SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. SHELBY (for himself, Mr. SESSIONS, Mrs. HUTCHISON, Mr. SMITH of New Hampshire, Mr. GRAHAM, Mrs. BOXER, Mr. STEVENS, Mr. ABRAHAM, Mr. ALLARD, Mr. BUNNING, Mr. GRAMS, Mr. LOTT, Mr. JOHNSON, Mr. BREAUX, Mr. GRASSLEY, Ms. COLLINS, Mr. BURNS, Mr. BYRD, Mr. BROWNBACK, Mr. HAGEL, Mr. COVERDELL, Mr. HELMS, Mr. SPECTER, Mr. THURMOND, Mr. THOMAS, Mr. DEWINE, Mr. DODD, Mr. FEINGOLD, Mr. LEVIN, Mr. MOYNIHAN, Mr. GRAMM, Mr. MACK, Mr. FRIST, Mr. ENZI, and Mr. GREGG):

S. Con. Res. 45. A concurrent resolution expressing the sense of Congress that the July 20, 1999, 30th anniversary of the first lunar landing should be a day of celebration and reflection on the Apollo-11 mission to the Moon and the accomplishments of the Apollo program throughout the 1960's and 1970's; to the Committee on the Judiciary.

S. Con. Res. 46. A concurrent resolution expressing the sense of Congress that the July 20, 1999, 30th anniversary of the first lunar landing should be a day of celebration and reflection on the Apollo-11 mission to the Moon and the accomplishments of the Apollo program throughout the 1960's and 1970's; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

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

S. 1394. A bill to require the Secretary of the Treasury to mint coins in commemoration of the U.S.S. *New Jersey*, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

U.S.S. ''NEW JERSEY'' COMMEMORATIVE COIN ACT

● Mr. TORRICELLI. Mr. President, I rise today to introduce legislation that will assist with the financial costs of relocating the Battleship U.S.S. *New Jersey* to a place of honored retirement in her namesake state. After fifty-six years of service to our Nation, this proud ship is ready to serve America in a new and invaluable role as an educational museum and historic center.

The U.S.S. *New Jersey* is believed to be the most decorated warship in the annals of the U.S. Navy, with sixteen battle stars and thirteen other ribbons and medals. She is one of the four battleships of the 45,000 ton *Iowa* class, which are the largest, fastest and most powerful we ever built. Beyond her imposing size and physical characteristics though, the *New Jersey* has an unmatched record of service to her country.

With the easing of world tensions, the battleship was decommissioned in February of 1991 and she now lays in reserve, ready, but destined never to sail again. In January 1995, the *New Jersey* was stricken by the Navy, meaning that she was available to become a museum. For 24 years, the people of New Jersey have been organizing at the grass roots level to prepare for the eventual return to the ship.

Mr. President, the legislation I am introducing will authorize the Secretary of the Treasury to mint silver coins commemorating the U.S.S. *New Jersey*. Millions of dollars have already been raised through the purchase of Battleship License Plates, an annual Tax Check Off and contributions by many of New Jersey's leading civic and business organizations. The issuance of a U.S.S. *New Jersey* coin will add to these efforts and help commemorate this national treasure.

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

The bill follows:

S. 1394

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 ''U.S.S. New Jersey Commemorative Coin Act''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The U.S.S. New Jersey was launched December 7, 1942, the start of nearly 50 years of dedicated service to our Nation prior to final decommissioning in 1991.

(2) After commissioning, the U.S.S. New Jersey was sent to the Pacific, and played a key role in operations in the Marshalls, Marianas, Carolines, Philippines, Iwo Jima, and Okinawa, with a particular highlight being the U.S.S. New Jersey's service as the flagship for Commander 3d Fleet, Admiral William ''Bull'' Halsey, during the Battle of Leyte Gulf in October 1944.

(3) After the Allied victory in World War II, the U.S.S. New Jersey was deactivated in 1948 until being called to service for the second time, in November 1950.

(4) The U.S.S. New Jersey served two tours in the Western Pacific during the Korean War, serving as flagship for Commander 7th Fleet.

(5) After her valiant service during the Korean War, the U.S.S. New Jersey was again mothballed in 1957, only to be re-activated again in 1968 to serve as the only active-duty Navy battleship.

(6) The U.S.S. New Jersey served a successful tour during the Vietnam conflict, providing critical major-caliber fire support for friendly troops, before again being decommissioned in December 1969.

(7) The U.S.S. New Jersey's service to our country did not end with the Vietnam conflict, as she was again called to active duty status in December 1982 and provided a show of strength off the coast of Nicaragua, in Central America in 1983.

(8) The Navy again called upon the U.S.S. New Jersey to provide critical support by sending her to the Mediterranean in 1983 to provide critical fire support to Marines in embattled Beirut, Lebanon.

(9) The U.S.S. New Jersey continued to serve the Navy in a variety of roles, including regular deployments in the Western Pacific.

(10) The U.S.S. New Jersey was decommissioned for the fourth and final time in February 1991.

(11) In 1998 Congress passed legislation to decommission the U.S.S. New Jersey and permanently berth her in the State of New Jersey.

(12) The State has strongly endorsed bringing the U.S.S. New Jersey home, and has issued commemorative license plates and taken other steps to raise funds for the costs of relocating the U.S.S. New Jersey.

(13) The New Jersey congressional delegation is united in its support for bringing the U.S.S. New Jersey home to New Jersey.

SEC. 3. COIN SPECIFICATIONS.

(a) DENOMINATION.—In commemoration of the U.S.S. New Jersey, the Secretary of the Treasury (hereafter in this Act referred to as the ''Secretary'') shall mint and issue not more than 500,000 $1 coins, each of which shall—

(1) weigh 26.73 grams;

(2) have a diameter of 1.500 inches; and

(3) contain 90 percent silver and 10 percent copper.

(b) LEGAL TENDER.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

(c) NUMISMATIC ITEMS.—For purposes of section 5136 of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

SEC. 4. SOURCES OF BULLION.

The Secretary may obtain silver for minting coins under this Act from any available source, including stockpiles established under the Strategic and Critical Materials Stock Piling Act.

SEC. 5. DESIGN OF COINS.

(a) DESIGN REQUIREMENTS.—

(1) IN GENERAL.—The design of the coins minted under this Act shall be emblematic of service of the U.S.S. New Jersey.

(2) DESIGNATION AND INSCRIPTIONS.—On each coin minted under this Act there shall be—

(A) a designation of the value of the coin;

(B) an inscription of the year ''2002''; and

(C) inscriptions of the words ''Liberty'', ''In God We Trust'', ''United States of America'', and ''E Pluribus Unum''.

(3) OBVERSE OF COIN.—The obverse of each coin minted under this Act shall bear the likeness of the U.S.S. New Jersey.

(4) GENERAL DESIGN.—In designing this coin, the Secretary shall also consider incorporating appropriate elements from the tenure of service of the U.S.S. New Jersey in the Navy.

(b) SELECTION.—The design for the coins minted under this Act shall be selected by the Secretary after consultation with the Commission of Fine Arts and shall be reviewed by the Citizens Commemorative Coin Advisory Committee.

SEC. 6. ISSUANCE OF COINS.

(a) QUALITY OF COINS.—Coins minted under this Act shall be issued in uncirculated and proof qualities.

(b) MINT FACILITY.—Only one facility of the United States Mint may be used to strike any particular quality of the coins minted under this Act.

(c) PERIOD FOR ISSUANCE.—The Secretary may issue coins minted under this Act only during the period beginning on January 1, 2002, and ending on December 31, 2002.

SEC. 7. SALE OF COINS.

(a) SALE PRICE.—The coins issued under this Act shall be sold by the Secretary at a price equal to the sum of—

(1) the face value of the coins;

(2) the surcharge provided in subsection (d) with respect to such coins; and

(3) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) BULK SALES.—The Secretary shall make bulk sales of the coins issued under this Act at a reasonable discount.

(c) PREPAID ORDERS.—

(1) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) DISCOUNT.—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.

(d) SURCHARGES.—All sales of coins minted under this Act shall include a surcharge of $10 per coin.

SEC. 8. DISTRIBUTION OF SURCHARGES.

(a) IN GENERAL.—Subject to section 5134(f) of title 31, United States Code, 10 percent of the proceeds from the surcharges received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the U.S.S. New Jersey Battleship Foundation in Middletown, New Jersey, for activities associated with the costs of moving the U.S.S. New Jersey and permanently berthing her in her new location.

(b) AUDITS.—The U.S.S. New Jersey Battleship Foundation shall be subject to the audit requirements of section 5134(f)(2) of title 31, United States Code.●

By Mr. BAUCUS:

S. 1395. A bill to require the United States Trade Representative to appear before certain congressional committees to present the annual Nation Trade Estimate; to the Committee on Finance.

PRESENTATION OF NATIONAL TRADE ESTIMATE

Mr. BAUCUS. Mr. President, the bill I am introducing today requires that the United States Trade Representative, the USTR, appear before the Finance Committee in the Senate and the Ways and Means Committee in the House, on the day that the National Trade Estimates Report is released.

USTR must deliver the NTE Report to the Committees. He or she must provide an analysis of the contents of the NTE Report. And they must outline the major actions that will result from the NTE findings or give the reasons for not taking action.

The NTE is an important document. It is the major opportunity each year for the Administration to set out the key trade barriers we confront with our major trade partners.

At present, our trade law requires merely that USTR report the NTE to the President, the Finance Committee and the appropriate committees in the House. The change I am proposing means that the NTE will be made public on Capitol Hill rather than at USTR. The U.S. Trade Representative will present both its analysis of the trade barriers and its plan of action to deal with those barriers. That presentation will be made directly and immediately to the Congress. USTR should also explain what they have done over the past year to address trade barriers listed in the prior year's report.

This is a small change, but an important symbolic one.

The NTE should be the plan of action the Administration will pursue to dismantle foreign trade barriers. And USTR and the Administration must be accountable to the Congress for the results of this plan.

During twenty-nine years of service in the United States Congress, I have watched a continuing transfer of authority and responsibility for trade policy from the Congress to the executive branch. The trend has been subtle, but clear and constant.

I want to see this trend reversed. We in the Congress have a clear constitutional responsibility for trade. Article I of the Constitution reads: ''The Congress shall have power . . . To regulate commerce with foreign nations.'' I want to use this constitutional authority to provide more effective and active congressional oversight of trade policy. And I would like to see more congressional direction for the executive branch in the area of trade policy.

Again, this bill is a very small step in that direction. In the coming weeks and months, I will introduce further measures to ensure that the Congress implements fully its constitutional prerogatives on trade.

By Mr. FITZGERALD:

S. 1396. A bill to amend section 4532 of title 10, United States Code, to provide for the coverage and treatment of overhead costs of United States factories and arsenals when not making supplies for the Army, and for other purposes; to the Committee on Armed Services.

LEGISLATION TO PROVIDE COVERAGE AND TREATMENT OF OVERHEAD COSTS OF UNITED STATES FACTORIES AND ARSENALS WHEN NOT MAKING SUPPLIES FOR THE ARMY

Mr. FITZGERALD. Mr. President, I rise today, along with my colleagues, Senators DURBIN, GRASSLEY, and HARKIN, to introduce a bill to preserve the integrity of our arsenals and the vital role they play in our national security and defense.

There are three arsenals remaining in this country charged with the responsibility of maintaining a military production capability in case of war. The Rock Island Arsenal in my home State of Illinois is one of those three national arsenals.

