''a wide range of Federal programs,'' and offers these subscribers timely updates on ''500 education programs.'' More recently, the Aid for Education Report published by CD Publications advertised that ''huge sums are available. . .in the federal government alone, there are nearly 800 different education programs that receive authorization totaling almost a hundred billion dollars.''

It's a shame that a school district has to pay $400 for a catalog to learn how to get back the money that its community has sent to Washington to educate its children. But sadly, this is often the case.

A third problem we can identify with many current federal education programs is that federal dollars are often earmarked for one particular use, and cannot be used for any other purpose. This inflexible funding hurts schools that have other needs than the ones prescribed by the federal government. A recent example of this is the $1.2 billion earmarked last year for classroom size reduction. While more teachers and class size reduction are noble endeavors, some schools don't need more teachers, but instead need more computers. However, the only use of this $1.2 billion can be for hiring more teachers. Such a policy flies in the face of one ingredient for educational success, local control.

So, we know we have created a lot of federal education programs and we have dedicated a great deal of resources for these programs. What results are we getting? The National Center for Education Statistics' NAEP 1994 Reading Report Card for the Nation and the States reveals that 40 percent of fourth graders do not read at a basic level. The same report also indicates that half of the students from urban school districts fail to graduate on time, if at all. And the NAEP Report Card also shows that United States 12th graders only outperformed two out of 21 nations in mathematics. The Brookings Institution released a study in April of 1998 indicating that public institutions of higher education have to spend $1 billion each year on remedial education for students.

Knowing these disastrous results, we cannot afford to keep spending our federal education dollars in the same way we have been doing for years if it's not stimulating academic success. Parents, teachers, school boards, and members of our community won't stand for this kind of failure. They want and need opportunities to be more involved in deciding how to spend the federal education dollar, because they know what works. We must spend our federal resources for elementary and secondary education in ways that embrace the ingredients of success.

Rather than fund the patchwork of federal elementary and secondary education programs that Washington wants, Congress should send that money directly to local school districts. Parents and teachers need the financing, flexibility and freedom to fund programs they know will improve their children's education.

Senator BOND's ''Direct Check for Education'' proposal does just this. He takes some of the Department of Education's largest competitive grant programs and returns the money in the form of a ''direct check'' to the local school districts based on the number of students in each district. Schools may use the funds in ways they believe will be most effective in elevating student achievement.

Under the ''Direct Check'' proposal, no longer would school districts have to come to Washington and beg for the money they sent to Washington to educate their children. No longer would teachers and administrators have to spend countless and wasted hours filling out federal grant application and compliance forms. No longer would schools be forced to earmark federal dollars for programs that have no relevance to their students' needs. Rather, school districts with the input of teachers, school boards, administrators, and of course, parents, would have the authority and flexibility to use federal dollars for what they best see fit.

For example, local schools could deploy resources to hire new teachers, raise teacher salaries, buy new textbooks or new computers—whatever the schools deem most important to the educational success of their students. The Direct Check to Education proposals gives schools more time, flexibility, and money to spend on what's most important: providing classroom instruction to our nation's children.

With the flexible, equitable distribution of federal funding under Senator BOND's proposal comes accountability. Local school districts will be penalized for knowingly submitting false information regarding the number of students in their districts. Moreover, the Secretary of Education may audit local educational agency expenditures to ensure that funds are used in accordance with the Direct Check in Education Act. And most importantly, parents, school boards, and members of the community will be able to give direct input into funding decisions, since those decisions will be made right in the community, rather than hundreds, and sometimes thousands, of miles away in Washington, D.C. Local decision making allows for local accountability.

Mr. President, we have learned from experience that our many of our current federal education programs and dollars are not producing what we expect for our students. We know that successful education programs occur when crucial decisions are made by local communities, teachers, school boards, and parents. This is why I support Senator BOND's ''Direct Check for Education'' proposal. His plan embraces the ingredients of educational success, as it gives parents, teachers and school boards the authority and flexibility to direct funds to programs they know work for their children.

As I said earlier, Senator BOND's proposal consolidates a number of the Department of Education's federal programs for elementary and secondary education. I believe we should explore whether other federal education programs—both within and outside the Department of Education—should also be taken and put into a ''direct check'' to our local school districts. We must continue to look for ways to direct our federal resources in ways that reflect the ingredients of success and educational excellence for our children.

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By Mr. KYL (for himself and Mr. COVERDELL):

S. 53. A bill to amend the Internal Revenue Code of 1986 to provide a reduction in the capital gain rates for all taxpayers and a partial dividend income exclusion for individuals, and for other purposes; to the Committee on Finance.

CAPITOL GAINS AND DIVIDEND INCOME REFORM ACT

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By Mr. KYL:

S. 54. A bill to amend the Internal Revenue Code of 1986 to repeal the corporate alternative minimum tax; to the Committee on Finance.

CORPORATE TAX EQUITY ACT

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By Mr. KYL (for himself and Mr. COVERDELL):

S. 55. A bill to amend the Internal Revenue Code of 1986 to limit the tax rate for certain small businesses, and for other purposes; to the Committee on Finance.

SMALL BUSINESS INVESTMENT AND GROWTH ACT

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By Mr. KYL (for himself, Mr. ALLARD, Mr. ASHCROFT, Mr. BURNS, Mr. COCHRAN, Mr. COVERDELL, Mr. CRAPO, Mr. ENZI, Mr. GRAMM, Mr. GRAMS, Mr. HAGEL, Mr. HELMS, Mrs. HUTCHISON, Mr. INHOFE, Mr. MACK, Mr. MURKOWSKI, Mr. ROBERTS, Mr. SMITH of New Hampshire, Mr. THOMAS, and Mr. SESSIONS):

FAMILY HERITAGE PRESERVATION ACT

S. 56. A bill to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers; to the Committee on Finance.

Mr. KYL. Mr. President, today I introduce a series of bills designed to help sustain the economic expansion and enhance the rate of economic growth in this country. The four measures, which together make up what I refer to as the Agenda for Economic Growth and Opportunity, will help encourage investment in small businesses, enhance the wages of American workers, and make our country more competitive in the global economy.

Mr. President, it was just over 36 years ago that President John F. Kennedy made the following observation in his State of the Union message—an observation that someone could just as easily make about today's economy. He said, ''America has enjoyed 22 months of uninterrupted economic recovery.''

The current expansion, albeit weaker than most during this century, has gone on somewhat longer. ''But,'' President Kennedy went on to say, ''recovery is not enough. If we are to prevail in the long run, we must expand the long-run strength of our economy. We must move along the path to a higher rate of economic growth.''

Economic growth. The concept is studied endlessly by economists and statisticians, but what does it mean for the average American family, and why should policy-makers be so concerned about it?

For most of the 20th century, our nation enjoyed very strong rates of economic growth and the dividends that came with it. The 1920s saw annual economic growth above five percent. In the 1950s, it was above six percent. Economic growth during the Kennedy and Johnson years averaged 4.8 percent annually. During the years after the Reagan tax cuts and before the 1990 tax increase, the economy grew at an average rate of 3.9 percent a year, according to data supplied by the Joint Economic Committee.

The Clinton years, by contrast, have actually seen the economy grow at a much slower rate—an average rate of only about 2.3 percent a year. And recent estimates by the Congressional Budget Office project that the growth of real Gross Domestic Product is likely to slow to just over two percent for the last part of 1998 and the early part of 1999. What that means is that, while we may not exactly be hurting as a nation, we are not becoming much better off, either. We are certainly not leaving much of a legacy for our children and grandchildren to meet the needs of tomorrow.

Slower growth means fewer job opportunities in the days ahead for young Americans just entering the workforce and for those people seeking to free themselves from the welfare rolls. It means stagnant wages and salaries, and fewer opportunities for career advancement for those who do have jobs. It means less investment in new plants and equipment, and new technology—things needed to enhance productivity and ensure that American businesses can remain competitive in the global marketplace.

So what do we do to spur economic growth—to ensure that jobs will continue to be available for those who want them, that families can earn better wages, and that American business maintains a dominant role in the global economy? Those are, after all, the goals of the agenda I am laying out today—an agenda for economic growth and opportunity for all Americans, for those struggling to make ends meet today, and for our children when they enter the workforce tomorrow.

