and State employment tax reporting, and for other purposes; to the Committee on Finance.

By Mr. REID:

S. 1329. A bill to direct the Secretary of the Interior to convey certain land to Nye County, Nevada, and for other purposes; to the Committee on Energy and Natural Resources.

S. 1330. A bill to give the city of Mesquite, Nevada, the right to purchase at fair market value certain parcels of public land in the city; to the Committee on Energy and Natural Resources.

S. 1331. A bill to give Lincoln County, Nevada, the right to purchase at fair market value certain public land in the county; to the Committee on Energy and Natural Resources.

By Mr. BAYH (for himself, Mr. LUGAR, Mr. ROCKEFELLER, Mr. VOINOVICH, Mr. DURBIN, Mr. BINGAMAN, Mr. STEVENS, Mr. KENNEDY, Mr. MURKOWSKI, Mr. KERREY, and Ms. LANDRIEU):

S. 1332. A bill to authorize the President to award a gold medal on behalf of Congress to Father Theodore M. Hesburg, in recognition of his outstanding and enduring contributions to civil rights, higher education, the Catholic Church, the Nation, and the global community; to the Committee on Banking, Housing, and Urban Affairs.

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

S. 1333. A bill to expand homeownership in the United States; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. AKAKA (for himself, Mr. EDWARDS, Mr. FRIST, Mr. LEVIN, Mr. STEVENS, Mr. SARBANES, and Mr. DURBIN):

S. 1334. A bill to amend chapter 63 of title 5, United States Code, to increase the amount of leave time available to a Federal employee in any year in connection with serving as an organ donor, and for other purposes; to the Committee on Governmental Affairs.

By Mr. ASHCROFT:

S. 1335. A bill entitled the ''Military Retiree Health Care Act of 1999''; to the Committee on Finance.

By Mr. REED (for himself, Mr. SCHUMER, and Mr. EDWARDS):

S. 1336. A bill to amend the Internal Revenue Code of 1986 to provide a credit to promote home ownership among low-income individuals; to the Committee on Finance.

By Mr. GRASSLEY (for himself, Mr. SESSIONS, and Mr. KYL):

S. 1337. A bill to provide for the placement of anti-drug messages on appropriate Internet sites controlled by NASA; to the Committee on Commerce, Science, and Transportation.

By Mr. MURKOWSKI (by request):

S. 1338. A bill entitled the ''Military Lands Withdrawal Act of 1999''; to the Committee on Energy and Natural Resources.

By Mr. DURBIN:

S. 1339. A bill to provide for the debarment or suspension from Federal procurement and nonprocurement activities of persons that violate certain labor and safety laws; to the Committee on Governmental Affairs.

By Mrs. LINCOLN:

S. 1340. A bill to redesignate the ''Stuttgart National Aquaculture Research Center'' as the ''Harry K. Dupree Stuttgart National Aquaculture Research Center''; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DORGAN (for himself, Mr. LOTT, Mr. DASCHLE, Mr. NICKLES, Mr. REID, Mr. MURKOWSKI, Mr. CONRAD, Mr. BREAUX, Mr. GRAHAM, Mr. KERREY, Mr. HAGEL, Mr. HARKIN, Mr. DURBIN, Mr. SCHUMER, Mr. COCHRAN, Mr. CRAIG, Mr. BROWNBACK, Mr. WELLSTONE, Mr. EDWARDS, Mr. CAMPBELL, Mr. JOHNSON, Mr. BINGAMAN, Mr. MACK, Mr. DOMENICI, Mr. BENNETT, Mr. SANTORUM, and Mr. LEAHY):

S. 1341. A bill to amend the Internal Revenue Code of 1986 to expand the applicability of section 179 which permits the expensing of certain depreciable assets; to the Committee on Finance.

By Mr. ALLARD:

S. 1342. A bill to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers; to the Committee on Finance.

By Mr. REID:

S. 1343. A bill to direct the Secretary of Agriculture to convey certain National Forest land to Elko County, Nevada, for continued use as a cemetery; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mrs. FEINSTEIN (for herself and Mrs. BOXER):

S. Res. 132. A resolution designating the week beginning January 21, 2001, as ''Zinfandel Grape Appreciation Week''; to the Committee on the Judiciary.

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

S. Res. 133. A resolution supporting religious tolerance toward Muslims; to the Committee on the Judiciary.

By Mr. HARKIN (for himself, Mr. THURMOND, and Mr. HOLLINGS):

S. Res. 134. A resolution expressing the sense of the Senate that Joseph Jefferson ''Shoeless Joe'' Jackson should be appropriately honored for his outstanding baseball accomplishments; to the Committee on Commerce, Science, and Transportation.

By Mr. DURBIN (for himself and Mr. LEAHY):

S. Res. 135. A resolution calling for the immediate release of the three humanitarian workers in Yugoslavia; to the Committee on Foreign Relations.

By Mrs. BOXER (for herself, Mrs. FEINSTEIN, Mr. DASCHLE, and Mr. ABRAHAM):

S. Res. 136. A resolution condemning the acts of arson at the three Sacramento, California, area synagogues on June 18, 1999, and calling on all Americans to categorically reject crimes of hate and intolerance; considered and agreed to.

By Mr. LOTT:

S. Con. Res. 43. A concurrent resolution providing for a conditional adjournment or recess of the Senate and a conditional adjournment of the House of Representatives; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HOLLINGS:

S. 1312. A bill to ensure full and expeditious enforcement of the provisions of the Communications Act of 1934 that seek to bring about competition in local telecommunications markets, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE TELECOMMUNICATIONS COMPETITION ENFORCEMENT ACT OF 1999

Mr. HOLLINGS. Mr. President, I rise to introduce, S. 1312, the Telecommunications Competition Enforcement Act of 1999.

The United States has a telecommunications system that is unequaled. We have worked hard to ensure that consumers in all parts of the country have access to this system and enjoy services at an affordable price. Therefore, when the Bell companies asked us to allow them to enter the long distance market, it was with great caution that we began to develop policies that would change the existing framework. We did not want to jeopardize existing service as we phased in competition into local markets and allowed local phone companies to enter the long distance market.

Bell companies worked with Congress to create the fourteen point checklist and they celebrated the passage of the 1996 Act. They then filed applications with the Federal Communications Commission (FCC) to enter the long distance market. However, the FCC found that the Bell companies had not opened their local markets to competition, and therefore, under the 1996 Act, could not enter the long distance market. Once the Bell companies realized that they were not going to get into the long distance market before they complied with the 1996 Act, they began a strategy of litigation to delay competition into their local markets and hold on to their monopolies. They appealed the FCC's decisions to the Court of Appeals and challenged the constitutionality of the Act taking their case to the Supreme Court. Having lost in those forums they have now come to Congress seeking changes to the Act that only three years ago they championed. As a result bills have been introduced in the Senate and the House that significantly amend the 1996 Act, harm competition in the local markets, and slow the delivery of advanced, affordable services to consumers.

Therefore, I introduce this legislation as part of a continuing effort to promote competition in the local telecommunications markets. I am frustrated by the broken promises of the Bell companies given that not a single Bell company has adequately opened its local phone market to competition since the enactment of the Telecommunications Act of 1996. According to wall street analysts, as of the end of last year new entrants had only 2.5 percent of all access lines while Bell companies and incumbent local exchange carriers continued to control over 97 percent of those lines into the home.

Three years ago when we passed the 1996 Act, Bell companies proclaimed

that they would open their markets immediately and begin competing. In fact, they and their lawyers helped write the 14 point checklist—their roadmap into the long distance market in their region. All these companies have to do to provide long distance service in their regions is to follow that roadmap and meet the requirements of Section 271.

I remember the excitement by the local phone companies at the time of the 1996 Act. On March 5, 1996, Bell South-Alabama President, Neal Travis, stated that the ''Telecommunications Act now means that consumers will have more choices . . . We are going full speed ahead . . . and within a year or so we can offer [long distance] to our residential and business wireline customers.''

And, on February 8, 1996, USWest's President of Long Distance, Richard Coleman, issued this statement: ''The Inter-LATA long distance potential is a tremendous business opportunity for USWest. Customers have made it clear they want one-stop shopping for both their local and long distance service. We are preparing to give them exactly what they've been asking for.'' He went on to predict that USWest would meet the 14 point checklist in a majority of its states within 12–18 months.

Ameritech's chief executive office, Richard Notebaert February 1, 1996, noted his support of the 1996 Act by stating that, ''[t]he real open competition this bill promotes will bring customers more choices, competitive prices and better quality services . . . [T]his bill will rank as one of the most important and far-reaching pieces of federal legislation passed this decade . . . It offers a comprehensive communications policy, solidly grounded in the principles of the competitive marketplace. It's truly a framework for the information age.''

Those were the statements of the local phone companies in 1996. What has happened since then? The answer is very little. In fact, rather than meet their promises, the local phone companies were in federal court challenging the FCC's implementation of the Act less than one year after its enactment. In addition, only five applications for Section 271 relief have been filed at the FCC—and none have met the requirements of section 271. On more than one occasion, the FCC's decision to deny a 271 application has been upheld by the D.C. Circuit Court. One of the regional Bell companies even challenged the constitutionality of section 271—a challenge the court of appeals denied and the Supreme Court refused to hear. Today, there are no 271 applications on file at the FCC and not a single application has been presented to the FCC since July 1998.

What this means for the customer is that the choice and the local competition we tried to create with the passage of the Telecommunications Act has been thwarted by the very companies that promised to compete. Instead, they have chosen to litigate, complain, and combine. Just two days ago, the Chairman of the FCC decided to grant SBC and Ameritech approval to merge their operations. In permitting the merger to go forward, the FCC has conditioned approval on future performance—performance which SBC has not met in the three years since the passage of the 1996 Act. In fact, on the same day conditional approval of the SBC and Ameritech merger was announced, SBC agreed to pay $1.3 million to settle disputes surrounding alleged violations of sections of the 1996 Act dealing with the provision of long distance service. One company will now control one-third of all access lines in the United States even though its market is not open to competition. Competition again becomes a casualty of the unwillingness of Bell companies, to open their markets and let go of their monopolies.

Today, there are companies seeking to connect to the Bell networks and provide service to consumers. However, these companies often times experience significant difficulties in obtaining access to these networks. Thus, while I applaud the efforts of the competitive local exchange carriers, long distance carriers, and the cable industry to provide facilities-based local competition, I must express my disappointment that not a single regional bell operating company has sufficiently opened its markets to competition.

Since the beginning of this Congress, many of the Bell companies have been meeting with Senators and Representatives, often accompanied by the same lawyers who helped write the Telecommunications Act. But this time their message is different. They are asking us to change the rules of the game. They now want to offer lucrative high-speed data services for long distance customers without first having to open their local markets to competition. They maintain that they should be permitted to continue their hold on the local customer as they provide data services because the 1996 Act did not contemplate the provision of such services. To state it plainly—they are wrong. The Telecommunications Act clearly contemplated the provision of advanced services—data and otherwise. In fact, the Act had an entire section dedicated to promoting the development and deployment of advanced services. To quote the Act, ''advanced telecommunications capability'' is defined as ''high-speed switched, broadband telecommunications capability that enables users to originate and receive high-quality voice, data, graphics, and video telecommunications using any technology.''

Regardless, nothing in the 1996 Act prevents phone companies from providing high speed data services to consumers inside and outside their region. They are already providing DSL service to customers inside their region. And, under the 1996 Act, Bell companies can provide long distance service in their region once they open their local markets. We must hold to this principle if we want consumers to have a choice of service providers. In fact, a number of Bell companies are working to meet Section 271 requirements. I applaud those attempts which, if successful, will ultimately provide new and innovative services at low prices to consumers.

Therefore, I reject their proposed legislative solutions, and instead, forward a different proposal. By 2001, five years will have passed since the Telecommunications Act became law. I believe, it is reasonable to expect Bell companies to have at least one-half of their markets in their region open to competition by 2001 and all of their markets in their region open to competition by 2003. The legislation that I introduce today accomplishs just that. My bill requires the Federal Communications Commission to assess a forfeiture penalty of $100,000 per day if a Bell operating company has not met the section 271 checklist in at least half of the states in its region by February 8, 2001—the five year anniversary of President Clinton signing the Telecommunications Act into law. Moreover, if the FCC finds that a Bell operating company has not met the section 271 checklist throughout its region by February 8, 2003, the Commission is required to order the company to divest its telecommunications network facilities within six months, in states in which it is not in compliance with the checklist.

With respect to non-Bell incumbent local exchange carriers with more than 5 percent of the access lines in the nation, the Commission, upon the petition of any interested party, is required to investigate whether the carrier's markets are open to competition to determine whether such carrier has complied with the interconnection requirements of the Act. A determination that such an incumbent local exchange company has not opened its markets shall result in a $50,000 per day forfeiture penalty, to be imposed by the FCC, if the company does not come into compliance within 60 days. In addition, the FCC shall order the company to cease and desist in marketing and selling long distance services to new customers, if it has not complied within the 60 day grace period.

Lastly, to protect competition once the Bell companies have met the section 271 checklist requirements, this bill provides the FCC with additional enforcement tools. If, at some point after meeting the checklist requirements, a Bell company fails to meet

one or more provisions of the checklist, the FCC shall impose a forfeiture penalty of $100,000 for each day of the continuing violation. Moreover, if, after meeting the checklist requirements, the Bell company willfully, knowing, and repeatedly fails to meet one or more provisions of the checklist, the FCC shall require the Bell company, within 180 days, to divest its telecommunications network facilities in states in which the repeated violations have occurred.

While these penalties may appear severe, severe action needs to be taken to force dominant market providers to open their markets to competition. During the debate over the Telecommunications Act, we did not include such a strong approach. Rather, we settled on a rational and reasonable set of procedures—endorsed by the local phone monoplies—that provided incentives to open their local markets while preserving the integrity of the premier communications networks in the world. That approach seemed particularly palatable in light of the statements issued at the time of enactment of the 1996 Act by the local phone companies promising an early opening of the local phone market pursuant to the requirements of the Section 271 checklist.

Today, our communications networks remain the envy of the world and the development of innovative advanced services is accelerating rapidly. Unfortunately, the rollout of those services on a competitive basis to all Americans is being thwarted by the failure of Bell companies to open their markets to competition. Those same monopolists told us their markets would be open months ago. This legislation seeks to hold them to their word.

I ask consent that a summary of the bill be printed in the RECORD.

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

THE TELECOMMUNICATIONS COMPETITION ENFORCEMENT ACT OF 1999

SUMMARY

A Bell Operating Company (BOC) is required to meet the market opening requirements of the section 271 checklist of the Telecommunications Act of 1996 for half of the states in its region by February 8, 2001. The FCC is required to assess a forfeiture penalty of $100,000 for each day a BOC is in violation of this requirement.

A BOC is required to meet the market opening requirements of the section 271 checklist of the Telecommunications Act of 1996 for all the states in its region by February 8, 2003. The FCC is required to order a BOC to divest its telecommunications network facilities within 180 days in which it is in violation of this requirement.

Upon petition by any interested party, the FCC is directed to investigate whether incumbent local exchange carriers (ILEC) with more than 5 percent of the nation's access lines (that are not Bell Companies) have opened their markets to competition pursuant to Section 251(c) of the Telecommunications Act of 1996.

Upon a determination that such ILECs are not in full compliance with Section 251(c), the FCC shall set forth the reasons for noncompliance and grant 60 days for the ILEC to come into full compliance. Absent such compliance after that 60 day period, the FCC is required to assess a civil forfeiture penalty of $50,000 for each day of the continuing violation and order the company to cease and desist in marketing and selling long distance services to new customers.

If upon meeting the checklist requirements, a BOC fails to meet one or more provisions of the checklist, the FCC shall impose a forfeiture of $100,000 for each day of the continuing violation. If upon meeting the checklist requirements, the BOC knowingly, willfully, and repeatedly fails to meet one or more provisions of the checklist, the FCC shall require the BOC, to divest its telecommunications network facilities, within 180 days, in states in which repeated violations have occurred.

JUSTIFICATION

The Telecommunications Act of 1996 required Bell Operating Companies (BOCs) to open their markets to competition. Yet, not a single BOC has met the market opening requirements of the Section 271 checklist. No Section 271 applications have been filed at the FCC since July of 1998. Only five applications have been filed since 1996—none of which complied with Section 271.

In the three years since enactment, however, the BOCs have pursued a strategy of stonewalling and litigation that has delayed implementation of the critical interconnection, unbundling, collocation, and resale requirements of the Act.

Now, BOCs are seeking legislative relief from the pro-competitive provisions of the Telecommunications Act. They argue that they will provide rural America with advanced communications services, but only if they are allowed to provide long distance service to their current customers. The truth is that BOCs can provide advanced services today. However, to get into the long distance market, they must open their local markets to competition. This bill provides an incentive for them to do just that.

By requiring a date certain by which the local phone monopolies must open their markets, and by accompanying that requirement with federal enforcement authority, we can be assured that American consumers will obtain the benefits of local competition.

By Mr. LEAHY (for himself, Mr. DEWINE, and Mr. ROBB):

S. 1314. A bill to establish a grant program to assist State and local law enforcement in deterring, investigating, and prosecuting computer crimes; to the Committee on the Judiciary.

COMPUTER CRIME ENFORCEMENT ACT

Mr. LEAHY. Mr. President, today I rise to introduce the Computer Crime Enforcement Act. This legislation establishes a Department of Justice grant program to support state and local law enforcement officers and prosecutors to prevent, investigate and prosecute computer crime. I am pleased that Senator DEWINE, with whom I worked closely and successfully last year on the Crime Identification Technology Act, and Senator ROBB, who has long been a leader on law enforcement issues, support this bill as original cosponsors.

Computer crime is quickly emerging as one of today's top challenges for state and local law enforcement officials. A recent survey by the FBI and the Computer Security Institute found that 62% of information security professionals reported computer security breaches in the past year. These breaches in computer security resulted in financial losses of more than $120 million from fraud, theft of proprietary information, sabotage, computer viruses and stolen laptops. Computer crime has become a multi-billion dollar problem.

I am proud to report that the States, including my home state of Vermont, are reacting to the increase in computer crime by enacted tough computer crime control laws. For example, Vermont's new law makes certain acts against computers illegal, such as: accessing any computer system or data without permission; accessing a computer to commit fraud, remove, destroy or copy data or deny access to the data; damaging or interfering with the operation of the computer system or data; and stealing or destroying any computer data or system. These state laws establish a firm groundwork for electronic commerce, an increasingly important sector of the Vermont economy and of the nation's economy. Now all fifty states have enacted some type of computer crime statute.

Unfortunately, too many state and local law enforcement agencies are struggling to afford the high cost of enforcing their state computer crime statute. The Computer Crime Enforcement Act would provide a helping hand by authorizing a $25 million grant program to help the states receive Federal funding for improved education, training, enforcement and prosecution of computer crime. Our bill will help states take a byte out of computer crime.

Congress has recognized the importance of providing state and local law enforcement officers with the means necessary to prevent and combat cyber attacks and other computer crime through the FBI's Computer Analysis and Response Team (CART) Program and the National Infrastructure Protection Center. Our legislation would enhance that Federal role by providing each state with much-needed resources to join Federal law enforcement officials in collaborative efforts to fight computer crime.

In Vermont, for instance, only half a dozen law enforcement officers among the more than 900 officers in the state have been trained in investigating computer crimes and analyzing cyber evidence. As Detective Michael Schirling of the Chittenden Unit for Special Investigations recently observed in my home state: ''The bad

guys are using computers at a rate that's exponentially greater than our ability to respond to the problem.'' Without the necessary educational training, technical support, and coordinated information, our law enforcement officials will be hamstrung in their efforts to crack down on computer crime.

Computers have ushered in a new age filled with unlimited potential for good. But the computer age has also ushered in new challenges for our state and local law enforcement officers. Let's provide our state and local partners in crime fighting with the resources that they need in the battle against computer crime.

I urge my colleagues to support the Computer Crime Enforcement Act and its quick passage into law.

Mr. President, I ask unanimous consent that the text of the Computer Crime Enforcement Act be printed in the RECORD.

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

S. 1314

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 ''Computer Crime Enforcement Act''.

SEC. 2. STATE GRANT PROGRAM FOR TRAINING AND PROSECUTION OF COMPUTER CRIMES.

(a) IN GENERAL.—Subject to the availability of amounts provided in advance in appropriations Acts, the Office of Justice Programs shall make a grant to each State, which shall be used by the State, in conjunction with units of local government, State and local courts, other States, or combinations thereof, to—

(1) assist State and local law enforcement in enforcing State and local criminal laws relating to computer crime;

(2) assist State and local law enforcement in educating the public to prevent and identify computer crime;

(3) assist in educating and training State and local law enforcement officers and prosecutors to conduct investigations and forensic analyses of evidence and prosecutions of computer crime;

(4) assist State and local law enforcement officers and prosecutors in acquiring computer and other equipment to conduct investigations and forensic analysis of evidence of computer crimes; and

(5) facilitate and promote the sharing of Federal law enforcement expertise and information about the investigation, analysis, and prosecution of computer crimes with State and local law enforcement officers and prosecutors, including the use of multijurisdictional task forces.

(b) USE OF GRANT AMOUNTS.—Grants under this section may be used to establish and develop programs to—

(1) assist State and local law enforcement in enforcing State and local criminal laws relating to computer crime;

(2) assist State and local law enforcement in educating the public to prevent and identify computer crime;

(3) educate and train State and local law enforcement officers and prosecutors to conduct investigations and forensic analyses of evidence and prosecutions of computer crime;

(4) assist State and local law enforcement officers and prosecutors in acquiring computer and other equipment to conduct investigations and forensic analysis of evidence of computer crimes; and

(5) facilitate and promote the sharing of Federal law enforcement expertise and information about the investigation, analysis, and prosecution of computer crimes with State and local law enforcement officers and prosecutors, including the use of multijurisdictional task forces.

(c) ASSURANCES.—To be eligible to receive a grant under this section, a State shall provide assurances to the Attorney General that the State—

(1) has in effect laws that penalize computer crime, such as penal laws prohibiting—

(A) fraudulent schemes executed by means of a computer system or network;

(B) the unlawful damaging, destroying, altering, deleting, removing of computer software, or data contained in a computer, computer system, computer program, or computer network; or

(C) the unlawful interference with the operation of or denial of access to a computer, computer program, computer system, or computer network;

(2) an assessment of the State and local resource needs, including criminal justice resources being devoted to the investigation and enforcement of computer crime laws; and

(3) a plan for coordinating the programs funded under this section with other federally funded technical assistant and training programs, including directly funded local programs such as the Local Law Enforcement Block Grant program (described under the heading ''Violent Crime Reduction Programs, State and Local Law Enforcement Assistance'' of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998 (Public Law 105–119)).

(d) MATCHING FUNDS.—The Federal share of a grant received under this section may not exceed 90 percent of the costs of a program or proposal funded under this section unless the Attorney General waives, wholly or in part, the requirements of this subsection.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $25,000,000 for each of fiscal years 2000 through 2003.

(2) LIMITATIONS.—Of the amount made available to carry out this section in any fiscal year not more than 3 percent may be used by the Attorney General for salaries and administrative expenses.

(3) MINIMUM AMOUNT.—Unless all eligible applications submitted by any State or unit of local government within such State for a grant under this section have been funded, such State, together with grantees within the State (other than Indian tribes), shall be allocated in each fiscal year under this section not less than 0.75 percent of the total amount appropriated in the fiscal year for grants pursuant to this section, except that the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands each shall be allocated 0.25 percent.

(f) GRANTS TO INDIAN TRIBES.—Notwithstanding any other provision of this section, the Attorney General may use amounts made available under this section to make grants to Indian tribes for use in accordance with this section.

By Mr. BINGAMAN:

S. 1315. A bill to permit the leasing of oil and gas rights on certain lands held in trust for the Navajo Nation or allotted to a member of the Navajo Nation, in any case in which there is consent from a specified percentage interest in the parcel of land under consideration for lease; to the Committee on Indian Affairs.

FRACTIONATED LANDS

Mr. BINGAMAN. Mr. President, I rise to talk about a bill that I have sent to the desk. It relates to a very serious problem faced by a large number of Navajo people in my State. The issue is referred to as ''fractionated lands.''

Around the turn of the century, the Federal Government attempted to force Indian people to assimilate by breaking up traditional tribal lands and allotting parcels of the land to individual tribal members. In New Mexico, this policy created what is known as the ''checkerboard,'' because alternating tracts of land are now owned by individual Navajos, the state, the federal government, or private landowners. A Navajo allotment was generally 160 acres. Under the allotment system, the Navajo owner was granted an undivided interest in the entire parcel. The heirs of the original owner also inherit an undivided interest, geometrically compounding—or fractionating—the number of owners of the original 160 acres.

This allotment policy, coupled with other federal laws governing Indian land ownership, land management, and probate, have not served the Navajo people well during this century. I am introducing legislation today to help address this problem.

Mr. President, I'd like to take a few minutes to illustrate why the legislation I am proposing is needed. If a Navajo was allotted a 160-acre parcel and had four heirs, the heirs did not inherit 40 acres each when the original owner died. Rather, each heir inherited a 25 percent undivided interest in the full 160-acre allotment. Going forward, when the current four owners died, assuming again four heirs each, sixteen heirs inherited a 6.25 percent undivided interest in the allotment. The next generation would result in 64 heirs each with a 1.5625 percent undivided interest. And so forth.

What makes this situation so unique is that each heir inherits an undivided interest in the allotment. Over time, individual owners may inherit tiny fractions in many different allotments around the reservation. In my state, there are about 4,000 individual allotments covering nearly 700,000 acres. At this point, these 4,000 Navajo allotments have a total of 40,000 listed owners, and the number grows every day. It doesn't take a Ph.D. in math to figure out what's wrong with this policy.

Mr. President, in April I held a town meeting with Navajo allottees in

Nageezi, New Mexico, a small chapter house in the Northeast section of the Navajo Reservation. The allottees talked about the serious problems that fractionated ownership has caused. Over 100 members of the Navajo Nation came from as far away as Aneth, Utah, to speak at the meeting. As you know, the Navajo Nation extends into three states, New Mexico, Arizona and Utah, and there are allottees living in all three states.

Record keeping of individual land ownership has become a nightmare. In many cases, owners can no longer be located. Also, ownership can be clouded when an owner dies without a legal will—a common situation in Indian Country.

Some individuals do not even realize they own one or more of these allotments. Often, individuals are surprised to find out that they are an heir to an allotment on another reservation.

Mr. President, we all recognize there are serious problems with BIA's management of its trust responsibilities for allotted lands in New Mexico. The management problems were brought out very clearly at a joint Senate hearing in March. The hearing also revealed the extent to which the government's allotment policy contributed to BIA's current trust management problems.

On the Navajo reservation, a three-year pilot project is underway in Farmington, New Mexico, to try to unravel some of the management problems with allotted Navajo lands. This project, called the Farmington Indian Minerals Office, or FIMO, is trying to cut through the red tape created by three different Bureaus in the Department of Interior, BIA, BLM, and MMS, which share responsibility for management of allotted lands. The FIMO has worked hard to assist Navajo allottees determine who their fellow allottees are and what land each allottee owns. I support the efforts of FIMO. If this legislation is passed, FIMO could accomplish even more on behalf of the Navajo allottees in the three states.

Mr. President, over the years, Congress has tried to deal with the problem of fractionated lands, and has failed every time. The long history of trust management problems is not going to be corrected quickly. Developing and implementing a comprehensive solution is going to take time. The Indian Land Working Group is one of the leaders in this area and has submitted a proposal for Congress to consider. I applaud the efforts of Senators CAMPBELL and INOUYE and the members of the Indian Affairs Committee for taking on this difficult issue. Some of the proposals include improved record keeping, probate and estate planning programs, and new processes for consolidating fractionated lands. I look forward to working with the Committee to craft a comprehensive solution.

While the larger issue of fractionated ownership is being considered by the Senate, I believe it is appropriate to consider a stop-gap measure to help stimulate near-term economic development on fractionated Navajo lands. There is an abundance of oil and gas beneath the Navajo allotments, yet the allottees are unable to benefit from this wealth because of federal laws that make it very difficult for Indian allottees to lease their land. To illustrate, during the last 12 years, $7 million in leasing bonuses has been paid to the state and federal government for leases in the checkerboard region of New Mexico, while only $27,000 has been paid to owners of Navajo allotments.

The problem lies in the 1909 Mineral Leasing Act. The Act requires all persons who have an undivided interest in any particular parcel to consent to its lease. In the case of Navajo allottees, 100 percent of the allottees must consent to a lease of their land. Because of the fractionated land problem, obtaining 100 percent consent is often impossible because many owners cannot be located. Consequently, the Navajo allottees are precluded from the beneficial use of their land.

The bill I am introducing today will facilitate the leasing of Navajo allotted land for oil and gas development. In the case of non-Indians, most states already allow mineral leases with less than 100 percent consent of the owners as long as all persons who own an interest receive the benefits from the lease. My bill simply extends similar benefits to Navajo allottees. The bill would authorize the Secretary of the Interior to approve an oil or gas lease connected to Navajo allotted land when less than 100 percent of the owners consent to such a lease. A similar bill was passed in the 105th Congress to facilitate mineral leasing of allotted lands on the Ft. Berthold Reservation in North Dakota.

My bill proposes a graded system for lease approval. In situations where there are 10 or fewer owners of an allotment, 100 percent of the owners must consent to a lease. However, where there exists 11 to 50 owners of an allotment, only 80 percent of the owners need consent. And, with more than 50 owners, 60 percent consent would be required. This graded system was suggested by the Navajo allottees.

Mr. President, unemployment on the Navajo Reservation now exceeds 50 percent. The opportunities for economic development on this land are few. It is not appropriate for the federal government to continue to deprive the legal owners of Navajo allotted lands the option to develop their land as they choose. This bill is a small step toward correcting the mistakes of the past and a bigger step towards providing economic prosperity for future generations of Navajo allottees.

The bill has the support of the Navajo Nation and the Shii Shi Keyah, the principal Navajo Allottees' Association.

Mr. President, I ask unanimous consent that a resolution from the Shii Shi Keyah Association and a letter from the Navajo Nation be printed in the RECORD.

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

SHII SHI KEYAH ASSOCIATION RESOLUTION OF THE BOARD OF DIRECTORS

Whereas, the Board of Directors of Shii Shi Keyah Association (''SSKA''), an unincorporated association of Navajos who have ownership interests in allotments on or near the Navajo Reservation, generally referred to as Navajo Indian Country, has considered a number of issues relating to oil and gas rights and revenues which require its attention;

Whereas, United States Senator Jeff Bingaman will introduce in the 106th Congress, 1st Session, a bill which begins ''To permit the leasing of oil and gas rights on certain lands in New Mexico held in trust for the Navajo Tribe or allotted to a member of the Navajo Tribe, in any case in which there is consent from a specified percentage interest in the parcel of land under consideration for issue;''

Be it Resolved that SSKA will support Senator Bingaman's bill if it is amended to include the states of Utah and Arizona.

CERTIFICATION

The foregoing Resolution was adopted by the Board of Directors of Shii Shi Keyah Association of Bloomfield, NM with no votes against and no abstentions at a regular meeting of the Board held on June 4, 1999.

THE NAVAJO NATION,
Washington, DC, May 18, 1999.

Re: Proposed Bill to Permit the Leasing of Oil and Gas Rights on Certain Lands in New Mexico Held in Trust for the Navajo Tribe or Allotted to a Member of the Navajo Tribe, in any Case in which There Is Consent from a Specified Percentage Interest in the Parcel of Land under Consideration for Lease

Hon. JEFF BINGAMAN,
U.S. Senate,
Hart Senate Office Building, Washington, DC.

SENATOR BINGAMAN: Thank you for scheduling the April 8, 1999 meeting at the Nageezi Chapter. The Navajo Nation appreciates your interest in the problems faced by Navajo people regarding their allotted lands in northwestern New Mexico.

The Navajo Nation supports your efforts toward solving the problems engendered by increasingly fractionated interests held by Navajo individuals in allotted lands. We support the intent of the bill, provided that it is supported by a consensus of Navajo individuals that will be affected. In addition, we can support most of the particulars of the bill, although the Navajo Nation would request some minor revisions to the bill before it is introduced, as explained below.

Initially, we are concerned whether a consensus of affected Navajo individuals support the proposed bill. The Navajo Nation is concerned that the Shii Shi Keyah Association apparently opposes the bill, as indicated in a letter to you dated March 11, 1999 from the Association's attorney, Alan R. Taradash, copy attached. We understand that the Shii Shi Keyah Association is a respected organization comprised of Navajo individuals numbering in the thousands.

The approach suggested by Mr. Taradash, the conveyance of fractionated interests into family trusts, appears to have much to commend it. However, we are not sure that the family trust approach and the approach reflected in the proposed bill are mutually exclusive. The Navajo Nation respectfully requests that your office continue to work with affected Navajo individuals to assure that the bill reflects the best approach or combination of approaches to solve the problems facing those individuals. The Navajo Nation would be happy to work with your office in this regard, and stands ready to provide any assistance your office may need.

In addition, the Navajo Nation is very concerned with the effect of section 1(b)(3)(A) of the proposed legislation, which would appear to make the Navajo Nation a party to any lease of oil and gas rights in allotted lands in which it might own a minority interest. While the Navajo Nation has no objection to any minority interest it might hold being leased in accordance with the provisions of the bill, if that is the approach that a consensus of affected Navajo individuals support, the Navajo Nation must opposed being made a party to any such lease. The Navajo Nation has very deliberate policies and requirements regarding terms and conditions in leases to which it is a party. In the present judicial climate, lease terms and conditions can have a profound effect on the sovereignty of an Indian nation. Therefore, we must respectfully request that section 1(b)(3) of the bill be changed to read in its entirety as follows:

''(3) EFFECT OF APPROVAL.—On approval by the Secretary under paragraph (1), an oil or gas lease or agreement shall be binding upon each of the beneficial owners that have consented in writing to the lease or agreement and upon all other parties to the lease or agreement and shall be binding upon the entire undivided interest in a Navajo Indian allotted land covered under the lease or agreement.''

Finally, the Navajo Nation respectfully requests that all references to the ''Navajo Tribe'' be changed to refer to the ''Navajo Nation,'' and that the reference be deleted in section 1(a)(3) to the Navajo Nation as ''including the Alamo, Ramah and Cañoncito bands of Navajo Indians.'' The Term ''Navajo Nation'' is the legal name of the Navajo Nation, and by Navajo Nation statute is preferred over the term ''Navajo Tribe.'' We must object to the reference to the three bands (but not others) because of the possible negative inference that there exists some ambiguity as to whether such bands are constituent parts of the Navajo Nation. There is no such ambiguity now, and we wish to avoid creating any. The reference can safely be deleted without causing any uncertainty in the definition.

Unfortunately, fractionated interests remains a significant problem within the Navajo Nation, as we understand it is also within our Indian nations. The Navajo Nation would like to work your office and with other members of Congress on comprehensive, long-term solution to this problem. If you have any questions, or need additional information, please contact the Navajo Nation Washington Office.

Sincerely,

ESTELLE J. BOWMAN,
Executive Director.

By Mr. AKAKA (for himself, Mr. MOYNIHAN, Mrs. FEINSTEIN, Mr. WELLSTONE, Mrs. MURRAY, and Mr. LAUTENBERG):

S. 1317. A bill to reauthorize the Welfare-to-Work program to provide additional resources and flexibility to improve the administration of the program; to the Committee on Finance.

WELFARE-TO-WORK AMENDMENTS OF 1999

Mr. AKAKA. Mr. President, I rise to introduce a bill that would continue a program vital to helping welfare recipients who face the greatest barriers to finding and securing employment, called the Welfare-to-Work Amendments of 1999. My bill targets resources to families and communities with the greatest need, simplifies eligibility criteria for participation, and helps noncustodial parents get jobs to enable them to make child support payments. It also opens more resources to Native Americans, the homeless, those with disabilities or substance abuse problems, and victims of domestic violence. This is similar to a proposal unveiled by the Clinton Administration earlier this year and introduced as H.R. 1482 by Representative BENJAMIN CARDIN of Maryland. I would also like to thank my colleagues Senators MOYNIHAN, FEINSTEIN, WELLSTONE, MURRAY, and LAUTENBERG for joining me as original cosponsors of my bill.

Mr. President, I ask unanimous consent that a letter which I received from the Secretary of Labor, Alexis Herman, be printed in the RECORD.

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

SECRETARY OF LABOR,
Washington, July 1, 1999.

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

DEAR SENATOR AKAKA: I congratulate you on the introduction of the ''Welfare-to-Work Amendments of 1999.'' I am pleased that your legislation joins that introduced by Rep. Benjamin Cardin earlier this year in the House in seeking to accomplish the Administration's objectives in reauthorizing the Welfare-to-Work (WtW) Grants Program. President Clinton and I believe the Welfare-to-Work Grants Program is a key component of the overall welfare reform effort. While welfare caseloads have declined by nearly half over the last six years, many individuals remaining on welfare are long-term recipients who face significant barriers to employment. As the President said in his April 10th radio address, ''We can't finish the job of welfare reform without doing more to help people who have the hardest time moving from welfare to work—those who live in the poorest neighborhoods and have the poorest job skills. That's why I call on Congress to pass my plan to extend the Department of Labor's Welfare-to-Work program.''

This legislation incorporates the President's proposal to extend the WtW Program, reflecting key suggestions the Administration has received from State and local service providers since the passage of the Balanced Budget Act of 1997. The WtW program funds job creation, job placement, and job retention efforts to help long-term welfare recipients and non-custodial parents move into lasting, unsubsidized employment. In addition to helping long-term welfare recipients make the transition from welfare to work, this bill will help more low-income fathers increase their employment and their involvement with their children. Demand for WtW has been great. Last year, over 1,400 applicants from local communities across the nation applied for more than $5 billion in WtW Competitive Grants, but DOL had sufficient resources to fund less than 10 percent of these projects. In addition, 44 states covering 95 percent of the welfare caseload applied for formula funds. While the fundamental principles and features of the program are maintained (including the focus on work, targeting resources to individuals and communities with the greatest need, and administration through the locally administered, business-led workforce investment system) we are also pleased to see the principles of the original legislation further carried out by the addition of the following enhancements:

A simplification of eligibility criteria which continues to focus on long-term welfare recipients but provides that at least one, rather than two, specified barriers to employment must be met.

The provisions of even greater flexibility to serve those with the greatest challenges to employment by the addition of long-term welfare recipients who are victims of domestic violence, individuals with disabilities, or homeless as eligible to participate.

A strong focus on the family by targeting at least 20 percent of the WtW Formula Grant funds to help noncustodial parents (mainly fathers) with children who are on or have exhausted Temporary Assistance to Needy Families fulfill their responsibilities to their children by committing to work and pay child support.

An increase in the reserve for grants to Indian tribes from the current 1 percent of the total to 3 percent, and an authorization for Indian tribes to apply directly to the Department of Labor for WtW Competitive Grants.

A procedure which allows unallotted formula funds to be used to award competitive grants in the subsequent year, providing a preference in awarding these funds to those local applicants and tribes from States that did not receive formula grants.

The development of streamlined reporting requirements through the Department of Labor.

The establishment of a one percent reserve of Fiscal Year 2000 funds for technical assistance which includes sharing of innovative and promising practices and strategies for serving noncustodial parents.

In addition to the changes proposed by the Administration, the legislation also provides for:

The inclusion of children aging out of foster care as eligible service recipients and

The addition of job skills training and vocational educational training.

While our welfare reform efforts have resulted in some important early successes, much remains to be done. Reauthorizing the WtW program, together with the Administration's proposals to provide welfare-to-work housing vouchers, transportation funds, and employer tax credits, will provide parents the tools they need to support their children and succeed in the workforce. Your introduction of the ''Welfare-to-Work Amendments of 1999'' provides significant opportunities to hard-to-employ welfare recipients to make the transition to stable employment and assist noncustodial parents in making meaningful contributions to their children's well-being. I applaud and support your efforts.

The Office of Management and Budget advises that it has no objection to the transmittal of this report from the standpoint of the Administration's program.

Sincerely,

Alexis M. Herman.

Mr. AKAKA. Mr. President, I quote from that letter to me.

President Clinton and I believe the Welfare-to-Work Grants Program is a key component of the overall welfare reform efforts.

Mr. President, the Welfare-to-Work program has helped numerous welfare parents—both custodial and non-custodial—find and keep jobs that pay a living wage and allow them to fulfill basic obligations to their children. Children have fundamental needs for food, shelter, and clothing, yet many parents find themselves barely scraping by, in order to obtain these things. Many families are unable to go much beyond the essentials to enroll their children in sports and other activities that build strong bodies and social skills, or to provide them with decent school supplies, books or computers to develop strong minds. Most families take these things for granted because they live without the anxiety of wondering when the next paycheck or child support payment might be coming in. They have the finances to pay for child care to enable parents to work during the day. They have cars or other access to transportation that will take them to work every morning. Or they have a telephone so that they may receive calls for job interviews. The families that cannot make ends meet continue to live in dire need and find their children living at risk.

Mr. President, 14.5 million American children live in poverty. Furthermore, as reported in Kids Count 1999, 32 percent of children do not live with two parents and 19 percent live in a home where the head of household is a high school dropout. Twenty-one percent of children are in families with incomes below the poverty line, 28 percent are living with a parent or parents lacking steady full-time employment, and 15 percent do not have health insurance. It is a shame that, in the most prosperous nation in the world, we continue to be faced with these dismal statistics for our children—young Americans who hold the promise of this country's future in their hands.

Many of these children were helped when the Balanced Budget Act of 1997 created the Welfare-to-Work program as a new system for providing assistance to welfare recipients most in need. This followed on the heels of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, which replaced the Aid to Families with Dependent Children cash assistance program with the Temporary Assistance for Needy Families (TANF) program.

The 1996 welfare reform law addressed the bulk of the welfare population but lacked a component to help the hardest to employ welfare recipients. Thus, Welfare-to-Work was passed to assist this population find jobs and achieve independence so they no longer would need public support. The Welfare-to-Work program became an essential component of the Administration's welfare reform effort by providing recipients with a good alternative to welfare.

Since 1996, the number of people in the system dropped by a record number: forty percent from a peak of about five million families in 1994 down to three million families as of June, 1998, according to the General Accounting Office. However, the job is not finished. Welfare-to-Work is needed now more than ever because those remaining on the rolls are increasing likely to have multiple barriers to employment such as poor work experience, inadequate English or computer skills, or substance abuse problems.

We need to invest much more to help these individuals reach self-sufficiency than we did in those who have already left welfare-these individuals might have already had an educational record, special skills or significant family support behind them to help them to their feet. In contrast, Welfare-to-Work participants are the welfare recipients who need the most help. In addition, extending Welfare-to-Work will become even more important when TANF recipients and their children reach welfare time limits in 19 states by year's end and have their benefits reduced or completely removed.

These are the hard luck cases, Mr. President. These are the people who continue to be left out of the economic boom of the 1990s. And these are the people whom Welfare-to-Work was designed to help. If we let the program expire this year, even if states have three years from the date of award to spend their program funds, we will be saying to these people, ''We've forgotten the promises we made to you in 1996 that we would continue to help you. Now, there is no more help for you.''

This would be particularly harmful in my state of Hawaii which has struggled due to the Asian financial crisis and has been the only state where welfare rolls have increased. Welfare-to-Work has assisted many of Hawaii's welfare recipients through this period of financial hardship for the state by helping them find unsubsidized employment. The program must be extended so that it may help other recipients and their families in my beleaguered state.

My bill not only extends the Welfare-to-Work program, but it also makes a number of important improvements to the program that states, counties, and cities have requested. Currently, most funds allocated to Welfare-to-Work state formula grants cannot be used because of eligibility criteria that are difficult to meet. Currently, an individual must have been receiving assistance for at least 30 months or must be within 12 months of reaching the maximum period for assistance. In addition, they must have two of three characteristics, including: lacks a high school diploma or GED and has low math or reading skills; has a poor work history; or requires substance abuse treatment for employment. These criteria have excluded many TANF applicants who, for instance, may have a GED or high school diploma but still cannot read; these criteria have proven unrealistic.

Instead, under my bill, criteria would be changed to require participants to have one out of seven characteristics: lacks a high school diploma or GED; has English reading writing, or computer skills at or below the 8th grade level; has a poor work history; requires substance abuse treatment for employment; is homeless; has a disability; or is a victim of domestic violence. This revision in eligibility criteria would allow the program to better match the participant pool. It is necessary because current criteria have left more than 90 percent of Welfare-to-Work state formula grants unspent. In Hawaii alone, only 37 percent of our TANF recipients have been eligible to participate in the program, and this figure would double under my bill. Furthermore, officials of the Hawaii Department of Human Services which administers TANF and Welfare-to-Work in my state predict that unless the Federal law is changed, it is unlikely that they will be able to refer clients in sufficient numbers to meet WtW expectations. Similar situations exist in all states, and these criteria revisions respond to State and local entities that have been doing the work of Welfare-to-Work and want to serve as many participants as possible. In Texas, 21,000 people would be able to participate in the program, according to the U.S. Department of Labor. Under my bill, figures like this could be seen across the nation, and more people in need would be able to find employment.

A related improvement contained in my bill is that it transfers any unallocated Welfare-to-Work formula grant funds into the competitive grant program. This competitive grant program has been tremendously popular.

Out of the 1400 applications submitted requesting a total of $5 billion, only 126 applications for $470 million in funds were awarded in FY 1998. This portion of Welfare-to-Work needs more funding. Under my bill, preference is given to grant applications submitted from states that did not receive a formula grant.

Mr. President, my bill also provides a re-emphasis on the whole family. This past Father's Day, I had the opportunity to celebrate with several of my

children and their families, as it was a day to celebrate and honor the family. However, many fathers were not as fortunate as myself and were not able to celebrate with their children because they went through divorce and did not receive custody of the children. Even worse, many of these fathers are dismissively labeled ''dead beat dads'' because they are not a presence in their children's lives and do not pay child support. What we have found, Mr. President, is that many of these fathers do not want to abandon their children. Rather, they are ''dead broke dads'' and face the same barriers to finding and holding employment that many welfare mothers do. This prevents them from fulfilling child support obligations, which many want to do. If these fathers can provide for their children, they will be more likely to see them more often. Hopefully, renewed financial and emotional involvement of fathers will mean that these children's lives will improve.

For these non-custodial fathers, my bill will make it easier for them to participate in Welfare-to-Work. Currently, non-custodial parents face the same problems in attempting to qualify for Welfare-to-Work as other applicants because of the same overly-restrictive criteria. Under my bill, the eligibility requirements for non-custodial parents will be revised to allow them to demonstrate that they are unemployed, underemployed, or having difficulty paying child support payments. In addition, at least one of the following characteristics must apply to the minor child or non-custodial parent: the child or non-custodial parent has been on public assistance for over 30 months, or is within 12 months of becoming ineligible for TANF due to a time limit; the child is receiving or eligible for TANF; the child has left TANF within the past year; or the child is receiving or is eligible for food stamps, Supplemental Security Income (SSI), Medicaid, or the Children's Health Improvement Program (CHIP).

The bill increases funding for non-custodial parents by requiring that at least 20 percent of state formula funds be used for this population. The bill also provides that a non-custodial parent will enter into an individual responsibility contract with the service provider and state agency to say that he or she will cooperate in the establishment of paternity and in the establishment or modification of a child support order, make regular child support payments, and find and hold a job. These revisions are an attempt to permit and encourage non-custodial parents to provide for their children, become more involved in their children's lives, and pursue better lives for themselves and their families.

Mr. President, Native American communities will benefit from my bill from a doubling of the Native American set-aside from $15 million to $30 million. This funding increase in necessary because Native Americans currently receive one percent of the total Welfare-to-Work funds but serve 3.2 percent of total program participants, according to a recent U.S. Department of Health and Human Services Welfare-to-Work Evaluation. In recognition of their sovereignty, the bill also provides Native American tribes with flexibility in designing programs that are effective for their territories. It is a gross understatement to say that our Native American communities have not had the chance to experience the economic success that our nation has been enjoying. We must do what we can to make up for this shortfall, fulfill our Federal responsibilities to Native Americans, and help families and children in Native American communities who face obstacles to self-sufficiency.

Mr. President, children who leave foster care at age 18 make up another hard-to-help population that faces numerous barriers to employment. My bill introduces new support for these individuals when they attempt to start out on their own by allowing them to take advantage of Welfare-to-Work programs. According to DOL, 20,000 children leave foster care annually. Of these, 32 to 40 percent receive some type of government assistance within the first 18 months after leaving the foster care system. This bill provides funds to help them find alternatives to welfare as they leave their state care system.

My bill simplifies Welfare-to-Work reporting requirements so that the program can be evaluated effectively. This evaluation will allow Congress and DOL access to better statistics on how the program is performing nationwide. In addition, one-percent of the funds are provided for technical assistance so that DOL can ensure cooperation between states, local governments, TANF and child support agencies, and community-based organizations so that all are able to work together and be better able to provide services to those who are in need.

Finally, the bill eases Welfare-to-Work's ''work first'' requirements that mean that TANF recipients must find jobs first, before they are able to take advantage of stand-alone programs such as job training, basic education or vocational education programs. My bill would designate these as allowable work activities under Welfare-to-Work. This change is in response to requests from states who want to use program funds to better prepare recipients for the workforce before sending them off to a job. This approach seeks to improve TANF recipients' chances at maintaining steady employment.

Although my colleagues may have disagreed on welfare reform in the past, Welfare-to-Work is a program that all should be able to support. It represents a Federal-state-local partnership, as well as a partnership between government, private industry, and community-based organizations. It encourages people to take responsibility for themselves, find work, and contribute to their families and society in a meaningful way. We cannot abandon these welfare recipients who are the most difficult to employ and must instead invest in them in a way that will help them find jobs paying a living wage, become self-sufficient, and allow them to break out of the cycle of dependency on public assistance.

I would again like to thank my colleagues Senators MOYNIHAN, FEINSTEIN, WELLSTONE, MURRAY, and LAUTENBERG for joining me as original cosponsors of my bill, and I urge other colleagues to join us in supporting this important Welfare-to-Work reauthorization bill.

By Mr. JEFFORDS (for himself, Mr. KERRY, Mr. GRAMS, Mr. SARBANES, and Mr. WELLSTONE):

S. 1318. A bill to authorize the Secretary of Housing and Urban Development to award grants to States to supplement State and local assistance for the preservation and promotion of affordable housing opportunities for low-income families; to the Committee on Banking, Housing, and Urban Affairs.