The U.S. Government acquired Rock Island, which lies in the Mississippi River between Illinois and Iowa, in 1804. The first U.S. Army establishment on the island was Fort Armstrong in 1816. Neither Illinois nor Iowa had established statehood at that time, but Fort Armstrong served as a refuge for pioneers living on the frontier. In 1862, Congress passed a law that established Rock Island Arsenal. Construction of the first manufacturing buildings began in 1866 and finished with the last stone shop in 1893.

Today, Rock Island Arsenal is a leader in high-technology weapons production, engineering, and logistics and plays an integral role in our national defense, providing manufacturing, supply, and support services for our Nation's Armed Forces.

I recently visited Rock Island Arsenal and was truly impressed with its facility and manufacturing capabilities and with its hard-working personnel. Manufacturing production at Rock Island centers around recoil mechanisms, gun mounts, artillery carriages, and the final assembly of Howitzers. Rock Island also serves as a ''job shop'' for the U.S. military, producing small quantities of urgently needed specialty items and performing work that is not profitable enough to be done in the private sector.

Rock Island is the largest Government-owned manufacturing arsenal in the Western World with state-of-the-art machining, welding, forging, plating, foundry, and assembly facilities.

Rock Island's specialty is artillery production, which it has done since the late 19th century, resulting in a long and distinguished history of efficient production and effective products.

Rock Island has been very successful at producing towed artillery and has also been responsible for the production work on all U.S. Howitzers for the last 50 years. However, even with the state-of-the-art facilities, expertise, and proven track record of the arsenals, there are those who would like to see them closed and transfer all military production to private firms.

Through those efforts, the arsenals have slowly but surely been marginalized through the years. Currently, Rock Island Arsenal is operated only at about 20 percent of its capacity. This approach does not save the Government money. It wastes it by making the Government pay twice for any product an arsenal can manufacture.

Let me explain this point, because it is important to understand that our current policy does not save the taxpayers any money. Arsenals are currently kept open and on standby to gear up for production in the event of a national military emergency. Therefore, the Army must pay the overhead to keep them open whether or not the Army uses the arsenals to procure equipment and supplies. When a contract is awarded to a private firm, the Army is still paying for unused capacity at the arsenals, while at the same time paying the private contractor the cost of the contract. In effect, the taxpayers are paying twice for every product procured from a private contractor that could have been procured from an arsenal.

The Army's procurement system hides these true costs from the public. The Army's bidding procedures do not allow procurement officers to evaluate arsenal bids fairly. Current bidding procedures require arsenals to include all of their full overhead costs, including the cost of unused capacity in the bid price for their products. This approach skews the true cost of the products produced by the arsenals. By requiring that arsenal bids include the cost of unused plant capacity—that is, those costs associated with the level of readiness the arsenals are already required to maintain—the Army has rendered arsenal bids inherently uncompetitive because the price of the product is artificially inflated beyond its true cost through the inclusion of overhead costs unrelated to the specific bid.

This bookkeeping fiction makes the bid price for arsenal products uncompetitive, even if the actual price of an arsenal product can be acquired at the

lowest cost to the Government. Thus, not only must the taxpayers pay twice for a product when it is not manufactured at an arsenal, but the taxpayer may not be buying the lowest priced product.

The legislation I am interested in introducing today, Mr. President, with my colleagues from Illinois and Iowa, would require the Secretary of the Army to include in his annual budget request a line item to pay for the unutilized and underutilized plant capacity of the arsenals, thus recognizing the important role played by the arsenals in maintaining our defense preparedness. By requiring the Army to account for the overhead cost of unused arsenal capacity, the arsenals will no longer have to artificially inflate the cost of their bids to account for this overhead. Arsenals will be able to make competitive bids by virtue of not having to abide by the fiction of including as overhead for a bid the total cost of maintaining the arsenals. Instead, arsenals will be placed on a fairer footing with private firms by including in their bid price only the overhead cost associated with the particular product on which they are bidding.

In the end, this approach will allow the Army to procure those products which arsenals are capable of manufacturing in the most cost-effective way.

Products manufactured by our national arsenals are among the best in the world, and the arsenals deserve fair treatment and consideration in the marketplace. In short, adoption of this legislation will enhance our national defense, save taxpayer dollars, and ensure the economic viability of the communities that surround our national arsenals, such as that in Rock Island, IL.

Mr. President, I ask for favorable consideration of this bill.

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

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

S. 1396

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

SECTION 1. OVERHEAD COSTS OF UNITED STATES FACTORIES AND ARSENALS WHEN NOT MAKING SUPPLIES FOR THE ARMY.

(a) FINDING.—Congress makes the following findings:

(1) Factories and arsenals owned by the United States play a vital role in the national defense by ensuring the making of supplies for the Department of the Army.

(2) The vital role of such factories and arsenals in the national defense is not diminished by their unutilization or underutilization in peacetime.

(b) OVERHEAD COSTS OF FACTORIES AND ARSENALS WHEN UNUTILIZED OR UNDERUTILIZED.—Section 4532 of title 10, United States Code, is amended by adding at the end the following:

''(c) OVERHEAD COSTS WHEN UNUTILIZED OR UNDERUTILIZED.—(1) The Secretary shall submit to Congress each year, together with the President's budget for the fiscal year beginning in such year under section 1105(a) of title 31, an estimate of the funds to be required in the fiscal year in order to cover any overhead costs at factories and arsenals referred to in subsection (a) that result from the unutilization or underutilization of such factories and arsenals in the fiscal year due to low production requirements of the Department of the Army.

''(2) Funds appropriated to the Secretary for a fiscal year for costs described in paragraph (1) shall be available to the Secretary in such fiscal year to cover such costs.

''(3) In determining the cost of making a supply or other good, other than a supply for the Department of the Army, at a factory or arsenal referred to in subsection (a), the Secretary shall not take into account any overhead cost covered with funds available to the Secretary under paragraph (2).''.

(c) STYLISTIC AMENDMENTS.—That section is further amended—

(1) in subsection (a), by inserting ''AUTHORITY TO MAKE SUPPLIES.—'' before ''The Secretary of the Army''; and

(2) in subsection (b), by inserting ''ABOLITION.—'' before ''The Secretary''.

By Mr. ENZI (for himself and Mr. THOMAS):

S. 1397. A bill to provide for the retention of the name of the geologic formation known as ''Devils Tower'' at the Devils Tower National Monument in the State of Wyoming; to the Committee on Energy and Natural Resources.

DEVILS TOWER NATIONAL PARK NAME PRESERVATION ACT

Mr. ENZI. Mr. President, I rise to introduce a bill which will enable Devils Tower National Monument to retain its historic and traditional name.

Wyoming is a state rich with heritage. We have cities and communities named after great explorers like John Charles Fremont, John Wessley Powell, and mountain man Jim Bridger. We have cities named after William F. ''Buffalo Bill'' Cody, Civil War Hero General Philip Sheridan and Army Fort Commander Caspar Collins. The state is also rich with names that recognize the contributions by Native Americans. Our state capital, Cheyenne, is joined with other areas named Shoshoni, Washakie, Arapahoe, Ten Sleep, Sundance and Shawnee. Wyoming also adopted many names that represent the unique geography that makes up our diverse state. For example, we have the Yellowstone, Riverton, Big Piney, Green River, Mountain View, Lonetree, and the Wind River Canyon.

One such place, Devils Tower, was named in 1875 by a military survey team. You can imagine the impact on the group as it rode up to the tower more than 120 years ago. The gray volcanic tower sits on the plains of Northeastern Wyoming and shoots up, straight into the sky, for approximately one-quarter of a mile. Its rugged walls and round shape make it look something like a giant petrified tree stump. I live in the area and have visited the tower many times. I can attest that the name Devils Tower is clearly applicable.

Along with Yellowstone National Park's Old Faithful, Devils Tower has become an icon of Wyoming and the West. This unique structure is known internationally as one of the premiere climbing locations in the world and therefore plays a vital role in the state's billion dollar tourism industry.

I am, however, sensitive to the feelings of those Native Americans who would prefer to see the name of this natural wonder changed to something more acceptable to their cultural traditions. Many tribal members think of the monument as sacred. However, I believe little would be gained and much would be lost should Devils Tower be renamed. Any name change for Devils Tower would dredge up age-old conflicts and divisions between descendants of European settlers and the descendants of Native Americans and would place a heavy burden on the region's economic stability.

My legislation will prevent such an impact and will embrace the least offensive option offered so far—the preservation of the traditional name of Devils Tower. I urge my colleagues to support this measure. 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. 1379

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other authority of law, the mountain located 44°42′58″ N., by 104°35′32″ W., shall continue to be named and referred to for all purposes as Devils Tower.

By Mr. HELMS:

S. 1398. A bill to clarify certain boundaries on maps relating to the Coastal Barrier Resources System; to the Committee on Environment and Public Works.

COASTAL BARRIER RESOURCES SYSTEM CORRECTIONS

Mr. HELMS. Mr. President, today I'm introducing legislation to correct errors in the Coastal Barrier Resource System maps which have resulted in the denial of federal flood insurance to a large number of coastal North Carolinians in Dare County, insurance for which they unquestionably should have been eligible.

I've received many complaints from property owners about this situation, and last year I and members of North Carolina's House delegation asked the Fish and Wildlife Service to determine whether the map of the ''otherwise protected area' overlaying the Cape Hatteras National Seashore was in fact accurate.'' (Property owners outside of the seashore were being denied flood insurance on the grounds that they were within the boundary of the ''otherwise protected area.'')

Mr. President, the background regarding this Senate bill that I'm introducing today will explain the necessity of this bill's being offered:

Congress enacted the Coastal Barrier Improvement Act of 1990 (P.L. 101–591; 104 Stat. 2931); within that act it established a classification in the System

known as ''otherwise protected areas'' which consist of publicly or privately-owned lands on coastal barriers which were held for conservation purposes. While they were not made part of the Coastal Barrier Resources System, the Congress forbade the issuance of new flood insurance for structures within these areas. (Lands within the Coastal Barrier Resources System—undeveloped coastal barriers and associated areas—are denied any Federal development-related assistance.)

All of the ''otherwise protected areas'' are depicted on maps adopted by the Congress in the Coastal Barrier Improvement Act. As needed, the U.S. Fish and Wildlife Service, which administers these maps, works with the Federal Emergency Management Agency, (FEMA) to determine precisely where the boundary of otherwise protected areas are located, so that FEMA may determine whether specific locations are eligible for flood insurance.

After consulting extensively for more than a year with FEMA and the National Park Service, the Fish and Wildlife Service has now advised us that the maps of the ''otherwise protected area,'' known as NC03P, are indeed inaccurate. The errors in the maps deny flood insurance to property owners adjacent to the Cape Hatteras National Seashore in Dare County.

The errors result from inaccurate depictions of the Cape Hatteras National Seashore boundary on the standardized maps upon which Congress designated this area, and in part because of the problems inherent in translating lines drawn on the large-scale maps used for designations into precise, on-the—ground property lines-a problem which neither the Congress nor the Interior Department appears to have considered when this was enacted in 1990.

The fact that Congress designated the boundaries of coastal barrier units and ''otherwise protected areas'' by maps, the detection of an error in a depicted feature of the underlying map, or disparities between clear Congressional intent and the actual map, does not alter the enacted boundary of the unit or area. Only any act of Congress may revise such a boundary; the statute does not provide authority for an administrative correction of such an error.

