Amalgamated Transit Union, Local 998, Milwaukee
American Federation of Government Employees, AFL-CIO
Anishinabe Council of Job Developers, Inc., Minneapolis
Arrowhead Economic Opportunity Agency, Minnesota
Californians for Justice
Campaign for a Sustainable Milwaukee
Center for Community Change
Community Resource Center, Colorado
Community Voices Heard, New York
Georgia Citizens Coalition on Hunger
Greater Bethany Economic Development Corporation, California
Hartford Areas Rally Together, Connecticut
HIRED, Minneapolis
Homeless Services Coordination Station, Georgia
J.E.D.I. For Women, Utah
Marshall Heights Community Development Organization, Inc., Washington, D.C.
Metropolitan Alliance of Congregations, Illinois
Minnesota Assistance Council for Veterans
National Low Income Housing Coalition
Northwest Federation of Community Organizations
Operation PEACE, Inc., Georgia
People and Policy Center of Mississippi
Philadelphia Unemployment Project, Pennsylvania
Reform Organization of Welfare, Missouri
Rural Minnesota Concentrated Employment Program (CEP), Inc.
San Luis Valley Welfare Advocates, Colorado
SENSES, New York
South Carolina, Fair Share
South Central Georgia Task Force for the Homeless
Southerners for Economic Justice, North Carolina
Tennessee Justice Center
University of Minnesota, Labor Education Service
University of Minnesota, Institute on Race and Poverty
Up and Out of Poverty Now! Coalition, Georgia
Utica Citizens in Action, New York
Virginia Organizing Project
Women's Opportunity and Resource Development, Inc., Montana
Wister Townhouses Neighborhood Networks Computer Training Center, Pennsylvania

---

By Ms. COLLINS:

S. 2216. A bill to amend title XVIII of the Social Security Act to make certain changes related to payments for graduate medical education under the medicare program; to the Committee on Finance.

GRADUATE MEDICAL EDUCATION TECHNICAL AMENDMENTS OF 1998

Ms. COLLINS. Mr. President, today I introduce the Graduate Medical Education Technical Amendments Act of 1998, which is intended to address some of the problems that small family practice residency programs in Maine and elsewhere are experiencing as a result of provisions in the Balanced Budget Act (BBA) of 1997 that were intended to control the growth in Medicare graduate medical education spending.

Of specific concern are the provisions in the BBA that cap the total number of residents in a program at the level included in the 1996 Medicare cost reports. Congress' goal in reforming Medicare's graduate medical education program was to slow down our nation's overall production of physicians, while still protecting the training of physicians who are in short supply and needed to meet local and national health care demands. While it is true that the BBA's provisions will curb growth in the overall physician supply, they do so indiscriminately and are thwarting efforts in Maine and elsewhere to increase the supply of primary care physicians in underserved rural areas.

Because Maine has only one medical school—the University of New England, which trains osteopathic physicians—we depend on a number of small family practice residency programs to introduce physicians to the practice opportunities in the state. Most of the graduates of these residency programs go on to establish practices in Maine, many in rural and underserved areas of the state. The new caps on residency slots included in the BBA penalize these programs in a number of ways.

For instance, the current cap is based on the number of interns and residents who were ''in the hospital'' in FY 1996. Having a cap that is institution-specific rather than program-specific has caused several problems. For instance, the Maine-Dartmouth Family Practice Residency Program had two residents out on leave in 1996—one on sick leave for chemotherapy treatments and one on maternity leave. Therefore, the program's cap was reduced by two, because it was based on the number of actual residents in the hospital in 1996 as opposed to the number of residents in the program.

Moreover, residents in this program have spent one to two months training in obstetrics at Dartmouth's Mary Hitchcock's Medical Center in Lebanon, New Hampshire. Because the cap is based on a hospital's cost report, these residents are counted toward Dartmouth Medical School's cap instead of the Maine-Dartmouth Family Practice Residency Program's. Last year, the Maine program was informed that Dartmouth would be cutting back the amount of time their residents are there. But the Maine-Dartmouth Family Practice Residency Program has no way of recouping the resident count from them in order to have the funds to support obstetrical training for their residents elsewhere.

Moreover, the cap does not include residents who continue to be part of the residency program, but who have been sent outside of the hospital for training. This penalizes all primary care specialties, but especially family medicine, where ambulatory training has historically been the hallmark of the specialty. This is particularly ironic since other specialty programs that now begin training in settings outside the hospital will, under the new rules, have those costs included in their Medicare graduate medical education funding.

All told, the Maine Dartmouth Family Practice Residency Program will see its graduate medical education funding reduced by over half a million dollars a year as a result of the cap established by the BBA.

The example I have just used is from Maine, but the problems created by the BBA's graduate medical education changes are national in scope. It has created disproportionately harmful effects on family practice residencies from Maine to Alaska. A recent survey of all family practice residency program directors has found that:

56 percent of respondents who were in the process of developing new rural training sites have indicated that they will either not implement those plans or are unsure about their sponsoring institutions' continued support.

21 percent of respondents report planning to decrease their family practice residency slots in the immediate future. The majority of those who are planning to decrease their slots are the sole residency program in a teaching hospital. This means that, under current law, they have no alternative way of achieving growth, such as through a reduction of other specialty slots in order to stay within the cap.

And finally, the vast majority of family practice residencies did not have their full residency FTEs captured in the 1996 cost reports upon which the cap is based.

In addition to this survey, we have anecdotal information from residencies across the country detailing how they have lost funding either because of where they trained their residents or because their residents had been extended sick or maternity leave. For example, one family practice residency in Washington State last year had an equivalent of 14 residents training outside of the hospital and four in the hospital. Under the BBA, their cap would be four. By contrast, had all of their residents been trained in the hospital up to this point, their payment base would have been capped at 18, even if they trained residents in non-hospital settings in the future.

The Medicare Graduate Medical Education Technical Amendments Act, which I am introducing today, will address these problems by basing the cap on the number of residents ''who were appointed by the approved medical residency training programs for the hospital'' in 1996, rather than on the number of residents who were ''in the hospital.''

I am also concerned that the Balanced Budget Act and its accompanying regulations will severely hamper primary care residency programs that are expanding to meet local needs. Specifically, a new residency program that had not met its full complement of accredited residency positions until after the cutoff date of August 5, 1997, is precluded from increasing its number of residents unless the hospital decreases the number of residents in one of its other specialty programs. However,

over forty percent of the nation's family practice residency programs are the only program sponsored by the hospital. This provision therefore completely precludes such a hospital from expanding its residency program to meet emerging primary care needs.

To address this problem, the legislation I am introducing today would exempt the small number of programs at hospitals that sponsor just one residency program from the cap. In addition, to enable a number of family practice residency programs that are already in the pipeline to get accredited and grow to completion, the bill extends the cutoff date to September 1999.

And finally, the Balanced Budget Act gave the Secretary of Health and Human Services the authority to give ''special consideration'' to new facilities that ''meet the needs of underserved rural areas.'' The Health Care Financing Administration has interpreted this to mean facilities that are actually in underserved rural areas. There have been several recent expansions in family practice residency programs that include a rural training track, with residents located in outlying hospitals, or with satellite programs designed specifically to train residents to work with underserved populations.

Even though these new programs or satellites required accrediting body approval, they are still part of the ''mother'' residencies, which may not be physically located in an underserved rural area. While these are not technically new programs, I believe that the definition should be expanded to include such endeavors, given the value of these programs in addressing the needs of underserved populations. Therefore, the Medicare Graduate Medical Education Technical Amendments Act would expand the definition to include ''facilities which are not located in an underserved rural area, but which have established separately accredited rural training tracks.''

Mr. PRESIDENT, while the changes I am proposing today are relatively minor and technical in nature, they are critical to the survival of the small family practice residency programs that are so important to our ability to meet health manpower needs in rural and underserved areas. I urge all of my colleagues to join me in cosponsoring the Medicare Graduate Medical Education Technical Amendments and 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. 2216

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 ''Graduate Medical Education Technical Amendments of 1998''.

SEC. 2. INDIRECT GRADUATE MEDICAL EDUCATION ADJUSTMENT.

Section 1886(d)(5)(B)(v) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(B)(v)) (as added by section 4621(b) of the Balanced Budget Act of 1997) is amended by striking ''in the hospital with respect to the hospital's most recent cost reporting period ending on or before December 31, 1996'' and inserting ''who were appointed by the hospital's approved medical residency training programs for the hospital's most recent cost reporting period ending on or before December 31, 1996. The preceding sentence shall not apply to a hospital that sponsors only 1 allopathic or osteopathic residency program.''.

SEC. 3. DIRECT GRADUATE MEDICAL EDUCATION ADJUSTMENT.

(a) LIMITATION ON NUMBER OF RESIDENTS.—Section 1886(h)(4)(F) of the Social Security Act (42 U.S.C. 1395ww(h)(4)(F)) (as added by section 4623 of the Balanced Budget Act of 1997) is amended by inserting ''who were appointed by the hospital's approved medical residency training programs'' after ''may not exceed the number of such full-time equivalent residents''.

(b) FUNDING FOR NEW PROGRAMS.—The first sentence of section 1886(h)(4)(H)(i) of the Social Security Act (42 U.S.C. 1395ww(h)(4)(H)(i)) (as added by section 4623 of the Balanced Budget Act of 1997) is amended inserting ''and before September 30, 1999'' after ''January 1, 1995''.

(c) FUNDING FOR PROGRAMS MEETING RURAL NEEDS.—The second sentence of section 1886(h)(4)(H)(i) of the Social Security Act (42 U.S.C. 1395ww(h)(4)(H)(i)) (as added by section 4623 of the Balanced Budget Act of 1997) is amended by striking the period at the end and inserting '', including facilities that are not located in an underserved rural area but have established separately accredited rural training tracks.''.

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall take effect as if included in the enactment of the Balanced Budget Act of 1997.

By Mr. FRIST (for himself, Mr. ROCKEFELLER, Mr. DOMENICI, Mr. LIEBERMAN, Mr. BURNS, Mr. BINGAMAN, Mr. GRAMM, and Mr. BREAUX):

S. 2217. A bill to provide for continuation of the Federal research investment in a fiscally sustainable way, and for other purposes; to the Committee on Commerce, Science, and Transportation.

FEDERAL RESEARCH INVESTMENT ACT

● Mr. ROCKEFELLER. Mr. President, I would like to join my colleagues Senators FRIST, LIEBERMAN, DOMENICI, BINGAMAN, BURNS, GRAMM, and BREAUX in introducing the Federal Research Investment Act. This legislation will set a long-term vision for federal funding of research and development programs so that the United States can continue to be the world leader in high-tech industries.

This is a very important time in our history. One only needs to look as far as the front page of the newspaper to see the effect of high-technology on our country. New drugs are becoming available for fighting cancer; new communication hardware is allowing more people to connect to the internet; and advances in fuel-cell technology are leading to low-emission, high-efficiency hybrid vehicles. In fact, seventy percent of all patent applications cite non-profit or federally-funded research as a core component to the innovation being patented. People are living longer, with a higher quality of life, in a better economy due to processes, procedures, and equipment which are based on federally-funded research.

What I am afraid of is that many people are not aware that these products do not just 'come along.' They are the result of a basis of knowledge which has been built up by researchers supported by federal funding. American companies pull from this knowledge base in order to develop the latest high-tech products which you and I read about in the paper and see on our store shelves.

I view this knowledge base as a bank. The US government puts in modest amounts of funding in the form of support for scientific research. The payback comes from the economic growth which is produced as this knowledge is turned into actual products by American companies. That is the good news.

The bad news is that the United States has been withdrawing more than it has been depositing for several years now. Just this year we are looking at the first budget surplus in 29 years. A large part of the current rosy economic situation is due to our dominate high-tech industries. High-tech companies are currently responsible for one-third of our economic output and half of our economic growth. However, we have not been supporting the fundamental, pre-competitive research which is critical to these industries at the levels necessary to allow us to continue at this pace. We must act now in order to try to correct this situation.

Recently, Senators GRAMM and LIEBERMAN, along with Senators DOMENICI and BINGAMAN, introduced S. 1305 the National Research Investment Act. Their idea was to double R&D funding in 10 years, a very noble and courageous effort. Even more importantly, I think, this bill caused members of the scientific and engineering community to pull together and fight as a whole for an idea. It has certainly caused the co-sponsors of this bill to pull together to try to move forward as a group with their original idea. Our bill is the next step in this process.

This bill is a long-term vision for federal R&D funding. It creates legislative language which stresses the importance of R&D funding to the strength of our nation's innovation infrastructure. It also sets out guidelines for Congress to use in prioritizing funding decisions.