Let me begin my answer with another quotation from John Kennedy:

''[I]t is increasingly clear—to those in Government, business, and labor who are responsible for our economy's success—that our obsolete tax system exerts too heavy a drag on private purchasing power, profits, and employment. Designed to check inflation in earlier years, it now checks growth instead. It discourages extra effort and risk. It distorts use of resources. It invites recurrent recessions, depresses our Federal revenues, and causes chronic budget deficits.''

Mr. President, although we managed to balance the unified budget last year, there is still much in what President Kennedy said that is relevant to our situation today. Consider, for example, that we balanced the budget by taxing and spending at a level of about $1.72 trillion—a level of spending that is 25 percent higher than when President Clinton took office just six years ago. Our government now spends the equivalent of $6,700 for every man, woman, and child in the country every year. That is the equivalent of nearly $27,000 for the average family of four. But all of that spending comes at a tremendous cost to hard-working taxpayers. As President Kennedy put it, it is a drag on private purchasing power, profits, and employment.

The Tax Foundation estimates that the median income family in America saw its combined federal, state, and local tax bill climb to 37.6 percent of income in 1997—up from 37.3 percent the year before. That is more than the average family spends on food, clothing, shelter, and transportation combined. Put another way, in too many families, one parent is working to put food on the table, while the other is working almost full time just to pay the bill for the government bureaucracy.

Perhaps a different measure of how heavy a tax burden the federal government is imposing—how big is the drag on the economy—would be helpful here. Consider that federal revenues hit a peacetime high of 19.8 percent of Gross Domestic Product (GDP) in 1997 and, according to the Congressional Budget Office, will continue to climb—to 20.5 percent in 1998 and 20.6 percent in 1999. That will be higher than any year since 1945, and it would be only the third and fourth years in our nation's entire history that revenues have exceeded 20 percent of national income. Notably, the first two times revenues broke the 20 percent mark, the economy tipped into recession.

Mr. President, the agenda I am proposing attacks some of the most significant deficiencies in our nation's Tax Code that are inhibiting savings and investment, and job creation—deficiencies that keep us from reaching our potential as a nation. I do not make these proposals as a substitute for fundamental tax reform or an across-the-board reduction in income-tax rates, which I believe are the ultimate solutions to the problem. But fundamental tax reform is going to take some time to accomplish, maybe several years. And I am not convinced that President Clinton will ever agree to an across-the-board reduction in tax rates. Therefore, what we need now are interim steps—things we can do quickly—to make sure our movement into the 21st century is based on the bedrock of a strong and growing economy.

These Tax Code changes will help strengthen the economy and, in turn, produce more revenue for the federal government to help keep the budget balanced. Recent experience proves that it is a strong and growing economy—not high tax rates—that generates substantial amounts of new revenue for the Treasury. It was the growing economy that helped eliminate last year's unified budget deficit.

Mr. President, the first of the four tax-related bills I am introducing is based primarily upon President John Kennedy's own growth package from three decades ago. Like the Kennedy plan, the legislation would reduce the percentage of long-term capital gains included in individual income subject to tax to 30 percent. It would reduce the alternative tax on the capital gains of corporations to 22 percent.

I would note that Democratic President John Kennedy's plan called for a deeper capital gains tax cut than the Republican-controlled Congress passed in 1997.

There was a reason that John Kennedy called for a significant cut in the capital gains tax. ''The present tax treatment of capital gains and losses is both inequitable and a barrier to economic growth,'' the President said. ''The tax on capital gains directly affects investment decisions, the mobility and flow of risk capital from static to more dynamic situations, the ease or difficulty experienced by new ventures in obtaining capital, and thereby the strength and potential for growth of the economy.''

So if we are concerned whether new jobs are being created, whether new technology is developed, whether workers have the tools they need to do a better, more efficient job, we should support measures that reduce the cost of capital to facilitate the achievement of all these things. Remember, for every employee, there is an employer who took risks, made investments, and created jobs. But that employer needed capital to start. Economist Allen Sinai estimates that a capital-gains tax reduction would help businesses create as many as 500,000 new jobs.

A capital-gains tax reduction would provide critical help to the country's entrepreneurs, especially those striving to open their own small businesses or grow their businesses. Small business is, after all, that engine that drives the nation's economy. In Arizona, about half of those businesses are run by women. An estimated 130,000 women-owned businesses in the state employ more than 330,000 people. These are precisely the kind of firms that have difficulty securing the capital they need to expand. High capital-gains taxes are one reason why.

Mr. President, it may come as a surprise to some people, but experience shows that lower capital-gains tax rates help not only small businesses and the economy, but federal revenues

as well. The most impressive evidence, as noted in a recent report by the American Council for Capital Formation, can be found in the period from 1978 to 1985. During those years, the top marginal federal tax rate on capital gains was cut significantly—from 35 percent to 20 percent—but total individual capital gains tax receipts nearly tripled—from $9.1 billion to $26.5 billion annually.

Data from the National Bureau of Economic Research indicates that the maximizing capital gains tax rate—that is, the rate that would bring in the most Treasury revenue—is somewhere between nine and 21 percent. The Joint Economic Committee estimates that the optimal rate is probably 15 percent or less. The bill I am introducing today would set an effective top rate on capital gains earned by individuals, by virtue of the 70 percent exclusion, at 11.88 percent.

Mr. President, when capital gains tax rates are too high, people need only hold onto their assets to avoid the tax indefinitely. No sale, no tax. But that means less investment, fewer new businesses and new jobs, and—as historical surveys show—far less revenue to the Treasury than if capital gains taxes were set at a lower level. Just as the local department store does not lose money on weekend sales—because volume more than makes up for lower prices—lower capital gains tax rates can encourage more economic activity and, in turn, produce more revenue for the government.

Capital gains reform will help the Treasury. A capital gains tax reduction would help unlock a sizable share of the estimated $7 trillion of capital that is left virtually unused because of high tax rates. More importantly, it will help the family that has a small plot of land it would like to sell, or a small business that would like to expand, buy new equipment, and create new jobs.

Moreover, evidence shows that most of the tax savings will go to Americans of modest means. According to Internal Revenue Service data, almost 53 percent of taxpayers reporting capital gains had adjusted gross incomes of less than $50,000. Another 28 percent have AGIs between $50,000 and $100,000.

Nearly two years ago, this Congress reduced capital gains taxes, but it did so in a way that added substantially to the complexity of the Tax Code. And, in my view, it did not cut the tax rate enough. John Kennedy's idea—that is, simply providing a 70 percent exclusion—was a superior approach, and that is what I am proposing today.

Mr. President, the second part of this bill proposes a similar exclusion for dividend income. The rationale is twofold: first, to further encourage saving and investment; and second, to eliminate any bias in the Tax Code that might favor investments whose returns are paid primarily in capital gains over those that pay dividends. With recent reductions in the capital-gains tax, there may now be more incentive to invest in instruments that produce earnings taxed at the low capital-gains rate, as opposed to investing for dividends which are taxed at the regular, higher income-tax rate. My bill proposes to put dividend income on par with capital gains for purposes of levying an income tax.

The exclusion for dividend income would also go a long way toward eliminating the double taxation of such income, which is currently taxed once at the corporate level and then again when it is provided to investors in the form of dividends. A report by the American Council for Capital Formation notes that dividend income is taxed more heavily in the United States than in most other industrialized countries. The Council indicates that dividend income is subject to a U.S. tax rate of 60.4 percent, compared to an average of 51.1 percent abroad. This high rate is due to the double taxation of dividend income.

Mr. President, the second in this series of bills is the Corporate Tax Equity Act, a bill designed to help U.S. businesses make larger capital expenditures and thereby enhance productivity and job creation by repealing the corporate Alternative Minimum Tax (AMT).