Although there is no statutory definition of, and little legislative history for, ''otherwise protected areas'', the areas so designated by Congress in 1990 were almost without exception depicted on maps transmitted by the Secretary in his January 1989 report to Congress pursuant to section 10 of the Coastal Barrier Resources Act of 1982. In developing the recommendations and maps for that Report, the Department utilized the following definition, which was published in the Federal Register (50 FR 8700):

A coastal barrier or portion thereof is defined as ''otherwise protected'' if it has been withdrawn from the normal cycle of private development and dedicated for conservation, wildlife management, public recreation or scientific purposes. . . .

This definition indicates that ''otherwise protected areas'' included only the conservation areas upon which they were based. In addition, the Administration has supported and Congress has enacted legislation in several instances where the stated purpose was to remove private property from the mapped outer boundary of an otherwise protected area.

I am grateful for the cooperation of the Administration in this matter, I do regret that it look so long in this case.

The fact remains that the mistakes which led to more than 230 properties in Dare County being placed within the outer boundary of the ''otherwise protected area'' was clearly not intended by Congress when the ''otherwise protected area'' was created.

The bill I'm introducing today will correct these errors, Mr. President, and I urge the Senate to pass this legislation promptly.

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. 1398

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

SECTION 1. REPLACEMENT OF COASTAL BARRIER RESOURCES SYSTEM MAPS.

(a) IN GENERAL.—The 7 maps described in subsection (b) are replaced by 31 maps entitled ''Coastal Barrier Resources System, NC–03P'', designated as Cape Hatteras 5A through 5G, and dated May 26, 1999.

(b) MAPS DESCRIBED.—The maps described in this subsection are the 7 maps that—

(1) relate to the unit of the Coastal Barrier Resources System entitled ''Cape Hatteras NC–03P'';

(2) are designated as Cape Hatteras 5A through 5G; and

(3) are included in a set of maps entitled ''Coastal Barrier Resources System'', dated October 24, 1990, and referred to in section 4(a) of the Coastal Barrier Resources Act (16 U.S.C. 3503(a)).

(c) AVAILABILITY.—The Secretary of the Interior shall keep the maps that replace the maps described in subsection (b) on file and available for inspection in accordance with section 4(b) of the Coastal Barrier Resources Act (16 U.S.C. 3503(b)).

By Mr. DEWINE (for himself, Mr. DODD, Ms. SNOWE, Ms. LANDRIEU, Mr. REID, Mrs. BOXER, Mr. INOUYE, Mr. SARBANES, Mr. KENNEDY, and Mr. WELLSTONE):

S. 1399. A bill to amend title 38, United States Code, to provide that pay adjustments for nurses and certain other health-care professionals employed by the Department of Veterans Affairs shall be made in the manner applicable to Federal employees generally and to revise the authority for the Secretary of Veterans Affairs to make further locality pay adjustments for those professionals; to the Committee on Veterans' Affairs.

VA NURSE APPRECIATION ACT OF 1999

Mr. DEWINE. Mr. President, I rise today to introduce legislation to address a little known but very important issue within the Department of Veterans Affairs. The legislation would correct an injustice suffered throughout this decade by a workforce of 39,000 dedicated nurses who devote their careers toward the caring of our nation's veterans. Due to an unintentional use of federal law, the VA has allowed nurses to go up to five years in a row without a single raise. In some cases, VA nurses have received pay cuts by as much as eight percent in a single year, or received a token raise of one-tenth of one percent. I am today, along with Senators DODD, SNOWE, LANDRIEU, REID, BOXER, INOUYE, SARBANES and KENNEDY, calling on Congress to put an end to this practice by passing the VA Nurse Appreciation Act.

We find ourselves in this situation because of unintended consequences. In 1990, Congress passed the Nurse Pay Act, which allowed VA medical center directors to give VA nurses higher annual pay raises than other federal employees on the General Schedule (GS). At the time, this well intentioned bill was needed to address a national nursing shortage in VA hospitals. However, after the shortage eased, many medical center directors used the discretion given to them by the law to provide minimal raises and even pay cuts. In my own state of Ohio, from 1996 to 1998, VA nurses in Columbus took a 2.8% pay cut, while federal employees in the same area received pay raises ranging from 2.4% to 3%. This clearly was not what Congress had in mind when it passed the 1990 Nurse Pay Act.

Unfortunately, the problem is widespread and knows no geographic boundaries. From 1996–1999, nurses at sixteen different VA medical centers had their pay rate cut by as much as eight percent, while other federal employees received annual GS increases ranging from 2.4% to 3.6% or more. In addition, from 1996–1999, no raises were given to Grade I, II or III nurses at approximately 80 VA medical centers around the country.

To address this wrong, the VA Nurse Appreciation Act. This bill would ensure that Title 38 nurses would be eligible to receive the same annual GS increase plus locality pay provided to all other federal employees in their area. The bill would preserve the essential purpose of the 1990 Nurse Pay Act by giving the VA Secretary the discretion to increase pay, or delegate this authority to VA medial center directors if they have trouble recruiting or retaining quality nurses.

Mr. President, what message are we sending to our veterans when we are not willing to pay the nurses that provide their daily care the same pay increases that every federal employee now receives. Congress should be dedicated to providing our veterans the

best possible health services, and putting an emphasis on top quality nursing care is a right step in that direction. This bill would end the practice of discriminatory pay cuts by directors of VA medical facilities and provide the assurance of at least the GS raise received by all other federal employees. This bill is really about fairness. It would help those dedicated workers who have not been receiving regular pay raises for years. If we can pass this bill quickly, we can insure all VA nurses will receive a much-deserved pay raise in January 2000.

This bill is companion legislation to H.R. 1216, introduced by my colleague and friend from Ohio, Congressman LATOURETTE. It has the support of the American Nurses Association (ANA), the American Federation of Government Employees (AFGE) and the National Federation of Federal Employees (NFFE) along with various veterans groups, including the Disabled American Veterans and the Paralyzed Veterans of America. The LaTourette bill has bipartisan support from more than 70 House members, including 11 members of the House committee on Veterans' Affairs.

Congress now has the chance to right a wrong and show VA nurses that their compassion and dedication are appreciated. I urge my colleagues to support and cosponsor the VA Nurse Appreciation Act.

I ask unanimous consent that the text of the VA Nurse Appreciation Act and letters in support of the legislation be printed in the RECORD.

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

S. 1399

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 ''Department of Veterans Affairs Nurses Appreciation Act of 1999''.

SEC. 2. REVISED AUTHORITY FOR ADJUSTMENT OF BASIC PAY FOR NURSES AND CERTAIN OTHER HEALTH-CARE PROFESSIONALS OF THE DEPARTMENT OF VETERANS AFFAIRS.

(a) ANNUAL ADJUSTMENTS UNDER TITLE 5.—Section 7451 of title 38, United States Code, is amended—

(1) by striking subsections (d), (e), (f), and (g); and

(2) by adding after subsection (c) the following new subsection (d):

''(d) The rates of basic pay for each grade in a covered position shall (notwithstanding subsection (a)(3)(A)) be adjusted annually by the same percentages as the rates of pay under the General Schedule are adjusted pursuant to sections 5303 and 5304 of title 5. Adjustments under this subsection shall be effective on the same date as the annual adjustments made in accordance with such sections 5303 and 5304.''.

(b) REVISED TITLE 38 LOCALITY PAY AUTHORITY.—Such section is further amended by adding after subsection (d), as added by subsection (a) of this section, the following new subsection (e):

''(e)(1) Whenever after October 1, 2002, the Secretary determines that the rates of basic pay in effect for a grade of a covered position, as most recently adjusted under subsection (d), at a given Department healthcare facility are inadequate to recruit or retain high-quality personnel in that grade at that facility, the Secretary shall in accordance with this subsection adjust the rates of basic pay for that grade at that facility.

''(2) An adjustment in rates of basic pay for a grade under this subsection shall be made by determining a minimum rate of basic pay for the grade and then adjusting the other rates of basic pay for the grade to conform to the requirements of subsection (c).

''(3)(A) The Secretary shall determine a minimum rate of basic pay for a grade for purposes of paragraph (2) so as to achieve consistency between the rates of basic pay for the grade at the facility concerned and the rates of compensation in the Bureau of Labor Statistics labor market in which the facility is located for non-Department health-care positions requiring education, training, and experience that is equivalent or similar to the education, training, and experience required for Department personnel in the grade at the facility.

''(B) The Secretary shall utilize the most current industry-wage survey of the Bureau of Labor Statistics for a labor market in meeting the objective specified in subparagraph (A).

''(C) For purposes of this paragraph, the term 'rate of compensation', with respect to health-care positions in non-Department health-care facilities, means the sum of—

''(i) the rate of pay for personnel in such positions; and

''(ii) any employee benefits (other than benefits similar to benefits received by employees in the covered position concerned) for those health-care positions to the extent that such employee benefits are reasonably quantifiable.

''(4) An adjustment under this subsection may not reduce any rate of basic pay.

''(5) An adjustment in rates of basic pay under this subsection shall take effect on the first day of the first pay period beginning after the date on which the adjustment is made.

''(6) The Secretary shall prescribe regulations providing for the adjustment of rates of basic pay for employees in covered positions in the Central and Regional Offices in order to assure the recruitment and retention of high-quality personnel in such positions in such offices. The regulations shall provide for such adjustment in a manner similar to the adjustment of rates of basic pay under this subsection.''.

(c) ANNUAL ADJUSTMENTS IN INCREASED RATES OF BASIC PAY.—Section 7455 of such title is amended—

(1) in subsection (a)(1), by striking ''and (d)'' and inserting ''(d), and (e)''; and

(2) by adding at the end the following:

''(e) Whenever an annual adjustment in rates of basic pay under sections 5303 and 5304 of title 5 becomes effective on or after the effective date of an increase in rates of basic pay under this section, the rates of basic pay as so increased under this section shall be adjusted in accordance with appropriate conversion rules prescribed under section 5305(f) of title 5, effective as of the effective date of such annual adjustment in rates of basic pay.''.

(d) CONFORMING AMENDMENT.—Subsection (c)(1) of section 7451 of such title is amended by striking the third sentence.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1999.

SEC. 3. SAVINGS PROVISION.

In the case of an employee of the Veterans Health Administration who on the day before the effective date of the amendment made by section 2(a) is receiving a rate of pay by reason of the second sentence of section 7451(e) of title 38, United States Code, as in effect on that day, the provisions of the second and third sentences of that section, as in effect on that day, shall continue to apply to that employee, notwithstanding the amendment made by section 2(a).

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL–CIO,

Washington, DC, June 29, 1999.

DEAR SENATOR: On behalf of the American Federation of Government Employees, AFL–CIO, and the 600,000 federal employees we represent, I am writing to urge you to become an original co-sponsor of the Department of Veterans Affairs Nurses Appreciation Act of 1999. This bipartisan bill will be introduced by Senator MIKE DEWINE (R–OH) and Senator CHRIS DODD (D–CT).

The bill corrects an incongruity in the pay system for workers at the Department of Veterans Affairs (DVA) which has hurt nurses and other health care workers. For the last decade, the roughly 39,000 DVA nurses who care for our ailing veterans have been part of a unique, locality-based pay system that gives hospital directors discretion over nurses salaries. Unfortunately, this atypical discretion has been used to freeze nurse pay, provide minuscule annual raises and even cut pay rates by as much as 8% in a single year.

