1962 and for which the Secretary has determined there is a compelling justification for its medical need, or is identical, similar, or related (within the meaning of section 310.6(b)(1) of title 21 of the Code of Federal Regulations) to such a drug, and (bb) for which the Secretary has not issued a notice of an opportunity for a hearing under section 505(e) of the Federal Food, Drug, and Cosmetic Act on a proposed order of the Secretary to withdraw approval of an application for such drug under such section because the Secretary has determined that the drug is less than effective for all conditions of use prescribed, recommended, or suggested in its labeling.

''(ii) A biological product which—

''(I) may only be dispensed upon prescription;

''(II) is licensed under section 351 of the Public Health Service Act; and

''(III) is produced at an establishment licensed under such section to produce such product.

''(iii) Insulin approved under appropriate Federal law.

''(iv) A prescribed drug or biological product that would meet the requirements of clause (i) or (ii) but that is available over-the-counter in addition to being available upon prescription.

''(B) EXCLUSION.—The term 'covered outpatient drug' does not include any product—

''(i) except as provided in subparagraph (A)(iv), which may be distributed to individuals without a prescription;

''(ii) when furnished as part of, or as incident to, a diagnostic service or any other item or service for which payment may be made under this title;

''(iii) that was covered under this title on the day before the date of enactment of the Access to Rx Medications in Medicare Act of 1999; or

''(iv) that is a therapeutically equivalent replacement for a product described in clause (ii) or (iii), as determined by the Secretary.

''(2) ELIGIBLE BENEFICIARY.—The term 'eligible beneficiary' means an individual that is enrolled under part B of this title.

''(3) ELIGIBLE ENTITY.—The term 'eligible entity' means any entity that the Secretary determines to be appropriate, including—

''(A) pharmaceutical benefit management companies;

''(B) wholesale and retail pharmacist delivery systems;

''(C) insurers;

''(D) other entities; or

''(E) any combination of the entities described in subparagraphs (A) through (D).''.

SEC. 4. OPTIONAL COVERAGE FOR CERTAIN BENEFICIARIES.

(a) IN GENERAL.—If drug coverage under a group health plan that provides health insurance coverage for retirees is equivalent to or greater than the coverage provided under section 1849 of the Social Security Act (as added by section 3), beneficiaries receiving coverage through the group health plan may continue to receive such coverage from the plan and the Secretary may make payments to such plans, subject to the requirements of this section.

(b) REQUIREMENTS.—To receive payment under this section, group health plans shall—

(1) comply with certain requirements of this Act and other reasonable, necessary, and related requirements that are needed to administer this section, as determined by the Secretary;

(2) to the extent that there is a contractual obligation to provide drug coverage to retirees that is equal to or greater than the drug coverage provided under this Act, reimburse or otherwise arrange to compensate beneficiaries during the life of the contract for the portion of the part B premium under section 1839 of the Social Security Act that is identified by the Secretary of Health and Human Services as attributable to the drug coverage provided under section 1849 of that Act (as added by section 3); or

(3) for group health plans that are in existence prior to enactment of this section and provide drug coverage to retirees that is equal to or greater than the drug coverage provided under section 1849 of the Social Security Act (as added by section 3), reimburse or otherwise arrange to compensate beneficiaries for the portion of the part B premium under section 1839 of the Social Security Act that is identified by the Secretary of Health and Human Services as attributable to the drug coverage provided under section 1849 of that Act (as added by section 3) for at least 1 year from the date that the group health plan begins participation under this section.

(c) PAYMENTS.—The Secretary shall establish a process to provide payments to eligible group health plans under this section on behalf of enrolled beneficiaries. Such payments shall not exceed the amount that would otherwise be paid to a private entity serving similar beneficiaries in the same service area under section 1849 of the Social Security Act (as added by section 3).

SEC. 5. MEDIGAP REVISIONS.

(a) COVERAGE OF OUTPATIENT DRUGS.—Section 1882(p)(2)(B) of the Social Security Act (42 U.S.C. 1395ss(p)(2)(B)) is amended by inserting before ''and'' at the end the following: ''including a requirement that an appropriate number of policies provide coverage of drugs which compliments but does not duplicate the drug benefits that beneficiaries are otherwise entitled to under this title (with the Secretary and the National Association of Insurance Commissioners determining the appropriate level of drug benefits that each benefit package must provide and ensuring that policies providing such coverage remain affordable for beneficiaries);''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on July 1, 2000.

(c) TRANSITION PROVISIONS.—

(1) IN GENERAL.—If the Secretary of Health and Human Services identifies a State as requiring a change to its statutes or regulations to conform its regulatory program to the amendments made by this section, the State regulatory program shall not be considered to be out of compliance with the requirements of section 1882 of the Social Security Act due solely to failure to make such change until the date specified in paragraph (4).

(2) NAIC STANDARDS.—If, within 9 months after the date of enactment of this Act, the National Association of Insurance Commissioners (in this subsection referred to as the ''NAIC'') modifies its NAIC Model Regulation relating to section 1882 of the Social Security Act (referred to in such section as the 1991 NAIC Model Regulation, as subsequently modified) to conform to the amendments made by this section, such revised regulation incorporating the modifications shall be considered to be the applicable NAIC model regulation (including the revised NAIC model regulation and the 1991 NAIC Model Regulation) for the purposes of such section.

(3) SECRETARY STANDARDS.—If the NAIC does not make the modifications described in

paragraph (2) within the period specified in such paragraph, the Secretary of Health and Human Services shall make the modifications described in such paragraph and such revised regulation incorporating the modifications shall be considered to be the appropriate regulation for the purposes of such section.

(4) DATE SPECIFIED.—

(A) IN GENERAL.—Subject to subparagraph (B), the date specified in this paragraph for a State is the earlier of—

(i) the date the State changes its statutes or regulations to conform its regulatory program to the changes made by this section; or

(ii) 1 year after the date the NAIC or the Secretary first makes the modifications under paragraph (2) or (3), respectively.

(B) ADDITIONAL LEGISLATIVE ACTION REQUIRED.—In the case of a State which the Secretary identifies as—

(i) requiring State legislation (other than legislation appropriating funds) to conform its regulatory program to the changes made in this section; but

(ii) having a legislature which is not scheduled to meet in 2000 in a legislative session in which such legislation may be considered;

the date specified in this paragraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after July 1, 2000. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 6. IMPROVED MEDICAID ASSISTANCE FOR LOW-INCOME INDIVIDUALS.

(a) INCREASE IN SLMB ELIGIBILITY TO 135 PERCENT OF POVERTY LEVEL.—.

(1) IN GENERAL.—Section 1902(a)(10)(E) of the Social Security Act (42 U.S.C. 1396a(a)(10)(E)) is amended—

(A) in clause (iii), by striking ''and 120 percent in 1995 and years thereafter'' and inserting '', 120 percent in 1995 and through July 1, 2000, and 135 percent for subsequent periods''; and

(B) in clause (iv)—

(i) by striking the dash and all that follows through ''(II)'', and

(ii) by striking ''who would be described in subclause (I) if '135 percent' and '175 percent' were substituted for '120 percent' and '135 percent' respectively'' and inserting ''who would be described in clause (iii) but for the fact that their income exceeds 135 percent, but is less than 175 percent, of the official poverty line (referred to in such clause) for a family of the size involved''.

(2) CONFORMING AMENDMENT.—Section 1933(c)(2)(A) of such Act (42 U.S.C. 1396v(c)(2)(A)) is amended by striking ''the sum'' and all that follows and inserting ''the total number of individuals described in section 1902(a)(10)(E)(iv) in the State; to''.

(b) PROVISION OF MEDICAID PRESCRIPTION DRUG BENEFITS FOR QMBS AND SLMBS AS WRAP-AROUND BENEFIT.—

(1) IN GENERAL.—Section 1902(a)(10) of such Act (42 U.S.C. 1396a(a)(10)) is amended—

(A) in subparagraph (E)(i), by inserting ''and for prescribed drugs (in the same amount, duration, and scope as for individuals described in subparagraph (A)(i))'' after ''1905(p)(3))'';

(B) in subparagraph (E)(iii), by inserting ''and for prescribed drugs (in the same amount, duration, and scope as for individuals described in subparagraph (A)(i))'' after ''section 1905(p)(3)(A)(ii)''; and

(C) in the clause (VIII) following subparagraph (F), by inserting ''and to medical assistance for prescribed drugs described in subparagraph (E)(i)'' after ''1905(p)(3))''.

(2) CONFORMING AMENDMENT.—Section 1916(a) of such Act (42 U.S.C. 1396o(a)) is amended, in the matter before paragraph (1), by striking ''(E)(i)'' and inserting ''(E)''.

(c) EFFECTIVE DATES.—

(1) The amendments made by subsections (a)(1) and (b) take effect on July 1, 2000, and apply to prescribed drugs furnished on or after such date.

