to foster and promote the diversity of television programming, to foster and promote competition, and to prevent excessive concentration of ownership of the nation's television broadcast stations.

S. 1046

At the request of Mr. STEVENS, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 1046, supra.

S. 1250

At the request of Mr. BURNS, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1250, a bill to improve, enhance, and promote the Nation's homeland security, public safety, and citizen activated emergency response capabilities through the use of enhanced 911 services, to further upgrade Public Safety Answering Point capabilities and related functions in receiving E–911 calls, and to support the construction and operation of a ubiquitous and reliable citizen activated system and other purposes.

S. 1283

At the request of Mr. GRAHAM of Florida, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 1283, a bill to require advance notification of Congress regarding any action proposed to be taken by the Secretary of Veterans Affairs in the implementation of the Capital Asset Realignment for Enhanced Services initiative of the Department of Veterans Affairs, and for other purposes.

S. 1296

At the request of Ms. MURKOWSKI, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 1296, a bill to exempt seaplanes from certain transportation taxes.

S. 1331

At the request of Mr. SANTORUM, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 1331, a bill to clarify the treatment of tax attributes under section 108 of the Internal Revenue Code of 1986 for taxpayers which file consolidated returns.

S. 1335

At the request of Mr. GRAHAM of Florida, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 1335, a bill to amend the Internal Revenue Code of 1986 to allow individuals a deduction for qualified long-term care insurance premiums, use of such insurance under cafeteria plans and flexible spending arrangements, and a credit for individuals with long-term care needs.

S. 1379

At the request of Mr. JOHNSON, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 1379, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 1400

At the request of Ms. COLLINS, her name was added as a cosponsor of S. 1400, a bill to develop a system that provides for ocean and coastal observations, to implement a research and development program to enhance security at United States ports, to implement a data and information system required by all components of an integrated ocean observing system and related research, and for other purposes.

S. CON. RES. 25

At the request of Mr. VOINOVICH, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. Con. Res. 25, a concurrent resolution recognizing and honoring America's Jewish community on the occasion of its 350th anniversary, supporting the designation of an ''American Jewish History Month'', and for other purposes.

S. CON. RES. 40

At the request of Mrs. CLINTON, the names of the Senator from Massachusetts (Mr. KERRY), the Senator from North Carolina (Mr. EDWARDS), the Senator from Rhode Island (Mr. REED), the Senator from Washington (Mrs. MURRAY), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Indiana (Mr. BAYH), the Senator from Washington (Ms. CANTWELL), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Hawaii (Mr. INOUYE), the Senator from Maryland (Mr. SARBANES), the Senator from Georgia (Mr. MILLER), the Senator from Michigan (Mr. LEVIN), the Senator from Nebraska (Mr. NELSON) and the Senator from West Virginia (Mr. ROCKEFELLER) were added as cosponsors of S. Con. Res. 40, a concurrent resolution designating August 7, 2003, as ''National Purple Heart Recognition Day''.

S. CON. RES. 41

At the request of Mr. KENNEDY, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. Con. Res. 41, a concurrent resolution directing Congress to enact legislation by October 2005 that provides access to comprehensive health care for all Americans.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. REID:

S. 1418. A bill to amend title II of the Social Security Act to allow workers who attain age 65 after 1981 and before 1992 to choose either lump sum payments over four years totaling $5,000 or an improved benefit computation formula under a new 10-year rule governing the transition to the changes in benefits computation rules enacted in the Social Security Amendments of 1977, and for other purposes; to the Committee on Finance.

Mr. REID. Mr. President, I believe Social Security is one of the greatest success stories of our government.

Social Security is the only program in the history of our Nation that has provided dignity and respect for our senior citizens, regardless of their income or backgrounds.

For almost 70 years, Social Security has been there for our citizens when they need it. It has provided seniors with independence and economic security in their retirement years.

In addition to helping millions of senior citizens, Social Security has provided economic security for surviving spouses and children and to countless Americans with disabilities.

It is easy to see why people believe Social Security is the most successful social program our country has ever adopted.

I rise today to reintroduce legislation that would correct a problem that plagues a special population of Social Security recipients. I am speaking on behalf of those affected by Social Security notch.

The Social Security notch causes more than nine million Social Security recipients born between the years of 1917 and 1926 to receive fewer Social Security benefits than Americans born outside the notch years due to changes made in 1977 to the Social Security benefit formula.

I have continued to speak out on this issue and the injustice it imposes on millions of seniors. The notch issue has been discussed, studied and reviewed, yet to date, Congress has not corrected this wrong. Because of this, many older Americans born during this period cannot afford the most basic necessities.

Congress must accept responsibility for any error that was made. We should not ask notch Seniors to accept less because of our mistake. While we must preserve and protect Social Security for future generations, we have an obligation to those, who through no fault of their own, receive less than those that were fortunate enough to be born just days before and after the notch period.

The notch situation has its origins in 1972, when Congress decided to create automatic cost-of-living-adjustments to help Social Security keep pace with inflation. Prior to 1972, each adjustment had to await legislation, causing beneficiaries' monthly payments to lag behind inflation. When Congress took this action, it was acting under the best of intentions.

Unfortunately, this new benefit adjustment method was flawed. To function properly, it required that the economy behave in much the same fashion that it had in the 1950s and 1960s, with annual wage increases outpacing prices, and inflation remaining relatively low. As we all know, that did not happen. The rapid inflation and high unemployment of the 1970s generated rapid increases in benefits.

In 1977, Congress revised the way that benefits were computed. In making its revisions, Congress decided that it was not proper to reduce benefits for persons already receiving them. It did, however, decide that benefits for all future retirees should be reduced.

We have an obligation to convey to our constituents that Social Security is a fair system. Notch Babies in Nevada feel slighted by their government and if I were in their situation, I would too. Through no fault of their own, they receive less, sometimes as much as $200 less, than their neighbors.

The legislation I am offering today is my proposal to right the wrong. Let us fix the notch problem and restore the confidence of the nine million notch babies across this land. Government has an obligation to be fair. My support of notch babies is longstanding. I sponsored numerous pieces of legislation over the years to address this issue. With this legislation, my effort continues.