Mr. President, the original intent of the AMT was to make it harder for large, profitable corporations to avoid paying any federal income tax. But the way to have accomplished that objective was not, in my view, to impose an AMT, but to identify and correct the provisions of law that allowed large companies to inappropriately lower their federal tax liabilities to begin with. Ironically, the primary shelters corporations were using to minimize their tax liability—that is, the accelerated depreciation and safe harbor leasing of the old Tax Code—were being corrected at the time the AMT was enacted.

I would point out that the AMT is not a tax, per se. As indicated in an April 3, 1996 report by the Congressional Research Service, the AMT is merely intended to serve as a prepayment of the regular corporate income tax, not a permanent increase in overall corporate tax liability. What that means in practical terms is that businesses are forced to make interest-free loans to the federal government under the guise of the AMT. Corporations pay a tax for which they are not liable, but which they are able to apply toward their future regular tax liability.

I would also point out that most of the corporations paying the AMT are relatively small. The General Accounting Office, in a 1995 report on the issue, found that, in most years between 1987 and 1992, more than 70 percent of corporations paying the AMT had less than $10 million in assets.

The AMT requires corporations to calculate their tax liability under two separate but parallel income-tax systems. Firms must calculate their AMT liability even if they end up paying the regular tax. At a minimum, that means that firms must maintain two sets of records for tax purposes.

The compliance costs are substantial. In 1992, for example, while only about 28,000 corporations paid the AMT, more than 400,000 corporations filed the AMT form, and an even greater—but unknown—number of firms performed the calculations needed to determine their AMT liability. A 1993 analysis by the Joint Committee on Taxation found that the AMT added 16.9 percent to a corporation's total cost of complying with federal income tax laws.

Mr. President, repealing the corporate AMT would help free up badly needed capital to assist in business expansion and job creation. According to a study by DRI/McGraw-Hill, AMT repeal would have increased fixed investment by a total of 7.9 percent, raised Gross Domestic Product by 1.6 percent, and increased labor productivity by 1.6 percent between 1996 and 2005. The study also projected that repeal would produce an additional 100,000 jobs a year during the years 1998 to 2002.

Mr. President, the third bill in this package is the Small Business Investment and Growth Act, which would ensure that small businesses do not pay a higher income-tax rate than large corporations. Congressman PHIL CRANE of Illinois has been promoting similar legislation in the House of Representatives.

Mr. President, the 1990 and 1993 increases in marginal income-tax rates put a tremendous strain on the nearly two million small businesses around the country that are organized as S corporations. Since these small businesses pay taxes at the individual income-tax rate, they can be subject to rates as high as 39.6 percent—higher than any other corporate entity. By contrast, the top rate imposed on large corporations is only 34 percent.

What sense is there in imposing tax rates on small businesses that are higher than those levied on better financed corporations? Estimates indicate that successful American businesses have been able to create three to four new jobs for every additional $100,000 they retain in the business. So higher taxes are counterproductive. They deny small businesses the funds they need to invest in new jobs, new equipment, and new facilities. That hurts small companies. And it hurts the economy.

The bill I am introducing today would establish a top rate of 34 percent when a small business reinvests its earnings in its operation, or when the earnings are distributed to the shareholders for the purposes of making tax payments. This lower tax rate would be applicable only to the first $5 million in taxable income of the small business.

The bill is a similar, but expanded, version of legislation that I introduced during the 105th Congress. Although the latest version would provide relief to more S corporations, I want to make

it clear that I would prefer to provide tax relief to all businesses. And since taxes paid by businesses are merely passed along in the form of higher prices, we are really talking about providing relief to all consumers.

The Small Business Investment and Growth Act represents an important first step toward reducing excessive taxes on small business and encouraging S corporation owners and managers to reinvest income into their businesses, thereby creating more jobs and fueling economic growth. I hope my colleagues will join me in supporting this measure and reducing the tax burden imposed on America's small businesses.

Mr. President, the fourth in the series of economic growth incentives is a bill to repeal the federal estate, or death, tax.

Mr. President, it was Ben Franklin who said some 200 years ago that nothing in this world is certain except death and taxes. Leave it to the federal government to find a way to put those two inevitabilities together to create a death tax that is not only confiscatory, but offensive to Americans' sense of fairness, harmful to the environment, and injurious to small business and the economy.

Although most Americans will probably never pay a death tax, most people still sense that there is something terribly wrong with a system that allows Washington to seize more than half of whatever is left after someone dies—a system that prevents hard-working Americans from passing the bulk of their nest eggs to their children or grandchildren. The respected liberal Professor of Law at the University of Southern California, Edward J. McCaffrey, put it this way: ''Polls and practices show that we like sin taxes, such as on alcohol and cigarettes.'' ''The estate tax,'' he went on to say, ''is an anti-sin, or a virtue tax. It is a tax on work and savings without consumption, on thrift, on long term savings. There is no reason even a liberal populace need support it.''

Democrat economists Henry Aaron and Alicia Munnell reached similar conclusions, writing in a 1992 study that death taxes ''have failed to achieve their intended purposes. They raise little revenue. They impose large excess burdens. They are unfair.''

In fact, 77 percent of the people responding to a survey by the Polling Company last year indicated that they favor repeal of the death tax. When Californians had the chance to weigh in with a ballot proposition, they voted two-to-one to repeal their state's death tax. The legislatures of five other states have enacted legislation since 1997 that will either eliminate or significantly reduce the burden of their states' death taxes.

Talk to the men and women who run small businesses around the country and you will find that death taxes are a major concern to them. The 1995 White House Conference on Small Business identified the death tax as one of small business's top concerns, and delegates to the conference voted overwhelming to endorse its repeal.

Remember, this is a tax that is imposed on a family business at the moment when it is least able to afford the payment—upon the death of the person with the greatest practical and institutional knowledge of that business's operations. It should come as no surprise, then, that a 1993 study by Prince and Associates—a Stratford, Connecticut research and consulting firm—found that nine out of 10 family businesses that failed within three years of the principal owner's death attributed their companies' demise to trouble paying the death tax. Six out of 10 family-owned businesses fail to make it to the second generation. The death tax is a major reason why.

Think of what that means to women and minority-owned businesses in particular. Instead of passing a hard-earned and successful business on to the next generation, many families have to sell the company in order to pay the death tax. The upward mobility of such families is stopped in its tracks. The proponents of this tax always speak of the need to hinder ''concentrations of wealth.'' What the tax really hinders is new American success stories.

Even if a family does not have to sell its business to pay the death tax, there are still significant costs that are imposed either directly or indirectly. Some people simply take preemptive action—they slow the growth of their businesses to limit their death-tax burden. Of course, that means less investment in our communities and fewer jobs created. Others divert money they would have spent on new equipment or new hires to insurance policies designed to cover death-tax costs. Still others spend millions on lawyers, accountants, and other advisors for death-tax planning purposes. But that leaves fewer resources to invest in the company, start up new businesses, hire additional people, or pay better wages.

What that suggests to me is that, although the death tax raises only about one percent of the federal government's annual revenue, it exerts a disproportionately large and negative impact on the economy. Alicia Munnell, who belonged to President Clinton's Council of Economic Advisors, estimates that the costs of complying with death-tax laws are of roughly the same magnitude as the revenue raised, or about $23 billion in 1998. In other words, for every dollar of tax revenue raised by the death tax, another dollar is squandered in the economy simply to comply with or avoid the tax.

Over time, the adverse consequences are compounded. A report issued by the Joint Economic Committee just last month concluded that the existence of the death tax this century has reduced the stock of capital in the economy by nearly half a trillion dollars.

By repealing it and putting those resources to better use, the Joint Committee estimates that as many as 240,000 jobs could be created over seven years and Americans would have an additional $24.4 billion in disposable personal income.

Is it not better to encourage the creation of new jobs for tax-paying Americans than to impose a tax that puts people out of work or lowers their income? I think so, and that is why I favor repeal of the death tax.

Mr. President, I suggested a moment ago that the death tax had a harmful effect, not only on the economy, but on the environment, as well. That is something that we need to consider here. An increasing number of families that own environmentally sensitive lands are having to sell the property for development in order to pay the death tax. Natural habitats are being destroyed as a result. With that in mind, Michael Bean of The Nature Conservancy observed that the death tax is ''highly regressive in the sense that it encourages the destruction of ecologically important land.'' It represents a real and present threat to endangered and threatened species and their habitats.

