SEC. 3. TRANSFER OF FEDERAL ESTATE TAX REVENUES TO MEDICARE PROGRAM TO OFFSET COSTS OF PRESCRIPTION DRUG BENEFIT.

(a) TRANSFER TO FEDERAL HOSPITAL INSURANCE TRUST FUND.—Section 1817(a) of the Social Security Act (42 U.S.C. 1395i(a)) is amended—

(1) by striking ''and'' at the end of paragraph (1),

(2) by striking the period at the end of paragraph (2) and inserting ''; and'', and

(3) by inserting after paragraph (2) the following new paragraph:

''(3) the taxes imposed by chapter 11 of the Internal Revenue Code of 1986 with respect to estates of citizens or residents reported to the Secretary of the Treasury or his delegate on tax returns under subtitle F of such Code, as determined by the Secretary of the Treasury by applying the applicable rate of tax under such chapter to such estate.''.

(b) ESTABLISHMENT OF SEPARATE ACCOUNT FOR OUTPATIENT PRESCRIPTION DRUG BENEFIT.—Section 1817 of such Act (42 U.S.C. 1395i) is amended by adding at the end the following new subsection:

''(l) OUTPATIENT PRESCRIPTION DRUG ACCOUNT.—

''(1) ESTABLISHMENT.—There is hereby established in the Trust Fund an expenditure account to be known as the 'Outpatient Prescription Drug Account'.

''(2) CREDITING OF FUNDS.—The Managing Trustee shall credit to the Outpatient Prescription Drug Account such amounts as may be deposited in the Trust Fund pursuant to subsection (a)(3).

''(3) USE OF FUNDS.—Funds credited to the Outpatient Prescription Drug Account may only be used to pay for outpatient prescription drugs furnished under this title.''.

(c) EFFECTIVE DATE.—The amendments made by this section apply to payments received by the Secretary of the Treasury on or after the date of the enactment of this Act for taxes imposed by chapter 11 of the Internal Revenue Code of 1986.

By Mrs. BOXER (for herself and Ms. SNOWE):

S. 697. A bill to ensure that a woman can designate an obstetrician or gynecologist as her primary care provider; to the Committee on Health, Education, Labor, and Pensions.

THE WOMEN'S ACCESS TO CARE ACT

• Mrs. BOXER. Mr. President, last week, the Senate Health, Education, Labor and Pensions Committee marked up managed care reform legislation. Unfortunately, this markup was characterized by the partisan politics that have plagued this issue for over a year now.

I fear that this squabbling shows no signs of letting up, and I expect it to carry over onto the floor of the Senate. The result may be no action at all. And that, Mr. President, would be a tragedy. There are many individuals who need to be protected from some of the outrageous practices of managed care networks, and as long as we argue, they are not being helped.

It is time to move beyond the squabbling and get something done. Do not get me wrong. I strongly support and am a cosponsor of the Patients' Bill of Rights Act, introduced by Senator DASHCLE. I have no intention of renouncing my support for this excellent bill. Many of its provisions are based on a bill I introduced in 1997.

But, I do believe that we need to start reaching across the aisle to find common ground in those areas where this is agreement. So, today, I am introducing, along with Senator SNOWE, the Women's Access to Care Act—to guarantee that women in managed care plans can designate their ob/gyn as their primary care physician.

Let me tell you, Mr. President, why this bill is so important, and I will start with this basic fact: Many women consider their ob/gyn their principal doctor. According to a 1993 Gallup Poll, 72 percent of women had a regular physical examination in the previous two years from an ob/gyn. And, three-fourths of all women object to restricted access to their ob/gyn.

But, managed care companies are not paying attention.

Sometimes, a managed care company requires a woman to get a referral in order to see her ob/gyn. Or, a managed care plan allows a woman to see an ob/gyn without a referral only under limited circumstances—such as for only a few visits each year or for only certain medical conditions. Or, a managed care network does not allow a woman's ob/gyn to refer her to a specialist.

All of these hurdles placed between a woman and her doctor mean that a woman has to get a referral from another doctor just to see her doctor, and that she must, for all practical purposes, have two doctors.

Let me give you an example that will illustrate how absurd this is.

A 39-year-old woman—who considers her ob/gyn as her doctor—is in the office for a routine check-up. The ob/gyn discovers a lump in the woman's breast and tells her that she needs to get a mammogram. But, because the woman is under the age for automatic coverage of mammograms, she can only get one if her doctor says it is medically necessary. But, the managed care plan does not consider the ob/gyn as the woman's doctor—even though she does. So, this woman has to go find a primary care doctor just to get that doctor to okay a mammogram. And, the ob/gyn certainly cannot refer her to a specialist about the lump in her breast.

That, Mr. President, is silly. It makes no sense. And, it is not even good health policy. According to the Commonwealth Fund, a woman whose ob/gyn is her regular doctor is more likely to have had a complete physical exam, a blood pressure reading, a cholesterol test, a clinical breast exam, a mammogram, a pelvic examination, and a Pap smear.

In other words, a woman is more likely to receive the health care she needs when she can see her ob/gyn. Why? Because many woman consider their ob/gyn their principal doctor.

The bill that Senator SNOWE and I are introducing today recognizes this fact. The Women's Access to Care Act would provide a woman in a managed care plan with three options.

First, she could designate an ob/gyn as her primary care physician. She would have the same right of access to—and the doctor would have the same right of referral as—any other primary care physician.

Second, she could continue the practice common today. That is, she could designate a general practitioner as her primary care physician. But, if she does, she must be allowed to see an ob/gyn without a referral for all routine gynecological care and pregnancy related services. And, the ob/gyn could refer the woman to a specialist for any other needed gynecological care.

Third, we would say that a woman could designate both an ob/gyn and a general practitioner as her primary care provider. Sometimes a woman considers her ob/gyn as her doctor but does not want to close off access to a general practitioner for other health care needs.

Finally, Mr. President, let me briefly address what is known as direct access to an ob/gyn. Allowing a woman to go directly to her ob/gyn without a referral would be an important step forward. But, keep in mind that it is not the full story. Even if the direct access were unlimited and unfettered, it would not allow an ob/gyn to refer a woman to the specialist she needs. To do that requires allowing an ob/gyn to be designated as a primary care physician.

Mr. President, I believe the Women's Access to Care Act is a common sense approach that recognizes the reality of the way many women receive—and want to receive—their health care. It is also an opportunity to break through the partisan logjam on managed care and enact something meaningful to help the women of America.

I urge my colleagues to join me and Senator SNOWE in this bipartisan 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. 697

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 ''Women's Access to Care Act''.

SEC. 2. AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.), as amended by the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105-277), is amended by adding at the end the following:

''SEC. 714. ACCESS TO OBSTETRICAL AND GYNECOLOGICAL CARE.

''(a) IN GENERAL.—If a group health plan, or a health insurance issuer in connection with the provision of health insurance coverage, requires or provides for a participant

or beneficiary to designate a participating primary care provider—

''(1) the plan or issuer shall permit such an individual who is a female to designate a participating physician who specializes in obstetrics and gynecology as the individual's primary care provider in lieu of or in addition to the designation by such individual of a provider who does not specialize in obstetrics and gynecology as the primary care provider; and

''(2) if such an individual has not designated a physician who specializes in obstetrics or gynecology as a primary care provider, the plan or issuer—

''(A) may not require authorization or a referral by the individual's primary care provider or otherwise for coverage of routine gynecological care (such as preventive women's health examinations) and pregnancy-related services provided by a participating health care professional who specializes in obstetrics and gynecology to the extent such care is otherwise covered, and

''(B) may treat the ordering of other gynecological care by such a participating health professional as the authorization of the primary care provider with respect to such care under the plan or coverage.

''(b) CONSTRUCTION.—Nothing in subsection (a)(2)(B) shall waive any requirements of coverage relating to medical necessity or appropriateness with respect to coverage of gynecological care so ordered.''.

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 note), as amended by the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105-277), is amended by inserting after the item relating to section 713 the following new item:

''Sec. 714. Access to obstetrical and gynecological care.''.

SEC. 3. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT.

(a) GROUP MARKET.—Subpart 2 of part A of title XXVII of the Public Health Service Act (42 U.S.C. 300gg-4 et seq.), as amended by the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105-277), is amended by adding at the end the following new section:

''SEC. 2707. ACCESS TO OBSTETRICAL AND GYNECOLOGICAL CARE.

''(a) IN GENERAL.—If a group health plan, or a health insurance issuer in connection with the provision of health insurance coverage, requires or provides for an enrollee to designate a participating primary care provider—

''(1) the plan or issuer shall permit such an individual who is a female to designate a participating physician who specializes in obstetrics and gynecology as the individual's primary care provider in lieu of or in addition to the designation by such individual of a provider who does not specialize in obstetrics and gynecology as the primary care provider; and

''(2) if such an individual has not designated a physician who specializes in obstetrics or gynecology as a primary care provider, the plan or issuer—

''(A) may not require authorization or a referral by the individual's primary care provider or otherwise for coverage of routine gynecological care (such as preventive women's health examinations) and pregnancy-related services provided by a participating health care professional who specializes in obstetrics and gynecology to the extent such care is otherwise covered, and

''(B) may treat the ordering of other gynecological care by such a participating health professional as the authorization of the primary care provider with respect to such care under the plan or coverage.