(2) The amendment made by subsection (a)(2) applies to the allocation for the portion of fiscal year 2000 that occurs on or after July 1, 2000, and to the allocation for subsequent fiscal years.

(3) The amendments made by this section apply without regard to whether or not regulations to implement such amendments are promulgated by July 1, 2000.

SEC. 7. WAIVER OF ADDITIONAL PORTION OF PART B PREMIUM FOR CERTAIN MEDICARE BENEFICIARIES HAVING ACTUARIALLY EQUIVALENT COVERAGE.

(a) IN GENERAL.—The Secretary of Health and Human Services shall establish a method under which the portion of the part B premium under section 1839 of the Social Security Act that is identified by the Secretary of Health and Human Services as attributable to the drug coverage provided under section 1849 of that Act (as added by section 3) is waived (and not collected) for any individual enrolled under part B of title XVIII of the Social Security Act who demonstrates that the individual has drug coverage that is actuarially equivalent to the coverage provided under that part.

(b) LIMITATION.—Subsection (a) shall not apply to an individual with coverage through a group health plan if the group health plan receives payments for such individual pursuant to section 4.

SEC. 8. ELIMINATION OF TIME LIMITATION ON MEDICARE BENEFITS FOR IMMUNOSUPPRESSIVE DRUGS.

(a) REVISION.—

(1) IN GENERAL.—Section 1861(s)(2)(J) of the Social Security Act (42 U.S.C. 1395x(s)(2)(J)) is amended by striking '', but only'' and all that follows up to the semicolon at the end.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to drugs furnished on or after the date of enactment of this Act.

(b) EXTENSION OF CERTAIN SECONDARY PAYER REQUIREMENTS.—Section 1862(b)(1)(C) of the Social Security Act (42 U.S.C. 1395y(b)(1)(C)) is amended by adding at the end the following: ''With regard to immunosuppressive drugs furnished on or after the date of enactment of the Access to Rx Medications in Medicare Act of 1999, this subparagraph shall be applied without regard to any time limitation.''.

SEC. 9. EXPANSION OF MEMBERSHIP OF MEDPAC TO 19.

(a) IN GENERAL.—Section 1805(c) of the Social Security Act (42 U.S.C. 1395b–6(c)), as amended by section 5202 of the Tax and Trade Relief Extension Act of 1998 (contained in division J of Public Law 105–277), is amended—

(1) in paragraph (1), by striking ''17'' and inserting ''19''; and

(2) in paragraph (2)(B), by inserting ''experts in the area of pharmacology and prescription drug benefit programs,'' after ''other health professionals,''.

(b) INITIAL TERMS OF ADDITIONAL MEMBERS.—

(1) IN GENERAL.—For purposes of staggering the initial terms of members of the Medicare Payment Advisory Commission under section 1805(c)(3) of the Social Security Act (42 U.S.C. 1395b–6(c)(3)), the initial terms of the 2 additional members of the Commission provided for by the amendment under subsection (a)(1) are as follows:

(A) One member shall be appointed for 1 year.

(B) One member shall be appointed for 2 years.

(2) COMMENCEMENT OF TERMS.—Such terms shall begin on January 1, 2000.

SEC. 10. GAO STUDY AND REPORT TO CONGRESS.

(a) STUDY.—The Comptroller General of the United States shall conduct a study and analysis of the implementation of the competitive bidding process for covered outpatient drugs under section 1849 of the Social Security Act (as added by section 3), including an analysis of—

(1) the reduction of hospital visits (or lengths of such visits) by beneficiaries as a result of providing coverage of covered outpatient drugs under such section;

(2) prices paid by the medicare program relative to comparable private and public sector programs; and

(3) any other savings to the medicare program as a result of—

(A) such coverage; and

(B) the education and counseling provisions of section 1849(g).

(b) REPORT.—Not later than January 1, 2001, and annually thereafter, the Comptroller General of the United States shall submit a report to Congress on the study and analysis conducted pursuant to subsection (a), and shall include in the report such recommendations regarding the coverage of covered outpatient drugs under the medicare program as the Comptroller General determines to be appropriate.

SEC. 11. EFFECTIVE DATE.

Except as otherwise provided, the amendments made by this Act apply to items and services furnished on or after July 1, 2000.

ACCESS TO RX MEDICATIONS IN MEDICARE ACT OF 1999—SUMMARY

THE NEED

When Medicare was enacted in 1965, outpatient prescription drug coverage was not a standard feature of private health insurance policies. Now, virtually all employment-based policies provide prescription drug coverage, but Medicare does not.

More than one-third of Medicare beneficiaries have no coverage for outpatient prescription drugs. While other elderly and disabled beneficiaries have some level of outpatient prescription drug coverage through Medicare+Choice plans, individually purchased Medigap or retiree health coverage, too often that coverage is inadequate, expensive or unreliable.

LEGISLATIVE PROPOSAL

This legislation would create a new outpatient prescription drug benefit under Part B. The benefit has two parts—a basic benefit that will fully cover the drug needs of most beneficiaries and a stop-loss benefit that will provide much needed additional coverage to the beneficiaries who have the highest drug costs.

The proposal administers and delivers the benefit through private entities and private sector performance benchmarks—rather than HCFA or federally designated price controls. All beneficiaries would be covered by the new benefit. Beneficiaries enrolled in Medicare+Choice plans would receive the benefit through their plan. Beneficiaries in conventional Medicare would enroll with an approved program in their area of residence, following the general model of Medicare+Choice enrollment.

In addition, the proposal would preserve and improve existing coverage in the private market that is equal to or greater than the new coverage under Medicare. Beneficiaries with equivalent coverage through a retiree health plan would be able to keep that coverage and HHS would provide payment to the plan equal to the payment that would otherwise be paid on behalf of the beneficiary to one of the new private entities.

The benefit

Outpatient drugs covered under this Act are FDA-approved therapies that are dispensed only by prescription, including insulin and biologics, and that are reasonable and necessary to prevent or slow the deterioration of, and improve or maintain the health of covered individuals. This Act would not cover over-the-counter products or therapies that are currently covered under Medicare (e.g., those that are administered ''incident to'' physician services).

After beneficiaries meet a separate drug deductible of $200, coverage is generally provided at levels similar to regular Part B benefits—with the beneficiary paying not more than 20 percent of the program's established price for a particular product. The basic benefit would provide coverage up to $1,700 annually. Medicare would provide ''stop-loss'' coverage (i.e., Medicare would pay 100 percent) once annual out-of-pocket expenditures exceed $3,000. Beneficiaries with drug costs in excess of the basic benefit—but below the stop-loss trigger—would be allowed to self-pay for additional medications at the private entity's discounted price.

This benefit package provides a new and much needed guarantee of coverage for all beneficiaries, and will fully cover the prescription drug needs of approximately 80 percent of beneficiaries.

Use of private sector and support of existing coverage

Coverage would be provided through private entities under contract with HHS. Eligible entities include pharmaceutical benefit management companies, insurers, networks of wholesale and retail pharmacies, and other appropriate organizations. Eligible entities would submit competitive bids to the Secretary for regional coverage—regions would be determined by the Secretary and structured in such a way as to encourage participation by and competition among private entities. Service areas would consist of at least one state whenever possible.

Bids would be awarded based on shared risk, capitation or performance to entities that meet the requirements of the Act and provide for discounts comparable to those garnered by other large private sector purchasers. There is no fee schedule or rebate structure. The Secretary shall award at least two bids in an area, if such bids meet the requirements of the Act, encourage competition and improve service for beneficiaries.

Entities may employ a variety of cost-containment techniques used in the private sector (e.g., formularies, differential cost-sharing for certain products, etc.), subject to guidelines and beneficiary protections established in the Act. Entities must contract with a sufficient number and distribution of retail pharmacies throughout the plan's service area to assure convenient access for covered beneficiaries.

Additional assistance for low-income beneficiaries

Beneficiaries with incomes between the level for Medicaid eligibility and 135 percent of poverty would receive comprehensive wrap-around coverage through Medicaid, including assistance with cost-sharing and premiums.

Incentive to maintain current private market coverage

To maintain coverage in the retiree health market, employers who offer retiree drug coverage that is equal to or better than the new Medicare benefit would be eligible for a payment equal to the payment that would otherwise be made to the local private entity. This would help beneficiaries with comprehensive drug coverage in retiree health plans to keep their current coverage.

Measures to decrease drug-related problems

Improper use of or lack of access to prescription drugs is estimated to cost Medicare more than $20 billion annually (primarily through avoidable hospitalizations and admissions to skilled nursing facilities.) Participating private entities must use systems to assure appropriate prescribing, dispensing and use of covered therapies. These programs must include on-line prospective review and methods to identify and educate pharmacists, providers and beneficiaries on (1) instances or patterns of unnecessary or inappropriate prescribing or dispensing or substandard care, (2) potential adverse reactions, (3) inappropriate use of antibiotics, (4) appropriate use of generic products, and (5) patient compliance.

