

S. 2116. A bill to clarify and enhance the authorities of the Chief Information Officer of the Department of Agriculture; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. JOHNSON (for himself and Mr. DASCHLE):

S. 2117. A bill to authorize the construction of the Perkins County Rural Water System and authorize financial assistance to the Perkins County Rural Water System, Inc., a nonprofit corporation, in the planning and construction of the water supply system, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CHAFEE (for himself, Mr. BREAUX, Mr. MURKOWSKI, Mr. COCHRAN, Mr. INOUE, Mr. DASCHLE, Mr. ROCKEFELLER, Mr. MACK, Mr. LUGAR, Mr. BUMPERS, Mr. FRIST, and Mr. SANTORUM):

S. 2118. A bill to amend the Internal Revenue Code of 1986 to reduce the tax on vaccines to 25 cents per dose; to the Committee on Finance.

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

S. 2119. A bill to amend the Amateur Sports Act to strengthen provisions protecting the right of athletes to compete, recognize the Paralympics and growth of disabled sports, improve the U.S. Olympic Committee's ability to resolve certain disputes, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. ROCKEFELLER (for himself and Mr. FRIST):

S. 2120. A bill to improve the ability of Federal agencies to license federally-owned inventions; to the Committee on Commerce, Science, and Transportation.

By Mr. BREAUX:

S. 2121. A bill to encourage the development of more cost effective commercial space launch industry in the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. ROTH (for himself and Mr. MOYNIHAN):

S. 2122. A bill to amend the Internal Revenue Code of 1986 to provide that certain liquidating distributions of a regulated investment company or real estate investment trust which are allowable as a deduction shall be included in the gross income of a distributee; to the Committee on Finance.

By Mr. SANTORUM:

S. 2123. A bill to amend the Higher Education Act of 1965 to improve accountability and reform certain programs; to the Committee on Labor and Human Resources.

By Mrs. HUTCHISON (for herself and Mr. INOUE):

S. 2124. A bill to authorize appropriations for fiscal year 1999 for the Maritime Administration and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. D'AMATO:

S. 2125. A bill to amend the Internal Revenue Code of 1986 to provide for the tax treatment of section 42 housing cooperatives and the shareholders of such cooperatives, 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. AKAKA (for himself, Mr. HELMS, Mr. BIDEN, Mr. THOMAS, Mr. INOUE, Mr. LUGAR, Mrs. BOXER, Mr. COCHRAN, Mrs. MURRAY, Mr. ROTH,

Mr. COVERDELL, Mrs. FEINSTEIN, and Mr. DURBIN):

S. Res. 235. A resolution commemorating 100 years of relations between the people of the United States and the people of the Philippines; to the Committee on Foreign Relations.

By Mr. DOMENICI (for himself, Mr. MCCAIN, Mr. HATCH, Mr. DEWINE, Mr. CHAFEE, Mr. LUGAR, Mr. HAGEL, Mr. GRASSLEY, Mr. ABRAHAM, and Mrs. HUTCHISON):

S. Res. 236. A resolution to express the sense of the Senate regarding English plus other languages; to the Committee on Labor and Human Resources.

By Mr. FEINGOLD (for himself, Mr. REED, Mr. LEAHY, Mr. MOYNIHAN, Mr. KOHL, Mr. KENNEDY, Mr. HARKIN, and Mr. WELLSTONE):

S. Res. 237. A resolution expressing the sense of the Senate regarding the situation in Indonesia and East Timor; to the Committee on Foreign Relations.

By Mr. LOTT:

S. Con. Res. 99. A concurrent resolution authorizing the flying of the POW/MIA flag; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ENZI (for himself, Mr. BINGAMAN, Mr. KENNEDY, Mr. JEFFORDS, Mr. HUTCHINSON, Mr. BROWNBACK, Mr. THOMAS, and Mr. NICKLES):

S. 2112. A bill to make the Occupational Safety and Health Act of 1970 applicable to the United States Postal Service in the same manner as any other employer; to the Committee on Labor and Human Resources.

POSTAL EMPLOYEES SAFETY ENHANCEMENT ACT

Mr. ENZI. Mr. President, I rise to introduce the Postal Employees Safety Enhancement Act of 1998.

Mr. President, this bipartisan legislation, cosponsored by my colleagues Senators BINGAMAN, KENNEDY, JEFFORDS and HUTCHINSON would fully bring the United States Postal Service under the regulatory umbrella of the Occupational Safety and Health Administration. It has always been my unshakeable belief that the Government must play by its own rules. This important legislation is an incremental step in the effort to ensure that the "law of the land" applies equally to all branches of the Government as well as the private sector—and everything in-between.

Since I became a member of this distinguished body, I've been advocating legislation geared to improve the safety and health of our nation's workplaces. My sincere devotion to this issue, however, goes back much farther than my work here in Washington. For 12 years, I was an accountant for Dunbar Well Service in Gillette, WY, an oil well servicing company with offices throughout Wyoming. Like most businesses in my home state, Dunbar Well Service is a small business. The payroll consisted of 130 employees. As a result, I wore several hats. One of my roles was safety instruction, which required me to travel the state teaching employees about the importance of work-

place safety and health. The company's rigorous safety program even had me collecting samples for drug tests—an extremely effective method of deterring workplace injuries and fatalities, by the way.

I saw things with OSHA that I thought needed to be changed. I served in the State legislature. I was told that States can't change that and I understand that. Then I got to come to Washington, and in Washington we can make a difference in the workplace. I went to work on a SAFE Act, one that will provide safety in all businesses. That has been through hearings. It has been through markups in the Labor Committee and is ready to be debated on this floor. I have had hands-on experience in the workplace with safety, and I know that workplace safety and health is everyone's business. And that's the only way it works. It is not a political issue, it is an issue that cannot be divided by a barrier that separates even the public and the private sector. It's everybody's concern, and that is the only way it works.

We must ensure the safety and health of all employees because they are the most important asset of any business. It's success or failure rests with their ability to provide efficient care and service to their customers, whoever they may be. Although all Federal agencies must comply with the 1970 Occupational Safety and Health statute, they are not required to pay penalties issued to them by OSHA. The bill I am introducing today is the first step in the effort to eliminate this barrier.

It is important to point out that this legislation is not intended to single out the Postal Service. My first look at how ineffective Federal agencies are at making workplace safety and health a priority began when I noted that Yellowstone National Park was cited by OSHA last February for 600 violations—92 of them serious. One of those serious violations was the Park's failure to report an employee's death to OSHA. In fact, Yellowstone has posted five employee deaths in the past three and one-half years. Although there are these and other serious problems noted in the Park's safety and health record, I later found that it pales in comparison to the United States Postal Service's record.

After looking at the past 5 year totals for all Federal workplace injuries, illnesses, lost work time and fatalities, I was shocked to see the Postal Service at the very top of the list. It was my initial feeling that the armed forces would be the most hazardous occupation in the Federal Government. That notion was proven wrong. Surprisingly, the Postal Service employs relatively the same number of workers as the Department of Defense. Yet it has double the number of total workplace injuries and illnesses and almost double the number of lost work-time cases as the Department of Defense.

What is most troubling about the Postal Service's safety record, however, is its annual workers' compensation payments. From 1992 to 1997, the Postal Service paid an annual average of \$505 million in workers' compensation costs—placing them once again at the top of the Federal Government's list. Moreover, the Postal Service's annual contribution to workers' compensation amounts to almost one-third of the Federal program's \$1.8 billion price tag. These facts are simply inexcusable and clearly justify the need for legislation. Better yet, this legislation would likely decrease the annual expenditures for workers' compensation because of a reduction in workplace injuries, illnesses, lost time and fatalities.

In 1970, Congress passed the Postal Reorganization Act, eliminating the old Postal Department status as a cabinet office. Twelve years later, the Postal Service became fiscally self-sufficient—depending on market-driven revenues rather than taxpayer dollars.

Of course the Postal Service is big. The Postal Service is 43 percent of the world's mail. It has annual profits that exceed \$1.5 billion. If the Postal Service were a private company, it would be the 9th largest business in the United States and 29th in the entire world. It is bigger than Coca-Cola, Xerox, and Kodak combined. It has offices in virtually every community. In fact, some of the communities in my State are communities because they are a post office. So it covers the big and it covers the small.

When I did the SAFE Act I talked to my colleagues on both sides of the aisle. I talked to any group that would talk to me. I talked to businesses, I talked to employers, I talked to employees, I talked to unions, and then drafted a bill. That bill is going through the process.

When I noticed this problem, I went through the same process. I have met with those groups—agencies, unions that are involved in this process—and I have to say, I have gotten some very helpful, constructive suggestions from those groups. Those suggestions appear in the bill.

I have talked to the Postal Service about it. They have reviewed it. They have asked for additional time to review it. The bill is only five pages long. I don't know how long it takes to review that, so I can only assume that they have no problem with the bill either, although I am sure they are not excited to come under the same rules that everyone else plays under.

The point of this legislation is simple. If government makes the rules, Government must play by them. This is the same basic premise adopted by Congress when it passed the Congressional Accountability Act during the 104th Congress. The Postal Service is not above the law and its employees are no less important to its daily operations than the employees of private businesses are to the companies that

employ them. When advocating workplace safety and health in this context, I can think of no better place to start than the Postal Service—which calls itself a Federal agency when it is helpful to refer to itself as such. In fact, it's not a Federal agency at all. It's a self-sufficient, quasi-governmental entity. How many Federal agency's employees can collectively bargain under the 1935 National Labor Relations Act? How many Federal agencies don't receive one dime of the taxpayers' money? How many Federal agencies post annual profits exceeding \$1.5 billion? The Postal Service exhibits almost every characteristic of a private business. Still, it's reluctant to fully comply with Federal occupational safety and health law. Clearly, that must change.

After carefully examining the perspectives of the Postal Service and the unions representing its employees, I have concluded that the Postal Employees Safety Enhancement Act is necessary legislation. The bill would permit OSHA to fully regulate the Postal Service the same way it does private businesses. In addition, the bill would prevent the Post Office from closing or consolidating rural post offices or services simply because it's required to comply with OSHA. Service to all areas of the Nation, rural or urban, was made a part of the Postal Service's mission by the 1970 Postal Reorganization Act. The quality of the service it provides should not decrease because of efforts to protect and ensure employee safety and health. Along this same premise, the bill would prevent the Postal Rate Commission from raising the price of stamps to help the Postal Service pay for potential OSHA fines. Rather, the Postal Service should offset the potential for OSHA fines by improving workplace conditions which would decrease its annual \$500 million expenditure on workers' compensation claims.

This bipartisan bill will make the law of the land mean what it says. Congress would only be applying those standards to the Postal Service that it applied to itself three years ago. The Postal Service has the most alarming occupational safety and health record in the Federal Government. It should therefore be the first to be reined in.

Every schoolchild is familiar with the words on the New York Post Office that became the motto of the Postal Service, "Neither snow, nor rain, nor heat, nor gloom of night stays these couriers from the swift completion of their appointed rounds." Add to that the million and one barriers, complaints, dogs, assaults and other obstacles our postal workers must deal with every day and it is clear that they have more than enough to deal with without having to worry about the conditions of their workplace as well.

I urge my colleagues to support this necessary, common sense legislation to show our support for workplace safety and health everywhere throughout the

country, in every business and corporation, in both private and the public sector.

I ask unanimous consent the text of the bill be printed in the RECORD.

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

S. 2112

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Postal Employees Safety Enhancement Act".

SEC. 2. APPLICATION OF ACT.

(a) DEFINITION.—Section 3(5) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 652(5)) is amended by inserting after "the United States" the following: "(not including the United States Postal Service)".

(b) FEDERAL PROGRAMS.—

(1) OCCUPATIONAL SAFETY AND HEALTH.—Section 19(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 668(a)) is amended by inserting after "each Federal Agency" the following: "(not including the United States Postal Service)".

(2) OTHER SAFETY PROGRAMS.—Section 7902(a)(2) of title 5, United States Code, is amended by inserting after "Government of the United States" the following: "(not including the United States Postal Service)".

SEC. 3. CLOSING OR CONSOLIDATION OF OFFICES NOT BASED ON OSHA COMPLIANCE.

Section 404(b)(2) of title 39, United States Code, is amended to read as follows:

"(2) The Postal Service, in making a determination whether or not to close or consolidate a post office—

"(A) shall consider—

"(i) the effect of such closing or consolidation on the community served by such post office;

"(ii) the effect of such closing or consolidation on employees of the Postal Service employed at such office;

"(iii) whether such closing or consolidation is consistent with the policy of the Government, as stated in section 101(b) of this title, that the Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining;

"(iv) the economic savings to the Postal Service resulting from such closing or consolidation; and

"(v) such other factors as the Postal Service determines are necessary; and

"(B) may not consider compliance with any provision of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.)."

SEC. 4. PROHIBITION ON RESTRICTION OR ELIMINATION OF SERVICES.

(a) IN GENERAL.—Chapter 4 of title 39, United States Code, is amended by adding after section 414 the following:

"§ 415. Prohibition on restriction or elimination of services

"The Postal Service may not restrict, eliminate, or adversely affect any service provided by the Postal Service as a result of the payment of any penalty imposed under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.)."

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 4 of title 39, United States Code, is amended by adding at the end the following:

"415. Prohibition on restriction or elimination of services."

SEC. 5. LIMITATIONS ON RAISE IN RATES.

Section 3622 of title 39, United States Code, is amended by adding at the end the following:

“(c) Compliance with any provision of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) shall not be considered by the Commission in determining whether to increase rates and shall not otherwise affect the service of the Postal Service.”

Mr. BINGAMAN. Mr. President, I am pleased to join with my friend and colleague from Wyoming, Senator ENZI, in introducing the Postal Employees Safety Enhancement Act of 1998.

I want to begin by commending the distinguished Senator from Wyoming for bringing this issue before the Senate. As my colleagues know, in the short time he has been in the Senate, Senator ENZI has become one of the leading experts on the Occupational Health and Safety Act of 1970. I have found him to be extremely willing to listen to all sides of what are complex issues, to work in a bipartisan manner and to engage all interested parties in a constructive dialogue on OSHA related issues. I also commend him for recognizing the need which this legislation will address and for working with all interested parties over the past few weeks to draft a bill that will address that need.

Mr. President, the bill we are introducing today is really rather simple. It will make the Occupational Health and Safety Act applicable to the United States Postal Service as it would be to any other private sector employer. The reasons for doing this, and the need to do so, are very obvious to anyone who looks at this issue. A comparison of all of the worker's compensation costs charged to federal employing agencies from July 1, 1993 to July 30, 1994 showed the Postal Service had a significantly higher rate of employment based injury claims than any federal agency. There are numerous reports of safety and health problems that have gone unaddressed by the P.O., some of which have been laid out by Senator ENZI this morning. Unfortunately, unlike every other private sector employee in America, Postal Service workers do not have the benefit, or the protections of the OSHA Act. While the Postal Service has some internal mechanisms for addressing employee injuries most would find these to be inadequate to protect employees and to help the Postal Service provide a safer workplace. This legislation should be welcomed by all who care about worker safety and health and I believe the Postal Service does care.

As my colleagues know, the Postal Service is one of the largest U.S. employers. Over the past several years it has gone through a series of reorganizations and restructuring to improve the quality of the service it provides. I commend the Postal Service for many of these initiatives and appreciate the service it provides to the people of my state. Like Senator ENZI, I do not mean to single out the Postal Service with this legislation. However, because the Postal Service operates in essence like any other private business, I think it is appropriate to expect that it com-

plies with the same safety and health standards as other businesses. Likewise I think Postal workers deserve the same protections afforded all other private sector workers, under the Act.

Mr. President, I hope the Senate will work quickly to adopt this legislation this year. I see no reason why this bill should not pass quickly and overwhelmingly.

Again Mr. President, I commend Senator ENZI for bringing this important worker safety measure before the Senate and look forward to working with him to ensure its swift passage.

Mr. KENNEDY. Mr. President, I am proud to join my colleagues, Senator ENZI, Senator JEFFORDS, and Senator BINGAMAN, in introducing the Postal Employees Safety Enhancement Act. This important legislation will extend coverage of the Occupational Safety and Health Act to employees of the United States Postal Service.

Few issues are more important to working families than health and safety on the job. For the past 28 years, OSHA has performed a critical role—protecting American workers from on-the-job injuries and illnesses.

In carrying out this mission, OSHA has made an extraordinary difference in people's lives. Death rates from on-the-job accidents have dropped by over 60% since 1970—much faster than before the law was enacted. More than 140,000 lives have been saved.

Occupational illnesses and injuries have dropped by one-third since OSHA's enactment—to a record low rate of 7.4 per 100 workers in 1996.

These numbers are still unacceptably high, but they demonstrate that OSHA is a success by any reasonable measure.

Even more lives have been saved in the two places where OSHA has concentrated its efforts. Death rates have fallen by 61% in construction and 67% in manufacturing. Injury rates have dropped by half in construction, and nearly one-third in manufacturing. Clearly, OSHA works best where it works hardest.

Unfortunately, these efforts do not apply to federal agencies. The original OSHA statute required only that federal agencies provide “safe and healthful places and conditions of employment” to their employees. Specific OSHA safety and health rules did not apply.

In 1980, President Carter issued an Executive Order that solved this problem in part. It directed federal agencies to comply with all OSHA safety standards, and it authorized OSHA to inspect workplaces and issue citations for violations.

President Carter's action was an important step, but more needs to be done. When OSHA inspects a federal workplace and finds a safety violation, OSHA can direct the agency to eliminate the hazard. But OSHA has no authority to seek enforcement of its order in court, and it cannot assess a financial penalty on the agency to obtain compliance.

The situation is especially serious in the Postal Service. Postal employees suffer one of the highest injury rates in the federal government. In 1996 alone, 78,761 postal employees were injured on the job—more than nine injuries and illnesses for every hundred workers. This rate is 23% higher than the overall private sector rate, and 40% higher than the overall federal rate. Fourteen postal employees were killed on the job in 1996—one-sixth of the federal total. Workers' compensation charges at the Postal Service are also high—\$538 million in 1997.

This legislation will bring down these unacceptably high rates. It permits OSHA to issue citations for safety hazards, and back them up with penalties. This credible enforcement threat will encourage the Postal Service to comply with the law. It will save taxpayer dollars currently spent on worker's compensation costs.

Most important, it will reduce the extraordinarily high rate of injuries among postal employees. Every worker deserves a safe and healthy place to work, and this bill will help achieve that goal for the 860,000 employees of the Postal Service. They deserve it, and I urge my colleagues to provide it.

By Mr. DURBIN (for himself, Ms. COLLINS, Mr. FAIRCLOTH, Mr. AKAKA, Ms. MOSELEY-BRAUN, Mr. HARKIN, Ms. MIKULSKI, Mr. WELLSTONE, Mr. GRAHAM, Mr. JOHNSON, Mr. CLELAND, Ms. LANDRIEU, Mr. REID, Mr. TORRICELLI, Mr. DODD, Mr. KOHL, Mr. WARNER, Mrs. BOXER, and Mrs. MURRAY):

S. 2114. A bill to amend the Violence Against Women Act of 1994, the Family Violence Prevention and Services Act, the Older Americans Act of 1965, and the Public Health Service Act to ensure that older women are protected from institutional, community, and domestic violence and sexual assault and to improve outreach efforts and other services available to older women victimized by such violence, and for other purposes; to the Committee on Labor and Human Resources.