''(b) CONSTRUCTION.—Nothing in subsection (a)(2)(B) shall waive any requirements of coverage relating to medical necessity or appropriateness with respect to coverage of gynecological care so ordered.''.

(b) INDIVIDUAL MARKET.—The first subpart 3 of part B of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–51 et seq.) (relating to other requirements), as amended by the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105-277) is amended—

(1) by redesignating such subpart as subpart 2; and

(2) by adding at the end the following:

''SEC. 2753. ACCESS TO OBSTETRICAL AND GYNECOLOGICAL CARE.

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

SEC. 4. AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.

Subchapter B of chapter 100 of the Internal Revenue Code of 1986 is amended—

(1) in the table of sections, by inserting after the item relating to section 9812 the following new item:

''Sec. 9813. Access to obstetrical and gynecological care.''; and

(2) by inserting after section 9812 the following:

''SEC. 9813. ACCESS TO OBSTETRICAL AND GYNECOLOGICAL CARE.

''(a) IN GENERAL.—If a group health plan, or a health insurance issuer in connection with the provision of health insurance coverage, requires or provides for a participant or beneficiary to designate a participating primary care provider—

''(1) the plan or issuer shall permit such an individual who is a female to designate a participating physician who specializes in obstetrics and gynecology as the individual's primary care provider in lieu of or in addition to the designation by such individual of a provider who does not specialize in obstetrics and gynecology as the primary care provider; and

''(2) if such an individual has not designated a physician who specializes in obstetrics or gynecology as a primary care provider, the plan or issuer—

''(A) may not require authorization or a referral by the individual's primary care provider or otherwise for coverage of routine gynecological care (such as preventive women's health examinations) and pregnancy-related services provided by a participating health care professional who specializes in obstetrics and gynecology to the extent such care is otherwise covered, and

''(B) may treat the ordering of other gynecological care by such a participating health professional as the authorization of the primary care provider with respect to such care under the plan or coverage.

''(b) CONSTRUCTION.—Nothing in subsection (a)(2)(B) shall waive any requirements of coverage relating to medical necessity or appropriateness with respect to coverage of gynecological care so ordered.''.

SEC. 5. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (c), the amendments made by this Act shall apply with respect to plan years beginning on or after the date of enactment of this Act.

(b) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of enactment of this Act, the amendments made by this Act shall not apply to plan years beginning before the later of—

(1) the date on which the last collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of enactment of this Act), or

(2) January 1, 2000.

For purposes of paragraph (1), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this Act shall not be treated as a termination of such collective bargaining agreement.

(c) INDIVIDUAL MARKET.—The amendment made by section 3(b) shall apply to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after the date of enactment of this Act.

SEC. 6. RULE OF CONSTRUCTION.

Nothing in this Act shall be construed to require a participating physician to accept designation as a primary care provider.●

By Mr. MURKOWSKI:

S. 698. A bill to review the suitability and feasibility of recovering costs of high altitude rescues at Denali National Park and Preserve in the state of Alaska, and for other purposes; to the Committee on Energy and Natural Resources.

HIGH ALTITUDE RESCUES AT DENALI NATIONAL PARK AND PRESERVE IN THE STATE OF ALASKA

● Mr. MURKOWSKI. Mr. President, today I am introducing legislation that would require the Secretary of the Interior to report to Congress on the feasibility and desirability of recovering the cost to taxpayers of rescuing high altitude climbers on Mt. McKinley in Denali National Park and Preserve in the State of Alaska.

Mr. President, Denali National Park and Preserve attracts approximately 355,000 visitors per year who come to see the wildlife, the grandeur of our State, and to gaze at America's highest peak. Most are unaware that while they are taking in the breathtaking vista that is Mt. McKinley, there are approximately another 1,100 persons per year that are attempting to attain the 20,320 summit.

Climbing Mt. McKinley is certainly no easy walk in the Park. A typical year sees a dozen major rescue incidents and one or two fatal accidents. Extreme and unpredictable weather on Mt. McKinley make high altitude rescues very dangerous and very expensive.

Over the last few years the National Park Service has actively and successfully worked to reduce the loss of life and injury to climbers who have attempted to climb this mountain. The NPS spends more than $750,000 per year for education; pre-positioning supplies and materials at various altitudes on the mountain; the positioning of a special high altitude helicopter in the Park; and actual rescue attempts.

Just last year the military and the Park Service spent four days and $221,818 rescuing 6 sick and injured

British climbers who disregarded warnings and advice from park rangers stationed on the mountain. This rescue included what is probably the world's highest short haul helicopter rescue at 19,000 feet and entailed a very high level of risk for the rescue team. This is just one example of many rescues the Park Service conducts each year on Mt. McKinley.

Mr. President, I personally do not feel that the American taxpayer should be left with the bill for rescues on this mountain. The Federal Government does not force these climbers to climb; they engage in this activity voluntarily and with full knowledge of the risks. While I admire the courage and tenacity of mountain climbers, I do not think it is fair to divert scarce park funds from services that benefit the majority of park visitors for the purpose of providing extraordinarily expensive services to a small number of users who put themselves in harm's way with their eyes wide open. Mountain climbers are a special breed who are proud of their self-sufficiency and independence— and rightly so. For that reason I think they should recognize the simple equity of paying their fair share of the public costs of their sport.

As a result of a recent field hearing on this issue, I found that while I have received many letters of support, there are a few stalwart individuals who do not agree with my point of view and have raised some legitimate questions. That is why I want the Secretary of the Interior to look at the feasibility and desirability of some sort of a cost recovery system that puts a minimal burden on climbers, whether it be an insurance requirement, bonding, or any other proposal. The pros and cons of these cost recovery mechanisms need to be carefully explored before we act.

Last but not least, Mr. President, I want the Secretary to evaluate requiring climbers to show proof of medical insurance so that hospitals in Alaska and elsewhere are not left holding the bag as they sometimes are under present circumstances. It is a good neighbor policy that should be put into effect at the earliest opportunity.●

By Mr. WYDEN (for himself and Mr. BREAUX):

S. 699. A bill to protect the public, especially senior citizens, against telemarketing fraud, including fraud over the Internet, and to authorize an educational campaign to improve senior citizens' ability to protect themselves against telemarketing fraud; to the Committee on the Judiciary.

THE TELEMARKETING FRAUD AND SENIORS PROTECTION ACT

Mr. WYDEN. Mr. President, online consumer purchases are exploding, having topped more than $8 billion last year. But the goldrush in cyberbuying is likely to carry along with it a boom in cyberfraud. As with telemarketing fraud, fraudulent schemes over the Internet are increasingly aimed at seniors—some of our most vulnerable citizens. Congress can help head-off this cybercrime by extending our current telemarketing laws to encompass fraud on the Net. That is the purpose of the legislation I am introducing today.

In response to the staggering $40 billion consumers lose in telephone fraud each year, Congress passed the 1998 Telemarketing Fraud Prevention Act. I strongly supported that effort. The new law builds upon the four federal laws enacted since the early 1990s that deal directly with telemarketing fraud. The 1998 law stiffens penalties for telemarketing fraud by toughening the sentencing guidelines—especially for crimes against the elderly, requires criminal forfeiture to ensure the booty of telemarketing crime is not used to commit further fraud, mandates victim restitution to ensure victims are the first ones compensated, adds conspiracy language to the list of telemarketing fraud penalties so that prosecutors can find the masterminds behind the boiler rooms, and will help law enforcement zero in on quick-strike fraud operations by giving them the authority to move more quickly against suspected fraud.

The 1998 law is a good step forward but it's not enough to deal with today's digital economy. As more Americans—and especially seniors—go online, cyberscams are proliferating. The Congressional crackdown on telemarketing fraud will only encourage cyberscammers to migrate to the Net unless the law gets there first. That is the purpose of the legislation I am pleased to introduce today with Senator BAUCUS.

The Telemarketing Fraud and Seniors Protection Act, which I introduced last year as S. 2587, simply extends current law against telemarketing fraud to include the same crimes committed over the Internet. The approach expands the existing law applicable to mail, telephone, wire, and television fraud to fraud over the Internet, and its enforcement would follow the same division of labor there is today between the Federal Trade Commission (FTC) and the Department of Justice. The bill would apply the same tough penalties that Congress enacted in 1998 to cyberscams. The growth of Internet telephony makes it more attractive for cyberscammers to set up shop offshore, beyond the reach of U.S. law. My bill would address this problem by allowing law enforcement to freeze the assets and deny entry to the United States of those convicted of cyberfraud.

The bill takes special aim against those attempt to defraud one of our most vulnerable groups—our senior citizens. Seniors are the target for more than 50 percent of telemarketing fraud. Although telemarketers convicted of fraud face stiff penalties—a minimum of 5–10 years in jail and restitution payments to their victims, we also need to better educate and inform senior citizens on how to avoid becoming victims of telemarketing fraud in the first place, and how to assist law enforcement in catching the perpetrators.