Based on a careful review and analysis of our past history, our bill authorizes a real funding increase of 2.5% over the rate of inflation for the next 12 years for federally-funded, civilian, R&D programs. This would increase federal R&D spending from the current level of 2.1% to 2.6% of total, overall budget. It would also cause a doubling, in 1998 dollars, of R&D funding in approximately 12 years. In order to make

sure that these increases are fully incorporated into budgetary process we request that the President include these increases in his annual budget request to Congress.

Currently, as I have stated previously, we are in an economic upturn. This is the perfect time to increase funding for R&D so that we can continue this growth. I have faith that, as long as the economic situation allows it, my thoughtful and wise colleagues will support increasing R&D funding to the levels that we have laid out in this bill. However, I am also a realist. I realize that the economy may not always remain as strong as it is right now. That is why we have introduced a funding firewall. Without this firewall I am seriously concerned that history will repeat itself. In the past, R&D funding is one of the first things that has been cut during times of crisis. This is the wrong approach. I believe that cutting R&D funding levels below a bare minimum level causes serious, long-term harm to the R&D infrastructure in the United States. Our firewall would not allow this to happen. It is not meant as a goal, it is meant as a bare minimum which should only be implemented in the leanest of years.

Many, if not most, recent 'quantum leaps' in knowledge have occurred at the interface between traditional disciplines of research. Therefore, we legislatively mandate that this funding increase must be macroscopically balanced, so that there is not preferential growth of one agency, program or field of study at the expense of other, equally qualified and deserving agencies. One of the original reasons that I started to get involved with technology issues such as EPSCoR and EPSCoT, was because I believe that technology should be shared by everyone, not just those in Silicon Valley or the Route 128 corridor in Boston. Therefore, this bill should not be seen as a means of promoting elitist science but as a mechanism for allowing for diversity in our national innovation infrastructure.

Finally, so that we are able to assure other Members of Congress and the general public that this money authorized by this Act would be well spent, we have included accountability measures which will assure that there is no waste of federal money on out-dated, or ill-conceived projects. This bill puts into place a system of accountability for each affected agency. Our bill institutes a study by the National Academy of Sciences to determine how to effectively measure the progress of R&D based agencies and then have them institute performance measures based on these metrics. This will allow increases in funding without concerns over wasteful spending being generated.

In conclusion, with the help of Senators GRAMM, LIEBERMAN, DOMENICI, and BINGAMAN, Senator FRIST and I have put together a long-term vision for federal R&D funding which we hope will instigate real increases in federal funding for research and development. Federally-funded research has been, and will continue to be, a driving power behind our economic success. If we are to maintain and enhance our current economic prosperity we must make sure that research programs are funded at adequate levels. I urge my colleagues to support this bill.●

● Mr. LIEBERMAN. Mr. President, I am pleased to join my colleagues, the original cosponsors of S. 1305, the members of the Senate Science and Technology Caucus, and Senator BREAUX, as an original cosponsor of S. 2217, the Frist-Rockefeller Federal Research Investment Act. This is the next step in the effort to restore federal civilian R&D investments to their historical levels and assure American leadership in science, technology, and innovation into the 21st century.

I was pleased to introduce last October, along with Senators GRAMM, BINGAMAN, and DOMENICI, the National Research Investment Act of 1998, S. 1305, which now has 19 cosponsors. S. 1305 has been an important coalition-building vehicle that served to galvanize support for federal R&D programs within the Congress. It is time, now, to move forward with a new legislative instrument that can move through the committee process and onto the floor.

The Frist-Rockefeller bill adds an important policy piece to the Senate effort to double federal R&D investments—based upon the work this year of the Senate Science and Technology Caucus, which I co-Chair along with Senator FRIST—and adds performance-based accountability provisions to ensure the quality of programs funded with new monies. The policy piece is especially valuable because it outlines an investment strategy that can serve as a useful complement to the very important efforts of the House Science Committee in drafting a national policy for federal R&D programs.

We must fund research and development at levels commensurate with their contribution to the health and welfare of our citizenry. America's research enterprise is the most competitive and productive in the world. The strength of our innovation system depends on the steady stream of discovery that flows out of our nation's universities and industrial and national laboratories. The creation of new knowledge, and the education and training that is part and parcel of the knowledge-creation process, are critical enablers of wealth creation and future economic growth. I believe that adequately funding R&D and advanced scientific and technical education are two of the most effective measures we can undertake to promote the health and prosperity of America's high-tech economy.

I welcome the leadership of Senators FRIST and ROCKEFELLER. I look forward to working with them to assure the continued success of America's science and technology enterprise.

I'd like to take a moment to acknowledge the important work of the many people representing research and educational organizations who have labored long and hard to raise the level of understanding of those of us in Congress with respect to the contribution research makes to our national well being. They have helped to lay the groundwork for this legislation that was introduced today. Among those who have contributed to this effort are:

Mike Lubell and Frances Slakey, American Physical Society;

David Schutt and Melissa Kuckro, American Chemical Society;

Greg Schuckman and Pete Leon, American Association of Engineering Societies;

Kathy Tollerton, American Society for Engineering Education;

Mike Matlack, the National Society of Professional Engineers;

Raymond Paul, Institute of Electrical and Electronic Engineers;

Suzy Glucksman, American Society of Mechanical Engineers;

Sam Rankin, American Mathematical Society;

David Peyton, National Association of Manufacturers;

Stephanie Stitzer, American Electronics Association;

Taffy Kingscott, Coalition for Technology Partnerships, and the Semiconductor Industry Association;

Betsy Houston, Federation of Materials Societies;

Ron Kelley, Materials Research Society;

Elizabeth Baldwin, Optical Society of America;

Jerry Roschwalb, National Association of State Universities and Land-Grant Colleges;

George Leventhal, Association of American Universities;

Richard O'Grady and Jodi Kolber, American Institute of Biological Sciences;

Brian Gottlieb, American Society for Microbiology;

Nadine Lymn, Ecological Society of America;

Peter Folger, American Geophysical Union; and

Stephanie Beck, Research America! ●

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

S. 2218. A bill to require the Secretary of the Army, acting through the Chief of Engineers, to evaluate, develop, and implement a strategic master plan for States on the Atlantic Ocean to address problems associated with toxic microorganisms in tidal and non-tidal wetlands and waters; to the Committee on Environment and Public Works.

ATLANTIC COAST TOXIC MICROORGANISM ENVIRONMENTAL REMEDIATION ACT

● Mr. SARBANES. Mr. President, today I am introducing legislation, together with my colleagues Senators FAIRCLOTH, WARNER, MIKULSKI and ROBB, to help address the serious problems posed by toxic microorganisms that are affecting the tidal and non-tidal wetlands and waters of the States along

the eastern seaboard. The ''Atlantic Coast Toxic Microorganism Environmental Remediation Act'' authorizes the Army Corps of Engineers to develop and implement a strategy to mitigate current and potential problems posed by these aquatic microorganisms.

Serious outbreaks of toxic microorganisms, such as Pfiesteria and Pfiesteria-like dinoflagellates, have recently struck inland waters and estuaries in Maryland, North Carolina, Delaware, Florida, and Virginia. Linked to the flow of excess nutrients and loss of habitat, these toxic microorganisms are seriously impacting regional economies and threatening finfish resources and economic and recreational sectors along the Atlantic Coast.

Between 1972 and 1995, the number of coastal and estuarine waters that host major, recurring attacks by harmful microbes has doubled. Last year alone, approximately 450,000 fish were killed in North Carolina by Pfiesteria, while tens of thousands of valuable fish met the same fate in tidal rivers in the eastern shore of my own State of Maryland last year. There are other harmful microbes, as well, that are similar to Pfiesteria in their effects and that may be poised in a moments notice to wreck havoc on our aquatic ecosystems and communities and which may pose serious threats to human health and safety.

In 1982, scientists were aware of 22 species of harmful water-borne dinoflagellates; now they are aware of over 60! So, we now face a situation where more than five dozen different harmful microbes can potentially produce catastrophic economic and environmental effects in waters extending along the eastern seaboard.

Experts note that such harmful attacks are increasing in frequency or severity in aquatic environments both in the United States and worldwide. Toxic dinoflagellates and harmful algae are microscopic, single-celled organisms that live in the sea, estuaries and near-shore inland waters along our coasts. Most species are not harmful, and are a key element in the aquatic food web. Unfortunately, a small number of these species also produce potent neurotoxins than can affect and even kill higher forms of life, such as shellfish, finfish, birds, marine mammals, as well as impact human health.

Last year, the Administration directed that an interagency research and monitoring strategy be developed in response to the outbreaks of Pfiesteria in the Chesapeake Bay. Seven federal agencies participated in developing this strategy including NOAA, EPA, the Departments of Interior and Agriculture and the Centers for Disease Control. Funding to implement actions called for under the plan and the Administration's Clean Water Initiative was included in the fiscal 1999 budget request. Unfortunately, the key Federal agency with expertise in water resources and aquatic habitat restoration—the Army Corps of Engineers—was not included in the interagency task force and habitat and related considerations were not integrated into the response plans.

The bill I am introducing seeks to address this shortcoming and to ensure that all the available expertise of the Federal government is brought to bear in combating these biotoxins. The legislation authorizes the Army Corps of Engineers, in partnership with State and local governments as well as other Federal agencies, to conduct an evaluation, develop a strategic master plan, and implement recommended actions to address problems in the degradation of aquatic habitat related to the presence of toxic microbes, including Pfiesteria, in wetlands and waters along the Atlantic coast. With its expertise in watershed management and restoration, the U.S. Army Corps of Engineers has a vital role to play in responding to the threats posed by toxic microorganisms and this legislation provides the funding and authority for this agency to do so.

Mr. President: I ask unanimous consent that the full text of the bill be included in the RECORD.

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

S. 2218

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 ''Atlantic Coast Toxic Microorganism Environmental Remediation Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) effective protection of tidal and nontidal wetlands and waters of the United States is essential to sustain and protect ecosystems, as well as recreational, subsistence, and economic activities dependent on those ecosystems;

(2) the effects of increasing occurrences of toxic microorganism outbreaks can adversely affect those ecosystems and their dependent activities; and

(3) there needs to be a comprehensive evaluation, development, and implementation of strategic master plans for States.

SEC. 3. DEFINITIONS.

In this Act:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of the Army, acting through the Chief of Engineers.

(2) STATE.—The term ''State'' means a State on the coast of the Atlantic Ocean.

(3) TOXIC MICROORGANISMS.—The term ''toxic microorganisms'' includes Pfiesteria piscicida and other potentially harmful aquatic dinoflagellates.

SEC. 4. STUDY AND STRATEGY FOR AQUATIC HABITAT REMEDIATION.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall evaluate, develop, and implement a strategic master plan for each State (on a watershed basis) to address problems associated with the degradation of ecosystems and their dependent activities resulting from toxic microorganisms in tidal and nontidal wetlands and waters.

(b) FEDERAL AND NON-FEDERAL SHARES.—

(1) FEDERAL SHARE.—The Federal share of the cost of evaluating, developing, and implementing a strategic master plan for a State under subsection (a) shall be 75 percent.

(2) NON-FEDERAL SHARE.—The non-Federal share of the cost of evaluating, developing, and implementing a strategic master plan for a State under subsection (a) shall be provided in the form of cash, in-kind services, or materials.

(c) COOPERATIVE AGREEMENTS.—Subject to subsection (b), in carrying out this section, the Secretary may enter into cooperative agreements with Federal, State, and local government agencies under which the Secretary shall provide financial assistance to implement actions identified in each watershed strategic master plan.

(d) IMPLEMENTATION.—The Secretary shall carry out this section in cooperation with—

(1) the Secretary of the Interior;

(2) the Secretary of Agriculture;

(3) the Administrator of the Environmental Protection Agency;

(4) the Administrator of the National Oceanic and Atmospheric Administration;

(5) the heads of other appropriate Federal, State, and local government agencies; and

(6) affected local landowners, businesses, and commercial entities.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $15,000,000.●

By Mr. KERREY:

S. 2219. A bill to direct the Secretary of the Interior to convey certain irrigation project property to certain irrigation districts in the State of Nebraska; to the Committee on Energy and Natural Resources.

MISSOURI RIVER BASIN, MIDDLE LOUP DIVISION PROJECT FACILITIES CONVEYANCE ACT

● Mr. KERREY. Mr. President, today I am introducing the ''Missouri River Basin, Middle Loup Division Project Facilities Conveyance Act.''

The bill provides for the transfer of title of irrigation project facilities and lands from the Bureau of Reclamation, U.S. Department of Interior to the Middle Loup Division irrigation districts in central Nebraska. These districts have operated the facilities there for over 35 years.

The project facilities are part of the Missouri River Basin Project, and provide water from the Middle Loup River to over 64,000 acres of irrigable land, as well as providing recreation and fish and wildlife benefits. Principal features of the projects include the Sherman Dam and Reservoir, the Arcadia Diversion Dam, the Milburn Diversion Dam, irrigation canals and laterals, drains and pumping plants.