The Department of Veterans Affairs Nurses Appreciation Act, which is being introduced at the request of AFGE, will rectify the long-standing abuse of DVA nurses. It will put a permanent stop to wage freezes and negative pay adjustments. It will guarantee that DVA nurses and other health care employees receive the same general schedule (GS) increase plus locality pay given to virtually all other federal workers, including federal workers who work alongside our DVA nurses. Should the DVA have problems recruiting or retaining quality nurses in the future, the Secretary will have the flexibility to increase pay if necessary.

The primary purpose of this bill is to ensure that DVA employees who have been denied annual pay increases will start to be put on equal footing with their GS co-workers.

Veterans service organizations such as the Disabled American Veterans, the Vietnam Veterans of America, and the Paralyzed Veterans of America support passage of the Department of Veterans Affairs Nurses Appreciation Act of 1999.

Year after year, DVA nurses have lagged behind in pay increases, as compared to their GS co-workers. For example, in 1996, the average pay raise for nurses was 1.2 percent; compared to the 2.4 percent average increase received by their GS co-workers. In 1997, the average pay raise for nurses was again 1.2 percent, compared to the 3.0 percent average increase received by their GS co-workers. In 1998, the average pay raise for nurses was 2.2 percent, compared to the 2.9 percent average increase received by their GS co-workers. In 1999, the average pay raise for nurses was 3.0 percent, compared to the 3.6 percent average increase received by their GS co-workers. From 1996 through 1999, DVA nurses on average were denied a pay raise equal to 4.5 percent because of the current pay system for nurses.

DVA nurses, like their co-workers, deserve praise and respect for standing by our nation's veterans. As you may recall during the government shutdown DVA nurses and their co-workers took care of veterans without even knowing whether they would get paid.

Many DVA nurses could have pursued higher paying jobs in the private sector. Instead, most have chosen to stay with the DVA because they care deeply for our aging and ailing veterans and are earnestly committed to

their specialized and patriotic work. In fact, most DVA nurses have dedicated their entire careers to caring for veterans. The average DVA nurse is a 47 year old female with 11 years of tenure.

DVA nurses, like their co-workers, provide not only a vital service for our nation's veterans, but honor veterans with compassion, respect and professional care. I urge you to demonstrate to these dedicated workers that their work is valued and appreciated by becoming an original co-sponsor of the Department of Veterans Affairs Nurse Appreciation Act. If you have any questions about this bill, please contact Mike Hall in Senator DeWine's office at 224–2315 or Dominic DelPozzo in Senator Dodd's office at 224–2823 or Linda Bennett in AFGE's Legislative Department at (202) 639–6413.

Sincerely,

BOBBY L. HARNAGE, SR.,
National President.

AMERICAN NURSES ASSOCIATION,
Washington, DC, June 11, 1999.

Hon. STEVEN C. LATOURETTE,
U.S. House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE LATOURETTE: The American Nurses Association (ANA) is pleased to support H.R. 1216, the VA Nurse Appreciation Act of 1999. While the Veterans Health Administration (VHA) has made some effort to address the implementation problems of the VA Nurse Locality Pay System, more significant and immediate action must be taken to ensure that VA registered nurses are appropriately paid for their expert work.

H.R. 1216 would allow for all Title 38 registered nurses, employed within the VHA, to receive the same pay adjustment provided all federal employees covered by the Federal Employees Pay Comparability Act (FEPCA). This pay adjustment would include both the nationwide component and a locality pay component. Passage of H.R. 1216 provides for this adjustment without requiring that VA registered nurses be placed on the General Schedule levels of one to fifteen.

ANA strongly supports the provision that provides additional authority, starting in 2002, to the Secretary of the Veterans Administration to adjust the rates of basic pay. This provision is necessary to ensure that the VA can continue to adequately recruit and retain registered nurses. The VA's inability to recruit and retain registered nurses was one of the primary reasons for passage of the original VA nurse locality pay bill. In the near future, nursing will again be facing a tightening labor market and the VA must be able to compete.

ANA applauds your efforts to address this significant problem and we stand ready to assist in anyway possible.

Sincerely,

MARJORIE VANDERBILT,
Director, Federal Government Relations.

● Mr. DODD. Mr. President, I rise today to join my colleague, Senator DEWINE, in introducing the Nurse Appreciation Act of 1999. It will alter the Department of Veterans Affairs' regulations regarding compensation rates for nurses. Unfortunately, the current regulations have led to hardship for many of our nation's VA nurses.

For example, from 1996 through 1999, nurses at 16 VA hospitals have seen their pay slashed by up to eight percent. Also, during those same years, nurses at 80 VA hospitals have not received a single raise. Meanwhile, other federal employees at all VA hospitals received the annual General Schedule increases of 2.4 percent to 3.6 percent. This nation cannot continue a policy of turning a blind eye to those who care for its sick and wounded veterans.

The Nurse Appreciation Act of 1999 will correct this injustice which seems to be an unintended consequence of the Nurses Pay Act of 1990. That law was written when VA hospitals faced a shortage of qualified nurses, and it gave hospital directors wide discretion in setting pay rates for nurses in their hospitals. The law partially served its purpose because it allowed directors to increase nurses' pay rates if they were having difficulty recruiting and retaining qualified nurses. Those who wrote the law, however, could not have anticipated that the VA would take advantage of the fact that the law did not mandate any minimum annual increase each year. They could not have anticipated that the law would be used to freeze or even reduce nurses' pay rates.

Over the past several years, a few factors emerged to create the inequity in VA nurses' compensation. First, the nurse shortage of a decade ago has subsided. Second, VA hospital directors and network directors have been granted more responsibility for their budgets. In other words, if hospital directors can save money by not providing an annual increase to nurses, then the directors can use that money for other purposes. Finally, to make matters worse, the funding that goes to these hospitals has been, in many cases, steady or decreasing over the past few years. I know, for example, that the two VA hospitals in Connecticut have not received a real funding increase in about three years. So the hospitals in Newington, West Haven, and in many other cities throughout the country must tighten their belts each year to absorb costs due to inflation.

The pressure to save money has caused many hospital directors to forgo providing even the slightest annual increase to nurses. Yet, hospital budget pressures have absolutely no bearing on whether other federal employees—including other veterans hospital employees—receive their annual salary increases. Those increases are prescribed by the federal government. This legislation just says that nurses should be treated the same as the others. It says that nurses should not bear a disproportionate share of the burden caused by stagnant budgets at our VA hospitals.

Apparently the VA believes that, in the absence of a nurse shortage, annual increases for nurses are unnecessary. But I do not subscribe to that reasoning. We should not wait for a crisis before we take action. If we get to the point where some VA hospitals are unable to retain well-qualified nurses as a result of unbearably inadequate pay, we will have waited far too long and will have badly degraded services at our VA hospitals.

Furthermore, this nation has benefitted from a robust economy over the last several years. That economy has given a boost to nearly every segment of society. Clearly, though, despite the immense value of their work, many VA nurses have been left behind. Valuable work on behalf of this nation deserves, at a minimum, adequate compensation. This bill will provide that compensation and enable us to do right by our VA hospital nurses.●

By Mrs. BOXER (for herself, Mrs. MURRAY, Mr. KENNEDY, Mr. LAUTENBERG, and Mr. SCHUMER):

S. 1400. A bill to protect women's reproductive health and constitutional right to choice, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

FAMILY PLANNING AND CHOICE PROTECTION ACT OF 1999

Mrs. BOXER. Mr. President, when I entered the United States Senate in 1993, women's rights were strong and secure. That year alone, we passed the Violence Against Women Act, the Family and Medical Leave Act, and the Freedom of Access to Clinic Entrances Act. We lifted the gag rule, which freed up doctors to tell their patients that abortion is a legal option.

Things are quite different now. Since 1994, the tide has turned against women's rights, as there have been nearly 100 votes to restrict choice, and pro-choice forces have lost most of these votes.

Congress recently blocked women in the military and military dependents from using their own funds to obtain an abortion at military facilities. The House of Representatives voted to make it a crime for any adult to help a teenager travel to another state to avoid her home state's restrictive parental consent laws, and the Senate voted to prohibit women who work for the federal government from accessing health plans that offer abortion services.

At the same time, violence against clinics and health care workers is increasing. Last year, the Feminist Majority reported that nearly one out of four clinics faced severe anti-abortion violence including death threats, stalking, bomb threats, bombings, arson threats, arson, blockades, invasions, and chemical attacks.

In my own state of California, there have been 29 recorded incidents of violence against clinics since 1984. The firebombing of a women's health care clinic on July 2 in Sacramento serves as a grim reminder that this violence continues.

While there are many in the community and in Congress who have helped fight off assaults on women's health rights, playing defense is not enough. We need a positive agenda for women's health, choice and family planning if we hope to move the pendulum back the other way.

The Family Planning and Choice Protection Act of 1999 sets out such an agenda. This comprehensive bill is pro-choice, pro-family planning, and pro-

women's health. It will improve family planning programs and services; strengthen women's right to choose; expand access to contraceptive coverage; protect patients and employees at reproductive health care facilities; and give law enforcement the resources needed to protect women's legal rights.

Mr. President, I urge my colleagues to support this legislation and to stand up for the women in their respective states who deserve to have their rights and health protected. I ask unanimous consent that the bill be printed in the RECORD.

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

S. 1400

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 ''Family Planning and Choice Protection Act of 1999''.

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

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Reproductive rights are central to the ability of women to exercise full enjoyment of rights secured to women by Federal and State law.

(2) Abortion has been a legal and constitutionally protected medical procedure throughout the United States since 1973 and has become part of mainstream medical practice as is evidenced by the positions of medical institutions including the American Medical Association, the American College of Obstetricians and Gynecologists, the American Medical Women's Association, the American Nurses Association, and the American Public Health Association.

(3) The availability of abortion services is diminishing throughout the United States, as evidenced by—

(A) the fact that 86 percent of counties in the United States have no abortion provider; and

(B) the fact that, between 1992 and 1996, the number of abortion providers decreased by 14 percent.

(4)(A) The Department of Health and Human Services and the Institute of Medicine of the National Academy of Sciences have contributed to the development of a report entitled ''Healthy People 2000'', which urges that the rate of unintended pregnancy in the United States be reduced by nearly 50 percent by the year 2000.

(B) Nearly 50 percent, or approximately 3,050,000, of all pregnancies in the United States each year are unintended, resulting in 1,370,000 abortions in the United States each year.

(C) The provision of family planning services, including emergency contraception, is a cost-effective way of reducing the number of unintended pregnancies and abortions in the United States.

TITLE I—PREVENTION

Subtitle A—Family Planning

SEC. 101. FAMILY PLANNING AMENDMENTS.

Section 1001(d) of the Public Health Service Act (42 U.S.C. 300(d)) is amended to read as follows:

''(d) For the purpose of making grants and entering into contracts under this section, there are authorized to be appropriated $500,000,000 for each of fiscal years 2000 through 2004.''.

SEC. 102. FREEDOM OF FULL DISCLOSURE.

Title XI of the Civil Rights Act of 1964 (42 U.S.C. 2000h et seq.) is amended by adding at the end the following:

''SEC. 1107. INFORMATION ABOUT AVAILABILITY OF REPRODUCTIVE HEALTH CARE SERVICES.

''(a) DEFINITION.—As used in this section, the term 'governmental authority' means any authority of the United States.

''(b) GENERAL AUTHORITY.—Notwithstanding any other provision of law, no governmental authority shall, in or through any program or activity that is administered or assisted by such authority and that provides health care services or information, limit the right of any person to provide, or the right of any person to receive, nonfraudulent information about the availability of reproductive health care services, including family planning, prenatal care, adoption, and abortion services.''.