OLDER WOMEN'S PROTECTION FROM VIOLENCE
ACT OF 1998

● Mr. DURBIN. Mr. President, today I introduce this legislation with my distinguished colleague from Maine, Senator COLLINS. Unfortunately for some, domestic violence is a life long experience. Those who perpetrate violence against their family members do not desist because the family member grows older. In fact, in some cases, the abuse may become more severe as the victim ages becoming more isolated from the community with their removal from the workforce. Other age-related factors such as increased frailty may increase a victim's vulnerability. It also is true that older victims' ability to report abuse is frequently confounded by their reliance on their abuser for care or housing. Every seven minutes in Illinois, there

is an incidence of elder abuse. Several research studies have shown that elder abuse is the most under reported familial crime. It is even more under reported than child abuse with only between one in eight and one in fourteen incidents estimated to be reported. Seniors who experience abuse worry they will be banished to a nursing home if they report abuse. They also must struggle with the ethical dilemma of reporting abuse by their children to the authorities and thus increasing their child's likelihood of going to jail. Shame and fear gag them so that they remain "silent victims."

Domestic violence programs have a moral and ethical responsibility to provide services to individuals of any age who are the victims of domestic abuse. Yet most domestic violence programs see only a few older women a year. That is not to say that the domestic violence service providers actively discriminate against older victims. Analysis of the few studies that do exist of elder domestic abuse indicate that the vast majority do not themselves seek to access existing services. There may be many reasons for this. The images portrayed in the media of the victims of domestic violence generally depict a young woman, with small children. Seniors suffering domestic abuse may not readily identify with these images and, therefore, may not see those services as being for them. Other cultural barriers may also exist. Many older women were raised to believe that family business is a private matter. Problems within families were not to be discussed with anyone, especially strangers or counselors. Only a handful of domestic abuse programs throughout the country are reaching out to older women.

This legislation seeks to improve current federal family violence programs, such as The Violence Against Women Act (VAWA) and Family Violence Prevention Services Act (FVPSA), to make them more sensitive to the needs of the nations seniors. Title I of this bill promotes the inclusion of elder abuse cases in law school clinics and training for law enforcement in the identification and referral of older victims of domestic violence or elder abuse to services. Title II allows FVPSA grant funds to be used for outreach to older individuals. We know that great improvements have taken place since VAWA was first passed. One of the most successful programs is the law enforcement training program, which received \$200 million in FY 1998. However, improvement can be made with respect to identifying abuse among all age groups. When the abuser is old, there may be a reticence on the part of law enforcement to deal with this person in the same way that they might deal with a younger person. Who wants to send an "old guy" to jail? However, lack of action jeopardizes the victim further because then the abuser has every reason to believe that there are no consequences for their actions.

Another common problem is differentiating between injuries related to abuse and injuries arising from aging, frailty or illness. Too many older women's broken bones have been attributed to disorientation, osteoporosis or other age-related vulnerabilities without any questions being asked to make sure that they are not the result of abuse.

Title III reauthorizes the very important Elder Rights programs contained within the Older Americans Act. These programs provide seed money for state elder abuse programs. Included here is the Long-term-care Ombudsman program that monitors nursing homes and investigates reports of abuse in such institutions.

Most domestic abuse shelters are filled with young families. The staff and volunteers are predominantly younger than 50 years old. The recreation calendar has activities for young women and children. Discussions at support groups can be dominated by younger women talking about their children, child care and custody. Many domestic abuse shelters are not readily accessible to those who are less mobile. For instance, some may not be accessible via the ground floor. Moving from your home into a shelter is always a traumatic event. However, it may be even harder for those who find themselves in surroundings so unfamiliar and so totally oriented to a different age group. In my home state of Illinois, there are only two centers that focus on the shelter needs of seniors. One is the Center for Prevention of Abuse in Peoria, the other is the Swan center in Olney, which has a comprehensive elder protective services program. Title III seeks to address this shortage by encouraging expanded access to domestic violence shelters that cater to the needs of older individuals.

This bill seeks to help foster collaboration between the aging networks and domestic violence coalitions. Throughout the United States, through the Older Americans Act, a variety of programs seek to serve seniors in their communities. Home-delivered meals and other services provide an opportunity for seniors to interact with individuals outside their own homes. Increasing the knowledge of such care providers in how to identify and refer victims of domestic violence would likely provide much-needed relief to many of these individuals. Title III of this bill contains a "Community Initiatives and Outreach" grants program to help coordinate both public and private efforts in elder domestic abuse prevention and treatment. Fostering communication between these two groups has the potential of dramatically increasing the number of individuals that are sensitive to these issues of abuse and, also, to increase the number of individuals who are served by domestic violence programs generally.

Family violence is one of the most common causes of disease and distress seen by physicians. In spite of its existence as a pervasive and debilitating

medical and social problem, many advocates in the domestic violence community believe that it receives insufficient attention in the curricula of most schools of medicine or other health professional training institutions. Dr. Jane Jackman, past president of the Illinois State Medical Society noted last year "Doctors are finding that the problem is under-recognized. Elder abuse or maltreatment is growing in significance as a factor in trauma, hospital admissions, rising costs of long term care and, ultimately, deaths." Title III of this bill directs the Assistant Secretary of Aging to collaborate with other Departments of Health and Human Services and the National Institute of Aging to update and improve curricula for both training and retraining of health professionals and others in the area of elder domestic abuse. These curricula would be made available to educational institutions involved in training health professionals. Title IV would amend the Area Health Education Center and Geriatric Education Centers funded through the Health Professionals Education Act to allow them to use funds for training and retraining health professionals in elder domestic abuse.

The last title of the bill, Title V, examines the issue of financial exploitation of seniors. Take the case of Helen (not her real name) reported in the Chicago Tribune last year. Helen was a 66-year-old mother and grandmother from DuPage County. Early in 1997, Helen lost \$90,000 and even access to her own kitchen due to the actions of her daughter. Helen describes how she felt like a P.O.W. Helen had agreed to pool resources with her daughter and son-in-law and buy a house where all of them would live; the deal seemed like a win-win proposition. Unbeknownst to Helen, most of the money went to pay off her son-in-law's debts. Soon the young couple asked Helen for thousands more and \$300 in monthly rent. Shortly after this, her daughter had construction done on the house which put a new wall between Helen's bedroom and the kitchen, blocking her way to the kitchen and forcing her to prepare her food in the bathroom. Eventually, Helen found herself in a shelter. She now lives in a government subsidized apartment.

The Illinois Department of Aging and other elder abuse service providers will attest to the fact that Helen is not alone in experiencing such financial exploitation. Of the 5,833 reports of elder abuse in Illinois in 1997, nearly half (44.6%) were reports of financial exploitation. Statistics compiled by the Illinois Department on Aging show that the majority of financial abuse victims are female and that most have a functional impairment, such as Alzheimer's disease. For some, financial exploitation may at times be accompanied by physical abuse or the threat of physical abuse or other form of coercion. The states Attorneys General have efforts underway to examine this area and are

cooperating in sharing information on how best to deal with such abuse. Financial exploitation is probably more complex and sometimes more difficult to detect than other forms of abuse. Therefore, we are proposing a study by experts in the field to more comprehensively analyze the problem and to make recommendations for future actions.

With the greying of America, the problems of elder domestic abuse in all its many ugly manifestations, is likely to grow. I believe that we need to take a comprehensive look at our existing family violence programs and ensure that these and other programs that serve seniors are sensitive and knowledgeable of elder domestic abuse. I am pleased that Senators AKAKA, MOSELEY-BRAUN, HARKIN, MIKULSKI, WELLSTONE, DODD, KOHL, WARNER, BOXER, GRAHAM, CLELAND, LANDRIEU, REID, TORRICELLI and FAIRCLOTH have all joined Senator COLLINS and myself in introducing this bill, and I hope that many more will join us in this effort to focus attention on the needs of the "forgotten older victims of domestic violence."

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. 2114

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 "Older Women's Protection From Violence Act of 1998".

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

Sec. 1. Short title; table of contents.
Sec. 2. Findings.

TITLE I—VIOLENCE AGAINST WOMEN ACT OF 1994

Sec. 101. Elder abuse, neglect, and exploitation.

TITLE II—FAMILY VIOLENCE PREVENTION AND SERVICES ACT

Sec. 201. Definitions.
Sec. 202. Domestic abuse services for older individuals.
Sec. 203. State grants.
Sec. 204. Demonstration grants for community initiatives.
Sec. 205. Study regarding health professional training with respect to detection and referral of victims of family violence.

TITLE III—OLDER AMERICANS ACT OF 1965

Sec. 301. Definitions.
Sec. 302. Research about the sexual assault of women who are older individuals.
Sec. 303. State Long-Term Care Ombudsman program.
Sec. 304. Domestic violence shelters and programs for older individuals.
Sec. 305. Authorization of appropriations.
Sec. 306. Community initiatives and outreach.
Sec. 307. Training for health professionals, and other providers of services to older individuals, on screening for elder abuse, neglect, and exploitation.

TITLE IV—PUBLIC HEALTH SERVICE ACT

Sec. 401. Area health education centers.
Sec. 402. Geriatric centers and training.

TITLE V—FINANCIAL EXPLOITATION OF OLDER INDIVIDUALS

Sec. 501. Study and report.

SEC. 2. FINDINGS.

Congress finds that—

(1) of the estimated more than 1,000,000 persons age 65 and over who are victims of abuse each year, at least two-thirds are women;

(2) in almost 9 out of 10 incidents of domestic elder abuse and neglect, the perpetrator is a family member and adult children of the victims are the largest category of perpetrators and spouses are the second largest category of perpetrators;

(3) the number of reports of elder abuse in the United States increased by 150 percent between 1986 and 1996 and is expected to continue growing;

(4) it is estimated that at least 5 percent of the Nation's elderly are victims of moderate to severe abuse and that the rate for all forms of abuse may be as high as 10 percent;

(5) elder abuse is severely underreported, with 1 in 5 cases being reported in 1980 and 1 in 8 cases being reported today;

(6) based on site-specific information from the Indian Health Service, the rate of trauma and violence faced by Indian women could be considered to be epidemic;

(7) elder abuse takes on many forms, including physical abuse, sexual abuse, psychological (emotional) abuse, neglect (intended or unintended), and financial exploitation;

(8) many older persons, particularly women and minorities, fail to report abuse because of shame or as a result of prior unsatisfactory experiences with individual agencies or others who lacked sensitivity to the concerns or needs of older people;

(9) the lack of culturally relevant elder abuse services for Indian women makes access to shelter and other services difficult and often impossible for some Indian women;

(10) many older persons fail to report abuse because they are dependent on their abusers and fear being abandoned or institutionalized;

(11) the lack of access to telephones, law enforcement, and health services in remote areas, including Indian reservations, makes access to relief from elder abuse particularly difficult for some populations;

(12) public and professional awareness and identification of elder abuse is difficult because older persons are not tied into many social networks (such as schools or jobs), and may become isolated in their homes, which can increase the risk of elder abuse;

(13) the Department of Justice does not include age as a category for criminal statistics reporting;

(14)(A) there are relatively few statistics and research studies regarding violence against older women, and even less is known about the incidence of violence against Indian women; and

(B) there is no national data base regarding violence against Indian women; and

(15) older persons would greatly benefit from policies that develop, strengthen, and implement programs for the prevention of abuse, including neglect and exploitation, and provide related assistance for victims.

TITLE I—VIOLENCE AGAINST WOMEN ACT OF 1994

SEC. 101. ELDER ABUSE, NEGLECT, AND EXPLOITATION.

The Violence Against Women Act of 1994 (108 Stat. 1902) is amended by adding at the end the following:

"Subtitle H—Elder Abuse, Neglect, and Exploitation, Including Domestic Violence and Sexual Assault Against Older Individuals

"SEC. 40801. DEFINITIONS.

"In this subtitle:

"(1) IN GENERAL.—The terms 'elder abuse, neglect, and exploitation', 'domestic violence', and 'older individual' have the meanings given the terms in section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002).

"(2) SEXUAL ASSAULT.—The term 'sexual assault' has the meaning given the term in section 2003 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg-2).

"SEC. 40802. LAW SCHOOL CLINICAL PROGRAMS ON ELDER ABUSE, NEGLECT, AND EXPLOITATION.

"The Attorney General shall make grants to law school clinical programs for the purposes of funding the inclusion of cases addressing issues of elder abuse, neglect, and exploitation, including domestic violence, and sexual assault, against older individuals.

"SEC. 40803. TRAINING PROGRAMS FOR LAW ENFORCEMENT OFFICERS.

"The Attorney General shall develop curricula and offer, or provide for the offering of, training programs to assist law enforcement officers, prosecutors, and relevant officers of Federal, State, tribal, and local courts in recognizing, addressing, investigating, and prosecuting instances of elder abuse, neglect, and exploitation, including domestic violence, and sexual assault, against older individuals.

"SEC. 40804. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated such sums as may be necessary to carry out this subtitle."

TITLE II—FAMILY VIOLENCE PREVENTION AND SERVICES ACT

SEC. 201. DEFINITIONS.

Section 309 of the Family Violence Prevention and Services Act (42 U.S.C. 10408) is amended by adding at the end the following:

"(7) The term 'elder domestic abuse' means domestic violence, as defined in section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002), against an older individual, as defined in such section."

SEC. 202. DOMESTIC ABUSE SERVICES FOR OLDER INDIVIDUALS.

Section 311(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10410(a)) is amended—

(1) in paragraph (4), by striking "and" at the end;

(2) in paragraph (5), by striking the period at the end and inserting "and"; and

(3) by adding at the end the following:

"(6) work with domestic violence programs to encourage the development of programs, including outreach, support groups, and counseling, targeted to victims of elder domestic abuse."

SEC. 203. STATE GRANTS.

Section 303(a)(2)(C) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)(2)(C)) is amended by inserting "age," after "because of".

SEC. 204. DEMONSTRATION GRANTS FOR COMMUNITY INITIATIVES.

Section 318(b)(2)(F) of the Family Violence Prevention and Services Act (42 U.S.C. 10418(b)(2)(F)) is amended by inserting "and adult protective services entities" before the semicolon.

SEC. 205. STUDY REGARDING HEALTH PROFESSIONAL TRAINING WITH RESPECT TO DETECTION AND REFERRAL OF VICTIMS OF FAMILY VIOLENCE.

The Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.) is amended by adding at the end the following:

“SEC. 319. STUDY REGARDING HEALTH PROFESSIONAL TRAINING WITH RESPECT TO DETECTION AND REFERRAL OF VICTIMS OF FAMILY VIOLENCE.

“(a) IN GENERAL.—The Secretary shall request that the Institute of Medicine of the National Academy of Sciences, in collaboration with the Family Violence Prevention Fund, conduct a study of the adequacy of training for health professionals with respect to the detection and referral of victims of family violence.

“(b) PURPOSE OF STUDY.—The study conducted under this section shall—

“(1) determine the number of teaching institutions that incorporate training for health professionals in the area of domestic violence and elder abuse;

“(2) assess whether when such training is available, the training is adequate for both detection and referral of victims of domestic violence and elder abuse; and

“(3) examine whether increased training is needed with respect to detection of domestic violence and elder abuse.

“(c) RECOMMENDATIONS.—The Secretary shall ensure that the Institute of Medicine, in consultation with the Family Violence Prevention Fund and based on the results of the study under this section, develops recommendations for improvements in training for health professionals with respect to detection and referral of victims of family violence, through legislative or nonlegislative means.

“(d) FACTORS FOR CONSIDERATION.—In developing the recommendations described in subsection (c), the Secretary shall ensure that Institute of Medicine—

“(1) examines whether preferences, in federally funded educational programs for medical educational entities that include domestic violence and elder abuse training in the curricula of the entities, are effective in providing an incentive for incorporation of such training in the curricula;

“(2) determines whether there are other legislative means that may be effective in encouraging the training described in paragraph (1), such as grant programs for curriculum development; and

“(3) determines an appropriate level of funding for any such grant program recommended.

“(e) REPORT.—The Secretary shall ensure that, not later than 12 months after the date of enactment of the Older Women’s Protection From Violence Act of 1998, a report concerning the study conducted under this section is prepared by the Institute of Medicine and submitted to Congress.”.

TITLE III—OLDER AMERICANS ACT OF 1965

SEC. 301. DEFINITIONS.

Section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002) is amended by adding at the end the following:

“(45) The term ‘domestic violence’ means an act or threat of violence, not including an act of self defense, committed—

“(A) by a current or former spouse of the victim;

“(B) by a person related by blood or marriage to the victim;

“(C) by a person who is cohabiting with or has cohabited with the victim;

“(D) by a person with whom the victim shares a child in common;

“(E) by a person who is or has been in the social relationship of a romantic or intimate nature with the victim; or

“(F) by a person similarly situated to a spouse of the victim, or by any other person, if the domestic or family violence laws of the jurisdiction of the victim provide for legal protection of the victim from the person.

“(46) The term ‘sexual assault’ has the meaning given the term in section 2003 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg-2).”.

SEC. 302. RESEARCH ABOUT THE SEXUAL ASSAULT OF WOMEN WHO ARE OLDER INDIVIDUALS.

Section 202(d)(3)(C) of the Older Americans Act of 1965 (42 U.S.C. 3012(d)(3)(C)) is amended—

(1) by striking “and” at the end of clause (i);

(2) by striking the period at the end of clause (ii) and inserting “; and”; and

(3) by adding at the end the following:

“(iii) in establishing research priorities under clause (i), consider the importance of research about the sexual assault of women who are older individuals.”.

SEC. 303. STATE LONG-TERM CARE OMBUDSMAN PROGRAM.

Section 303(a)(1) of the Older Americans Act of 1965 (42 U.S.C. 3023(a)(1)) is amended by inserting before the period the following:

“, except that for grants to carry out section 321(a)(10), there are authorized to be appropriated such sums as may be necessary without fiscal year limitation”.

SEC. 304. DOMESTIC VIOLENCE SHELTERS AND PROGRAMS FOR OLDER INDIVIDUALS.

Section 422(b) of the Older Americans Act of 1965 (42 U.S.C. 3035a(b)) is amended—

(1) by striking “and” at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting a semicolon; and

(3) by adding at the end the following:

“(13) expand access to domestic violence shelters and programs, including mental health services, for older individuals and encourage the use of senior housing, nursing homes, or other suitable facilities or services when appropriate as emergency short-term shelters or measures for older individuals who are the victims of elder abuse, including domestic violence, and sexual assault, against older individuals; and

“(14) promote research on legal, organizational, or training impediments to providing services to older individuals through shelters and programs, such as impediments to provision of the services in coordination with delivery of health care or senior services.”.

SEC. 305. AUTHORIZATION OF APPROPRIATIONS.

(a) OMBUDSMAN PROGRAM.—Section 702(a) of the Older Americans Act of 1965 (42 U.S.C. 3058a(a)) is amended to read as follows:

“(a) OMBUDSMAN PROGRAM.—There are authorized to be appropriated to carry out chapter 2 such sums as may be necessary without fiscal year limitation.”.

(b) ELDER ABUSE PREVENTION PROGRAM.—Section 702(b) of the Older Americans Act of 1965 (42 U.S.C. 3058a(b)) is amended to read as follows:

“(b) PREVENTION OF ELDER ABUSE, NEGLECT, AND EXPLOITATION.—There are authorized to be appropriated to carry out chapter 3 such sums as may be necessary without fiscal year limitation.”.

SEC. 306. COMMUNITY INITIATIVES AND OUTREACH.

Title VII of the Older Americans Act of 1965 (42 U.S.C. 3058 et seq.) is amended—

(1) by redesignating subtitle C as subtitle D;

(2) by redesignating sections 761 through 764 as sections 771 through 774, respectively; and

(3) by inserting after subtitle B the following:

“Subtitle C—Community Initiatives and Outreach

“SEC. 761. COMMUNITY INITIATIVES TO COMBAT ELDER ABUSE, NEGLECT, AND EXPLOITATION.

“(a) IN GENERAL.—The Assistant Secretary shall make grants to nonprofit private organizations or tribal organizations to support projects in local communities, involving diverse sectors of each community, to coordinate activities concerning intervention in and prevention of elder abuse, neglect, and

exploitation, including domestic violence, and sexual assault, against older individuals.

“(b) AWARD REQUIREMENT.—In awarding grants under subsection (a) the Assistant Secretary shall take into consideration—

“(1) State and tribal efforts to carry out the activities described in such subsection; and

“(2) encouraging coordination among the State and tribal efforts, State adult protective service activities, and activities of private nonprofit organizations.