AFFORDABLE HOUSING PRESERVATION ACT OF 1999

• Mr. JEFFORDS. Mr. President, today I am pleased to introduce with Senator KERRY, Senator GRAMS, AND SENATOR WELLSTONE the Affordable Housing Preservation Act of 1999.

My work on this bill began several weeks ago out of discussions with Vermont housing advocates and private section 8 property owners, and as well as with Senator ALLARD, Senator GRAMS and Senator GRAMM during consideration of the Financial Modernization bill. We all acknowledge that this issue has rapidly become a serious national problem—one where thousands of low income elderly, disabled, and families with children are increasingly unable to afford privately-owned low income housing units.

Housing and Urban Development Secretary Andrew Cuomo and Commissioner Apgar recently took the step of exercising authority provided by Congress to use additional vouchers to stem the tide of Section 8 opt outs and prepayments. The Affordable Housing Preservation Act will provide a more permanent solution to this crisis.

The Jeffords/Kerry Affordable Housing Preservation Act will provide a longterm solution by building on local partnerships between non-profits, state and local governments, and private landlords to keep existing projects available for low income tenants. The bill preserves existing low income projects, as well as increase the units to expand a tight housing marketplace

through new acquisition and rehabilitation.

In Vermont rents have increased 11 percent over the past three years, making it increasingly difficult to find affordable shelter. To make matters worse, the lack of low income housing makes it simply impossible to find a place to live in areas like Burlington, where the vacancy rate is less than one percent.

The need to preserve existing housing from opt outs and prepayments is only exceeded by the need to expand the number of housing units for low-income families, elderly and disabled. The affect of more Section 8 vouchers is undermined when there is nowhere to use them. On any given day in Burlington there are just 60 available rental units in a city of more than 40,000 people.

In such circumstances, low income families cannot even find a place to live, much less find one that's affordable. This problem has been a key factor in increasing homelessness, as families seeking help from Burlington's emergency shelter rose over 60 percent between 1997 and 1998.

As Section 8 federal subsidies come up for renewal more often, the risk of opt outs by private landlords increases. Housing projects in Brattleboro and Montpelier currently face opt out situations where landlords will raise rents to levels that Section 8 tenants cannot afford.

The Affordable Housing Preservation Act will build foundations for cooperation where efforts to raise public and private money are enhanced through federal matching grants. Vermont's community based non-profit organizations have achieved much success by encouraging private landlords seeking to exit the affordable housing business to transfer ownership to these groups.

Although ''sticky vouchers'' provide much needed short term relief, the Affordable Housing Preservation Act offers a long term solution to the opt out and prepayment problem by expanding community-based housing preservation and acquisition initiatives. This bill will give hope by providing help for those elderly, disabled, and families facing eviction or homelessness.

I look forward to working with the Chairmen and Members of the Housing Committees in the Senate and House to fix this problem and provide a new direction for the nation in affordable housing.●

● Mr. KERREY. Mr. President, I am pleased to have worked with Senator JEFFORDS to draft the legislation we are introducing today, the Affordable Housing Preservation Act of 1999. The legislation will establish a matching grant program that provides money to states and localities that are willing to put up some of their own funds for the purposes of preserving affordable housing. In order to receive a grant under this program, the owner would have to commit to maintaining the existing affordability restrictions for a minimum of 15 years.

In addition, the legislation will encourage transfer of ownership of these properties to non-profit housing corporations that work closely with residents. We believe that non-profit ownership will, in the long run, ensure the maximum possible commitment to affordability at the lowest possible cost. The current ownership structure for assisted housing constantly puts us in this bind of having to provide more and more money just to keep what we have already built and paid for. With non-profits, we will not face the constant dilemma of opt-outs, prepayments or expiring affordability restrictions. Nonetheless, private owners who want to continue to provide affordable housing will be eligible under this bill.

I appreciate the efforts of Senator JEFFORDS in facing this problem head-on. We are facing an increasing crisis in affordable housing. Ironically, this crisis worsens as the strong economy pushes rents ever higher, out of the reach of many working Americans and the poor. This legislation will help us preserve this crucial affordable housing resource.

In the long run, however, preservation of affordable housing, while necessary, won't solve the problem facing millions of American families. The real problem in many cities around the country is that there is not enough production of new housing. We need to find ways to fund the construction of new, affordable, multifamily housing for low income and working families, and we need to fund the 100,000 additional vouchers we authorized in last year's public housing bill. This is not just a poor person's issue. In many states around the country—Massachusetts, Nevada, New York, Connecticut, New Jersey, Alaska, and others—a family would need to work as many as three full time jobs at $7 per hour, well above the minimum wage, just to afford the rent on a typical 2 bedroom apartment. This is unsustainable economically, and it is simply not fair.

In sum, Mr. President, the Jeffords-Kerry bill builds effectively on efforts HUD is taking to save existing housing stock. Now, we need to provide the funding to make sure these efforts can move forward, as we consider longer term solutions in the months ahead.●

By Mr. BOND:

S. 1319. A bill to authorize the Secretary of Housing and Urban Development to renew project-based contracts for assistance under section 8 of the United States Housing Act of 1937 at up to market rent levels, in order to preserve these projects as affordable low-income housing, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

SAVE MY HOME ACT OF 1999

● Mr. BOND. Mr. President, I stand before you today to introduce the Save My Home Act of 1999. This legislation is intended to provide a blueprint for HUD to address the problem of owners opting out of the section 8 program by not renewing their section 8 project-based contracts. This is a housing crisis. In my state of Missouri alone, section 8 contracts on over 23,000 units will expire over the next 5 years. Nationwide, section 8 contracts on over 14,000 multifamily housing projects with over 1 million units will expire over the same period of time.

The ''Save My Home Act of 1999'' will restate and reemphasize the need for HUD to use its best efforts to renew all expiring section 8 project-based contracts. The bill also provides new authority for section 8 enhanced or ''sticky'' vouchers to ensure that families in housing for which owners do not renew their section 8 contracts will be able to continue to live in their housing with the Federal government picking up the additional rental costs of the unit. The use of sticky vouchers is intended as a last resort. HUD must push for the renewal of the section 8 project-based contracts first. The bill also focuses on appraisals so that the cost of this housing reflects the true market value of the rental units. This has been a huge problem and will continue to be a problem until HUD develops the capacity and expertise to appraise adequately these multifamily housing projects.

This legislation is needed because HUD has, until recently, refused to renew section 8 project-based contracts at market levels. In response to this policy, many owners of this housing have refused to renew their section 8 contracts and the housing has been converted to market rate housing and lost as affordable, low-income housing inventory. This means that the assisted low-income families in this housing often have to move because the new rents will be too high for the section 8 rental subsidies. This is a huge problem, especially for the elderly and for persons with disabilities who have come to see this housing as their homes.

And this has become a crisis. For example, according to the National Housing Trust, during 1998 alone, owners of 219 properties with some 25,488 units section 8 units voluntarily opted out of receiving federal rental subsidies under the section 8 project-based program. Moreover, it has been estimated that we are losing another 3,000 section 8 units a month because of HUD's inaction. I wish we had better numbers but HUD is not providing us or the housing advocates with this information, and it is not clear that HUD even has this information.

However, I do want to be clear about the parameters of section 8 opt-out crisis. HUD currently has the legal authority to renew expiring section 8 contracts at the market rent, but has failed to implement this authority. Congress in the Multifamily Assisted Housing Reform and Affordability Act of 1997, as enacted on October 27, 1997 in the VA/HUD FY 1998 Appropriations bill, provided HUD with the authority to renew section 8 contracts up to the rental market level. This was almost 2 years ago, and HUD has only announced recently a renewal policy that it has not yet been able to implement. And despite press releases to the contrary, I am not convinced that HUD intends to renew these contracts except with an additional push from the Congress.

I also want to be clear about funding. HUD has enough funds to pay for section 8 contract renewals, even though HUD would have you believe otherwise. In particular, HUD has at least $2 billion in the Housing Certificate fund in excess of what is needed for renewing all expiring section 8 contracts this year. Instead of committing any of these funds for the renewal of section 8 project-based contracts, HUD has dedicated these funds as part of its FY 2000 budget for general section 8 contract renewals. Nevertheless, this money is available now and can be used to renew these expiring section 8 contracts. The real problem is that HUD does not have the ''will'' or ''commitment'' to fund these contracts. In fact, the biggest problem is commitment because you cannot legislate commitment. We need to find a way to make HUD renew these section 8 project-based contracts.

HUD's lack of commitment to section 8 project-based housing has been a problem through this Administration. From the start, both HUD and the Administration have had a stated policy of opposing section 8 project-based assistance in favor of vouchers. And this is true whether we are talking about elderly housing, housing for persons with disabilities, or housing that is located in very low vacancy areas, such as rural areas where there is no available housing or high-cost urban areas like Boston and San Francisco. This has been a problem in the past with the Section 202 program and with the Mark-to-Market inventory.

One final point is that I know there is interest in both the House and Senate in funding a grant program to assist in the sale of section 8 projects to nonprofits and tenant groups. While I support the concept of selling section 8 projects to nonprofits and tenant groups, I am troubled by the thought of buying projects that the Federal Government has already paid for several times over. This program sounds like another reiteration of the preservation program which we misguidedly funded over several years through the VA/HUD Appropriations Subcommittee, resulting in fraud and abuse as we vastly overpaid the value of these projects when we could have been using those funds for more fiscally responsible, affordable housing purposes.

I look forward to working with interested Members of Congress on these very important issues.●

By Mr. CRAIG:

S. 1320. A bill to provide to the Federal land management agencies the authority and capability to manage effectively the Federal lands and for other purposes; to the Committee on Energy and Natural Resources.

PUBLIC LANDS PLANNING AND MANAGEMENT IMPROVEMENT ACT OF 1999

Mr. CRAIG. Mr. President, the bill I am introducing today represents a significant modification of S. 1253, which I introduced in the last Congress. This effort represents a large body of work—both oversight and legislative—to modernize the laws governing our stewardship over federally-owned, multiple-use lands.

For those of you who have just tuned in, this bill is the result of 15 oversight hearings that my Subcommittee on Forests and Public Land Management held during the 104th Congress. These hearings involved over 200 witnesses, representing all points of view, and reviewing all aspects of the management of the Forest Service and Bureau of Land Management lands. The overwhelming conclusion from all of these witnesses—developers and environmentalists alike, public and private sector employees alike—was that the statutes governing federal land management—the 1976 Federal Land and Policy Management Act and the 1976 National Forest Management Act—are antiquated, and in need of updating. These statutes were passed by Congress in the mid-1970s to help solve land management problems. Today, they are a large part of the problem.

I look at laws as ''tools'' for use by professional land managers and resource scientists that help establish priorities and make management decisions. These two tools are as antiquated as the slide-rule and computer punch cards that were the tools used by land managers at the time that these statutes were passed.

As a consequence of this oversight review during the 104th Congress, and subsequent oversight hearings since, I drafted S. 1253 and circulated it at the outset of the 105th Congress. That draft, and the subsequently-introduced bill were, in turn, the subject of six informal workshops and another eight formal, legislative hearings to review the concepts embodied in both the first draft and the introduced version of S. 1253. The ideas that emanated from the oversight hearings were modified to reflect the suggestions of witnesses, and in recognition of how resource management problems have subsequently evolved.

Also, during the course of the last eighteen months, we have held additional hearings, reviewed subsequent correspondence, and enjoyed additional dialogue about how to best modify the 1976 statutes. For instance, we held one hearing where all four of the former Chiefs of the Forest Service and one former Bureau of Land Management Director shared their views about the current state of federal land management, and where legislative action could assist their successors in discharging the public trust more effectively.

During this time period there has been at least one seminal decision from the Supreme Court. In Ohio Forestry Association versus Glickman, the Supreme Court has, in my view, significantly devalued the importance of the land management planning process authorized under the National Land Management Act, and probably FLPMA as well. In that decision, the Court denied standing to challenge resource management plans, essentially on the basis that no real decisions are made. While properly decided on the basis of existing law, I believe that decision produced the wrong result insofar as effective resource planning is concerned. The bill I am introducing today would explicitly set a new course, reversing the effect of this decision in order to make resource management plans more meaningful documents. In various other ways of a less significant nature, the bill I am introducing today also reflects the product of court decisions that have been rendered during the period that we have been reviewing these issues.

The bill that I am introducing today is also the direct result of four important pieces of information. Let me describe each of these in turn.

First, we held an extraordinary pair of hearings with the President of the Wilderness Society as the sole witness. These hearings were significant in the sense that we were not limited to the usual, five-to-ten minute exchange to communicate with one another. Instead, we actually discussed the Wilderness Society's concerns and views about National Forest management for several hours.

Second and equally important was the assistance provided by the Society of American Foresters. The Society laudably took on the task of appointing a working group of resource scientists and professionals to review the current state of federal land management and the proposals that we made in the last Congress, and to offer suggestions for improvement. I commend their report as an authoritative guide to needed changes in the current system. Most notably, the Society is emphatic, as am I, that many, if not most, of the problems that plague federal

land management today can be resolved only through a cooperative effort between the Administration and Congress to produce a revised legislative charter for the land managing agencies.

Third, we were in many important respects guided by Secretary of Agriculture, Dan Glickman's, Committee of Scientists Report, also issued earlier this year. I commend this report to the attention of Senators as well. In many areas, we find ourselves in agreement with the Committee of Scientists, particularly with regard to defining a new mission for the Forest Service. We would submit that this is needed for the Bureau of Land Management as well—even though that was beyond the Committee's charter. One area where the Committee's views are unclear is whether or not these improvements can be made exclusively through the rule-making process. The Committee seems to be of two minds about this. It is clear to us that the kinds of changes the Committee seeks cannot be accomplished through regulation. They must involve fundamental statutory changes to the agencies' missions. Any other path is, in our view, doomed to failure.

Finally, we were informed at the time of the Administration's budget submission that the Administration would be sending forward a series of seven important legislative proposals governing federal land management. We were pleased that the Administration had at last come to the conclusion that legislative changes are necessary. This has been a source of intense dialogue between myself, Secretary Glickman, Undersecretary Lyons, and others in the Administration for more than two years. Given this recognition on their part, we felt duty-bound to wait for these proposals before going forward. In the bill I am introducing today, we have adopted, in pertinent part, five of the Administration's seven legislative proposals. A sixth proposal is the subject of a separate piece of legislation that was introduced in the House yesterday (HR 2389). I am working on a companion Senate bill to introduce shortly. Thus, I found the Administration's proposals something that I could agree with, and want to be responsive to.

So, my work product is the result of a number of sources of information. It has taken at least six months longer to produce than I anticipated it would, but in the interest of: (1) securing the advice of Secretary Glickman's Committee of Scientists; (2) evaluating the Society of American Foresters' report; and (3) being responsive to the Administration's legislative proposals, I believe the wait was worthwhile.

We will now move forward with additional hearings on this proposal confident that we are on the correct path to improve the quality of federal land management and, through a variety of means, increase public support for the future management of our federal forest lands.

We invite both the Administration and Members on both sides of the aisle to join us in this effort. We move forward knowing that this proposal, like any other, is a working draft that will by necessity change, probably significantly, as we move forward.

However, we also move forward knowing that legislative change in this area is both inevitable and vital. It is clear to me that this area of public discourse vitally needs a vibrant legislative debate and a new legislative charter so that our federal land managers can be provided with tools a little more modern than the slide-rule and mainframe computer punch cards.

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

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

SECTION-BY-SECTION DESCRIPTION—PUBLIC LANDS PLANNING AND MANAGEMENT IMPROVEMENT ACT OF 1999

SEC. 1. SHORT TITLE; TABLE OF CONTENTS.—This legislation—''Public Lands Planning and Management Improvement Act of 1999''—provides new authority and gives greater responsibility and accountability to the Forest Service, Department of Agriculture, and Bureau of Land Management (BLM), Department of the Interior, for planning and management of federal lands under their jurisdiction. The two statutes governing the agencies' land planning and management—the National Forest Management Act (NFMA) and the Federal Land Policy and Management Act (FLPMA)—are now more than two decades old; this legislation preserves those laws' policies and requirements while it updates those laws to reflect the agencies' subsequent performance and experience.

The need for new statutory authority is one of the principal findings of a recent report on the planning and management of national forest and BLM lands commissioned by the Society of American Foresters (SAF), entitled Forest of Discord: Options for Governing our National Forests and Federal Public Lands. The report states that ''new legislation seems the best approach for improving federal land management * * * Because the problems that exist are both serious and complex, the problems cannot be resolved through regulatory reform or through the appropriations process. Rather, new legislation is warranted.''

The first version of this bill was introduced as S. 1253 on October 3, 1997. Since then the Energy and Natural Resources Committee has devoted significant attention to the legislation. It has been the subject of 8 hearings and 6 workshops, including one hearing in which 4 former chiefs of the Forest Service and one former director of the BLM spoke about the need for legislation to modernize the existing statutory base for federal land planning and managing, and analyzed this bill through the prisms of their experiences as agency heads, and two hearings in which the President of the Wilderness Society provided an in depth critique of the bill's provisions. Toward the end of 1998, the legislation was substantially altered to accommodate numerous useful suggestions of, and to remedy a number of concerns raised by, the many witnesses.

In the Spring of 1999, two important documents were published: (1) the SAF-commissioned critique of Forest Service and BLM planning and management and call for legislation, authored by prominent academics, state foresters, consultants, federal officials, and private forestland managers; and (2) the report of the Committee of Scientists appointed by the Secretary of Agriculture to provide advice in the course of a new rulemaking governing Forest Service planning, Sustaining the People's Lands: Recommendations for Stewardship of the National Forests and Grasslands into the Next Century. This bill was redrafted again before its introduction to incorporate many suggestions and concepts from these two landmark documents. As a result of the two rewrites, this legislation is significantly different from, and reflects a much broader array of views and ideas than did, its predecessor in the 105th Congress.

SEC. 2. FINDINGS.—This section contains numerous findings which explain the need for this legislation. Many of these findings are shared by the Committee of Scientists and SAF reports, and the language of the most prominent findings cite those documents. The findings—

Note the widespread public support for the twin principles of federal land management—multiple use and sustained yield—imposed on Forest Service lands in NFMA and on BLM lands in FLPMA.

Recognize that NFMA and FLPMA, enacted in 1976, established resource management planning processes as the means to apply these land management principles to the federal lands.

State that, in the 2 decades since the enactment of NFMA and FLPMA, fundamental flaws in the planning processes have been exposed, to the dissatisfaction of all stakeholders.

Find that these flaws threaten the planning and management decisionmaking processes and undermine the agencies' ability to fulfill their statutory land management responsibilities and to accomplish management that is well grounded in science.

Note that Congress' desire for planning to be completed within discrete time frames and to provide secure management guidance has not been achieved.

Describe how planning has yet to be completed 2 decades after the enactment of NFMA and FLPMA, and how the Forest Service and BLM are now engaged in an apparently perpetual planning cycle that deprives both the agencies and the public of stable and predictable management of federal lands.

State that the two levels of planning contemplated and required by NFMA and FLPMA have been expanded by the agencies and the courts to include various planning exercises on multiple, often conflicting, broader and narrower planning scales that in many cases are focused on only a single resource, are conducted without the procedural and public participation safeguards required by those laws, and result in guidance that conflicts with the planning that is conducted in accordance with those laws.

Find that the procedures and requirements of NFMA and FLPMA often are not compatible, and even conflict, with procedures and requirements of other, more generally applicable environmental laws. The result is often the de facto transfer of planning and management decisionmaking authority from the

land management agencies—the Forest Service and BLM—to other environmental agencies—most notably the Environmental Protection Agency, Fish and Wildlife Service, National Marine Fisheries Service—that do not possess comparable land management expertise.

Find ''without doubt'' that Congress has failed to reconcile the procedures and requirements of other environmental laws with the planning and management processes established by NFMA and FLPMA.

State that the land management planning is conducted without regard for likely funding constraints on plan implementation and that the agencies' budgets and Congressional appropriations are not linked to the plans.

Describe how, even when the Forest Service and BLM retain planning and management authority, they are often paralyzed by an escalating number of administrative appeals and lawsuits.

Note that existing law does not recognize, nor integrate into planning, important new land management concepts such as ecosystem management and adaptive management which are being imposed or incorporated in federal land planning and management without statutory authority or clear public understanding.

State that new processes developed by stakeholders to better participate in federal land planning and decision making, such as the community collaborative deliberations of the Quincy Library Group and Applegate Partnership, are not recognized or encouraged by NFMA and FLPMA.

Find that these flaws in planning and plan implementation, including the administrative and judicial challenges, have escalated Forest Service and BLM land management costs and thereby reduced land management capability.

Note that FLPMA and NFMA were enacted when federal land ecosystems were regarded generally as healthy, but numerous watersheds are degraded, species are declining because of habitat loss, and forested areas are undergoing or are threatened by an unprecedented forest health crisis.

State that monitoring to develop an adequate basis for planning and to determine whether plans are being implemented adequately or conditions have changed sufficiently to warrant new planning is often promised but rarely conducted.

State that these flaws in planning and subsequently inability to secure plan implementation have injured—both environmentally and economically—all stakeholders, but particularly local resource-dependent communities which have no protection nor recourse under NFMA and FLPMA.

Find that NFMA and FLPMA, and their implementing regulations provide much guidance on planning, but virtually none on plan implementation, thereby devaluing the term ''Management'' common to both Acts' titles.

Report the finding of the United States General Accounting Office (GAO) that the statutory flaws and public distrust discussed in these findings have contributed to, and been compounded by, the agencies' lack of a clear mission statement.

And find that additional statutory direction for planning and plan implementation is needed to secure stable and predictable federal land management and to free the Forest Service and BLM to exercise fully their professionalism in making management decisions.

SEC. 3. DEFINITIONS.—This section defines the terms used in this legislation. For the purpose of this section-by-section description only two terms need definition here. ''Federal lands'' means all federal lands managed by the BLM (excluding Outer Continental Shelf lands) and Forest Service (including national grasslands). The four ''Committees of Congress'' are the authorizing committees with jurisdiction over the Forest Service and BLM: the Committee on Resources and Committee on Agriculture in the House of Representatives and the Committee on Energy and Natural Resources and Committee on Agriculture, Nutrition, and Forestry in the United States Senate.

SEC. 4. SUPPLEMENTAL AUTHORITY.—This section makes clear that this legislation supplements the NFMA, FLPMA, and other applicable law. Any inconsistency: between this bill and the NFMA or FLPMA is resolved in favor of this bill; and between this bill and the statutes governing management of units of the National Wilderness Preservation, National Wild and Scenic Rivers, and National Trails Systems is resolved in favor of those statutes.

SEC. 5. TRANSITION.—This section makes clear that existing plans, policies, and other guidance concerning the federal lands that are in effect on the date of enactment of this legislation remain valid until they are revised, amended, changed, or terminated in accordance with this legislation.

TITLE I—ENSURING THE EFFECTIVENESS AND IMPLEMENTATION OF FEDERAL LAND PLANNING

SEC. 101. PURPOSES.—The purposes of Title I are to provide a mission statement for the Forest Service and BLM and provide Congressional direction to those agencies on the preparation and implementation of resource management plans for, and the planning of management activities on, the federal lands. This mission and direction are intended to avoid the environmental, economic, and social injuries caused by the existing flaws and past absence of mission and direction in federal land planning. Most importantly, this mission and direction are expected to achieve more stable, predictable, timely, sustainable, and cost-effective management of federal lands. This title is also intended to encourage collaborative processes in federal land planning, to ensure adequate monitoring, and to establish uniform, expeditious procedures for administrative and judicial appeals. Finally, this title would provide for consideration during planning of funding constraints on, and during budget setting of funding needs for, plan implementation. The collaborative planning, monitoring, and budgetary purposes were not in this bill's predecessor.

PART A. IN GENERAL

SEC. 102. MISSION OF THE LAND MANAGEMENT AGENCIES.—A common theme of the SAF report (pp. 17–18), the Committee of Scientists report (pp. xiv-xvi), and a 1997 GAO report entitled, ''Forest Service Decisionmaking: A Framework for Improving Performance.'' (p. 5) is the need for a new mission direction for the Forest Service and BLM that provides guidance beyond the multiple use and sustained yield principles and incorporates the newer management concepts concerning ecosystems, landscape management, and biological diversity. This section provides that new mission statement. It is: to manage the federal lands to assure the health, sustainability, and productivity of the lands' ecosystems; where consistent with that objective, to furnish a sustainable flow of multiple goods, services, and amenities; to preserve or establish a full range and diversity of natural habitats of native species in a dynamic manner over the landscape, and to designate discrete areas to conserve certain resources or allow certain uses. This section was rewritten, consistent with the Committee of Scientists and SAF reports' recommendations, to accord priority to ecosystem concerns and to clarify and ensure that the agencies are to deliver amenities as well as goods and services.

SEC. 103. SCIENTIFIC BASIS FOR FEDERAL LAND DECISIONS.—To ensure that federal land planning and management is well grounded in science (a particular concern of the Committee of Scientists), this section requires the Forest Service and BLM to use in all federal land decisions the ''best scientific and commercial data available.'' Congress first adopted this stringent standard in the Endangered Species Act of 1973; this bill's standard is identical to that Act's.

PART B. RESOURCE MANAGEMENT AND ACTIVITY PLANNING

SEC. 104. LEVELS OF PLANNING.—To reduce the proliferating number of federal land planning exercises, this section limits the levels of Forest Service and BLM planning to two—multiple-use resource management planning for designated planning units and site-specific planning for management activities. The two agencies are given complete discretion to designate planning units of whatever size and number they consider appropriate in which to conduct the resource management planning.

The agencies may also conduct analyses or assessments for geographical areas other than the planning units (including ecoregion assessments as provided in Part F of this title). The results of those analyses or assessments may be applied to the federal lands by amending or revising the applicable resource management plans.

This section establishes a 3-year deadline for amending or revising existing resource management plans to include policies developed in planning conducted outside of the two prescribed planning levels. Non-complying planning will no longer apply to the federal lands at the end of the 3-year period.

SEC. 105. CONTENTS OF PLANNING AND ALLOCATIONS OF DECISIONS TO EACH PLANNING LEVEL.—To eliminate redundant planning that is time-consuming and costly, this section assigns specific analyses to the two levels of planning established in section 104 and clarifies that the analyses may not be repeated elsewhere in the planning process. This assignment of planning tasks to specific planning levels is regarded as a critically important change by the authors of the SAF report (pp. 51, 59): ''The current land management planning process is unclear about which decisions are made at which points in the planning process. No public organization or management system can be effective without clearly articulated goals and an unambiguous decisionmaking process, and in current planning, neither of these conditions obtains. . . . Once the overall mission of the lands has been identified, the most important questions about land management planning on the national forests and public lands relate to clarifying which issues are decided at which levels of the decisionmaking process.''

This section requires that resource management plans contain 5 basic elements: (1) statement of management goals and objectives; (2) allocation of land uses to specific areas in the planning unit; (3) determination of outputs of goods, services, and amenities from the unit; (4) environmental protection policies; and (5) a description of the desired

future conditions of the unit's lands and the expected duration of time needed to achieve those conditions. Basic elements (1) and (3) are specifically recommended by the SAF report (p. 57): ''Resource management plans should identify and quantify (to the extent feasible) appropriate goals and outcomes, including vegetation management goals and commodity and amenity outputs.'' Element 2—land allocations—is, of course, the historic backbone of planning and is recommended by the Committee of Scientists report (p. xxxiii). ''Desired future conditions'' is a new, basic element added to this bill; this concept is recommended in the Committee of Scientists report (p. xxviii) as ''[t]he central reference point for strategic planning.'' The agencies are admonished to tailor the environmental protection policies in element 4, to the maximum extent feasible, not to be prescriptive requirements generally applicable to the entire planning unit, but rather to provide guidance for determining specific requirements suitable for the precise conditions at identified sites during the planning of individual management activities.

The agencies are tasked with describing the basic elements in a manner that provides a basis for monitoring required by section 116 and adaptive management required by section 117. This requirement is new to this bill and is recommended by SAF report (p. 57): ''The goals and outputs (including fiscal expectations and downstream effects) should be set forth in a manner that provides a basis for monitoring, evaluating, and reporting agency performance.''.

Additionally, the resource management plans are required to contain: (1) a statement of historical uses, and trends in conditions of, the resources covered by the plans; (2) a comparison of the projected results of the basic elements with recent agency performance and a discussion of any expected, significant changes in management direction, including any steps to be taken to ameliorate any adverse economic, social, and economic consequences that might result from those changes; (3) a schedule and procedure for monitoring plan implementation, management of the covered federal lands, and trends in the covered resources' uses and conditions as required by section 116; (4) criteria for determining when circumstances on the covered federal lands warrant adaptive management of the resources as required by sections 116(a)(3) and 117(c). The requirement to compare projected results with past performance and discuss significant differences is a new element in this bill that is recommended in the SAF report (p. 57): ''The plans should compare and contrast the goals and outcomes with recent performance, highlighting situations where a significant change in direction is proposed.'' The requirement for a schedule and procedures for monitoring is recommended by both the Committee of Scientists report (''An adequate plan contains the methods and proposed measurements for monitoring . . .''. (p. 108) and the SAF report (''The [planning] decision document needs to specify the monitoring process . . .''. (p. 27)).

Another provision designed to reduce plan redundancies and the time consumed in repetitive planning requires the agencies to assign by a notice-and-comment rulemaking specific analyses and decisions to each of the two planning levels (as recommended in the SAF report (p. 59): ''Forest planning regulations should identify the analyses and decisions that must be made at each planning level''). The agencies may not conduct or reconsider those analyses or decisions in the planning level to which they are not assigned. This section also assigns a number of analyses and decisions by statute. In addition to the 5 basic elements discussed previously, assigned to resource management planning are resource inventories, cumulative effects analyses (including effects on water quality), discussion of relationship to State and local plans, identification of federal lands which might be exchanged or otherwise disposed of, and decisions on wilderness, unsuitability of lands for certain uses (*e.g.*, coal mining as required by section 522 of the Surface Mining Control and reclamation Act and timber harvesting as required by section 6 of the National Forest Management Act), and visual objectives.

Assigned to management activity planning are analyses of site-specific resources and environmental effects, and decisions concerning the design of, and requirements for, the activity, including decisions related to water quality effects of the activity, method for harvesting forest products, revenue benefits, and a schedule and procedures for monitoring the effects of the activity. These assignments of decisionmaking comport with the recommendations in the SAF report (p. 59): ''Forest or area plans might be the appropriate place to analyze and decide wilderness recommendations, output targets, supply-demand relationships, and community impacts. [Localized] plans might be the appropriate place to analyze and decide on silvicultural practices and restoration activities and the mix of habitats for species viability . . . [and] access and management unit boundaries.''

Among the more significant changes in this section from the language of this bill's predecessors are the addition of desired future uses to the plan's basic elements, the emphasis on monitoring and adaptive management in resource management planning, the requirement to address adverse consequences of significant changes in management direction, and the assignment of water quality analyses to both planning levels.

SEC. 106. PLANNING DEADLINES.—To break the cycle of perpetual planning, this section would set deadlines for conducting the two-level planning. These deadlines are: (1) for resource management planning—36 months for plan preparation, 18 months for amendments defined as significant by regulations, 12 months for amendments defined as nonsignificant by regulations, and 30 months for revisions; and (2) for management activity planning—12 months for planning significant activities, and 9 months for planning nonsignificant activities. All of these deadlines are longer than those in the predecessor bill, as suggested by the former agency heads and other witnesses. Also added is a provision that adjusts the deadlines if an activity must be submitted to Congress as a ''rule'' under section 251 of the Contract with American Advancement Act of 1996 (110 Stat. 868–874, 5 U.S.C. 801–808). Both the Committee of Scientists report (''Planners should aim to complete the planning phases from assessment through formal adoption of small landscape plans within three years and preferably less than two.'' (p. 181)) and the SAF report (''deadlines for decisions should therefore be set'') (p. 46)) recommend planning deadlines.

SEC. 107. PLAN AMENDMENTS AND REVISIONS.—This section ensures that the 5 basic elements of the resource management plans are accorded equal dignity and that one element is not arbitrarily sacrificed or ignored to achieve another. It prohibits the Forest Service and BLM from applying a policy to, or making a decision on, a resource management plan or a management activity which is inconsistent with one of the basis elements. To ensure that the agencies discover any such inconsistency, this section requires each agency either to report in writing with each land management activity decision that the activity contributes to or does not preclude achievement of the basic elements or to amend or revise the plan to remove or reconcile the affected element. This decision to amend would be made whenever the inconsistency is discovered whether it is during the planning for a specific management activity or during the monitoring of plan implementation required by section 116. The agencies are given the authority to waive an inconsistency without amending the resource management plan for a single specific management activity within any class of management activities once during the life of the plan if the inconsistency does not violate a nondiscretionary statutory requirement and the determination is made that the waiver is in the public interest.

This section also requires that any change in federal land management that is imposed by new law, regulation, or court order or that is warranted by new information must be effected by amending or revising the appropriate resource management plans. Further, unless the agency determines that the law or court requires otherwise and publishes that determination, the change in management does not become effective until the amendment or revision is adopted.

This section directs that, when resource management plans are revised, all provisions of those plans are to be considered and analyzed in the environmental analysis (environmental impact statement (EIS) or environmental assessment (EA)) and decision documents. This ensures that the agency does not consider only those portions of the plans that are particularly important to the most vociferous advocates for a particular land use or management policy or are of particular interest to the officials involved in the planning exercise.

Finally, this section clarifies that, while a resource management plan is being amended or revised, management activities are to continue and not be stayed in anticipation of changes that might be made by the amendment or revision. Exceptions to this stay prohibition include whenever a stay is required by this bill, court order, or a formal declaration by the Secretary (without delegating the authority). However, the agencies can stay particular activities for purposes that are unrelated to the purpose or the likely effect of the amendment or revision. To ensure that *de facto* stays do not occur, this section provides that, except as described above, a plan amendment or revision may not become effective until final decisions on management activities that are scheduled to be made during the plan amendment or revision process have been made.

Changes to this section include wording that responds to a concern expressed by the President of the Wilderness Society that environmental policies could be made secondary to other commodity-oriented policies. This was accomplished by clarifying that no basic element—including the environmental policies—can be made inconsistent and ignored, and that exception can be made only once for any class of management activities over the plan's life.

SEC. 108. CONSIDERATION OF COMMUNITIES DEPENDENT ON FEDERAL LANDS AND RESOURCES.—This section requires that, in preparing, amending, or revising each resource

management plan, the Forest Service and BLM must consider if, and explain whether, the plan will maintain to the maximum extent feasible the stability of any community that has become dependent on the commodity or non-commodity resources of the federal lands to which the plan applies. Consideration of dependent communities was strongly recommended in the Committee of Scientists report (pp. xxi, 45): ''Within the context of sustainability, planning should consider the needs, resilience, and vulnerability of economies and communities in selecting long-term management strategies.'' ''The national forests and grasslands must serve all of the nation's people; nevertheless, local residents deserve particular attention when the contributions of the forests to economic and social sustainability are being considered.''

The procedure for meeting this mandate is to include in the EIS or EA on the plan, amendment, or revision a discussion of: the impact of each plan alternative on the revenues and budget, public services, wages, and social conditions of each federal lands-dependent community; how the alternatives would relate to historic community expectations; and how the impacts were considered in the final plan decision.

This section defines a community dependent on the commodity or non-commodity resources of the federal lands as one which is located in proximity to federal lands and is significantly affected socially, economically, or environmentally by the allocation of uses of one or more of the lands' commodity or non-commodity resources. The secretaries are to consult with the Secretaries of Commerce and Labor in establishing by rulemaking criteria for identifying these communities.

This section was changed to recognize that many communities are as dependent on non-commodity resources (for professional guiding, river running, hunting and fishing, etc.) as others are dependent on commodity resources and that both types of communities should be given special attention in planning.

SEC. 109. ECOSYSTEM MANAGEMENT PRINCIPLES.—This section provides a statutory basis for the relatively new ecosystem management concept. It requires that this concept be incorporated into planning. As the agencies accomplish this integration of ecosystem management and planning, they are cautioned that this new concept may not supersede other statutory mandates. This section requires that the Forest Service and BLM consider and discuss ecosystem management principles in the EISs or EAs for resource management plans, amendments, and revisions. It also states that these principles are to be applied consistent with, and may not be used as authority for not complying with, the other requirements of this legislation, FLPMA, NFMA, and other environmental laws applicable to resource management planning.

''Ecosystem management'' is defined in section 3. That definition has been altered in this bill to incorporate the basic management mandate recommended by the Committee of Scientists report (pp. xiv, 177): ''ecological, economic, and social sustainability''.

PART C. ENCOURAGEMENT OF COLLABORATIVE PLANNING

Decentralized, collaborative planning is emphasized in both the Committee of Scientists report (pp. xxiii–xxv) and the SAF report (p. 46). Although the provisions in this part have appeared in earlier versions of this bill, they are arranged here into one part in order to emphasize the collaborative planning concept.

SEC. 110. PARTICIPATION OF LOCAL, MULTI-INTEREST COMMITTEES.—To encourage local solutions to federal land management issues developed through collaborative planning by neighboring citizens of diverse interests, this section provides for the establishment of two types of local, matter-interest committees. The first is the ''independent committee of local interests'' established without the direction, intervention, or funding of the agencies and including at least one representative of a non-commodity interest and one representative of a commodity interest. Prototypes for this type of committee are the Quincy Library Group and Applegate Partnership.

This section encourages these independent committees to prepare planning recommendations for the federal lands by imposing the requirement on the agencies that they include those recommendations as alternatives in the EISs or EAs which accompany the preparation, amendment, or revision of resource management plans. If more than two independent committees are established and submit planning alternatives for the same federal lands, the Forest Service or BLM will include the alternatives of the two committees it determines to be most broadly representative of the interests to be affected by the plan, amendment, or revision, and will attempt to consolidate for analysis or otherwise discuss the other committees' alternatives. Finally, the section authorizes the Forest Service and BLM to provide to any independent committee whose planning alternative is adopted sufficient funds to monitor the alternative's implementation. These independent committees would be exempt from the Federal Advisory Committee Act.

Second, the agencies are empowered to establish local committees corresponding to the federal land's planning units. The membership of these committees must be broadly representative of interests affected by planning for the planning units for which they are formed. The agencies must seek the advice of the committees prior to adopting, amending, or revising the relevant resource management plans and provide the committees with funding to monitor plan implementation.

SEC. 111. CITIZEN PETITIONS FOR PLAN AMENDMENTS OR REVISIONS.—Section 122 establishes deadlines for challenging resource management plans, amendments, and revisions. The section provides a procedure for citizens who believe a plan has become inadequate after the deadlines have passed to seek change in the plan and, if unsuccessful in obtaining change, to challenge the plan. This section authorizes any person to challenge a plan after the deadline solely on the basis of new information, law, or regulation. The mechanism for challenge is a petition for plan amendment or revision. The Forest Service or BLM must accept or deny the petition within 90 days, and any request for a stay within 5 days, or receipt of the petition. If the agency fails to respond to or denies the petition or stay request, the petitioner may file suit immediately against the plan. If the agency accepts the petition, the process of amending or revising the plan begins immediately. The agency's decision to accept or deny the petition is not subject to the consultation requirement of the Endangered Species Act (ESA) or the environmental analysis requirements of the National Environmental Policy Act (NEPA).

The principal change in this section was in response to the testimony of the President of the Wilderness Society. It adds the opportunity for a petitioner to seek a stay of any activities subject to the petitioned plan amendment.

SEC. 112. NOTICE AND COMMENT ON MANAGEMENT ACTIVITIES.—This section adopts a provision from the provision in the Fiscal Year 1993 Interior and Related Agencies Appropriation Act which provided procedures for adminsitrative appeals of Forest Service land management activities. In this bill and its prior versions the appeal procedures were incorporated in a broader administrative appeals section (here, section 122). Consequently, this bill and its predecessors would repeal that 1993 appropriations act rider. As pointed out by the President of the Wilderness Society, inadvertently dropped from the repealed language was a provision requiring notice (by mail and newspaper) and comment (within a 30 day period) on Forest Service land management activities. This section restores that provision and expands it to include land management activities of the BLM.

PART D. CONSIDERATION AND DISCLOSURE OF BUDGET AND FUNDING EFFECTS

SEC. 113. DISCLOSURE OF FUNDING CONSTRAINTS ON PLANNING AND MANAGEMENT.—To ensure that planning decisions are not based on overly optimistic funding expectations and are not rendered irrelevant by enactment of differing appropriations, this section requires that the EIS or EA on ech resource management plan, or plan amendment or revision, contain a determination on how the 5 basic elements (goals and objectives, land use allocations, outputs of goods and services, environmental protection policies and standards, and desired future conditions) will be implemented within a range of funding levels (with at least one level which provides less funds annually, and one level which provides more funds annually, than the level of funding for the fiscal year in which the EIS or EA is prepared).

The Committee of Scientists, the SAF report authors, and the GAO (Forest Service Issues Related to Management of National Forests for Multiple Uses, 1996) all recognized the fundamental problem of what the Committee of Scientists (p. 107) called the ''disconnect between budgets and plans.'' As described in the SAF report (p. 22), ''Even though the Forest Service has generally received the funds requested for land management planning, it has not delivered the outputs that the plans specify. Some plans have been developed without budget constraints. This gap between plans and reality means that many of the actions called for in the plans and justified on multiple-use grounds can never be realized simply because of lack of funds.'' All three reports basically call for the same remedy (i.e., ''Forest or area plans should explain how the goals and outcomes would be affected by differing budgets.'' SAF report, p. 62) that is provided in this section.

SEC. 114. FULLY ALLOCATED COSTS ANALYSIS.—To ensure that the costs to all uses are revealed, this section directs the Forest Service and BLM to disclose in the EISs and EAs on resource management plans, amendments, and revisions the fully allocated cost including foregone revenues, expressed as a user fee or cost-per-beneficiary, of each non-commodity output from the federal lands to which the plans apply.

SEC. 115. BUDGET AND COST DISCLOSURES.—To better relate the agencies' planning process with Congress' appropriations process, this section requires that the President's

budget request to Congress include an appendix that discloses the amount of funds that would be required to achieve 100% of the annual outputs of goods and services in, and otherwise implement fully, each Forest Service and BLM resource management plan. This provision, together with section 113, implements two critical recommendations in the SAF report (p. 62): ''A persistent criticism of resource management plans is that annual appropriations have not always matched the funding assumptions. Forest or area plans should explain how the goals and outcomes would be affected by differing budgets. Annual reporting on agency performance can then compare and contrast the goals and targets of the plan with the requested budgets and actual appropriations.''.

In the face of escalating planning costs, particularly those associated with ecoregion assessments, this section also requires the agencies to submit to Congress each year an accounting of the total costs and cost per function or procedure for each plan, amendment, revision or assessment published in the preceding year.

PART E. MONITORING AND ADAPTIVE MANAGEMENT

Set out in this part are the two most important functions conducted by the agencies (in addition to responding to citizen petitions for plan amendment or revision authorized by section 111) to ensure that resource management plans—once prepared—are implemented and kept current. The first of these functions is monitoring. A recurring theme of numerous studies (including both the Committee of Scientists and SAF reports and the 1997 GAO report, Forest Service Decision-making: A Framerwork for Improving Performance) is that, in the words of the SAF report (p. 51), ''[b]oth natural resources monitoring and program implementation monitoring are currently inadequate.'' The Committee of Scientists report emphasizes that the second of these functions—adaptive management—is wholly dependent on adequate monitoring. Because monitoring is expensive (SAF report, p. 38) and is not typically a prerequisite to land management decisions, it is usually deprived of necessary funding by both Congress and the agencies. This part provides statutory emphasis for, and attempts to provide more secure funding to, these critical functions. This part consolidates and strengthens various provisions in the previous version of this bill.

SEC. 116. MONITORING.—This section requires use of funds from the Monitoring Funds established by section 118 to monitor the implementation of each resource management plan at least biennially. The monitoring is to (1) ensure that no basic element (goal, land allocation, output, environmental policy, or desired future condition) of the plan is constructively changed through a pattern of incompatible management activities or of failures to undertake compatible management activities, (2) determine that no conflict has arisen between any of the basic elements of the plan, and (3) determine if circumstances warrant adaptive management of the plan. The monitoring is to be conducted in accordance with the procedures for monitoring that are required to be included in each resource management plan by section 105. Likewise, the determination of circumstances warranting adaptive management are to be made in accordance with the criteria for such determinations which section 105 also requires be included in each plan.

SEC. 117. ADAPTIVE MANAGEMENT AND OTHER CHANGES DUE TO MONITORING.—This section requires corrective management actions or plan amendments or revisions whenever, as provided in section 116, the monitoring discloses changed circumstances, conflicts in plan elements, or circumstances warranting adaptive management.

SEC. 118. MONITORING FUNDS.—This section would implement a recommendation in the SAF report (p. 62) that ''[m]onitoring should be separately and adequately funded.'' This section establishes a Public Lands Monitoring Fund for BLM lands and Forest Lands Monitoring Fund for Forest Service lands to provide a supplemental funding source for important monitoring activities. The Funds would receive all monies collected from federal lands in any fiscal year that are in excess of federal land revenues projected in the President's baseline budget (minus the State's and local government's share as required by law). The monies in the Funds may be used, without appropriations, to conduct the monitoring required by section 116 or to fund the monitoring of the local, multi-interest committees under section 110.

Added to this section is a provision that encourages each agency to use private contractors, including contractors under the Jobs in the Woods Program, to conduct monitoring, except the monitoring done by the multi-interest committees.

PART F. PLANNING—RELATED ASSESSMENTS

SEC. 119. PURPOSE AND AUTHORIZATION OF ECOREGION AND OTHER ASSESSMENTS.—The purpose of this part and section is to authorize the new practice of preparing ecoregion and other assessments of environmental, economic, and social issues and conditions that transcend the boundaries of planning units established pursuant to section 104 for the purpose of informing the resource management planning for, and the planning of management activities on, the federal lands. The Committee of Scientists (pp. xxvi–xxvii) endorses assessments as vehicles for ''provid[ing] the context for. . . . planning.''

First, this section authorizes the Forest Service and BLM to prepare these ecoregion or other assessments, which may include non-federal lands if the Governors of the affected States or the governing bodies of the affected Indian tribes, as the case may be, agree. It requires the agency to give the four Committees of Congress and the public 90 days advance notice before initiating an assessment. The notice to Congress and Federal Register notice must include: (1) a description of the land involved; (2) the agency officials responsible; (3) the estimated costs of and the deadlines for the assessment; (4) the charter for the assessment; (5) the public, State, local government and tribal participation procedures; (6) a thorough explanation of how the region or area for the assessment was identified and the attributes which establish it; and (7) detailed reasons for the decision to prepare the assessment.

SEC. 120. STATUS, EFFECT, AND APPLICATION OF ASSESSMENTS.—This section provides that the assessments must not contain any decisions concerning resource management planning or management activities. The Committee of Scientists (p. xxvi) endorses this approach: ''A critical component of the framework proposed by the Committee is that assessments are not decision documents and should not be made to function under the NEPA processes associated with decision-making.'' The section also establishes a procedure for applying information or analysis contained in ecoregion or other assessments to the planning and management activities. It directs the relevant agency to make a decision within 6 months of completion of an assessment whether any information or analyses in the assessment warrants amendments to, or revisions of, a resource management plan for the federal lands to which the assessment applies. If the decision is made for an amendment or revision, no management activity on federal lands may be delayed or altered on the basis of the assessment while the amendment or revision is prepared. This section also prohibits any federal official from using an assessment as an independent basis to regulate non-federal lands. Finally, as the assessments are non-decisional, this section provides that they will not be subject to the consultation requirements of the Endangered Species Act or the environmental documentation requirements of the National Environmental Policy Act. (''Most critically, assessments do not produce decisions and, therefore, should not be made to function under the NEPA processes associated with decision making.'' Committee of Scientists report, p. 95.)

SEC. 121. REPORTS TO CONGRESS ON ASSESSMENTS.—This section mandates three reports on ecoregion and other assessments.

First, this section directs the agencies to report biennially to the four Committees of Congress on ecosystem and other assessments, their implications for federal land management, and any resource management plan amendments or revisions based on assessments. The reports also must include the agencies' views of the benefits and detriments of, and recommendations for improving, assessments.

Second, this section requires the GAO to prepare and submit to the same Committees of Congress a report on each assessment 3 years after the conclusion of the assessment. The report is to: review the degree of protection for non-commodity resources on, and the level of goods and services from, the relevant federal lands that are projected by the assessment; provide an evaluation of whether such resource protection and amount of goods and services were actually delivered and, if not, why; and recommendations to change assessments to change assessments to secure more accurate projections and better delivery.

Third, the GAO is directed to provide the Committees of Congress with an overall evaluation of the efficacy of assessments seven years after enactment.

Dropped from this bill was the Pacific Northwest Plan Review provision that was contained in earlier versions and was criticized by witnesses for environmental organizations.

PART G. CHALLENGES TO PLANNING

The purposes of this part are to ensure that challenges—both administrative and judicial—of resource management plans and management activities are brought more timely, and by those who truly participate in the agencies' processes. It does not eliminate challenges or insulate agency decisions from challenges.

SEC. 122. ADMINISTRATIVE APPEALS.—This section directs the Forest Service and BLM to promulgate rules to govern administrative appeals of decisions to approve resource management plans, amendments, and revisions, and of decisions to approve, disapprove, or otherwise take final action on management activities. While allowing the agencies considerable discretion in rulemaking, this section does provide that the rules must: (1) require that, in order to bring an appeal, the appellant must have commented in writing during the agency process on the issue or issues to be appealed if an opportunity to comment was provided and if

the issue or issues were manifest at that time (SAF report recommendation (p.58): ''Increase the requirements for filing an administrative appeal by requiring participation in the decision process related to the specific decision''); (2) provide that administrative appeals of plans may not challenge analyses or decisions assigned to management activities under section 105 and administrative appeals of management activities may not challenge analyses or decisions assigned to plans under section 105; (3) provide deadlines for bringing the administrative appeals (not more than 120 days after a plan or revision decision, 90 days after an amendment decision, and 45 days after a management activity decision); (4) provide deadlines for final decisions on the appeals (not more than 120 days for appeal of a plan or revision, 90 days for appeal of a plan amendment, and 45 days for appeal of a management activity, with possible 15 days extension for each); (5) provide that, in the event of failure to render a decision by the applicable deadline, the decision on which the appeal is based is to be deemed a final agency action which allows the appellant to file suit immediately; (6) require the agency to consider and balance environmental and/or economic injury in deciding whether to issue a stay pending appeal; (7) provide that no stay may extend more than 30 days beyond a final decision on an appeal of a plan, amendment, or revision or 15 days beyond a final decision on an appeal of a management activity; and (8) establish categories of management activities excluded from administrative appeals (but not lawsuits) because of emergency, time-sensitive, or other exigent circumstances.