The legislation would also authorize the Administration on Aging, through its network of area agencies of aging, to conduct an outreach program to senior citizens on telemarketing fraud. Seniors would be advised against providing their credit card number, bank account or other personal information unless they had initiated the call unsolicited. They would also be informed of their consumer protection rights and any toll-free numbers and other resources to report suspected illegal telemarketing.

Mr. President, the Federal Trade Commission is off to a good start against cyberscammers. Some of the operations the FTC has targeted are not companies at all, but merely websites that promise consumers everything from huge new consulting contracts to the elimination of bad credit reports. They may use scare tactics to frighten consumers into sending important personal financial information and hundreds of dollars for services the consumer will never see, or attempt to lure consumers with the promise of helping them cash in on the Internet explosion. The FTC also has a strong operation going against junk e-mailers. My legislation will complement and strengthen the FTC's effort to target telemarketing fraud over the Internet and especially when such fraud is aimed at seniors.

I am pleased to be joined in this effort by Senator BAUCUS. This legislation is similar to that which Rep. Weygand has introduced in the House of Representatives. I urge my colleagues in the Senate to cosponsor this important legislation, and ask unanimous consent that a copy of the legislation be printed in the RECORD.

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

S. 699

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

TITLE I—TELEMARKETING FRAUD AND SENIORS PROTECTION ACT

SEC. 101. SHORT TITLE.

This title may be cited as the ''Telemarketing Fraud and Seniors Protection Act''.

SEC. 102. FINDINGS.

Congress makes the following findings:

(1) Telemarketing fraud costs consumers nearly $40,000,000,000 each year.

(2) Senior citizens are often the target of telemarketing fraud.

(3) Fraudulent telemarketers compile into so-called ''mooch lists'' the names of consumers who are potentially vulnerable to telemarketing fraud.

(4) According to the American Association of Retired Persons, 56 percent of the names on such ''mooch lists'' are individuals age 50 or older.

(5) The Department of Justice has undertaken successful investigations and prosecutions of telemarketing fraud through various

operations, including ''Operation Disconnect'', ''Operation Senior Sentinel'', and ''Operation Upload''.

(6) The Federal Bureau of Investigation has helped provide resources to assist organizations such as the American Association of Retired Persons to operate outreach programs designed to warn senior citizens whose names appear on confiscated ''mooch lists''.

(7) The Administration on Aging was formed, in part, to provide senior citizens with the resources, information, and assistance their special circumstances require.

(8) The Administration on Aging has a system in place to inform senior citizens of the dangers of telemarketing fraud.

(9) Senior citizens need to be warned of the dangers of telemarketing fraud before they become victims of such fraud.

SEC. 103. PURPOSE.

It is the purpose of this title to protect senior citizens, through education and outreach, from the dangers of telemarketing fraud and fraud over the Internet and to facilitate the investigation and prosecution of fraudulent telemarketers.

SEC. 104. DISSEMINATION OF INFORMATION.

(a) IN GENERAL.—The Secretary of Health and Human Services, acting through the Assistant Secretary of Health and Human Services for Aging, shall publicly disseminate in each State information designed to educate senior citizens and raise awareness about the dangers of telemarketing fraud and fraud over the Internet.

(b) INFORMATION.—In carrying out subsection (a), the Secretary shall—

(1) inform senior citizens of the prevalence of telemarketing fraud targeted against them;

(2) inform senior citizens how telemarketing fraud works;

(3) inform senior citizens how to identify telemarketing fraud;

(4) inform senior citizens how to protect themselves against telemarketing fraud, including an explanation of the dangers of providing bank account, credit card, or other financial or personal information over the telephone to unsolicited callers;

(5) inform senior citizens how to report suspected attempts at telemarketing fraud;

(6) inform senior citizens of their consumer protection rights under Federal law; and

(7) provide such other information as the Secretary considers necessary to protect senior citizens against fraudulent telemarketing.

(c) MEANS OF DISSEMINATION.—The Secretary shall determine the means to disseminate information under this section. In making such determination, the Secretary shall consider—

(1) public service announcements;

(2) a printed manual or pamphlet;

(3) an Internet website; and

(4) telephone outreach to individuals whose names appear on so-called ''mooch lists'' confiscated from fraudulent telemarketers.

(d) PRIORITY.—In disseminating information under this section, the Secretary shall give priority to areas with high concentrations of senior citizens.

SEC. 105. AUTHORITY TO ACCEPT GIFTS.

The Secretary of Health and Human Services may accept, use, and dispose of unconditional gifts, bequests, or devises of services or property, both real and personal, in order to carry out this title.

SEC. 106. DEFINITION.

For purposes of this title, the term ''State'' includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.

TITLE II—TELEMARKETING FRAUD OVER THE INTERNET

SEC. 201. EXTENSION OF CRIMINAL FRAUD STATUTE TO INTERNET.

(a) EXTENSION.—Section 1343 of title 18, United States Code, is amended by—

(1) by inserting ''(a)'' before ''Whoever'';

(2) in subsection (a), as so designated, by striking ''or television communication'' and inserting ''television, or Internet communication''; and

(3) by adding at the end thereof the following:

''(b) For purposes of this section, the term 'Internet' means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.''.

(b) CONFORMING AND CLERICAL AMENDMENTS.—(1) The section heading of such section is amended to read as follows:

''§ 1343. Fraud by wire, radio, television, or Internet''.

(2) The table of sections at the beginning of chapter 63 of that title is amended by striking the item relating to section 1343 and inserting the following new item:

''1343. Fraud by wire, radio, television, or Internet.''.

SEC. 202. FEDERAL TRADE COMMISSION SANCTIONS.

(a) RULEMAKING TO APPLY SANCTIONS.—The Federal Trade Commission shall initiate a rulemaking proceeding to set forth the application of section 5 of the Federal Trade Commission Act (15 U.S.C. 45), and other statutory provisions within its jurisdiction, to deceptive acts or practices in or affecting the commerce of the United States in connection with the promotion, advertisement, offering for sale, or sale of goods or services through use of the Internet, including the initiation, transmission, and receipt of unsolicited commercial electronic mail.

(b) INTERNET DEFINED.—In this section, the term ''Internet'' means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

By Mr. AKAKA (for himself and Mr. INOUYE):

S. 700. A bill to amend the National Trails System Act to designate the Ala Kahakai Trail as a National Historic Trail; to the Committee on Energy and Natural Resources.

ALA KAHAKAI NATIONAL HISTORIC TRAIL ACT

Mr. AKAKA. Mr. President, along with my senior colleague from Hawaii, Senator DAN INOUYE, today I am introducing legislation to authorize designation of the Ala Kahakai (''Trail by the Sea''), on the Island of Hawaii, as a National Historic Trail.

The Ala Kahakai is the modern name for an approximately 175-mile portion of the ancient shoreline footpath, the Ala Loa (''Long Trail''), that once circumscribed the island of Hawaii. The Ala Loa served as the major land route connecting more than 600 communities of the island kingdom of Hawaii between the 15th and 18th centuries. It is associated with many prehistoric and historic housing areas, most of the royal centers and temples of the island, a number of major battles, and the facilitation of government functions such as tax collection.

Of more recent significance, a key section of the trail is associated with the series of events that unfolded between 1779 and 1820 that had lasting consequences for Hawaiian cultural evolution: Captain Cook's landing and subsequent death at Kealakekua Bay in 1779; Kamehameha's rise to power and consolidation of the Hawaiian Islands under monarchical rule; the death of Kamehameha I in 1819, followed by the overthrow of the ancient religious system, the kapu: and, finally, the arrival of the first Western missionaries in 1820.

Interest in preserving this important Hawaiian cultural legacy has been growing since the 1970s, when the State of Hawaii began developing Na Ala Hele (''Trails for Walking''), a proposal for cooperative management of the statewide trail system. I 1988, the concept evolved into the Hawaii Statewide Trail and Access System, whose mission is to develop trail access while conserving Hawaii's environmental and cultural heritage.

The Na Ala Hele planning process called for the development of a demonstration trail for each of Hawaii's major islands, including a 35-mile demonstration trail on the Big Island of Hawaii. In introduced legislation (P.L. 120–361) in 1992 proposing that NPS study whether an expanded, 175-mile version of the Big Island trail, the Ala Kahakai, should be incorporated into the National Trails System.

Pursuant to P.L. 120–461, the National Park Service undertook a study to evaluate the desirability and feasibility of establishing the Ala Kahakai as a national trail. In January 1998, after a long process of consultation with federal, state, local authorities and other interests, and after a period of public review, the study (''Ala Kahakai National Trail Study and Final Environmental Impact Statement'') was completed. In August 1998, the Secretary of the Interior, with the concurrence of the National Park System Advisory Board, endorsed the study's principle recommendation that the Ala Kahakai be designated a National Historic Trail.

According to the study, the trail meets all of the three criteria for historic trail designation. To wit: it must be a trail or route established by historic use and must be historically significant as result of that use; it must be of national significance with respect to any of several broad facets of American history, such as trade and commerce, exploration, migration and settlement, or military campaigns; and, it must have significant potential for public recreational use or historical interest based on historic interpretation and appreciation.