Medigap reforms

The Secretary and the National Association of Insurance Commissioners would be required to revise the standard Medigap packages to reflect the new Medicare benefit, and provide for coverage that compliments, but does not duplicate, such coverage in an appropriate number of standard packages.

ESTIMATED COST AND FINANCING

The Congressional Budget Office has not yet estimated the costs or potential savings associated with this proposal. The proposal does not specify the financing mechanism, but viable options include (1) recovering—through legislation or litigation—the Medicare costs attributable to treating tobacco-related diseases and conditions, (2) an increase in the federal tobacco tax, (3) a small portion of the unallocated surplus, or (4) savings achieved as part of the financing of more comprehensive Medicare reform legislation.

ACCESS TO RX MEDICATIONS IN MEDICARE ACT OF 1999 FACT SHEET

The greatest gap in Medicare coverage in the lack of a prescription drug benefit. The time has come to modernize Medicare's benefits by including coverage for outpatient prescription drugs.

COVERAGE

When Medicare was enacted in 1965, outpatient prescription drug coverage was not a standard feature of private insurance policies. Today, however, virtually all employment-based policies provide prescription drug coverage.[1]

Approximately one-third of Medicare beneficiaries have no prescription drug coverage. Coverage among the remaining beneficiaries is often inadequate, unaffordable and uncertain. Approximately 12 percent receive limited coverage through individually purchased Medigap policies, which are extremely expensive and often difficult to obtain. About six percent of Medicare beneficiaries have limited drug coverage through Medicare HMOs, but many plans are cutting back or eliminating drug coverage. Only about one-third of beneficiaries have reasonably comprehensive coverage, through an employment-based retirement plan or through Medicaid—and the proportion with employment-based coverage is declining.[2]

SPENDING AND UTILIZATION

Purchase of prescription drugs accounts for the largest single source of out-of-pocket health costs for Medicare beneficiaries.[3]

About 85 percent of the elderly use at least one prescription medicine during the year. The average senior citizen takes more than four prescription drugs daily and fills an average of eighteen prescriptions a year. It is not uncommon for seniors to face prescription drug bills of at least $100 a month.[4]

The elderly, who make up 12 percent of the population, are estimated to use one-third of all prescription drugs.[5]

Lack of Medicare coverage disproportionately increases the financial burden on women, rural residents, low-income beneficiaries and older beneficiaries.[6]

A 1993 study, before the most recent surge in drug costs, reported that one in eight senior citizens said they were forced to choose between buying food and buying medicine.[7]

Medicare beneficiaries without supplemental private coverage for prescription drugs spend twice as much on prescription drugs as their counterparts with private insurance.[8]

Increasingly, the miracle cures of the future will depend on pharmaceuticals developed through new breakthroughs in biology and biotechnology. These cures will generally save money overall, but the individual products will be expensive. The dollar volume of drug sales last year increased 16.6%, but most of the increase was due to greater use of costly new drugs, rather than price increases.[9]

Medicare beneficiaries pay exorbitant prices for the drugs they buy, because they generally do not have access to discount programs available to other buyers. A study of five commonly prescribed drugs found that Medicare beneficiaries paid twice as much as the drug companies' favored customers.[10]

Elderly persons without drug coverage are among the last purchasers who pay full price. According to a recent Standard and Poor's report on the pharmaceutical industry, ''[d]rugmakers have historically raised prices to private customers to compensate for the discounts they grant to managed care consumers.'' Because Medicare beneficiaries are among the only private patients without additional coverage, they shoulder most of the burden generated by the industry's preference for cost-shifting.[11]

ADEQUATE COVERAGE AND IMPROVED UTILIZATION ARE WISE INVESTMENTS

Assuring Medicare beneficiaries access to drugs in a well-managed program can produce immense savings for the Medicare program. Savings arise because seniors are able to afford to take the drugs that have been prescribed for their condition and because it is easier to encourage compliance with drug regimens and avoid complications or interactions because of inappropriate use. Improper use of prescription drug costs Medicare more than $20 billion annually, primarily through avoidable hospitalizations and admissions to skilled nursing facilities.[12]

One study found that hospitals costs for a preventable adverse drug event run nearly $5,000 per episode.[13]

GAO reported in June 1996 that Medicaid's automated drug utilization review system reduced adverse drug events and saved more than $30 million a year in just five states.

RESEARCH AND DEVELOPMENT

The Pharmaceutical industry spent more than $21 billion in research and development in 1998.[14] Ensuring access for the elderly through this proposal will provide a natural market for new and innovative therapies, promoting additional investments in research and development.

FOOTNOTES

[1] Department of Labor, Employee Benefits in Small Private Establishments.

[2] The Lewin Group, ''Current Knowledge of Third Party Outpatient Drug Coverage for Medicare Beneficiaries,'' November 9, 1998, cited in staff documents, Medicare Commission; Margaret Davis, et al., ''Prescription Drug Coverage, Utilization, and Spending Among Medicare Beneficiaries,'' Health Affairs, January-February, 1999.

[3] AARP, ''Out-of-Pocket Spending.''

[4] Stephen H. Long, ''Prescription Drugs and the Elderly: Issues and Options,'' Health Affairs, Spring 1994.

Footnotes at end of article.

[5] AARP Public Policy Institute, ''Overview: Lack of Coverage Burdens Many Medicare Beneficiaries,'' September 1998.

[6] Jeanette Rogowski, PhD, et al, ''The Financial Burden of Prescription Drug use Among Elderly Persons,'' The Gerontologist 37:4 (August 1997).

[7] American Pharmacy, October, 1992; HCFA Office of Strategic Planning, Data from the Current Beneficiary Survey, cited in staff documents, Medicare Commission; Department of Health and Human Services, unpublished data; Committee on Government Reform and Oversight, U.S. House of Representatives, Minority Staff Report, ''Prescription Drug Pricing in the United States: Drug Companies Profit at the Expense of Older Americans,'' October 20, 1998.

[8] Rogowski, The Gerontologist 37:4 (August 1997).

[9] Elyse Tanoye, Wall Street Journal, November 16, 1998.

[10] Committee on Government Reform and Oversight, ''Prescription Drug Pricing.''

[11] Ibid.

[12] Prescription Drugs and the Elderly: Many Still Receive Potentially Harmful Drugs Despite Recent Improvements (GAO/HEHS–95–152, July 24, 1995); 60 FR 44182 (August 24, 1995).

[13] David W. Bates, Md, MSc, et al., ''The Costs of Adverse Drug Events in Hospitalized Patients,'' JAMA, January 22/29, 1997.

[14] Pharmaceutical Research and Manufacturers of America, ''The Value of Pharmaceuticals,'' 1998.

BENEFIT

New benefit under Part B.

20% coinsurance; special $200 deductible. Special assistance for low-income beneficiaries (i.e., income <135% of poverty).

Basic coverage of first $1,700 worth of expenditures annually, including cost-sharing.

Stop-loss coverage once annual out-of-pocket spending reaches $3,000.

ADMINISTRATION OF BENEFIT

All benefits provided through private sector:

Secretary enters into contracts with at least two private entities (pharmacy benefit management organizations, insurance companies, consortiums of retail pharmacists, etc.) in each region to provide benefits. Beneficiaries choose which one to sign up with.

Medicare HMOs provide benefit directly. Medicare+Choice payments adjusted to reflect additional cost of drug coverage.

Private businesses offering coverage equal to or greater than Medicare benefit as part of retiree health program are eligible for payments to maintain coverage.

Beneficiaries who have and maintain equivalent private sector coverage may opt-out of program entirely.

All programs must provide convenient access to drugs through retail pharmacies.

Programs must include measures to assure proper use of prescription drugs and reduce adverse drug reactions or other drug-related problems.

Programs must allow patients to receive most appropriate drug.

Standard Medigap packages are redesigned by the Secretary of HHS and NAIC to reflect new Medicare benefit, and provide complimentary coverage, where appropriate.

COST OF PROGRAM AND FINANCING

Cost estimates not yet available. Beneficiaries pay 25% of cost through Part B premium (with assistance for low-income). Additional financing possibilities include: higher tobacco taxes, recoupment of federal costs for tobacco-related diseases, unallocated portion of surplus, savings from long-term Medicare reform proposal (in reconciliation or alone), and savings from reduced hospitalizations and other costs related to inappropriate use of prescription drugs.

Mr. ROCKEFELLER. Mr. President, I am pleased to be introducing the ''Access to Rx Medications in Medicare Act of 1999'' with my colleague from Massachusetts, Senator KENNEDY. Our legislation seeks to assist Medicare beneficiaries with their single largest out-of-pocket expense for health care services—prescription drugs.

I would like to thank Senator KENNEDY for his leadership in bringing this issue to the forefront of the health care debate. I have long admired Senator KENNEDY's commitment and dedication to improving the lives of our most vulnerable citizens.