Crops grown on these irrigated lands primarily include alfalfa, small grains, sugar beets, and corn to provide feed for a thriving livestock-feeding economy in my state of Nebraska, which includes beef cattle, hogs, and poultry.

In 1995 the Vice President indicated that the Bureau of Reclamation of the U.S. Department of Interior should transfer title to allow local ownership of irrigation projects such as this. The Bureau has indicated to me that this project is a top candidate for title transfer to be achieved. When this legislation passes, Nebraska will become the first state where title transfer efforts have been successful.

A Nebraska-Middle Loup River Community Environmental Trust Fund is also created through the transfer, to be administered by a 7-member Interlocal Cooperation Agency (ICA). The fund is to be used for environmental and conservation enhancements to project lands and facilities, as agreed to by the 7-member ICA, and cannot be used for routine operation and maintenance of the project or facilities.

The irrigation projects and facilities were constructed between 1955 and 1966 under authorities of the Flood Control Act of 1944, and are currently operated and maintained under contracts between the Bureau and the irrigation districts and power producers. The transfer will provide for total repayment of all outstanding obligations on behalf of the irrigation districts and power producers, while retaining all current uses and purposes for the projects.

Mr. President, I urge my colleagues to join me in support of this legislation.

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. 2219

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 ''Missouri River Basin, Middle Loup Division Project Facilities Conveyance Act''.

SEC. 2. DEFINITIONS.

In this Act:

(1) PROJECT.—The term ''project'' means each of the irrigation projects constructed by the United States under the Act of December 22, 1944 (commonly known as the ''Flood Control Act of 1944'') (58 Stat. 887, chapter 665), described as the ''Missouri River Basin, Middle Loup Division Project'' and locally known as the ''Farwell Irrigation Project'' and the ''Sargent Irrigation Project''.

(2) PROJECT BENEFICIARY.—The term ''project beneficiary'' means—

(A) the Farwell Irrigation District, Sargent Irrigation District, and Loup Basin Reclamation District, each of which is organized as a subdivision of government under the law of the State of Nebraska;

(B) a combination of the irrigation districts or reclamation district; and

(C) an organization established by 1 or more of the irrigation districts or reclamation district under the law of the State of Nebraska as an interlocal cooperation agency.

(3) PROJECT PROPERTY.—The term ''project property'' means—

(A) all contracts in effect on the date of enactment of this Act between the United States and a project beneficiary or other person that relate to a project or project facility, including any written or unwritten contract to provide power from a Federal power facility under the Act of December 22, 1944 (58 Stat. 887, chapter 665);

(B) all project distribution and drainage facilities, all reservoir and related diversion facilities, and all related land owned by the United States as of the date of enactment of this Act that the Secretary determines to be related to a project;

(C) all acquired land (including the surface estate and the subsurface estate) within a project;

(D) all water rights held by the United States relating to the project facilities;

(E) all right, title, and interest in all outstanding contracts, leases, licenses, outgrants, or permits on or relating to land associated with a project; and

(F) all personal property (including operating equipment, tools, materials, and other tangible personal property) owned by the United States that is used for the purpose of operating the project or serving the project facility.

(4) PROJECT PURPOSE.—The term ''project purpose'' means use of the project property and the water supply of the project (consistent with the recent use and experience with the project and not limited to the use envisioned when the project was originally authorized, and consistent with section 8) to—

(A) provide irrigation water for project land to which the project water rights are assigned;

(B) enhance the agricultural economy of the area served by the project;

(C) stabilize the water supply from surface and ground water sources in the area served by the project;

(D) develop and protect fish and wildlife resources native to the area served by the project; and

(E) develop and manage water- and land-based recreation facilities in the area that are related to the project property.

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

SEC. 3. CONVEYANCE.

(a) CONVEYANCE.—

(1) IN GENERAL.—On January 1, 2000 (or on any earlier date that is agreeable to the Secretary and the project beneficiaries), the Secretary may, on terms in accordance with this Act, convey by quitclaim deed, patent, or other appropriate instrument, all right, title, and interest of the United States in and to the project property to the project beneficiaries, in the name or names of project beneficiaries as the project beneficiaries may determine.

(2) CONTAMINATED PROPERTY.—

(A) REMEDIAL ACTION.—Notwithstanding section 120(h)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)(3)) or any other law, the Secretary shall make the conveyance under paragraph (1) not later than January 1, 2000, without regard to whether all necessary remedial action required under that Act on any part of the project property has been completed by that date.

(B) EFFECT.—Subparagraph (A) does not—

(i) relieve the United States of the obligation to complete any required remedial action expeditiously; or

(ii) place any obligation on the project beneficiaries to conduct or contribute to payment of the costs of any remedial action.

(3) COMPLETION OF NEPA STUDIES AND REPORTS.—The Secretary shall cause all studies and reports required on the project property under the National Environmental Policy Act of 1964 (42 U.S.C. 4321 et seq.) relating to the conveyance under paragraph (1) to be completed as far in advance of January 1, 2000, as practicable.

(b) CONSIDERATION.—The conveyance of the project property under subsection (a) shall be for consideration totaling $5,030,000, to be paid to the United States for credit against the Reclamation Projects Funds for the Missouri River Basin Project, as follows:

(1) PAYMENT BY PROJECT BENEFICIARIES.—

(A) IN GENERAL.—On the date of conveyance, the project beneficiaries shall pay the Secretary $3,530,000.

(B) CREDITING OF CONTRACT PAYMENTS.—There shall be credited against the amount specified in subparagraph (A) the amount of any payments made by the project beneficiaries between July 1, 1998, and December 31, 1999, under contracts between the project beneficiaries and the United States.

(2) PAYMENT BY POWER PRODUCERS.—

(A) IN GENERAL.—On the date of conveyance, the power producers under the Pick-Sloan Missouri Basin Program shall pay the Secretary $1,500,000.

(B) PAYMENT SOURCE.—As a source of funds for the payment under subparagraph (A), the power producers may use power sale revenues received in fiscal year 1998 or any subsequent fiscal year in which the amount of power sale revenues received exceeds the amount of interest and operation and maintenance obligations.

(c) SATISFACTION OF OUTSTANDING OBLIGATIONS.—

(1) IN GENERAL.—The payment of the sums provided for in subsection (b) shall be in full and complete satisfaction of all obligations against the project property, the project beneficiaries, and Missouri River Basin power producers existing before the date of conveyance of the project property under any contracts entered into between the United States, the project beneficiaries, or the Missouri River Basin power producers or under any obligations that may have been required by the Act of December 22, 1944 (58 Stat. 887, chapter 665) or other related Federal law.

(2) SATISFACTION OF OBLIGATIONS.—The completion of the conveyance of all project facilities under this Act and the payment of the consideration specified for the projects shall constitute full satisfaction of any and all obligations for further payments or repayments by the respective project beneficiaries or by the Missouri River Basin power producers for irrigation benefits of the project property and for any other benefits conveyed to the project beneficiaries.

(d) CONVEYANCE DOCUMENTS.—

(1) IN GENERAL.—With the assistance of the project beneficiaries, the Secretary—

(A) shall execute and deliver to the project beneficiaries all necessary conveyance documents (including quitclaim land deeds, court proceedings, decrees, bills of sale, certificates of title, lease contract transfers, water rights certificates and amendment documents, and notice filings) and make all such filings as may be required of the transferor; and

(B) take all such actions as may be required to consummate the conveyance of project property.

(2) FILING COSTS.—The cost of any required filing of documents shall be paid by the project beneficiaries.

(e) ASSUMPTIONS OF OBLIGATIONS.—On the date of the conveyance under subsection (a), the project beneficiaries shall—

(1) assume the rights and responsibilities under the contracts, leases, licenses, outgrants, and permits referred to in section 2(3)(E); and

(2) during the continued term of each contract, lease, license, outgrant, and permit, carry out all responsibilities of the United States under the contract, lease, license, outgrant, or permit unless released by the holder of the contract, lease, license, outgrant, or permit.

(f) NO DIMINISHMENT OF ESTATE.—The Secretary shall not transfer, modify, or restrict the interest of the United States in any part of the project property after the date of enactment of this Act and before the date of the conveyance under subsection (a).

(g) EFFECT OF AGREEMENT BY PROJECT BENEFICIARIES.—

(1) IN GENERAL.—By accepting the conveyance under subsection (a), the project beneficiaries agree—

(A) to operate, maintain, repair, replace, and rehabilitate the project in a manner designed to carry out the project purposes; and

(B) to cooperate with each person holding a contract, lease, license, outgrant, or permit referred to in section 2(3)(E) so as to ensure that the rights of the person under the contract, lease, license, outgrant, or permit are preserved after the conveyance.

(2) NOTIFICATIONS.—The project beneficiaries shall be responsible for notifying all State, regional, and local authorities (including authorities responsible for dam safety, monitoring, and inspections, water quality monitoring, and inspections and administration of water rights) regarding the conveyance of project property and the assumption of ownership of the project.

(h) PAYMENT OF NEPA STUDY COSTS.—All costs incurred by the United States in preparation of studies and reports required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) relating to the conveyance under subsection (a)—

(1) up to the sum of $170,000, shall be paid equally by the United States and the project beneficiaries; and

(2) in excess of $170,000, shall be paid solely by the United States.

SEC. 4. MIDDLE LOUP DRAINAGE FACILITIES AND LAND.

(a) RESPONSIBILITY FOR DRAINAGE WORK.—

(1) IN GENERAL.—Except for any drainage work that is made necessary by acts or omissions of project beneficiaries in connection with project operations, any repair or modification of drainage work in existence on the date of enactment of this Act or any development of new additional drainage work that the project beneficiaries, in cooperation with Loup City, Nebraska, and the landowners on whose land drainage works exist at any time, determine is necessary to satisfactorily limit or reduce ground water encroachment on the land described in subsection (b), shall be the financial responsibility of the United States to the extent provided in paragraph (2).

(2) RACHETING DOWN OF FINANCIAL RESPONSIBILITY OF THE UNITED STATES.—For drainage work performed in the following fiscal years, the United States shall have financial responsibility for the following percentages of the cost of the drainage work, and the project beneficiaries shall have financial responsibility for the remainder:

Fiscal year:	Percentage:
2000	100
2001	95
2002	90
2003	85
2004	80
2005	75
2006	70
2007	65
2008	60
2009	55
2010	50
2011	45
2012	40
2013	35
2014	30
2015	25
2016	20
2017	15
2018	10
2019	5
2020 and thereafter	0.

(b) DESCRIPTION OF LAND.—The land described in this subsection is all land—

(1) in which the United States has any interest in the valley of the Middle Loup River in and around Loup City, Nebraska;

(2) that was developed or acquired by the United States for the purposes of collecting and draining excess ground water; and

(3) that is entirely outside the political subdivision boundaries of the project beneficiaries.

SEC. 5. LIABILITY.

Beginning on the date of the conveyance of the project property under section 3(a), the United States shall not be liable for damages arising out of any act, omission, or occurrence relating to the project property or a project except for damages caused by an act or omission of the United States or an employee, agent, or contractor of the United States before that date.

SEC. 6. MAINTENANCE OF PROJECT PURPOSES AND BENEFITS AND CREATION OF TRUST FUND.

(a) CONTINUATION OF PROJECT PURPOSES.—

(1) IN GENERAL.—All project property conveyed under section 3 shall, to the extent practicable, be operated and maintained to achieve the project purposes.

(2) APPLICABILITY OF LAWS.—Operations of all project property conveyed under section 3 shall be subject to Federal and State laws under which the irrigation districts and reclamation district were established and the irrigation districts and reclamation district conduct operations.

(3) OTHER USES OF PROJECT FACILITIES.—All other uses of project facilities consistent with those laws and the operation of irrigation facilities, including fish, wildlife, and recreation uses, shall be preserved, protected, and enhanced to the extent practicable by the project beneficiaries.

(b) NEBRASKA-MIDDLE LOUP RIVER COMMUNITY ENVIRONMENTAL TRUST FUND.—

(1) ESTABLISHMENT.—As a condition to the conveyance under section 3, the project beneficiaries shall establish a fund, to be known as ''Nebraska-Middle Loup River Community Environmental Trust Fund''.

(2) ADMINISTRATION.—The fund shall be administered by an interlocal cooperation agency, organized under State law by the project beneficiaries, that includes at least—

(A) 1 member selected by the Loup Basin Reclamation District;

(B) 1 member each selected by the Farwell Irrigation District and the Sargent Irrigation District;

(C) 1 member from the Nebraska Game and Parks Commission, to be selected by the Commission;

(D) 1 member from the Nebraska Natural Resources Commission, to be selected by the Commission;

(E) 1 member of the Lower Loup Natural Resources District, selected by the District; and

(F) 1 member from the Nebraska Department of Water Resources, to be selected by the Governor of the State of Nebraska.