In addition, the study suggested that the trail not only qualifies for designation as a National Historic Trail, but that it has the potential to be designated a National Scenic Trail (although to do so would trivialize its historical and cultural significance) and may well be eligible for the National Register of Historic Places.

The study presented four alternatives for the management of the Ala Kahakai: (a) no action, (b) a national historic trail (continuous), (c) a state historic trail, and a national historic trail (discontinuous)—ultimately recommending alternative ''b'' as the best means to preserve and restore the trail and maximize public access to the entire route. The preferred alternative assumes recognition of a continuous route that, over time, could become continuous on the ground.

It is fairly clear that reestablishing the 175-mile route is physically possible. Although some parts of the trail have been covered by lava, eroded by tides, or otherwise sustained damage from natural and human processes, these sections can be bridged through recreational trail links. In some cases, the trail can be rebuilt using traditional construction methods.

About half (93 miles, or 53 percent) of the proposed trail is in local, state, or federal government ownership, and 82 miles cross private lands. Of the latter, 16 miles have been dedicated, through planning requirements, as public land. Of the remaining 66 miles of trail on private lands, as much as 35 miles are classified as ''ancient trail'' and thus claimable as state-owned under Hawaiian law. For the remaining sections of trail that are not ancient trail, or for which the state's claim has been forfeited in some way, landowner participation would be entirely voluntary.

Mr. President, I urge my colleagues to support this legislation, which is key to preserving and interpreting an important Hawaiian legacy that is threatened by time, neglect, and modern activity. The Ala Kahakai boasts more cultural and historical resources than any other trail in the National Trails System. Its designation as a national historic trail would help us preserve one of the most important and evocative legacies of Hawaii's indigenous history and culture. I hope that Congress will act quickly on this measure, to ensure that the trail can be developed as a resource for all Americans to enjoy.

Thank you, Mr. President. This measure is supported by State and local authorities as well as a wide spectrum of community organizations. I ask unanimous consent that the text of the bill, a letter of support from Hawaii Governor Ben Cayetano, as well as the Department of Interior's Record of Decision on this issue be printed in the RECORD.

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

S. 700

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 ''Ala Kahakai National Historic Trail Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the Ala Kahakai (Trail by the Sea) is an important part of the ancient trail known as the ''Ala Loa'' (the long trail), which circumscribes the island of Hawaii;

(2) the Ala Loa was the major land route connecting 600 or more communities of the island kingdom of Hawaii from 1400 to 1700;

(3) the trail is associated with many prehistoric and historic housing areas of the island of Hawaii, nearly all the royal centers, and most of the major temples of the island;

(4) the use of the Ala Loa is also associated with many rulers of the kingdom of Hawaii, with battlefields and the movement of armies during their reigns, and with annual taxation;

(5) the use of the trail played a significant part in events that affected Hawaiian history and culture, including—

(A) Captain Cook's landing and subsequent death in 1779;

(B) Kamehameha I's rise to power and consolidation of the Hawaiian Islands under monarchical rule; and

(C) the death of Kamehameha in 1819, followed by the overthrow of the ancient religious system, the Kapu, and the arrival of the first western missionaries in 1820; and

(6) the trail—

(A) was used throughout the 19th and 20th centuries and continues in use today; and

(B) contains a variety of significant cultural and natural resources.

SEC. 3. AUTHORIZATION AND ADMINISTRATION.

Section 5(a) of the National Trails System Act (16 U.S.C. 1244(a)) is amended—

(1) by designating the paragraphs relating to the California National Historic Trail, the Pony Express National Historic Trail, and the Selma to Montgomery National Historic Trail as paragraphs (18), (19), and (20), respectively; and

(2) by adding at the end the following:

''(21) ALA KAHAKAI NATIONAL HISTORIC TRAIL.—

''(A) IN GENERAL.—The Ala Kahakai National Historic Trail (the Trail by the Sea), a 175 mile long trail extending from Upolu Point on the north tip of Hawaii Island down the west coast of the Island around Ka Lae to the east boundary of Hawaii Volcanoes National Park at the ancient shoreline temple known as 'Wahaulu', as generally depicted on the map entitled 'Ala Kahakai Trail', contained in the report prepared pursuant to subsection (b) entitled 'Ala Kahakai National Trail Study and Environmental Impact Statement', dated January 1998.

''(B) MAP.—A map generally depicting the trail shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior.

''(C) ADMINISTRATION.—The trail shall be administered by the Secretary of the Interior.

''(D) LAND ACQUISITION.—No land or interest in land outside the exterior boundaries of any federally administered area may be acquired by the United States for the trail except with the consent of the owner of the land or interest in land.

''(E) PUBLIC PARTICIPATION; CONSULTATION.—The Secretary of the Interior shall—

''(i) encourage communities and owners of land along the trail, native Hawaiians, and volunteer trail groups to participate in the planning, development, and maintenance of the trail; and

''(ii) consult with affected Federal, State, and local agencies, native Hawaiian groups, and landowners in the administration of the trail.''.

EXECUTIVE CHAMBERS,
Honolulu, July 1, 1998.

Subject: Congressional Nomination of the Ala Kahakai National Historic Trail on Hawaii.

JOHN J. REYNOLDS,
Regional Director, National Park Service, Pacific West Region, Pacific Great Basin Support Office, San Francisco, CA.

DEAR MR. REYNOLDS: This letter is in regards to the potential inclusion of the historic Ala Kahakai alignment on the island of Hawaii as a part of the National Trail System. Senator Daniel K. Akaka and Senator Daniel K. Inouye introduced federal legislation in 1992, that authorized the National Park Service (NPS) to conduct a National Trail Study and Environmental Impact Statement (NTS/EIS) for the United States Congress, to determine if the Ala Kahakai qualified as a National Historic Trail and to also determine the feasibility of implementing the project.

During the NTS/EIS process, NPS conducted four informational meetings on the island of Hawaii to solicit public sentiment on the possible National Trail status and on the four proposed management scenarios identified in the draft NTS/EIS. The final NTS/EIS recommends inclusion of the Ala Kahakai in the National Trail System, through implementation of Alternative B, which establishes NPS administration and oversight of the trail in coordination with the state and county. The State of Hawaii concurs with Alternative B, but with the following concerns: (1) Congressional approval of Ala Kahakai as a National Trail, without the commensurate funding, may actually contribute to the decline of the associated natural and cultural resources due to the probable resulting increase in public demand for access to the trail and related resources, and (2) it is also imperative that the concerns of native Hawaiians and adjacent private landowners are addressed during development of the management plan.

I commend the NPS in their treatment of the Ala Kahakai in the NTS/EIS, and support Congressional approval of the National Trail designation. The Ala Kahakai is a very significant cultural and recreational resource, and a formal parthership among all the participating agencies, Hawaiian cultural representatives, landowners, trail user groups and individuals will help to assure the sustainability of this valuable historic trail.

With warmest personal regards,
Aloha,

BENJAMIN J. CAYETANO.

FINAL ENVIRONMENTAL IMPACT STATEMENT—RECORD OF DECISION

Summary: Pursuant to §102(2)(C) of the National Environmental Policy Act of 1969 and the regulations promulgated by the Council on Environmental Quality (40 CFR Part 1500), the Department of the Interior, National Park Service has prepared this Record of Decision for the Final Environmental Impact Statement for the National Trail Study for Ala Kahakai. This 175-mile trail is located parallel to the western and southern shoreline of the Island of Hawaii, from Upolu Point on the north to the eastern boundary of Hawaii Volcanoes National Park. This document is a concise statement of decisions made, alternatives considered, basis for the decision, and mitigating measures developed to avoid or minimize environmental impacts.

Recommendation: This National Trail Study (Study) and Final Environmental Impact Statement (FEIS) were prepared to provide the United States Congress and the public with information about the resources in the study area and how they relate to criteria for the National Trails System (System). The decision on whether to designate the Ala Kahakai as a National Historic Trail will be made by Congress after transmittal of the Study and Record of Decision (ROD) by the Secretary of the Interior. The National Park Service (NPS) recommends Alternative B, National Historic Trail (continuous), as the environmentally preferred alternative (and which is described in the FEIS for which the Notice of Availability was published in the Federal Register on April 29, 1998). Out of four alternatives identified and analyzed, the recommended alternative offers the best opportunity to protect trail resources, educate the public about the history and significant of the island shoreline trail, or ala loa, and the Hawaiian culture, and provide high quality recreation. The Draft Environmental Impact Statement (DEIS) for the Study did not recommend on alternative. The DEIS was issued in July 1997, and the public review period ended on October 17, 1997.

Findings: The NPS concludes that the Ala Kahakai meets the three criteria as a National Historic Trail as outlined in the National Trails System Act. The NPS also concludes that establishing a continuous trail is physically feasible.

The NPS concludes that desirability of recognizing the trail rest on two key items: first; communities along the way, native Hawaiians, and landowners all be involved in planning and implementing the trail; and second, adequate funding must be ensured at the time the trail is designated to protect cultural and natural resources. If the trail is designated without adequate funding at the outset, resources may be more threatened by unregulated increase public use then they already are.

The National Park System Advisory Committee agreed at their November 1997 meeting that the Ala Kahakai does have National Historic Significance based on the criteria developed under the Historic Sites Act of 1935.