“SEC. 762. OUTREACH TO OLDER INDIVIDUALS.

“(a) IN GENERAL.—The Assistant Secretary shall make grants to develop and implement outreach programs directed toward assisting older individuals who are victims of elder abuse, neglect, and exploitation (including domestic violence, and sexual assault, against older individuals), including programs directed toward assisting the individuals in senior housing complexes, nursing homes, board and care facilities, and senior centers.

“(b) AWARD REQUIREMENT.—In awarding grants under subsection (a) the Assistant Secretary shall take into consideration—

“(1) State and tribal efforts to develop and implement outreach programs described in such subsection; and

“(2) encouraging coordination among the State and tribal efforts, State adult protective service activities, and activities of private nonprofit organizations.

“SEC. 763. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated to carry out this subtitle such sums as may be necessary without fiscal year limitation.”.

SEC. 307. TRAINING FOR HEALTH PROFESSIONALS, AND OTHER PROVIDERS OF SERVICES TO OLDER INDIVIDUALS, ON SCREENING FOR ELDER ABUSE, NEGLECT, AND EXPLOITATION.

Section 411 of the Older Americans Act of 1965 (42 U.S.C. 3031) is amended by adding at the end the following:

“(f)(1) The Assistant Secretary for Aging shall, in consultation with the Assistant Secretary for Children and Families, the Surgeon General, the Indian Health Service, the Director of the National Institute on Aging, the Family Violence Prevention Fund, the National Center on Elder Abuse, the National Coalition Against Domestic Violence, and other specialists working in the areas of domestic violence against seniors and elder abuse, update and improve curricula and implement continuing education training programs for adult protective service workers, persons carrying out a State Long-Term Care Ombudsman program, health care providers (including home health care providers) and mental health providers (including specialists), social workers, clergy, domestic violence service providers, and other community-based social service providers in settings, including senior centers, adult day care facilities, nursing homes, board and care facilities, senior housing, and the homes of older individuals, to improve the ability of the persons using the curriculum and training programs to recognize and address instances of elder abuse, neglect, and exploitation, including domestic violence, and sexual assault, against older individuals.

“(2) In carrying out paragraph (1), the Assistant Secretary shall develop and implement separate curricula and training programs for medical students, physicians, mental health providers, physician assistants, nurse practitioners, nurses, and social workers.

“(3) In carrying out paragraph (1), the Assistant Secretary shall provide information about the curricula and training programs to entities described in sections 791(c)(2) and 860(f)(2) of the Public Health Service Act (42 U.S.C. 2951(c)(2) and 298b-7(f)(2)) that seek grants or contracts under title VII or VIII of such Act.”

TITLE IV—PUBLIC HEALTH SERVICE ACT

SEC. 401. AREA HEALTH EDUCATION CENTERS.

Subparagraphs (D) and (E) of section 746(d)(2) of the Public Health Service Act (42 U.S.C. 293j(d)(2)) are each amended by inserting “, which may include training in domestic violence and elder abuse screening and referral protocols” before the semicolon.

SEC. 402. GERIATRIC CENTERS AND TRAINING.

(a) GERIATRIC EDUCATION CENTERS.—Section 777(a)(4) of the Public Health Service Act (42 U.S.C. 2940(a)(4)) is amended by inserting “, including training and retraining of faculty to provide instruction regarding identification and treatment of older individuals who are the victims of domestic violence and elder abuse” before the semicolon.

(b) GERIATRIC TRAINING REGARDING PHYSICIANS AND DENTISTS.—Section 777(b)(2)(D) of the Public Health Service Act (42 U.S.C. 2940(b)(2)(D)) is amended—

(1) by striking “and exposure” and inserting “, exposure”; and

(2) by inserting “, and screening for elder abuse and domestic abuse,” after “of elderly individuals”.

TITLE V—FINANCIAL EXPLOITATION OF OLDER INDIVIDUALS

SEC. 501. STUDY AND REPORT.

(a) DEFINITIONS.—In this section—

(1) the term “financial exploitation” means any fraud, coercion, or other conduct by a caregiver, family member, or fiduciary that constitutes a violation of any Federal, State, or tribal law, including any legally enforceable professional standard applicable to any profession or occupation;

(2) the term “financial institution” has the meaning given the term in section 1101 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401);

(3) the term “older individual” has the meaning given the term in section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002); and

(4) the term “Secretary” means the Secretary of the Treasury.

(b) STUDY.—The Secretary, in consultation with the Attorney General of the United States, State attorneys general, and tribal and local prosecutors, shall conduct a study of the nature and extent of financial exploitation of older individuals.

(c) CONSULTATION.—In conducting the study under this section, the Secretary shall solicit comments and information from—

- (1) senior citizen advocacy groups;
- (2) law centers specializing in elder law;
- (3) financial institutions;
- (4) elder abuse coalitions;
- (5) privacy experts;
- (6) providers of adult protective services;
- (7) Indian tribes, the Director of Indian Health Service of the Department of Health and Human Services, and the Commissioner of Indian Affairs of the Department of the Interior;

(8) State Long-Term Care Ombudsmen described in the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.);

(9) area agencies on aging (as defined in section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002));

(10) recipients of grants under title VI of the Older Americans Act of 1965 (42 U.S.C. 3057 et seq.); and

(11) other service providers.

(d) PURPOSE OF STUDY.—In conducting the study under this section, the Secretary shall—

(1) define and describe the scope of the problem of financial exploitation of older individuals;

(2) conduct a survey of financial institutions in order to obtain—

(A) an estimate of the number and type of financial transactions that are considered by those institutions to constitute financial exploitation of older individuals; and

(B) a detailed description of the types and characteristics of risk faced by elderly customers with respect to financial exploitation;

(3) examine whether Federal, State, and tribal laws and regulatory practices are adequate to protect older individuals from financial exploitation; and

(4) examine the extent to which a better public understanding of Federal, State, and tribal laws would help to prevent financial exploitation of older individuals, including an examination regarding whether improved training of officers, employees, and agents of financial institutions concerning their responsibilities under section 1103 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3403) would help to combat the problem of financial exploitation of older individuals.

(e) RECOMMENDATIONS.—

(1) IN GENERAL.—Based on the results of the study under this section, the Secretary, in consultation with the Attorney General and State attorneys general, shall develop recommendations for legislative or other action to prevent the financial exploitation of older individuals.

(2) FACTORS FOR CONSIDERATION.—In developing the recommendations under paragraph (1), the Secretary shall—

(A) balance the needs of older individuals to be free from financial exploitation with their need for financial privacy, and their right against self-incrimination;

(B) consider the most effective and least intrusive legislative solutions to combat the problem of financial exploitation of older individuals;

(C) with respect to the reporting of incidences of financial exploitation of older individuals, consider—

(i) the appropriate Federal, State, or tribal agency to which such incidences should be reported, and the means by which a financial institution would obtain information regarding the manner in which to report such an incidence; and

(ii) whether there should be limitations on the authority of a financial institution to disclose information relating to an older individual who is a customer of the financial institution in order to combat the problem of financial exploitation of older individuals, including limitations on—

(I) the number of times such a disclosure may be made;

(II) the number and type of governmental or tribal agencies to which such a disclosure may be made; and

(III) the duration of the authority of the financial institution to make such a disclosure; and

(D) whether there is a need for adult protective services to combat such exploitation.

(f) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall submit to Congress a report, which shall include—

(1) the results of the study conducted under this section, including an analysis of the extent of the problem of financial exploitation of older individuals; and

(2) the recommendations developed under subsection (e).

• Ms. COLLINS. Mr. President, there is no conduct less consistent with the precepts of a civilized society than the physical abuse of those unable to de-

fend themselves. Our recognition of this has led to an aggressive and ongoing campaign against child abuse, and it must lead to an equally strong response to domestic violence directed at older Americans. For that reason, I am honored to rise today to cosponsor the Older Women's Protection from Violence Act, legislation introduced by my distinguished colleague from Illinois, Senator DURBIN, and I commend Senator DURBIN for his leadership in this area.

Mr. President, at a 1995 hearing in Portland, Maine, chaired by my predecessor, Senator Cohen, elder abuse was aptly described as “society's secret shame.” Family violence, particularly when directed at the elderly, was a major concern of Senator Cohen, and I welcome the opportunity to continue his efforts to combat this intolerable mistreatment of older Americans.

Mr. President, earlier this month my home state released its crime statistics for 1997. I was cheered by the wonderful news that crime fell by 8.7% from 1996, to the lowest rate in at least 20 years. Hidden behind this positive statistic, however, was one that was very disquieting, namely, that domestic violence increased by 7.8%. Ironically, at the same time as we are becoming less likely to be harmed by strangers, many of our neighbors face an increasing threat from members of their own households.

National data demonstrate that cases of domestic elder abuse, which includes neglect as well as physical abuse, are steadily increasing. From 1986 to 1996, the number of cases went from 117,000 to 293,000, an increase of 150%. Furthermore, there is widespread agreement that this type of abuse is greatly underreported. For example, although the number of reported cases in 1994 was 241,000, the National Center on Elder Abuse estimates that the true number of cases was 818,000.

Mr. President, while these numbers indicate a serious and growing problem, all of the statistics in the world do not describe the problem as eloquently as the words of a single victim. At the Maine hearing, one such victim told what happened to her at the hands of her husband after her children left home.

[T]hings got really bad. I had two broken wrists, cracked ribs, held down with his knee on my chest with a knife at my throat. I was made to crawl across the floor with a gun resting on my head, ready to fire. I've been choked until I was limp, and then he would drop me on the floor with a kick. I've been spit on, thrown through a window, dragged into the lake as he said he was going to drown me.

Astonishingly, but not atypically, the witness was married to her husband for 44 years.

Compounding the physical abuse suffered by elderly victims of violence is the sense of being trapped. Again, one of the witnesses at the Portland hearing described this far more effectively than I can.

People ask why I remained under such circumstances. It was fear that kept me

there. . . I had been on an island for eight years. Where would I go? I had no money, no home, no job, and no credit. Although I had left good jobs to follow him from job to job, at age 60 who would hire me? Health insurance was my greatest concern.

With a dependence on the abuser for financial support and physical care, with a long history of emotional ties to that person, with the fear of being held up to ridicule, and with a sense of hopelessness about finding a way out of the predicament, it is hardly surprising that the elderly victim is often reluctant to report domestic assaults.

Domestic violence against older women is a complex problem about which we still lack adequate information. This has led to some erroneous assumptions. For example, it had been thought that assaults against the elderly usually result from caregiver stress, but while this is a factor, its effect now appears to have been overstated. Indeed, according to a recent report, "[a]busers are not identical in their behavior or their assumptions about abusive conduct." As the report points out, this means that a "cookie cutter" approach will not solve the problem.

Furhter complicating our efforts to deal with domestic violence against older women are the conflicting feelings and desires of many of the victims. It is quite common for the victim to have a familial relationship with the abuser, and thus, far more is likely to be involved in dealing with these situations that in dealing with an assault committed by a stranger. For understandable reasons, the older woman may want to preserve the relationship while ending the abuse. Finding effective ways to accomplish this can be a formidable challenge.

Mr. President, the legislation that Senator DURBIN and I are introducing today recognizes that complex problems defy simple solutions. Thus, the Older Women's Protection from Violence Act does not purport to contain a magic bullet that will eliminate this reprehensible conduct, but rather looks to a multi-faceted approach to address a multi-faceted problem. Similarly, the bill does not offer revolutionary solutions; instead, its message is that the time has come for society to roll up its sleeves and engage in the hard work of protecting those who have contributed so much to our individual and collective well-being.

In keeping with the nature of the problem, the legislation provides for training those who are in a position to identify cases of domestic violence against older women. Consistent with the notion that we cannot stop or correct what we do not discover, the primary recipients of that training would be law enforcement officers and health professionals. In addition, the Attorney General is authorized to make grants to law school clinical programs to include elder abuse cases.

The bill reauthorizes and expands programs that provide services to bat-

tered older women. Such services include outreach, support, and counseling. It also enhances their access to domestic violence shelters, something that can mean the difference between life and death in some cases. I should emphasize that the provision of these services will be largely at the local level, with financial assistance from the federal government.

Mr. President, in a prior position, I managed a state agency that has as one of its principal mandates that protection of Maine people, many of them elderly, from fraud and other financial abuses. Thus, I am especially pleased that in addition to addressing violence against older women, this bill seeks to shed light on a problem affecting the elderly that has received even less attention, namely, their financial exploitation by a caregiver or family member.

Two cases discussed at the Maine hearing illustrate my point. In one, an elderly gentleman from southern Maine went without food because his two nephews were stealing his money. Yet, he refused to send them away because they were "family." In the second case, a 75-year old eastern Maine woman returned from the hospital after a severe stroke to find that her daughter and son-in-law had changed the locks on her house. The physical and emotional impact of the experience was so great that she was unable to undertake the legal battle to reclaim her home.

This bill will shed light on this type of abuse by requiring the Secretary of the Treasury to conduct a study of the nature and extent of financial exploitation of older individuals. Our society simply cannot allow our senior citizens who have labored hard to build up a nest egg to have it wrongfully taken from them at the time they need it most.

Mr. President, interest in elder abuse did not begin in our country until the late 1980s, long after we began to focus on child abuse in the 1960s. This may be because these cases are among the least likely to be reported. It may also be because our culture tends to worship youth, perhaps giving our older citizens the sense that we care less about them. In any case, this must change, not only because of demographic trends, but also because it is right.

This bill will contribute to that change by dealing specifically with domestic violence against older women. In addition to providing services to the victims of this conduct, it funds research into various aspects of the problem to enhance our understanding and improve our ability to respond. Our secret shame must not remain a secret.

Mr. President, in 1996 the average age of elder abuse victims was 78. There can be no justification for letting these older Americans, who have reached the point in life where they deserve peace, comfort, and respect, to be the victims of domestic violence or any other form of abuse. This bill is designed to pre-

vent that, and I trust that my colleagues will support us in the effort.●

By Mr. ROCKEFELLER (for himself and Ms. MIKULSKI):

S. 2115. A bill to amend title 38, United States Code, to establish a scholarship program and an education loan debt reduction program to facilitate the employment of primary care and other health care professional by the Veterans Health Administration, and for other purposes; to the Committee on Veterans' Affairs.

DEPARTMENT OF VETERANS AFFAIRS PRIMARY CARE PROVIDERS INCENTIVE ACT OF 1998

● Mr. ROCKEFELLER. Mr. President, I am pleased today to introduce the following legislation, "The Department of Veterans Affairs Primary Care Providers Incentive Act of 1998." This legislation is intended to revitalize the VA's Health Professionals Education Assistance Program, thereby reducing waste, targeting primary care professions and under-served areas, and making the VA more competitive with private employers for skilled personnel. I am pleased to be joined by my respected colleague from Maryland, Senator MIKULSKI, in this effort. I urge our colleagues to join us in supporting this legislation.

The VA health care system is in the midst of a major reorganization that is simultaneously reducing the current workforce and creating the need for more primary care health professionals. This reorganization has dramatically changed the way the VA delivers health care, by shifting the emphasis to outpatient rather than inpatient care. As part of this process, the Department of Veterans Affairs has set a goal of doubling the number of primary care providers in the VA health care system, and we want to assist them. There are two good ways to hire and keep highly skilled professionals—offer incentives to current employees to get training in new areas of need by providing scholarships, and recruit new primary care providers by offering assistance in paying off student loans. This legislation, which includes both a scholarship program and an education debt reduction program, can help.

The VA needs educational assistance programs such as these to effectively recruit and retain trained primary care health professionals. In the VA hospitals and clinics, some of the most difficult positions to fill are those of nurse practitioners, physical therapists, and occupational therapists. In my home state of West Virginia, for example, at one of the VA hospitals there has been a vacancy for an occupational therapist for over twelve years! Two of the VA hospitals have no physical therapists at all. This is simply unacceptable.

The plain fact is that the VA cannot offer the same starting salaries as those available in private practice. The Education Debt Reduction Program included within the Primary Care Providers Incentive Act gives the VA a financial recruitment tool that will be

an enormous help in making the VAMCs more competitive for these much-needed and highly skilled individuals. This program was first designed by Senator MIKULSKI in 1993 in recognition of this very problem. It was needed then, and it is still needed now.

Recruitment is only half the problem in building a new workforce that is geared toward providing primary care. Retention of trained people, especially in the face of low morale due to budget cuts, is equally important. The scholarship program in this legislation is designed to answer this very need. Eligibility is limited to current VA employees, thus enabling VA to build staff morale. The scholarship program provides a means for vulnerable employees to protect themselves against future RIFs by acquiring training in the new areas of need. And, VA gets the workforce they need, composed of motivated and loyal employees.

Professional associations representing primary care health workers, VAMC human resources personnel, and past recipients of VA scholarships are strongly in support of this legislation. Although this is a time of budget reductions in health care, these programs are a worthwhile investment, enhancing morale of the VA health care providers in the short term, while building a workforce that matches VA's needs and improves veterans' health care in the long run.

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

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

S. 2115

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of Veterans Affairs Primary Care Providers Incentive Act of 1998".

SEC. 2. SCHOLARSHIP PROGRAM FOR DEPARTMENT OF VETERANS AFFAIRS EMPLOYEES RECEIVING EDUCATION OR TRAINING IN THE HEALTH PROFESSIONS.

(a) PROGRAM AUTHORITY.—(1) Chapter 76 of title 38, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER VI—EMPLOYEE INCENTIVE SCHOLARSHIP PROGRAM

"§ 7671. Authority for program

"As part of the Educational Assistance Program, the Secretary shall carry out a scholarship program under this subchapter. The program shall be known as the Department of Veterans Affairs Employee Incentive Scholarship Program (hereinafter in this subchapter referred to as the 'Program').

"§ 7672. Eligibility; agreement

"(a) ELIGIBILITY.—To be eligible to participate in the Program, an individual—

"(1) must be an eligible Department employee who is accepted for enrollment or enrolled (as described in section 7602 of this title) as a full-time or part-time student in a field of education or training described in subsection (c); and

"(2) must demonstrate financial need, as determined under regulations prescribed by the Secretary.

"(b) ELIGIBLE DEPARTMENT EMPLOYEES.—For purposes of subsection (a), an eligible Department employee is any employee of the Department who, as of the date on which the employee submits an application for participation in the Program, has been continuously employed by the Department for not less than two years.

"(c) QUALIFYING FIELDS OF EDUCATION OR TRAINING.—A scholarship may be awarded under the Program only for education and training in a field leading to appointment or retention in a position under section 7401 of this title.

"(d) PREFERENCE IN AWARD OF SCHOLARSHIPS.—(1) Notwithstanding section 7603(d) of this title and subject to paragraph (2), in selecting participants in the Program, the Secretary shall give preference to the following applicants, in the order specified:

"(A) Applicants who are or will be pursuing a course of education or training in a field relating to the provision of primary care health services, as designated by the Secretary.

"(B) Applicants who are employed at Department health-care facilities located in rural areas or at which there is an inadequate supply of individuals qualified to hold a position under section 7401 of this title, as so designated.

"(2) In the case of a pool of applicants covered by subparagraph (A) or (B) of paragraph (1), the Secretary shall give preference in the award of scholarships to the members of the pool who have the greatest financial need.

"(3) The Secretary shall maintain, and update periodically, a list setting forth—

"(A) the fields of education or training covered by subparagraph (A) of paragraph (1); and

"(B) the facilities covered by subparagraph (B) of that paragraph.

"(e) AGREEMENT.—(1) An agreement between the Secretary and a participant in the Program shall (in addition to the requirements set forth in section 7604 of this title) include the following:

"(A) The Secretary's agreement to provide the participant with a scholarship under the Program for a specified number (from one to three) of school years during which the participant pursues a course of education or training described in subsection (c) that meets the requirements set forth in section 7602(a) of this title.