This section is more comprehensive than the section of the Fiscal Year 1993 Interior and Related Agencies Appropriation Act which concerned appeals only of management activities (not management plans, amendments, and revisions) of the Forest Service (not BLM). As this section supplants that more limited provision, it repeals that provision when the new appeals rules required by this section become effective.

SEC. 123. JUDICIAL REVIEW.—This section establishes venue and standing requirements in, sets deadlines for, and otherwise governs lawsuits over resource management plans, amendments, revisions, and petitions and management activities.

The venue for plan-related litigation is the U.S. Circuit Court of Appeals for the circuit in which the lands (or the largest portion of the lands) to which the plan applies are located. The venue for litigation over a management activity, or petition for plan amendment or revision is the U.S. District Court in the district where the lands (or the largest portion of the lands) on which the activity would occur or to which the plan applies are located.

This section also clarifies that standing and intervention of right is to be granted to the fullest extent permitted by the Constitution. This means those who are economically injured cannot be barred by the non-constitutional, prudential ''zone of interest'' test developed by the judiciary. This section also overturns the Supreme Court's 1998 decision in *Ohio Forestry Association* v. *Sierra Club* (118 S. Ct. 1665 (1998)) which drastically limited the ability of environmental organizations or other litigants from filing lawsuits challenging resource management plans. On the other hand, this section limits standing to those who make a legitimate effort to resolve their concerns during the agency's decisionmaking process and do not engage in ''litigation by ambush'' by withholding their concerns until after the agency decision is made. Specifically, this section requires that the plaintiff must have participated in the agency's decisionmaking process and submitted a written statement on the issue or issues to be litigated if the opportunity to comment was provided and the issue or issues were manifest at that time, and must have exhausted opportunities for administrative review.

Deadlines for bringing suit are 90 days after the final decision on the administrative appeal of a resource management plan, amendment, or revision, and 30 days after a final decision on the administrative appeal of a management activity or final disposition of a petition for plan amendment or revision. If the challenge involves a statute (*e.g.*, Endangered Species Act or Clean Water Act) which requires a period of notice before filing a citizen suit, suit must be filed no later than 7 days after the end of that notice period.

This section bars suits brought on the basis of new information, law, or regulation until after a petition for plan amendment or revision is filed and a decision is made on it.

This section also clarifies that suits concerning resource management plans and management activities are to be decided on the administrative record.

Several changes were made to this section to respond to concerns expressed by the President of the Wilderness Society.

TITLE II—COORDINATION AND COMPLIANCE WITH OTHER ENVIRONMENTAL LAWS

SEC. 201. PURPOSES.—The purposes of this title are to eliminate primarily procedural conflicts among, and coordinate, the various land management and environmental laws without reducing—indeed enhancing—environmental protection. A wide variety of reports from diverse sources have consistently sounded the theme that conflicting laws have made management of federal lands more difficult. Among these reports are both the Committee of Scientists report (p. xli) and the SAF report (pp. 23–24), the 1992 Office of Technology Assessment report Forest Service Planning: Accommodating Uses, Producing Outputs and Sustaining Ecosystems (p. 59), and the 1997 GAO report Forest Service Decision-making: A Framework for Improving Performance (p. 11). The SAF report (p. 23) summarizes one fundamental consequence: ''Because [other federal and state] agencies have different missions, they interpret statutes and regulations differently. The result, too often, is that they fail to agree on land management decisions. In recent cases, land management has been guided as much by decisions of the regulatory agencies as by the resource agencies.''

The SAF report finds that legislation is required to address this problem; the Committee Scientists report (p. xli), which focuses on recommendations to improve Forest Service regulations, opines that, as to this problem, legislative action may be necessary. This part approaches, but does not go as far as, the principal recommendation of the SAF report (pp. 55–56) relevant to this problem: ''Consistent with sound land management theory, the federal land management agencies should be given broad authority and responsibility to meet all environmental requirements. Consultation is appropriate, but other federal and state agencies should not have the responsibility for approving land management activities. If the federal land management agencies do not act in a prudent, responsible fashion, their actions should be subject to legal challenges.''

SEC. 202. ENVIRONMENTAL ANALYSIS.—This section describes how compliance with the National Environmental Policy Act will occur in resource management planning and planning for management activities. It requires that EIS be prepared whenever a resource management plan is developed or revised. (Plan amendments may have either and EIS or EA depending on their significance.) This section also provides that, for management activities, an EA ordinarily is prepared. The EA for the management activity is to be tiered to the EIS for the applicable resource management plan. The agency may prepare a full EIS on a management activity if it determines the nature or scope of the activity's environmental impacts is substantially different from, or greater than, the nature or scope of impacts analyzed in the EIS on the applicable resource management plan.

SEC. 203. WILDLIFE PROTECTION.—This section addresses the relationship of the Endangered Species Act to federal land planning and management. First, it provides a certification procedure by which the Forest Service and BLM can become certified by the Fish and Wildlife Service to conduct the consultation responsibilities normally assigned to the Fish and Wildlife Service and National Marine Fisheries Services by section 7 of the ESA. If they are certified, the two land management agencies will have the authority to prepare the biological opinions under the ESA just as they now prepare EISs under NEPA.

Second, this section addresses situations in which the resource management plan may have to undergo consultation because of a new designation of an endangered or threatened species or of a species' critical habitat, or new information about an already designated species or habitat. This section requires that a decision be reached as to whether consultation is required on the plan within 90 days of the new designation, and that any amendment to or revision of the plan be completed within 12 or 18 months, respectively, after the new designation. It also allows individual management activities to continue under the plan while it is being amended or revised, if those activities either separately undergo consultation concerning the newly designated species or habitat or are determined not to require consultation.

SEC. 204. WATER QUALITY PROTECTION.—This section addresses the relationship of the Clean Water Act (CWA) to federal land planning and management. It provides that any management activity that constitutes a nonpoint source of water pollution is to be considered in compliance with applicable CWA provisions if the State in which the activity will occur certifies that it meets best management practices or their financial equivalent. The agency, however, may choose not to seek State certification and satisfy the separate applicable CWA requirements.

SEC. 205. AIR QUALITY PROTECTION.—This section addresses the relationship of the Clean Air Act (CAA) to federal land planning and management. It provides that, when a Forest Service forest supervisor or BLM district manager (after providing an opportunity for review by the appropriate Governor) finds that a prescribed fire will reduce the likelihood of greater emissions from a wildfire, and will be conducted in a manner that minimizes impacts on air quality to the extent practicable, the prescribed fire is deemed to be in compliance with applicable CAA provisions.

SEC. 206. MEETINGS WITH USERS OF THE FEDERAL LANDS.—This section addresses the

relationship of the Federal Advisory Committee Act (FACA) to federal land planning and management. It clarifies that the agencies may meet without violating FACA with one or more: holders of, or applicants for, federal permits, leases, contracts or other authorizations for use of the federal lands; other than persons who conduct activities on the federal lands; and persons who own or manage lands adjacent to the federal lands.

TITLE III—DEVELOPMENT OF A GLOBAL RENEWABLE RESOURCES ASSESSMENT

SEC. 301. PURPOSES.—The purpose of this title is to replace the Renewable Resource Assessment and Renewable Resource Program administered by the Forest Service under the Forest and Rangeland Renewable Resources Planning Act of 1974 with a Global Renewable Resources Assessment administered by an independent National Council on Renewable Resource Policy.

SEC. 302. GLOBAL RENEWABLE RESOURCES ASSESSMENT.—This section emphasizes the vital importance of renewable resources to national and international social, economic, and environmental well-being, and of the need for a long-term perspective in the use and conservation of renewable resources. To achieve that perspective, this section directs that a Global Renewable Resources Assessment be prepared every 5 years. The Assessment must include: (1) an analysis of national and international renewable resources supply and demand; (2) an inventory of national and international renewable resources, including opportunities to improve their yield of goods and services; (3) an analysis of environmental constraints and their effects on renewable resource production in the U.S. and elsewhere; (4) an analysis of the extent to which the renewable resources management programs of other countries ensure sustainable use and production of such resources; (5) a description of national and international research programs on renewable resources; (6) a discussion of policies, laws, etc. that are expected to affect significantly the use and ownership of public and private renewable resource lands; and (7) recommendations for administrative or legislative initiatives.

SEC. 303. NATIONAL COUNCIL ON RENEWABLE RESOURCES POLICY.—This section establishes the National Council on Renewable Resources Policy. Its functions are the preparation and submission to Congress of the Global Renewable Resources Assessment and the periodic submission to the Forest Service, BLM, and four Committees of Congress of recommendations for administrative and legislative changes or initiatives.

The Council has 15 members, 5 each appointed by the President, President pro tempore of the Senate, and Speaker of the House. The Chair is to be selected from the members. This section has typical provisions for filling vacancies, appointment of an Executive Director, compensation of the members and the Executive Director, appointment of personnel, authority to contract with federal agencies, and rulemaking and other powers of the Council.

This section strives to ensure the independence of the Council in three ways. First, it requires that the Council submit its budget request concurrently to both the President and the Appropriations Committees of Congress. Second, it requires concurrent submission of the Assessment, analyses, recommendations, and testimony to Executive Branch officials or agencies and the four Committees of Congress. Finally, it prohibits any attempt by a federal official or agency to require prior submission of the Assessment, analyses, recommendations, or testimony for approval, comments, or review.

SEC. 304. REPEAL OF CERTAIN PROVISIONS OF THE FOREST AND RANGELAND RENEWABLE RESOURCES PLANNING ACT.—This section repeals those provisions of the Forest and Rangeland Renewable Resources Planning Act that direct the Forest Service to prepare a Renewable Resource Assessment and Renewable Resource Program.

TITLE IV—ADMINISTRATION.

PART A. IN GENERAL

SEC. 401. CONFIRMATION OF THE CHIEF OF THE FOREST SERVICE.—This section provides for Senate confirmation of appointments to the office of Chief of the Forest Service, thereby establishing the same appointment procedures as those applicable to the Director of the BLM. This section also sets certain minimum qualifications for the appointee: (1) a degree in a scientific or engineering discipline that is relevant to federal land management; (2) 5 years or more experience in decisionmaking concerning management, or research concerning the management, of federal lands or other public lands; and (3) 5 years or more experience in administering an office or program with a number of employees equal to, or greater than, the average number of employees in national forest supervisors' offices.

SEC. 402. INTERAGENCY TRANSFER AND INTERCHANGE AUTHORITY.—This section authorizes the BLM and Forest Service to transfer between them adjacent lands not exceeding 5,000 acres or exchange adjacent lands not exceeding 10,000 acres per transaction. These transactions are: (1) to occur without tranfer of funds; (2) to be effective 30 days or more after publication of Federal Register notice; (3) not to affect any legislative designation for the lands involved; and (4) subject to valid existing rights. In response to the testimony of the President of the Wilderness Society, a proviso is added that absolutely prohibits modification or removal of any special designation of, or any special management direction applicable to, lands transferred or interchanged under this section that was made or provided by statute, except by another Act of Congress. The proviso also provides that administrative designations may be altered or removed only by amendments to the applicable resource management plans.

SEC. 403. COMMERCIAL FILMING ACTIVITIES.—This section requires the agencies to issue permits and charge fees for commercial filming and still photography on federal lands. It is modelled on S. 568, introduced by Senator Thomas.

Criteria for setting the fee for commercial filming are based on the scale of the filming activities and their potential impact on the federal lands. The agencies are also to recover any costs they incur as a result of the filming activities. The agencies are required to issue permits and collect fees for still photography when models or props not part of the federal lands or resources are used, and may issue permits and collect fees when there is a likelihood of resource impact, disruption of public use, or risk to public health or safety.

The fees and costs collected under this section are to be retained in a special account in the Treasury and used, without appropriation, for high-priority visitor or resource management activities in the federal land units where the permitted activities occurred.

SEC. 404. VISITOR FACILITIES IMPROVEMENT DEMONSTRATION PROGRAMS.—This section is modeled on legislation prepared by the Forest Service for the Administration's FY 2000 budget request. It directs the agencies to develop demonstration programs to evaluate the use of private funding for the construction, rehabilitation, maintenance, and operation of federally owned visitor centers on federal lands. Each agency is authorized to undertake up to 15 projects in which individuals, corporations, public agencies, and nonprofit groups are selected competitively to develop and operate new, or improve and operate existing, visitor centers. The terms of the projects are to be based on the agencies' estimates of the time necessary for the concessionaires to depreciate their capital investments in the projects, but in no case more than 30 years. When a project is terminated or revoked, the agency or succeeding concessionaire will purchase any remaining value in the capital investment that is not fully depreciated. The agencies are also authorized to sell existing federally owned visitor facilities at fair market value, so long as the purchasers agree that any construction will be consistent with the applicable resource management plans.

The agencies are directed to charge concession fees established by the concessionaires' competitive bids, and those fees are to be used, without appropriation, for enhancing visitor services and facilities. The concessionaires must provide bonds 5 years before the end of the projects to ensure that the visitor facilities will be in satisfactory condition for future use. The Secretary of Agriculture and the Secretary of the Interior are each required to submit a report to the four Committees of Congress evaluating the demonstration program and making any appropriate recommendations on whether to make the program permanent.

SEC. 405. FEES FOR LINEAR RIGHTS-OF-WAYS.—This section incorporates legislation prepared by the Forest Service for the Administration's FY 2000 budget request. It directs each agency to collect rental fees for all linear rights-of-way for power lines, roads, pipelines, etc. under section 501 of FLPMA and the Act of February 25, 1920, except for rights-of-way that are exempted by law or regulation.

SEC. 406. FEES FOR PROCESSING RECORDS REQUESTS.—To discourage inordinately broad ''fishing expedition'' requests under the Freedom of Information Act that severely tax agency funding and personnel, this section prohibits the waiver or reduction of fees under that Act for any records request to the Forest Service or BLM that will cost in excess of $1000 for a single request or for multiple requests of any one party within a 6-month period.

SEC. 407. OFF-BUDGET STUDY.—The SAF report speculates (pp. 27–28) that under certain assumptions the BLM and the Forest Service could become ''self-financing.'' The Committee of Scientists report (p. 179) suggests that ''the Forest Service should consider the development of more self-funding activities to reduce its dependence on appropriated funds.'' To test these speculations and suggestions, this section tasks the GAO with the responsibility to conduct a study for Congress of the feasibility of making the Forest Service and BLM self-supporting by taking the agencies off-budget (no appropriated funds) and returning to them all revenues generated on federal lands (with mineral revenues from national forest lands allocated to the Forest Service), except revenues which by other laws are paid to States and local governments.

SEC. 408. EXEMPTION FROM STRICT LIABILITY FOR THE RECOVERY OF FIRE SUPPRESSION

COSTS. Section 504 of FLPMA directed the Secretary of the Interior to promulgate regulations governing liability of users of rights-of-way granted under that Act. The subsequent regulations imposed liability without fault for, among other things, the recovery of fire suppression costs of up to $1 million (43 C.F.R. §2803.1–5). This section would amend section 504 to relieve entities that use the rights-of-way for electrical transmission from strict liability for such costs. This provision does not relieve these entities from liability for fire suppression costs when they are at fault.

PART B. NONFEDERAL LANDS

This part seeks to increase the timeliness and cost efficiency of Forest Service and BLM decisionmaking which directly affects private lands.

SEC. 409. ACCESS TO ADJACENT OR INTERMINGLED NONFEDERAL LANDS.—This section establishes procedures for processing applications for access to nonfederal land across federal land as guaranteed by section 1323 of the Alaska National Interests Lands Conservation Act (ANILCA). First, this section requires that the application processing be completed within 180 days and, if it is not, the access be deemed approved. It sets a 15-day deadline for notifying the applicant whether the application is complete. This section makes clear that the analyses conducted under the National Environmental Policy Act and Endangered Species Act are to consider the effects of the construction, maintenance and use of the access across the federal lands not the use of the nonfederal lands to be accessed. Finally, it clarifies that any restrictions imposed on the access grant pursuant to section 1323 of ANILCA may limit or condition the construction, maintenance, or use of the access across the federal lands, but not the use of the nonfederal lands to be accessed.

SEC. 410. EXCHANGES OF FEDERAL LANDS FOR NONFEDERAL LANDS.—This section establishes procedures for exchanges under, and amends, section 206(b) of FLPMA. As any management activity on any federal lands or interests in lands newly acquired under an exchange will be required to undergo full National Environmental Policy Act and Endangered Species Act review, this section provides that on the exchange itself an EA satisfies the environmental analysis requirements of section 102(2) NEPA and any consultation required under ESA will be completed within 45 days instead of the 90-day period provided by section 7 of ESA. Further, this section provides that any exchange mandated by Congress requires no NEPA documentation. This section also explicitly states that no management activity may be undertaken on the newly acquired federal lands or interests in land until NEPA and ESA are fully complied with and, if necessary, the applicable resource management plan is amended or revised. This section requires that processing of the exchange must be completed within one year of the date of submission of the exchange application. Further, the nonfederal land or interests in land in the exchange are to be appraised without restrictions imposed by federal or State law to protect an environmental value or resource if protection of that value or resource is the very reason why the land is being acquired by the federal government.

This section also allows the Forest Service and BLM to offer for competitive bid the exchange of federal lands or interests in land that meets certain conditions. It also authorizes the agencies to identify early or ''prequalify'' federal lands or interests in land for exchange. Further, when an exchange involves school trust lands, the agency is excused from conducting a cultural assessment under section 106 of the National Historic Preservation Act if it enters into an agreement with the State that ensures State protection after the exchange of archaeological resources or sites to the maximum extent practicable. Further, this section authorizes the Forest Service to exchange federally owned subsurface resources within the National Forest System or acquired under the Bankhead-Jones Farm Tenant Act of 1937.

This section establishes special funds with a cap of $12,000,000 for the agencies to use, subject to appropriations, for processing land exchanges (including making cash equalization payments where required to equalize values of exchange properties). Finally, the maximum value of lands in an exchange which may be undertaken on the basis of approximately equal value (rather than strictly equal value) is raised from $150,000 to $500,000.

PART C. THE FOREST RESOURCE

This part contains 5 sections concerning sales of forest products on federal lands. This bill drops a provision contained in its predecessors that allowed bidding on timber sales for the express purpose of protecting—not harvesting—the trees. This provision had the distinction of garnering opposition from both the timber industry and the environmental community.

SEC. 411. TIMBER SALE PREPARATION USER FEE.—This section is modeled on legislation prepared by the Forest Service for the Administration's FY 2000 budget request. It authorizes the agencies to develop 8-year pilot programs to recover from timber purchasers the direct costs of timber sale preparation and harvest administration. Alternatively, purchasers can elect to contract with parties on approved agency lists to conduct timber sale administration activities. Exempted from collection under the programs would be the costs of complying with the National Environmental Policy Act, conducting stewardship timber sales under section 347 of the fiscal year 1999 Interior and Related Agencies Appropriation Act, and conducting timber sales where the fees would adversely affect the sales' marketability or the ability of small businesses to bid on the sales. Fees collected are to be used to pay for the administration of the pilot programs.

SEC. 412. FOREST HEALTH CREDITS IN SALES OF FOREST PRODUCTS.—This section provides the Forest Service and BLM with an optional approach to undertaking forest health management activities that would be impractical for the agencies to accomplish under existing procedures or within existing programs. This approach permits the agencies to include new provisions in the standard contract provisions for any salvage sale of forest products or any sale of forest products constituting a forest health enhancement project under section 413. These new provisions would obligate the purchaser to undertake certain forest health management activities which could logically be performed as part of the sale. In return, the purchaser receives ''forest health credits'' to offset the cost of performing the activities against the purchaser's payment for the forest products. These forest health management activities are subject to the same contractual requirements as all other harvesting activities. Sale contracts with these forest health credits provisions are to have terms of no more than 3 years.

Before forest health credits provisions can be included in a contract of sale of forest products, the agency concerned has to identify and select the specific forest health management activities. Forest health activities would be eligible for forest health credits if the agency concerned finds that: (1) they would address the effects of the operation of the sale or past sales, or involve vegetation management within the sale area; and (2) they could be accomplished most effectively when performed as part of the sale contract, and would not likely be performed otherwise. Forest health management activities are defined to include thinning, salvage, stand improvement, reforestation, prescribed burning or other fuels management, insect or disease control, riparian or other habitat improvement, or other activity which has any of 5 purposes: improve forest health; safeguard human life, property, and communities; protect other forest resources threatened by adverse forest health conditions; restore the integrity of ecosystems, watersheds, and habitats damaged by adverse forest health conditions; or protect federal investments in forest resources and future federal, State, and local revenues.

Once the determination is made to add forest health management activities requirements to a sale of forest products, the specific activities are identified, and their costs are appraised, the required activities and the forest health credits assigned to those activities are identified in the sale's advertisement and prospectus. (After the sale, the agency, with the concurrence of a sale purchaser, can alter the scope of the forest health management activities or amount of credits when warranted by changed conditions.) This section provides that sales with forest health credits need not return more revenues than they cost and are not to be considered in determining the revenue effects of individual forest, Forest Service region, or national forest products sales programs.

Appropriated funds can be used to offset the costs of forest health management activities prescribed in a forest products sale contract (typically when the total cost of such activities would otherwise exceed the value of the offered forest products materials or likely dampen competitive interest in the sale), but only if those funds are derived from the resource function or functions which would directly benefit from the performance of the activities and are appropriated in the fiscal year in which the sale is offered. The amount of any appropriated funds to be paid for forest health management activities under a sale contract also must be announced in the sale's advertisement and prospectus.

All forest health credits earned by the purchaser are redeemable. Earned forest health credits can be transferred to any other sale of forest products held by the purchaser which is located in the same region of the Forest Service or same jurisdiction of the BLM State office, as the case may be. The credits are considered ''earned'' when the purchaser satisfactorily performs the forest health management activity to which the credits are assigned in the sale advertisement. If the purchaser normally would be required to pay for all the forest products materials prior to completion of a forest health management activity or activities assigned forest health credits, the purchaser could elect to defer a portion of the final payment for the harvested materials equal to the forest health credits assigned to the activity.

This section sunsets in 5 years, but previously awarded contracts for sale of forest products with forest health credits provisions remain in effect under the terms of this

section after that time. To assist the Congress in determining whether this section should be reenacted, the Forest Service and BLM are required to monitor the performance of sales contracts with forest health credits and submit a joint report to Congress assessing the contracts' effectiveness and whether continued use of such contracts is advised.

SEC. 413. SPECIAL FUNDS.—This section gives permanent status to the funds for salvage sales of forest products of the Forest Service and BLM and expands their purposes to allow use of the fund monies for a full array of forest health enhancement projects.

SEC. 414. PRIVATE CONTRACTORS.—To ensure that processing of sales of forest products is accomplished in a timely manner in an era of severe budget and personnel constraints, this section encourages that the agencies, to the maximum extent possible, use private contractors to prepare the sales. To ensure the integrity of sale decision-making, this section also requires the agencies to review the contractors' work before making any decisions on the sales and bars the contractors from commenting on or participating in the sales' decisions.

SEC. 415. SPECIAL FOREST PRODUCTS.—This section is modeled on legislation prepared by the Forest Service for the Administration's FY 2000 budget request. It directs the Forest Service to collect fees for the fair market value (established by appraisal methods or bidding procedures) of special forest products harvested from national forest lands and the costs for authorizing and monitoring the harvesting. Special forest products are defined as any vegetation or other life form not excluded from fees by regulation. The Forest Service is to use the fair market value fees collected under this section for conducting inventories of special forest products and assessing and addressing any impacts from harvesting activities, and the recovered costs for administration of the program.

TITLE V—MISCELLANEOUS

SEC. 501. REGULATIONS.—This section requires the Forest Service and BLM to promulgate rules to implement this legislation within a year and a half of its enactment.

SEC. 502. AUTHORIZATION OF APPROPRIATIONS.—This section authorizes appropriations to implement this legislation for 10 fiscal years after enactment. It also sunsets at the same time all other statutory authorizations for appropriations to the Forest Service and BLM for management of the federal lands.

SEC. 503. EFFECTIVE DATE.—This section provides that this legislation will take effect upon its enactment, and admonishes that no decision or action authorized by this legislation is to be delayed pending rulemaking.

SEC. 504. SAVINGS CLAUSES.—This section ensures that nothing in this legislation conflicts with the law pertaining to the revested Oregon and California Railroad and Coos Bay Wagon Road grant lands in Oregon. Further, this section bars construing any provision of this legislation as terminating any valid lease, permit, right-of-way, or other right or authorization of use of the federal land existing upon enactment and as altering in any way any Native American treaty right. Finally, this section provides that all actions under this legislation are subject to valid existing rights.

SEC. 505. SEVERABILITY.—This final section contains the standard severability clause.

By Mr. WELLSTONE (for himself and Mrs. MURRAY):

S. 1321. A bill to amend title III of the Family Violence Prevention and Services Act and title IV of the Elementary and Secondary Education Act of 1965 to limit the effects of domestic violence on the lives of children, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

CHILDREN WHO WITNESS DOMESTIC VIOLENCE PROTECTION ACT OF 1999

Mr. WELLSTONE. Mr. President, today, I am introducing the Children Who Witness Domestic Violence Protection Act. My legislation, which I am joined by Senator MURRAY in offering today, is a comprehensive first step towards confronting the impact that witnessing domestic violence has on children. This bill addresses the issue from multiple perspectives, including mental health, education, child protection services, supervised visitation centers, law enforcement, and crisis nurseries.

There are many facets to the serious problem we have with violence in our country. The evening news brings violent images from around the world into our homes every day. We also witness through various media the violent images or hear stories of violence that has occurred in our own communities and in our schools like Columbine High.

Images of violence bombard our children from the movies, video games, or from television programs. But there is a type of violence in the lives of America's children that is not in the spotlight. Increasingly, children are witnessing real-life violence in their homes. In fact, it is in their own homes that many children witness violence for the first time.

Over 3 million children are witnessing violence in their homes each year, and it is having a profound impact on their development.

Frequently, these children are physically injured by the violence. But always, they carry with them lasting emotional sears from having been exposed to the threat and trauma of injury, assault or killing. This exposure to domestic violence changes the way children view the world. It may change the value they place on life itself. It affects their ability to learn, to establish relationships, and to cope with stress.

Witnessing domestic violence has such a profound impact on children, placing them at high risk for anxiety, depression, and, potentially, suicide. Further, these child victims may exhibit more aggressive, antisocial, and fearful behaviors. They are also at greater risk of becoming future offenders.

Studies indicate that children who witness their fathers beating their mothers suffer emotional problems, including slowed development, sleep disturbances, and feelings of helplessness, depression and anxiety. Many of these children exhibit more aggressive, antisocial, fearful and inhibited behaviors. They also show lower social competence than other children.

Children from homes where their mothers were abused have also shown less skill in understanding how others feel and in examining situations from the other's perspective when compared to children from non-violent households. Even one episode of violence can produce post-traumatic stress disorder in children.

Exposure to family violence, many studies suggest, is the strongest predictor of violent delinquent behavior among adolescents. It is estimated that between 20 and 40 percent of chronically violent adolescents have witnessed extreme parental conflict.

Recent studies have demonstrated that up to 50% of children who come before the juvenile dependency court on allegations of abuse and neglect have been exposed to domestic violence in their homes.

In a Justice Department funded study of children in Rochester, NY, children who had grown up in families where domestic violence occurred were 21 percent more likely to report violent delinquency than those not so exposed. Children exposed to multiple forms of family violence reported twice the rate of youth violence as those from non-violent families.

A 1994 survey of 115 mothers in the waiting room of Boston City Hospital's Primary Care Clinic found that by age 6, one in ten children had witnessed a knifing or shooting. An additional 18 percent of the children under six had witnesses pushing, hitting or shoving. Half of the reported violence occurred in the child's home.

Many children actually see their father, stepfather, or mother's boyfriend not only beat their mothers but rape them as well. Although some parents believe that they succeed in shielding their children from the batterer's aggression, children often provide detailed accounts of the very events which adults report they did not witness. Reports by children and by adults of their memories of childhood experience indicate that parents severely underestimate the extent to which their children are exposed to violence.

Children who witness domestic violence are traumatized and need support. Who is a child going to turn to when their mother is the victim of their father? Who is a child going to talk to when their sibling has emotionally shut down and no longer speaks? Who is a child going to go to for help when they need assistance?

Children have the right to know that what is happening in their home is wrong. Children have the right to feel that we are about their safety.'

This bill addresses the issue from multiple perspective including mental health, education, children protection services, supervised visitation centers, law enforcement, and crisis nurseries.

There are some creative programs in this country that are forging partnerships in their communities to meet the

needs of traumatized children. I have visited such programs in Boston, San Francisco and Minnesota.

More must be done.

To address the devastating impact that witnessing domestic violence has on the mental health of children, my legislation provides nonprofit agencies with the funds needed to design and implement multi-system interventions for child witnesses. This partnerships would involve the courts, schools, health care providers, child protective services, battered women's programs and others. Promoting collaboration and coordination among all the professionals involved can broaden the community's response to the child.

This response would include developing and providing: Guidenace to evaluate the need of child witnesses; safety and security procedures for child witnesses and their families; counseling and advocacy for families of child witnesses; mental health treatment services; and outreach and training to community professionals.

My legislation also encourages collaboration between domestic violence community agencies and schools to provide educational programming and support services for students and staff. Domestic violence agencies will work with schools to provide: Training for school officials about domestic violence and its impact on children; educational programming and materials on domestic violence for students; and support services, such as counselors, for students and school officials.

Among the many detrimental impacts of witnessing domestic violence, children exposed to domestic violence are at high risk for learning difficulties and school failure. Research indicates that children residing in shelters show significantly lower verbal and quantitive skills when compared to children nationally. These deficits, when coupled with the impact on children's behavioral and emotional functioning, demand that schools be able to understand and address the needs of children who have witnessed domestic violence. Further, service providers continue to find that the occurrence of domestic violence could be detected sooner if various points of contact with the family had been better trained to recognize the indicators of such family violence.

Children cannot always compartmentalize traumatic events—instead the domestic violence comes to school with each and every child witness. It undermines their school performance, and their relationship with other children.

This legislation also addresses domestic violence and the people who work to protect our children from abuse and neglect. There is a significant overlap between domestic violence and child abuse. In families where one form of family violence exists, there is a likelihood that the other does, too. In a national survey, researchers found that 50 percent of the men who frequently assaulted their wives also frequently abused their children.

The problem is that Child Protective Services and domestic violence organizations have separately set up programs to address one of these forms of violence, yet few address both when they occur together in families. My bill creates incentives for local governments to collaborate with domestic violence agencies in administering their child welfare programs.

Under my legislation, funds will be awarded to States and local governments to work collaboratively with community-based domestic violence programs to: Provide training to the staff, supervisors, and administrators of child welfare service agencies and domestic violence programs, including staff responsible for screening, intake, assessment, and investigation of reports of child abuse and neglect; assist agencies in recognizing that the overlap between child abuse and domestic violence places both children and adult victims in danger; develop relevant protocols for screening, intake, assessment, investigation, and interventions; and increase the safety and well-being of child witnesses of domestic violence as well as the safety of the non-abusing parent.

Another important part of my legislation is funding to increase the availability of supervised visitation centers. Since domestic violence often escalates during separation and divorce, and visitation is frequently used as an opportunity for abuse, this provision is designed to shield children from further exposure to violence. It creates a grants program which domestic violence service providers can apply for on a competitive basis to create family visitation centers. Use of these centers can minimize stressful and potentially dangerous interactions among family members. In addition, the centers provide judges with a further tool to deal with problematic visitations when there has been a history of violence.

On July 3, 1996 5 year old Brandon and 4 year old Alex were murdered by their father during an unsupervised visit. Their mother Angela was separated from Kurt Frank, the children's father. During her marriage, Angela was physically and emotionally abused by Frank, and Frank had hit Brandon and split open his lip when he stepped in front of his mother during a domestic violence incident. Angela had an Order of Protection against Kurt Frank, but during custody hearings her request for her husband to only receive supervised visits was rejected. Kurt Frank murdered his two sons during an unsupervised visit. We must do better for the 3 million children witnesses still living out there.

Law enforcement officers are those who find traumatized children hiding behind doors, beneath furniture, in closets. They are generally the first to arrive and their ability to recognize and address the needs of the children is critical.

This bill provides further training to law enforcement officers regarding the appropriate treatment of children who have witnessed domestic violence. Police officers will be trained in child development and issues related to domestic violence so that they may: Recognize the needs of children who have witnessed domestic violence; meet children's immediate needs at the scene of the crime; and establish a collaborative working relationship between police officers and local domestic violence service agencies.

Families faced with domestic violence also need a safe place for their children during times of crisis.

This legislation provides funds to States to assist private and public agencies and organizations to provide crisis nurseries for children who are abused, neglected, at risk of abuse or neglect, or who are in families receiving child protective services. Nurseries will be available to provide a safe place for children and to alleviate the social and emotional stress among children and families impacted by domestic violence.

In conclusion, we must pass this legislation for children who are traumatized by what they have seen. We must pass this legislation for children like Brandon and Alex who deserve to have our protection from harm.

Please join me in the protection of children who witness domestic violence.

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

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

CHILDREN WHO WITNESS DOMESTIC VIOLENCE PROTECTION ACT OF 1999—SUMMARY

The Children Who witness Domestic Violence Protection Act is a comprehensive first step toward confronting the impact that witnessing domestic violence has on children. Over 3 million children in the United States witness domestic violence in their homes each year. These children are at a high risk for aggression, depression, learning difficulties, school failure, delinquency, and even suicide. The attitudes a child develops concerning the use of violence and conflict resolution in their own relationship are also affected. Further, children living in homes where domestic violence occurs are at a greater risk of being abused themselves. This bill addresses the needs of children witnesses domestic violence by providing for mental health services, education programs, child protection services, supervised visitation centers, the training and support of law enforcement personnel, and crisis nurseries.

MENTAL HEALTH

Multi-System Interventions for Children Who Witness Domestic Violence.

This bill will provide nonprofit agencies with funding to bring various service providers together to design and implement intervention programs for children who witness domestic violence. These working partnerships will involve counselors, courts, schools, health care providers, battered women's programs and others. Intervention programs will include counseling and advocacy for child witnesses and their families, strategies to ensure the safety and security of the children and their families, and outreach and training to community professionals about the issue of children witnessing domestic violence. Funds can be use to develop new programs or to carry out programs that have been successful in other communities. Authorization of appropriations for the multi-system interventions is $5,000,000 for 3 years (totaling $15,000,000).

EDUCATION

Combatting the Impact of Witnessing Domestic Violence on Elementary and Secondary School Children.

This bill will create opportunities for domestic violence community agencies and elementary and secondary schools to work together to address the needs of children who witness domestic violence. Domestic violence agencies will work with schools to provide domestic violence training to school officials so they can understand how witnessing domestic violence affects the children in their schools. Educational programming and materials will be provided to students to they can learn about the problem. Also, support services such as counselors will be provided for students and school officials to help address the problems of children witnessing domestic violence. Authorization of appropriations for combating the impact of witnessing domestic violence on school children is $5,000,000 for 3 years (totaling $15,000,000).

CHILD PROTECTION SERVICES

Child Welfare Worker Training on Domestic Violence.

This bill will provide training to both child welfare and domestic violence workers to assist them in recognizing the treating domestic violence as a serious problem threatening the safety and well being of both children and adults. Funds will be awarded to States and local governments to work with one or more community-based programs to provide training and assistance to workers in the area of domestic violence as it relates to cases of child welfare.

Training will include teaching staff to recognize the overlap between child abuse and domestic violence which places both children and adult victims in danger, and developing methods for identifying the presence of domestic violence in child welfare cases. Staff will also be taught how to increase the safety and well-being of child witnesses of domestic violence as well as the safety of the non-abusing parent. Protocols will be developed with law enforcement, probation and other justice agencies in order to ensure that justice system interventions and protections are readily available for victims of domestic violence served by the social service agency.

Authorization of appropriations for child welfare worker training is $5,000,000 for 3 years (totaling $15,000,000).

SUPERVISED VISITATION CENTERS

This bill increases the availability of visitation centers for visits and visitation exchange of child witnesses and their parents. It provides money which domestic violence service providers can use to establish an operate supervised visitation centers. Authorization of appropriations for safe havens from the Violent Crime Reduction Trust Fund is $20,000,000 for 3 years (totaling $60,000,000).

LAW ENFORCEMENT: POLICE OFFICER TRAINING

This bill provides training to law enforcement officers in how to care for children who have witnessed domestic violence. Police officers will be trained in child development and issues related to domestic violence so that they may recognize the needs of children who have witnessed domestic violence. Police officers will be taught how to meet children's immediate needs at the scene of violence. Authorization of appropriations for law enforcement officer training from the Violent Crime Reduction Trust Fund is $3,000,000 for 3 years (totaling $9,000,000).

CRISIS NURSERIES

This bill provides funds to States to assist private and public agencies and organizations to provide crisis nurseries for children. Families faced with domestic violence need a safe place for their children during times of crisis. Authorization of appropriations for crisis nurseries of $15,000,000 for 3 years (totaling $45,000,000).

By Mr. DASCHLE (for himself, Mr. HARKIN, Mr. DODD, and Mr. KENENDY):

S. 1322. A bill to prohibit health insurance and employment discrimination against individuals and their family members on the basis of predictive genetic information or genetic services; to the Committee on Health, Education, Labor, and Pensions.

THE GENETIC NONDISCRIMINATION IN HEALTH INSURANCE AND EMPLOYMENT ACT OF 1999

Mr. DASCHLE. Mr. President, today, with my colleagues Senators KENNEDY, HARKIN, and DODD, I announce the introduction of the Genetic Nondiscrimination in Health Insurance and Employment Act of 1999, a piece of legislation designed to stop genetic discrimination. The advent of testing for genes that indicate a predisposition to disease has presented us with a new series of opportunities and challenges. While prior awareness of susceptibility to disease offers millions the chance to take preventive measures that will help them live healthier and longer lives, there also exists the possibility that genetic information will be misused. It is for that reason that we Democrats feel strongly that measures must be taken to ensure that health insurers may not discriminate against patients on the basis of predictive genetic information, and that employers may not discriminate against employees in the provision of health insurance or by withholding job benefits as a result of the improper use of genetic information.

When the Patients' Bill of Rights reaches the floor after the July recess, we hope to offer this bill as an amendment to the bill under consideration. This issue, like many others, exposes a fault line between the Republican and Democratic approach to health insurance reform.

Scientific advances now make it possible to identify genes that indicate a predisposition to disease. For example, tests for genes associated with hereditary breast cancer are commercially available. Genetic information may prove highly beneficial in areas related to prevention, treatment, diet, or lifestyle. While this is profoundly good news for patients, it also raises fears regarding how genetic information will be used in the workplace. Advances in genetic and screening, accelerated by the Human Genome Project at the National Institutes of Health, increase physicians' ability to detect genetic mutations. These technologies and their resulting genomic data will enhance medical science, but may also lead to discrimination.

Regrettably, many employers may not hire individuals whom they believe will require time off or medical treatment at some point in the future due to a genetically transmitted disease. Equally disturbing, employers may simply deny insurance coverage to employees who they believe are predisposed to genetic disease. This discrimination could result despite the fact that genetic testing only indicates that an individual may be predisposed to a disease—not necessarily whether that disease will develop.

This issue is already touching the lives of many Americans. For example, a survey last year by the American Management Association of over 1,000 companies indicated that 5% of responding employers currently do genetic testing of their employees. While that number may sound small, its more than the number of companies who test for HIV status. And of those companies who do genetic testing on their employees, 19% have chosen not to hire an individual and 10% have dismissed an employee based on the genetic test results.

Anecdotal evidence suggests that fear of discrimination already has inhibited people who may be susceptible to disease from getting genetic testing. In some cases, this means that gene carriers will miss out on early diagnosis, treatment or even prevention. If consumers avoid taking advantage of available diagnostic tests out of fear of discrimination, they may suffer much more serious—and more expensive—health problems in the long run.

That is why our proposal to ban employment discrimination is clearly supported by the American people. A recent national poll by the National Center for Genome Resources demonstrates that an overwhelming majority of those surveyed—85%—think that employers should be prohibited from obtaining information about an individual's genetic conditions, risks, and predispositions.

We will pay the price in more than increased health care costs if we allow genetic information to be used in a discriminatory manner. Discrimination based on genetic factors can be as unjust as that based on race, national origin, religion, sex or disability. In each case, people are treated inequitably, not because of their inherent abilities, but solely because of irrelevant characteristics. Genetic discrimination that excludes qualified individuals from employment robs the marketplace of skills, energy, and imagination. Finally, genetic discrimination undercuts the Human Genome Project's fundamental purpose of promoting public health. Investing resources in the Human Genome Project is justified by the benefits of identifying, preventing and developing effective treatments for disease. But if fear of discrimination deters people from genetic diagnosis or from confiding in physicians and genetic counselors, and makes them more concerned with job loss than with care and treatment, our understanding of the humane genome will be for naught.

Because genetic information could be used unfairly, Congress must expand the scope of its anti-discrimination laws to include a ban on genetic discrimination. Our bill has three major components: (1) it forbids employers from discriminating in hiring or in the terms and conditions of employment on the basis of genetic information, (2) it forbids health insurers from discriminating against individuals on the basis of genetic information, and (3) it prevents the disclosure of genetic information to people who have no legitimate need for the information: health insurers, health insurance data banks, or to employers.

Now, before the use of genetic information becomes widespread, we must make sure that dramatic scientific advances do not have negative consequences for the public. We have an historic opportunity to preempt this problem. I hope that my colleagues will join me in supporting this important legislation.

Mr. DODD. Mr. President, over the past decade the science of identifying genetic markers for diseases has evolved at an astonishing pace. For an increasing number of Americans science fiction has become reality—their doctors can now scan their unique genetic blueprints and predict the likelihood of their developing diseases like cancer, Alzheimer's or Parkinson's.

Armed with this knowledge, individuals and families can make informed decisions about their health care including, in some cases, even taking steps to prevent the disease or to detect and treat it early.

Unfortunately, phenomenal advances in our knowledge about genetics have outpaced the protections currently provided in law. Thus, the potential also exists for this remarkable new information—which is making such a difference in people's lives in terms of their health—this information could always be used by health insurers, employers, or others to deny health coverage or job opportunities to people.

We know the Federal and State laws currently offer only a patchwork of protections against the misuse of genetic information. While the Health Insurance Portability and Accountability Act of 1996 took important first steps toward prohibiting genetic discrimination in health insurance, it left large gaps. For example, it does not prohibit insurers from requiring genetic testing or from disclosing genetic information and offers no protection at all for people who must buy their insurance in the individual market.

While several States—including my own—have enacted legislation prohibiting health insurance discrimination, these laws cannot protect more than 51 million American individuals in employer-sponsored, ''self-funded'' health plans. Additionally, few States have chosen to address the issue of employment discrimination or the separate issue of the privacy of genetic records.

I have personal experience that this issue is not a partisan issue. Two years ago, my distinguished friend and colleague from New Mexico, Senator DOMENICI, and I introduced one of the first bills on this critical topic addressing both insurance and employment discrimination.

Last year, along with many of my Democratic colleagues, I joined Senator SNOWE of Maine in supporting strong legislation protecting patients from genetic discrimination in insurance.

Today I am pleased to join my colleagues, Senator DASCHLE, Senator HARKIN, and Senator KENNEDY, in introducing comprehensive legislation to safeguard the privacy of genetic information and to prohibit health insurance or employment discrimination based on genetic information.

Specifically, this legislation, which we call the Genetic Nondiscrimination Health Insurance and Employment Act, would prohibit health insurers from discriminating based on genetic predisposition to an illness or condition and would prevent insurers from requiring applicants for health insurance to submit to genetic testing.

This bill would also address the concerns about employment discrimination by preventing employers from firing or refusing to hire individuals who may be susceptible to a genetic condition.

Finally, this legislation would hold employers and insurers accountable by imposing strong penalties on those who violate these previous just stated provisions.

In a few short years researchers will have the ability to translate the entire genetic code, revealing each individual's unique genetic blueprint. It is an astonishing prospect. Last year, in a visit I made to Yale University's Genetic Testing Center, I had the opportunity to see into the future and glimpse cutting-edge uses of this technology. I also had the opportunity to hear of the fears expressed by patients at this center.

As an aside, we are talking about predisposition. We are now reaching a point on breast cancer in women, through tests being done over the years on twins, where we are able to determine almost at birth the likelihood or the probability of a woman contracting breast cancer at the time of that child's birth—looking into the future based on the genetic markers.

That is profound information. It could make a huge difference to be able to know early on about a predisposition based upon your genetic makeup, knowing you have a probability or a likelihood later in life of contracting certain diseases. That allows that individual and that family early on to take the steps through diet and/or mediation, prescriptions, and so forth, to avoid the possibility of contracting these dreaded diseases. That is the great news. It is phenomenal. It is happening at such a pace, it is hard to believe.

As we gather this information that a person may be, based upon their genetic makeup, susceptible to breast cancer, Alzheimer's, Parkinson's disease, or other forms of cancer, that information ought to be protected. I believe it should. It is one thing if you have a condition and you keep that from an employer and they hire you and they want to know whether or not you have a condition. I don't think anyone ought to be allowed to deny revealing information that an employer ought to have. But a predisposition—that information ought not to deprive you of a job or health insurance just because that genetic information indicates that may be the case.

This is what happens. While I visited this wonderful Genetic Testing Center at Yale University, I met with some patients and the researchers who do this work. They asked me to pay attention and listen to a couple of patients with whom they work.

Keith Hall has been a patient at Yale for several years, since he was first diagnosed with something called tuberous sclerosis. Let me explain what that is. It is a genetic disease that causes tumors of the brain, kidney, and other organs, and sometimes mental retardation. Keith, obviously, worries about what will happen to his insurance if he ever has to switch jobs with that condition.

I also met with Ashley Przybylski, an 11-year-old girl from Oxford, CT. Ashley suffers from a genetic nutritional disorder that can cause seizures and brain damage. Currently, the family insurance covers the exorbitant cost of medication that keeps her healty—about $33,000 a year. Ashley faces the prospect of being denied coverage when she gets older.

While we as a nation welcome these scientific achievements—we will be able to determine in the case of both Keith and Ashley that they have a predisposition for tuberous sclerosis or genetic nutritional disorders—if both this child and this individual were to be denied employment or insurance because of a genetic predisposition because that information becomes available, that is wrong and should be corrected.

This legislation is designed to try to provide this kind of protection to people as we move forward with the wonderful information gathering of genetic information.

The issue is too important to ignore for another year. Each day that passes, more individuals suffer discrimination. Each day we fail to act, more families are forced to make decisions about genetic testing based not on health care but on fear.

I pledge my commitment to ensuring that progress on the Human Genome Project is matched against the potential discrimination in establishing some fundamental rights of privacy.

I welcome comments from my colleagues and others who may be interested in being a part of this effort to try to get ahead of the curve as we deal with the wonderful news of genetic marking that can make such a difference in people's lives.

Mr. HARKIN. Mr. President, genetic discrimination is a terribly important issue and one that I have been following for quite some time now. I am pleased to be here today with Senator DASCHLE, SENATOR DODD, and Senator KENENDY to introduce the ''Genetic Non-discrimination in Health Insurance and Employment Act of 1999.''

The advances we have made recently in the study of the human gene are mind-boggling. The identification of a number of disease-related genes is providing scientists with important new tools for understanding the underlying mechanisms for many illnesses. Genomic technologies have the potential to lead to better diagnosis and treatment, and ultimately to the prevention and cure of many diseases and disabilities.

Yet discrimination in health insurance and employment, and the fear of potential discrimination, threaten our ability to conduct the very research we need to understand, treat, and prevent genetic disease. Moreover, discrimination—and the fear of discrimination—threaten our ability to use new genetic technologies to improve human health.

Let me give you just a few examples:

In the early 1970's some insurance companies denied coverage and some employers denied jobs to African-Americans who were identified as carriers for sicklecell anemia, even though they were healthy and would never develop the disease.

More recently, in a survey of people in families with genetic disorders, 22% indicated that they, or a member of their family, had been refused health insurance on the basis of their genetic information.

And a number of researchers have been unable to get individuals to participate in cancer genetics research. Fear of discrimination is cited as the reason why.

But this is more than just about numbers and anonymous individuals, it's about real people—including my own family. As many of you know, both my sisters died from breast cancer. And other members of my family might be at risk. Should I counsel them to get tested for the BRCA1 and BRCA2 mutations? Should I counsel them to disclose our family history to their health care providers?

Right now, I'm torn. I know that if my family is to have access to the best available interventions and preventive care, they should get tested, and they should disclose our family's medical history to their physicians. But, conversely, if they are to get any health care at all, they must have access to health insurance. Without strong protections against discrimination, access to health insurance is currently in question.

In 1995, I introduced an amendment during the markup of the Health Insurance Portability and Accountability Act. My amendment clarified that group health plans could not establish eligibility, continuation, enrollment, or contribution requirements based on genetic information. My amendment became part of the manager's package that went to the floor, and it ultimately became law.

HIPAA is a good first step. We should be proud of that legislation. Yet if our goal is to ensure that individuals have access to health insurance coverage and to employment opportunities—regardless of their genetic makeup—we must pass comprehensive anti-discrimination protections.

Our proposed legislation offers such protections. Let me describe them in brief:

First, this legislation prohibits insurers and employers from discriminating on the basis of genetic information. It is essential to prohibit discrimination both at work and in health insurance coverage. If we only prohibit discrimination in the insurance context, employers who are worried about future increased medical costs will simply not hire individuals who have a genetic predisposition to a particular disease.

Second, under our proposal, health insurance companies are prohibited from disclosing genetic information to other insurance companies, industry-wide data banks, and employers. If we really want to prevent discrimination, we should not let genetic information get into the wrong hands.