Subtitle B—Prescription Equity and Contraceptive Coverage

SEC. 111. SHORT TITLE.

This subtitle may be cited as the ''Equity in Prescription Insurance and Contraceptive Coverage Act of 1999''.

SEC. 112. FINDINGS.

Congress finds that—

(1) each year, 3,000,000 pregnancies, or one half of all pregnancies, in this country are unintended;

(2) contraceptive services are part of basic health care, allowing families to both adequately space desired pregnancies and avoid unintended pregnancy;

(3) studies show that contraceptives are cost effective: for every $1 of public funds invested in family planning, $4 to $14 of public funds is saved in pregnancy and health care-related costs;

(4) by reducing rates of unintended pregnancy, contraceptives help reduce the need for abortion;

(5) unintended pregnancies lead to higher rates of infant mortality, low-birth weight, and maternal morbidity, and threaten the economic viability of families;

(6) the National Commission to Prevent Infant Mortality determined that ''infant mortality could be reduced by 10 percent if all women not desiring pregnancy used contraception'';

(7) most women in the United States, including three-quarters of women of childbearing age, rely on some form of private insurance (through their own employer, a family member's employer, or the individual market) to defray their medical expenses;

(8) the vast majority of private insurers cover prescription drugs, but many exclude coverage for prescription contraceptives;

(9) private insurance provides extremely limited coverage of contraceptives: half of traditional indemnity plans and preferred provider organizations, 20 percent of point-of-service networks, and 7 percent of health maintenance organizations cover no contraceptive methods other than sterilization;

(10) women of reproductive age spend 68 percent more than men on out-of-pocket health care costs, with contraceptives and reproductive health care services accounting for much of the difference;

(11) the lack of contraceptive coverage in health insurance places many effective forms of contraceptives beyond the financial reach of many women, leading to unintended pregnancies;

(12) the Institute of Medicine Committee on Unintended Pregnancy recommended that ''financial barriers to contraception be reduced by increasing the proportion of all health insurance policies that cover contraceptive services and supplies'';

(13) in 1998, Congress agreed to provide contraceptive coverage to the 2,000,000 women of reproductive age who are participating in the Federal Employees Health Benefits Program, the largest employer-sponsored health insurance plan in the world; and

(14) eight in 10 privately insured adults support contraceptive coverage.

SEC. 113. AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is amended by adding at the end the following new section:

''SEC. 714. STANDARDS RELATING TO BENEFITS FOR CONTRACEPTIVES.

''(a) REQUIREMENTS FOR COVERAGE.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not—

''(1) exclude or restrict benefits for prescription contraceptive drugs or devices approved by the Food and Drug Administration, or generic equivalents approved as substitutable by the Food and Drug Administration, if such plan provides benefits for other outpatient prescription drugs or devices; or

''(2) exclude or restrict benefits for outpatient contraceptive services if such plan provides benefits for other outpatient services provided by a health care professional (referred to in this section as 'outpatient health care services').

''(b) PROHIBITIONS.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not—

''(1) deny to an individual eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan because

of the individual's or enrollee's use or potential use of items or services that are covered in accordance with the requirements of this section;

''(2) provide monetary payments or rebates to a covered individual to encourage such individual to accept less than the minimum protections available under this section;

''(3) penalize or otherwise reduce or limit the reimbursement of a health care professional because such professional prescribed contraceptive drugs or devices, or provided contraceptive services, described in subsection (a), in accordance with this section; or

''(4) provide incentives (monetary or otherwise) to a health care professional to induce such professional to withhold from a covered individual contraceptive drugs or devices, or contraceptive services, described in subsection (a).

''(c) RULES OF CONSTRUCTION.—

''(1) IN GENERAL.—Nothing in this section shall be construed—

''(A) as preventing a group health plan and a health insurance issuer providing health insurance coverage in connection with a group health plan from imposing deductibles, coinsurance, or other cost-sharing or limitations in relation to—

''(i) benefits for contraceptive drugs under the plan, except that such a deductible, coinsurance, or other cost-sharing or limitation for any such drug may not be greater than such a deductible, coinsurance, or cost-sharing or limitation for any outpatient prescription drug otherwise covered under the plan;

''(ii) benefits for contraceptive devices under the plan, except that such a deductible, coinsurance, or other cost-sharing or limitation for any such device may not be greater than such a deductible, coinsurance, or cost-sharing or limitation for any outpatient prescription device otherwise covered under the plan; and

''(iii) benefits for outpatient contraceptive services under the plan, except that such a deductible, coinsurance, or other cost-sharing or limitation for any such service may not be greater than such a deductible, coinsurance, or cost-sharing or limitation for any outpatient health care service otherwise covered under the plan; and

''(B) as requiring a group health plan and a health insurance issuer providing health insurance coverage in connection with a group health plan to cover experimental or investigational contraceptive drugs or devices, or experimental or investigational contraceptive services, described in subsection (a), except to the extent that the plan or issuer provides coverage for other experimental or investigational outpatient prescription drugs or devices, or experimental or investigational outpatient health care services.

''(2) LIMITATIONS.—As used in paragraph (1), the term 'limitation' includes—

''(A) in the case of a contraceptive drug or device, restricting the type of health care professionals that may prescribe such drugs or devices, utilization review provisions, and limits on the volume of prescription drugs or devices that may be obtained on the basis of a single consultation with a professional; or

''(B) in the case of an outpatient contraceptive service, restricting the type of health care professionals that may provide such services, utilization review provisions, requirements relating to second opinions prior to the coverage of such services, and requirements relating to preauthorizations prior to the coverage of such services.

''(d) NOTICE UNDER GROUP HEALTH PLAN.—The imposition of the requirements of this section shall be treated as a material modification in the terms of the plan described in section 102(a)(1), for purposes of assuring notice of such requirements under the plan, except that the summary description required to be provided under the last sentence of section 104(b)(1) with respect to such modification shall be provided by not later than 60 days after the first day of the first plan year in which such requirements apply.

''(e) PREEMPTION.—Nothing in this section shall be construed to preempt any provision of State law to the extent that such State law establishes, implements, or continues in effect any standard or requirement that provides protections for enrollees that are greater than the protections provided under this section.

''(f) DEFINITION.—In this section, the term 'outpatient contraceptive services' means consultations, examinations, procedures, and medical services, provided on an outpatient basis and related to the use of contraceptive methods (including natural family planning) to prevent an unintended pregnancy.''.

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 note) is amended by inserting after the item relating to section 713 the following new item:

''Sec. 714. Standards relating to benefits for contraceptives.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning on or after January 1, 2000.

SEC. 114. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT RELATING TO THE GROUP MARKET.

(a) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act (42 U.S.C. 300gg-4 et seq.) is amended by adding at the end the following new section:

''SEC. 2707. STANDARDS RELATING TO BENEFITS FOR CONTRACEPTIVES.

''(a) REQUIREMENTS FOR COVERAGE.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not—

''(1) exclude or restrict benefits for prescription contraceptive drugs or devices approved by the Food and Drug Administration, or generic equivalents approved as substitutable by the Food and Drug Administration, if such plan provides benefits for other outpatient prescription drugs or devices; or

''(2) exclude or restrict benefits for outpatient contraceptive services if such plan provides benefits for other outpatient services provided by a health care professional (referred to in this section as 'outpatient health care services').

''(b) PROHIBITIONS.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not—

''(1) deny to an individual eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan because of the individual's or enrollee's use or potential use of items or services that are covered in accordance with the requirements of this section;

''(2) provide monetary payments or rebates to a covered individual to encourage such individual to accept less than the minimum protections available under this section;

''(3) penalize or otherwise reduce or limit the reimbursement of a health care professional because such professional prescribed contraceptive drugs or devices, or provided contraceptive services, described in subsection (a), in accordance with this section; or

''(4) provide incentives (monetary or otherwise) to a health care professional to induce such professional to withhold from covered individual contraceptive drugs or devices, or contraceptive services, described in subsection (a).

''(c) RULES OF CONSTRUCTION.—

''(1) IN GENERAL.—Nothing in this section shall be construed—

''(A) as preventing a group health plan and a health insurance issuer providing health insurance coverage in connection with a group health plan from imposing deductibles, coinsurance, or other cost-sharing or limitations in relation to—

''(i) benefits for contraceptive drugs under the plan, except that such a deductible, coinsurance, or other cost-sharing or limitation for any such drug may not be greater than such a deductible, coinsurance, or cost-sharing or limitation for any outpatient prescription drug otherwise covered under the plan;

''(ii) benefits for contraceptive devices under the plan, except that such a deductible, coinsurance, or other cost-sharing or limitation for any such device may not be greater than such a deductible, coinsurance, or cost-sharing or limitation for any outpatient prescription device otherwise covered under the plan; and

''(iii) benefits for outpatient contraceptive services under the plan, except that such a deductible, coinsurance, or other cost-sharing or limitation for any such service may not be greater than such a deductible, coinsurance, or cost-sharing or limitation for any outpatient health care service otherwise covered under the plan; and

''(B) as requiring a group health plan and a health insurance issuer providing health insurance coverage in connection with a group health plan to cover experimental or investigational contraceptive drugs or devices, or experimental or investigational contraceptive services, described in subsection (a), except to the extent that the plan or issuer provides coverage for other experimental or investigational outpatient prescription drugs or devices, or experimental or investigational outpatient health care services.

''(2) LIMITATIONS.—As used in paragraph (1), the term 'limitation' includes—

''(A) in the case of a contraceptive drug or device, restricting the type of health care professionals that may prescribe such drugs or devices, utilization review provisions, and limits on the volume of prescription drugs or devices that may be obtained on the basis of a single consultation with a professional; or

''(B) in the case of an outpatient contraceptive service, restricting the type of health care professionals that may provide such services, utilization review provisions, requirements relating to second opinions prior to the coverage of such services, and requirements relating to preauthorizations prior to the coverage of such services.

''(d) NOTICE.—A group health plan under this part shall comply with the notice requirement under section 714(d) of the Employee Retirement Income Security Act of 1974 with respect to the requirements of this section as if such section applied to such plan.

''(e) PREEMPTION.—Nothing in this section shall be construed to preempt any provision of State law to the extent that such State law establishes, implements, or continues in effect any standard or requirement that provides protections for enrollees that are greater than the protections provided under this section.

''(f) DEFINITION.—In this section, the term 'outpatient contraceptive services' means consultations, examinations, procedures, and medical services, provided on an outpatient basis and related to the use of contraceptive methods (including natural family planning) to prevent an unintended pregnancy.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to group health plans for plan years beginning on or after January 1, 2000.

SEC. 115. AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT RELATING TO THE INDIVIDUAL MARKET.

(a) IN GENERAL.—Part B of title XXVII of the Public Health Service Act (42 U.S.C. 300gg-41 et seq.) is amended—

(1) by redesignating the first subpart 3 (relating to other requirements) as subpart 2; and

(2) by adding at the end of subpart 2 the following new section:

"SEC. 2753. STANDARDS RELATING TO BENEFITS FOR CONTRACEPTIVES.

''The provisions of section 2707 shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as they apply to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the small or large group market.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after January 1, 2000.

SEC. 116. FEHBP COVERAGE.

(a) PROHIBITION.—No Federal funds may be used to enter into or renew a contract which includes a provision providing prescription drug coverage unless the contract also includes a provision for contraceptive coverage.