"(B) The participant's agreement to serve as a full-time employee in the Veterans Health Administration for a period of time (hereinafter in this subchapter referred to as the 'period of obligated service') of one calendar year for each school year or part thereof for which the participant was provided a scholarship under the Program, but for not less than two years.

"(C) The participant's agreement to serve under subparagraph (B) in a Department facility selected by the Secretary.

"(2) In a case in which an extension is granted under section 7673(c)(2) of this title, the number of years for which a scholarship may be provided under the Program shall be the number of school years provided for as a result of the extension.

"(3) In the case of a participant who is a part-time student—

"(A) the period of obligated service shall be reduced in accordance with the proportion that the number of credit hours carried by such participant in any such school year bears to the number of credit hours required to be carried by a full-time student in the course of training being pursued by the participant, but in no event to less than one year; and

"(B) the agreement shall include the participant's agreement to maintain employment, while enrolled in such course of education or training, as a Department employee permanently assigned to a Department health-care facility.

"§ 7673. Scholarship

"(a) SCHOLARSHIP.—A scholarship provided to a participant in the Program for a school year shall consist of payment of the tuition of the participant for that school year and payment of other reasonable educational expenses (including fees, books, and laboratory expenses) for that school year.

"(b) AMOUNTS.—The total amount of the scholarship payable under subsection (a)—

"(1) in the case of a participant in the Program who is a full-time student, may not exceed \$10,000 for any one year; and

"(2) in the case of a participant in the Program who is a part-time student, shall be the amount specified in paragraph (1) reduced in accordance with the proportion that the number of credit hours carried by the participant in that school year bears to the number of credit hours required to be carried by a full-time student in the course of education or training being pursued by the participant.

"(c) LIMITATION ON YEARS OF PAYMENT.—(1) Subject to paragraph (2), a participant in the Program may not receive a scholarship under subsection (a) for more than three school years.

"(2) The Secretary may extend the number of school years for which a scholarship may be awarded to a participant in the Program who is a part-time student to a maximum of six school years if the Secretary determines that the extension would be in the best interest of the United States.

"(d) PAYMENT OF EDUCATIONAL EXPENSES BY EDUCATIONAL INSTITUTIONS.—The Secretary may arrange with an educational institution in which a participant in the Program is enrolled for the payment of the educational expenses described in subsection (a). Such payments may be made without regard to subsections (a) and (b) of section 3324 of title 31.

"§ 7674. Status of certain participants

"(a) STATUS.—A participant in the Program described in subsection (b) shall not, by reason of such participation—

"(1) be considered an employee of the Federal Government; or

"(2) be counted against any personnel ceiling affecting the Veterans Health Administration.

"(b) COVERED PARTICIPANTS.—Subsection (a) applies in the case of any participant in the Program who is a student on a full-time basis and is not performing service for the Department.

"§ 7675. Obligated service

"(a) IN GENERAL.—Each participant in the Program shall provide service as a full-time employee of the Department for the period of obligated service provided in the agreement of the participant entered into under section 7603 of this title. Such service shall be provided in the full-time clinical practice of such participant's profession or in another health-care position in an assignment or location determined by the Secretary.

"(b) DETERMINATION OF SERVICE COMMENCEMENT DATE.—(1) Not later than 60 days before a participant's service commencement date, the Secretary shall notify the participant of that service commencement date. That date is the date for the beginning of the participant's period of obligated service.

"(2) As soon as possible after a participant's service commencement date, the Secretary shall—

"(A) in the case of a participant who is not a full-time employee in the Veterans Health

Administration, appoint the participant as such an employee; and

“(B) in the case of a participant who is an employee in the Veterans Health Administration but is not serving in a position for which the participant’s course of education or training prepared the participant, assign the participant to such a position.

“(3)(A) In the case of a participant receiving a degree from a school of medicine, osteopathy, dentistry, optometry, or podiatry, the participant’s service commencement date is the date upon which the participant becomes licensed to practice medicine, osteopathy, dentistry, optometry, or podiatry, as the case may be, in a State.

“(B) In the case of a participant receiving a degree from a school of nursing, the participant’s service commencement date is the later of—

“(i) the participant’s course completion date; or

“(ii) the date upon which the participant becomes licensed as a registered nurse in a State.

“(C) In the case of a participant not covered by subparagraph (A) or (B), the participant’s service commencement date is the later of—

“(i) the participant’s course completion date; or

“(ii) the date the participant meets any applicable licensure or certification requirements.

“(4) The Secretary shall by regulation prescribe the service commencement date for participants who were part-time students. Such regulations shall prescribe terms as similar as practicable to the terms set forth in paragraph (3).

“(c) COMMENCEMENT OF OBLIGATED SERVICE.—(1) Except as provided in paragraph (2), a participant in the Program shall be considered to have begun serving the participant’s period of obligated service—

“(A) on the date, after the participant’s course completion date, on which the participant (in accordance with subsection (b)) is appointed as a full-time employee in the Veterans Health Administration; or

“(B) if the participant is a full-time employee in the Veterans Health Administration on such course completion date, on the date thereafter on which the participant is assigned to a position for which the participant’s course of training prepared the participant.

“(2) A participant in the Program who on the participant’s course completion date is a full-time employee in the Veterans Health Administration serving in a capacity for which the participant’s course of training prepared the participant shall be considered to have begun serving the participant’s period of obligated service on such course completion date.

“(d) COURSE COMPLETION DATE DEFINED.—In this section, the term ‘course completion date’ means the date on which a participant in the Program completes the participant’s course of education or training under the Program.

“§ 7676. Breach of agreement: liability

“(a) LIQUIDATED DAMAGES.—A participant in the Program (other than a participant described in subsection (b)) who fails to accept payment, or instructs the educational institution in which the participant is enrolled not to accept payment, in whole or in part, of a scholarship under the agreement entered into under section 7603 of this title shall be liable to the United States for liquidated damages in the amount of \$1,500. Such liability is in addition to any period of obligated service or other obligation or liability under the agreement.

“(b) LIABILITY DURING COURSE OF EDUCATION OR TRAINING.—(1) Except as provided

in subsection (d), a participant in the Program shall be liable to the United States for the amount which has been paid to or on behalf of the participant under the agreement if any of the following occurs:

“(A) The participant fails to maintain an acceptable level of academic standing in the educational institution in which the participant is enrolled (as determined by the educational institution under regulations prescribed by the Secretary).

“(B) The participant is dismissed from such educational institution for disciplinary reasons.

“(C) The participant voluntarily terminates the course of education or training in such educational institution before the completion of such course of education or training.

“(D) The participant fails to become licensed to practice medicine, osteopathy, dentistry, podiatry, or optometry in a State, fails to become licensed as a registered nurse in a State, or fails to meet any applicable licensure requirement in the case of any other health-care personnel who provide either direct patient-care services or services incident to direct patient-care services, during a period of time determined under regulations prescribed by the Secretary.

“(E) In the case of a participant who is a part-time student, the participant fails to maintain employment, while enrolled in the course of training being pursued by the participant, as a Department employee.

“(2) Liability under this subsection is in lieu of any service obligation arising under a participant’s agreement.

“(c) LIABILITY DURING PERIOD OF OBLIGATED SERVICE.—(1) Except as provided in subsection (d), if a participant in the Program breaches the agreement by failing for any reason to complete such participant’s period of obligated service, the United States shall be entitled to recover from the participant an amount determined in accordance with the following formula:

$$A=3\Phi \left(\frac{t-s}{t} \right)$$

“(2) In such formula:

“(A) ‘A’ is the amount the United States is entitled to recover.

“(B) ‘Φ’ is the sum of—

“(i) the amounts paid under this subchapter to or on behalf of the participant; and

“(ii) the interest on such amounts which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States.

“(C) ‘t’ is the total number of months in the participant’s period of obligated service, including any additional period of obligated service in accordance with section 7673(c)(2) of this title.

“(D) ‘s’ is the number of months of such period served by the participant in accordance with section 7673 of this title.

“(d) LIMITATION ON LIABILITY FOR REDUCTIONS-IN-FORCE.—Liability shall not arise under subsection (b)(1)(E) or (c) in the case of a participant otherwise covered by the subsection concerned if the participant fails to maintain employment as a Department employee due to a reduction-in-force.

“(e) PERIOD FOR PAYMENT OF DAMAGES.—Any amount of damages which the United States is entitled to recover under this section shall be paid to the United States within the one-year period beginning on the date of the breach of the agreement.

“§ 7677. Expiration of program

“The Secretary may not furnish scholarships to individuals who commence participation in the Program after December 31, 2001.”

(2) The table of sections at the beginning of chapter 76 of title 38, United States Code, is amended by adding at the end the following:

“SUBCHAPTER VI—EMPLOYEE INCENTIVE SCHOLARSHIP PROGRAM

“7671. Authority for program.

“7672. Eligibility; agreement.

“7673. Scholarship.

“7674. Status of certain participants.

“7675. Obligated service.

“7676. Breach of agreement: liability.

“7677. Expiration of program.”

(b) REGULATIONS.—The Secretary of Veterans Affairs may treat regulations prescribed subchapter II of chapter 76 of title 38, United States Code, as regulations required under subchapter VI of that chapter, as added by subsection (a), but only to the extent that the regulations prescribed under such subchapter II are not inconsistent with the provisions of such subchapter VI.

SEC. 3. EDUCATION DEBT REDUCTION PROGRAM FOR VETERANS HEALTH ADMINISTRATION HEALTH PROFESSIONALS.

(a) PROGRAM AUTHORITY.—Chapter 76 of title 38, United States Code (as amended by section 2), is further amended by adding after subchapter VI the following new subchapter:

“SUBCHAPTER VII—EDUCATION DEBT REDUCTION PROGRAM

“§ 7681. Authority for program

“(a) IN GENERAL.—(1) As part of the Educational Assistance Program, the Secretary may carry out an education debt reduction program under this subchapter. The program shall be known as the Department of Veterans Affairs Primary Care Workers Education Debt Reduction Program (hereinafter in this subchapter referred to as the ‘Education Debt Reduction Program’).

“(2) The purpose of the Education Debt Reduction Program is to assist personnel serving in health-care positions in the Veterans Health Administration in reducing the amount of debt incurred by such personnel in completing programs of education or training that qualified such personnel for such service.

“(b) RELATIONSHIP TO EDUCATIONAL ASSISTANCE PROGRAM.—Education debt reduction payments under the Education Debt Reduction Program shall be in addition to other assistance available to individuals under the Educational Assistance Program.

“§ 7682. Eligibility

“(a) ELIGIBILITY.—An individual eligible to participate in the Education Debt Reduction Program is any individual who—

“(1) is serving in a position in the Veterans Health Administration under an appointment under section 7402(b) of this title; and

“(2) owes any amount of principal or interest under a loan the proceeds of which were used by or on behalf of the individual to pay costs relating to a course of education or training which led to a degree that qualified the individual for a position referred to in paragraph (1).

“(b) COVERED COSTS.—For purposes of subsection (a)(2), costs relating to a course of education or training include—

“(1) tuition expenses;

“(2) all other reasonable educational expenses, including expenses for fees, books, and laboratory expenses; and

“(3) reasonable living expenses.

“§ 7683. Preference

“(a) PREFERENCE.—Notwithstanding section 7603(d) of this title, in selecting individuals for education debt reduction payments

under the Education Debt Reduction Program, the Secretary shall give preference to the following (in the order specified):

“(1) Individuals recently appointed by the Secretary to positions under section 7401 of this title in fields relating to primary care health services, as designated by the Secretary.

“(2) Individuals recently appointed by the Secretary to positions under such section in areas in which the recruitment or retention of an adequate supply of qualified health-care personnel is difficult, as so designated.

“(3) Any other individuals serving in appointments to positions described in paragraphs (1) and (2).

“(b) RECENTLY APPOINTED INDIVIDUALS.—An individual shall be treated as recently appointed to a position for purposes of subsection (a) if the individual was appointed to the position not more than 6 months before the date of treatment for such purposes.

“§ 7684. Education debt reduction

“(a) IN GENERAL.—Education debt reduction payments under the Education Debt Reduction Program shall consist of payments to individuals selected to participate in the program of amounts to reimburse such individuals for payments by such individuals of principal and interest on loans described in section 7682(a)(2) of this title.

“(b) FREQUENCY OF PAYMENT.—(1) The Secretary may make education debt reduction payments to any given participant in the Education Debt Reduction Program on a monthly or annual basis, at the election of the Secretary.

“(2) The Secretary shall make such payments at the end of the period elected by the Secretary under paragraph (1).

“(c) PERFORMANCE REQUIREMENT.—The Secretary may make education debt reduction payments to a participant in the Education Debt Reduction Program for a period only if the Secretary determines that the individual maintained an acceptable level of performance in the position or positions served by the participant during the period.

“(d) MAXIMUM ANNUAL AMOUNT.—(1) Subject to paragraph (2), the total amount of education debt reduction payments made to a participant for a year under the Education Debt Reduction Program shall be—

“(A) \$6,000 for the first year of the participant's participation in such Program;

“(B) \$8,000 for the second year of the participant's participation in such Program; and

“(C) \$10,000 for the third year of the participant's participation in such Program.

“(2) The total amount payable to a participant in such Program for any year may not exceed the amount of the principle and interest on loans referred to in subsection (a) that is paid by the individual during such year.

“§ 7685. Expiration of program

“The Secretary may not make education debt reduction payments to individuals who commence participation in the Education Debt Reduction Program after December 31, 2001.”

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 76 of title 38, United States Code (as amended by section 2(b)), is further amended by adding at the end the following:

“SUBCHAPTER VII—EDUCATION DEBT REDUCTION PROGRAM

“7681. Authority for program.

“7682. Eligibility.

“7683. Preference.

“7684. Education debt reduction.

“7685. Expiration of program.”

SEC. 4. REPEAL OF PROHIBITION ON PAYMENT OF TUITION LOANS.

Section 523(b) of the Veterans Health Care Act of 1992 (Public Law 102-585; 106 Stat. 4959; 38 U.S.C. 7601 note) is repealed.

SEC. 5. OUTREACH.

The Secretary of Veterans Affairs shall take appropriate actions to notify employees of the Department of Veterans Affairs of the benefits available under the Department of Veterans Affairs Employee Incentive Scholarship Program under subchapter VI of chapter 76 of title 38, United States Code (as added by section 2), and under the Department of Veterans Affairs Primary Care Workers Education Debt Reduction Program under subchapter VII of that chapter (as added by section 3).

SEC. 6. CONFORMING AMENDMENTS.

Chapter 76 of title 38, United States Code (as amended by this Act), is further amended as follows:

(1) In section 7601(a)—

(A) by striking out “and” at the end of paragraph (2);

(B) by striking out the period at the end of paragraph (3) and inserting in lieu thereof a semicolon; and

(C) by adding at the end the following:

“(4) the employee incentive scholarship program provided for in subchapter VI of this chapter; and”; and

“(5) the education debt reduction program provided for in subchapter VII of this chapter.”

(2) In section 7602—

(A) in subsection (a)(1)—

(i) by striking out “subchapter I or II” and inserting in lieu thereof “subchapter II, III, or VI”; and

(ii) by striking out “or for which” and inserting in lieu thereof “, for which”; and

(iii) by inserting before the period at the end the following: “, or for which a scholarship may be awarded under subchapter VI of this chapter, as the case may be”; and

(B) in subsection (b), by striking out “subchapter I or II” and inserting in lieu thereof “subchapter II, III, or VI”.

(3) In section 7603—

(A) in subsection (a)—

(i) by striking out “To apply to participate in the Educational Assistance Program,” and inserting in lieu thereof “(1) To apply to participate in the Educational Assistance Program under subsection II, III, V, or VI of this chapter,”; and

(ii) by adding at the end the following:

“(2) To apply to participate in the Educational Assistance Program under subchapter VII of this chapter, an individual shall submit to the Secretary an application for such participation.”; and

(B) in subsection (b)(1), by inserting “(if required)” before the period at the end.

(4) In section 7604, by striking out “subchapter II, III, or V” each place it appears in paragraphs (1)(A), (2)(D), and (5) and inserting in lieu thereof “subchapter II, III, V, or VI”.

(5) In section 7632—

(A) in paragraph (1)—

(i) by striking out “and the Tuition Reimbursement Program” and inserting in lieu thereof “, the Tuition Reimbursement Program, the Employee Incentive Scholarship Program, and the Education Debt Reduction Program”; and

(ii) by inserting “(if any)” after “number of students”;

(B) in paragraph (2), by inserting “(if any)” after “education institutions”; and

(C) in paragraph (4)—

(i) by striking “and per participant” and inserting in lieu thereof “, per participant”; and

(ii) by inserting “, per participant in the Employee Incentive Scholarship Program, and per participant in the Education Debt Reduction Program” before the period at the end.

(6) In section 7636, by striking “or a stipend” and inserting “a stipend, or education debt reduction”.

● Ms. MIKULSKI. Mr. President, today I am cosponsoring with Senator ROCKEFELLER, the DVA Primary Care Incentive Act of 1998.

Mr. President, I believe that this bill will ultimately benefit our veterans. It will help the Department of Veterans Affairs in its effort to provide the highest quality of care that our veterans deserve.

Mr. President, this bill will create a new Education Debt Reduction program, and an Employee Incentive Scholarship Program. The Debt Reduction Program will aid the VA in its efforts to increase its number of primary care professionals. Preference will be given to those choosing to serve at rural or under-served sites, and to those professionals in hard to fill specialties. The bill provides the Secretary of the VA with the discretion to determine priority needs with respect to profession, and locations with the greatest need. Debt Reduction program recipients will have to serve a term with the VA equivalent to the length of the repayments. A key component of the Debt Reduction Program is that each year's repayments won't begin until a person has completed a corresponding year of service to the VA. This requirement is critical to ensuring that our veterans get the service they deserve, and that taxpayers get a return on their tax dollars invested.

Mr. President, I introduced a debt reduction bill in 1992 because I recognized the need to provide the VA with adequate resources to recruit the professionals it needs. And I realized that some who may want to get the training to help our veterans may not have all of the necessary means to do so. I applaud Senator ROCKEFELLER for including an updated debt reduction component to this bill.

The second component of the bill is the Employee Incentive Scholarship Program. This is designed to help meet the VA's need for more primary care professionals and to help retain and retrain some of the VA's current employees. Like the Debt Reduction program, priority would be given to those willing to serve in under-served areas and in hard to fill specialties. Recipients would also have to serve at a VA clinical site for a term equivalent to the scholarship term. The difference is that the Scholarship program would be open only to current VA employees with a minimum of two years of service. We want to ensure that those benefiting from the Scholarship program have demonstrated a commitment to the VA. We also want to provide the opportunity structure for those employees who want to expand their skills and move into new fields.

In 1996, Veterans Health Administration Under Secretary for Health, Dr. Kenneth Kizer, published a work called “Prescription for Change”. In it, he noted the VA's goal to increase the

number of VA non-physician primary care providers by 200 percent by 1998. While the VA has made progress, it has not met its goal. This bill seeks to provide another tool in the VA's tool belt that will allow it to meet its goal.

Mr. President, I have been an advocate for our nation's veterans for years. I firmly believe that promises made to our nations veterans must be promises kept. Our veterans risked their lives for our freedom and the protection of democracy. I believe that we as a nation are committed to providing the services that our veterans need.

As the VA continues its move to more outpatient primary care, we must make sure that the VA can attract and retain the type of professionals who can give our veterans the medical care and treatment they deserve.

I urge my colleagues' support.●

By Mr. LUGAR:

S. 2116. A bill to clarify and enhance the authorities of the Chief Information Officer of the Department of Agriculture; to the Committee on Agriculture, Nutrition, and Forestry.