It is unfortunate that these measures have not seen the light of day. Many who have written to me think Congress is waiting for notch babies to die rather than honor this debt. I must tell you it concerns me when our constituents have this perception of their elected representatives.

We have to do something to make sure Americans believe that Social Security is a fair system. Passage of my legislation provides us that chance.

My legislation is intended to make good on what this government should have done long ago. I propose that workers who attain the age of 65 after 1981 and before 1992 be allowed to choose either lump sum payment over four years totaling $5,000 or an improved benefit computation formula under a new 10-year rule governing the transition to the changes in benefit computation rules enacted in the Social Security Amendments of 1977.

It is time to put these dollars into the hands of those who earned them. It is time to show our support for notch reform.

I am introducing this legislation because actions speak louder than words. The 'Notch Fairness Act of 2003' that I am introducing on behalf of notch victims today, is intended to put my words into action. I ask all my colleagues to join me in support of this important and long overdue legislation.

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

S. 1418

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 ''Notch Fairness Act of 2003''.

SEC. 2. NEW GUARANTEED MINIMUM PRIMARY INSURANCE AMOUNT WHERE ELIGIBILITY ARISES DURING TRANSITIONAL PERIOD.

(a) IN GENERAL.—Section 215(a) of the Social Security Act (42 U.S.C. 415(a)) is amended—

(1) in paragraph (4)(B)—

(A) by inserting ''(with or without the application of paragraph (8))'' after ''would be made''; and

(B) in clause (i), by striking ''1984'' and inserting ''1989''; and

(2) by adding at the end the following:

''(8)(A) In the case of an individual described in paragraph (4)(B) (subject to subparagraphs (F) and (G) of this paragraph), the amount of the individual's primary insurance amount as computed or recomputed under paragraph (1) shall be deemed equal to the sum of—

''(i) such amount, and

''(ii) the applicable transitional increase amount (if any).

''(B) For purposes of subparagraph (A)(ii), the term 'applicable transitional increase amount' means, in the case of any individual, the product derived by multiplying—

''(i) the excess under former law, by

''(ii) the applicable percentage in relation to the year in which the individual becomes eligible for old-age insurance benefits, as determined by the following table:

''If the individual becomes eligible for such benefits in:	The applicable percentage is:
1979	55 percent
1980	45 percent
1981	35 percent
1982	32 percent
1983	25 percent
1984	20 percent
1985	16 percent
1986	10 percent
1987	3 percent
1988	5 percent.

''(C) For purposes of subparagraph (B), the term 'excess under former law' means, in the case of any individual, the excess of—

''(i) the applicable former law primary insurance amount, over

''(ii) the amount which would be such individual's primary insurance amount if computed or recomputed under this section without regard to this paragraph and paragraphs (4), (5), and (6).

''(D) For purposes of subparagraph (C)(i), the term 'applicable former law primary insurance amount' means, in the case of any individual, the amount which would be such individual's primary insurance amount if it were—

''(i) computed or recomputed (pursuant to paragraph (4)(B)(i)) under section 215(a) as in effect in December 1978, or

''(ii) computed or recomputed (pursuant to paragraph (4)(B)(ii)) as provided by subsection (d),

(as applicable) and modified as provided by subparagraph (E).

''(E) In determining the amount which would be an individual's primary insurance amount as provided in subparagraph (D)—

''(i) subsection (b)(4) shall not apply;

''(ii) section 215(b) as in effect in December 1978 shall apply, except that section 215(b)(2)(C) (as then in effect) shall be deemed to provide that an individual's 'computation base years' may include only calendar years in the period after 1950 (or 1936 if applicable) and ending with the calendar year in which such individual attains age 61, plus the 3 calendar years after such period for which the total of such individual's wages and self-employment income is the largest; and

''(iii) subdivision (I) in the last sentence of paragraph (4) shall be applied as though the words 'without regard to any increases in that table' in such subdivision read 'including any increases in that table'.

''(F) This paragraph shall apply in the case of any individual only if such application results in a primary insurance amount for such individual that is greater than it would be if computed or recomputed under paragraph (4)(B) without regard to this paragraph.

''(G)(i) This paragraph shall apply in the case of any individual subject to any timely election to receive lump sum payments under this subparagraph.

''(ii) A written election to receive lump sum payments under this subparagraph, in lieu of the application of this paragraph to the computation of the primary insurance amount of an individual described in paragraph (4)(B), may be filed with the Commissioner of Social Security in such form and manner as shall be prescribed in regulations of the Commissioner. Any such election may be filed by such individual or, in the event of such individual's death before any such election is filed by such individual, by any other beneficiary entitled to benefits under section 202 on the basis of such individual's wages and self-employment income. Any such election filed after December 31, 2003, shall be null and void and of no effect.

''(iii) Upon receipt by the Commissioner of a timely election filed by the individual described in paragraph (4)(B) in accordance with clause (ii)—

''(I) the Commissioner shall certify receipt of such election to the Secretary of the Treasury, and the Secretary of the Treasury, after receipt of such certification, shall pay such individual, from amounts in the Federal Old-Age and Survivors Insurance Trust Fund, a total amount equal to $5,000, in 4 annual lump sum installments of $1,250, the first of which shall be made during fiscal year 2004 not later than July 1, 2004, and

''(II) subparagraph (A) shall not apply in determining such individual's primary insurance amount.

''(iv) Upon receipt by the Commissioner as of December 31, 2003, of a timely election filed in accordance with clause (ii) by at least one beneficiary entitled to benefits on the basis of the wages and self-employment income of a deceased individual described in paragraph (4)(B), if such deceased individual has filed no timely election in accordance with clause (ii)—

''(I) the Commissioner shall certify receipt of all such elections received as of such date to the Secretary of the Treasury, and the Secretary of the Treasury, after receipt of such certification, shall pay each beneficiary filing such a timely election, from amounts in the Federal Old-Age and Survivors Insurance Trust Fund, a total amount equal to $5,000 (or, in the case of 2 or more such beneficiaries, such amount distributed evenly among such beneficiaries), in 4 equal annual lump sum installments, the first of which shall be made during fiscal year 2004 not later than July 1, 2004, and

''(II) solely for purposes of determining the amount of such beneficiary's benefits, subparagraph (A) shall be deemed not to apply in determining the deceased individual's primary insurance amount.''.