Recommended Alternative: Under this alternative, National Historic Trail (continuous), Alternative B, the trail would be recognized as a continuous route and over time would become continuous on the ground. Intact segments of the prehistoric and historic ala loa would be preserved and protected in place. These segments would be linked with later trails or reconstructed trails, as feasible, to create a continuous trail. It is anticipated that, once records of title are reviewed, most of the trail will be owned in fee simple by the state and reserved for use of the public under the Highways Act of 1892. The NPS would administer and have oversight of the trail in close coordination with the state and county. Nonfederally-owned portions of the trail would become official components of the National Trail only through agreements with landowners or land managers.

The NPS would prepare a management plan with the active involvement of native Hawaiians, landowners, trail users, and other interested groups and individuals. An advisory council would be appointed by the Secretary of the Interior. The National Trail would be interpreted as a portion of the ancient ala loa and as a traditional cultural property of continuing importance to native Hawaiians. The management plan would include a uniform marker for identifying the trail. State and local agencies, private landowners, local groups, and individuals would manage the trail on the ground. Natural, cultural, and ethnographic resources would be inventoried and protected before trail segments would be promoted for public use. No Federal land acquisition is anticipated (it is expected that any legislation designating the trail would include language prohibiting land acquisition except with the consent of the owner). All current State and County land use regulations would continue to apply to lands adjacent to the trail.

Estimated federal costs for this alternative (presented in the FEIS in 1997 dollars) are as follows: management plan and initial brochure, $275,000; phased costs (archaeological surveys and ethnography, trail identification, restoration, and construction), trailhead and campsite development, facility planning) $3,679,000; and annual operations cost, $265,000.

Other Alternatives Considered: Three other alternatives were considered. The No-Action Alternative, Alternative A, would result in continuing the present conditions. The Ala Kahakai would remain as the 35-mile state demonstration trail. Piecemeal trail and resource protection would be reactionary as development or other threats occur. The trail would be a disconnected series of trail segments emphasizing lateral shoreline access. Over time, as records of title are researched for various reasons, most of the 175-mile trail would be owned in fee simple by the state and reserved for public use, but the ala loa and its role in the lives of ancient and contemporary Hawaiians would not be consistently recognized and interpreted. There would be no overall administration of the trail as a unified whole as part of a system of island trails.

The State Historic Trail Alternative, Alternative C, would require state legislation to recognize the 175-mile trail as a continuous portion of the ala loa. The legislation would outline the requirements of a state management plan and the needs for protection of resources. It is anticipated that the state trails and access program, Nä Ala Hele, would administer the trail. To achieve the vision for the trail, the state would need to appropriate funds specifically for the planning, protection, development, interpretation, and maintenance of the trail. Since the state is likely to own most of the trail in fee simple, this alternative would appear to be viable.

The National Historic Trail (discontinuous) Alternative, Alternative D, would be similar to Alternative B, except that the trail would be recognized as a continuous route, but only intact prehistoric and historic sections would be protected and interpreted for the public. The trail would not be continous on the ground.

Four additional options were considered but rejected as non-viable.

Basis for the Recommendation: In 1992, the U.S. Congress enacted legislation providing for a study of the potential inclusion of the Ala Kahakai into the System. National Trail Studies must determine whether a trail meets eligibility requirements and whether it is feasible and desirable to add it to the System. The NPS found the trail meets the eligibility criteria, and determined it to be feasible and desirable to designate it as a unit of the System if certain conditions are met.

In addition, National Trail Studies analyze a range of conceptual alternatives for managing the trail, including a no-action, a national trail, and other feasible alternatives. It is NPS policy to fulfill its conservation planning-impact analysis and other stewardship obligations through preparing an EIS for National Trail Studies. Also as a matter of policy, the NPS recommends an alternative, fully recognizing that Congress is the decision-making body.

Each alternative in the Ala Kahakai FEIS considers natural, cultural, scenic and visual, and recreational resources, and the socio-economic environment. Of the four alternatives, the recommended alternative offers the best opportunity to protect trail resources, educate the public about the history and significance of the ala loa and the Hawaiian culture, and provide high quality recreation. It would treat the 175-mile trail as a single system, rather than as a series of unrelated segments, providing a context for protection and interpretation. This approach would better protect the resources than the piecemeal approach provided under Alternative A, No-Action, or the segmented approach under Alternative D, National Historic Trail (discontinuous). Under the No-Action Alternative, trail resources could be lost to continuing development and lack of public awareness of trail resource values. Opportunities would be lost to interpret the Ala Kahakai as part of the ala loa. Further, Alternative C, State Historic Trail, may appear to be a likely management scenario (since the state anticipates that it will own most of the trail once land titles are investigated), but the State does not appear to have the funds or enough staff to plan for and manage the entire trail. The recommended alternative would allow NPS administration, coordination, oversight, and technical assistance to bolster state and local management of the trail.

Measures to Minimize Harm: The FEIS addresses conceptual management options for the Ala Kahakai. Supplementary conservation planning and impact analysis would be necessary, in conjunction with preparing a management plan; tiered environmental documents for specific trail projects would be prepared as they occur and as appropriate. The FEIS includes practicable means at a programmatic level to avoid or minimize environmental harm. For instance, it is essential that no section of trail be opened for public use unless and until a management plan, prepared in concert with landowners and native Hawaiians along the segment, is completed and maintenance and protection of cultural and natural resources provided for. Cultural resources and traditional cultural properties would be identified and ethnographies prepared. Native Hawaiian cultural experts would advise on planning and managing the trail. Native Hawaiians, landowners, communities along the way, trail users, and others would be involved in planning for and managing the trail. Natural resources (which are often perceived as cultural resources to Native Hawaiians) would be inventoried and measures taken to protect archaeological sites and threatened and endangered species before any portion of the trail is promoted for public use. Anchialine ponds would be identified and inventoried and a range of protection measures considered before encouraging trail use near them. Effects of trail use on cultural and natural resources would be monitored as feasible and appropriate.

Public Review: The DEIS was developed after public scoping through five public meetings, numerous agency and organization meetings, distribution of meeting summaries, and a newsletter series. Alternatives were developed through a workshop process, and an initial opportunity for public contributions was afforded through a newsletter with response form. The DEIS was issued in late July 1997 and the public review period ended on October 17, 1997. Also during this period the NPS conducted four public meetings and received 67 written comments during the 60-day public review period. The FEIS (noticed in the Federal Register on April 29, 1998) included responses to 39 letters from agencies, landowners, organizations,

and individuals who raised specific issues. In general, the landowners who commented on the DEIS preferred the No Action Alternative, and the organizations and individuals who responded preferred the National Historic Trail (continuous) Alternative. No significant new issues were raised which would require the development of a new alternative, although the FEIS clarified the impacts to land use section, the intent of Alternative B, and revised the cost estimate. The 30-day no-action period began on April 3, 1998 and ended on May 4, 1998.

During the no-action period, two typographic corrections were noted (and are incorporated by reference):

1. On page 39, the abbreviation for MLCD is reversed several times.

2. On page 49, the name ''Kekaha Kai'' is misspelled.

Also during this period several comments were received. These communications neither surfaced new issues or concerns, nor provided information to add to the FEIS. However, since the FEIS provided the first public opportunity to review the NPS recommendation, all comments received are summarized below to ensure that Congress and interested parties are fully apprised of all views. Moreover, all written communications received during the entire environmental compliance process are on file in the NPS's Pacific Great Basin Support Office in San Francisco.

COMMENTS SUPPORTING THE RECOMMENDATION

The U.S. Fish and Wildlife Service supported the recommendation and expressed interest in working with the NPS, the state, and all cooperators on management strategies to protect endangered plants and animals, and their habitats, if the trail is designated a National Historic Trail.

A Hawaii County Council member supported of the recommendation; his letter is attached to the Record of Decision at the request of Senator Daniel Akaka.

Ë Mau Nä Ala Hele, a non-profit trails support group, supported the recommendation and emphasized the need for local control and management.

Wailea Property Owners' Association generally supported the recommendation, but noted concerns for litter, waste, and crime, and requested that the trail be non-motorized.

Several individuals wrote, e-mailed, or telephoned their support for the recommendation.

COMMENTS SUPPORTING OTHER OPTIONS

The President of Ka Ohana O KaLae, a Puna District kinship group, rejected all alternatives because the coastal area ''must fall under jurisdiction of the Native Hawaiian tenant living in that particular portion of ahupuaa.''

Waikoloa Resort supported Alternative A and indicated it would not cooperate with Federal designation of the trail.

Kona Kohala Resort Association supported Alternative A and expressed concern about increased landowner burden under the recommended alternative.

Chalon International continued to question not including the entire ''Cordy report'' in the FEIS.

Kamehameha Schools Bernice Pauhai Bishop Estate reiterated their belief that the Ala Kahakai is a collection of fragmented remnants and thus opposed designation of a National Trail along the Hawaii coastline.

Skycliff Investment, L.L.C. questioned the listing in Appendix G of 0.89 miles of the Ala Kahakai passing over their property. As new owners they did not have the opportunity to comment on the DEIS. They cautioned avoidance of regulatory taking without compensation and asked to be consulted on any developments related to the Ala Kahakai Study.