Mr. President, let me conclude by citing the report issued a few years ago by the National Commission on Economic Growth and Tax Reform, because it goes back to the point about fairness in a very poignant way. The Commission concluded that ''[i]t makes little sense and is patently unfair to impose extra taxes on people who choose to pass their assets on to their children and grandchildren instead of spending them lavishly on themselves.'' I agree. The Commission went on to endorse repeal of the death tax.

Mr. President, the Agenda for Economic Growth and Opportunity will help keep the economy on track—it will help forestall the recession that some economists predict is on the way. It will help improve the standard of living for all Americans. I invite my colleagues' support for this very important initiative.

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By Ms. MIKULSKI (for herself, Mr. SARBANES, Mr. ROBB, and Mr. WARNER):

S. 57. A bill to amend title 5, United States Code, to provide for the establishment of a program under which long-term care insurance is made available to Federal employees and annuitants, and for other purposes; to the Committee on Foreign Relations.

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## FEDERAL EMPLOYEES GROUP LONG-TERM CARE INSURANCE ACT OF 1999

Ms. MIKULSKI. Mr. President, I rise today to introduce the ''Federal Employees Group Long-Term Care Insurance Act of 1999''. This important legislation will provide long-term care insurance to federal employees and retirees. It will also create a model for other employers to use in providing long-term care insurance for their

workers. I am proud that this legislation is part of the Democratic agenda for long term care—which includes the $1,000 tax credit for families who are paying the costs of long-term care.

Since my first days in Congress, I have been fighting to help people afford the burdens of long-term care. Ten years ago, I introduced legislation to change the cruel rules that forced elderly couples to go bankrupt before they could get any help in paying for nursing home care. Because of my legislation, AARP tells me that we've kept over six hundred thousand people out of poverty and stopped liens on family farms.

I also fought for higher quality standards for nursing homes. Through the Older American Act funded senior centers, I've made it easier for seniors to get the information and referrals they need to make good choices about long-term care. Those same centers offer case managers to help families navigate the dizzying array of choices when faced with choosing long term care for a family member.

These are important steps. But unfortunately, we haven't made much progress in the last few years. We've been stymied by bipartisan bickering, shutdowns and inaction.

Meanwhile, the costs of long-term care have exploded. Nursing home costs are projected to increase from $40,000 today to $97,000 by 2030. This will only get worse since the number of senior citizens will double over the next thirty years. Families are being forced to chose between sending a child to college or paying for a nursing home for a parent.

Families desperately need help to help themselves and meet their family responsibilities.

This bill is a down payment on making long term care available for all Americans. Let me tell you what my legislation will do:

It will enable federal workers and retirees to purchase long-term care insurance.

It will provide help to those who practice self-help by offering employees the option to better prepare for their retirement and the potential need for long-term care.

It will enable federal employees to pay at group discounted rates. The purchasing power of the federal workforce will empower them to get the best deal.

Federal employees would pay the entire premium for their long-term care insurance, but that premium will be 15% to 20% less than they would pay individually on the open market. This is a good deal for federal workers—and for taxpayers.

I'm starting with federal employees for two reasons. First, as our nation's largest employer, the federal government can be a model for employers around the country. By offering long-term care insurance to its employees, the federal government can set the example for other employers whose workforce will be facing the same long-term care needs. We can use the lessons learned to help other employers to offer this option to their workers.

I have a second reason for starting with our federal employees. I am a strong supporter of our federal employees. I am proud that so many of them live, work, and retire in Maryland. They work hard in the service of our country. And I work hard for them. Whether it's fighting for fair COLAs, against disruptive and harmful shutdowns of the federal government, or to prevent unwise schemes to privatize important services our federal workforce provide, they can count on me.

Promise made should be promises kept. Federal retirees made a commitment to devote their careers to public service. In return, our government made certain promises to them.

One important promise made was the promise of health insurance. We promised our federal workers and their families that they would have health insurance while they were working and during their retirement. The lack of long-term care for federal workers has been a big gap in this important promise to our federal workers. My legislation will close that gap and provide our federal workers and retirees with comprehensive health insurance.

I am proud that Senator SARBANES and Senator ROBB join me in introducing this bill, and that our colleague Congressman CUMMINGS has introduced this legislation in the House. I hope that we will soon be joined by a bipartisan group of Senators who care about helping American families to cope with the costs of long term care.

Mr. President, long term care requires long term solutions. My legislation is part of the solution. It is an important step forward in helping all Americans to prepare for the challenges of aging.

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

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

S. 57

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Federal Employees Group Long-Term Care Insurance Act of 1999''.

**SEC. 2. LONG-TERM CARE INSURANCE.**

Subpart G of part III of title 5, United States Code, is amended by adding at the end the following new chapter:

**''Chapter 90—Long-Term Care Insurance**



**''§ 9001. Definitions**

''For the purpose of this chapter, the term—

''(1) 'annuitant' means an individual referred to in section 8901(3);

''(2) 'employee' means an individual referred to in subparagraphs (A) through (D), and (F) through (I) of section 8901(1); but does not include an employee excluded by regulation of the Office under section 9011;

''(3) 'Office' means the Office of Personnel Management;

''(4) 'other eligible individual' means the spouse, former spouse, parent or parent-in-law of an employee or annuitant, or other individual specified by the Office;

''(5) 'qualified carrier' means an insurer licensed to do business in each of the States and meeting the requirements of a qualified insurer in each of the States;

''(6) 'qualified contract' means a contract meeting the conditions prescribed in section 9002; and

''(7) 'State' means a State or territory or possession of the United States, and includes the District of Columbia.

**''§ 9002. Contracting authority**

''(a) The Office may, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5) or any other statute requiring competitive bidding, purchase from 1 or more qualified carriers a policy or policies of group long-term care insurance to provide benefits as specified by this chapter. The Office shall ensure that each resulting contract is awarded on the basis of contractor qualifications, price, and reasonable competition to the maximum extent practicable.

''(b) The Office may design a benefits package or packages and negotiate final offerings with qualified carriers.

''(c) Each contract shall be for a uniform term of 5 years, unless terminated earlier by the Office.

''(d) Premium rates charged under a contract entered into under this section shall reasonably reflect the cost of the benefits provided under that contract as determined by the Office.

''(e) The coverage and benefits made available to individuals under a contract entered into under this section are guaranteed to be renewable and may not be canceled by the carrier except for nonpayment of premium.

''(f) The Office may withdraw an offering under this section based on open season participation rates, the composition of the risk pool, or both.

**''§ 9003. Minimum standards for contractors**

''At the minimum, to be a qualified carrier under this chapter, a company shall—

''(1) be licensed as an insurance company and approved to issue group long-term care insurance in all States and to do business in each of the States; and

''(2) be in compliance with the requirements imposed on issuers of qualified long-term care contracts by section 4980C of the Internal Revenue Code of 1986.

**''§ 9004. Long-term care benefits**

''The benefits provided under this chapter shall be long-term care benefits which, at a minimum, shall be compliant with the most recent standards recommended by the National Association of Insurance Commissioners.

**''§ 9005. Financing**

''(a) The amount necessary to pay the premium for enrollment of an enrolled employee shall be withheld from the pay of each enrolled employee.

''(b) Except as provided under subsection (d), the amount necessary to pay the premium for enrollment of an enrolled annuitant shall be withheld from the annuity of each enrolled annuitant.

''(c) The amount necessary to pay the premium for enrollment of a spouse may be withheld from pay or annuity, as appropriate.

''(d) An employee, annuitant, or other eligible individual, whose pay or annuity is insufficient to cover the withholding required for enrollment, shall, at the discretion of the Office, pay the premium for enrollment directly to the carrier.

''(e) Each carrier participating in the program established under chapter shall maintain the funds related to this program separate and apart from funds related to other contracts and other lines of business.

''(f) The costs of the Office in adjudicating a claims dispute under section 9008, including costs related to an inquiry not culminating in a dispute, shall be reimbursed by the carrier involved in the dispute or inquiry. Such funds shall be available to the Office for the administration of this chapter.

