guaranteed farm ownership loans and guaranteed farm operating loans of up to $600,000, and to increase the maximum loan amounts with inflation; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BOND:

S. 1775. A bill to suspend temporarily the duty on phosphonic acid, (nitrilotris (methylene))tris; to the Committee on Finance.

S. 1776. A bill to suspend temporarily the duty on phosphonic acid, (nitrilis(methylene))tris-, pentasodium salt; to the Committee on Finance.

S. 1777. A bill to suspend temporarily the duty on phosphonic acid, (1-hydroxyethylidene)bis; to the Committee on Finance.

S. 1778. A bill to suspend temporarily the duty on phosphonic acid, (1-hydroxyethylidene)bis-, tetrasodium salt; to the Committee on Finance.

S. 1779. A bill to suspend temporarily the duty on phosphonic acid, (1,6-hexanediylbis(nitrilobis(methylene)) tetrakis-potassium salt; to the Committee on Finance.

S. 1780. A bill to suspend temporarily the duty on phosphonic acid, (((phosphonomethyl)imino)bis(2,1-ethanediylnitrilobis- (methylene))tetrakis; to the Committee on Finance.

S. 1781. A bill to suspend temporarily the duty on phosphonic acid, (((phophonomethyl)imino)bis(2,1-ethanediylnitrilobis- (methylene)))tetrakis-, sodium salt; to the Committee on Finance.

S. 1782. A bill to suspend temporarily the duty on Polyvinyl Butyral; to the Committee on Finance.

S. 1783. A bill to suspend temporarily the duty on triethyleneglycol bis(2-ethyl hexanoate); to the Committee on Finance.

S. 1784. A bill to suspend temporarily the duty on Biphenyl flake; to the Committee on Finance.

S. 1785. A bill to suspend temporarily the duty on 2-Ethylhexanoic acid; to the Committee on Finance.

Mr. FAIRCLOTH:

S. 1786. A bill to provide for the conduct of a study and report concerning the ability of the Centers for Disease Control and Prevention to address the growing threat of viral epidemics and biological and chemical terrorism; to the Committee on Labor and Human Resources.

By Mr. GRAMM (for himself, Mrs. HUTCHISON, Mr. GRASSLEY, Mr. D'AMATO, Mr. KYL, Mr. GORTON, Mrs. FEINSTEIN, Mr. BINGAMAN, Mrs. BOXER, Mrs. MURRAY, Mr. MCCAIN, and Mr. DOMENICI):

S. 1787. A bill to authorize additional appropriations for United States Customs Service personnel and technology in order to expedite the flow of legal commercial and passenger traffic at United States land borders; to the Committee on Finance.

By Mr. MOYNIHAN:

S. 1788. A bill to amend titles XI and XVIII of the Social Security Act to combat waste, fraud, and abuse in the medicare program; to the Committee on Finance.

By Mr. MOYNIHAN (for himself, Mr. KENNEDY, Mr. DASCHLE, Mrs. BOXER, Mr. DODD, Mr. DURBIN, Mr. GLENN, Mr. HARKIN, Mr. KERRY, Mr. LAUTENBERG, Ms. MOSELEY-BRAUN, Mr. ROCKEFELLER, and Mr. TORRICELLI):

S. 1789. A bill to amend title XVIII of the Social Security Act and the Employee Retirement Income Security Act of 1974 to improve access to health insurance and medicare benefits for individuals ages 55 to 65 to be fully funded through premiums and antifraud provision, and for other purposes; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. LOTT (for himself, Mr. DASCHLE, Mr. WARNER, Mr. KEMPTHORNE, Mr. HATCH, Mr. COATS, Mr. HAGEL, Mr. ABRAHAM, Mr. AKAKA, Mr. ALLARD, Mr. ASHCROFT, Mr. BAUCUS, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BREAUX, Mr. BROWNBACK, Mr. BRYAN, Mr. BUMPERS, Mr. BURNS, Mr. BYRD, Mr. CAMPBELL, Mr. CHAFEE, Mr. CLELAND, Mr. COCHRAN, Ms. COLLINS, Mr. CONRAD, Mr. COVERDELL, Mr. CRAIG, Mr. D'AMATO, Mr. DEWINE, Mr. DODD, Mr. DOMENICI, Mr. DORGAN, Mr. DURBIN, Mr. ENZI, Mr. FAIRCLOTH, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FORD, Mr. FRIST, Mr. GLENN, Mr. GORTON, Mr. GRAHAM, Mr. GRAMM, Mr. GRAMS, Mr. GRASSLEY, Mr. GREGG, Mr. HARKIN, Mr. HELMS, Mr. HOLLINGS, Mr. HUTCHINSON, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSON, Mr. KENNEDY, Mr. KERREY, Mr. KERRY, Mr. KOHL, Mr. KYL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mr. LUGAR, Mr. MACK, Mr. MCCAIN, Mr. MCCONNELL, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mr. MURKOWSKI, Mrs. MURRAY, Mr. NICKLES, Mr. REED, Mr. REID, Mr. ROBB, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. ROTH, Mr. SANTORUM, Mr. SARBANES, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH of New Hampshire, Mr. SMITH of Oregon, Ms. SNOWE, Mr. SPECTER, Mr. STEVENS, Mr. THOMAS, Mr. THOMPSON, Mr. THURMOND, Mr. TORRICELLI, Mr. WELLSTONE, and Mr. WYDEN):

S. Res. 196. A resolution recognizing, and calling on all Americans to recognize, the courage and sacrifice of Senator John McCain and the members of the Armed Forces held as prisoners of war during the Vietnam conflict and stating that the American people will not forget that more than 2,000 members of the Armed Forces remain unaccounted for from the Vietnam conflict and will continue to press for the fullest possible accounting for all such members whose whereabouts are unknown; considered and agreed to.

By Mr. REID:

S. Res. 197. A resolution designating May 6, 1998, as ''National Eating Disorders Awareness Day'' to heighten awareness and stress prevention of eating disorders; to the Committee on the Judiciary.

By Mr. KEMPTHORNE (for himself, Mr. HELMS, Mr. FAIRCLOTH, Mrs. FEINSTEIN, Mrs. BOXER, Mr. CHAFEE, Mrs. HUTCHISON, Mr. COVERDELL, Mr. GRAMM, Mr. SMITH of New Hampshire, Mr. LEAHY, Mr. DEWINE, Mr. WARNER, and Mr. CRAIG):

S. Con. Res. 84. A concurrent resolution expressing the sense of Congress that the Government of Costa Rica should take steps to protect the lives of property owners in Costa Rica, and for other purposes; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MCCAIN (for himself, Mr. CAMPBELL, Mr. INOUYE, and Mr. CONRAD):

S. 1770. A bill to elevate the position of Director of the Indian Health Service to Assistant Secretary of Health and Human Services, to provide for the organizational independence of the Indian Health Service within the Department of Health and Human Services, and for other purposes, to the Committee on Indian Affairs.

ASSISTANT SECRETARY FOR INDIAN HEALTH ACT OF 1998

Mr. MCCAIN. Mr. President, I rise today to introduce legislation to redesignate the position of the Director of the Indian Health Service (IHS) to an Assistant Secretarial position within the Department of Health and Human Services. I am pleased that the Chairman and Vice-Chairman of the Committee on Indian Affairs, Senator CAMPBELL and Senator INOUYE, as well as my colleague, Senator CONRAD, are joining me as co-sponsors of this important legislation. The Senate previously approved this legislation in the 103rd session and again considered the bill in the 104th session, but we were unable to pass a bill before adjournment. We are again pursuing this legislation as the timing for enactment could not be more critical.

Some of my colleagues might be led to believe the standard of living for Indian people is improving due to the relatively small economic success enjoyed by a few Indian tribes in this country. Nothing could be further from reality as the health conditions facing Indian people are an endemic crisis.

Mr. President, Indian reservation areas are among the most impoverished areas in our nation, yet remain the least served and the most forgotten when it comes to improving health care delivery. American Indian and Alaska Native populations are affected by diabetes at a rate that overwhelmingly exceeds other national populations. Mortality rates for tuberculosis, alcoholism, accidents, homicide, pneumonia, influenza and suicides are far higher than all other segments of the national population. The number of HIV and AIDS cases affecting American Indian communities is increasing at an alarming rate.

The Indian Health Service (IHS) is the lead agency charged with providing health care to the more than 550 Indian tribes in this country. The IHS currently falls under the authority of the Public Health Service within the overall Department of Health and Human Services. The Indian Health Service consists of 143 service units composed of over 500 direct health care delivery facilities, including 49 hospitals, 176 health centers, 8 school centers and 277 health stations and satellite clinics and Alaska village clinics. This health network provides services ranging from facility construction to pediatrics, and serves approximately 1.3 million American Indians and Alaska Native individuals each year.

For the past couple of years, the Department has undergone reorganizational reforms and removed some of the administrative hurdles faced by the IHS Director. I applaud the Secretary

and the Department for these efforts to prioritize Indian health issues. However, I am convinced that we must further institutionalize the future of the IHS by allowing the agency to operate at the highest levels and by its own authority.

Mr. President, this bill is more than a symbolic gesture. There are several other critical reasons which lead me to believe that this legislation is necessary. First, designating the IHS Director as an Assistant Secretary of Indian Health would provide the various branches and programs of the IHS with a stronger advocacy role within the Department and better representation during the budget process. As evidenced in the Agency's budget request for FY'99, which represents a minimal one percent increase over last year's budget, the ability of the IHS to affect budgetary policy is limited.

Second, I am a strong supporter of the success of tribal governments to contract and manage programs through Public Law 93–638, the Indian Self-Determination and Education Assistance Act. Through separate legislation, Senator CAMPBELL will propose to permanently extend this authority to the IHS. Our intent through the 638 law has been to devolve the paternalistic federal management of Indian programs and place responsibility at the local tribal level where tribes most benefit by direct services. This legislation we are introducing today is intended to compliment that effort.

I believe that the IHS would operate more efficiently as an independent agency. The IHS is charged with an enormous responsibility for Indian country and, therefore, should be afforded direct line authority and the ability to operate within its own unique mandates and rules. This legislation provides for the appropriate authority for this transition, particularly to ensure that the service delivery provided to the IHS by other PHS entities, such as the Commissioned Corps, would be appropriately addressed. I look forward to working with Secretary Shalala on these important matters.

I am convinced that if the current organizational structure of the IHS is maintained, the agency will not be positioned for the long term to address the day-to-day health care needs of American Indians. Therefore, I believe that the IHS is in dire need of a senior policy official who is knowledgeable about the programs administered by the IHS and who can provide the leadership for the health care needs of American Indians and Alaska Natives.

Mr. President, this legislation will ensure that health care issues facing Indian people are addressed on a par with the rest of this nation.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

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

SECTION-BY-SECTION ANALYSIS

SECTION 1. OFFICE OF ASSISTANT SECRETARY FOR INDIAN HEALTH

Subsection (a) establishes the Office of the Assistant Secretary for Indian Health within the Department of Health and Human Services.

Subsection (b) provides that the Assistant Secretary for Indian Health shall perform such functions as the Secretary of Health and Human Services may designate in addition to the functions performed by the Director of the Indian Health Service (IHS) on the date of the enactment of this Act.

Subsection (c) provides that references to the IHS Director in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document shall be deemed to refer to the Assistant Secretary for Indian Health.

Subsection (d) amends Title 5, Section 5315 of the U.S.C. by striking 'Assistant Secretaries of Health and Human Services (6)' and inserting 'Assistant Secretaries of Health and Human Services (7)'. Subsection (d) further amends section 5316 of Title 5 by striking 'Director, Indian Health Service, Department of Health and Human Services'.

Subsection (e) provides for conforming amendments in the Indian Health Care Improvement Act. Subsection (e) further amends the Indian Health Care Improvement Act, the Rehabilitation Act of 1973, the Federal Water Pollution Control Act, and the Native American Programs Act of 1974 by striking 'Director of the Indian Health Service' and inserting in lieu thereof 'the Assistant Secretary for Indian Health'.

SECTION 2. ORGANIZATION OF INDIAN HEALTH SERVICE WITHIN DEPARTMENT OF HEALTH AND HUMAN SERVICES

Subsection (a) amends section 601 of the Indian Health Care Improvement Act by striking 'within the Public Health Service of the Department of Health and Human Services' each place it appears and inserting 'within the Department of Health and Human Services', and striking 'report to the Secretary through the Assistant Secretary for Health of the Department of Health and Human Services' and inserting 'report to the Secretary'.

Subsection (b) amends the heading of section 601 of the Indian Health Care Improvement Act.

Subsection (c) provides that nothing in this section may be interpreted as terminating or otherwise modifying any authority providing for the IHS to use Public Health Service officers or employees to carrying out the purpose and responsibilities of the IHS. Subsection (c) further states that any officers or employees used by IHS shall be treated as officers or employees detailed to an executive department under section 214(a) of the Public Health Service.

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

S. 1771. A bill to amend the Colorado Ute Indian Water Rights Settlement Act to provide for a final settlement of the claims of the Colorado Ute Indian Tribes, and for other purposes; to the Committee on Indian Affairs.

THE COLORADO UTE SETTLEMENT ACT AMENDMENTS OF 1998

Mr. CAMPBELL. Mr. President, today I introduce a bill to amend the Colorado Ute Indian Water Rights Settlement Act of 1988. I am pleased to be joined in this effort by my colleague Senator ALLARD.

This bill represents our Nation's last opportunity to live up to an agreement we made with the two Indian Tribes in the State of Colorado.

In 1976, the United States filed a claim asserting the historic rights of these Tribes to much of the water in the rivers in Southwestern Colorado. Rather than continue this disruptive and divisive litigation, the two Ute Tribes were parties to a Settlement Agreement in 1986, which was enacted by Congress and signed into law by President Reagan in 1988.

So far, we have failed to construct any of the facilities promised in this agreement; even though Presidents Reagan, Bush, and Clinton have consistently supported full funding for this Project.

I was reluctant to introduce this measure because I still believe that this country, this Congress, and especially the United States Senate can be trusted to fulfill the solemn commitment that was made to these Tribes in 1988, when I was a member of the House of Representatives. Of course the United States Senate has consistently and without exception, voted to abide by every term of this agreement.

But the Ute Tribes point to the 472 treaties broken by the United States. Rather than allowing their 1988 Settlement to become the 473rd, they are willing to modify the terms of this agreement to move it forward. The original agreement called for construction to start in 1990. Here it is 8 years later and we have not even started.

These tribes have provided the United States with their last chance to honorably live up to the promises we have made to them.

If the United States fails to provide these tribes with a water supply through the Animas-La Plata Project, the tribes will have no choice but to go back to court. Millions of dollars will then have to be spent in needless, expensive, and divisive litigation.

One of our distinguished former colleagues, Arizona Senator Barry Goldwater, was fond of saying that in Arizona it is so dry that the trees chase the dogs. Mark Twain said that the West is so dry that we can't afford to drink water, we are too busy fighting over it. What he said was, ''Whiskey is for drinking, water is for fighting.''

Throughout the history of this region, the need for water has dominated and dictated our development. About 85% of the water used in the West is stored in mountain reservoirs during spring run-off so it can be used during the hot summers. For thousands of years this has been a fact of life for those who live in the arid West. We are following the example of the Anasazi Indians who also knew the need to collect and store water for dry spells 2,000 years ago in the same area proposed for the Animas-La Plata.

In fact, when the Animas-La Plata Project was authorized in 1968, a number of other projects were authorized along with it, including the Central Arizona Project in the Lower Colorado Basin and projects in the Upper Basin.

These facilities have already been constructed. We constructed these projects to meet the pressing needs of people and development. Only the Animas-La Plata languishes.

The 1988 Colorado Ute Indian Water Rights Settlement Act was a fair and honest agreement with the two Indian tribes in my state. Furthermore, it was a compromise. The parties participating in these Settlement discussions and negotiations included a number of water conservancy districts, the states of Colorado and New Mexico, and numerous federal agencies. Congress and the President made this Agreement the law of the land.

The two Tribes have every legal and moral right to hold the United States to the terms of the 1988 Agreement we enacted. Like any party to a binding agreement, they have the right to continue to demand that the United States live up to its commitment to build the entire Animas-La Plata Project. But the Tribes have made what one of the largest newspapers in my state refers to as a ''generous offer.'' This bill is that offer. If Congress passes these amendments, we will be paying for our obligations under the 1988 agreement with a few cents on the dollar. It was once estimated that it would cost almost $700 million to fulfill our obligations to these two tribes. Now we can do it for $257 million. These two tribes have provided us with the opportunity to fulfill our legal obligations to them under the 1988 Act at a bargain basement price.

Under the terms of the bill I introduce today, the legal claims raised by the Ute Mountain Ute and the Southern Ute tribes will be resolved once the Interior Department constructs the following facilities:

A pumping plant to divert no more than 57,100 acre-fee of water per year from the Animas River; a facility to convey this water to an off-river reservoir; and a reservoir to hold this water until it is needed for municipal, industrial, instream flow or other authorized and approved uses.

Mr. President, the quantity of water that will be diverted and used by this project was not set by the project's beneficiaries, it was not set by the Bureau of Reclamation, it was not set by me; rather, it was set by the United States Fish and Wildlife Service. I quote the Service's recent Biological Opinion:

> An initial depletion not to exceed 57,100 acre feet for the Project is not likely to jeopardize the continued existence of the Colorado squafish or razorback sucker nor adversely modify or destroy their critical habitat.

The Service then goes on to agree that this level of depletion is consistent with the construction of the facilities that I have just mentioned.

In addition: Two-thirds of water made available from these project components will be available to the two Ute tribes, with most of the balance available for municipal and industrial water, small irrigators in Colorado and New Mexico, and the Navajo Nation.

The facilities to be constructed have been on the drawing board for decades. I think I can safely say that no project components in the history of developing water projects have gone through more environmental changes and more environmental regulations than this. In fact, here on the desk, I brought just the final supplement that was done after 1986, and it stands about half a foot high. If we stacked all of the different regulations that we have compiled end on end, we would have a stack over 3 feet high. I did not even bother bringing all of it to the Floor. But we have done virtually everything required to get this project developed.

This represents only a portion of the environmental studies of this project conducted by just one of the Federal agencies involved.

Those who have opposed this project in the past have had their own agendas: None of these agendas was concerned with this Nation's obligations to these two Indian tribes.

Some complained about the price of the project while they conspired to inflate the cost by insisting upon wasteful study after study of this project.

I think the tribes feel that they know there are certain interests who oppose the project and that they are the same interest groups that have opposed every project. They know that by driving the price up too much, it makes it much more difficult to build. But I think the United States' claim on being a trustee for tribes can only be fulfilled when we realize that our obligations under this original Water Rights Settlement Act must be complied with.

The State of Colorado has done its part. It has expended $35 million to construct the pipeline needed to supply domestic water.

The tribes have received their development funded of $57 million and derailed their water rights lawsuit in anticipation of the United States fulfilling its obligations.

This Settlement proposal is the absolute minimum that we can ask these tribes to accept. More important, the most expensive part of this Project is the delay in constructing it. When I first became involved with the A-LP, about 15 years ago, the entire project could be built for around $315 million.

When I think of the promises that were made to the Ute Tribes in my State, I am reminded of the words of Chief Joseph, the great Indian leader of the Nez Perce Tribe. When Chief Joseph came here to Washington he had this to say about the promises and assurances he received:

> I have heard talk and talk, but nothing is done. Good words do not last long unless they amount to something. Good words will not give my people good health and stop them from dying. Good words will not give my people a home where they can take care of themselves. I am tired of talk that comes to nothing. It makes my heart sick when I remember all of the good words and broken promises.

As this bill is presently drafted, it enjoys widespread support among the people of Colorado, especially the people, local governments, and Indian tribes in Southwestern Colorado. State government, and literally all of our major newspapers. It is a significant attempt to compromise and make concessions by all parties involved. I believe we have come a long way.

This bill is the product of significant attempts at compromise and concessions by all of the parties involved. I am pleased that the bill begins its legislative journey this far along. I know that not all of the parties who are affected by this bill agree with every one of its terms. While I can not respond to all of the concerns that have been raised, I can assure everyone that we will continue to work to address any legitimate concern raised about this legislation through the committee process.

I urge my colleagues to support passage of this important legislation and meet the solemn commitments made to the Ute tribes in 1988.

Mr. President, several newspapers, public officials and water Development Boards, and both of the Indian tribes in my state have supported the idea of modifying the Settlement in this manner. Since My legislation incorporates this approach, I ask unanimous consent that these editorials and Resolutions be included in the RECORD.

Mr. ALLARD. Mr. President, will the Senator yield?

Mr. CAMPBELL. Mr. President, I yield any remaining time to Senator ALLARD, and I thank the Senator.

Mr. ALLARD. Mr. President, how much time remains?

The PRESIDING OFFICER. The Chair advises the Senator that he has 2 minutes.

Mr. ALLARD. Thank you very much.

Mr. President, I just wanted to briefly stand up in recognition of the hard work of my colleague from Colorado on this very, very important issue to Colorado. And I want to add my support to the Colorado Ute Indian Water Rights Settlement Act of 1988.

I have a number of comments that I would like to submit to the RECORD. But I just want to recognize in a public way that Senator CAMPBELL has worked very hard on this. Obviously, I think both of us would have preferred to have the full project. But in light of what has come to light, I think most of us agree that we need to keep our word with the Ute Indians in the area, and we need to proceed ahead. It is vital to the area. It is important. Even though it might not be ideal for what we would like to see happen, at least we need to move ahead.

I thank the senior Senator from Colorado for yielding to me and wish him the very best. I will be there supporting him all the way.

Mr. CAMPBELL. I thank my colleague from Colorado. We fought for fairness when it came to water legislation when we were in the House of Representatives together, and here in the

Senate too, apparently our battles are not over. But I certainly do appreciate the support. I know we are on the right side of fairness for the people of our State.

Mr. President, I ask unanmous consent that additicnal material be printed in the RECORD.

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

S. 1771

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

SECTION 1. SHORT TITLE; FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the ''Colorado Ute Settlement Act Amendments of 1998''.

(b) FINDINGS.—Congress finds that in order to provide for a full and final settlement of the claims of the Colorado Ute Indian Tribes, the Tribes have agreed to reduced water supply facilities.