(3) DEPOSIT.—On receipt of payment of consideration under section 3(b), the Secretary shall deposit the payment in the fund.

(4) USE OF FUND.—

(A) IN GENERAL.—Amounts in the fund shall be used to preserve, protect, enhance, and manage project property in a manner that the interlocal cooperation agency determines is necessary to achieve the project purposes, including actions to—

(i) stabilize water supplies;

(ii) conserve water and land resources;

(iii) improve and enhance fisheries and recreational opportunities; and

(iv) expand knowledge of water and land sources for enhancing project operations to improve the service of project purposes.

(B) PROHIBITION.—Amounts in the fund shall not be used for any routine operation and maintenance work by the project beneficiaries or any cooperator, lessee, licensee, or permittee of the project beneficiaries.

SEC. 7. ARCHAEOLOGICAL PRESERVATION RESPONSIBILITIES.

(a) IN GENERAL.—The Secretary shall complete all investigation and preservation activities required under the National Historic Preservation Act (16 U.S.C. 470 et seq.) at archaeological sites on project property that, before the date of the conveyance under section 3(a), have been identified as being subject to the requirements of that Act.

(b) EASEMENT.—At the time of the conveyance of the project property, the project beneficiaries shall convey to the Secretary an easement to each archaeological site described in subsection (a) for the purpose of retaining access to and full use of the site for the purposes of concluding any required archaeological activity at the site.

(c) EFFECT ON PROJECT OPERATION.—The Secretary shall—

(1) ensure that archaeological activity at an archaeological site described in subsection (a) does not adversely affect the integrity of the operation any project property; or

(2) to the extent that it is not practicable for the Secretary to avoid any adverse effect, provide such alternative facilities as are necessary to maintain project integrity.

SEC. 8. MODIFICATION OF PROJECT PURPOSES.

The purposes of the project are modified to exclude flood control.●

By Mr. JOHNSON:

S. 2220. A bill to provide the President with expedited Congressional consideration of line item vetoes of appropriations and targeted tax benefits; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be charged.

THE LEGISLATIVE LINE ITEM RESCISSION ACT

Mr. JOHNSON. Mr. President, I rise today in response to the decision by the Supreme Court striking down the Line Item Veto Act.

Today's decision does not surprise many who have looked closely at the constitutional questions raised by this law. The fundamental flaw of the Line Item Veto Act was that it violated the Presentment Clause of the Constitution by attempting to give the President the power to amend legislation passed by Congress. In the words of Justice Stevens, who wrote for the majority of the Court, ''If the Line Item Veto Act were valid, it would authorize the President to create a different law—one whose text was not voted on by either House of Congress or presented to the President for signature.''

The majority opinion goes on to state that ''if there is to be a new procedure in which the President will play a different role in determining the final text'' of a law, such change can only result from amending the Constitution.

Some of my colleagues, in reaction to today's decision, have already announced their support for a constitutional amendment giving the President this power. I hope that, in their haste, they do not overlook a legislative alternative that I am introducing in the Senate today to create a process for expedited consideration of presidentially-proposed rescissions.

I have been a supporter of line-item rescission legislation since the beginning of my first term in the House of Representatives. I first introduced legislation in August 1987, and I was pleased to see support for this concept grow over the years.

In November 1987, I wrote to President Reagan's Chief-of-Staff, Howard Baker, to request that line-item rescission be discussed during the Economic Budget Summit that was held during that year. Although the administration declined this request, President Reagan's budget proposal for Fiscal Year 1989 contained a proposal for line-item rescission that was very similar to the legislation that I had introduced.

Support continued to grow, and a variety of versions of this legislation were introduced in the House. Eventually, the supporters of line-item rescission banded together in 1992 behind a common vehicle, H.R. 2164, which passed the House in October of that year. Insufficient time was available in the legislative year, however, for the Senate to take up the bill.

After the momentous elections in the fall of 1992, I met with Karen Hancox of President-elect Clinton's transition team. I requested that Clinton support the line-item rescission concept. His endorsement helped win easy House passage of H.R. 1578 on April 29, 1993. To my disappointment, however, the Senate did not take up consideration of this bill, and the 103rd Congress adjourned without progress.

The 104th Congress brought a change in control of the Congress. With that partisan shift came an inclination to support a new form of line-item rescission, the so-called legislative line-item veto. Unlike line-item rescission, the line-item veto stated that the president's rescissions were to be considered automatically approved unless overridden by a two-thirds vote of both the House and the Senate. Although still a cosponsor of line-item rescission, I voted for the new bill with the knowledge that it would receive constitutional scrutiny by the courts.

Now that the Supreme Court has ruled, I believe that Congress should take another look at line-item rescission. The bill I submit today, S. 2220, does not cede power to the President to alter an act of Congress. Instead, it provides for an up-or-down vote in Congress of rescissions proposed by the President, thus exposing controversial items of spending to the light of day. If Congress believes the spending is merited, then it will vote to reject the rescission bill. Likewise, if the spending does not stand up to scrutiny, Congress can pass the rescission bill with a majority vote in each house and send it to the President for signature.

The American Law Division of the Congressional Research Service has conducted a preliminary review of my bill. According to this review, S. 2220 would meet the standard outlined in today's Court decision since the bill would not cede to the President the power to alter the text of legislation passed by Congress.

It seems clear that we still need a mechanism to highlight items of wasteful spending and to force a vote on this spending. Line-item rescission accomplishes this feat without unduly altering the balance of power between the legislative and executive branches of government. Before running off to amend the Constitution, we should give line-item rescission a try.

By Mr. GRASSLEY (for himself, Mr. REID, Mr. HOLLINGS, and Mr. D'AMATO):

S. 2222. A bill to amend title XVIII of the Social Security Act to repeal the financial limitation on rehabilitation services under part B of the Medicare Program; to the Committee on Finance.

REINSTATEMENT OF THE MEDICARE REHABILITATION BENEFIT ACT OF 1998

Mr. GRASSLEY. Mr. President, today I introduce the ''Reinstatement of the Medicare Rehabilitation Benefit Act of 1998 with my colleagues, Senators REID, HOLLINGS, and D'AMATO. This legislation will enable seniors to receive rehabilitative services based on their condition and not on arbitrary payment limits. A similar version was introduced in the House of Representatives by Congressman Ensign earlier this year.

The Balanced Budget Act of 1997 is a very important accomplishment and one that I am proud to say I supported. However, in our rush to save the Medicare Trust Fund from bankruptcy, Congress neglected to thoroughly evaluate the impact the new payment limits on rehabilitative services would have on Medicare beneficiaries.

The BBA included a $1500 cap on occupational, physical and speech therapy services received outside a hospital setting. According to a recent study by Muse & Associates, these limitations on services would harm almost 13 percent (or 653,000) of Medicare beneficiaries because these individuals would exceed the cap. While many seniors will not need services that would cause them to exceed the $1500 cap, others, like stroke victims, will likely need services beyond what the arbitrary caps will cover. Unfortunately, it is those beneficiaries who need rehabilitative care the most who will be penalized by being forced to pay the entire cost for these services outside of a hospital setting.

The bill I am introducing would repeal the cap, which is scheduled to go into effect in January 1999. The Secretary of the Department of Health and Human Services would be required to implement a prospective payment system that would recoup any savings lost from the repeal of this provision by January 2000. In essence, the bill attempts to accomplish the primary goal of the $1500 cap, budgetary savings, but without harming the Medicare beneficiary. Payment is based on the patient's condition and not on an arbitrary monetary amount. Help us repeal the $1,500 cap, establish a system that makes sense, and still achieve the budget savings sought from the BBA without reducing Medicare benefits.

Please join me and my colleagues in passing this legislation. I ask unanimous that the full 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. 2222

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 ''Reinstatement of the Medicare Rehabilitation Benefit Act of 1998''.

SEC. 2. REPEAL OF FINANCIAL LIMITATION ON REHABILITATION SERVICES.

(a) REPEAL.—

(1) IN GENERAL.—Section 1833 of the Social Security Act (42 U.S.C. 1395l) is amended by striking subsection (g).

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to services furnished on or after January 1, 1999.

(b) OFFSETTING PORTION OF ADDITIONAL EXPENDITURES THROUGH PAYMENT REFORM.—

(1) IN GENERAL.—Notwithstanding any other provision of law, for outpatient physical therapy services, outpatient occupational therapy services, and outpatient speech-language pathology services covered under title XVIII of the Social Security Act and furnished on or after January 1, 2000, the Secretary of Health and Human Services shall implement a new payment methodology based on the classification of individuals by diagnostic category, functional status, and prior use of services in both inpatient and outpatient settings.

(2) BUDGET NEUTRALITY IN IMPLEMENTATION.—Such payment methodology shall be designed so that the methodology, taking into account the increased expenditures resulting from the amendment made by subsection (a), does not result in any increase or decrease in the expenditures under title XVIII of the Social Security Act on a fiscal year basis.

● Mr. REID. Mr. President, I rise in strong support of the ''Reinstatement of the Medicare Rehabilitation Benefit Act of 1998'' (RMRA). This legislation repeals a provision in the Balanced Budget Act of 1997 (BBA 97) that imposes a $1500 annual per beneficiary cap on Medicare outpatient rehabilitation services. RMRA directs the Health Care Financing Administration (HCFA) to develop and implement an alternative payment system that is based on individual diagnosis and prior therapy in both inpatient and outpatient facilities by January 1, 2000.

The BBA created annual caps for two categories of therapy provided to beneficiaries under Medicare Part B: a $1500 annual cap on physical therapy and speech language combined; and a separate cap for occupational therapy. These arbitrary limits on rehabilitation therapy were hastily included in the BBA without the benefit of Congressional hearings or thorough review by HCFA. As a result, the $1500 limits bear no relation to the medical condition of the patient, or the health outcomes of the rehabilitative services.

The $1500 cap would create serious access and quality problems for Medicare's oldest and sickest beneficiaries. Senior citizens who suffer from common conditions such as stroke, hip fracture, and coronary artery disease, will not be able to obtain the rehabilitative services they need to resume normal activities of daily living. A stroke patient typically requires more than $3,000 in physical therapy alone. Rehabilitation therapy for a patient suffering from Multiple Sclerosis or ALS costs even more. Without access to outpatient therapy, patients must remain in institutional settings longer, be transferred to a higher cost hospital facility, or in some cases, just go without necessary services.

Coverage for rehabilitative therapy should be based on medically necessary treatment, not arbitrary spending limits that ignore a patient's clinical needs. I urge you to join me in protecting Medicare's most vulnerable beneficiaries by supporting the ''Reinstatement of the Medicare Rehabilitation Benefit Act of 1998''.●

● Mr. HOLLINGS. Mr. President, I am delighted to join my colleagues, Senator GRASSLEY, Senator REID, and Senator D'AMATO in introducing legislation which would repeal provisions of the Balanced Budget Act of 1997 pertaining to the establishment of annual caps of $1,500 on all outpatient rehabilitation services except those furnished in a hospital outpatient department.

The ''Reinstatement of the Medicare Rehabilitation Benefit Act of 1998'' that we introduce today is made necessary because of the negative impact these provisions will have on Medicare beneficiaries who require therapy services. Senior citizens suffering from medical conditions common to the elderly such as stroke, hip fracture, and coronary artery disease will not be able to obtain the rehabilitative care they need to resume normal activities of daily living because of this arbitrarily imposed cap. This is especially true in South Carolina, which has a significant number of Medicare recipients who live in rural areas. A patient who has met the $1,500 cap will have no choice but to seek care in a hospital outpatient department, not only at a much greater distance but also at a substantially higher cost.

The ''Reinstatement of the Medicare Rehabilitation Benefit Act'' would also repeal the provision combining speech-language pathology and physical therapy services under the same $1,500 cap. These are two very separate and distinct functions, and there is no rational basis for including them under one cap. As my constituent, Beth Fleming of Anderson, South Carolina, said recently, and I agree, ''Patients should not have to choose between walking and talking.''

I urge my distinguished colleagues to join Senator GRASSLEY, Senator REID, Senator D'AMATO and me in supporting this legislation.●

By Mr. GRAMS (for himself, Mr. FAIRCLOTH, Mr. BRYAN, Mr. THURMOND, Mr. BREAUX, Mr. ALLARD, Mr. AKAKA, Mr. BROWNBACK, Mr. INOUYE, Mr. DOMENICI, Mr. REID, Mr. GREGG, Mr. ASHCROFT, Mr. BENNETT, Mr. MACK, Mr. MCCAIN and Mr. ENZI):

S. 2223. A bill to provide a moratorium on certain class actions relating to the Real Estate Settlement Procedures Act of 1974; to the Committee on the Judiciary.