**''§ 9006. Preemption**

''This chapter shall supersede and preempt any State or local law which is determined by the Office to be inconsistent with—

''(1) the provisions of this chapter; or

''(2) after consultation with the National Association of Insurance Commissioners, the efficient provision of a nationwide long-term care insurance program for Federal employees.

**''§ 9007. Studies, reports, and audits**

''(a) Each qualified carrier entering into a contract under this chapter shall—

''(1) furnish such reasonable reports as the Office determines to be necessary to enable the carrier to carry out the functions under this chapter; and

''(2) permit the Office and representatives of the General Accounting Office to examine such records of the carrier as may be necessary to carry out the purposes of this chapter.

''(b) Each Federal agency shall keep such records, make such certifications, and furnish the Office, the carrier, or both, with such information and reports as the Office may require.

**''§ 9008. Claims for benefits**

''(a) A claim for benefits under this chapter shall be filed within 4 years after the date on which the reimbursable cost was incurred or the service was provided.

''(b) The Office shall adjudicate a claims dispute arising under this chapter and shall require the contractor to pay for any benefit or provide any service the Office determines appropriate under the applicable contract.

''(c)(1) Except as provided under paragraph (2), benefits payable under this chapter for any reimbursable cost incurred or service provided are secondary to any other benefit payable for such cost or service. No payment may be made where there is no legal obligation for such payment.

''(2)(A) Benefits payable under the programs described under subparagraph (B) shall be secondary to benefits payable under this chapter.

''(B) The programs referred to under subparagraph (A) are—

''(i) the program of medical assistance under title XIX of the Social Security Act (42 U.S.C. 1396); and

''(ii) any other Federal or State programs that the Office may specify in regulations that provide health benefit coverage designed to be secondary to other insurance coverage.

**''§ 9009. Jurisdiction of courts**

''A claimant under this chapter may file suit against the carrier of the long-term care insurance policy covering such claimant in the district courts of the United States, after exhausting all available administrative remedies.

**''§ 9010. Regulations**

''(a) The Office shall prescribe regulations necessary to carry out this chapter.

''(b) The regulations of the Office may prescribe the time at which and the conditions under which an eligible individual may enroll in the program established under this chapter.

''(c) The Office may not exclude—

''(1) an employee or group of employees solely on the basis of the hazardous nature of employment; or

''(2) an employee who is occupying a position on a part-time career employment basis, as defined in section 3401(2).

''(d) The regulations of the Office shall provide for the beginning and ending dates of coverage of employees, annuitants, former spouses, and other eligible individuals under this chapter, and any requirements for continuation or conversion of coverage.

**''§ 9011. Authorization of appropriations**

''There are authorized to be appropriated such sums as may be necessary for the purposes of carrying out sections 9002 and 9010.''.

**SEC. 3. EFFECTIVE DATE.**

The amendments made by this Act shall take effect on the date of enactment of this Act, except that no coverage may be effective until the first day of the first applicable pay period in October, which occurs more than 1 year after the date of enactment of this Act.

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By Ms. COLLINS (for herself, Mr. DURBIN, and Mr. JEFFORDS):

S. 58. A bill to amend the Communications Act of 1934 to improve protections against telephone service ''slamming'' and provide protections against telephone billing ''cramming'', to provide the Federal Trade Commission jurisdiction over unfair and deceptive trade practices of telecommunications carriers, and for other purposes; to the Committee on Commerce, Science, and Transportation.

TELEPHONE SERVICE FRAUD PREVENTION AND ENFORCEMENT ACT OF 1999

Ms. COLLINS. Mr. President, I rise today to introduce the ''Telephone Services Fraud Prevention and Enforcement Act of 1999.'' I am pleased to have Senators DICK DURBIN and JIM JEFFORDS as cosponsors of this legislation. This bill is designed to curtail two telephone-related fraudulent practices: slamming—the unauthorized change of a consumer's long distance telephone service provider—and cramming—the billing of unauthorized charges on a consumer's telephone bill. This comprehensive bill is needed to ensure that consumers are adequately protected against these unfair practices.

Mr. President, telephone slamming and cramming are widespread problems, affecting consumers across the country. Nationwide, slamming is the number one telephone-related complaint to the Federal Communications Commission, and the number of such complaints has grown steadily over the past few years. In 1998, in fact, the FCC received more than 20,000 slamming complaints, a 900 percent increase over the number of complaints received in 1993. For fiscal year 1998 (from October 1, 1997 through September 1, 1998), telephone slamming was the number one complaint made by Maine consumers to the FCC's National Call Center. Since there is still no central repository for slamming complaints, the actual incidents of slamming are undoubtedly far more numerous. Estimates from phone companies indicated that perhaps as many as one million Americans were slammed last year alone.

Cramming complaints also remain at unacceptably high levels. In 1998, the FCC's National Call Center received over 15,000 cramming complaints from consumers, making it the 12th most common complaint received by the FCC. In addition, the Federal Trade Commission received over 6,000 cramming complaints from consumers in 1998, making it the FTC's 5th most common complaint. As with slamming, there is no central repository for cramming complaints, so the actual number of such complaints is probably much higher than those documented by the federal government.

In late 1997, the Senate Permanent Subcommittee on Investigations, which I chair, began an extensive investigation into telephone-related fraud against consumers. The story of telephone services fraud, I soon discovered, is a great deal more than just an aggregate number of complaints. On February 18, 1998, I chaired a field hearing on slamming in Portland, Maine, where I heard first-hand from consumers about the problems they experienced when their long distance service was changed without their permission. Their sense of violation was evident. Witnesses used words such as ''stealing,'' ''criminal,'' and ''break-in'' to describe the practices used by unscrupulous telephone companies to boost profits by bouncing unsuspecting customers from carrier to carrier without their permission or even their knowledge.

One witness, for example, Pamela Corrigan from West Farmington, Maine, testified that she was sent an unsolicited mailing, which looked like any other letter in the stacks of junk mail that we all receive every day. This ''junk mail,'' however, was not what it appeared to be. This so-called ''welcome package'' automatically signed her up for a new long distance service unless she returned a card rejecting the change. She was amazed and appalled that it was possible for a company to take over her long distance service simply because she did not respond that she did not want their service.

Building on this record, my Subcommittee held a second slamming hearing on April 23, 1998, in Washington, DC. This hearing exposed how certain fraudulent long distance switchless resellers (companies with no telephone equipment of their own that buy access to larger telephone companies' long distance lines and then ''resell'' that access to consumers) are responsible for a large proportion of the intentional slamming incidents. These

electronic bandits use deceptive marketing practices and often outright fraud to switch consumers' long distance service. The Subcommittee also learned how under current industry practices, many companies reap huge profits by taking advantage of consumers in such a fashion.

At my Subcommittee's April 1998 hearing, we examined a case study of telephone services fraud. A man named Daniel Fletcher fraudulently operated as a long distance reseller, using at least eight different company names. In these various guises, Fletcher slammed thousands of consumers, billing them for a total of at least $20 million in long distance charges. The impunity with which Mr. Fletcher deliberately slammed consumers for so long demonstrates the need to establish strong consumer protections to deter intentional slamming.

On July 23, 1998, I convened a hearing in Washington to explore the emerging problem of telephone cramming. At that hearing, we learned how cramming is a growing consumer fraud and how companies are using telephone bills to rip-off consumers by slipping unauthorized charges onto their statements without their consent and without proper notice. The National Consumers League testified that cramming has skyrocketed to first place among the more than 50 categories of telemarketing scams reported to its hotline. The FCC testified that it is relying on the telephone industry to voluntarily implement procedures to stop cramming. However, it was evident from the testimony that unless we establish a clear statutory and regulatory scheme and insist upon rigorous enforcement of these rules, cramming will continue to be a problem for consumers.

In May 1998, the Senate passed a strong anti-slamming bill by a unanimous vote. This bill contained strong consumer protection provisions and mandated aggressive enforcement by the FCC and other federal agencies. Unfortunately, the House retreated significantly from this strong anti-slamming legislation and sent us, at the very end of the legislative session, a bill significantly weaker than the one which passed the Senate—indeed, a bill so weak that it would provide consumers with less protection than they enjoy today, by preempting the important role states play in enforcing consumer anti-fraud protections. Last fall, in the final days of the session, the Congress was unable to agree to an acceptable compromise bill in the limited amount of time available to it.