(b) EFFECTIVE DATE AND RELATED RULES.—

(1) APPLICABILITY OF AMENDMENTS.—

(A) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this Act shall be effective as though they had been included or reflected in section 201 of the Social Security Amendments of 1977.

(B) APPLICABILITY.—No monthly benefit or primary insurance amount under title II of the Social Security Act shall be increased by reason of such amendments for any month before July 2004.

(2) RECOMPUTATION TO REFLECT BENEFIT INCREASES.—Notwithstanding section 215(f)(1) of the Social Security Act, the Commissioner of Social Security shall recompute the primary insurance amount so as to take into account the amendments made by this Act in any case in which—

(A) an individual is entitled to monthly insurance benefits under title II of such Act for June 2004; and

(B) such benefits are based on a primary insurance amount computed—

(i) under section 215 of such Act as in effect (by reason of the Social Security Amendments of 1977) after December 1978, or

(ii) under section 215 of such Act as in effect prior to January 1979 by reason of subsection (a)(4)(B) of such section (as amended by the Social Security Amendments of 1977).

By Ms. LANDRIEU (for herself, Mr. BAYH, Mr. KERRY, Mrs. CLINTON, and Mr. DASCHLE):

S. 1419. A bill to support the establishment or expansion and operation of programs using a network of public and private community entities to provide mentoring for children in foster care; to the Committee on Finance.

Ms. LANDRIEU. Madam President, I send a bill to the desk and ask for its appropriate referral. I send this bill to the desk on behalf of myself, the Senator from Indiana, Senator BAYH, Senator KERRY, and Senator CLINTON.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

Ms. LANDRIEU. Madam President, I appreciate the Democratic leader's generosity, to give some of his time for the introduction of this very important bill. I thank the Senator from South Dakota.

This particular measure is called the Foster Mentoring Act of 2003. I have spoken many times on the floor about the issue of foster care and adoption, and our efforts as a Congress to try to keep our families intact and to provide the economic systems in the country, as well as the social systems from the Federal, State, and local level, to try to help support our families in a way that will get them through crises that all families experience.

It would be our goal as a nation to see that every child born in a family gets to stay within that family and is loved and nurtured within that family unit, either the immediate family or extended family. But when family ties break down beyond the ability to repair them even with the best efforts made by the churches and synagogues and mosques and faith-based organizations as well as the Government, then we have to create a system out-of-home care, or foster care.

We have done that. We have created a system, but we have to fix a system that is now broken and in great need of repair. Many of us have been working diligently over the past few years to do that. Some great progress has been made.

Until the system can be reformed in its entirety, there are some things we can do now, we can do immediately. Passing this Foster Mentoring Act is one of these things. It would provide a $15 million grant to States to provide foster care mentoring programs, provides $4 million for a public awareness campaign for the need for mentors for the over 500,000 children who are in foster care in the United States today, and it would provide, most significantly, up to $20,000 for loan forgiveness for anyone who would mentor a foster care child.

You ask me have we done this before? Yes, in California, represented by a list of advocates I will submit, Children Uniting Nations is the lead nonprofit organization organizing this effort. Under the direction of Governor Gray Davis and his wife, Sharon, they have been a successful pilot for this kind of program in the United States.

This bill attempts to take what is working in California and expand it nationally and provide foster care mentoring opportunities to children in foster care.

I ask unanimous consent, because my time is short, to have printed in the RECORD a letter from the former majority leader, Dick Armey, who supports this initiative and really encourages the Congress to take a serious look.

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

RICHARD K. ARMEY,
FORMER MAJORITY LEADER,
Washington, DC, July 16, 2003.

Hon. MARY LANDRIEU,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR LANDRIEU: I understand you are introducing legislation designed to promote mentoring for foster children. I am writing to applaud your effort and objective. Based on my own experience, mentoring works.

My own experience with mentoring convinces me that it affords an opportunity for learning and encouragement to children that is all too often not otherwise available. For the past ten years I have sponsored a program, which we called, Tools for Tomorrow in which we arranged scholarships and mentors fifteen deserving children. I have seen first hand how they blossomed through the experience and I have enjoyed the special relationship between the children and their mentors. Mentoring works in the lives of the children.

In addition to applauding your active leadership and efforts with respect to mentoring for foster children I also want to commend Daphna Ziman, and Children Using Nations for their support and activities in the private sector. Daphna Ziman, Chairperson of Children Uniting Nations, is a recognized leader who gives much of herself in the tireless pursuit of helping foster children. Her efforts and other private sector initiatives play a critical role in advancing this important cause.

With kind regards,

DICK ARMEY.

Ms. LANDRIEU. I urge my colleagues to take this issue, as I know they will, quite seriously, to do what we can now to provide the hundreds of thousands of children who are looking for mentorship and stability the benefit of this act and, as quickly as we can, take it up in the Senate. Of course, we urge our leadership to do so.

Finally, I thank Senator DASCHLE for giving me the minutes before his amendment to offer this important legislation.

I yield any time remaining.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Madam President, I complement the distinguished Senator from Louisiana for her bill and her leadership on the issue of mentoring. She knows a great deal about foster care. I am grateful to her for the commitment she had made to the issue.

Recent statistics have shown that 45 percent of those children who are in foster care are less likely to begin using drugs; 59 percent do better academically; 73 percent set and attain a higher life achievement goal. So there is a lot to be said for fostering. I believe the Foster Care Mentoring Act that she has now just introduced is meritorious and certainly deserves our support.

I ask to be a cosponsor.

Ms. LANDRIEU. I thank the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. CRAIG:

S. 1420. A bill to establish terms and conditions for use of certain Federal land by outfitters and to facilitate public opportunities for the recreational use and enjoyment of such land; to the Committee on Energy and Natural Resources.