THE USDA INFORMATION TECHNOLOGY REFORM AND YEAR-2000 COMPLIANCE ACT OF 1998

● Mr. LUGAR. Mr. President, today I introduce the USDA Information Technology Reform and Year-2000 Compliance Act of 1998. This legislation aims to centralize all year 2000 computer conversion and other information technology acquisition and management activities within the Officer of the Chief Information Office of the Department of Agriculture. Centralization is the most efficient way to manage the complex and important task of ensuring that all critical computer functions at the department are operational on January 1, 2000. It is also a wiser and more cost effective way to construct an information technology infrastructure to enable USDA's hundreds of computer systems to interoperate, which unfortunately they cannot now do.

The Department of Agriculture is charged with enormous responsibilities and its year 2000 readiness is crucial. It has a diverse portfolio of over 200 federal programs throughout the nation and the world. The department delivers about \$80 billion in programs. It is the fourth largest federal agency, with 31 agencies and offices. The department is responsible for the safety of our food supply, nutrition programs that serve the poor, young and old, and the protection of our natural resources. Since forty percent of the non-tax debt owed to the federal government is owed to USDA, the department has a responsibility to ensure the financial soundness of taxpayers' investments.

The decentralized approach to the year 2000 issue at USDA has led to a lack of focus on departmental priorities. In fact, none exist. No planning to assure the continuation of the overall mission of the department has occurred. Each agency has been allowed to determine what services, programs and activities it deems important enough to be oper-

ational at the end of the millennium. This decentralized approach has also led to a lack of guidance, oversight and the development of contingency plans. At a hearing before the Committee on Agriculture, Nutrition, and Forestry on May 14th, the General Accounting Office reported that eighty percent of the work remains to be done in the ten component agencies reviewed. Responsibility for keeping the mission-critical information technology functioning should clearly rest with the Chief Information Officer.

In fiscal year 1998 alone, USDA plans to spend approximately \$1.2 billion on information technology and related information resources management activities. The General Accounting Office has chronicled USDA's long history of problems in managing its substantial information technology investments. The GAO reports that such ineffective planning and management have resulted in USDA's wasting millions of dollars on computer systems.

Last year, I introduced S. 805, a bill to reform the information technology systems of the Department of Agriculture. It gave the Chief Information Officer control over the planning, development and acquisition of information technology at the department. Introduction of that bill prompted some coordination of information technology among the department's agencies and offices. However, component agencies are still allowed to independently acquire and manage information technology investments solely on the basis of their own parochial interests or needs. This revised legislation is now needed to strengthen that coordination and ensure that centralized information technology management continues in the future.

This legislation further requires that the Chief Information Officer manage the design and implementation of an information technology architecture based on strategic business plans that maximizes the effectiveness and efficiency of USDA's program activities. Included in the bill is authority for the Chief Information Officer to approve expenditures for information resources and for year 2000 compliance purposes, except for minor acquisitions. To accomplish these purposes, the bill requires that each agency transfer not less than five percent of its information technology budget to the Chief Information Officer's control.

The bill makes the Chief Information Officer responsible for ensuring that the information technology architecture facilitates a flexible common computing environment for the field service centers based on integrated program delivery and provides maximum data sharing with USDA customers and other federal and state agencies, which is expected to result in significant reduction in operating costs.

Mr. President, this is a bill whose time has come. Unfortunately, USDA's problems in managing information technology are not unusual among gov-

ernment agencies, according to the General Accounting Office. I commend the attention of my colleagues to this bill designed to address a portion of the information resource management problems of the federal government and ask for their support of it.●

By Mr. JOHNSON (for himself and Mr. DASCHLE):

S. 2117. A bill to authorize the construction of the Perkins County Rural Water System and authorize financial assistance to the Perkins County Rural Water System, Inc., a nonprofit corporation, in the planning and construction of the water supply system, and for other purposes; to the Committee on Energy and Natural Resources.

PERKINS COUNTY RURAL WATER SYSTEM ACT OF 1998

● Mr. JOHNSON. Mr. President, today I am proud to introduce legislation to authorize a critically important rural water system in South Dakota, the "Perkins County Rural Water System Act of 1998." I am pleased to have my good friend and colleague from South Dakota, Senator DASCHLE, as an original cosponsor of this important legislation, which I had introduced during the 104th Congress as a Member of the House of Representatives. Congressman THUNE of South Dakota is the sponsor of similar legislation in the House during this Congress. This legislation is also strongly supported by the State of South Dakota and local project sponsors, who have demonstrated that support by agreeing to substantial financial contributions from the local level.

Like many parts of South Dakota, Perkins County has insufficient water supplies of reasonable quality available, and the water supplies that are available do not meet the minimum health and safety standards, thereby posing a threat to public health and safety.

In addition to improving the health of residents in the region, I strongly believe that this rural drinking water delivery project will help to stabilize the rural economy as well. Water is a basic commodity and is essential if we are to foster rural development in many parts of rural South Dakota, including the Perkins County area.

The "Perkins County Rural Water System Act of 1998" authorizes the Bureau of Reclamation to construct a Perkins County Rural Water System providing service to approximately 2,500 people, including the communities of Lemmon and Bison, as well as rural residents. The Perkins County Rural Water System is located in northwestern South Dakota along the South Dakota/North Dakota border and it will be an extension of an existing rural water system in North Dakota, the Southwest Pipeline Project. The State of South Dakota has worked closely with the State of North Dakota over the years on the Perkins County connection to the Southwest Pipeline Project. A feasibility study completed

in 1994 looked at several alternatives for a dependable water supply, and the connection to the Southwest Pipeline Project is clearly the most feasible for the Perkins County area.

Mr. President, South Dakota is plagued by water of exceedingly poor quality, and the Perkins County rural water project is an effort to help provide clean water—a commodity most of us take for granted—to the people of Perkins County, South Dakota. I am a strong believer in the federal governments role in rural water delivery, and I hope to continue to advance that agenda both in South Dakota and around the country. I urge my colleagues to support this important rural water legislation, and I look forward to working with my colleagues on the Senate Energy and Natural Resources Committee to move forward on enactment as quickly as possible.

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. 2117

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Perkins County Rural Water System Act of 1997".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) there are insufficient water supplies of reasonable quality available to the members of the Perkins County Rural Water System located in Perkins County, South Dakota, and the water supplies that are available do not meet minimum health and safety standards, thereby posing a threat to public health and safety;

(2) in 1977, the North Dakota State Legislature authorized and directed the State Water Commission to conduct the Southwest Area Water Supply Study, which included water service to a portion of Perkins County, South Dakota;

(3) amendments made by the Garrison Diversion Unit Reformulation Act of 1986 (Public Law 101-294) authorized the Southwest Pipeline project as an eligible project for Federal cost share participation;

(4) the Perkins County Rural Water System has continued to be recognized by the State of North Dakota, the Southwest Water Authority, the North Dakota Water Commission, the Department of the Interior, and Congress as a component of the Southwest Pipeline Project; and

(5) the best available, reliable, and safe rural and municipal water supply to serve the needs of the Perkins County Rural Water System, Inc., members is the waters of the Missouri River as delivered by the Southwest Pipeline Project in North Dakota.

(b) PURPOSES.—The purposes of this Act are—

(1) to ensure a safe and adequate municipal, rural, and industrial water supply for the members of the Perkins County Rural Water Supply System, Inc., in Perkins County, South Dakota;

(2) to assist the members of the Perkins County Rural Water Supply System, Inc., in developing safe and adequate municipal, rural, and industrial water supplies; and

(3) to promote the implementation of water conservation programs by the Perkins County Rural Water System, Inc.

SEC. 3. DEFINITIONS.

In this Act:

(1) FEASIBILITY STUDY.—The term "feasibility study" means the study entitled "Feasibility Study for Rural Water System for Perkins County Rural Water System, Inc.", as amended in March 1995.

(2) PROJECT CONSTRUCTION BUDGET.—The term "project construction budget" means the description of the total amount of funds that are needed for the construction of the water supply system, as described in the feasibility study.

(3) PUMPING AND INCIDENTAL OPERATIONAL REQUIREMENTS.—The term "pumping and incidental operational requirements" means all power requirements that are incidental to the operation of intake facilities, pumping stations, water treatment facilities, cooling facilities, reservoirs, and pipelines to the point of delivery of water by the Perkins County Rural Water System to each entity that distributes water at retail to individual users.

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation.

(5) WATER SUPPLY SYSTEM.—The term "water supply system" means the Perkins County Rural Water System, Inc., a non-profit corporation, established and operated substantially in accordance with the feasibility study.

SEC. 4. FEDERAL ASSISTANCE FOR WATER SUPPLY SYSTEM.

(a) IN GENERAL.—The Secretary shall make grants to the water supply system for the Federal share of the costs of—

(1) the planning and construction of the water supply system; and

(2) repairs to existing public water distribution systems to ensure conservation of the resources and to make the systems functional under the new water supply system.

(b) SERVICE AREA.—The water supply system shall provide for safe and adequate municipal, rural, and industrial water supplies, mitigation of wetlands areas, repairs to existing public water distribution systems, and water conservation in Perkins County, South Dakota.

(c) AMOUNT OF GRANTS.—Grants made available under subsection (a) to the water supply system shall not exceed the Federal share under section 10.

(d) LIMITATION ON AVAILABILITY OF CONSTRUCTION FUNDS.—The Secretary shall not obligate funds for the construction of the water supply system until—

(1) the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) are met with respect to the water supply system;

(2) a final engineering report has been prepared and submitted to Congress for a period of not less than 90 days before the commencement of construction of the system; and

(3) the water supply system has developed and implemented a water conservation program.

SEC. 5. WATER CONSERVATION PROGRAM.

(a) PURPOSE.—The water conservation program under section 4(d)(3) shall be designed to ensure that users of water from the water supply system will use the best practicable technology and management techniques to conserve water use.

(b) DESCRIPTION.—The water conservation program shall include—

(1) low consumption performance standards for all newly installed plumbing fixtures;

(2) leak detection and repair programs;

(3) rate structures that do not include declining block rate schedules for municipal households or special water users (as defined in the feasibility study);

(4) public education programs;

(5) coordinated operation and maintenance (including necessary repairs to ensure minimal water losses) by and between the water supply system and any member of the system that is a preexisting water supply facility within the service area of the system; and

(6) coordinated operation between the Southwest Pipeline Project of North Dakota and the Perkins County Rural Water System, Inc., of South Dakota.

(c) REVIEW AND REVISION.—The program described in subsection (b) shall contain provisions for periodic review and revision, in cooperation with the Secretary.

SEC. 6. MITIGATION OF FISH AND WILDLIFE LOSSES.

Mitigation of fish and wildlife losses incurred as a result of the construction and operation of the water supply system shall be on an acre-for-acre basis, based on ecological equivalency, concurrent with project construction, as provided in the feasibility study.

SEC. 7. USE OF PICK-SLOAN POWER.

(a) IN GENERAL.—From power designated for future irrigation and drainage pumping for the Pick-Sloan Missouri River Basin Program, the Western Area Power Administration shall make available the capacity and energy required to meet the pumping and incidental operational requirements of the water supply system during the period beginning May 1 and ending October 31 of each year.

(b) CONDITIONS.—The capacity and energy described in subsection (a) shall be made available on the following conditions:

(1) The water supply system shall be operated on a not-for-profit basis.

(2) The water supply system shall contract to purchase its entire electric service requirements, including the capacity and energy made available under subsection (a), from a qualified preference power supplier that itself purchases power from the Western Area Power Administration.

(3) The rate schedule applicable to the capacity and energy made available under subsection (a) shall be the firm power rate schedule of the Pick-Sloan Eastern Division of the Western Area Power Administration in effect when the power is delivered by the Administration.

(4) It shall be agreed by contract among—

(A) the Western Area Power Administration;

(B) the power supplier with which the water supply system contracts under paragraph (2);

(C) the power supplier of the entity described in subparagraph (B); and

(D) the Perkins County Rural Water System, Inc.;

that in the case of the capacity and energy made available under subsection (a), the benefit of the rate schedule described in paragraph (3) shall be passed through to the water supply system, except that the power supplier of the water supply system shall not be precluded from including, in the charges of the supplier to the water system for the electric service, the other usual and customary charges of the supplier.

SEC. 8. NO LIMITATION ON WATER PROJECTS IN STATES.

This Act does not limit the authorization for water projects in South Dakota and North Dakota under law in effect on or after the date of enactment of this Act.

SEC. 9. WATER RIGHTS.

Nothing in this Act—

(1) invalidates or preempts State water law or an interstate compact governing water;

(2) alters the rights of any State to any appropriated share of the waters of any body of

surface or ground water, whether determined by past or future interstate compacts or by past or future legislative or final judicial allocations;

(3) preempts or modifies any Federal or State law, or interstate compact, dealing with water quality or disposal; or

(4) confers on any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resource.

SEC. 10. FEDERAL SHARE.

The Federal share under section 4 shall be 75 percent of—

(1) the amount allocated in the total project construction budget for the planning and construction of the water supply system under section 4; and

(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after March 1, 1995.

SEC. 11. NON-FEDERAL SHARE.

The non-Federal share under section 4 shall be 25 percent of—

(1) the amount allocated in the total project construction budget for the planning and construction of the water supply system under section 4; and

(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after March 1, 1995.

SEC. 12. CONSTRUCTION OVERSIGHT.

(a) **AUTHORIZATION.**—The Secretary may provide construction oversight to the water supply system for areas of the water supply system.

(b) **PROJECT OVERSIGHT ADMINISTRATION.**—The amount of funds used by the Secretary for planning and construction of the water supply system may not exceed an amount equal to 3 percent of the amount provided in the total project construction budget for the portion of the project to be constructed in Perkins County, South Dakota.

SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated—

(1) \$15,000,000 for the planning and construction of the water system under section 4; and

(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after March 1, 1995.●

By Mr. CHAFEE (for himself, Mr. BREAUX, Mr. MURKOWSKI, Mr. COCHRAN, Mr. INOUE, Mr. DASCHLE, Mr. ROCKEFELLER, Mr. MACK, Mr. LUGAR, Mr. BUMPERS, Mr. FRIST, and Mr. SANTORUM):

S. 2118. A bill to amend the Internal Revenue Code of 1986 to reduce the tax on vaccines to 25 per dose; to the Committee on Finance.

LEGISLATION LOWERING THE FEDERAL EXCISE TAX ON VACCINES

● Mr. CHAFEE. Mr. President, today I am introducing legislation reducing the excise tax on vaccines from seventy-five cents to twenty-five cents per dose. I am introducing this bill along with my colleagues on the Finance Committee, Senators BREAUX, MACK and ROCKEFELLER as well as Senators DASCHLE, MURKOWSKI, COCHRAN, INOUE, LUGAR, BUMPERS, FRIST, and SANTORUM.

Vaccines are a modern miracle—preventing disease and illness often for a lifetime with just a few doses. Vaccines

have virtually eliminated the scourge of smallpox in the world. Polio as a wild virus has been eliminated in the western hemisphere. Measles, mumps, rubella, pertussis, diphtheria, tetanus and hepatitis vaccines have saved thousands of lives. Technology in vaccines is on the brink of preventing other diseases ranging from Lyme disease to widespread rotavirus in the third world.

Unfortunately, there is a small minority of children whose systems cannot handle vaccines and become injured. Recognizing this problem and acknowledging that childhood vaccination is required, Congress in 1986 set up a Vaccine Injury Compensation Trust Fund into which federal excise taxes are paid. This modified no-fault system allows parents of vaccine-injured children to receive compensation for their children if the vaccine is covered by the fund. Childhood vaccines recommended by the federal government for routine use in children are covered (1) once approved by the Advisory Committee on Immunization Practices, (2) added to the Vaccine Injury Compensation Program (VICP), and (3) included on the list of vaccines on which the tax is imposed by Congress.

When the trust fund was established there was no experience with what claims would commit to and what the size of the tax should be. Estimates were made and different tax levels were established for each vaccine.

By 1993, it was apparent that the tax levels were far too high and a surplus was building up in the fund. Today that surplus totals 1.2 billion dollars. The Ways and Means and Finance Committees directed the Administration to study the system and develop a proposal that solves the overfunding problem.

A consensus proposal was drafted and signed on to by all sectors of the public health community—physicians, manufacturers, parent's groups and health departments. That plan called for a new flat tax of 51 cents per antigen (or disease). But even this new rate was far more than was necessary to fund the system. For example, the guardian of the fund, the Advisory Commission on Childhood Vaccines, recommended 25 cents per antigen even when the surplus was half its level today.

Last year, as part of the balanced budget bill, Congress established a single rate tax structure but did so at a level of seventy-five cents per dose. The seventy-five cents per dose amount was chosen to satisfy the revenue neutrality goals of the overall bill. Congress did not solve the overfunding problem and the result was that while some vaccine taxes were reduced dramatically, others were increased. Three new vaccines were added to the program at the seventy-five cents per dose rate.

At the beginning of this year, the Vaccine Injury Compensation Trust Fund had a balance of 1.2 billion dollars. If you assumed that future out-

lays from the fund would be twice as large as the fund's average over the past eight years, it would take more than 20 years to exhaust the assets in the trust fund, even if no excise tax revenues were collected from this date forward. Stated another way, the interest earned on the trust fund assets is more than enough to pay annual claims and administrative cost. As with many other trust funds within the federal budget, these taxes are being used for other federal spending.

This proposal will also provide significant benefits to the states. When states purchase vaccines they pay the excise tax. Our bill would save the States \$52 million annually. For my home state of Rhode Island, that would amount to 353,000 dollars annually. By lowering these taxes we can lower health care costs to vaccine recipients and providers while saving states and the federal government the money they now pay in excise taxes when they buy vaccines.

This proposal is supported by physicians, state health departments, manufacturers and parental groups. Most significantly, the Advisory Commission on Childhood Vaccines (ACCV) which Congress created to make recommendations on changes to the Vaccine Injury Compensation Program, strongly supports this proposal.

I encourage my colleagues to join me as cosponsors of this important health initiative.●

● Mr. BREAUX. Mr. President, today I introduce with my colleague from Rhode Island, Senator CHAFEE, a very important bill for America's children. Our bill, the Vaccinate America's Children Now Act, will cut the excise tax on all vaccines to twenty-five cents per dose. Lowering the price of vaccines against such deadly and crippling diseases as polio and meningitis will not only result in lower health care costs, but also greater immunization rates. As a result, fewer American children will ever have to know the pain and devastation of childhood disease.

Federal excise taxes on vaccines were first enacted in the late 1980s to fund a vaccine injury compensation fund to pay for those rare injuries associated with vaccination. Since enactment, this compensation fund has accumulated a surplus of \$1.2 billion and the surplus continues to grow. However, claims against the fund have been falling as a result of safer vaccines. The interest alone on this fund is now enough to pay the anticipated claims and costs each year. Lowering the excise tax rate on vaccines will not endanger the solvency of the vaccine injury compensation trust fund in any way. In fact, the guardian of the trust fund, the Advisory Commission on Childhood Vaccines has unanimously endorsed our proposal.

Lowering the vaccine tax rates will, however, reduce health care costs and make immunization more affordable. Our bill will save states money because

states pay these excise taxes when vaccines are purchased for state immunization programs. For example, our bill will save my own State of Louisiana approximately \$1 million. Nationwide, reducing the excise tax will save the states almost \$53 million. These cost savings are one reason why the Association of States and Territorial Health Officers which represents all of the state health departments also supports our bill.

Vaccines are a modern miracle—preventing disease and illness often for a lifetime with just a few doses. Vaccines have virtually eliminated the scourge of smallpox in the world. Polio as a wild virus has been eliminated in the western hemisphere. Measles, mumps, rubella, pertussis, diphtheria, tetanus and hepatitis vaccines have saved thousands of lives. We must do every thing that we can to ensure that children continue to be immunized. Our bill will make these vaccines more affordable and more available to all of America's children.●

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

S. 2119. A bill to amend the Amateur Sports Act to strengthen provisions protecting the right of athletes to compete, recognize the Paralympics and growth of disabled sports, improve the U.S. Olympic Committee's ability to resolve certain disputes, and for other purposes; to the Committee on Commerce, Science, and Transportation.