SEC. 2. DEFINITIONS.

In this Act:

(1) AGREEMENT.—The term ''Agreement'' has the meaning given that term in section 3(1) of the Colorado Ute Indian Water Rights Settlement Act of 1988 (Public Law 100–585).

(2) ANIMAS-LA PLATA PROJECT.—The term ''Animas-La Plata Project'' has the meaning given that term in section 3(2) of the Colorado Ute Indian Water Rights Settlement Act of 1988 (Public Law 100–585).

(3) DOLORES PROJECT.—The term ''Dolores Project'' has the meaning given that term in section 3(3) of the Colorado Ute Indian Water Rights Settlement Act of 1988 (Public Law 100–585).

(4) TRIBE; TRIBES.—The term ''Tribe'' or ''Tribes'' has the meaning given that term in section 3(6) of the Colorado Ute Indian Water Rights Settlement Act of 1988 (Public Law 100–585).

SEC. 3. AMENDMENTS TO THE COLORADO UTE INDIAN WATER RIGHTS SETTLEMENT ACT OF 1988.

(a) RESERVOIR; MUNICIPAL AND INDUSTRIAL WATER.—Section 6(a) of the Colorado Ute Indian Water Rights Settlement Act of 1988 (Public Law 100–585) is amended to read as follows:

''(a) RESERVOIR; MUNICIPAL AND INDUSTRIAL WATER.—

''(1) IN GENERAL.—After the date of enactment of the Colorado Ute Settlement Act Amendments of 1998, the Secretary shall provide—

''(A) for the construction, as components of the Animas-La Plata Project, of—

''(i) a reservoir with a storage capacity of 260,000 acre-feet; and

''(ii) a pumping plant and a reservoir inlet conduit; and

''(B) through the use of the project components referred to in subparagraph (A), municipal and industrial water allocations in such manner as to result in allocations—

''(i) to the Southern Ute Tribe, with an average annual depletion of an amount not to exceed 16,525 acre-feet of water;

''(ii) to the Ute Mountain Ute Indian Tribe, with an average annual depletion of an amount not to exceed 16,525 acre-feet of water;

''(iii) to the Navajo Nation, with an average annual depletion of an amount not to exceed 2,340 acre-feet of water;

''(iv) to the San Juan Water Commission, with an average annual depletion of an amount not to exceed 10,400 acre-feet of water; and

''(v) to the Animas-La Plata Conservancy District, with an average annual depletion of an amount not to exceed 2,600 acre-feet of water.

''(2) TRIBAL CONSTRUCTION COSTS.—Construction costs allocable to the Navajo Nation and to each Tribe's municipal and industrial water allocation from the Animas-La Plata Project shall be nonreimbursable.

''(3) NONTRIBAL WATER CAPITAL OBLIGATIONS.—The nontribal municipal and industrial water capital repayment obligations for the Animas-La Plata Project shall be satisfied, upon the payment in full—

''(A) by the San Juan Water Commission, of an amount equal to $8,600,000;

''(B) by the Animas-La Plata Water Conservancy District, of an amount equal to $4,400,000; and

''(C) by the State of Colorado, of an amount equal to $16,000,000, as a portion of the cost-sharing obligation of the State of Colorado recognized in the Agreement in Principle Concerning the Colorado Ute Indian Water Rights Settlement and Animas-La Plata Cost Sharing that the State of Colorado entered into on June 30, 1986.

''(4) CERTAIN NONREIMBURSABLE COSTS.—Any cost of a component of the Animas-La Plata Project described in paragraph (1) that is attributed to and required for recreation, environmental compliance and mitigation, the protection of cultural resources, or fish and wildlife mitigation and enhancement shall be nonreimbursable.

''(5) TRIBAL WATER ALLOCATIONS.—

''(A) IN GENERAL.—With respect to municipal and industrial water allocated to a Tribe from the Animas-La Plata Project or the Dolores Project, until that water is first used by a Tribe or pursuant to a water use contract with the Tribe, the Secretary shall pay the annual operation, maintenance, and replacement costs allocable to that municipal and industrial water allocation of the Tribe.

''(B) TREATMENT OF COSTS.—A Tribe shall not be required to reimburse the Secretary for the payment of any cost referred to in subparagraph (A).

''(6) REPAYMENT OF PRO RATA SHARE.—As an increment of a municipal and industrial water allocation of a Tribe described in paragraph (5) is first used by a Tribe or is first used pursuant to the terms of a water use contract with the Tribe—

''(A) repayment of that increment's pro rata share of those allocable construction costs for the Dolores Project shall commence by the Tribe; and

''(B) the Tribe shall commence bearing that increment's pro rata share of the allocable annual operation, maintenance, and replacement costs referred to in paragraph (5)(A).''.

(b) REMAINING WATER SUPPLIES.—Section 6(b) of the Colorado Ute Indian Water Rights Settlement Act of 1988 (Public Law 100–585) is amended by adding at the end the following:

''(3) At the request of the Animas-La Plata Water Conservancy District of Colorado or the La Plata Conservancy District of New Mexico, the Secretary shall take such action as may be necessary to provide, after the date of enactment of the Colorado Ute Settlement Act Amendments of 1998, water allocations—

''(A) to the Animas-La Plata Water Conservancy District of Colorado, with an average annual depletion of an amount not to exceed 5,230 acre-feet of water; and

''(B) to the La Plata Conservancy District of New Mexico, with an average annual depletion of an amount not to exceed 780 acre-feet of water.

''(4) If depletions of water in addition to the depletions otherwise permitted under this subsection may be made in a manner consistent with the requirements of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), the Secretary shall provide for those depletions by making allocations among the beneficiaries of the Animas-La Plata Project in accordance with an agreement among the beneficiaries relating to those allocations.''.

(c) MISCELLANEOUS.—Section 6 of the Colorado Ute Indian Water Rights Settlement Act of 1988 (Public Law 100–585) is amended by adding at the end the following:

''(i) TRANSFER OF WATER RIGHTS.—Upon request of the State Engineer of the State of New Mexico, the Secretary shall, in a manner consistent with applicable State law, transfer, without consideration, to the New Mexico Animas-La Plata Project beneficiaries or the New Mexico Interstate Stream Commission all of the interests in water rights of the Department of the Interior under New Mexico Engineer permit number 2883, Book M–2, dated May 1, 1956, in order to fulfill the New Mexico purposes of the Animas-La Plata Project.

''(j) TREATMENT OF CERTAIN REPORTS.—

''(1) IN GENERAL.—The April 1996 Final Supplement to the Final Environmental Impact Statement, Animas-La Plata Project issued by the Department of the Interior and all documents incorporated therein and attachments thereto, and the February 19, 1996, Final Biological Opinion of the United States Fish and Wildlife Service, Animas-La Plata Project shall be considered to be adequate to satisfy any applicable requirement under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) with respect to—

''(A) the amendments made to this section by the Colorado Ute Settlement Act Amendments of 1998;

''(B) the initiation of, and completion of construction of the facilities described in this section; and

''(C) an aggregate depletion of 57,100 acre-feet of water (or any portion thereof) as described and approved in that biological opinion.

''(2) STATUTORY CONSTRUCTION.—Nothing in this subsection shall affect—

''(A) the construction of facilities that are not described in this section; or

''(B) any use of water that is not described and approved by the Director of the United States Fish and Wildlife Service in the final biological opinion described in paragraph (1).

''(k) FINAL SETTLEMENT.—

''(1) IN GENERAL.—The provision of water to the Tribes in accordance with this section shall constitute final settlement of the tribal claims to water rights on the Animas and La Plata Rivers.

''(2) STATUTORY CONSTRUCTION.—Nothing in this section may be construed to affect the right of the Tribes to water rights on the streams and rivers described in the Agreement, other than the Animas and La Plata Rivers, to participate in the Animas-La Plata Project, to receive the amounts of water dedicated to tribal use under the Agreement, or to acquire water rights under the laws of the State of Colorado.

''(3) ACTION BY THE ATTORNEY GENERAL.—The Attorney General of the United States shall file with the District Court, Water Division Number 7, of the State of Colorado such instruments as may be necessary to request the court to amend the final consent decree to provide for the amendments made to this section under section 2 of the Colorado Ute Settlement Act Amendments of 1998.''.

SEC. 4. STATUTORY CONSTRUCTION; TREATMENT OF CERTAIN FUNDS.

(a) IN GENERAL.—Nothing in the amendments made by this Act to section 6 of the

Colorado Ute Indian Water Rights Settlement Act of 1988 (Public Law 100–585) shall affect—

(1) the applicability of any other provision of that Act;

(2) the obligation of the Secretary of the Interior to deliver water from the Dolores Project and to complete the construction of the facilities located on the Ute Mountain Ute Indian Reservation described in—

(A) the Department of the Interior and Related Agencies Appropriations Act, 1991 (Public Law 101–512);

(B) the Department of the Interior and Related Agencies Appropriations Act, 1992 (Public Law 102–154);

(C) the Department of the Interior and Related Agencies Appropriations Act, 1993 (Public Law 102–381);

(D) the Department of the Interior and Related Agencies Appropriations Act, 1994 (Public Law 103–138); and

(E) the Department of the Interior and Related Agencies Appropriations Act, 1995 (Public Law 103–332); or

(3) the treatment of the uncommitted portion of the cost-sharing obligation of the State of Colorado referred to in subsection (b).

(b) TREATMENT OF UNCOMMITTED PORTION OF COST-SHARING OBLIGATION.—The uncommitted portion of the cost-sharing obligation of the State of Colorado referred to in section 6(a)(3) of the Colorado Ute Indian Water Rights Settlement Act of 1988 (Public Law 100–585), as added by section 3 of this Act, remains available after the date of payment of the amount specified in that section and may be used to assist in the funding of any component of the Animas-La Plata Project that is not described in such section 6(a)(3).

RESOLUTION

The Colorado Water Conservation Board in regular session meeting this 25th day of November 1997, is hereby resolved that:

Whereas, the Colorado Water Conservation Board is the state agency responsible for the conservation and development of the waters of the state apportioned to Colorado by interstate compact, and the encouragement of the development of those waters for the benefit of the citizens of the state of Colorado, all as more fully set forth in C.R.S. § 37–60–106; and

Whereas, from 1968 to the present, the Colorado Water Conservation Board has been continually on record in support of the construction of the Animas-LaPlata Project, a Colorado River Storage Project Act participating project; and

Whereas, the Director of the Colorado Water Conservation Board and its members have regularly testified before Committees of the U.S. Congress in support of the construction of the Animas-LaPlata Project; and

Whereas, the Colorado Water Conservation Board, together with other agencies and instrumentalities of the state of Colorado, participated in the negotiation of the Colorado Ute Indian Water Rights Settlement of 1986 which served to resolve all of the reserved water rights claims of the two Colorado Ute Indian Tribes in a way that produced comity, cooperation and harmony in the allocation of the rivers of Colorado's Southwest; and

Whereas, a feature of that settlement was the agreement by the state of Colorado, the citizens of Southwestern Colorado, the federal government and the two Colorado Ute Indian Tribes that the construction of the Animas-LaPlata Project and the allocation of a portion of the water supply from that project to the two tribes would be a part of the resolution of the Colorado Ute Indian reserve water right claims and in particular, those claims associated with the Animas and the LaPlata Rivers; and

Whereas, the Congress of the United States adopted and ratified the 1986 Colorado Ute Indian Water Rights Settlement by the passage of the Colorado Ute Indian Water Rights Settlement Act of 1988; and

Whereas, Colorado, acting through the General Assembly, the Water Conservation Board and other state agencies, has fulfilled all of the responsibilities incumbent upon the state of Colorado and arising from the Colorado Ute Indian Water Rights Settlement and the Colorado Ute Indian Water Rights Settlement Act, including the construction of the Dolores Project with irrigation water being delivered to the Ute Mountain Ute Indian Tribe on its Reservation, the construction of a domestic pipeline to the Town of Towaoc, the successful adoption of Colorado water court decrees recognizing the Indian reserved water rights on various tributaries of the San Juan River and finally the appropriation of funds which now compromise $5.0 million to Tribal Development Funds, $5.6 million from the Colorado Water Conservation Board Construction Fund for construction of Ridges Basin and $42.4 million for the state's participation in the construction of the Animas-LaPlata Project, which funds are currently held by the Colorado Water Resources and Power Development Authority in trust for the eventual construction of the Animas-LaPlata Project; and

Wheras, the state of Colorado acting through the offices of Governor Roy Romer and Lieutenant Governor Gail Schoettler have sponsored a series of meetings in an effort to resolve objections to the construction of the Animas-LaPlata Project, to allow the fulfillment of the provisions of the Colorado Ute Indian Water Rights Settlement and to reach a consensus which would allow the project to be completed and;

Whereas, the process convened by Governor Romer and Lieutenant Governor Schoettler resulted in two proposals to comply with the terms of the Colorado Ute Indian Water Rights Settlement. The proposal from persons and entities opposing the construction of the Animas-LaPlata Project called for a cash settlement fund for the Tribes in lieu of Project construction. This proposal was rejected by both Tribes. On the other side of the process, the Colorado Ute Indian Tribes, the Animas-LaPlata Water Conservancy District Board of Directors, New Mexico water users and ultimately Governor Romer and Lieutenant Governor Schoettler have endorsed a proposal to construct a modified and downsized Animas-LaPlata Project; and

Whereas, the downsized Animas-LaPlata Project, often referred to as Animas-LaPlata Lite, contemplates the construction of the Ridge's Basin Reservoir and a pumping plant and pipeline from the Animas River, with the water stored in the Reservoir to be used to satisfy the two Ute Indian Tribes claims and for municipal and industrial purposes in the Animas River Basin; and

Whereas, the U.S. Fish and Wildlife Service has completed its Endangered Species Act Section 7 consultation on the project and has authorized the construction of the facilities which are described in the Animas-LaPlata Lite proposal together with an entitlement to make an annual depletion to the San Juan River system of 57,100 acre-feet; and

Whereas, the project participants have agreed on the allocation of the depletions and the necessity of constructing the authorized facilities; and

Whereas, the Bureau of Reclamation has completed a supplemental environmental impact statement at a cost of more than $10 million; and

Whereas, it appears that all environmental laws and regulations of the state of Colorado, the state of New Mexico, and the Federal Government have been addressed; and

Whereas, it is necessary to amend the Colorado Ute Indian Water Rights Settlement Act of 1988; and

Whereas, the Board wishes to lend its continued support the construction of the Animas-LaPlata Project and, in particular, to the full compliance by the state of Colorado with the terms of the Colorado Ute Indian Water Rights Settlement: Now therefore, be it

Resolved by the Colorado Water Conservation Board, That:

1. The Board endorses the modified Animas-LaPlata Project referred to a the Animas-LaPlata Lite.

2. The Board expresses its support for Governor Romer and Lieutenant Governor Schoettler and for their recognition and support for this compromise resolution between the two Colorado Ute Tribes and the Project proponents.

3. The Board expresses its appreciation to the two Colorado Ute Tribes for their continued efforts to work with the water users in Southwest Colorado to ensure that the tribal rights are resolved in a way that avoids taking water from other water users and recognizes that all of the water users in the area must work together to ensure reliable water supplies for all of the residents of the area.

4. The Board expresses its appreciation to the water users in Southwestern Colorado for their support for this resolution of the Indian reserved rights claims and the Board comments the non-Indian project supporters who sacrificed so much in order to achieve a settlement acceptable to the Colorado Ute Indian Tribes.

5. The Board expresses its appreciation to the water users in the state of New Mexico and New Mexico's officials and Congressional delegation for their support of the negotiations leading to Animas-LaPlata Lite.

6. The Board expresses its appreciation to the U.S. Department of the Interior, Environmental Protection Agency, the environmental groups and others who contributed significantly to the series of meetings convened by Governor Romer and Lieutenant Governor Schoettler.

7. The Board encourages the Colorado delegation to unanimously endorse and support legislation necessary to effectuate the modified Animas-LaPlata Project (Animas-LaPlata Lite) and to effectuate the Colorado Ute Indian Water Right Settlement.

8. The Board instructs its Director to ensure that its a official position concerning the construction of the modified Animas—LaPlata Project and the necessity of complying with the Colorado Ute Indian Water Rights Settlement is conveyed to the two Ute Tribes each of the members of the Colorado Congressional delegation, to the Secretary of the Interior, to the Administrator of the Environmental Protection Agency, to the New Mexico Congressional delegation, to the appropriate officials in each of the Colorado River basin states, to the Chairman of the Navajo Nation, to the Director of the Native American Rights Fund and to the members of the Colorado General Assembly and other interested officials.

RESOLUTION NO. 97–160 OF THE SOUTHERN UTE INDIAN TRIBE

Whereas, authority is vested in the Southern Ute Indian Tribal Council by the Constitution adopted by the Southern Ute Indian Tribe and approved November 4, 1936, and amended October 1, 1975, to act for the Southern Ute Indian Tribe; and

Whereas, under the provisions of Article VII, Section 1(c) of said Constitution, the

Tribal Council has the inherent power to act regarding the water rights of the Southern Ute Indian Tribe and under the provisions of Section 1(n) has the power to protect and preserve the property and natural resources of the Southern Ute Indian Tribe; and

Whereas, the Southern Ute Indian Tribe has negotiated a settlement of their reserved water rights which were the subject of litigations in the Colorado water courts; and

Whereas, on December 10, 1986, the Southern Ute Indian Tribe entered into the Colorado Ute Indian Water Rights Final Settlement Agreement of 1986 which has as its foundation, the construction of the Animas-La Plata Project; and

Whereas, in 1988, legislation was enacted by the United States Congress which would implement portions of the Colorado Ute Indian Water Rights Final Settlement Agreement of 1986; and

Whereas, certain members of Congress, with the support and encouragement of various environmental groups including the Sierra Club, have refused to recognize and abide by the federal trust responsibility to carry out the letter and the spirit of the Colorado Ute Indian Water Rights Final Settlement Agreement of 1986 and 1988 implementing legislation, which refusal sets a dangerous precedent for all Indian tribes; and

Whereas, since 1988, the enforcement of the Endangered Species Act and other environmental laws, as well as new budget priorities in Congress, have halted the construction of the Project and caused the United States to fail to live up to its solemn obligations under the settlement; and

Whereas, under the leadership of Governor Romer and Lieutenant Governor Schoettler, the Southern Ute Indian Tribe, the Ute Mountain Ute Indian Tribe, and other signatories to the 1986 Agreement have been engaged for the past year in discussions with the project opponents about potential alternatives to the Project; and

Whereas, the Southern Ute Indian Tribal Council received a presentation from SUGO regarding the proposed Southern Ute Land and Legacy Fund and requested the project opponents to attend a public meeting in the vicinity of the Reservation to discuss the Animas River Citizens' Coalition proposal; and

Whereas, the Southern Ute Indian Tribal Council has carefully considered the advantages and disadvantages of the Animas River Citizens' Coalition proposal as an alternative to carry out the intent of the 1986 Settlement Agreement and 1988 Settlement Act: Now, therefore be it

Resolved, That the Southern Ute Indian Tribal Council acting for and on behalf of the Southern Ute Indian Tribe, hereby determines that Animas River Citizens' Coalition proposal will not meet the tribal objectives that were to be accomplished under the 1986 Settlement Agreement and 1988 Settlement Act because among other things, that proposal does not provide the Tribe with certainty that it will receive a firm supply of water from a reliable source that can be used to meet its present and future needs on the west side of the Reservation; and be it further

Resolved, That the Chairman is authorized to send a copy of this resolution to the Lieutenant Governor.

This Resolution was duly adopted on the 7th day of October, 1997.

RESOLUTION NO. 4364 OF THE UTE MOUNTAIN UTE TRIBAL COUNCIL; REFERENCE: CONCLUSION OF ROMER-SCHOETTLER WATER SETTLEMENT NEGOTIATION PROCESS

Whereas, the Constitution and By-Laws of the Ute Mountain Ute Tribe, approved June 6, 1940 and subsequently amended, provides in Article III that the governing body of the Ute Mountain Ute Tribe is the Ute Mountain Ute Tribal Council and sets forth in Article V the powers of the Ute Tribal Council exercised in this Resolution; and

Whereas, the Tribal Council is responsible for the advancement and protection of the water resources of the Ute Mountain Ute Tribe; and

Whereas, the Ute Mountain Ute Indian Tribe negotiated a settlement of its reserved water rights which were the subject of litigation in the Colorado water courts in the 1980's; and

Whereas, on December 10, 1986 the Ute Mountain Ute Indian Tribe entered into the Colorado Ute Indian Water Rights Settlement Agreement of 1986 which settled outstanding federal and state water disputes in Southwest Colorado, and has as its foundation, the construction of the Animas-La Plata Project; and

Whereas, in 1988, legislation was enacted by the United States Congress which implemented portions of the Colorado Ute Indian Water Rights Settlement. Central to the Settlement is a commitment by the United States and the State of Colorado to develop storage capacity to hold for present and future tribal economic uses, unappropriated waters from the Animas River; and

Whereas, in the past decade opponents of the project have criticized the environmental and financial costs of the proposal facility—the Animas-La Plata Project; and

Whereas, in an effort to make peace with environmental opponents and others the Ute Mountain Ute Tribe has participated in public discussions led by Governor Romer and Lt. Governor Schoettler for the past year to explore ways of accommodating the interests of environmental and fiscal opponents; and

Whereas, as a result of these public discussions, the Tribe and other project stakeholders have agreed to ⅔ less water supply from a significantly reduced facility (almost eliminating all environmental impacts by fully complying with the Endangered Species Act and dropping the cost to taxpayers by ⅔); and

Whereas, the opponents have proposed an alternative which, in lieu of providing the region with new and economically viable water supplies, proposes to provide the two Colorado Ute Tribes with funds with which to buy available undeveloped lands and any direct flow water rights associated with such lands which are on the market from time to time, together with a possibility of expanding existing storage facilities; and

Whereas, the Ute Mountain Ute Tribal Council has evaluated the land and direct flow water rights acquisition alternative. During this evaluation not one member of the United States congress nor one major federal or State of Colorado official has come forward to urge that the Tribe's best interests would be served by the land and water acquisition proposal: Now therefore be it

Resolved, That the Ute Mountain Tribal Council hereby determines that the land and direct flow water rights fund and facility expansion proposed by the Animas River Citizen's Coalition fails to provide the Tribe with the basic commitment made by the United States and the State of Colorado in 1988—namely a reliable firm supply of water to meet present and future needs of the Tribe.