MORTGAGE LITIGATION REFORM ACT OF 1998

● Mr. GRAMS. Mr. President, today I introduce the Mortgage Litigation Reform Act of 1998. This legislation is a narrowly crafted, bipartisan bill. Its goal is to provide relief from frivolous class action lawsuits resulting from the regulatory ambiguity over the payment of certain fees by mortgage bankers to mortgage brokers.

A spate of recent class action lawsuits have called into question the legality of yield spread premiums, although there is no statute or regulation ruling that such fees are per se illegal. This legislation simply places a moratorium, from the date of enactment through July 1, 1999, on class action lawsuits regarding these fees. It is important to note that the bill is narrowly crafted and does not prohibit personal rights of action or criminal prosecution related to these payments.

During the moratorium period, I am hopeful that either the Department of Housing and Urban Development will publish a clear ruling governing the payment of yield spread premiums or, better yet, Congress will achieve the long sought after overhaul of the Real Estate Settlement Procedures Act (RESPA) and Truth In Lending Act (TILA).●

● Mr. FAIRCLOTH. Mr. President, I introduce legislation entitled the ''Mortgage Litigation Reform Act of 1998'' to stop the filing of frivolous class action lawsuits in the mortgage lending process. At dispute in these class actions is whether the payment of a yield spread premium by a lender to another lender or a mortgage broker is a violation of RESPA (Real Estate Settlement Procedures Act).

The Real Estate Settlement Procedures Act, a federal statute enacted in 1974, was passed to provide consumers with meaningful disclosures about the home buying process and protect them from paying unnecessary and costly fees when buying a house. Today, the statute is confusing to consumers and no longer meets the needs of industry because of changes in technology and business affiliations. I held two hearings on RESPA and the Truth in Lending Act (TILA) last summer and found that consumer groups and the real estate and lending community agreed that there must be major overhaul of the statutes.

One issue among these problems is whether payment of a yield spread premium is legal. HUD's own home settlement booklet indicates that a mortgage broker may be paid by a borrower, a lender or both. This would indicate to a reasonable person that the payments are legal. However, when I questioned HUD point-blank on the legality of these fees during the hearings last summer, the Department refused to give me a straight answer. Instead, the agency proposed a cumbersome and confusing rule that would have given legality to some of the fees in certain circumstances. Many of us believed that the rule if put into final form would have encouraged more frivolous litigation.

Today, consumer and industry groups and HUD and the Federal Reserve are working on legislative recommendations to overhaul RESPA and TILA. We hope to have hearings on those recommendations later this year and pass a reform package next session. While these efforts are underway, I believe that we should pass this narrowly-tailored moratorium on class action lawsuits until the issue of yield spread premiums is clarified by HUD or by the Congress. This bill would not affect the filing of private rights of action by individual consumers so that the legality can be adjudicated on a case-by-case basis.

I believe that much work still needs to be done on RESPA and TILA reform but this legislation will enable one of those controversial issues to be set aside for the time being.●

By Mr. DODD (for himself, Mr. HAGEL, Mr. BIDEN, and Mr. ROBERTS):

S. 2224. A bill to authorize the President to delay, suspend, or terminate economic sanctions if it is in the national security or foreign policy interest of the United States to do so; to the Committee on Foreign Relations.

SANCTIONS RATIONALIZATION ACT OF 1998

Mr. DODD. Mr. President, I rise today to introduce legislation on behalf of myself, Senators HAGEL, BIDEN and ROBERTS. The objective of this bill is to restore some rationality to what has become a very complex and problematic compilation of Congressionally imposed unilateral economic sanctions laws.

The bill we are introducing today—the ''1998 Sanctions Rationalization Act'' would give the President the authority to delay, suspend or terminate a sanction that he believes not to be in the United States national interest. But it would also give Congress an opportunity to review each Presidential exercise such authority, and to enact a resolution of disapproval to maintain a particular sanction, under the expedited procedures, within thirty days of Presidential action.

Mr. President, on June 4, I joined with Senator LUGAR and others as a cosponsor of S. 1413—the Enhancement of Trade, Security, and Human Rights Through Sanctions Reform Act. This bill creates a framework for future

consideration by the legislative and executive branches of unilateral economic sanctions. I applaud Senator LUGAR for his vision in putting together this piece of legislation in cooperation with Congressman LEE HAMILTON.

I believe that the legislation I am introducing today complements the efforts of Senator LUGAR and Congressman HAMILTON by dealing with sanctions that are already imbedded in statute and which have come to threaten the ability of the President of the United States to conduct United States foreign policy in furtherance of U.S. national interests.

Mr. President, U.S. sanctions—predominantly economic, but also political and sometimes even military penalties—are being employed more and more frequently for a variety of purposes. The United States, more than any other country, uses sanctions to further its many, sometimes conflicting, foreign policy objectives. We have used them among other things to discourage the proliferation of weapons of mass destruction and transfer of ballistic missiles, to advance human rights, to end state supported terrorism, to discourage armed aggression, to protect the environment, to thwart drug trafficking, and in isolated instances to oust unacceptable governments.

Some recently released statistics illustrate just how pervasive U.S. sanctions have become, and at what cost to the United States. Since World War II, the United States has imposed sanctions on roughly 100 occasions—more than sixty percent of those sanctions have occurred just since 1993. Between 1993–1996, sixty-one U.S. laws and executive orders have been enacted authorizing various types of unilateral economic sanctions against thirty-five countries in the name of foreign policy. The sanctioned countries encompass 42% of the world's population—roughly 2.3 billion potential consumers of U.S. goods and services.

In our zeal to punish foreign governments for offensive behavior, we have managed to cut ourselves off from approximately 20% of the world's export markets. Our allies and trading partners think we are crazy. They have happily filled the American void, often times gaining mid to long term competitive advantages in these markets even after specific sanctions have been repealed, to the extent that happens.

Rarely, if ever, Mr. President is a careful and thoughtful analysis done of the costs and benefits of the proposed sanction or the likelihood of its altering the sanctioned behavior. In most instances, the issue is rushed to the Senate or House floor, so that the Congress can express its outrage at some perceived misdeed that just appeared in print or live on CNN. To the best of my knowledge there has never been any systematic effort on the part of the Congress to review sanctions once imposed, to consider whether they have achieved their objectives or have turned out to be counterproductive.

Unilateral economic sanctions have truly become the foreign policy ''flavor of the month'' imposed by the Congress, in the heat of the moment, often at the behest of special interest lobbies. Mr. President, we may make ourselves feel good by voting to cut off foreign access to United States markets, goods, people and ideas. We may even please the particular domestic constituency that has clamored for Congressional action. But in most instances we simply fool ourselves if we think that we have done much, if anything, to alter the behavior or policy of the government that has been targeted. In fact, we have probably made it easier for governments, particularly the authoritarian ones, to resist any internal pressures to change, because they can blame their domestic failures on U.S. sanctions policy.

Since we don't appropriate funds to cover the actual private sector costs incurred when sanctions are imposed, some in the Congress have come to view them as a cost free way to influence the Administration's conduct of foreign policy. Nothing could be further from the truth. Sanctions are one of the most pernicious ''unfunded mandates'' that the Congress can impose on the private sector, with virtually no prior consultation or input from it.

According to the Institute for International Economics, a Washington-based think tank, the cost of sanctions in 1995 alone was nearly $20 billion in lost exports and 200,000 lost American jobs. If we carry those costs forward by five years, these same sanctions would cost the American economy $100 billion in foregone exports and one million jobs. That is a high price to pay for a policy that is successful. More often than not U.S. sanctions fail to alter behavior or policies.

The costs incurred due to sanctions are more than simply direct economic costs. There are indirect costs as well—tangible and intangible. The cost to us diplomatically and politically with our friends and allies can be extremely high. I suspect, for example, that United States officials have expended a great deal of our diplomatic capital in defusing the anger of European officials and other interested governments concerning the extra-territorial application of certain recently enacted sanctions law. Such capital is not inexhaustible, and should be husbanded for those occasions when international support is critical to the United States effectively dealing with a major national security or foreign policy challenge—Iraq, Bosnia, Pakistan, India and even Kosovo come readily to mind.

The time has come to call a halt to the indiscriminate use of unilateral sanctions as the foreign policy instrument of ''first resort.'' Perhaps we should consider the ''old fashioned'' way of conducting foreign policy—it's called diplomacy. While diplomacy may take longer to produce results and isn't as dramatic as voting to impose draconian measures against other countries, it more often than not gets us where we want to go.

In saying that, I am not arguing that the United States should remove the sanctions option from its foreign policy arsenal, just as I would never suggest that we rule out the use of force as an option. Clearly there are occasions when sanctions or military force are the appropriate responses to a particular situation—Iraq for one. However, in recent years we have elected to exercise the sanctions option far too frequently, and in so doing we are undermining its continued effectiveness as a U.S. foreign policy tool.

The United States, particularly the Congress must become more precise in the choice of sanctions, more realistic with respect to what is achievable, better informed of the potential costs to the U.S. economy and the American people, and more sensitive to the potential impact on innocent populations and on relations with other governments. It is especially problematic when Congress enacts sanctions and fails to include any flexibility in the statute to enable the President to respond effectively to what we all know is an ever changing political landscape. I believe that some of the measures enacted by the Congress are actually harmful to our long term foreign policy interests.

A perfect example of this has occurred recently with respect to India and Pakistan. Because of the so called Pressler amendment, President Clinton had very little to offer in the way of ''carrots'' to Pakistan to dissuade it from following India in testing its nuclear weapons capabilities. The President has even less flexibility today to respond to the new threat that exists following both India's and Pakistan's defiance of the international community's pleadings to forgo testing. I say this because under existing nuclear non-proliferations statutes enacted by the Congress, sanctions are automatic and the President has no authority to lift them absent Congressional action to modify existing law.

The international reaction to recent events in India and Pakistan has been very telling. Even our closest allies who share our concerns about nuclear proliferation have failed to follow our lead by imposing economic sanctions on India and Pakistan. Why? Because they do not believe that such an approach is likely to force India and Pakistan to sign onto international non-proliferations regimes. In fact, quite the opposite. It is likely to further isolate them, heightening domestic political pressure in both countries and encouraging each one to perfect even further their nuclear weapons capability and God forbid, even to consider using it against one another in a moment of paranoia.

As I have said earlier, I do not believe that we should ever totally rule out the use of sanctions as a foreign policy instrument. But before we impose them we should be clear about

what our foreign policy goals are. We should be selective in our choice of sanctions. They should be imposed for a finite time period, with an option to extend them, if the situation warrants it. We should also include a certain measure of flexibility in any Congressionally imposed sanctions to allow the Secretary of State and the President to fulfill their Constitutional obligations to conduct our nation's foreign policy—without their arms tied behind their backs.

We should also endeavor to get other governments to join us in imposing sanctions. Multilaterally imposed sanctions have a far better likelihood of succeeding than those that are unilaterally imposed and they minimize the competitive disadvantages to the U.S. economy. This will mean that we must have patience as diplomatic efforts are undertaken to garner international support.

If we find that we must go it alone, we should keep to a minimum the adverse effects of our sanctions on third countries, particularly friends and allies. We should also be more selective in the choice of sanctions we impose—opting for those that will be felt by the offending government officials, rather than those that are more general in scope and harm the general population—people who in most cases have little or no ability to influence the behavior of their government leaders.

With economic sanctions fast becoming the very core of United States foreign policy, I believe that a more thoughtful and comprehensive approach to them is desperately needed before we do serious harm to our own national interests. The legislation introduced by Senator LUGAR would provide such a framework in the context of future sanctions. The bill I am introducing today would create a similar framework of rationality with respect to existing sanctions regimes.

I believe that the Lugar and Dodd bills, taken together, will help to sharpen the focus of the debate on this important subject. I believe such a focus is long overdue. I look forward to working with Senator LUGAR and other interested Senators in forging a comprehensive legislative package that incorporates the approaches contained in the two bills so that our colleagues will have an opportunity to vote on these very important matters in the very near future.

Mr. BIDEN. Mr. President, I am pleased to join my friend from Connecticut, as well as Senators HAGEL and ROBERTS, in introducing the ''Sanctions Rationalization Act of 1998.''

The bill establishes a means for the President to delay, suspend, or terminate certain unilateral economic sanctions, or a portion thereof, if doing so is important to U.S. national interests. The bill also provides a means for Congress to overturn any such decision, and provides for expedited procedures within the House and Senate for consideration of a resolution to reverse a Presidential decision.

I have become increasingly concerned that Congress' efforts to impose sanctions is unduly hampering the President's ability to conduct U.S. foreign policy. To say this is not to suggest that Congress has exceeded its authority in the foreign affairs area. Under the Constitution, both Congress and the President have considerable foreign policy powers. As Professor Edward Corwin, a noted authority on the Presidency, once wrote, the Constitutional design on foreign policy tenders an ''invitation to struggle.''