OLYMPIC AND AMATEUR SPORTS ACT
AMENDMENTS OF 1998

Mr. STEVENS. Mr. President, I am pleased to introduce the Olympic and Amateur Sports Act Amendments of 1998, a bill to update the federal charter of the U.S. Olympic Committee and the framework for Olympic and amateur sports in the United States. Senator CAMPBELL joins me as an original cosponsor.

This framework is commonly known as the "Amateur Sports Act," because most of its provisions were added by the Amateur Sports Act of 1978 (P.L. 95-606). The Act gives the U.S. Olympic Committee certain trademark protections to raise money—and does not provide recurring appropriations—so therefore does not come up for routine reauthorization.

The Amateur Sports Act has not been amended since the comprehensive revision of 1978—a revision which provided the foundation for the modern Olympic movement in the United States.

Key components of the 1978 Act included—

(1) measures to expand the authority of the U.S. Olympic Committee to allow it to better serve as the coordinating body for amateur sports;

(2) criteria for the selection of national governing bodies, and mechanisms to allow NGBs to be replaced if they are doing a poor job;

(3) and perhaps most importantly—comprehensive measures to protect the right of athletes to compete.

The 1978 Act was based on recommendations of President Ford's Commission on Olympic Sports, which had worked from 1975 until 1977 to determine how to correct factional disputes between sports organizations which were depriving many athletes of the opportunity to compete.

I served on the Commission, along with Senators Culver and Stone. When the Commission's report was delivered to Congress, Chairman Warren Magnuson asked me to head up the Commerce Committee's review. In addition to numerous working sessions, we spent two full days of Commerce Committee hearings on October 18 and October 19, 1977 discussing the report and the bill implementing it.

Our bill was enacted into law on November 8, 1978. It was a tremendous achievement, which had the consensus support of all entities involved—a rarity even then. It is a resilient statute which, to the credit of all involved, served its purposes for 15 years before showing signs of needing a tune-up.

Based on the review we've just completed, I can say that the Act is still fundamentally sound and that it will serve the United States admirably into the 21st century. However, the significant changes which have occurred in the world of Olympic and amateur sports since 1978 warrant some fine-tuning of the Act.

Some of the developments of the past 20 years include:

(1) that the schedule for the Olympics and Winter Olympics has been alternated so that games are held every two years, instead of every four—significantly increasing the workload of the U.S. Olympic Committee;

(2) that sports have begun to allow professional athletes to compete in some Olympic events;

(3) that even sports still considered "amateur" have athletes with greater financial opportunities and professional responsibilities than we ever considered in 1978; and

(4) that the Paralympics—the Olympics for disabled amateur athletes—have grown significantly in size and prestige.

These and other changes led me to call for a comprehensive review of the Amateur Sports Act in 1994. The Commerce Committee has held three hearings since then.

At the first and second—on August 11, 1994 and October 18, 1995—witnesses identified where the Amateur Sports Act was showing signs of strain. We postponed our work until after the 1996 Summer Olympics in Atlanta, but on April 21, 1997, held a third hearing at the Olympic Training Center in Colorado Springs to discuss solutions to the problems which had been identified.

By January, 1998, we'd refined the proposals into possible amendments to the Amateur Sports Act, which we discussed at length at an informal working session on January 26, 1998 in the Commerce Committee hearing room.

The bill that Senator CAMPBELL and I introduce today reflects the comments

received in January, and excludes proposals for which consensus appeared unachievable.

Some measures in the bill may need further refinement, and if necessary, I will ask for unanimous consent to issue a star print on June 4, 1998. As with the 1978 Act, I believe we will have broad consensus on the bill, and I expect to present the bill to the Commerce Committee for its consideration during June.

I will include a longer summary of the bill for the RECORD, but will briefly explain its primary components:

(1) the bill would change the title of the underlying law to the "Olympic and Amateur Sports Act" to reflect that more than strictly amateurs are involved now, but without lessening the amateur and grass roots focus reflected in the title of the 1978 Act;

(2) the bill would add a number of measures to strengthen the provisions which protect athletes' rights to compete;

(3) it would add measures to improve the ability of the USOC to resolve disputes—particularly close the Olympics, Paralympics, or Pan-American Games—and reduce the legal costs and administrative burdens of the USOC;

(4) it would add measures to fully incorporate the Paralympics into the Amateur Sports Act, and update the existing provisions affecting disabled athletes;

(5) it would improve the notification requirements when an NGB has been put on probation or is being challenged;

(6) it would increase the reporting requirements of the USOC and NGB with respect to sports opportunities for women, minorities, and disabled individuals; and

(7) it would require the USOC to report back to Congress in five years with any additional changes that may be needed to the act.

Mr. President, I am the only Senator from President Ford's Commission still serving—and of the Commerce Committee members involved with the 1978 Act, only myself and Senators HOLLINGS, INOUE, and FORD remain on the Committee.

It has therefore been very helpful to have Senator CAMPBELL—an Olympian himself in 1964—involved in this process. Senator CAMPBELL and I are hopeful the rest of the Senate and Congress will appreciate the need for the relatively minor improvements we propose today, and will help us enact these changes before the end of this Congress.

I ask unanimous consent that both my summary and the bill be printed in the RECORD.

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

S. 2119

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

SECTION 1. SHORT TITLE.

This Act may be referred to as the "Olympic and Amateur Sports Act Amendments of 1998".

SEC. 2. OLYMPIC AND AMATEUR SPORTS ACT; AMENDMENT OF ACT.

(a) The Act entitled "An Act to incorporate the United States Olympic Association", approved September 21, 1950 (36 U.S.C. 371 et seq.), as amended, shall be cited hereafter as the "Olympic and Amateur Sports Act".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal 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 a section or other provision of the Olympic and Amateur Sports Act (36 U.S.C. 371 et seq.), as renamed by subsection (a).

SEC. 3. OBJECTS AND PURPOSES.

(a) Section 104(3) (36 U.S.C. 374(3)) is amended by inserting "the Paralympic Games," after "Olympic Games" in both places it appears.

(b) Section 104(4) (36 U.S.C. 374(4)) is amended by inserting "the Paralympic Games," after "Olympic Games".

(c) Section 104(13) (36 U.S.C. 374(13)) is amended to read as follows:

"(13) encourage and provide assistance to amateur athletic programs and competition for amateur athletes with disabilities, including, where feasible, the expansion of opportunities for meaningful participation by such amateur athletes in programs of athletic competition for able-bodied amateur athletes; and".

SEC. 4. POWERS OF CORPORATION.

(a) Section 105(a)(2) (36 U.S.C. 375(a)(2)) is amended by inserting before the semicolon, "and as its national Paralympic committee in relations with the International Paralympic Committee".

(b) Section 105(a)(3) (36 U.S.C. 375(a)(3)) is amended by inserting "the Paralympic Games," after "Olympic Games".

(c) Section 105(a)(4) (36 U.S.C. 375(a)(4)) is amended by inserting "the Paralympic Games," after "Olympic Games".

(d) Section 105(a)(5) (36 U.S.C. 375(a)(5)) is amended by striking "Pan-American world championship competition" and inserting in lieu thereof "Paralympic Games, the Pan-American Games, world championship competition".

(e) Section 105(a)(6) (36 U.S.C. 375(a)(6)) is amended by inserting after "sued" a comma and the following, "except that the Corporation may be sued only in federal court for matters pertaining solely to this Act".

SEC. 5. MEMBERSHIP; REPRESENTATION.

(a) Section 106(b)(2) (36 U.S.C. 376(b)(2)) is amended to read as follows:

"(2) amateur athletes who are actively engaged in amateur athletic competition or who have represented the United States in international amateur athletic competition within the proceeding 10 years, including through provisions which—

"(A) establish and maintain an Athletes' Advisory Council composed of, and elected by, such amateur athletes to ensure communication between the Corporation and such amateur athletes; and

"(B) ensure that the membership and voting power held by such amateur athletes is not less than 20 percent of the membership and voting power held in the board of directors of the Corporation and in the committees and entities of the Corporation;"

(b) Section 106(b)(3) (36 U.S.C. 376(b)(3)) is amended by inserting "the Paralympic Games," after "Olympic Games".

SEC. 6. USE OF OLYMPIC, PARALYMPIC, AND PAN-AMERICAN SYMBOLS.

(a) Section 110(a) (36 U.S.C. 380(a)) is amended—

(1) in paragraph (1) by inserting before the semicolon, "the symbol of the International Paralympic Committee, consisting of three TaiGeuks, or the symbol of the Pan-American Sports Organization, consisting of a torch surrounded by concentric rings";

(2) in paragraph (3) by inserting "the International Paralympic Committee, the Pan-American Sports Organization," after "International Olympic Committee"; and

(3) in paragraph (4)—
(A) by inserting "Paralympic", "Paralympiad", "Pan-American", "America Espirito Sport Fraternelite," before "or any combination"; and

(B) by inserting "Paralympic, or Pan-American Games" after "any Olympic".

(b) Section 110(b) (36 U.S.C. 380(b)) is amended—

(1) by inserting "International Paralympic Committee, Pan-American Sports Organization," after "International Olympic Committee"; and

(2) by inserting "Paralympic," before "or Pan-American team".

(c) Section 110(c) (36 U.S.C. 380(c)) is amended—

(1) by striking "symbol" and inserting "symbols"; and

(2) by inserting "Paralympic", "Paralympiad", "Pan-American," before "or any combination".

SEC. 7. AGENT FOR SERVICE OF PROCESS.—

Section 111 (36 U.S.C. 381) is amended by striking "file in the office" and all that follows through the period, and inserting in lieu thereof "have a designated agent in the State of Colorado to receive service of process for the Corporation. Notice to or service on the agent, or mailed to the business address of the agent, is notice to or service on the corporation."

SEC. 8. REPORTS.

Section 113 (36 U.S.C. 382a) is amended to read as follows:

"SEC. 113. The Corporation shall, on or before the first day of June, 2001 and every fourth year thereafter, transmit simultaneously to the President and to each House of Congress a detailed report of its operations for the preceding four years, including a full and complete statement of its receipts and expenditures and a comprehensive description of the activities and accomplishments of the Corporation during such four year period. The report shall contain data concerning the participation of women, disabled individuals, and racial and ethnic minorities in the amateur athletic activities and administration of the Corporation and national governing bodies, and a description of the steps taken to encourage the participation of women, disabled individuals, and racial minorities in amateur athletic activities. Copies of the report shall be made available by the Corporation to interested persons at a reasonable cost."

SEC. 9. RESOLUTION OF DISPUTES.

(a) Section 114 (36 U.S.C. 382b) is amended—

(1) by inserting "(a)" before the first sentence;

(2) by inserting "the Paralympic Games," before "Pan-American Games"; and

(3) by inserting at the end the following,

"In any lawsuit relating to the resolution of a dispute involving the opportunity of an amateur athlete to participate in the Olympic Games, the Paralympic Games, or the Pan-American Games, a court shall not grant injunctive relief against the Corporation within 30 days before the beginning of such games if the Corporation has stated in writing to such court that its constitution and bylaws cannot provide for the resolution of such dispute prior to the beginning of such games."

(b) Section 114 (36 U.S.C. 382b), as amended by subsection (a), is amended further by adding at the end the following new subsection:

"(b) Upon nomination by the Athletes' Advisory Council, the Corporation shall hire and provide administrative expenses for an ombudsman for athletes. The ombudsman for athletes shall provide advice at no cost to amateur athletes with respect to, among other issues, the resolution of any dispute involving the opportunity of an amateur athlete to participate in an amateur athletic competition, including the Olympic Games, the Paralympic Games, the Pan-American Games, world championship competition or other protected competition. The Corporation may terminate the employment of an individual serving as ombudsman for athletes, and may reduce the salary or administrative expenses of such individual, only if such termination or reduction is approved by a majority of the voting members of the Athletes' Advisory Council. The ombudsman for athletes shall receive salary and administrative cost increases in increments similar to other employees and offices of the Corporation. The Athletes' Advisory Council shall nominate a replacement to fill any vacancy that occurs in the position of ombudsman for athletes."

SEC. 10. COMPLETE TEAMS.

Title I (36 U.S.C. 371 et seq.) is amended by inserting after section 114 the following new section:

"SEC. 115. In obtaining representation for the United States in each competition and event of the Olympic Games, Paralympic Games, and Pan-American Games, the Corporation, either directly or by delegation to the appropriate national governing body, may select, but is not obligated to select, athletes who have not met the eligibility standard of at least one of the national governing body, the Corporation, the International Olympic Committee, or the appropriate international sports federation, when the number of athletes who have met the eligibility standard of at least one of such entities is insufficient to fill the roster for an event."

SEC. 11. RECOGNITION OF AMATEUR SPORTS ORGANIZATIONS.

(a) Section 201(a)(36 U.S.C. 391(a)) is amended—

(1) by inserting "the Paralympic Games," after "Olympic Games";

(2) by inserting before the period at the end of the second sentence "except as provided in subsection (e)";

(3) by striking "hold a hearing" and inserting in lieu thereof "hold at least two hearings"; and

(4) by inserting at the end, "In addition, the Corporation shall send written notice, which shall include a copy of the application, at least 30 days prior to the date of the hearing to all amateur sports organizations known to the Corporation in that sport."

(b) Section 201(b) (36 U.S.C. 391(b)) is amended—

(1) in paragraph (3)—

(A) by striking "commercial rules of the American Arbitration Association" and inserting in lieu thereof "Commercial rules of the American Arbitration Association, as modified by the Corporation with the concurrence of the Athletes' Advisory Council,"; and

(B) by striking "or involving the opportunity of any" and inserting in lieu thereof "or, upon demand of the Corporation or any aggrieved amateur athlete, coach, trainer, manager, administrator or official, to such arbitration in any controversy involving the opportunity of such";

(2) in paragraph (6) by inserting "that comports with basic concepts of fundamental fairness, due process, and a presumption of innocence" after opportunity for a hearing";

(3) in paragraph (8)—

(A) by striking "includes" and inserting in lieu thereof "has established criteria for and maintains";

(B) by inserting "that such criteria and the procedure for selecting such individuals is approved by the Athletes' Advisory Council and the Corporation," after "preceding 10 years,"; and

(C) by striking "membership and" in both places it appears; and

(4) in paragraph (12) by inserting "or to participation in the Olympic Games, the Paralympic Games, or the Pan-American Games" after "amateur status".

(c) Section 201 (36 U.S.C. 391), as amended, is amended further by adding at the end the following new subsection:

"(e) For any sport which is included on the program of the Paralympic Games, the Corporation is authorized to designate, where feasible and when such designation would serve the best interest of the sport, a national governing body recognized under subsection (a) to govern such sport. Where such designation is not feasible or would not serve the best interest of the sport, the Corporation is authorized to recognize as a national governing body another amateur sports organization to govern such sport, except that, notwithstanding the other requirements of this Act, such national governing body—

"(1) shall comply only with those requirements, perform those duties, and have those powers that the Corporation determines are appropriate to meet the objects and purposes of the Act; and

"(2) may, with the approval of the Corporation, govern more than one sport included on the program of the Paralympic Games."

SEC. 12. DUTIES OF NATIONAL GOVERNING BODIES.

(a) Section 202(a)(3) (36 U.S.C. 392(a)(3)) is amended—

(1) by inserting "(A)" immediately after "(3)";

(2) by inserting "and" after the semicolon; and

(3) by inserting at the end the following new subparagraph:

"(B) disseminate and distribute to amateur athletes, coaches, trainers, managers, administrators and officials in a timely manner the applicable rules and any changes to such rules of the national governing body, the Corporation, the appropriate international sports federation, the International Olympic Committee, the International Paralympic Committee, and the Pan-American Sports Organization;"

(b) Section 202(a)(7) (36 U.S.C. 392(a)(7)) is amended by striking "handicapped" in each of the three places it appears and inserting in lieu thereof "disabled".

SEC. 13. AUTHORITY OF NATIONAL GOVERNING BODIES.

(a) Section 203(6) (36 U.S.C. 393(6)) is amended by inserting ", the Paralympic Games," after "Olympic Games".

(b) Section 203(7) (36 U.S.C. 393(7)) is amended by inserting ", the Paralympic Games," after "Olympic Games".

SEC. 14. REPLACEMENT OF NATIONAL GOVERNING BODY.

(a) Section 205(a)(3)(C)(i) (36 U.S.C. 395(a)(3)(C)(i)) is amended by inserting "and notify such national governing body of such probation and of the actions needed to comply with such requirements," before "or".

(b) Section 205(b) (36 U.S.C. 395(b)) is amended—

(1) in paragraph (1) by striking "Olympic Games or in both" and inserting in lieu thereof "Olympic Games or the Paralympic Games, or in both";

(2) in paragraph (2)—

(A) by striking "registered" and inserting "certified"; and

(B) by inserting "and with any other organization that has filed an application" after "applicable national governing body"; and

(3) in paragraph (3)—

(A) by inserting "open to the public" after "formal hearing" in the first sentence; and

(B) by inserting after the second sentence, "In addition, the Corporation shall send written notice, which shall include a copy of the application, at least 30 days prior to the date of the hearing to all amateur sports organizations known to the Corporation in that sport."

SEC. 15. SPECIAL REPORT TO CONGRESS.

Five years from the date of the enactment of this Act, the United States Olympic Committee shall submit a special report to the Congress on the effectiveness of the provisions of this Act, together with any additional proposed changes to the Olympic and Amateur Sports Act the United States Olympic Committee determines are appropriate.

SHORT SUMMARY OF OLYMPIC AND AMATEUR SPORTS ACT AMENDMENTS OF 1998

TITLE CHANGE

The bill would amend the title of the federal statute which is the charter of the United States Olympic Committee (USOC) and national framework for amateur sports activities so that it would be called the "Olympic and Amateur Sports Act" (section 2(a) of the bill). The title of the bill, itself, is the "Olympic and Amateur Sports Act Amendments of 1998."

The original federal law incorporating the USOC (Public Law 81-805) was enacted in 1950 and is presently known only as the "Act to incorporate the United States Olympic Association." In 1964, not long after the USOC name was changed from "United States Olympic Association" to "United States Olympic Committee," technical and conforming changes were made to the 1950 Act through Public Law 88-407. In 1978, the 1950 Act was substantially expanded and rewritten into its present form through amendments made by the landmark statute, the "Amateur Sports Act of 1978." Because the amendments made by the 1978 Act so greatly changed and expanded the 1950 Act, the 1950 Act, as amended, is now commonly referred to as the "Amateur Sports Act," though its title was never changed.

Section 2(a) of the bill would rename this original 1950 law, as amended by the 1964 and 1978 changes, as the "Olympic and Amateur Sports Act." The addition of the word "Olympic" to the popularly used title "Amateur Sports Act" is meant to take into account the participation of professional and quasi-amateur athletes in some of the sports of the Olympic Games and Pan-American Games, but at the same time continue to reflect the unique role the USOC and national governing bodies have in the national framework of truly amateur sports activities. By giving the entire underlying body of law a new title (replacing the simple descriptive title of the original 1950 Act mentioned above), the amendment would leave in place in federal statute the title of the "Amateur Sports Act of 1978" for historic reference.

PROTECTION OF ATHLETES RIGHTS

Athletes' Advisory Council/Athlete Membership on USOC Board—Section 5(a) of the bill would amend the Act to require the creation of an Athletes' Advisory Council (AAC), which is currently created as part of the USOC constitution and bylaws and not recognized in the Act. Section 5(a) would also amend the Act to require that at least 20 percent of the membership and voting power of the USOC Board of Directors and other USOC committees and entities be comprised of athletes. This, too, is presently only required under the USOC constitution and bylaws.