The foregoing Resolution was duly adopted on this 22nd day of October, 1977.

RESOLUTION NO. 98–5, COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY AFFIRMING CONTINUED SUPPORT FOR THE ANIMAS-LA PLATA PROJECT

Whereas, the Colorado Water Resources and Power Development Authority (''the Authority'') was created by the Colorado Legislature in 1981 to ''initiate, acquire, construct, maintain, repair, and operate projects'' in furtherance of Colorado's declared public policy concerning protection, development, and beneficial use of the water of this state, and was empowered to finance the construction of water projects in the state; and

Whereas, on February 3, 1982, by Senate Joint Resolution No. 82–6, the Authority was authorized pursuant to C.R.S. §37–95–107 to proceed with consideration of the Animas-La Plata Project located in southwestern Colorado; and

Whereas, on June 30, 1986, the Authority executed and entered into the Agreement in Principle concerning the Colorado Ute Indian Water Rights Settlement and Binding Agreement for Animas-La Plata Project Cost Sharing. The other parties to that agreement are the State of Colorado, the Animas-La Plata Water Conservancy District, the New Mexico Interstate Stream Commission, Montezuma County, Colorado, the Southern Ute Indian Tribe, the Ute Mountain Ute Indian Tribe, the San Juan Water Commission, and the United States Secretary of the Interior, and the Agreement provides for the construction of the facilities of the Animas-La Plata Project ''or mutually acceptable alternatives'' in phrases I and II; for cost sharing of the construction costs of the identified Phase I facilities; and for non-federal financing of the identified Phase II facilities; and

Whereas, on December 10, 1986, the State of Colorado, the Ute Mountain Ute Indian Tribe, the Southern Ute Indian Tribe, the United States Department of the Interior, the United States Department of Justice, the Animas-La Plata Water Conservancy District, the Dolores Water Conservancy District, the Florida Water Conservancy District, the Mancos Water Conservancy District, the Southwestern Water Conservation District, the City of Durango, the Town of Pagosa Springs, the Florida Farmers Ditch Company, the Florida Canal Company, and Fairfield Communities, Inc. entered into the Colorado Ute Indian Water Rights Final Settlement Agreement; and

Whereas, the Congress of the United States adopted and ratified the Colorado Ute Indian Water Rights Settlement by passage of the Colorado Ute Indian Water Right Settlement Act of 1988; and

Whereas, on November 10, 1989, the Authority entered into an Escrow Agreement with the United States Department of the Interior and the State Treasurer of the State of Colorado pursuant to which certain funds of the Authority were deposited into the Animas-La Plata Escrow Account with the Colorado State Treasurer for disbursement of up to 42.4 million dollars to the United States to defray a portion of the construction costs of certain Phase I facilities of the Animas-La Plata Project. The Escrow Agreement provides that upon the occurrence of certain events the Authority may order cessation of the disbursements from the escrow account, and in addition that the Escrow Agreement will terminate upon the occurrence or non-occurrence of certain events; and

Whereas, current discussion and negotiations among parties concerned in the development and construction of the Animas-La Plata Project have resulted in the development of a proposal to reconfigure the project by eliminating or delaying construction of certain facilities. The reconfigured proposed project is sometimes referred to as Animas-La Plata Project ''Lite''; and

Whereas, the Animas-La Plata ''Lite'' proposal contemplates reduction of Colorado's cost sharing obligation for the project to $16 million, with the remaining principal of $26.4 million currently in the Animas-La Plata

Escrow Account and committed for cost sharing on construction of the project to be held in escrow and not disbursed pending possible future construction of the remaining facilities of the Animas-La Plata Project; and

Whereas, the Authority has and continues to support the construction of the Animas-La Plata Project, and has evidenced this support by voluntarily committing up to $42.4 million for construction of the Project.

Now therefore, be it resolved by the Board of Directors of the Colorado Water Resources and Power Development Authority at a regular meeting of the Authority on February 6, 1998, as follows:

1. The Authority reaffirms its continuing support for construction of the Animas-La Plata Project.

2. The Authority affirms its willingness, subject to agreement by the other signatories, to enter into appropriate amendments to the agreements to which it is a party (including the 1986 Cost Sharing Agreement and the 1989 Escrow Agreement) to reflect and to provide for (1) construction of the so-called Animas-La Plata ''Lite'' Project, with Colorado's cost sharing obligation limited to $16 million to be disbursed from the existing Animas-La Plata Project Escrow Account under acceptable terms, and (2) to provide for the continuing escrow of the remaining principal of $26.4 Million now on deposit in the Animas-La Plata Escrow Account for a mutually acceptable period of time pending possible future construction of the remaining facilities of the Animas-La Plata Project, with all interest accruing upon said principal being paid to and retained by the Authority for its use.

GOV. ROY ROMER AND LT. GOV. GAIL SCHOETTLER—CONCERNING THE ANIMAS-LA PLATA WATER PROJECT

Today, we are announcing our support for ''A–LP Lite''—the scaled-down version of the Animas-La Plata water project. This proposal saves nearly $400 million from the original project and is less environmentally damaging than the original project. Most importantly, it satisfies the state's obligations to deliver water to the Southern Ute and Ute Mountain Ute Tribes.

In 1986, the State of Colorado, non-Indian water users in Southwest Colorado and New Mexico, and the United States, entered into a landmark settlement agreement with the Southern Ute and the Ute Mountain Ute Tribes. This agreement quantified the Tribes' entitlement to reserved water rights on 11 rivers in Southwest Colorado.

The settlement agreement set a national standard for cooperation between Indian Tribes and non-Indians. It settled potentially expensive and divisive litigation. It protected the water rights of non-Indians in Southwest Colorado. It maintained the fabric of Indian and non-Indian societies and economies.

To comply with the agreement, the state has paid or set aside $60.8 million, and has agreed to the adjudication of reserved water rights by the Tribes. The only remaining obligation under the agreement is for the United States to fund and build the Animas-La Plata water project. The project is necessary to satisfy the Tribes' water claims on the Animas and La Plata Rivers.

Yet after 10 years the project has not been built. Controversy and lawsuits have delayed the start of construction. Each year, Congress debates whether to continue funding the project. The Interior Department has conducted a number of studies which the courts or the Environmental Protection Agency have found inadequate. We understand that one of the EPA's primary objections with the environmental analysis has been that the examination of alternatives is deficient.

Last year, the project proponents asked us to convene talks among all sides to see if a consensus solution could be reached. Through sometimes heated debate, the ''Romer-Schoettler Process'' whittled an initial list of 65 options to two basic alternatives.

Project proponents, including the Tribes, reduced the size of the project drastically. They cut many project features, principally non-Indian irrigation. Throughout this difficult process, the Tribes steadfastly maintained their desire for construction of a reservoir to hold water which can be an asset for future generations.

Project opponents developed an alternative involving no reservoir. The alternative calls for the United States to pay money to the Tribes that can be used to buy land and water, or to develop water from other existing water projects on other rivers which have already been adjudicated under the settlement agreement.

Both Tribal Councils rejected this alternative by official resolutions.

It was therefore clear that the Romer-Schoettler Process, having made substantial progress, could not bridge the gap between these fundamentally different proposals. Recently, the Tribes asked us to take a position on the two alternatives. Therefore, yesterday we went to Santa Fe, New Mexico, to meet with Tribal leaders and other project participants.

At that meeting, we reaffirmed our continuing obligations of the State of Colorado to work cooperatively under the 1986 settlement agreement, to find and support a solution to the Animas-La Plata controversy. We have maintained that any solution should be fiscally and environmentally responsible.

Because of that obligation, and the Tribes' legitimate desire for a reservoir, we endorsed the proposal of the project participants for construction of a significantly reduced project. This alternative is more cost-effective and has fewer environmental impacts than the original project configuration. It was developed to fit within all the environmental compliance documentation and approvals that have been done to date. We will be working with the project proponents and the State of New Mexico to develop legislation for introduction in Congress that will authorize this alternative.

Yesterday, we also committed to meet as soon as possible with Interior Secretary Bruce Babbitt and EPA Administrator Carol Browner. The purpose of our meetings will be to convey our support for the Tribes' and proponents' alternative. We also will express our strong belief that the results of the Romer-Schoettler process should be used to ''fill-in-the-gaps'' of the alternatives analysis that the EPA found deficient. We will seek definite commitments from them as to whether they will require any additional information. If so, we will ask them to define the precise time frames for this information so that we can work with the Tribes to introduce legislation in the next Congress.

We appreciate and value the relationship between the State of Colorado and the Southern Ute and Ute Mountain Ute Tribes. Honoring our promises under the 1986 settlement agreement is critical to that relationship. We will continue to work closely with the Tribes and water users of Southwest Colorado to make sure those promises are kept.

[From the Denver Post, Nov. 23, 1997]

ANIMAS LITE LOOKS GOOD

Gov. Roy Romer and Lt. Gov. Gail Schoettler's endorsement last week of the downsized Animas-La Plata water project has given another boost to a compromise plan that slashes both A-LP's cost and its environmental impact by about two-thirds.

As originally proposed, A-LP would have drawn 190,000 acre-feet annually from the Animas River at an estimated cost to taxpayers of $714 million. ''Animas-La Plata Lite,'' as the compromise was inevitably dubbed, would draw only 57,100 acre-feet from the river, at a cost of $257 million.

Even so, A-LP Lite would still meet the legitimate claims of the Southern Ute and Ute Mountain Ute tribes by satisfying the Colorado Ute Indian Water Rights Settlement Act of 1988. The majority of the original project's benefits would have gone to non-Indian users. The scaled-back project eliminates most non-Indian benefits.

That's as it should be. The Utes were originally granted all of Colorado's Western Slope before being systematically robbed in a series of land grabs that reduced them to their present modest reservations. Colorado and the federal government thus have an obligation to the Utes that is far greater than to non-Indian water users in the area. And as Romer noted last week, A-LP Lite is ''the most realistic way of keeping our obligation to the Indian community.''

Romer and Schoettler plan to meet with Interior Secretary Bruce Babbitt and Carol Browner, the head of the Environmental Protection Agency, to promote the compromise. We wish them success in their expressed desire of convincing the next session of Congress to fund the compromise plan.

Schoettler deserves particular credit for midwifing what we hope will be a successful conclusion to this long-running controversy. The lieutenant governor led a series of mediation sessions between project supporters and environmentalists opposed to A-LP. While Schoettler did not succeed in bringing the two sides to a consensus, her efforts went a long way toward crafting the attractive compromise she and Romer endorsed last week. For that, taxpayers, Indians—and even those environmentalists willing to settle for two-thirds of a loaf—can be grateful.

[From the Denver Post, Feb. 8, 1998]

THE PRICE IS LITE

Congressional supporters of a radically downsized Animas-La Plata plan are hoping to introduce a bill later this week to fund the long-delayed water project in southwestern Colorado and to at last assure the Southern Ute and Ute Mountain Utes of the rights to ''wet water'' that they have been denied for more than a century.

The new ''Animas Lite,'' as the proposal is nicknamed, would cost the federal government just $257 million, less than a third of the original $744 million tab.

The project's environmental impact has also been radically reduced. Originally it would have diverted 150,000 acre-feet of water per year from the Animas River. Now it will take only 57,100 acre-feet. But the cutbacks came mostly at the expense of non-Indian users, and both Ute tribes strongly support the compromise.

Lt. Gov. Gail Schoettler, who led a year-long mediation effort, deserves much of the credit for mid-wifing the less expensive, more environmentally acceptable alternative, which has also been endorsed by Gov. Roy Romer.

The upcoming bill to fund the compromise will probably have the support of seven of the eight members of Colorado's congressional delegation. The sole holdout is likely to be Rep. Diana DeGette, D-Denver, who has tended to take the parochial attitude that the southwestern Colorado project doesn't benefit her district.

The Post would like to gently remind Rep. DeGette that the federally funded light rail project in southwest Denver provides no direct benefit to southwest Colorado, either—but we haven't seen Rep. Scott McInnis scowling at that crucial link in Colorado's overall transportation needs. Our small state delegation needs to remember Benjamin Franklin's admonition that ''unless we all hang together, we'll all hang separately.''

More importantly, Animas Lite isn't so much about water as about justice for the Utes, who once owned all the Western Slope before being systematically robbed of most of their lands.

The insulting alternative to Animas Lite proposed by the Sierra Club—giving the Utes a cash handout—has been unanimously rejected by both tribal councils.

Animas-La Plata has been debated for more than 30 years. It's time for the government to keep its word to the Utes and build the compromise project.

[From the Durango Herald, Nov. 23, 1997]

BUILD A-LP LITE

ROMER-SCHOETTLER PROCESS DID ITS JOB—INCLUDING PRODUCING A-LP LITE; NOW IT'S TIME TO BUILD IT

No single solution to how to provide the Southern and Ute Mountain Utes the water they have coming resulted from the Romer-Schoettler negotiating process. Far from it. Project proponents still have a reservoir in their plan to store new water, while opponents proposed to strip existing summer water from purchased irrigated land.

But while the process consumed a year—an additional delay that benefits project opponents who want nothing built—the process was far from wasted.

Out of it came much-reduced project that would be much more all-Indian. While relatively small amounts of municipal water remain, almost entirely eliminated is the large non-Indian irrigation component. And the two Ute tribes have agreed to accept one-third less water at no charge in exchange for the originally negotiated larger amount at cost.

In these times of federal budget-balancing, and support for free-flowing rivers, the smaller Animas-La Plata Lite is a big step forward.

In contrast, the scheme of land purchases the handful of project opponents proposed has little substance. They would find some storage in existing reservoirs, but the bulk of the water would be available in the spring and summer only. Ignored in their plan was the awkward picture of Florida Mesa lands stripped of water, and just how downstream return-flow water users would be compensated.

Though billed as less expensive than Animas-La Plata Lite and as helping to fulfill the Southern Utes' desire to own more of the land within the external boundaries of their reservation, the land purchases would fall far short of providing the Utes with the kind of water they are owed and would raise plenty of new environmental issues.

Last week, Gov. Roy Romer and Lt. Gov. Gail Schoettler endorsed Animas-La Plata Lite, and the governor said, if asked, he would urge President Bill Clinton to build it.

The Environmental Protection Agency, granted extensions to complete its studies, needs to pick up the pace. Removing less water from the Animas River, as spelled out ion A-LP Lite, shouldn't require massive rewrites. The Bureau of Reclamation, which sometimes has behaved as though it wished the Animas-La Plata Project would just go away so it could focus on a new mission of increasing water use efficiency, can't turn its back on the need to build one last dam as cost-effectively as possible.

The Utes have waited a long time for the water they have coming, and they've reduced their claims to help make Animas-La Plata Lite possible. Animas-La Plata Lite ought to be built as soon as possible.

[From the Pueblo Chieftain, Nov. 21, 1997]

IT'S HIGH TIME

The Romer administration has dropped its neutrality on the Animas-La Plata Project in southwestern Colorado to support what's being called Animas-La Plata Lite.

Gov. Roy Romer and Lt. Gov. Gail Schoettler on Tuesday announced their support of the scaled-back plan to provide water for two Indian tribes in Colorado and northwest New Mexico. The revised proposal would cost an estimated $250 million instead of $740 million for the full project.

The Southern Ute and Ute Mountain Ute tribes suggested the smaller project earlier this year to get the long-stalled project going. A–LP, first authorized by Congress 29 years ago as an irrigation project, was amended in 1986 to include water rights claims by the tribes which were agreed to in a treaty with the United States. Since then, though, environmental groups have fought the project at every juncture.

Part of their strategy of delay has been to drive up the cost almost geometrically. Thus opponents have aligned themselves with a smattering of fiscally conservative Republicans and liberal Democrats in hypocritically decrying the project's cost.

A–LP Lite would halve the amount of water diverted for municipal and other uses and would suspend a plan to irrigate non-Indian lands. The amount of water for the tribes would be cut, although they now would receive the lion's share of it.

During this week's announcement, the governor said he believed the state has an obligation to the tribes, which it does. So does the federal government, which should not abrogate yet another treaty with the Indians, even though the Sierra Club continues to oppose any project other than buying existing water rights and giving them to the tribes.

With the weight of the state government now behind A–LP Lite, the federal government should press ahead. Three decades of dickering has done no one any good—except those who make their livelihoods being public pests.

[From the Daily Sentinel, Nov. 19, 1997]

STATE LEADERSHIP, AT LONG LAST, ON A–LP

The era of delays on the Animas-La Plata Water project must end, Gov. Roy Romer and Lt. Gov. Gail Schoettler declared Tuesday. It's time to move forward with the scaled-down version of the project known as A–LP Lite.

That is the very welcome and long-overdue message Romer and Schoettler delivered to Ute Indian tribal leaders at a meeting in Santa Fe Monday, the same message they promise to take to U.S. Secretary of Interior Bruce Babbitt and EPA Director Carol Browner in the next few weeks.

One might be forgiven for suggesting that the Romer administration has been at least partially responsible for delays on Animas-La Plata, with its year-long roundtable discussion that failed to reach any resolution between supporters and opponents.

But Schoettler and Romer maintained Tuesday that the process was important in narrowing the number of alternatives from 65 to two and in prompting project supporters to come up with the ''more realistic'' A–LP Lite. Moreover, the two said in a statewide teleconference with reporters Tuesday, the process could be even more important and timesaving if federal officials accept the various alternatives examined during the Romer-Schoettler discussions rather than requiring yet another reopening of the environmental impact statement for the project to study more alternatives.

That remains to be seen, of course. But give Romer and Schoettler credit for deciding to push such an idea with Babbitt and Browner.

And if the governor and lieutenant governor appeared decidedly ambiguous about taking sides a few weeks ago—their Oct. 30 letter to Babbitt and Browner took no position on either alternative and said it was up to the federal agencies to resolve the issue—that ambiguity is gone now.

''We both favor A–LP Lite as the most realistic way to meet our commitments to the tribes,'' Romer said. ''We want to expedite the decision-making process so we can get it before Congress in the next session.''

Echoed Schoettler. ''Our job now is to push this forward to meet our commitments to the tribes.''

Given Romer's position as chairman of the Democratic National Committee and Schoettler's own eminent stature within the Democratic Party, the two are in positions to have a great deal of influence on Babbitt, Browner and others in the Clinton administration.

They are less likely, of course, to influence opponents of the Animas-La Plata, who will undoubtedly take Tuesday's announcement as a form of betrayal by the governor and lieutenant governor.

Romer stressed Tuesday that he didn't want this process dragged out by litigation and delay. Unfortunately, he and Schoettler will be hard-pressed to convince the Sierra Club and its minions of that. The Romer administration should be prepared to commit all of the state's resources at its disposal to overcome the relentless obstructionism of the environmental community to, at long last, fulfill the long-denied water promises to Colorado's Ute Indians.

Mr. ALLARD. Mr. President, I want to add my support to the Colorado Ute Indian Water Rights Settlement Act of 1998.

The project that is before us now represents a scaled down version of what was originally promised.

This project will be inexpensive enough to allow it to pass through Congress and finally do something towards fulfilling the obligations of the United States to the Tribes and their members, while at the same time not being so scaled down and cheap as to fail to live up to the promise our government made years ago.

The Ute Tribes have accepted this proposal even though it is significantly less than what they were first offered.

As to whether they are doing this because a smaller project fits all their needs, or because they are realistic enough to admit that the long history of broken treaties is most likely not about to stop now, I'm sure we all have opinions.

The Utes are willing to accept this deal for a very simple reason:

They need water.

Anybody here can go to a water cooler and get a glass of water. But if you want to water your garden, you need a bigger source—a garden hose and a faucet.

And if you need to water your farm, or supply industry, you need a bigger source yet.

The Ute Indians are hoping they can rely on the Animas La Plata for their water needs, and they are hoping they can rely on the Government that promised them that water to follow through on delivering the water.

The Act before us focuses on the three main items needed to fulfill our obligation. It calls for a storage reservoir to be built to hold the promised water, the conveyance needed to transport water to the reservoir, and the guarantee to the Ute tribes of the water in that reservoir.

These three things are only, oh, 130 years or so in the coming. The Ute Indian Tribe signed a treaty with the U.S. Government in 1868. This treaty promised the Ute Indian Tribes a permanent, reliable source of water.

In 1988, the Colorado Ute Indian Water Rights Settlement Act reaffirmed these rights. It called for a much larger project than is before us now.

The Ute Indian Tribe would, of course, probably still prefer the full Animas La Plata Project. Those who favor upholding the word of the United States government to the Ute Indian Tribe would probably prefer the full project. However, there are those who don't seem to care about these matters who have blocked a larger project.

What we are considering now is smaller, cheaper, and less extensive, but the beneficiaries of it are willing to compromise. They need something, anything, more than they need an ideal.

There are many reasons to vote for this project. I think the best reason is not because it is authorized by Congress, not because it is ratified by the Supreme Court, not because it is supported by the last three Presidents, and not even because it will save the country over $400 million from the originally agreed-to project.

The best reason is simply that this project should be voted for because it is the duty and treaty obligation of the United States to the Ute Indian Tribes.

By Mrs. FEINSTEIN:

S. 1773. A bill for the relief of Mrs. Ruth Hairston by the waiver of a filing deadline for appeal from a ruling relating to her application for a survivor annuity; to the Committee on Governmental Affairs.

PRIVATE RELIEF LEGISLATION

Mrs. FEINSTEIN. Mr. President, I rise this morning to introduce private relief legislation to assist Mrs. Ruth Hairston, of Carson, California. Identical legislation is proceeding through the House, an effort led by Representative JUANITA MILLENDER-MCDONALD and I am pleased to support this effort.

Mrs. Hairston requires this extreme step in order to be able to pursue a federal court appeal of the Merit Systems Protection Board (# CSF 2221413), which denied Mrs. Hairston's eligibility for an annuity following the retirement and untimely death of her former husband. The legislation does not require the annuity, but will only permit the filing of an appeal with the United States Court of Appeals. As a result, Mrs. Hairston will be permitted to challenge the denial on the merits, rather than accept the denial due to the failure to file an appeal within thirty days.