Finally, if protections against genetic discrimination are to have teeth, we must include strong penalties and remedies to deter employers and insurers from discriminating in the first place.

In closing, let me say that this legislation will ensure that every American will enjoy the latest advances in scientific research and health care delivery, without fear of retribution on the basis of their sensitive genetic information. All of us should be concerned about this issue, because all of us have genetic information that could be used against us. As we move into the new millennium, everyone should enjoy the benefits of 21st century technologies—and not be harmed by 21st century discrimination.

I applaud the committment of my fellow co-sponsors on this important issue and look forward to working with the rest of my colleagues to pass federal legislation that will prohibit genetic discrimination in the workplace and in health insurance.

Mr. KENNEDY. Mr. President, the Nation is making extraordinary progress in biomedical research. The National Institutes of Health will have developed a working draft of the entire human genome by next spring. Comprehensive knowledge of the genetic sequence will enable researchers to identify large numbers of mutations associated with disease. Understanding the molecular basis of hereditary diseases will expedite the search for more effective treatments and cures. The benefits for patients are likely to be unparalleled in the history of medicine.

But this new scientific knowledge also raises a number of ethical, legal, and social questions. The National Institutes of Health is dealing with many of these challenges through programs funded by the National Human Genome Research Institute.

Congress also has a key role to play in this process, especially in dealing with genetic discrimination, which is an increasingly serious problem in health insurance and the workplace. A 1996 study in ''Science and Engineering Ethics'' documented more than 200 cases of discrimination against individuals with genetic predispositions to certain diseases, even though the individuals have no symptoms of the disease as yet. For example, some employers have used genetic screening to identify African Americans with the gene mutation for sickle cell anemia. Those with the sickle cell gene mutation were denied jobs, even though many were only carriers of the mutation and would never become ill themselves.

In other cases, persons at risk for Huntington's disease have been denied health insurance and have lost their jobs. Similar concerns are arising in the wake of research showing a genetic basis for breast cancer. Ethnic groups who were participants in research to identify disease-related genes are increasingly concerned about the adverse effects on their insurance coverage and their jobs. Even at the National Institutes of Health, 32% of women offered a test for a genetic mutation related to breast cancer refused to take the test, citing concerns about possible discrimination and the loss of privacy.

To deal with this issue, Senator DASCHLE, Senator HARKIN, Senator DODD, and I are introducing legislation to ban genetic discrimination by both health insurers and employers. Our proposal is the culmination of years of work and debate over genetic discrimination. The proposal that we are introducing today is based on our belief that neither your health insurer nor your employer should be able to discriminate against you based upon your genetic information. In this era, when many people obtain their health insurance through their employer, it is especially critical that both health insurers and employers are prohibited from disclosing genetic information to each other. Proposals that do not address both the insurance and the employment aspects of the issue will not truly prevent genetic discrimination.

Our legislation prohibits health insurers from setting premiums and defining eligibility on the basis of genetic information. Because we believe that genetic testing is a decision that patients should make with their physicians, our bill prohibits insurers from suggesting or requiring patients to undergo genetic testing. Because insurers do not need to know genetic information for most situations, our bill prohibits them from requesting, collecting, or purchasing genetic information. In addition, the bill does not allow health insurers to share genetic information with each other, to disclose genetic information to industry-wide data banks, or to disclose genetic information to employers.

We know that employers are beginning to collect genetic information and discriminate against applicants and employees. Many examples illustrate the problem on a personal level, such as the story of Christine, in Milwaukee, WI. One of Christine's parents developed Huntington's disease, which meant that Christine had a 50% chance that she had inherited the mutant gene that would cause her to develop the disease. Christine decided to undergo a genetic test to determine whether she had inherited the mutation. She traveled to the University of Michigan in Ann Arbor for the test, and paid for the test herself. A co-worker in the small firm where Christine worked overheard Christine making the arrangements for the test and told Christine's supervisor. Her supervisor was initially sympathetic and offered to help. Christine then underwent the genetic test and learned that she had indeed inherited the mutation and would therefore eventually develop the disease. When Chistine shared this information with her supervisor, she was fired, despite a series of outstanding job evaluations. Now, because of Christine's experience, none of her siblings are willing to have the genetic test.

This type of blatant discrimination must be stopped. Our legislation prohibits employers from collecting genetic information from any source, including health insurers, and from making any type of employment decision based on genetic information.

We should all be concerned about genetic discrimination, because we all have mutations in our genes, and medical researchers are discovering new relationships between genes and diseases. Without legislative action, genetic discrimination will intensify as more genes associated with specific diseases are discovered, and as genetic testing becomes more common. Earlier this week, Vice President GORE proposed a challenge to the biomedical research community—to identify all genes associated with cancer by the year 2002.

Our legislation is supported by the Alliance to Genetic Support Groups, the National Partnership for Women and Families, the American Civil Liberties Union, and Hadassah.

Congress should act quickly to pass legislation to ban genetic discrimination in health insurance and the workplace, so that we can benefit from those research advances without the threat that people will lose their jobs or their health insurance.

I ask uninamous consent that their letters of support be printed in the RECORD.

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

NATIONAL BREAST CANCER COALITION,
July 1, 1999.

Hon. TED KENNEDY,
U.S. Senate,
Washington, DC.

DEAR SENATOR KENNEDY: On behalf of the National Breast Cancer Coalition (NBCC), I am writing to thank you for your leadership in offering the Genetic Nondiscrimination in Health Insurance and Employment Act of 1999. As you know, NBCC is a grassroots advocacy organization made up of over 500 organizations and tens of thousands of individuals, their families and friends. We are dedicated to the eradication of the breast cancer epidemic through action and advocacy. Addressing the complex privacy, insurance and employment discrimination questions raised by evolving genetic discoveries is one of our top priorities.

Discrimination in health insurance and employment is a serious problem. In addition to the risks of losing one's insurance or job, the fear of potential discrimination threatens both a woman's decision to use new genetic technologies and seek the best medical care from her physician. It also limits the ability to conduct the research necessary to understand the cause and find a cure for breast cancer.

The Kassebaum-Kennedy Health Insurance Reform Act (1996) took some significant steps toward extending protection in the area of genetic discrimination in health insurance. But it did not go far enough. Moreover, since the enactment of Kassebaum-Kennedy, there have been incredible discoveries at a very rapid rate that offer fascinating insights in the biology of breast cancer, but that may also expose individuals to an increased risk of discrimination based on their genetic information. For instance, because of the discovery of BRCA1 and BRCA2, breast cancer susceptibility genes, we now face the reality of a test that can detect the increased risk associated with heritable breast cancer. Genetic testing may well lead to the promise of improved health. But if women are too fearful to get tested, they won't be able to gain from the future benefits genetic testing might offer.

We commend your efforts to go beyond Kassebaum-Kennedy toward ensuring that all individuals—not just those in group health plans—are guaranteed protection against discrimination in the health insurance arena and the employment venue based on their genetic information. The Genetic Nondiscrimination in Health Insurance and Employment Act of 1999 would also guarantee individuals important protections against rate hikes based on genetic information, would prohibit insurers from demanding access to genetic information contained in medical records or family histories, and would restrict insurers' release of genetic information.

Passage of this legislation, and the protections it offers, are essential not only for women with a genetic predisposition to breast cancer, but also for women living with breast cancer, their families, and the millions of women who will be diagnosed with breast cancer. We look forward to working with you towards getting the Genetic Nondiscrimination in Health Insurance and Employment Act of 1999 enacted this year.

Thank you again for your outstanding leadership, and please do not hesitate to call me or NBCC's Government Relations Manager, Jennifer Katz if you have any questions.

Sincerely,

FRAN VISCO, *President.*

HADASSAH, THE WOMEN'S ZIONIST ORGANIZATION OF AMERICA, INC.

July 1, 1999.

Hon. EDWARD KENNEDY,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR KENNEDY: On behalf of Hadassah's 300,000 members, I would like to thank you, as well as Senators Daschle, Dodd, and Harkin for introducing ''The Genetic Non-discrimination in Health Insurance and Employment Act of 1999.'' The very information that may save someone's health or life should under no circumstances be used to deny them the insurance coverage needed to pay for this care.

The issue of genetics-based discrimination by both insurance companies and employers has come to be of particular concern to the Jewish community. Over the past few years, studies have shown that certain populations experience heightened hereditary susceptibility to certain genetic mutations and their corresponding diseases. In particular, women of Ashkenazi or Eastern European Jewish descent have been found to demonstrate a distinct genetic predisposition to both breast and ovarian cancers. Most recently, there have been scientific findings linking colon cancer to Ashkenazi Jews.

Unfortunately, as Jews and other at-risk populations have sought to learn more about their genetic backgrounds, they have been confronted by genetics-based discrimination. As a result of this discrimination, many individuals choose not to receive genetic testing, or to even participate in research studies. As scientists continue to identify the genetic ''markers'' for more and more diseases, the issue of genetic discrimination stands to confront each and every one of us—men and women alike—regardless of ethnic heritage.

Hadassah has been active in support of similar legislation, such as H.R. 306, sponsored by Representative Louise Slaughter (D–NY), regarding health insurance discrimination. We are optimistic that similar endeavors from your office, and from those of your colleagues, will continue to expand the scope and prominence of this issue. Hopefully, our combined efforts will insure the passage of this legislation, and ultimately result in the elimination of genetics-based discrimination in both health insurance and employment. Please sign Hadassah on as supporters of this bill.

I look forward to working with you on this important piece of legislation. If you have any additional questions, or would like our assistance, please contact Ms. Tana Senn, Director of American Affairs/Domestic Policy. Again, we applaud your efforts in addressing this crucial issue.

With admiration and appreciation.

MARLENE E. POST,
National President.

AMERICAN CIVIL LIBERTIES UNION FOUNDATION,

July 1, 1999.

DEAR SENATOR KENNEDY: The American Civil Liberties Union is a national, private, non-profit organization of more than 250,000 members dedicated to preserving the principles of liberty embodied in the Bill of Rights and the U.S. Constitution. The ACLU applauds the efforts of Senators Daschle, Dodd, Harkin and Kennedy in their continued efforts to promote awareness of the current and future problems of genetic discrimination. We are in full support of the Genetic Nondiscrimination in Health Insurance and Employment Act of 1999 and ask that the issue of genetic discrimination be given complete and immediate attention.

Sincerely,

JEREMY GRUBER, *Legal Director, ACLU National Taskforce on Civil Liberties in the Workplace.*

NATIONAL PARTNERSHIP FOR WOMEN & FAMILIES,

July 1, 1999.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR KENNEDY: I want to thank you for, once again, taking the lead on an issue of great importance to women. The National Partnership for Women & Families is proud to endorse your bill, ''The Genetic Nondiscrimination In Health Insurance and Employment Act of 1999.''

We believe that genetic discrimination is the next big civil rights issue. The job of deciphering every gene found in the human body—more than 80,000 in all—is proceeding at record speed. Just a decade ago, genetic testing was largely restricted to prenatal tests to look for birth defects. Today, more than 550 genetic tests are being used for the diagnosis of disease, and millions of women and their families stand to benefit from improved prevention, detection, and treatment of diseases like breast and ovarian cancer.

Unfortunately, without adequate protection against misuse, the potential for real medical benefit from genetic advances may be outweighed by the fear of discrimination by insurers and employers. Your bill will alleviate that fear and allow women and men to benefit from medical and scientific progress. Thank you once again for all your hard work on this issue.

Sincerely yours,

JUDITH L. LICHTMAN,
President, National Partnership for Women & Families.

SUSANNAH A. BARUCH,
Director of Legal and Public Policy, National Partnership for Women & Families.

By Mr. MCCONNELL (for himself and Mr. BUNNING):

S. 1323. A bill to amend the Federal Power Act to ensure that certain Federal power customers are provided protection by the Federal Energy Regulatory Commission, and for other purposes; to the Committee on Environment and Public Works.

THE TVA CUSTOMER PROTECTION ACT

Mr. MCCONNELL. MR. PRESIDENT, I HAVE COME TO THE SENATE FLOOR TODAY TO INTRODUCE A BILL KNOWN AS THE TVA CUSTOMER PROTECTION ACT. THIS LEGISLATION WILL IMPLEMENT A NUMBER OF CONSUMER PROTECTIONS THAT WILL MAKE TVA ACCOUNTABLE TO RATEPAYERS AND BETTER PREPARE TVA TO COMPETE IN A RESTRUCTURED ELECTRICITY MARKET. I AM PLEASED TO HAVE SENATOR BUNNING as an original cosponsor on this bill.

The legislation I am introducing, which is virtually identical to the legislation I introduced in the 105th Congress, provides Valley ratepayers protections against unchecked and unjustified increases in their power rates. Included in this bill are checks against future increases in TVA's massive debt. This bill will put an end to TVA's ability to compete unfairly with its regional distributors and will prohibit TVA from sticking ratepayers with the bill for its international forays that have no relevance to its responsibility to provide low-cost power to the Valley. Finally, this bill also codifies an agreement between TVA and several industry associations to limit TVA's authority as a government entity to compete with small businesses in non-electric services.

Mr. President, TVA is a federal corporation that was first established in 1933, to tame the Tennessee River, our nation's fifth largest river, and to bring economic development to this once poverty stricken region. Today, TVA provides power to nearly all of Tennessee and to parts of six other states covering over 80,000 square miles and serving eight million consumers. The bulk of TVA's power sales are made through municipal and cooperative distributors, which in turn are responsible for delivering that power to every home, office and farm in the Valley. TVA has exclusive power contracts with its distributors and the three-member TVA board sets the retail rates offered by distributors.

Mr. President, while TVA has achieved significant success, it has not come without a price. Today, TVA customers are paying a premium for TVA's excesses and mismanagement. For example, TVA has accumulated an enormous debt of nearly $26 billion, despite its monopoly status and the Board's unilateral rate making authority. As a result, in 1998, TVA customers paid an astronomical 30 cents of every $1 to interest expenses. When you match TVA's interest charge of 30 cents to the 11 cents paid by the Federal Government, it makes Uncle Sam look like a conservative financial planner. When compared to the average regulated public utility, which pays a mere 7 percent in finance cost, it is obvious that this isn't a good deal for TVA ratepayers.

In a 1994 study, the General Accounting Office determined that TVA's financial condition ''threatens its long-term viability and places the federal government at risk.'' Only through years of unaccountability and fiscal irresponsibility could a power company have ever reached this level of debt, despite the fact that TVA is a monopoly provider of electricity.

As a result of TVA's fiscal mismanagement and bloated budgets, TVA rates are higher than those of FERC-regulated utilities in Kentucky. Since 1988, wholesale power rates of regulated utilities in Kentucky have steadily fallen, while TVA has maintained the same level, albeit higher than Kentucky utilities. Then, in 1997, TVA was forced to raise rates by 7 percent in an effort to get its fiscal house back in order. It is apparent that due to TVA's past financial mismanagement, thousands of Kentucky residents are paying

more for power than Kentucky residents who are outside the TVA fence.

Mr. President, another way to quantify the impact of TVA's fiscal irresponsibility is to compare the electric rates paid by Kentuckians. Mr. President I have a chart here that displays the rate premiums paid by the 211,427 TVA customers living in Kentucky. I have used the rates filed by Kentucky Utilities and TVA's publicly disclosed rates between 1999 and 2003. Based on these rates, Kentuckians will pay an average of $50 million more annually for the privilege of being served by TVA. Over the next five years this amounts to a $250 million ''TVA membership fee.'' It is painfully clear the Kentuckians who are served by TVA are getting a raw deal from this New Deal program.

Mr. President, I have come to the conclusion that TVA needs to be made more accountable for its actions. Not more accountable to Congress or the President, but the people TVA is charged to serve—Valley customers.

Mr. President, it is my desire to provide TVA customers with a clear picture of TVA's financial situation including its rates, charges and costs. The Federal Energy Regulatory Commission (FERC) is authorized under the Federal Power Act with regulating electric utilities. FERC currently provides regulatory oversight to over 200 utilities for wholesale and transmission power rates to ensure that their electric rates and charges are ''just and reasonable and not unduly discriminatory or preferential.'' At present, TVA is entirely exempt from these necessary regulations allowing it to operate as a self-regulating monopoly, with no such mandate for openness, fairness or oversight.

Mr. President, I am not alone in this belief. The distributors serving Memphis, Tennessee, Knoxville, Tennessee, and Paducah, Kentucky, share my views that TVA should fully comply with the FERC authority. Recently, before the House Commerce Committee, Mr. Herman Morris, Jr., President and CEO of the Memphis Light, Gas and Water Division testified on behalf of MLGWD and the Knoxville Utilities Board that FERC would ''provide a neutral forum for resolving disputes regarding TVA transmission, wholesale sales pricing, terms and conditions.'' Mr. Morris went on to say that FERC jurisdiction is ''necessary to provide Tennessee Valley distributors the same level of protection that the rest of the country enjoys.''

Requiring TVA to comply with FERC regulations will serve two purposes. First, it will allow customers to accurately evaluate TVA's wholesale and transmission pricing to ensure the rates charged are ''just and reasonable'' and will provide customers with a forum for challenging future rate increases just as every other regulated utility does.

Second, this information will provide FERC with a better understanding of the costs TVA has accumulated. Understanding the full scope of these costs will be critical in an open transmission and wholesale market. It will also have a significant impact in determining how competitive TVA will be in the future.

Another measure which I have added this year builds on the full disclosure provisions by requiring FERC to conduct an investigation to determine TVA's total stranded cost liability. I have heard from a number of distributors who are very concerned about the potential stranded cost liability they might be assessed. They adamantly oppose paying for any costs or services they haven't paid for. For example, residents of Paducah, Kentucky don't want to pay for the costs TVA incurred in providing service to Nashville. Unfortunately, nobody has any idea of the total stranded cost liability TVA has incurred or can be recovered. This investigation will uncover those costs that were prudently incurred and are eligible for recovery as stranded costs.

In order to ensure that TVA keeps its promise of lowering its debt, I have proposed that TVA be required to meet four need-based criteria before it is able to add costly generating capacity. For my colleagues who are not familiar with TVA, it is important to note that TVA's tremendous level of debt is a result of TVA's aggressive and unchecked plan to add new generating capacity in the Valley. In 1966, TVA announced a plan to build 17 nuclear facilities throughout the Valley. Today less than half of these facilities are in commercial service.

As a result, TVA is $26 billion in debt and has invested $14 billion in non-performing nuclear assets which have driven rates up in the Valley. To prevent history from repeating itself, I believe it is necessary to apply safeguards against overbuilding. TVA must demonstrate a legitimate need before committing such significant resources again.

This legislation will also prohibit TVA from using Valley ratepayers to subsidize power sales outside the Valley in the future. All new generation will be required to meet the needs of Valley ratepayers.

Mr. President, let me take a moment to go through the other important customer reforms included in the bill. Section Four of the bill prohibits TVA from continuing to subsidize their foreign endeavors at ratepayer's expense. Quarter million dollar conferences in China and other points on the globe are not consistent with either TVA's deficit reduction goals or its mission to be a low-cost power provider to the Valley.

Another provision that I have included is a measure proposed by the TVA distributors. Section Five in the bill protects distributors from unfair competition by ending TVA's ability to directly serve large industrial customers. In the past, TVA has been able to directly serve some of the valley's largest industrial customers. Through this loophole, TVA is able to use its considerable market power to unfairly compete with distributors.

Section Seven of this bill will increase TVA's level of accountability by applying all federal antitrust laws and penalties. I have included this provision in response to heavy-handed tactics used by TVA to punish the City of Bristol, Virginia, for signing a contract with another energy provider.

TVA applied heavy-handed tactics by predicting unreliable electricity services as a disincentive to leaving, and TVA attempted to syphon-off Bristol's industrial customers by offering direct-serve power contracts at 2 percent below any rate offered by Bristol. I find these predatory practices to be entirely unacceptable, especially applied to one of its own customers. It is my belief that since TVA's activities were performed in a commercial endeavor, they should be held to the same standards as any other corporation under the antitrust laws.

I understand that TVA is willing to subject themselves to federal antitrust laws, so long as they aren't subject to any penalties. Mr. President, I have some advice for TVA.

If you can't pay the fine, don't do the crime.

Finally, this legislation limits TVA's ability to branch out into other businesses beyond power generation and transmission. TVA has attempted to diversify into equipment leasing as well as engineering and other contracting services in direct competition with other Valley businesses. I don't believe that TVA should be permitted to use its considerable advantages, like its tax-exempt status, to compete against Valley businesses. TVA has signed a Memorandum of Agreement with Valley businesses not to compete against them.

My legislation codifies that agreement. Mr. President, I hope these reforms will offer TVA customers—both distributors and individuals alike—the means to make TVA more accountable and put an end, once and for all, to TVA's unaccountability and unchecked fiscal irresponsibility. I want to put an end to TVA membership premium and let all Kentuckians benefit from some of the lowest power rates in the nation.

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

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

S. 1323

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 ''TVA Customer Protection Act of 1999''.

SEC. 2. INCLUSION IN DEFINITION OF PUBLIC UTILITY.

(a) IN GENERAL.—Section 201(e) of the Federal Power Act (16 U.S.C. 824(e)) is amended by inserting before the period at the end the following: '', and includes the Tennessee Valley Authority''.

(b) CONFORMING AMENDMENT.—Section 201(f) of the Federal Power Act (16 U.S.C. 824(f)) is amended by striking ''foregoing, or any corporation'' and inserting ''foregoing (other than the Tennessee Valley Authority) or any corporation''.

SEC. 3. DISPOSITION OF PROPERTY.

Section 203 of the Federal Power Act (16 U.S.C. 824b) is amended by adding at the end the following:

''(c) TVA EXCEPTION.—This section does not apply to a disposition of the whole or any part of the facilities of the Tennessee Valley Authority if—

''(1) the Tennessee Valley Authority discloses to the Commission (on a form, and to the extent, that the Commission shall prescribe by regulation) the sale, lease, or other disposition of any part of its facilities that—

''(A) is subject to the jurisdiction of the Commission under this Part; and

''(B) has a value of more than $50,000; and

''(2) all proceeds of the sale, lease, or other disposition under paragraph (1) are applied by the Tennessee Valley Authority to the reduction of debt of the Tennessee Valley Authority.''.

SEC. 4. FOREIGN OPERATIONS; PROTECTIONS.

Section 208 of the Federal Power Act (16 U.S.C. 824g) is amended by adding at the end the following:

''(c) TENNESSEE VALLEY AUTHORITY.—

''(1) LIMIT ON CHARGES.—

''(A) NO AUTHORIZATION OR PERMIT.—The Commission shall issue no order under this Act that has the effect of authorizing or permitting the Tennessee Valley Authority to make, demand, or receive any rate or charge, or impose any rule or regulation pertaining to a rate or charge, that includes any costs incurred by or for the Tennessee Valley Authority in the conduct of any activities or operations outside the United States.

''(B) UNLAWFUL RATE.—

''(i) IN GENERAL.—Any rate, charge, rule, or regulation described in subparagraph (A) shall be deemed for the purposes of this Act to be unjust, unreasonable, and unlawful.

''(ii) NO LIMITATION ON AUTHORITY.—Clause (i) does not limit the authority of the Commission under any other provision of law to regulate and establish just and reasonable rates and charges for the Tennessee Valley Authority.

''(2) ANNUAL REPORT.—The Tennessee Valley Authority shall annually—

''(A) prepare and file with the Commission, in a form that the Commission shall prescribe by regulation, a report setting forth in detail any activities or operations engaged in outside the United States by or on behalf of the Tennessee Valley Authority; and

''(B) certify to the Commission that the Tennessee Valley Authority has neither recovered nor sought to recover the costs of activities or operations engaged in outside the United States by or on behalf of the Tennessee Valley Authority in any rate, charge, rule, or regulation on file with the Commission.''.

SEC. 5. TVA POWER SALES AND PROPERTY VALUATION.

(a) IN GENERAL.—Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

''SEC. 215. TVA POWER SALES.

''(a) IN GENERAL.—The Tennessee Valley Authority shall not sell electric power to a retail customer that will consume the power within the area that, on the date of enactment of this section, is assigned by law as the distributor service area, unless—

''(1) the customer (or predecessor in interest to the customer) was purchasing electric power directly from the Tennessee Valley Authority as a retail customer on that date;

''(2) the distributor is purchasing firm power from the Tennessee Valley Authority in an amount that is equal to not more than 50 percent of the total retail sales of the distributor; or

''(3) the distributor agrees that the Tennessee Valley Authority may sell power to the customer.

''(b) RETAIL SALES.—Notwithstanding any other provision of law, the rates, terms, and conditions of retail sales of electric power by the Tennessee Valley Authority that are not prohibited by subsection (a) shall be subject to regulation under State law applicable to public utilities in the manner and to the extent that a State commission or other regulatory authority determines to be appropriate.

''(c) ASSURANCE OF ADEQUATE ELECTRIC GENERATION CAPACITY.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, after the date of enactment of this section, the Tennessee Valley Authority shall not construct or acquire by any means electric generation capacity, or sell the output of electric generation capacity constructed or acquired after that date, unless the Commission has issued to the Tennessee Valley Authority a certificate of public convenience and necessity authorizing the construction or acquisition of electric generation capacity.

''(2) CRITERIA FOR ISSUANCE OF CERTIFICATE.—The Commission shall issue a certificate of public convenience and necessity under paragraph (1) only if the Commission finds, after affording an opportunity for an evidentiary hearing, that—

''(A) the reserve power margin of the Tennessee Valley Authority for the area within which the Tennessee Valley Authority is permitted by law to be a source of supply—

''(i) is less than 15 percent; and

''(ii) is expected to remain less than 15 percent for a period of at least 1 year unless new capacity is constructed or acquired;

''(B) the Energy Information Administration has submitted to the Commission, with respect to issuance of the certificate of public convenience and necessity, a determination that—

''(i) there is no commercially reasonable option for the purchase of power from the wholesale power market to meet the needs of the area within which the Tennessee Valley Authority is permitted by law to be a source of supply; and

''(ii) the proposed construction or acquisition is the only commercially reasonable means to meet the firm contractual obligations of the Tennessee Valley Authority with respect to the area within which the Tennessee Valley Authority is permitted by law to be a source of supply;

''(C) the electric generation capacity or the output of the capacity proposed to be authorized will not make the Tennessee Valley Authority a direct or indirect source of supply in any area with respect to which the Authority is prohibited by law from being, directly or indirectly, a source of supply; and

''(D) the electric generation capacity proposed to be authorized is completely subscribed in advance for use by customers only within the area for which the Tennessee Valley Authority or distributors of the Authority were the primary source of power supply on July 1, 1957.

''SEC. 216. VALUATION OF CERTAIN TVA PROPERTY.

''(a) EVIDENTIARY HEARING.—Not later than 120 days after the date of enactment of this section, notwithstanding any other provision of law, the Commission shall commence a hearing on the record for the purpose of determining the value of the property owned by the Tennessee Valley Authority—

''(1) that is used and useful; and

''(2) the cost of which was prudently incurred in providing electric service, as of July 1, 1999, to—

''(A) the distributors of the Authority; and

''(B) the customers that directly purchased power from the Authority.

''(b) PROCEDURES AND STANDARDS.—In making the determination under subsection (a), the Commission shall use, to the maximum extent practicable, the procedures and standards that the Commission uses in making similar determinations with respect to public utilities.

''(c) TIMING OF FINAL ORDER.—The Commission shall issue a final order with respect to the determination under subsection (a)—

''(1) not later than 1 year after the date of commencement of the hearing under subsection (a); or

''(2) not later than a date determined by the Commission by an order supported by the record.

''(d) TIMING OF ORDER AWARDING RECOVERY OF STRANDED COSTS.—The Commission may issue an order awarding recovery to the Tennessee Valley Authority of costs rendered uneconomic by competition not earlier than the date on which the Commission issues a final order with respect to the determination under subsection (a).''.

(b) TRANSITION.—Not later than 180 days after the date of enactment of this Act, the Tennessee Valley Authority shall file all rates and charges for the transmission or sale of electric energy and the classifications, practices, and regulations affecting those rates and charges, together with all contracts that in any manner affect or relate to contracts that are required to be filed under Part II of the Federal Power Act (16 U.S.C. 824 et seq.) (as amended by subsection (a)) and that are in effect as of the date of enactment of this Act.

SEC. 6. FILING AND FULL DISCLOSURE OF TVA DOCUMENTS.

Part III of the Federal Power Act (16 U.S.C. 825 et seq.) is amended—

(1) by redesignating sections 319 through 321 as sections 320 through 322, respectively; and

(2) by inserting after section 318 the following:

''SEC. 319. FILING AND FULL DISCLOSURE OF TVA DOCUMENTS.

''(a) IN GENERAL.—The Tennessee Valley Authority shall file and disclose the same documents and other information that other public utilities are required to file under this Act, as the Commission shall require by regulation.

''(b) REGULATION.—

''(1) TIMING.—The regulation under subsection (a) shall be promulgated not later than 1 year after the date of enactment of this section.

''(2) CONSIDERATIONS.—In promulgating the regulation under subsection (a), the Commission shall take into consideration the practices of the Commission with respect to public utilities other than the Tennessee Valley Authority.''.

SEC. 7. APPLICABILITY OF THE ANTITRUST LAWS.

The Tennessee Valley Authority Act of 1933 (16 U.S.C. 831 et seq.) is amended by inserting after section 16 the following:

"SEC. 17. APPLICABILITY OF THE ANTITRUST LAWS.

''(a) DEFINITION OF ANTITRUST LAWS.—In this section, the term 'antitrust laws' means—

''(1) an antitrust law (within the meaning of section (1) of the Clayton Act (15 U.S.C. 12));

''(2) the Act of June 19, 1936 (commonly known as the 'Robinson Patman Act') (49 Stat. 1526, chapter 323; 15 U.S.C. 13 et seq.); and

''(3) section 5 of the Federal Trade Commission Act (15 U.S.C. 45), to the extent that the section relates to unfair methods of competition.

''(b) APPLICABILITY.—Nothing in this Act modifies, impairs, or supersedes the antitrust laws.

''(c) ANTITRUST LAWS.—

''(1) TVA DEEMED A PERSON.—The Tennessee Valley Authority shall be deemed to be a person, and not government, for purposes of the antitrust laws.

''(2) APPLICABILITY.—Notwithstanding any other provision of law, the antitrust laws (including the availability of any remedy for a violation of an antitrust law) shall apply to the Tennessee Valley Authority notwithstanding any determination that the Tennessee Valley Authority is a corporate agency or instrumentality of the United States or is otherwise engaged in governmental functions.''.

SEC. 8. SAVINGS PROVISION.

(a) DEFINITION OF TVA DISTRIBUTOR.—In this section, the term ''TVA distributor'' means a cooperative organization or publicly owned electric power system that, on January 2, 1998, purchased electric power at wholesale from the Tennessee Valley Authority under an all-requirements power contract.

(b) EFFECT OF ACT.—Nothing in this Act or any amendment made by this Act—

(1) subjects any TVA distributor to regulation by the Federal Energy Regulatory Commission; or

(2) abrogates or affects any law in effect on the date of enactment of this Act that applies to a TVA distributor.

SEC. 9. PROVISION OF CONSTRUCTION EQUIPMENT, CONTRACTING, AND ENGINEERING SERVICES.

Section 4 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831c) is amended by adding at the end the following:

''(m) PROVISION OF CONSTRUCTION EQUIPMENT, CONTRACTING, AND ENGINEERING SERVICES.—

''(1) IN GENERAL.—Notwithstanding any other provision of this Act, except as provided in this subsection, the Corporation shall not have power to—

''(A) rent or sell construction equipment;

''(B) provide a construction equipment maintenance or repair service;

''(C) perform contract construction work; or

''(D) provide a construction engineering service;

to any private or public entity.

''(2) ELECTRICAL CONTRACTORS.—The Corporation may provide equipment or a service described in subparagraph (1) to a private contractor that is engaged in electrical utility work on an electrical utility project of the Corporation.

''(3) CUSTOMERS, DISTRIBUTORS, AND GOVERNMENTAL ENTITIES.—The Corporation may provide equipment or a service described in subparagraph (1) to—

''(A) a power customer served directly by the Corporation;

''(B) a distributor of Corporation power; or

''(C) a Federal, State, or local government entity;

that is engaged in work specifically related to an electrical utility project of the Corporation.

''(4) USED CONSTRUCTION EQUIPMENT.—

''(A) DEFINITION OF USED CONSTRUCTION EQUIPMENT.—In this paragraph, the term 'used construction equipment' means construction equipment that has been in service for more than 2,500 hours.

''(B) DISPOSITION.—The Corporation may dispose of used construction equipment by means of a public auction conducted by a private entity that is independent of the Corporation.

''(C) DEBT REDUCTION.—The Corporation shall apply all proceeds of a disposition of used construction equipment under subparagraph (B) to the reduction of debt of the Corporation.''.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Federal Energy Regulatory Commission such sums as are necessary to carry out this Act and the amendments made by this Act.

TVA BOARD SPENT MORE THAN $85,000 TO TRAVEL IN 1998

Knoxville, Tenn.—Credit card receipts show Tennessee Valley Authority board members spent more than $85,000 in 1998 on travel expenses, a newspaper reported on Sunday.

Among the charges are lodging at the Ritz-Carlton hotel near Washington, a casino resort in Nevada and a golf club in Mississippi. TVA Chairman Craven Crowell alone took 92 trips, including 12 to foreign countries, The Knoxville News-Sentinel reported.

Crowell's charges totaled $49,541. Crowell, who is currently in England with other Tennessee business leaders, declined to discuss the issue with the newspaper last week.

Among Crowell's duties while traveling are promoting TVA bonds, meeting with utility officials and attending conferences, according to TVA officials.

''These are not pleasure trips,'' said TVA spokesman Steve Bender. ''The chairman is working on these trips.''

The U.S. General Accounting Office, the investigative arm of Congress, is probing how TVA Inspector General George Prosser spent TVA expense money, after a written request from Crowell. In question are more than $10,000 in travel and entertainment charges.

Prosser maintains the expenses are legitimate and he is the victim of retaliation by TVA officials because he investigated TVA executive Joe Dickey for fraud.

Prosser's expenses include a $500 hotel bill from a Mississippi casino, $4,500 at attractions with golf courses and more than $200 in liquor.

Crowell currently is the only member of the three-member TVA board. Johnny Hayes left in January to work in Vice President Al Gore's presidential campaign, and Bill Kennoy's nine-year term ended May 18.

In 1998, Kennoy spent $17,935 on 69 trips, and he didn't return phone calls from the newspaper seeking comment. Hayes spent $17,268 on 155 trips.

''I never charged golf, a meal or anything else where I wasn't on TVA business,'' Hayes said.

''I was out with customers constantly,'' he said. ''I fished with them. I golfed with them. I went to every major convention they had.''

U.S. Rep. Harold Ford, Jr., D–Memphis, said the travel expenses seemed high at first glance.

''The real measure is how much they accomplish on the trips,'' Ford said.

PADUCAH POWER SYSTEM,
Paducah, KY, July 1, 1999.

Senator MITCH MCCONNELL,
Russell Building, Washington, DC.

DEAR SENATOR MCCONNELL: Having reviewed the ''TVA Customer Protection Act of 1999,'' the Board and management of Paducah Power System are supportive of the bill.

Specifically, the protection from TVA competing with the distributors for retail customers as long as at least half of the distributors wholesale power requirements are purchased from TVA is very important.

The provision for identifying and establishing the methodology and value of stranded cost is extremely important. This information will assist future planning for distributors.

Additionally, the protection of Valley ratepayers from subsidizing off system sales provides distributors within the Valley to continue to provide energy at the lowest practical cost.

Thank you for your efforts and continuing interest in the people of Western Kentucky and all the Tennessee Valley.

Feel free to call if I can be of any assistance.

Respectfully,

DON FULLER,
General Manager.

By Mr. FRIST:

S. 1326. A bill to eliminate certain benefits for Members of Congress, and for other purposes; to the Committee on Governmental Affairs.

CITIZEN CONGRESS ACT

Mr. FRIST. Mr. President, today I rise to introduce the Citizen Congress Act, a bill which will end the five greatest perks and privileges which separate the Members of Congress from the American people, and which will eliminate taxpayer-funded financial incentives which encourage Members to become life-long legislators. In the past two Congresses, I have introduced a more broad version of this legislation. However, in the next two years, I want to focus on removing the top five taxpayer-funded financial incentives which encourage Senators and Representatives to remain in office as career politicians. I believe that the elimination of these five special privileges will return Congress to the institution our fore-fathers established.

As we approach the two-hundred and twenty-third anniversary of the founding of our great country, we should remember that our Founding Fathers envisioned a Congress of citizen legislators who would leave their families and communities for a short time to write legislation and pass laws, and then return home to live under those laws they helped to pass. Unfortunately, we have stayed from that vision. With the passage of the Congressional Accountability Act four years ago, we made the first step towards ensuring that Members of Congress abide by the same

laws as everyone else. In spite of this measure, Members of Congress continue to receive special perks and privileges unavailable to most American citizens. While I support term limits for Members of Congress, and I remain committed to passing a term limits amendment to the Constitution, there are other more immediate actions we can take to restore faith in Congress.

The legislation I introduce today represents an achievable step toward making Congress more accountable and responsible to the American people. The Citizen Congress Act will eliminate the five greatest financial incentives for Members to become life-long legislators, and will put them on equal footing with the majority of Americans. The provisions of this legislation include: Eliminate the taxpayer subsidy element of Congressional pensions; require public disclosure of Congressional pensions; eliminate automatic COLA's for Congressional pensions; eliminate automatic COLA's for Congressional pay; and require a roll call vote on all Congressional pay increases.

Eliminating the taxpayer subsidy of Congressional pensions and reforming the overall Congressional pension system represents a remarkable improvement. With the Citizen Congress Act, Senators and Representatives will no longer be eligible for pensions that far exceed what is available in the private sector and are padded with matching taxpayer dollars. Instead, Members will have access to the same plans as other federal employees and private citizens, with no taxpayer subsidy. This will ensure that Members who serve in Congress for many years do not accumulate multi-million dollar pensions at the public's expense. Automatic cost of living adjustments for Congressional pensions are also eliminated in this bill. Additionally, requiring a public roll call vote on pay increases ensures that Members of Congress do not vote themselves a pay increase in the dead of night, as has been the case many, many times in the past.

At a time when everyone is tightening their belts to maintain fiscal responsibility and restore confidence in our government, it is only fitting that Members of Congress eliminate the perks and privileges which separate them from the American people. This is what Tennesseans tell me when I travel across our state, and that is what I am doing with the Citizen Congress Act. I encourage my colleagues to join me in passing this important legislation and bringing Congress another step closer to the American people.

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

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

S. 1326

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 ''Citizen Congress Act''.

SEC. 2. LIMITATION ON RETIREMENT COVERAGE FOR MEMBERS OF CONGRESS.

(a) IN GENERAL.—Notwithstanding any other provision of law, effective at the beginning of the Congress next beginning after the date of the enactment of this Act, a Member of Congress shall be ineligible to participate in the Civil Service Retirement System or the Federal Employees' Retirement System, except as otherwise provided under this section.

(b) PARTICIPATION IN THE THRIFT SAVINGS PLAN.—Notwithstanding subsection (a), a Member may participate in the Thrift Savings Plan subject to section 8351 if title 5, United States Code, at anytime during the 12-year period beginning on the date the Member begins his or her first term.

(c) REFUNDS OF CONTRIBUTIONS.—

(1) IN GENERAL.—Nothing in subsection (a) shall prevent refunds from being made, in accordance with otherwise applicable provisions of law (including those relating to the Thrift Savings Plan), on account of an individual's becoming ineligible to participate in the Civil Service Retirement System or the Federal Employees' Retirement System (as the case may be) as a result of the enactment of this section.

(2) TREATMENT OF REFUND.—For purposes of any refund referred to in paragraph (1), a Member who so becomes ineligible to participate in either of the retirement systems referred to in paragraph (1) shall be treated in the same way as if separated from service.

(d) ANNUITIES NOT AFFECTED TO THE EXTENT BASED ON PRIOR SERVICE.—Subsection (a) shall not be considered to affect—

(1) any annuity (or other benefit) entitlement which is based on a separation from service occurring before the date of the enactment of this Act (including any survivor annuity based on the death of the individual who so separated); or

(2) any other annuity (or benefit), to the extent provided under subsection (e).

(e) PRESERVATIONS OF RIGHTS BASED ON PRIOR SERVICE.—

(1) IN GENERAL.—For purposes of determining eligibility for, or the amount of, any annuity (or other benefit) referred to in subsection (d)(2) based on service as a Member of Congress—

(A) all service as a Member of Congress shall be disregarded except for any such service performed before the date of the enactment of this Act; and

(B) all pay for service performed as a Member of Congress shall be disregarded other than pay for service which may be taken into account under subparagraph (A).

(2) PRESERVATION OF RIGHTS.—To the extent practicable, eligibility for, and the amount of, any annuity (or other benefit) to which an individual is entitled based on a separation of a Member of Congress occurring after such Member becomes ineligible to participate in the Civil Service Retirement System or the Federal Employees' Retirement System (as the case may be) by reason of subsection (a) shall be determined in a manner that preserves any rights to which the Member would have been entitled, as of the date of the enactment of this Act, had separation occurred on such date.

(f) REGULATIONS.—Any regulations necessary to carry out this section may be prescribed by the Office of Personnel Management and the Executive Director (referred to in section 8401(13) of title 5, United States Code) with respect to matters within their respective areas of responsibility.

(g) DEFINITION.—In this section, the terms ''Member of Congress'' and ''Member'' have the meaning of the term ''Member'' as defined under section 8331(2) or 8401(20) of title 5, United States Code.

(h) RULE OF CONSTRUCTION.—Nothing in this section shall be considered to apply with respect to any savings plan or other matter outside of subchapter III of chapter 83 or chapter 84 of title 5, United States Code.

SEC. 3. DISCLOSURE OF ESTIMATES OF FEDERAL RETIREMENT BENEFITS OF MEMBERS OF CONGRESS.

(a) IN GENERAL.—Section 105(a) of the Legislative Branch Appropriations Act, 1965 (2 U.S.C. 104a; Public Law 88–454; 78 Stat. 550) is amended by adding at the end the following new paragraph:

''(5) The Secretary of the Senate and the Clerk of the House of Representatives shall include in each report submitted under paragraph (1), with respect to Members of Congress, as applicable—

''(A) the total amount of individual contributions made by each Member to the Civil Service Retirement and Disability Fund and the Thrift Savings Fund under chapters 83 and 84 of title 5, United States Code, for all Federal service performed by the Member as a Member of Congress and as a Federal employee;

''(B) an estimate of the annuity each Member would be entitled to receive under chapters 83 and 84 of such title based on the earliest possible date to receive annuity payments by reason of retirement (other than disability retirement) which begins after the date of expiration of the term of office such Member is serving; and

''(C) any other information necessary to enable the public to accurately compute the Federal retirement benefits of each Member based on various assumptions of years of service and age of separation from service by reason of retirement.''.

(b) EFFECTIVE DATE.—This section shall take effect 1 year after the date of the enactment of this Act.

SEC. 4. ELIMINATION OF AUTOMATIC ANNUITY ADJUSTMENTS FOR MEMBERS OF CONGRESS.

The portion of the annuity of a Member of Congress which is based solely on service as a Member of Congress shall not be subject to a cost-of-living adjustment under section 8340 or 8462 of title 5, United States Code.

SEC. 5. ELIMINATION OF AUTOMATIC PAY ADJUSTMENTS FOR MEMBERS OF CONGRESS.

(a) PAY ADJUSTMENTS.—Paragraph (2) of section 601(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31) is repealed.

(b) CONFORMING AMENDMENT.—Section 601(a)(1) of such Act is amended—

(1) by striking ''(a)(1)'' and inserting ''(a)'';

(2) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively; and

(3) by striking '', as adjusted by paragraph (2) of this subsection''.

SEC. 6. ROLLCALL VOTE FOR ANY CONGRESSIONAL PAY RAISE.

It shall not be in order in the Senate or the House of Representatives to dispose of any amendment, bill, resolution, motion, or other matter relating to the pay of Members of Congress unless the matter is decided by a rollcall vote.

By Mr. CHAFEE (for himself, Mr. ROCKEFELLER, Mr. BOND, Mr.

REED, Mr. JEFFORDS, Mr. MOYNIHAN, Mr. BREAUX, Ms. LANDRIEU, Mr. KERREY, and Ms. MIKULSKI):

S. 1327. A bill to amend part E of title IV of the Social Security Act to provide States with more funding and greater flexibility in carrying out programs designed to help children make the transition from foster care to self-sufficiency, and for other purposes; to the Committee on Finance.

FOSTER CARE INDEPENDENCE ACT OF 1999

Mr. CHAFEE. Mr. President, it is a rare opportunity when we can provide assistance to one of our nation's most vulnerable groups: children in the foster care program. Currently, Independent Living Programs for older foster children end at their 18th birthday, abandoning these teens in the middle of a critical transition period from adolescence to adulthood. Sadly, these young people are left to negotiate the rough waters of adulthood without vital health and mental health resources and critical life-skills. That is why I am pleased to join my colleagues Senators ROCKEFELLER, BOND, MOYNIHAN, and others in introducing the Foster Care Independence Act.

Many of the 20,000 adolescents who leave the foster care rolls each year to become adults come from particularly troubled backgrounds. Typically, these young people have experienced on average four placements in the past seven years of their lives. As a result, they lack a sense of permanency and the skills essential to becoming self-reliant and productive adults. Our bill will cushion the transition to adulthood by funding Independent Living Programs and ensuring access to the critical health care and mental health services provided by Medicaid through a foster child's 21st birthday.

Most importantly, it doubles the money available to state-administered Independent Living Programs, allowing them to provide the day-to-day living needs for 18 to 21-year-olds while they learn valuable life skills. This more comprehensive program with a long transition period will promote the safety, health, and permanency in the lives of these children. It also removes a significant barrier to these children's adoption by ensuring that the families who adopt them have access to the appropriate resources through age 21.

In addition, this bill provides them access to the health and mental health services offered through Medicaid. Numerous studies of adolescents who leave foster care have found that this population has a significantly higher-than-normal rate of school drop outs, out-of-wedlock pregnancies, homelessness, health and mental health problems, poverty, and unemployment. They are also more likely to be victims of crime and physical assaults. My more comprehensive program addresses these grave health and safety concerns by allowing adolescents who age out of or are adopted out of foster care to continue to receive crucial health, and mental health care benefits through the age of 21.

I am heartened by the broad, bipartisan support that the Independent Living Act of 1999, introduced by my colleague, Representative NANCY JOHNSON, received last week in the House. I urge my colleagues to join me in supporting this important measure and ask unanimous consent that the full text and summary of the bill printed in the RECORD.

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

S. 1327

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Foster Care Independence Act of 1999''.

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

Sec. 1. Short title; table of contents.

TITLE I—IMPROVED INDEPENDENT LIVING PROGRAM

Subtitle A—Improved Independent Living Program

Sec. 101. Improved independent living program.

Subtitle B—Related Foster Care Provision

Sec. 111. Increase in amount of assets allowable for children in foster care.

Subtitle C—Medicaid Amendments

Sec. 121. State option of medicaid coverage for adolescents leaving foster care.

Subtitle D—Welfare-To-Work Amendments

Sec. 131. Children aging out of foster care eligible for services.

TITLE II—SSI FRAUD PREVENTION

Subtitle A—Fraud Prevention and Related Provisions

Sec. 201. Liability of representative payees for overpayments to deceased recipients.

Sec. 202. Recovery of overpayments of SSI benefits from lump sum SSI benefit payments.

Sec. 203. Additional debt collection practices.

Sec. 204. Requirement to provide State prisoner information to Federal and federally assisted benefit programs.

Sec. 205. Rules relating to collection of overpayments from individuals convicted of crimes.

Sec. 206. Treatment of assets held in trust under the SSI program.

Sec. 207. Disposal of resources for less than fair market value under the SSI program.

Sec. 208. Administrative procedure for imposing penalties for false or misleading statements.

Sec. 209. Exclusion of representatives and health care providers convicted of violations from participation in social security programs.

Sec. 210. State data exchanges.

Sec. 211. Study on possible measures to improve fraud prevention and administrative processing.

Sec. 212. Annual report on amounts necessary to combat fraud.

Sec. 213. Computer matches with medicare and medicaid institutionalization data.

Sec. 214. Access to information held by financial institutions.

Subtitle B—Benefits for Certain Veterans of World War II

Sec. 251. Establishment of program of special benefits for certain World War II veterans.

TITLE III—CHILD SUPPORT

Sec. 301. Elimination of enhanced matching for laboratory costs for paternity establishment.

Sec. 302. Elimination of hold harmless provision for State share of distribution of collected child support.

TITLE IV—TECHNICAL CORRECTIONS

Sec. 401. Technical corrections relating to amendments made by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

TITLE I—IMPROVED INDEPENDENT LIVING PROGRAM

Subtitle A—Improved Independent Living Program

SEC. 101. IMPROVED INDEPENDENT LIVING PROGRAM.

(a) FINDINGS.—The Congress finds the following:

(1) The Adoption and Safe Families Act of 1997 establishes that safety, health, and permanency are paramount when planning for children in foster care. States are required to make reasonable efforts to locate permanent families for all children, including older children and teens, for whom reunification with their biological families is not in the best interests of the children.

(2) Older children who continue to be in foster care as adolescents may become eligible for Independent Living programs. These Independent Living programs are not an alternative to permanency planning for these children. Enrollment in Independent Living programs can occur concurrent with continued efforts to locate, and achieve placement in, permanent families for older children in foster care.

(3) About 20,000 adolescents leave the Nation's foster care system each year because they have reached 18 years of age and are expected to support themselves. In addition, approximately 5,000 adolescents (foster children over the age of 12) are adopted out of the foster care system each year, of whom approximately 620 are over the age of 16 at the time of their adoption. A large percentage of these children have not yet completed their high school education.

(4) Congress has received extensive information that adolescents leaving foster care are in trouble. A careful study of all the children aging out of foster care in Wisconsin during 1994 showed high rates of school drop out, out-of-wedlock childbearing, homelessness, poverty, and being the target of crime and physical assaults.