Ombudsman—Section 9(b) of the bill would require the USOC to hire an ombudsman for

athletes to provide free advice to athletes about their rights under the Act and under the constitution and bylaws of the USOC and their NGB, and in particular, their rights in any dispute involving an opportunity to compete. The USOC would hire and pay an individual nominated by the AAC to serve as the ombudsman, and could only fire or reduce the pay or administrative expenses of the ombudsman with the consent of the AAC. This restriction is intended to protect the objectivity and autonomy of the ombudsman. The AAC would be expected to consent to the termination of an ombudsman for conduct which would lead to the termination of other USOC employees. The USOC would be required hire another ombudsman nominated by the AAC in the event of a vacancy.

Arbitration—Section 11(b)(1) of the bill would amend the Act to clarify that NGB's must agree to arbitration using the Commercial rules of the American Arbitration Association in disputes with athletes, but that these rules may be modified by the Corporation, with the consent of the AAC. In addition, section 11(b) would clarify that NGB's must agree to submit to arbitration at the request of an amateur athlete regardless of whether the USOC has demanded such arbitration. It is anticipated that these amendments would precipitate a review of the arbitration rules used for NGB/athlete arbitrations under the Act, and that the USOC, AAC, and NGB Council would reach agreement with respect to: (1) the relief available under arbitration; (2) the point during a dispute at which an athlete may obtain arbitration; and (3) the standard of review to be used by arbitration panels.

Due Process/Fairness—Section 11(b)(2) of the bill would amend the Act to clarify that the hearing required under the Act before an NGB can declare an athlete ineligible to participate must comport with basic concepts of fairness, due process, and the presumption of innocence.

Athlete Membership on NGB Boards—Section 11(b)(3) of the bill would amend the Act to allow NGBs individually to establish the criteria and selection procedures for "active athletes" in satisfying the existing statutory requirement that 20 percent of NGB governing boards be comprised of amateur athletes. However, the bill would require that both the AAC and USOC approve the criteria and selection process used by an NGB. In addition, the bill would change the Act to require that only 20 percent of the voting power, rather than 20 percent of the voting power and membership, be held by amateur athletes. These amendments are intended to provide flexibility so that the different characteristics of NGB boards and athletes in various sports can be taken into account. The amendments would allow the amateur athlete membership of some NGB boards to dip below 20 percent, but it is expected that this would occur only where the characteristics of the sport or of the governing board make it very difficult to meet a 20 percent membership standard. Under no circumstances would the voting power of amateur athletes on the board of an NGB be allowed to be below 20 percent. It is anticipated that further clarification may be needed as to whether the 20 percent threshold will provide adequate athlete voting power on existing NGBs which become the NGB for a sport on the program of the Paralympic Games.

Distribution of Information—Section 12(a) of the bill would make it a specific duty of NGBs to disseminate and distribute in a timely manner to athletes, coaches and others in the sport the rules—and any changes to the rules—of the NGB, the USOC, the appropriate international sports federation,

the International Olympic Committee, the International Paralympic Committee (as appropriate), and the Pan-American Sports Organization.

USOC AUTHORITY

Jurisdiction—Section 4(e) of the bill would amend the Act so that the USOC could be sued only in federal court for issues pertaining solely to the Act. This amendment is not intended to affect the existing law with respect to private actions.

Trademark Protection—Section 6 of the bill would provide the USOC with the same trademark protection for the Paralympic Games, Pan-American Games and symbols and words associated with those games as it presently has for the Olympics. It would also give the USOC the exclusive power to authorize the use of these names and symbols in order to raise funds to carry out the Act.

Service of Process—Section 7 of the bill would require the USOC have a designated agent in the State of Colorado to receive service of process, rather than an agent in every state. Requiring an agent in only one location is consistent with the service requirements of many other patriotic societies which are catalogued in title 36 of the United States Code. As with these other entities, notice to or service on the agent—or mailed to the business address of the agent—would be considered notice to or service on the USOC.

Report to Congress—Section 8 of the bill would require the USOC to submit a formal report to Congress only once every four years (instead of annually under the present Act) to conform more closely with the four-year budget cycle of the USOC and to reduce administrative burdens. The report would, however, be required to include data on the participation of women, disabled individuals and racial and ethnic minorities, including a description of the steps that have been taken to encourage increased participation by these groups of people in amateur sports.

Injunction Immunity—Section 9(a) of the bill would prevent a court from granting injunctive relief against the USOC in a dispute involving the participation of an athlete within 30 days of the beginning of the Olympics, the Paralympics, or the Pan-American Games if the USOC has stated in writing to the court that its constitution and bylaws cannot provide for the resolution of the dispute before the beginning of the games. The provision is intended to give the USOC the ability to decide who will represent the United States in the rare NGB/athlete dispute which may arise too close to Olympics, Paralympics, or Pan-American Games to be resolved prior to the beginning of those games. It would not take away any other type of relief that may be available, or injunctive relief for disputes which may be resolved under the constitution and bylaws prior to the beginning of the Olympics, Paralympics, or Pan-American Games.

Complete Teams—Section 10 of the bill would give the USOC the authority to send an incomplete team for a sport if not enough athletes have met the eligibility standards of at least one of: the USOC, the NGB, the IOC, or the national federation for the sport. The USOC could send a complete team in that circumstance, but would not be required to send a complete team. The bill (in section 11(b)(4)) would specify, however, that NGB's cannot have eligibility criteria for participation in the Olympics, Pan-American Games or Paralympics which are more restrictive than the criteria for the international sports federation for their sport.

Flexibility for Paralympic NGBs—The bill (see summary of the Paralympic provisions below and section 11(c) of the bill) would give the USOC full flexibility to minimize the po-

tential burdens, financial or otherwise, of integrating the Paralympics into the USOC framework.

NATIONAL GOVERNING BODIES

NGB Selection Hearings—Section 11(a)(3) would require that at least two public hearings be held (instead of one) prior to the recognition of a new NGB.

Written Notice of NGB Hearings—Sections 11(a)(4) and 13(b)(3) would require the USOC to send written notice to known amateur sports organizations in the sport at least 30 days prior to an NGB selection hearings (including a hearing on an application to replace an existing NGB) and to include a copy of the application in the notice.

Participation Criteria—Section 11(b)(4) of the bill would prohibit NGBs from having eligibility criteria that is more restrictive than its international sports federation for participation in events at the Olympic Games, Paralympic Games, and Pan-American Games. The amendment in part would help provide balance with an amendment (see above) allowing the USOC not to send a complete team under certain circumstances.

NGB Notification—Section 14(a) of the bill would specifically require the USOC to notify an NGB of the actions the NGB must take to correct violations of the Act if the USOC has placed an NGB on probation after a complaint has been filed.

PARALYMPICS

Recognition of Paralympic Games—The bill would make amendments in a number of places in the Act to provide for the recognition of the Paralympic Games. Under the amendments, the USOC would have same duties as with the Olympic Games to, among other things, "either directly or [by delegation to NGB]": select athletes for U.S. teams, represent the United States in relations with the International Paralympic Committee, organize and finance U.S. teams, as well as to provide equitable and fair dispute resolution procedures for disabled athletes. In addition, the USOC would be required: to allow Paralympic sports organizations to join USOC; and to use and protect the trademarks of Paralympics.

Disabled Amateur Athletes—Section 3(c) of the bill would eliminate references in the bill to "handicapped individual" and insert instead the term "amateur athlete with disabilities." The use of the new words would update terminology and, more importantly, make clear that disabled athletes are "amateur athletes" under the Act's existing definition, provided that they meet the eligibility standards of their NGB, as required by the existing definition of "amateur athlete".

Paralympic NGBs—Section 11(c) of the bill would make it the first priority of the USOC to merge sports on the program of the Paralympic Games with existing able-bodied NGBs. Where it is not feasible or in the best interest of a Paralympic sport to put it under an able-bodied NGB, the USOC would be allowed to recognize another amateur sports organization as a new NGB for the Paralympic sport, except that the USOC would be allowed to waive the requirements, duties, and powers of the NGB as necessary to meet the objects and purposes of the Act. In addition, a Paralympic NGB could govern more than one sport on the program of the Paralympic Games with the approval of the USOC. By giving the USOC the authority to waive normal NGB requirements, the bill is intended to allow a smooth transition as Paralympic sports become integrated under the USOC umbrella, and to allow the USOC to prevent any severe financial impacts on existing NGBs. The provisions in the bill are largely consistent with the general direction the USOC has taken already with respect to Paralympics.

World Games for the Deaf—It has been suggested that both the bill and the Committee report which eventually accompanies the bill include language in support of the World Games for Deaf and of deaf athletes. It is anticipated that this issue will be addressed by consensus before the bill becomes enacted.

RESTRICTED COMPETITION

The bill does not amend section 206 of the Act, which addresses the jurisdiction of amateur sports organizations over competitions restricted to certain classes of athletes (such as high school students, college students, etc.). A number of concerns were raised and discussed during the Commerce Committee hearings about section 206, and it has been suggested that the Committee report which eventually accompanies the bill should discuss these concerns.

SPECIAL REPORT TO CONGRESS

Section 15 of the bill would require the USOC to report to Congress after five years on the effectiveness of the new provisions added to the Act by the bill, as well as any additional suggested changes to the Act that the USOC believes are needed. The report would provide an occasion for Congress to review the implementation of the amendments and any modifications proposed by the USOC.

By Mr. ROCKEFELLER (for himself and Mr. FRIST):

S. 2120. A bill to improve the ability of Federal agencies to license federally-owned inventions; to the Committee on Commerce, Science, and Transportation.

TECHNOLOGY TRANSFER COMMERCIALIZATION ACT OF 1998

● Mr. ROCKEFELLER. Mr. President, today with my colleague Senator FRIST, I introduce the Technology Transfer Act of 1998. This bill would make technical changes and clarifications to the legislation which governs the transfer of intellectual property from the federal government to the private sector.

The original Technology Transfer Improvements Act (TTIA), which I was author of in 1995, allowed for easier and quicker access to intellectual property which the government owns and private industry wants. It created a win-win situation. The government gets royalties from these licenses, private industry gets the intellectual property that it needs, and Americans get jobs based on this intellectual property.

This bill builds on the strong positive response from TTIA. It reduces the requirements for obtaining a non-exclusive license in order to allow as many companies and individuals as possible access to the information. It also addresses private industry's concerns about maintaining confidential information within applications.

However, this does not come at the expense of the government being able to keep control of its property. This bill also clarifies the ability of the licensing agencies to terminate a license if certain criteria are not met. Furthermore, it allows the government to consolidate intellectual property which is developed in cooperation with a private entity so that the package can be relicensed to a third party.

Technology transfer is a vital part of our national economy. It is what allows our industries to remain at the leading edge in their field. This bill clarifies and adjusts current legislation to allow for an even better working relationship between the federal government and private industry. I encourage my colleagues to support this bill and I ask unanimous consent that the text of the bill appear in the RECORD.

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

S. 2120

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Technology Transfer Commercialization Act of 1998".

SEC. 2. COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.

Section 12(b)(1) of the Stevenson-Wylder Technology Innovation Act of 1980 (15 U.S.C. 3710a(b)(1)) is amended by inserting "or, subject to section 209 of title 35, United States Code, may grant a license to an invention which is Federally owned, made before the signing of the agreement, and directly related to the scope of the work under the agreement," after "under the agreement,".

SEC. 3. LICENSING FEDERALLY-OWNED INVENTIONS.

(a) AMENDMENT.—Section 209 of title 35, United States Code, is amended to read as follows:

"§ 209. Licensing federally-owned inventions

(a) AUTHORITY.—A Federal agency may grant an exclusive or partially exclusive license on a federally-owned invention only if—

"(1) granting the license is a reasonable and necessary incentive to—

"(A) call forth the investment capital and expenditures needed to bring the invention to practical application; or

"(B) otherwise promote the invention's utilization by the public;

"(2) the Federal agency finds that the public will be served by the granting of the license, as indicated by the applicant's intentions, plans, and ability to bring to invention to practical application or otherwise promote the invention's utilization by the public, and that the proposed scope of exclusivity is not greater than reasonably necessary to provide the incentive for bringing the invention to practical utilization, as proposed by the applicant, or otherwise to promote the invention's utilization by the public;

"(3) the applicant makes a commitment to achieve practical utilization of the invention within a reasonable time;

"(4) granting the license will not tend to substantially lessen competition or create or maintain a violation of the Federal antitrust laws; and

"(5) in the case of an invention covered by a foreign patent application or patent, the interests of the Federal Government or United States industry in foreign commerce will be enhanced.

(b) MANUFACTURE IN UNITED STATES.—A Federal agency shall normally grant any license to use or sell any federally-owned invention in the United States only to a licensee who agrees that any products embodying the invention or produced through the use of the invention will be manufactured substantially in the United States.

(c) SMALL BUSINESS.—First preference for the granting of any exclusively or partially

exclusive licenses under this section shall be given to small business firms having equal or greater likelihood as other applicants to bring the invention to practical application within a reasonable time.

(d) TERMS AND CONDITIONS.—Any licenses granted under section 207 shall contain such terms and conditions as the granting agency considers appropriate. Such terms and conditions—

"(1) shall include provisions—

"(A) retaining a nontransferable, irrevocable, paid-up license for the Federal agency to practice the invention or have the invention practiced throughout the world by or on behalf of the Government of the United States;

"(B) requiring periodic reporting on utilization of the invention, and utilization efforts, by the licensee, but only to the extent necessary to enable the Federal agency to determine whether the terms of the license are being complied with; and

"(C) empowering the Federal agency to terminate the license in whole or in part if the agency determines that—

"(i) the licensee is not executing its commitment to achieve practical utilization of the invention, including commitments contained in any plan submitted in support of its request for a license, and the licensee cannot otherwise demonstrate to the satisfaction of the Federal agency that it has taken, or can be expected to take within a reasonable time, effective steps to achieve practical utilization of the invention;

"(ii) the licensee is in breach of an agreement described in subsection (b);

"(iii) termination is necessary to meet requirements for public use specified by Federal regulations issued after the date of the license, and such requirements are not reasonably satisfied by the licensee; or

"(iv) the licensee has been found by a competent authority to have violated the Federal antitrust laws in connection with its performance under the license agreement.

(e) PUBLIC NOTICE.—No exclusive or partially exclusive license may be granted under the section unless public notice of the intent to grant such license has been provided at least 30 days before the license is granted, and the Federal agency has considered all comments received in response to that public notice.

(f) DEVELOPMENT PLAN.—A Federal agency may grant a license on a federally-owned invention only if the person requesting the license has supplied to the agency a basic business plan with development or commercialization milestones. Each Federal Agency, in consultation with the Small Business Administration, shall develop consistent standards for exempting small business firms from the requirements of this subsection or non-exclusive licenses.

(g) NONDISCLOSURE OF CERTAIN INFORMATION.—An application shall include, as an independent subdocument a detailed description of the applicant's plan for development or marketing (or both) of the invention. The subdocument, which is exempt from disclosure under section 552 of title 5, United States Code, shall include only a statement—

"(1) of the time, nature, and amount of anticipated investment of capital and other resources which the applicant believes will be required to bring the invention to practical application;

"(2) as to the applicant's capability and intention to fulfill the plan, including information regarding manufacturing, marketing, financial, and technical resources;

"(3) of the fields of use for which the applicant intends to practice the invention; and

"(4) of the geographic areas—

"(A) in which the applicant intends to manufacture any product embodying the invention;

"(B) where the applicant intends to use or sell the invention; or

"(C) both."

(b) CONFORMING AMENDMENT.—The item relating to section 209 in the table of sections for chapter 18 of title 35, United States Code, is amended to read as follows:

"209. Licensing federally-owned inventions."

SEC. 4. REVIEW OF COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENT PROCEDURES.

(a) REVIEW.—The Director of the Office of Science and Technology Policy, in consultation with the Office of Management and Budget, relevant Federal agencies, national laboratories, and any other person the director considers appropriate, shall review the procedures used by Federal agencies to gather and consider the views of other agencies before final approval or disapproval of—

(1) a joint work statement under section 12(c)(5)(C) or (D) of the Stevenson-Wylder Technology Innovation Act of 1980 (15 U.S.C. 3710a(c)(5)(C) or (D)); or

(2) in the case of a laboratory described in section 12(d)(2)(A) of the Stevenson-Wylder Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)(2)(A)), a cooperative research and development agreement under such section 12, that involves national security, or relates to a project which may have a significant impact on domestic or international competitiveness.

(b) PROCEDURES.—Within 1 year after the date of enactment of this Act, the director of the Office of Science and Technology Policy shall establish and distribute to appropriate Federal agencies—

(1) specific criteria to indicate the necessity for interagency review of an approval or disapproval described in subsection (a); and

(2) procedures for carrying out such inter-agency review.

Procedures established under this subsection shall be designed to the extent possible to use or modify existing procedures, to minimize burdens on Federal agencies, and to minimize delay in the approval of disapproval of the joint work statement or cooperative research and development agreement under interagency review.

SEC. 5. TECHNICAL AMENDMENTS TO BAYH-DOLE ACT.

Chapter 18 of title 35, United States Code (popularly known as the "Bayh-Dole Act"), is amended—

(1) by amending section 202(e) to read as follows:

"(e) In any case when a Federal employee is a co-inventor of any invention made under a funding agreement with a nonprofit organization or small business firm, the Federal agency employing such coinventor may, for the purpose of consolidating rights in the invention—

"(1) license or assign whatever rights it may acquire in the subject invention to the nonprofit organization or small business firm; or

"(2) acquire any rights in the subject invention from the nonprofit organization or small business firm, but only to the extent the party from whom the rights are acquired voluntarily enters into the transaction.";

and

(2) in section 207(a)—

(A) by striking "patent applications, patents, or other forms of protection obtained" and inserting "inventions" in paragraph (2); and

(B) by inserting "including acquiring rights from the Federal Government in any invention, but only to the extent the party from whom the rights are acquired voluntarily enters into the transaction, to facilitate the licensing of a federally-owned invention" after "or through contract" in paragraph (3).

SEC. 6. TECHNICAL AMENDMENTS TO THE STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980.

Section 14(a)(1) of the Stevenson-Wylder Technology Innovation Act of 1980 (15 U.S.C. 3710c(a)(1)) is amended—

(1) in subparagraph (A)(i), by inserting “, if the inventor’s or coinventor’s rights are assigned to the United States” after “inventor or coinventors”; and

(2) in subparagraph (B), by striking “succeeding fiscal year” and inserting “2 succeeding fiscal years”.

By Mr. BREAUX:

S. 2121. A bill to encourage the development of more cost effective commercial space launch industry in the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation.

SPACE LAUNCH COST REDUCTION ACT OF 1998

Mr. BREAUX. Mr. President, I take this opportunity to rise to introduce a piece of legislation, which I will send to the desk. It is called the Space Launch Cost Reduction Act of 1998.

The commercial space launch industry is an essential part of the U.S. economy and opportunities for U.S. companies are growing as international markets expand. United States trading partners have been able to aggressively lower their commercial space launch prices either through direct cash payments for commercially targeted product development or with indirect benefits derived from nonmarket economy status. Because United States incentives for launch vehicle development have historically focused on civil and military rather than commercial use, and as a result U.S. launch costs have remained relatively high, the U.S. share of the world commercial market has decreased from nearly 100% twenty years ago to approximately 40% in 1998. This is very serious erosion.

The key to regaining United States leadership in the world market is not another massive government program, but rather provision of just enough government support to enable the more cost effective private sector to build lower-cost space launch vehicles. Private sector companies across the United States are already attempting to develop a variety of lower-cost space launch vehicles, but lack of sufficient private financing has proven a major obstacle, an obstacle our trading partners have chosen to remove by providing direct access to government funding. Given the unique strength of private industry in the United States, a more effective alternative to the approach of our trading partners is for the U.S. government to provide limited financial incentives in the form of loan guarantees, which would help qualifying private-sector companies secure otherwise unattainable private financing, while at the same time keeping government involvement at an absolute minimum.