Indeed, Congress has several powers under the Constitution in the foreign affairs area.

It has, among other things, the power of the purse, the power to declare war, the power to raise and support the military, and the power to regulate foreign commerce.

Congress is well within its power to impose sanctions against foreign governments. And in many instances, sanctions—or the embarrassment to the foreign government which flows from their imposition—have had a positive effect in advancing U.S. policy.

But what Congress cannot do is to conduct the daily business of diplomacy. Only the President can undertake negotiations with foreign governments and leaders. And any law which limits the ability of the United States to engage with foreign nations necessarily limits the options available to the President as he seeks diplomatic solutions to foreign policy problems.

Foreign policy, however, usually involves a complex mosaic of interests, and requires use of a wide range of diplomatic instruments. Moreover, foreign policy is not static—constantly changing circumstances often require calibrations in policy.

The imposition of statutory sanctions, in many cases, serves to undermine the ability of the President to balance the competing interests and to respond to changes on the ground overseas.

In sum, statutory sanctions are often a blunt instrument, when the situation at hand may call for an instrument which the President can fine-tune.

The most significant part of this legislation, in my view, is that it gives the President the power to calibrate sanctions once imposed—that is, to adjust or modify the application of a sanction as the situation may warrant. Accordingly, he can use the authority in this bill to try to induce the desired action by the foreign government by lifting or modifying a sanction progressively.

The bill does not allow the President to terminate those measures that are imposed on a multilateral basis, including obligations under resolutions of the United Nations Security Council, nonproliferation and export control arrangements like the Australia Group, the Nuclear Supplier's Group, the Missile Technology Control Regime, and the Wassenaar Arrangement.

The bill also does not allow the President to terminate those measures taken under treaty obligations, such as those under the Chemical Weapons Convention, the Nuclear Non-Proliferation Treaty and the Biological Weapons Convention.

Further, the bill does not apply to several types of measures, including foreign military financing, export controls and restrictions under the Arms Export Control Act, any measure taken pursuant to section 307 of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991, any measure to restrict imports of products and services in order to protect domestic health or safety, any measure to enforce a federal criminal law, and any retaliatory trade measure authorized under our trade statutes or international trade agreements.

In proposing this legislation, I do not envisage that the authority granted to the President would be employed casually. Instead, like analogous waiver authority in the Foreign Assistance Act—section 614 of that Act—I expect that this power would be used only when absolutely necessary, only after careful consideration in the Executive Branch, and only after careful consultation with the appropriate committees of Congress.

And in cases where the President does abuse the authority this bill grants him, Congress would still have the power to reverse the President's decision, and resolutions to do so will be entitled to expedited procedures which would ensure their prompt consideration.

I wish to emphasize that I do not regard this bill as a final product. Rather, it is a work in progress. This is a complicated subject; defining what constitutes a ''sanction'' is a difficult undertaking, as is drafting the necessary exclusions.

Accordingly, I welcome contributions from our colleagues, the Executive Branch, and non-governmental organizations.

Of course, this is not the only legislation on this subject. Our colleagues, Senator LUGAR, and Representative HAMILTON, have made an important contribution in promoting the debate on this subject in introducing their sanctions reform legislation. The Majority and Minority Leaders plan to appoint a special task force to review the issue, and I am certain that legislative proposals will emerge from those discussions.

In closing, I should state that I am under no illusion that passing this legislation will be easy. It may be that we cannot reach a consensus on acceptable legislation in the remaining months of the 105th Congress.

What is important now is that the Executive and the Congress have initiated a dialog, on a bipartisan basis, on a subject of considerable importance to our national interests. I look forward to engaging in that debate in the weeks and months ahead.

By Mr. GRAHAM (for himself and Mr. MACK):

S. 2225. A bill to amend the Outer Continental Shelf Lands Act to prohibit new leasing activities in certain areas off the coast of Florida, and to permit exploration, production, or drilling activities on existing leases only if adequate studies are performed, to require adequate information and analyses for development and production activities, and to allow states full review of development and production activities; to the Committee on Energy and Natural Resources.

FLORIDA COAST PROTECTION ACT

• Mr. GRAHAM. Mr. President, today with my good friend and colleague Senator MACK I introduce the ''Florida Coast Protection Act''. This legislation will protect Florida's fragile coastline from outer continental shelf leasing and drilling in three important ways.

First, it transforms the annual moratorium on leasing and preleasing activity off the coast of Florida into a permanent ban covering Planning Areas in the Eastern Gulf of Mexico, the Straits of Florida, and the South Atlantic Planning Area.

Second, it raises the bar for approval of development and production requests on existing leases off the coast of Florida. It establishes a Joint Federal-State Outer Continental Shelf Task Force comprised of experts from the Environmental Protection Agency, the Minerals Management Service, the National Oceanic and Atmospheric Administration, the Fish and Wildlife Service, the National Marine Fisheries Service, the Biological Resources Division of the United States Geological Survey, state representatives, and professional scientist nominated by the National Academy of Sciences. This Joint Task Force will ensure that all data required to make a determination of the environmental and economic effects of oil and gas production and development on local communities is available to the Secretary of Interior and the State of Florida.

Third, the Florida Coast Protection Act corrects an egregious conflict in regulatory provisions where an affected state is required to make a consistency determination for proposed oil and gas production or development under the Coastal Zone Management Act prior to receiving the Environmental Impact Statement (EIS) from the Mineral Management Service. Our bill requires that the EIS is provided to affected states six months before they make a consistency determination.

Mr. President, you may recall that we introduced similar legislation under the same title in June of 1997. The focus of that bill was the cancellation of the lease tract 17 miles off the coast of Pensacola, resulting in the elimination of six oil and gas leases. Since that time, these leases were relinquished by the Mobil Corporation back to the control of the U.S. Department of the Interior. In addition, these areas are covered by the moratorium on leasing in the Eastern Gulf—a protection that President Clinton recently extended through 2012 as part of the Year of the Ocean efforts to protect this extremely valuable natural resource.

What would this bill mean for Florida? The elimination of preleasing activity and lease sales off the coast of Florida protects our economic and environmental future.

In 1997, over 47 million tourists visited Florida, spending $41 billion. The five western counties of the Florida Panhandle brought in over $8 million from tourist development tax in 1996. Three cities in this area—Panama City, Pensacola, and Fort Walton Beach—recorded over $1.5 billion in tourism and recreation taxable sales during the same period.

It is home to some of the richest estuarine areas in the world. These habitats provide an irreplaceable link in the life cycle of both marine and terrestrial species. Florida's commercial fishing industry relies heavily on these estuaries as they support the nurseries for most commercially harvested fish. In addition, nearly 90 percent of the reef fish resources in the Gulf of Mexico are caught on the West Florida Shelf.

Mr. President, the environmental and economic value of this area is evidenced by the many state and federal land holdings in designated environmental preservation, conservation, and recreation areas. Fifty of these areas are located along 175 miles of coastline in the Florida Panhandle.

In testimony before the House Resources Subcommittee on Energy and Mineral Resources on May 14, 1998, Florida Governor Lawton Chiles provided the following perspective on the potential damage to Florida's coastline that could be caused by offshore drilling. He said that ''oil spills remain the most visible . . . however, there are other detrimental environmental effects that these activities could have on the shallow, clean water marine communities found on the Florida outer continental shelf . . . [including] . . . physical disturbances caused by anchoring, pipeline placement and rig construction, the resuspension of bottom sediments, and the chronic pollution from discharges of drilling effluents, production effluents, and possible accidental releases of oil or other toxic material . . .''

Throughout my time in the Senate, I have opposed offshore oil drilling off the coast of Florida because of the threat it presents to the state's greatest natural and economic resource—our coastal environment. With my colleagues in the Florida delegation, I have worked successfully to obtain moratoria on additional leasing off the west Florida coast. With the passage of the Florida Coast Protection Act, this annual moratoria will evolve into permanent protection for the Florida coastline.

The Florida Coast Protection Act is a milestone in our attempts to protect our natural coastal resources in the State of Florida and throughout the nation. I urge my colleagues to support this effort.

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. 2225

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 ''Florida Coast Protection Act of 1998''.

SEC. 2. LEASING ACTIVITY OFF THE COAST OF FLORIDA.

(a) PROHIBITION.—Section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is amended—

(1) in subsection (a)(1), by striking ''The Secretary'' and inserting ''Except as provided in subsection (p), the Secretary''; and

(2) by adding at the end the following:

''(p) LEASING ACTIVITY OFF THE COAST OF FLORIDA.—

''(1) DEFINITIONS.—In this subsection:

''(A) ADEQUATE.—The term 'adequate', in reference to information means, as defined by the National Research Council reports described in paragraph (2)(E)—

''(i) sufficiently complete so as to provide for appropriate breadth and depth of basic scientific information in all relevant disciplines needed to understand the environmental risks associated with OCS decisions; and

''(ii) of sufficient scientific quality to be repeatable, reliable, and valid in measurements and analyses with appropriate subjects methods of inquiry and interpretation that reflect the state of good practice in each scientific field.

Methods of inquiry and interpretation must reflect the state of good practice in each scientific field.

''(B) COVERED AREA.—The term 'covered area' means—

''(i) Eastern Gulf of Mexico Planning Area (as established by the Secretary) which is adjacent to the State of Florida as defined by 43 U.S.C. 1333(a)(2)(A);

''(ii) the Straits of Florida Planning Area (as established by the Secretary); and

''(iii) the South Atlantic Planning Area (as established by the Secretary) which is adjacent to the State of Florida as defined by 43 U.S.C. 1333 (a)(2)(A);

within 100 miles off the coast of Florida.

''(C) JOINT TASK FORCE.—The term ''joint task force'' means the Joint Federal-State Outer Continental Shelf Task Force established by paragraph (3)(C).

''(D) PRELEASING ACTIVITY.—

''(i) IN GENERAL.—The term 'preleasing activity' means an activity relating to a lease that is conducted before a lease sale is held.

''(ii) INCLUSIONS.—The term 'preleasing activity' includes—

''(I) the scheduling of a lease sale;

''(II) the issuance of a request for industry interest;

''(III) the issuance of a call for information or a nomination;

''(IV) the identification of an area for prospective leasing;

''(V) the publication of a draft or final environmental impact statement or a notice of sale; and

''(VI) the performance of any form of rotary drilling in a prospective lease area.

''(iii) EXCLUSIONS.—The term 'preleasing activity' does not include an environmental,

geologic, geophysical, economic, engineering, or other scientific analysis, study, or evaluation.

''(E) REPORT OF THE NATIONAL RESEARCH COUNCIL OF THE NATIONAL ACADEMY OF SCIENCES.—The term 'report of the National Research Council' means—

''(i) the report entitled ''The Adequacy of Environmental Information for Outer Continental Shelf Oil and Gas Decisions: Florida and California'' issued in 1989 by the National Research Council's Committee to Review the Outer Continental Shelf Environmental Studies Program and supported by the President's Outer Continental Shelf Leasing and Development Task Force through Department of the Interior Contract No. 1435000130495; and

''(ii) parts I, II, and III of the document entitled ''Assessment of the United States Outer Continental Shelf Environmental Studies Program'' issued in 1990 and 1992 by the committee referred to in subclause (I), with support from Department of the Interior Contract No. 14–12–001030342.

''(2) PROHIBITION OF PRELEASING ACTIVITIES AND LEASE SALES.—The Secretary shall not conduct any preleasing activity or hold a lease sale under this Act in a covered area.

''(3) ACTIVITIES IN EXISTING LEASE AREAS.—

''(A) IN GENERAL.—With respect to a lease in a covered area entered into before the date of an enactment of this subsection, the Secretary may approve or permit an exploration, production, or drilling activity in the lease area only if—

''(i) all assessments, studies, and research required for the area under subparagraph (B) have been completed;

''(ii) all such assessments, studies, and research have been peer reviewed, by qualified scientists, as provided for and supervised by the joint task force; and

''(iii) the Secretary submits to Congress and the Governor of the State of Florida a report, which has been approved by the joint task force, certifying that the available physical oceanographic, ecological, and socioeconomic information, and other information pertaining to the environment, endangered and threatened species, and marine mammals, is adequate to enable the Secretary to carry out the responsibilities of the Secretary in the area under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) and other laws, with a minimal level of uncertainty, with respect to the proposed exploration, production, or drilling activity.

''(B) ASSESSMENTS, STUDIES, AND RESEARCH.—The assessments, studies, and research referred to in subparagraph (A) are as follows:

''(i) EASTERN GULF OF MEXICO PLANNING AREA.—With respect to the area described in paragraph (1)(B)(I):

''(I) The Assessment of the Historical, Social, and Economic Impacts of Outer Continental Shelf Development on Gulf Coast Communities, to be conducted by the Minerals Management Service.