(5) The Nation's State and local governments, with financial support from the Federal Government, should offer an extensive program of education, health and mental health care, training, employment, financial support, and post adoption support services for adolescents leaving foster care (including those who exit foster care to adoption), with participation in such program beginning several years before high school graduation and continuing, as needed, until the young adults

exiting foster care establish independence or reach 21 years of age.

(b) IMPROVED INDEPENDENT LIVING PROGRAM.—Section 477 of the Social Security Act (42 U.S.C. 677) is amended to read as follows:

"SEC. 477. INDEPENDENT LIVING PROGRAM.

''(a) PURPOSE.—The purpose of this section is to provide States with flexible funding that will enable the States to design and conduct programs—

''(1) to identify children who are likely to remain in foster care during their teenage years and that help these children make the transition to self-sufficiency by providing services such as assistance in obtaining a high school diploma, career exploration, vocational training, job placement and retention, training in daily living skills, training in budgeting and financial management skills, substance abuse prevention, and how to maintain their own physical and mental health, including how to access health care, mental health, and community-based peer-support services;

''(2) to help children leaving foster care, including those adopted after age 16, obtain the education, training, and services necessary to obtain and maintain employment;

''(3) to help children leaving foster care, including those adopted after age 16, prepare for and enter postsecondary training and education institutions;

''(4) to provide personal and emotional support to children aging out of foster care, through mentors, the promotion of interactions with dedicated adults, and continued efforts at locating permanent family resources, including adoption, for these children; and

''(5) to provide financial assistance, access to health and mental health care, supervised housing, counseling, employment, education, permanency planning, and other appropriate support and services that promote active and responsible citizenship, healthy development, and community membership to former foster care recipients between 18 and 21 years of age to complement their own efforts to achieve long-term self-sufficiency.

''(b) APPLICATIONS.—

''(1) IN GENERAL.—A State may apply for funds from its allotment under subsection (c) for a period of 5 consecutive fiscal years by submitting to the Secretary, in writing, a plan that meets the requirements of paragraph (2) and the certifications required by paragraph (3) with respect to the plan.

''(2) STATE PLAN.—A plan meets the requirements of this paragraph if the plan specifies which State agency or agencies will administer, supervise, or oversee the programs carried out under the plan, and describes how the State intends to do the following:

''(A) Design and deliver programs to achieve the purposes of this section in such a way that each child's health, safety, opportunity for a permanent family, and successful, long-term self-sufficiency is of paramount concern.

''(B) Ensure that all political subdivisions in the State are served by the programs, though not necessarily in a uniform manner.

''(C) Ensure that the programs serve children of various ages and at various stages of achieving independence.

''(D) Involve public and private individuals and organizations familiar with, or interested in addressing, the needs of youths aging out of foster care, including young people served by these programs, and, where they exist, organizations of youths who have been in foster care.

''(E) Use objective criteria for determining eligibility for benefits and services under the programs, and for ensuring fair and equitable treatment of benefit recipients.

''(F) Cooperate in national evaluations of the effects of the programs in achieving the purposes of this section.

''(G) Designate an independent living coordinator to oversee the delivery of benefits and services under the programs.

''(3) CERTIFICATIONS.—The certifications required by this paragraph with respect to a plan are the following:

''(A) A certification by the chief executive officer of the State that the State will provide assistance and services to children who have left foster care after the age of 16 but have not attained 21 years of age.

''(B) A certification by the chief executive officer of the State that not more than 30 percent of the amounts paid to the State from its allotment under subsection (c) for a fiscal year will be expended for room or board for children who have left foster care after the age of 16 and have attained 18 but not 21 years of age, and that such room and board services shall be supervised, including interaction between the youths and adults, and the provision of such services shall include a requirement that the participating youths must be actively enrolled in educational, vocational training, or career development programs.

''(C) A certification by the chief executive officer of the State that none of the amounts paid to the State from its allotment under subsection (c) will be expended for room or board for any child who has not attained 18 years of age.

''(D) A certification by the chief executive officer of the State that the State has consulted widely with public and private individuals and organizations familiar with, or interested in addressing, the needs of youths aging out of foster care, including young people served by the programs under the plan, and, where they exist, organizations of youths who have been in foster care, in developing the plan and that the State has given all interested members of the public at least 30 days to submit comments on the plan.

''(E) A certification by the chief executive officer of the State that the State will make every effort to coordinate the State programs receiving funds provided from an allotment made to the State under subsection (c) with other Federal and State programs for youth, especially transitional living youth projects authorized under part B of title III of the Juvenile Justice and Delinquency Prevention Act of 1974 and funded and administered by the Department of Health and Human Services, local housing programs, programs for disabled youth, and school-to-work programs.

''(F) A certification by the chief executive officer of the State that each Indian tribe in the State has been informed about the programs to be carried out under the plan; that each such tribe has been given an opportunity to comment on the plan before submission to the Secretary; and that benefits and services under the programs will be made available to Indian children in the State on the same basis as to other children in the State.

''(G) A certification by the chief executive officer of the State that the State will use training funds provided under the program of Federal payments for foster care and adoption assistance to provide training to help foster parents, adoptive parents, workers in group homes, and case managers understand and address the issues confronting adolescents preparing for independent living, with such training utilizing a youth development approach, and will, to the extent possible, coordinate such training with the independent living program conducted for adolescents.

''(H) A certification by the chief executive officer of the State that the State will ensure that each adolescent participating in any program under this section will have a personal independent living plan, and that adolescents themselves will participate directly in designing their own program activities that prepare them for independent living and in taking personal responsibility for fulfilling their program requirements.

''(I) A certification by the chief executive officer of the State that the State has established and will enforce standards and procedures to prevent fraud and abuse in the programs carried out under the plan.

''(4) APPROVAL.—The Secretary shall approve an application submitted by a State pursuant to paragraph (1) for a period if—

''(A) the application is submitted on or before June 30 of the calendar year in which such period begins; and

''(B) the Secretary finds that the application contains the material required by paragraph (1).

''(5) AUTHORITY TO IMPLEMENT CERTAIN AMENDMENTS; NOTIFICATION.—A State with an application approved under paragraph (4) may implement any amendment to the plan contained in the application if the application, incorporating the amendment, would be approvable under paragraph (4). Within 30 days after a State implements any such amendment, the State shall notify the Secretary of the amendment.

''(6) AVAILABILITY.—The State shall make available to the public any application submitted by the State pursuant to paragraph (1), and a brief summary of the plan contained in the application.

''(c) ALLOTMENTS TO STATES.—For fiscal year 2000 and each succeeding fiscal year, the Secretary shall allot the amount specified in subsection (h) that remains after applying subsection (g)(2) among States with applications approved under subsection (b) for the fiscal year in the following manner:

''(1) The Secretary shall first allot to each State an amount equal to the amount payable to the State for fiscal year 1998 under this section, as in effect on the day before the date of the enactment of the Foster Care Independence Act of 1999.

''(2) From the amount remaining after carrying out paragraph (1), the Secretary shall allot to each State that elects the option under section 1902(a)(10)(A)(ii)(XV) to provide medical assistance to independent foster care adolescents the sum of—

''(A) an amount equal to one-half of the amount allotted to the State under paragraph (1), plus

''(B) an amount bearing the same ratio to the amount remaining after carrying out paragraph (1) and subparagraph (A) as the number of children in foster care under a program of the State in the most recent fiscal year for which such information is available bears to the total number of children in such foster care in all States for such most recent fiscal year.

''(3) REALLOTMENT OF UNUSED FUNDS.—The Secretary shall use the formula provided in paragraph (1) of this subsection to reallot among the States with applications approved under subsection (b) for a fiscal year any amount allotted to a State under this subsection for the preceding year that is not payable to the State for the preceding year.

''(d) USE OF FUNDS.—

''(1) IN GENERAL.—A State to which an amount is paid from its allotment under subsection (c) may use the amount in any manner that is reasonably calculated to accomplish the purposes of this section.

''(2) NO SUPPLANTATION OF OTHER FUNDS AVAILABLE FOR SAME GENERAL PURPOSES.—The amounts paid to a State from its allotment under subsection (c) shall be used to supplement and not supplant any other funds which are available for the same general purposes in the State.

''(e) PENALTIES.—

''(1) USE OF GRANT IN VIOLATION OF THIS PART.—If the Secretary is made aware, by an audit conducted under chapter 75 of title 31, United States Code, or by any other means, that a program receiving funds from an allotment made to a State under subsection (c) has been operated in a manner that is inconsistent with, or not disclosed in the State application approved under subsection (b), the Secretary shall assess a penalty against the State in an amount equal to not less than 1 percent and not more than 5 percent of the amount of the allotment.

''(2) FAILURE TO COMPLY WITH DATA REPORTING REQUIREMENT.—The Secretary shall assess a penalty against a State that fails during a fiscal year to comply with an information collection plan implemented under subsection (f) in an amount equal to not less than 1 percent and not more than 5 percent of the amount allotted to the State for the fiscal year.

''(3) PENALTIES BASED ON DEGREE OF NONCOMPLIANCE.—The Secretary shall assess penalties under this subsection based on the degree of noncompliance.

''(f) DATA COLLECTION AND PERFORMANCE MEASUREMENT.—

''(1) IN GENERAL.—The Secretary, in consultation with State and local public officials responsible for administering independent living and other child welfare programs, child welfare advocates, members of Congress, youth service providers, and researchers, shall—

''(A) develop outcome measures (such as measures of educational attainment, employment, career goal-setting and development, active participation in personal health care, development of healthy relationships with family, mentors, and other community members, as well as, avoidance of dependency, homelessness, nonmarital childbirth, illegal activities, substance abuse or alcohol dependence, and high-risk behaviors) that can be used—

''(i) to assess the performance of States in operating independent living programs, and

''(ii) to explicitly track all outcomes, particularly those related to educational attainment, for youths who are provided with room and board services under such State programs;

''(B) identify data elements needed to track—

''(i) the number and characteristics of children receiving services under this section;

''(ii) the type and quantity of services being provided; and

''(iii) State performance on the outcome measures;

''(C) develop and implement a plan to collect the needed information beginning with the 2nd fiscal year beginning after the date of the enactment of this section; and

''(D) ensure that the data collection plan described in subparagraph (C) will be coordinated with the development and implementation of other data collection efforts required under the Adoption and Safe Families Act of 1997 and the Adoption and Foster Care Reporting System and the Statewide Automated Child Welfare Information Systems.

''(2) REPORT TO THE CONGRESS.—Within 12 months after the date of the enactment of this section, the Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report detailing the plans and timetable for collecting from the States the information described in paragraph (1).

''(g) EVALUATIONS.—

''(1) IN GENERAL.—The Secretary shall conduct evaluations of such State programs funded under this section as the Secretary deems to be innovative or of potential national significance. The evaluation of any such program shall include information on the effects of the program on education, employment, and personal development. To the maximum extent practicable, the evaluations shall be based on rigorous scientific standards including random assignment to treatment and control groups. The Secretary is encouraged to work directly with State and local governments to design methods for conducting the evaluations, directly or by grant, contract, or cooperative agreement.

''(2) FUNDING OF EVALUATIONS.—The Secretary shall reserve 1.5 percent of the amount specified in subsection (h) for a fiscal year to carry out, during the fiscal year, evaluation, technical assistance, performance measurement, and data collection activities related to this section, directly or through grants, contracts, or cooperative agreements with appropriate entities.

''(h) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated to the Secretary $140,000,000 for each fiscal year.''.

(c) PAYMENTS TO STATES.—Section 474(a)(4) of such Act (42 U.S.C. 674(a)(4)) is amended to read as follows:

''(4) the lesser of—

''(A) 80 percent of the amount (if any) by which—

''(i) the total amount expended by the State during the fiscal year in which the quarter occurs to carry out programs in accordance with the State application approved under section 477(b) for the period in which the quarter occurs (including any amendment that meets the requirements of section 477(b)(5)); exceeds

''(ii) the total amount of any penalties assessed against the State under section 477(e) during the fiscal year in which the quarter occurs; or

''(B) the amount allotted to the State under section 477 for the fiscal year in which the quarter occurs, reduced by the total of the amounts payable to the State under this paragraph for all prior quarters in the fiscal year.''.

(d) REGULATIONS.—Not later than 12 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall issue such regulations as may be necessary to carry out the amendments made by this section.

Subtitle B—Related Foster Care Provision

SEC. 111. INCREASE IN AMOUNT OF ASSETS ALLOWABLE FOR CHILDREN IN FOSTER CARE.

Section 472(a) of the Social Security Act (42 U.S.C. 672(a)) is amended by adding at the end the following: ''In determining whether a child would have received aid under a State plan approved under section 402 (as in effect on July 16, 1996), a child whose resources (determined pursuant to section 402(a)(7)(B), as so in effect) have a combined value of not more than $10,000 shall be considered to be a child whose resources have a combined value of not more than $1,000 (or such lower amount as the State may determine for purposes of such section 402(a)(7)(B)).''.

Subtitle C—Medicaid Amendments

SEC. 121. STATE OPTION OF MEDICAID COVERAGE FOR ADOLESCENTS LEAVING FOSTER CARE.

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

(1) in section 1902(a)(10)(A)(ii) (42 U.S.C. 1396a(a)(10)(A)(ii))—

(A) by striking ''or'' at the end of subclause (XIII);

(B) by adding ''or'' at the end of subclause (XIV); and

(C) by adding at the end the following new subclause:

''(XV) who are independent foster care adolescents (as defined in (section 1905(v)(1));''; and

(2) in section 1905 (42 U.S.C. 1396d), by adding at the end the following new subsection:

''(v)(1) For purposes of this title, the term 'independent foster care adolescent' means an individual—

''(A) who is under 21 years of age;

''(B)(i) who, on the individual's 18th birthday, was in foster care under the responsibility of a State, (ii) who is described in subparagraph (A), (B), or (C) of section 477(a)(2) (regardless of whether or not the State has exercised the option described in such subparagraph (B) or (C)), or (iii) who was adopted after the individual's 16th birthday and before the individual's 18th birthday and with respect to whose adoption there was in effect an adoption assistance agreement described in section 473; and

''(C) who meets the income and resource standards (if any) established by the State consistent with paragraph (2).

The State may waive the application of any resource or income standard otherwise applicable under subparagraph (C) for reasonable classifications of adolescents.

''(2) The income and resource standards (if any) established by a State under paragraph (1)(C) may not be less than the corresponding income and resource standards applied by the State under section 1931(b) and the income and resource methodologies (if any) used in applying such paragraph may not be more restrictive than the methodologies referred to in paragraph (2)(C) of such section.''.

(b) CONFORMING AMENDMENT.—Section 1903(f)(4) of such Act (42 U.S.C. 1396b(f)(4)) is amended by inserting ''1902(a)(10)(A)(ii)(XV),'' after 1902(a)(10)(A)(ii)((X),''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to medical assistance for items and services furnished on or after October 1, 1999, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

Subtitle D—Welfare-To-Work Amendments

SEC. 131. CHILDREN AGING OUT OF FOSTER CARE ELIGIBLE FOR SERVICES.

(a) RECIPIENTS WITH CHARACTERISTICS OF LONG-TERM DEPENDENCY; CHILDREN AGING OUT OF FOSTER CARE.—Clause (iii) of section 403(a)(5)(C) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(iii)) is amended—

(1) in subclause (I), by striking ''or'' at the end;

(2) in subclause (II), by striking the period at the end and inserting ''; or''; and

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

''(III) to children—

''(aa) who have attained 18 years of age but not 25 years of age; and

''(bb) who, on the day before attaining 18 years of age were recipients of foster care maintenance payments (as defined in section 475(4)) under part E or were in foster care under the responsibility of a State.''.

(b) CONFORMING AMENDMENT.—Section 403(a)(5)(C)(iii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(iii)) is amended by inserting ''HARD TO EMPLOY'' before ''INDIVIDUALS'' in the heading.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1999.

TITLE II—SSI FRAUD PREVENTION

Subtitle A—Fraud Prevention and Related Provisions

SEC. 201. LIABILITY OF REPRESENTATIVE PAYEES FOR OVERPAYMENTS TO DECEASED RECIPIENTS.

(a) AMENDMENT TO TITLE II.—Section 204(a)(2) of the Social Security Act (42 U.S.C. 404(a)(2)) is amended by adding at the end the following new sentence: ''If any payment of more than the correct amount is made to a representative payee on behalf of an individual after the individual's death, the representative payee shall be liable for the repayment of the overpayment, and the Commissioner of Social Security shall establish an overpayment control record under the social security account number of the representative payee.''.

(b) AMENDMENT TO TITLE XVI.—Section 1631(b)(2) of such Act (42 U.S.C. 1383(b)(2)) is amended by adding at the end the following new sentence: ''If any payment of more than the correct amount is made to a representative payee on behalf of an individual after the individual's death, the representative payee shall be liable for the repayment of the overpayment, and the Commissioner of Social Security shall establish an overpayment control record under the social security account number of the representative payee.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to overpayments made 12 months or more after the date of the enactment of this Act.

SEC. 202. RECOVERY OF OVERPAYMENTS OF SSI BENEFITS FROM LUMP SUM SSI BENEFIT PAYMENTS.

(a) IN GENERAL.—Section 1631(b)(1)(B)(ii) of the Social Security Act (42 U.S.C. 1383(b)(1)(B)(ii)) is amended—

(1) by inserting ''monthly'' before ''benefit payments''; and

(2) by inserting ''and in the case of an individual or eligible spouse to whom a lump sum is payable under this title (including under section 1616(a) of this Act or under an agreement entered into under section 212(a) of Public Law 93–66) shall, as at least one means of recovering such overpayment, make the adjustment or recovery from the lump sum payment in an amount equal to not less than the lesser of the amount of the overpayment or 50 percent of the lump sum payment,'' before ''unless fraud''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect 12 months after the date of the enactment of this Act and shall apply to amounts incorrectly paid which remain outstanding on or after such date.

SEC. 203. ADDITIONAL DEBT COLLECTION PRACTICES.

(a) IN GENERAL.—Section 1631(b) of the Social Security Act (42 U.S.C. 1383(b)) is amended—

(1) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively; and

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

''(4)(A) With respect to any delinquent amount, the Commissioner of Social Security may use the collection practices described in sections 3711(f), 3716, 3717, and 3718 of title 31, United States Code, and in section 5514 of title 5, United States Code, all as in effect immediately after the enactment of the Debt Collection Improvement Act of 1996.

''(B) For purposes of subparagraph (A), the term 'delinquent amount' means an amount—

''(i) in excess of the correct amount of payment under this title;

''(ii) paid to a person after such person has attained 18 years of age; and

''(iii) determined by the Commissioner of Social Security, under regulations, to be otherwise unrecoverable under this section after such person ceases to be a beneficiary under this title.''.

(b) CONFORMING AMENDMENTS.—Section 3701(d)(2) of title 31, United States Code, is amended by striking ''section 204(f)'' and inserting ''sections 204(f) and 1631(b)(4)''.

(c) TECHNICAL AMENDMENTS.—Section 204(f) of the Social Security Act (42 U.S.C. 404(f)) is amended—

(1) by striking ''3711(e)'' and inserting ''3711(f)''; and

(2) by inserting ''all'' before ''as in effect''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to debt outstanding on or after the date of the enactment of this Act.

SEC. 204. REQUIREMENT TO PROVIDE STATE PRISONER INFORMATION TO FEDERAL AND FEDERALLY ASSISTED BENEFIT PROGRAMS.

Section 1611(e)(1)(I)(ii)(II) of the Social Security Act (42 U.S.C. 1382(e)(1)(I)(ii)(II)) is amended by striking ''is authorized to'' and inserting ''shall''.

SEC. 205. RULES RELATING TO COLLECTION OF OVERPAYMENTS FROM INDIVIDUALS CONVICTED OF CRIMES.

(a) WAIVERS INAPPLICABLE TO OVERPAYMENTS BY REASON OF PAYMENT IN MONTHS IN WHICH BENEFICIARY IS A PRISONER OR A FUGITIVE.—

(1) AMENDMENT TO TITLE II.—Section 204(b) of the Social Security Act (42 U.S.C. 404(b)) is amended—

(A) by inserting ''(1)'' after ''(b)''; and

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

''(2) Paragraph (1) shall not apply with respect to any payment to any person made during a month in which such benefit was not payable under section 202(x).''.

(2) AMENDMENT TO TITLE XVI.—Section 1631(b)(1)(B)(i) of such Act (42 U.S.C. 1383(b)(1)(B)(i)) is amended by inserting ''unless (I) section 1611(e)(1) prohibits payment to the person of a benefit under this title for the month by reason of confinement of a type described in clause (i) or (ii) of section 202(x)(1)(A), or (II) section 1611(e)(5) prohibits payment to the person of a benefit under this title for the month,'' after ''administration of this title''.

(b) 10-YEAR PERIOD OF INELIGIBILITY FOR PERSONS FAILING TO NOTIFY COMMISSIONER OF OVERPAYMENTS IN MONTHS IN WHICH BENEFICIARY IS A PRISONER OR A FUGITIVE OR FAILING TO COMPLY WITH REPAYMENT SCHEDULE FOR SUCH OVERPAYMENTS.—

(1) AMENDMENT TO TITLE II.—Section 202(x) of such Act (42 U.S.C. 402(x)) is amended by adding at the end the following new paragraph:

''(4)(A) No person shall be considered entitled to monthly insurance benefits under this section based on the person's disability or to disability insurance benefits under section 223 otherwise payable during the 10-year period that begins on the date the person—

''(i) knowingly fails to timely notify the Commissioner of Social Security, in connection with any application for benefits under this title, of any prior receipt by such person of any benefit under this title or title XVI in any month in which such benefit was not payable under the preceding provisions of this subsection, or

''(ii) knowingly fails to comply with any schedule imposed by the Commissioner which is for repayment of overpayments comprised of payments described in subparagraph (A) and which is in compliance with section 204.

''(B) The Commissioner of Social Security shall, in addition to any other relevant factors, take into account any mental or linguistic limitations of a person (including any lack of facility with the English language) in determining whether the person has knowingly failed to comply with a requirement of clause (i) or (ii) of subparagraph (A).''.

(2) AMENDMENT TO TITLE XVI.—Section 1611(e)(1) of such Act (42 U.S.C. 1382(e)(1)) is amended by adding at the end the following new subparagraph:

''(J)(i) A person shall not be considered an eligible individual or eligible spouse for purposes of benefits under this title by reason of disability, during the 10-year period that begins on the date the person—

''(I) knowingly fails to timely notify the Commissioner of Social Security, in an application for benefits under this title, of any prior receipt by the person of a benefit under this title or title II in a month in which payment to the person of a benefit under this title was prohibited by—

''(aa) the preceding provisions of this paragraph by reason of confinement of a type described in clause (i) or (ii) of section 202(x)(1)(A); or

''(bb) section 1611(e)(4); or

''(II) knowingly fails to comply with any schedule imposed by the Commissioner which is for repayment of overpayments comprised of payments described in clause (i) of this subparagraph and which is in compliance with section 1631(b).

''(ii) The Commissioner of Social Security shall, in addition to any other relevant factors, take into account any mental or linguistic limitations of a person (including any lack of facility with the English language) in determining whether the person has knowingly failed to comply with a requirement of subclause (I) or (II) of clause (i).''.

(c) CONTINUED COLLECTION EFFORTS AGAINST PRISONERS.—

(1) AMENDMENT TO TITLE II.—Section 204(b) of such Act (42 U.S.C. 404(b)), as amended by subsection (a)(1) of this section, is amended further by adding at the end the following new paragraph:

''(3) The Commissioner shall not refrain from recovering overpayments from resources currently available to any overpaid person or to such person's estate solely because such individual is confined as described in clause (i) or (ii) of section 202(x)(1)(A).''.

(2) AMENDMENT TO TITLE XVI.—Section 1631(b)(1)(A) of such Act (42 U.S.C. 1383(b)(1)(A)) is amended by adding after and below clause (ii) the following flush left sentence:

''The Commissioner shall not refrain from recovering overpayments from resources currently available to any individual solely because the individual is confined as described in clause (i) or (ii) of section 202(x)(1)(A).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to overpayments made in, and to benefits payable for, months beginning 24 months or more after the date of the enactment of this Act.

SEC. 206. TREATMENT OF ASSETS HELD IN TRUST UNDER THE SSI PROGRAM.

(a) TREATMENT AS RESOURCE.—Section 1613 of the Social Security Act (42 U.S.C. 1382b) is amended by adding at the end the following new subsection:

''Trusts

''(e)(1) In determining the resources of an individual, paragraph (3) shall apply to a trust (other than a trust described in paragraph (5)) established by the individual.

''(2)(A) For purposes of this subsection, an individual shall be considered to have established a trust if any assets of the individual (or of the individual's spouse) are transferred to the trust other than by will.

''(B) In the case of an irrevocable trust to which are transferred the assets of an individual (or of the individual's spouse) and the assets of any other person, this subsection shall apply to the portion of the trust attributable to the assets of the individual (or of the individual's spouse).

''(C) This subsection shall apply to a trust without regard to—

''(i) the purposes for which the trust is established;

''(ii) whether the trustees have or exercise any discretion under the trust;

''(iii) any restrictions on when or whether distributions may be made from the trust; or

''(iv) any restrictions on the use of distributions from the trust.

''(3)(A) In the case of a revocable trust established by an individual, the corpus of the trust shall be considered a resource available to the individual.

''(B) In the case of an irrevocable trust established by an individual, if there are any circumstances under which payment from the trust could be made to or for the benefit of the individual or the individual's spouse, the portion of the corpus from which payment to or for the benefit of the individual or the individual's spouse could be made shall be considered a resource available to the individual.

''(4) The Commissioner of Social Security may waive the application of this subsection with respect to an individual if the Commissioner determines that such application would work an undue hardship (as determined on the basis of criteria established by the Commissioner) on the individual.

''(5) This subsection shall not apply to a trust described in subparagraph (A) or (C) of section 1917(d)(4).

''(6) For purposes of this subsection—

''(A) the term 'trust' includes any legal instrument or device that is similar to a trust;

''(B) the term 'corpus' means, with respect to a trust, all property and other interests held by the trust, including accumulated earnings and any other addition to the trust after its establishment (except that such term does not include any such earnings or addition in the month in which the earnings or addition is credited or otherwise transferred to the trust); and

''(C) the term 'asset' includes any income or resource of the individual or of the individual's spouse, including—

''(i) any income excluded by section 1612(b);

''(ii) any resource otherwise excluded by this section; and

''(iii) any other payment or property to which the individual or the individual's spouse is entitled but does not receive or have access to because of action by—

''(I) the individual or spouse;

''(II) a person or entity (including a court) with legal authority to act in place of, or on behalf of, the individual or spouse; or

''(III) a person or entity (including a court) acting at the direction of, or on the request of, the individual or spouse.''.

(b) TREATMENT AS INCOME.—Section 1612(a)(2) of such Act (42 U.S.C. 1382a(a)(2)) is amended—

(1) by striking ''and'' at the end of subparagraph (E);

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

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

''(G) any earnings of, and additions to, the corpus of a trust established by an individual (within the meaning of section 1613(e)), of which the individual is a beneficiary, to which section 1613(e) applies, and, in the case of an irrevocable trust, with respect to which circumstances exist under which a payment from the earnings or additions could be made to or for the benefit of the individual.''.

(c) CONFORMING AMENDMENTS.—Section 1902(a)(10) of the Social Security Act (42 U.S.C. 1396a(a)(10)) is amended—

(1) by striking ''and'' at the end of subparagraph (E);

(2) by adding ''and'' at the end of subparagraph (F); and

(3) by inserting after subparagraph (F) the following new subparagraph:

''(G) that, in applying eligibility criteria of the supplemental security income program under title XVI for purposes of determining eligibility for medical assistance under the State plan of an individual who is not receiving supplemental security income, the State will disregard the provisions of section 1613(e);''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2000, and shall apply to trusts established on or after such date.

SEC. 207. DISPOSAL OF RESOURCES FOR LESS THAN FAIR MARKET VALUE UNDER THE SSI PROGRAM.

(a) IN GENERAL.—Section 1613(c) of the Social Security Act (42 U.S.C. 1382b(c)) is amended—

(1) in the caption, by striking ''Notification of Medicaid Policy Restricting Eligibility of Institutionalized Individuals for Benefits Based on'';

(2) in paragraph (1)—

(A) in subparagraph (A)—

(i) by inserting ''paragraph (1) and'' after ''provisions of'';

(ii) by striking ''title XIX'' the first place it appears and inserting ''this title and title XIX, respectively,'';

(iii) by striking ''subparagraph (B)'' and inserting ''clause (ii)'';

(iv) by striking ''paragraph (2)'' and inserting ''subparagraph (B)'';

(B) in subparagraph (B)—

(i) by striking ''by the State agency''; and

(ii) by striking ''section 1917(c)'' and all that follows and inserting ''paragraph (1) or section 1917(c).''; and

(C) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(3) in paragraph (2)—

(A) by striking ''(2)'' and inserting ''(B)''; and

(B) by striking ''paragraph (1)(B)'' and inserting ''subparagraph (A)(ii)'';

(4) by striking ''(c)(1)'' and inserting ''(2)(A)''; and

(5) by inserting before paragraph (2) (as so redesignated by paragraph (4) of this subsection) the following new subsection:

''(c)(1)(A)(i) If an individual or the spouse of an individual disposes of resources for less than fair market value on or after the look-back date described in clause (ii)(I), the individual is ineligible for benefits under this title for months during the period beginning on the date described in clause (iii) and equal to the number of months calculated as provided in clause (iv).

''(ii)(I) The look-back date described in this subclause is a date that is 36 months before the date described in subclause (II).

''(II) The date described in this subclause is the date on which the individual applies for benefits under this title or, if later, the date on which the individual (or the spouse of the individual) disposes of resources for less than fair market value.

''(iii) The date described in this clause is the first day of the first month in or after which resources were disposed of for less than fair market value and which does not occur in any other period of ineligibility under this paragraph.

''(iv) The number of months calculated under this clause shall be equal to—

''(I) the total, cumulative uncompensated value of all resources so disposed of by the individual (or the spouse of the individual) on or after the look-back date described in clause (ii)(I); divided by

''(II) the amount of the maximum monthly benefit payable under section 1611(b), plus the amount (if any) of the maximum State supplementary payment corresponding to the State's payment level applicable to the individual's living arrangement and eligibility category that would otherwise be payable to the individual by the Commissioner pursuant to an agreement under section 1616(a) of this Act or section 212(b) of Public Law 93–66, for the month in which occurs the date described in clause (ii)(II),

rounded, in the case of any fraction, to the nearest whole number, but shall not in any case exceed 36 months.

''(B)(i) Notwithstanding subparagraph (A), this subsection shall not apply to a transfer of a resource to a trust if the portion of the trust attributable to the resource is considered a resource available to the individual pursuant to subsection (e)(3) (or would be so considered but for the application of subsection (e)(4)).

''(ii) In the case of a trust established by an individual or an individual's spouse (within the meaning of subsection (e)), if from such portion of the trust, if any, that is considered a resource available to the individual pursuant to subsection (e)(3) (or would be so considered but for the application of subsection (e)(4)) or the residue of the portion on the termination of the trust—

''(I) there is made a payment other than to or for the benefit of the individual; or

''(II) no payment could under any circumstance be made to the individual,

then, for purposes of this subsection, the payment described in clause (I) or the foreclosure of payment described in clause (II) shall be considered a transfer of resources by the individual or the individual's spouse as of the date of the payment or foreclosure, as the case may be.

''(C) An individual shall not be ineligible for benefits under this title by reason of the application of this paragraph to a disposal of resources by the individual or the spouse of the individual, to the extent that—

''(i) the resources are a home and title to the home was transferred to—

''(I) the spouse of the transferor;

''(II) a child of the transferor who has not attained 21 years of age, or is blind or disabled;

''(III) a sibling of the transferor who has an equity interest in such home and who was residing in the transferor's home for a period of at least 1 year immediately before the date the transferor becomes an institutionalized individual; or

''(IV) a son or daughter of the transferor (other than a child described in subclause (II)) who was residing in the transferor's home for a period of at least 2 years immediately before the date the transferor becomes an institutionalized individual, and who provided care to the transferor which permitted the transferor to reside at home rather than in such an institution or facility;

''(ii) the resources—

''(I) were transferred to the transferor's spouse or to another for the sole benefit of the transferor's spouse;

''(II) were transferred from the transferor's spouse to another for the sole benefit of the transferor's spouse;

''(III) were transferred to, or to a trust (including a trust described in section 1917(d)(4)) established solely for the benefit of, the transferor's child who is blind or disabled; or

''(IV) were transferred to a trust (including a trust described in section 1917(d)(4)) established solely for the benefit of an individual who has not attained 65 years of age and who is disabled;

''(iii) a satisfactory showing is made to the Commissioner of Social Security (in accordance with regulations promulgated by the Commissioner) that—

''(I) the individual who disposed of the resources intended to dispose of the resources either at fair market value, or for other valuable consideration;

''(II) the resources were transferred exclusively for a purpose other than to qualify for benefits under this title; or

''(III) all resources transferred for less than fair market value have been returned to the transferor; or

''(iv) the Commissioner determines, under procedures established by the Commissioner, that the denial of eligibility would work an undue hardship as determined on the basis of criteria established by the Commissioner.

''(D) For purposes of this subsection, in the case of a resource held by an individual in common with another person or persons in a joint tenancy, tenancy in common, or similar arrangement, the resource (or the affected portion of such resource) shall be considered to be disposed of by the individual when any action is taken, either by the individual or by any other person, that reduces or eliminates the individual's ownership or control of such resource.

''(E) In the case of a transfer by the spouse of an individual that results in a period of ineligibility for the individual under this subsection, the Commissioner shall apportion the period (or any portion of the period) among the individual and the individual's spouse if the spouse becomes eligible for benefits under this title.

''(F) For purposes of this paragraph—

''(i) the term 'benefits under this title' includes payments of the type described in section 1616(a) of this Act and of the type described in section 212(b) of Public Law 93–66;

''(ii) the term 'institutionalized individual' has the meaning given such term in section 1917(e)(3); and

''(iii) the term 'trust' has the meaning given such term in subsection (e)(6)(A) of this section.''.

(b) CONFORMING AMENDMENT.—Section 1902(a)(10) of the Social Security Act (42 U.S.C. 1396a(a)(10)), as amended by section 206(c) of this Act, is amended by striking ''section 1613(e)'' and inserting ''subsections (c) and (e) of section 1613''.

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to disposals made on or after the date of the enactment of this Act.

SEC. 208. ADMINISTRATIVE PROCEDURE FOR IMPOSING PENALTIES FOR FALSE OR MISLEADING STATEMENTS.

(a) IN GENERAL.—Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by inserting after section 1129 the following new section:

''SEC. 1129A. ADMINISTRATIVE PROCEDURE FOR IMPOSING PENALTIES FOR FALSE OR MISLEADING STATEMENTS.

''(a) IN GENERAL.—Any person who makes, or causes to be made, a statement or representation of a material fact for use in determining any initial or continuing right to or the amount of—

''(1) monthly insurance benefits under title II; or

''(2) benefits or payments under title XVI,

that the person knows or should know is false or misleading or knows or should know omits a material fact or makes such a statement with knowing disregard for the truth shall be subject to, in addition to any other penalties that may be prescribed by law, a penalty described in subsection (b) to be imposed by the Commissioner of Social Security.

''(b) PENALTY.—The penalty described in this subsection is—

''(1) nonpayment of benefits under title II that would otherwise be payable to the person; and

''(2) ineligibility for cash benefits under title XVI,

for each month that begins during the applicable period described in subsection (c).

''(c) DURATION OF PENALTY.—The duration of the applicable period, with respect to a determination by the Commissioner under subsection (a) that a person has engaged in conduct described in subsection (a), shall be—

''(1) 6 consecutive months, in the case of a first such determination with respect to the person;

''(2) 12 consecutive months, in the case of a second such determination with respect to the person; and

''(3) 24 consecutive months, in the case of a third or subsequent such determination with respect to the person.

''(d) EFFECT ON OTHER ASSISTANCE.—A person subject to a period of nonpayment of benefits under title II or ineligibility for title XVI benefits by reason of this section nevertheless shall be considered to be eligible for and receiving such benefits, to the extent that the person would be receiving or eligible for such benefits but for the imposition of the penalty, for purposes of—

''(1) determination of the eligibility of the person for benefits under titles XVIII and XIX; and

''(2) determination of the eligibility or amount of benefits payable under title II or XVI to another person.

''(e) DEFINITION.—In this section, the term 'benefits under title XVI' includes State supplementary payments made by the Commissioner pursuant to an agreement under section 1616(a) of this Act or section 212(b) of Public Law 93–66.

''(f) CONSULTATIONS.—The Commissioner of Social Security shall consult with the Inspector General of the Social Security Administration regarding initiating actions under this section.''.

(b) CONFORMING AMENDMENT PRECLUDING DELAYED RETIREMENT CREDIT FOR ANY MONTH TO WHICH A NONPAYMENT OF BENEFITS PENALTY APPLIES.—Section 202(w)(2)(B) of such Act (42 U.S.C. 402(w)(2)(B)) is amended—

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

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

(3) by adding at the end the following new clause:

''(iii) such individual was not subject to a penalty imposed under section 1129A.''.

(c) ELIMINATION OF REDUNDANT PROVISION.—Section 1611(e) of such Act (42 U.S.C. 1382(e)) is amended—

(1) by striking paragraph (4);

(2) in paragraph (6)(A)(i), by striking ''(5)'' and inserting ''(4)''; and

(3) by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(d) REGULATIONS.—Within 6 months after the date of the enactment of this Act, the Commissioner of Social Security shall develop regulations that prescribe the administrative process for making determinations under section 1129A of the Social Security Act (including when the applicable period in subsection (c) of such section shall commence), and shall provide guidance on the exercise of discretion as to whether the penalty should be imposed in particular cases.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to statements and representations made on or after the date of the enactment of this Act.

SEC. 209. EXCLUSION OF REPRESENTATIVES AND HEALTH CARE PROVIDERS CONVICTED OF VIOLATIONS FROM PARTICIPATION IN SOCIAL SECURITY PROGRAMS.

(a) IN GENERAL.—Part A of title XI of the Social Security Act (42 U.S.C. 1301–1320b–17) is amended by adding at the end the following new section:

''EXCLUSION OF REPRESENTATIVES AND HEALTH CARE PROVIDERS CONVICTED OF VIOLATIONS FROM PARTICIPATION IN SOCIAL SECURITY PROGRAMS

''SEC. 1148. (a) IN GENERAL.—The Commissioner of Social Security shall exclude from participation in the social security programs any representative or health care provider—

''(1) who is convicted of a violation of section 208 or 1632 of this Act,

''(2) who is convicted of any violation under title 18, United States Code, relating to an initial application for or continuing entitlement to, or amount of, benefits under title II of this Act, or an initial application for or continuing eligibility for, or amount of, benefits under title XVI of this Act, or

''(3) who the Commissioner determines has committed an offense described in section 1129(a)(1) of this Act.

''(b) NOTICE, EFFECTIVE DATE, AND PERIOD OF EXCLUSION.—(1) An exclusion under this section shall be effective at such time, for such period, and upon such reasonable notice to the public and to the individual excluded as may be specified in regulations consistent with paragraph (2).

''(2) Such an exclusion shall be effective with respect to services furnished to any individual on or after the effective date of the exclusion. Nothing in this section may be construed to preclude, in determining disability under title II or title XVI, consideration of any medical evidence derived from

services provided by a health care provider before the effective date of the exclusion of the health care provider under this section.

''(3)(A) The Commissioner shall specify, in the notice of exclusion under paragraph (1), the period of the exclusion.

''(B) Subject to subparagraph (C), in the case of an exclusion under subsection (a), the minimum period of exclusion shall be five years, except that the Commissioner may waive the exclusion in the case of an individual who is the sole source of essential services in a community. The Commissioner's decision whether to waive the exclusion shall not be reviewable.

''(C) In the case of an exclusion of an individual under subsection (a) based on a conviction or a determination described in subsection (a)(3) occurring on or after the date of the enactment of this section, if the individual has (before, on, or after such date of enactment) been convicted, or if such a determination has been made with respect to the individual—

''(i) on one previous occasion of one or more offenses for which an exclusion may be effected under such subsection, the period of the exclusion shall be not less than 10 years, or

''(ii) on 2 or more previous occasions of one or more offenses for which an exclusion may be effected under such subsection, the period of the exclusion shall be permanent.

''(c) NOTICE TO STATE AGENCIES.—The Commissioner shall promptly notify each appropriate State agency employed for the purpose of making disability determinations under section 221 or 1633(a)—

''(1) of the fact and circumstances of each exclusion effected against an individual under this section, and

''(2) of the period (described in subsection (b)(3)) for which the State agency is directed to exclude the individual from participation in the activities of the State agency in the course of its employment.

''(d) NOTICE TO STATE LICENSING AGENCIES.—The Commissioner shall—

''(1) promptly notify the appropriate State or local agency or authority having responsibility for the licensing or certification of an individual excluded from participation under this section of the fact and circumstances of the exclusion,

''(2) request that appropriate investigations be made and sanctions invoked in accordance with applicable State law and policy, and

''(3) request that the State or local agency or authority keep the Commissioner and the Inspector General of the Social Security Administration fully and currently informed with respect to any actions taken in response to the request.

''(e) NOTICE, HEARING, AND JUDICIAL REVIEW.—(1) Any individual who is excluded (or directed to be excluded) from participation under this section is entitled to reasonable notice and opportunity for a hearing thereon by the Commissioner to the same extent as is provided in section 205(b), and to judicial review of the Commissioner's final decision after such hearing as is provided in section 205(g).

''(2) The provisions of section 205(h) shall apply with respect to this section to the same extent as it is applicable with respect to title II.

''(f) APPLICATION FOR TERMINATION OF EXCLUSION.—(1) An individual excluded from participation under this section may apply to the Commissioner, in the manner specified by the Commissioner in regulations and at the end of the minimum period of exclusion provided under subsection (b)(3) and at such other times as the Commissioner may provide, for termination of the exclusion effected under this section.

''(2) The Commissioner may terminate the exclusion if the Commissioner determines, on the basis of the conduct of the applicant which occurred after the date of the notice of exclusion or which was unknown to the Commissioner at the time of the exclusion, that—

''(A) there is no basis under subsection (a) for a continuation of the exclusion, and

''(B) there are reasonable assurances that the types of actions which formed the basis for the original exclusion have not recurred and will not recur.

''(3) The Commissioner shall promptly notify each State agency employed for the purpose of making disability determinations under section 221 or 1633(a) of the fact and circumstances of each termination of exclusion made under this subsection.

''(g) AVAILABILITY OF RECORDS OF EXCLUDED REPRESENTATIVES AND HEALTH CARE PROVIDERS.—Nothing in this section shall be construed to have the effect of limiting access by any applicant or beneficiary under title II or XVI, any State agency acting under section 221 or 1633(a), or the Commissioner to records maintained by any representative or health care provider in connection with services provided to the applicant or beneficiary prior to the exclusion of such representative or health care provider under this section.

''(h) REPORTING REQUIREMENT.—Any representative or health care provider participating in, or seeking to participate in, a social security program shall inform the Commissioner, in such form and manner as the Commissioner shall prescribe by regulation, whether such representative or health care provider has been convicted of a violation described in subsection (a).

''(i) DELEGATION OF AUTHORITY.—The Commissioner may delegate authority granted by this section to the Inspector General.

''(j) DEFINITIONS.—For purposes of this section:

''(1) EXCLUDE.—The term 'exclude' from participation means—

''(A) in connection with a representative, to prohibit from engaging in representation of an applicant for, or recipient of, benefits, as a representative payee under section 205(j) or 1631(a)(2)(A)(ii), or otherwise as a representative, in any hearing or other proceeding relating to entitlement to benefits, and

''(B) in connection with a health care provider, to prohibit from providing items or services to an applicant for, or recipient of, benefits for the purpose of assisting such applicant or recipient in demonstrating disability.

''(2) SOCIAL SECURITY PROGRAM.—The term 'social security programs' means the program providing for monthly insurance benefits under title II, and the program providing for monthly supplemental security income benefits to individuals under title XVI (including State supplementary payments made by the Commissioner pursuant to an agreement under section 1616(a) of this Act or section 212(b) of Public Law 93–66).

''(3) CONVICTED.—An individual is considered to have been 'convicted' of a violation—

''(A) when a judgment of conviction has been entered against the individual by a Federal, State, or local court, except if the judgment of conviction has been set aside or expunged;

''(B) when there has been a finding of guilt against the individual by a Federal, State, or local court;

''(C) when a plea of guilty or nolo contendere by the individual has been accepted by a Federal, State, or local court; or

''(D) when the individual has entered into participation in a first offender, deferred adjudication, or other arrangement or program where judgment of conviction has been withheld.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to convictions of violations described in paragraphs (1) and (2) of section 1148(a) of the Social Security Act and determinations described in paragraph (3) of such section occurring on or after the date of the enactment of this Act.

SEC. 210. STATE DATA EXCHANGES.

Whenever the Commissioner of Social Security requests information from a State for the purpose of ascertaining an individual's eligibility for benefits (or the correct amount of such benefits) under title II or XVI of the Social Security Act, the standards of the Commissioner promulgated pursuant to section 1106 of such Act or any other Federal law for the use, safeguarding, and disclosure of information are deemed to meet any standards of the State that would otherwise apply to the disclosure of information by the State to the Commissioner.

SEC. 211. STUDY ON POSSIBLE MEASURES TO IMPROVE FRAUD PREVENTION AND ADMINISTRATIVE PROCESSING.

(a) STUDY.—As soon as practicable after the date of the enactment of this Act, the Commissioner of Social Security, in consultation with the Inspector General of the Social Security Administration and the Attorney General, shall conduct a study of possible measures to improve—

(1) prevention of fraud on the part of individuals entitled to disability benefits under section 223 of the Social Security Act or benefits under section 202 of such Act based on the beneficiary's disability, individuals eligible for supplemental security income benefits under title XVI of such Act, and applicants for any such benefits; and

(2) timely processing of reported income changes by individuals receiving such benefits.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a written report that contains the results of the Commissioner's study under subsection (a). The report shall contain such recommendations for legislative and administrative changes as the Commissioner considers appropriate.

SEC. 212. ANNUAL REPORT ON AMOUNTS NECESSARY TO COMBAT FRAUD.

(a) IN GENERAL.—Section 704(b)(1) of the Social Security Act (42 U.S.C. 904(b)(1)) is amended—

(1) by inserting ''(A)'' after ''(b)(1)''; and

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

''(B) The Commissioner shall include in the annual budget prepared pursuant to subparagraph (A) an itemization of the amount of funds required by the Social Security Administration for the fiscal year covered by the budget to support efforts to combat fraud committed by applicants and beneficiaries.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to annual budgets prepared for fiscal years after fiscal year 1999.

SEC. 213. COMPUTER MATCHES WITH MEDICARE AND MEDICAID INSTITUTIONALIZATION DATA.

(a) IN GENERAL.—Section 1611(e)(1) of the Social Security Act (42 U.S.C. 1382(e)(1)), as amended by section 205(b)(2) of this Act, is further amended by adding at the end the following new subparagraph:

''(K) For the purpose of carrying out this paragraph, the Commissioner of Social Security shall conduct periodic computer matches with data maintained by the Secretary of Health and Human Services under title XVIII or XIX. The Secretary shall furnish to the Commissioner, in such form and manner and under such terms as the Commissioner and the Secretary shall mutually agree, such information as the Commissioner may request for this purpose. Information obtained pursuant to such a match may be substituted for the physician's certification otherwise required under subparagraph (G)(i).''.

(b) CONFORMING AMENDMENT.—Section 1611(e)(1)(G) of such Act (42 U.S.C. 1382(e)(1)(G)) is amended by striking ''subparagraph (H)'' and inserting ''subparagraph (H) or (K)''.

SEC. 214. ACCESS TO INFORMATION HELD BY FINANCIAL INSTITUTIONS.

Section 1631(e)(1)(B) of the Social Security Act (42 U.S.C. 1383(e)(1)(B)) is amended—

(1) by striking ''(B) The'' and inserting ''(B)(i) The''; and

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

''(ii)(I) The Commissioner of Social Security may require each applicant for, or recipient of, benefits under this title to provide authorization by the applicant or recipient (or by any other person whose income or resources are material to the determination of the eligibility of the applicant or recipient for such benefits) for the Commissioner to obtain (subject to the cost reimbursement requirements of section 1115(a) of the Right to Financial Privacy Act) from any financial institution (within the meaning of section 1101(1) of such Act) any financial record (within the meaning of section 1101(2) of such Act) held by the institution with respect to the applicant or recipient (or any such other person) whenever the Commissioner determines the record is needed in connection with a determination with respect to such eligibility or the amount of such benefits.

''(II) Notwithstanding section 1104(a)(1) of the Right to Financial Privacy Act, an authorization provided by an applicant or recipient (or any other person whose income or resources are material to the determination of the eligibility of the applicant or recipient) pursuant to subclause (I) of this clause shall remain effective until the earliest of—

''(aa) the rendering of a final adverse decision on the applicant's application for eligibility for benefits under this title;

''(bb) the cessation of the recipient's eligibility for benefits under this title; or

''(cc) the express revocation by the applicant or recipient (or such other person referred to in subclause (I)) of the authorization, in a written notification to the Commissioner.

''(III)(aa) An authorization obtained by the Commissioner of Social Security pursuant to this clause shall be considered to meet the requirements of the Right to Financial Privacy Act for purposes of section 1103(a) of such Act, and need not be furnished to the financial institution, notwithstanding section 1104(a) of such Act.

''(bb) The certification requirements of section 1103(b) of the Right to Financial Privacy Act shall not apply to requests by the Commissioner of Social Security pursuant to an authorization provided under this clause.

''(cc) A request by the Commissioner pursuant to an authorization provided under this clause is deemed to meet the requirements of section 1104(a)(3) of the Right to Financial Privacy Act and the flush language of section 1102 of such Act.

''(IV) The Commissioner shall inform any person who provides authorization pursuant to this clause of the duration and scope of the authorization.

''(V) If an applicant for, or recipient of, benefits under this title (or any such other person referred to in subclause (I)) refuses to provide, or revokes, any authorization made by the applicant or recipient for the Commissioner of Social Security to obtain from any financial institution any financial record, the Commissioner may, on that basis, determine that the applicant or recipient is ineligible for benefits under this title.''.