The purpose of the Space Launch Cost Reduction Act of 1998 is, therefore, to ensure availability of otherwise unattainable private sector financing for private sector development of com-

mercial space launch vehicles with launch costs significantly below current levels. As a result, it will be possible to: increase the international competitiveness of the United States space industry, encourage the growth of space-related commerce in the United States and internationally, increase the number of high-value jobs in United States space-related industries, and reduce United States Government space launch expenditures.

Commercialization of space is an issue of importance not only to our nation as a whole but also to the state of Louisiana. Louisiana is already an active participant in the American space effort. For example, the Michoud Facility in New Orleans has been selected as the fabrication center for the experimental X-33 space vehicle’s liquid oxygen tanks. The fuel tanks for the Space Shuttle are also built at Michoud, and Shuttle engines are tested at the Stennis Space Center in neighboring Mississippi. Furthermore, NASA has entered a partnership with the University of Southwestern Louisiana in Lafayette to establish a Regional Application Center for commercial remote sensing technology. Looking toward the future, Louisiana is clearly well positioned to participate actively in the commercialization of space and to benefit from the Space Launch Cost Reduction Act of 1998.

By Mr. ROTH (for himself, and Mr. MOYNIHAN):

S. 2122. A bill to amend the Internal Revenue Code of 1986 to provide that certain liquidating distributions of a regulated investment company or real estate investment trust which are allowable as a deduction shall be included in the gross income of a distributee; to the Committee on Finance.

TAX LEGISLATION

Mr. ROTH. Mr. President, in coordination with the Treasury Department, Senator MOYNIHAN and I are introducing a bill today to eliminate an unwarranted tax benefit which involves the liquidation of a Regulated Investment Company (“RIC”) or Real Estate Investment Trust (“REIT”), where at least 80 percent of the liquidating RIC or REIT is owned by a single corporation. Identical legislation is being introduced in the House of Representatives by Congressman ARCHER.

The RIC and REIT rules allow individual shareholders to invest in stock and securities (in the case of RICs) and real estate assets (in the case of REITs) with a single level of tax. The single level of tax is achieved by allowing RICs and REITs to deduct the dividends they pay to their shareholders.

Some corporations, however, have attempted to use the “dividends paid deduction” in combination with a separate rule that allows a corporate parent to receive property from an 80 percent subsidiary without tax when the subsidiary is liquidating. Taxpayers argue that the combination of these two rules permits income deducted by

the RIC or REIT and paid to the parent corporation to be entirely tax-free during the period of liquidation of the RIC or REIT (which can extend over a period of years). The legislation is intended to eliminate this abusive application of these rules by requiring that amounts which are deductible dividends to the RIC or REIT are consistently treated as dividends by the corporate parent.

RICs and REITs are important investment vehicles, particularly for small investors. The RIC and REIT rules are designed to encourage investors to pool their resources and achieve the type of investment opportunities, subject to a single level of tax, that would otherwise be available only to a larger investor. This legislation will not affect the intended beneficiaries of the RIC and REIT rules.

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

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

S. 2122

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

SECTION 1. TREATMENT OF CERTAIN DEDUCTIBLE LIQUIDATING DISTRIBUTIONS OF REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.

(a) IN GENERAL.—Section 332 of the Internal Revenue Code of 1986 (relating to complete liquidations of subsidiaries) is amended by adding at the end the following new subsection:

“(c) DEDUCTIBLE LIQUIDATING DISTRIBUTIONS OF REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—If a corporation receives a distribution from a regulated investment company or a real estate investment trust which is considered under subsection (b) as being in complete liquidation of such company or trust, then, notwithstanding any other provision of this chapter, such corporation shall recognize and treat as a dividend from such company or trust an amount equal to the deduction for dividends paid allowable to such company or trust by reason of such distribution.”

(b) CONFORMING AMENDMENTS.—

(1) The material preceding paragraph (1) of section 332(b) of such Code is amended by striking “subsection (a)” and inserting “this section”.

(2) Paragraph (1) of section 334(b) of such Code is amended by striking “section 332(a)” and inserting “section 332”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after May 21, 1998.

TECHNICAL EXPLANATION

The bill provides that any amount which a liquidating RIC or REIT may take as a deduction for dividends paid with respect to an otherwise tax-free distribution to an 80-percent corporate owner is includable in the income of the recipient corporation. The includable amount is treated as a dividend received from the RIC or REIT. The liquidating corporation may designate the amount treated as a dividend as a capital gain dividend or, in the case of a RIC, an exempt interest dividend or a dividend eligible for

70-percent dividends received deduction, to the extent provided by the RIC or REIT provisions of the Code.

The bill does not otherwise change the tax treatment of the distribution under sections 332 or 337. Thus, for example, the liquidating corporation will not recognize gain (if any) on the liquidating distribution and the recipient corporation will hold the assets at a carryover basis.

The bill is effective for distributions on or after May 22, 1998, regardless of when the plan of liquidation was adopted.

No inference is intended regarding the treatment of such transactions under present law.

By Mr. D'AMATO:

S. 2125. A bill to amend the Internal Revenue Code of 1986 to provide for the tax treatment of section 42 housing cooperatives and the shareholders of such cooperatives, and for other purposes; to the Committee on Finance.

LOW-INCOME HOUSING TAX CREDIT LEGISLATION

• Mr. D'AMATO. Mr. President, today I introduce legislation that will create a new homeownership opportunity with a proven method of building affordable housing. Current low-income housing production in the United States is driven largely by the low-income housing tax credit. The credit supports the development of 94 percent of all federally assisted multi-family affordable housing construction. Under current law, however, only rental housing can be developed with the credit. Everyone would agree that building homeownership is better than simply building homes for people. Homeowners are invested in their communities, take pride in their property, and will do what it takes to preserve the security and appearance of their homes.

The legislation that I propose today will enable housing cooperatives and mutual housing associations to be developed with the credit. With these types of multi-family homeownership, tax credit investors can become non-resident shareholders of the developed property while allowing the residents to own their share of the property as well. From the very start, the residents will have a real ownership stake and control over their homes.

A study undertaken by Abt Associates, Inc., commissioned by the National Cooperative Bank found that this legislation could result in the annual production of 1,600 units of low-income housing within five years of enactment. That means as many as 15,000 renters could be homeowners within five years.

Mr. President, I urge my colleagues to join me in cosponsoring legislation to help bring the American dream of homeownership to many more Americans.

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

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

S. 2125

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

SECTION 1. TAX TREATMENT OF SECTION 42 HOUSING COOPERATIVES AND SHAREHOLDERS OF SUCH COOPERATIVES.

(a) IN GENERAL.—Part III of subchapter T of chapter 1 of the Internal Revenue Code of 1986 (relating to cooperatives and their patrons) is amended by adding at the end the following new section:

“SEC. 1389. SPECIAL RULES FOR SECTION 42 HOUSING COOPERATIVES AND THEIR SHAREHOLDERS.

“(a) ALLOWANCE OF DEDUCTIONS AND CREDITS.—

“(1) NON-PATRON SHAREHOLDERS.—In the case of a section 42 housing cooperative (as defined in subsection (b)(1)), the non-patron shareholders of such cooperative shall be allowed to take into account for purposes of calculating the taxable income of such shareholders the following tax items:

“(A) 100 percent of all low-income housing tax credits to which the section 42 housing cooperative is entitled under section 42.

“(B) 100 percent of all interest allowable as a deduction to the cooperative under section 163 and which is incurred and accrued but unpaid by the cooperative on its indebtedness contracted—

“(i) in the acquisition, construction, alteration, rehabilitation, or maintenance of the houses or apartment buildings, or

“(ii) in the acquisition of the land on which the houses (or apartment buildings) are situated.

“(2) PATRON SHAREHOLDERS.—In the case of a section 42 housing cooperative, the patron shareholders of such cooperative shall be allowed a deduction equal to 100 percent of the amounts paid by the cooperative within the taxable year for the following items, except that in no event may a patron shareholder deduct an amount in excess of such patron shareholder's proportionate share of such specified items:

“(A) Real estate taxes allowable as a deduction to the cooperative under section 164 which are paid or incurred by the cooperative on the houses or apartment buildings and on the land on which such houses (or apartment buildings) are situated.

“(B) The interest allowable as a deduction to the cooperative under section 163 for the taxable year and which is paid by the cooperative during such taxable year on its indebtedness contracted—

“(i) in the acquisition, construction, alteration, rehabilitation, or maintenance of the houses or apartment buildings, or

“(ii) in the acquisition of the land on which the houses (or apartment buildings) are situated.

“(b) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) SECTION 42 HOUSING COOPERATIVE.—The term ‘section 42 housing cooperative’ means a corporation—

“(A) having no more than 2 classes of stock outstanding, consisting of—

“(i) shares of stock issued to persons who make an equity contribution to the cooperative but who are not residents in the houses or apartment buildings owned by the cooperative; and

“(ii) shares of stock issued to persons who make an equity contribution to the cooperative and who are residents in the houses or apartment buildings owned by the cooperative;

“(B) in which each of the holders of patron stock is entitled, solely by reason of the patron's ownership of such stock in the cooperative, to occupy for dwelling purposes a house, or an apartment in a building, owned by such cooperative;

“(C) no shareholder of which is entitled (either conditionally or unconditionally) to receive any distribution not out of earnings

and profits of the cooperative except on a complete or partial liquidation of the cooperative;

“(D) 80 percent or more of the gross income of which for the taxable year in which the taxes and interest described in subsection (a) are paid or incurred is derived from patron shareholders; and

“(E) which is entitled to claim a low-income housing tax credit under section 42.

“(2) SHAREHOLDER'S PROPORTIONATE SHARE.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the term ‘proportionate share’ means that proportion which the stock of the cooperative housing corporation owned by a particular patron shareholder is of the total outstanding patron stock of the corporation (including any stock held by the corporation).

“(B) SPECIAL RULE WHERE ALLOCATION OF TAXES OR INTEREST REFLECT COST TO CORPORATION OF PATRON SHAREHOLDER'S UNIT.—

“(i) IN GENERAL.—If, for any taxable year—

“(I) each dwelling unit owned or leased by a section 42 housing cooperative is separately allocated a share of such cooperative's real estate taxes described in subsection (a)(2)(A) or a share of such cooperative's interest described in subsection (a)(2)(B), and

“(II) such allocation reasonably reflects the cost to such cooperative of such taxes, or of such interest, attributable to the shareholder's dwelling unit (and such unit's share of the common areas),

then the term ‘proportionate share’ means the shares determined in accordance with the allocations described in subclause (II).

“(ii) ELECTION BY COOPERATIVE REQUIRED.—

Clause (i) shall apply with respect to any section 42 housing cooperative only if such cooperative elects its application. Such an election, once made, may be revoked only with the consent of the Secretary.

“(3) PRIOR APPROVAL OF OCCUPANCY.—

“(A) IN GENERAL.—For purposes of this section, in the following cases there shall not be taken into account the fact that (by agreement with the section 42 housing cooperative) the person or the person's nominee may not occupy the house or apartment without the prior approval of such cooperative:

“(i) In any case in which a person acquires stock of a section 42 housing cooperative by operation of law.

“(ii) In any case in which a person other than an individual acquires stock of a section 42 housing cooperative.

“(iii) In any case in which the original seller acquires any stock of the section 42 housing cooperative from the cooperative not later than 1 year after the date on which the apartments or houses (or leasehold interests therein) are transferred by the original seller to the cooperative.

“(B) ORIGINAL SELLER DEFINED.—For purposes of subparagraph (A)(iii), the term ‘original seller’ means the person from whom the cooperative has acquired the apartments or houses (or leasehold interest therein).

“(4) APPLICATION OF SECTION TO MUTUAL HOUSING ASSOCIATIONS.—

“(A) IN GENERAL.—In the case of a section 42 housing cooperative which is a mutual housing association, this section shall be applied—

“(i) by substituting ‘membership certificates’ for ‘stock’ or ‘shares of stock’, and

“(ii) by substituting ‘membership certificate-holders’ for ‘shareholders’.

“(B) MUTUAL HOUSING ASSOCIATION.—For purposes of subparagraph (A), the term ‘mutual housing association’ means a resident-controlled, State-chartered organization described in section 501(c)(3) and exempt from tax under section 501(a).

“(C) TREATMENT AS PROPERTY SUBJECT TO DEPRECIATION.—

“(1) IN GENERAL.—

“(A) BY NON-PATRON SHAREHOLDERS.—Non-patron shares of stock (within the meaning of subsection (b)(1)(A)(i)) shall be treated as property subject to the allowance for depreciation under section 167(a). Such shares of stock shall be treated as residential real property for purposes of determining the appropriate depreciation method under section 168(b), the applicable recovery period under section 168(c), and the applicable convention under section 168(d).

“(B) BY PATRON SHAREHOLDERS.—So much of the shares of stock of a patron shareholder (within the meaning of subsection (b)(1)(A)(ii)) as is allocable, under regulations prescribed by section 216(c), to a proprietary lease or right of tenancy subject to the allowance for depreciation under section 167(a) shall, to the extent such proprietary lease or right of tenancy is used by such patron shareholder in a trade or business or for the production of income, be treated as property subject to the allowance for depreciation under section 167(a).

“(2) DEDUCTION LIMITED TO ADJUSTED BASIS IN STOCK.—

“(A) IN GENERAL.—The amount of any deduction for depreciation allowable under section 167(a) to a non-patron or patron shareholder with respect to any stock for any taxable year by reason of subparagraph (A) or (B) of paragraph (1), respectively, shall not exceed the adjusted basis of such stock as of the close of the taxable year of the shareholder in which such deduction was incurred.

“(B) CARRYFORWARD OF DISALLOWED AMOUNT.—The amount of any deduction which is not allowed by reason of subparagraph (A) shall, subject to the provisions of subparagraph (A), be treated as a deduction allowable under section 167(a) in the succeeding taxable year.

“(3) NO LIMITATION ON DEDUCTION BY SECTION 42 HOUSING COOPERATIVE.—Nothing in this section shall be construed to limit or deny a deduction for depreciation under section 167(a) by a section 42 housing cooperative with respect to property owned by such cooperative and occupied by the patron shareholders thereof.

“(d) DISALLOWANCE OF DEDUCTION FOR CERTAIN PAYMENTS TO THE COOPERATIVE.—No deduction shall be allowed to the holder of non-patron or patron stock in a section 42 housing cooperative for any amount paid or accrued to such cooperative during any taxable year to the extent that such amount is properly allocable to amounts paid or incurred at any time by the cooperative which are chargeable to the cooperative's capital account. The shareholder's adjusted basis in the stock in the cooperative shall be increased by the amount of such disallowance.

“(e) RESTRICTION ON THE RE SALE OF PATRON STOCK.—Upon the transfer of patron stock, the consideration received by the holder of such stock shall not exceed the shareholder's adjusted equity in such stock. For purposes of this subsection, the term ‘adjusted equity’ means the sum of—

“(1) the consideration paid for such stock by the first shareholder, as adjusted by a cost-of-living adjustment and any other acceptable adjustments determined by the Secretary, and

“(2) payments made by such shareholder for improvements to the house or apartment occupied by the shareholder.

“(f) DISTRIBUTIONS BY SECTION 42 HOUSING COOPERATIVE.—Except as provided in regulations under section 216(e), no gain or loss shall be recognized on the distribution by a section 42 housing cooperative of a dwelling unit to a holder of patron stock in such cooperative if such distribution is in exchange for the shareholder's stock in the cooperative

and such exchange qualifies for nonrecognition of gain under section 1034(f).”

(b) CONFORMING AMENDMENTS.—

(1) Section 42 of the Internal Revenue Code of 1986 (relating to low-income housing credit) is amended by adding at the end the following new subsection:

“(o) SECTION 42 HOUSING COOPERATIVES.—In the case of a section 42 housing cooperative (as defined in section 1389(b)(1)), the holders of the non-patron stock (within the meaning of section 1389(b)(1)(A)(i)) shall be entitled to any and all tax credits that would otherwise be available to such cooperative under this section. Any recapture of credit calculated against the section 42 housing cooperative under subsection (j) shall be an increase in the tax under this chapter for the holders of the non-patron stock in proportion to the relative holdings of such stock during the period giving rise to such recapture.”

(2) Section 42(g)(2)(B) of such Code is amended by striking “and” at the end of clause (iii), by striking the period at the end of clause (iv) and inserting “, and”, and by inserting after clause (iv) the following new clause:

“(v) does not include any amounts paid by a tenant in connection with the acquisition or holding of any patron stock (within the meaning of section 1389(b)(1)(A)(ii)).”

(3) Section 42(i) of such Code is amended by adding at the end the following new paragraph:

“(8) IMPACT OF SECTION 42 HOUSING COOPERATIVE'S RIGHT OF FIRST REFUSAL TO ACQUIRE STOCK OF A SECTION 42 HOUSING COOPERATIVE.—

“(A) IN GENERAL.—No Federal income tax benefit shall fail to be allowable to a non-patron or patron shareholder (within the meaning of section 1389(b)(1)) of a section 42 housing cooperative (as defined in section 1389(b)(1)) with respect to any qualified low-income building merely by reason of a right of first refusal or option or both held by the section 42 housing cooperative to purchase non-patron stock of the cooperative after the close of the compliance period for a price which is not less than the minimum purchase price determined under subparagraph (B).

“(B) MINIMUM PURCHASE PRICE.—For purposes of subparagraph (A), the minimum purchase price for the stock of a section 42 housing cooperative is an amount equal to the present value of the remaining depreciation deductions which would be allowable under section 1389(c)(1) to the holder of such stock. For purposes of determining present value, the discount rate provided in subsection (b)(2)(C)(ii) shall be applicable as determined at the time of the exercise of such option or right of first refusal.”

(4) Section 1381(a) of such Code is amended 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) any section 42 housing cooperative (as defined in section 1389(b)(1)).”

(5) The table of sections for part III of subchapter T of chapter 1 of such Code is amended by adding at the end the following new item:

“Sec. 1389. Special rules for section 42 housing cooperatives and their shareholders.”•

ADDITIONAL COSPONSORS

S. 249

At the request of Mr. D'AMATO, the names of the Senator from Washington (Mrs. MURRAY) and the Senator from Maryland (Ms. MIKULSKI) were added as

cosponsors of S. 249, a bill to require that health plans provide coverage for a minimum hospital stay for mastectomies and lymph node dissection for the treatment of breast cancer, coverage for reconstructive surgery following mastectomies, and coverage for secondary consultations.

S. 348

At the request of Mr. MCCONNELL, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 348, a bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to encourage States to enact a Law Enforcement Officers' Bill of Rights, to provide standards and protection for the conduct of internal police investigations, and for other purposes.

S. 831

At the request of Mr. SHELBY, the names of the Senator from Missouri (Mr. ASHCROFT) and the Senator from North Carolina (Mr. FAIRCLOTH) were added as cosponsors of S. 831, a bill to amend chapter 8 of title 5, United States Code, to provide for congressional review of any rule promulgated by the Internal Revenue Service that increases Federal revenue, and for other purposes.

S. 852

At the request of Mr. LOTT, the names of the Senator from Minnesota (Mr. GRAMS) and the Senator from Colorado (Mr. CAMPBELL) were added as cosponsors of S. 852, a bill to establish nationally uniform requirements regarding the titling and registration of salvage, nonrepairable, and rebuilt vehicles.

S. 912

At the request of Mr. BOND, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 912, a bill to provide for certain military retirees and dependents a special medicare part B enrollment period during which the late enrollment penalty is waived and a special medigap open period during which no under-writing is permitted.

S. 1166

At the request of Mr. CAMPBELL, the name of the Senator from Illinois (Ms. MOSELEY-BRAUN) was added as a cosponsor of S. 1166, a bill to prevent Federal agencies from pursuing policies of unjustifiable nonacquiescence in, and relitigation of, precedents established in the Federal judicial circuits.

S. 1252

At the request of Mr. D'AMATO, the name of the Senator from Nebraska (Mr. KERREY) 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.

S. 1264

At the request of Mr. HARKIN, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 1264, a bill to amend the