Mr. CRAIG. Mr. President, I am pleased to introduce today the Outfitter Policy Act of 2003.

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

The bill recognizes that many Americans want and seek out the skills and experience of commercial outfitters and guides to help them enjoy a safe and pleasant journey.

The Outfitter Policy Act's primary purpose is to ensure accessibility to public lands by all segments of the population and maintain the availability of quality recreation services to the public. While protecting access for many outdoor enthusiasts who possess the skills to enjoy recreating on public lands without assistance, this Act insures that outfitters and guides across the Nation can continue to provide opportunities for outdoor recreation for the many families and groups who would otherwise find the backcountry inaccessible.

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

Congress has twice addressed this issue with respect to the National Park System permits—originally establishing standards for Park Service administration of guide/outfitter permits on their lands in 1965 and amending that system in 1998. Therefore, it is appropriate to set similar legislative standards for other public land systems

such as Forest Service and Bureau of Land Management lands. However, these and other land management agencies are now without Congressional guidance, and instead rules, permit terms and conditions and other intricacies are often left to local agency personnel. The Outfitter Policy Act would alleviate the discord involved in land management permitting, providing consistent guidance on the administration of guide/outfitter permits for the other federal land management agencies.

The Outfitter Policy Act provides the basic terms and conditions necessary to sustain the substantial investment often needed to provide the level of service demanded by the public. However, the bill provides the agencies ample flexibility to adjust use, conditions, and permit terms. All of which must be consistent with agency management plans and policies for resource conservation. The Outfitter Policy Act strives to provide a stable, consistent regulatory climate which encourages qualified entrants to the guide/outfitting business, while giving the agencies and operators clear directions.

The Outfitter Policy Act is a measure that will facilitate access to public lands by the outfitted public, while providing incentives to outfitters to provide the high quality services over time. It is necessary to ensure that members of the public who need and rely on guides and outfitters for recreational access to public lands will continue to receive safe, quality services.

Unfortunately, this legislation has not passed in its current form. So I will be working with my colleagues, Senators BINGAMAN and WYDEN, to capture these concepts and draft a bill that will pass our committee.

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. 1420

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Outfitter Policy Act of 2003''.

SEC. 2. PURPOSE.

The purpose of this Act is to authorize the Secretary of Agriculture and the Secretary of the Interior to facilitate the use and enjoyment of recreational and educational opportunities on Federal land by establishing a program for the permitting of providers of outfitted activities that—

(1) recognizes that outfitted activities constitute an important component of meeting the recreational and educational objectives of resource and land management;

(2) is based on developing an effective relationship between the Federal agency and the outfitters that facilitates an administrative framework and regulatory environment that makes it possible for outfitters to engage in, and invest in, a successful business venture that provides for recreational use of Federal land by the segment of the public that needs or wants the services of outfitters and guides; and

(3) ensures that the United States receives fair value for use of Federal land.

SEC. 3. DEFINITIONS.

In this Act:

(1) ALLOCATION OF USE.—

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

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

(ii) takes the form of—

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

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

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

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

(2) AUTHORIZED OUTFITTER.—The term ''authorized outfitter'' means a person or entity that conducts a commercial outfitted activity on Federal land under an outfitter authorization.

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

(A) conducted for a member of the public in an outdoor environment on Federal land, such as—

(i) outfitting;
(ii) guiding;
(iii) supervision;
(iv) education;
(v) interpretation;
(vi) skills training;
(vii) assistance; or
(viii) the dropping off or picking up of visitors, supplies, or equipment;

(B) conducted under the direction of compensated individuals; and

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

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

(A) the Forest Service;
(B) the Bureau of Land Management;
(C) the United States Fish and Wildlife Service; or
(D) the Bureau of Reclamation.

(5) FEDERAL LAND.—

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

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

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

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

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

(A) an outfitter permit;

(B) a temporary outfitter authorization; or

(C) any other authorization to use and occupy Federal land under this Act.

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

(A) a national forest;
(B) an area of public land;
(C) a wildlife refuge;
(D) a congressionally designated area;
(E) a hunting zone or district; or
(F) any other Federal planning unit (including an area in which outfitted activities are regulated by more than 1 Federal agency).

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

(A) with respect to Federal land administered by the Forest Service, the Secretary of Agriculture;

(B) with respect to Federal land administered by the Bureau of Land Management, the United States Fish and Wildlife Service, or the Bureau of Reclamation, the Secretary of the Interior.

SEC. 4. OUTFITTER AUTHORIZATIONS.

(a) IN GENERAL.—

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

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

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

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

(2) other terms and conditions of the authorization.

(c) CRITERIA FOR ISSUING AN OUTFITTER PERMIT.—The Secretary shall establish criteria for the issuance of an outfitter permit that—

(1) recognize skilled, experienced, and financially capable persons or entities with knowledge of the resource area;

(2) consider the safety of, and the quality recreational experience, educational opportunities, and resources available to, the outfitted visitor; and

(3) recognize and provide a range of public services.

(d) ISSUANCE OF OUTFITTER PERMIT.—

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

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

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

(2) USE OF COMPETITIVE PROCESS.—Except as otherwise provided by this Act, the Secretary shall use a competitive process to select an authorized outfitter if the Secretary determines that there is a competitive interest in the commercial outfitted activity to be conducted.

(e) PROVISIONS OF OUTFITTER PERMITS.—

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

(A) the health and welfare of the public;

(B) conservation of resources;

(C) a return to the United States through the fees authorized under section 5;

(D)(i) a term of 10 years; or

(ii) a term of less than 10 years if—

(I) foreseeable amendments in resource management plans would create conditions

that, less than 10 years after the date of issuance of the permit, would materially affect, and necessitate changes in the terms and conditions of, a permit; and

(II) the Secretary and the authorized outfitter agree to the reduced permit term;

(E) a probationary period of 2 years if the authorized outfitter is a new authorized outfitter;

(F) the obligation of an authorized outfitter to defend and indemnify the United States under section 6;

(G) a base allocation of outfitter use, and, if appropriate, a temporary allocation of use;

(H) a plan to conduct performance evaluations under section 8;

(I) a means to modify, on the initiative of the Federal agency or on the request of the authorized outfitter, an outfitter permit to reflect material changes in terms and conditions specified in the outfitter permit;

(J) notice of a right of appeal and judicial review; and

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

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

(f) TEMPORARY OUTFITTER AUTHORIZATIONS.—

(1) IN GENERAL.—The Secretary may issue a temporary outfitter authorization for the purpose of conducting a commercial outfitted activity on a limited basis.