Subtitle B—Benefits for Certain Veterans of World War II

SEC. 251. ESTABLISHMENT OF PROGRAM OF SPECIAL BENEFITS FOR CERTAIN WORLD WAR II VETERANS.

(a) IN GENERAL.—The Social Security Act is amended by inserting after title VII the following:

''TITLE VIII—SPECIAL BENEFITS FOR CERTAIN WORLD WAR II VETERANS

''TABLE OF CONTENTS

''Sec. 801. Basic entitlement to benefits.
''Sec. 802. Qualified individuals.
''Sec. 803. Residence outside the United States.
''Sec. 804. Disqualifications.
''Sec. 805. Benefit amount.
''Sec. 806. Applications and furnishing of information.
''Sec. 807. Representative payees.
''Sec. 808. Overpayments and underpayments.
''Sec. 809. Hearings and review.
''Sec. 810. Other administrative provisions.
''Sec. 811. Penalties for fraud.
''Sec. 812. Definitions.
''Sec. 813. Appropriations.

''SEC. 801. BASIC ENTITLEMENT TO BENEFITS.

''Every individual who is a qualified individual under section 802 shall, in accordance with and subject to the provisions of this title, be entitled to a monthly benefit paid by the Commissioner of Social Security for each month after September 2000 (or such earlier month, if the Commissioner determines is administratively feasible) the individual resides outside the United States.

''SEC. 802. QUALIFIED INDIVIDUALS.

''Except as otherwise provided in this title, an individual—

''(1) who has attained the age of 65 on or before the date of the enactment of this title;

''(2) who is a World War II veteran;

''(3) who is eligible for a supplemental security income benefit under title XVI for—

''(A) the month in which this title is enacted; and

''(B) the month in which the individual files an application for benefits under this title;

''(4) whose total benefit income is less than 75 percent of the Federal benefit rate under title XVI;

''(5) who has filed an application for benefits under this title; and

''(6) who is in compliance with all requirements imposed by the Commissioner of Social Security under this title,

shall be a qualified individual for purposes of this title.

''SEC. 803. RESIDENCE OUTSIDE THE UNITED STATES.

For purposes of section 801, with respect to any month, an individual shall be regarded as residing outside the United States if, on the first day of the month, the individual so resides outside the United States.

''SEC. 804. DISQUALIFICATIONS.

''Notwithstanding section 802, an individual may not be a qualified individual for any month—

''(1) that begins after the month in which the Commissioner of Social Security is notified by the Attorney General that the individual has been removed from the United States pursuant to section 237(a) of the Immigration and Nationality Act and before the month in which the Commissioner of Social Security is notified by the Attorney General that the individual is lawfully admitted to the United States for permanent residence;

''(2) during any part of which the individual is outside the United States due to flight to avoid prosecution, or custody or confinement after conviction, under the laws of the United States or the jurisdiction within the United States from which the person has fled, for a crime, or an attempt to commit a crime, that is a felony under the laws of the place from which the individual has fled, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State;

''(3) during any part of which the individual violates a condition of probation or parole imposed under Federal or State law; or

''(4) during any part of which the individual is confined in a jail, prison, or other penal institution or correctional facility pursuant to a conviction of an offense.

''SEC. 805. BENEFIT AMOUNT.

''The benefit under this title payable to a qualified individual for any month shall be in an amount equal to 75 percent of the Federal benefit rate under title XVI for the month, reduced by the amount of the qualified individual's benefit income for the month.

''SEC. 806. APPLICATIONS AND FURNISHING OF INFORMATION.

''(a) IN GENERAL.—The Commissioner of Social Security shall, subject to subsection (b), prescribe such requirements with respect to the filing of applications, the furnishing of information and other material, and the reporting of events and changes in circumstances, as may be necessary for the effective and efficient administration of this title.

''(b) VERIFICATION REQUIREMENT.—The requirements prescribed by the Commissioner of Social Security under subsection (a) shall preclude any determination of entitlement to benefits under this title solely on the basis of declarations by the individual concerning qualifications or other material facts, and shall provide for verification of material information from independent or collateral sources, and the procurement of additional information as necessary in order to ensure that the benefits are provided only to qualified individuals (or their representative payees) in correct amounts.

''SEC. 807. REPRESENTATIVE PAYEES.

''(a) IN GENERAL.—If the Commissioner of Social Security determines that the interest of any qualified individual under this title would be served thereby, payment of the qualified individual's benefit under this title may be made, regardless of the legal competency or incompetency of the qualified individual, either directly to the qualified individual, or for his or her benefit, to another

person (the meaning of which term, for purposes of this section, includes an organization) with respect to whom the requirements of subsection (b) have been met (in this section referred to as the qualified individual's 'representative payee'). If the Commissioner of Social Security determines that a representative payee has misused any benefit paid to the representative payee pursuant to this section, section 205(j), or section 1631(a)(2), the Commissioner of Social Security shall promptly revoke the person's designation as the qualified individual's representative payee under this subsection, and shall make payment to an alternative representative payee or, if the interest of the qualified individual under this title would be served thereby, to the qualified individual.

''(b) EXAMINATION OF FITNESS OF PROSPECTIVE REPRESENTATIVE PAYEE.—

''(1) Any determination under subsection (a) to pay the benefits of a qualified individual to a representative payee shall be made on the basis of—

''(A) an investigation by the Commissioner of Social Security of the person to serve as representative payee, which shall be conducted in advance of the determination and shall, to the extent practicable, include a face-to-face interview with the person (or, in the case of an organization, a representative of the organization); and

''(B) adequate evidence that the arrangement is in the interest of the qualified individual.

''(2) As part of the investigation referred to in paragraph (1), the Commissioner of Social Security shall—

''(A) require the person being investigated to submit documented proof of the identity of the person;

''(B) in the case of a person who has a social security account number issued for purposes of the program under title II or an employer identification number issued for purposes of the Internal Revenue Code of 1986, verify the number;

''(C) determine whether the person has been convicted of a violation of section 208, 811, or 1632; and

''(D) determine whether payment of benefits to the person in the capacity as representative payee has been revoked or terminated pursuant to this section, section 205(j), or section 1631(a)(2)(A)(iii) by reason of misuse of funds paid as benefits under this title, title II, or title XVI, respectively.

''(c) REQUIREMENT FOR CENTRALIZED FILE.—The Commissioner of Social Security shall establish and maintain a centralized file, which shall be updated periodically and which shall be in a form that renders it readily retrievable by each servicing office of the Social Security Administration. The file shall consist of—

''(1) a list of the names and social security account numbers or employer identification numbers (if issued) of all persons with respect to whom, in the capacity of representative payee, the payment of benefits has been revoked or terminated under this section, section 205(j), or section 1631(a)(2)(A)(iii) by reason of misuse of funds paid as benefits under this title, title II, or title XVI, respectively; and

''(2) a list of the names and social security account numbers or employer identification numbers (if issued) of all persons who have been convicted of a violation of section 208, 811, or 1632.

''(d) PERSONS INELIGIBLE TO SERVE AS REPRESENTATIVE PAYEES.—

''(1) IN GENERAL.—The benefits of a qualified individual may not be paid to any other person pursuant to this section if—

''(A) the person has been convicted of a violation of section 208, 811, or 1632;

''(B) except as provided in paragraph (2), payment of benefits to the person in the capacity of representative payee has been revoked or terminated under this section, section 205(j), or section 1631(a)(2)(A)(ii) by reason of misuse of funds paid as benefits under this title, title II, or title XVI, respectively; or

''(C) except as provided in paragraph (2)(B), the person is a creditor of the qualified individual and provides the qualified individual with goods or services for consideration.

''(2) EXEMPTIONS.—

''(A) The Commissioner of Social Security may prescribe circumstances under which the Commissioner of Social Security may grant an exemption from paragraph (1) to any person on a case-by-case basis if the exemption is in the best interest of the qualified individual whose benefits would be paid to the person pursuant to this section.

''(B) Paragraph (1)(C) shall not apply with respect to any person who is a creditor referred to in such paragraph if the creditor is—

''(i) a relative of the qualified individual and the relative resides in the same household as the qualified individual;

''(ii) a legal guardian or legal representative of the individual;

''(iii) a facility that is licensed or certified as a care facility under the law of the political jurisdiction in which the qualified individual resides;

''(iv) a person who is an administrator, owner, or employee of a facility referred to in clause (iii), if the qualified individual resides in the facility, and the payment to the facility or the person is made only after the Commissioner of Social Security has made a good faith effort to locate an alternative representative payee to whom payment would serve the best interests of the qualified individual; or

''(v) a person who is determined by the Commissioner of Social Security, on the basis of written findings and pursuant to procedures prescribed by the Commissioner of Social Security, to be acceptable to serve as a representative payee.

''(C) The procedures referred to in subparagraph (B)(v) shall require the person who will serve as representative payee to establish, to the satisfaction of the Commissioner of Social Security, that—

''(i) the person poses no risk to the qualified individual;

''(ii) the financial relationship of the person to the qualified individual poses no substantial conflict of interest; and

''(iii) no other more suitable representative payee can be found.

''(e) DEFERRAL OF PAYMENT PENDING APPOINTMENT OF REPRESENTATIVE PAYEE.—

''(1) IN GENERAL.—Subject to paragraph (2), if the Commissioner of Social Security makes a determination described in the first sentence of subsection (a) with respect to any qualified individual's benefit and determines that direct payment of the benefit to the qualified individual would cause substantial harm to the qualified individual, the Commissioner of Social Security may defer (in the case of initial entitlement) or suspend (in the case of existing entitlement) direct payment of the benefit to the qualified individual, until such time as the selection of a representative payee is made pursuant to this section.

''(2) TIME LIMITATION.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), any deferral or suspension of direct payment of a benefit pursuant to paragraph (1) shall be for a period of not more than 1 month.

''(B) EXCEPTION IN THE CASE OF INCOMPETENCY.—Subparagraph (A) shall not apply in any case in which the qualified individual is, as of the date of the Commissioner of Social Security's determination, legally incompetent under the laws of the jurisdiction in which the individual resides.

''(3) PAYMENT OF RETROACTIVE BENEFITS.—Payment of any benefits which are deferred or suspended pending the selection of a representative payee shall be made to the qualified individual or the representative payee as a single sum or over such period of time as the Commissioner of Social Security determines is in the best interest of the qualified individual.

''(f) HEARING.—Any qualified individual who is dissatisfied with a determination by the Commissioner of Social Security to make payment of the qualified individual's benefit to a representative payee under subsection (a) of this section or with the designation of a particular person to serve as representative payee shall be entitled to a hearing by the Commissioner of Social Security to the same extent as is provided in section 809(a), and to judicial review of the Commissioner of Social Security's final decision as is provided in section 809(b).

''(g) NOTICE REQUIREMENTS.—

''(1) IN GENERAL.—In advance of the payment of a qualified individual's benefit to a representative payee under subsection (a), the Commissioner of Social Security shall provide written notice of the Commissioner's initial determination to so make the payment. The notice shall be provided to the qualified individual, except that, if the qualified individual is legally incompetent, then the notice shall be provided solely to the legal guardian or legal representative of the qualified individual.

''(2) SPECIFIC REQUIREMENTS.—Any notice required by paragraph (1) shall be clearly written in language that is easily understandable to the reader, shall identify the person to be designated as the qualified individual's representative payee, and shall explain to the reader the right under subsection (f) of the qualified individual or of the qualified individual's legal guardian or legal representative—

''(A) to appeal a determination that a representative payee is necessary for the qualified individual;

''(B) to appeal the designation of a particular person to serve as the representative payee of qualified individual; and

''(C) to review the evidence upon which the designation is based and to submit additional evidence.

''(h) ACCOUNTABILITY MONITORING.—

''(1) In any case where payment under this title is made to a person other than the qualified individual entitled to the payment, the Commissioner of Social Security shall establish a system of accountability monitoring under which the person shall report not less often than annually with respect to the use of the payments. The Commissioner of Social Security shall establish and implement statistically valid procedures for reviewing the reports in order to identify instances in which persons are not properly using the payments.

''(2) SPECIAL REPORTS.—Notwithstanding paragraph (1), the Commissioner of Social Security may require a report at any time

from any person receiving payments on behalf of a qualified individual, if the Commissioner of Social Security has reason to believe that the person receiving the payments is misusing the payments.

''(3) CENTRALIZED FILE.—The Commissioner of Social Security shall maintain a centralized file, which shall be updated periodically and which shall be in a form that is readily retrievable, of—

''(A) the name, address, and (if issued) the social security account number or employer identification number of each representative payee who is receiving benefit payments pursuant to this section, section 205(j), or section 1631(a)(2); and

''(B) the name, address, and social security account number of each individual for whom each representative payee is reported to be providing services as representative payee pursuant to this section, section 205(j), or section 1631(a)(2).

''(4) The Commissioner of Social Security shall maintain a list, which shall be updated periodically, of public agencies and community-based nonprofit social service agencies which are qualified to serve as representative payees pursuant to this section and which are located in the jurisdiction in which any qualified individual resides.

''(i) RESTITUTION.—In any case where the negligent failure of the Commissioner of Social Security to investigate or monitor a representative payee results in misuse of benefits by the representative payee, the Commissioner of Social Security shall make payment to the qualified individual or the individual's alternative representative payee of an amount equal to the misused benefits. The Commissioner of Social Security shall make a good faith effort to obtain restitution from the terminated representative payee.

''SEC. 808. OVERPAYMENTS AND UNDERPAYMENTS.

''(a) IN GENERAL.—Whenever the Commissioner of Social Security finds that more or less than the correct amount of payment has been made to any person under this title, proper adjustment or recovery shall be made, as follows:

''(1) With respect to payment to a person of more than the correct amount, the Commissioner of Social Security shall decrease any payment under this title to which the overpaid person (if a qualified individual) is entitled, or shall require the overpaid person or his or her estate to refund the amount in excess of the correct amount, or, if recovery is not obtained under these two methods, shall seek or pursue recovery by means of reduction in tax refunds based on notice to the Secretary of the Treasury, as authorized under section 3720A of title 31, United States Code.

''(2) With respect to payment of less than the correct amount to a qualified individual who, at the time the Commissioner of Social Security is prepared to take action with respect to the underpayment—

''(A) is living, the Commissioner of Social Security shall make payment to the qualified individual (or the qualified individual's representative payee designated under section 807) of the balance of the amount due the underpaid qualified individual; or

''(B) is deceased, the balance of the amount due shall revert to the general fund of the Treasury.

''(b) WAIVER OF RECOVERY OF OVERPAYMENT.—In any case in which more than the correct amount of payment has been made, there shall be no adjustment of payments to, or recovery by the United States from, any person who is without fault if the Commissioner of Social Security determines that the adjustment or recovery would defeat the purpose of this title or would be against equity and good conscience.

''(c) LIMITED IMMUNITY FOR DISBURSING OFFICERS.—A disbursing officer may not be held liable for any amount paid by the officer if the adjustment or recovery of the amount is waived under subsection (b), or adjustment under subsection (a) is not completed before the death of the qualified individual against whose benefits deductions are authorized.

''(d) AUTHORIZED COLLECTION PRACTICES.—

''(1) IN GENERAL.—With respect to any delinquent amount, the Commissioner of Social Security may use the collection practices described in sections 3711(e), 3716, and 3718 of title 31, United States Code, as in effect on October 1, 1994.

''(2) DEFINITION.—For purposes of paragraph (1), the term 'delinquent amount' means an amount—

''(A) in excess of the correct amount of the payment under this title; and

''(B) determined by the Commissioner of Social Security to be otherwise unrecoverable under this section from a person who is not a qualified individual under this title.

''SEC. 809. HEARINGS AND REVIEW.

''(a) HEARINGS.—

''(1) IN GENERAL.—The Commissioner of Social Security shall make findings of fact and decisions as to the rights of any individual applying for payment under this title. The Commissioner of Social Security shall provide reasonable notice and opportunity for a hearing to any individual who is or claims to be a qualified individual and is in disagreement with any determination under this title with respect to entitlement to, or the amount of, benefits under this title, if the individual requests a hearing on the matter in disagreement within 60 days after notice of the determination is received, and, if a hearing is held, shall, on the basis of evidence adduced at the hearing affirm, modify, or reverse the Commissioner of Social Security's findings of fact and the decision. The Commissioner of Social Security may, on the Commissioner of Social Security's own motion, hold such hearings and to conduct such investigations and other proceedings as the Commissioner of Social Security deems necessary or proper for the administration of this title. In the course of any hearing, investigation, or other proceeding, the Commissioner may administer oaths and affirmations, examine witnesses, and receive evidence. Evidence may be received at any hearing before the Commissioner of Social Security even though inadmissible under the rules of evidence applicable to court procedure. The Commissioner of Social Security shall specifically take into account any physical, mental, educational, or linguistic limitation of the individual (including any lack of facility with the English language) in determining, with respect to the entitlement of the individual for benefits under this title, whether the individual acted in good faith or was at fault, and in determining fraud, deception, or intent.

''(2) EFFECT OF FAILURE TO TIMELY REQUEST REVIEW.—A failure to timely request review of an initial adverse determination with respect to an application for any payment under this title or an adverse determination on reconsideration of such an initial determination shall not serve as a basis for denial of a subsequent application for any payment under this title if the applicant demonstrates that the applicant failed to so request such a review acting in good faith reliance upon incorrect, incomplete, or misleading information, relating to the consequences of reapplying for payments in lieu of seeking review of an adverse determination, provided by any officer or employee of the Social Security Administration.

''(3) NOTICE REQUIREMENTS.—In any notice of an adverse determination with respect to which a review may be requested under paragraph (1), the Commissioner of Social Security shall describe in clear and specific language the effect on possible entitlement to benefits under this title of choosing to reapply in lieu of requesting review of the determination.

''(b) JUDICIAL REVIEW.—The final determination of the Commissioner of Social Security after a hearing under subsection (a)(1) shall be subject to judicial review as provided in section 205(g) to the same extent as the Commissioner of Social Security's final determinations under section 205.

''SEC. 810. OTHER ADMINISTRATIVE PROVISIONS.

''(a) REGULATIONS AND ADMINISTRATIVE ARRANGEMENTS.—The Commissioner of Social Security may prescribe such regulations, and make such administrative and other arrangements, as may be necessary or appropriate to carry out this title.

''(b) PAYMENT OF BENEFITS.—Benefits under this title shall be paid at such time or times and in such installments as the Commissioner of Social Security determines are in the interests of economy and efficiency.

''(c) ENTITLEMENT REDETERMINATIONS.—An individual's entitlement to benefits under this title, and the amount of the benefits, may be redetermined at such time or times as the Commissioner of Social Security determines to be appropriate.

''(d) SUSPENSION OF BENEFITS.—Regulations prescribed by the Commissioner of Social Security under subsection (a) may provide for the temporary suspension of entitlement to benefits under this title as the Commissioner determines is appropriate.

''SEC. 811. PENALTIES FOR FRAUD.

''(a) IN GENERAL.—Whoever—

''(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in an application for benefits under this title;

''(2) at any time knowingly and willfully makes or causes to be made any false statement or representation of a material fact for use in determining any right to the benefits;

''(3) having knowledge of the occurrence of any event affecting—

''(A) his or her initial or continued right to the benefits; or

''(B) the initial or continued right to the benefits of any other individual in whose behalf he or she has applied for or is receiving the benefit,

conceals or fails to disclose the event with an intent fraudulently to secure the benefit either in a greater amount or quantity than is due or when no such benefit is authorized; or

''(4) having made application to receive any such benefit for the use and benefit of another and having received it, knowingly and willfully converts the benefit or any part thereof to a use other than for the use and benefit of the other individual,

shall be fined under title 18, United States Code, imprisoned not more than 5 years, or both.

''(b) RESTITUTION BY REPRESENTATIVE PAYEE.—If a person or organization violates subsection (a) in the person's or organization's role as, or in applying to become, a representative payee under section 807 on behalf of a qualified individual, and the violation includes a willful misuse of funds by the

person or entity, the court may also require that full or partial restitution of funds be made to the qualified individual.

"SEC. 812. DEFINITIONS.

''In this title:

''(1) WORLD WAR II VETERAN.—The term 'World War II veteran' means a person who served during World War II—

''(A) in the active military, naval, or air service of the United States during World War II, and who was discharged or released therefrom under conditions other than dishonorable after service of 90 days or more; or

''(B) in the organized military forces of the Government of the Commonwealth of the Philippines, while the forces were in the service of the Armed Forces of the United States pursuant to the military order of the President dated July 26, 1941, including among the military forces organized guerrilla forces under commanders appointed, designated, or subsequently recognized by the Commander in Chief, Southwest Pacific Area, or other competent authority in the Army of the United States, in any case in which the service was rendered before December 31, 1946.

''(2) WORLD WAR II.—The term 'World War II' means the period beginning on September 16, 1940, and ending on July 24, 1947.

''(3) SUPPLEMENTAL SECURITY INCOME BENEFIT UNDER TITLE XVI.—The term 'supplemental security income benefit under title XVI', except as otherwise provided, includes State supplementary payments which are paid by the Commissioner of Social Security pursuant to an agreement under section 1616(a) of this Act or section 212(b) of Public Law 93–66.

''(4) FEDERAL BENEFIT RATE UNDER TITLE XVI.—The term 'Federal benefit rate under title XVI' means, with respect to any month, the amount of the supplemental security income cash benefit (not including any State supplementary payment which is paid by the Commissioner of Social Security pursuant to an agreement under section 1616(a) of this Act or section 212(b) of Public Law 93–66) payable under title XVI for the month to an eligible individual with no income.

''(5) UNITED STATES.—The term 'United States' means, notwithstanding section 1101(a)(1), only the 50 States, the District of Columbia, and the Commonwealth of the Northern Mariana Islands.

''(6) BENEFIT INCOME.—The term 'benefit income' means any recurring payment received by a qualified individual as an annuity, pension, retirement, or disability benefit (including any veterans' compensation or pension, workmen's compensation payment, old-age, survivors, or disability insurance benefit, railroad retirement annuity or pension, and unemployment insurance benefit), but only if a similar payment was received by the individual from the same (or a related) source during the 12-month period preceding the month in which the individual files an application for benefits under this title.

"SEC. 813. APPROPRIATIONS.

''There are hereby appropriated for fiscal year 2001 and subsequent fiscal years such sums as may be necessary to carry out this title.''.

(b) CONFORMING AMENDMENTS.—

(1) SOCIAL SECURITY TRUST FUNDS LAE ACCOUNT.—Section 201(g) of such Act (42 U.S.C. 401(g)) is amended—

(A) in the fourth sentence of paragraph (1)(A), by inserting after ''this title,'' the following: ''title VIII,'';

(B) in paragraph (1)(B)(i)(I), by inserting after ''this title,'' the following: ''title VIII,''; and

(C) in paragraph (1)(C)(i), by inserting after ''this title,'' the following: ''title VIII,''.

(2) REPRESENTATIVE PAYEE PROVISIONS OF TITLE II.—Section 205(j) of such Act (42 U.S.C. 405(j)) is amended—

(A) in paragraph (1)(A), by inserting ''807 or'' before ''1631(a)(2)'';

(B) in paragraph (2)(B)(i)(I), by inserting '', title VIII,'' before ''or title XVI'';

(C) in paragraph (2)(B)(i)(III), by inserting '', 811,'' before ''or 1632'';

(D) in paragraph (2)(B)(i)(IV)—

(i) by inserting '', the designation of such person as a representative payee has been revoked pursuant to section 807(a),'' before ''or payment of benefits''; and

(ii) by inserting '', title VIII,'' before ''or title XVI'';

(E) in paragraph (2)(B)(ii)(I)—

(i) by inserting ''whose designation as a representative payee has been revoked pursuant to section 807(a),'' before ''or with respect to whom''; and

(ii) by inserting '', title VIII,'' before ''or title XVI'';

(F) in paragraph (2)(B)(i)(II), by inserting '', 811,'' before ''or 1632'';

(G) in paragraph (2)(C)(i)(II) by inserting '', the designation of such person as a representative payee has been revoked pursuant to section 807(a),'' before ''or payment of benefits'';

(H) in each of clauses (i) and (ii) of paragraph (3)(E), by inserting '', section 807,'' before ''or section 1631(a)(2)'';

(I) in paragraph (3)(F), by inserting ''807 or'' before ''1631(a)(2)''; and

(J) in paragraph (4)(B)(i), by inserting ''807 or'' before ''1631(a)(2)''.

(3) WITHHOLDING FOR CHILD SUPPORT AND ALIMONY OBLIGATIONS.—Section 459(h)(1)(A) of such Act (42 U.S.C. 659(h)(1)(A)) is amended—

(A) at the end of clause (iii), by striking ''and'';

(B) at the end of clause (iv), by striking ''but'' and inserting ''and''; and

(C) by adding at the end a new clause as follows:

''(v) special benefits for certain World War II veterans payable under title VIII; but''.

(4) SOCIAL SECURITY ADVISORY BOARD.—Section 703(b) of such Act (42 U.S.C. 903(b)) is amended by striking ''title II'' and inserting ''title II, the program of special benefits for certain World War II veterans under title VIII,''.

(5) DELIVERY OF CHECKS.—Section 708 of such Act (42 U.S.C. 908) is amended—

(A) in subsection (a), by striking ''title II'' and inserting ''title II, title VIII,''; and

(B) in subsection (b), by striking ''title II'' and inserting ''title II, title VIII,''.

(6) CIVIL MONETARY PENALTIES.—Section 1129 of such Act (42 U.S.C. 1320a–8) is amended—

(A) in the title, by striking ''II'' and inserting ''II, VIII'';

(B) in subsection (a)(1)—

(i) by striking ''or'' at the end of subparagraph (A);

(ii) by redesignating subparagraph (B) as subparagraph (C); and

(iii) by inserting after subparagraph (A) the following:

''(B) benefits or payments under title VIII, or'';

(C) in subsection (a)(2), by inserting ''or title VIII,'' after ''title II'';

(D) in subsection (e)(1)(C)—

(i) by striking ''or'' at the end of clause (i);

(ii) by redesignating clause (ii) as clause (iii); and

(iii) by inserting after clause (i) the following:

''(ii) by decrease of any payment under title VIII to which the person is entitled, or'';

(E) in subsection (e)(2)(B), by striking ''title XVI'' and inserting ''title VIII or XVI''; and

(F) in subsection (l), by striking ''title XVI'' and inserting ''title VIII or XVI''.

(7) RECOVERY OF SSI OVERPAYMENTS.—Section 1147 of such Act (42 U.S.C. 1320b–17) is amended—

(A) in subsection (a)(1)—

(i) by inserting ''or VIII'' after ''title II'' the first place it appears; and

(ii) by striking ''title II'' the second place it appears and inserting ''such title''; and

(B) in the title, by striking ''SOCIAL SECURITY'' and inserting ''OTHER''.

(8) REPRESENTATIVE PAYEE PROVISIONS OF TITLE XVI.—Section 1631(a)(2) of such Act (42 U.S.C. 1383(a)(2)) is amended—

(A) in subparagraph (A)(iii), by inserting ''or 807'' after ''205(j)(1)'';

(B) in subparagraph (B)(ii)(I), by inserting '', title VIII,'' before ''or this title'';

(C) in subparagraph (B)(ii)(III), by inserting '', 811,'' before ''or 1632'';

(D) in subparagraph (B)(ii)(IV)—

(i) by inserting ''whether the designation of such person as a representative payee has been revoked pursuant to section 807(a),'' before ''and whether certification''; and

(ii) by inserting '', title VIII,'' before ''or this title'';

(E) in subparagraph (B)(iii)(II), by inserting ''the designation of such person as a representative payee has been revoked pursuant to section 807(a),'' before ''or certification''; and

(F) in subparagraph (D)(ii)(II)(aa), by inserting ''or 807'' after ''205(j)(4)''.

(9) ADMINISTRATIVE OFFSET.—Section 3716(c)(3)(C) of title 31, United States Code, is amended—

(A) by striking ''sections 205(b)(1)'' and inserting ''sections 205(b)(1), 809(a)(1),''; and

(B) by striking ''either title II'' and inserting ''title II, VIII,''.

TITLE III—CHILD SUPPORT

SEC. 301. ELIMINATION OF ENHANCED MATCHING FOR LABORATORY COSTS FOR PATERNITY ESTABLISHMENT.

(a) IN GENERAL.—Section 455(a)(1) of the Social Security Act (42 U.S.C. 655(a)(1)) is amended by striking subparagraph (C) and redesignating subparagraph (D) as subparagraph (C).

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective with respect to calendar quarters beginning on or after October 1, 1999.

SEC. 302. ELIMINATION OF HOLD HARMLESS PROVISION FOR STATE SHARE OF DISTRIBUTION OF COLLECTED CHILD SUPPORT.

(a) IN GENERAL.—Section 457 of the Social Security Act (42 U.S.C. 657) is amended—

(1) in subsection (a), by striking ''subsections (e) and (f)'' and inserting ''subsections (d) and (e)'';

(2) by striking subsection (d);

(3) in subsection (e), by striking the 2nd sentence; and

(4) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to calendar quarters beginning on or after October 1, 1999.

TITLE IV—TECHNICAL CORRECTIONS

SEC. 401. TECHNICAL CORRECTIONS RELATING TO AMENDMENTS MADE BY THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996.

(a) Section 402(a)(1)(B)(iv) of the Social Security Act (42 U.S.C. 602(a)(1)(B)(iv)) is amended by striking ''Act'' and inserting ''section''.

(b) Section 409(a)(7)(B)(i)(II) of the Social Security Act (42 U.S.C. 609(a)(7)(B)(i)(II)) is amended by striking ''part'' and inserting ''section''.

(c) Section 413(g)(1) of the Social Security Act (42 U.S.C. 613(g)(1)) is amended by striking ''Act'' and inserting ''section''.

(d) Section 413(i)(1) of the Social Security Act (42 U.S.C. 613(i)(1)) is amended by striking ''part'' and inserting ''section''.

(e) Section 416 of the Social Security Act (42 U.S.C. 616) is amended by striking ''Opportunity Act'' and inserting ''Opportunity Reconciliation Act'' each place such term appears.

(f) Section 431(a)(6) of the Social Security Act (42 U.S.C. 629a(a)(6))) is amended—

(1) by inserting '', as in effect before August 22, 1986'' after ''482(i)(5)''; and

(2) by inserting '', as so in effect'' after ''482(i)(7)(A)''.

(g) Sections 452(a)(7) and 466(c)(2)(A)(i) of the Social Security Act (42 U.S.C. 652(a)(7) and 666(c)(2)(A)(i)) are each amended by striking ''Social Security'' and inserting ''social security''.

(h) Section 454 of the Social Security Act (42 U.S.C. 654) is amended—

(1) by striking '', or'' at the end of each of paragraphs (6)(E)(i) and (19)(B)(i) and inserting ''; or'';

(2) in paragraph (9), by striking the comma at the end of each of subparagraphs (A), (B), (C) and inserting a semicolon; and

(3) by striking '', and'' at the end of each of paragraphs (19)(A) and (24)(A) and inserting ''; and''.

(i) Section 454(24)(B) of the Social Security Act (42 U.S.C. 654(24)(B)) is amended by striking ''Opportunity Act'' and inserting ''Opportunity Reconciliation Act''.

(j) Section 344(b)(1)(A) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (110 Stat. 2236) is amended to read as follows:

''(A) in paragraph (1), by striking subparagraph (B) and inserting the following new subparagraph:

'(B) equal to the percent specified in paragraph (3) of the sums expended during such quarter that are attributable to the planning, design, development, installation or enhancement of an automatic data processing and information retrieval system (including in such sums the full cost of the hardware components of such system); and'; and''.

(k) Section 457(a)(2)(B)(i)(I) of the Social Security Act (42 U.S.C. 657(a)(2)(B)(i)(I)) is amended by striking ''Act Reconciliation'' and inserting ''Reconciliation Act''.

(l) Section 457 of the Social Security Act (42 U.S.C. 657) is amended by striking ''Opportunity Act'' each place it appears and inserting ''Opportunity Reconciliation Act''.

(m) Section 466(a)(7) of the Social Security Act (42 U.S.C. 666(a)(7)) is amended by striking ''1681a(f))'' and inserting ''1681a(f)))''.

(n) Section 466(b)(6)(A) of the Social Security Act (42 U.S.C. 666(b)(6)(A)) is amended by striking ''state'' and inserting ''State''.

(o) Section 471(a)(8) of the Social Security Act (42 U.S.C. 671(a)(8)) is amended by striking ''(including activities under part F)''.

(p) Section 1137(a)(3) of the Social Security Act (42 U.S.C. 1320b-7(a)(3)) is amended by striking ''453A(a)(2)(B)(iii))'' and inserting ''453A(a)(2)(B)(ii)))''.

(q) The amendments made by this section shall take effect as if included in the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

FOSTER CARE INDEPENDENCE ACT OF 1999—FACT SHEET

Federal Independent Living Programs (ILP) are designed to assist some of our Nation's most vulnerable children as they make the transition from foster children to independent adults. Under current law, teens are ''out of the system'' and completely on their own immediately when they turn 18. Many teens need help to make a successful transition to self-sufficiency, especially teens who have spent years in foster care. Programs must be designed to be consistent with the Adoption and Safe Families Act of 1997, namely that safety and health of the child are paramount. Studies of adolescents who leave foster care have found that these children have a significantly higher than normal rate of school drop out, out-of-wedlock childbearing, homelessness, health and mental health problems, and poverty.

The Foster Care Independence Act of 1999 is designed to help teens aging out of foster care make a more successful transition to adulthood. It addresses safety by allowing for ILP funds to be used to ensure that the basic needs of housing and food can be provided to these youth. It addresses health by ensuring that teens who are aging out of or adopted out of foster care to continue to receive crucial health, and mental health, care benefits to the age of 21. Key provisions of the Act include:

Strong Medicaid coverage: Requires states that receiving new ILP monies continue to provide health care, including coverage for mental health needs to foster, or adopted (whose adoptive placements began on or after their 16th birthdays), children up to their 21st birthday.

Funding for Independent Living services: Doubles the funding—up to $140 million—for Independent Living services to enable states to cover teens from 18 to 21, with support services and housing assistance, with language to promote continuing education and/or job training. The bill also insures that ILP are supervised and includes a broad array of services based on young people's developmental and self-sufficiency needs.

Avoids disincentives for adoption of teens: Consistent with the priorities established in the Adoption and Safe Families Act, this bill promotes permanence by allowing teens adopted after 16 to retain eligibility for Independent Living programs, including vital access to health coverage from ages 18–21. This clarifies that Independent Living programs are not a substitute for permanency for foster care teens, rather support services to ease the transition for teens who have faced challenges. This provision allows Independent Living Program services to be concurrent with continued reasonable efforts to locate and achieve placement in adoptive families or other planned permanent settings as required under ASFA.

Quality data, evaluation and outcome measures: Insures that quality data is collected and evaluated, to enhance programs are effective, and seeks to coordinate with the data collection efforts required under the Adoption and Safe Families Act.

Updated funding formula: Funding formula provides that every state can quality for new Independent Living incentives to serve teens aging out of foster care from 18 to 21.

Mr. ROCKEFELLER. Mr. President, I rise today to join Senator CHAFEE and a bipartisan group in the introduction of the Foster Care Independence Act of 1999. I would like to thank Senator CHAFEE for his leadership on behalf of vulnerable young people, including our bipartisan work on this legislation. I also wish to thank the other co-sponsors of this legislation—Senators REED, BOND, LANDRIEU, MOYNIHAN, BREAUX, KERREY, MIKULSKI, and JEFFORDS. Work on this legislation is based on the foundation created by the bipartisan 1997 Adoption and Safe Families Act.

Our First Lady, Mrs. Clinton, has also been a special leader on behalf of vulnerable children. In 1997, she helped focus the national spotlight on the need to promote adoption. This year, she has helped to focus much needed attention on the challenges facing teenagers who age out of foster care, and has challenged us to improve the system for such teens by expanding the Independent Living program.

In 1997, a unique bipartisan Senate coalition formed to promote adoption and find ways to help our most vulnerable children, those subjected to abuse and neglected. After months of hard work, we forged consensus on the Adoption and Safe Families Act of 1997 (ASFA). This law, for the first time ever, establishes that a child's health and safety are paramount when any decisions are made regarding children in the abuse and neglect system. The law also stressed the importance of permanency to a child, and it imposed new time frames as goals for permanency. While this law was the most sweeping and comprehensive piece of child welfare legislation passed in over a decade, more work and resources will be crucial to truly achieve the goals of safety, stability and permanence for all abused and neglected children.

We have been pleased to learn that one of the desired outcomes of the Adoption Act, moving children more swiftly from foster care into permanent homes, has begun to become a reality. Adoptions throughout the country are up dramatically, far exceeding expectations. Yet, at the same time, we find that there continue to be approximately 20,000 young people each year who turn 18 and ''age out'' of the foster care system with no home, no family, no medical coverage and no system of support in place. In my own state of West Virginia, over 1000 of our foster children are over the age of 16. 185 of these children, in the last year, received services through the state's Independent Living program.

How do such teens in West Virginia and throughout the country fare? A Wisconsin study shows us that 18 months after leaving foster care, over one-third had not graduated from high school, half were unemployed, nearly half had no access to or coverage for health care, and many were homeless

or victims or perpetrators of crimes. These are not just numbers, each of these statistics represents a real person, like Wendy or James:

Wendy had been in foster care since the age of 6. She had been moved again and again, and at the age of 14 was placed in a Wilderness Program for teens with challenging behaviors. At 16 she was moved to a locked residential facility. Her 18th birthday, in December, was a cold day in more ways than one. Early in the morning, a knock came on her door and she was told to get dressed and gather her things, as she was moving. This was not unusual for her, so she did as she was told. She went, with her meager possessions, to the front desk and asked, ''Where am I going?'' The staff person jingled the large key ring, opened the front door, looked out into the snowy day and said, ''Anywhere you want—you are 18 and you are on your own.'' One year later, Wendy was addicted to drugs, homeless and pregnant. She had no access to health care until she became pregnant—Her baby was now her ticket to care.

James had been in foster care since the age of 10. He had been moved ''only'' five or six times and when he turned 18, all services stopped. The foster family he had been living with could not afford to care for him any longer, but they agreed to allow him to sleep in their garage. He had to drop out of school in order to work full time at a pizza restaurant and attempt to support himself. When he turned 19, he had an opportunity to be adopted with some of his younger siblings. He immediately said, ''Yes!'' and when asked by the judge why he would want to be adopted at his age, he replied, ''I will always need a family, and someday, I hope my children will be able to have grandparents.'' James was able to reenroll in school, graduate with a trade and is now a self-supporting married man. Oh, and his 3 children do have grandparents.

This legislation will provide resources and incentives to states so that more of our young people will have stories that end like James, and fewer that end like Wendy's.

One of the most significant provisions of ASFA was the assurance of ongoing health care coverage for all children with special needs who move from foster care to adoption. The Foster Care Independence Act is an essential next step in this ongoing process. This important legislation will ensure that health care coverage for our foster care youths does not end when they turn 18. All states who wish to receive the new Independent Living Program money must provide assurance that they will provide health care coverage to these young people through to the age of 21. Young people who have survived the many traumas that led to their placement in foster care, and their journey through the foster care system often have special health care needs, especially in the area of mental health. Providing transitional health coverage at this crucial juncture in their lives can make the difference between successfully moving on to accomplish their goals, or becoming stuck in an unsatisfying and unhealthy way of life.

Another key focus of ASFA is on moving children from foster care to permanent homes, and when possible adoption. Older teens in foster care have a great need for a permanent family. Although we propose to improve the Independent Living program and increase eligibility for services to the age of 21, it does end at that time. And yet a youth's need for a family does not end at any particular age. Each of us can clearly recall times when we have had to turn to our own families for advice, comfort or support long after our 18th or 21st birthdays. Many of us are still in the role of providing such support to our own children who are in their late teens or 20s. Therefore, an important provision in this Senate version of the Foster Care Independence Act states that Independent Living (IL) programs are not alternatives to permanency planning—young people of all ages need and deserve every possible effort made towards permanence, including adoption. It would be counterproductive to create any disincentive for adoption of teenagers. Therefore, our legislation would allow any enhanced independent living services, particularly health care, to continue until age 21 for those teens who are lucky enough to become adopted after 16 years old.

Independent Living programs were designed to provide young people with training, skill-development and support as they make the transition from foster care to self-sufficiency. In some states, with creativity and innovation, these programs have seen remarkable success in that effort. In other localities, the programs have provided minimal support, and young people have faced an array of challenging life decisions and choices without the skills or supports to make them successfully. This bill requires that states improve their Independent Living programs, by requiring youth involvement at every level, requiring youths to participate in on-going education and career development activities, and requiring that those youths for whom room and board services are provided also have adult supervision and support.

In short, this bill assists a very vulnerable group of young Americans by ensuring that they have access to: Health Care up to the age of 21; continued efforts to locate a permanent family; a quality Independent Living program providing a broad array of skills, resources and services; and a program that focuses on critical outcomes, especially in the areas of education, career development, and positive lifestyle choices.

These will be valuable steps in our efforts to be more able to effectively address the needs of our Nation's most vulnerable young people, on the brink of adulthood. I urge my colleagues to join us in co-sponsoring and passing this bill.

Mr. BOND. Mr. President, I rise today with my colleagues Senators CHAFEE, ROCKEFELLER, REED, MOYNIHAN, BREAUX, CONRAD, JEFFORDS, MIKULSKI, and LANDRIEU to introduce the Foster Care Independence Living Act of 1999. This important piece of legislation will provide transitional assistance for the estimated 20,000 youths in the United States who ''age out'' of the foster care system at the age of 18 without a permanent family.

This legislation builds on the Promotion of Adoption, Safety, and Support for Abused and Neglected Children (PASS) Act that I co-sponsored in 1997. The Foster Care Independence Living Act of 1999 increases the funding for the independent living program in order to provide basic living needs, such as housing and food. Additionally, the increased funding provides states the option to grant Medicaid for health care, including mental health needs, to former foster children up to their 21st birthdays as a condition of receiving the increased funding.

This legislation also guarantees that state programs are well supervised and provides a wide range of support which focuses on health, safety, and permanency goals. In addition, the bill allows children who receive aid under the independent living program to have assets or resources totaling $10,000, in contrast to the old requirement of $1,000, which deterred foster children from saving money for a sound future.

Mr. President, at age 18 foster care children are suddenly expected to be adults, able to take care of themselves. That is not a reasonable expectation, especially for kids deprived of a nurturing parent or other caring adult. As these youths age out of foster care without a permanent family or a structure of continued support, many lack a high school education, have difficulty maintaining employment, and often experience high levels of depression and discouragement. Research has proven that a significant number of homeless shelters users had recently been discharged from foster care. Other studies found that former foster care youth 2½ to 4 years after they ''aged out'' of foster care found that 46% of the youths had not completed high school, approximately 40% were dependent on public assistance or Medicaid and 42% had given birth or fathered a child.

Mr. President, I know first hand how this legislation can impact our nation's foster care children. In my home state of Missouri, Epworth Children and

Family Services, in St. Louis, provides resources needed to help people who fall through the cracks of a system that is not strong enough to help build a future for foster care children ''aging out'' of foster care. Robin, an 18-year-old foster care youth, was all alone in the world when she entered Epworth's Independent Living Program. Her father was never a part of her life and her mother was serving time in jail. Motivated by the desire to regain custody of her two-year-old baby boy, Robin started the program with high hopes. However Robin struggled as she worked with the caring staff at Epworth. Despite attempts by the professional at Epworth to stretch limited resources to address Robin's ongoing needs, their system failed Robin. She was removed from Epworth by the Missouri Division of Family Services. Robin needed more support, more staff interaction and more resources than the Epworth program could provide.

Mr. President, the Foster Care Independence Living Act of 1999 provides significant assistance to assure that these foster care youth who ''age out'' of the system are provided with the assistance needed to transition out of foster care into independence. The provisions in this bill will assist these youth to begin a supervised and nurtured life outside of the foster care system. They will be given the time and resources they need to enter adulthood prepared. This independent living initiative would give many ''Robins'' the change to be self-sufficient and to contribute to her community. This means a better life for all of our children.

Mr. MOYNIHAN. Mr. President, today, I am proud to co-sponsor the Foster Care Independence Act of 1999, introduced by my good friend and colleague Senator CHAFEE. We are joined by a group of our colleagues, including Senator ROCKEFELLER, BOND, REED.

This legislation will help a group of our children in dire circumstances—foster children who reach age 18 still in the custody of the state. They were victims of abuse and neglect and their families proved to be beyond repair. About 20,000 children a year ''age out'' of the foster care system. They reach 18 and we, in large part, abandon them to the world. Many make their way successfully. But far too many, alas, do not, and these children are more likely to become homeless or end up on public assistance.

More than a decade ago, we recognized that these children needed additional help in preparing for life on their own. I am proud to have helped create the Independent Living program, which provided Federal support for efforts that prepare teenager for the transition from foster care to independence.

Today we are working on a bipartisan basis to build on this program. The bill we are introducing will double funding for the Independent Living program and increase the use of the funds to assist former foster care children until they reach 21, including, for the first time, help with room and board. As any parent knows, many 19 and 20-year olds remain in need of family support from time to time. For children who have ''aged out'' of foster care by turning 18, the government is, in effect, their parent and we should do more to help them become independent and self-sufficient, just as other parents do. The legislation also contains important provisions encouraging states to continue Medicaid coverage for these children so that health care remains available to them.

Mr. President, this legislation has widespread support, including from the Administration and key members of both parties. I would like to particularly thank the First Lady for her leadership in working on behalf of these children. I thank Senator CHAFEE for offering it and look forward to working with him and many others to see that it becomes law.

By Mr. KERRY (for himself, Mr. GRASSLEY, Mr. BAUCUS, Mr. HARKIN, Mr. CLELAND and Mr. BURNS):

S. 1328. A bill to amend the Internal Revenue Code of 1986 to permit the disclosure of certain tax information by the Secretary of the Treasury to facilitate combined Federal and State employment tax reporting, and for other purposes; to the Committee on Finance.

SINGLE POINT TAX FILING ACT OF 1999

Mr. KERRY. Mr. President, there is no shortage of ideological ferment over the issue of taxes—from IRS Reform to discussion after discussion of tax cuts, we have gone back and forth over these questions and we've worked, as much as possible, to find a bipartisan consensus. Today I am joined by my colleagues Senator GRASSLEY and Senator BAUCUS to introduce legislation about which I would think every member of this body would be able to agree—legislation that makes tax filing simpler and easier for the small businesses that constitute 98 percent of all businesses in America, employ nearly 60 percent of the workforce, and which, having created close to two-thirds of America's net new jobs since the 1970s, continue to serve as the wellspring for our Nation's technological innovation and productivity growth.

Mr. President, America's small businesses are today drowning in tax paperwork. The nation's 6.7 million employers are responsible for filing federal and state employment taxes and wage reports, as well as unemployment insurance reports. Under current law, employers file tax and unemployment insurance reports with federal and state agencies throughout the year, reports which obligate employers to understand and comply with diverse and often conflicting state and federal laws. Just to keep up with these requirements, employers must maintain separate wage records for federal income tax withholding, state income tax withholding, FICA, FUTA, and SUI. In many cases, employers must report this information to government agencies at different times and in different forms. The reporting burden is only compounded when employers do business in more than one state, many of which do not have the same legal or procedural requirements. Just consider the financial burden—essentially a tax on taxes—associated with employer tax, wage, and unemployment insurance reporting is estimated at $16.2 billion for Fiscal Year 1999. The federal portion of this employer burden is $9.8 billion, the state portion relatively little less at $6.4 billion.

Given what we know about the role small businesses play as the engine of our economy, and given all the expectations we share in terms of the potential for these businesses to push the boundaries of economic growth out even further in the new economy, I think we would all agree that we ought to do something to relieve some of the tax filing burdens on these employers, to give them more time and, I think it follows, more capital to focus on job creation in our workforce, not, respectfully, job creation over at the IRS and in the accounting industry.

Let me just read to you what David A. Lifson, speaking on behalf of the American Institute of Certified Public Accountants, said in his testimony before the Ways and Means Committee, Oversight Subcommittee on ''The Impact of Complexity of the Tax Code on Individual Taxpayers and Small Businesses'' May 25, 1999:

''Significant problems arise from the increasing complexity of the tax law. For example: a growing number of taxpayers perceive the tax law to be unfair; it becomes increasingly more difficult for the Internal Revenue Service to administer the tax law; the cost of compliance for all taxpayers is increasing (of particular concern are the many taxpayers with unsophisticated financial affairs who are forced to seek professional tax return preparation assistance); and, complexity interferes with economic decision making. The end result is erosion of voluntary compliance. By and large, our citizens obey the law, but it is only human to disobey a law if you do not or can not understand the rules. In a recent Associated Press (AP) poll, 66 percent of the respondents said that the federal tax system is too complicated. Three years ago, just under one-half of respondents in a similar AP poll said that the tax system was too complicated. The poll also showed that more than half of those surveyed, 56 percent, now pay someone else to prepare their tax returns. This is a serious indictment of

our tax system. When over half our individual taxpayers have so little comprehension of (or faith in) their tax system that they have to hire another party to prepare their returns, something is not right.''

Now, Mr. President, I applaud David Lifson's candor in speaking out for tax simplification. The truth is, when the one industry—accounting—which depends financially on the very complexity and unwieldiness of our tax filing process and the tax code itself, is saying—honestly—that the system is too complex, we know—unequivocally—that we need to do something to make the tax filing process work for taxpayers. The burden of tax code complexity is taking a heavy toll. At an April hearing before the Senate Small Business Committee, the General Accounting Office identified more than 200 different federal tax code requirements that potentially apply to small businesses. Today, when a business hires an employee, the business becomes responsible for collecting and paying three federal taxes (income tax withholding, FICA, and FUTA). It also becomes liable for state and local employment taxes: in most states, these include a state income tax and a state unemployment tax. For businesses, each tax presents its own set of rules and regulations. For the small business owner just starting up, these employment tax rules make compliance difficult and confusing—and in too many instances the cumbersome nature of the tax filing process is a disincentive in itself for small businesses to grow.

We need to reverse that course, and, Mr. President, we can do just that today—we can simplify the tax filing process for employers by allowing the Internal Revenue Service (IRS) and State agencies to combine, on one form, both State and Federal employment tax returns.