I would briefly like to describe the facts which warrant this legislation.

Mr. Paul Hairston retired in 1980, electing a survivor annuity for Mrs. Hairston. However, the couple was divorced in 1985, entitling Mrs. Hairston to receive ½ the retirement benefit under the settlement terms. Mr. and Mrs. Hairston began receiving benefits in 1988.

The Merit Systems Protection Board, which reviews Civil Service retirement claims, concluded Mr. Hairston had failed to register Mrs. Hairston for survivors benefits following passage of 1985 law, renewing the survivor annuity previously selected in 1985. As a result, the spousal survivor benefits for Mrs. Hairston were canceled. Following Mr. Hairston's death in 1995, Mrs. Hairston's benefits, her portion of his retirement benefit under the divorce settlement, ceased. Mrs. Hairston was denied eligibility as a surviving spouse, but did not challenge or appeal the denial of eligibility, due to hospitalization and poor health.

I am pleased to introduce this private relief legislation to assist my constituent Mrs. Ruth Hairston. While this legislation represents an extraordinary measure, the step is necessary in order to permit a federal court appeal of the denial of eligibility by he Merit Systems Protection Board. As I have previously stated, this legislation does not require any specific outcome. The federal court will review the appeal with all the rigor the case deserves. However, Mrs. Hairston will receive her day in court and the opportunity to challenger the decision by the Merit Systems Protection Board to deny eligibility.

This legislation was brought to my attention by Representative JUANITA MILLENDER-MCDONALD, who has been pursuing identical legislation in the House. I understand Mrs. Hairston is under considerable financial pressure and could face foreclosure on her home. I am pleased to try to assist Mrs. Hairston in her appeal.

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. 1773

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

SECTION 1. WAIVER OF DEADLINE FOR APPEAL.

For purposes of a petition by Mrs. Ruth Hairston of Carson, California, for review of the final order issued October 31, 1995, by the Merit Systems Protection Board with respect to docket number SF–0831–95–0754–I–1, the 30-day filing deadline in section 7703(b)(1) of title 5, United States Code, is waived.

By Mr. LOTT (for himself and Mr. COCHRAN):

S. 1774. A bill to amend the Consolidated Farm and Rural Development Act to authorize the Secretary of Agriculture to make guaranteed farm ownership loans and guaranteed farm operating loans of up to $600,000, and to increase the maximum loan amounts with inflation; to the Committee on Agriculture, Nutrition, and Forestry.

THE FAMILY FARM CREDIT OPPORTUNITY ACT OF 1998

Mr. LOTT. Mr. President, I rise today to introduce the Family Farm Credit Opportunity Act of 1997, a bill that will correct an inequity in the Farm Service Agency's (FSA) Guaranteed Loan Program. Currently, this program has upper limits on the amounts that can be guaranteed by the FSA. Specifically, the two types of loans administered under this program—farm ownership loans and operating loans—have caps of $300,000 and $400,000, respectively. The farm ownership loan cap was adjusted to its current level in 1978, while the operating loan cap was last raised in 1984. That is 20 years ago for one and 14 years ago for the other. A great deal has changed. Prices have gone up and inflation has eroded the value of the caps. Back then, farm ownership and operating costs could be adequately financed within both of these cap limits. Not anymore. It is time for a cap correction.

Given today's larger and more capital-intensive farming operations, the limits must be raised in order to realistically meet the needs of those seeking financing through the Guaranteed Loan Program. For example, in my home state of Mississippi, poultry is a growing industry. In the early 1980's a typical poultry house cost approximately $65,000. Today the same poultry house can cost up to $125,000. However, most banks will not finance a beginning poultry farm with less than four poultry houses. That makes the initial costs $500,000. It is easy to see that a minimum of four poultry houses at a cost of $125,000 per house exceeds the farm ownership cap level of $300,000 in the Guaranteed Loan Program. This is just one example of how the upper limits on loans can eliminate qualified applicants. This type of problem exists throughout the entire agricultural community, not just the poultry industry.

To address this problem, I am introducing the Family Farm Credit Opportunity Act of 1998 which would raise the cap limits on both the farm ownership loan and the operating loan to $600,000.

Mr. President, this is the companion bill to the one introduced by Representative CHIP PICKERING from Mississippi. He saw a problem and he has proposed a responsible fix. The poultry example displays how much agriculture has changed since the caps were last amended twenty years ago. In fact, while the increase in the cap limits may seem substantial at first, neither

increase reflects the increase just caused by inflation. We should at least keep up with inflation for a program that has served as a vehicle of opportunity for the small family farmer. In today's budget-minded era, I believe we must find solutions that will not only correct problems that have been developing over the years, but find solutions at a relatively low cost to the taxpayer. That is why my bill increases the cap limits to specific amounts ($600,000) for the coming year, but also includes a provision to index both caps for inflation beginning in year two. This last provision will allow the caps to automatically adjust for inflation, which will provide a long-term fix to assure that the family farm does not again outgrow the upper limits of the farm ownership loan or the operating loan over time.

I would like to point out that my bill will not guarantee acceptance of applications submitted to the FSA. Farmers would still have to go through the vigorous application process, but if the individual is eligible and accepted he or she would have the opportunity to receive adequate financing through a farm ownership or operating loan.

Mr. President, we must preserve the family farm and continue America's tradition of promoting family farmers. Congress must provide a mechanism which enables family farmers to receive the necessary funds for ownership and operation of a farming business.

Congress appropriates money for the FSA Guarantee Loan Program each year. Congress should put this money to its best and most efficient use. We should take a step back and take a good look at what a family farmer in 1997 really is? It is not the 1978 farmer with 1978 costs. Of course these programs should be run as efficiently as possible.

Mr. President, as for the ''family farmer,'' they still exist and are successful, but they aren't the same as they were 20 years ago. Why? Well, let's look at some of the changes that have occurred over this period.

First of all, markets have become global. Not only do our farmers have to compete with each other, but also with farmers around the world—farmers in China, Japan, Russia, Canada, Mexico just to name a few. Technology and research have both been overwhelmingly successful in allowing America to increase its production with less land. We are now able to idle environmentally sensitive land that is less productive and therefore ensure that we never revert back to the ''Dust Bowl'' days of the 1930's. Today farmers live in a capital intensive world. In fact, we cannot talk about agriculture today without mentioning how the industry has drastically shifted from a labor-intensive industry to an industry dominated by capital.

Twenty years ago, who could have imagined that farmers would be using satellites to level their land or to tell them exactly where chemical applications are needed? Who could have imagined that biotechnology would yield such complex seed developments?

Who could have imagined that farmers would have the technology to so closely monitor the growth of animals or that farmers would have the ability to specifically and scientifically regulate diets in order to achieve faster growth with less fat?

Mr. President my point is that agriculture has changed and so has the family farmer. The Guaranteed Loan Program was designed to help the family farmer. Let's make sure it is big enough to do just that. In order to continue this goal, we must address the needs of today, not of 1978 by providing the capital necessary to compete and be successful in 1998.

The family farmer is a larger operator relative to 1978 standards. We need new cap limits that reflect this change.

Mr. President, I want to truly help the family farmer. Mr. President, Mr. PICKERING, my colleague in the House wants to truly help the family farmer.

Let's fix a program that has been successful in the past in helping this critical sector of our country. Let us not stop the progress of our family farmers. Congress should not deny any eligible person in our nation the opportunity to own and operate a family farm in order to pursue their idea of the American dream.

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

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

S. 1774

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

SECTION 1. INCREASE IN MAXIMUM AMOUNT OF GUARANTEED FARM OWNERSHIP LOANS; INDEXATION TO INFLATION.

Section 305 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1925) is amended—

(1) by striking ''SEC. 305. The'' and inserting:

''SEC. 205. MAXIMUM AMOUNT OF FARM OWNERSHIP LOANS.

''(a) IN GENERAL.—The'';

(2) by striking ''of (1) the'' and inserting ''of—

''(1) the'';

(3) by striking ''security, or (2) in'' and inserting ''security; or

''(2) in'';

(4) by striking ''$300,000'' and inserting ''$600,000 (increased, beginning with fiscal year 1998, by the inflation percentage applicable to the fiscal year in which the loan is made or insured)'';

(5) by striking ''In determining'' and inserting the following:

''(b) VALUE OF FARMS.—In determining'';

and

(6) by adding at the end the following:

''(c) INFLATION PERCENTAGE.—For purposes of subsection (a)(2), the inflation percentage applicable to a fiscal year is the percentage (if any) by which—

''(1) the average of the Consumer Price Index (as defined in section 1(f)(5) of the Internal Revenue Code of 1986) for the 12-month period ending on August 31 of the preceding fiscal year; exceeds

''(2) the average of the Consumer Price Index for the 12-month period ending on August 31, 1996.''.

SEC. 2. INCREASE IN MAXIMUM AMOUNT OF GUARANTEED FARM OPERATING LOANS; INDEXATION TO INFLATION.

Section 313 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1943) is amended—

(1) by striking ''SEC. 313. The'' and inserting:

''SEC. 313. MAXIMUM AMOUNT OF FARM OPERATING LOANS.

''(a) IN GENERAL.—The'';

(2) by striking ''subtitle (1) that'' and inserting ''subtitle—

''(1) that'';

(3) by striking ''$400,000; or (2) for'' and inserting ''$600,000 (increased, beginning with fiscal year 1998, by the inflation percentage applicable to the fiscal year in which the loan is made or insured); or

''(2) for''; and

(4) by adding at the end the following:

''(b) INFLATION PERCENTAGE.—For purposes of subsection (a)(1), the inflation percentage applicable to a fiscal year is the percentage (if any) by which—

''(1) the average of the Consumer Price Index (as defined in section 1(f)(5) of the Internal Revenue Code of 1986) for the 12-month period ending on August 31 of the preceding fiscal year; exceeds

''(2) the average of the Consumer Price Index for the 12-month period ending on August 31, 1996.''.

By Mr. FAIRCLOTH:

S. 1786. A bill to provide for the conduct of a study and report concerning the ability of the Centers for Disease Control and Prevention to address the growing threat of viral epidemics and biological and chemical terrorism; to the Committee on Labor and Human Resources.

CENTERS FOR DISEASE CONTROL AND PREVENTION LEGISLATION

Mr. FAIRCLOTH. Mr. President, I rise today to introduce legislation to address the growing threats of viral epidemics and bioterrorism in our nation. I have serious concerns that one of our nation's first lines of defense, the CDC, may not have adequate resources to address these increasingly serious problems.

Scientists meeting at the International Conference on Emerging Infectious Disease in Atlanta last week concluded we were only slightly better prepared today to handle a biologic attack than we were in 1991 at the start of Desert Storm, and we were totally ill-prepared then! While the U.S. military prepares to vaccinate our troops against anthrax, there is currently no national plan to protect civilians from this deadly virus.

Ironically, the day after the International Infectious Disease conference, a business located in Phoenix was threatened with a bioterrorism attack involving an envelope supposedly soaked with the deadly anthrax virus, sending ten employees to the hospital. This comes on the heels of an earlier FBI arrest of two men in Las Vegas who claimed to have anthrax in their possession.

This growing threat is real, and not limited to germs used in war. The first

recorded case of bioterrorism occurred in 1984, when members of a religious cult in Oregon deliberately contaminated local salad bars with the salmonella bacteria, causing 751 cases of fever, diarrhea and abdominal pain. Their goal had been to incapacitate voters so they could sway a local election.

More recently, we've seen many diseases we thought we'd conquered reappearing in more virulent forms. Since December, 26 Texans have died and hundreds fallen ill from an outbreak of an invasive Group A streptococcus bacteria. In Milwaukee, contaminated drinking water sickened 400,000 citizens and sent 4,000 to the hospital with over 50 deaths.

Mr. President, I voiced my concern that the Centers for Disease Control does not have the resources necessary to fight these wars with Secretary Shalala at the Labor, Health and Human Services Appropriations Subcommittee hearing last week, and have asked that the Subcommittee Chairman, my colleague from Pennsylvania, Senator Specter join me in holding a hearing on the agency's role and abilities to meet these growing threats.

Let me take a few moments now to share my concern with my colleagues by asking a question: What do bioterrorism, natural and manmade disasters, contaminated food and water supplies, and epidemics have in common? The answer may come as a surprise—the lynchpin to combating any of these life-threatening situations are the 3,000 state, county and local health departments in this country, working in cooperation with the Centers for Disease Control.

Most people would be shocked to learn that the very network that is supposed to play a role in providing a first line of defense against these threats—the 3,000 health departments scattered across the United States—are in most cases not computer linked with the command center, CDC. Only 40 percent of our health departments are online today. The remainder need computer hardware, training and manpower to be able to connect. Local health departments also need laboratory capability to be able to test the agents suspected of causing a threat—presently these samples have to be shipped off-site to be tested, wasting valuable response time.

The warning signs are there. Were this a military operation, with the enemy amassing on our borders, we would have no hesitation nor would we question the need for additional resources. We should do nothing less when lives are threatened by disease. CDC forms a triage with state and local health departments and other important governmental agencies to combat disease and biologic threats.

While CDC has become well known world-wide as the ''disease detectives,'' the public and many of my colleagues are probably unaware of the work they perform with their law enforcement, military and intelligence agency colleagues in the biologic and chemical warfare arena. CDC's Epidemiologic Intelligence Service school produces highly trained epidemiologists from these agencies to deal with these deadly, newly emerging threats. Every state should have at least one graduate from the Epidemiologic Intelligence Service School—currently, less than half have someone with these skills.

Additionally, CDC's National Center for Infectious Diseases, the Public Health Practice Program Office and the National Center for Environmental Health also play key roles in ensuring the preparedness of the public health response.

The legislation I'm introducing today is simple. It asks that the Centers for Disease Control report to Congress within sixty days in regard to their resources and readiness to respond to the growing threats of viral epidemics, biologic and chemical threats. I intend to focus on this when we discuss this at a future hearing, and am looking forward to learning how we can improve our ability to address this growing threat.

Unfortunately, our public health departments are operating under severe constraints with about one-third lacking even the most basic technology for communications or access to advanced training. One thing is certain, not one link in our public health defense can operate in a vacuum because disease knows no political or geographic boundaries.

In the days ahead as we set our priorities for appropriations and budget, it is time, and past time, that we place a priority on investing in local public health department infrastructure. Otherwise, we may find that the cost of our neglect is more than any of us are willing to pay.

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. 1786

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

SECTION 1. STUDY CONCERNING THE CAPABILITIES OF THE CENTERS FOR DISEASE CONTROL AND PREVENTION.

(a) STUDY.—The Secretary of Health and Human Services shall conduct a study concerning the ability of, and resources available to, the Centers for Disease Control and Prevention to address the growing threats of viral epidemics and biologic and chemical terrorism.

(b) REPORT.—Not later than 60 days after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report concerning the results of the study conducted under subsection (a), including the recommendations of the Secretary for improving the ability and resources of the Centers for Disease Control and Prevention to address the growing threats of viral epidemics and biologic and chemical terrorism.

By Mr. GRAMM (for himself, Mrs. HUTCHISON, Mr. GRASSLEY, Mr. D'AMATO, Mr. KYL, Mr. GORTON, Mrs. FEINSTEIN, Mr. BINGAMAN, Mrs. MURRAY, Mr. MCCAIN, and Mr. DOMENICI):

S. 1787. A bill to authorize additional appropriations for United States customs Service personnel and technology in order to expedite the flow of legal commercial and passenger traffic at United States land borders; to the Committee on Finance.

UNITED STATES CUSTOMS LEGISLATION

Mr. GRAMM. Mr. President, on behalf of Senators HUTCHISON, KYL, FEINSTEIN, BOXER, BINGAMAN, MCCAIN, and DOMENICI (all the Southwest Border senators), as well as Senators GRASSLEY, D'AMATO, GORTON, and MURRAY, I am introducing legislation today which will authorize the United States Customs Service to acquire the necessary personnel and technology to reduce delays at our border crossings with Mexico and Canada to no more than 20 minutes, while strengthening our commitment to interdict illegal narcotics and other contraband.

I am very concerned about the impact of narcotics trafficking on Texas and the nation and have worked closely with federal and state law enforcement officials to identify and secure the necessary resources to battle the onslaught of illegal drugs. At the same time, however, our current enforcement strategy is burdened by insufficient staffing, a gross underuse of vital interdiction technology and is effectively closing the door to legitimate trade.

At a time when NAFTA and the expanding world marketplace are making it possible for us to create more commerce, freedom and opportunity for people on both sides of the border, it is important that we eliminate the border crossing delays that are stifling these goals. In order for all Americans to fully enjoy the benefits of growing trade with Mexico and Canada, we must ensure that the Customs Service has the resources necessary to accomplish its mission. Customs inspections should not be obstacles to legitimate trade and commerce. Customs staffing needs to be increased significantly to facilitate the flow of substantially increased traffic on both the Southwestern and Northern borders, and these additional personnel need the modern technology that will allow them to inspect more cargo, more efficiently. The practical effect of these increases will be to open all the existing primary inspection lanes where congestion is a problem during peak hours and to enhance investigative capabilities on the Southwest border.

Long traffic lines at our international crossings are counterproductive to improving our trade relationship with Mexico and Canada. This bill is designed to shorten those lines and promote legitimate commerce, while providing the Customs Service with the means necessary to tackle the drug trafficking operations that are now rampant along the 1,200-mile border that my State shares with Mexico.

I will be speaking further to my colleagues about this initiative and urge their support for the bill.

By Mr. MOYNIHAN:

S. 1788. A bill to amend titles XI and XVIII of the Social Security Act to combat waste, fraud, and abuse in the medicare program; to the Committee on Finance.

THE MEDICARE FRAUD AND OVERPAYMENT ACT OF 1998

Mr. MOYNIHAN. 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. 1788

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

SECTION 1. SHORT TITLE; AMENDMENTS TO SOCIAL SECURITY ACT; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Medicare Fraud and Overpayment Act of 1998''.

(b) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

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

Sec. 1. Short title; amendments to Social Security Act; table of contents.
Sec. 2. No mark-up for drugs, biologicals, or parenteral nutrients.
Sec. 3. Mental health partial hospitalization services
Sec. 4. Information requirements.
Sec. 5. Eliminate overpayments for epogen.
Sec. 6. Centers of excellence.
Sec. 7. Repeal of clarification concerning levels of knowledge required for imposition of civil monetary penalties.
Sec. 8. Repeal of expanded exception for risk-sharing contract to anti-kickback provisions.
Sec. 9. Limiting the use of automatic stays and discharge in bankruptcy proceedings for provider liability for health care fraud.
Sec. 10. Administrative fees for medicare overpayment collection.

SEC. 2. NO MARK-UP FOR DRUGS, BIOLOGICALS, OR PARENTERAL NUTRIENTS.

(a) IN GENERAL.—Section 1842(o) (42 U.S.C. 1395u(o)), as added by section 4556(a) of the Balanced Budget Act of 1997, is amended to read as follows:

''(o)(1) If a physician's, supplier's, or any other person's bill or request for payment for services includes a charge for a drug, biological, or parenteral nutrient for which payment may be made under this part and the drug, biological, or parenteral nutrient is not paid on a cost or prospective payment basis as otherwise provided in this part, the payment amount established in this subsection for the drug, biological, or parenteral nutrient shall be the lowest of the following:

''(A) The actual acquisition cost, as defined in paragraph (2), to the person submitting the claim for payment for the drug, biological, or parenteral nutrient.

''(B) 95 percent of the average wholesale price of such drug, biological, or parenteral nutrient, as determined by the Secretary.

''(C) For payments for drugs, biologicals, or parenteral nutrients furnished on or after January 1, 2000, the median actual acquisition cost of all claims for payment for such drugs, biologicals, or parenteral nutrients for the 12-month period beginning July 1, 1998 (and adjusted, as the Secretary determines appropriate, to reflect changes in the cost of such drugs, biologicals, or parenteral nutrients due to inflation, and such other factors as the Secretary determines appropriate).

''(D) The amount otherwise determined under this part.

''(2) For purposes of paragraph (1)(A), the term 'actual acquisition cost' means, with respect to such drugs, biologicals, or parenteral nutrients the cost of the drugs, biologicals, or parenteral nutrients based on the most economical case size in inventory on the date of dispensing or, if less, the most economical case size purchased within six months of the date of dispensing whether or not that specific drug, biological, or nutrient was furnished to an individual whether or not enrolled under this part. Such term includes appropriate adjustments, as determined by the Secretary, for all discounts, rebates, or any other benefit in cash or in kind (including travel, equipment, or free products). The Secretary shall include an additional payment for administrative, storage, and handling costs.

''(3)(A) No payment shall be made under this part for drugs, biologicals, or parenteral nutrients to a person whose bill or request for payment for such drugs, biologicals, or parenteral nutrients does not include a statement of the person's actual acquisition cost.

''(B) A person may not bill an individual enrolled under this part—

''(i) any amount other than the payment amount specified in paragraph (1), (4), or (5) (plus any applicable deductible and coinsurance amounts), or

''(ii) any amount for such drugs, biologicals, or parenteral nutrients for which payment may not be made pursuant to subparagraph (A).

''(C) If a person knowingly and willfully in repeated cases bills one or more individuals in violation of subparagraph (B), the Secretary may apply sanctions against that person in accordance with subsection (j)(2).

''(4) The Secretary may pay a reasonable dispensing fee (less the applicable deductible and coinsurance amounts) for drugs or biologicals to a licensed pharmacy approved to dispense drugs or biologicals under this part, if payment for such drugs or biologicals is made to the pharmacy.

''(5) The Secretary shall pay a reasonable amount (less the applicable deductible and coinsurance amounts) for the services associated with the furnishing of parenteral nutrients for which payment is determined under this subsection.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to drugs, biologicals, and parenteral nutrients furnished on or after January 1, 1999.

(c) ELIMINATION OF REPORT ON AVERAGE WHOLESALE PRICE.—Section 4556 of the Balanced Budget Act of 1997 is amended—

(1) by striking subsection (c); and

(2) by redesignating subsection (d) as subsection (c).