This is not the first time prescription coverage has been discussed seriously in the United States Senate. The debate around providing prescription drug coverage was first discussed while the creation of the Medicare program was being considered. Unfortunately, in the end, drug coverage was not included.

Medicare has not been updated substantially since its enactment and we know that a lot has changed in health care since 1965. The program was modeled after employer-sponsored health plans—most of which, at the time, did not offer prescription drug coverage. Now, almost all employer-sponsored health plans recognize the important role that prescription drugs play in modern medicine. Additionally, the value of drug therapy was unclear in 1965. Today, medical and technological advances in drug safety and effectiveness have created more pharmaceutical products that can treat disease and manage chronic illnesses.

A decade ago, the Senate sought to redress that error and provide prescription drug coverage to all—but politics overwhelmed a much-needed policy change and the benefit was forfeited. I believe it is time to reenergize the debate.

Today, we have the opportunity to build on successful private sector initiatives to provide Medicare beneficiaries with much needed prescription drug coverage. Pharmaceutical benefit managers (PBMs) have the information infrastructure, claims experience, and detailed understanding of drug management to provide a strong, stable benefit structure. By taking advantage of their management skills, we can update the Medicare program, make it stronger, make it more competitive, and more able to meet the challenges presented by the approaching retirement of the baby boom generation.

Mr. President, I am constantly in touch with West Virginians who describe the dilemmas they face about paying for the prescription drugs. These are people who have worked hard all their lives, raised families, contributed to their communities, and paid their taxes. Now, in the twilight of their lives, a time that they should be enjoying with their children and grandchildren, they are struggling to make ends meet. And health care expenses, especially prescription drug costs, are breaking their budgets.

A West Virginia senior has an average income of $10,700 and spends $2,600 annually on average in out-of-pocket health care expenses. Prilosec, a popular anti-ulcer drug, costs about $1000 a year. Lipitor, a drug that controls cholesterol levels, and Rezulin, an anti-diabetic drug, each cost over $800 a year. But the rent, electricity, phone, and groceries also have to be paid. And there is only so much that can be cut when a person is down to choosing between basic necessities.

Mr. President, I'd like to share some examples of West Virginians who would truly apppreciate the enactment of the ''Access to Rx Medications in Medicare Act.'' I know of an elderly woman in West Virginia who relies solely on Social Security for her monthly income of $800 but spends over $100 a month for her heart medication. I know of another elderly widow in West Virginia who has monthly income of $760 but spends $500 a month in prescription drug costs. She constantly worries about her future, especially if her health takes a turn for the worse.

West Virginians are not alone. Between one-third and one-half of all Medicare beneficiaries—that's roughly between 13 and 19 million seniors—have little or no prescription drug coverage.

The seniors who are the most vulnerable are the lowest income beneficiaries and those suffering from chronic illnesses. Eighty percent of the elderly suffer from one or more chronic diseases, many of which could be controlled by drug therapy. The chronically ill spend $400 more annually on average than seniors without a chronic illness. Seniors in West Virginia are disproportionately hurt by chronic illness. Heart disease, cancer, strokes are the leading causes of death in my state.

Low-income seniors are especially at risk for developing chronic illnesses. Unfortunately, low-income seniors are also not likely to have prescription drug coverage—only 36% of those with incomes less than $10,000 had drug coverage—but they spend a greater percentage of their income to pay for prescription drugs than do higher-income beneficiaries.

Those who do have access to prescription drug coverage rely on patchwork of public and private measures that usually offer very limited coverage with high premiums, coinsurance rates, and deductibles—making the lifesaving coverage they need hard to maintain. The most comprehensive coverage sources of prescription drug coverage are Medicaid and employer-sponsored retiree insurance. However, recent trends indicate that fewer firms are offering retiree benefits that include drug coverage because of the cost.

Seniors who do not have prescription drug coverage and have to buy medication on their own are the hardest hit by the steep increases in prescription drug costs. A recent Congressional study found that seniors may pay as much as double what HMOs, insurance companies and other bulk purchasers pay. The price difference is due to the fact that bulk purchasers can negotiate much lower prices for their drug orders

than the retail pharmacies—where seniors buy their drugs—can. Even though 34 million seniors participate in the Medicare program, Medicare beneficiaries have no leverage when purchasing medication.

Mr President, the ''Access to Rx Medications in Medicare Act'' helps seniors in several ways. First, it would provide seniors without existing coverage a basic drug benefit, up to about $1700 dollars a year, under Medicare Part B. Once the benefit has been exhausted, seniors can continue to purchase prescription drugs at the program's discounted price. Next, this bill offers stop-loss protection that is triggered when a beneficiary spends more than $3,000 annually in out-of-pocket prescription drug costs. Finally, this legislation would improve the protections offered by current law to assist the lowest income beneficiaries and those with the highest out-of-pocket drug costs.

The ''Access to Rx Medications in Medicare Act'' builds on infrastructure already in place in the private sector. Pharmaceutical benefits managers, networks of retail or community pharmacies, or insurers will have the opportunity to submit competitive bids to manage the benefit. The PBMs would then negotiate discounts and rebates for Medicare beneficiaries just like they do for HMOs and insurance companies in return for a payment from Medicare.

Finally, providing prescription drug coverage to seniors is cost-effective in the long-run. Drug therapy, especially in managing chronic illnesses, saves money by keeping seniors out of hospitals and nursing homes. This proposal would also save money by reducing improper use of prescription drugs, which currently costs Medicare $16 billion annually.

Mr. President, when Congress created the Medicare program nearly 35 years ago, we made a commitment to provide affordable, quality health care for our seniors. Today, prescription drugs are an essential component of quality health care. The lack of affordable prescription drug coverage in the Medicare program is especially saddening at a time when most Americans are experiencing greater prosperity than ever before.

I believe that we have to honor the commitment we made to those who came before us and sacrificed so much to make this nation what it is today. Providing Medicare coverage for outpatient prescription drugs is necessary to update and modernize the Medicare benefit package. Now is the time to enact legislation and so I urge my colleagues to support the ''Access to Rx Medications in Medicare Act of 1999.''

By Mr. SANTORUM:

S. 842. A bill to limit the civil liability of business entities that donate equipment to nonprofit organizations; to the Committee on the Judiciary.

By Mr. SANTORUM:

S. 843. A bill to limit the civil liability of business entities that provide facility tours; to the Committee on the Judiciary.

By Mr. SANTORUM:

S. 844. A bill to limit the civil liability of business entities that make available to a nonprofit organization the use of a motor vehicle or aircraft; to the Committee on the Judiciary.

By Mr. SANTORUM:

S. 845. A bill to limit the civil liability of business entities providing use of facilities to nonprofit organizations; to the Committee on the Judiciary.

LEGISLATION TO LIMIT THE CIVIL LIABILITY OF BUSINESS ENTITIES PROVIDING SERVICES TO NONPROFIT ORGANIZATIONS

Mr. SANTORUM. Mr. President, I rise today to introduce four pieces of legislation I introduced in the 105th Congress. Building on the support I've received for these bills, I look forward to passage this Congress of much needed liability protection for those who donate goods and services to charities.

Over the past thirty years, courts have consistently expanded what constitutes tortious conduct. Regrettably, fault is often not a factor when deciding who should compensate an individual for damages incurred. This has had an impact on charitable giving. Today, individuals and businesses are wary of giving goods, services, and time to charities for fear of frivolous lawsuits.

This legislation is designed to free up resources for charities by providing legal protections for donors. Generally, these bills raise the tort liability standard for donors, whereby they are liable only in cases of gross negligence, hence eliminating strict liability and returning to a fault based legal standard. By allowing businesses to once again become good Samaritans, I look forward to seeing a massive increase in the donation of goods and services to charities.

Specifically, I have introduced four bills, each of which accomplishes one of the following four objectives: first, to limit the civil liability of business entities that donate equipment to nonprofit organizations; second, to limit the civil liability of business entities that provide use of their facilities to nonprofit organizations; third, to limit the civil liability of business entities that provide facility tours; and fourth, to limit the civil liability of business entities that make available to nonprofit organizations the use of motor vehicles or aircraft.

Clearly, where an organization is grossly negligent when providing goods or the use of its facilities to charity, that organization should be fully liable for inquiries caused. These bills merely require this to be the standard in cases arising from certain donations to charities.

In late 1996, the Good Samaritan Food Donation Act was passed into law. This law now protects donors of foodstuffs to charities from liability except in cases where the donor was grossly negligent in making the donation. I was proud to join Senator BOND in passing this Act. The bills I introduce today draw from my successful work with Senator BOND years ago. Each of these bills is modeled on the legal framework of the Good Samaritan Food Donation Act. I hope my distinguished colleagues who supported the Food Donation Act will help further these efforts by supporting the Charity Empowerment Project.