(2) TERM.—A temporary outfitter authorization shall have a term of not more than 2 years.

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

SEC. 5. FEES.

(a) AMOUNT OF FEE.—

(1) IN GENERAL.—In determining the amount of a fee, the Secretary shall—

(A) use consistent methodologies; and

(B) take into consideration—

(i) the financial obligations of the outfitter under the outfitter permit;

(ii) the provision of a reasonable opportunity to engage in a successful business;

(iii) the fair value of the use and occupancy granted by the outfitter authorization; and

(iv) other fees charged to the general public, such as entrance fees.

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

(A)(i) shall be expressed as—

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

(II) an annual or seasonable flat fee; or

(ii) if calculated as a percentage of revenue—

(I) shall be determined based on adjusted gross receipts; and

(II) shall include a minimum fee;

(B) shall be subordinate to the objectives of—

(i) conserving resources;

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

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

(iv) providing quality service to the public; and

(C) shall be required to be paid on a reasonable schedule during the operating season.

(3) ACTUAL USE.—For the purpose of calculating a fee based on actual use, the Secretary shall—

(A) consider multiple outfitted activities conducted in 1 day with separate charges as 1 actual use day; and

(B) consider an activity conducted across agency jurisdictions over the course of 1 day as 1 actual use day.

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

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

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

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

(I) hunting or fishing licenses;

(II) entrance or recreation fees; or

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

(ii) a sale of assets used in the operations of the authorized outfitter; or

(iii) activities conducted on non-Federal land.

(5) FEES FOR SUBSTANTIALLY SIMILAR SERVICES IN A SPECIFIC GEOGRAPHIC AREA.—

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

(B) EXCEPTION.—The terms and conditions of an existing outfitter permit shall not be subject to modification or open to renegotiation by the Secretary because of the issuance of a new outfitter permit in the same resource area.

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

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

(B) may be modified to reflect—

(i) changes in outfitted activities relating to fees based on actual use;

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

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

(iv) the imposition of new or increased fees assessed under other law; or

(v) authorized adjustments made to an allocation of use.

(b) OTHER FEES AND COSTS.—

(1) IN GENERAL.—In establishing fees other than the fees authorized under this Act that may directly or indirectly affect authorized outfitters, the Secretary shall—

(A) ensure that the fees do no materially and adversely effect—

(i) the ability of authorized outfitters to provide quality services at reasonable rates; and

(ii) the opportunity of authorized outfitters to engage in a successful business venture; and

(B)(i) consider the cumulative impact of fees levied under this Act, any cost recovery requirements, and State and local taxes and fees on authorized outfitters; and

(ii) adjust the fees as appropriate;

(C) to the extent practicable, consolidate the fees into 1 predictable fee.

(2) PROCESSING FEES AND COSTS.—Fees for processing applications for outfitter permits or monitoring compliance with permits terms and conditions shall not seek to recover costs of agency activities that benefit broadly the general public, relate directly to agency statutory duties, or are not directly related to or required for processing of applications or monitoring of an authorization.

(3) NOTICE.—A change in the manner in which a fee charged under paragraph (1) or (2) is determined shall be valid only if—

(A) the Secretary provides written notice to authorized outfitters affected by the change; or

(B) the authorized outfitter agrees to the change.

SEC. 6. LIABILITY AND INDEMNIFICATION.

(a) GENERAL.—An authorized outfitter shall pay the United States for all injury, loss, damage, and costs arising from negligence, gross negligence, or willful and wanton disregard for persons or property associated with the authorized outfitter's conduct of a commercial outfitted activity under an outfitter authorization.

(b) INDEMNIFICATION.—An authorized outfitter shall defend and indemnify the United States for all injury, loss, damage, and costs the United States may incur as a result of judgments, claims, or losses arising from negligence, gross negligence, or willful and wanton disregard for persons or property associated with the authorized outfitter's conduct of a commercial outfitted activity under an outfitter authorization.

(c) ENVIRONMENTAL AND OTHER LIABILITY.—Subsections (a) and (b) shall not be interpreted to limit any liability for, or prevent the United States from taking any action to address, injury, loss, damages, or costs associated with environmental contamination, injury to natural resources, or other cause of action that arises under other law, including the Resource Conservation Recovery Act (7 U.S.C. 1010, et seq.), the Comprehensive Environmental Response Compensation and Liability Act (42 U.S.C. 19 9601, et seq.), and Clean Water Act (33 U.S.C. 1251, et seq.), in connection with the authorized outfitter's use and occupancy of Federal lands, or to diminish any independent obligation of the authorized outfitter to indemnify the United States with respect to the same.

(d) EXCEPTION.—An authorized outfitter shall have no obligation to pay, defend, or indemnify the United States under subsections (a) and (b) for any injury, loss, damage, or costs for which the United States is solely responsible.

(e) FINDING OF COGNIZABLE CLAIM.—

(1) ACTIONS REQUIRED BEFORE PRESENTING CLAIM.—Before presenting any claim to an authorized outfitter for injury, loss, damage, or costs incurred by the United States pursuant to subsection (a) or (b), the Secretary shall—

(A) submit to the authorized outfitter a preliminary finding that the claim is cognizable; and

(B) provide the authorized outfitter with an opportunity to comment before submitting the final finding to the authorized outfitter.

(2) ADMINISTRATIVE CLAIMS.—Nothing in this section is intended to preclude the United States from pursuing its claims administratively, without first obtaining a judicial determination of liability.