SEC. 3. MENTAL HEALTH PARTIAL HOSPITALIZATION SERVICES

(a) LIMITATION ON LOCATION OF PROVISION OF SERVICES.—

(1) IN GENERAL.—Section 1861(ff)(2) (42 U.S.C. 1395x(ff)(2)) is amended in the matter following subparagraph (I)—

(A) by striking ''and furnished'' and inserting ''furnished''; and

(B) by inserting before the period the following: '', and furnished other than in a skilled nursing facility or in an individual's home or other residential setting''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to partial hospitalization services furnished on or after the first day of the sixth month beginning after the date of the enactment of this Act.

(b) QUALIFICATIONS FOR COMMUNITY MENTAL HEALTH CENTERS.—Section 1861(ff)(3)(B) (42 U.S.C. 1395x(ff)(3)(B)) is amended by striking ''entity'' and all that follows and inserting the following: ''entity that—

''(i) provides the mental health services described in paragraph (1) of section 1913(c) of the Public Health Service Act;

''(ii) meets applicable licensing or certification requirements for community mental health centers in the State in which it is located; and

''(iii) meets such additional standards as the Secretary shall specify to ensure (I) the health and safety of individuals being furnished such services, (II) the effective or efficient furnishing of such services, and (III) the compliance of such entity with the criteria described in such section.''.

SEC. 4. INFORMATION REQUIREMENTS.

(a) INFORMATION FROM GROUP HEALTH PLANS.—Section 1862(b) is amended by adding at the end the following:

''(7) INFORMATION FROM GROUP HEALTH PLANS.—

''(A) PROVISION OF INFORMATION BY GROUP HEALTH PLANS.—The administrator of a group health plan subject to the requirements of paragraph (1) shall provide to the Secretary such of the information elements described in subparagraph (C) as the Secretary specifies, and in such manner and at such times as the Secretary may specify (but not more frequently than four times per year), with respect to each individual covered under the plan who is entitled to any benefits under this title.

''(B) PROVISION OF INFORMATION BY EMPLOYERS AND EMPLOYEE ORGANIZATIONS.—An employer (or employee organization) that maintains or participates in a group health plan subject to the requirements of paragraph (1) shall provide to the administrator of the plan such of the information elements required to be provided under subparagraph (A), and in such manner and at such times as the Secretary may specify, at a frequency consistent with that required under subparagraph (A) with respect to each individual described in subparagraph (A) who is covered under the plan by reason of employment with that employer or membership in the organization.

''(C) INFORMATION ELEMENTS.—The information elements described in this subparagraph are the following:

''(i) ELEMENTS CONCERNING THE INDIVIDUAL.—

''(I) The individual's name.

''(II) The individual's date of birth.

''(III) The individual's sex.

''(IV) The individual's social security insurance number.

''(V) The number assigned by the Secretary to the individual for claims under this title.

''(VI) The family relationship of the individual to the person who has or had current or employment status with the employer.

''(ii) ELEMENTS CONCERNING THE FAMILY MEMBER WITH CURRENT OR FORMER EMPLOYMENT STATUS.—

''(I) The name of the person in the individual's family who has current or former employment status with the employer.

''(II) That person's social security insurance number.

''(III) The number or other identifier assigned by the plan to that person.

''(IV) The periods of coverage for that person under the plan.

''(V) The employment status of that person (current or former) during those periods of coverage.

''(VI) The classes (of that person's family members) covered under the plan.

''(iii) PLAN ELEMENTS.—

''(I) The items and services covered under the plan.

''(II) The name and address to which claims under the plan are to be sent.

''(iv) ELEMENTS CONCERNING THE EMPLOYER.—

''(I) The employer's name.

''(II) The employer's address.

''(III) The employer identification number of the employer.

''(D) USE OF IDENTIFIERS.—The administrator of a group health plan shall utilize a unique identifier for the plan in providing information under subparagraph (A) and in other transactions, as may be specified by the Secretary, related to the provisions of this subsection. The Secretary may provide to the administrator the unique identifier described in the preceding sentence.

''(E) PENALTY FOR NONCOMPLIANCE.—Any entity that knowingly and willfully fails to comply with a requirement imposed by the previous subparagraphs shall be subject to a civil money penalty not to exceed $1,000 for each incident of such failure. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as those provisions apply to a penalty or proceeding under section 1128A(a).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 180 days after the date of enactment of this Act.

SEC. 5. ELIMINATE OVERPAYMENTS FOR EPOGEN.

Section 1881(b)(11)(B)(ii) (42 U.S.C. 1395rr(b)(11)(B)(ii)) is amended—

(1) in subclause (I)—

(A) by striking ''provided during 1994'' and inserting ''provided before fiscal year 1999''; and

(B) by striking ''and'' at the end;

(2) by redesignating subclause (II) as subclause (III);

(3) by inserting after subclause (I) the following new subclause:

''(II) for erythropoietin provided during fiscal year 1999, in an amount equal to $9 per thousand units (rounded to the nearest 100 units), and''; and

(4) in subclause (III), as so redesignated, by striking ''year'' each place it occurs and inserting ''fiscal year''.

SEC. 6. CENTERS OF EXCELLENCE.

(a) IN GENERAL.—Title XVIII is amended by inserting after section 1896 the following new section:

''CENTERS OF EXCELLENCE

''SEC. 1897. (a) IN GENERAL.—The Secretary shall use a competitive process to contract with specific hospitals or other entities for furnishing services related to surgical procedures, and for furnished services (unrelated to surgical procedures) to hospital inpatients that the Secretary determines to be appropriate. Such services may include any services covered under this title that the Secretary determines to be appropriate, including post-hospital services.

''(b) QUALITY STANDARDS.—Only entities that meet quality standards established by the Secretary shall be eligible to contract under this section. In considering quality, the Secretary shall take into account the quality, experience, and quantity of services of physicians who provide services in more than one entity. Contracting entities shall implement a quality improvement plan approved by the Secretary.

''(c) PAYMENT.—Payment under this section shall be made on the basis of negotiated all-inclusive rates. The amount of payment made by the Secretary to an entity under this title for services covered under a contract shall be less than the aggregate amount of the payments that the Secretary would have otherwise made for the services.

''(d) CONTRACT PERIOD.—A contract period shall be 3 years (subject to renewal), as long as the entity continues to meet quality and other contractual standards.

''(e) INCENTIVES FOR USE OF CENTERS.—The Secretary may permit entities under a contract under this section to furnish additional services or waive beneficiary cost-sharing, subject to the approval of the Secretary.

''(f) LIMIT ON NUMBER OF CENTERS.—The Secretary shall limit the number of centers in a geographic area to the number needed to meet projected demand for contracted services.''.

(b) EFFECTIVE DATES.—

(1) The amendment made by subsection (a) applies to services furnished on or after October 1, 1998.

(2) By October 1, 1998, the Secretary shall enter into contracts under the amendment made by subsection (a) for coronary artery by-pass surgery and other heart procedures, knee replacement surgery, and hip replacement surgery, in geographic areas nationwide such that at least 20 percent of the projected number of those procedures can be provided under such contracts.

SEC. 7. REPEAL OF CLARIFICATION CONCERNING LEVELS OF KNOWLEDGE REQUIRED FOR IMPOSITION OF CIVIL MONETARY PENALTIES.

(a) ELIMINATION OF ''KNOWING'' STANDARD.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended by striking ''knowingly'' in paragraphs (1), (2), and (3).

(b) ELIMINATION OF STATUTORY DEFINITION OF ''SHOULD KNOW''.—Section 1128A(i) (42 U.S.C. 1320a–7a(i)) is amended by striking paragraph (7).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to acts or omissions occurring on or after the date of the enactment of this Act.

SEC. 8. REPEAL OF EXPANDED EXCEPTION FOR RISK-SHARING CONTRACT TO ANTI-KICKBACK PROVISIONS.

(a) IN GENERAL.—Section 1128B(b)(3) (42 U.S.C. 1320a–7b(b)(3)) is amended—

(1) by adding ''and'' at the end of subparagraph (D);

(2) by striking ''; and'' at the end of subparagraph (E) and inserting a period; and

(3) by striking subparagraph (F).

(b) ELIMINATION OF REPORT.—Subsection (b) of section 216 of the Health Insurance Portability and Accountability Act of 1996 is repealed.

(c) EFFECTIVE DATES.—(1) The amendments made by subsection (a) shall apply to remuneration provided on or after the date of the enactment of this Act, regardless of whether it is pursuant to an agreement or arrangement entered into before such date.

(2) Subsection (b) shall take effect on the date of the enactment of this Act.

SEC. 9. LIMITING THE USE OF AUTOMATIC STAYS AND DISCHARGE IN BANKRUPTCY PROCEEDINGS FOR PROVIDER LIABILITY FOR HEALTH CARE FRAUD.

(a) NONAPPLICABILITY OF AUTOMATIC STAY PROVISIONS.—

(1) IN EXCLUSION PROCEEDINGS.—Section 1128 (42 U.S.C. 1320a–7), as amended by section 4303(a) of the Balanced Budget Act of 1997, is amended by adding at the end the following new subsection:

''(k) NONAPPLICABILITY OF BANKRUPTCY STAY.—An exclusion imposed under this section or a proceeding seeking an exclusion under this section is not subject to the automatic stay under section 362(a) of title 11, United States Code.''.

(2) IN CIVIL MONEY PENALTY PROCEEDINGS.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended by adding at the end the following: ''An exclusion, penalty, or assessment imposed under this section or a proceeding that seeks an exclusion, penalty, or assessment under this section, is not subject to the automatic stay under section 362(a) of title 11, United States Code. Notwithstanding any other provision of law, amounts made payable under this section are not dischargeable under any provision of such title.''.

(3) IN RECOUPMENT UNDER PART A OF MEDICARE.—Section 1815(d) (42 U.S.C. 1395g(d)) is amended—

(A) by inserting ''(1)'' after ''(d)'', and

(B) by adding at the end the following:

''(2) The recoupment of an overpayment under this section is not subject to the automatic stay under section 362(a) of title 11, United States Code. Notwithstanding any other provision of law, amounts due to the Secretary under this section are not dischargeable under any provision of such title.''.

(4) IN RECOUPMENT UNDER PART B OF MEDICARE.—Section 1833(j) (42 U.S.C. 1395l(j)) is amended—

(A) by inserting ''(1)'' after''(j)'', and

(B) by adding at the end the following:

''(2) The recoupment of an overpayment under this section is not subject to the automatic stay under section 362(a) of title 11, United States Code. Notwithstanding any other provision of law, amounts due to the Secretary under this section are not dischargeable under any provision of such title.''.

(5) IN COLLECTION OF OVERDUE PAYMENTS ON SCHOLARSHIPS AND LOANS.—Section 1892(a)(4) (42 U.S.C. 1395ccc(a)(4)) is amended by adding at the end the following:

''(5) An exclusion imposed under paragraph (2)(C)(ii) or (3)(B) is not subject to the automatic stay under section 362(a) of title 11, United States Code.''.

(b) NONDISCHARGABILITY.—

(1) IN CIVIL MONEY PENALTY PROCEEDINGS.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)), as amended by subsection (a)(2), is further amended by adding at the end the following: ''Notwithstanding any other provision of law, amounts made payable under this section are not dischargeable under any provision of such title.''.

(2) IN RECOUPMENT UNDER PART A OF MEDICARE.—Section 1815(d) (42 U.S.C. 1395g(d)(2)), as amended by subsection (a)(3), is further amended by adding at the end the following:

''(3) Notwithstanding any other provision of law, amounts due to the Secretary under this section are not dischargeable under any provision of such title.''.

(3) IN RECOUPMENT UNDER PART B OF MEDICARE.—Section 1833(j) (42 U.S.C. 1395l(j)), as amended by subsection (a)(4), is further amended by adding at the end the following: ''Notwithstanding any other provision of law, amounts due to the Secretary under this section are not dischargeable under any provision of such title.''.

(c) EFFECTIVE DATES.—

(1) The amendments made by subsection (a) shall apply to bankruptcy petitions filed after the date of the enactment of this Act.

(2) The amendments made by subsection (b) shall apply on and after the date of the enactment of this Act to any proceeding which has not been completed as of such date.

SEC. 10. ADMINISTRATIVE FEES FOR MEDICARE OVERPAYMENT COLLECTION.

(a) ADMINISTRATIVE FEES FOR PROVIDERS OF SERVICES UNDER PART A.—Section 1815(d) (42 U.S.C. 1395g(d)), as amended by section 9(a)(3), is amended by adding at the end the following new paragraph:

''(3)(A) Except as provided in subparagraph (B), if the payment of the excess described in paragraph (1) is not made (or effected by offset) within 30 days of the date of the determination, an administrative fee of 1 percent

of the outstanding balance of the excess (after application of paragraph (1)), or such lower amount as an Administrative Law Judge may determine upon an appeal of the initial determination of the excess, shall be imposed on the provider, for deposit into the Trust Fund under this part.

''(B) The administrative fee shall be imposed under subparagraph (A) on a provider of services paid on a prospective basis only if such provider's cost report with respect to the payment determined to be in excess of the payment due under this part indicates that the provider's projected costs exceeded its actual costs by 30 percent or more.''.

(b) ADMINISTRATIVE FEES FOR PROVIDERS OF SERVICES OR OTHER PERSONS UNDER PART B.—Section 1833(j) (42 U.S.C. 1395*l*(j)), as amended by section 9(a)(4), is amended by adding at the end the following new paragraph:

''(3) If the excess described in paragraph (1) is not made (or effected by offset) within 30 days of the date of the determination, an administrative fee of 1 percent of the outstanding balance of the excess (after application of paragraph (1)), or such lower amount as an Administrative Law Judge may determine upon an appeal of the initial determination of the excess, shall be imposed on the provider, or other person receiving the excess, for deposit into the Trust Fund under this part.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to final determinations made on or after the date of enactment of this Act.

By Mr. MOYNIHAN (for himself, Mr. KENNEDY, Mr. DASCHLE, Mrs. BOXER, Mr. DODD, Mr. DURBIN, Mr. GLENN, Mr. HARKIN, Mr. KERRY, Mr. LAUTENBERG, Ms. MOSELEY-BRAUN, Mr. ROCKEFELLER, and Mr. TORRICELLI):

S. 1789. A bill to amend title XVIII of the Social Security Act and the Employee Retirement Income Security Act of 1974 to improve access to health insurance and medicare benefits for individuals ages 55 to 65 to be fully funded through premiums and anti-fraud provision, and for other purposes; to the Committee on finance.

THE MEDICARE EARLY ACCESS ACT OF 1998

Mr. MOYNIHAN. Mr. President, I rise to introduce a bill to provide access to health insurance for individuals between the ages of 55–65. These individuals are too young for Medicare, not poor enough to qualify for Medicaid, and in many cases, are forced into early retirement or pushed out of their jobs in corporate downsizing.

The ''Medicare Early Access Act'' is based on the President's three-part initiative announced on January 6, 1998. The bill is a targeted, self-financing proposal to give older Americans under 65 new options to obtain health insurance coverage. Many of these Americans have worked hard all their lives, but, through no fault of their own, find themselves uninsured just as they are entering the years when the risk of serious illness is increasing. This legislation attempts to bridge the gap in coverage between years when persons are in the labor and the age—(65) when they become eligible for Medicare.

The bill has three parts: (1) It enables persons between ages 62 and 64 to buy into Medicare by paying a full premium; (2) it provides displaced workers over age 55 access to Medicare by offering a similar Medicare buy-in option; and (3) it extends COBRA coverage to persons 55 and over whose employers withdraw retiree health benefits. A more detailed description of the proposal is attached.

THE COST

The program is self-financing and is largely paid for by premiums from the beneficiaries themselves. The financing of the program is carefully walled off from the Medicare Part A and Part B Trust Funds, to ensure that it will not adversely impact the existing program.

There is a modest cost to the buy-in proposal for 62–65 year-olds because participants would pay the premium in two parts: most of the cost would be paid by the individual up front; a smaller amount would be paid after they turn 65 years old. Medicare would in effect ''loan'' participants the second part of the premium until they reach 65, when they would make small monthly payments in addition to their regular Medicare Part B premium. That ''loan'' accounts for most of the Medicare costs of the legislation, and is fully offset by a separate savings from a separate bill to reduce Medicare waste, fraud and overpayment that I am also introducing at this time.

The CBO analysis of this bill found no impact on the Medicare Part A or Part B Trust Funds. The net cost of the two bills is virtually zero—an average of about $60 million per year. CBO also predicted that about 410,000 individuals would participate (or 33 percent more than first estimated by the Administration). Finally, CBO estimated that the post-65 premium that people ages 62–65 would pay would be only $10 per month per year—$6 per month, or $72 less per year, than the Administration estimated.

Mr. President, the problem of health insurance for the near elderly is getting worse. Congress should act now to provide valuable coverage for these individuals.

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

There being no objection, the items were ordered to be printed in the RECORD, as follows:

S. 1789

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 ''Medicare Early Access Act of 1998''.

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—ACCESS TO MEDICARE BENEFITS FOR INDIVIDUALS 62-TO-65 YEARS OF AGE

Sec. 101. Access to medicare benefits for individuals 62-to-65 years of age.

''PART D—PURCHASE OF MEDICARE BENEFITS BY CERTAIN INDIVIDUALS AGE 62-TO-65 YEARS OF AGE

''Sec. 1859. Program benefits; eligibility.

''Sec. 1859A. Enrollment process; coverage.

''Sec. 1859B. Premiums.

''Sec. 1859C. Payment of premiums.

''Sec. 1859D. Medicare Early Access Trust Fund.

''Sec. 1859E. Oversight and accountability.

''Sec. 1859F. Administration and miscellaneous.

TITLE II—ACCESS TO MEDICARE BENEFITS FOR DISPLACED WORKERS 55-TO-62 YEARS OF AGE

Sec. 201. Access to medicare benefits for displaced workers 55-to-62 years of age.

TITLE III—COBRA PROTECTION FOR EARLY RETIREES

Subtitle A—Amendments to the Employee Retirement Income Security Act of 1974

Sec. 301. COBRA continuation benefits for certain retired workers who lose retiree health coverage.

Subtitle B—Amendments to the Public Health Service Act

Sec. 311. COBRA continuation benefits for certain retired workers who lose retiree health coverage.

Subtitle C—Amendments to the Internal Revenue Code of 1986

Sec. 321. COBRA continuation benefits for certain retired workers who lose retiree health coverage.

TITLE IV—FINANCING

Sec. 401. Reference to financing provisions.

TITLE I—ACCESS TO MEDICARE BENEFITS FOR INDIVIDUALS 62-TO-65 YEARS OF AGE

SEC. 101. ACCESS TO MEDICARE BENEFITS FOR INDIVIDUALS 62-TO-65 YEARS OF AGE.

(a) IN GENERAL.—Title XVIII of the Social Security Act is amended—

(1) by redesignating section 1859 and part D as section 1858 and part E, respectively; and

(2) by inserting after such section the following new part:

''PART D—PURCHASE OF MEDICARE BENEFITS BY CERTAIN INDIVIDUALS AGE 62-TO-65 YEARS OF AGE

''SEC. 1859. PROGRAM BENEFITS; ELIGIBILITY.

''(a) ENTITLEMENT TO MEDICARE BENEFITS FOR ENROLLED INDIVIDUALS.—

''(1) IN GENERAL.—An individual enrolled under this part is entitled to the same benefits under this title as an individual entitled to benefits under part A and enrolled under part B.

''(2) DEFINITIONS.—For purposes of this part:

''(A) FEDERAL OR STATE COBRA CONTINUATION PROVISION.—The term 'Federal or State COBRA continuation provision' has the meaning given the term 'COBRA continuation provision' in section 2791(d)(4) of the Public Health Service Act and includes a comparable State program, as determined by the Secretary.

''(B) FEDERAL HEALTH INSURANCE PROGRAM DEFINED.—The term 'Federal health insurance program' means any of the following:

''(i) MEDICARE.—Part A or part B of this title (other than by reason of this part).

''(ii) MEDICAID.—A State plan under title XIX.

''(iii) FEHBP.—The Federal employees health benefit program under chapter 89 of title 5, United States Code.

''(iv) TRICARE.—The TRICARE program (as defined in section 1072(7) of title 10, United States Code).

''(v) ACTIVE DUTY MILITARY.—Health benefits under title 10, United States Code, to an individual as a member of the uniformed services of the United States.

''(C) GROUP HEALTH PLAN.—The term 'group health plan' has the meaning given such term in section 2791(a)(1) of the Public Health Service Act.

''(b) ELIGIBILITY OF INDIVIDUALS AGE 62-TO-65 YEARS OF AGE.—

''(1) IN GENERAL.—Subject to paragraph (2), an individual who meets the following requirements with respect to a month is eligible to enroll under this part with respect to such month:

''(A) AGE.—As of the last day of the month, the individual has attained 62 years of age, but has not attained 65 years of age.

''(B) MEDICARE ELIGIBILITY (BUT FOR AGE).—The individual would be eligible for benefits under part A or part B for the month if the individual were 65 years of age.

''(C) NOT ELIGIBLE FOR COVERAGE UNDER GROUP HEALTH PLANS OR FEDERAL HEALTH INSURANCE PROGRAMS.—The individual is not eligible for benefits or coverage under a Federal health insurance program (as defined in subsection (a)(2)(B)) or under a group health plan (other than such eligibility merely through a Federal or State COBRA continuation provision) as of the last day of the month involved.

''(2) LIMITATION ON ELIGIBILITY IF TERMINATED ENROLLMENT.—If an individual described in paragraph (1) enrolls under this part and coverage of the individual is terminated under section 1859A(d) (other than because of age), the individual is not again eligible to enroll under this subsection unless the following requirements are met:

''(A) NEW COVERAGE UNDER GROUP HEALTH PLAN OR FEDERAL HEALTH INSURANCE PROGRAM.—After the date of termination of coverage under such section, the individual obtains coverage under a group health plan or under a Federal health insurance program.

''(B) SUBSEQUENT LOSS OF NEW COVERAGE.—The individual subsequently loses eligibility for the coverage described in subparagraph (A) and exhausts any eligibility the individual may subsequently have for coverage under a Federal or State COBRA continuation provision.

''(3) CHANGE IN HEALTH PLAN ELIGIBILITY DOES NOT AFFECT COVERAGE.—In the case of an individual who is eligible for and enrolls under this part under this subsection, the individual's continued entitlement to benefits under this part shall not be affected by the individual's subsequent eligibility for benefits or coverage described in paragraph (1)(C), or entitlement to such benefits or coverage.