''(II) The series of studies identified as the Northeastern Gulf of Mexico Coastal and Marine Ecosystem Program, to be conducted by the Biological Resources Division of the United States Geological Survey.

''(III) Any additional physical oceanographic studies identified and recommended by the Northeast Gulf of Mexico Physical Oceanography Workshop conducted by the Minerals Management Service in conjunction with Florida State University and identified in the workshop proceedings OCS Study MMS 94–0044.

''(IV) Any additional studies or research in the area identified by the joint physical oceanographic/ecological workshop to be held by the Minerals Management Service in conjunction with the University of West Florida in August 1998.

''(V) Any additional studies or research in the area needed to acquire information on a subject on which a report of the National Research Council found available information to be less than adequate.

''(VI) Any additional physical oceanographic, ecological, or socioeconomic or other environmental studies, endangered and threatened species surveys, or marine mammal surveys requested by the Governor of the State of Florida and recommended by the joint task force to minimize the uncertainty about the effects of the proposed preleasing activity, leasing, or exploration, production, or drilling activity on the marine environment, the coastal environment, and the human environment of the State of Florida, including any such request for the expansion of assessments, duties, or research described in subclauses (I) through (V).

''(ii) STRAITS OF FLORIDA PLANNING AREA.—With respect to the area described in paragraph (1)(B)(ii):

''(I) An assessment of the Social and Economic Impacts of Outer Continental Shelf oil and gas activities on Florida's coastal communities.

''(II) Any additional studies or research in the area needed to acquire information on a subject on which a report of the National Research Council found available information to be less than adequate.

''(III) Any additional physical oceanographic, ecological, or socioeconomic or other environmental studies, endangered and threatened species surveys, or marine mammal surveys requested by the Governor of the State of Florida and recommended by the joint task force to minimize the uncertainty about the effects of the proposed preleasing activity, leasing, or exploration, production, or drilling activity on the marine environment, the coastal environment, and the human environment of the State of Florida.

''(iii) SOUTH ATLANTIC PLANNING AREA.—With respect to the area described in paragraph (1)(B)(iii):

''(I) An assessment of the social and economic impacts of Outer Continental Shelf oil and gas activities on Florida's coastal communities.

''(II) Any additional studies or research in the area needed to acquire information on a subject on which a report of the National Research Council found available information to be less than adequate.

''(III) Any additional physical oceanographic, ecological, or socioeconomic or other environmental studies, endangered and threatened species surveys, or marine mammal surveys requested by the Governor of the State of Florida and recommended by the joint task force to minimize the uncertainty about the effects of the proposed preleasing activity, leasing, or exploration, production, or drilling activity on the marine environment, the coastal environment, and the human environment of the State of Florida.

''(C) JOINT TASK FORCE.—

''(i) ESTABLISHMENT.—There is established a Joint Federal-State Outer Continental Shelf Task Force for the purpose of carrying out the responsibilities assigned to the joint task force under this paragraph in the areas described in subparagraph (B).

''(ii) RESPONSIBILITIES.—The responsibilities of the Joint Federal-State Outer Continental Shelf Task Force shall be—

''(I) to ensure the acquisition and consideration of adequate information in all relevant disciplines needed to understand the environmental risks associated with OCS activities and for the protection of marine, coastal, and human environments of the State of Florida; and

''(II) to provide recommendations, with the assistance of the OCS Scientific Committee, on the adequacy, types, and methodologies of assessments, studies, and research needed to enable the Secretary to carry out the responsibilities of the Secretary in the areas under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) and other laws, with a minimal level of uncertainty;

''(III) to facilitate the resolution of conflicts between the State of Florida and the Minerals Management Service or other Federal agency regarding OCS activities and environmental studies;

''(IV) to assist the Minerals Management Service and other Federal agencies in coordinating research; and

''(V) to participate in the review of, and assist in obtaining review by, qualified scientists of all assessments, studies and research required by this subsection.

''(ii) MEMBERSHIP.—The joint task force shall consist of—

''(I) 1 representative, at the assistant secretary level or equivalent, of each of—

''(aa) the Environmental Protection Agency;

''(bb) the Minerals Management Service;

''(cc) the National Oceanic and Atmospheric Administration;

''(dd) the United States Fish and Wildlife Service;

''(ee) the National Marine Fisheries Service; and

''(ff) the Biological Resources Division of the United States Geological Survey;

''(II) 6 representatives of the State of Florida, appointed by the Governor of the State; and

''(III) 3 members appointed by the Secretary of Commerce from a list of individuals nominated by the National Academy of Sciences who are professional scientists in the fields of physical oceanography, marine ecology, and social science.

''(iii) COMPENSATION.—

''(I) IN GENERAL.—Members of the joint task force appointed under clause (ii)(III) may be compensated at a rate to be fixed by the Secretary of Commerce, but not in excess of the maximum rate of pay payable for a position classified above GS–15 under section 5108 of title 5, United States Code, for each day that the member spends performing the duties of the joint task force.

''(II) TRAVEL AND TRANSPORTATION EXPENSES.—Members of the joint task force appointed under clause (ii)(III), while performing official duties under this Act, shall receive compensation for travel and transportation expenses under section 5703 of title 5, United States Code.

''(D) OIL AND GAS EXPLORATION.—Approval of the first exploration plan submitted after the date of enactment of this subsection under section 11 and any other exploration plan deemed significant by the Secretary and each affected State in each of the covered areas shall be subject to the requirement of the preparation of a detailed statement submitted under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).''.

(b) OIL AND GAS DEVELOPMENT AND PRODUCTION.—

(1) DEVELOPMENT AND PRODUCTION PLAN.—Section 25(c) of the Outer Continental Shelf Lands Act (43 U.S.C. 1351(c)) is amended—

(A) by striking ''and'' at the end of paragraph (5);

(B) by redesignating paragraph (6) as paragraph (8); and

(C) by inserting after paragraph (5) the following:

''(6) thorough descriptions of the area affected by the proposed development and production activities and analyses of the primary, secondary, and cumulative effects of such development and production on the ocean, coastal, land, human, air, social, and economic resources of the affected area; and

''(7) specific information in the necessary detail for inclusion in permit applications for all permits needed to conduct development and production activities whether issued by the Secretary or another Federal or State agency, including air quality permits, water quality permits, applications for permit to drill, applications for the approval of the installation of a lease term pipeline or for the granting of a right-of-way; and platform applications.''.

(2) CONCURRENCE BY THE STATE.—Section 25(d) of the Outer Continental Shelf Lands Act (43 U.S.C. 1351(d)) is amended—

(1) by striking ''The Secretary shall not'' and inserting the following:

''(d) CONCURRENCE BY THE STATE.—The Secretary shall not approve any Development and Production Plan or Development Operations Coordination Document or''; and

(2) by adding at the end the following:

''(2) UNAVAILABILITY OF INFORMATION.—Should any of the information required in subsection (c) not be available for inclusion in the plan for development and production activities at the time that the plan is submitted to the Secretary and subsequently to a State for which the activities described in the plan affects any land use or water use in the coastal State with a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455), the State's consistency response to the consistency certification that accompanied the plan shall be considered to be preliminary and provisional, subject to the receipt and review of the complete information identified under paragraph (1). When the information required under paragraph (1) is developed and submitted to the Secretary or developed by the Secretary, each affected State shall be afforded the opportunity to complete its consistency review and response.''.

(3) MAJOR FEDERAL ACTION.—Section 25(e)(1) of the Outer Continental Shelf Lands Act (43 U.S.C. 1351 (e)(1)) is amended—

(A) by inserting before ''At least'' the following: ''The Secretary shall consult with and obtain the concurrence of each affected State in determining if the approval of a development and production plan constitutes to be a major Federal action for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).''; and

(B) by adding at the end the following

''(3) On a finding by the Secretary, in consultation with each affected State, that the approval of a development and production plan is a major Federal action subject to the procedures under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Secretary shall ensure that each affected State for which the development and production plan affects any land use or water use in the coastal zone of the State with a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455), receives the final environmental impact statement 6 months prior to determining concurrence or objection to the coastal zone consistency certification which must accompany the environmental impact statement pursuant to section 307(c)(3)(B) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456(c)(3)(B)). Coastal states for which a development and production plan that has been determined to be a major Federal action for purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and that affects any land use or water use of a State without an approved coastal zone management program must receive the final environmental impact statement 3 months prior to submission of comments and recommendations under subsection (g) .''.

(4) APPROVAL OR DISAPPROVAL.—Section 25(h)(1) of the Outer Continental Shelf Lands Act (43 U.S.C. 1351(h)(1)) is amended in the first sentence—

(A) by striking ''within sixty days'' following 'the Secretary shall,';

(B) by striking ''sixty days'';

(C) by inserting after ''modifications of the plan'' the following: '', and after receipt of concurrence or objection by a State with respect to the consistency certification accompanying the environmental impact statement pursuant to section 307(c)(3)(B) of that Act (16 U.S.C. 1456(c)(3)(B)) unless the Secretary of commerce makes the finding authorized by section 307(c)(3)(B)(iii) of that Act (16 U.S.C. 1456(c)(3)(B)(iii)), whichever is later''; and

(D) by inserting after require ''modifications of the plan'' the following: ''within 60 days.''.

(5) APPLICATION OF SECTION.—Section 25(l) of the Outer Continental Shelf Lands Act (3 U.S.C. 1351(l)) is amended by striking ''may'' and inserting ''shall''.●

● Mr. MACK. Mr. President, today with my colleague, Senator GRAHAM. I introduce the Florida Coast Protection Act of 1998. It was a little over a year ago that we introduced similar legislation to protect the pristine environment off of Florida's coasts. That legislation would have banned leasing within 100 miles of the coast of Florida, and would have canceled six oil and gas leases on the Outer Continental Shelf closest to Florida's coast held by the Mobil Corporation. Fortunately, soon after we introduced our bill, Mobil decided to pull out of those leases. Nevertheless, the threat to Florida's coastline remains.

Mr. President, Floridians have always been justifiably concerned about the prospect of oil and gas exploration in the waters off our state. We are well aware of the risk this activity poses to our environment and our economy because, in Florida. A healthy environment means a healthy economy. Millions of people come to our State each year to enjoy the climate, our beaches, and our fine quality of life. The tourism industry in Florida provides millions of jobs and generates revenues in the billion of dollars. It would take only one disaster to end Florida's good standing as America's vacationland. We cannot afford to let that happen.

Throughout my tenure in the Senate I have opposed exploration and drilling off Florida's coasts. My goal—and the goal the entire Florida Congressional delegation—is to permanently remove this threat from our coasts. In recent years, we have stood together in opposition to drilling and have successfully extended the annual moratorium on all new leasing activities on Florida's continental shelf.

Mr. President, while the opposition of Floridians to oil drilling is well-documented, the reality remains that leases have been let, potential drilling sites have been explored and it is likely that actual extraction of resources could take place within the next few years. For these reasons, I rise with Senator GRAHAM to protect our state from the ravages of drilling.

First, our legislation makes permanent the ban on any new leasing activity within 100 miles of our coast in order to prevent a repeat of the past mistake of leasing in the OCS off Florida. Second, it requires additional studies be conducted prior to the issuance of permits of oil and gas production on existing leases. Finally, it gives the state flexibility to make a determination regarding the consistency of oil and gas development and production plans with The Coastal Zone Management Act after an environmental impact statement detailing the direct and cumulative impacts of the project is completed by the Minerals Management Service.

Mr. President, removing the threat of oil and gas exploration permanently from our shores will require responsible leadership from the Congress. This legislation, in my view, is absolutely necessary to protect our state's economic and environmental well-being. I urge my colleagues to support this worthwhile effort. We look forward to working with Senator Murkowski, Chairman of the Senate Committee on Energy and Natural Resources, to meet this goal.●

By Mr. CRAIG (for himself and Mr. KEMPTHORNE):

S. 2226. A bill to amend the Idaho Admission Act regarding the sale or lease of school land; to the Committee on Energy and Natural Resources.

AMENDMENTS TO THE IDAHO ADMISSIONS ACT

● Mr. CRAIG. Mr. President, today with my friend and colleague from Idaho, Senator KEMPTHORNE, introduce a bill to amend the Idaho Admission Act of July 3, 1890, to provide for the better management of school lands within our state. In doing so, I note that our Idaho colleagues Congressmen CHENOWETH and CRAPO will offer identical legislation in the House of Representatives today.

Mr. President, this piece of legislation is simple, straightforward, and of vital importance to my state. It brings federal statute into line with amendments to the Idaho Constitution passed by the Idaho State Legislature earlier this year and has but one goal: to bring about the better management of state lands to the financial benefit of our public schools.

The legislation, along with that passed by the Legislature, were developed to implement the recommendations of a special committee of state leaders who sought to secure financial security for Idaho's schools. This legislation accomplishes the goal with only a few changes to current statute.