The Hawaii Leeward Planning Conference restated concerns noted in the FEIS.

Oceanside 1250 wrote three letters: one commented on other letters included in the FEIS; the other two restated concerns noted in the FEIS.

Conclusion: The National Trail Study, Draft and Final EIS, and Record of Decision will be transmitted to Congress by the Secretary of the Interior. The decision on whether to designate the Ala Kahakai as a National Historic Trail will be made by Congress.

U.S. SENATE,
Washington, DC, April 24, 1998.

SUPERINTENDENT,
Pacific Great Basin Support Office, National Park Service, San Francisco, CA.

DEAR SUPERINTENDENT: Please include the enclosed remarks of J. Curtis Tyler III, Council Member, County Council of Hawaii, as part of the public comment record on the *National Trail Study and Final Environmental Impact Statement for the Ala Kahakai.*

Thank you for your attention to this matter.

Aloha pumehana,

DANIEL K. AKAKA,
U.S. Senator.

Enclosure.

COUNTY COUNCIL,
COUNTY OF HAWAII,
Hilo HI, April 13, 1998.

Re: Final EIS, Ala Kahakai, Hawai'i Island.

DANIEL K. AKAKA,
U.S. Senate,
Washington, DC.

DEAR SENATOR AKAKA: I have reviewed a copy of the above referenced study and wish to submit the following brief comments:

As a Native Hawaiian and an elected public official, I encourage the Congress and National Park Service to include Ala Kahakai in the National Trail System. I believe that, as both a traditional cultural and public resource, this trail is totally unique and of enormous significance and value. Therefore, its conservation and protection are extremely important, not only to present and future generations of Native Hawaiians, but to the general public as well.

I believe that inclusion of this trail will afford greater opportunities to attract the resources necessary to conserve and protect it. This is especially important in light of the fiscal and other constraints now being experienced in the State of Hawaii.

I am aware that some feel inclusion may further compromise this special asset, but I am confident that, as long as the the trail remains a part of the public trust, and there is a willingness and open mechanism to consider and implement the perspectives and wishes of local residents, including Native Hawaiians, the end result will be superior to leaving this matter only in the hands of state and local governments.

Finally, I wish to commend you and all those who have worked on this project. In my opinion, the work has been done in a sensitive and thorough manner, and demonstrates a true commitment on your part to seek and ensure that the life of this land will continue to be perpetuated in that which is pono.

Thank you for the opportunity to comment on this important matter. Please do not hesitate to contact me if I can be of further assistance.

Sincerely,

J. CURTIS TYLER, III,
Council Member, District 8.

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

S. 701. A bill to designate the Federal building located at 290 Broadway in New York, New York, as the ''Ronald H. Brown Federal Building''; to the Committee on Environment and Public Works.

RONALD H. BROWN FEDERAL BUILDING

Mr. MOYNIHAN. Mr. President, I rise with my colleague Senator SCHUMER to introduce a bill to honor and remember a truly exceptional American, Ronald H. Brown. The bill would designate the newly constructed Federal building located at 290 Broadway in the heart of lower Manhattan as the ''Ronald H. Brown Federal Building.''

It is a fitting gesture to recognize the passing of this remarkable American, and I would ask for my colleagues' support for this legislation to place one more marker in history on Ron Brown's behalf.

Ron Brown had a great love for enterprise and industry as reflected in his achievements as the first African-American to hold the office of U.S. Secretary of Commerce. His was also a life of outstanding achievement and public service: Army captain; vice president of the National Urban League; partner in a prestigious law firm; chairman of the Democratic National Committee; husband and father. And these are but a few of the achievements that demonstrated Ron Brown's spirited and sweeping pursuit of life.

To have held any one of these posts in the government, and in the private sector, is extraordinary. To have held all of the positions he did and prevail as he did, is unique. Ron Brown was tragically taken from us too soon; we are diminished by his loss. I cannot think of a more fitting tribute to this uncommon man.

I ask unanimous consent that the text of the Ronald H. Brown Federal Building Designation Act of 1999, be printed in the RECORD.

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

S. 701

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

SECTION 1. DESIGNATION OF RONALD H BROWN FEDERAL BUILDING.

The Federal building located at 290 Broadway in New York, New York, shall be known and designated as the ''Ronald H. Brown Federal Building''.

SEC. 2 REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in section 1 shall be deemed to be a reference to the ''Ronald H. Brown Federal Building''.

● Mr. SCHUMER. Mr. President, I am honored to join my colleague, the Senior Senator from New York, PAT MOYNIHAN, to introduce this bill to honor Ronald H. Brown, a gifted and committed public servant. This legislation, which we offer in concert with a similar measure authored by our friend and House colleague Congressman Charles

Rangel, would designate the newly constructed Federal building at 290 Broadway in Manhattan as the ''Ronald H. Brown Federal Building.''

A New Yorker raised on Lennox Avenue in Harlem, Ron Brown loved his country and ultimately gave his life in service to it. An Army captain, vice-president of the National Urban League, Chairman of the Democratic National Committee, Ron Brown became the first African-American to serve as Secretary of Commerce in 1993, breathing new life and purpose into that agency. President Clinton, in praising Brown's work there, once told Commerce Department employees that Brown ''was one of the best advisors and ablest people I ever knew.''

Brown's life was marked by a passion, and determination, to ensure that the promise of liberty and opportunity rang true for all Americans. At the Urban League and then at the DNC, he worked ceaselessly to promote civil rights and economic development for minorities. Later as Secretary of Commerce, Ron Brown traversed the globe in efforts to remove trade barriers and reinforce the American values of fair labor practices and human rights.

Less than three years ago, we lost Secretary Brown and 32 American businessmen, Commerce employees, and military personnel in a tragic plane crash in Croatia. Today we offer this measure as our tribute. A uniquely talented and beloved man, Ron Brown is sorely missed.

By Mr. HARKIN (for himself, Mrs. BOXER, Mr. KERRY, Mr. LEAHY, Mr. INOUYE, Mr. TORRICELLI, Mr. KENNEDY, Ms. MIKULSKI, and Mrs. MURRAY):

S. 702. A bill to amend the Fair Labor Standards Act of 1938 to prohibit discrimination in the payment of wages on account of sex, race, or national origin, and for other purposes; to the committee on Health, Education, Labor, and Pensions.

FAIR PAY ACT OF 1999

Mr. HARKIN. Mr. President, there is perhaps no other form of discrimination that has as direct an impact on the day-to-day lives of workers as wage discrimination. A recent survey of working women found receiving fair pay is one of their top concerns. When women aren't paid what they're worth, we all get cheated. That's why we are introducing the Fair Pay Act of 1999—to ensure equal pay for work of equal value for all Americans.

The Equal Pay Act of 1963 prohibits sex-based discrimination in compensation for doing the same job. However, this statute fails to address other major parts of the pay equity problem such as job segregation. Current law has not reached far enough to combat wage discrimination when employers routinely pay lower wages to jobs that are dominated by women. More than 30 years after the passage of the Equal Pay Act, women's wages still seriously lag behind their male counterparts' wages. The central problem is that we continue to undervalue and underpay work done by women.

The Fair Pay Act is designed to pick up where the Equal Pay Act left off. The heart of the bill seeks to eliminate wage discrimination based upon sex, race or national origin. This important legislation would amend the Fair Labor Standards Act of 1938 to make it illegal for employers to discriminate against women and minorities by paying them less in jobs that are comparable in skill, effort, responsibility and working conditions.

The Fair Pay Act would apply to each company individually and would prohibit companies from reducing other employees' wages to achieve pay equity. Seven states have passed and implemented laws to close the wage gap for state employees and they didn't go bankrupt doing it. Canada also passed similar pay equity laws that apply to both the government and private sectors.

Wage gaps can result from differences in education, experience or time in the workforce and the Fair Pay Act in no way interferes with that. But just as there is a glass ceiling in the American workplace, there is also a ''Glass Wall'' encountered by women who have similar skills and have the similar responsibilities as their male counterparts, but still do not receive the same pay.

For example, a study of Los Angeles County employees showed social workers were paid $35,000 a year while probation officers were paid $55,000. That's a $20,000 difference, although the jobs required similar skills, education and working conditions. This is what the Fair Pay Act aims to fix.

A February 1999 report by the Institute for Women's Policy Research and the AFL–CIO found that families lose an average of $3,446 a year because of unequal pay in female-dominated jobs. That's $420,000 over a lifetime of the average woman.

Mr. President, persistent wage gaps for working women and people of color and the earnings inequality these gaps connote translate into lower pay, less family income and more poverty for working families. The solution, long overdue, is fair pay for women and minority workers.

Please join us in support of Fair Pay Act of 1999.

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

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

S. 702

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

SECTION 1. SHORT TITLE AND REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the ''Fair Pay Act of 1999''.

(b) REFERENCE.—Except as provided in section 8, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).

SEC. 2. FINDINGS.

Congress finds the following:

(1) Wage rate differentials exist between equivalent jobs segregated by sex, race, and national origin in Government employment and in industries engaged in commerce or in the production of goods for commerce.