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

There being no objection, the bills were ordered printed in the RECORD, as follows:

S. 842

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

SECTION 1. LIABILITY OF BUSINESS ENTITIES THAT DONATE EQUIPMENT TO NONPROFIT ORGANIZATIONS.

(a) DEFINITIONS.—In this section:

(1) BUSINESS ENTITY.—The term ''business entity'' means a firm, corporation, association, partnership, consortium, joint venture, or other form of enterprise.

(2) EQUIPMENT.—The term ''equipment'' includes mechanical equipment, electronic equipment, and office equipment.

(3) GROSS NEGLIGENCE.—the term ''gross negligence'' means voluntary and conscious conduct by a person with knowledge (at the time of the conduct) that the conduct is likely to be harmful to the health or well-being of another person.

(4) INTENTIONAL MISCONDUCT.—The term ''intentional misconduct'' means conduct by a person with knowledge (at the time of the conduct) that the conduct is harmful to the health or well-being of another person.

(5) NONPROFIT ORGANIZATION.—The term ''nonprofit organization'' means—

(A) any organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code; or

(B) any not-for-profit organization organized and conducted for public benefit and operated primarily for charitable, civic, educational, religious, welfare, or health purposes.

(6) STATE.—The term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any other territory or possession of the United States, or any political subdivision of any such State, territory, or possession.

(b) LIMITATION ON LIABILITY.—

(1) IN GENERAL.—Subject to subsection (c), a business entity shall not be subject to civil liability relating to any injury or death that results from the use of equipment donated by a business entity to a noprofit organization.

(2) APPLICATION.—This subsection shall apply with respect to civil liability under Federal and State law.

(c) EXCEPTION FOR LIABILITY.—Subsection (b) shall not apply to an injury or death that results from an act or omission of a business entity that constitutes gross negligence or intentional misconduct, including any misconduct that—

(1) constitutes a crime of violence (as that term is defined in section 16 of title 18, United States Code) or act of international terrorism (as that term is defined in section 2331 of title 18) for which the defendant has been convicted in any court;

(2) constitutes a hate crime (as that term is used in the Hate Crime Statistics Act (28 U.S.C. 534 note));

(3) involves a sexual offense, as defined by applicable State law, for which the defendant has been convicted in any court; or

(4) involves misconduct for which the defendant has been found to have violated a Federal or State civil rights law.

(d) SUPERSEDING PROVISION.—

(1) IN GENERAL.—Subject to paragraph (2) and subsection (e), this Act preempts the laws of any State to the extent that such laws are inconsistent with this Act, except that this Act shall not preempt any State law that provides additional protection for a business entity for an injury or death described in subsection (b)(1).

(2) LIMITATION.—Nothing in this Act shall be construed to supersede any Federal or State health or safety law.

(e) ELECTION OF STATE REGARDING NONAPPLICABILITY.—This Act shall not apply to any civil action in a State court against a business entity in which all parties are citizens of the State if such State enacts a statute—

(1) citing the authority of this subsection;

(2) declaring the election of such State that this Act shall not apply to such civil action in the State; and

(3) containing no other provision.

S. 843

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

SECTION 1. LIABILITY OF BUSINESS ENTITIES PROVIDING TOURS OF FACILITIES.

(a) DEFINITIONS.—In this section:

(1) BUSINESS ENTITY.—The term ''business entity'' means a firm, corporation, association, partnership, consortium, joint venture, or other form of enterprise.

(2) FACILITY.—The term ''facility'' means any real property, including any building, improvement, or appurtenance.

(3) GROSS NEGLIGENCE.—The term ''gross negligence'' means voluntary and conscious conduct by a person with knowledge (at the time of the conduct) that the conduct is likely to be harmful to the health or well-being of another person.

(4) INTENTIONAL MISCONDUCT.—The term ''intentional misconduct'' means conduct by a person with knowledge (at the time of the conduct) that the conduct is harmful to the health or well-being of another person.

(5) STATE.—The term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any other territory or possession of the United States, or any political subdivision of any such State, territory, or possession.

(b) LIMITATION ON LIABILITY.—

(1) IN GENERAL.—Subject to subsection (c), a business entity shall not be subject to civil liability relating to any injury to, or death of an individual occurring at a facility of the business entity if—

(A) such injury or death occurs during a tour of the facility in an area of the facility that is not otherwise accessible to the general public; and

(B) the business entity authorized the tour.

(2) APPLICATION.—This subsection shall apply—

(A) with respect to civil liability under Federal and State law; and

(B) regardless of whether an individual pays for the tour.

(c) EXCEPTION FOR LIABILITY.—Subsection (b) shall not apply to an injury or death that results from an act or omission of a business entity that constitutes gross negligence or intentional misconduct, including any misconduct that—

(1) constitutes a crime of violence (as that term is defined in section 16 of title 18, United States Code) or act of international terrorism (as that term is defined in section 2331 of title 18) for which the defendant has been convicted in any court;

(2) constitutes a hate crime (as that term is used in the Hate Crime Statistics Act (28 U.S.C. 534 note));

(3) involves a sexual offense, as defined by applicable State law, for which the defendant has been convicted in any court; or

(4) involves misconduct for which the defendant has been found to have violated a Federal or State civil rights law.

(d) SUPERSEDING PROVISION.—

(1) IN GENERAL.—Subject to paragraph (2) and subsection (e), this Act preempts the laws of any State to the extent that such laws are inconsistent with this Act, except that this Act shall not preempt any State law that provides additional protection from liability for a business entity for an injury or death with respect to which the conditions under subparagraphs (A) and (B) of subsection (b)(1) apply.

(2) LIMITATION.—Nothing in this Act shall be construed to supersede any Federal or State health or safety law.

(e) ELECTION OF STATE REGARDING NONAPPLICABILITY.—This Act shall not apply to any civil action in a State court against a business entity in which all parties are citizens of the State if such State enacts a statute—

(1) citing the authority of this subsection;

(2) declaring the election of such State that this Act shall not apply to such civil action in the State; and

(3) containing no other provision.

S. 844

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

SECTION 1. LIABILITY OF BUSINESS ENTITIES PROVIDING USE OF A MOTOR VEHICLE OR AIRCRAFT.

(a) DEFINITIONS.—In this section:

(1) AIRCRAFT.—The term ''aircraft'' has the meaning provided that term in section 40102(6) of title 49, United States Code.

(2) BUSINESS ENTITY.—the term ''business entity'' means a firm, corporation, association, partnership, consortium, joint venture, or other form of enterprise.

(3) GROSS NEGLIGENCE.—The term ''gross negligence'' means voluntary and conscious conduct by a person with knowledge (at the time of the conduct) that the conduct is likely to be harmful to the health or well-being of another person.

(4) INTENTIONAL MISCONDUCT.—The term ''intentional misconduct'' means conduct by a person with knowledge (at the time of the conduct) that the conduct is harmful to the health or well-being of another person.

(5) MOTOR VEHICLE.—The term ''motor vehicle'' has the meaning provided that term in section 30102(6) of title 49, United States Code.

(6) NONPROFIT ORGANIZATION.—The term ''nonprofit organization'' means—

(A) any organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code; or

(B) any not-for-profit organization organized and conducted for public benefit and operated primarily for charitable, civic, educational, religious, welfare, or health purposes.

(7) STATE.—The term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any other territory or possession of the United States, or any political subdivision of any such State, territory, or possession.

(b) LIMITATION ON LIABILITY.—

(1) IN GENERAL.—Subject to subsection (c), a business entity shall not be subject to civil liability relating to any injury or death occurring as a result of the operation of aircraft or a motor vehicle of a business entity loaned to a nonprofit organization for use outside of the scope of business of the business entity if—

(A) such injury or death occurs during a period that such motor vehicle or aircraft is used by a nonprofit organization; and

(B) the business entity authorized the use by the nonprofit organization of motor vehicle or aircraft that resulted in the injury or death.

(2) APPLICATION.—This subsection shall apply—

(A) with respect to civil liability under Federal and State law; and

(B) regardless of whether a nonprofit organization pays for the use of the aircraft or motor vehicle.

(c) EXCEPTION FOR LIABILITY.—Subsection (b) shall not apply to an injury or death that results from an act or omission of a business entity that constitutes gross negligence or intentional misconduct, including any misconduct that—

(1) constitutes a crime of violence (as that term is defined in section 16 of title 18, United States Code) or act of international terrorism (as that term is defined in section 2331 of title 18) for which the defendant has been convicted in any court;

(2) constitutes a hate crime (as that term is used in the Hate Crime Statistics Act (28 U.S.C. 534 note));

(3) involves a sexual offense, as defined by applicable State law, for which the defendant has been convicted in any court; or

(4) involves misconduct for which the defendant has been found to have violated a Federal or State civil rights law.