As we all know, traditionally, federal tax forms are filed with the federal government and state tax forms are filed with individual states. This necessitates duplication of items common to both returns. Several States have been working creatively with the IRS to implement combined State and Federal reporting of employment taxes, on one form, as a way of reducing the administrative burden on taxpayers. The Taxpayer Relief Act of 1997 authorized a demonstration project to assess the feasibility and desirability of expanding combined reporting. The pilot project was: (1) limited to the State of Montana, (2) limited to employment tax reporting, (3) limited to disclosure of the name, address, taxpayer identification number, and signature of the taxpayer, and (4) limited to a period of five years. On March 29, 1999, the IRS announced the successful testing of the Single-Point Filing Initiative. Several States are currently considering agreements with the IRS to initiate joint-filing of employment taxes. Those States include Maine, Oklahoma, Iowa, South Carolina, Ohio, and Massachusetts. My colleague Senator BAUCUS knows just how popular this experiment has been in Montana. He'll tell you that by permitting the IRS to share a limited amount of basic taxpayer identity information—information which States already collect separately at an added expense to themselves and the taxpayer, the Single-Point Tax Filing Act we are introducing today will allow the IRS to expand joint-filing beyond its current pilot project.

Implementation of combined State-Federal employment tax reporting—a good idea, a common-sense idea long in the making—has been hindered because the tax code applies restrictions on disclosure of information common to both the State and Federal portions of the combined form. Our bill will waive those restrictions, and allow us to take a common-sense step forward for small businesses in the United States, a step forward for single-point tax filing.

Mr. President, this is one of the obligations the American people—regardless of party or politics, expect us to take seriously—to protect them as taxpayers. And I believe that this is one tax provision, one measure of simplification, on which we can all agree—and we can make it law at no additional cost to taxpayers. I am pleased to introduce the Single Point Tax Filing legislation today, I thank the distinguished members of the Finance Committee CHARLES GRASSLEY and MAX BAUCUS who join me today in offering this legislation, and I ask for your support of this important measure.

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

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

SINGLE-POINT TAX FILING ACT OF 1999

PURPOSE

To simplify the tax filing process for employers by allowing the Internal Revenue Service (IRS) and State agencies to combine, on one form, both State and Federal employment tax returns.

SUMMARY

Traditionally, Federal tax forms are filed with the Federal government and State tax forms are filed with individual States. This necessitates duplication of items common to both returns. Several States have been working with the IRS to implement combined State and Federal reporting of employment taxes, on one form, as a way of reducing the administrative burden on taxpayers. By permitting the IRS to share a limited amount of basic taxpayer identity information—information which States already collect separately at an added expense to themselves and the taxpayer, the Single-Point Tax Filing Act will allow the IRS to expand joint-filing beyond its current pilot project.

BACKGROUND

The tax code prohibits disclosure of tax returns and return information, except to the extent specifically authorized by law. Unauthorized disclosure is a felony punishable by a fine not exceeding $5,000 or imprisonment of not more than five years, or both. An action for civil damages also may be brought for unauthorized disclosure. No tax information may be furnished by the IRS to another agency unless the other agency establishes procedures satisfactory to the IRS for safeguarding the tax information it receives.

Implementation of combined State-Federal employment tax reporting has been hindered because the tax code applies restrictions on disclosure of information common to both the State and Federal portions of the combined form.

The Taxpayer Relief Act of 1997 authorized a demonstration project to assess the feasibility and desirability of expanding combined reporting. The pilot project was: (1) limited to the State of Montana, (2) limited to employment tax reporting, (3) limited to disclosure of the name, address, taxpayer identification number, and signature of the taxpayer, and (4) limited to a period of five years. On March 29, 1999, the IRS announced the successful testing of the Single-Point Filing Initiative.

Several States are currently considering agreements with the IRS to initiate joint-filing of employment taxes. Those States include Maine, Oklahoma, Iowa, South Carolina, Ohio, and Massachusetts.

LEGISLATION

Before additional joint-filing projects may move forward, the IRS must receive legislative authority to share basic information with State agencies. By providing the necessary statutory waiver, the Single-Point Tax Filing Act will permit the IRS to extend joint-filing beyond its current pilot project. The waiver would only pertain to employment tax reporting and would only permit the disclosure of the taxpayer's name, mailing address, taxpayer identification number, and signature (i.e., taxpayer identity information).

Mr. BAUCUS. Mr. President, I want to add my strong support to the Single-Point Tax Filing Act of 1999 introduced by my colleagues Senators KERRY and GRASSLEY. As a result of language I had included in the 1997 Taxpayer Relief Act, Montana is the only state in the nation currently testing a Single-Point Tax Filing system, also known as the Simplified Tax and Wage Reporting System, or STAWRS.

The STAWRS pilot project in Montana has been a tremendous success. Earlier this year, the State of Montana and its Department of Revenue received a Regulatory Innovation Award from the Small Business Administration, the Commissioner's Award from the Internal Revenue Service, and the ''Hammer'' Award by the National Performance Review. These awards were all given in recognition of the pilot project's achievement in dramatically reducing paperwork and cutting red tape for small businesses. I was also honored to receive SBA's Special Advocacy Award for my efforts to have legislation enacted that allowed the pilot project to go forward.

The STAWRS program is designed to help businesses file their paperwork with one office, instead of wading through a blizzard of paper. It's one-

stop shopping and will go a long way toward streamlining payroll information, making filing faster and easier. Right now, businesses find themselves reporting the same exact information, on wide variety of forms, to a range of state and federal agencies. This takes time and effort, both of which small business owners could put to much better use running their businesses. The STAWRS project is intended to eventually make it possible for employers to file a single, one-page report that is then shared by the appropriate revenue agencies. The governments will do the work and extract the information they need rather than the employer.

Small businesses are the engine for economic growth in this country. They have created close to two-thirds of America's net new jobs since the 1970's, helping drive our unprecedented economic growth and prosperity. All of this growth has been achieved despite the crushing paperwork requirements that small business owners face. The Single-Point Tax Filing Act gives us an opportunity to reduce this paperwork burden at no cost to the government. I am proud that Montana has taken the lead in reducing paperwork for small business, and strongly believe it should be made available to small businesses in every state, and on a permanent basis.

I urge my colleagues to support the bill.

By Mr. REID:

S. 1329. A bill to direct the Secretary of the Interior to convey certain land to Nye County, Nevada, and for other purposes; to the Committee on Energy and Natural Resources.

CONVEYANCE OF LAND TO NYE COUNTY, NEVADA

Mr. REID. Mr. President, I rise today to introduce legislation to authorize Nye County, Nevada to acquire approximately 800 acres of public land. This conveyance will facilitate the development of both the Nevada Science and Technology Center and the Amargosa Valley Science and Technology Park, part of a larger proposed Nevada Science and Technology Corridor.

The Nevada Science and Technology Center is a proposed interactive science center and museum, highlighting the environment, industries, and technological developments associated with the region. This state of the art facility will have the potential to draw visitors from the Las Vegas Valley, 80 miles to the southeast, and the 1.3 million tourists who visit nearby Death Valley on an annual basis. The Center will appeal to people of all ages and backgrounds because it will provide a unique, fun, hands-on experience. Planning for this project is ongoing under the direction of a Nevada registered non-profit organization.

The Amargosa Valley Science and Technology Park is a proposed research and development business park designed to support Department of Energy contractors and suppliers associated with the Nevada Test Site, located immediately to the north of this site. Nye County currently has a $1.5 million grant from the Economic Development Administration in the final stages of review at that agency's regional office. Once finalized, this grant will provide the funding for water and infrastructure development in support of both the science center and the research and development park.

The lands proposed for conveyance have been identified for disposal under the Bureau of Land Management's October 1998 Las Vegas Resource Management Plan. Due to the non-profit nature of the Science Center, this portion of land, approximately 450 acres, would be conveyed at no cost. Because the research and industrial park will house commercial operations, the County would be required to pay fair market value for these lands, approximately 350 acres. The legislation contains provisions for the no-cost land to revert to the federal government should it be used for purposes other than the science center and related facilities.

This legislation will provide the impetus for future development in this area, providing the opportunity for economic growth in Nye County. I urge my colleagues to vote for passage of this bill.

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. 1329

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

SECTION 1. CONVEYANCE TO NYE COUNTY, NEVADA.

(a) DEFINITIONS.—In this section:

(1) COUNTY.—The term ''County'' means Nye County, Nevada.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

(b) PARCELS CONVEYED FOR USE OF THE NEVADA SCIENCE AND TECHNOLOGY CENTER.—

(1) IN GENERAL.—For no consideration and at no other cost to the County, the Secretary shall convey to the County, subject to valid existing rights, all right, title, and interest in and to the parcels of public land described in paragraph (2).

(2) LAND DESCRIPTION.—The parcels of public land referred to in paragraph (1) are the following:

(A) The portion of Sec. 13 north of United States Route 95, T. 15 S. R. 49 E, Mount Diablo Meridian, Nevada.

(B) In Sec. 18, T. 15 S., R. 50 E., Mount Diablo Meridian, Nevada:

(i) W ½ W ½ NW ¼.

(ii) The portion of the W ½ W ½ SW ¼ north of United States Route 95.

(3) USE.—

(A) IN GENERAL.—The parcels described in paragraph (2) shall be used for the construction and operation of the Nevada Science and Technology Center as a nonprofit museum and exposition center, and related facilities and activities.

(B) REVERSION.—The conveyance of any parcel described in paragraph (2) shall be subject to reversion to the United States, at the discretion of Secretary, if the parcel is used for a purpose other than that specified in subparagraph (A).

(b) PARCELS CONVEYED FOR OTHER USE FOR A COMMERCIAL PURPOSE.—

(1) RIGHT TO PURCHASE.—For a period of 5 years beginning on the date of enactment of this Act, the County shall have the exclusive right to purchase the parcels of public land described in paragraph (2) for the fair market value of the parcels, as determined by the Secretary.

(2) LAND DESCRIPTION.—The parcels of public land referred to in paragraph (1) are the following parcels in Sec. 18, T. 15 S., R. 50 E., Mount Diablo Meridian, Nevada:

(A) E ½ NW ¼.

(B) E ½ W ½ NW ¼.

(C) The portion of the E ½ SW ¼ north of United States Route 95.

(D) The portion of the E ½ W ½ SW ¼ north of United States Route 95.

(E) The portion of the SE ¼ north of United States Route 95.

(3) USE OF PROCEEDS.—Proceeds of a sale of a parcel described in paragraph (2)—

(A) shall be deposited in the special account established under section 4(e)(1)(C) of the Southern Nevada Public Land Management Act of 1998 (112 Stat. 2345); and

(B) shall be available to the Secretary as provided in section 4(e)(3) of that Act (112 Stat. 2346).

By Mr. REID:

S. 1330. A bill to give the city of Mesquite, Nevada, the right to purchase at fair market value certain parcels of public land in the city; to the Committee on Energy and Natural Resources.

CONVEYANCE OF LAND TO THE CITY OF MESQUITE, NEVADA

Mr. REID. Mr. President, I rise today to introduce legislation to authorize the city of Mesquite, Nevada, to acquire approximately 7,690 acres of public land necessary to provide for urban and economic growth and development of a new commercial airport. This legislation will amend existing public law and allow for the continued expansion of this growing community.

Mesquite is the one of the fastest growing cities in the fastest growing State in the Nation According to figures released by the U.S. Census Bureau, Mesquite grew by 441% between 1990 and 1998, increasing in population from 1,871 to over 10,000. This phenomenal growth rate is being fueled by a variety of factors, including the development of new destination resorts and the ''discovery'' of other recreational opportunities in the tri-state region of Nevada, Arizona, and Utah. As the tourism industry in the area continues to grow and prosper, a greater capacity for air carrier service will be required to meet the needs of the region. In addition, the city of Mesquite is land locked by public lands. While some relief has been provided via the

existing public law, this growth is exceeding demand and the city expects to be out of room within a couple of years. This bill is designed to help with both growth related and air service issues.

Although the existing Mesquite Airport is adequate for general aviation service, terrain precludes the expansion necessary for commercial and cargo service. A new commercial airport is needed to meet the future regional demands. The proposed airport site identified in this bill is a result of an approved Site Selection Study conducted for the Clark County Department of Aviation. This study was funded through, and approved by, the Federal Aviation Administration. Of course, no airport construction activities will begin without completion of a comprehensive Airport Master Plan and environmental review. Once these steps are completed, airport construction will be financed by the City of Mesquite and its business community.

Existing state law requires that the airport site be contiguous with the city limits in order to be annexed. The legislation I introduce today will authorize the city to purchase 5,400 acres of public land to meet this connectivity requirement. As some of this land has development potential, the city will be required to pay fair market value for this acreage. The actual airport site of 2,560 acres would be acquired by the city pursuant to existing land acquisition statues related to transportation and airport development.

Mr. President, I request that this legislation be given prompt consideration.

Mr. President, I also 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. 1330

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

SECTION 1. CONVEYANCE OF LAND TO CITY OF MESQUITE, NEVADA.

Section 3 of Public Law 99–548 (100 Stat. 3061; 110 Stat. 3009–202) is amended by adding at the end the following:

''(e) FIFTH AREA.—

''(1) RIGHT TO PURCHASE.—For a period of 12 years after the date of enactment of this Act, the city of Mesquite, Nevada, shall have the exclusive right to purchase the parcels of public land described in paragraph (2).

''(2) LAND DESCRIPTION.—The parcels of public land referred to in paragraph (1) are as follows:

''(A) In T. 13 S., R. 70 E., Mount Diablo Meridian, Nevada:

''(i) The portion of sec. 27 north of Interstate Route 15.

''(ii) Sec. 28: NE ¼, S ½ (except the Interstate Route 15 right-of-way).

''(iii) Sec. 29: E ½ NE ¼ SE ¼, SE ¼ SE ¼.

''(iv) The portion of sec. 30 south of Interstate Route 15.

''(v) The portion of sec. 31 south of Interstate Route 15.

''(vi) Sec. 32: NE ¼ NE ¼ (except the Interstate Route 15 right-of-way), the portion of NW ¼ NE ¼ south of Interstate Route 15, and the portion of W ½ south of Interstate Route 15.

''(vii) The portion of sec. 33 north of Interstate Route 15.

''(B) In T. 14 S., R. 70 E., Mount Diablo Meridian, Nevada:

''(i) Sec. 5: NW ¼.

''(ii) Sec. 6: N ½.

''(C) In T. 13 S., R. 69 E., Mount Diablo Meridian, Nevada:

''(i) The portion of sec. 25 south of Interstate Route 15.

''(ii) The portion of sec. 26 south of Interstate Route 15.

''(iii) The portion of sec. 27 south of Interstate Route 15.

''(iv) Sec. 28: SW ¼ SE ¼.

''(v) Sec. 33: E ½.

''(vi) Sec. 34.

''(vii) Sec. 35.

''(viii) Sec. 36.

''(3) NOTIFICATION.—Not later than 10 years after the date of enactment of this subsection, the city shall notify the Secretary which of the parcels of public land described in paragraph (2) the city intends to purchase.

''(4) CONVEYANCE.—Not later than 1 year after receiving notification from the city under paragraph (3), the Secretary shall convey to the city the land selected for purchase.

''(5) WITHDRAWAL.—Subject to valid existing rights, until the date that is 12 years after the date of enactment of this subsection, the parcels of public land described in paragraph (2) are withdrawn from all forms of entry and appropriation under the public land laws, including the mining laws, and from operation of the mineral leasing and geothermal leasing laws.

''(6) USE OF PROCEEDS.—The proceeds of the sale of each parcel—

''(A) shall be deposited in the special account established under section 4(e)(1)(C) of the Southern Nevada Public Land Management Act of 1998 (112 Stat. 2345); and

''(B) shall be disposed of by the Secretary as provided in section 4(e)(3) of that Act (112 Stat. 2346).

''(f) SIXTH AREA.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall convey to the city of Mesquite, Nevada, in accordance with section 47125 of title 49, United States Code, up to 2,560 acres of public land to be selected by the city from among the parcels of land described in paragraph (2).

''(2) LAND DESCRIPTION.—The parcels of land referred to in paragraph (1) are as follows:

''(A) In T. 13 S., R. 69 E., Mount Diablo Meridian, Nevada:

''(i) The portion of sec. 28 south of Interstate Route 15 (except S ½ SE ¼).

''(ii) The portion of sec. 29 south of Interstate Route 15.

''(iii) The portion of sec. 30 south of Interstate Route 15.

''(iv) The portion of sec. 31 south of Interstate Route 15.

''(v) Sec. 32.

''(vi) Sec. 33: W ½.

''(B) In T. 14 S., R. 69 E., Mount Diablo Meridian, Nevada:

''(i) Sec. 4.

''(ii) Sec. 5.

''(iii) Sec. 6.

''(iv) Sec. 8.

''(C) In T. 14 S., R. 68 E., Mount Diablo Meridian, Nevada:

''(i) Sec. 1.

''(ii) Sec. 12.

''(3) WITHDRAWAL.—Subject to valid existing rights, until the date that is 12 years after the date of enactment of this subsection, the parcels of public land described in paragraph (2) are withdrawn from all forms of entry and appropriation under the public land laws, including the mining laws, and from operation of the mineral leasing and geothermal leasing laws.''.

By Mr. REID:

S. 1331. A bill to give Lincoln County, Nevada, the right to purchase at fair market value certain public land in the county; to the Committee on Energy and Natural Resources.

LINCOLN COUNTY LANDS ACT OF 1999

Mr. REID. Mr. President, I rise today to introduce legislation to provide Lincoln County, Nevada with the exclusive right to purchase approximately 4,800 acres of public land near Mesquite, Nevada. This legislation, to be known as the Lincoln County Lands Act of 1999, will facilitate economic growth and development in one of the most economically distressed counties in the Silver State.

Lincoln County encompasses an area of 10,132 square miles, which is larger than several of the New England states combined. Approximately 98% of the County is owned by the federal government and property tax revenues amount to only $1,106,558 annually. As a result, Lincoln County is hard pressed to provide basic services to its citizens and the County school district in facing a critical situation as its schools are literally crumbling because of a lack of funds to maintain them. The Lincoln County Lands Act will allow the County to address these economic problems in a positive way.

By allowing Lincoln County to purchase 4,800 acres of public land (less than 1/10th of 1% of the land in the County) at fair market value, this legislation will result in the County's property tax revenues increasing by over $12.9 million annually—an increase of more than 1000%. While this may seem extraordinary, it is a result of land being situated immediately adjacent to the rapidly growing City of Mesquite which is located just over the County line in Clark County, Nevada. Mesquite's growth has created a huge demand for more housing and commercial development that can be best met by allowing Lincoln County to purchase this public land and develop it in a prudent manner. Under this scenario everyone involved is a winner. Lincoln County will gain badly needed property tax revenue, Mesquite gains room for expansion and growth, and the federal government will be fairly compensated for the sale of public lands.

Another important aspect of this legislation is that it allows for the proceeds of any sale of land pursuant to the Act to be utilized by the Bureau of Land Management to acquire or otherwise protect environmentally sensitive lands in Nevada, to defray the administrative costs that BLM will incur in

processing this land sale, and to develop a multi-species habitat plan for all of Lincoln County. These provisions, similar to those contained in the Southern Nevada Public Land Management Act enacted in 1998, will help ensure that a mechanism exists to fund the conservation and protection of Nevada's natural resources.

Mr. President, the Lincoln County Lands Act is modeled after other legislation that I have successfully sponsored, such as the Mesquite Lands Act of 1986 and the previously mentioned Southern Nevada Public Land Management Act. These laws have provided a framework for creating economic growth while protecting the environment and the taxpayer. I am very pleased to be able to build upon these achievements by assisting Lincoln County in a similar manner. I look forward to prompt consideration of this important piece of legislation.

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

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

S. 1331

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 ''Lincoln County Land Act of 1999''.

SEC. 2. SALE OF PUBLIC LAND.

(a) RIGHT TO PURCHASE.—For a period of 10 years after the date of enactment of this Act, Lincoln County, Nevada, shall have the exclusive right to purchase the parcels of public land described in subsection (b).

(b) LAND DESCRIPTION.—The parcels of public land referred to in subsection (a) are the following parcels in T. 12 S., R. 71 E., Mount Diablo Meridian, Nevada:

(1) Sec. 16: NW ¼ SW ¼, S ½ SW ¼, SE ¼.
(2) Sec. 17: SW ¼, W ½ SE ¼, SE ¼ SE ¼.
(3) Sec. 18: SE ¼.
(4) Sec. 19: E ½.
(5) Sec. 20.
(6) Sec. 21: W ½.
(7) Sec. 28: W ½.
(8) Sec. 29.
(9) Sec. 30: E ½.
(10) Sec. 31: E ½.
(11) Sec. 32.
(12) Sec. 33: W ½, SE ¼.
(13) Sec. 34: S ½.

(c) NOTIFICATION.—Not later than 180 days after the date of enactment of this Act, Lincoln County, Nevada, shall notify the Secretary of the Interior which of the parcels of public land described in subsection (b) the county intends to purchase.

(d) TERMS AND CONDITIONS OF SALE.—All sales of public land under this section—

(1) shall be subject to valid existing rights; and

(2) shall be made for fair market value, as determined by the Secretary.

(e) CONVEYANCE.—Not later than 1 year after receiving notification by Lincoln County that the county wishes to proceed with a purchase under subsection (a), the Secretary of the Interior shall convey to Lincoln County the parcels of land selected for purchase.

(f) WITHDRAWAL.—Subject to valid existing rights, until the date that is 10 years after the date of enactment of this Act, the public land described in subsection (b) is withdrawn from all forms of entry and appropriation under the public land laws, including the mining laws, and from operation of the mineral leasing and geothermal leasing laws.

SEC. 3. DISPOSITION OF PROCEEDS.

(a) LAND SALES.—Of the gross proceeds of sales of land under this Act in a fiscal year—

(1) 5 percent shall be paid directly to the State of Nevada for use in the general education program of the State;

(2) 10 percent shall be returned to Lincoln County for use as determined through normal county budgeting procedures, with emphasis given to support of schools, of which no amount may be used in support of litigation against the Federal Government; and

(3) the remainder shall be deposited in a special account in the Treasury of the United States (referred to in this section as the ''special account'') for use as provided in subsection (b).

(b) AVAILABILITY OF SPECIAL ACCOUNT.—

(1) IN GENERAL.—Amounts in the special account (including amounts earned as interest under paragraph (3)) shall be available to the Secretary of the Interior, without further Act of appropriation, and shall remain available until expended, for—

(A) the cost of acquisition of environmentally sensitive land or interests in such land in the State of Nevada, with priority given to land outside Clark County;

(B) development of a multispecies habitat conservation plan in Lincoln County, Nevada; and

(C) reimbursement of costs incurred by the Bureau of Land Management in preparing sales under this Act, or other authorized land sales or exchanges within Lincoln County, Nevada, including the costs of land boundary surveys, compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), appraisals, environmental and cultural clearances, and any public notice.

(2) ACQUISITION FROM WILLING SELLERS.—An acquisition under paragraph (1)(A) shall be made only from a willing seller and after consultation with the State of Nevada and units of local government under the jurisdiction of which the environmentally sensitive land is located.

(3) INTEREST.—Amounts in the special account shall earn interest in the amount determined by the Secretary of Treasury on the basis of current average market yield on outstanding marketable obligations of the United States of comparable maturities.

By Mr. BAYH (for himself, Mr. LUGAR, Mr. ROCKEFELLER, Mr. VOINOVICH, Mr. DURBIN, Mr. BINGAMAN, Mr. STEVENS, Mr. KENNEDY, Mr. MURKOWSKI, Mr. KERREY, and Ms. LANDRIEU):

S. 1332. A bill to authorize the President to award a gold medal on behalf of Congress to Father Theodore M. Hesburg, in recognition of his outstanding and enduring contributions to civil rights, higher education, the Catholic Church, the Nation, and the global community; to the Committee on Banking, Housing, and Urban Affairs.

CONGRESSIONAL GOLD MEDAL IN HONOR OF REVEREND THEODORE HESBURGH

• Mr. BAYH. Mr. President, I rise today with my good friend and colleague from Indiana, Senator RICHARD LUGAR, to introduce legislation awarding the Congressional Gold Medal to the Reverend Theodore Hesburgh, president emeritus of the University of Notre Dame.

This bipartisan effort recognizes Father Hesburgh for his outstanding contributions to the civil rights movement and to improving higher education. His efforts have provided benefits not only to the people of the United States but to the global community as well.

Over the years, Father Hesburgh has held 15 presidential appointments and remains a national leader in the fields of education, civil rights and development of the world's poorest nations. Most notable among Father Hesburgh's many previous awards is the Medal of Freedom, the nation's highest civilian honor, bestowed on him by President Johnson in 1964.

Mr. President, Father Hesburgh has been a champion of the civil rights movement for more than forty years. He was a charter member of the U.S. Commission on Civil Rights in 1957, and served as Chairman of the commission from 1969–72. His relentless pursuit of justice, peace and equality continue to inspire people around the world.

Despite Father Hesburgh's commitment and obligations to Notre Dame and the various commissions he served, he still managed to give a sufficient amount of time and attention to global problems. Father Hesburgh served four Popes in many capacities, including as the permanent Vatican City representative to the International Atomic Energy Agency in Vienna from 1956–1970. In 1971, he joined the board of Overseas Developing Council, a private organization supporting interests of the underdeveloped world, and chaired it until 1982. During this time, he led fund-raising efforts that averted mass starvation in Cambodia in the immediate aftermath of the Khmer Rouge.

Notre Dame is perhaps most celebrated for its athletic prowess, but these on-the-field achievements should not overshadow Notre Dame's place as a world class institution of learning and scholarship. When Father Hesburgh stepped down as head of Notre Dame in 1987, he ended the longest tenure among active presidents of American institutions of higher learning. The accomplishments made during Father Hesburgh's tenure are perhaps best reflected in the significant gains made from the time he took over as the 15th president of Notre Dame in 1952, up until his departure. By the time Father Hesburgh left Notre Dame, enrollment had doubled, the number of faculty had tripled, and the number of degrees offered by the school had grown to over 2,500.

Most strikingly, Father Hesburgh was responsible for making dramatic changes to the University's composition by admitting women to Notre Dame. He also established several of

Notre Dame's prestigious institutions, both the Kroc Institute for International Peace Studies and the Kellogg Institute for International Studies.

Today, even in retirement, Father Hesburgh continues to be a leading educator and humanitarian, inspiring generations of students and citizens, while generously sharing his wisdom in the struggle for the rights of man.

That is why we rise today to introduce legislation in the Senate honoring this man with a Congressional Gold Medal for his outstanding contributions to the University of Notre Dame, our country and the global community.●

● Mr. LUGAR. Mr. President, I rise today to join Senator BAYH in introducing legislation to bestow a Congressional Gold Medal on Reverend Theodore M. Hesburgh, C.S.C., president emeritus of the University of Notre Dame.

In 1952, at the age of 35, Father Hesburgh became the fifteenth president of the University of Notre Dame. He served in that position for a remarkable 35 years. At the time of his retirement in 1987, he had the longest tenure among active American university presidents. Father Hesburgh's leadership and vision, together with the hard work of faculty, staff, alumni, and students, built Notre Dame into one of the premier universities in the United States.

In you ask any Golden-domer, they will tell you that Father Hesburgh's contributions to the University of Notre Dame are as big as the 13-floor library that bears his name. Notre Dame grew exponentially in research funding and in endowment during Father Hesburgh's presidency. When he assumed the office in 1952, Notre Dame served fewer than 5,000 students. Today it is an internationally recognized university of nearly 10,000 students engaged in every imaginable academic discipline.

More importantly, through his example and direction, Father Hesburgh inspired the university community to pursue not only academic excellence and international prominence, but also justice and spiritual meaning. Few universities have succeeded at creating an environment so committed to public service and so rich in its dialogue between the intellectual and the spiritual.

As Father Hesburgh worked to build the University of Notre Dame into what it is today, he simultaneously answered the call to serve his nation and the world. His career has embodied the principle of public service that he espoused at Notre Dame.

Father Hesburgh has held a remarkable 15 Presidential appointments over the years, covering such diverse topics as the peaceful uses of atomic energy and campus unrest. He was a charter member of the U.S. Commission on Civil Rights, created in 1957, and he chaired the commission from 1969–1972.

All the while he remained a national leader in education, serving on many commissions and study groups. He chaired the International Federation of Catholic Universities from 1963 to 1970. In this position and through his writings, he was instrumental in redefining the importance of international studies in higher education and the nature and mission of a contemporary Catholic university. Father Hesburgh also served four Popes as a Vatican representative to the International Atomic Energy Agency and other international assemblies.

The problems of underdeveloped nations have been a special interest of Father Hesburgh. He joined the board of the Overseas Development Council in 1971. His fund-raising work as Chairman helped avert mass starvation in Cambodia in 1979 and 1980. He also chaired the Select Commission on Immigration and Refugee Policy between 1979 and 1981. The recommendations of the Commission became the basis of legislation five years later.

Father Hesburgh's lengthy list of awards include the Medal of Freedom, bestowed by President Johnson in 1964. He is also the recipient of 135 honorary degrees, the most ever awarded to an American.

In retirement, Father Hesburgh has become a best-selling author. He still plays a major role in the development of higher education through the institutes he was instrumental in founding at Notre Dame, including the Kroc Institute for International Peace Studies and the Kellogg Institute for International Studies. Father Hesburgh chairs the advisory committee for both institutes.

Despite his innumerable accomplishments, Father Hesburgh has always remained grounded in the campus life of Notre Dame University. He continues to frequently lecture and preside at mass. He talks with everyone who approaches him and still loves having lunch with students daily to discuss their views on the courses and programs he has been so instrumental in advancing.

Mr. President, Father Hesburgh's life stands as an example of the type of service, dedication, and faith that the Congressional Gold Medal was meant to commemorate. I encourage my colleagues to join Senator BAYH and myself in supporting this legislation.●

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

S. 1333. A bill to expand homeownership in the United States; to the Committee on Banking, Housing, and Urban Affairs.

PROMOTING HOUSING AFFORDABILITY FOR WORKING FAMILIES ACT OF 1999

● Mr. WYDEN. Mr. President, many Americans are benefiting from today's robust economy—unemployment is down, the stock market is up and homeownership is at record levels.

Sounds good. But while homeownership levels are up for some, for others, the idea of owning a home is about as realistic as winning the lottery.

For millions of working families, paying for the house of their dreams too often turns into a financial nightmare. Homeownership should not be reserved for the wealthiest in our society, but should be within the grasp of every working man and woman.

Families with incomes below $25,000 generally cannot afford rent—much less monthly mortgage payments on most homes. Some of these are the people who keep our streets safe, fight fires and teach our children, people who play vital roles in our community. They deserve to own their own homes in the communities they know so well and work so hard to improve.

Working families should be able to invest in themselves and in their families rather than put their hard-earned income every month into rent paid to someone else. Houses do more than provide shelter. Houses become homes. They allow adults a chance to become established. They give children a sense of security. They allow small towns to function and big cities to endure.

It is no wonder then that we value homeownership in this country. Owning a home is a part of our culture, it's what we call ''the American dream.'' Still, this dream is out of the reach of many Americans. In Oregon, where more than 75 percent of jobs do not pay a living wage for a single parent, housing costs have skyrocketed, forcing nearly half of Oregon renters to spend more than 30 percent of their income on housing and utilities. According to the Department of Housing and Urban Development's guidelines, if someone is spending more than 30 percent of his or her income on housing, they start cutting into other basic needs such as putting food on the table, taking elderly parents to the doctor or clothing kids for school.

People should not have to choose between feeding their kids or keeping a roof over their heads. The bill that I am introducing, ''The Promoting Housing Affordability for Working Families Act of 1999,'' will help communities remove the barriers to affordable housing, so working families will not have to make this choice. Many factors, such as excessive rules and regulations, add to the price of a house. Cities and states must work together to remove these barriers. By working together, they can free up rental housing for those who cannot afford to buy a home while making the purchase of a first home easier for folks who have been previously denied the opportunity.

This bill addresses the problem on three fronts. First, it brings communities together to form ''barrier removal councils'' so they can identify

problems to housing affordability and begin implementing solutions.

Second, the bill requires Federal agencies to examine the impact of their regulations on the cost of housing. Determining this information through a ''housing impact analysis'' at the outset will save states, communities and, ultimately, families a lot of hassle down the road.

Third, it makes homeownership possible for people who help our communities thrive—teachers, police officers, fire fighters and other public employees. Through incentives such as downpayment assistance and closing cost flexibility this bill helps people live in the communities they serve.

Many working families are ready for their first home. They are starting to raise families, move up the ladder at work and are prepared to take on the responsibilities of homeownership. But when they get to the front door, they cannot step over the threshold because they are tied up in unnecessary regulation that drives up home prices. The ''Promoting Housing Affordability for Working Families Act of 1999'' will help these families untangle this regulatory knot and unlock the door to their first home.●

By Mr. AKAKA (for himself, Mr. EDWARDS, Mr. FRIST, Mr. LEVIN, Mr. STEVENS, Mr. SARBANES, and Mr. DURBIN):

S. 1334. A bill to amend chapter 63 of title 5, United States Code, to increase the amount of leave time available to a Federal employee in any year in connection with serving as an organ donor, and for other purposes; to the Committee on Governmental Affairs.

ORGAN DONOR LEAVE ACT

Mr. AKAKA. Mr. President, I am pleased today to introduce the Organ Donor Leave Act. This bill would extend the amount of leave in each calendar year available to federal workers who serve as living organ donors from 7 days to 30 days. It is a straight forward way to ensure that federal employees who serve as an organ donor have sufficient time to recover from an organ transplant operation.

I am delighted to be joined by Senator FRIST, one of the nation's leading transplant surgeons and the only active surgeon in Congress, as well as Senators EDWARDS, STEVENS, LEVIN, SARBANES, and DURBIN. The bill we offer is a companion bill to H.R. 457, introduced by Representative ELIJAH CUMMINGS and marked out of the House Government Reform Committee. Last year, an identical bill passed the House, but not the Senate. It is my hope that, with such a distinguished list of cosponsors from both sides of the aisle, the Senate will quickly enact this important legislation.

In most instances, an organ transplant operation and post-operative recovery time for a living donor is generally six to eight weeks. In order to address the disparity between the available leave a federal employee may take for an organ donation and the average recovery time, the Office of Personnel Management (OPM) and the Department of Health and Human Services (HHS) assisted in the drafting of this legislation to increase the amount of time that may be used for organ donation to 30 days. The amount of leave for a bone marrow donation would remain at seven days because experience shows that a week is considered adequate recovery time form bone marrow donations.

Since 1954, when the first kidney transplant was performed, there have been hundreds of patients who have received successful transplants from living donors. Unfortunately, there are not enough organs available and over 55,000 Americans currently wait for a life-saving organ. There are certain organs, such as a single kidney, a lobe of a lung, a segment of the liver, or a portion of the pancreas, which may be transplanted from a living donor. These operations can reduce the mortality of small children needing liver transplants, help another person breathe, or free a dialysis patient from daily treatment.

According to the University of Southern California Liver Transplant Program, ''With living donors, liver transplants can be performed electively and before patients get extremely ill, thus leading to better outcomes. Another advantage to this approach is the emotional satisfaction donors share with recipients when a life is saved.''

Our bill has the strong support of the American Transplantation Society, the nation's largest professional transplant organization, representing over 1,400 physicians, surgeons, and scientists. In a letter expressing support of the Organ Donor Leave Act, the AST noted: ''. . . a lack of leave time has served as a significant impediment and disincentive for individuals willing to share the gift-of-life. This important initiative addresses the disparities between leave time and recovery time.'' According to AST, the bill would give ''. . . donors the added assurance that they will be granted an adequate amount of time to recuperate from the life-saving process that they undertake voluntarily.''

Mr. President, this bill has already been passed by the House once, and appears to be on the same course in the 106th Congress. I hope the Senate will agree with the other chamber, and I urge my colleagues to support moving this life-saving legislation as soon as possible. I ask unanimous consent that a letter from the American Society of Transplantation be printed in the RECORD.

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

AMERICAN SOCIETY
OF TRANSPLANTATION,
Thorofare, NJ, June 29, 1999.

Hon. DANIEL AKAKA,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR AKAKA: The American Society of Transplantation (AST) commends you for your continuing efforts to improve our nation's system for organ donation and transplantation. The AST is the largest professional transplant organization in the United States and represents over 1,400 physicians, surgeons and scientists. During the last few years, the Society has greatly appreciated the opportunity to work with Congressional Members and staff in addressing many important organ transplantation issues.

The AST applauds you most recent efforts to improve organ donation by introducing the Senate companion legislation to H.R. 457 which seeks to amend the United States Code, to increase the amount of leave time available to a Federal employee in any year in connection with serving as an organ donor. Through this legislation, the Federal Government will become a leader in encouraging individuals to perform the valuable public service of donating organs.

In the past, a lack of leave time has served as a significant impediment and disincentive for individuals willing to share the gift-of-life. This important initiative address disparities between leave time and recovery time. This legislation gives donors the added assurance that they will be granted an adequate amount of time to recuperate from the life saving process that they undertake voluntarily.

As we have discussed in the past, the problems that our nation faces in the allocation of organs and tissues for transplantation, a precious and scarce resource, are complex, and continue to evolve from both a medical and policy perspective. However, the real answer to dealing with the dilemma of allocating and distributing an inadequate supply of organs is through efforts such as yours to increase donation.

On behalf of the thousands of U.S. patients currently awaiting organ transplants, we commend you for your leadership in this area. In addition, we look forward to continuing to work with you in the future to improve the field of transplantation medicine.

Sincerely,

JOHN R. LAKE,
President.
JOHN F. NEYLAN,
Chair, Public Policy Committee.

By Mr. REED (for himself, Mr. SCHUMER, and Mr. EDWARDS):

S. 1336. A bill to amend the Internal Revenue Code of 1986 to provide a credit to promote home ownership among low-income individuals; to the Committee on Finance.

HOME OWNERSHIP TAX CREDIT ACT OF 1999

Mr. REED. Mr. President, I rise to discuss the state of home ownership in the U.S., in addition to legislation I am introducing with Senator SCHUMER and Senator EDWARDS to enable more families to achieve the American dream of home ownership.

Today, we have many reasons to celebrate. Indeed, the national home ownership rate has soared to an all-time high of almost 67 percent, which is up

from 64 percent in 1993. Of further significance, this increase has, in large measure, been fueled by the growth in home ownership among minority households. In fact, minorities were responsible for 42 percent of the increase in home ownership between 1994 and 1997, although they only account for 17 percent of the home owner population.

Despite these positive developments, a number of distressing trends should give us cause for concern. For example, minority home ownership rates still lag significantly behind those of non-minority households: 45 percent for minorities versus 72 percent for white households. In addition, only 45 percent of low-income households live in owner-occupied homes, as compared to 86 percent of high-income households.

These alarming disparities have broad societal implications because of the tremendous benefits associated with home ownership. Historically, home ownership has been the key to wealth creation in this country, and wealth in the form of home equity has enabled families to start businesses, finance their children's education, and cover unexpected expenses. Consequently, unequal home ownership rates lead to wealth disparities. In fact, the median wealth of non-elderly low income home owners is 12 times greater than the median wealth of non-elderly renters of the same income.

In addition to wealth-building, home ownership has a positive effect on families and on our communities. Indeed, research has found that children of homeowners are less likely to become involved in the justice system, drop out of school, or have children out of wedlock. Moreover, home ownership is correlated with membership in community organizations and voting, as well as participation in neighborhood enhancing activities.

In view of the substantial benefits associated with home ownership, the Federal Government has actively worked to increase the home ownership rate. The primary tools in this effort have been the mortgage interest and the real estate tax deductions. Although these tax deductions have reduced the costs of home ownership for many, they are of little use to low-income households because their itemized tax deductions generally do not exceed the standard deduction. As such, over 90 percent of the total benefits of the mortgage interest deduction accrue to home buyers with incomes greater than $40,000, and because of the progressive nature of federal income tax rates, even if lower-income households do itemize their deductions, they receive a smaller deduction as a percentage of income than more affluent buyers.

To attack the home ownership disparity between low- and upper-income households, the Federal Government has relied on the Mortgage Revenue Bond (MRB) program, the Mortgage Credit Certificate (MCC) program, and, to a limited extent, the Low-Income Housing Tax Credit (LIHTC) program. Under these programs, the Federal Government subsidizes interest rates to reduce monthly mortgage costs for low-income home owners.

While these programs have been successful, their effects have been limited. Indeed, the size of these programs, as measured by their annual cost—$2.2 billion—pales in comparison to the annual cost of the mortgage and real estate tax deductions—$58 billion.

Also, while attacking the income constraints that prevent many low-income families from being able to afford monthly mortgage costs, these programs do not address wealth constraints such as a lack of savings for a down payment and closing costs, that keep many low-income families from becoming home owners.

During these times of economic prosperity, we have a rare opportunity to close the home ownership gap that exists between low-income and upper-income families. To this end, I am introducing legislation to establish a Home Ownership Tax Credit targeted to low-income families. This legislation, which has been developed in conjunction with Harvard's Joint Center on Housing Studies, the Brookings Institution, and Self-Help Community Development Corporation, would attack the wealth and income constraints that prevent many low-income families from becoming home owners.

Under this legislation, the Federal Government would issue tax credits to participating lenders who would then be obligated to extend either low-interest or zero-interest second mortgages to low-income families. These second mortgages would effectively be used to cover the downpayment and closing costs, although a prospective home buyer would still be required to make a small contribution toward the purchase. Families could defer repayment on the second mortgage for 25 years, at which point a balloon payment would come due, or they could repay the second mortgage over 30-years, concurrent with the repayment of their first mortgage. In either event, the interest rate on the second mortgage would be subsidized, which would lower families' monthly mortgage costs. Also, these second mortgages would eliminate the need for private mortgage insurance, providing additional savings of roughly $60 per month. Under this proposal, families earning as little as $14,500 would, for the first time, have the opportunity of realizing the American dream of home ownership.

Mr. President, I believe this legislation represents a common-sense approach to addressing the home ownership disparity which exists and I would hope my colleagues can be supportive.

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

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

S. 1336

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

SECTION 1. SHORT TITLE; FINDINGS; PURPOSES.

(a) SHORT TITLE.—This Act may be cited as the ''Home Ownership Tax Credit Act of 1999''.

(b) FINDINGS.—Congress finds the following:

(1) Home ownership is of primary importance in building wealth in low-income families.

(2) 67 percent of the wealth that is owned by non-elderly low-income households consists of the equity in their residences and the median wealth of such non-elderly low-income households is 12 times greater than the median wealth for non-elderly renters with the same level of income.

(3) Only 45 percent of low-income households live in owner-occupied homes, as compared to 66 percent of all households, and 86 percent of high-income households.

(4) According to the Bureau of the Census, in 1993, 88 percent of all renters and 93 percent of renters earning less than $20,000 could not afford a house selling for half of the regional median house price.

(5) There is a 23 percentage point difference in home ownership rates between central cities and suburban cities which is largely the result of the concentration of low-income households in central cities.

(6) The cost of the largest Federal tax incentives for home ownership, the mortgage interest deduction and the real estate tax deduction, is equal to approximately twice the amount of Federal expenditures for direct Federal housing assistance which benefits low-income households.

(7) The mortgage interest deduction and the real estate tax deduction have little value to low-income households because the itemized tax deductions of low-income households generally do not exceed the standard deduction.

(8) Over 90 percent of the total benefits of the mortgage interest deduction accrue to home buyers with incomes greater than $40,000.

(9) Current provisions in the Federal tax code to promote home ownership among low-income households, such as the mortgage revenue bond program, the mortgage credit certificate program, and the low-income housing credit, fail to simultaneously attack the twin constraints of lack of wealth and low income that prevent many low-income households from becoming homeowners.

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

(1) to establish a decentralized, market-driven approach to increasing home ownership among low-income households,

(2) to enable low-income households to overcome the wealth and income constraints that frequently prevent such households from becoming homeowners, and

(3) to reduce the disparities in home ownership between low-income households and higher-income households and between central cities and suburban cities.

SEC. 2. HOME OWNERSHIP TAX CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal

Revenue Code of 1986 (relating to business related credits) is amended by adding at the end the following:

"SEC. 45D. HOME OWNERSHIP TAX CREDIT.

''(a) ALLOWANCE OF CREDIT.—

''(1) IN GENERAL.—For purposes of section 38, the amount of the home ownership tax credit determined under this section for any taxable year in the credit period shall be an amount equal to the applicable percentage of the home ownership tax credit amount allocated such taxpayer by a State housing finance agency in the credit allocation year under subsection (b).

''(2) APPLICABLE PERCENTAGE.—For purposes of this section, the Secretary shall prescribe the applicable percentage for any year in which the taxpayer is a qualified lender. Such percentage with respect to any month in the credit period with respect to such taxpayer shall be percentages which will yield over such period amounts of credit under paragraph (1) which have a present value equal to 100 percent of the home ownership tax credit amount allocated such taxpayer under subsection (b).

''(3) METHOD OF DISCOUNTING.—The present value under paragraph (2) shall be determined in the same manner as the low-income housing credit under section 42(b)(2)(C).

''(b) ALLOCATION OF HOME OWNERSHIP TAX CREDIT AMOUNTS.—

''(1) AMOUNT OF CREDIT.—Each qualified State shall receive a home ownership tax credit dollar amount for each calendar year in an amount equal to the sum of—

''(A) an amount equal to—

''(i) 40 cents multiplied by the State population, multiplied by

''(ii) 10, plus

''(B) the unused home ownership tax credit dollar amount (if any) of such State for the preceding year.

''(2) QUALIFIED STATE.—For purposes of this section—

''(A) IN GENERAL.—The term 'qualified State' means a State with an approved allocation plan to allocate home ownership tax credits to qualified lenders through the State housing finance agency.

''(B) APPROVED ALLOCATION PLAN.—For purposes of this paragraph, the term 'approved allocation plan' means a written plan, certified by the Secretary, which includes—

''(i) selection criteria for the allocation of credits to qualified lenders—

''(I) based on a process in which lenders submit bids for the value of the credit, and

''(II) which gives priority to qualified lenders with qualified home ownership tax credit loans which are prepaid during a calendar year, for credit allocations in the succeeding calendar year,

''(ii) an assurance that the State will not allocate in excess of 10 percent of the home ownership tax credit amount for the calendar year for qualified home ownership tax credit loans which are neighborhood revitalization project loans,

''(iii) a procedure that the agency (or an agent or other private contractor of such agency) will follow in monitoring for noncompliance with the provisions of this section and in notifying the Internal Revenue Service of such noncompliance with respect to which such agency becomes aware, and

''(iv) such other assurances as the Secretary may require.

''(3) QUALIFIED LENDER.—For purposes of this section, the term 'qualified lender' means a lender which—

''(A) is an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act), insured credit union (as defined in section 101 of the Federal Credit Union Act), community development financial institution (as defined in section 103 of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4702)), or nonprofit community development corporation (as defined in section 613 of the Community Economic Development Act of 1981 (42 U.S.C. 9802)),

''(B) makes available, through such lender or the lender's designee, pre-purchase homeownership counseling for mortgagors, and

''(C) during the 1-year period beginning on the date of the credit allocation, originates not less than 100 qualified home ownership tax credit loans in an aggregate amount not less than the amount of the bid of such lender for such credit allocation.

''(4) CARRYOVER OF CREDIT.—A home ownership tax credit amount received by a State for any calendar year and not allocated in such year shall remain available to be allocated in the succeeding calendar year.

''(5) POPULATION.—For purposes of this section, population shall be determined in accordance with section 146(j).

''(6) COST-OF-LIVING ADJUSTMENT.—

''(A) IN GENERAL.—In the case of a calendar year after 2000, the 40 cent amount contained in paragraph (1)(A)(i) shall be increased by an amount equal to—

''(i) such amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 1999' for 'calendar year 1992' in subparagraph (B) thereof.

''(B) ROUNDING.—If any amount as adjusted under subparagraph (A) is not a multiple of 5 cents, such amount shall be rounded to the next lowest multiple of 5 cents.

''(c) QUALIFIED HOME OWNERSHIP TAX CREDIT LOAN DEFINED.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified home ownership tax credit loan' means a loan originated and funded by a qualified lender which is secured by a second lien on a residence, but only if—

''(A) the requirements of subsections (d), (e), and (f) are met,

''(B) subject to subparagraphs (F), (H), and (I), the proceeds from such loan are applied exclusively—

''(i) to acquire such residence, or

''(ii) to substantially improve such residence in connection with a neighborhood revitalization project,

''(C) the principal amount of the loan is equal to an amount which is—

''(i) not less than 18 percent of the purchase price of the residence securing the loan, and

''(ii) not more than the lesser of—

''(I) 22 percent of such purchase price, or

''(II) $25,000,

''(D) in the case of a neighborhood revitalization project loan, subparagraph (C) is applied by substituting—

''(i) 'purchase price or appraised value' for 'purchase price', and

''(ii) '$40,000' for '$25,000',

''(E) the loan is—

''(i) amortized over a period of not more than 30 years (or any lesser period of time as determined by the lender or the State housing finance agency (as applicable)), or

''(ii) described in paragraph (2),

''(F) the proceeds of such loan are not used for settlement or other closing costs of the transaction in an amount in excess of 4 percent of the purchase price of the residence securing the loan,

''(G) the rate of interest of the loan does not exceed the greater of—

''(i) the excess of—

''(I) the prime lending rate in effect as of the date on which the loan is originated, over

''(II) 5.5 percent, or

''(ii) 3 percent,

''(H) the origination fee paid with respect to the loan does not cause the aggregate amount of origination fees paid with respect to any loans secured by the residence—

''(i) in the case of a neighborhood revitalization project loan, to exceed 1 percent of the appraised value of the residence which secures the loan, and

''(ii) in the case of any other loan, to exceed 2 percent of the appraised value of such residence, and

''(I) the servicing fees of such loan—

''(i) are allocated from interest payments made with respect to the loan, and

''(ii) may not—

''(I) in the case of a neighborhood revitalization project loan, exceed a total of 38 basis points, and

''(II) in the case of any other loan, when added to such fees of any other loan secured by the residence, exceed a total of 63 basis points.