(2) The existence of such wage rate differentials—

(A) depresses wages and living standards for employees necessary for their health and efficiency;

(B) prevents the maximum utilization of the available labor resources;

(C) tends to cause labor disputes, thereby burdening, affecting, and obstructing commerce;

(D) burdens commerce and the free flow of goods in commerce; and

(E) constitutes an unfair method of competition.

(3) Discrimination in hiring and promotion has played a role in maintaining a segregated work force.

(4) Many women and people of color work in occupations dominated by individuals of their same sex, race, and national origin.

(5)(A) A General Accounting Office analysis of wage rates in the civil service of the State of Washington found that in 1985 of the 44 jobs studied that paid less than the average of all equivalent jobs, approximately 39 percent were female-dominated and approximately 16 percent were male dominated.

(B) A study of wage rates in Minnesota using 1990 Decennial Census data found that 75 percent of the wage rate differential between white and non-white workers was unexplained and may be a result of discrimination.

(6) Section 6(d) of the Fair Labor Standards Act of 1938 prohibits discrimination in compensation for ''equal work'' on the basis of sex.

(7) Title VII of the Civil Rights Act of 1964 prohibits discrimination in compensation because of race, color, religion, national origin, and sex. The Supreme Court, in its decision in County of Washington v. Gunther, 452 U.S. 161 (1981), held that title VII's prohibition against discrimination in compensation also applies to jobs that do not constitute ''equal work'' as defined in section 6(d) of the Fair Labor Standards Act of 1938. Decisions of lower courts, however, have demonstrated that further clarification of existing legislation is necessary in order effectively to carry out the intent of Congress to implement the Supreme Court's holding in its Gunther decision.

(8) Artificial barriers to the elimination of discrimination in compensation based upon sex, race, and national origin continue to exist more than 3 decades after the passage of section 6(d) of the Fair Labor Standards Act of 1938 and the Civil Rights Act of 1964. Elimination of such barriers would have positive effects, including—

(A) providing a solution to problems in the economy created by discrimination through wage rate differentials;

(B) substantially reducing the number of working women and people of color earning low wages, thereby reducing the dependence on public assistance; and

(C) promoting stable families by enabling working family members to earn a fair rate of pay.

SEC. 3. EQUAL PAY FOR EQUIVALENT JOBS.

(a) AMENDMENT.—Section 6 (29 U.S.C. 206) is amended by adding at the end the following:

''(h)(1)(A)(i) Except as provided in clause (ii), no employer having employees subject to any provision of this section shall discriminate, within any establishment in which such employees are employed, between employees on the basis of sex, race, or national origin by paying wages to employees in such establishment in a job that is dominated by employees of a particular sex, race, or national origin at a rate less than the rate at which the employer pays wages to employees in such establishment in another job that is dominated by employees of the opposite sex or of a different race or national origin, respectively, for work on equivalent jobs.

''(ii) Nothing in clause (i) shall prohibit the payment of different wage rates to employees where such payment is made pursuant to—

''(I) a seniority system;

''(II) a merit system; or

''(III) a system that measures earnings by quantity or quality of production.

''(iii) The Equal Employment Opportunity Commission shall issue guidelines specifying criteria for determining whether a job is dominated by employees of a particular sex, race, or national origin. Such guidelines shall not include a list of such jobs.

''(B) An employer who is paying a wage rate differential in violation of subparagraph (A) shall not, in order to comply with the provisions of such subparagraph, reduce the wage rate of any employee.

''(2) No labor organization or its agents representing employees of an employer having employees subject to any provision of this section shall cause or attempt to cause such an employer to discriminate against an employee in violation of paragraph (1)(A).

''(3) For purposes of administration and enforcement of this subsection, any amounts owing to any employee that have been withheld in violation of paragraph (1)(A) shall be deemed to be unpaid minimum wages or unpaid overtime compensation under this section or section 7.

''(4) As used in this subsection:

''(A) The term 'labor organization' means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

''(B) The term 'equivalent jobs' means jobs that may be dissimilar, but whose requirements are equivalent, when viewed as a composite of skills, effort, responsibility, and working conditions.''.

(b) CONFORMING AMENDMENT.—Section 13(a) (29 U.S.C. 213(a)) is amended in the matter before paragraph (1) by striking ''section 6(d)'' and inserting ''sections 6(d) and 6(h)''.

SEC. 4. PROHIBITED ACTS.

Section 15(a) (29 U.S.C. 215(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting a semicolon; and

(2) by adding after paragraph (5) the following new paragraphs:

''(6) to discriminate against any individual because such individual has opposed any act or practice made unlawful by section 6(h) or because such individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing to enforce section 6(h); or

''(7) to discharge or in any other manner discriminate against, coerce, intimidate, threaten, or interfere with any employee or any other person because the employee inquired about, disclosed, compared, or otherwise discussed the employee's wages or the wages of any other employee, or because the employee exercised, enjoyed, aided, or encouraged any other person to exercise or enjoy any right granted or protected by section 6(h).''.

SEC. 5. REMEDIES.

Section 16 (29 U.S.C. 216) is amended—

(1) by adding at the end the following:

''(f) In any action brought under this section for violation of section 6(h), the court shall, in addition to any other remedies awarded to the prevailing plaintiff or plaintiffs, allow expert fees as part of the costs. Any such action may be maintained as a class action as provided by the Federal Rules of Civil Procedure.'';

(2) in subsection (b), by striking ''section 15(a)(3)'' each place it occurs and inserting ''paragraphs (3), (6), and (7) of section 15(a)''; and

(3) in the fourth sentence of subsection (b), by striking ''No employees'' and inserting ''Except with respect to class actions brought under subsection (f), no employees''.

SEC. 6. RECORDS.

(a) TECHNICAL AMENDMENT.—Section 11(c) (29 U.S.C. 211(c)) is amended by inserting ''(1)'' after ''(c)''.

(b) RECORDS.—Section 11(c) (as amended by subsection (a)) is further amended by adding at the end the following:

''(2)(A) Every employer subject to section 6(h) shall preserve records that document and support the method, system, calculations, and other bases used by the employer in establishing, adjusting, and determining the wage rates paid to the employees of the employer. Every employer subject to section 6(h) shall preserve such records for such periods of time, and shall make such reports from the records to the Equal Employment Opportunity Commission, as shall be prescribed by the Equal Employment Opportunity Commission by regulation or order as necessary or appropriate for the enforcement of the provisions of section 6(h) or any regulation promulgated pursuant to section 6(h).''.

(c) SMALL BUSINESS EXEMPTIONS.—Section 11(c) (as amended by subsections (a) and (b)) is further amended by adding at the end the following:

''(B)(i) Every employer subject to section 6(h) that has 25 or more employees on any date during the first or second year after the effective date of this paragraph, or 15 or more employees on any date during any subsequent year after such second year, shall, in accordance with regulations promulgated by the Equal Employment Opportunity Commission under subparagraph (F), prepare and submit to the Equal Employment Opportunity Commission for the year involved a report signed by the president, treasurer, or corresponding principal officer, of the employer that includes information that discloses the wage rates paid to employees of the employer in each classification, position, or job title, or to employees in other wage groups employed by the employer, including information with respect to the sex, race, and national origin of employees at each wage rate in each classification, position, job title, or other wage group.''.

(d) PROTECTION OF CONFIDENTIALITY.—Section 11(c) (as amended by subsections (a) through (c)) is further amended by adding at the end the following:

''(ii) The rules and regulations promulgated by the Equal Employment Opportunity Commission under subparagraph (F), relating to the form of such a report, shall include requirements to protect the confidentiality of employees, including a requirement that the report shall not contain the name of any individual employee.''.

(e) USE; INSPECTIONS; EXAMINATIONS; REGULATIONS.—Section 11(c) (as amended by subsections (a) through (d)) is further amended by adding at the end the following:

''(C) The Equal Employment Opportunity Commission may publish any information and data that the Equal Employment Opportunity Commission obtains pursuant to the provisions of subparagraph (B). The Equal Employment Opportunity Commission may use the information and data for statistical and research purposes, and compile and publish such studies, analyses, reports, and surveys based on the information and data as the Equal Employment Opportunity Commission may consider appropriate.

''(D) In order to carry out the purposes of this Act, the Equal Employment Opportunity Commission shall by regulation make reasonable provision for the inspection and examination by any person of the information and data contained in any report submitted to the Equal Employment Opportunity Commission pursuant to subparagraph (B).

''(E) The Equal Employment Opportunity Commission shall by regulation provide for the furnishing of copies of reports submitted to the Equal Employment Opportunity Commission pursuant to subparagraph (B) to any person upon payment of a charge based upon the cost of the service.

''(F) The Equal Employment Opportunity Commission shall issue rules and regulations prescribing the form and content of reports required to be submitted under subparagraph (B) and such other reasonable rules and regulations as the Equal Employment Opportunity Commission may find necessary to prevent the circumvention or evasion of such reporting requirements. In exercising the authority of the Equal Employment Opportunity Commission under subparagraph (B), the Equal Employment Opportunity Commission may prescribe by general rule simplified reports for employers for whom the Equal Employment Opportunity Commission finds that because of the size of the employers a detailed report would be unduly burdensome.''.