(d) SUPERSEDING PROVISION.—

(1) IN GENERAL.—Subject to paragraph (2) and subsection (e), this Act preempts the laws of any State to the extent that such laws are inconsistent with this Act, except that this Act shall not preempt any State law that provides additional protection from liability for a business entity for an injury or death with respect to which the conditions described in subparagraphs (A) and (B) of subsection (b)(1) apply.

(2) LIMITATION.—Nothing in this Act shall be construed to supersede any Federal or State health or safety law.

(e) ELECTION OF STATE REGARDING NONAPPLICABILITY.—This Act shall not apply to any civil action in a State court against a volunteer, nonprofit organization, or governmental entity in which all parties are citizens of the State if such State enacts a statute—

(1) citing the authority of this subsection;

(2) declaring the election of such State that this Act shall not apply to such civil action in the State; and

(3) containing no other provision.

S. 845

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

SECTION 1. LIABILITY OF BUSINESS ENTITIES PROVIDING USE OF FACILITIES TO NONPROFIT ORGANIZATIONS.

(a) DEFINITIONS.—In this section:

(1) BUSINESS ENTITY.—The term ''business entity'' means a firm, corporation, association, partnership, consortium, joint venture, or other form of enterprise.

(2) FACILITY.—The term ''facility'' means any real property, including any building, improvement, or appurtenance.

(3) GROSS NEGLIGENCE.—The term ''gross negligence'' means voluntary and conscious conduct by a person with knowledge (at the time of the conduct) that the conduct is likely to be harmful to the health or well-being of another person.

(4) INTENTIONAL MISCONDUCT.—The term ''intentional misconduct'' means conduct by a person with knowledge (at the time of the conduct) that the conduct is harmful to the health or well-being of another person.

(5) NONPROFIT ORGANIZATION.—The term ''nonprofit organization'' means—

(A) any organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code; or

(B) any not-for-profit organization organized and conducted for public benefit and operated primarily for charitable, civic, educational, religious, welfare, or health purposes.

(6) STATE.—The term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any other territory or possession of the United States, or any political subdivision of any such State, territory, or possession.

(b) LIMITATION ON LIABILITY.—

(1) IN GENERAL.—Subject to subsection (c), a business entity shall not be subject to civil liability relating to any injury or death occurring at a facility of the business entity in connection with a use of such facility by a nonprofit organization if—

(A) the use occurs outside of the scope of business of the business entity;

(B) such injury or death occurs during a period that such facility is used by the nonprofit organization; and

(C) the business entity authorized the use of such facility by the nonprofit organization.

(2) APPLICATION.—This subsection shall apply—

(A) with respect to civil liability under Federal and State law; and

(B) regardless of whether a nonprofit organization pays for the use of a facility.

(c) EXCEPTION FOR LIABILITY.—Subsection (b) shall not apply to an injury or death that results from an act or omission of a business entity that constitutes gross negligence or intentional misconduct, including any misconduct that—

(1) constitutes a crime of violence (as that term is defined in section 16 of title 18, United States Code) or act of international terrorism (as that term is defined in section 2331 of title 18) for which the defendant has been convicted in any court;

(2) constitutes a hate crime (as that term is used in the Hate Crime Statistics Act (28 U.S.C. 534 note));

(3) involves a sexual offense, as defined by applicable State law, for which the defendant has been convicted in any court; or

(4) involves misconduct for which the defendant has been found to have violated a Federal or State civil rights law.

(d) SUPERSEDING PROVISION.—

(1) IN GENERAL.—Subject to paragraph (2) and subsection (e), this Act preempts the laws of any State to the extent that such laws are inconsistent with this Act, except that this Act shall not preempt any State law that provides additional protection from liability for a business entity for an injury or death with respect to which conditions under subparagraphs (A) through (C) of subsection (b)(1) apply.

(2) LIMITATION.—Nothing in this Act shall be construed to supersede any Federal or State health or safety law.

(e) ELECTION OF STATE REGARDING NONAPPLICABILITY.—This Act shall not apply to any civil action in a State court against a business entity in which all parties are citizens of the State if such State enacts a statute—

(1) citing the authority of this subsection;

(2) declaring the election of such State that this Act shall not apply to such civil action in the State; and

(3) containing no other provision.

By Mr. MCCAIN (for himself, Mr. BIDEN, Mr. HAGEL, Mr. LIEBERMAN, Mr. COCHRAN, Mr. DODD, Mr. LUGAR, Mr. ROBB, and Mr. KERRY):

S.J. Res. 20. A joint resolution concerning the deployment of the United States Armed Forces to the Kosovo region in Yugoslavia; to the Committee on Foreign Relations.

CONCERNING THE DEPLOYMENT OF THE UNITED STATES ARMED FORCES TO THE KOSOVO REGION IN YUGOSLAVIA

Mr. MCCAIN. Mr. President, I introduce a joint resolution cosponsored by Senators BIDEN, COCHRAN, HAGEL, LIEBERMAN, LUGAR, DODD and ROBB.

Before I go into my statement, I will mention that the Veterans of Foreign Wars today will be issuing a statement regarding their support for this resolution. The Veterans of Foreign Wars statement will read:

The United States, acting as a part of the NATO alliance, should use a full range of force in an overwhelming and decisive manner to meet its objectives.

I think it is important to note that this resolution would be supported by those American veterans who have fought in foreign wars.

As my colleagues know, I am concerned that the force the United States and our NATO allies have employed against Serbia, gradually escalating airstrikes, is insufficient to achieve our political objectives there, which are the removal of the Serb military and security forces from Kosovo, the return of the refugees to their homes, and the establishment of a NATO-led peacekeeping force.

I hope this resolution, should it be adopted, will encourage the administration and our allies to find the courage and resolve to prosecute this war in the manner most likely to result in its early end and successful conclusion. In other words, I hope this resolution will make clear Congress' support for adopting our means to secure our ends rather than the reverse. But that is not our central purpose today. Our central purpose is to encourage Congress to meet its responsibilities, responsibilities that we have thus far evaded.

Many of my colleagues oppose this war and would prefer that the United States immediately withdraw from a Balkan conflict which they judge to be a quagmire so far removed from America's interests that the cost of victory cannot be justified. I disagree, but I respect their opinion as honest and honorable. I believe that they would welcome the opportunity to express their opposition by the means available to Congress.

Those of us who support this intervention and those who may have had reservations about either its necessity or its initial direction but are now committed to winning it should also welcome this resolution as the instrument for doing our duty, as we have called on so many fine young Americans to do their duty at the risk of their lives. If those who oppose this war and any widening of it prevail, so be it. The President will pursue his present course as authorized by earlier congressional resolutions until its failure demands we settle on Mr. Milosevic's terms.

Those of our colleagues who feel that course is preferable to the price that would be incurred by fully prosecuting this war can rightly claim that they followed the demands of conscience and Constitution, but they must also be accountable to the country and the world for whatever negative consequences ensue from our failure. Should those of us who want to use all necessary force to win this war prevail, then we must accept the responsibility for the losses incurred in its prosecution. That is the only honorable course.

But no matter which view any Senator holds, should this resolution be adopted at the end of a thorough debate, all Members of Congress should then unite to support the early and complete accomplishment of our mission in Kosovo.

Silence and equivocation will not unburden us of our responsibility to support or oppose the war. I do not recommend lightly the course I have called on the President to pursue. I know, as should any one who votes for this resolution, that if Americans die in a land war with Serbia, we will bear a considerable share of the blame for their loss. We are as accountable to their families as the President must be.

But I would rather face that sad burden than hide from my conscience because I sought an ambiguous political position to seek shelter behind. Nor could I easily bear the dishonor of having known that my country's interests demanded a course of action, but avoided taking it because the costs of defending them were substantial, as were its attendant political risks.

Congress, no less than the administration, must show the resolve and confidence of a superpower whose cause is just and imperative. Let us all, President and Senator alike, show the courage of our convictions in this critical hour. Let us declare ourselves in support of or opposition to this war, and the many sacrifices it will entail. Our duty demands it.

Mr. President, I reserve the remainder of my time.

Mr. COCHRAN addressed the Chair.

Mr. MCCAIN. Mr. President, I yield as much time as the Senator from Mississippi may consume.

The PRESIDING OFFICER. The Chair recognizes the Senator from Mississippi.

Mr. COCHRAN. Mr. President, I am pleased to join my good friend and distinguished colleague, the Senator from Arizona, in introducing this resolution. It seems to me very important at this juncture that the Senate express itself on the subject of our obligation to use whatever force is available to our alliance in NATO to win the conflict quickly and decisively and not to be a party to dragging it out unnecessarily by telling our adversary what military actions we will not use in the conflict.

It seems to me that an appropriate analogy to the administration's strategy is someone who gets himself into a fight, a boxing match, and says, ''I am just going to use a left jab in this match, I am never going to use the right hand.'' No one would do that with any expectation of being successful in that conflict, in that encounter. It seems to me that that is exactly what the United States has been doing, and it has been a mistake.