First, it allows the Board of Land Commissioners to exercise its fiduciary responsibility as managers of the state endowments by treating both land and fiscal assets as one trust.

Second, the proposal creates an earnings reserve account that will serve as a ''shock absorber'' to allow the endowments to provide a more predictable income stream.

Third, it provides increased and stable funding for public education by allowing investments in assets that will provide higher rates of return. The state committee projected that through this single change, public education in our state could receive up to $20 million or more annually without raising taxes.

Fourth, it establishes a land bank account for proceeds from the sale of endowment lands. The account gives the Board of Land Commissioners the flexibility to re-invest in other real property for the land trust.

Mr. President, the legislation we introduce today is supported by the Idaho State Legislature and was written in compliance with the Joint Memorial passed by the Legislature and sent to us earlier this year. It is vitally important to our Governor, the Board of Land Commissioners, and all those involved in public education in our state.

Like most western states, certain lands within Idaho were reserved for the benefit of public education upon admission to the Union. These lands are spread throughout the state and are managed for the financial benefit of our children. The Idaho Admission Act is very specific in how these lands are to be administered. And while these specifications worked well in 1890, they have now become outdated. These century old regulations have severely limited the state's efforts to maximize funding for public schools. The legislation we introduce today brings the management of endowment lands into modern times and employs modern financial tools to the benefits of Idaho children.

Mr. President, I implore my colleagues to act on this measure in a timely matter and hope they might all join me in this important endeavor to help Idaho public education and the children it serves.●

● Mr. KEMPTHORNE. Mr. President, this Congress and the citizens of Idaho must seize a unique opportunity to pass legislation this year that will provide the ability to increase Idaho public education funding at least $20 million and possibly $30 million annually. And it will do so without raising taxes, cutting services or asking the federal government for one thin dime.

This is no smoke and mirrors.

This is creativity and innovation at its best.

This legislation will empower Idaho to be better stewards of the endowment created 108 years ago that helps pay for Idaho's public education. By using prudent, time-tested investment strategies, the endowment will be better equipped to pay for teaching Idaho's children in the 21st century.

Legislation I am introducing today with Senator LARRY CRAIG will reform federal law that now restricts the way Idaho's Endowment Fund is managed. This legislation, along with constitutional amendments Idaho voters must approve in November, will modernize the legal framework of the endowment. According to financial experts, this legislative package will substantially increase funds available for Idaho school children. Specifically, this legislation gives greater flexibility for investing and managing endowment funds, and for managing the sale and lease of endowment lands.

The bottom line is that the bill provides more money for educating our kids, money that can be used to buy computers, increase teachers' salaries, or buy new textbooks.

And all this without raising taxes, cutting services or asking the federal government for one thin dime.

I will work to get this bill passed in the Senate, in the House of Representatives and signed into law by President Clinton this year.

Here is the background.

In writing the 1890 law that made Idaho the 43rd state, the citizens of Idaho worked with Congress to set aside 3.5 million acres of land as a permanent endowment to help finance the education of Idaho children in the 20th century.

Today this endowment is worth a combined total of $3.4 billion that consists of 2.5 million acres of land valued at $2.7 billion and an endowment fund worth nearly $700 million. In 1997, land and timber sales and investment interest generated $110 million of income. Of that, $55 million was reinvested into the endowment; $35 million was devoted to public schools and $10 million paid for other state endowments.

But we can do even better for Idaho.

In FY97, this $3.4 billion endowment earned $110 million, or a rate of return of just 3%. By virtually any investment standard, this is a low rate of return. If this rate increased by just one additional percent, to 4%, an extra $32 million would be created.

The reason the Idaho Endowment Fund earned 3% and not any higher is because its investment and management structure is terribly outdated. The endowment was created in the 1800s when there was no developed securities market and before inflation became a major factor in investment decisions. As a result, the fund has no investment in equities or other higher yielding instruments. Right now, the endowment is exclusively invested in low yielding debt instruments like government securities, mortgages, and corporate bonds.

Right now, the law requires the endowment to be managed the way land and money were managed in 1890, not in the 1900s. That's like keeping laws on the books that restrict the delivery of health care to procedures and drugs that were available in 1800s.

The problem is simple. Current laws keep Idaho from earning higher rates of return. This results in less money being available for school children who do not received as much as they might, and it requires their parents to pay more taxes to make up the difference. While this problem is simple, so is the solution. And that is to allow the fund to be invested in a broader array of investments and require that investments must follow what is known as the ''prudent investor'' test. This test requires managers to use reasonable care and caution in making investment decisions.

In addition, both current federal law and the Idaho State Constitution contains provisions that restrict the ability of the land trust to maximize the sale and management of the endowment lands.

If prudent, time-tested investment strategies were applied to the land trust and endowment fund, financial experts agree that rates of return would increase, investment risk would decrease, and fluctuations in annual cash flows would be eliminated.

The bottom line is this: More money for Idaho school children. And less taxes for their parents.

Congress and the citizens of Idaho must work together to prepare the Idaho Endowment to meet the needs of children in the 21st century.

That's the goal of the legislation Senator CRAIG and I are introducing today.

Section Five of the original Idaho Admissions Act of 1890 created the endowment fund, and rules governing sale and lease of endowment land.

The measure we are introducing today will replace Section 5 with a new section that gives land and investment managers greater flexibility in managing both the endowment land and endowment funds. Here is how:

Under current law, income from lands sales can only be placed in the endowment fund. Once placed in the endowment fund, funds cannot be used to buy land, even if doing so will ultimately produce more funds for education.

To provide more flexibility for land sales, legislation we are introducing today would give the state the authority to establish a new land bank fund which can be used to purchase additional land. For example, this land bank would allow the state to sell land that is difficult to manage in order to purchase land of higher functionality and greater investment return.

Under current law, no flexibility exists for managing endowment fund cash flow.

The legislation we are introducing today establishes an Earnings Reserve Fund. This earning reserve can be managed in a way that insures a steady, and likely higher source of funds for public education than what is now provided. With this earnings reserve in place, the assets of the endowment are placed in investments that over time have higher yields than less fluctuating, lower yielding investments. This reserve fund gives investment managers greater flexibility that have

higher returns and facilitate a steadier and higher stream of distributions.

Under current law, there is a 10-year limit on leases of endowment lands.

The Craig-Kempthorne legislation repeals the 10-year limit, and allows the state land board to establish agreements that will maximize the long-term financial return on any lease that is made. This provision makes the management of lands available for education purposes on equal footing with the management of land in other endowments.

These changes may sound technical but in truth bring common-sense to managing the Idaho Endowment. The endowment, if it were created today, would be managed as a whole, and would have a diversified mix of equity assets, with smaller portions of fixed income and real estate. In addition, cash flow would be better regulated to meet a more consistent, and higher, level of distributions. This is the overwhelming practice of most endowments.

Instead, the Idaho Endowment is two separate entities, the land trust and the endowment fund. There is currently little coordination between these two entities, and each part of the endowment is concentrated in a particular type of asset. The land trust is dominated by timber, and the financial assets are exclusively fixed income, lower-yielding assets. There is currently no management of the distributions of overall cash flow and the investment policy has no long-term investment strategy, or prudent management of cash flow or a policy to decrease the concentration of assets to reduce investment risk. This is an outdated investment strategy. And there is now no comprehensive plan for the entire trust.

Governor Phil Batt appointed a committee of financial experts and public officials to review the endowment and land trust. This committee, chaired by Douglas Dorn, reviewed the endowment and the trust, and made a number of recommendations. Of particular importance, the committee recommended and concluded that the endowment should be managed as one fund by one governing body that would decide overall investment strategy using modern day so-called prudent investor investment strategies.

The creation of the land bank and the earnings reserve are key elements of this strategy. That is what this legislation provides, and I urge the Senate to adopt this bill at the first opportunity. And I will be urging the citizens of Idaho to do their part this November and vote for the constitutional amendments that are needed to modernize the legal framework of the Endowment.

I commend Governor Batt for his leadership and innovation in developing this legislative package which will clearly benefit Idaho children. I also want to commend Doug Dorn, and his committee of Rep. William L. Deal, State Controller J.D. Williams, Robert Montgomery, Dr. Thomas Stitzel, Robert Maynard, Michael Brassey, Clive Strong and Michael Ferguson for their effective and bipartisan work.

Today we see the results of the wisdom and foresight of the decisions made 100 years ago by Congress and the citizens of Idaho. I trust this Congress and the citizens of Idaho will match the wisdom of their predecessors, and adopt this legislative package which will provide more money so we can teach our children well.●

THE MEDICARE+CHOICE PAYMENT EQUITY ACT OF 1998

● Mr. WYDEN. Mr. President, last year's balanced budget agreement contained provisions to make Medicare more efficient by moving away from wasteful practices that the private sector long ago consigned to history, while offering seniors in Oregon and other states more and better choices for their health care service. The bipartisan bill Senator SMITH and I are introducing today will make sure that those provisions are implemented in a way that will indeed bring about the full potential of these reforms.

The Medicare+Choice Payment Equity Act of 1998 will finish what we started with the Balanced Budget Act of 1997 by creating payment equity under Medicare's formula for paying for managed care services . Without equity in payment, beneficiaries in Oregon could be penalized because they may never get the same kinds of services in their Medicare managed care package that are available in other areas of the country with less efficient health care systems.

For states like Oregon with cost efficient health care systems, the Medicare formula resulted in lower payment. While we made progress in correcting this inequity through the Balanced Budget Act, changes made at the last minute in the legislation will actually prevent efficient states from ever gaining full equity in payment under Medicare managed care plans.

This legislation corrects that by requiring full funding of what is known as the ''blend'' portion of the formula. With managed care taking a larger role in Medicare it is more important now to assure equity in the payment formula. This legislation is supported by the Fairness Coalition and the American Hospital Association.

I ask unanimous consent that a copy of the bill be printed for the RECORD.

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

S. 2227

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 ''Medicare+Choice Payment Equity Act of 1998''.

SEC. 2. ELIMINATION OF BUDGET NEUTRALITY ADJUSTMENT FACTOR IN CALCULATING THE BLENDED CAPITATION RATE FOR MEDICARE+CHOICE ORGANIZATIONS.

(a) IN GENERAL.—Section 1853(c) of the Social Security Act (42 U.S.C. 1395w–23(c)) is amended—

(1) in paragraph (1)(A), by striking the comma at the end of clause (ii) and all that follows before the period at the end; and

(2) by striking paragraph (5) and redesignating paragraphs (6) and (7) as paragraphs (5) and (6) respectively.

(b) CONFORMING AMENDMENTS.—Part C of the Social Security Act (42 U.S.C. 1395w–21 et seq.) is amended—

(1) in section 1853(c)—

(A) in the matter preceding subparagraph (A) of paragraph (1), by striking ''(6)(C) and (7)'' and inserting ''(5)(C) and (6)''; and

(B) in paragraphs (1)(B)(ii) and (3)(A)(i), by striking ''(6)(A)'' and inserting ''(5)(A)''; and

(2) in subsections (b)(3)(B)(ii) and (c)(3) of section 1859, by striking ''1853(c)(6)'' and inserting ''1853(c)(5)''.

(c) SUBMISSION TO CONGRESS.—Not later than 20 days after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to Congress a legislative proposal that provides for aggregate decreases in Federal expenditures under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) as are equal to the aggregate increases in such expenditures under such program resulting from the amendments made by subsections (a) and (b).

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made under contracts entered into on or after January 1, 1999.●

● Mr. SMITH of Oregon. Mr. President, today with my colleague, Senator WYDEN, I introduce legislation to restore equity in the Medicare payment rate otherwise known as the Average Adjusted Per Capita Cost (AAPCC) formula under Medicare. This formula, which is implemented by the Health Care Financing Administration, determines the payment rates made to health maintenance organizations (HMOs) that offer coverage to Medicare beneficiaries.

Mr. President, prior to the passage of the Balanced Budget Act of 1997, AAPCC rates were determined by calculating the five-year average of per-capita Medicare fee-for-service spending by county, as well as the graduate medical education (GME) and disproportionate share (DSH) payments. Since Medicare utilization rates, GME and DSH rates vary from county to county throughout the United States, those areas that have low Medicare utilization rates subsequently receive a lower payment than other areas where Medicare utilization rates are much higher. In 1997, those rates varied from $286 in Gilliam County, Oregon to $748 in Dade County, Florida.

The result of such disproportionate levels in payments to HMOs is a disproportionate amount of benefits provided to Medicare beneficiaries. For example, HMOs that provide coverage for Medicare beneficiaries living in Los Angeles, California or Dade County, Florida receive a significantly higher payment; therefore, they can afford to provide additional benefits such as prescription drugs, eye glasses, and dental