''(2) BALLOON PAYMENT LOAN.—

''(A) IN GENERAL.—A loan is described in this paragraph if such loan—

''(i) meets the requirements of subparagraphs (B) and (C),

''(ii) is for a period of 25 years and, except as provided in clause (iv), no payment is due on such loan until the sooner of—

''(I) the end of such period, or

''(II) the date on which the residence which secures the loan is disposed of,

''(iii) does not prohibit early repayment of such loan, and

''(iv) requires payment on such loan if the mortgagor receives any portion of the equity of such residence as part of a refinancing of any loan secured by such residence.

''(B) INTEREST.—Notwithstanding paragraph (1)(G), the rate of interest of the loan is zero percent.

''(C) SERVICING FEES.—Notwithstanding paragraph (1)(I), there shall be no servicing fees in connection with the loan.

''(3) INDEX OF AMOUNT.—

''(A) IN GENERAL.—In the case of a calendar year after 2000, the amounts under subparagraphs (C) and (D) of paragraph (1) shall be increased by an amount equal to—

''(i) such amount, multiplied by

''(ii) the housing price adjustment for such calendar year.

''(B) HOUSING PRICE ADJUSTMENT.—For purposes of subparagraph (A), the housing price adjustment for any calendar year is the percentage (if any) by which—

''(i) the housing price index for the preceding calendar year, exceeds

''(ii) the housing price index for calendar year 2000.

''(C) HOUSING PRICE INDEX.—For purposes of subparagraph (B), the housing price index means the housing price index published by the Federal Housing Finance Board (as established in section 2A of the Federal Home Loan Bank Act (12 U.S.C. 1422a)) for the calendar year.

''(d) MORTGAGOR.—

''(1) IN GENERAL.—A loan meets the requirements of this subsection if it is made to a mortgagor—

''(A) whose family income for the year in which the mortgagor applies for the loan is 80 percent or less of the area median gross income for the area in which the residence which secures the mortgage is located,

''(B) for whom the loan would not result in a housing debt-to-income ratio, with respect

to the residence securing the loan, or total debt-to-income ratio which is greater than the guidelines set by the Federal Housing Administration (or any other ratio as determined by the State housing finance agency or lender if such ratio is less than such guidelines), and

''(C) who attends pre-purchase homeownership counseling provided by the qualified lender or the lender's designee.

''(2) DETERMINATION OF FAMILY INCOME.—For purposes of this subsection and subsection (h), the family income of a mortgagor and area median gross income shall be determined in accordance with section 143(f)(2).

''(e) RESIDENCE REQUIREMENTS.—A loan meets the requirements of this subsection if it is secured by a residence that is—

''(1) a single-family residence (including a manufactured home (within the meaning of section 25(e)(10))) which is the principal residence (within the meaning of section 121) of the mortgagor, or can reasonably be expected to become the principal residence of the mortgagor within a reasonable time after the financing is provided,

''(2) purchased by the mortgagor with a down payment in an amount not less than the lesser of—

''(A) 2 percent of the purchase price, or

''(B) $1,000, and

''(3) in the case of a mortgagor with a family income greater than 50 percent of the area median gross income, as determined under subsection (d)(1)(A), not financed in connection with a qualified mortgage issued under section 143.

''(f) DEFINITION AND SPECIAL RULES RELATING TO CREDIT PERIOD.—

''(1) CREDIT PERIOD DEFINED.—For purposes of this section, the term 'credit period' means the period of 10 taxable years beginning with the taxable year in which a home ownership tax credit amount is allocated to the taxpayer.

''(2) SPECIAL RULE FOR 1ST YEAR OF CREDIT PERIOD.—

''(A) IN GENERAL.—The credit allowable under subsection (a) with respect to any taxpayer for the 1st taxable year of the credit period shall be determined by substituting for the applicable percentage under subsection (a)(2) the fraction—

''(i) the numerator of which is the sum of the applicable percentages determined under subsection (a)(2) as of the close of each full month of such year, during which the taxpayer was a qualified lender, and

''(ii) the denominator of which is 12.

''(B) DISALLOWED 1ST YEAR CREDIT ALLOWED IN 11TH YEAR.—Any reduction by reason of subparagraph (A) in the credit allowable (without regard to subparagraph (A)) for the 1st taxable year of the credit period shall be allowable under subsection (a) for the 1st taxable year following the credit period.

''(3) DISPOSITION OF HOME OWNERSHIP TAX CREDIT LOANS.—If a qualified home ownership tax credit loan is disposed of during any year for which a credit is allowable under subsection (a), such credit shall be allocated between the parties on the basis of the number of days during such year the mortgage was held by each and the portion of the total credit allocated to the qualified lender which is attributable to such mortgage.

''(g) LOSS OF CREDIT.—If, during the taxable year, a qualified home ownership tax credit loan is repaid prior to the expiration of the credit period with respect to such loan, the amount of the home ownership tax credit attributable to such loan is no longer available under subsection (a). For purposes of the preceding sentence, the tax credit is allowable for the portion of the year in which such repayment occurs for which the loan is outstanding, determined in the same manner as provided in subsection (f)(2)(A).

''(h) RECAPTURE OF PORTION OF FEDERAL SUBSIDY FROM HOME-OWNER.—

''(1) IN GENERAL.—If, during the taxable year, any taxpayer described in paragraph (3) disposes of an interest in a residence with respect to which a home ownership tax credit amount applies, then the taxpayer's tax imposed by this chapter for such taxable year shall be increased by 50 percent of the gain (if any) on the disposition of such interest.

''(2) EXCEPTIONS.—Paragraph (1) shall not apply to any disposition—

''(A) by reason of death,

''(B) which is made on a date that is more than 10 years after the date on which the qualified home ownership tax credit loan secured by such residence was made, or

''(C) in which the purchaser of the residence assumes the qualified home ownership tax credit loan secured by the residence.

''(3) INCOME LIMITATION.—A taxpayer is described in this paragraph if, on the date of the disposition, the family income of the mortgagor is 115 percent or more of the area median gross income as determined under subsection (d)(1)(A) for the year in which the disposition occurs.

''(4) SPECIAL RULES RELATING TO LIMITATION ON RECAPTURE AMOUNT BASED ON GAIN REALIZED.—For purposes of this subsection, rules similar to the rules of section 143(m)(6) shall apply.

''(5) LENDER TO INFORM MORTGAGOR OF POTENTIAL RECAPTURE.—The qualified lender which makes a qualified home ownership tax credit loan to a mortgagor shall, at the time of settlement, provide a written statement informing the mortgagor of the potential recapture under this subsection.

''(6) SPECIAL RULES.—For purposes of this subsection, rules similar to the rules of section 143(m)(8) shall apply.

''(i) OTHER DEFINITIONS.—

''(1) NEIGHBORHOOD REVITALIZATION PROJECT LOAN.—

''(A) IN GENERAL.—The term 'neighborhood revitalization project loan' means a loan secured by a second lien on a residence, the proceeds of which are used to substantially improve such residence in connection with a neighborhood revitalization project.

''(B) NEIGHBORHOOD REVITALIZATION PROJECT.—The term 'neighborhood revitalization project' means a project of sufficient size and scope to alleviate physical deterioration and stimulate investment in—

''(i) a geographic location within the jurisdiction of a unit of local government (but not the entire jurisdiction) designated in comprehensive plans, ordinances, or other documents as a neighborhood, village, or similar geographic designation, or

''(ii) the entire jurisdiction of a unit of local government if the population of such jurisdiction is not in excess of 25,000.

''(2) STATE.—The term 'State' includes a possession of the United States.

''(3) STATE HOUSING FINANCE AGENCY.—The term 'State housing finance agency' means the public agency, authority, corporation, or other instrumentality of a State that has the authority to provide residential mortgage loan financing throughout the State.

''(j) CERTIFICATION AND OTHER REPORTS TO THE SECRETARY.—

''(1) CERTIFICATION WITH RESPECT TO STATE ALLOCATION OF HOME OWNERSHIP TAX CREDITS.—The Secretary may, upon a finding of noncompliance, revoke the certification of a qualified State and revoke any qualified home ownership tax credit amounts allocated to such State or allocated by such State to a qualified lender.

''(2) ANNUAL REPORT FROM HOUSING FINANCE AGENCIES.—Each State housing finance agency which allocates any home ownership tax credit amount to any qualified lender for any calendar year shall submit to the Secretary (at such time and in such manner as the Secretary shall prescribe) an annual report specifying—

''(A) the home ownership tax credit amount allocated to each qualified lender for such year, and

''(B) with respect to each qualified lender—

''(i) the principal amount of the aggregate qualified home ownership tax credit loans made by such lender in such year and the outstanding amount of such loans in such year, and

''(ii) the number of qualified home ownership tax credit loans made by such lender in such year.

The penalty under section 6652(j) shall apply to any failure to submit the report required by this paragraph on the date prescribed therefore.

''(k) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''

(b) LIMITATION ON CARRYBACK OF UNUSED CREDIT.—Subsection (d) of section 39 of the Internal Revenue Code of 1986 (relating to carryback and carryforward of unused credits) is amended by adding at the end the following:

''(9) NO CARRYBACK OF HOME OWNERSHIP TAX CREDITS BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the home ownership tax credit determined under section 45D may be carried back to a taxable year ending before the date of the enactment of section 45D.''

(c) CONFORMING AMENDMENTS.—

(1) Section 38(b) of the Internal Revenue Code of 1986 is amended—

(A) by striking ''plus'' at the end of paragraph (11),

(B) by striking the period at the end of paragraph (12), and inserting '', plus'', and

(C) by adding at the end the following:

''(13) the home ownership tax credit determined under section 45D.''

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following:

''Sec. 45D. Home ownership tax credit.''

(d) EFFECTIVE DATE.—The amendments made by this section apply to calendar years after 1999.

SUMMARY OF THE HOME OWNERSHIP TAX CREDIT ACT

Bill Summary: Under this legislation, each year the federal government would issue home ownership tax credits to state housing finance agencies (HFAs). State HFAs would then auction these credits off to lenders such as banks, thrifts, community development financial institutions, and community development corporations. Lenders purchasing the tax credits would commit to extending either: 1) zero-interest balloon second mortgages that are due in 25 years or upon the sale of the home, or 2) very low-interest rate second mortgages that amortize in 30 years. These second mortgages would reduce the size of the first mortgage and ultimately reduce monthly mortgage costs. The aggregate principal amount of second mortgages made

by each lender would be equal to the price the lender paid for the tax credits. Also, the lender would commit to making at least 100 home ownership tax credit loans.

The lender would receive the tax credit annually for 10 years or until the loan was paid off, whichever occurred earlier. If a home ownership tax credit mortgage was prepaid during the 10-year tax credit period, the lender would have priority in the issuance of tax credits in the subsequent year.

The lender would get its principal back when the second mortgage amortized, balloon payment came due, or the house was sold. Lenders also would be able to sell the tax credit mortgages on the secondary market with the tax credits being transferred to secondary market investors.

Only borrowers earning up to 80 percent of the area median income would qualify to take advantage of the home ownership tax credit program. These second mortgages could be between 18 and 22 percent of the purchase price of the home, up to $25,000. The second mortgage could be up to $40,000 if used in areas formally targeted for neighborhood revitalization.

Under this proposal, families earning at little at $14,500 would be able to become home owners.

Example: The following example indicates how this proposal would work:

A low-income family identifies a $100,000 home that it wants to purchase. The potential home buyers would visit a lender participating in the tax credit program. Let's assume that the lender would agree to extend a $81,000 first mortgage to the home buyer. Under the tax credit program, the home buyer would only be required to make a $1,000 down payment. Assuming that the home buyer met the eligibility requirements of the home ownership tax credit program, the lender would also agree to extend an $18,000 second mortgage (In the alternative, the home buyer could get the first and second mortgages from different lenders). Closing costs of up to $4,000 could be financed into the second mortgage, increasing the second mortgage amount to $22,000.

If the second mortgage was a zero-interest 25-year balloon, the home buyer would only pay principal, interest, taxes, and insurance on the $81,000 first mortgage for 25 years, or until sale of the home (approximately $540/month at 7 percent interest, plus taxes and insurance). Assuming that the home buyer stayed in the home, at the end of 25 years, he/she could refinance using his/her accumulated equity to repay most or all of the $22,000 they owed on the balloon mortgage.

In sum, this proposal will allow a low-income family to purchase a $100,000 home with a $1000 down payment and a monthly mortgage payment of $540 (plus taxes and insurance) throughout most of the life of the first mortgage.

By Mr. GRASSLEY (for himself, Mr. SESSIONS, and Mr. KYL):

S. 1337. A bill to provide for the placement of anti-drug messages on appropriate Internet sites controlled by NASA; to the Committee on Commerce, Science, and Transportation.

ANTI-DRUG MESSAGES ON NASA INTERNET CONTROLLED SITES

Mr. GRASSLEY. Mr. President, today, I am introducing legislation along with Senator SESSIONS and Senator KYL to help in sending our young people a no-use message on drugs. This parallels efforts in the House by Congressman MATT SALMON and it is supported by NASA.

The average age of our young people who first use illegal drugs is 16 and the age of first use is dropping. We need to reverse this trend and prevent drug use among young people. An easy way of contacting them is at our finger tips. NASA's web sites are among the most visited government sites. Thousands of schools have programs that include NASA's web sites in their curriculum. I believe it is important to reach out to those young people. Here is a chance to reach millions of young people at no added expense to the taxpayer.

In this bill the NASA administration must work with the Office of National Drug Control Policy to add anti-drug messages on NASA's web sites. With our young people being bombarded by images of violence and drugs from films and TV, this is a way to get the anti-drug message to our children at a young age through a location that we know a large number will see. I urge my colleagues to join me in this effort and support this bill.

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. 1337

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

SECTION 1. ANTI-DRUG MESSAGES ON INTERNET SITES.

Not later than 90 days after the date of enactment of this Act, the Administrator of the National Aeronautics and Space Administration, in consultation with the Director of the Office of National Drug Control Policy, shall place anti-drug messages on appropriate Internet sites controlled by the National Aeronautics and Space Administration.

By Mr. MURKOWSKI (by request):

S. 1338. A bill entitled the ''Military Lands Withdrawal Act of 1999''; to the Committee on Energy and Natural Resources.

MILITARY LANDS WITHDRAWAL ACT OF 1999

Mr. MURKOWSKI. Mr. President, I send to the desk the Military Lands Withdrawal Act of 1999. I am introducing this legislation on behalf of the Administration. At this point I am neither prepared to support nor object to any of the specific provisions contained within this legislative proposal. It is my intention however, to hold hearings on this important legislation and the withdrawal renewals contained within it. After those hearings have been held and we have had the benefit of input from the parties most effected by the withdrawals, I am prepared to offer an amendment in the nature of a substitute which makes such needed changes as are identified during the hearing process.

This legislation renews the withdrawals contained within P.L. 99–606, enacted by Congress in 1986. This Congressional action withdrew 7.2 million acres of public land for use by the Department of Defense at six installations. The affected bases are the Barry M. Goldwater Air Force Range in Arizona, Nellis Air Force Base and Naval Air Station Fallon in Nevada, the McGregor Army Range in New Mexico, and Fort Wainwright and Fort Greely in my home state of Alaska. These withdrawals were for a period of 15 years and expire in 2001.

I have a deep abiding recognition of the unique and critical role all of these military bases play in our national defense strategy and on the economies of the states within which they are located. However, I also understand that the issues surrounding the renewal of these withdrawals are complex and varied. Congress's ability to resolve these issues will ultimately define success or failure for this entire round of withdrawals. What we do here will have a lasting impact on these bases military mission, their local economies, and the environmental protection of the public lands. It is my firm belief that only through the Congressional hearing process can the concerns of all affected parties be recorded and factored into the renewal of these base withdrawals.

I am committed to the prompt consideration of this legislation. However, taking into consideration the fact that these withdrawals do not expire until 2001, I believe it is prudent that we move this legislation at a pace which allows both the public and our colleagues the opportunity to participate in a meaningful way and in the proper forum.

By Mr. DURBIN:

S. 1339. A bill to provide for the debarment or suspension from Federal procurement and nonprocurement activities of persons that violate certain labor and safety laws; to the Committee on Governmental Affairs.

FEDERAL PROCUREMENT AND ASSISTANCE INTEGRITY ACT

Mr. DURBIN. Mr. President, I am pleased today to introduce legislation to improve the efficiency and protect the integrity of Federal procurement and assistance programs, by ensuring that the Federal Government does business with responsible contractors and participants

The United States General Accounting Office [GAO] has found that billions of dollars in Federal procurement contracts and assistance are going to individuals and corporations which are violating our nation's labor and employment laws. In 1995, the GAO reported that more than $23 billion in Federal contracts were awarded in fiscal year 1993 to contractors who violated labor laws. That is 13 percent of the $182 billion in Federal contracts awarded that

year. Part of the reason for this, the GAO found, is that the National Labor Relations Board, which enforces our nation's labor laws, does not know whether violators of the law are receiving Federal contracts. And the General Services Administration, which oversees Federal procurement, does not know the labor relations records of Federal contractors.

In 1996, the GAO reported that $38 billion in Federal contracts in fiscal year 1994 were awarded to contractors who had violated workplace health and safety laws. That is 22 percent of the $176 billion in Federal contracts of $25,000 or more which were awarded that year. The GAO found that 35 people died and 55 more people were hospitalized in fiscal year 1994 as a result of injuries at the workplaces of federal contractors who violated health and safety laws. These contractors were assessed a total of $10.9 million in penalties in fiscal year 1994—while being awarded $38 billion in Federal contracts.

The GAO concluded that, although federal agencies have the authority to deny contracts and federal assistance to companies that violate Federal laws, this authority is rarely used in the case of safety and health violations. The GAO found that federal agencies do not normally collect or receive information about which contractors are violating health and safety laws—even when contractors have been assessed large penalties for egregious or repeat violations.

The Federal Government should not ignore the health and safety records of companies that apply for federal contracts and assistance. A report published this week in the Archives of Internal Medicine concludes that job-related injuries and illnesses in the United States are more common than previously thought, costing the nation more than AIDS, Alzheimer's, cancer or heart disease. The report, which analyzed national estimates of job-related illnesses and injuries in 1992, states that more than 13 million Americans were injured from job-related causes in just one year—more than four times the number of people who live in the City of Chicago. The report concluded that the cost to our country from workplace injuries and illnesses was $171 billion in 1992.

The Federal Government has a responsibility to taxpayers, working Americans and law-abiding businesses, to ensure that federal tax dollars do not go to individuals and corporations that violate safety and health, labor and veterans' employment preference laws. About 26 million Americans are employed by federal contractors and subcontractors. They deserve to know that their Government is not rewarding employers who violate the laws that protect American workers and veterans. The legislation I am introducing today will improve the enforcement of our nation's health and safety, labor and veterans' employment laws, and provide an incentive to contractors to comply with the law. This legislation will allow the Secretary of Labor to debar or suspend a person from receiving Federal contracts or assistance for violating the National Labor Relations Act, the Fair Labor Standards Act, the Occupational Safety and Health Act or the disabled and Vietnam-era veterans hiring preference law. It will require the Secretary of Labor and the National Labor Relations Board to develop procedures to determine whether a violation of law is serious enough to warrant debarment or suspension. And, as recommended by the GAO, this legislation will require ongoing exchanges of information among Federal agencies to improve their ability to enforce our nation's laws. This legislation is identical to a bill introduced in the House of Representatives by Congressman Lane Evans of Illinois, and it is similar to legislation introduced in previous years by former Senator Paul Simon.

Mr. President, it is important to note that the vast majority of Federal contractors obey the law. This legislation is only directed at those who are violating the law. It will deny Federal contracts and assistance to individuals and companies that violate the law and ensure that Federal contracts are awarded to companies that respect the law.

I urge my colleagues to join me in supporting this legislation, and I ask unanimous consent that the text of the bill be printed in the RECORD.

S. 1339

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 ''Federal Procurement and Assistance Integrity Act''.

SEC. 2. PURPOSE.

The purpose of this Act is to improve the efficiency and effectiveness and protect the integrity of the Federal procurement and assistance systems by ensuring that the Federal Government does business with responsible contractors and participants.

SEC. 3. DEBARMENT AND SUSPENSION FOR VIOLATORS OF CERTAIN LABOR AND SAFETY LAWS.

(a) DEBARMENT AND SUSPENSION.—The Secretary of Labor may debar or suspend a person from procurement activities or nonprocurement activities upon a finding, in accordance with procedures developed under this section, that the person violated any of the following laws:

(1) The National Labor Relations Act (29 U.S.C. 151 et seq.).

(2) The Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).

(3) The Occupational Safety and Health Act (29 U.S.C. 651 et seq.).

(4) Section 4212(a) of title 38, United States Code.

(b) PROCEDURES.—The Secretary of Labor and the National Labor Relations Board shall jointly develop procedures to determine whether a violation of a law listed in subsection (a) is serious enough to warrant debarment or suspension under that subsection. The procedures shall provide for an assessment of the nature and extent of compliance with such laws, including whether there are or were single or multiple violations of those laws or other labor or safety laws and whether the violations occur or have occurred at one facility, several facilities, or throughout the company concerned. In developing the procedures, the Secretary and the Board shall consult with departments and agencies of the Federal Government and provide, to the extent feasible, for ongoing exchanges of information between the departments and agencies and the Department of Labor and the Board in order to accurately carry out such assessments.

(c) DEFINITIONS.—In this section:

(1) DEBAR.—The term ''debar'' means to exclude, pursuant to established administrative procedures, from Federal Government contracting and subcontracting, or from participation in nonprocurement activities, for a specified period of time commensurate with the seriousness of the failure or offense or the inadequacy of performance.

(2) NONPROCUREMENT ACTIVITIES.—The term ''nonprocurement activities'' means all programs and activities involving Federal financial and nonfinancial assistance and benefits, as covered by Executive Order No. 12549 and the Office of Management and Budget guidelines implementing that order.

(3) PROCUREMENT ACTIVITIES.—The term ''procurement activities'' means all acquisition programs and activities of the Federal Government, as defined in the Federal Acquisition Regulation.

(4) SUSPEND.—The term ''suspend'' means to disqualify, pursuant to established administrative procedures, from Federal Government contracting and subcontracting, or from participation in nonprocurement activities, for a temporary period of time because an entity or individual is suspected of engaging in criminal, fraudulent, or seriously improper conduct.

(d) EFFECTIVE DATE.—This Act shall take effect on October 1, 1999.

(e) REGULATIONS.—The Federal Acquisition Regulation and the regulations issued pursuant to Executive Order No. 12549 shall be revised to include provisions to carry out this Act.

(f) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Labor and the National Labor Relations Board shall jointly submit to Congress a report on the implementation of this Act.

By Mrs. LINCOLN:

S. 1340. A bill to redesignate the ''Stuttgart National Aquaculture Research Center'' as the ''Harry K. Dupree Stuttgart National Aquaculture Research Center''; to the Committee on Agriculture, Nutrition, and Forestry.

HARRY K. DUPREE STUTTGART NATIONAL AQUACULTURE RESEARCH CENTER

Mrs. LINCOLN. Mr. President, I offer for the Senate's consideration, a bill to rename the Stuttgart National Aquaculture Research Center after a man that has been essential to the success of the aquaculture industry in Arkansas: Dr. Harry K. Dupree.

Dr. Dupree has devoted his entire career to the progress of the warmwater fish industry. In Arkansas, aquaculture

production has taken great strides in recent years. The catfish industry in the state has grown rapidly and Arkansas currently ranks second nationally in acreage and production of catfish. The baitfish industry is not far behind, selling more than 15 million pounds of fish annually. Much of this success is due to the ongoing efforts of Dr. Harry Dupree.

The early years of Dr. Dupree's career were spent in Alabama. Harry received his master's in fisheries management from Auburn University in 1956 and his Ph.D. in Zoology in 1960. From 1960 to 1974, Harry served as both a Research Biologist and Laboratory Director at the Southeastern Fish Cultural Laboratory in Marion, Alabama. There, Dr. Dupree focused his efforts on catfish research and established the major elements required for a manufactured feed for channel catfish. His research activities led to the formulation of pelleted feed for catfish production and made it possible for catfish production to move from a small, labor intensive industry of local interest to a streamlined industry with potential for expansion on the national and international level.

Arkansas was fortunate enough to lure Dr. Dupree to the Fish Farming Experimental Laboratory in Stuttgart, Arkansas, during 1974 where he served as Scientific Director for the next 18 years. His efforts, dating back to before 1985, resulted in funding for design and construction of the new laboratories and offices for the facilities on the campus of the Stuttgart National Aquaculture Research Center. These facilities were constructed in 1992 and Dr. Dupree has served as the Laboratory Director for the center ever since.

I first met Harry during my tenure as Representative of the First Congressional District of Arkansas. I'll never forget the enthusiasm and genuine interest Harry displayed as he showed me around the research center that he had worked so hard to establish. I, and many others, share many fond memories and great gratitude for the wonderful friendship and great work of Dr. Harry Dupree. The pride that he has exhibited and has instilled in all Arkansans for the science industry of Aquaculture has been tremendous.

Dr. Dupree is a great man with a huge heart. I urge my colleagues to act promptly on this legislation so that Dr. Harry K. Dupree will receive the recognition that he truly deserves.

Mr. President, at this point I ask unanimous consent that letters of support for this bill be included in the RECORD from constituents and aquaculture associations across Arkansas.

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

THE SENATE,
STATE OF ARKANSAS,
June 22, 1999.

Hon. BLANCHE LAMBERT LINCOLN,
Washington, DC.

DEAR SENATOR LINCOLN: I am writing to submit my letter of support for proposed legislation naming the USDA Fish Farming Laboratory in Stuttgart after Dr. Harry Dupree.

As you know, you and I have served together with Dr. Dupree on the Arkansas Delta Council and Foundation. Dr. Dupree has served Delta Council since its formation in 1990, and more recently as Treasurer. More importantly, Dr. Dupree has been the central figure in the development of the Fish Farming Laboratory since the beginning. When I was an aide to Senator Bumpers, I recall meeting Dr. Dupree for the first time at the annual U.S. Senate Catfish Fry in the Russell Senate Office Building. He was busy telling everyone he could find about the importance of the mission for the fish lab, and why it needed more funding. Years later, Harry and I became close friends when I moved to Stuttgart, and I witnessed his many efforts as the chief champion of a new lab and mission at USDA. Everything that is associated with the fish lab is due at one level or another to the efforts of Dr. Harry Dupree.

Therefore, I can speak with complete authority when I say that our constituents here in Arkansas County, and in the aquaculture field, fully support the naming of this facility after Dr. Dupree. I can think of no more fitting name for this lab. Indeed, it is every bit as much an honor for USDA, this center and for Arkansas County to have this named after Dr. Dupree as it is an honor for Dr. Dupree.

Finally, I would ask that these comments, along with the other comments you are receiving about Dr. Dupree, be listed in the Congressional Record. I believe it would be a fitting tribute for him, his wife Ruth, and for his hard work and dedicated public service.

Thank you for your consideration of this request, and I trust that all is well with you in Washington.

Sincerely,

KEVIN A. SMITH.

ADFA,
June 23, 1999.

Hon. BLANCHE LINCOLN,
Washington, DC.

DEAR SENATOR LINCOLN: I want to express my full support for legislation that would change the name of the Stuttgart National Aquaculture Research Center to the Harry K. Dupree Stuttgart National Aquaculture Research Center.

Dr. Harry K. Dupree has devoted his professional career to the advancement of warmwater fish culture; first as a research scientist in fish nutrition and later in administration of research while continuing with research. Early in his career his research established the major elements required for a manufactured feed for channel catfish. This work included the establishment of amino acid requirements of channel catfish, highlighting those that are considered ''essential'', and testing many types of proteins for their usefulness as primary amino acid sources. Dr. Dupree contributed to the establishment of the vitamin requirements of channel catfish, working specifically with vitamin E, vitamin A, and beta carotene. Research on sources of oil for formulating channel catfish diets led to the understanding of the lipid requirements for commercial production.

Dr. Dupree's research helped establish the form and formulation of manufactured feed most readily accepted by channel catfish. With his studies of the feeding habits of cultured catfish, helped determine the quality of feed needed at different stages of development, the digestibility of feeds of different compositions, and the quantity and timing of feeding for maximum pond production. His research activities led to the formulation of pelleted feed for catfish production and made it possible for catfish production to move from a small, labor intensive industry of local interest to a streamlined industry with potential for expansion on the national and international level. Dr. Dupree has written extensively on the subject of fish nutrition and is a recognized authority on warmwater fish nutrition.

Dr. Dupree's research in other areas of fish biology illustrates the breadth of his interest and abilities. His work on immunity and with the immune response of paddlefish, gar, and channel catfish lead to a better understanding of basic systems of immunity. His research on hormone induction of ovulation of goldfish led to modern day standard procedures now employed in spawning these and other species of fish. Other research has included pesticide analysis of Channel catfish and work with karyology of grass carp that led to modern methods for determining the difference between diploids and triploids.

In 1984, Dr. Dupree was responsible for editing ''The Third Report to the Fish Farmer'' and for revising or writing a large part of the publication. ''The Third Report'' is a comprehensive review of most aspects of warmwater aquaculture and is one of the most popular publications released by the U.S. Fish and Wildlife Service; 17,500 copies have been printed and most have been distributed to satisfy or through GPO sales.

Dr. Dupree is largely responsible for the laboratories, offices and research buildings that are now at the Stuttgart National Aquaculture Research Center. His efforts, dating back to before 1985, resulted in funding for design and construction of the new laboratories and offices and it is because of his efforts that the laboratory exists today. His efforts are continuing as he expands the facilities available for the growing research staff that he has fought to gain funding for.

I have been involved with aquaculture for 30 years, first as a fish farmer and for the last 8 years as the State Aquaculture Coordinator. I don't know of anyone who has contributed as much to the aquaculture industry as Dr. Harry Dupree.

I have talked to people in many states that are very supportive of this name change and feel that Dr. Dupree is very worthy of the honor.

Sincerely,

TED MCNULTY,
State Aquaculture Coordinator, ADFA.

UNIVERSITY OF ARKANSAS,
DIVISION OF AGRICULTURE,
June 30, 1999.

Hon. BLANCHE LINCOLN,
United States Senate, Washington, DC.

DEAR SENATOR LINCOLN: It is an honor and a pleasure to support renaming of the Stuttgart National Aquaculture Research Center in Stuttgart, Arkansas the Harry K. Dupree—Stuttgart National Aquaculture Research Center. It is a fitting tribute to a man who had a vision for what the Center could be and then devoted his professional career to making it a reality for the benefit of fish farmers and the fish industry throughout the country.

If ever a person personifies dedication, it is Dr. Dupree. He takes tremendous pride in the people, facilities, and programs that make up the Stuttgart Center. For nearly forty years, the Stuttgart Center has guided and championed the warmwater aquaculture industry. For twenty-five of those years, Dr. Dupree has been at the helm. Today thriving, vibrant industry is a legacy of both the Center and the leadership and devotion provided by Dr. Dupree.

I am proud to call Harry Dupree a friend and express my deep gratitude for being given this opportunity to honor our friendship and his career.

Sincerely,

MILO J. SHULT,
Vice President for Agriculture.

KEO FISH FARM, INC.,
Keo, AR, June 21, 1999.

Sen. BLANCH LINCOLN,
United States Senate, Washington, D.C. 20510

DEAR SENATOR LINCOLN: As I discussed earlier with you, Keo Fish Farm, Inc. would consider it most appropriate for the Stuttgart Fish Farming Experiment Station to be re-named after its long-time Director, Dr. Harry K. Dupree. I believe you will find widespread support among Arkansas' fish farmers for such action.

Sincerely,

MIKE FREEZE.

By Mr. DORGAN (for himself, Mr. LOTT, Mr. DASCHLE, Mr. NICKLES, Mr. REID, Mr. MURKOWSKI, Mr. CONRAD, Mr. BREAUX, Mr. GRAHAM, Mr. KERREY, Mr. HAGEL, Mr. HARKIN, Mr. DURBIN, Mr. SCHUMER, Mr. COCHRAN, Mr. CRAIG, Mr. BROWNBACK, Mr. WELLSTONE, Mr. EDWARDS, Mr. CAMPBELL, Mr. JOHNSON, Mr. BINGAMAN, Mr. MACK, Mr. DOMENICI, Mr. BENNETT, Mr. SANTORUM, and Mr. LEAHY):

S. 1341. A bill to amend the Internal Revenue Code of 1986 to expand the applicability of section 179 which permits the expensing of certain depreciable assets; to the Committee on Finance.

MAIN STREET BUSINESS INCENTIVE ACT OF 1999

• Mr. DORGAN. Mr. President, today I'm joined by Senators LOTT, DASCHLE, NICKLES, REID, MURKOWSKI, and twenty-one other distinguished colleagues in introducing the ''Main Street Business Incentive Act of 1999,'' which addresses a gap in the current law that is impeding the improvement of many of our small town Main Street businesses. Specifically, the bill would raise the income tax expensing provision for small businesses in current law from $19,000 to $25,000 this year. The bill also would expand the provision to cover investments in commercial buildings and structural improvements.

Mr. President, small businesses are the economic anchors of Main Streets in small and large communities throughout our country. They provide jobs, sponsor local charities and little league teams, and enable people to purchase their daily necessities without driving long distances. Without small businesses, we wouldn't have communities, which is why Congress has adjusted the tax laws in numerous ways over the years to encourage investments that enable them to grow and thrive.

For example, many businesses have to depreciate the cost of new equipment purchases—which is to say, they deduct these costs over a long period of years. Small businesses, by contrast, can ''expense'' up to $19,000 in purchases of such assets. They deduct the cost entirely in the first year. That maximum amount will increase to $25,000 in year 2003. This tax provision is helpful to many small businesses because it enables them to write off the investment immediately and so bolsters their cash flow.

However, this expensing provision is not as helpful as it could be and needs to be. Specifically, it does not include investments that small businesses make in improving the store front or the building in which they conduct their business. In many small towns, the local drug store, shoe store or grocery store doesn't have much need of new equipment. But it does need to improve the store front or the interior, and generally spruce things up.

Such investments are good for our Main Streets. They improve the appearance of both the business and the town. Yet under today's tax law, if a small business owner improves his storefront, he has to spread the cost of the investments for tax purposes over 39 years, which is the depreciation schedule for commercial real estate. The result is a large economic hurdle for many of these small businesses.

There are Main Streets all across our country that were built or refurbished thirty, forty or fifty years ago and now need investment and improvement. The Tax Code should encourage this. A simple way to accomplish it is to allow the expensing of up to $25,000, not only for equipment and machinery, but also for small business investments in store fronts and business locations. The motel, the gas station, the hardware store or barber shop ought to be able to ''expense'' that amount of investment in their property. That's what my legislation provides.

This would be a significant benefit to America's small business and I think would result in a significant improvement in America's communities and main streets. This legislation is supported by a number of small business-oriented trade groups including the National Federation of Independent Business (NFIB), NFIB-North Dakota, the Small Business Legislative Council, the North Dakota Association of Realtors and National Association of Realtors.

I urge my colleagues to cosponsor this much-needed legislation.•

By Mr. ALLARD:

S. 1342. A bill to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers; to the Committee on Finance.

LEGISLATION TO REPEAL THE FEDERAL DEATH TAX

• Mr. ALLARD. Mr. President, today I am introducing legislation to repeal the federal death tax, otherwise known as the estate and gift tax. I ask unanimous consent that the text of the bill be printed in the RECORD. I also ask unanimous consent that Colorado Senate Joint Memorial 99–004, approved by the Colorado Legislature be printed in the RECORD. This memorial resolution urges the immediate repeal of the Federal estate and gift tax. Finally, I ask that an article I recently wrote on this topic be printed in the RECORD.

The material follows:

S. 1342

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

SECTION 1. REPEAL OF FEDERAL TRANSFER TAXES.

(a) IN GENERAL.—Subtitle B of the Internal Revenue Code of 1986 is repealed.

(b) EFFECTIVE DATE.—The repeal made by subsection (a) shall apply to the estates of decedents dying, and gifts and generation-skipping transfers made, after the date of enactment of this Act.

(c) TECHNICAL AND CONFORMING CHANGES.—The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable but in any event not later than 90 days after the date of enactment of this Act, submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a draft of any technical and conforming changes in the Internal Revenue Code of 1986 which are necessary to reflect throughout such Code the changes in the substantive provisions of law made by this Act.

TIME TO END THE ESTATE TAX

(By Senator Wayne Allard)

As we approach the new millennium a consensus has emerged in favor of significant tax reform. While some prefer the flat tax, others advocate the sales tax. A third camp argues that Congress should avoid a complete overhaul and instead work to improve the existing system. Whatever path is chosen, it should include elimination of the federal estate and gift tax. Repeal of the estate tax is the first step toward a fairer and flatter tax system.

Congress has levied estate taxes at various times throughout U.S. history, particularly during war. The current estate tax dates back to 1916, a time when many in Congress were looking for ways to redistribute some of the wealth held by a small number of super-rich families. This first permanent estate tax had a top rate of only 10 percent, and the threshold was high enough to ensure that the tax effected only a tiny fraction of the population.

Like the rest of our tax code, it did not take long for this limited tax to evolve into a more substantial burden. In only the second year of the tax, the top rate was increased to 25 percent. By 1935 the top rate was 70 percent and in 1941 it reached an all time high of 77 percent.

While income tax rates have declined in recent decades, estate taxes have remained high. Today, the top estate tax rate is 55 percent (a top marginal rate of 60 percent is

paid by some estates), and the tax is imposed on amounts above the 1999 exemption level of $650,000 (value above $650,000 is taxed at an initial rate of 37%).

Generally, the value of all assets held at death is included in the estate for purposes of assessing the tax—this includes residences, business assets, stocks, bonds, savings, personal property, etc. Estate tax returns are due within nine months of the decedent's death (a six-month extension is available) and with the exception of certain closely held businesses, the tax is due when the return is filed. The tax is paid by the estate rather than by the beneficiary (in contrast to an inheritance tax).

The 1997 tax bill increased the unified estate and gift tax exemption from $600,000 to $1 million. However, this is done very gradually and does not reach the $1 million level until 2006. The bill also increased the exemption amount for a qualified family owned business to $1.3 million. While both actions are a good first step, they barely compensate for the effects of inflation. The $600,000 exemption level was last set in 1987, just to keep pace with inflation the exemption should have risen to $850,000 by 1997. Incremental improvements help, but we need more substantial reform.

The United States retains among the highest estate taxes in the world. Among industrial nations, only Japan has a higher top rate than the U.S. But Japan's 70 percent applies to an inheritance of $16 million or more. The U.S. top rate of 55% kicks in on estates of $3 million or more. France, the United Kingdom, and Ireland all have top rates of 40%, and the average top rate of OECD countries is only 29%. Australia, Canada, and Mexico presently have no estate taxes.

The strongest argument that supporters of the estate tax make is that most American families will never have to pay an estate tax. While this is true, it does not justify retention of a tax that causes great harm to family businesses and farms, often constitutes double taxation, limits economic growth, consumes significant resources in unproductive tax compliance activities, and raises only a tiny portion of federal tax revenues. In other words, the estate tax is not worth all the trouble.

The estate tax can destroy a family business. This is the most disturbing aspect of the tax. No American family should lose its business or farm because of the estate tax. Current estimates are that more than 70 percent of family businesses do not survive the second generation, and 87 percent do not survive the third generation. While there are many reasons for these high numbers, the estate tax is certainly one of them. The estate tax fails to distinguish between cash and non-liquid assets, and since family businesses are often asset-rich and cash poor, they can be forced to sell assets in order to pay the tax. This practice can destroy the business outright, or leave it so strapped for capital that long-term survival is jeopardized. Similarly, more and more large ranches and farms are facing the prospect of breakup and sale to developers in order to pay the estate tax. In addition to destroying a family business, this harms the environment.

Recently, the accounting firm Price Waterhouse calculated the taxable components of 1995 estates. While 21 percent of assets were corporate stock and bonds, and another 21 percent were mutual fund assets, fully 32 percent of gross estates consisted of "business assets" such as stock in closely held businesses, interests in non-corporate businesses and farms, and interests in limited partnerships. In larger estates this portion rose to 55 percent. Clearly, a substantial portion of taxable estates consist of family businesses.

The National Center for Policy Analysis reports that a 1995 survey by Travis Research Associates found that 51 percent of family businesses would have significant difficulty surviving the estate tax, and 30 percent of respondents said they would have to sell part or all of their business. This is supported by a 1995 Family Business Survey conducted by Matthew Greenwald and Associates which found that 33 percent of family businesses anticipate having to liquidate or sell part of their business to pay the estate tax.

While some businesses are destroyed by the estate tax, many more expend substantial resources in tax planning and compliance. Those that survive the estate tax often do so by purchasing expensive insurance. A 1995 Gallup survey of family firms found that 23 percent of the owners of companies valued at over $10 million pay $50,000 or more per year in insurance premiums on policies designed to help them pay the eventual tax bill. The same survey found that family firms estimated they had spent on average over $33,000 on lawyers, accountants and financial planners over a period of 6.5 years in order to prepare for the estate tax.

In fact, one of the great ironies of the estate tax is that an extensive amount of tax planning can very nearly eliminate the tax. This results in a situation where the very wealthy can end up paying less estate tax than those of more modest means. As noted above, life insurance can play a big role in estate planning, but there are also mechanisms such as qualified personal residence trusts, charitable remainder trusts, charitable lead trusts, generation-skipping trusts, and the effective use of annual gifts. While these mechanisms may reduce the tax, they waste resources that could be put to much better use growing businesses and creating jobs.

One of the tenets of a fair tax system is that income is taxed only once. Income should be taxed when it is first earned or realized, it should not be repeatedly re-taxed by government. The estate tax violates this tenet. At the time of a person's death, much of their savings, business assets, or farm assets have already been subjected to federal, state, and local tax. These same assets are then taxed again under the estate tax. Price Waterhouse has calculated that those families that will be liable for the estate tax face the prospect of nearly 73 percent of every dollar being taxed away.

Repeal of the estate tax would benefit the economy. Without the estate tax, greater business resources could be put toward productive economic activities. Recently, the Center for the Study of Taxation commissioned George Mason University Professor Richard Wagner to estimate the economic impact of a phase-out of the estate tax. He estimated that if the tax is phased out over 5 years beginning in 1999, that the economy would create 189,895 more jobs and would grow by an additional $509 billion over a ten year period. Similarly, a recent Heritage Foundation study simulated the results of an estate tax repeal under two respected economic models, the Washington University Macro Model, and the Wharton Econometric Model. Under the models, a repeal of the tax is forecast to increase jobs and GDP, as well as reduce the cost of capital.

One might expect that with all the economic dislocation associated with the estate tax that it raises a significant amount of revenue or accomplishes a redistributionist social policy. In fact, the revenue take is quite modest—approximately 1 percent of federal revenue, or $14.7 billion in 1995. And as for social policy, the ability of the federal government to equalize wealth through the estate tax may be quite limited. A 1995 study published by the Rand Corporation found that for the very wealthiest Americans, only 7.5 percent of their wealth is attributable to inheritance—the other 92.5 percent is from earnings.

America is a nation of tremendous economic opportunity. Success is determined principally through hard work and individual initiative. Our tax policy should focus on encouraging greater initiative rather than on attempts to limit inherited wealth. The estate tax is a relic. It damages family businesses, harms the economy, and constitutes double taxation. It is time for the estate tax to go.

SENATE JOINT MEMORIAL 99–004

Whereas, The Federal Unified Gift and Estate Tax, or "Death Tax", generates a minimal amount of federal revenue, especially considering the high cost of collection and compliance and in fact has been shown to decrease federal revenues from what they might otherwise have been; and

Whereas, This federal Death Tax has been identified as destructive to job opportunity and expansion, especially to minority entrepreneurs and family farmers; and

Whereas, This federal Death Tax causes severe hardship to growing family businesses and family farming operations, often to the point of partial or complete forced liquidation; and

Whereas, Critical state and local leadership assets are unnecessarily destroyed and forever lost to the future detriment of their communities through relocation or liquidation; and

Whereas, Local and state schools, churches, and numerous charitable organizations would greatly benefit from the increased employment and continued family business leadership that would result from the repeal of the federal Death Tax; now, therefore,

Be It Resolved by the Senate of the Sixty-second General Assembly of the State of Colorado, the House of Representatives concurring herein: That the Congress of the United States is hereby memoralized to immediately repeal the Federal Unified Gift and Estate Tax.

Be It Further Resolved, That copies of this Joint Memorial be sent to the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, and each member of the Colorado congressional delegation.●

By Mr. REID:

S. 1343. A bill to direct the Secretary of Agriculture to convey certain National Forest land to Elko County, Nevada, for continued use as a cemetery, to the Committee on Energy and Natural Resources.

CONVEYANCE OF NATIONAL FOREST LAND TO ELKO COUNTY, NEVADA

Mr. REID. Mr. President, I rise today to introduce legislation to authorize the Secretary of Agriculture to convey, without consideration, two acres of land to Elko County, NV, for use as a cemetery. This proposal should not be controversial, and I urge my colleagues to act upon this quickly.

Jarbidge, NV, is a small town located in the remote wilderness of Elko County in northern Nevada. Surrounded by the Humboldt-Toiyabe National Forest, this community is representative of many of the small, rural communities of Nevada. Its residents have worked hard to earn a living off the land and many of its families have deep roots in Nevada established decades ago by early pioneers to the Silver State. Since the 1900's, the people there have buried their dead in a small parcel of national forest land.

The people of Jarbidge now have an opportunity to establish a permanent trust for the maintenance of this historic cemetery. The establishment of the trust is dependent on county ownership of the land, however. The Forest Service has stated that they cannot and will not give the land to the County, and insist that the land be paid for—either in cash or via a land exchange. While I agree that in the vast majority of instances this is the correct stance, in this case the Forest Service is just plain wrong.

We should do the right thing and give this land to the county to honor the families whose loved ones rest in that small cemetery. The bill I introduce today is companion legislation to a House bill introduced by my fellow Nevada legislator JIM GIBBONS—a bill which is making its way through the House. I hope my colleagues in the Senate will act quickly so that the residents of Jarbidge will know the entire U.S. Congress supports their efforts to honor the memory of deceased residents whose graves occupy this tiny plot of land.

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. 1343

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

SECTION 1. CONVEYANCE OF NATIONAL FOREST LAND TO ELKO COUNTY, NEVADA, FOR USE AS CEMETERY.

(a) REQUIREMENT TO CONVEY.—The Secretary of Agriculture shall convey, without consideration, to Elko County, Nevada, all right, title, and interest of the United States in and to the parcel of real property described in subsection (b), for use as a cemetery.

(b) DESCRIPTION OF PROPERTY.—

(1) IN GENERAL.—The property referred to in subsection (a) is a parcel of National Forest land (including any improvements on the land) in Elko County, Nevada, known as ''Jarbidge Cemetery'', consisting of approximately 2 acres and described as the NE¼SW1¼NW¼ of Section 9 T 46 N, R 58 E, MDB&M.

(2) SURVEY.—

(A) IN GENERAL.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(B) COST.—As a condition of any conveyance under this section, the County shall pay the cost of the survey.

(c) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions with respect to the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

ADDITIONAL COSPONSORS

S. 97

At the request of Mr. MCCAIN, the names of the Senator from Missouri (Mr. BOND) and the Senator from North Carolina (Mr. HELMS) were added as cosponsors of S. 97, a bill to require the installation and use by schools and libraries of a technology for filtering or blocking material on the Internet on computers with Internet access to be eligible to receive or retain universal service assistance.

S. 215

At the request of Mr. MOYNIHAN, the name of the Senator from Alaska (Mr. MURKOWSKI) was added as a cosponsor of S. 215, a bill to amend title XXI of the Social Security Act to increase the allotments for territories under the State Children's Health Insurance Program.

S. 222

At the request of Mr. LAUTENBERG, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 222, a bill to amend title 23, United States Code, to provide for a national standard to prohibit the operation of motor vehicles by intoxicated individuals.

S. 333

At the request of Mr. LEAHY, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 333, a bill to amend the Federal Agriculture Improvement and Reform Act of 1996 to improve the farmland protection program.

S. 343

At the request of Mr. BOND, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. 343, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for 100 percent of the health insurance costs of self-employed individuals.

S. 376

At the request of Mr. BURNS, the names of the Senator from Massachusetts (Mr. KERRY), the Senator from Hawaii (Mr. INOUYE), the Senator from Alaska (Mr. STEVENS), and the Senator from Mississippi (Mr. LOTT) were added as cosponsors of S. 376, a bill to amend the Communications Satellite Act of 1962 to promote competition and privatization in satellite communications, and for other purposes.

S. 424

At the request of Mr. COVERDELL, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 424, a bill to preserve and protect the free choice of individuals and employees to form, join, or assist labor organizations, or to refrain from such activities.

S. 446

At the request of Mrs. BOXER, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 446, a bill to provide for the permanent protection of the resources of the United States in the year 2000 and beyond.

S. 459

At the request of Mr. BREAUX, the names of the Senator from North Dakota (Mr. DORGAN), the Senator from New Hampshire (Mr. GREGG), and the Senator from Wyoming (Mr. ENZI) were added as cosponsors of S. 459, a bill to amend the Internal Revenue Code of 1986 to increase the State ceiling on private activity bonds.

S. 472

At the request of Mr. GRASSLEY, the name of the Senator from Nebraska (Mr. KERREY) was added as a cosponsor of S. 472, a bill to amend title XVIII of the Social Security Act to provide certain medicare beneficiaries with an exemption to the financial limitations imposed on physical, speech-language pathology, and occupational therapy services under part B of the medicare program, and for other purposes.

S. 484

At the request of Mr. CAMPBELL, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 484, a bill to provide for the granting of refugee status in the United States to nationals of certain foreign countries in which American Vietnam War POW/MIAs or American Korean War POW/MIAs may be present, if those nationals assist in the return to the United States of those POW/MIAs alive.

S. 542

At the request of Mr. ABRAHAM, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 542, a bill to amend the Internal Revenue Code of 1986 to expand the deduction for computer donations to schools and allow a tax credit for donated computers.

S. 566

At the request of Mr. LUGAR, the names of the Senator from Georgia (Mr. CLELAND) and the Senator from Colorado (Mr. CAMPBELL) were added as cosponsors of S. 566, a bill to amend the Agricultural Trade Act of 1978 to exempt agricultural commodities, livestock, and value-added products from unilateral economic sanctions, to prepare for future bilateral and multilateral trade negotiations affecting United States agriculture, and for other purposes.

S. 635

At the request of Mr. MACK, the name of the Senator from California (Mrs.