This resolution suggests by its clear language that the President of the United States is authorized to use all necessary force and other means, in concert with United States allies, to accomplish United States and North Atlantic Treaty Organization objectives in the Federal Republic of Yugoslavia.

It also spells out in the resolution what those objectives are. It suggests that the Federal Republic of Yugoslavia withdraw its forces from Kosovo, permitting the ethnic Albanians to return to their homes and the establishment of a peacekeeping force in Kosovo. Those are our objectives.

To accomplish that, we must convince Milosevic that we are very serious that this war will be waged with all necessary force unless he surrenders his efforts to intimidate, kill, and otherwise terrify this region of Europe, and that he stop this military action, and stop it now, or he is going to suffer the most serious military consequences.

That is the message he should get from the NATO alliance and from the U.S. leadership. That is what the Senate is saying by adopting this resolution. And I hope the Senate will adopt this resolution.

It is unfortunate that we are involved in this military action. It is very unpleasant. It is not something that any of us would have wished to have occurred. We do have to recognize, though, that our NATO allies are very actively involved in this conflict as well. Great Britain, France, Germany, and Italy are all taking—and others—very active roles in the prosecution of this military conflict to achieve the goals that are recited in this resolution. It is an honorable course of action to stop the killing and to stop the atrocities and restore stability in this region of Europe.

The NATO alliance was begun on the premise that Europe should be free, with an opportunity for people to live their lives in freedom, without threat from military intimidation or harm. The alliance has decided that this is an appropriate means for achieving that goal, waging a conflict against a person who has proven to be totally disrespectful of human rights, of the right to life, of the right to live in peace with his neighbors. We can no longer tolerate this under any circumstances.

So the NATO alliance is involved. And I am hopeful that the Senate will spell out our views on this issue at the earliest possible time.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Delaware.

Mr. BIDEN. Mr. President, let me thank the Senator from Connecticut for allowing me to proceed. I will be relatively brief. Unfortunately, I think we are going to have an awful lot to say on this issue for some time to come.

I thank Senator MCCAIN. Several weeks ago, Senator MCCAIN and I were on one of these national shows talking about this issue, and we spoke to one another after the show. We agreed on three things—and some of my colleagues assembled here on the floor have reached the same conclusions. First, that the President of the United States, if he were to decide to use ground troops, would need congressional authorization. Second, that we and the President should not ever take anything off the table once we are in a war, in order to be able to successfully prosecute that war. And third, that we consider a resolution that talks about the use of ground force.

Senator MCCAIN had a better idea. He said, ''JOE, why don't we do a resolution that suggests the President use whatever means are at his disposal in order to meet the objectives that are stated in the resolution?'' So we came back after the recess with the intention of introducing a resolution. We spoke with the Democratic and Republican leadership here in the Senate. We met with the President in a bipartisan group. And we concluded that it was not the time to press for passage of the resolution. But it is time to lay it before the American people and before the Congress.

This is a joint resolution. If passed, it would meet the constitutional requirement of the war clause in the U.S. Constitution. That is the equivalent of a declaration of war.

From a constitutional standpoint, in order to use ground forces, I am of the view—and I expect my colleagues will be of the view, whether they do or do not support ground forces, now or in the future—that the Congress should be involved in that decision under our Constitution.

So speaking for myself, my first and foremost reason for being the original cosponsor of this amendment with my friend, JOHN MCCAIN, is that I believe it is constitutionally required.

Second, I believe very strongly that we should not make an international commitment and then withhold the use of any means at our disposal to reach our publicly stated objectives. This resolution will allow us, as a nation and as an alliance, to fulfill our commitments.

So I am proud to be a cosponsor of this resolution. We will have disagreements, as you will hear as this debate goes forward, as to whether or not the President and NATO have appropriately prosecuted this action thus far. I am not suggesting that all of us agree. But that will be part of a debate that takes place here on the floor of the Senate.

I, for one, do not have the military experience of JOHN MCCAIN; few in America do. I would not attempt to second-guess whether the military has the capacity to accomplish the objectives as stated by NATO solely through the use of air power.

There are men on the floor like Senator HAGEL—a war hero himself, a Vietnam veteran—who are better equipped to determine whether or not the military is accurately telling us what they can do. I am prepared to accept for the moment that the military does have that capacity.

Thus my sponsorship of this resolution is not for the purpose of making the case that the President and NATO should use ground troops at this moment. Instead, I think the President should be authorized to use those troops, if necessary, in order to prosecute successfully the NATO goals in the Balkans. We must have the flexibility to respond to one of the most serious crises of this century in the Balkans.

I just got back from Macedonia and Albania with TED STEVENS and others. I noticed most people in Europe are not using the phrase ''conflict'' anymore; it is a war. This is a war. We should not kid each other about it. This is a war. The fact that there have, thank God, not been any American casualties yet, the fact that ''only'' three Americans have been captured, does not mean this is not a war. This is a war. And to successfully prosecute our aims, people are going to die, including Americans. I think it is almost unbelievable to think that we will meet the objectives stated by NATO without the loss of a single American life.

So this is a war, and it is testing Europe and the alliance in a way that we have not faced since the end of World War II. However we choose to label it, this is a war in the Balkans, a war that is being conducted by a war criminal named Slobodan Milosevic, who has caused the greatest human catastrophe in Europe since World War II. At stake are the lives of millions of displaced persons and refugees, the stability of southeastern Europe, and the future of NATO itself.

Our goals must be the safe and secure return of all Kosovars to their homes; the withdrawal of all Yugoslav and

Serbian Army, police, and paramilitary forces from Kosovo; and permitting the establishment of a NATO-led peacekeeping force in Kosovo, either through a permissive environment or—my phrase—a practically permissible environment, one in which we could go in and the military of Milosevic could not stop us.

With the stakes this high, we must give the President the necessary means to achieve our goals. The Constitution, as I said, requires that Congress consider giving such authorization. I have trust and confidence in our military leaders when they say that, at least for the moment, they do not need ground forces to achieve our goals. Nonetheless, they should have the authorization to use all military tools should they conclude otherwise. This resolution would provide that authorization.

This resolution also authorizes the President to use other means, which encompasses diplomacy as well as arms. I hope, of course, that a diplomatic solution will be possible without the use of ground forces, but only if the diplomatic solution achieves all of our stated goals.

Finally, through this resolution, we are putting Slobodan Milosevic on notice that the United States and NATO allies are deadly serious about doing what it takes to compel him to withdraw his vicious ethnic-cleansers, gang rapists, recently pardoned criminals, ski-masked thugs, and his now corrupted regular army troops from Kosovo.

So, let me conclude by saying once again that there will be plenty of time to debate whether or not NATO should have had a full-blown plan on the table for the use of ground forces. I suggest to my colleagues, as I suggested at the NAC in Brussels this past Sunday, that if we had done that, there is overwhelming evidence that several of our allies would not have gone along with even airstrikes.

I remind everyone who is listening that the good news is that we are an alliance. The bad news is, we are an alliance. An alliance requires consensus. I respectfully suggest that as hard as it was for the Senators on this floor to convince our colleagues that air power made sense in the first instance, can you imagine what it would have been like if we were standing on the floor today authorizing the President to use all force necessary without 18 other NATO nations agreeing?

I respectfully suggest that Democrats and Republicans alike would come to the floor and say: It is not our business alone. We should only do this in conjunction with NATO.

So, there is a delicate balancing act, not unlike what Dwight Eisenhower had to deal with in World War II with the French and the British and others. The delicate balancing act involves keeping the alliance together and at the same time not diminishing the capacity to achieve the alliance's ends.

The message I would like to see sent to Belgrade today is that America is united, the United States Congress is united, and American citizens are prepared to use whatever force is necessary to stop him. I would also send a message to our allies that we are resolved and we expect them to stay resolved to achieve NATO's stated objectives. If we fail to achieve our stated objectives, I believe that NATO loses its credibility as a credible peacekeeping alternative and a defensive organization in Europe. If that occurs, I believe you will see a repetition of this war in Serbia, in Macedonia, in Albania, in Montenegro, and other parts of the Balkans.

Much is at stake. We should not kid the American people. American lives will be lost as this continues. But America's strategic interests and American lives in the long run will be saved if we resolutely pursue the NATO objectives.

Mr. President, I again thank my friend from Connecticut. I am proud to join with the Senators on the floor here today, for whom I have deep respect. I realize they have put aside their political considerations in order to pursue this effort. I compliment them for that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I thank the Chair and I thank my friend from Nebraska for yielding time to me.

Mr. President, I come to the floor and to the decision to cosponsor this resolution with a deep sense of seriousness and purpose. These are fateful, historic and very consequential matters that we are discussing and engaged in today.

Great nations such as this one, and great alliances such as NATO, do not remain great if they do not uphold their principles and keep their promises. That has always been true, of course, but it seems powerfully so today, as we prepare to welcome NATO and much of the rest of the world to Washington this week to commemorate the 50th anniversary of this great alliance.