I was pleased to see, however, that the FCC finally took action in December of last year to curb slamming. Among other measures, the FCC eliminated the ''welcome package'' as a verification method. This method was abused by many long distance carriers, facilitating widespread slamming. I urged the FCC last year to prohibit this practice, and I am glad to see that the Commission promulgated regulations banning the welcome package.

The FCC also made positive changes to the consumer liability rules, absolving consumers in certain circumstances from paying companies that slammed them. This provision is designed to take the profit out of slamming, to prevent this scam in the first place. I am pleased to see that the Commission adopted this principle which was a major finding of the Subcommittee's investigation of telephone slamming.

The FCC anti-slamming regulations are a step in the right direction, but we need to do more to protect consumers from these fraudulent activities. Today, to increase consumers protections, I am introducing a comprehensive telephone-related anti-fraud bill that will address both the slamming and cramming problems. I want to take this opportunity to explain several provisions in my bill, which is designed to increase consumer protections and to strengthen the enforcement tools available to federal and state regulators.

First, the bill enhances the states' ability to enact regulations and take enforcement actions against slamming and cramming. As the Subcommittee's investigation has revealed, the states have been admirably aggressive in taking enforcement action against companies that engage in telephone-related fraud. For example, in February 1998, the Florida Public Service Commission proposed a $500,000 fine against a company called Minimum Rate Pricing for slamming subscribers. The FCC, in contrast, fined the same company only $80,000. In the Fletcher case mentioned previously, the State of Florida fined one Fletcher company $860,000, while the FCC originally fined one of them only $80,000. I am glad to say that since my subcommittee's investigation, the FCC has significantly increased its enforcement efforts, particularly against Mr. Fletcher.

For the most part, however, the states have been, and remain, the first line of defense against companies that repeatedly slam or cram consumers. This bill protects the states' ability to continue to fight those illegal practices. Specifically, this bill allows the states to impose tough requirements to protect consumers from those companies who continue to slam or cram American consumers. Moreover, states will be able to continue to obtain refunds for consumers who have been harmed by such fraudulent practices.

Second, this bill makes it clear that telephone companies that continue to slam or cram consumers will be subject to tough civil penalties. The bill will create new civil penalties for cramming, and authorize the imposition of stiff penalties by the FCC on those companies who violate FCC regulations against slamming or cramming. The FCC is currently authorized to assess forfeiture penalties of no more than $110,000 for each violation, for a total forfeiture not to exceed $1.1 million for a continuing violation. This bill sends a clear message to the FCC, however, that forfeiture penalties against companies that engage in telephone-related fraud should be large enough to deter such practices. These and other penalties the FCC will be authorized to impose ought to ensure that telephone companies follow proper procedures and refrain from slamming and cramming. If they break the rules by trying to cheat consumers, they will pay a steep price.

But prevention is better than punishment, and any effective enforcement program designed to reduce or eliminate telephone-related fraud must take the financial incentive for fraud away from companies who engage in these practices. The new FCC regulations go a long way to protecting consumers by absolving them from paying any charges for 30 days after they are slammed and by allowing consumers to pay their previously authorized carrier for telephone calls made in the period during which the slamming company fraudulently seized their long distance telephone service. Unfortunately, this FCC regulation does not apply to consumers who did not notice that they were slammed and consequently paid this long distance bill to the unauthorized carrier. The Commission apparently does not have the authority to mandate this requirement. My bill would change the law to allow all consumers to get refunds from unauthorized carriers. Under this plan, all consumers will be treated equally. The bill will also require telephone billing agents to make it clear to consumers that their telephone service will not be terminated when consumers dispute unauthorized charges that are crammed onto their telephone bills.

Finally, the bill will protect a consumer's right to a ''freeze option.'' This provision makes it clear that consumers have the right to stop slammers from changing their long distance service without their authorization. By invoking the freeze option, consumers can retain control over their telephone service by prohibiting any change in a consumers choice of telephone service provider, unless that change is expressly authorized by the consumer. This provision, I should also note, does not in any way prevent the FCC from regulating the marketing practices of telephone companies that use the freeze option in an unfair or deceptive manner. The Commission will be fully empowered to guarantee that consumers' right to protect their choice of local or long distance telephone service is not abridged or diminished. In sum, this language should increase consumers' right to prevent unauthorized changes in their telephone service.

This bill will go a long way to provide strong consumer protection against telephone-related fraud. It preserves the important role states play in protecting consumers and enforcing tough sanctions against unscrupulous

carriers; it authorizes tough federal civil penalties against those companies that continue to slam and cram consumers; and it protects consumers' right to a freeze option so that they—and not the telephone companies—have control over their long distance services.

Mr. President, this bill will provide the federal government and the states with the statutory tools to fight the practices of slamming and cramming and to end the systematic defrauding of countless thousands of consumers every year. I urge my colleagues to join me in the fight against telephone-related fraud by supporting this bill.

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By Mr. THOMPSON (for himself, Mr. BREAUX, and Mr. LOTT):

S. 59. A bill to provide Government wide accounting of regulatory costs and benefits, and for other purposes; to the Committee on Governmental Affairs..6

REGULATORY RIGHT TO KNOW ACT OF 1999

Mr. THOMPSON. Mr. President, today I am introducing the ''Regulatory Right-to-Know Act of 1999.'' I am pleased that Senator BREAUX and Majority Leader LOTT have joined me in this effort. Our goals are to promote the public's right to know about the benefits and costs of regulatory programs; to increase the accountability of government to the people it serves; and ultimately, to improve the quality of our regulatory programs. This legislation will help us assess what benefits our regulatory programs are delivering, at what cost, and help us understand what we need to do to improve them.

By any measure, the burdens of Federal regulation are enormous. By some estimates, Federal regulation costs about $700 billion per year, or $7,000 for the average American household. I hear concerns about unnecessary regulatory burdens and red tape from people all across the country and from all walks of life—small business owners, governors and local officials, farmers, corporate leaders, government reformers, school board members and parents.

There is strong public support for sensible regulations that can help ensure cleaner water, quality products, safer workplaces, reliable economic markets, and the like. But there is substantial evidence that the current regulatory system is missing important opportunities to deliver greater benefits at less cost. The depth of this problem is not appreciated fully because the costs of regulation are not as apparent as other costs of government, such as taxes, and the benefits of regulation often are diffuse. The bottom line is that the American people deserve better results from the vast resources and time spent on regulation. We've got to be smarter.

We often spend a lot of time debating on-budget programs, but we are just breaking ground on creating a system to scrutinize Federal regulation. This legislation does not change any regulatory standards; it simply will provide better information to help us answer some important questions: How much do regulatory programs cost each year? Are we spending the right amount, particularly compared to on-budget spending and private initiatives? Are we setting sensible priorities among different regulatory programs? As the Office of Management and Budget stated in its first ''Report to Congress on the Costs and Benefits of Federal Regulations'':

[R]egulations (like other instruments of government policy) have enormous potential for both good and harm. . . . The only way we know how to distinguish between the regulations that do good and those that cause harm is through careful assessment and evaluation of their benefits and costs. Such analysis can also often be used to redesign harmful regulations so they produce more good than harm and redesign good regulations so they produce even more net benefits.

There is broad support for making our government more open, efficient, and accountable. This legislation continues the efforts of my precedessors. Regulatory accounting was a part of a regulatory reform bill that unanimously passed out of the Governmental Affairs Committee in 1995 when BILL ROTH was our chairman. In 1996, when TED STEVENS became our chairman, he passed a one-time regulatory accounting amendment on the Omnibus Appropriations Act. I supported Senator STEVENS' effort when it passed again in 1997, and I sponsored a similar measure last year, with the support of Senators LOTT, BREAUX, ROBB and SHELBY. There also is a broad bipartisan coalition in the House that supports regulatory accounting.