(b) LIMITATION.—Nothing in this section shall apply to a contract with—

(1) any of the following religious plans—

(A) SelectCare;

(B) Personal CaresHMO;

(C) Care Choices;

(D) OSF Health Plans, Inc.;

(E) Yellowstone Community Health Plan; and

(2) any existing or future plan, if the plan objects to such coverage on the basis of religious beliefs.

(c) REFUSAL TO PRESCRIBE.—In implementing this section, any plan that enters into or renews a contract under this section may not subject any individual to discrimination on the basis that the individual refuses to prescribe contraceptives because such activities would be contrary to the individual's religious beliefs or moral convictions.

Subtitle C—Emergency Contraceptives

SEC. 121. EMERGENCY CONTRACEPTIVE EDUCATION.

(a) DEFINITION.—In this section:

(1) EMERGENCY CONTRACEPTIVE.—The term ''emergency contraceptive'' means a drug or device (as the terms are defined in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321)) that is designed—

(A) to be used after sexual relations; and

(B) to prevent pregnancy, by preventing ovulation, fertilization of an egg, or implantation of an egg in a uterus.

(2) HEALTH CARE PROVIDER.—The term ''health care provider'' means anyone licensed or certified under State law to provide health care services who is operating within the scope of such license.

(3) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education'' has the meaning given the term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

(b) EMERGENCY CONTRACEPTIVE PUBLIC EDUCATION PROGRAM.—

(1) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control, shall develop and disseminate to the public information on emergency contraceptives.

(2) DEVELOPMENT AND DISSEMINATION.—The Secretary may develop and disseminate the information directly or through arrangements with nonprofit organizations, consumer groups, institutions of higher education, Federal, State, or local agencies, and clinics.

(3) INFORMATION.—The information shall include, at a minimum, information describing emergency contraceptives, and explaining the use, effects, efficacy, and availability of the contraceptives.

(c) EMERGENCY CONTRACEPTIVE INFORMATION PROGRAM FOR HEALTH CARE PROVIDERS.—

(1) IN GENERAL.—The Secretary of Health and Human Services, acting through the Administrator of the Health Resources and Services Administration, shall develop and disseminate to health care providers information on emergency contraceptives.

(2) INFORMATION.—The information shall include, at a minimum—

(A) information describing the use, effects, efficacy and availability of the contraceptives;

(B) a recommendation from the Secretary regarding the use of the contraceptives in appropriate cases; and

(C) information explaining how to obtain copies of the information developed under subsection (b), for distribution to the patients of the providers.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for the period consisting of fiscal years 2000 through 2002.

TITLE II—CHOICE PROTECTION

SEC. 201. MEDICAID FUNDING FOR ABORTION SERVICES.

Sections 508 and 509 of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1999 (Public Law 105–277) are repealed.

SEC. 202. CLINIC VIOLENCE.

(a) FINDINGS.—Congress makes the following findings:

(1) Federal resources are necessary to ensure that women have safe access to reproductive health facilities and that health professionals can deliver services in a secure environment free from violence and threats of force.

(2) It is necessary and appropriate to use Federal resources to combat the nationwide campaign of violence and harassment against reproductive health centers.

(3) The Congress should support further increasing Federal resources to fully ensure the safety of health professionals, center staff, and all women using reproductive health center services and the family members of such persons.

(b) NATIONAL TASK FORCE ON VIOLENCE AGAINST HEALTH CARE PROVIDERS.—

(1) ESTABLISHMENT.—There is established within the Department of Justice a task force to be known as the ''Task Force on Violence Against Health Care Providers'' (referred to in this subsection as the ''Task Force'').

(2) COMPOSITION.—The Task Force shall be composed of at least 1 individual to be appointed by the Attorney General from each of the following:

(A) The Bureau of Alcohol, Tobacco and Firearms.

(B) The Federal Bureau of Investigation.

(C) The United States Marshal Service.

(D) The United States Postal Service.

(E) The Civil Rights Division of the Department of Justice.

(F) The Criminal Division of the Department of Justice.

(3) POWERS AND DUTIES.—The Task Force shall—

(A) coordinate investigative, prosecutorial and enforcement efforts of Federal, State and local governments in cases related to violence at reproductive health care facilities and violence against health care providers;

(B) under the direction of the Attorney General, conduct security assessments for reproductive health care facilities; and

(C) provide training for local law enforcement to appropriately address incidences of violence against reproductive health care facilities and provide methodologies for assessing risks and promoting security at reproductive health care facilities.

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $2,000,000 for each fiscal year to carry out this subsection.

(c) GRANTS FOR CLINIC SECURITY.—

(1) IN GENERAL.—The Office of Justice Programs within the Department of Justice shall award grants to reproductive health care facilities to enable such facilities to enhance security and to purchase and install security devices.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated, $5,000,000 for each of fiscal years 2000 through 2004 to carry out this subsection.

SEC. 203. APPROVAL OF RU–486.

The Secretary of Health and Human Services shall—

(1) ensure that a decision by the Food and Drug Administration to approve the drug called Mifepristone or RU–486 shall be made only on the basis provided in law; and

(2) assess initiatives by which the Department of Health and Human Services can promote the testing, licensing, and manufacturing in the United States of the drug or other antiprogestins.

SEC. 204. FREEDOM OF CHOICE.

(a) FINDINGS.—Congress finds the following:

(1) The 1973 Supreme Court decision in Roe v. Wade, 410 U.S. 113 (1973) established constitutionally based limits on the power of States to restrict the right of a woman to choose to terminate a pregnancy. Under the strict scrutiny standard enunciated in the Roe v. Wade decision, States were required to demonstrate that laws restricting the right of a woman to choose to terminate a pregnancy were the least restrictive means available to achieve a compelling State interest. Since 1992, the Supreme Court has no longer applied the strict scrutiny standard in reviewing challenges to the constitutionality of State laws restricting such rights.

(2) As a result of modifications made by the Supreme Court of the strict scrutiny standard enunciated in the Roe v. Wade decision, certain States have restricted the right of women to choose to terminate a pregnancy or to utilize some forms of contraception, and the restrictions operate cumulatively to—

(A)(i) increase the number of illegal or medically less safe abortions, often resulting in physical impairment, loss of reproductive capacity, or death to the women involved;

(ii) burden interstate and international commerce by forcing women to travel from States in which legal barriers render contraception or abortion unavailable or unsafe to other States or foreign nations;

(iii) interfere with freedom of travel between and among the various States;

(iv) burden the medical and economic resources of States that continue to provide women with access to safe and legal abortion; and

(v) interfere with the ability of medical professionals to provide health services;

(B) obstruct access to and use of contraceptive and other medical techniques that are part of interstate and international commerce;

(C) discriminate between women who are able to afford interstate and international

travel and women who are not, a disproportionate number of whom belong to racial or ethnic minorities; and

(D) infringe on the ability of women to exercise full enjoyment of rights secured to women by Federal and State law, both statutory and constitutional.

(3) Although Congress may not by legislation create constitutional rights, Congress may, where authorized by a constitutional provision enumerating the powers of Congress and not prohibited by a constitutional provision, enact legislation to create and secure statutory rights in areas of legitimate national concern.

(4) Congress has the affirmative power under section 8 of article I of the Constitution and under section 5 of the 14th amendment to the Constitution to enact legislation to prohibit State interference with interstate commerce, liberty, or equal protection of the laws.

(b) PURPOSE.—The purpose of this section is to establish, as a statutory matter, limitations on the power of a State to restrict the freedom of a woman to terminate a pregnancy in order to achieve the same limitations on State action as were provided, as a constitutional matter, under the strict scrutiny standard of review enunciated in the Roe v. Wade decision.

(c) DEFINITION.—As used in this section, the term ''State'' includes the District of Columbia, the Commonwealth of Puerto Rico, and each other territory or possession of the United States.

(d) GENERAL AUTHORITY.—A State—

(1) may not restrict the freedom of a woman to choose whether or not to terminate a pregnancy before fetal viability;

(2) may restrict the freedom of a woman to choose whether or not to terminate a pregnancy after fetal viability unless such a termination is necessary to preserve the life or health of the woman; and

(3) may impose requirements on the performance of abortion procedures if such requirements are medically necessary to protect the health of women undergoing such procedures.

(e) RULES OF CONSTRUCTION.—Nothing in this section shall be construed to—

(1) prevent a State from promulgating regulations to protect unwilling individuals or private health care institutions from being required to participate in the performance of abortions to which the individuals or institutions are conscientiously opposed;

(2) prevent a State from promulgating regulations to permit the State to decline to pay for the performance of abortions; or

(3) prevent a State from promulgating regulations to require a minor to involve a parent, guardian, or other responsible adult before terminating a pregnancy;

so long as such regulations meet constitutional standards.

SEC. 205. FAIRNESS IN INSURANCE.

Notwithstanding any other provision of law, no Federal law shall be construed to prohibit a health plan from offering coverage for the full range of reproductive health care services, including abortion services.

SEC. 206. REPRODUCTIVE RIGHTS OF WOMEN IN THE MILITARY.

Section 1093 of title 10, United States Code, is amended—

(1) in subsection (a), by inserting before the period the following: ''or in a case in which the pregnancy involved is the result of an act of rape or incest or the abortion involved is medically necessary or appropriate'';

(2) by striking subsection (b); and

(3) by adding at the end the following:

''(b) ABORTIONS IN FACILITIES OVERSEAS.—Subsection (a) does not limit the performing of an abortion in a facility of the uniformed services located outside the 48 contiguous States of the United States if—

''(1) the cost of performing the abortion is fully paid from a source or sources other than funds available to the Department of Defense;

''(2) abortions are not prohibited by the laws of the jurisdiction where the facility is located; and

''(3) the abortion would otherwise be permitted under the laws applicable to the provision of health care to members and former members of the uniformed services and their dependents in such facility.''.

SEC. 207. REPEAL OF CERTAIN STATE CHILD HEALTH INSURANCE PROGRAM LIMITATIONS.

(a) IN GENERAL.—Section 2105(c) of the Social Security Act (42 U.S.C. 1397ee(c)) is amended—

(1) in paragraph (1), by striking '', and any health'' and all that follows through ''incest''; and

(2) by striking paragraph (7).

(b) CHILD HEALTH ASSISTANCE.—Section 2110(a)(16) of the Social Security Act (42 U.S.C. 1397jj(a)(16)) is amended by striking ''only if'' and all that follows and inserting ''services;''.

SEC. 208. FUNDING FOR CERTAIN SERVICES FOR WOMEN IN PRISON.

Sections 103 and 104 of title I of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1999 (Public Law 105–277) are repealed.

SEC. 209. FUNDING FOR CERTAIN SERVICES FOR WOMEN IN THE DISTRICT OF COLUMBIA.

Section 131 of the District of Columbia Appropriations Act, 1999 (Public Law 105–277) is repealed.

SEC. 210. FUNDING FOR CERTAIN SERVICES FOR WOMEN UNDER THE FEHBP.

Sections 509 and 510 of the Treasury and General Government Appropriations Act, 1999 (Public Law 105–277) are repealed.