''SEC. 1859A. ENROLLMENT PROCESS; COVERAGE.

''(a) IN GENERAL.—An individual may enroll in the program established under this part only in such manner and form as may be prescribed by regulations, and only during an enrollment period prescribed by the Secretary consistent with the provisions of this section. Such regulations shall provide a process under which—

''(1) individuals eligible to enroll as of a month are permitted to pre-enroll during a prior month within an enrollment period described in subsection (b); and

''(2) each individual seeking to enroll under section 1859(b) is notified, before enrolling, of the deferred monthly premium amount the individual will be liable for under section 1859C(b) upon attaining 65 years of age as determined under section 1859B(c)(3).

''(b) ENROLLMENT PERIODS.—

''(1) INDIVIDUALS 62-TO-65 YEARS OF AGE.—In the case of individuals eligible to enroll under this part under section 1859(b)—

''(A) INITIAL ENROLLMENT PERIOD.—If the individual is eligible to enroll under such section for July 1999, the enrollment period shall begin on May 1, 1999, and shall end on August 31, 1999. Any such enrollment before July 1, 1999, is conditioned upon compliance with the conditions of eligibility for July 1999.

''(B) SUBSEQUENT PERIODS.—If the individual is eligible to enroll under such section for a month after July 1999, the enrollment period shall begin on the first day of the second month before the month in which the individual first is eligible to so enroll and shall end four months later. Any such enrollment before the first day of the third month of such enrollment period is conditioned upon compliance with the conditions of eligibility for such third month.

''(2) AUTHORITY TO CORRECT FOR GOVERNMENT ERRORS.—The provisions of section 1837(h) apply with respect to enrollment under this part in the same manner as they apply to enrollment under part B.

''(c) DATE COVERAGE BEGINS.—

''(1) IN GENERAL.—The period during which an individual is entitled to benefits under this part shall begin as follows, but in no case earlier than July 1, 1999:

''(A) In the case of an individual who enrolls (including pre-enrolls) before the month in which the individual satisfies eligibility for enrollment under section 1859, the first day of such month of eligibility.

''(B) In the case of an individual who enrolls during or after the month in which the individual first satisfies eligibility for enrollment under such section, the first day of the following month.

''(2) AUTHORITY TO PROVIDE FOR PARTIAL MONTHS OF COVERAGE.—Under regulations, the Secretary may, in the Secretary's discretion, provide for coverage periods that include portions of a month in order to avoid lapses of coverage.

''(3) LIMITATION ON PAYMENTS.—No payments may be made under this title with respect to the expenses of an individual enrolled under this part unless such expenses were incurred by such individual during a period which, with respect to the individual, is a coverage period under this section.

''(d) TERMINATION OF COVERAGE.—

''(1) IN GENERAL.—An individual's coverage period under this part shall continue until the individual's enrollment has been terminated at the earliest of the following:

''(A) GENERAL PROVISIONS.—

''(i) NOTICE.—The individual files notice (in a form and manner prescribed by the Secretary) that the individual no longer wishes to participate in the insurance program under this part.

''(ii) NONPAYMENT OF PREMIUMS.—The individual fails to make payment of premiums required for enrollment under this part.

''(iii) MEDICARE ELIGIBILITY.—The individual becomes entitled to benefits under part A or enrolled under part B (other than by reason of this part).

''(B) TERMINATION BASED ON AGE.—The individual attains 65 years of age.

''(2) EFFECTIVE DATE OF TERMINATION.—

''(A) NOTICE.—The termination of a coverage period under paragraph (1)(A)(i) shall take effect at the close of the month following for which the notice is filed.

''(B) NONPAYMENT OF PREMIUM.—The termination of a coverage period under paragraph (1)(A)(ii) shall take effect on a date determined under regulations, which may be determined so as to provide a grace period in which overdue premiums may be paid and coverage continued. The grace period determined under the preceding sentence shall not exceed 60 days; except that it may be extended for an additional 30 days in any case where the Secretary determines that there was good cause for failure to pay the overdue premiums within such 60-day period.

''(C) AGE OR MEDICARE ELIGIBILITY.—The termination of a coverage period under paragraph (1)(A)(iii) or (1)(B) shall take effect as of the first day of the month in which the individual attains 65 years of age or becomes entitled to benefits under part A or enrolled for benefits under part B (other than by reason of this part).

''SEC. 1859B. PREMIUMS.

''(a) AMOUNT OF MONTHLY PREMIUMS.—

''(1) BASE MONTHLY PREMIUMS.—The Secretary shall, during September of each year (beginning with 1998), determine the following premium rates which shall apply with respect to coverage provided under this title for any month in the succeeding year:

''(A) BASE MONTHLY PREMIUM FOR INDIVIDUALS 62 YEARS OF AGE OR OLDER.—A base monthly premium for individuals 62 years of age or older, equal to 1/12 of the base annual premium rate computed under subsection (b) for each premium area.

''(2) DEFERRED MONTHLY PREMIUMS FOR INDIVIDUALS 62 YEARS OF AGE OR OLDER.—The Secretary shall, during September of each year (beginning with 1998), determine under subsection (c) the amount of deferred monthly premiums that shall apply with respect to individuals who first obtain coverage under this part under section 1859(b) in the succeeding year.

''(3) ESTABLISHMENT OF PREMIUM AREAS.—For purposes of this part, the term 'premium area' means such an area as the Secretary shall specify to carry out this part. The Secretary from time to time may change the boundaries of such premium areas. The Secretary shall seek to minimize the number of such areas specified under this paragraph.

''(b) BASE ANNUAL PREMIUM FOR INDIVIDUALS 62 YEARS OF AGE OR OLDER.—

''(1) NATIONAL, PER CAPITA AVERAGE.—The Secretary shall estimate the average, annual per capita amount that would be payable under this title with respect to individuals residing in the United States who meet the requirement of section 1859(b)(1)(A) as if all such individuals were eligible for (and enrolled) under this title during the entire year (and assuming that section 1862(b)(2)(A)(i) did not apply).

''(2) GEOGRAPHIC ADJUSTMENT.—The Secretary shall adjust the amount determined under paragraph (1) for each premium area (specified under subsection (a)(3)) in order to take into account such factors as the Secretary deems appropriate and shall limit the maximum premium under this paragraph in a premium area to assure participation in all areas throughout the United States.

''(3) BASE ANNUAL PREMIUM.—The base annual premium under this subsection for months in a year for individuals 62 years of age or older residing in a premium area is equal to the average, annual per capita amount estimated under paragraph (1) for the year, adjusted for such area under paragraph (2).

''(c) DEFERRED PREMIUM RATE FOR INDIVIDUALS 62 YEARS OF AGE OR OLDER.—The deferred premium rate for individuals with a group of individuals who obtain coverage under section 1859(b) in a year shall be computed by the Secretary as follows:

''(1) ESTIMATION OF NATIONAL, PER CAPITA ANNUAL AVERAGE EXPENDITURES FOR ENROLLMENT GROUP.—The Secretary shall estimate the average, per capita annual amount that will be paid under this part for individuals in such group during the period of enrollment under section 1859(b). In making such estimate for coverage beginning in a year before 2003, the Secretary may base such estimate on the average, per capita amount that would be payable if the program had been in operation over a previous period of at least 4 years.

''(2) DIFFERENCE BETWEEN ESTIMATED EXPENDITURES AND ESTIMATED PREMIUMS.—

Based on the characteristics of individuals in such group, the Secretary shall estimate during the period of coverage of the group under this part under section 1859(b) the amount by which—

''(A) the amount estimated under paragraph (1); exceeds

''(B) the average, annual per capita amount of premiums that will be payable for months during the year under section 1859C(a) for individuals in such group (including premiums that would be payable if there were no terminations in enrollment under clause (i) or (ii) of section 1859A(d)(1)(A)).

''(3) ACTUARIAL COMPUTATION OF DEFERRED MONTHLY PREMIUM RATES.—The Secretary shall determine deferred monthly premium rates for individuals in such group in a manner so that—

''(A) the estimated actuarial value of such premiums payable under section 1859C(b), is equal to

''(B) the estimated actuarial present value of the differences described in paragraph (2).

Such rate shall be computed for each individual in the group in a manner so that the rate is based on the number of months between the first month of coverage based on enrollment under section 1859(b) and the month in which the individual attains 65 years of age.

''(4) DETERMINANTS OF ACTUARIAL PRESENT VALUES.—The actuarial present values described in paragraph (3) shall reflect—

''(A) the estimated probabilities of survival at ages 62 through 84 for individuals enrolled during the year; and

''(B) the estimated effective average interest rates that would be earned on investments held in the trust funds under this title during the period in question.

''SEC. 1859C. PAYMENT OF PREMIUMS.

''(a) PAYMENT OF BASE MONTHLY PREMIUM.—

''(1) IN GENERAL.—The Secretary shall provide for payment and collection of the base monthly premium, determined under section 1859B(a)(1) for the age (and age cohort, if applicable) of the individual involved and the premium area in which the individual principally resides, in the same manner as for payment of monthly premiums under section 1840, except that, for purposes of applying this section, any reference in such section to the Federal Supplementary Medical Insurance Trust Fund is deemed a reference to the Trust Fund established under section 1859D.

''(2) PERIOD OF PAYMENT.—In the case of an individual who participates in the program established by this title, the base monthly premium shall be payable for the period commencing with the first month of the individual's coverage period and ending with the month in which the individual's coverage under this title terminates.

''(b) PAYMENT OF DEFERRED PREMIUM FOR INDIVIDUALS COVERED AFTER ATTAINING AGE 62.—

''(1) RATE OF PAYMENT.—

''(A) IN GENERAL.—In the case of an individual who is covered under this part for a month pursuant to an enrollment under section 1859(b), subject to subparagraph (B), the individual is liable for payment of a deferred premium in each month during the period described in paragraph (2) in an amount equal to the full deferred monthly premium rate determined for the individual under section 1859B(c).

''(B) SPECIAL RULES FOR THOSE WHO DISENROLL EARLY.—

''(i) IN GENERAL.—If such an individual's enrollment under such section is terminated under clause (i) or (ii) of section 1859A(d)(1)(A), subject to clause (ii), the amount of the deferred premium otherwise established under this paragraph shall be pro-rated to reflect the number of months of coverage under this part under such enrollment compared to the maximum number of months of coverage that the individual would have had if the enrollment were not so terminated.

''(ii) ROUNDING TO 12-MONTH MINIMUM COVERAGE PERIODS.—In applying clause (i), the number of months of coverage (if not a multiple of 12) shall be rounded to the next highest multiple of 12 months, except that in no case shall this clause result in a number of months of coverage exceeding the maximum number of months of coverage that the individual would have had if the enrollment were not so terminated.

''(2) PERIOD OF PAYMENT.—The period described in this paragraph for an individual is the period beginning with the first month in which the individual has attained 65 years of age and ending with the month before the month in which the individual attains 85 years of age.

''(3) COLLECTION.—In the case of an individual who is liable for a premium under this subsection, the amount of the premium shall be collected in the same manner as the premium for enrollment under such part is collected under section 1840, except that any reference in such section to the Federal Supplementary Medical Insurance Trust Fund is deemed to be a reference to the Medicare Early Access Trust Fund established under section 1859D.

''(c) APPLICATION OF CERTAIN PROVISIONS.—The provisions of section 1840 (other than subsection (h)) shall apply to premiums collected under this section in the same manner as they apply to premiums collected under part B, except that any reference in such section to the Federal Supplementary Medical Insurance Trust Fund is deemed a reference to the Trust Fund established under section 1859D.

''SEC. 1859D. MEDICARE EARLY ACCESS TRUST FUND.

''(a) ESTABLISHMENT OF TRUST FUND.—

''(1) IN GENERAL.—There is hereby created on the books of the Treasury of the United States a trust fund to be known as the 'Medicare Early Access Trust Fund' (in this section referred to as the 'Trust Fund'). The Trust Fund shall consist of such gifts and bequests as may be made as provided in section 201(i)(1) and such amounts as may be deposited in, or appropriated to, such fund as provided in this title.

''(2) PREMIUMS.—Premiums collected under section 1859B shall be transferred to the Trust Fund.

''(3) TRANSFER OF SAVINGS FROM NEW FRAUD AND ABUSE INITIATIVES.—

''(A) IN GENERAL.—There is hereby transferred to the Trust Fund from the Federal Hospital Insurance Trust Fund and from the Federal Supplementary Medical Insurance Trust Fund amounts equivalent to the amounts (specified under subparagraph (B)) of the reductions in expenditures under such respective trust fund as may be attributable to the enactment of the Medicare Fraud and Overpayment Act of 1998.

''(B) USE OF CBO ESTIMATES.—For each fiscal year during the 10-fiscal-year period beginning with fiscal year 1999, the amounts under subparagraph (A) shall be the amounts described in such subparagraph as determined by the Congressional Budget Office at the time of, and in connection with, the enactment of the Medicare Early Access Act of 1998. For subsequent fiscal years, the amounts under subparagraph (A) shall be the amount determined under this subparagraph for the previous fiscal year increased by the same percentage as the percentage increase in aggregate expenditures under this title from the second previous fiscal year to the previous fiscal year.

''(b) INCORPORATION OF PROVISIONS.—

''(1) IN GENERAL.—Subject to paragraph (2), subsections (b) through (i) of section 1841 shall apply with respect to the Trust Fund and this title in the same manner as they apply with respect to the Federal Supplementary Medical Insurance Trust Fund and part B, respectively.

''(2) MISCELLANEOUS REFERENCES.—In applying provisions of section 1841 under paragraph (1)—

''(A) any reference in such section to 'this part' is construed to refer to this part D;

''(B) any reference in section 1841(h) to section 1840(d) and in section 1841(i) to sections 1840(b)(1) and 1842(g) are deemed references to comparable authority exercised under this part; and

''(C) payments may be made under section 1841(g) to the Trust Funds under sections 1817 and 1841 as reimbursement to such funds for payments they made for benefits provided under this part.

''SEC. 1859E. OVERSIGHT AND ACCOUNTABILITY.

''(a) THROUGH ANNUAL REPORTS OF TRUSTEES.—The Board of Trustees of the Medicare Early Access Trust Fund under section 1859D(b)(1) shall report on an annual basis to Congress concerning the status of the Trust Fund and the need for adjustments in the program under this part to maintain financial solvency of the program under this part.

''(b) PERIODIC GAO REPORTS.—The Comptroller General of the United States shall periodically submit to Congress reports on the adequacy of the financing of coverage provided under this part. The Comptroller General shall include in such report such recommendations for adjustments in such financing and coverage as the Comptroller General deems appropriate in order to maintain financial solvency of the program under this part.

''SEC. 1859F. ADMINISTRATION AND MISCELLANEOUS.

''(a) TREATMENT FOR PURPOSES OF TITLE.—Except as otherwise provided in this part—

''(1) individuals enrolled under this part shall be treated for purposes of this title as though the individual were entitled to benefits under part A and enrolled under part B; and

''(2) benefits described in section 1859 shall be payable under this title to such individuals in the same manner as if such individuals were so entitled and enrolled.

''(b) NOT TREATED AS MEDICARE PROGRAM FOR PURPOSES OF MEDICAID PROGRAM.—For purposes of applying title XIX (including the provision of medicare cost-sharing assistance under such title), an individual who is enrolled under this part shall not be treated as being entitled to benefits under this title.

''(c) NOT TREATED AS MEDICARE PROGRAM FOR PURPOSES OF COBRA CONTINUATION PROVISIONS.—In applying a COBRA continuation provision (as defined in section 2791(d)(4) of the Public Health Service Act), any reference to an entitlement to benefits under this title shall not be construed to include entitlement to benefits under this title pursuant to the operation of this part.''.

(b) CONFORMING AMENDMENTS TO SOCIAL SECURITY ACT PROVISIONS.—

(1) Section 201(i)(1) of the Social Security Act (42 U.S.C. 401(i)(1)) is amended by striking ''or the Federal Supplementary Medical Insurance Trust Fund'' and inserting ''the Federal Supplementary Medical Insurance Trust Fund, and the Medicare Early Access Trust Fund''.

(2) Section 201(g)(1)(A) of such Act (42 U.S.C. 401(g)(1)(A)) is amended by striking '' and the Federal Supplementary Medical Insurance Trust Fund established by title

XVIII'' and inserting '', the Federal Supplementary Medical Insurance Trust Fund, and the Medicare Early Access Trust Fund established by title XVIII''.

(3) Section 1820(i) of such Act (42 U.S.C. 1395i–4(i)) is amended by striking ''part D'' and inserting ''part E''.

(4) Part C of title XVIII of such Act is amended—

(A) in section 1851(a)(2)(B) (42 U.S.C. 1395w–21(a)(2)(B)), by striking '' 1859(b)(3)'' and inserting ''1858(b)(3);

(B) in section 1851(a)(2)(C) (42 U.S.C. 1395w–21(a)(2)(C)), by striking ''1859(b)(2)'' and inserting ''1858(b)(2)'';

(C) in section 1852(a)(1) (42 U.S.C. 1395w–22(a)(1)), by striking '' 1859(b)(3)'' and inserting ''1858(b)(3);

(D) in section 1852(a)(3)(B)(ii) (42 U.S.C. 1395w–22(a)(3)(B)(ii)), by striking ''1859(b)(2)(B)'' and inserting ''1858(b)(2)(B)'';

(E) in section 1853(a)(1)(A) (42 U.S.C. 1395w–23(a)(1)(A)), by striking ''1859(e)(4)'' and inserting ''1858(e)(4)''; and

(F) in section 1853(a)(3)(D) (42 U.S.C. 1395w–23(a)(3)(D)), by striking ''1859(e)(4)'' and inserting ''1858(e)(4)''.

(5) Section 1853(c) of such Act (42 U.S.C. 1395w–23(c)) is amended—

(A) in paragraph (1), by striking ''or (7)'' and inserting '', (7), or (8)'', and

(B) by adding at the end the following:

''(8) ADJUSTMENT FOR EARLY ACCESS.—In applying this subsection with respect to individuals entitled to benefits under part D, the Secretary shall provide for an appropriate adjustment in the Medicare+Choice capitation rate as may be appropriate to reflect differences between the population served under such part and the population under parts A and B.''.

(c) OTHER CONFORMING AMENDMENTS.—

(1) Section 138(b)(4) of the Internal Revenue Code of 1986 is amended by striking ''1859(b)(3)'' and inserting ''1858(b)(3)''.

(2)(A) Section 602(2)(D)(ii) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)) is amended by inserting ''(not including an individual who is so entitled pursuant to enrollment under section 1859A)'' after ''Social Security Act''.

(B) Section 2202(2)(D)(ii) of the Public Health Service Act (42 U.S.C. 300bb–2(2)(D)(ii)) is amended by inserting ''(not including an individual who is so entitled pursuant to enrollment under section 1859A)'' after ''Social Security Act''.

(C) Section 4980B(f)(2)(B)(i)(V) of the Internal Revenue Code of 1986 is amended by inserting ''(not including an individual who is so entitled pursuant to enrollment under section 1859A)'' after ''Social Security Act''.

TITLE II—ACCESS TO MEDICARE BENEFITS FOR DISPLACED WORKERS 55-TO-62 YEARS OF AGE

SEC. 201. ACCESS TO MEDICARE BENEFITS FOR DISPLACED WORKERS 55-TO-62 YEARS OF AGE.

(a) ELIGIBILITY.—Section 1859 of the Social Security Act, as inserted by section 101(a)(2), is amended by adding at the end the following new subsection:

''(c) DISPLACED WORKERS AND SPOUSES.—

''(1) DISPLACED WORKERS.—Subject to paragraph (3), an individual who meets the following requirements with respect to a month is eligible to enroll under this part with respect to such month:

''(A) AGE.—As of the last day of the month, the individual has attained 55 years of age, but has not attained 62 years of age.

''(B) MEDICARE ELIGIBILITY (BUT FOR AGE).—The individual would be eligible for benefits under part A or part B for the month if the individual were 65 years of age.

''(C) LOSS OF EMPLOYMENT-BASED COVERAGE.—

''(i) ELIGIBLE FOR UNEMPLOYMENT COMPENSATION.—The individual meets the requirements relating to period of covered employment and conditions of separation from employment to be eligible for unemployment compensation (as defined in section 85(b) of the Internal Revenue Code of 1986), based on a separation from employment occurring on or after January 1, 1998. The previous sentence shall not be construed as requiring the individual to be receiving such unemployment compensation.

''(ii) LOSS OF EMPLOYMENT-BASED COVERAGE.—Immediately before the time of such separation of employment, the individual was covered under a group health plan on the basis of such employment, and, because of such loss, is no longer eligible for coverage under such plan (including such eligibility based on the application of a Federal or State COBRA continuation provision) as of the last day of the month involved.

''(iii) PREVIOUS CREDITABLE COVERAGE FOR AT LEAST 1 YEAR.—As of the date on which the individual loses coverage described in clause (ii), the aggregate of the periods of creditable coverage (as determined under section 2701(c) of the Public Health Service Act) is 12 months or longer.

''(D) EXHAUSTION OF AVAILABLE COBRA CONTINUATION BENEFITS.—

''(i) IN GENERAL.—In the case of an individual described in clause (ii) for a month described in clause (iii)—

''(I) the individual (or spouse) elected coverage described in clause (ii); and

''(II) the individual (or spouse) has continued such coverage for all months described in clause (iii) in which the individual (or spouse) is eligible for such coverage.

''(ii) INDIVIDUALS TO WHOM COBRA CONTINUATION COVERAGE MADE AVAILABLE.—An individual described in this clause is an individual—

''(I) who was offered coverage under a Federal or State COBRA continuation provision at the time of loss of coverage eligibility described in subparagraph (C)(ii); or

''(II) whose spouse was offered such coverage in a manner that permitted coverage of the individual at such time.

''(iii) MONTHS OF POSSIBLE COBRA CONTINUATION COVERAGE.—A month described in this clause is a month for which an individual described in clause (ii) could have had coverage described in such clause as of the last day of the month if the individual (or the spouse of the individual, as the case may be) had elected such coverage on a timely basis.