This legislation will continue the requirement that OMB report to Congress on the costs and benefits of regulatory programs, which began with the Stevens amendment. This legislation also adds to previous initiatives in several respects. First, it will finally make regulatory accounting a permanent statutory requirement. Regulatory accounting will become a regular exercise to help ensure that regulatory programs are cost-effective, sensible, and fair. Second, this legislation will require OMB to provide a more complete picture of the regulatory system, including the incremental costs and benefits of particular programs and regulations, as well as an analysis of regulatory impacts on small business, governments, the private sector, wages and economic growth. OMB also will look back at the annual regulatory costs and benefits for the preceding 4 fiscal years, building on information generated under the Stevens amendment. Finally, this legislation will help ensure that OMB provides better information as time goes on. Requirements for OMB guidelines and independent peer review should improve future regulatory accounting reports.

Government has an obligation to think carefully and be accountable for requirements that impose costs on people and limit their freedom. We should pull together to contribute to the success of responsible government programs the public values, while enhancing the economic security and well-being of our families and communities.

Mr. President, I ask unanimous consent that a copy of the Regulatory Right-to-Know Act of 1999 be printed in the RECORD.

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

S. 59

*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 ''Regulatory Right-to-Know Act of 1999''.

**SEC. 2. PURPOSES.**

The purposes of this Act are to—

(1) promote the public right-to-know about the costs and benefits of Federal regulatory programs and rules;

(2) increase Government accountability; and

(3) improve the quality of Federal regulatory programs and rules.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) IN GENERAL.—Except as otherwise provided in this section, the definitions under section 551 of title 5, United States Code, shall apply to this Act.

(2) BENEFIT.—The term ''benefit'' means the reasonably identifiable significant favorable effects, quantifiable and nonquantifiable, including social, health, safety, environmental, economic, and distributional effects, that are expected to result from implementation of, or compliance with, a rule.

(3) COST.—The term ''cost'' means the reasonably identifiable significant adverse effects, quantifiable and nonquantifiable, including social, health, safety, environmental, economic, and distributional effects, that are expected to result from implementation of, or compliance with, a rule.

(4) DIRECTOR.—The term ''Director'' means the Director of the Office of Management and Budget, acting through the Administrator of the Office of Information and Regulatory Affairs.

(5) MAJOR RULE.—The term ''major rule'' means any rule as that term is defined under section 804(2) of title 5, United States Code.

(6) PROGRAM ELEMENT.—The term ''program element'' means a rule or related set of rules.

**SEC. 4. ACCOUNTING STATEMENT.**

(a) IN GENERAL.—Not later than February 5, 2001, and each year thereafter, the President, acting through the Director of the Office of Management and Budget, shall prepare and submit to Congress, with the budget of the United States Government submitted under section 1105 of title 31, United States Code, an accounting statement and associated report containing—

(1) an estimate of the total annual costs and benefits of Federal regulatory programs, including rules and paperwork—

(A) in the aggregate;

(B) by agency, agency program, and program element; and

(C) by major rule;

(2) an analysis of direct and indirect impacts of Federal rules on Federal, State, local, and tribal government, the private sector, small business, wages, and economic growth; and

(3) recommendations to reform inefficient or ineffective regulatory programs or program elements.

(b) BENEFITS AND COSTS.—To the extent feasible, the Director shall quantify the net benefits or net costs under subsection (a)(1).

(c) YEARS COVERED BY ACCOUNTING STATEMENT.—Each accounting statement submitted under this Act shall cover, at a minimum, the costs and corresponding benefits for each of the 4 fiscal years preceding the year in which the report is submitted. The statement may cover any year preceding such years for the purpose of revising previous estimates.

**SEC. 5. NOTICE AND COMMENT.**

(a) IN GENERAL.—Before submitting a statement and report to Congress under section 4, the Director of the Office of Management and Budget shall—

(1) provide public notice and an opportunity to comment on the statement and report; and

(2) consult with the Comptroller General of the United States on the statement and report.

(b) APPENDIX.—After consideration of the comments, the Director shall incorporate an appendix to the report addressing the public comments and peer review comments under section 7.

**SEC. 6. GUIDANCE FROM THE OFFICE OF MANAGEMENT AND BUDGET.**

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Director of the Office of Management and Budget, in consultation with the Council of Economic Advisors, shall issue guidelines to agencies to standardize—

(1) most plausible measures of costs and benefits; and

(2) the format of information provided for accounting statements.

(b) REVIEW.—The Director shall review submissions from the agencies to ensure consistency with the guidelines under this section.

**SEC. 7. PEER REVIEW.**

(a) IN GENERAL.—The Director of the Office of Management and Budget shall arrange for a nationally recognized public policy research organization with expertise in regulatory analysis and regulatory accounting to provide independent and external peer review of the guidelines and each accounting statement and associated report under this Act before such guidelines, statements, and reports are made final.

(b) WRITTEN COMMENTS.—The peer review under this section shall provide written comments to the Director in a timely manner. The Director shall use the peer review comments in preparing the final guidelines, statements, and associated reports.

(c) FACA.—Peer review under this section shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

Mr. BREAUX. Mr. President, I am pleased to introduce the Regulatory Right to Know Act of 1999 with my colleague, Senator THOMPSON. This important piece of legislation will make the regulatory system more understandable and accountable to the American people.

The Regulatory Right to Know Act of 1999 is similar to an amendment that was attached to the Fiscal Year 1999 Treasury, Postal Appropriations bill and which the Senate unanimously passed on July 29, 1998. It is also similar to the two Stevens' Amendments passed with a large majority of support in the Senate in 1996 and 1997. All of these amendments required the Office of Management and Budget to prepare an accounting statement and report on the annual costs and benefits of federal regulatory programs. Obviously, Congress is on record in support of having more information about the federal regulatory system.

The Regulatory Right to Know Act of 1999 simply makes this requirement permanent and requires OMB to submit a yearly report to Congress on the total costs and benefits of federal regulations. Costs and benefits include those that are both quantifiable and non-quantifiable. OMB must present both an analysis of the impacts of regulations on Federal, State, local and tribal governments, the private sector, small businesses, wages and economic growth, as well as recommendations for reforming wasteful or outdated regulations. Lastly, our bill provides the public with an opportunity to comment on the draft report before it is submitted to Congress.

Our bill does not do a number of things. It does not require that any regulations or programs be eliminated because the benefits do not outweigh the costs. It does not impose an unworkable burden on the OMB because much of the needed information is already available. And, our bill doesn't undermine the need for regulations protecting public health, worker safety, food quality or environmental preservation.

Some studies have estimated the total cost of federal regulations to be almost $700 billion annually. On average, regulations cost every household in America approximately $7,000 per year. As the people who bear the cost of federal regulatory programs, America's citizens have a right to know what they are getting for their $7,000. Taxpayers are able to track how the government spends its tax dollars through the budget process. The same openness should apply to the federal regulatory system. Congress also needs the accounting statements provided by our bill in order to make better, more informed, and more efficient decisions. For these reasons. I urge all of my colleagues to support the Regulatory Right to Know Act of 1999.

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By Mr. GRASSLEY:

S. 60. A bill to amend the Internal Revenue Code of 1986 to provide equitable treatment for contributions by employees to pension plans; to the Committee on Finance.

ENHANCED SAVINGS OPPORTUNITIES ACT

Mr. GRASSLEY. Mr. President, I rise today to introduce legislation that lifts the unfair limits on how much people can save in their employer's pension plan. I have been an advocate of increasing the amount of public education we provide to people on the importance of saving for retirement. However, we also must take more tangible action that will help workers achieve a more secure retirement.

The legislation I am introducing today amends two provisions in the Internal Revenue Code which discourage workers and employers from putting money into pension plans. One of the most burdensome provisions in the Internal Revenue Code is the 25 percent limitation contained within section 415(c). Under 415(c), total contributions by employer and employee into a defined contribution (DC) plan are limited to 25 percent of compensation or $30,000 for each participant, whichever is less. That limitation applies to all employees. If the total additions into a DC plan exceed the lesser of 25 percent or $30,000, the excess money will be subject to income taxes and a penalty in some cases.