By Mr. GRAHAM (for himself, Mr. MACK, Mrs. BOXER, Mrs. FEINSTEIN, and Mr. BINGAMAN):

S. 1401. A bill to amend the Federal Crop Insurance Act to promote the development and use of affordable crop insurance policies designed to meet the specific needs of producers of specialty crops, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

SPECIALTY CROP INSURANCE ACT

● Mr. BINGAMAN. Mr. President, I rise to express my support for the legislation being introduced today. I am proud to be a co-sponsor of the Specialty Crop Insurance Act of 1999 with my colleagues, Senators GRAHAM, MACK, BOXER and FEINSTEIN. The outcome of this legislative effort will have a profound effect on the economic health and well-being of specialty crop producers in my state of New Mexico, as well as for farmers across the country.

Today's crop insurance program does not provide sufficient risk management protection to many specialty crop producers, leaving the growers vulnerable to risk. Specialty crops in New Mexico include chiles, pecans, lettuce, and pistachios. In fact, Dona Ana County ranks as the number one pecan-producing county in the nation according to a recent USDA census. And we produce 50% of the chiles used in the United States. However, at present, viable crop insurance policies which offer valid risk management protection are available for only a limited number of specialty crops. Many policies which are available fall short of reflecting the needs of producers. This means that the great majority of specialty crops farmers in this nation are without appropriate, adequate and affordable risk management protection. This legislation addresses the needs of those farmers who produce our fruits and vegetables, nuts, and greenhouse and nursery plants for affordable crop insurance policies.●

By Mrs. FEINSTEIN (for herself, Mr. REID, Mrs. BOXER, Mr. BRYAN, and Mrs. MURRAY):

S. 1403. A bill to amend chapter 3 of title 28, United States Code, to modify en banc procedures for the Ninth Circuit Court of Appeals, and for other purposes; to the Committee on the Judiciary.

NINTH CIRCUIT COURT OF APPEALS EN BANC PROCEDURES ACT OF 1999

Mrs. FEINSTEIN. Mr. President. I am pleased to introduce the ''Ninth Circuit Court of Appeals En Banc Procedures Act of 1999.''

As the largest circuit in the country, the Ninth Circuit faces unique difficulties. While this size has certain advantages, including creating a uniform body of federal law along the Pacific Coast of the United States, it also creates organizational and procedural challenges which must be addressed for the court to do its job effectively. The bill I am introducing today requires organizational and procedural reforms which will help the court to meet these challenges.

The United States Department of Justice, which is the most frequent litigant before the Ninth Circuit—participating in 40% of its cases—has specifically identified reform of the en banc review process as critical to resolving the existing problems on the Ninth Circuit.

''From our perspective as litigants, the Ninth Circuit's shortcoming is traceable not principally to its large number of judges or geographical size, but rather to its failure effectively to address erroneous panel decisions in important cases . . . .''

The ''Ninth Circuit Court of Appeals En Banc Procedure Act'' will institute three major changes to Ninth Circuit court procedures: (1) it reduces the number of judges required to call for an en banc hearing; (2) it increases the size of en banc panels from 11 to a majority of the Circuit; and (3) it requires the establishment of a system of regional calendaring.

First, this legislation would grant the Ninth Circuit a dispensation to lower the statutory requirement that a majority of the Circuit's active-service judges must vote affirmatively to rehear a case en banc. Instead, 40 percent

of the judges sitting on the Ninth Circuit would be sufficient to request an en banc hearing.

In recent years, too many en banc requests at the Ninth Circuit have been disregarded by the Court. In 1996, the Ninth Circuit voted on 25 en banc requests by its judges, but only agreed to 12 en banc hearings. In 1997, the Ninth Circuit considered 39 en banc requests, but only held 19 hearings. In 1998, the Ninth Circuit entertained 45 en banc requests, but the Circuit only agreed to hold 16 en banc panels.

The Supreme Court, our nation's highest and most venerated court, requires less than a majority of its members to consider a case. It is simply common sense that the Ninth Circuit should not have a higher burden for hearing a case en banc than the Supreme Court uses to grant certiorari.

Lowering the bar to en banc hearings will enable the Ninth Circuit to resolve a greater percentage of conflicts before they reach the Supreme Court.

A second provision of this legislation will increase the size of Ninth Circuit en banc panels from the current 11 judges to a majority of the Ninth Circuit. Except for the Ninth, the Fifth, and the Sixth circuits, all en banc panels sit as an entire court. Eleven judges selected from a 28 judge circuit are insufficient to give litigants or the general public confidence that an en banc decision reflects the views of the entire circuit. By increasing the size of the panels, the Ninth Circuit will have more judges to raise, identify, and resolve potential conflicts in controversial cases.

Critics have also objected to the Ninth Circuit because of its geographical expanse, as it ranges from Hawaii to Alaska to Arizona. It is charged that judges unfamiliar with the history of a particular region often sit on panels that decide regional issues.

The Federal courts are a national court, with a responsibility to apply a single, coherent Federal law across the states. The states of the Ninth Circuit have benefitted from this harmonizing influence. For example, the Ninth Circuit has created a consistent body of maritime law on the West Coast.

At the same time, to address both the appearance of regional bias and any actual regional bias that does exist, this bill would require the Ninth Circuit to have geographical representation on its panels.

The Ninth Circuit presently has three administrative units—a Northern, a Southern, and a Central unit. Under this legislation, at least one judge from the particular geographic unit would be assigned to cases arising in that unit. Thus, if an appeal was filed in Alaska, a judge from the Northern region would sit on the case. Similarly, if an appeal was filed in San Francisco, a Central region judge would sit on the case.

To the degree that the Ninth Circuit has stepped outside the mainstream of jurisprudence, this legislation enacts reforms that will help corral stray decisions. I look forward to working with my fellow Senate and House colleagues in enacting this reform.

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. 1403

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 ''Ninth Circuit Court of Appeals En Banc Procedures Act of 1999''.

SEC. 2. NINTH CIRCUIT EN BANC PROCEDURES.

(a) IN GENERAL.—Section 46 of title 28, United States Code, is amended—

(1) in subsection (d)—

(A) by striking ''paragraph (c)'' and inserting ''subsection (c) or (d)''; and

(B) by redesignating subsection (d) as subsection (e); and

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

''(d)(1) Notwithstanding the first sentence of subsection (c), 40 percent or more of the circuit judges of the Ninth Circuit Court of Appeals who are in regular active service may order a hearing or rehearing before the court en banc for such circuit.

''(2) Notwithstanding the second sentence of subsection (c) or section 6 of the Act entitled ''An Act to provide for the appointment of additional district and circuit judges, and for other purposes'', approved October 20, 1978 (28 U.S.C. 41 note; Public Law 95–486; 92 Stat. 1633) a majority of the circuit judges of the Ninth Circuit Court of Appeals who are in regular active service shall be required to sit on a court en banc for such circuit.

''(3) The Ninth Circuit Court of Appeals shall be organized in no less than 3 administrative units based on geographic regions. Each panel of the Ninth Circuit Court of Appeals shall be assigned to an administrative unit. In any case or controversy heard by any panel of an administrative unit of the Ninth Circuit Court of Appeals, at least 1 judge of that administrative unit shall be assigned to that panel.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 6 of the Act entitled ''An Act to provide for the appointment of additional district and circuit judges, and for other purposes'', approved October 20, 1978 (28 U.S.C. 41 note; Public Law 95–486; 92 Stat. 1933) is amended by striking ''Any court of appeals'' and inserting ''Subject to section 46(d)(2) of title 28, United States Code, any court of appeals''.

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall take effect 60 days after the date of enactment of this Act.

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

S. 1404. A bill to amend the Internal Revenue Code of 1986 to authorize expenditures from the Highway Trust Fund for the Woodrow Wilson Memorial Bridge Project for fiscal years 2004 through 2007, and for other purposes; to the Committee on Finance.

WOODROW WILSON BRIDGE FUNDING ACT

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

S. 1405. A bill to amend the Woodrow Wilson Memorial Bridge Authority Act of 1995 to provide an authorization of contract authority for fiscal years 2004 through 2007, and for other purposes; to the Committee on Environment and Public Works.

WOODROW WILSON BRIDGE FINANCING ACT

Mr. ROBB. Mr. President, I'm pleased to introduce legislation today to provide additional federal funding for the Woodrow Wilson Bridge. The legislation, the Woodrow Wilson Bridge Funding Act, has been cosponsored by the other three Senators from this region, Senators WARNER, SARBANES and MIKULSKI. We have worked well as a team. And I thank Senator WARNER, who will introduce corresponding legislation that authorizes the funding to go to the bridge project, which I am also pleased to cosponsor.

These two bills complete the job that was started in the TEA–21 legislation we passed last year. In that bill, the Administration agreed to support $900 million for the bridge. I commend my senior colleague for his tireless efforts to secure those funds. But even with the funding provided by TEA–21, the amount of funding available for the bridge fell $1 billion short of what is needed to build it.

Since the passage of the highway bill, I have been pressing the Administration to recognize the federal obligation which is owed to this federally-owned bridge. During the past few months of fits and starts on this project, I have focused on funding as the most serious long-term threat to rebuilding the bridge. I've spoken to Secretary Slater, written letters to the Secretary and OMB Director Jack Lew, and my office has been in constant contact with the Department of Transportation urging a solution to our funding shortfall.

So I was gratified when the Administration proposed a solution reflected in the bills we are introducing today. After receiving the Administration's proposed legislation and consulting with the entire regional delegation, from both sides of the aisle and both sides of the Potomac River, we decided to divide the legislation into two bills, which will be referred separately to the two committees with primary interest in the legislation. The bill I'm introducing allows direct payments from the Highway Trust Fund to be used to finish this project. It will be referred to the Finance Committee, on which I sit, and I look forward to working with my colleagues on that committee to move this legislation forward. Senator WARNER's bill will be referred to the Environment and Public Works Committee, on which he sits.

Together, these two bills will solve the remaining financing problem facing the Woodrow Wilson bridge. By securing Administration support in advance, we have already travelled a significant distance toward getting a bill that can be signed into law. And it is my hope we can move quickly in the Congress to fill this fiscal pothole.

Mr. President, I ask unanimous consent that the two bills be printed consectutively in the RECORD.

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

S. 1404

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 ''Woodrow Wilson Memorial Bridge Funding Act of 1999''.

SEC. 2. AMENDMENT OF TRUST FUND CODE.

Section 9503(c)(1) of the Internal Revenue Code of 1986 (relating to expenditures from the Highway Trust Fund) is amended—

(1) in the first sentence—

(A) by inserting ''(except for expenditures provided for under subparagraph (F))'' after ''2003'';

(B) in subparagraph (D), by striking ''or'' at the end;

(C) in subparagraph (E), by striking the period at the end and inserting '', or''; and

(D) by adding at the end the following:

''(F) authorized to be paid out of the Highway Trust Fund under the Woodrow Wilson Memorial Bridge Authority Act of 1995 (109 Stat. 627).''; and

(2) in the second sentence, by striking ''TEA 21 Restoration Act'' and inserting ''Woodrow Wilson Bridge Financing Act of 1999''.

———

S. 1405

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 ''Woodrow Wilson Bridge Financing Act of 1999''.

SEC. 2. ADVANCE AUTHORIZATION OF CONTRACT AUTHORITY FOR THE WOODROW WILSON BRIDGE.

(a) FEDERAL CONTRIBUTION.—Section 412(a)(1) of the Woodrow Wilson Memorial Bridge Authority Act of 1995 (109 Stat. 627; 112 Stat. 159) is amended—

(1) by striking ''2002, and'' and inserting ''2002,''; and

(2) by inserting '', and $150,000,000 for each of fiscal years 2004 through 2007'' after ''2003''.