''(E) NOT ELIGIBLE FOR COVERAGE UNDER FEDERAL HEALTH INSURANCE PROGRAM OR GROUP HEALTH PLANS.—The individual is not eligible for benefits or coverage under a Federal health insurance program or under a group health plan (whether on the basis of the individual's employment or employment of the individual's spouse) as of the last day of the month involved.

''(2) SPOUSE OF DISPLACED WORKER.—Subject to paragraph (3), an individual who meets the following requirements with respect to a month is eligible to enroll under this part with respect to such month:

''(A) AGE.—As of the last day of the month, the individual has not attained 62 years of age.

''(B) MARRIED TO DISPLACED WORKER.—The individual is the spouse of an individual at the time the individual enrolls under this part under paragraph (1) and loses coverage described in paragraph (1)(C)(ii) because the individual's spouse lost such coverage.

''(C) MEDICARE ELIGIBILITY (BUT FOR AGE); EXHAUSTION OF ANY COBRA CONTINUATION COVERAGE; AND NOT ELIGIBLE FOR COVERAGE UNDER FEDERAL HEALTH INSURANCE PROGRAM OR GROUP HEALTH PLAN.—The individual meets the requirements of subparagraphs (B), (D), and (E) of paragraph (1).

''(3) CHANGE IN HEALTH PLAN ELIGIBILITY AFFECTS CONTINUED ELIGIBILITY.—For provision that terminates enrollment under this section in the case of an individual who becomes eligible for coverage under a group health plan or under a Federal health insurance program, see section 1859A(d)(1)(C).

''(4) REENROLLMENT PERMITTED.—Nothing in this subsection shall be construed as preventing an individual who, after enrolling under this subsection, terminates such enrollment from subsequently reenrolling under this subsection if the individual is eligible to enroll under this subsection at that time.''.

(b) ENROLLMENT.—Section 1859A of such Act, as so inserted, is amended—

(1) in subsection (a), by striking ''and'' at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting ''; and'', and by adding at the end the following new paragraph:

''(3) individuals whose coverage under this part would terminate because of subsection (d)(1)(B)(ii) are provided notice and an opportunity to continue enrollment in accordance with section 1859E(c)(1).'';

(2) in subsection (b), by inserting after Notwithstanding any other provision of law, (1) the following:

''(2) DISPLACED WORKERS AND SPOUSES.—In the case of individuals eligible to enroll under this part under section 1859(c), the following rules apply:

''(A) INITIAL ENROLLMENT PERIOD.—If the individual is first eligible to enroll under such section for July 1999, the enrollment period shall begin on May 1, 1999, and shall end on August 31, 1999. Any such enrollment before July 1, 1999, is conditioned upon compliance with the conditions of eligibility for July 1999.

''(B) SUBSEQUENT PERIODS.—If the individual is eligible to enroll under such section for a month after July 1999, the enrollment period based on such eligibility shall begin on the first day of the second month before the month in which the individual first is eligible to so enroll (or reenroll) and shall end four months later.'';

(3) in subsection (d)(1), by amending subparagraph (B) to read as follows:

''(B) TERMINATION BASED ON AGE.—

''(i) AT AGE 65.—Subject to clause (ii), the individual attains 65 years of age.

''(ii) AT AGE 62 FOR DISPLACED WORKERS AND SPOUSES.—In the case of an individual enrolled under this part pursuant to section 1859(c), subject to subsection (a)(1), the individual attains 62 years of age.'';

(4) in subsection (d)(1), by adding at the end the following new subparagraph:

''(C) OBTAINING ACCESS TO EMPLOYMENT-BASED COVERAGE OR FEDERAL HEALTH INSURANCE PROGRAM FOR INDIVIDUALS UNDER 62 YEARS OF AGE.—In the case of an individual who has not attained 62 years of age, the individual is covered (or eligible for coverage) as a participant or beneficiary under a group health plan or under a Federal health insurance program.'';

(5) in subsection (d)(2), by amending subparagraph (C) to read as follows:

''(C) AGE OR MEDICARE ELIGIBILITY.—

''(i) IN GENERAL.—The termination of a coverage period under paragraph (1)(A)(iii) or (1)(B)(i) shall take effect as of the first day of the month in which the individual attains 65 years of age or becomes entitled to benefits under part A or enrolled for benefits under part B.

''(ii) DISPLACED WORKERS.—The termination of a coverage period under paragraph (1)(B)(ii) shall take effect as of the first day of the month in which the individual attains

62 years of age, unless the individual has enrolled under this part pursuant to section 1859(b) and section 1859E(c)(1).''; and

(6) in subsection (d)(2), by adding at the end the following new subparagraph:

''(D) ACCESS TO COVERAGE.—The termination of a coverage period under paragraph (1)(C) shall take effect on the date on which the individual is eligible to begin a period of creditable coverage (as defined in section 2701(c) of the Public Health Service Act) under a group health plan or under a Federal health insurance program.''.

(c) PREMIUMS.—Section 1859B of such Act, as so inserted, is amended—

(1) in subsection (a)(1), by adding at the end the following:

''(B) BASE MONTHLY PREMIUM FOR INDIVIDUALS UNDER 62 YEARS OF AGE.—A base monthly premium for individuals under 62 years of age, equal to 1/12 of the base annual premium rate computed under subsection (d)(3) for each premium area and age cohort.''; and

(2) by adding at the end the following new subsection:

''(d) BASE MONTHLY PREMIUM FOR INDIVIDUALS UNDER 62 YEARS OF AGE.—

''(1) NATIONAL, PER CAPITA AVERAGE FOR AGE GROUPS.—

''(A) ESTIMATE OF AMOUNT.—The Secretary shall estimate the average, annual per capita amount that would be payable under this title with respect to individuals residing in the United States who meet the requirement of section 1859(c)(1)(A) within each of the age cohorts established under subparagraph (B) as if all such individuals within such cohort were eligible for (and enrolled) under this title during the entire year (and assuming that section 1862(b)(2)(A)(i) did not apply).

''(B) AGE COHORTS.—For purposes of subparagraph (A), the Secretary shall establish separate age cohorts in 5 year age increments for individuals who have not attained 60 years of ages and a separate cohort for individuals who have attained 60 years of age.

''(2) GEOGRAPHIC ADJUSTMENT.—The Secretary shall adjust the amount determined under paragraph (1)(A) for each premium area (specified under subsection (a)(3)) in the same manner and to the same extent as the Secretary provides for adjustments under subsection (b)(2).

''(3) BASE ANNUAL PREMIUM.—The base annual premium under this subsection for months in a year for individuals in an age cohort under paragraph (1)(B) in a premium area is equal to 165 percent of the average, annual per capita amount estimated under paragraph (1) for the age cohort and year, adjusted for such area under paragraph (2).

''(4) PRO-RATION OF PREMIUMS TO REFLECT COVERAGE DURING A PART OF A MONTH.—If the Secretary provides for coverage of portions of a month under section 1859A(c)(2), the Secretary shall pro-rate the premiums attributable to such coverage under this section to reflect the portion of the month so covered.''.

(d) ADMINISTRATIVE PROVISIONS.—Section 1859F of such Act, as so inserted, is amended by adding at the end the following:

''(d) ADDITIONAL ADMINISTRATIVE PROVISIONS.—

''(1) PROCESS FOR CONTINUED ENROLLMENT OF DISPLACED WORKERS WHO ATTAIN 62 YEARS OF AGE.—The Secretary shall provide a process for the continuation of enrollment of individuals whose enrollment under section 1859(c) would be terminated upon attaining 62 years of age. Under such process such individuals shall be provided appropriate and timely notice before the date of such termination and of the requirement to enroll under this part pursuant to section 1859(b) in order to continue entitlement to benefits under this title after attaining 62 years of age.

''(2) ARRANGEMENTS WITH STATES FOR DETERMINATIONS RELATING TO UNEMPLOYMENT COMPENSATION ELIGIBILITY.—The Secretary may provide for appropriate arrangements with States for the determination of whether individuals in the State meet or would meet the requirements of section 1859(c)(1)(C)(i).''.''

(e) CONFORMING AMENDMENT TO HEADING TO PART.—The heading of part D of title XVIII of the Social Security Act, as so inserted, is amended by striking ''62'' and inserting ''55''.

TITLE III—COBRA PROTECTION FOR EARLY RETIREES

Subtitle A—Amendments to the Employee Retirement Income Security Act of 1974

SEC. 301. COBRA CONTINUATION BENEFITS FOR CERTAIN RETIRED WORKERS WHO LOSE RETIREE HEALTH COVERAGE.

(a) ESTABLISHMENT OF NEW QUALIFYING EVENT.—

(1) IN GENERAL.—Section 603 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1163) is amended by inserting after paragraph (6) the following new paragraph:

''(7) The termination or substantial reduction in benefits (as defined in section 607(7)) of group health plan coverage as a result of plan changes or termination in the case of a covered employee who is a qualified retiree.''.

(2) QUALIFIED RETIREE; QUALIFIED BENEFICIARY; AND SUBSTANTIAL REDUCTION DEFINED.—Section 607 of such Act (29 U.S.C. 1167) is amended—

(A) in paragraph (3)—

(i) in subparagraph (A), by inserting ''except as otherwise provided in this paragraph,'' after ''means,''; and

(ii) by adding at the end the following new subparagraph:

''(D) SPECIAL RULE FOR QUALIFYING RETIREES AND DEPENDENTS.—In the case of a qualifying event described in section 603(7), the term 'qualified beneficiary' means a qualified retiree and any other individual who, on the day before such qualifying event, is a beneficiary under the plan on the basis of the individual's relationship to such qualified retiree.''; and

(B) by adding at the end the following new paragraphs:

''(6) QUALIFIED RETIREE.—The term 'qualified retiree' means, with respect to a qualifying event described in section 603(7), a covered employee who, at the time of the event—

''(A) has attained 55 years of age; and

''(B) was receiving group health coverage under the plan by reason of the retirement of the covered employee.

''(7) SUBSTANTIAL REDUCTION.—The term 'substantial reduction'—

''(A) means, as determined under regulations of the Secretary and with respect to a qualified beneficiary, a reduction in the average actuarial value of benefits under the plan (through reduction or elimination of benefits, an increase in premiums, deductibles, copayments, and coinsurance, or any combination thereof), since the date of commencement of coverage of the beneficiary by reason of the retirement of the covered employee (or, if later, January 6, 1998), in an amount equal to at least 50 percent of the total average actuarial value of the benefits under the plan as of such date (taking into account an appropriate adjustment to permit comparison of values over time); and

''(B) includes an increase in premiums required to an amount that exceeds the premium level described in the fourth sentence of section 602(3).

(b) DURATION OF COVERAGE THROUGH AGE 65.—Section 602(2)(A) of such Act (29 U.S.C. 1162(2)(A)) is amended—

(1) in clause (ii), by inserting ''or 603(7)'' after ''603(6)'';

(2) in clause (iv), by striking ''or 603(6)'' and inserting '', 603(6), or 603(7)'';

(3) by redesignating clause (iv) as clause (vi);

(4) by redesignating clause (v) as clause (iv) and by moving such clause to immediately follow clause (iii); and

(5) by inserting after such clause (iv) the following new clause:

''(v) SPECIAL RULE FOR CERTAIN DEPENDENTS IN CASE OF TERMINATION OR SUBSTANTIAL REDUCTION OF RETIREE HEALTH COVERAGE.—In the case of a qualifying event described in section 603(7), in the case of a qualified beneficiary described in section 607(3)(D) who is not the qualified retiree or spouse of such retiree, the later of—

''(I) the date that is 36 months after the earlier of the date the qualified retiree becomes entitled to benefits under title XVIII of the Social Security Act, or the date of the death of the qualified retiree; or

''(II) the date that is 36 months after the date of the qualifying event.''.

(c) TYPE OF COVERAGE IN CASE OF TERMINATION OR SUBSTANTIAL REDUCTION OF RETIREE HEALTH COVERAGE.—Section 602(1) of such Act (29 U.S.C. 1162(1)) is amended—

(1) by striking ''The coverage'' and inserting the following:

''(A) IN GENERAL.—Except as provided in subparagraph (B), the coverage''; and

(2) by adding at the end the following:

''(B) CERTAIN RETIREES.—In the case of a qualifying event described in section 603(7), in applying the first sentence of subparagraph (A) and the fourth sentence of paragraph (3), the coverage offered that is the most prevalent coverage option (as determined under regulations of the Secretary) continued under the group health plan (or, if none, under the most prevalent other plan offered by the same plan sponsor) shall be treated as the coverage described in such sentence, or (at the option of the plan and qualified beneficiary) such other coverage option as may be offered and elected by the qualified beneficiary involved.''.

(d) INCREASED LEVEL OF PREMIUMS PERMITTED.—Section 602(3) of such Act (29 U.S.C. 1162(3)) is amended by adding at the end the following new sentence: ''In the case of an individual provided continuation coverage by reason of a qualifying event described in section 603(7), any reference in subparagraph (A) of this paragraph to '102 percent of the applicable premium' is deemed a reference to '125 percent of the applicable premium for employed individuals (and their dependents, if applicable) for the coverage option referred to in paragraph (1)(B)'.''.

(e) NOTICE.—Section 606(a) of such Act (29 U.S.C. 1166) is amended—

(1) in paragraph (4)(A), by striking ''or (6)'' and inserting ''(6), or (7)''; and

(2) by adding at the end the following:

''The notice under paragraph (4) in the case of a qualifying event described in section 603(7) shall be provided at least 90 days before the date of the qualifying event.''.

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section (other than subsection (e)(2)) shall apply to qualifying events occurring on or after January 6, 1998. In the case of a qualifying event occurring on or after such date and before the date of the enactment of this Act, such event shall be deemed (for purposes of such amendments) to have occurred on the date of the enactment of this Act.

(2) ADVANCE NOTICE OF TERMINATIONS AND REDUCTIONS.—The amendment made by subsection (e)(2) shall apply to qualifying events occurring after the date of the enactment of this Act, except that in no case shall notice

be required under such amendment before such date.

Subtitle B—Amendments to the Public Health Service Act

SEC. 311. COBRA CONTINUATION BENEFITS FOR CERTAIN RETIRED WORKERS WHO LOSE RETIREE HEALTH COVERAGE.

(a) ESTABLISHMENT OF NEW QUALIFYING EVENT.—

(1) IN GENERAL.—Section 2203 of the Public Health Service Act (42 U.S.C. 300bb–3) is amended by inserting after paragraph (5) the following new paragraph:

''(6) The termination or substantial reduction in benefits (as defined in section 2208(6)) of group health plan coverage as a result of plan changes or termination in the case of a covered employee who is a qualified retiree.''.

(2) QUALIFIED RETIREE; QUALIFIED BENEFICIARY; AND SUBSTANTIAL REDUCTION DEFINED.—Section 2208 of such Act (42 U.S.C. 300bb–8) is amended—

(A) in paragraph (3)—

(i) in subparagraph (A), by inserting ''except as otherwise provided in this paragraph,'' after ''means,''; and

(ii) by adding at the end the following new subparagraph:

''(C) SPECIAL RULE FOR QUALIFYING RETIREES AND DEPENDENTS.—In the case of a qualifying event described in section 2203(6), the term 'qualified beneficiary' means a qualified retiree and any other individual who, on the day before such qualifying event, is a beneficiary under the plan on the basis of the individual's relationship to such qualified retiree.''; and

(B) by adding at the end the following new paragraphs:

''(5) QUALIFIED RETIREE.—The term 'qualified retiree' means, with respect to a qualifying event described in section 2203(6), a covered employee who, at the time of the event—

''(A) has attained 55 years of age; and

''(B) was receiving group health coverage under the plan by reason of the retirement of the covered employee.

''(6) SUBSTANTIAL REDUCTION.—The term 'substantial reduction'—

''(A) means, as determined under regulations of the Secretary of Labor and with respect to a qualified beneficiary, a reduction in the average actuarial value of benefits under the plan (through reduction or elimination of benefits, an increase in premiums, deductibles, copayments, and coinsurance, or any combination thereof), since the date of commencement of coverage of the beneficiary by reason of the retirement of the covered employee (or, if later, January 6, 1998), in an amount equal to at least 50 percent of the total average actuarial value of the benefits under the plan as of such date (taking into account an appropriate adjustment to permit comparison of values over time); and

''(B) includes an increase in premiums required to an amount that exceeds the premium level described in the fourth sentence of section 2202(3).

(b) DURATION OF COVERAGE THROUGH AGE 65.—Section 2202(2)(A) of such Act (42 U.S.C. 300bb–2(2)(A)) is amended—

(1) by redesignating clause (iii) as clause (iv); and

(2) by inserting after clause (ii) the following new clause:

''(iii) SPECIAL RULE FOR CERTAIN DEPENDENTS IN CASE OF TERMINATION OR SUBSTANTIAL REDUCTION OF RETIREE HEALTH COVERAGE.—In the case of a qualifying event described in section 2203(6), in the case of a qualified beneficiary described in section 2208(3)(C) who is not the qualified retiree or spouse of such retiree, the later of—

''(I) the date that is 36 months after the earlier of the date the qualified retiree becomes entitled to benefits under title XVIII of the Social Security Act, or the date of the death of the qualified retiree; or

''(II) the date that is 36 months after the date of the qualifying event.''.

(c) TYPE OF COVERAGE IN CASE OF TERMINATION OR SUBSTANTIAL REDUCTION OF RETIREE HEALTH COVERAGE.—Section 2202(1) of such Act (42 U.S.C. 300bb–2(1)) is amended—

(1) by striking ''The coverage'' and inserting the following:

''(A) IN GENERAL.—Except as provided in subparagraph (B), the coverage''; and

(2) by adding at the end the following:

''(B) CERTAIN RETIREES.—In the case of a qualifying event described in section 2203(6), in applying the first sentence of subparagraph (A) and the fourth sentence of paragraph (3), the coverage offered that is the most prevalent coverage option (as determined under regulations of the Secretary of Labor) continued under the group health plan (or, if none, under the most prevalent other plan offered by the same plan sponsor) shall be treated as the coverage described in such sentence, or (at the option of the plan and qualified beneficiary) such other coverage option as may be offered and elected by the qualified beneficiary involved.''.

(d) INCREASED LEVEL OF PREMIUMS PERMITTED.—Section 2202(3) of such Act (42 U.S.C. 300bb–2(3)) is amended by adding at the end the following new sentence: ''In the case of an individual provided continuation coverage by reason of a qualifying event described in section 2203(6), any reference in subparagraph (A) of this paragraph to '102 percent of the applicable premium' is deemed a reference to '125 percent of the applicable premium for employed individuals (and their dependents, if applicable) for the coverage option referred to in paragraph (1)(B)'.''.

(e) NOTICE.—Section 2206(a) of such Act (42 U.S.C. 300bb–6(a)) is amended—

(1) in paragraph (4)(A), by striking ''or (4)'' and inserting ''(4), or (6)''; and

(2) by adding at the end the following:

''The notice under paragraph (4) in the case of a qualifying event described in section 2203(6) shall be provided at least 90 days before the date of the qualifying event.''.

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section (other than subsection (e)(2)) shall apply to qualifying events occurring on or after January 6, 1998. In the case of a qualifying event occurring on or after such date and before the date of the enactment of this Act, such event shall be deemed (for purposes of such amendments) to have occurred on the date of the enactment of this Act.

(2) ADVANCE NOTICE OF TERMINATIONS AND REDUCTIONS.—The amendment made by subsection (e)(2) shall apply to qualifying events occurring after the date of the enactment of this Act, except that in no case shall notice be required under such amendment before such date.

Subtitle C—Amendments to the Internal Revenue Code of 1986

SEC. 321. COBRA CONTINUATION BENEFITS FOR CERTAIN RETIRED WORKERS WHO LOSE RETIREE HEALTH COVERAGE.

(a) ESTABLISHMENT OF NEW QUALIFYING EVENT.—

(1) IN GENERAL.—Section 4980B(f)(3) of the Internal Revenue Code of 1986 is amended by inserting after subparagraph (F) the following new subparagraph:

''(G) The termination or substantial reduction in benefits (as defined in subsection (g)(6)) of group health plan coverage as a result of plan changes or termination in the case of a covered employee who is a qualified retiree.''.

(2) QUALIFIED RETIREE; QUALIFIED BENEFICIARY; AND SUBSTANTIAL REDUCTION DEFINED.—Section 4980B(g) of such Code is amended—

(A) in paragraph (1)—

(i) in subparagraph (A), by inserting ''except as otherwise provided in this paragraph,'' after ''means,''; and

(ii) by adding at the end the following new subparagraph:

''(E) SPECIAL RULE FOR QUALIFYING RETIREES AND DEPENDENTS.—In the case of a qualifying event described in subsection (f)(3)(G), the term 'qualified beneficiary' means a qualified retiree and any other individual who, on the day before such qualifying event, is a beneficiary under the plan on the basis of the individual's relationship to such qualified retiree.''; and

(B) by adding at the end the following new paragraphs:

''(5) QUALIFIED RETIREE.—The term 'qualified retiree' means, with respect to a qualifying event described in subsection (f)(3)(G), a covered employee who, at the time of the event—

''(A) has attained 55 years of age; and

''(B) was receiving group health coverage under the plan by reason of the retirement of the covered employee.

''(6) SUBSTANTIAL REDUCTION.—The term 'substantial reduction'—

''(A) means, as determined under regulations of the Secretary of Labor and with respect to a qualified beneficiary, a reduction in the average actuarial value of benefits under the plan (through reduction or elimination of benefits, an increase in premiums, deductibles, copayments, and coinsurance, or any combination thereof), since the date of commencement of coverage of the beneficiary by reason of the retirement of the covered employee (or, if later, January 6, 1998), in an amount equal to at least 50 percent of the total average actuarial value of the benefits under the plan as of such date (taking into account an appropriate adjustment to permit comparison of values over time); and

''(B) includes an increase in premiums required to an amount that exceeds the premium level described in the fourth sentence of subsection (f)(2)(C).