The second tax code provision affected by this legislation is section 404(a)(3). This section regulates the amount of retirement plan contributions an employer can deduct for tax purposes. We need this change because those deduction limits are impacted by how much the employee puts into the retirement plan. If we are successful in changing 415(c), we run the risk of more employers bumping into the 15% deduction limit—we don't want that to happen.

To illustrate the need for elimination of the 25 percent limit let me use an example. Bill works for a medium size company in my home state of Iowa. His employer sponsors a 401(k) plan and a profit sharing plan to help employees save for retirement. Bill makes $25,000 a year and elects to put in 10 percent of his compensation into the 401(k) plan, which amounts to $2,500 per year. His employer will match the first 5 percent of his compensation, which comes out to be $1,250, into the 401(k) plan. Therefore, the total 401(k) contribution into Bill's account in this year is $3,750. In this same year Bill' s employer determines to set aside a sufficient amount of his profits to the profit sharing plan which results in an allocation to Bill's account in the profit sharing plan the sum of $3,205. This brings the total contribution into Bill's retirement plan this year up to $6,955.

Unfortunately, because of the 25 percent of compensation limitation only $6,250 can be put into Bill's account for the year. The amount intended for Bill's account exceeds that limitation by $705. Hence, the profit sharing plan administrator must reduce the amount intended for allocation to Bill's account by $705 in order to avoid a penalty. Bill is unlikely to be able to save $705, a significant amount that would otherwise be yielding a tax deferred income which would increase the benefit Bill will receive at retirement. Bill's retirement saving is shortchanged by $705 plus the tax-deferred earnings it would have generated.

Now let's look at Irene. Irene works for the same company, but she makes $45,000 a year. She also puts in 10 percent of her compensation into the 401(k) plan, and her employer matches five percent of her salary into the account. That brings the combined contribution of Irene and her employer up to $6,750. She would also receive a contribution of $3,205 from the profit sharing plan. This brings the total contribution into Irene's pension plan for that year to $9,955. She is also subject to the 25 percent limit, but for Irene, her limit would not be reached until

$11,200. She is able to put in her 10 percent, receive the five percent match and receive the full amount from the profit share because her amount doesn't exceed the limit.

Despite the fact that Bill and Irene have the same discipline to add to their pension plans and save for their retirements, Bill is penalized by the 25 percent limitation. By lifting the 25 percent limit, we can provide a higher threshold of savings for those who need it most.

Permitting additional contributions to DC plans will help those working now, particularly women, to ''catch up'' on their retirement savings goals. Women are more likely to live out the last years of their retirement in poverty for a number of reasons. Women have longer lifespans, they are more likely to leave the workforce to raise children or care for elderly parents, are more likely to have to use assets to pay for long-term care for an ill spouse, and traditionally make less money than their male counterparts. Anyone who has delayed saving for retirement will get a much needed boost to their retirement savings strategy if the 25 percent limit is eliminated for employees.

Not only does this proposal help individual employees save for retirement but it also helps the many businesses, both small and large which are affected by 415(c). First, the 25 percent limitation causes equity concerns within businesses. Low and mid-salary workers do not feel as if the Code treats them equitably, when their higher-paid supervisor is permitted to save more in dollar terms in a tax-qualified pension plan.

Second, one of the primary reasons businesses offer pension plans is to reduce turnover and retain employees. Employers often supplement their 401(k) plans with generous matches or a profit-sharing plan to keep people on the job. The 415(c) limitation inhibits their ability to do that, particularly for the lower-paid workers who are unfairly affected.

Third, this legislation will ease the administrative burdens connected with the 25 percent limitation. Dollar limits are easier to track than percentage limits.

Finally, I want to placate any concerns that repealing the 25 percent limit will serve as a windfall for high-paid employees. The Code contains other limitations which provide protection against abuse. First, the Code limits the amount an employee can defer to a 401(k) plan. Under section 402(g) of the Code, workers can only defer up to $10,000 of compensation into a 401(k) plan in 1998. In addition, plans still must meet strict non-discrimination rules that ensure that benefits provided to highly-compensated employees are not overly generous.

The value to society of this proposal, if enacted, is undeniable. Increased savings in qualified retirement plans can prevent leakage, meaning the money is less likely to be spent, or cashed out as might happen in a savings account or even an IRA.

There will be those out there who recognize that this bill does not address the impact of the 415 limit for all of the plans that are subject to it. I have included language that would provide relief to 401(k) plans and 403(b) plans, for example. Plans authorized by section 457 of the Code—used by state and local governments and non-profit organizations have not been specifically addressed. I want to assure organizations who sponsor 457 plans that I support ultimate conformity for all plans affected by the 415(c) percentage limitation. Over the next couple of weeks, I hope to work with these organizations to identify the changes that are necessary to achieve equity and simplicity for their employees. In the mean time, this is a positive step toward enhancing the retirement savings opportunities of working Americans.

We have begun to educate all Americans about the importance of saving for retirement, but if we educate and then do not give them the tools to allow people to practically apply that knowledge, we have failed in our ultimate goal to increase national savings. Let's help Americans succeed in saving for retirement. In helping them achieve their retirement goals, they help us to achieve our goal as policymakers of improving the quality of life for Americans.

I want to thank an Iowa company, IPSCO, in Camanche, Iowa, and its many employees for bringing this issue to the forefront. I would also ask unanimous consent that a letter supporting this legislation from the Profit Sharing Council of America be printed in the RECORD.

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

PROFIT SHARING/401(k)
COUNCIL OF AMERICA,
*Chicago, IL, January 19, 1999.*

Hon. CHARLES E. GRASSLEY,
*U.S. Senate,*
*Washington, DC.*

DEAR CHAIRMAN GRASSLEY: On behalf of the 1,200 Profit Sharing/401(k) Council of America members who sponsor employer-provided retirement plans, I am pleased to announce our strong support of The Enhanced Savings Opportunity Act, introduced today, that would repeal the IRC section 415(c) 25 percent of compensation limit currently imposed on employees participating in defined contribution plans. That limitation caps the combined employee and employer contribution into a 401(k) account to 25 percent of an employee's earnings. The 25 percent limitation has significantly reduced the ability of lower-paid employees, specifically intermittent workers, from taking full advantage of defined contribution retirement programs. Most companies limit the percentage of pay that an employee can contribute to their 401(k) plan to even less than 25 percent in order to insure compliance with 415(c).

The legislation will promote a conducive environment for expanding the savings opportunities in employer-provided retirement programs by removing one of the impediments that prevents employees, especially lower-paid employees, from taking full advantage of profit sharing, 401(k), and other defined contribution programs.

The Enhanced Savings Opportunity Act will permit employees who leave and reenter the workforce, many of whom are women, to make larger contributions when they are working, in effect allowing them to ''catch up'' their contributions. All low-paid employees will now be allowed to defer up to $10,000 of their wages into a 401(k) plan. Also, companies will be permitted to make more generous matching and profit sharing contributions to their employees, especially their lower-paid employees.

We continue to benefit from your strong leadership in support of employer-provided retirement plans and again commend you for this new proposed legislation.

Sincerely,

DAVID L. WRAY,
*President.*

***NOTICE***

***Incomplete record of Senate proceedings. Except for concluding business which follows, today's Senate proceedings will be continued in the next issue of the Record.***

## REGISTRATION OF MASS MAILINGS

The filing date for 1998 fourth quarter mass mailings is January 25, 1999. If your office did no mass mailings during this period, pleased submit a form that states ''none.''

Mass mailing registrations, or negative reports, should be submitted to the Senate Office of Public Records, 232 Hart Building, Washington, D.C. 20510–7116.

The Public Records office will be open from 8:00 to 6:00 p.m. on the filing date to accept these filings. For further information, please contact the Public Records office at (202) 224–0322.

## 1998 YEAR END REPORT

The mailing and filing date of the 1998 Year End Report required by the Federal Election Campaign Act, as amended, is Sunday, January 31, 1999. Principal campaign committees supporting Senate candidates file their reports with the Senate Office of Public Records, 232 Hart Building, Washington, D.C. 20510–7116.