SEC. 7. RESEARCH, EDUCATION, AND TECHNICAL ASSISTANCE PROGRAM; REPORT TO CONGRESS.

Section 4(d) (29 U.S.C. 204(d)) is amended by adding at the end the following:

''(4) The Equal Employment Opportunity Commission shall conduct studies and provide information and technical assistance to employers, labor organizations, and the general public concerning effective means available to implement the provisions of section 6(h) prohibiting wage rate discrimination between employees performing work in equivalent jobs on the basis of sex, race, or national origin. Such studies, information, and technical assistance shall be based on and include reference to the objectives of such section to eliminate such discrimination. In order to achieve the objectives of such section, the Equal Employment Opportunity Commission shall carry on a continuing program of research, education, and technical assistance including—

''(A) conducting and promoting research with the intent of developing means to expeditiously correct the wage rate differentials described in section (6)(h);

''(B) publishing and otherwise making available to employers, labor organizations, professional associations, educational institutions, the various media of communication, and the general public the findings of studies and other materials for promoting compliance with section 6(h);

''(C) sponsoring and assisting State and community informational and educational programs; and

''(D) providing technical assistance to employers, labor organizations, professional associations and other interested persons on

means of achieving and maintaining compliance with the provisions of section 6(h).

''(5) The report submitted biennially by the Secretary to Congress under paragraph (1) shall include a separate evalution and appraisal regarding the implementation of section 6(h).''.

SEC. 8. CONFORMING AMENDMENTS.

(a) CONGRESSIONAL EMPLOYEES.—

(1) APPLICATION.—Section 203(a)(1) of the Congressional Accountability Act of 1995 (2 U.S.C. 1313(a)(1)) is amended—

(A) by striking ''subsections (a)(1) and (d) of section 6'' and inserting ''subsections (a)(1), (d), and (h) of section 6''; and

(B) by striking ''206 (a)(1) and (d)'' and inserting ''206 (a)(1), (d), and (h)''.

(2) REMEDIES.—Section 203(b) of such Act (2 U.S.C. 1313(b)) is amended by inserting before the period the following: ''or, in an appropriate case, under section 16(f) of such Act (29 U.S.C. 216(f))''.

(b) EXECUTIVE BRANCH EMPLOYEES.—

(1) APPLICATION.—Section 413(a)(1) of title 3, United States Code, as added by section 2(a) of the Presidential and Executive Office Accountability Act (Public Law 104–331; 110 Stat. 4053), is amended by striking ''subsections (a)(1) and (d) of section 6'' and inserting ''subsections (a)(1), (d), and (h) of section 6''.

(2) REMEDIES.—Section 413(b) of such title is amended by inserting before the period the following: ''or, in an appropriate case, under section 16(f) of such Act''.

SEC. 9. EFFECTIVE DATE.

The amendments made by this Act shall take effect 1 year after the date of enactment of this Act.

FAIR PAY ACT—SUMMARY

The bill amends the Fair Labor Standards Act of 1938 to prohibit discrimination in wages paid to employees within a workplace in equivalent/comparable jobs solely on the basis of a worker's sex, race or national origin.

It requires employers to preserve records on wage setting practices and file annual reports with the EEOC. Reports would disclose the wage rates paid for jobs within the company as well as the sex, race and national origin of employees within these positions. Confidentiality of the names is mandated.

The bill exempts small businesses that have 25 employees or less the first two years and 15 employees or less after the second year the legislation is enacted.

It directs the EEOC to provide technical assistance to employers and report to Congress on the progress of the Act's implementation. However, it is up to the individual business to determine wages and job equivalency within the organization.

The bill includes non-retaliation protections for employees inquiring about or assisting in investigations related to the Act.

It prohibits companies from reducing wages to achieve pay equity.

By Mr. SMITH of New Hampshire (for himself, Mr. CRAIG, Mr. INHOFE, and Mr. HELMS):

S. 703. A bill to amend section 922 of chapter 44 of title 18, United States Code; to the Committee on the Judiciary.

BRADY ACT AMENDMENTS OF 1999

Mr. SMITH of New Hampshire. Mr. President, I rise to introduce a bill that I am calling the ''Brady Act Amendments of 1999,'' which would remove ''long guns'' from the requirements of the National Instant Criminal Background Check System (NICS). I am pleased to be joined by my distinguished colleagues, Senators CRAIG, INHOFE, and HELMS, as original cosponsors.

Mr. President, Congress has imposed many restrictions on firearms sales over the years, with no apparent effect on reducing crime. By contrast, the most effective crime fighting initiatives have been undertaken at the state and local levels. Many states have dramatically reduced crime by increasing their incarceration rates. Local governments, such as that of Richmond, Virginia, reduced crime rates by aggressively prosecuting cases involving possession of firearms by convicted felons and drug dealers—not by imposing any new restrictions on the purchase of firearms.

In fact, Mr. President, states that have fewer restrictions on the purchase of firearms have more favorable crime reduction trends than other states. Despite all of the favorable media fanfare over the Brady Act, states that were covered by its ''waiting period'' phase until the NICS went into effect late last year actually had worse crime trends than other states.

The Federal Bureau of Investigation notes that out of the total number of homicides in a recent reporting period that were committed with firearms, less than 7% were committed with rifles, and less than 7% were committed with shotguns. Out of the total number of homicides, rifles and shotguns each were used in 4%, while knives, which may be purchased without clearance by the NICS, were used in 13% of such cases.

Mr. President, my bill would amend the Brady Act to make the NICS apply not to firearms in general, but only to handguns.

Mr. President, I ask unanimous consent to have the text of my bill printed in the RECORD.

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

S. 703

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 ''Brady Act Amendments of 1999.''

SEC. 2. LIMITATION OF COVERAGE OF BRADY ACT TO HANDGUNS.

Subsection (t) of section 922 of chapter 44 of Title 18, United States Code, is amended by striking ''firearm'' in paragraphs (1), (2), (4), (5), and (6), and the first time it appears in paragraph (3), and inserting in lieu thereof ''handgun.''

By Mr. KYL (for himself, Mr. JOHNSON, Mr. HATCH, Mr. THURMOND, Mr. INOUYE, Mr. GRASSLEY, Mr. DORGAN, Mr. SESSIONS, Mr. CLELAND, Mr. ASHCROFT, Mrs. LINCOLN, and Mr. ABRAHAM):

S. 704. A bill to amend title 18, United States Code, to combat the overutilization of prison health care services and control rising prisoner health care costs; to the Committee on the Judiciary.

FEDERAL PRISONER HEALTH CARE COPAYMENT ACT

● Mr. KYL. Mr. President, I rise to introduce the Federal Prisoner Health Care Copayment Act, which would require federal prisoners to pay a nominal fee when they initiate certain visits for medical attention. Fees collected from prisoners subject to an order of restitution shall be paid to victims in accordance with the order. Seventy-five percent of all other fees would be deposited in the Federal Crime Victims' Fund and the remainder would go to the Federal Bureau of Prisons (BOP) and the U.S. Marshals Service for administrative expenses incurred in carrying out this Act.

Each time a prisoner pays to heal himself, he will be paying to heal a victim.

Most working, law-abiding Americans are required to pay a copayment fee when they seek medical attention. It is time to impose this requirement on federal prisoners.

The Department of Justice supports the Federal inmate user fee concept, and worked with us on crafting the language contained in this Act.

To date, well over half of the states—including our home states of Arizona and South Dakota—have implemented state-wide prisoner health care copayment programs. Additionally, the following states have enacted this reform: Alabama, California, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Minnesota, Mississippi, Nevada, New Hampshire, New Jersey, North Carolina, Ohio, Oklahoma, Rhode Island, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, and Wisconsin. Additional states are considering implementing copayment programs.

Copayment programs have an outstanding record of success on the state level.

Tennessee, which began requiring $3 copayments in January 1996, reported in late 1997 that the number of infirmary visits per inmate had been cut almost in half. In August 1998, prison officials in Ohio evaluated the nascent state copayment law, finding that the number of prisoners seeing a doctor has dropped 55 percent and that between March and August the copayment fee generated $89,500. In Arizona, there has been a reduction of about 30 percent in the number of requests for health care services.

Copayment programs reduce the overutilization of health care services without denying necessary care to the indigent. By discouraging the overuse of health care, the Prisoner Health Care Copayment Act should (1) help prisoners in true need of attention to receive better care, (2) benefit taxpayers through a reduction in the expense of operating a prison health care system, and (3) reduce the burden on corrections officers to escort prisoners feigning illness to health care facilities is reduced.

The Act prohibits the refusal of treatment for financial reasons or for appropriate preventive care.

Congress should follow the lead of the states and provide the federal Bureau of Prisons with the authority to charge federal inmates a nominal fee for elective health care visits. The federal system is particularly ripe for reform. According to the 1996 Corrections Yearbook, the system spends more per inmate on health care than virtually every state. Federal inmate health care totaled $354 million in fiscal year 1998, up from $138 million in fiscal year 1990. Average cost per inmate has increased over 36 percent during this period, from $2,483 to $3,363.