(f) ASSUMPTION OF RISK AND WAIVERS OF LIABILITY.—

(1) GENERAL REQUIREMENTS.—An authorized outfitter may enter into agreements with outfitted visitors for assumption of risk and waiver of liability for negligence in connection with inherently dangerous outfitted activities, if—

(A) the waiver of liability also runs in favor of the United States and its agents, employees, or contractors;

(B) the waiver of liability adequately covers the risks of loss to the United States associated with the authorized outfitter's activities on Federal lands;

(C) the waiver of liability does not abrogate, limit, or in any manner affect the authorized outfitter's obligation to indemnify the United States under this section; and

(D) the waiver of liability does not affect the ability of the United States to recover as

an additional insured under any insurance policy obtained by an authorized outfitter in connection with a commercial outfitted activity.

(2) PRIOR WRITTEN APPROVAL REQUIRED.—No waiver of liability may be used by an authorized outfitter without prior written approval of the Federal agency. The Federal agency has the discretion to deny requests for the use of waivers of liability for any reason if deemed not in the best interests of the United States.

(3) STANDARDIZATION.—Waivers of liability used by authorized outfitters and insurance policies obtained by authorized outfitters in connection with a commercial outfitted activity shall be standardized to the greatest extent possible. Authorized outfitters, the insurance industry, and the Federal agencies shall work together to achieve this goal.

SEC. 7. ALLOCATIONS OF USE.

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

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

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

(b) WAIVER OF ALLOCATION.—

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

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

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

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

(1) may adjust a base allocation of use to reflect—

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

(B) requirements arising under other law; and

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

(d) RENEWALS, TRANSFERS, AND EXTENSIONS.—Except as provided in subsection (c), on renewal, transfer, or extension of an outfitter permit, the same base allocation of use shall be included in the terms and conditions of the outfitter permit.

(e) TEMPORARY ALLOCATION OF USE.—

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

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

SEC. 8. EVALUATION OF PERFORMANCE.

(a) EVALUATION SYSTEM.—The Secretary shall develop a performance evaluation system that—

(1) ensures the continued availability of safe and dependable commercial outfitted activities for the public; and

(2) provides for the suspension or revocation of any outfitter permit if an outfitter fails to meet the required standards.

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

(1) be objective, measurable, and attainable; and

(2) include, as determined to be appropriate by the Secretary—

(A) standards generally applicable to all commercial outfitted activities; and

(B) standards specific to a resource area or an individual outfitter operation.

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

(1) appropriately account for factors beyond the control of the authorized outfitter;

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

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

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

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

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

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

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

(e) MARGINAL PERFORMANCE.—If an authorized outfitter's annual performance is determined to be marginal—

(1) the level of performance shall be changed to a ''good'' performance for the year if the authorized outfitter completes the corrections within the time specified; or

(2) the level of performance shall be determined to be unsatisfactory for the year if the authorized outfitter fails to complete the corrections within the time specified.

(f) DETERMINATION OF ELIGIBILITY FOR RENEWAL.—

(1) IN GENERAL.—The results of all annual performance evaluations of an authorized outfitter shall be reviewed by the Secretary in the year preceding the year in which the outfitter permit expires to determine whether the authorized outfitter's overall performance during the term has met the requirements for renewal under section 9.

(2) FAILURE TO EVALUATE.—If, in any year of the term of an outfitter permit, the Secretary fails to evaluate the performance of the authorized outfitter by the date that is 90 days after the conclusion of the authorized outfitter's operating season, the performance of the authorized outfitter in that year shall be considered to have been good.

(3) NOTICE.—Not later than 90 days after the end of the year preceding the year in which an outfitter permit expires, the Secretary shall provide the authorized outfitter with the cumulative results of performance evaluations conducted under this subsection during the term of the outfitter permit.

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

SEC. 9. RENEWAL, REVOCATION, OR SUSPENSION OF OUTFITTER PERMITS.

(a) RENEWAL AT EXPIRATION OF TERM.—

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

(2) CRITERIA FOR DETERMINATION.—The Secretary shall renew an outfitter authorization under paragraph (1) at the end of the term of an outfitter authorization and subject to the requirements of this Act if the Secretary determines that the authorized outfitter has received not more than 1 unsatisfactory annual performance rating under section 8 during the term of the outfitter permit.

(3) TEMPORARY OUTFITTER AUTHORIZATION.—If the Secretary determines that the authorized outfitter has received an unsatisfactory annual performance rating in the last year of the 10-year term of the outfitter permit—

(A) the Secretary may issue to the authorized outfitter a temporary outfitter permit; and

(B) if during the 2-year period of the temporary outfitter permit issued under subparagraph (A), the authorized outfitter receives a good performance rating, the Secretary shall renew the outfitter permit for an 8-year term.

(b) SUSPENSION OR REVOCATION.—An outfitter permit may be suspended or revoked if the Secretary determines that—

(1)(A) the authorized outfitter has failed to correct a condition for which the authorized outfitter received notice under section 8(c)(4); and

(B) the condition is considered by the Secretary to be significant with respect to the terms and conditions of the outfitter permit;

(2) the authorized outfitter—

(A) is in arrears in the payment of fees under section 5; and—

(B)(i) has not entered into a payment plan with the Federal agency; or

(ii) has not brought a civil action or brought an administrative claim under section 12; and

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

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

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

SEC. 10. TRANSFERABILITY OF OUTFITTER PERMITS.

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

(b) APPROVAL.—

(1) IN GENERAL.—The Secretary shall approve a transfer of an outfitter permit unless the Secretary determines that the transferee is—

(A) not qualified; or

(B) unable to satisfy the terms and conditions of the outfitter permit.

(2) QUALIFIED TRANSFEREES.—Subject to section 4(d)(1), the Secretary shall approve a transfer of an outfitter permit—

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

(B) at the request of the authorized outfitter, to an assignee, partner, or stockholder

or other owner of an interest in the operation of the authorized outfitter; or

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

(c) TRANSFER TERMS.—The terms and conditions of any outfitter permit shall not be subject to modification or open to renegotiation by the Secretary because of a transfer described in subsection (a) unless—

(1) the modification is agreed to by, or at the request of, the transferee;

(2) the terms and conditions of the outfitter permit that is proposed to be transferred have become inconsistent or incompatible with an approved resource management plan for the resource area; or

(3) the transferee proposes activities outside the scope of the existing authorization.