(b) LIMITATION ON FEDERAL CONTRIBUTION.—Section 412 of the Woodrow Wilson Memorial Bridge Authority Act of 1995 (109 Stat. 627; 112 Stat. 159) is amended by adding at the end the following:

''(d) LIMITATION ON FEDERAL CONTRIBUTION.—The total amount made available from the Highway Trust Fund under this section shall not exceed $1,500,000,000. Amounts from the Highway Trust Fund for the Project in excess of $1,500,000,000 shall be provided by the Capital Region jurisdictions.

''(e) CONTRIBUTIONS BY CAPITAL REGION JURISDICTIONS.—

''(1) IN GENERAL.—For each of fiscal years 2004 through 2007, every $1 provided from the Highway Trust Fund under this section shall be matched by at least $0.67 provided by the Capital Region jurisdictions from amounts made available to the jurisdictions under title 23, United States Code, or from other sources available to the jurisdictions.

''(2) ALLOCATION.—The Capital Region jurisdictions shall allocate payment of the matching funds required under paragraph (1) as the jurisdictions determine to be appropriate.''.

Mr. WARNER. Mr. President, I rise to introduce today legislation to complete the commitment to finance the federal share of the cost of constructing the new Woodrow Wilson bridge.

As my colleagues are aware, this 40-year-old bridge which links Interstate 495 between Maryland and Virginia, is owned by the federal government. For over a decade, the U.S. Federal Highway Administration, the District of Columbia, Maryland, Virginia and affected local governments have conducted an extensive public process to select a design for a replacement facility for the Wilson bridge.

The Record of Decision on the Environmental Impact Statement selected an alternative for a 12-lane bridge, of which 10 lanes are for all traffic and 2 lanes are dedicated for HOV.

The Transportation Equity Act for the 21st Century, TEA–21, provides $900 million for planning, engineering, design and construction from 1998 through 2003 for this design. This funding level represents approximately half of the estimated total project cost of $1.9 billion.

The legislation I am introducing today, along with my Senate colleagues, Senator ROBB, Senator SARBANES and Senator MIKULSKI, provides the final installment of federal funds for the project. Also, this legislation has been reviewed by the Administration and it compliments the legislation requested by the Administration earlier this month.

Specifically, the bill provides a total of $600 million from the Highway Trust Fund in fiscal years 2004 through 2007, at an annual funding level of $150 million. Our bill adds a requirement not present in the Administration's bill that Maryland, Virginia and the District of Columbia must provide $400 million before any of the funds can be obligated.

The requirement for matching funds from the capital region jurisdictions ensures that the total project cost of $1.9 billion is fully financed. Also, this matching provision responds to a major issue that came before a federal court earlier this year. In that litigation, the court ruled that the project had not fully met the transportation conformity requirements of the Clean Air Act. Conformity requires that sources of funding for transportation projects be identified and that state transportation plans for building transportation projects ''conform'' with state implementation plans designed to meet air quality standards.

Mr. President, the funding provided in this legislation also ensures that this project will receive the same financial treatment as other highway construction projects around the nation. Under TEA–21 and prior federal transportation laws, 20 percent of state funds are required to match 80 percent of federal dollars used on any highway construction project on the federal-aid system. This 80 percent federal/20 percent state requirement will now be applied to the Wilson bridge project when this legislation is enacted.

Mr. President, now is the time to act on this legislation. The project is at a critical juncture as we work to meet the construction schedule. While the funds authorized in this bill will not be available until 2004 through 2007, full funding must be identified and committed now before any construction can begin. The current schedule is for construction to begin by the fall of 2000.

Let me be clear to my colleagues that this legislation continues all of the requirements set for the capital region jurisdictions established in TEA–21. Specifically, Virginia, Maryland and the District of Columbia must develop a financial plan and enter into an agreement with the federal government to determine which jurisdiction will take title to the new bridge.

Also, this legislation does not waive any federal environmental laws. Those issues are before federal court and efforts to resolve them are ongoing between the Federal Highway Administration and the plaintiffs.

As it has been stated previously, the useful life of the current bridge is nearly expired. Daily traffic of over 175,000 vehicles per day is causing irreparable damage to the bridge structure. It is prohibitively expensive to continue spending scarce transportation dollars to repair the bridge when its projected lifespan is rapidly expiring. The Federal Highway Administration has confirmed that we can keep the bridge open to all traffic until about the year 2004, but those estimates can change overnight as monthly safety inspections reveal continuing damage.

Today, we are introducing two bills in the Senate to accomplish this funding initiative because of the committee jurisdictional issues. As a member of the Environment and Public Works Committee, I am sponsoring the bill to provide $600 million from the Highway Trust Fund beginning in 2004. My colleague, Senator ROBB, as a member of the Finance Committee, will be introducing legislation to permit these Highway Trust Fund dollars to be obligated in 2004 and beyond. Current tax law limits the obligation of new Highway Trust Fund dollars beyond the current TEA–21 authorization period of 2003.

Ms. MIKULSKI. Mr. President, I rise as a cosponsor of the Woodrow Wilson Bridge Financing Act of 1999.

The Woodrow Wilson bridge is the only federal bridge in the country. This bridge used to be a bridge over troubled water. Now it is a troubled bridge over the Potomac River. We need a new bridge—not only because of the significant increase in the volume of commuters, interstate travelers and trucks that use the bridge, but also for public safety. The construction of this bridge must be completed in a timely way.

I support this legislation for two reasons. First, it provides the funding that we need to finish constructing the Woodrow Wilson bridge. Second, it makes the project compliant with the

Clean Air Act as required by the U.S. District Court for the District of Columbia.

Specifically, this legislation provides the authorization for an additional $600 million for the bridge. This $600 million is in addition to the $900 million that has already been committed by the federal government. It will provide $150 million per year from 2004 to 2007.

The legislation also commits the surrounding states to contribute their fair share to the construction of the bridge. Since federal funding makes up 80% of the cost of the bridge, the Capitol Region jurisdictions are committed to providing the remaining 20%. In fact, the states have to provide at least $0.67 for every $1 provided from the Highway Trust fund. Together, the federal and state governments will be able to provide what we need to build the bridge.

The Woodrow Wilson Bridge Financing Act of 1999 is an innovative, creative and resourceful response to what was once a big problem for the entire metropolitan area. I urge my colleagues to join me in supporting this important legislation.

Mr. SARBANES. Mr. President, I am pleased to join with my colleagues, Senators ROBB, WARNER and MIKULSKI, as an original co-sponsor of these two measures providing the additional financing necessary for the replacement of the Woodrow Wilson Bridge. The proposed $600 million in new funding authorized in these measures, combined with the $900 million already made available under the Transportation Equity Act for the 21st Century (TEA–21), will enable us to move ahead with constructing this vital link in our region's and nation's transportation system.

Mr. President, everyone who commutes to work in the Washington Metropolitan area or who travels on Interstate 95 knows what a serious traffic and safety problem we have in the area of the Woodrow Wilson Bridge. The bridge is one of the worst bottlenecks on the interstate system. It is carrying traffic volumes far in excess of its designed capacity. Originally constructed in 1961 to carry 70,000 vehicles per day, the bridge now averages 176,000 vehicles daily. It is rapidly approaching the end of its service life. In fact in 1994, the Federal Highway Administration determined that due to the age of the facility, the structural deterioration and traffic demand, the existing bridge would not last much beyond 2004 even with additional repairs. The substandard condition of the bridge and resulting congestion means accidents—at a rate of twice that for other segments of the Capital Beltway—and significant delays for commuters, interstate truckers, tourists, businesses and employers alike. With traffic volumes in the area projected to nearly double in the next 20 years, there has been a clear need to address this problem.

In 1996, after many years of intensive study, the Wilson Bridge Coordination Committee, comprised of federal, state and local officials, recommended a 12-lane drawbridge and reconstructing approaches and adjacent interchanges as the preferred alternative for the replacement structure, at an estimated cost of $1.6 billion. Since then, there has been much discussion and debate about the size and cost of the facility as well as how the new bridge would be paid for and I would like to make several points:

First, the project is a federal responsibility. The bridge is owned by the Federal government. In fact, it is the only federally-owned bridge on the interstate system. Funding provided for it should be commensurate with the federal ownership of the bridge.

Second, the replacement bridge must be built in accordance with the same standards as applied to bridges owned by state jurisdictions. Just replacing the existing structure is not an acceptable option because it would continue the current bottleneck at the bridge and because it would not meet the Federal Highway Administration's own guidelines which require states in building new structures to meet projected future carrying capacity needs. This means the replacement structure must be able to accommodate current as well as projected future traffic growth and that the related interchanges and approaches to the bridge should match the new bridge. It should also provide for pedestrian and bicycle access as well as accommodate future transit useage. What is needed is not a quick fix that we will have to revisit in several years, but a long term solution that will carry us well into the next century.

Third, we should not lose sight of the fact that if a replacement is not undertaken in the very near future, it will be necessary to impose significant restrictions on the use of the existing bridge and this will have enormous economic and transportation related consequences throughout the entire region.

Last year we took a significant step forward in replacing the Woodrow Wilson Bridge by authorizing $900 million in new contract authority in TEA–21. The legislation which we are introducing today, when enacted, will help ensure that the federal responsibility to this bridge is met, and that it will meet the region's needs as we move into the next century.

I want to commend Secretary Slater and his staff at the Department of Transportation for their support and assistance in developing this legislation and I urge my collegues to join me in supporting this measure.

ADDITIONAL COSPONSORS

S. 12

At the request of Mrs. HUTCHISON, the names of the Senator from Pennsylvania (Mr. SANTORUM) and the Senator from Wyoming (Mr. ENZI) were added as cosponsors of S. 12, a bill to amend the Internal Revenue Code of 1986 to eliminate the marriage penalty by providing that income tax rate bracket amounts, and the amount of the standard deduction, for joint returns shall be twice the amounts applicable to unmarried individuals.

S. 61

At the request of Mr. DEWINE, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 61, a bill to amend the Tariff Act of 1930 to eliminate disincentives to fair trade conditions.

S. 285

At the request of Mr. MCCAIN, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. 285, a bill to amend title II of the Social Security Act to restore the link between the maximum amount of earnings by blind individuals permitted without demonstrating ability to engage in substantial gainful activity and the exempt amount permitted in determining excess earnings under the earnings test.

S. 456

At the request of Mr. CONRAD, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 456, a bill to amend the Internal Revenue Code of 1986 to allow employers a credit against income tax for information technology training expenses paid or incurred by the employer, and for other purposes.

S. 607

At the request of Mr. CRAIG, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 607, a bill reauthorize and amend the National Geologic Mapping Act of 1992.

S. 620

At the request of Mr. SARBANES, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 620, a bill to grant a Federal charter to Korean War Veterans Association, Incorporated, and for other purposes.

S. 631

At the request of Mr. DEWINE, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 631, a bill to amend the Social Security Act to eliminate the time limitation on benefits for immunosuppressive drugs under the medicare program, to provide continued entitlement for such drugs for certain individuals after medicare benefits end, and to extend certain medicare secondary payer requirements.

S. 664

At the request of Mr. CHAFEE, the names of the Senator from Ohio (Mr. DEWINE) and the Senator from Kentucky (Mr. MCCONNELL) were added as cosponsors of S. 664, a bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax to individuals who rehabilitate historic homes or who are the first purchasers of rehabilitated historic homes for use as a principal residence.

S. 761

At the request of Mr. ABRAHAM, the name of the Senator from Washington