(b) DURATION OF COVERAGE THROUGH AGE 65.—Section 4980B(f)(2)(B)(i) of such Code is amended—

(1) in subclause (II), by inserting ''or (3)(G)'' after ''(3)(F)'';

(2) in subclause (IV), by striking ''or (3)(F)'' and inserting '', (3)(F), or (3)(G)'';

(3) by redesignating subclause (IV) as subclause (VI);

(4) by redesignating subclause (V) as subclause (IV) and by moving such clause to immediately follow subclause (III); and

(5) by inserting after such subclause (IV) the following new subclause:

''(V) SPECIAL RULE FOR CERTAIN DEPENDENTS IN CASE OF TERMINATION OR SUBSTANTIAL REDUCTION OF RETIREE HEALTH COVERAGE.—In the case of a qualifying event described in paragraph (3)(G), in the case of a qualified beneficiary described in subsection (g)(1)(E) who is not the qualified retiree or spouse of such retiree, the later of—

''(a) the date that is 36 months after the earlier of the date the qualified retiree becomes entitled to benefits under title XVIII of the Social Security Act, or the date of the death of the qualified retiree; or

''(b) the date that is 36 months after the date of the qualifying event.''.

(c) TYPE OF COVERAGE IN CASE OF TERMINATION OR SUBSTANTIAL REDUCTION OF RETIREE HEALTH COVERAGE.—Section 4980B(f)(2)(A) of such Code is amended—

(1) by striking ''The coverage'' and inserting the following:

''(i) IN GENERAL.—Except as provided in clause (ii), the coverage''; and

(2) by adding at the end the following:

''(ii) CERTAIN RETIREES.—In the case of a qualifying event described in paragraph (3)(G), in applying the first sentence of clause (i) and the fourth sentence of subparagraph (C), the coverage offered that is the most prevalent coverage option (as determined under regulations of the Secretary of Labor) continued under the group health plan (or, if none, under the most prevalent other plan offered by the same plan sponsor) shall be treated as the coverage described in such sentence, or (at the option of the plan and qualified beneficiary) such other coverage option as may be offered and elected by the qualified beneficiary involved.''.

(d) INCREASED LEVEL OF PREMIUMS PERMITTED.—Section 4980B(f)(2)(C) of such Code is amended by adding at the end the following new sentence: ''In the case of an individual provided continuation coverage by reason of a qualifying event described in paragraph (3)(G), any reference in clause (i) of this subparagraph to '102 percent of the applicable premium' is deemed a reference to '125 percent of the applicable premium for employed individuals (and their dependents, if applicable) for the coverage option referred to in subparagraph (A)(ii)'.''.

(e) NOTICE.—Section 4980B(f)(6) of such Code is amended—

(1) in subparagraph (D)(i), by striking ''or (F)'' and inserting ''(F), or (G)''; and

(2) by adding at the end the following:

''The notice under subparagraph (D)(i) in the case of a qualifying event described in paragraph (3)(G) shall be provided at least 90 days before the date of the qualifying event.''.

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section (other than subsection (e)(2)) shall apply to qualifying events occurring on or after January 6, 1998. In the case of a qualifying event occurring on or after such date and before the date of the enactment of this Act, such event shall be deemed (for purposes of such amendments) to have occurred on the date of the enactment of this Act.

(2) ADVANCE NOTICE OF TERMINATIONS AND REDUCTIONS.—The amendment made by subsection (e)(2) shall apply to qualifying events occurring after the date of the enactment of this Act, except that in no case shall notice be required under such amendment before such date.

TITLE IV—FINANCING

SEC. 401. REFERENCE TO FINANCING PROVISIONS.

Any increase in payments under the medicare program under title XVIII of the Social Security Act that results from the enactment of this Act shall be offset by reductions in payments under such program pursuant to the anti-fraud and anti-abuse provisions enacted as part of the Medicare Fraud and Overpayment Act of 1998.

MEDICARE EARLY ACCESS ACT OF 1998

A BILL DESIGNED TO PROVIDE AMERICANS 55 TO 65 NEW HEALTH INSURANCE OPTIONS

Background

Americans ages 55 to 65 face special problems of access to and affordability of health insurance. They face greater risks of health problems and are twice as likely to have heart disease, strokes, or cancer as people aged 45 to 54. As people approach 65, many retire or shift to part-time work or self-employment as a bridge to retirement, sometimes involuntarily. Displaced workers aged 55 to 65 are much less likely than younger workers to be re-employed or re-insured through a new employer. As a result, more of them rely on the individual health insurance market. Without the benefits of having their costs averaged with younger people, as with employer-based insurance, these people often face high premiums.

Such access problems will increase, due to two trends: declines in retiree health coverage and the aging of the baby boom generation. Recently, businesses have cut back on offering health coverage to pre-65-year-old retirees; only 40 percent of large firms now do so. In several small but notable cases, businesses have dropped retirees' health benefits after workers have retired. These ''broken promise'' retirees lack access to employer continuation coverage and could have problems finding affordable individual insurance. Finally, the number of people 55 to 65 years old will rise from 22 million to 35 million by 2010 — or by 60 percent.

Summary

This bill creates three important health insurance choices for certain people ages 55 to 65:

1. People ages 62 to 65 without access to group insurance could buy into Medicare;

2. Workers ages 55 and older and their spouses who lose their health insurance when their firm closes or they are laid off could buy into Medicare; and

3. Retirees ages 55 and older whose employers drop their retiree health coverage after they have retired could buy into the employer's health plan through ''COBRA'' coverage.

Participants would pay premiums to cover almost the entire costs of coverage. Any shortfall would be paid for by policies to reduce Medicare fraud and overpayments, proposed in a companion bill called the Medicare Anti-Fraud and Overpayment Act of 1998.

The Medicare buy-in would be completely walled off from the Medicare Trust Funds, to ensure that it does not in any way affect current beneficiaries.

Title I. Access to Medicare Benefits for Individuals 62-to-65 Years of Age

The centerpiece of this initiative is the Medicare buy-in for people ages 62 to 65.

Eligibility: People ages 62 to 65 who do not have access to employer sponsored or federal health insurance may participate.

Premium Payments: Participants would pay two separate premiums—one before age 65 and one between age 65 and 85:

Base premium: The base premium would be paid monthly between enrollment and when the participant turns age 65. It is the part of the full premium that represents what Medicare would pay on average for all people in this age group. CBO estimates that this would be about $300 per month. It would be adjusted for geographic variation, but the maximum premium would be limited to ensure participation in all areas of the country.

Deferred premium: The deferred premium would be paid monthly beginning at age 65 until the beneficiary turns age 85. It is the part of the premium that covers the extra costs for participants who are sicker than average. Participants will be told before they enroll what their deferred premium will be. CBO estimates that this would be about $10 per month per year of participation.

This two-part payment plan acts like a mortgage: it makes the up-front premium affordable but requires participants to pay back the Medicare ''loan'' with interest. It also ensures that in the long-run, this buy-in is self-financing.

Enrollment: Eligible people can enroll within two months of either turning 62 or losing access to employer-based or federal insurance.

Applicability of Medicare Rules: Services covered and cost sharing would be, for paying participants, the same as those of Medicare beneficiaries. Participants would have the choice of fee-for-service or managed care. No Medicaid assistance would be offered to participants for premiums or cost sharing. Medigap policy protections would apply, but the open enrollment provision remains at age 65.

Disenrollment: People could stop buying into Medicare at any time. People who disenroll would pay the deferred premium as though they had been enrolled for a full year (e.g., a person who buys in for 3 months in 1999 would pay the deferred premium as though they participated for 12 months). This is intended to act as a disincentive for temporary enrollment.

Title II. Access to Medicare Benefits for Displaced Workers 55-to-62 Years of Age

In addition to people ages 62 to 65, a targeted group of 55 to 61 year olds could buy into Medicare. The Medicare buy-in would be the same as above, with the following exceptions.

Eligibility: People would be eligible if they are between ages 55 and 61 and: (1) lost their job because their firm closed, downsized, or moved, or their position was eliminated (defined as being eligible for unemployment insurance) after January 6, 1998; (2) had health insurance through their previous job for at least one year (certified through the process created under HIPAA to guarantee continuation coverage); and (3) do not have access to employer sponsored, COBRA, or federal health insurance. Spouses of these eligible people may also buy into Medicare.

Premium Payments: Participants would pay one, geographically adjusted premium, with no Medicare ''loan''. This premium represents what Medicare would pay on average for all people in this age group plus an add-on (65 percent of the age average) to compensate for some of the extra costs of participants who may be sicker than average. These premiums would be about $400 per month.

Disenrollment: Like people ages 62 to 65, eligible displaced workers and their spouses must enroll in the buy-in within 63 days of becoming eligible. Participants continue to pay premiums until they voluntarily disenroll, gain access to federal or employer-based insurance or turn 62 and become eligible for the more general Medicare buy-in. Once they disenroll, they may only re-enroll if they meet all the eligibility rules again.

Title III. Retiree Health Benefits Protection Act

The bill would also help retirees and their dependents whose former employer unexpectedly drops their retiree health insurance, leaving them uncovered and with few places to turn.

Eligibility: People ages 55 to 65 and their dependents who were receiving retiree health coverage but whose coverage was terminated or substantially reduced (benefits' value reduced by half or premiums increased to a level above 125 percent of the applicable premium) would qualify them for ''COBRA'' continuation coverage.

Premium Payments: Participants would pay 125 percent of the applicable premium. This premium is higher than what most other COBRA participants pay (102 percent) to help offset the additional costs of participants.

Enrollment: Participants would enroll through their former employer, following the same rules as other COBRA eligibles.

Disenrollment: Retirees would be eligible until they turn 65 years-old.

Companion Bill: Medicare Anti-Fraud and Overpayment Act of 1998

This bill improves the financial integrity of Medicare and helps fund the Medicare

buy-in. It does this through a series of policies, including:

Eliminating Excessive Medicare Reimbursement for Drugs. A recent report by the HHS Inspector General found that Medicare currently pays hundreds of millions of dollars more for 22 of the most common and costly drugs than would be paid if market prices were used. For more than one-third of these drugs, Medicare pays more than double the actual acquisition costs, and in one case, pays as high as ten times the amount. This proposal would ensure that Medicare payments are provider's actual acquisition cost of the drug without mark-ups.

Eliminating Overpayments for Epogen. A 1997 HHS Inspector General report found that Medicare overpays for Epogen (a drug used for kidney dialysis patients). This policy would change Medicare reimbursement to reflect current market prices (from $10 per 1,000 units administered to $9).

Eliminating Abuse of Medicare's Outpatient Mental Health Benefits. The HHS Inspector General has found abuses in Medicare's outpatient mental health benefit—specifically, that Medicare is sometimes billed for services in inpatient or residential settings. This proposal would eliminate this abuse by requiring that these services are only provided in the appropriate treatment setting.

Ensuring Medicare Does Not Pay For Claims Owed By Private Insurers. Too often, Medicare pays claims that are owed by private insurers because Medicare has no way of knowing the private insurer is the primary payer. This proposal would require insurers to report any Medicare beneficiaries they cover. Also, Medicare would be allowed to recoup double the amount owed by insurers who purposely let Medicare pay claims that they should have paid, and impose fines for failure to report no-fault or liability settlements for which Medicare should have been reimbursed.

Enabling Medicare to Negotiate Single, Simplified Payments for Certain Routine Surgical Procedures. This proposal would expand HCFA's current ''Centers of Excellence'' demonstration that enables Medicare to pay for hospital and physician services for certain high-cost surgical procedures through a single negotiated payment. This lets Medicare receive volume discounts and, in return, enables hospitals to increase their market share, gain clinical expertise, and improve quality.

Deleting Civil Monetary Penalty Provision that Weakens Ability to Reduce Fraud and Abuse. HIPAA limited the standard used in imposing civil monetary penalties regarding false Medicare claims. It limited the duty on providers to exercise reasonable diligence to submit true and accurate claims. This provision would repeal this weakening of the standard.

Deleting the Exceptions from Anti-Kickback Statute for Certain Managed Care Arrangements. Current law makes an exception from the anti-kickback rules for any arrangement where a medical provider is at ''substantial financial risk'' whether through a ''withhold, capitation, incentive pool, per diem payment, or any other risk arrangement.'' Because of the difficulty of defining this exception, this provision may be serving as a loophole to get around the anti-kickback provisions. This provision would eliminate the exception.

Parenteral Nutrition Reform. According to the Office of the Inspector General, there is an overpayment for these services. This proposal would pay for these products at actual acquisition cost and add a requirement that the Secretary provides for administrative costs and sets standards for the quality of delivery of parenteral nutrition.

Mr. KENNEDY. Mr. President, too many Americans nearing age 65 face a crisis in health care. They are too young for Medicare, but too old for affordable private coverage. Many of them face serious health problems that threaten to destroy the savings of a lifetime and prevent them from finding or keeping a job. Many are victims of corporate down-sizing or a company's decision to cancel the health insurance protection they relied on. No American nearing retirement can be confident that the health insurance they have today will protect them until they are 65 and are eligible for Medicare.

Three million Americans aged 55 to 64 have no health insurance today. The consequences are often tragic. As a group, they are in relatively poor health, and their condition is more likely to worsen the longer they remain uninsured. They have little or no savings to protect against the cost of serious illness. Often, they are unable to afford the routine care that can prevent minor health problems from turning into serious disabilities or even life-threatening illness.

The number of uninsured is growing every day. Between 1991 and 1995, the number of workers whose employers promise them benefits if they retire early dropped twelve percent. Barely a third of all workers now have such a promise. In recent years, many who have counted on an employer's commitment found themselves with only a broken promise. Their coverage was canceled after they retired.

The plight of older workers who lose their jobs through layoffs or downsizing is also grim. It is hard to find a new job at age 55 or 60—and even harder to find a job that provides health insurance. For these older Americans left out and left behind through no fault of their own after decades of hard work, it is time to provide a helping hand.

And finally, significant numbers of retired workers and their families have found themselves left high and dry when their employers cut back their coverage or canceled it altogether.

The legislation we are introducing today is a lifeline for millions of these Americans. It provides a bridge to help them through the years before they qualify for full Medicare eligibility. It is a constructive next step toward the day when every American will be guaranteed the fundamental right to health care. It will impose no additional burden on Medicare, because it is fully paid for by premiums from the beneficiaries themselves.

I commend Senator MOYNIHAN and Senator DASCHLE and our other cosponsors for their leadership on this issue. I especially commend the President for his initiation of this national debate by including this proposal in his budget. When this legislation becomes law, millions of older families will have him to thank.

The opponents of this constructive step are already waging a campaign of disinformation against the program. They claim that it will somehow harm Medicare—even though that is not true. They say we should wait for the Medicare Advisory Commission to report—but older uninsured Americans have waited too long for the help they need. They say that this is just another entitlement program—ignoring the fact that it will be paid for in full—and primarily by the participants themselves. They say it is another attempt to inject government into the health care system—even though it simply gives uninsured older Americans better access to the health care they need through the most successful health program ever enacted.

The opponents of this proposal will do everything they can to keep the program from coming to the floor of the House and Senate for a full and fair debate. They have a lot of power in Congress. But they don't have the President on their side. They don't have the vast majority of Democrats in Congress on their side. And most of all, they do not have the American people on their side.

We intend to do all we can to bring this issue to the floor of the Senate early this year. There will be a vote, and, if necessary, there will be many votes. Despite the opposition of the Republican Leadership, this Congress has already taken a major step to expand health insurance coverage for American children. This can also be the Congress that extends help to older Americans who need health care. The American people want us to act, and I am confident that Congress will respond.

Mr. DASCHLE. Mr. President, today I join my colleagues in introducing the Medicare Early Access Act. The bill offers new coverage options for a population that faces significant problems finding affordable insurance, individuals between age 55 and 65, the age at which they become eligible for Medicare.

It is not easy to be without health insurance between the ages of 55 and 65. You are twice as likely as someone just 10 years younger to experience heart disease, cancer, or other significant health problems.

And it is not easy to find health insurance when you're between 55 and 65. Prices for coverage often are unaffordable. For those with serious health problems, finding coverage can be impossible.

There are 2.9 million individuals ages 55 to 65 without health insurance. Some individuals in this age group lose their employer-based health insurance when their spouse becomes eligible for Medicare. Many lose their coverage because their company downsizes or their plant closes. Still, others lose insurance when promised retiree health coverage is dropped unexpectedly.

A little over 3 years ago, 1,200 former employees of the John Morrell meatpacking plant in Sioux Falls, South Dakota, received letters in the mail telling them their retiree health

benefits would be canceled in a matter of weeks. These were men and women who had worked for 20, 30, even 40 years at the Morrell plant.

The company did not give them retiree health benefits out of the goodness of their hearts. The Morrell workers earned those benefits. They took smaller pay increases and made other sacrifices while they were still working so they could have some measure of security when they retired.

The letters telling the Morrell retirees that their former company was canceling their health benefits was just the first of many shocks. An additional shock came when those Morrell employees under 65 were forced to buy exorbitant private health insurance—an extremely difficult purchase on a retiree's pension.

To address these concerns, I introduced legislation, S. 1307, the Retiree Health Benefits Protection act of 1997. S. 1307 would require companies to keep the promises they make to their retirees and their families.

I am pleased that the President, Senator MOYNIHAN, and Representative STARK have incorporated a key piece of that bill in the Medicare Early Access Act. This provision would allow retirees between ages 55 and 65 to buy into their former employer's health plan if the employer cancels or substantially reduces promised benefits. Retirees and their spouses would remain eligible until they turn 65 and become eligible for Medicare.

The Medicare Early Access Act includes two additional important provisions for individuals ages 55 to 65. First, it would allow people between the ages of 62 and 65 who do not have access to group coverage to buy into the Medicare program. Second, it would offer access to Medicare for workers between the ages of 55 and 65, and their spouses, when their employer downsizes or their plant shuts down.

Some have questioned whether this program will hurt the current Medicare program. Let me emphasize that the proposal will pay for itself. All workers and retirees who buy into Medicare under our plan would pay premiums out of their own pockets. Any additional costs would be paid through savings from Medicare anti-fraud and abuse measures. Because the bill is self-financing, it does not in any way threaten Medicare's solvency or its future. It is responsible proposal that pays for itself.

Mr. President, there are hundreds of thousands of Americans who could benefit from this bill. It is my hope that we can engage in productive debate over the next few weeks and find a way to fill these gaps in health insurance coverage, instead of making excuses about why we are waiting to help these individuals.

ADDITIONAL COSPONSORS

S. 195

At the request of Mr. HELMS, the names of the Senator from Mississippi (Mr. LOTT), the Senator from New York (Mr. D'AMATO), the Senator from Delaware (Mr. BIDEN), and the Senator from Idaho (Mr. CRAIG) were added as cosponsors of S. 195, a bill to abolish the National Endowment for the Arts and the National Council on the Arts.

At the request of Mrs. HUTCHISON, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 195, supra.

S. 381

At the request of Mr. ROCKEFELLER, the name of the Senator from New York (Mr. D'AMATO) was added as a cosponsor of S. 381, a bill to establish a demonstration project to study and provide coverage of routine patient care costs for medicare beneficiaries with cancer who are enrolled in an approved clinical trial program.

S. 442

At the request of Mr. WYDEN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 442, a bill to establish a national policy against State and local government interference with interstate commerce on the Internet or interactive computer services, and to exercise Congressional jurisdiction over interstate commerce by establishing a moratorium on the imposition of exactions that would interfere with the free flow of commerce via the Internet, and for other purposes.

S. 775

At the request of Mr. JEFFORDS, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 775, a bill to amend the Internal Revenue Code of 1986 to exclude gain or loss from the sale of livestock from the computation of capital gain net income for purposes of the earned income credit.

S. 1021

At the request of Mr. HAGEL, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 1021, a bill to amend title 5, United States Code, to provide that consideration may not be denied to preference eligibles applying for certain positions in the competitive service, and for other purposes.

S. 1251

At the request of Mr. THOMAS, his name was added as a cosponsor of S. 1251, a bill to amend the Internal Revenue Code of 1986 to increase the amount of private activity bonds which may be issued in each State, and to index such amount for inflation.

At the request of Mr. D'AMATO, the names of the Senator from Kentucky (Mr. FORD), the Senator from Arkansas (Mr. HUTCHINSON), and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 1251, supra.

S. 1252

At the request of Mr. THOMAS, his name was added as a cosponsor of S. 1252, a bill to amend the Internal Revenue Code of 1986 to increase the amount of low-income housing credits which may be allocated in each State, and to index such amount for inflation.

At the request of Mr. D'AMATO, the names of the Senator from Kentucky (Mr. FORD), the Senator from Arkansas (Mr. HUTCHINSON), and the Senator from New Jersey (Mr. TORRICELLI) were added as cosponsors of S. 1252, supra.

S. 1283

At the request of Mr. BUMPERS, the names of the Senator from Nevada (Mr. REID), and the Senator from Ohio (Mr. DEWINE) were added as cosponsors of S. 1283, a bill to award Congressional gold medals to Jean Brown Trickey, Carlotta Walls LaNier, Melba Patillo Beals, Terrence Roberts, Gloria Ray Karlmark, Thelma Mothershed Wair, Ernest Green, Elizabeth Eckford, and Jefferson Thomas, commonly referred collectively as the ''Little Rock Nine'' on the occasion of the 40th anniversary of the integration of the Central High School in Little Rock, Arkansas.

S. 1305

At the request of Mr. GRAMM, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 1305, a bill to invest in the future of the United States by doubling the amount authorized for basic scientific, medical, and pre-competitive engineering research.

S. 1321

At the request of Mr. TORRICELLI, the names of the Senator from North Carolina (Mr. FAIRCLOTH), and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 1321, a bill to amend the Federal Water Pollution Control Act to permit grants for the national estuary program to be used for the development and implementation of a comprehensive conservation and management plan, to reauthorize appropriations to carry out the program, and for other purposes.

S. 1350

At the request of Mr. LEAHY, the name of the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 1350, a bill to amend section 332 of the Communications Act of 1934 to preserve State and local authority to regulate the placement, construction, and modification of certain telecommunications facilites, and for other purposes.

S. 1405

At the request of Mr. SHELBY, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1405, a bill to provide for improved monetary policy and regulatory reform in financial institution management and activities, to streamline financial regulatory agency actions, to provide for improved consumer credit disclosure, and for other purposes.

S. 1464

At the request of Mr. HATCH, the name of the Senator from Ohio (Mr. GLENN) was added as a cosponsor of S. 1464, a bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit, and for other purposes.