(d) CONSIDERATION PERIOD.—

(1) TIMEFRAME FOR REVIEW.—Subject to paragraph (2), if the Secretary fails to act on the transfer of an outfitter permit within 180 days after the date of receipt of an application containing the information required with respect to the transfer, the transfer shall be deemed to have been approved.

(2) EXTENSION.—The Secretary may extend the period for consideration of an application under paragraph (1) if—

(A) the Secretary and the authorized outfitter applying for transfer of an outfitter permit agree to extend the period; or

(B)(i) the transferee requests a modification of the terms and conditions of the outfitter permit; and

(ii) the modification requires environmental analysis under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

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

SEC. 11. RECORDKEEPING REQUIREMENTS.

(a) IN GENERAL.—An authorized outfitter shall keep such reasonable records as the Secretary may require to enable the Secretary to determine that all the terms of the outfitter permit are being met.

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

(c) ACCESS TO RECORDS.—The Secretary, or an authorized representative of the Secretary, shall for audit and performance evaluation purposes have access to and the right to examine for the 5–year period beginning on the termination date of an outfitter permit any records of the authorized outfitter relating to each outfitter authorization held by the authorized outfitter during the business year.

SEC. 12. APPEALS AND JUDICIAL REVIEW.

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

(1) grant an authorized outfitter full access to administrative remedies; and

(2) establish an expedited procedure for consideration of appeals of Federal agency decisions to—

(A) deny, suspend, fail to renew, or revoke an outfitter permit; or

(B) change a principal allocation of outfitter use.

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

SEC. 13. COLLECTION AND USE OF FUNDS.

Except as provided in section 7 of the Act of April 24,1950 (commonly known as the ''Granger-Thye Act'') (16 U.S.C. 580d), funds deposited under this Act shall be available to the Secretary without further appropriation and shall remain available for—

(1) administration of the outfitter permit;

(2) interpretive programs;

(3) trail maintenance; or

(4) any other activity to carry out this Act.

SEC. 14. REGULATIONS.

Not later than 2 years after the date of enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture shall promulgate regulations for permitting commercial outfitted activities on Federal land.

SEC. 15. RELATIONSHIP TO OTHER LAW.

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

(b) ANILCA.—Nothing in this Act modifies, amends, or otherwise affects section 1307 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3197).

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

SEC. 16. TRANSITION PROVISIONS.

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

(b) OUTFITTERS WITH NO RATINGS.—For the purpose of subsection (a), if no recent performance evaluations exist to determine the outfitter's performance, the performance shall be deemed to be good.

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

SEC. 17. EFFECT.

(a) IN GENERAL.—Nothing in this Act limits or restricts any right, title, or interest of the United States in or to any land or resource or establishes a property right in favor of the authorized outfitter.

(b) EFFECT ON NON-OUTFITTED RECREATIONAL OR ACADEMIC USE.—Nothing in this Act—

(1) establishes any preference for outfitted or non-outfitted use;

(2) diminishes or impairs—

(A) any existing use or occupancy of Federal land by the public (including the non-outfitted public); or

(B) any right or privilege of use, occupancy, or access to Federal land by the public (including the non-outfitted public);

(3) diminishes the existing authority of Federal agencies to—

(A) establish levels of use; and

(B) allocate such use among or between the outfitted and non-outfitted public; and

(4) applies to outdoor activity and services on Federal land for or directly related to academic credit and provided by a bona fide and accredited academic institution.

By Ms. MURKOWSKI:

S. 1421. A bill to authorize the subdivision and dedication of restricted land owned by Alaska Natives; to the Committee on Energy and Natural Resources.

Ms. MURKOWSKI. Mr. President, the Native Allotment Subdivision Act is the only answer to resolving the question of whether Native landowners have the authority to subdivide their own property. Individual Alaska Native landowners cannot subdivide their land to transfer it either by gift or by sale. There is no current authority that allows them to dedicate rights-of-way across their land for public access or for utility purposes. The lack of explicit statutory authorization calls into question the legal validity of lands that have been subdivided and lands that likely could be subdivided in the future. This legislation will provide the necessary authorization to the Department of the Interior and Native landowners to dedicate their land for public purposes as they see fit. No other legislation or policy exists that addresses such a unique problem. Essentially this bill allows Alaska Natives to own lands with the same obligations and privileges of other private landowners in Alaska. However, the bill creates no obligation of Alaska Natives to do anything with their allotments unless they elect to sell or dispose of their lands.

Over the past twenty years, hundreds of allotments have been subdivided, either for the purpose of commercial sale or to facilitate transfers of land to the landowners' children or other relatives. Problems arose when the Borough placed a utility line across frontage property of one of the Native landowners. Frontage property the Borough thought it had legal access to; there was no reason to consider potential conflicts existed. The new owner questioned the validity and legality of the Borough placing any kind of feature across his land. In addition, grantees of existing easements, such as utility easements for local electric cooperatives, have felt threatened with trespass action for easements previously granted in good faith.

The question clearly goes to whether a trespass had been committed by local government. In fact in this case, subdivision plats were filed, signed and approved as evidenced by the appropriate signatures of the Bureau of Indian Affairs, the landowner and by the local governing authority. The official plats show streets laid out to provide frontage to the lots created by the subdivision, describing 10 foot utility rights-of-way on each lot. It is recognized that compliance with State law is required when landowners choose to subdivide their land. Given a choice, it would be advantageous to the Alaska Native landowners if the same opportunity was available to them. There is no applicable Federal law on the subject of subdivision of Native allotment lands. State law requires that access to subdivided lots be assured, typically by dedication of public rights-of-way, which will be shown on the subdivision plat.