We are being tested. This alliance and this Nation are being tested in ways that a few months ago we never could have imagined would have been the case as we prepared for this commemoration. So it becomes now, in its way, less an unlimited celebration and more a renewal of commitment to the principles which animated and necessitated the organization of NATO 50 years ago. We are called on today to uphold those principles, the principles of a free and secure transatlantic community. We must keep the promises we have made in support of those principles. NATO must prevail in the Balkans, in Kosovo.

Thugs, renegade regimes and power-hungry maniacs everywhere in the world are watching our actions in the Balkans and gauging our resolve. They must receive an unequivocal message. They must understand that they violate our principles, they ignore our promises and threats at their peril.

That is the context in which I am proud to cosponsor this resolution, to stand by our national and alliance principles, to keep our promises and to send an unequivocal message to Milosevic and all the other thugs of the world: You cannot defy forces united for common decency and humanity; you cannot ignore our promises and threats. We will not end the 20th century standing idle, allowing a murderous tyrant to mar all that we together have accomplished in Europe and in this transatlantic community over the last five decades.

Mr. President, I was privileged to go, almost 2 weeks ago now, to Europe with Secretary Cohen on a bipartisan, bicameral delegation of Congress. I brought home with me a heightened respect for the military machine that we and NATO—particularly in the United States—have developed. It is awesome in its capability and power, and our service men and women are, without a doubt, the best trained and the most committed that any nation has ever produced. I say that to say, as a matter of confidence, that no matter what it takes, they will prevail over Milosevic.

I still believe that the current air campaign, which is being very effectively implemented, can succeed in achieving our goals in this conflict. That, of course, depends on the test of wills that is going on now and on the test of sanity that is going on now. If there is any sanity in an enlightened national self-interest left in the higher counsels of government in Belgrade, they will stop the NATO air bombardment of their country by accepting NATO's terms and restoring peace.

However, it would be irresponsible not to plan for other military options that may be necessary to defeat this enemy. Not only should all options remain on the table, but all options must be adequately analyzed and readied.

In the case of ground forces, which will take weeks to deploy should they be necessary, we should begin now to plan for the logistics of such a mission and to ensure that appropriate personnel are adequately trained.

I say again what I have said before, I hope and pray that NATO ground forces are not needed. I hope common sense, sanity will prevail in the government in Belgrade, but it would be irresponsible not to prepare NATO's forces now for their potential deployment, and it would be similarly irresponsible, I believe, for Congress, in these circumstances, not to authorize the President, as Commander in Chief, under article I, section 2 of our Constitution, to take whatever actions are necessary to achieve the noble objectives we have set out for ourselves in the Balkans by defeating Milosevic. That is what this resolution does, and that is why I am proud to be a cosponsor.

In the last week or so, several countries and others have offered proposals for seeking a negotiated cease-fire.

While we all pray for peace in the Balkans, I think it is important that the peace be a principled peace. NATO has clearly stated objectives, and we can settle for nothing less than the attainment of those reasonable objectives.

They are quite simply that the Serbian invaders, the military and paramilitary forces that have wreaked havoc, bloodshed, and terror on the Kosovar Albanians be withdrawn from Kosovo; that the Kosovars be allowed to return, to be able to do no more than we take for granted every day of our lives in the U.S., which is to live in peace and freedom in their homes and villages; and that there be an international peacekeeping force to monitor that peace that we will have achieved.

If we agree on the worth and the justice of those objectives, we—NATO, the United States—must be prepared to do whatever is necessary to achieve those objectives. To negotiate half a victory, which is no victory, to claim that we have achieved military objectives without achieving the principled objectives that motivated our involvement, would effectively be a devastating defeat, not just for the human rights of the people of Kosovo, but for NATO and the United States.

By introducing this resolution today, we begin a very serious and fateful debate. Today is just the beginning of it. It must, because of the seriousness of all that is involved here, engage not just the executive branch of our Government and the Members of Congress of both parties and both Houses, but the American people as well.

I come back to the bottom line in concluding. I am convinced that we are engaged in a noble mission with our allies in the Balkans, which goes to the heart of international security, European security and American security, but also goes to the heart of our principles as a nation.

I close, if I may, with a prayer that God will be with all those who are fighting in the Balkans today for freedom and human rights and soften the hearts of our opposition so that the additional force that the Commander in Chief would be authorized to deploy, if this resolution passes, will not be necessary. But if it is, let this resolution stand, introduced as it is today by a bipartisan group of Members of the Senate, let this resolution stand for the clear statement that we will stand together as long as necessary to achieve the principles we cherish in the Balkans, as well as the security that we require.

I thank the Chair, and I yield to my friend and colleague from Nebraska.

Mr. HAGEL addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Nebraska.

Mr. HAGEL. Thank you, Mr. President. I thank the distinguished Senator from Connecticut.

Mr. President, I join with my colleagues this morning in introducing this joint resolution because it is the right thing to do, it is the responsible thing to do.

Our military efforts and our political will must be consistent with and commensurate with our military and political objectives. That is the essence of what this debate is about.

I happen to believe that the Balkans are in the national security interests of this country for many reasons: Our relationship with NATO, the stability of Central and Eastern Europe; the next ring out is the stability of the Baltics, central Asia, Turkey. So in my mind it is rather clear that we do have a national security interest here.

What this resolution is about is cutting through the fog of who is to blame, the miscalculation, mistakes up/down. That must be set aside. What we need to remember is that we are engaged in a war. We must stay focused on this commitment and have the resolution and the will to achieve the purpose which we began a month ago.

Wars—political, military calculations are imperfect. If we believe—and I do; I believe our 18 NATO allies do believe —that this is the right thing to do, then we must commit ourselves to achieving this most important objective. That means the American people must first understand what our national security interests are, the Congress must lead with the President, and we must be unified to accomplish this goal.

Surely, one of the lessons of Vietnam was that not only are long, confusing wars not sustainable in democracies, but we also learned, as Colin Powell laid out very clearly the last time that we dispatched our military might, that the doctrine of military force is very simple: Maximum amount of power, minimum amount of time.

Time is not on our side here, Mr. President. Time is not on our side. The longer this goes without a resolution, the more difficult it will become and the more likely it will be that the resolution, the outcome, will be some kind of a half-baked deal that will resolve nothing; so as we began this noble effort, we will end with no nobility and no achievement as to making the world better and more stable and more secure.

This is not a Republican/Democrat issue. It is far beyond that. I think that is well represented by the bipartisanship of this resolution. There is another consequence that flows from what we are now engaged in, and that is how we will respond to future security challenges. And just as important as that link is how others around the world will measure our response, measure our will, measure our commitment to doing the right thing.

History has taught us very clearly that when you defer the tough decisions, things do not get better; they get worse. And the more you try and appease the Milosevics of the world, things get worse, more people die, more commitment must be made later. That is surely a lesson of history.

The time is now past whether we are committed to do this or not. That debate was a month ago. What we must do now is come together in a unified effort to win this, to achieve our political and military goals, stop the slaughter, stop the butchery, allow the people of Kosovo to go back into their homes, maintain the stability of that part of the world, and allow for a political resolution to develop—not one that we dictate, not one that NATO dictates, but the people of the Balkans.

My colleagues this morning have referred to the outer rings of consequences here, the outer rings of instability. I believe that if this effort is not successful, not only are you destabilizing Central and Eastern Europe, you are taking away the opportunities those nations of Central and Eastern Europe have now, and the former republics of the Socialist Soviet Republic, for a chance to develop a democracy and individual liberties and a free market system, because you have destabilized the area for no other reason than you have brought a million refugees, displaced persons, into that part of the world where those nations and the infrastructures of those nations cannot possibly deal with that and, hence, destabilizing the very infrastructure we are trying to help.

There are so many, many consequences that are attached to this one effort. I hope this resolution makes very clear, on a bipartisan basis, what we, as a Nation, as a member of NATO, as a member of the civilized world have at stake here and why it is important that we win this war. And I call it a war because it is a war.

I hope that the President of the United States will provide the kind of leadership that this Nation is going to need to connect the national security interests not just at the immediate time in that part of the world, but for our long-term national security interests not just in that part of the world, but all parts of the world. The President must lead. If the President wishes to come to the Congress and ask for a declaration of war, that should be entertained and debated and carefully considered.

The time for nibbling around the edges here is gone. And we not only do a great disservice to the men and women that we asked to fight this war, but to our democracy and all of the civilized world if we do not do the right thing. History will judge us harshly, as it should, if we allow this to continue, what is going on in the Balkans today, and do not stop it.

ADDITIONAL COSPONSORS

S. 39

At the request of Mr. STEVENS, the names of the Senator from New Hampshire (Mr. GREGG), the Senator from Illinois (Mr. DURBIN), the Senator from Delaware (Mr. BIDEN), and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 39, a bill to provide