In an effort to overcome this problem, a collaborative process was undertaken by the affected Boroughs and the State of Alaska to validate such dedications by separately conveying either easements or title to roads and utility easements to State and local governments. This was so burdensome, time-consuming and complex, the process had to be abandoned. The platting authorities and the State were so disenchanted by this process, they had no choice but to turn to Congress for relief. The common sense approach to solving this dilemma, is to afford the same considerations to Native landowners that others have. Native landowners must have the same authority to subdivide and dedicate their land as anyone else has the right to do, according to existing State law

By speeding up and simplifying the allotment subdivision process, the Native landowner, the Federal, State and local governments would all benefit. This legislation permits a Native landowner at his own option to abide by and receive the benefits of subdividing his land in accordance with State or local law. The uncertainty of whether officially filed allotment subdivision plats are valid would be removed. This legislation will also serve to authorize future allotment subdivisions, ratify and confirm the legal validity of those already created.

The Native landowner will not be deprived of any of the protections of restricted land status. This legislation will confirm the restricted Native landowners' right to act in his own best interest. The issue they face is a choice between being able to subdivide their land, obtain a much greater total compensation for sales of subdivided lots or continue to be unable to subdivide their land. Their only option will be to sell one large tract that will almost always bring a substantially smaller total amount of compensation.

The legislation I am introducing today is an issue that applies to Alaska only. The solution affects the Native Allotment Act of 1906, the same legislation which provides for Alaska Natives to receive title to up to 160 acres of public land.

This legislation is non-controversial and is beneficial to all affected parties and to the general public. The State of Alaska and local governments have urged such legislation. The Department of the Interior is supportive.

And, finally, passage of this legislation will be in the best interest of the Native allotment owners and the general public. I urge my colleagues to support this important legislation.

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. 1421

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 ''Alaska Native Allotment Subdivision Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) Alaska Natives that own land subject to Federal restrictions against alienation and taxation need to be able to subdivide the restricted land for the purposes of—

(A) transferring by gift, sale, or devise separate interests in the land; or

(B) severing, by mutual consent, tenancies in common;

(2) for the benefit of the Alaska Native restricted landowners, any persons to which the restricted land is transferred, and the public in general, the Alaska Native restricted landowners should be authorized to dedicate—

(A) rights-of-way for public access;

(B) easements for utility installation, use, and maintenance; and

(C) additional land for other public purposes;

(3)(A) the lack of an explicit authorization by Congress with respect to the subdivision and dedication of Alaska Native land that is subject to Federal restrictions has called into question whether such subdivision and dedication is legal; and

(B) this legal uncertainty has been detrimental to the rights of Alaska Native restricted landowners to use or dispose of the restricted land in the same manner as other landowners are able to use and dispose of land;

(4) extending to Alaska Native restricted land owners the same authority that other landowners have to subdivide and dedicate land should be accomplished without depriving the Alaska Native restricted landowners of any of the protections associated with restricted land status;

(5) confirming the right and authority of Alaska Native restricted land owners, subject to the approval of the Secretary of the Interior, to subdivide their land and to dedicate their interests in the restricted land, should be accomplished without affecting the laws relating to whether tribal governments or the State of Alaska (including political subdivisions of the State) have authority to regulate land use;

(6) Alaska Native restricted land owners, persons to which the restricted land is transferred, State and local platting authorities, and members of the general public have formed expectations in reliance on past subdivisions and dedications; and

(7) those expectations should be fulfilled by ratifying the validity under Federal law of the subdivisions and dedications.

SEC. 3. DEFINITIONS.

In this Act:

(1) RESTRICTED LAND.—The term ''restricted land'' means land in the State that is subject to Federal restrictions against alienation and taxation.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(3) STATE.—The term ''State'' means the State of Alaska.

SEC. 4. SUBDIVISION AND DEDICATION OF ALASKA NATIVE RESTRICTED LAND.

(a) IN GENERAL.—An Alaska Native owner of restricted land may, subject to the approval of the Secretary—

(1) subdivide the restricted land in accordance with the laws of the—

(A) State; or

(B) applicable local platting authority; and

(2) execute a certificate of ownership and dedication with respect to the restricted land subdivided under paragraph (1) with the same effect under State law as if the restricted land subdivided and dedicated were held by unrestricted fee simple title.

(b) RATIFICATION OF PRIOR SUBDIVISIONS AND DEDICATIONS.—Any subdivision or dedication of restricted land executed before the date of enactment this Act that has been approved by the Secretary and by the applicable State or local platting authority, as appropriate, is ratified and confirmed by Congress as of the date on which the Secretary approved the subdivision or dedication.

SEC. 5. EFFECT.

(a) IN GENERAL.—Nothing in this Act validates or invalidates any assertion—

(1) that a Federally recognized Alaska Native tribe has or lacks jurisdiction with respect to any land in the State;

(2) that Indian country (as defined in section 1151 of title 18, United States Code) exists or does not exist in the State; or

(3) that, except as provided in section 4, the State or any political subdivision of the State does or does not have the authority to regulate the use of any individually owned restricted land.

(b) EFFECT ON STATUS OF LAND NOT DEDICATED.—Except in a case in which a specific interest in restricted land is dedicated under section (4)(a)(2), nothing in this Act terminates, diminishes, or otherwise affects the continued existence and applicability of Federal restrictions against alienation and taxation on restricted land or interests in restricted land (including restricted land subdivided under section 4(a)(1)).

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 197—TO AUTHORIZE TESTIMONY, DOCUMENT PRODUCTION, AND LEGAL REPRESENTATION IN STATE OF COLORADO V. CARRIE ANN HOPPES, ANDREW M. BENNETT, CHRISTOPHER J. FRIEDMAN, ANDREW JONATHAN TIRMAN, CAROLYN ELIZABETH BNINSKI, MELISSA NOELLE ROSSMAN, RACHAEL ESTHER KAPLAN

Mr. FRIST (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 197

Whereas, in the cases of State of Colorado v. Carrie Ann Hoppes best friend, Andrew M. Bennett, Christopher J. Friedman, Andrew Jonathan Tirman, Carolyn Elizabeth Bninski, Melissa Noelle Rossman, Rachael Esther Kaplan, pending in the Arapahoe County Court, Colorado, testimony and documents have been requested from Arapahoe County Court, Colorado, testimony and documents have been requested from employees in the Office of Senator Wayne Allard:

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently