By Mr. HATCH:
S. 497. A bill to provide for an assessment of the abuse of and trafficking in gamma hydroxybutyric acid and other controlled substances and drugs, and for other purposes; to the Committee on the Judiciary.

By Mr. LEAHY:
S. 498. A bill to amend the provisions of title 17, United States Code, and the Communications Act of 1934, relating to copyright licensing and carriage of broadcast signals by satellite; to the Committee on the Judiciary.

By Mr. LEAHY:
S. 500. A bill to promote economically sound modernization of electric power generation capacity in the United States, to establish requirements to improve the combustion heat rate efficiency of fossil-fueled electric utility generating units, to reduce emissions of mercury, carbon dioxide, nitrogen oxides, and sulfur dioxide, to require that all fossil fuel-fired electric utility generating units operating in the United States meet new source review requirements, to promote the use of clean coal technologies, and to promote alternative energy and clean energy sources such as solar, wind, biomass, and fuel cells; to the Committee on Finance.

By Mr. ENZI (for himself and Mr. THOMAS):
S. 501. A bill to amend the Mineral Leasing Act of 1920 to authorize the oil and gas leasing of public lands under the recreation residence program, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SCHUMER (for himself and Ms. COLLINS):
S. 502. A bill to provide the Secretary of Energy with authority to draw down the Strategic Petroleum Reserve when oil and gas prices in the United States rise sharply because of anticompetitive activity, and to require the President, through the Secretary of Energy, to consult with Congress regarding the sale of oil from the Strategic Petroleum Reserve; to the Committee on Energy and Natural Resources.

By Mr. ABRAHAM:
S. 503. A bill to amend the Internal Revenue Code of 1986 to provide a simplified method for determining a partner’s share of items of a partnership which is a qualified investment club; to the Committee on Finance.

By Mr. KERRY:
S. 504. A bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to authorize the establishment of a voluntary legal employment authentication program (LEAP) as a successor to the current pilot programs for employment eligibility confirmation; to the Committee on the Judiciary.

By Mr. RINEHART (for himself, Mr. THOMPSON, and Mr. KENNEDY):
S. 505. A bill to establish a compensation program for employees of the Department of Energy, its contractors, subcontractors, and beryllium vendors, who sustained beryllium-related illness due to the performance of their duty; to establish a compensation program for certain workers at the Paducah, Kentucky, gaseous diffusion plant; to establish a pilot program for examining the possible relationship between workplace exposure to radiation and hazardous materials and illnesses, conditions, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. HUTCHISON (for herself, Mr. THOMAS, Mr. CRAPO, and Mr. BURNS):
S. 506. A bill to provide for the re-turn of fair and reasonable fees to the Federal Government for the use and occupancy of National Forest System land under the recreation residence program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. CRAIG (for himself, Mr. THOMAS, Mr. CRAPO, and Mr. BURNS):
S. 507. A bill to provide for the return of fair and reasonable fees to the Federal Government for the use and occupancy of National Forest System land under the recreation residence program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

CABIN USE FEE FAIRNESS ACT OF 1999
Mr. CRAIG. Mr. President, I am introducing legislation today that will set a new course for the Forest Service in determining fees for forest lots on which families and individuals have been authorized to build cabins for seasonal recreation since the early part of this century. I am pleased to have Senators Mr. DURBIN (for himself and Mr. CARDIN), Mr. THOMAS, Mr. CRAPO, and Mr. BURNS joining me in sponsoring this legislation, which is a companion bill to H.R. 3327, introduced in the House of Representatives by Congressman GEORGE NETHERCUTT.
In 1915, under the Term Permit Act, Congress set up a program to give families the opportunity to recreate on our public lands through the so-called recreation residence program. Today, 15,000 of these forest cabins remain, providing generation after generation of families and their friends a respite from urban living and an opportunity to use our public lands.
These cabins stand in sharp contrast to many aspects of modern outdoor recreation, yet an important aspect of the mix recreation opportunities for the American public. While many of us enjoy fast, off-road machines and watercraft or hiking to the backcountry with high-tech gear, others enjoy a relaxing weekend at their cabin in the woods with their family and friends.
The recreation residence programs allows families all across the country an opportunity to use our national forests. This quiet, somewhat uneventful program continues to produce close bonds and remarkable memories for hundreds of thousands of Americans, but in order to secure the future of the cabin program, this Congress needs to re-examine the basis on which fees are now being determined.

Roughly 20 years ago, the Forest Service saw the need to modernize the regulations under which the cabin program is administered. Acknowledging that the competition for access and use of forest resources has increased dramatically since 1915, both the cabin owners and the agency wanted a formal understanding about the rights and obligations of using and maintaining these structures.
New rules that resulted nearly a decade later were affirmed in the courts as a valid recreational use of forest land. At the same time, the new policy reflected numerous limitations on use that are felt to be appropriate in order to keep areas of the forest where cabins are located open for recreational use by other forest visitors. Commercial use of the cabins is prohibited, as is year-round occupancy by the owner. Owners are restricted in the size, shape, paint color and presence of other structures or installations on the cabin lot. The only portion of a lot that is controlled by the cabin owner is that portion of the lot that directly underlies the footprint of the cabin itself.

At some locations, the agency has determined a need to remove cabins for a variety of reasons related to “higher public purposes” and cabin owners wanted to be certain in the writing of new regulations that a fair process would guide any future decisions about cabin removal. At other locations, some cabins have been destroyed by fire, avalanche or falling trees, and a more reliable process of determining whether such cabins might be rebuilt or relocated was needed. It was determined, therefore, that this recreational program would be tied more closely to the forest planning process.

The question of an appropriate fee to be paid for the opportunity to construct and maintain a cabin in the woods was also addressed at that time. Although the agency’s policies for administration of the cabin program have, overall, held up well over time, the portion dealing with periodic re-determination of fees proved in the last few years to be a failure.
A base fee was determined 20 years ago by an appraisal of sales of comparable undeveloped lots in the real estate market adjacent to the national forest where a cabin was located. The new policy called for reappraisal of the value of the lot 20 years later—a trigger that led to reexamination of the re-appraisal process in 1995.

In the meantime, according to the policy, annual adjustments to the base
fee would be tracked by the Implicit Price Deflator (IPD), which proved to be a faulty mechanism for this purpose. Annual adjustments to the fee based on movements of the IPD failed entirely to keep track of the booming land values associated with recreation development.

As the results of actual reappraisals on the ground began reaching my office in 1997, it became clear that far more than the inoperative IPD was out of alignment in determining fees for the cabin owners. At the Pettit Lake tract in Idaho’s Sawtooth National Recreation Area, the new base fees skyrocketed into alarming five-digit amounts—so high that a single annual fee was nearly enough money to buy raw land outside the forest and construct a cabin. Meanwhile, the agency’s appraisal methodology was resulting in new base fees in South Dakota, in Florida, and in some locations in Colorado that were actually lower than the inoperative IPD.

Very generally speaking, the value of the use of the forest lot is approximately the same for any cabin owner, whether they are tucked into what has become in recent years the Sawtooth National Recreation Area of Idaho, or high in the Sierra Mountain range of California, or in the lowland forests of the southeastern States. Yet Idaho cabin owners are now expected to pay a new average fee of $9,221 each year, while cabin owners in Kentucky will be paying a new average fee of $140.

At the request of the chairman of the House Committee on Agriculture in 1998, the cabin owners named a coalition of leaders of their various national and State cabin owner associations to examine the methodology being used by the Forest Service to determine fees. It became obvious to these laymen that analysis of appraisal methodology and the determination of fees was beyond them, the agency, and a prestigious consulting appraiser was retained to guide the cabin owners through their task. The report and recommendations of the coalition’s consulting appraiser is available from my office for those who might wish to examine the details.

At the bottom line, it was learned that the Forest Service—contrary to its own policy—was appraising and affixing value to the lots being provided to cabin owners as if this land were fully developed, legally subdivided, fee simple residential land.

In other words, the agency has been capturing the values associated with a variety of land services that the homeowners themselves (not the agency) provide. The Forest Service, in setting fees on this basis, has been capturing incremental values assigned by a developer at various stages of development for the risks, expectations of profit and other factors.

My goal is to see that the cabin program remains affordable for American families. Consistent with the recommendations of the coalition’s consulting appraiser, the methodology for determining fees is directed toward the value of the use to the cabin owner—not what the market would bear, should the Forest Service decide to sell off its assets.

This is highly technical legislation. Its purpose is to send a clear set of instructions to appraisers in the field and a clear set of instructions to forest managers to respect the results of appraisals undertaken to place value on the raw land being offered cabin owners.

I intend to hold hearings on this legislation early in the next session. I urge each of my colleagues to be in contact with cabin owners in their State during the congressional recess. There are more than 15,000 families out there who fear that the long tradition of cabin-based forest recreation is nearing an end because the agencies fee methodology for the recreation residence program is unaffordable for all but the wealthy. These cabin owners and I would wholeheartedly welcome the support and cooperation of all Senators for this important legislation.

I ask unanimous consent that a copy of the legislation be printed in the RECORD.

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

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to ensure, to the maximum extent practicable, that the National Forest System recreation residence program is managed to preserve the opportunity for individual and family-oriented recreation at a reasonable cost; and

(2) to develop and implement a more efficient, cost-effective procedure to determine and administer cabin user fees that better reflects the probable value of that use by the cabin owner, taking into consideration the limitations of the authorization and other relevant market factors.

SEC. 4. DEFINITIONS.

In this Act:

(1) AGENCY.—The term “agency” means the Forest Service.

(2) AUTHORIZATION.—The term “authorization” means a special use permit for the use and occupancy of National Forest System land by a cabin owner under the authority of the program.

(3) BASE CABIN USER FEE.—The term “base cabin user fee” means the initial fee for an authorization that results from the appraisal of a lot in accordance with sections 6 and 7.

(4) CABIN.—The term “cabin” means a privately built and owned structure authorized for use and occupancy on National Forest System land.

(5) CABIN USER FEE.—The term “cabin user fee” means a special use fee paid annually by a cabin owner to the Secretary in accordance with this Act.

(6) CABIN OWNER.—The term “cabin owner” means—

(A) a person authorized by the agency to use and to occupy a cabin on National Forest System land; and

(B) an heir or assign of such a person.

(7) CARETAKER CABIN.—The term “caretaker cabin” means a caretaker residence occupied in limited cases in which caretakers must be available and necessary to maintain the security of a tract.

(8) CENTER.—The term “Center” means the Federal Center for Dispute Resolution of the American Arbitration Association.

(9) CURRENT CABIN USER FEE.—The term “current cabin user fee” means the most recent cabin user fee that results from an annual adjustment to the base cabin user fee in accordance with section 8.

(10) LOT.—The term “lot” means a parcel of land of the National Forest System on which a cabin owner is authorized to build, occupy, use, and maintain a cabin and related improvements.

(11) PROGRAM.—The term “program” means the recreation residence program established under the Act of March 4, 1915 (38 Stat. 1101, chapter 144).

(12) SECRETARY.—The term “Secretary” means the Secretary of Agriculture, acting through the Chief of the Forest Service.

(13) TRACT.—The term “tract” means an established location within a National Forest containing 1 or more cabins authorized in accordance with the program.

(14) TRACT ASSOCIATION.—The term “tract association” means a cabin owner association in which all cabin owners within a tract are eligible for membership.

SEC. 5. ADMINISTRATION OF RECREATION RESIDENCE PROGRAM.

(a) IN GENERAL.—The Secretary shall ensure, to the maximum extent practicable, that the basis and procedure for calculating cabin user fees results in a reasonable and fair fee to an authorization that reflects the probable value of the use and occupancy of a lot to the cabin owner in accordance with subsection (b).

(b) DETERMINATION OF VALUE.—The value of the use and occupancy of a lot referred to in subsection (a)—

S. 1938
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 “Fair Cabin User Fee Act of 1999”.

SEC. 2. FINDINGS.

Congress finds that—

(1) the recreation residence program is—

(A) a valid use of forest land and 1 of the multiple uses of the National Forest System; and

(B) an important component of the recreation program of the Forest Service;

(2) cabins located on forest land have provided a unique recreation experience to a large number of cabin owners, their families, and guests each year since Congress authorized the recreation residence program in 1915;

(3) tract associations, cabin owners, their extended families, guests, and others that regularly use and enjoy forest cabin tracts have contributed significantly toward efficient management of the program and the stewardship of forest land;

(4) cabin user fees have traditionally generated income to the Federal Government in amounts significantly greater than the Federal cost of administering the program;

(5) the rights and privileges granted to owners of cabin user fees under the program have steadily diminished while regulatory restrictions and fees charged under the program have steadily increased; and

(6) the current fee determination procedure has been shown to incorrectly reflect market value and value of use.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to ensure, to the maximum extent practicable, that the National Forest System...
(1) shall not be equivalent to a rental fee of the lot; and

(2) shall reflect regional economic influences, as determined by an appraisal of the value of the National Forest in which the lot is located.

SEC. 6. APPRAISALS.

(a) REQUIREMENTS FOR CONDUCTING APPRAISALS.—In implementing and conducting an appraisal of, or determining cabin user fees, the Secretary shall—

(1) establish an appraisal process to determine the value of the fee simple estate of a typical lot, or lots within a tract, with adjustments to reflect limitations arising from the authorization and special use permit;

(2) enter into a contract with an appropriate professional organization for the development of specific appraisal guidelines in accordance with subsection (b), subject to public comment and congressional review;

(3) require that an appraisal be performed by a State-certified real estate appraiser, selected by the Secretary and licensed to practice in the State in which the lot is located;

(4) provide the appraiser with—

(A) appraisal guidelines developed in accordance with subparagraph (B); and

(B) a copy of the special use permit associated with the typical lot to be appraised, with an instruction to the appraiser to consider any prohibitions or limitations contained in the authorization;

(5) notwithstanding any other provision of law, require the appraiser to coordinate the assignment closely with affected parties by seeking advice, cooperation, and information from cabin owners and tract associations;

(6) require that the appraiser perform the appraisal in a timely manner;

(A) the most current edition of the Uniform Standards of Professional Appraisal Practice on the date of the appraisal;

(B) the most current edition of the Uniform Appraisal Standards for Federal Land Acquisitions on the date of the appraisal; and

(C) the specific appraisal guidelines developed in accordance with this Act;

(7) require that the appraisal report be a self-contained report (as defined by the Uniform Appraisal Standards of Professional Appraisal Practice); and

(8) require that the appraisal report comply with the reporting guidelines established by the Uniform Appraisal Standards for Federal Land Acquisitions; and

(b) APPRAISAL GUIDELINES.—In the development of specific appraisal guidelines in accordance with paragraph (a)(2), the instructions to an appraiser shall require, at a minimum, the following:

(1) APPRAISAL OF A TYPICAL LOT.—

(A) IN GENERAL.—In conducting an appraisal under this paragraph, the appraiser shall appraise a typical lot or lots within a tract that are selected by the cabin owner and the agency in a manner consistent with the policy of the program.

(B) APPRAISAL.—In appraising a typical lot or lots within a tract, the appraiser shall—

(i) consult with affected cabin owners; and

(ii) appraise the typical lot or lots selected for purposes of comparison with other lots or groups of lots in the tract having similar value characteristics (rather than appraising each individual lot).

(B) ESTIMATE OF MARKET VALUE OF TYPICAL LOT.—

(1) IN GENERAL.—The appraiser shall estimate the market value of a typical lot as a parcel of undeveloped, raw land that has been made available for use and occupancy by the cabin owner on a seasonal or periodic basis.

(2) NO EQUIVALENCE TO LEGALLY SUBDIVIDED LOT.—The appraiser shall not appraise the typical lot as being equivalent to a legally subdivided lot.

(3) REQUIREMENT FOR ANALYSIS OF COMPARABLE SALES.—The appraiser shall be based on a prioritized analysis of 1 or more categories of sales of comparable land as follows:

(A) LARGER PARCELS.—Sales of larger, privately-owned, and preferably unimproved parcels of rural land that are not part of an established subdivision shall be given secondary weight in the analysis.

(B) SMALLER PARCELS.—Sales of smaller, privately-owned, and preferably unimproved parcels of rural land that are not part of an established subdivision shall be given the most weight in the analysis.

(4) EXCEPTION TO COMPARABLE SALES OF LAND.—In conducting an analysis under paragraph (2), the appraiser shall select sales of comparable land that are outside the area of influence of—

(A) land affected by urban growth boundaries;

(B) land for which a government or institution holds a conservation or recreational easement; or

(C) land designated for conservation or recreational purposes by Congress, a State, or a political subdivision of a State.

(5) ADJUSTMENTS FOR TYPICAL VALUE INFLUENCES.—

(A) IN GENERAL.—The appraiser shall consider and adjust the price of sales of comparable land for all nonnatural features referred to in subparagraph (A) that—

(i) are present at, or add value to, the parcel; but

(ii) are not present at the lot being appraised or not included in the appraisal under subparagraph (A).

(B) ADJUSTMENTS.—An adjustment to the price of a parcel sold under this subparagraph shall include allowances for matters such as—

(i) depreciated current replacement costs of installing nonnatural features referred to in clause (i) at the typical lot being appraised; and

(ii) any other typical value influences described in standard appraisal literature.

(C) ADJUSTMENTS FOR RESTRICTIONS ON USE.—In evaluating the sale of a comparable fee simple parcel, an adjustment to the sale price of the parcel shall be made to reflect the influence of prohibitions or limitations on use or benefits imposed by the agency that affect the value of the subject cabin lot, including—

(A) any prohibition against year-round use and occupancy or any other restriction that limits or reduces the type or amount of use by the cabin owner;

(B) any limitation on the right of the cabin owner to sell, lease, or rent the cabin without restrictions imposed by the Secretary; and

(C) any restriction against, improvements to the lot, such as re-modeling or enlargement of the cabin, construction of additional structures, land-clearing, fencing, landscaping, and alteration to add or improve amenities such as playground equipment, domestic livestock, recreational vehicles, or boats.

(D) ADJUSTMENTS TO SALES OF COMPARABLE PARCELS.—

(A) IN GENERAL.—

(i) UTILITIES PROVIDED BY AGENCY.—Only utilities (such as water, sewage, or telephone) or access roads or trails that are clearly established as of the date of the appraisal as having been provided and maintained by the agency at a lot shall be included in the appraisal.

(ii) FEATURES PROVIDED BY CABIN OWNER.—All cabin facilities, decks, docks, patios, and other natural features (including utilities or access) shall be presumed to have been provided by the cabin owner at the cabin owner’s expense.

(ii) SHAPE.—The appraiser shall be excluded from the appraisal by adjusting any comparable sales with the nonnatural features referred to in subparagraph (B).

(iii) WITHDRAWAL OF UTILITY OR ACCESS BY AGENCY.—If, during the term of an authorization, the agency makes a substantial and materially adverse change in the provision or maintenance of any utility or access, the cabin owner shall have the right to request and obtain a new determination of the base cabin user fee at the option of the agency.

(B) ADJUSTMENT FOR IMPROVEMENTS.—

(A) IN GENERAL.—The appraiser shall consider and adjust the price of each sale of a comparable parcel for all nonnatural features referred to in subparagraph (A) that—

(i) are present at, or add value to, the parcel; but

(ii) are not present at the lot being appraised or not included in the appraisal under subparagraph (A).

(B) ADJUSTMENTS.—An adjustment to the price of a parcel sold under this subparagraph shall include allowances for matters such as—

(i) depreciated current replacement costs of installing nonnatural features referred to in clause (i) at the typical lot being appraised; and

(ii) any other typical value influences described in standard appraisal literature.

(C) ADJUSTMENTS FOR RESTRICTIONS ON USE.—In evaluating the sale of a comparable fee simple parcel, an adjustment to the sale price of the parcel shall be made to reflect the influence of prohibitions or limitations on use or benefits imposed by the agency that affect the value of the subject cabin lot, including—

(A) any prohibition against year-round use and occupancy or any other restriction that limits or reduces the type or amount of use by the cabin owner;

(B) any limitation on the right of the cabin owner to sell, lease, or rent the cabin without restrictions imposed by the Secretary; and

(C) any restriction against, improvements to the lot, such as re-modeling or enlargement of the cabin, con-
(3) the public right of access to, and use of, any open portion of the lot on which the cabin or other enclosed improvements are not located.

(b) Fee for Caretaker Residences.—The base cabin user fee for the remaining term of the fee for the caretaker residence is located shall not be greater than the base cabin user fee charged for the authorized use of a similar typical lot in the tract.

(c) Annual Cabin User Fee in the Event of Determination Not to Reissue Authorization.—If the Secretary determines that an authorization should not be renewed at the end of a term, the Secretary shall—

(1) establish as the new base cabin user fee for each of the remaining 9 years of the term of the authorization by multiplying—

(i) \( \frac{1}{50} \) of the new base cabin user fee; by

(ii) the year fraction of the term of the authorization after the year for which the cabin user fee is being calculated.

(d) Annual Cabin User Fee in Event of Changed Conditions.—If a review of the decision to convert a lot to an alternative public use indicates that the continuation of the authorization for use and occupancy of the cabin by the cabin owner is warranted, and the decision is subsequently reversed, the Secretary may require the cabin owner to pay any portion of annual cabin user fees, as calculated in accordance with subsection (d), that were forgone as a result of the expectation of termination of use and occupancy of the cabin by the cabin owner.

(e) Termination of Fee Obligation in Loss Resulting from Acts of God or Catastrophic Events.—On a determination by the agency that, due to an act of God or a catastrophic event, a lot cannot be safely occupied and that the authorization for the lot should accordingly be terminated, the fee obligation of the cabin owner shall terminate effective on the date of the occurrence of the act or event.

SEC. 8. ANNUAL ADJUSTMENT OF CABIN USER FEE.

(a) In General.—The Secretary shall adjust the annual fee annually, using a rolling 5-year average of a published price index in accordance with paragraph (b) and the new base cabin user fee.

(b) Statewide Changes.—In determining the annual adjustment to the cabin user fee for an authorization located in a county in which agricultural land prices are influenced by the factors described in section 6(b)(3), the Secretary shall use average statewide changes in the State in which the lot is located.

(c) New Index.—In General.—Not later than 10 years after the date of enactment of this Act, the Secretary may select and use an index other than the index described in subsection (b) to adjust the annual fee. The Secretary determines that a different index better reflects change in the value of a lot over time.

(2) Selection Process.—Before selecting a new index, the Secretary shall—

(A) solicit and consider comments from the public; and

(B) not later than 60 days before the date on which a new index is selected, submit any proposed selection of a new index to—

(i) the Committee on Resources of the House of Representatives; and

(ii) the Committee on Energy and Natural Resources of the Senate.

(d) Limitation.—In calculating an annual adjustment to the base cabin user fee, the Secretary shall—

(1) limit any annual fee adjustment to an amount that is not more than 5 percent per year when the change in agricultural land values exceeds 5 percent in any 1 year; and

(2) apply the amount of any adjustment that exceeds 5 percent to the annual fee payment for the next year in which the change in the index factor is less than 5 percent.

SEC. 9. PAYMENT OF CABIN USER FEES.

(a) Due Date for Payment of Fees.—A cabin user fee shall be paid or prepaid annually by the cabin owner on a monthly, quarterly, annual, or other schedule, as determined by the Secretary.

(b) Payment of Equal or Lesser Fee.—If in accordance with section 7, the Secretary determines that the amount of a new base cabin user fee is equal to or less than the current base cabin user fee, the Secretary shall require payment of the new base cabin user fee by the cabin owner in accordance with subsection (a).

(c) Payment of Greater Fee.—If, in accordance with section 7, the Secretary determines that the amount of the new base cabin user fee is greater than the current base cabin user fee, the Secretary shall—

(1) require full payment of the new base cabin user fee in the first year following completion of the fee determination procedure if the increase in the amount of the new base cabin user fee is not more than 100 percent of the most recently paid cabin user fee; or

(2) phase in the increase over the current base cabin user fee in approximately equal increments over 3 years if the increase in the amount of the new base cabin user fee is greater than 100 percent of the most recently paid base cabin user fee.

(d) Requirement for Payment During Arbitration, Appeal, or Judicial Review.—If arbitration, an appeal, or judicial review concerning a cabin user fee is brought in accordance with section 11 of the Secretary shall—

(1) suspend annual payment by the cabin owner of any increase in the cabin user fee pending completion of the arbitration, appeal, or judicial review; and

(2) make any adjustments, as necessary, that result from the findings of the arbitration, appeal, or judicial review by providing to the cabin owner—

(A) a credit toward future cabin user fee payments; and

(B) a supplemental billing for any additional amount of the cabin user fee that is due.

SEC. 10. RIGHT OF SECOND APPEAL.

(a) Right of Second Appraisal.—On receipt of the notice of a determination of a new base cabin user fee, the cabin owner—

(1) not later than 60 days after the date on which the notice is received, shall notify the Secretary of the intent of the cabin owner to obtain a second appraisal; and

(2) may obtain, within 1 year following the date of receipt of the notice under this subsection, at the expense of the cabin owner, a second appraisal of the typical lot on which the initial appraisal was conducted.

(b) Conduct of Second Appraisal.—In conducting a second appraisal, the appraiser selected by the cabin owner shall—

(1) consider all relevant factors in accordance with this Act (including guidelines developed under section 6(a)(2));

(2) notify the Secretary of any material differences of fact or opinion between the initial appraisal conducted by the agency and the second appraisal;

(c) Request for Reconsideration of Base Cabin User Fee.—A cabin owner shall submit to the Secretary any request for reconsideration of the base cabin user fee based on the results of the second appraisal, not later than 60 days after the receipt of the report for a second appraisal.

(d) Reconsideration of Base Cabin User Fee.—On receipt of a request from the cabin owner under subsection (c) for reconsideration of a base cabin user fee, not later than 60 days after the date of receipt of the request, the Secretary shall—

(1) review the initial appraisal of the agency;

(2) review the results and commentary from the second appraisal; and

(3) determine a new base cabin user fee in an amount that is—

(A) equal to the fee determined by the initial or the second appraisal; or

(B) within the range of values, if any, between the initial and second appraisals; and

(4) notify the cabin owner of the amount of the new base cabin user fee.

SEC. 11. RIGHT OF ARBITRATION.

(a) In General.—

(1) Request for Arbitration.—Not later than 30 days after the receipt of notice of a new base cabin fee under section 10(d)(4), the tract association may request arbitration if a cabin owner in the tract and the Secretary agree to reach an agreement on the amount of the base cabin user fee determined in accordance with section 10.

(2) Identification of Third-Party Neutrals.—If arbitration is requested under paragraph (1), the Secretary shall promptly request the Center to develop a list of the names of not fewer than 20 appraisers and 10 attorneys who possess complete training and experience in valuations of land and interest in land to serve as qualified third-party neutrals.

(b) Arbitration.—Not later than 30 days after the receipt of a request from the tract association for arbitration, the Secretary shall—

(1) notify the Center of the request; and

(2) request the Center to provide to the Secretary and the tract association, within 15 days—

(A) instructions related to arbitral procedure; and

(B) the list of qualified third-party neutrals described in subsection (a)(2).

(c) Arbitration Panel.—

(1) In General.—Not later than 15 days after the receipt of the list described in subsection (a)(2), the Secretary and the tract association may each recommend the names of and 5 appraiser and 1 attorney from the list for consideration in the selection of an arbitration panel by the Center.

(2) Availability of List.—The Secretary shall disclose to each other the names of third-party neutrals recommended under paragraph (1).
(3) Option to eliminate recommended
neutral lot value and revalue tract association may each peremptorily eliminate from consideration for the arbitration panel 1 third-party neutral recommended under paragraph (2) or (3).
(4) Selection by Center.—From the third-party neutrals recommended to the Center under paragraph (1) that are not eliminated from consideration under paragraph (3), the Center shall select and retain an arbitration panel consisting of 2 appraisers and 1 attorney.
(5) Notification of establishment.—Not later than 5 days after the selection of members of the arbitration panel, the Center shall notify the Secretary and the tract association of the establishment of the arbitration panel.
(d) Arbitration Procedure.—
(1) Submission of Information.—Not later than 30 days after notification by the Center of the establishment of the arbitration panel under subsection (c)(3), each party shall submit to the arbitration panel—
(A) the appraisal report of each party, including comments, if any, of material differences of fact or opinion related to the initial appraisal or the second appraisal;
(B) a copy of the authorization associated with any typical lot that was subject to appraisal;
(C) a copy of this Act; and
(D) a copy of appraisal guidelines developed in accordance with section 8(a)(2).
(2) Hearing or Field Inspection.—On agreement of both parties, the arbitration panel may conduct a hearing without a hearing or a field inspection.
(3) Schedule for Decision.—
(A) In General.—Except as provided in subparagraph (B), not later than 60 days after the receipt of all materials described in paragraph (1), the arbitration panel shall prepare and forward to the Secretary a written advisory decision on the appropriate amount of the base cabin user fee.
(B) Extension.—If the arbitration panel or the parties to the arbitration determine that a hearing or field inspection is necessary, the date for submission of the advisory decision under subparagraph (A) shall be extended for—
(i) not more than 30 days; or
(ii) in the case of difficult or hazardous road or weather conditions, such an additional period of time as is necessary to complete the inspection.
(4) Determination of Recommended Base Cabin User Fee.—The base cabin user fee recommended by the arbitration panel shall fall within the range of values, if any, between the initial and second appraisals submitted to the arbitration panel by the parties.
(e) Adoption of Recommended Base Cabin User Fee.—
(1) In General.—Not later than 45 days after the receipt of the recommendation by the arbitration panel, the Secretary shall make a determination to adopt or reject the recommended base cabin user fee.
(2) Notice to Tract Association.—Not later than 15 days after making the determination of paragraph (1), the Center shall provide notice of the determination to the tract association.
(f) No Admission of Fact or Recommendation.—Not later than 30 days after the date of enactment of this Act, the Secretary shall release data regarding the Implicit Price Deflator—Gross National Product Index prior to reappraaisal, if an appraisal conducted after that date but before the date of enactment of this Act resulted a base cabin user fee that is not more than 100 percent greater than the base cabin user fee in effect on September 30, 1995, adjusted by application of the Implicit Price Deflator—Gross National Product Index prior to reappraaisal, if an appraisal conducted after that date but before the date of enactment of this Act resulted.
(A) In General.—In addition to amounts collected under subparagraph (a), the Center may charge a reasonable fee to each party to an arbitration under this Act for the provision of arbitration services.
(B) A copy of the arbitration services that was not completed before September 30, 1995, and the date of enactment of this Act.
(C) Request for New Appraisal Under New Law.—Not later than 2 years after the promulgation of final regulations and policies and the development of appraisal guidelines in accordance with section 6(a)(2), a cabin owner whose base cabin user fee was adjusted subject to an appraisal completed after September 30, 1995, but before the date of enactment of this Act, may request that the Secretary conduct an appraisal and determine a new fee in accordance with this Act.
(D) Conduct of New Appraisal.—On receiving the request under subsection (c), the Secretary shall conduct, and bear all costs incurred in conducting, a new appraisal and fee determination in accordance with this Act.
(E) Assumption of Base Cabin User Fee.—In the absence of a request under subsection (c) for a new appraisal and fee determination from a cabin owner whose base cabin user fee was determined as a result of an appraisal conducted after September 30, 1995, but before the date of enactment of this Act, the Secretary may consider the base cabin user fee resulting from the appraisal conducted between September 30, 1995, and the date of enactment of this Act to be the base cabin user fee that complies with the transition provisions of this Act.
(F) Transitional Cabin User Fee Obligation.—
(1) In General.—In determining the liability of the cabin owner for payment of fees for the period of time between the date of enactment of this Act and the determination of a base cabin user fee in accordance with this Act, the Secretary shall—
(A) require the cabin owner to remit any balance owed for any underpayment of an annual cabin user fee; or
(B) if an overpayment of a cabin user fee has occurred, credit the cabin owner, or an heir or assign of the cabin owner, toward future cabin user fee obligations.
(2) Billing.—The agency or the tract association shall provide notice of the determination of a base cabin user fee in accordance with this Act to the base cabin user fee that complies with the transition provisions of this Act.
of 1999, a bill to limit and reform the expedited removal system currently operating in the ports of entry.

In 1996, I introduced an amendment that would have only authorized the use of expedited removal at times of immigration emergencies. The bill I introduced today—with the cosponsorship of two Republican and three Democratic Senators—is modeled on that proposal. That amendment passed the Senate with bipartisan support, but was omitted from the bill that was reported out of a partisan, closed conference. As a result, expedited removal took effect on April 1, 1997. America’s historic reputation as a beacon for refugees has suffered as a consequence.

Expedited removal allows INS inspectors summarily to remove aliens who arrive in the United States without valid, inadmissible, or facially invalid travel documents that the officers merely suspect are fraudulent, unless the aliens utter the magic words “political asylum” upon their first meeting with American immigration authorities. This policy is fundamentally unwise and unfair, both in theory and in practice.

First, this policy ignores the fact that many deserving asylum applicants are forced to travel without papers. For example, victims of repressive governments often find themselves forced to flee their homelands at a moment’s notice, without time or means to acquire proper documentation. Or a government may systematically strip refugees of their documentation, as we saw Serb soldiers do in Kosovo earlier this year.

Second, expedited removal places an undue burden on refugees, and places too much authority in the hands of low-level INS officers. Refugees typically arrive at our borders ragged and tired from their ordeals, and often with little or no knowledge of English. Our policy forces them to undergo a secondary inspection interview with a low-level INS officer who can deport them on the spot, subject only to a supervisor’s approval. By law, anyone who indicates a fear of persecution or requests asylum during this interview is to be referred for an interview with an asylum officer. But no safeguards exist to guarantee that this happens, and the secondary inspection interviews take place behind closed doors with no witnesses. Indeed, this interview often becomes unduly confrontational and intimidating. As the Lawyers Committee for Human Rights has documented, refugees are detained for as long as 36 hours, are deprived of food and water, and are often shackled. If they are lucky, they will be provided with an interpreter who speaks their language. If they are unlucky, they will receive no interpreter at all, or an interpreter who works for the airline owned by the government that they claim is persecuting them. Such a system is a betrayal of our ideals, and is already producing a human cost.

Indeed, in a few years into this new regime, there are extraordinary troubling stories of bona fide refugees who were turned away unjustly at our borders. I will talk about two such refugees today.

Dem (pseudonym) was a 21-year-old ethnic Albanian student in Kosovo. In October 1998, Serbian police seized him and tortured him for 10 days, accusing him of terrorism and threatening to kill his family. Immediately after this experience, Dem fled Kosovo, civil war, but without travel documents. He traveled through Albania to Italy, where he purchased a Slovenian passport. In January of this year, he flew via Mexico City to California, hoping to find refuge in the United States.

But his hopes were not realized. The INS referred him for a secondary inspection interview and provided for a Serbian translator to participate by telephone. Since Dem could speak only Albanian, the interpreter was useless. Instead of finding an interpreter who could speak Albanian, the INS officers simply closed Dem’s case, handcuffed his hands behind his back and put him on a plane back to Mexico City. In other words, Dem—a victim of an ethnic conflict that was already front page news in America’s newspapers—was removed from the United States without ever being asked in a language he could understand whether he was afraid to return to Kosovo. Luckily, Dem succeeded in a second attempt to enter the United States, has since been found to have a credible fear of persecution, and is now awaiting an asylum hearing.

One can only wonder how many refugees in Dem’s position never receive such a second chance. While Dem was arriving in Los Angeles this January, a Tamil from Sri Lanka named Arumugam Thavukumar arrived at JFK Airport in New York seeking asylum. Mr. Thavukumar had escaped from Sri Lanka and its bloody civil war, but only after being persecuted by the army because he is a Tamil. When he had his secondary inspection interview, the told the interpreter that he was a refugee and sought asylum. The translator laughed and said that he couldn’t translate. Mr. Thavukumar’s request into English. In addition to battling a language barrier and an uncooperative translator, Mr. Thavukumar’s ability to convince the INS of his sincerity was further handicapped by the fact that he was handcuffed and shackled for significant portions of the interview.

Following his interview, Mr. Thavukumar was briefly detained and was allowed to telephone a cousin, who was arranged for a lawyer. The lawyer contacted the INS to clarify that Mr. Thavukumar wanted to apply for asylum. But the INS sent Mr. Thavukumar back to Istanbul, where his flight to New York had originated, without allowing him even the opportunity to show that he was deserving of asylum. Indeed, the INS faulted him for not making his intention to apply for asylum clear during his secondary inspection interview.

Mr. Thavukumar’s ordeal did not end there. When he landed in Turkey, he was jailed for four days by immigration officials, who beat and interrogated him before handing him over to regular police. When he was finally released by the police, he was referred to a United Nations office in Ankara, halfway across the country from Istanbul. After 15 days of travel wearing clothes that were completely unsuitable for the Turkish winter, he finally arrived at the U.N. office and requested refugee status and asked not to be sent back to Sri Lanka. He is currently living in a Red Cross facility in Turkey.

The stories—just two of the many stories demonstrating the human cost of expedited removal—go a long way toward showing the inhumanity of the new immigration regime that Congress imposed in 1996. But refugees are not the only people affected by expedited removal. Human rights groups have also documented numerous cases where people traveling to the United States on business, with proper travel documents, have been removed based on the so-called “sixth sense” of a low-level INS officer who suspected that their facially valid documents were fraudulent. In other words, the damage done by expedited removal also threatens the increasingly international American economy—if businesspeople from around the world are treated disrespectfully at our ports of entry, they are likely to take their business elsewhere.

But perhaps the most distressing part of expedited removal is that there is no way for us to know how many deserving refugees have been excluded. Because secondary inspection interviews are conducted in secret, we typically only learn about mistakes when refugees manage to make it back to the U.S. a second time, like Dem, or when they are deported to a third country they passed through on their way to the U.S., like Mr. Thavukumar. This uncertainty should lead us to be especially wary of continuing this failed experiment.

As I said, my bill would limit the use of expedited removal to times of immigration emergencies, defined as the arrival of 30,000 people in a year. It would substantially exceed the INS’ ability to control our borders. The bill gives the Attorney General the discretion to declare an emergency migration situation, and the declaration is good for 90 days. During those 90 days, the INS would be authorized to use expedited removal. The Attorney General is given the power to extend the declaration for further periods of 90 days,
in consultation with the House and Senate Judiciary Committees.

This bill allows the government to take extraordinary steps when a true immigration emergency threatens our ability to patrol our borders. At the same time, it recognizes that expedited removal is an extraordinary step, and is not an appropriate measure under ordinary circumstances.

This bill also provides safeguards that will ensure that refugees are assured of some due process rights, even during immigration emergencies. First, aliens would be given the right to have an immigration judge review a removal order, and would have the right both to speak before the immigration judge on their own behalf and to be represented at the hearing at their own expense. To make these rights easier to understand, the process would be simplified, thus making it easier for aliens of their rights before they are removed or withdraw their application to enter the country. This provision takes away from low-level INS officers the unilateral power to remove an alien from the United States.

Second, expedited removal will not apply to aliens who have fled from a country that engages in serious human rights violations. The Attorney General, in consultation with the Assistant Secretary of State for Democracy, Human Rights, and Labor, will develop and maintain a list of such countries. This will help ensure that even during an immigration emergency, we will provide added protection for many of our most vulnerable refugees.

Third, this bill reforms the procedures used to determine whether an applicant who seeks asylum has a credible fear of persecution. If an asylum officer determines that an applicant does not have a credible fear of persecution, the applicant will now have a right to a prompt review by an immigration judge. The applicant will have the right to appear at that review hearing and to be represented, at the applicant’s expense. In addition to providing procedural guarantees, the bill also redefines “credible fear of persecution” as a claim for asylum that is not clearly fraudulent and is related to the criteria for granting asylum. In combination, these changes will make it easier for aliens requesting asylum in the United States to receive an appropriate asylum hearing before an immigration judge.

Fourth, the bill clarifies that the Attorney General is not obligated to detain asylum applicants while their claims are pending. Asylum seekers are not criminals and they do not deserve to be imprisoned or detained against their will. There may be cases where detention is appropriate, and this bill allows for such cases, but I believe that that power should only be used in very rare cases. After all, these applicants have by definition demonstrated a credible fear of persecution. Moreover, detaining asylum applicants imposes a significant burden on the taxpayers, who of course must foot the bill for the detention. This bill also gives the Attorney General the ability to release an asylum applicant from detention pending a final determination of credible fear of persecution.

Finally, this Refugee Protection Act also addresses a few other problems that have arisen under the restrictive immigration laws Congress passed in 1996. First, it gives aliens the opportunity to demonstrate good cause for filing for asylum after the one-year time limit for claims has expired. By definition, worthy asylum applicants have arrived in the United States following traumatic experiences abroad. They often must spend their first months here learning the language and adjusting to a culture that in many cases is extraordinarily different from the one they know. Therefore, although an applicant may desire to have asylum seekers submit timely applications, we must apply the one-year rule with some discretion and common sense. Indeed, when the Senate passed the 1996 immigration law, it contained a broad “good cause” exception that did not survive to become part of the final legislation. The Senate should take up this issue again; we were right in 1996, and the need is still there today.

In a similar vein, the bill allows asylum applicants whose claims have been rejected to submit a second application where they can show good cause. No one wants to allow aliens to submit repeated applications and drain the resources of our immigration courts. But there are exceptional cases where a second application is justified, beyond the “changed circumstances” exception that exists under current law. For example, extraordinarily worthy asylum applicants, unfamiliar with the United States and its legal system, might submit an application without the benefit of counsel and without an understanding of the legal requirements of a successful asylum claim. Such people deserve a second chance to demonstrate that they deserve to receive asylum.

In conclusion, I point out that even in 1996, a year in which immigration was as unpopular in this Capitol as I can remember, this body agreed that expedited removal was inappropriate for a country of our ideals and our historic commitment to human rights. And that time agreement has carried me through party lines, as many of my Republican colleagues voted to implement expedited removal only in times of immigration emergencies. I urge them, as well as my fellow Democrats, to support this important bill to apprise and passage before the end of the 106th Congress.

Mr. BROWNBACK. Mr. President, I join my distinguished colleagues from Vermont, Senator LEAHY and Senator JEFFORDS, among others, to introduce the Refugee Protection Act of 1999, which restores fairness to our treatment of refugees who arrive at our shores seeking freedom from persecution and oppression. This bill should dramatically reduce incidences where refugees are wrongly returned to their countries to face imprisonment, torture, and even death.

It was about 400 years when the refugee Pilgrims arrived in this new land seeking religious liberty. Defined by such events since the earliest days of the Republic, America has provided asylum to those fleeing tyranny and seeking liberty. George Washington urged his fellow citizens “to render this country more and more a safe and propitious asylum for the unfortunate of other countries.” In his 1793 First Annual Message, President Thomas Jefferson asked, “Shall oppressed humanity find no asylum on this globe?”

In 1996, Congress changed the procedures by which arriving asylum seekers were granted protection in the United States, which our legislation corrects. Previously, arriving asylum seekers presented their claims directly to an immigration judge at an evidentiary hearing. The applicant could present witnesses and documentation to support their claim. Decisions by the immigration judge were subject to administrative and judicial review.

The new 1996 law did away with these fundamental due process protections, and instead, granted lower level INS officers the power to make life and death decisions that previously were entrusted to professional immigration judges. This new, unfortunate system of “expedited removal” presently allows for the immediate deportation of individuals who arrive without valid travel documents, such as a passport and visa. It can even be used against an individual who has a facially valid visa that INS inspectors suspect was obtained under false pretenses. In short, the process is so expedited and summary that it has resulted in the improper deportation of refugees fleeing persecution and torture. Simply put, our legislation restores the pre-1996 due process procedures, including a judicial review.

Last year, Congress addressed the problems of religious persecution which continues to be a serious problem worldwide. Enactment of the International Religious Freedom Act was the first time in the history of democracy that any country had adopted comprehensive, national legislation on religious liberty. That legislation ensures that religious liberty will be an important factor in our nation’s foreign policy considerations. In the May 17, 1999 final report to the Secretary of State and to President of the United States, the Advisory Committee on Religious Freedom Abroad said:
Putting an end to such (religious) persecution cannot be accomplished without providing meaningful protection to the victims of religious persecution. We must upgrade domestic procedures that identify and protect refugees and asylum seekers fleeing religious persecution to strengthen the INS overseas refugee processing mechanisms to reach those in need of rescue. And, here at home we must strengthen the INS’ “expedited removal” that can make victims of those fleeing religious persecution rather than providing access to protection.

Consistent with this commitment to protect international religious liberty, we must also ensure that persons fleeing religious persecution are not wrongly turned away at our shores because of unfair procedures. This will be accomplished through this Act.

The Refugee Protection Act returns fairness to the asylum process by limiting expedited removal procedures only to emergency situations. An “emergency” must be declared as such by the Attorney General, and typically involves large numbers of immigrants arriving en masse with the clear intention of overwhelming the INS review system. In the event that “expedited removal” is employed, the Act requires an immigration judge to review the summary deportation order. Also, it permits claims for asylum to be filed beyond the one-year deadline created by the 1996 legislation, if there is good cause for the delay or when consideration of the claims is clearly in the interest of justice.

Our refugee asylum system reflects both the best and the worst policies, throughout our history as a nation. In 1939, more than 900 Jews aboard the SS _St. Louis_, who were within sight of Miami, were rejected and forced to return to Europe where they were murdered in concentration camps. Yet when World War II ended, the United States led the effort to establish universally recognized fundamental rights. As a result of this advocacy, the General Assembly of the United Nations adopted the Universal Declaration of Human Rights on December 10, 1948 which recognized a right of asylum.

Over the next 30 years the United States provided refuge to numerous people fleeing communism, including to those involved in “underground” democracy movements in Hungary, Cuba, and Southeast Asia. Yet it was not until 1980 that Congress enacted a comprehensive asylum system using the criteria of the 1951 Convention Relating to the Status of Refugees. The Convention defines a refugee as someone with a “well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion.” Under the procedures of this Refugee Act of 1980, requests for asylum were decided by immigration judges, thus providing a fundamental due process protection. Notably, this judicial review was stripped in the 1996 legislation, and is a flaw which our legislation seeks to correct.

Fair procedures are critically important in making life or death decisions, as asylum cases can be. At a June 24, 1999 hearing of the Senate Subcommittee on International Operations and Human Rights, Ms. Lavinia Limon, Director of the Office of Refugee Resettlement at the Department of Health and Human Services, noted:

“Once released, torture victims often attempt to flee to countries such as the United States to become invisible and safe, and to survive. But they retain the impact of torture: they are not able to speak of their experiences for fear officials will not believe them or understand them or will regard them as criminals. They often cannot express themselves effectively in asylum interviews because they cannot speak articulately about their torture and they feel vulnerable to all officials. They have learned to fear government and the police and they do not trust any government officials or authorities to help them. They have very weak and disabled psychologically from the torture. Many times the victims must fly alone, enduring long periods of separation from their families who might otherwise provide support.

Today the need for proper asylum reviews is greater than ever. Worldwide, religious intolerance and ethnic strife turn religious leaders and ordinary citizens into desperate asylum seekers. According to Amnesty International, government-sanctioned torture is practiced in 125 countries.

This legislation helps those fleeing intolerable injustices in the name of religious freedom and democracy. Placing the decision squarely in the hands of an immigration judge does not impose an unreasonable or impossible burden on the government. Congress should enact the Refugee Protection Act because it restores the fundamental due process protections needed to ensure that legitimate asylum seekers are not wrongly turned away.

Mr. FEINGOLD. Mr. President, I rise today to join my distinguished colleagues, Senators LEAHY, BROWNBACK, and JEFFORDS, to introduce a bill that will reduce the likelihood that people fleeing genuine persecution in their homelands and seeking refuge in America will be unfairly returned to their countries.

Mr. President, as you know, our nation has been built by people who arrived on our shores from all over the world. Immigrants have enriched our nation economically, culturally, and in so many other invaluable ways. I don’t think anyone can dispute that, of all the countries in the world, our nation has the deepest, richest commitment to welcoming all people who want to make a new home and a new life.

At the same time, Mr. President, our nation has also turned away those who are fleeing oppression in their native land. From the pilgrims who set foot in present day Massachusetts and Virginia, to the Kosovars who fled brutality in their homeland earlier this year, America has been a refuge for those fleeing persecution. Our nation’s first President, George Washington, said: “America is open to receive not only the opulent and respectable stranger, but the oppressed and persecuted of all nations and religions.” George Washington said those words in 1789. One hundred and one years later, France would present our country with a gift, a statue called “Liberty Enlightening the World.” In 1884, that title was a profound statement of our nation’s past, our present and hope for the future. “Liberty Enlightening the World” later became known as the Statue of Liberty. The Statue of Liberty has these words inscribed on her:

. . . Give me your tired, your poor.

Your huddled masses yearning to breathe free,

The wretched refuse of your teeming shore.

Send these, the homeless, tempest-tost to I lift my lamp beside the golden door!

Unfortunately, Mr. President, our current asylum and immigration laws have nearly slammed the door shut on victims of persecution, even those who are sure to suffer if returned to their homelands. Consider the passage in 1996 of the Illegal Immigration Reform and Immigrant Responsibility Act. That law was an attempt to combat illegal immigration. But in the process, Congress denied victims of persecution the protection that our nation historically has offered. The current system provides for the immediate deportation of individuals who arrive without travel documents precisely in order. Now, Mr. President, it’s appropriate that we recognize the documents to have fled torture and great brutality may not have proper documentation because of the circumstances under which they fled their homelands. As a result, genuine victims of persecution face the risk of being turned away at our borders and put on the next plane back to face imprisonment, torture or death. The 1996 law effectively empowers low level INS officers to summarily make the life and death decision as to whether to deport an asylum seeker. Prior to 1996, those decisions were made by an immigration judge. We must return a judicial role to the review of asylum claims.

As my colleagues who were here in 1985 and 1996 may recall, the 1996 law was enacted in reaction to a flurry of concern that our border controls were too lax. The debate on the 1996 law was fueled by legitimate concern over criminals or other crimes. In response, the INS began a sensible tightening of the asylum process. In 1994 and 1995, the INS ceased issuing work authorizations at the border. Instead, asylum seekers

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had to wait until an adjudication of their case before receiving work authorization. As a result, claims for asylum dropped dramatically. As a result, asylum seekers who are fleeing real persecution have been granted asylum with bona fide asylum claims face the great risk of being immediately deported to face the wrath of oppressive home governments without a real chance to make their case.

Because an INS officer has the authority to deport refugees immediately, with no record keeping requirement, it has been difficult to determine exactly how many genuine refugees with a valid fear of persecution in their home countries have been turned away at our airports and borders as a result of the 1996 law. Organizations like the Lawyers Committee for Human Rights, however, have been able to collect some data on the extent of the problem.

One of the most troubling stories is the case of a 21-year-old Kosovar Albanian known as “Dem.” In October 1998, Serb police seized Dem at his home, beat him, and threatened to kill his family. This abuse occurred over a period of ten days. When the Serb police finally released Dem, he fled Kosovo. He eventually made his way to the United States in January of this year, landing in California via Mexico City. When he arrived, the INS arranged for a Serbian translator to assist by telephone with its questioning of Dem. But Dem, a Kosovar Albanian, could not speak Serbian. After the translator spoke with Dem, the translator said something to the INS officer promptly handcuffed and fingerprinted Dem and then put him on a plane back to Mexico City.

Fortunately, Dem was not returned to Kosovo. Dem tried re-entering the United States and, on this second attempt, he was allowed to apply for asylum. But the facts supporting Dem’s asylum claim had not changed. We must fix a system that produces such arbitrary results where people’s lives, and American ideals, are at stake.

Mr. President, this is a sensible bill that allows us to scrutinize those who come to our borders, but honors our best traditions and returns fairness and humanity to our treatment of those who are fleeing persecution. I urge my colleagues, the majority leaders LEAHY, BROWNBACK and JEFFORDS in fighting for basic human dignity, decency and justice. Let us lift the torch of “Liberty Enlightening the World” once again. Let us not reflexively turn away those whose very lives may depend on a fair hearing as they seek refuge in the United States.

By Mr. DODD (for himself and Senator DeWINE), Mr. President, I rise today with my colleague and friend, Senator DeWINE of Ohio, to introduce legislation that would represent our nation’s first comprehensive commitment to fire safety. The Firefighter Investment and Response Enhancement Act (the FIRE bill), will, for the first time, provide volunteer and professional firefighters with the resources they need to protect the people and property of their towns and cities. In communities across America, firefighters are almost always the first to respond to a call for help. They respond to a fire alarm. They are on the scene of traffic accidents and construction accidents. Emergency medical technicians, who often belong to fire departments, each day answer tens of thousands of calls for medical assistance. And, when a natural or manmade calamity strikes—from hurricanes to school shootings to bombings—firefighters are there to uphold, restore order and saving lives.

Given all that they do, it should surprise no one that, across the Nation, fire departments struggle to find resources to help keep our communities safe. As the demands placed on fire departments have grown in volume and complexity, the ability local residents to support them has been put to a severe test. As a result, towns and cities throughout the country are struggling mightily to provide the fire departments with the resources they require.

The FIRE Act will help localities meet that critical objective. It will provide grants to help localities hire more firefighters, train new and existing personnel to handle the volume and intensity of today’s tragedies, and purchase badly needed equipment.

This legislation will also provide critical resources to communities to fund fire prevention and education programs so that they can anticipate disasters and prevent them. Programs that are critical means of preventing tragedies from occurring in the first place. Eight out of ten fire deaths occur in a place where people feel the safest—their homes. Tragically, our families and the elderly account for a disproportionate number of these deaths. Indeed, preschool children face a risk of death from fire that is more than twice the risk for all age groups combined. While we can and should ensure that the fire equipment and personnel are available to respond to these tragedies, our best defense remains education and prevention. Yet, it is a painful irony that when resources are scarce, education and prevention efforts are often the first to be put on the budgetary chopping block. This legislation will help ensure that no locality is put in the painful position of choosing between prevention and responding to emergencies.

This legislation will enable our fire departments to worry more about saving lives and less about finding dollars. It will enable communities to better prevent disasters, and better train firefighters.

I look forward to working with Senator DeWINE to successfully advance this legislation in the Senate. It is our shared hope that our colleagues will come to realize that this bill is one whose time has come. Our Nation’s firefighters deserve the support that this bill will provide, and I hope that we will give it to them before the end of this Congress.

Mr. DeWINE, Mr. President, each day, we entrust our lives and the safety of our families, friends, and neighbors to the capable hands of the brave men and women in our local police and fire departments. These individuals have decided that they are willing to risk their lives and safety out of a dedication to their citizens and their commitment to public service.

In Congress, we have recognized the dangers inherent in police work by dedicating federal resources to help
local police departments. In fact, this year, Fiscal Year (FY) 1999, the federal government spent $11 billion on law enforcement, which constitutes the COPS program, to help local law enforcement face the daily challenges of their communities. In contrast, though, the federal government spent only $32 million on fire prevention and training.

We ask local firefighters to risk no less than their lives every time they respond to a fire alarm. We ask them to risk their lives responding to the approximately two million reports of fire that they receive on an annual basis. We expect them to be willing to give their lives in exchange for the lives of their families, neighbors, and friends—once every 71 seconds while responding to the 400,000 residential fires—fires which represented only about 22% of all fires reported. We count on them to protect our lives and the lives of our loved ones.

I believe the Federal Government needs to show a greater commitment to local fire departments. These grants can be used for just about any purpose—training, equipment, hiring more firefighters, or education and prevention programs. A new office, established by this bill under the Federal Emergency Management Agency (FEMA), would be responsible for distributing grants to local departments based on a competitive process, involving needs assessment. To ensure that the funding is not spent solely on brand new state-of-the-art fire trucks, it mandates that no more than 25% of the grant funding can be used to purchase new fire vehicles. Finally, it requires that at least 10% of the funds are used for fire prevention programs.

Our bill is supported by the National Safe Kids Campaign, the International Association of Fire Fighters, International Association of Arson Investigators, International Society of Fire Service Instructors and the National Fire Protection Association. It is also a companion measure to legislation introduced in the House by Congressman Pascrell and Weldon, where almost 200 members of the House of Representatives have cosponsored it. I am proud to introduce this bill with my friend from Connecticut and look forward to working to ensure that the federal government increases its commitment to the men and women who make up our local fire departments. We owe it to them.

By Mr. JEFFORDS:

S. 42. A bill to amend the Older Americans Act of 1965 to establish grant programs to provide state polices, assistance programs and medication management programs; to the Committee on Health, Education, Labor, and Pensions.

PHARMACEUTICAL AID FOR OLDER AMERICANS

Mr. JEFFORDS. Mr. President, there has been considerable attention rightfully paid by our colleagues this year to the issue of providing prescription drug coverage for our older American citizens. Estimates of the number of older Americans without some form of added coverage for prescription drugs vary between a low of 16.7 percent to 50 percent. About 7.7 million Medicare beneficiaries with annual incomes below 200 percent of poverty have no coverage, of which probably should not, some evidence indicating they are in poorer health than those beneficiaries with coverage. Those without added coverage for prescription benefits spend approximately 50 percent of their total health care costs, and there are anecdotal reports that some elders forgo taking their prescribed medicines in order to have food to eat. Finally, there are econometric studies that conclude that a $1 increase in pharmaceutical expenditures is associated with a $3.65 reduction in hospital care expenditure.

The problems posed by the lack of prescription drug coverage for the neediest elders is compounded by the well-documented effects of inappropriate drug use among the elderly. In 1995, the General Accounting Office (GAO) found that inappropriate drug use among elders is acute and that elders were particularly susceptible to unintended, adverse drug events (ADEs), due in part to the aging process and also to the likelihood that they are taking multiple medications. One study of drug use by the elderly, done by the Vermont Program for Quality in Health Care, found that it was not uncommon for elders to be taking more than a dozen drugs at one time. In fact, the Vermont study actually documented one case in which “a single individual received prescriptions for 71 different drugs in a single year, several of which probably should never have been taken in combination.”

The GAO report also cited studies showing that hospitalizations for elderly patients due to ADEs were six times greater than for the general population, with an estimated annual cost of $20 billion. However, a recent Journal of the American Medical Association article indicated that the level of ADEs could be reduced 66 percent, if a pharmacist participated in grand rounds. Clearly, more must be done to recognize the importance of medication management programs that ensure the quality of drug therapy, including patient evaluations, compliance assessments, and drug therapy reviews.

We are all aware that prescription drug costs continue to grow at an alarming rate. Seniors are being forced to spend greater and greater portions of their fixed incomes on prescription drugs which they need to live. Research and development of prescription drugs have come a long way since Medicare was originally enacted in 1965. Today, drugs are just as important as hospital visits, and in many cases more important, and it just doesn’t make sense for Medicare to reimburse hospitals for surgery but not to provide coverage for the drugs that might prevent surgery. We need to modernize the Medicare program so that it does not go bankrupt in the next 10 to 15 years, and at the same time ensure that the millions of our neediest elders’ needs would be supported through Federal contributions for the cost of their premiums.

During the 1st Session of the 106th Congress, no fewer than eight bills have been introduced in the Senate to provide a prescription drug benefit for Medicare beneficiaries—with most proposals estimated to cost between $5 billion and $40 billion per year. While I’m hopeful that we will all work hard to include a prescription drug benefit for Medicare beneficiaries, I am also concerned that at the end of the Congress we may not be successful. That is why I am introducing a measure today, the “Pharmaceutical Aid to Older Americans Act,” which will serve as a backstop for our neediest citizens. This program builds on State pharmacy assistance programs that are already in place, and it encourages States to begin them where they don’t already exist.

Fifteen States are cutting new and innovative paths for providing prescription drug coverage for their neediest citizens. Most of these programs
are for elder citizens (more than half also cover people with disabilities), and cover a wide variety of drugs, although some are limited to certain drugs and conditions, some require cost sharing for prescription medicines, and some have annual enrollment fees or monthly premiums. As of 1997, these programs aided over 700,000 people. The Pharmaceutical Aid to Older Americans Act is designed to assist States in their efforts to provide medicines and appropriate pharmacy counseling benefits for their neediest elders.

This Act will strengthen the Older Americans Act by authorizing two discretionary grant programs, subject to appropriations, to fund State-based pharmaceutical assistance and medication management programs. Under this measure, States would develop models that worked best for them, and would have the latitude to design and implement innovative approaches for providing benefits to their neediest elders. States awarded grant money would agree to: match Federal funds with 30 percent of current State expenditures with Federal funds. In-kind contributions counting toward the match requirement could include assistance from pharmaceutical companies and organizations and community-based pharmacies, thereby making this approach a truly public-private partnership.

Each application for pharmaceutical assistance funds must include a medication management program that ensures the quality of drug therapies through patient evaluations, compliance assessments, and drug therapy reviews. Federal funds could be used to provide drug counseling benefits primarily to eligible beneficiaries, defined as Medicare beneficiaries with incomes up to 200 percent of poverty but without any other coverage for prescription drug benefits (States could expand eligibility with State resources). All senior citizens could utilize the medication management portion of the program.

This is not government control of drug prices or price-fixing. The States can purchase pharmaceuticals from any willing seller, including pharmaceutical manufacturers, independent pharmacies, pharmaceutical distributors, wholesalers, pharmacy benefit management firms (PBMs), and chain or local pharmacies, without any Federal requirement for wholesale prices or Medicaid-based rebates. In some instances, it’s likely that States may be able to negotiate better purchasing prices than any of those set by some artificial, imposed ceiling. Finally, for those States that choose not to provide pharmaceutical benefits, the Act authorizes grants to States to create or support stand-alone Medication Management Programs that will involve the States in collaborative efforts with community, chain-based, and institutional pharmacists to implement medication management programs.

As I mentioned earlier, Mr. President, I am fully committed to providing a prescription benefit for all our elders as we move forward on comprehensive reform of the Medicare program. I am equally committed to seeing that the Older Americans Act is reauthorized this Congress, and I will work diligently to get these jobs accomplished. However, if the latter effort succeeds and the former doesn’t, then the Pharmaceutical Assistance for Older Americans Act will be in place to provide much-needed medicines for our neediest elders. I’m very pleased Mr. President, that this measure has received endorsement of two of the key advocacy organizations associated with the Older Americans Act, the National Association of Area Agencies on Aging and the National Association of State Units on Aging. Note that these guardians of the aged support this measure, like me, if only if we are unsuccessful in passing a prescription drug benefit for the Medicare program.

Mr. President, I ask unanimous consent that the bill and the text of these letters and this measure be printed in the RECORD.

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

S. 1942
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 "Pharmaceutical Aid to Older Americans Act".

SEC. 2. AMENDMENT TO OLDER AMERICANS ACT OF 1965.
Part B of title IV of the Older Americans Act of 1965 (42 U.S.C. 3004 et seq.) is amended by adding at the end the following:

"SEC. 429K. GRANTS FOR STATE PHARMACY ASSISTANCE PROGRAMS.
(a) PROGRAM AUTHORIZED.—The Assistant Secretary may award grants to States to provide and administer State pharmacy assistance programs.
(b) PREFERENCE.—In awarding grants under subsection (a), the Assistant Secretary shall give preference to States that propose to develop and implement State pharmacy assistance programs, or to provide assistance to States with assistance programs in existence on the date of enactment of this section, that provide services for underserved populations or for populations residing in rural areas.
(c) USE OF FUNDS.—A State that receives a grant under subsection (a) shall use funds made available through the grant to—
(1) develop and implement a State pharmacy assistance program, or to provide assistance to a State pharmacy assistance program in existence on the date of enactment of this section; or
(2) prepare and submit an evaluation to the Assistant Secretary on the implementation of, or provision of, or assistance to a program described in paragraph (1).
(d) APPLICATION.—To be eligible to receive a grant under subsection (a), a State shall submit to the Assistant Secretary an application at such time, in such manner, and containing such information as the Assistant Secretary may require, including—
(1) a description of a State pharmacy assistance program that such State plans to develop and implement; information on the anticipated number of individuals to be served, eligibility criteria of individuals to be served, such as the age and income level of such individuals, drugs to be covered by the program, and performance measures to be used to evaluate the program;
(2) a description of a State pharmacy assistance program in existence on the date of enactment of this section that such State plans to assist with funds received under subsection (a), including information on the number of individuals served, eligibility criteria of individuals served, such as the age and income level of such individuals, drugs to be covered by the program, and performance measures used to evaluate the program.
(e) MINIMUM AMOUNT.—In awarding grants under subsection (a), the Assistant Secretary shall give preference to States that agree to: match Federal funds with 30 percent of current State expenditures with Federal funds. In-kind contributions counting toward the match requirement could include assistance from pharmaceutical companies and organizations and community-based pharmacies, thereby making this approach a truly public-private partnership.
(f) DURATION OF GRANT.—In awarding grants under subsection (a), the Assistant Secretary shall award such grants for periods of 2 years.
(g) MATCHING REQUIREMENT.—The Assistant Secretary shall not award a grant to a State under subsection (a) unless that State agrees that, with respect to the costs to be incurred by the State in carrying out the program for which the grant was awarded, the State will make available (directly or through donations from public or private entities) non-Federal contributions in an amount that is not less than 30 percent of Federal funds provided under the grant.
(h) SUPPLEMENT NOT SUPPLANT.—Funds made available under this section shall be used to supplement, and not supplant, any other Federal, State, or local funds expended by a State to provide the services for programs described in this section.
(i) EVALUATIONS AND REPORT.—
(1) PROGRAM EVALUATIONS.—Not later than 3 months after the date of enactment of this section, the Assistant Secretary shall require the State to submit a report containing the results of the evaluation, in such form and containing such information as the Assistant Secretary may require.
(2) REPORT TO CONGRESS.—Not later than 6 months after the date of enactment of this section, the Assistant Secretary shall prepare and submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report that describes the effectiveness of the programs carried out with funds received under this section.
(j) SUNSET PROVISION.—This section shall not apply beginning on the date of enactment of legislation that provides comprehensive health care coverage for prescription drugs under the Medicare program (title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) for all Medicare beneficiaries.
(k) DEFINITIONS.—In this section:
(1) MEDICATION MANAGEMENT.—The term 'medication management program' means a...
program of services for older individuals, including pharmacy counseling, medicine screening, or patient and health care provider education programs, that—

(1) provides information and counseling on the prescription drug purchases that are currently the most economical, and safe and effective;

(2) provides services to minimize adverse events due to unintended prescription drug-to-drug interactions;

(3) provides services to minimize unnecessary or inappropriate use of prescription drugs; and

(4) have no coverage for prescription drugs other than coverage provided by a State pharmacy assistance program.

(b) USE OF FUNDS.—A State agency or area agency on aging in providing and administering medication management programs for individuals who—

(1) are not less than 65 years of age;

(2) are not eligible for medical assistance under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

(3) are from families with incomes at or below 200 percent of poverty line; and

(4) have no coverage for prescription drugs other than coverage provided by a State pharmacy assistance program.

(c) DURATION OF GRANT.—In awarding grants under subsection (a), the Assistant Secretary shall award such grants for a period of 2 years.

(2) STATE PHARMACY ASSISTANCE PROGRAMS.—The term ‘State pharmacy assistance program’ means a program that provides coverage for prescription drugs and medication management programs for individuals who—

(1) are not less than 65 years of age;

(2) are not eligible for medical assistance under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

(3) are from families with incomes at or below 200 percent of poverty line; and

(4) have no coverage for prescription drugs other than coverage provided by a State pharmacy assistance program.

The proposed State Pharmacy Assistance Medicaid drug benefit programs to expand services and provide assistance programs and medication management programs for individuals who—

Your legislative measure also goes far in addressing drug misuse, which the grant was awarded, the State agency will make available (directly or through donations from public or private entities) non-Federal contributions in an amount not less than 80 percent of Federal funds provided under the grant.

(g) SUPPLEMENT NOT SUPPLANT.—Funds made available under this section shall be used to supplement, and not supplant, any other Federal, State, or local funds expended by a State agency or area agency on aging to provide the services for programs described in this section.

(h) REPORTS.—

(1) REPORT TO ASSISTANT SECRETARY.—Not later than 24 months after receipt of a grant under subsection (a), a State agency shall prepare and submit to the Assistant Secretary a report on the medication management programs carried out by the State agency or area agencies on aging in the State in such form and containing such information as the Assistant Secretary may require. Including information about the effectiveness of the programs. Such report shall in part be based on evaluations submitted under subsection (b)(2).

(2) REPORT TO CONGRESS.—Not later than 36 months after grants have been awarded under subsection (a), the Assistant Secretary shall prepare and submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report that describes the effectiveness of the programs carried out with funds received under this section.

(i) MEDICATION MANAGEMENT PROGRAMS.—

In this section, the term ‘medication management program’ means a program of services to minimize unnecessary or inappropriate use of prescription drugs; and

(1) PROVIDES INFORMATION AND COUNSELING.—A State agency or area agency on aging that receives funds through a grant awarded under subsection (a) shall use such funds to—

(i) develop and implement a medication management program, or to provide assistance to a medication management program in existence on the date of enactment of this section; and

(ii) prepare an evaluation on the implementation or provision of assistance to a program described in paragraph (1), in the case of an area agency on aging, submit the evaluation to the appropriate State agency.

(j) APPLICATION.—To be eligible to receive a grant under subsection (a), a State agency shall submit to the Assistant Secretary an application at such time, in such manner, and containing such information as the Assistant Secretary may require.

(k) MINIMUM AMOUNT.—In awarding grants under subsection (a), from the amount appropriated under subsection (j) for each fiscal year, the Assistant Secretary shall award to each eligible State agency, an amount that is not less than $50,000.

(l) DURATION OF GRANT.—In awarding grants under subsection (a), the Assistant Secretary shall award such grants for a period of 2 years.

(m) MATCHING REQUIREMENT.—The Assistant Secretary shall not award a grant to a State agency under subsection (a) unless that State agency agrees that, with respect to the costs to be incurred in carrying out such program, the State agency will make available (directly or through donations from public or private entities) non-Federal contributions in an amount not less than 20 percent of Federal funds provided under the grant.

The draft you sent last week outlining Senator Jeffords’ proposed Pharmaceutical Aid to Older Americans Act, while N4A supports your proposal in concept, we have some specific questions about the implementation of the program and concerns about the roles and responsibilities of Area Agencies on Aging (AAA) and Title IV Native American grantees. We welcome the opportunity to meet with you in the near future to address these concerns.

Again, we applaud your efforts and look forward to working with you next session as you further define the proposal and shepherd it through the legislative process.

Sincerely,

JANICE JACKSON, Executive Director.

NATIONAL ASSOCIATION OF
STATE UNITS ON AGING,
SEAN DONOHUE,
U.S. Senate, Committee on Health, Education, Labor and Pensions, Washington, DC.

Dear Senator: Dan Quirk and I reviewed the draft you sent last week outlining Senator Jeffords’ proposed Pharmaceutical Aid to Older Americans Act. Overall, we support your proposal to provide grants to states to support the development or expansion of pharmaceutical assistance programs and medication management programs is a good one, and using the existing infrastructure of the Older Americans Act makes good sense. The aging network is well suited to develop and administer these types of programs. Your proposal was well developed and thoughtful.

Both programs would provide valuable assistance to older people who do not have any other prescription drug coverage available. The requirement for a 30-percent state match seems high, but allowing contributions to be ‘in-kind’ would help states in that regard. The income eligibility level of 200 percent of the federal poverty level may conflict with the eligibility levels set by states in existing programs, though I haven’t done an analysis of this yet. As with other programs under the Older Americans Act, if state-funded programs already exist, it is critical that cost sharing requirements are at odds with the federal program, it requires states essentially to manage two different funding streams for the same program or set of services. As always, giving states the flexibility to blend federal funds with state funds to develop one program would decrease administrative expenses for the states and allow the money saved to be used for direct services.

NASUA continues to support overall reform of the Medicare Part D program that would provide a comprehensive prescription drug benefit to beneficiaries. In the meantime, state-funded programs that are being developed and which would be supported under this proposal continue to fill in the gaps for people with no coverage for prescription drugs. This proposal would strengthen the existing infrastructure, and perhaps could serve to support a prescription program under Medicare whenever it may be implemented in the future.

This proposal will generate some further interest in reauthorizing the Older Americans Act as soon as possible, hopefully before the end of the 106th Congress. We were disappointed that reauthorization was stalled over long-standing disagreements over the Title V program.
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If there is anything NASUA can do to support Senator Jeffords’ proposal and reauthorization, please let me know.

Thanks for the opportunity to review the Pharmaceutical Aid to Older Americans Act.

Sincerely,

KATHLEEN C. KONKA,
Policy Associate.

By Mrs. MURRAY:

S. 1943. A bill to provide for an inexpensive book distribution program; to the Committee on Health, Education, Labor, and Pensions.

First Book Distribution Program Act

Mrs. MURRAY. Mr. President, today I introduce legislation on another topic that I will be discussing with Chairman Jeffords as we move forward with reauthorization of the Elementary and Secondary Education Act in the Senate. It will make a difference for their families, and with this investment, it will make a difference.

Chairman Jeffords and others have recognized that keeping a homeless child in their school district of origin is vital to their success. Children, especially homeless children, need continuity in their lives. Yet as a nation, we have not yet focused on funding the innovative practices that will show how this can be done and done effectively.

In addition, there are chronic problems facing homeless children, such as the problems of trying to reach out to unaccompanied homeless youth, those young people who do not have parents or guardians with them in their homeless situation. Homeless preschoolers present another whole range of issues that many schools struggle to overcome.

My legislation will provide $2 million each year in national competitive challenge grants for innovation in the education of homeless children and youth. We follow this same approach in education technology and other areas, and challenge grants are remarkably successful in sparking innovation and dissemination of new methods of instruction.

Homeless students face many challenges, and schools face challenges in serving them. Creating a small challenge grant for homeless education is one necessary step we can take to help schools help these students succeed and achieve.

By Mr. LOTT:

S. 1944. A bill to provide national challenge grants for innovation in the education of homeless children and youth; to the Committee on Health, Education, Labor, and Pensions.

Stuart McKinney Homeless Education Improvement Act

Mrs. MURRAY. Mr. President, today I introduce legislation on another topic that I will be discussing with Chairman Jeffords as we move forward with reauthorization of the Elementary and Secondary Education Act in the Senate.

By Mrs. MURRAY:

S. 1948. A bill to amend the provisions of title 17, United States Code, and the Communications Act of 1934, relating to copyright licensing and carriage of broadcast signals by satellite; to the Committee on the Judiciary.

Intellectual Property and Communications Omnibus Reform Act of 1999

Mr. LOTT. Mr. President, I ask unanimous consent that the following section-by-section analysis be printed in the RECORD.

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

Section 1. Short Title. This Act may be cited as the “Intellectual Property and Communications Omnibus Reform Act of 1999.”

Title I—Satellite Home Viewer Improvement Act of 1999

When Congress passed the Satellite Home Viewer Act in 1988, few Americans were familiar with satellite television. They typically resided in rural areas of the country where the only means of receiving television programming was through use of a large, backyard C-band satellite dish. Congress recognized the importance of providing these people with access to local and regional programming, and created a compulsory copyright license in the Satellite Home Viewer Act that enabled satellite carriers to easily license the copyrights to the broadcast programming that they retransmitted to their subscribers.

The 1988 Act fostered a boom in the satellite television industry and coupled programming and created a compulsory copyright license in the Satellite Home Viewer Act that enabled satellite carriers to easily license the copyrights to the broadcast programming that they retransmitted to their subscribers.

By Mrs. MURRAY:

S. 1949. A bill to amend the Copyright Act of 1976, and the Communications Act of 1934, relating to copyright licensing and carriage of broadcast signals by satellite; to the Committee on the Judiciary.

Third, perhaps most importantly, the Conference Committee reasserts the importance of protecting and fostering the system of television networks as they relate to the concept of localism. It is well recognized that television broadcast stations provide valuable programming tailored to local needs, such as news, weather, special announcements and information related to local activities. To that end, the Committee has structured the copyright licensing regime for satellite to encourage and promote retransmission of local television broadcast stations to subscribers who reside in the local markets of those stations.
the government's intrusion on the broader market and provide relief to the market issues and industries operate. In this context, the broadcast television market has developed in such a way that copyright licensing practices in this area take into account the national network structure, which grants exclusive territorial rights to programming in a local market to local stations either directly or through affiliation agreements. The licenses granted in this legislation attempt to hew as closely to those arrangements as possible. For example, these arrangements are mirrored in section 119 and the "unserved household" license, which grants satellite carriers the right to retransmit local stations within the station's local market, and does not require a separate copyright payment because the works have already been licensed and paid for with respect to viewers in those local markets. By contrast, allowing the importation of distant or out-of-market network stations in derogation of the local stations' exclusive right—bought and paid for in market-negotiated arrangements—to show the works has been found to undermine the localism policy of "localism" outlined above and property rights considerations in copyright law, and seeks a proper balance between the two.

Finally, although the legislation promotes satellite retransmissions of local stations, the Conference Committee recognizes the need to afford Congress the opportunity to evaluate the effectiveness and continuing need for that license at the end of the five-year period.

Section 1001. Short Title

This title may be cited as the "Satellite Home Viewer Improvement Act."

Section 1002. Limitations on Exclusive Rights; Secondary Transmissions by Satellite Carriers Within Local Markets

The House and the Senate provisions were in most respects highly similar. The conference substitute generally follows the House approach, with the differences described here.

Section 1002 of this Act creates a new statutory license, with no sunset provision, as a new section 122 of the Copyright Act of 1976. The new license authorizes the retransmission of television broadcast stations by satellite carriers to subscribers located within the local markets of those stations. Creating a new statutory license for retransmission of distant signals is not without its criticism because the current section 119 license is limited to the retransmission of distance signals by satellite. The section 122 license allows satellite carriers to provide programming to subscribers in violation of the rights of those residing within the local market of that station, without regard to whether the subscriber resides in an "unserved household." The section 122 license is modeled on section 119(2), and generally refers to a station's Designated Market Area as defined by Nielsen.

Because the section 122 license is permanent, subscribers may obtain their local television stations without fear that their local broadcast service may be turned off at a future date. In addition, satellite carriers may deliver local stations to commercial establishments as well as homes, as the cable industry does under its license. This amendment preempts the relationship between the satellite and cable industries in the provision of local television broadcast stations.

For a satellite carrier to be eligible for this license, this Act, following the House approach, provides both in new section 122(a) and in new section 122(d) that a carrier may use the new local-to-local license only if it is in full compliance with all applicable rules and regulations of the Federal Communications Commission, including any requirements developed by that agency concerning carriage of stations or programming exclusivity. These provisions are modeled on similar provisions in section 111. Failure to fully comply with Commission rules with respect to retransmission of one or more stations in the local market precludes the carrier from making use of the section 122 license. Put another way, the statutory license overrides the normal copyright scheme only to the extent that carriers strictly comply with the limits Congress has put on that license.

Because terrestrial systems, such as cable, as a general rule do not pay any copyright royalties on the broadcast stations, the section 122 license does not require payment of any copyright royalty by satellite carriers for transmissions made in compliance with the requirements of section 122. By contrast, the section 119 statutory license for distant signals does require payment of royalties. In addition, the section 122 license contains no "unserved household" limitation, while the section 119 license does contain that limitation.

Satellite carriers are liable for copyright infringement, and are enjoined to initial remedies of the Copyright Act, if they violate one or more of the following requirements of the section 122 license. First, satellite carriers may not in any way willfully alter the programming contained on a local broadcast station.

Second, satellite carriers may not use the section 122 license to retransmit a television broadcast station to a subscriber located outside the local market of the station. Re-transmission of a station to a subscriber located outside the station's local market is covered by section 119, and is permitted only when all conditions of that license are satisfied. Accordingly, satellite carriers are required to provide local broadcasters with accurate lists of the street addresses of their local-to-local subscribers so that broadcasters may verify that satellite carriers are complying with the limits Congress has put on that license. The subscriber information supplied to broadcasters is for verification purposes only, and may not be used by broadcasters for any other reason.

The section 122 license is not available if the carrier is unable to deliver local stations to the subscriber's residence within the local market of that station.

Section 1003. Extension of Effect of Amendments to Section 119 of Title 17, United States Code

As in both the House bill and the Senate amendment, this Act extends the section 119 satellite statutory license for a period of five years by changing the expiration date of the legislation from December 31, 1999, to December 31, 2004. The procedural and remedial provisions of section 119, which have already been interpreted by the courts, are being extended without change. Should the section 119 license be allowed to expire in 2004, it shall be do so at midnight on December 31, 2004, so that the license will cover the entire second accounting period of 2004.

Although the section 119 regime is largely being extended in its current form, certain
sections of the Act may have a near-term effect on pending copyright infringement lawsuits brought by broadcasters against satellite carriers. These changes are prospective only; Congress does not intend to change the legality of any conduct that occurred prior to the date of enactment. Congress does intend, however, to benefit consumers where possible and consistent with existing copyright law and principles.

This Act attempts to strike a balance among a variety of public policy goals. While increasing the number of potential subscribers to signals that they will be able to receive, the Act clarifies that satellite carriers may carry up to, but no more than, two stations affiliated with the same network. The original purpose of the Satellite Home Viewer Act was to ensure that all Americans could receive network programming and other television services provided they could not receive those services over-the-air or in any other way. This bill reflects the desire of the Conference to meet this requirement and consumers’ expectations to receive the traditional level of satellite home viewing that has been built up over the years, while avoiding an erosion of the programming market affected by the statutory licenses.

Section 1004. Computation of Royalty Fees for Satellite Carriers

Like both the House bill and the Senate amendment, this Act reduces the royalty fees currently paid by satellite carriers for the retransmission of network and superstations by 45 percent and 30 percent, respectively. These are reductions of the 27-cent royalty fees made effective by the Librarian of Congress on January 1, 1998. The reductions take effect January 1, 1999, which is the beginning of the second accounting period for 1999, and apply to all accounting periods for the five-year extension of the section 119 license. The Committee has drafted this provision so that, if the section 119 license is renewed after 2004, the 45 percent and 30 percent reductions of the 25-cent fee will remain in effect, unless altered by legislative amendment.

In addition, section 119(c) of title 17, United States Code, is amended to provide that in royalty distribution proceedings conducted under section 802 of the Copyright Act, the Public Broadcasting Service may act as agent for all public television copyright claimants and public Broadcasting Service member stations.

Section 1005. Distant Signal Eligibility for Consumers

The Senate bill contained provisions retaining the existing Grade B intensity standard in the definition of “unserved household.” The House agreed to the Senate provisions with amendments, which extend the “unserved household” definition of section 119 of title 17 intact in certain respects and amend it in other respects. Consistent with the approach of the Senate amendment, the central existing definition of “unserved household”—inability to receive, through use of a conventional outdoor rooftop receiving antenna, a signal of Grade B intensity—remains intact. The legislation directs the FCC, however, to examine the definition of “Grade B intensity,” reflecting the dbu, levels long used (and currently defined by the Commission in 47 C.F.R. §73.683(a), and issue a ruling within 6 months after enactment to evaluate the standard and, if appropriate, make recommendations to Congress about how to modify the analog standard, and make a further recommendation about what an appropriate standard would be for digital signals. In the fashion, the Congress will have the input and recommendations from the Commission, allowing the Commission wide latitude in its inquiry and recommendations, but reserve for itself the final decision of the scope of the copyright licenses in question, in light of all relevant factors.

The word “unserved household” makes other consumer-friendly changes. It will eliminate the requirement that a cable subscriber wait 90 days to be eligible to receive distant network signals. After enactment, cable subscribers will be eligible to receive distant network signals, upon choosing to do so, if they satisfy the other requirements of section 119.

In addition, this Act adds three new categories to the definition of “unserved household” in section 119(d)(10): (a) certain subscribers to network programming who are not predicted to receive a signal of Grade A intensity from any station of the relevant network or superstation in the geographic area served by the cable service; (b) certain C-band subscribers to network, (b) operators of recreational vehicles, and (c) certain C-band subscribers to network, The Senate added a new language to the definition of “unserved household” that clarifies that a cable subscriber may receive distant network service that was not subject to the copyright licenses in question.

The words “shall remain eligible” in section 119(e) refer to eligibility to receive satellite network service that was not subject to the copyright licenses in question. The Court of Appeals in AT&T Corp. v. Scanlon, 119 S.Ct. 2312 (1999) held that a satellite dish owner who received signals of the relevant network at the time of the AT&T/DBS merger became ineligible for the Act when AT&T’s contract with the relevant network was terminated. The House amendment to section 119(e) would have preserved the eligibility of those subscribers who would otherwise be eligible for the Act.

Section 1005(a) of this Act creates a new section 119(a)(2)(B)(ii)(II) of the Copyright Act to provide a moratorium on terminations of network service that was not subject to the copyright licenses in question. The conferees have concluded that the public interest will be served by a moratorium on terminations of network service that was not subject to the copyright licenses in question. The conferees strongly condemn lawbreaking by satellite carriers, and intend for satellite carriers to be subject to all other available legal remedies for any infringements in which the carriers have engaged, the conferees have concluded that the public interest will be served by a moratorium on terminations of network service that was not subject to the copyright licenses in question. The conferees intend that affected subscribers remain eligible for such service.

The words “shall remain eligible” in section 119(e) refer to eligibility to receive satellite network service that was not subject to the copyright licenses in question. The conferees have concluded that the public interest will be served by a moratorium on terminations of network service that was not subject to the copyright licenses in question. The conferees intend that affected subscribers remain eligible for such service.
This provision is, in turn, incorporated in the redefined household in new section 119(d)(10)(D). The purpose of these amendments is to allow the operators of recreational vehicles and commercial trucks to use satellite dishes permanently attached to these vehicles to receive television sets located inside those vehicles, distant network signals pursuant to section 119. To provide this protection, the exception for recreational vehicles and commercial trucks is limited to persons who have strictly complied with the documentation requirements of section 119(a)(11). Among other things, the exception will only become available as to a particular recreational vehicle or commercial truck after the satellite carrier has provided all affected networks with all documentation set forth in section 119(a). The exception will apply only for reception in that particular recreational vehicle or truck, and does not authorize any delivery of network stations to any fixed dwelling.

Section 906. Public Broadcasting Service Satellite Fees

The conference agreement follows the Senate bill with an amendment that applies the network copyright royalty rate to the Public Broadcasting Service the satellite fee. The conference agreement directs that satellite carriers pay a section 119 compulsory license to retransmit a national satellite fee distributed and designated by PBS. The license would apply to educational and informational programming to which PBS currently holds broadcast rights. The license, which would extend to all households in the United States, went into effect January 1, 2002, the date when local-to-local must-carry obligations become effective. Under the conference agreement, PBS will designate the national satellite fee for purposes of this section.

Section 907. Application of Federal Communications Commission Regulations

The section 119 license is amended to clarify that satellite carriers must comply with all rules, regulations, and authorizations of the Federal Communications Commission in order to obtain the benefits of the section 119 license. As provided in the House bill, this would include compliance with licensing provisions or carriage requirements that the Commission may adopt. Violations of such rules, regulations or authorizations would render a carrier ineligible for the copyright statutory license with respect to that retransmission.

Section 908. Rules for Satellite Carriers Re-transmitting Television Broadcast Signals

The Senate agrees to the House bill provisions regarding carriage of television broadcast signals, with certain amendments, as discussed below. Section 108 creates new sections 339 and 339 of the Communications Act of 1934. Section 339 addresses carriage of local television signals, while section 339 addresses distant television signals. New section 339 requires satellite carriers, by January 1, 2002, to carry upon request all local broadcast stations’ signals in local markets in which the satellite carrier carries at least one station. New section 339 of the Communications Act of 1934 provides that the satellite carrier may not be liable for the violation of the copyright interests of the copyright holder of the material being transmitted. The conferees urge the FCC, pursuant to its obligations under the Copyright Act, to promulgate these must-carry rules, the conferees do not take any position regarding the application of must-carry rules to carriage of digital television signals by either cable or satellite systems.

To make use of the local license, satellite carriers must provide the local broadcast station whose signal is retransmitted a royalty-free copyright license to retransmit broadcast signals on a station-by station basis, consistent with retransmission consent requirements. The transition period is intended to provide the satellite industry with a transitional period to begin providing local into local satellite service to communities throughout the country. The conferees believe that the must-carry provisions of this Act neither implicate nor violate the First Amendment. The choice whether to retransmit those signals is made by carriers, not by the Congress. The proposed licenses are a matter of legislative judgment. The proposal is intended to provide for free retransmission of broadcast signals in accordance with the First Amendment. The conferees do not take any position regarding the application of must-carry rules to carriage of digital television signals by either cable or satellite systems.

In addition, the conferees are confident that the proposed licenses would pass constitutional muster even if subject to the O'Brien standard applied to the cable must-carry requirement. The proposed provisions are intended to provide copyright protection for those not served by satellite or cable systems and to promote widespread dissemination of information from a multi-plicity of sources. However, the conferees have found both to be substantial interests, unrelated to the suppression of free expression. Providing the proposed license on a market-by-market basis facilitated by pro- ducers of satellite carrier from choosing to carry only certain stations and effectively preventing many other stations from reaching potential viewers in their service areas. The Conference Committee is concerned that, absent must-carry obligations, satellite carriers would carry the major network affiliates, and few other stations. Non-carried stations would face the same loss of viewership Congress previously warned to fear in its copyright legislation under section 338, or in any other related proceedings, to prohibit satellite carriers in a comparable position to cable systems, competing for the same audience. Applications for must-carry satellite carriers would choose to serve benefits consumers and enhance competition with cable by allowing consumers the same range of choice in local programming they receive through cable service. The conferees expect that, by January 1, 2002, satellite carriers’ market share will have increased and that the Congress’ interest in maintaining free over-the-air television will be undermined if local broadcasters are prevented from reaching viewers by either cable or satellite distribution systems. The Congress will require satellite carriers to carry all local stations and thousands of stations, including programming choices from their satellite carrier will undertake such trouble and expense to obtain over-the-air independent broadcast stations. National fees would be counterproductive because they siphon potential viewers from local over-the-air affiliates. In sum, the Conference Committee finds that trading the benefits of the copyright license for the must-carry requirement is a fair and reasonable way of helping viewers have access to all local programming while benefiting satellite carriers and their customers.

Section 338(c) contains a limited exception for satellite must-carry elections, stating that a satellite carrier need not carry two local affiliates of the same network that substantially duplicate each other’s programming, unless the duplicating stations are licensed to communities in different states. The latter provisions address unique and limited cases, including WMUR (Manchester, New Hampshire) WCVB (Boston, Massachusetts) and WPTZ (Plattsburg, New York); WNNE (White River Junction, Vermont), in which mandatory carriage of both duplicating local stations upon request assures that satellite subscribers will not be precluded from receiving the network affiliate that is licensed to the station in which they reside.

Because of unique technical challenges on satellite technology and constraints on the use of satellite spectrum, satellite carriers may not be able to deliver must-carry signals into multiple markets. New compression technologies, such as video streaming, may help overcome these problems. Nevertheless, the conferees believe that the proposed licenses would pass constitutional muster even if subject to the O'Brien standard applied to the cable must-carry requirement. The proposed provisions are intended to provide copyright protection for those not served by satellite or cable systems and to promote widespread dissemination of information from a multi-plicity of sources. The conferees have found both to be substantial interests, unrelated to the suppression of free expression. Providing the proposed license on a market-by-market basis facilitated by producers of satellite carriers from choosing to carry only certain stations and effectively preventing many other stations from reaching potential viewers in their service areas. The Conference Committee is concerned that, absent must-carry obligations, satellite carriers would carry the major network affiliates, and few other stations. Non-carried stations would face the same loss of viewership Congress previously warned to fear in its copyright legislation under section 338, or in any other related proceedings, to prohibit satellite carriers in a comparable position to cable systems, competing for the same audience. Applications for must-carry satellite carriers would choose to serve benefits consumers and enhance competition with cable by allowing consumers the same range of choice in local programming they receive through cable service. The conferees expect that, by January 1, 2002, satellite carriers’ market share will have increased and that the Congress’ interest in maintaining free over-the-air television will be undermined if local broadcasters are prevented from reaching viewers by either cable or satellite distribution systems. The Congress will require satellite carriers to carry all local stations and thousands of stations, including programming choices from their satellite carrier will undertake such trouble and expense to obtain over-the-air independent broadcast stations. National fees would be counterproductive because they siphon potential viewers from local over-the-air affiliates. In sum, the Conference Committee finds that trading the benefits of the copyright license for the must-carry requirement is a fair and reasonable way of helping viewers have access to all local programming while benefiting satellite carriers and their customers.

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carriers from using reasonable compensation, reforms, and technological solutions to mitigate their obligations, consistent with existing authority.

New section 339 of the Communications Act contemplates the provision of local-to-local television services by satellite carriers. Section 339(a)(1) limits satellite carriers to providing a subscriber with no more than two affiliated or independent stations on a given television network from outside the local market. In addition, a satellite carrier that provides two distant signals to eligible households under theellite standard set forth in section 73.683(a) of the Rules and Regulations of the Federal Communications Commission, for purposes of deter- 47 C.F.R. § 73.683(a), for purposes of deter- sity standard for analog signals set forth in a rulemaking within 1 year after enactment of this Act. Section 339(c)(3) addresses requests to local television stations for waivers of the eligibility requirements under section 119 of the Communications Act of $50.00 per violation or for each day of a continuing viola- tion. New section 339(b)(1)(A) requires the Commission to commence within 45 days of en- actment, and complete within one year after the date of enactment, a rulemaking to de- termine the best way to impose restrictions on the application of sports blackout rules to retransmission consent agreements. The regulations would, until January 1, 2006, prohibit a television broadcast station from retransmitting the signal of any television station in the local market of the retransmitted station without the consent of the television station. The regulations would also include provisions to determine whether the signal is being retransmitted pursuant to a written request for a waiver. The statutory license in section 122 of the title would reflect the FCC’s best rec- ommendation for determining whether the signal in- tensity standard should be modified and in what way. As discussed above, the two-part process allows the Commission to recom- mend modifications leaving to Congress the decision-maker on waiver of modifications of the copyright licenses at issue.

New section 339(c)(3) addresses requests to local television stations for waivers of the eligibility requirements under section 119 of title 17, United States Code. If a sat- ellite carrier is barred from delivering dis- tant network signals to a particular cus- tomer because the ILLR model predicts the customer to be served by one or more tele- vision stations affiliated with the relevant network, the consumer may submit to those stations, through the carrier, a written request for a waiver. The statutory phrase “station asserting that the transmis- sion is prohibited” refers to a station that is predicted by the ILLR model to serve the household. Each such station must ac- cept or reject the waiver request within 30 days after receiving the request from the satellite carrier. If the relevant network sta- tion grants the requested waiver, or fails to act on the waiver within 30 days, the viewer shall be deemed unserved with respect to the local network stations in question.

Section 339(c)(4) addresses the ILLR predi- cative model developed by the Commission in Docket No. 98–201. The provision requires the Commission to increase its accuracy further by taking into account not only terrain, as the ILLR model does now, but also land cover variations such as build- ings and vegetation. If the Commission dis- covers other practical ways to improve the accuracy of the ILLR model still further, it shall implement those methods as well. The FCC may determine that such dif- ferent models represent a failure to negotiate in good faith only if they are not based on competitive marketplace considerations.

Section 339 of this Act contains provisions concerning the carriage of distant television signals by satellite carriers. Section 325(b)(1) bars multichannel video program- ming distributors from retransmitting a signal of a distant network station that has been retransmitted in its entirety by a video programming distributor or refusing to enter into an exclusive retransmission consent agreement with a multichannel video program- ming distributor or refusing to negotiate in good faith, regardless of the existence of a retransmission consent agreement. A television station may generally offer different re- transmission consent terms or conditions, including price terms, to different distributors. The FCC may determine that such differ- ent terms represent a failure to negotiate in good faith only if they are not based on competitive marketplace considerations.

Section 339 of the bill adds a new sub- section (e) to section 325 of the Communications Act of 1934. New subsection (e) establishes a new expedited enforcement procedure for the alleged retransmission of a television broad- cast station in its own market without the station’s consent. The expedited enforcement procedure is to ensure that delays in obtaining relief from violations do not make the right to retransmission consent an empty one. The new provision requires 45- day processing of local-to-local retransmis- sion consent complaints at the Commission, followed by expedited enforcement of any Commission orders in the United States District Court for the Eastern District of Virginia. In addition, a television broadcast station that has been retransmitted in its local market without its consent is entitled to statutory damages of $25,000 per violation in an action in federal district court. Such damages will be awarded only if the station broadcast that was retransmitted contribute any statutory damage award above $1,000 to the United States Treasury for public purposes. The expedited enforce- ment provision contains a sunset which pre- vents the filing of any complaint with the Commission or any action in federal district court to enforce any Commission order under this provision. Some con- siders believe that these procedural provi- sions, which provide ample due process protec- tions while ensuring speedy enforcement, will make the right to retransmission consent be respected by all parties and promote a smoothly functioning marketplace.
Section 1010. Severability

Section 1010 of the Act provides that if any provision of this title or the amendments made by this title is declared unconstitutional, the remaining provisions of this title shall stand.

Section 1011. Technical Amendments

Section 1011 of this Act makes technical and conforming amendments to sections 101, 111, 119, 501, and 510 of the Copyright Act. Apart from these technical amendments, this legislation makes no changes to section 111 of the Copyright Act. In particular, nothing in this legislation makes any changes concerning entitlement or eligibility for the statutory licenses under sections 111 and 119, nor specifically to the definitions of “cable system” under section 111(f), and “satellite carrier” under section 119(d)(6). Certain technical amendments to these definitions were included in the Conference Report to the Intellectual Property and Communications Omnibus Reform Act (IP CORA) of 1999 that are not included in section 1011 of the Copyright Act. Sound recordings have been registered in the Copyright Office as works made for hire since being protected in their own right. This amendment shall not be deemed to imply that any sound recording or any other work would not otherwise qualify as a work made for hire in the absence of the amendment made by this subsection.

Section 1012. Effective dates.

Under section 1012 of this Act, sections 1001, 1003, 1065, and 1007 through 1011 shall be effective upon enactment of this Act. The amendments made by sections 1002, 1004, and 1006 shall be effective as of July 1, 1999.

Title II—Rural Local Television Signals

Section 2001. Short Title

This title may be referred to as the “Rural Local Broadcast Signal Act.”

Section 2002. Local Television Service in Unserved and Underserved Markets

To encourage the FCC to approve needed licenses (or other authorizations to use spectrum) to provide local television service in rural areas, the Commission is required to make determinations regarding needed licenses within one year of enactment. Congress intends that neither the courts nor the Copyright Office give any legal significance either to the inclusion of the amendments in the IPCORA of 1999 or to their omission in this legislation. These statutory definitions are to be interpreted in the same way after enactment of this legislation as they were interpreted prior to enactment of this legislation.

Section 1011(b) makes a technical and clarifying change to the definition of a “work made for hire” in section 101 of the Copyright Act. Sound recordings have been registered in the Copyright Office as works made for hire since being protected in their own right. The amendment shall not be deemed to imply that any sound recording or any other work would not otherwise qualify as a work made for hire in the absence of the amendment made by this subsection.

Section 1012. Effective dates.

Under section 1012 of this Act, sections 1001, 1003, 1065, and 1007 through 1011 shall be effective upon enactment of this Act. The amendments made by sections 1002, 1004, and 1006 shall be effective as of July 1, 1999.

Title III—Trademark Cyberpiracy Prevention

Section 3001. Short Title; References

This section provides that the Act may be cited as the “Anticybersquatting Consumer Protection Act of 1999.”

Subsection (a). In General. This subsection amends the Trademark Act to provide an explicit trademark remedy for cybersquatting under a new section 43(d). Under paragraph (1)(A) of the new section 43(d), actionable conduct would include the registration, trafficking in, or use of a domain name that is identical or confusingly similar to, or dilutive of, the mark of another, including a personal name that is protected as a mark under section 45, provided that the mark was distinctive (i.e., enjoyed secondary meaning) at the time the mark was registered, or in the case of trademark dilution, was famous at the time the domain name was registered. The bill is carefully and narrowly tailored, however, to extend only to cases where the plaintiff can demonstrate that the defendant registered or trafficked in, or used the offending domain name with bad-faith intent to profit from the goodwill of a mark belonging to someone else. Thus, the bill extends only to cases where the plaintiff can demonstrate that the defendant has registered or trafficked in a mark dilution, was famous at the time the domain name was registered, or in the case of trademark dilution, was famous at the time the domain name was registered. The bill is carefully and narrowly tailored, however, to extend only to cases where the plaintiff can demonstrate that the defendant registered or trafficked in, or used the offending domain name with bad-faith intent to profit from the goodwill of a mark belonging to someone else. Thus, the bill extends only to cases where the plaintiff can demonstrate that the defendant has registered or trafficked in a domain name with bad-faith intent to profit from the goodwill of a mark belonging to someone else.

Subsection (b). Exclusions. Paragraph (1)(B) of the new section 43(d) allows a defendant to defeat any action as a matter of law if the defendant can establish that the domain name was registered in good faith and that the defendant did not have actual knowledge of the plaintiff’s trademark or any other intellectual property right at the time the domain name was registered. Paragraph (1)(B)(i)(I) of the new section 43(d) provides that a defendant is in good faith if the defendant, at the time the domain name was registered, had no reason to believe that the domain name was identical or confusingly similar to a trademark that the defendant knew to be distinctive (i.e., enjoyed secondary meaning) or famous at the time the domain name was registered. Paragraph (1)(B)(i)(II) of the new section 43(d) provides that a defendant is in good faith if the defendant, at the time the domain name was registered, had no reason to believe that the domain name was identical or confusingly similar to a trademark that the defendant knew to be distinctive (i.e., enjoyed secondary meaning) or famous at the time the domain name was registered.
has not otherwise attempted to use the name in commerce, the court may look to this as an indication of the absence of bad faith on the part of the registrant.

Fourth, under paragraph (1)(B)(i)(IV), a court may consider whether or not the provision of false information in connection with a domain name registration, the perennial problem of cybersquatting. This factor recognizes that many cybersquatting is the fact that many cybersquatters register domain names—sometimes hundreds, even thousands—that mirror the trademarks of others. By sitting on these marks and not making the first move to offer to sell them to the mark owner, these cybersquatters have been largely successful in evading the case law described above, which largely successful in evading the case law described above, a significant problem faced by trademark owners. As indicated above, a significant problem faced by trademark owners.

Fifth, under paragraph (1)(B)(i)(V), a court may consider whether or not the provision of false information in connection with a domain name registration, the perennial problem of cybersquatting. This factor recognizes that many cybersquatting is the fact that many cybersquatters register domain names—sometimes hundreds, even thousands—that mirror the trademarks of others. By sitting on these marks and not making the first move to offer to sell them to the mark owner, these cybersquatters have been largely successful in evading the case law described above, which largely successful in evading the case law described above, a significant problem faced by trademark owners. As indicated above, a significant problem faced by trademark owners.

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Lastly, under paragraph (1)(B)(i)(IX), a court may consider whether or not the provision of false information in connection with a domain name registration, the perennial problem of cybersquatting. This factor recognizes that many cybersquatting is the fact that many cybersquatters register domain names—sometimes hundreds, even thousands—that mirror the trademarks of others. By sitting on these marks and not making the first move to offer to sell them to the mark owner, these cybersquatters have been largely successful in evading the case law described above, which largely successful in evading the case law described above, a significant problem faced by trademark owners. As indicated above, a significant problem faced by trademark owners.
has provided false contact information and is unable to assert personal jurisdiction over such person, provided the mark owner can show that the domain name itself violates substantive federal trademark law (i.e., that the domain name can be used to establish the right to control and authority regarding the disposition of the domain name). Upon receipt of a written notification of the complaint, the domain name registrar, registry, or other authority is required to deposit with the court documents sufficient to establish the court’s control and authority regarding the disposition of the registration and use of the domain name, or transfer, suspend, or otherwise modify the domain name during the pendency of the action, except upon order of the court. Such domain name registrar, registry, or other authority is immune from injunctive or monetary relief in such an action, except in the case of bad faith or reckless disregard, which would include a willful failure to comply with any such court order.

Paragraph (3) makes clear that the new civil action created by this Act and the in rem proceeding established thereby, any remedies available under such actions, shall be in addition to any other civil action or remedy otherwise applicable. This paragraph thus makes clear that the new subsection (d) in the Trademark Act does not in any way limit the application of current provisions of trademark, unfair competition and false advertising, false designation of origin, or other remedies under counterfeit or other statutes, to cybersquatting cases.

Paragraph (4) makes clear that the in rem jurisdiction established by the bill is in addition to any other jurisdiction that otherwise exists, whether in rem or in personam.

Subsection (b). Cyberpiracy Protection for Individuals

Subsection (b) prohibits the registration of a domain name that is the name of another living person, or a name that is substantially and confusingly similar thereto, without such person’s permission, if the registrant’s specific intent is to profit from the domain name by selling it for financial gain to such person, or to the general public, or for personal perception is broad enough to apply to the registration of full names (e.g., john doe.com), appellations (e.g., doe.com), and variations thereon (e.g., doecom). This provision is still very narrow in that it requires a showing that the registrant of the domain name registered that name with a specific intent to profit from the name by selling it to that person or to a third party for financial gain. This subsection authorizes the court to grant injunctive relief, including ordering the forfeiture or cancellation of the domain name or the transfer of the domain name to the plaintiff. Although the subsection does not authorize a court to grant monetary damages, the court may award costs and attorneys’ fees to the prevailing party in appropriate cases.

This subsection does not prohibit the registration of a domain name in good faith by an owner or licensee of a copyrighted work, such as an audiovisual work, a sound recording, a book, or other work of authorship, where the domain name is registered or assigned by the owner or licensee of the work, and where such registration is not prohibited by a contract between the domain name registered and the named person. This limitation is consistent with the First Amendment issues that may arise in such cases and defers to existing bodies of law that have developed under State and Federal law. Persons such as personal names in conjunction with works of expression. Such an exemption is not intended to provide a loophole for those whose specific intent is to profit from another’s mark by registering the domain name to that person or a third party other than in conjunction with the bona fide exploitation of a legitimate business activity such as the registration of a domain name containing a personal name by the author of a screenplay that bears the same name, with the intent to prevent objection by the author to the sale or license of the screenplay to a production studio that would not be barred by this subsection, although other provisions of State or Federal law may apply. On the other hand, the exemption for good faith registrations of domain names tied to legitimate works of authorship would not exempt a person who registers a personal name as a domain name with the intent to sell the domain name by itself, or in conjunction with a work of authorship (e.g., a book, or other work of authorship where the real object of the sale is the domain name, rather than the copyrighted work).

In sum, this subsection is a narrow provision intended to curtail one form of “cybersquatting”—the act of registering someone else’s name as a domain name for the purpose of demanding remuneration from the person in exchange for the domain name. Neither this section nor any other section in this bill is intended to create a right of publicity on any kind with respect to domain names. Nor is it intended to create any new property rights, intellectual or otherwise, in a domain name that is already in use. This subsection applies prospectively only, affecting only those domain names registered on or after the date of enactment of this Act.

Sec. 3003. Damages and Remedies

This section applies traditional trademark remedies, including injunctive relief, recovery of defendant’s profits, actual damages, and costs, to cybersquatting cases. It also creates a new section 43(d) of the Trademark Act. The bill also amends section 33 of the Trademark Act to provide for statutory damages in cybersquatting cases, in an amount of not less than $1,000 and not more than $100,000 per domain name, as the court considers just.

Sec. 3004. Limitation on Liability

This section amends section 32(2) of the Trademark Act to extend the Trademark Act’s existing limitations on liability to the cybersquatting context. This section also creates a new subparagraph (D) in section 32(2) to encourage domain name registrars and registrars to work with trademark owners to prevent cybersquatting through a limited exemption from liability for domain name registrars and registries that suspend, cancel, or transfer domain names pursuant to a court order or in the implementation of a reasonably effective policy prohibiting cybersquatting. Under this exemption, a registrar, registry, or other domain name registration authority that suspends, cancels, or transfers a domain name in a court order or a reasonable policy prohibiting cybersquatting will not be held liable for monetary damages, and will not be subject to injunctive relief requiring the registrar, registry, or other registration authority to deposit control of the domain name with a court in which an action has been filed regarding the disposition of the domain name, it has not transferred, suspended, or otherwise modified the domain name.
name during the pendency of the action, other than in a court order, and it has not willfully failed to comply with any such court order. Thus, the exemption will allow a domain name registrar, registry, or other registration authority to avoid being joined in a civil action regarding the disposition of a domain name that has been taken down pursuant to a dispute resolution policy, provided the court has obtained control over the name from the registrar, registry, or other registration authority, but such registrar, registry, or other registration authority may assume from the court an injunctive relief where no such action has been filed or where the registrar, registry, or other registration authority has transferred, suspended, or otherwise modified the domain name during the pendency of the action or willfully failed to comply with a court order.

This section also protects the rights of domain name registrants against overreaching trademark owners. Under a new subparagraph (D)(iv) in section 32(2), a trademark owner who knowingly and materially misrepresented a name registry that a domain name is infringing shall be liable to the domain name registrant for damages resulting from the suspension, cancellation, or expiration of the domain name. In addition, the court may grant injunctive relief to the domain name registrant by ordering the reactivation of the domain name or transfer of the domain name back to the domain name registrant.

In creating a new subparagraph (D)(iii) in section 32(2), this section codifies current case law recognizing the secondary liability of domain name registrars and registries for the act of registration of a domain name, absent bad-faith on the part of the registrar and registry.

Finally, subparagraph (D)(v) provides additional protections for domain name holders by allowing a domain name registrant whose name has been suspended, disabled, or transferred to file a civil action to establish that the registration or use of the domain name by such registrant is not a violation of the Lanham Act. In such cases, a court may grant injunctive relief to the domain name registrant, including the reactivation of the domain name or transfer of the domain name back to the domain name registrant.

Sec. 3005. Definitions

This section amends the Trademark Act's definitions section (section 45) to add definitions for key terms used in this Act. First, the term “Internet” as defined consistent with the meaning given that term in the Communications Act (47 U.S.C. 230(f)(1)). Second, this section creates a narrow definition of “domain name” to target the specific bad faith conduct sought to be addressed while excluding such things as screen names, file names, and other identifiers not assigned by a domain name registrar or registry.

Sec. 3006. Domain Name Registrations Involving Personal Names

This section directs the Secretary of Commerce, in consultation with the Patent and Trademark Office and the Federal Election Commission, to study and report to Congress with recommendations on guidelines and procedures for resolving disputes involving the registration or use of domain names that include personal names of others or names that are confusingly similar thereto. This section further directs the Secretary of Commerce to collaborate with the Internet Corporation for Assigned Names and Numbers (ICANN) to develop guidelines and procedures for resolving disputes involving the registration or use of domain names that include personal names of others or names that are confusingly similar thereto.

Sec. 3007. Historic Preservation

This section provides a limited immunity from suit under trademark law for historic buildings, structures, or landmarks on the National Register of Historic Places, or that are designated as an individual landmark or as a contributing building in a historic district.

Sec. 3008. Savings Clause

This section provides an explicit savings clause making clear that the bill does not affect traditional trademark defenses, such as fair use, or a person's first amendment rights.

Sec. 3009. Effective Date

This section provides that damages provided for under this bill shall not apply to the registration, trafficking, or use of a domain name that took place prior to the enactment of this Act.

SUBTITLE A—INVENTORS’ RIGHTS

Subtitle A creates a new section 297 in chapter 29 of title 35 of the United States Code, designed to curb the deceptive practices of certain invention promotion companies. Many of these companies advertise on television and in magazines that inventors may call toll-free numbers for assistance in marketing their inventions. They are sent an invention evaluation form, which they are asked to complete to allow the promoter to provide expert analysis of the market potential of their inventions. The inventors return the form with descriptions of the inventions, which become the basis for contacts by salespeople at the promotion companies. The next step is usually a “professional”—appearing product research report which contains nothing more than boilerplate information stating that the inventoring mark- et potential and fills an important need in the field. The promotion companies attempt to convince the inventor to buy their market- ing services, normally on a sliding scale in which the promoter will ask for a front- end payment of up to $10,000 and a percent- age of resulting profits, or a reduced front- end payment of $5,000 or $8,000 with commen- surately larger royalties on profits. Once paid under such a scenario, a promoter will typically and only forward information to a list of companies that never respond.

This subtitle addresses these problems by (1) requiring an invention promoter to disclose certain material information to a customer in writing prior to entering into a contract for invention promotion services; (2) making the customer the direct beneficiary of the invention promoter’s failure to make the required disclosures; and (3) requiring the Director of the United States Patent and Trademark Office, in consultation with the Federal Trade Commission, to make available a list of invention promoters who injure customers and have repeatedly made false or misleading statements or representations, or who have continued to make such statements or representations after receiving written notice of the customer’s election, statutory damages incurred by the customer or, at the customer’s election, statutory damages up to $5,000, as the court considers just. Subsection (b)(2) authorizes the court to increase damages to an amount not to exceed three times the amount awarded as statutory or actual damages in a case where the customer demonstrates, and the court finds, that the invention promoter intentionally misrepresented or omitted a material fact to such customer, or failed to make the required disclosures under subsection (a), for the purpose of deceiving the customer. In determining the amount of increased damages, courts may take into account whether regulatory sanctions or other corrective action has been taken as a result of the customer’s complaints against the invention promoter.

New section 297(c) defines the terms used in the section. These definitions are care- fully crafted to cover true invention promoters without casting a broad net. Paragraph (3) excepts from the definition of “invention promoter” departments and
November 17, 1999

CONGRESSIONAL RECORD—SENATE

This section provides that the effective date of section 297 will be 60 days after the date of enactment of this Act.

This subtitle may be cited as the “First Inventor Defense Act of 1999.”

This section allows for conducting a method that is the subject matter of the defense may be an internal method for doing business, such as an internal human resources management process, or a method for conducting business such as a preliminary or intermediate manufacturing procedure, which contributes to the effectiveness of the business by producing a useful end result for the internal operation of the business or for external sale. Commercial use does not require the subject matter at issue to be accessible to or otherwise known to the public.

Subject matter that must undergo a premarketing regulatory review period during which safety and efficacy have been established before commercial marketing or use is considered to be commercially used and in commercial use during the regulatory review period.

The question of whether an invention is a method is to be determined based on its underlying nature and not on the technicality of the form of the claim in the patent. For example, a method for doing business that has been claimed in a patent as a machine or as a consumer device is not a method for doing business. The same is true for a method for doing business that has been claimed in a patent as a machine or as a consumer device. The first inventor defense may be an internal method for doing business, such as an internal human resources management process, or a method for conducting business such as a preliminary or intermediate manufacturing procedure, which contributes to the effectiveness of the business by producing a useful end result for the internal operation of the business or for external sale. Commercial use does not require the subject matter at issue to be accessible to or otherwise known to the public.
Street case, is a method for purposes of section 273, the invention could have as easily been claimed as a method. Form should not rule substance. Subsection (b)(1) of section 273 establishes a general defense against infringement under section 271(c) of the Patent Act. Specifically, a person will not be held liable with respect to any subject matter that would otherwise infringe one or more claims to a method in another party’s patent if the person: (1) Acting in good faith, actually reduced the subject matter to practice at least one year before the effective filing date of the patent; and (2) Commercially used the subject matter before the effective filing date of the patent.

The first inventor defense is not limited to methods in any particular industry such as the financial services industry, but applies to any industry which relies on trade secrecy for protecting methods for doing or conducting the operations of their business.

Subsection (b)(2) states that the sale or other lawful disposition of a useful end result or result or result that is the subject matter of a method, if the person entitled to assert a section 273 defense, exhausts the patent owner’s rights with respect to that end result to the same extent that an unlicensed person who has reasonably puchased the subject matter from the patent owner, the purchaser will have the same right if the product is purchased from a person entitled to assert a section 273 defense.

Subsection (b)(3) creates limitations and qualifications on the use of the defense. First, a person may not assert the defense unless the subject matter asserted is for a commercial use of a method as defined in section 273(a)(1) and (3). Second, a person may not assert the defense if the subject matter was derived from the patent owner or persons in privity with the patent owner. Third, subsection (b)(3) makes clear that the application of the defense does not create a license under any subject matter in question—it extends only to the specific subject matter claimed in the patent with respect to which the person can assert the defense in that same way. Moreover, the defense does extend to variations in the quantity or volume of use of the claimed subject matter, and to improvements that do not infringe additional, specifically-claimed subject matter.

Subsection (b)(4) requires that the person asserting the defense has the burden of proof in establishing it by clear and convincing evidence. Subsection (b)(5) establishes that the person who abandons the commercial use of subject matter may not rely on activities performed before the date of such abandonment in establishing the defense with respect to actions taken after the date of abandonment. Such a person can rely only on the date when commercial use of the subject matter was resumed.

Subsection (b)(6) notes that the defense may only be asserted by the person who performed the acts necessary to establish the defense, and, except for transfer to the patent owner, the right to assert the defense cannot be licensed, assigned, or transferred to a third party except as an ancillary and subordinate part of a good-faith assignment or transfer for other reasons of the entire enterprise or line of business to which the defense relates.

When the defense has been transferred along with the enterprise or line of business to which it relates as permitted by subsection (b)(6), subsection (b)(7) limits the sites for which the defense may be asserted. Specifically, when the enterprise or line of business to which the defense relates has been transferred, the defense may be asserted only for those sites where the subject matter was used before the later of the patent filing date or the date of transfer of the enterprise or line of business to which the defense relates.

Subsection (b)(8) states that a person who fails to demonstrate a reasonable basis for asserting the defense may be held liable for attorneys’ fees under section 285 of the Patent Act.

Subsection (b)(9) specifies that the successful assertion of the defense does not mean that the affected patent is invalid. Para. 9

Subsection (b)(10) states that the defense does extend to variations in the quality or volume of use of the claimed subject matter, and to improvements that do not infringe additional, specifically-claimed subject matter.

Sec. 4303. Effective date and applicability

The effective date for subsection (b) is the date of enactment, except that the title does not apply to any infringement action pending on the date of enactment or to any subject matter for which an adjudication of infringement, including a consent judgment, has been made final before the effective date of the subsection.

SUBTITLE D—PATENT TERM GUARANTEE

Subtitle D amends the provisions in the Patent Act that compensate patent applicants for certain reductions in patent term that are not the fault of the applicant. The amendment provides for a 17-year term adjustment for patents that are less than the 17 years as provided under new section 154(b)(1)(A) guarantees a total application pendency of more than no more than three years from the effective filing date of the patent application or the date on which the application is filed under current law, although the matter has been made by the patent owner. For example, if a purchaser would have had the right to resell the product that resulted from the patent, the purchaser will have the same right if the product is purchased from a person entitled to assert a section 273 defense.

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Sec. 4401. Short title

This subtitle may be cited as the “Patent Term Guarantee Act of 1999.”

Sec. 4402. Patent term guarantee authority
(2) The term of any patent which has been determined by a patent term adjustment provision set forth in section 4404 of the bill to be a term that is equal to the time in which the applicant failed to engage in reasonable efforts to conclude prosecution of the application, based on regulations developed by the Director, and an applicant shall be deemed to have failed to engage in such reasonable efforts for any periods of time in excess of three months that are taken to respond to a notice from the Office making any rejection or other request.

New section 154(b)(3) sets forth the procedures for the adjustment of patent terms. Paragraph (3)(A) authorizes the Director to establish regulations by which term extensions are determined and contested. Paragraph (3)(B) requires the Director to send a notice of any determination with the notice of allowance and to give the applicant an opportunity to request reconsideration of the determination. Paragraph (3)(C) requires the Director to send a notice of any determination with the notice of grant of a patent and an applicant shall be deemed to have satisfied applicant to seek remedy in the Court of Appeals for the Federal Circuit.

Finally, under subparagraph (B)(v), where an application has been published in the foreign country, either directly or through the PCT, so that the application will be published 18 months from its earliest effective filing date, the applicant may provide the USPTO with the scope of the publication by the USPTO to the total of the cumulative scope of the applications filed in all foreign countries. Where the foreign application is identical to the application filed in the United States or where an application filed under the PCT is identical to the application filed in the United States, the applicant may not limit the extent to which the application filed in the United States is published. Where an applicant has limited the description of an application filed in a foreign country, either directly or through the PCT in comparison with the application filed in the USPTO, the applicant may restrict the publication of the USPTO to no more than the cumulative details of what will be published in all of the foreign applications and through the PCT. The applicant may thereby limit the extent to which the application filed in the United States is published.

New section 154(b)(4) regulates appeals of term adjustment determinations made by the Director. Paragraph (4)(A) requires a dissatisfied applicant to seek remedy in the District Court for the District of Columbia under the Administrative Procedures Act within 180 days after the grant of the patent. The Director shall alter the term of the patent to reflect any final judgment. Paragraph (4)(B) precludes a third party from challenging the determination of a patent term prior to patent grant.

Sec. 4501. Short title
Sec. 4502. Publication
Sec. 4503. Continued examination of patent applications
Sec. 4504. Amendments to section 122 of the Patent Act
Sec. 4505. Effective date

Finally, under subparagraph (B)(v), where an application has been published in the foreign country, either directly or through the PCT, so that the application will be published 18 months from its earliest effective filing date, the applicant may provide the USPTO with the scope of the publication by the USPTO to the total of the cumulative scope of the applications filed in all foreign countries. Where the foreign application is identical to the application filed in the United States or where an application filed under the PCT is identical to the application filed in the United States, the applicant may not limit the extent to which the application filed in the United States is published. Where an applicant has limited the description of an application filed in a foreign country, either directly or through the PCT in comparison with the application filed in the USPTO, the applicant may restrict the publication of the USPTO to no more than the cumulative details of what will be published in all of the foreign applications and through the PCT. The applicant may thereby limit the extent to which the application filed in the United States is published.
priority under Article 4 of the Paris Convention for the Protection of Industrial Property. Under that Article, an applicant seeking protection in the United States may claim the filing date of an application for the same invention filed in another Convention country provided the subsequent application is filed in the United States within 12 months of the earlier filing in the foreign country.

Section 4503 of subtitle V amends section 119(b) of the Patent Act to authorize the Director to establish a cut-off date by which the applicant must claim priority. This is to ensure that the claim will be made early enough—generally not later than the 16th month from the earliest effective filing date—so as to permit an orderly provisional application schedule for pending applications. As the USPTO moves to electronic filing, it is envisioned that this date could be moved closer to the 18th month.

The amendment to §119(b) also gives the Director discretion to consider the failure of the applicant to file a timely claim for priority to be a waiver of any such priority claim. The Director is also authorized to establish procedures (including the payment of a surcharge) to accept an unintentionally delayed priority claim. Section 4503(b) of subtitle E amends section 120 of the Patent Act in a similar way. This provision empowers the Director to: (1) establish the priority of an earlier filed United States application must be claimed; (2) consider the failure to meet that time limit to be a waiver of the right to claim such priority; and (3) accept an unintentionally late claim of priority subject to the payment of a surcharge.

Section 4504 amends section 154 of the Patent Act by adding a new subsection (d) to accord provisional rights to obtain a reasonable royalty for applicants whose applications are published under amended section 122(b) of the Patent Act, supra, or applications designating the United States filed under the PCT. Generally, this provision establishes the right of an applicant to file a provisional claim of priority of an earlier filed United States application must be claimed; (2) consider the failure to meet that time limit to be a waiver of the right to claim such priority; and (3) accept an unintentionally late claim of priority subject to the payment of a surcharge.

Sec. 4504. Provisional rights

Section 4505 amends section 154 of the Patent Act by adding a new subsection (d) to accord provisional rights to obtain a reasonable royalty for applicants whose applications are published under amended section 122(b) of the Patent Act, supra, or applications designating the United States filed under the PCT. Generally, this provision establishes the right of an applicant to file a provisional claim of priority of an earlier filed United States application must be claimed; (2) consider the failure to meet that time limit to be a waiver of the right to claim such priority; and (3) accept an unintentionally late claim of priority subject to the payment of a surcharge.

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Sec. 4601. Short title. This subtitle may be cited as the "Optional Inter Partes Reexamination Procedure Act."

Sec. 4602. Clarification of Chapter 30. This section distinguishes Chapter 31 from existing Chapter 30 by changing the title of Chapter 30 to "Ex Parte Reexamination of Patents."

Sec. 4603. Definitions. This section amends section 100 of the Patent Act by defining "third-party requester" as a person who is not the patent owner requesting an inter partes reexamination under section 302 or inter partes reexamination under section 311.

Sec. 4604. Optional Inter Partes Reexamination Procedure. Section 4604 amends Part III of title 35 by inserting a new Chapter 31 setting forth optional inter partes reexamination procedures. New section 311, as amended by this section, differs from section 302 of existing law in Chapter 30 of the Patent Act by requiring any person filing a written request for inter partes reexamination to identify the real party in interest.

Sec. 4605. Conforming amendments. Proposed section 318 gives a patent owner a right, once an inter partes reexamination by the USPTO may not assert at a later time in any civil action in U.S. district court the invalidity of any claim finally determined to be patentable on any ground that the third-party requester raised or could have raised during the inter partes reexamination. The third-party requester may assert invalidity based on newly discovered prior art unavailable at the time of the reexamination. Prior art was unavailable at the title of the reexamination if it was not known to the individuals who were involved in the reexamination proceeding on behalf of the third-party requester and the USPTO.

Sec. 4606. Estoppel Effect of Reexamination. Subtitle G of title 35, as amended by this subtitle, provides for the Director to issue and publish certificates canceling unpatentable claims, confirming patentable claims, and incorporating any amended or new claim determined to be patentable in an inter partes procedure.

Sec. 4607. Stoppage of Reexamination. Subtitle F distinguishes Chapter 31 from existing law and its reexamination proceedings under existing law and its reexamination procedures. The patent owner and the third-party requester shall have one opportunity to file a response by the patent owner to an action on any claim of the patent that is entered that the party failed to prove the invalidity in a civil action and a final decision is entered in favor of the patent owner during any reexamination.

Sec. 4608. Effective date. Subtitle F shall take effect on the date of the enactment and shall apply to any patent that issued from an original patent application filed in the United States on or after that date, except that the amendments made by section 4608(a) shall take effect one year from the date of enactment.

Sec. 4609. Making the following conforming amendments to the Patent Act. A patent applicant, any of whose claims has been once rejected; a patent owner in a reexamination proceeding; and a third-party requester in an inter partes reexamination proceeding may all appeal final adverse decisions by a primary examiner to the Board of Patent Appeals and Interferences.

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The Director is required pursuant to section 143 (proceedings on appeal to the Federal Circuit) to submit to the court the grounds for the USPTO decision in any reexamination addressing all the issues involved in the appeal.
and Trademark Office Efficiency Act.’’

Sec. 4701. Short title

II

policies, goals, performance, budget and user

Sec. 4701. Short title

Sec. 4711. Establishment of Patent and Trade-

Mark Office

Section 471 establishes the USPTO as an agency of the United States within the Department of Commerce and under the policy direction of the Secretary of Commerce. The USPTO, if composed and agency, is explicitly responsible for decisions regarding the management and administration of its operations and for control of budget allocations and expenditures, personnel decisions and processes, procurements, and other administrative and management functions. Patent operations and trademark operations are to be treated as separate operating units within the Office, each under the direction of its respective Commissioner, as supervised by the Director.

The USPTO shall maintain its principal office in the metropolitan Washington, D.C., area, for the service of process and papers and for the discharge of its functions. For purposes of venue in civil actions, the agency is deemed to be a resident of the district in which its principal office is located, except for a suit against the United States. The USPTO is also permitted to establish satellite offices in such other places in the United States as it considers necessary and appropriate to conduct business. This is intended to allow the USPTO, if appropriate, to serve American applicants better.

Sec. 4712. Powers and duties

Subject to the policy direction of the Secretary of the Commerce, in general the USPTO will be responsible for the granting and issuing of patents, the registration of trademarks, and the dissemination of patent and trademark information to the public.

The USPTO will also possess specific powers, which include:

(1) a requirement to adopt and use an Office seal for special notice purposes and for authenticating patents, trademark certificates and papers issued by the Office;

(2) the authority to establish regulations, not inconsistent with Title 35 or any other federal law, authorizing the conduct of patent and trademark operations, subject to any administratively or statutorily imposed limits (full-time equivalents, or ‘‘FTEs’’) on positions or personnel.

The USPTO is charged with developing and administering a patent and trademark law, respectively; and they shall be responsible for the management and direction of the patent and trademark operations, respectively. In addition to receiving a basic rate of compensation under the Senior Executive Service and a locality pay, the Commissioners may receive bonuses of up to 50 percent of their annual basic rate of compensation, not to exceed the salary of the Vice President, based on performance evaluations by the Secretary, acting through the Director. The Secretary may remove Commissioners for misconduct or unsatisfactory performance. It is intended that the Commissioners will be non-political expert appointees, independently responsible for operations, subject to supervision by the Director.

The Director may appoint all other officers, agents, and employees as she sees fit, and define their responsibilities with equal discretion. The USPTO is specifically not subject to any administrative or legally imposed limits (full-time equivalents, or ‘‘FTEs’’) on positions or personnel.

The USPTO is charged with developing and administering a patent and trademark incentive program to retain senior (of the primary examiner grade or higher) patent and trademark examiners eligible for retirement for the sole purpose of training patent and trademark examiners.

The Director of the USPTO, in consultation with the Director of the Office of Personnel Management, is required to maintain a program for identifying national security positions at the USPTO and for providing for appropriate security clearances for USPTO employees in order to maintain the secrecy of inventions as described in section 181 of the Patent Act and to prevent disclosure of sensitive and strategic information in the interest of national security.

The USPTO will be subject to all provisions of title 5 of the U.S. Code governing federal employees. All relevant labor agreements, which are applicable to the appointment of subtitle G shall be adopted by the agency. All USPTO employees as of the day before the effective date of subtitle G shall continue to be considered employees of the agency without a break in service. Other personnel of the Department of Commerce shall be transferred to the USPTO only if necessary to retain positions of significant policy responsibility and if a majority of their work is reimbursed by the USPTO.
Congressional Record—Senate

Sec. 4714. Public Advisory Committees

Section 4714 provides a new section 5 of the Patent Act which establishes a Patent Public Advisory Committee and a Trademark Public Advisory Committee. Each Committee has nine voting members with three-year terms appointed by and serving at the pleasure of the Secretary of Commerce. Initial appointments will be made within three months of the date of the Act; thereafter, one-third of the initial appointees will receive one-year terms, three will receive two-year terms, and three will receive full terms. Vacancies will be filled within three months. The Secretary will also designate chairpersons for three-year terms.

The members of the Committees will be U.S. citizens and will be chosen to represent the interests of USPTO users. The Patent Public Advisory Committee shall have members who represent small and large entity applicants in amounts proportional to the number of applications filed by the small and large entity applicants. In no case shall the small entity applicants be represented by less than 25 percent of the members of the Patent Public Advisory Committee, at least one of whom shall be an independent inventor. The members of both Committees shall include individuals with substantial background and achievement in finance, management, labor relations, science, technology, and office automation.

The patent and trademark examiners' unions will be represented by at least one of whom shall be an independent inventor. The members of both Committees shall include individuals with substantial background and achievement in finance, management, labor relations, science, technology, and office automation.

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to reestablishment of an office shall be considered to be the transfer of that function.

Sec. 4748. Appropriations and funding
Under section 4748, existing appropriations and funds available for the performance of functions and other activities terminated pursuant to subtitle G shall remain available (for the duration of their period of availability) for necessary expenses in connection with the termination and resolution of such functions and activities, subject to the submission of plans by House and Senate appropriators in accordance with Public Law 105–277 (Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Fiscal Year 1999).

Sec. 4749. Definitions
“Function” includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

“Office” includes any office, administration, agency, bureau, institute, council, unit, organization, or component thereof.

SUBTITLE H—MISCELLANEOUS PATENT PROVISIONS

Subtitle H consists of several largely unrelated provisions that make need clarifying and technical changes to the Patent Act. Subtitle H also authorizes a study. The provisions in this subtitle are designed to respond to requests of members from those countries that are technically unable to base a priority claim on a foreign application for a plant breeder’s right when seeking plant patent or utility patent protection in the United States.

Sec. 4801. Provisional applications

Section 4801 amends section 111(b)(5) of the Patent Act by permitting a provisional application to be converted into a non-provisional application. The applicant must make a request within 12 months after the filing date of the provisional application for it to be converted into a non-provisional application.

Section 4802 also amends section 119(e) of the Patent Act by clarifying the treatment of a provisional application when its last day of pendency falls on a weekend or a Federal holiday, and by eliminating the requirement that a provisional application must be converted with a non-provisional application if the provisional application is to be relied on in any USPTO proceeding.

Sec. 4802. International applications

Section 4802 amends section 119(a) of the Patent Act to permit persons who filed an application for patent first in a WTO member country to claim the right of priority in a subsequent patent application filed in the United States, even if such country does not have a mutual agreement for the protection of industrial property to other WTO member countries. As some WTO member countries are not yet members of the Paris Convention, and as developing countries are generally permitted periods of up to 5 years before complying with all provisions of the TRIPS Agreement, they are not required to recognize the right of priority for applications filed in other WTO member countries until such time.

Sec. 4802 also adds subsection (f) to section 119 of the Patent Act to provide for the right of priority in the United States on the basis of an application for a plant breeder’s right first filed in a WTO member country or in a Paris Convention country. Many foreign countries provide only a sui generis system of protection for plant varieties. Because section 119 presently addresses only patents and utility models, several countries that from those countries are technically unable to base a priority claim on a foreign application for a plant breeder’s right when seeking plant patent or utility patent protection in the United States.

Subsection (g) is added to section 119 to define the terms “WTO member country” and “UPOV Contracting Party.”

Sec. 4803. Certain limitations on remedies for patent infringement not applicable

Section 4803 amends section 287(c)(4) of the Patent Act, which pertains to certain limitations on remedies for patent infringement, to make it applicable only to applications filed on or after September 30, 1996.

Sec. 4804. Electronic filing and publications

Section 4804 amends section 22 of the Patent Act by permitting the USPTOA to make clear that an inventor who has filed a provisional application. The applicant must make a provisional application. The applicant must make a request within 12 months after the filing date of the provisional application for it to be converted into a non-provisional application.

In addition, in the operation of its information dissemination programs and as the sole source of patent data, the USPTO should implement procedures that assure that bulk patent data are provided in such a manner that subscribers have the data in a manner that grants a sufficient amount of time for such subscribers to make the data available through their own systems at the same time the USPTO makes the data publicly available through its own Internet system.

Sec. 4805. Study and report on biologic deposits in support of biotechnology patents

Section 4805 charges the Comptroller General, in consultation with the Director of the USPTO, with conducting a study and submitting a report to Congress no later than six months after the date of enactment on the potential risks to the U.S. biotechnological industry regarding biological deposits in support of biotechnology patents. The study shall include: an examination of the risk of export and of transfers to third parties, and any related recommendations. The USPTO is then charged with considering these recommendations when drafting regulations affecting biological deposits.

Sec. 4806. Prior invention

Section 4806 amends section 102(g) of the Patent Act to make clear that an inventor who is involved in a USPTO interference proceeding and section 103(c) of the Patent Act. The statute states that subject matter developed by another person which qualifies as prior art only under section 102(f) or (g) shall not preclude granting a patent on an invention with only obvious differences where the subject matter and claimed invention were, at the time the invention was made, owned by the same person or subject to an assignment of assignment to the same person. The bill amends section 103(c) by adding a reference to section 102(e), which currently bars the use of a patent to claim priority of invention in another patent granted on an application filed before the applicant’s date of invention. The effect of the amendment is to allow an applicant to receive a patent on an invention with only obvious differences from the applicant’s invention was described in a patent granted on an invention filed before the applicant’s invention, provided the inventions are commonly owned or subject to an assignment of obligation to the same person.

Sec. 4808. Exchange of copies of patents with foreign countries

Section 4808 amends section 12 of the Patent Act to permit the Director of the USPTO from entering into an agreement to exchange or exchange data with a foreign country. It is not one of our NAFTA27 or WTO trading partners, while the Secretary of Commerce explicitly authorizes such an exchange.

TITLE V—MISCELLANEOUS PROVISIONS

Section 5001. Commission on Online Child Protection

Sec. 5001(a) provides that references contained in the amendments made by this title are to section 105 of the Child Online Protection Act (47 U.S.C. 231 note).

Sec. 5001(b) amends the membership of the Commission on Online Protection to remove a requirement that a specific number of representatives come from designated sectors of private industry, as outlined in the Act. Section 5001(b) also provides that the members appointed by the Commission as of October 31, 1999, shall remain as members.

Sec. 5001(c) extends the due date for the report of the Commission by one year.

Sec. 5001(d) establishes that the Commission’s statutory authority will expire either (1) 30 days after the submission of the report required by the Act, or (2) November 30, 2000, whichever is earlier.

Sec. 5001(e) requires the Commission to commence its first meeting no later than March 31, 2000. Section 5001(e) also requires that the members of the Commission, with the consent of at least four members of the Commission, by a majority vote, a chairperson of the Commission shall remain as members.

Sec. 5001(f) establishes minimum rules for the operations of the Commission, and also allows the Commission to adopt other rules as it deems necessary.

Sec. 5001(g) amends section 102 of the Child Online Protection Act (47 U.S.C. 231 note).

Title V—MISCELLANEOUS PROVISIONS

Sec. 5001(c) establishes that the Commission’s statutory authority will expire either (1) 30 days after the submission of the report required by the Act, or (2) November 30, 2000, whichever is earlier.

Sec. 5001(e) requires the Commission to commence its first meeting no later than March 31, 2000. Section 5001(e) also requires that the members of the Commission, with the consent of at least four members of the Commission, by a majority vote, a chairperson of the Commission shall remain as members.

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Sec. 5001(f) establishes minimum rules for the operations of the Commission, and also allows the Commission to adopt other rules as it deems necessary.

Sec. 5001(g) amends section 102 of the Child Online Protection Act (47 U.S.C. 231 note).
complete the biennial review required by section 202(h) of the Telecommunications Act of 1996. The Conferences expect that if the Commission concludes that it should retain any of the rules under the review unchanged, the Commission shall issue a report that includes a full justification of the basis for such finding.

Section 5004. Broadcasting Entities.

This provision, added in Conference, allows for a remittance of copyright damages for public broadcasts where the nature and extent of that use are not aware and have no reason to believe that their activities constituted violations of copyright law. This is currently the standard for nonprofit libraries, archives and educational institutions.

Section 5005. Technical Amendments Relating to Vessel Hull Design Protection.

This section makes several amendments to chapter 13 of the Copyright Act regarding design protection for vessel hulls. The sunset provision for chapter 13, enacted as part of the Digital Millennium Copyright Act, is removed so that chapter 13 is now a permanent provision of the Copyright Act. The timing and number of joint studies to be done by the Copyright Office and the Patent and Trademark Office are amended to allow more of the public hearings, and the submission of written statements, oral presentations at one or more of the public hearings, and written statements, oral presentations at one or more of the public hearings, and must be designed to carry at least one passenger. This clarifies Congress's intent to allow design protection for such items as boats, sailboats, and any other vessel. A "vessel" is defined as a "vessel" in chapter 13 is amended to provide that in addition to being able to navigate on or through water, a vessel must be self-propelled and able to steer, and must be designed to carry at least one passenger. This clarifies Congress's intent not to allow design protection for such craft as barges, toy and remote controlled boats, inner tubes and surf boards. As barges, toy and remote controlled boats, inner tubes and surf boards, are not to allow design protection for such craft as barges, toy and remote controlled boats, inner tubes and surf boards.

Section 5006. Informal Rulemaking of Copyright Determination.

The Copyright Office has requested that Congress make a technical correction to section 120(a)(1)(C) of the Copyright Act by deleting the phrase "on the record." The Copyright Office believes that this correction is necessary to avoid any misunderstanding regarding the meaning of the phrase "on the record." The Copyright Office believes that this correction is necessary to avoid any misunderstanding regarding the meaning of the phrase "on the record." The Copyright Office believes that this correction is necessary to avoid any misunderstanding regarding the meaning of the phrase "on the record." The Copyright Office believes that this correction is necessary to avoid any misunderstanding regarding the meaning of the phrase "on the record." The Copyright Office believes that this correction is necessary to avoid any misunderstanding regarding the meaning of the phrase "on the record." The Copyright Office believes that this correction is necessary to avoid any misunderstanding regarding the meaning of the phrase "on the record." The Copyright Office believes that this correction is necessary to avoid any misunderstanding regarding the meaning of the phrase "on the record."
because of emerging DTV service, not all LPTV stations will be able to maximize their service area, as provided for in the FCC's rules.

With regard to maximization, a full-service digital television station must file an application for maximization or a notice of intent to file any such application by the date of enactment. On December 31, 1999, file a bona fide application for maximization by May 1, 2000, and also comply with all applicable FCC rules regarding the construction of digital television facilities. The term "maximization" is defined in paragraph 31 of the FCC's Sixth Report and Order as the increase in operating power of a digital television station, their service areas by operating with additional power or higher antenna than specified in the FCC's digital television table of allotments. Paragraph (3) clarifies that a station must reduce the protected contour of its digital television service area in accordance with any modifications requested in future change applications. This provision is intended to ensure that stations indeed utilize the full amount of maximized spectrum for which they originally apply by the aforementioned deadline, protect the transition to digital.

Section 5008(a) provides that the short title of this section is the “Community Broadcasters Protection Act.” Section 5008(b) describes the Congress' findings on the importance of low-power television service. The Congress finds that LPTV stations have operated in a manner beneficial to the public, and in many instances, provide worthwhile and diverse services to communities that lack access to over-the-air programming. The Congress also finds, however, that LPTV stations' secondary regulatory status effectively blocks access to capital.

Section 5008(c) amends section 336 of the Communications Act of 1934 to require the FCC to create a new “Class A” license for certain qualifying LPTV stations. New paragraph (1)(A) in particular directs the FCC to prescribe rules within 120 days of enactment for the establishment of a new Class A television license that will be available to qualifying LPTV stations. The FCC's rules must ensure that a Class A licensee receives the same license terms and renewal standards as any full-service, and that each Class A licensee shows evidence of good service. Paragraph (B) further requires the FCC, within 30 days of enactment, to send to each existing LPTV licensee a notice that describes the requirements for Class A designation. Within 60 days of notice (or within 30 days of the FCC's notice), LPTV stations intending to seek Class A designation must submit a certification of eligibility to the FCC. Absent a material deficiency in an LPTV station's certification materials, the FCC is required under paragraph (B) to grant a certification of eligibility.

Paragraph (C) permits an LPTV station, within 30 days of the issuance of the rules required under subparagraph (A), to submit an application for Class A designation. The FCC must award a Class A license to a qualifying LPTV station within 30 days of receiving a provisional application. Subparagraph (D) mandates that the FCC must act to preserve the signal contours of an LPTV station pending the final resolution of its application for a Class A license. In the event any technical problems arise that require an engineering solution to a full-service station's allotted parameters or channel assignment in the DTV table of allotments, and subparagraph (D) requires the FCC to make the necessary modifications to ensure that such full-service station can replicate or maximize its service area, as provided for in the FCC's rules.

Finally, paragraph (7) provides that the FCC may not grant a Class A license (or a modification thereto) unless the requesting LPTV station demonstrates that it will not interfere with one of three types of radio-based services. First, under subparagraph (A), the LPTV station must show that it will not interfere with (i) the predicted Grade B contour of any station transmitting in analog format; or (ii) the digital television service areas provided in the DTV table of allotments. The digital television service areas of stations subsequently granted by the FCC prior to the filing of a Class A application; or lastly, stations seeking to maximize power under the FCC's rules (provided such stations are in compliance with the notification requirements under paragraph (1)).

Second, under subparagraph (B), the LPTV station must show that it will not interfere with any licensed, authorized or pending LPTV station or translator. And third, under subparagraph (C), the LPTV station must show that it will not interfere with terrestrial services (e.g., land mobile services) that also operate on television broadcast channels 14 through 20.

Finally, paragraph (8) establishes priority for those LPTV stations that are displaced by an application filed under this section, in that these LPTV's have priority over other LPTV's in the assignment of available channels.

FOOTNOTES
5The Supreme Court has described the "two types" of quasi in rem proceedings: a type I proceeding in which "the plaintiff seeks to establish a pre-existing claim in the subject property and to extinguish or establish the nonexistence of similar interests of particular persons," and a type II action, in which "the plaintiff seeks to apply what he conceives to be the property of the defendant to the satisfaction of a claim against him." Hanson v. Denckla, 357 U.S. 215, 246 n.12 (1958).
615 U.S.C. §110(1), et seq., of stations of services subsequently granted by the FCC to create a new "Class A" license for certain qualifying LPTV stations. New paragraph (1)(A) in particular directs the FCC to prescribe rules within 120 days of enactment for the establishment of a new Class A television license that will be available to qualifying LPTV stations. The FCC's rules must ensure that a Class A licensee receives the same license terms and renewal standards as any full-service, and that each Class A licensee shows evidence of good service. Paragraph (B) further requires the FCC, within 30 days of enactment, to send to each existing LPTV licensee a notice that describes the requirements for Class A designation. Within 60 days of notice (or within 30 days of the FCC's notice), LPTV stations intending to seek Class A designation must submit a certification of eligibility to the FCC. Absent a material deficiency in an LPTV station's certification materials, the FCC is required under paragraph (B) to grant a certification of eligibility.

Paragraph (C) permits an LPTV station, within 30 days of the issuance of the rules required under subparagraph (A), to submit an application for Class A designation. The FCC must award a Class A license to a qualifying LPTV station within 30 days of receiving a provisional application. Subparagraph (D) mandates that the FCC must act to preserve the signal contours of an LPTV station pending the final resolution of its application for a Class A license. In the event any technical problems arise that require an engineering solution to a full-service station's allotted parameters or channel assignment in the DTV table of allotments, and subparagraph (D) requires the FCC to make the necessary modifications to ensure that such full-service station can replicate or maximize its service area, as provided for in the FCC's rules.

Finally, paragraph (7) provides that the FCC may not grant a Class A license (or a modification thereto) unless the requesting LPTV station demonstrates that it will not interfere with one of three types of radio-based services. First, under subparagraph (A), the LPTV station must show that it will not interfere with (i) the predicted Grade B contour of any station transmitting in analog format; or (ii) the digital television service areas provided in the DTV table of allotments. The digital television service areas of stations subsequently granted by the FCC prior to the filing of a Class A application; or lastly, stations seeking to maximize power under the FCC's rules (provided such stations are in compliance with the notification requirements under paragraph (1)).

Second, under subparagraph (B), the LPTV station must show that it will not interfere with any licensed, authorized or pending LPTV station or translator. And third, under subparagraph (C), the LPTV station must show that it will not interfere with terrestrial services (e.g., land mobile services) that also operate on television broadcast channels 14 through 20.

Finally, paragraph (8) establishes priority for those LPTV stations that are displaced by an application filed under this section, in that these LPTV's have priority over other LPTV's in the assignment of available channels.
By Mr. LEAHY:
S. 499. A bill to promote economically sound modernization of electric power generation capacity in the United States, to establish requirements to improve the combustion heat rate efficiency of fossil fuel-fired electric utility generating units, to reduce emissions of mercury, carbon dioxide, nitrogen oxides, and sulfur dioxide, to require the use of fuel-cell electric utility generating units operating in the United States meet new review requirements, to promote the use of clean coal technologies, and to promote alternative energy and clean energy sources such as solar, wind, biomass, and geothermal cells; to the Committee on Finance.

CLEAN POWER PLANT AND MODERNIZATION ACT
OF 1999

Mr. LEAHY. Mr. President, Vermonters have a proud tradition of protecting our environment. We have some of the strongest environmental laws in the country. Yet despite this proud tradition of environmental stewardship, we have seen how pollution from outside our state has affected our mountains, lakes and streams. Acid rain caused from sulfur dioxide emissions outside Vermont has drifted through the atmosphere and scarred our mountains and poisoned our streams. Mercury has quietly made its deadly poisonous presence into the food chain of our fish to the point where health advisories have been posted for the consumption of several species.

And, despite our own tough air laws and small population, the EPA has considered air quality warnings in Vermont that are comparable to emissions consistent for much larger cities. Silently each night, pollution from outside Vermont seeps into our state, and our exemplary and forward-looking environmental laws are powerless to stop or even limit the encroachment.

The Clean Air Act of 1970 was a milestone which established national air quality standards for the first time and attempted to provide protection for populations which are affected by emissions outside their own local and state control. That bill did much to halt declining air quality around the country and improve it in some areas. It also acknowledged that fossil fuel utility plants contribute a significant amount of air pollution not only in the area immediately around the plant but can affect air quality hundreds of miles away.

While the bill has improved air quality, changes in the utility market since passage of the Clean Air Act make it necessary to consider important updates to the legislation. States throughout the country are deregulating utilities and soon Congress may consider federal legislation on this issue. I support these economic changes but Congress and the Administration should keep pace with this changing market. Breaking down the barriers of a regulated utility market can have important consequences for utility customers. More competition will drive down prices. But these lower costs will come with a price—the cheapest power is unfortunately produced by some of the dirtiest power plants. Most of these power plants were grandfathered under the Clean Air Act.

So today I am introducing the "Clean Power Plant and Modernization Act" to address the local, regional, and global air pollution problems that are posed by fossil-fired power plants under a deregulated market.

In the last few weeks, the EPA and the Administration have taken some important steps to address the power plant loophole in the Clean Air Act that allows hundreds of old, mostly coal-fired power plants to continue to pollute at levels much higher than new plants. Closing this loophole is critical to protecting the health of our environment and the health of our children.

Last week the Justice Department and the Environmental Protection Agency filed suit against 32 coal-fired power plants who had made major changes to their plants without also installing new equipment to control smog, acid rain and soot. This is illegal, even under the Clean Air Act, and it highlights the glaring need to level the playing field for all power plants. This is particularly as our country moves toward a deregulated electricity industry.

Unfortunately, some of our colleagues decided that this move unfairly targeted some of their utilities that have benefitted from this loophole for almost thirty years. I would point out that many of us from New England and New York believe it is unfair that our states have been the dumping ground for the pollution coming out of these plants for the past thirty years. My Vermont have heard a lot of talk on the floor about how this pollution is contaminating our fish with mercury, damaging our lakes and forests with acid rain, and causing respiratory problems and obscuring the view of Vermont’s mountains with summertime ozone pollution from nitrogen oxide emissions.

Now, added to these concerns is the growing body of knowledge showing that carbon dioxide emissions are having an impact on the global climate. More than a decade of record heat, reports from around the globe of dying coral reefs, and melting glaciers should be warning signals to all of us.

In Vermont, one of our warning signals is the impact to sugar maples. Sugar maple now range naturally as far south as Tennessee and west of the Mississippi River from Minnesota to Missouri. Given the current predictions for climate changes, by the end of the next century the range of sugar maples in North America will be limited to the state of Maine and portions of eastern Canada. Vermont’s climate may not change so much that palm trees will line the streets of Burlington and Montpelier, but the impact on the character and economy of Vermont and many other states will be profound.

It is hard to imagine a Vermont hillside in the fall without the brilliant reds of the sugar maples, and it is hard to imagine a stack of pancakes without the brilliant reds of the sugar maples, and it is hard to imagine a Vermont hillside in the fall without the brilliant reds of the sugar maples, and it is hard to imagine a stack of pancakes without the brilliant reds of the sugar maples, and it is hard to imagine a Vermont hillside in the fall without the brilliant reds of the sugar maples, and it is hard to imagine a stack of pancakes without the brilliant reds of the sugar maples, and it is hard to imagine a Vermont hillside in the fall without the brilliant reds of the sugar maples, and it is hard to imagine a stack of pancakes without the brilliant reds of the sugar maples, and it is hard to imagine a Vermont hillside in the fall without the brilliant reds of the sugar maples, and it is hard to imagine a stack of pancakes without the brilliant reds of the sugar maples, and it is hard to imagine a Vermont hillside in the fall without the bright...
plants constitute the largest source of air pollution in the United States, annually emitting more than 2 billion tons of carbon dioxide, more than 50 million tons of acid rain producing sulfur dioxide, nearly 6 million tons of smog producing nitrogen oxides, and more than 50 tons of highly toxic mercury.

These are staggering sums. Consider the fact that it would take nearly 25,000 Washington Monuments, weighing 81,120 tons apiece, to add up to 2 billion tons. And that is just one year.

Why are we continuing to allow polluters on that enormous scale to be dumped on some of our most fragile ecosystems, much less into our lungs through the air we breathe? It is because Congress assumed when it passed the 1970 Clean Air Act that these old, inefficient, pollution-prone plants would operate inefficiently they will produce enormous. The old, inefficient, pollution-prone power plants will operate inefficiently, and an article entitled “Poor Me” from the May 31, 1999, edition of Forbes Magazine, be printed in the RECORD.

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

S. 1949
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 “Clean Power Plant and Modernization Act of 1999”.

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

Sec. 1. Findings and purposes.

Sec. 2. Air emission standards for fossil fuel-fired power plants.

Sec. 3. Definitions.

Sec. 4. Combustion heat rate efficiency standards.

Sec. 5. Air emission standards for fossil fuel-fired generating units.

Sec. 6. Extension of renewable energy production credit.

Sec. 7. Megawatt hour generation fees.

Sec. 8. Clean Air Trust Fund.

Sec. 9. Accelerated depreciation for investor-owned generating units.

Sec. 10. Grants for publicly owned generating facilities.

Sec. 11. Recognition of permanent emission reductions in future climate change implementation programs.

Sec. 12. Renewable and clean power generation technologies.

Sec. 13. Clean coal, advanced gas turbine, and combined heat and power demonstration program.

Sec. 14. Evaluation of implementation of this Act and other statutes.

Sec. 15. Assistance for workers adversely affected by reduced consumption of coal.

Sec. 16. Community economic development incentives for communities adversely affected by reduced consumption of coal.
Sec. 17. Carbon sequestration.

SEC. 2. FINDINGS AND PURPOSES.
(a) Fossil fuel-fired power plants—
(1) the United States is relying increasingly on old, needlessly inefficient, and highly polluting powerplants to provide electricity; and
(2) the pollution from those powerplants causes a wide range of health and environmental damage,
(A) fine particulate matter that is associated with the deaths of approximately 50,000 Americans annually;
(B) black carbon, commonly known as "smog," that impairs normal respiratory functions and is of special concern to individuals afflicted with asthma, emphysema, and other respiratory ailments;
(C) rural ozone that obscures visibility and damages forests and wildlife;
(D) acid deposition that damages estuaries, lakes, rivers, and streams (and the plants and animals that depend on them for survival) and leaches heavy metals from the soil;
(E) mercury and heavy metal contamination that renders fish unsafe to eat, with especially serious consequences for pregnant women and their fetuses;
(F) childhood cancers caused by exposure to such substances as gases from fossil and biological resources, such as mercury, carbon dioxide, sulfur dioxide, and nitrogen oxides entering the environment from the combustion of fossil fuels;
(G) to create financial and regulatory incentives to retire thermally inefficient generating units and replace them with new units that employ high-thermal-efficiency combustion technology; and
(H) to increase use of renewable and clean energy sources such as biomass, geothermal, solar, wind, and fuel cells.

(b) Purposes.—The purposes of this Act are—
(1) to protect and preserve the environment while safeguarding health by ensuring that each fossil fuel-fired generating unit that minimizes air pollution to levels that are technologically feasible through modernization and application of pollution controls;
(2) to greatly reduce the quantities of mercury, carbon dioxide, sulfur dioxide, and nitrogen oxides entering the environment from the combustion of fossil fuels;
(3) to permanently reduce emissions of those pollutants by increasing the combustion heat rate efficiency of fossil fuel-fired generating units to levels achievable through—
(A) use of commercially available combustion technologies, including clean coal technologies such as pressurized fluidized bed combustion and an integrated gasification combined cycle system;
(B) installation of pollution controls;
(C) expanded use of renewable and clean energy sources such as biomass, geothermal, solar, wind, and fuel cells;
(D) promotion of application of combined heat and power technologies;
(E) to express the sense of Congress that permanent reductions in emissions of greenhouse gases that are accomplished through the retirement of old units and replacement by new units that meet the combustion heat rate efficiency and emission standards specified in this Act should be credited to the utility sector and the owner or operator in a climate change implementation program;
(F) to promote permanent and safe disposal of mercury recovered through coal cleaning, combustion technology, and other methods of mercury pollution control;
(G) to increase public knowledge of the sources of mercury exposure and the threat to public health from mercury, particularly the threat to the health of pregnant women and their fetuses, women of childbearing age, and children;
(H) to decrease significantly the threat to human health and the environment posed by mercury;
(I) to provide worker retraining for workers adversely affected by reduced consumption of coal; and
(J) to provide economic development incentives for communities adversely affected by reduced consumption of coal.

SEC. 3. DEFINITIONS.
In this Act:
(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.
(2) GENERATING UNIT.—The term "generating unit" means an electric utility generating unit.

SEC. 4. COMBUSTION HEAT RATE EFFICIENCY STANDARDS FOR FOSSIL FUEL-FIRED GENERATING UNITS.
(a) STANDARDS.—
(1) IN GENERAL.—Not later than the day that is 10 years after the date of enactment...
of this Act, each fossil fuel-fired generating unit that commences operation on or after the date of enactment of this Act, each fossil fuel-fired generating unit that commences operation more than 10 years after the date of enactment of this Act shall achieve and maintain, at all operating levels, a combustion heat rate efficiency of not less than 95 percent (based on the higher heating value of the fuel), unless granted a waiver under subsection (d).

(b) Test Methods.—Not later than 2 years after the date of enactment of this Act, the Administrator shall promulgate methods for determining initial and continuing compliance with this section.

(c) Permit Requirement.—Not later than 10 years after the date of enactment of this Act, each generating unit shall have a permit under title V of the Clean Air Act (42 U.S.C. 7661 et seq.) that requires compliance with this section.

(d) Waiver of combustion heat rate efficiency standards.—(1) APPLICATION.—The owner or operator of a generating unit that commences operation more than 10 years after the date of enactment of this Act may apply to the Administrator for a waiver of the combustion heat rate efficiency standard specified in subsection (a)(1) if—

(A) the owner or operator of the generating unit demonstrates that the technology to meet the combustion heat rate efficiency standard is not commercially available; or

(B) the owner or operator of the generating unit enters into an agreement with the Administrator to achieve and maintain, at all operating levels, a combustion heat rate efficiency standard specified in subsection (a)(1) that is applicable to that type of generating unit.

(2) ISSUANCE.—The Administrator may grant the waiver only if—

(A)(i) the owner or operator of the generating unit demonstrates that, despite best technical efforts and willingness to make the necessary level of financial commitment, the combustion heat rate efficiency standard is not achievable at the generating unit; and

(ii) the owner or operator of the generating unit demonstrates that, despite best technical efforts and willingness to make the necessary level of financial commitment, the combustion heat rate efficiency standard is not achievable at the generating unit; and

(B) there is no release of mercury into the environment.

(3) Effect of Waiver.—If the Administrator grants a waiver under paragraph (1), the generating unit shall be required to achieve and maintain, at all operating levels, the combustion heat rate efficiency standard specified in subsection (a)(1).

SEC. 5. AIR EMISSION STANDARDS FOR FOSSIL FUEL-FIRED GENERATING UNITS.

(a) All Fossil Fuel-Fired Generating Units.—Not later than 10 years after the date of enactment of this Act, each fossil fuel-fired generating unit, regardless of its date of construction or commission on the date of operation, shall be subject to, and operating in physical and operational compliance with, the new source review requirements under section 111 of the Clean Air Act (42 U.S.C. 7411).

(b) Emission Rates for Sources Required To Maintain 50 Percent Efficiency.—Not later than 10 years after the date of enactment of this Act, each fossil fuel-fired generating unit subject to section 4(a)(1) shall be in compliance with the following emission limitations:

(1) MERCURY.—Each coal-fired or fuel oil-fired generating unit shall be required to achieve an emission rate of not more than 0.15 pounds of mercury contained in the flue gas; and

(2) CARBON DIOXIDE.—

(A) NATURAL GAS-FIRED GENERATING UNITS.—Each natural gas-fueled generating unit shall be required to achieve an emission rate of not more than 3.63 pounds of carbon dioxide per kilowatt hour of net electric power output.

(B) FUEL OIL-FIRED GENERATING UNITS.—Each fuel oil-fired generating unit shall be required to achieve an emission rate of not more than 3.07 pounds of sulfur dioxide per million British thermal units of fuel consumed.

(C) COAL-FIRED GENERATING UNITS.—Each coal-fired generating unit shall be required to achieve an emission rate of not more than 3.07 pounds of sulfur dioxide per million British thermal units of fuel consumed.

(d) PERMIT REQUIREMENT.—Not later than 10 years after the date of enactment of this Act, each generating unit shall have a permit under title V of the Clean Air Act (42 U.S.C. 7661 et seq.) that requires compliance with this section.

(e) Compliance Determination and Monitoring Requirements.—(1) REGULATIONS.—Not later than 2 years after the date of enactment of this Act, the Administrator, in consultation with the Secretary of Energy, shall promulgate methods for determining initial and continuing compliance with this section.

(2) CALCULATION OF MERCURY EMISSION REDUCTIONS.—Not later than 2 years after the date of enactment of this Act, the Administrator shall promulgate mercury sampling techniques and emission monitoring techniques for determining initial and continuing compliance with the mercury emission reduction requirements of this section.

(3) REPORTING.—(A) IN GENERAL.—Not less than annually, the owner or operator of a generating unit shall submit a pollutant-specific emission report for each pollutant covered by this section.

(B) SIGNATURE.—Each report required under subparagraph (A) shall be signed by a responsible official of the generating unit, who identifies the entity on whose behalf the report is prepared.

(C) PUBLIC REPORTING.—The Administrator shall annually make available to the public, through 1 or more published reports and 1 or more websites of electronics, facility-specific emission data for each generating unit and pollutant covered by this section.

(D) CONSUMER DISCLOSURE.—Not later than 2 years after the date of enactment of this Act, the Administrator shall promulgate regulations requiring each owner or operator of a generating unit to disclose to residential consumers of electricity generated by the generating unit on a regular basis (but not less often than annually) and in a manner convenient to the consumers, data concerning the levels of emissions by the generating unit of each pollutant covered by this section and each air pollutant covered by section 111 of the Clean Air Act (42 U.S.C. 7411).

(1) Captured or Recovered Mercury.—Not later than 2 years after the date of enactment of this Act, the Administrator shall promulgate regulations to ensure that mercury that is captured or recovered through the use of an emission control, coal cleaning, or another method is disposed of in a manner that ensures that—

(A) the hazards from mercury are not transferred from 1 environmental medium to another; and

(B) there is no release of mercury into the environment.

(2) Mercury-Containing Sludges and Wastes.—The regulations promulgated by the Administrator under paragraph (1) shall ensure that mercury-containing sludges and wastes are handled and disposed of in accordance with all applicable Federal and State laws (including regulations).

(g) Public Reporting of Facility-Specific Emission Data.—(1) IN GENERAL.—The Administrator shall annually make available to the public, through 1 or more published reports and the Internet, facility-specific emission data for each generating unit and for each pollutant covered by this section.

(2) SOURCE OF DATA.—The emission data shall be taken from the emission reports submitted under subsection (f).

SEC. 6. EXTENSION OF RENEWABLE ENERGY PRODUCTION CREDIT.

Section 45(c) of the Internal Revenue Code of 1986 (relating to definitions) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking "and";
(B) in subparagraph (B), by striking the pe-
riod and inserting `and'; and
(c) by adding at the end the following:
``(C) solar power.'';

(2) in paragraph (3)—
(a) by inserting and December 31, 1998, in the case of a facility using solar power to produce electricity'' after `electricity'; and
(b) by striking `1999' and inserting `2010'; and
(c) by adding at the end the following:
``(4) SOLAR POWER.—The term `solar power' means solar power harnessed through—
``(A) photovoltaic cells;
``(B) solar boilers that provide process heat, and
``(C) any other means.''

SEC. 7. MEGAWATT HOUR GENERATION FEES.

(a) IN GENERAL.—Chapter 38 of the Internal Revenue Code of 1986 (relating to miscellaneous excise taxes) is amended by inserting after subchapter D the following:
``Subchapter E—Megawatt Hour Generation Fees

``Sec. 4691. Imposition of fees.

``SEC. 4691. IMPOSITION OF FEES.

``(a) TAX IMPOSED.—There is hereby im-
posed on each covered fossil fuel-fired gener-
ating unit at the rate of five dollars per me-
gawatt hour of electricity produced by the cov-
ered fossil fuel-fired generating unit.

``(b) ADJUSTMENT OF RATES.—Not less of-
time than once every 2 years beginning after 2002, the Secretary, in consultation with the Ad-
ministrator of the Environmental Protection
Agency, shall evaluate the rate of the tax imposed by subsection (a) and increase the rate if necessary for any succeeding calendar year to ensure that the Clean Air Trust Fund established by section 9511 has sufficient amounts to fund the activities de-
scribed in section 9511(c).

``(c) PAYMENT OF TAX.—The tax imposed by
this section shall be paid quarterly by the owner or operator of each covered fossil fuel-
led generating unit.

``(d) COVERED FOSSIL FUEL-FIRED GENER-
ATING UNIT.—The term `covered fossil fuel-
fiRED generating unit' has an electric util-
ity generating unit that—
``(1) is powered by fossil fuels;
``(2) has a generating capacity of 5 or more me-
gawatts; and
``(3) because of the date on which the gen-
erating unit commenced commercial oper-
ation, is not subject to all regulations pro-
mulgated under section 111 of the Clean Air
Act (42 U.S.C. 7411).'';

(b) CONFORMING AMENDMENT.—The table of
sections for such subchapter A is amended by adding at the end the following:
``Sec. 9511. Clean Air Trust Fund.''

SEC. 9. ACCelerated DEPrICATION for in-
VESTOR-OWNED GENERATING UNITS.

(a) IN GENERAL.—Section 168(e)(3) of the In-
ternal Revenue Code of 1986 (relating to clas-
sification of certain property) is amended—
``(1) in subparagraph (E) (relating to 15-year
property); by striking `and' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting `; and', and by adding at the end the following:
``(iv) any 45-percent efficient fossil fuel-
fiRED generating unit;''; and
``(2) by adding at the end the following:
``(F) 12-year property includes any 50-percent efficient fossil fuel-fired generating unit.''

(b) DEFINITIONS.—Section 168(i) of the In-
ternal Revenue Code of 1986 (relating to defi-
nitions and special rules) is amended by adding
at the end the following:
``(15) FOSSIL FUEL-FIRED GENERATING
UNITS.

``(A) 50-PERCENT EFFICIENT FOSSIL FUEL-
FIRED GENERATING UNIT.—The term `50-par-
cent efficient fossil fuel-fired generating unit' means any property used in an inves-
tor-owned fossil fuel-fired generating unit
pursuant to a plan approved by the Sec-
retary, in consultation with the Adminis-
trator of the Environmental Protection
Agency, to place into service such a unit that is in compliance with sections 4(a)(2) and 5(c) of the Clean Power Plant and Mod-
ernization Act of 1999, as in effect on the
date of enactment of this paragraph.

``(B) 45-PERCENT EFFICIENT FOSSIL FUEL-
FIRED GENERATING UNIT.—The term `45-per-
cent efficient fossil fuel-fired generating unit' means any property used in an inves-
tor-owned fossil fuel-fired generating unit
pursuant to a plan approved by the Sec-
retary, in consultation with the Adminis-
trator of the Environmental Protection
Agency, to place into service such a unit that is in compliance with sections 4(a)(1) and 5(b) of such Act, as so in effect.''

(c) CONFORMING AMENDMENT.—The table
contained in section 168(c) of the Internal Revenue Code of 1986 (relating to applicable
recovery period) is amended by inserting after the item relating to 10-year property
the following:
``12-year property ......................... 12
years''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property used after the date of enactment of this Act.
SEC. 13. CLEAN COAL, ADVANCED GAS TURBINE, AND THERMAL EFFICIENCY AND REDUCTION IN CARBON DIOXIDE EMISSIONS DURING KNOWLEDGE-INTENSIVE DEMONSTRATION PROGRAM.

(a) IN GENERAL.—Under subtitlle B of title XXI of the Energy Policy Act of 1990 (42 U.S.C. 17301 et seq.), the Secretary of Energy shall establish a program to fund projects and partnerships designed to demonstrate the efficiency and environmental benefits of electric power generation from—

(1) clean coal technologies, such as pressurized fluidized bed combustion and an integrated gasifier combined cycle system;

(2) advanced gas turbine technologies, such as flexible sized gas turbines and base load utility scale applications; and

(3) combined heat and power technologies.

(b) SELECTION CRITERIA.—At a minimum, the selection criteria shall include—

(1) the potential of a proposed demonstration project or partnership to reduce or avoid emissions covered under section 111 of the Clean Air Act (42 U.S.C. 7411); and

(2) the potential commercial viability of the proposed demonstration project or partnership.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—In addition to amounts made available under any other law, there is authorized to be appropriated $75,000,000 for each of fiscal years 2001 through 2010.

(2) DISCONTINUATION.—The Secretary shall make reasonable efforts to ensure that under the program established under this section, the same amount of funding is provided for demonstration projects and partnerships under each of paragraphs (1), (2), and (3) of subsection (a).

SEC. 14. EVALUATION OF IMPLEMENTATION OF THIS ACT AND OTHER STATUTES.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary of Energy shall promulgate criteria and procedures for selection of demonstration projects and partnerships to be funded under subsection (a).

(b) IDENTIFICATION OF CONFLICTING LAW.—


(c) RECOMMENDATIONS.—The report shall include recommendations from the Secretary of Energy, the Chairman of the Federal Energy Regulatory Commission, and the Administrator for legislative or administratively measures to harmonize and streamline the statutory structure and the regulations implementing those statutes.

SEC. 15. ASSISTANCE FOR WORKERS ADVERSELY AFFECTED BY REDUCED CONSUMPTION OF COAL.

In addition to amounts made available under any other law, there is authorized to be appropriated $75,000,000 for each of fiscal years 2001 through 2010 to provide assistance, under the economic dislocation and worker adjustment assistance program of the Department of Labor authorized by title III of the Job Training Partnership Act (29 U.S.C. 1661 et seq.), to coal industry workers who are terminated from employment as a result of reduced consumption of coal by the electric power generation industry.

SEC. 16. COMMUNITY ECONOMIC DEVELOPMENT INCENTIVES FOR COMMUNITIES ADVERSELY AFFECTED BY REDUCED CONSUMPTION OF COAL.

In addition to amounts made available under any other law, there is authorized to be appropriated $75,000,000 for each of fiscal years 2001 through 2013 to provide assistance, under the economic adjustment program of the Department of Commerce authorized by the Economic Development Assistance Act of 1965 (42 U.S.C. 3121 et seq.), to assist communities adversely affected by reduced consumption of coal by the electric power generation industry.

SEC. 17. CARBON SEQUESTRATION.

(a) CARBON SEQUESTRATION STRATEGY.—In addition to amounts made available under any other law, there is authorized to be appropriated to the Environmental Protection Agency and the Department of Energy for each of fiscal years 2001 through 2003 a total of $15,000,000 to conduct research and development activities in basic and applied science in support of development by September 30, 2003, of a carbon sequestration strategy designed to offset all growth in carbon dioxide emissions in the United States after 2010.

(b) METHODS FOR BIOLOGICALLY SEQUESTERING CARBON DIOXIDE.—In addition to amounts made available under any other law, there is authorized to be appropriated to the Environmental Protection Agency and the Department of Energy for each of fiscal years 2001 through 2003 a total of $30,000,000 to carry out soil restoration, tree planting, wetland protection, and other methods of biologically sequestering carbon dioxide.

(c) LIMITATION.—A project carried out using funds made available under this section shall not be used to offset any emission reduction required under any other provision of this Act.

Section-by-Section Overview of the Clean Power Plant and Modernization Act of 1999

WHAT WILL THE "CLEAN POWER PLANT AND MODERNIZATION ACT OF 1999" LAY OUT?

The "Clean Power Plant and Modernization Act of 1999" lays out an ambitious, achievable, and balanced set of financial incentives and regulatory requirements designed to increase power plant efficiency, reduce emissions, and encourage use of renewable power generation methods. The bill encourages innovation, entrepreneurship, and risk-taking.

The bill encourages "retirement and replacement" of old, pollution-prone, and inefficient generating capacity with new, clean, and efficient capacity. The bill does not utilize a "cap and trade" approach. Many believe that the "retirement and replacement" approach does a superior job at the local and regional levels of protecting public health and the environment from mercury pollution, ozone pollution, and acid deposition. On a global level, the "retirement and replacement" also does a superior job of permanently reducing the volume of carbon dioxide emitted.

WHAT WILL THE BILL DO FOR THE ENVIRONMENT?

The bill would prevent at least 650 million tons of carbon dioxide emissions per year.
with existing new source review requirements under the Clean Air Act. The average "in service" date for fossil-fired generating units in the United States is 1964—six years before passage of the Clean Air Act. More than 75% of operating fossil-fired generating units came into service before implementation of the 1970 Clean Air Act and are subject to much less stringent requirements than newer units.

Subsection (b) sets mercury, carbon dioxide, sulfur dioxide, and nitrogen oxide emission standards for units that are subject to the 45% thermal efficiency standard set forth in Section 4. For mercury, 90% removal of mercury contained in the fuel is required. For carbon dioxide, the emission limits are set by fuel type (i.e., natural gas = 0.9 pounds per kilowatt hour of output; fuel oil = 1.3 pounds per kilowatt hour of output; coal = 1.55 pounds per kilowatt hour of output). Ninety-five percent of sulfur dioxide emissions (and not more than 0.3 pounds per million Btus of fuel consumed), and 90 percent of nitrogen oxides (and not more than 0.15 pounds per million Btus of fuel consumed) are to be removed.

Subsection (c) contains the same emission standards for mercury, sulfur dioxide, and nitrogen oxides (and not more than 0.15 pounds per million Btus of fuel consumed) and to extend renewable energy production credit to 2010 (it is currently set to expire in 1999).

Section 6. Extension of renewable energy production credit

Section 45(c) of the Internal Revenue Code of 1986 is amended to include an extension of Section 45 and to extend renewable energy production credit to 2010 (it is currently set to expire in 1999).

Section 7. Mega watt hour generation fee, and Section 12. Renewable and clean power generation technologies

The Clean Air Trust Fund is similar to the Highway Trust Fund and the Superfund. Revenue for the Clean Air Trust Fund will be provided through implementation of a fee on electricity produced by fossil-fired generating units that are "grandfathered" from the Clean Air Act's Section 111 new source requirements. Utilities will be assessed at the rate of 0.05 cents per megawatt hour of electricity that they produce from "grandfathered" units. For residential consumers receiving power from "grandfathered" plants, the cost of the fee would average 20 cents per month. Income from the fee will be placed in the Clean Air Trust Fund to pay for: a) assistance to workers and communities adversely affected as a result of reduced consumption of coal; b) research and development and demonstration programs for renewable and clean power generation technologies (including, but not limited to, biomass, and fuel cells); c) demonstrations of the efficiency, environmental benefits, and commercial viability of electrical power generation from clean coal, and combined heat and power technologies; and d) carbon sequestration projects.

Section 9. Accelerated depreciation for investor-owned generating units

Under the Internal Revenue Code of 1986, utilities can depreciate their generating equipment over a 20-year period. New, cleaner and efficient generating technologies will experience shorter physical lifetimes compared to their dirtier, less efficient, and more durable predecessors. Over a 20-year timeframe, most components of new generating units will need to be replaced; some components will be replaced annually. To update the Internal Revenue Code of 1986 to reflect this change in the expected physical lifetimes of generating equipment, Section 9 amends Section 168 of the Code to allow depreciation over a 15-year period for units meeting the 45% efficiency level and the emission standards in Section 2(b) above. Section 168 is further amended to allow for depreciation over a 12-year period for units meeting the 50% efficiency level and the emission standards in Section 2(c).

Section 10. Grants for publicly-owned generating units

No federal taxes are paid on publicly-owned generating units. Section 10 provides for annual grants in an amount equal to the monetary value of the depreciation deduction that would be allowed for similarly-situated investor owned generating unit under Section 9. Units meeting the 45% efficiency level and the emission standards in Section 5 would receive annual grants over a 15-year period, and units meeting the 50% efficiency level and the emission standards in Section 5(c) would receive annual grants over a 12-year period.

Section 11. Recognition of permanent emission reductions

This section expresses the sense of Congress that permanent reductions in emissions of carbon dioxide and nitrogen oxides that are accomplished through the retirement of old generating units and replacement by new generating units that meet the efficiency and emissions standards in the full, ongoing divestments from polluting renewable power generation technologies, should be credited to the utility sector and to the owner/operator in any climate change implementation program enacted by Congress. The base year for calculating reductions will be the year preceding enactment of the Clean Power Plant and Modernization Act of 1999. The bill stipulates that a portion of any monetary value that may accrue from credits under this section should be passed on to utility customers.

Section 12. Renewable and clean power generation technologies

This section provides a total of $750 million over 10 years to fund research and development programs and commercial demonstration projects and partnerships to demonstrate the commercial viability of renewable energy technologies, benefits of electric power generation from biomass, geothermal, solar, wind, and fuel cell technologies. Types of projects may include solar power tower plants, solar dishes and engines, co-firing biomass with coal, biomass modular systems, next-generation wind turbines and wind verification projects, geothermal energy conversion, and fuel cells.

Section 13. Clean coal, advanced gas turbine, and combined heat and power demonstration program

This section provides a total of $750 million over 10 years to fund projects and partnerships that demonstrate the efficiency and commercial viability of electric power generation from clean coal technologies (including, but not limited to, pressurized fluidized bed combustion and integrated gasification combined cycle systems), advanced gas turbine technologies (including, but not limited to, flexible mid-sized gas turbines and base load utility scale applications), and combined heat and power technologies.

Section 14. Evaluation of implementation of this act and other statutes

Not later than 2 years after enactment, DOE, in consultation with EPA and FERC, shall report to Congress on the implementation of the "Clean Power Plant and Modernization Act of 1999." The report shall identify any provision of the Energy Policy Act of 1992, the Energy Supply and Environmental Coordination Act of 1974, the Public Utilities Regulatory Policies Act of 1978, the Federal Power and Industrial Fuel Use Act of 1978 that conflicts with the efficient implementation of the "Clean Power Plant and Modernization Act of 1999." The report will include recommendations for legislative or administrative measures to harmonize and streamline these other statutes.

Section 15. Assistance for workers adversely affected by reduced consumption of coal

With increased power plant efficiency, less fuel will need to be burned to produce a given quantity of electricity. This section provides a total of $1.125 billion over 15 years ($75 million per year) to provide assistance to workers who are adversely affected as a result of reduced consumption of coal by the electric power generation industry. The funds will be administered under the economic dislocation and workers' adjustment assistance program of the Department of Labor authorized by Title III of the Job Training Partnership Act.

Section 16. Community economic development incentives for communities adversely affected by reduced consumption of coal

With increased power plant efficiency, less fuel will need to be burned to produce a given quantity of electricity. This section provides a total of $750 million over 15 years ($75 million per year) to provide assistance to communities adversely affected as a result of reduced consumption of coal by the electric power generation industry. The funds will be administered under the economic adjustment program of the Department of Commerce authorized by the Public Works and Economic Development Act of 1965.

Section 17. Carbon sequestration

This section authorizes expenditure of $345 million over 10 years for a long-term carbon sequestration strategy ($45 million) for the United States, and authorizes EPA and USDA to fund carbon sequestration projects including soil restoration, ecosystem protection, tree planting, wetland's protection, and other ways of biologically sequestering carbon dioxide ($300 million). Projects funded under this section may not count emissions otherwise mandated by the "Clean Power Plant and Modernization Act of 1999."
worthless. But they're selling them for fancy prices.

The Homer City Generation Station is a 34-year-old, coal-fired power plant near Pittsburgh. What's it worth? Until last year it was carrying these plants over two years because you told us to, they are saying—and now that newcomers are about to undercut us, we need compensation for the "stranded costs." The logic of compensation for stranded costs is unassailable. The only debate is over the amount. Is the average power plant indeed a white elephant?

According to data collected by Cambridge Energy Research Associates, the average nonnuclear power plant put up for sale in the last year sold for nearly twice its book value. Given the plants being sold tend to be the more desirable ones, by dint of their location or their fuel efficiency. Still, the pricing makes one wonder whether the power industry should be entitled to much of anything for stranded costs.

Some states—California, Maine, Connecticut and New York, for example—have ordered utilities to sell all or part of their generation capacity. That should set an arm's length fair price. Thanks largely to the fat prices received for its power plants, Sempra Energy, the parent of San Diego Gas & Electric, says that its stranded-cost charges related to generation—about 12% of a typical customer's bill—will be paid off by July. That's two and a half years ahead of schedule, a savings of $400 million for southern Californians.

Not every state legislature or utility commission has the political will to force diversification, however. If a utility does not want to sell, the utility and the regulators have to estimate the fair market value for a plant and then see if that is a lot less than book value.

This tricky business. Last year Allegheny Energy, parent of West Penn Power Co., estimated the power plant it sells for $148 a kilowatt, half of their book value. An expert hired by a number of industrial energy users suggested the value should be $399. A hearing revealed that Allegheny had bought back a half-interest in one of its plants two years earlier at a price of $612 a kilowatt. Allegheny settled with the Pennsylvania Public Utility Commission for a valuation of $225 a kilowatt, half again the original estimate. At that price, Allegheny's 700,000 customers in western Pennsylvania are stuck paying $670 million in stranded costs.

What happens if the utility doesn't get the compensation it wants? Litigation. In New Hampshire the state legislature passed a law designed to open up the power market in 1996. New Hampshire's power companies and utility commission have been tied up in court ever since over the issue of stranded costs.

For this reason, legislators and regulators sometimes feel like they need to cut some deals, any deals, for competitive development and simply froze electric rates until 2007. Utilities had donated more than $1 million to Virginia politicians in the last two elections.

Last year Ohio legislators proposed a bill to open up the power market. They figured stranded costs at $6 billion, spread among Ohio's utilities. Using that number, the utilities came up with an $18 billion figure. The latest compromise is $11 billion. This number represents, in effect, the excess of the plants' book value over their market value.

Wait a minute, says Samuel Randazzo, an attorney for some industrial power users. "If $11 billion number is more than the book value of all the plants. Can the utilities lose more than their investment? Negotiations are to continue."

"We are applying a political solution to an economic problem," shrugs Ohio utility commissioner Craig Glazer. "All intellectual arguments have been thrown out the window. Now it comes down to who screams the loudest."

Expect further screaming as utilities enter the deregulated market.

By Mr. ENZI (for himself and Mr. THOMAS).

S. 50. A bill to amend the Mineral Leasing Act of 1920 to ensure the orderly development of coal, coaled methane, natural gas, and oil in the Powder River Basin, Wyoming and Montana, and for other purposes; in the Committee on Energy and Natural Resources.

The Powder River Basin Resource Development Act

Mr. ENZI. Mr. President, I rise today to introduce the Powder River Basin Resource Development Act of 1999. This legislation is designed to provide a procedure for the orderly and timely resolution of disputes between coal producers and oil and gas producers in the Powder River Basin in north-central Wyoming and southern Montana. This legislation is cosponsored by my colleague from Wyoming, Senator THOMAS.

Mr. President, the Powder River Basin in Wyoming and southern Montana is one of America's richest energy resource regions in the world. This area contains the largest coal reserves in the United States, providing nearly thirty percent of America's total coal production. This region also contains rich reserves of oil and gas, including coaled methane. Wyoming is the fifth largest producer of natural gas in the county and the sixth largest producer of crude oil. The Powder River Basin plays an important role in the Wyoming's oil and gas production, and this role promises to grow as the exploration and production of coaled methane increases over the next several years.

Given the great importance both the coal and oil and gas industries have to Wyoming's economy, the State of Wyoming and the Federal Government have tried to encourage concurrent development in areas where it is feasible and safe to do so. Unfortunately, this is not always possible. This legislation is designed to provide a procedure for the fair and expeditious resolution of conflicts between oil and gas producers and coal producers who have interests on federal land in the Powder River Basin in Wyoming and southern Montana.

Mr. President, this legislation sets forth a reasonable procedure to resolve conflicts between coal producers and oil and gas producers when their mineral rights come into conflict because of overlapping federal leasing. First, this proposal requires that once a potential conflict is identified, the parties must attempt to negotiate an agreement between themselves to resolve the conflict. Second, if the parties are unable to come to an agreement between themselves, either of the parties may file a petition for relief in U.S. district court in the district in which the conflict is located. Third, after such a petition is filed, the court would determine whether an actual conflict exists. Fourth, if the court determines that a conflict does in fact exist, the court would determine whether the public interest, as determined by the greater economic value of each mineral, is best served by suspension of the federal coal lease or suspension or termination of all or part of the oil and gas lease.

Fifth, a panel of three experts would be assembled to determine the value of the mineral of lesser economic value. Each party to the action; the oil and gas interest, the coal interest, and the federal government, would each appoint one of the three experts. Finally, after the panel issued its final report, the court would enter an order setting the compensation that is due the developer who had to temporarily or permanently forgo his development rights. This compensation would be paid by the remaining developer of the lesser economic value. A credit against federal royalties would also be available against the compensation price in a limited number of situations where the value of such compensation was not foreseen in the original federal lease bid.

Mr. President, the "Powder River Basin Resource Development Act of the
1999” has several benefits over the present system. First, it requires parties whose mineral interests may come into conflict to attempt to negotiate an agreement among themselves before either one of them may avail themselves of the expedited resolution mechanism. No such requirement exists today. Second, it directs the Secretary of the Interior to encourage expedited development of federal minerals and that are leased pursuant to the federal Mineral Leasing Act, that exist in conflict areas, and which may otherwise be lost or bypassed. As such, this legislation encourages full and expeditious development of federal resources in this narrow conflict area where it is economically feasible and safe to do so. Third and finally, this bill provides an expeditious procedure to resolve the question of mineral ownership in Wyoming, and throughout the country. This bill, builds on last year’s legislation to provide the Secretary of Energy with authority to draw down the Strategic Petroleum Reserve when oil and gas prices in the United States rise sharply because of anticompetitive activity, and to require the President, through the Secretary of Energy, to consult with Congress regarding the sale of oil from the Strategic Petroleum Reserve; to the Committee on Energy and Natural Resources.

S. 1951. A bill to provide the Secretary of Energy with authority to draw down the Strategic Petroleum Reserve when oil and gas prices in the United States rise sharply because of anticompetitive activity, and to require the President, through the Secretary of Energy, to consult with Congress regarding the sale of oil from the Strategic Petroleum Reserve; to the Committee on Energy and Natural Resources.

By Mr. SCHUMER (for himself and Ms. COLLINS):

1951. A bill to provide the Secretary of Energy with authority to draw down the Strategic Petroleum Reserve when oil and gas prices in the United States rise sharply because of anticompetitive activity, and to require the President, through the Secretary of Energy, to consult with Congress regarding the sale of oil from the Strategic Petroleum Reserve; to the Committee on Energy and Natural Resources.

OIL PRICE SAFEGUARD ACT

Ms. COLLINS. Mr. President, I rise this afternoon to join my distinguished colleague, Senator SCHUMER, in introducing legislation that provides an efficient and effective method to ensure that we receive the best return on our valuable natural resources. This bill provides an expeditious procedure to resolve conflicts that cannot be resolved by the two parties alone, and it does so in a manner that ensures that any mineral owner will be fairly compensated for any suspension or loss of his mineral rights. In turn, this proposal will help to keep the industry hardship to hundreds of families and the State treasury that could occur if mineral development is stalled for an indefinite amount of time due to protracted litigation under the current system.

Mr. President, this legislation builds on legislation I introduced last year with Senators THOMAS and BINGAMAN, which passed Congress and was signed into law last November. That bill, S. 2500, ensured that existing lease and contract rights to coalbed methane would not be terminated by a decision from the 10th Circuit Court of Appeals which concluded that coalbed methane gas was reserved to the federal government under earlier coal reservation Acts. As it turned out, the Supreme Court earlier this year realized we got it right in our bill and held that the coalbed methane was in fact a gas and not a solid, and therefore was not reserved to the government under earlier coal reservation Acts. As such, the protections we provided in S. 2500 were guaranteed to future as well as past oil and gas leaseholders.

Mr. President, S. 2500 was an important step in providing certainty and resolution to the question of mineral ownership in Wyoming, and throughout the country. This bill, builds on last year’s work by providing a means to resolve ongoing development conflicts between owners of coal and oil and gas in the Powder River Basin. It represents the result of nearly a year of negotiations between the coal and coalbed producers, as well as the deep oil and gas interests, on a method to fairly reconcile mineral development disputes when they occur because of multiple leasing by the federal government. This bill has also incorporated recommendations made by the Bureau of Land Management. I look forward to working with all the affected parties during the second session of the 106th Congress to pass legislation that will put into place a reasonable, balanced method to ensure that we receive the best return on our valuable natural resources in the Powder River Basin.

By Mr. SCHUMER (for himself and Ms. COLLINS):

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can see, prices have risen already and are expected to reach levels higher than those experienced during the winter of 1996-97.

Even if our diplomatic efforts fail to break OPEC’s chokehold on the world oil supply, we need not sit idly as oil and gas prices rise well-beyond where they were, and in a normally-functioning market.

The United States has a tool available to ease the sting of this unfair market manipulation. The United States owns the largest strategic reserve of crude oil in the world. The Strategic Petroleum Reserve (SPR) consists of roughly 571 million barrels of crude oil held in salt caverns in Texas and Louisiana. The Energy Policy and Conservation Act allows the Secretary of Energy to sell oil from the reserve if the President determines certain findings set forth in the law. In order to tap into the Reserve, the President must determine that an emergency situation exists causing significant and lasting reductions in the supply of oil and severe price increases likely to cause a major adverse impact on the national economy. In the history of the Reserve, the President has only made this declaration once, during the Gulf War.

The legislation I am proud to sponsor with Senator SCHUMER today, who has been a leader on this issue, will give the President more flexibility in using the Strategic Petroleum Reserve to protect American consumers. Specifically, this measure will amend the Energy Policy and Conservation Act to authorize a draw down of the reserve when the President finds that a significant reduction in the supply of oil has been caused by anti-competitive conduct. While many, myself included, believe that the President currently should consider ordering a draw down to counteract OPEC’s latest market-distorting production quotas, this legislation will make it clear that he has the power to do so. It will also ensure that the proceeds from a draw-down of the Reserve are used to replenish its oil. The bill does by mandating that the proceeds be deposited in a special account designed for that purpose. We want to give the President the authority to use this account for short-term situations, but not to permanently deplete the reserve in the process.

To further encourage the use of the SPR to offset harmful and uncompetitive activities of foreign pricing cartels, the Oil Price Safeguard Act will require the Secretary of Energy to consult with Congress regarding the sale of oil from the Reserve. If the price of a barrel of crude exceeds 25 dollars for a period greater than 14 days, the President, through the Secretary of Energy, will be required to submit a report to Congress within thirty days. This report will have four parts. First, it will detail the causes and potential consequences of the price increase. Second, it will provide an estimate of the likely duration of the price increase by reference to past forecasts of the Energy Information Administration. Third, it will provide an analysis of the effects of the price increase on the cost of home heating oil. And fourth, the report will provide a specific rationale for why the President does or does not support a draw down and distribution of oil from the SPR to counteract anti-competitive behavior in the oil market.

The bill we are introducing today will grant important new authority to the President to protect consumers from the market-distorting behavior of foreign cartels. It will require the President to explain to Congress and the American people why actions available to him have not been exercised to protect consumers. I urge my colleagues to join Senator SCHUMER and me in working for expeditious passage of this important measure.

I yield to my colleague, the distinguished Senator from New York, so he may provide further explanation of our legislation. I commend him for his leadership on this issue.

Mr. SCHUMER. I thank Senator COLLINS from Maine for her leadership on this issue. She has well represented her constituents on an issue of great concern. Like Maine, northern New York—much of New York—is very concerned with the prices of oil: not only gasoline but some heating oil, which—just as it is in Maine—is going through the roof in New York as we come into this winter season, which, thus far anyway, has been colder than people have predicted. I thank the Senator for garnering time to talk about our legislation, and I look forward to working with her on this issue.

Two months ago, I wrote President Clinton and Energy Secretary Richardson requesting that they look into the possibility of releasing a modest amount of oil from our Nation’s well-stocked Strategic Petroleum Reserve. I made this request not because the price of crude oil was rising, but rather because global oil prices had recently more than doubled, primarily due to the new-found unity between OPEC members and allies to uphold rigid supply quotas—not free market but rigid supply quotas.

OPEC’s decision in September to raise your gasoline prices—you don’t have to worry about home heating oil, but $35 per barrel is clearly recessionary.

The effects will be felt most among the poor and elderly, both at the gas pump and in a sharp increase in the cost of home heating oil. It will affect our manufacturing, transportation, as well as other businesses that rely on oil.

I don’t believe in interfering with free markets. But these OPEC decisions are not examples of fair economic play. In fact, OPEC recently announced that it would not even revisit the supply until March of 2000. With American and global oil prices when foreign a cold winter forecast for North America, OPEC’s continued supply quota could have a severely detrimental effect on the U.S. economy over the coming months, and may very well throw sand in the years of the global economy.

Unfortunately, OPEC with more than 40 percent market share in the global oil market, can have inordinate power over the global economy.

The next question is, What can we do about it?

My colleague from Maine, Senator COLLINS, and I have worked together to formulate what we believe is a reasonable response policy by the U.S. Government to instances when foreign oil producers collude to manipulate oil prices to a level that will likely cause a significant adverse impact on our economy, not to mention gasoline, which could go to $1.60, $1.70, or even higher per gallon, and other products we rely on for our manufacturing, transportation, and our economy, not to mention gasoline, which could go to $1.60, $1.70, or even higher per gallon, and other products we rely on for our economy, not to mention gasoline, which could go to $1.60, $1.70, or even higher per gallon, and other products we rely on for our economy, not to mention gasoline, which could go to $1.60, $1.70, or even higher per gallon, and other products we rely on for our economy.

We have a severely detrimental effect on the U.S. economy over the coming months, and may very well throw sand in the years of the global economy.

I yield to my colleague, the distinguished Senator from New York, so he may provide further explanation of our legislation. I commend him for his leadership on this issue.

Mr. SCHUMER. I thank Senator COLLINS from Maine for her leadership on this issue. She has well represented her constituents on an issue of great concern. Like Maine, northern New York—much of New York—is very concerned with the prices of oil: not only gasoline but some heating oil, which—just as it is in Maine—is going through the roof in New York as we come into this winter season, which, thus far anyway, has been colder than people have predicted. I thank the Senator for garnering time to talk about our legislation, and I look forward to working with her on this issue.

Two months ago, I wrote President Clinton and Energy Secretary Richardson requesting that they look into the possibility of releasing a modest amount of oil from our Nation’s well-stocked Strategic Petroleum Reserve. I made this request not because the price of crude oil was rising, but rather because global oil prices had recently more than doubled, primarily due to the new-found unity between OPEC members and allies to uphold rigid supply quotas—not free market but rigid supply quotas.

OPEC’s decision in September to raise the daily global oil supply would remain millions of barrels below last year’s levels—and millions of barrels per day below global demand. The effects this decision would have on oil prices were clear. Yesterday, my colleagues—listen to this—oil closed at nearly $26 a barrel, and many industry experts now believe it will drop to $30 or even $25 a barrel this winter.

Most industry and financial experts believe oil prices above $25 per barrel for an extended period will adversely affect economic growth, even if you come from Arizona; not only will it raise your gasoline prices, you don’t have to worry about home heating oil, but $35 per barrel is clearly recessionary.

The effects will be felt most among the poor and elderly, both at the gas pump and in a sharp increase in the cost of home heating oil. It will affect our manufacturing, transportation, as well as other businesses that rely on oil.

I don’t believe in interfering with free markets. But these OPEC decisions are not examples of fair economic play. In fact, OPEC recently announced that it would not even revisit the supply until March of 2000. With American and global oil prices when foreign a cold winter forecast for North America, OPEC’s continued supply quota could have a severely detrimental effect on the U.S. economy over the coming months, and may very well throw sand in the years of the global economy.

Unfortunately, OPEC with more than 40 percent market share in the global oil market, can have inordinate power over the global economy.

The next question is, What can we do about it?

My colleague from Maine, Senator COLLINS, and I have worked together to formulate what we believe is a reasonable response policy by the U.S. Government to instances when foreign oil producers collude to manipulate oil prices to a level that will likely cause a significant adverse impact on our economy, not to mention gasoline, which could go to $1.60, $1.70, or even higher per gallon, and other products we rely on for our economy.

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Sadly, it has not been a pleasure to work with the Senator from Maine and thank her for her leadership.

The good Senator from Maine and discussing the very timely and important legislation dealing with the national economic health is a national security issue. That knowledge from extensive oil market manipulation, and distribution of oil from the SPR.

Before concluding, I want to make a few things clear about this legislation. First, it doesn’t attempt in any way to bring oil prices down to what some would call unreasonable levels. Most of us believe oil prices were unrealistically low last winter, and that OPEC’s initial supply cuts were an understandable strategy to achieve a better balance between global supply and demand.

But to maintain the cuts despite the price response, and the projected growth in demand amounts to nothing less than price gouging. OPEC is currently enjoying unity as a cartel not seen since the early 1980s.

The bill also protects our national security by requiring that proceeds from the sale of oil from the SPR be used only to resupply the SPR, with profits from sales remaining in the SPR account. Therefore, in the long run, we are not reducing the oil reserve. We are just going to use it to try to bring oil prices to a reasonable level.

And with the SPR currently stocked at 570 million barrels, we have more than enough oil to release several thousand barrels a day in the event of a supply crisis without undercutting our stockpile. This should be more than sufficient to pressure oil producers to increase their supply to more realistically meet demand.

The bottom line of this legislation would show foreign producers the U.S. can and will intervene when unfair markets threaten our domestic economy, and that a strong and clear national economic health is a national security issue. That knowledge may be sufficient to prevent OPEC from extensive oil market manipulations in the first place.

A signal to OPEC that we are willing to use some of our strategic reserves to stabilize oil prices is consistent with the prudent long-term approach toward maintaining a stable economy.

Mr. President, this legislation is a measured, bipartisan response to a vital economic issue. I look forward to debating and passing this legislation next year.

With that, I yield back my time to the good Senator from Maine and thank her for her leadership.

Ms. COLLINS. Mr. President, it has been a pleasure to work with the Senator from New York on this issue.

By Mr. BINGAMAN (for himself, Mr. THOMPSON, and Mr. KENNEDY):

S. 1954. A bill to establish a compensation program for employees of the Department of Energy, its contractors, subcontractors, vendors, who sustained beryllium-related illness due to the performance of their duty; to establish a compensation program for certain workers at the Paducah, Kentucky, gaseous diffusion plant; to establish a pilot program for examining the possible relationship between workplace exposure to radiation and hazardous materials and illnesses, or health conditions; and for other purposes placed on the Committee on Health, Education, Labor, and Pensions.

ENERGY EMPLOYEES’ COMPENSATION ACT

Mr. BINGAMAN. Mr. President, I am pleased to introduce today, along with my colleagues, Senators THOMPSON and KENNEDY, a bill to establish compensation programs to address the potential economic impact of radiation and hazardous materials that have resulted in occupational illness. That knowledge will allow for the more egregious workplace hazards that were allowed to exist over the years at DOE facilities.

The first of these situations was the exposure of workers at DOE sites and vendors to beryllium, a metal that has been used for the past 50 years in the production of nuclear weapons. Even very small amounts of exposure to beryllium can result in the onset of Chronic Beryllium Disease (CBD), an allergic lung reaction resulting in lung scarring and loss of lung function. The only treatment is the use of steroids to control the inflammation. There is no cure. Once a person has been exposed to beryllium, he or she has a lifelong risk of developing CBD. While only 1 to 6 percent of exposed people will generally develop CBD, some work tasks are associated with disease rates as high as 16 percent.

Beryllium was used at 20 DOE sites, including sites in my state of New Mexico. An estimated 20,000 workers may have been exposed, including 1,000–1,500 in New Mexico. To date, DOE screening programs have identified 146 cases of CBD among current and former workers, although the number can be expected to grow. The people who are affected by this disease were typically blue-collar workers at these facilities. They are not covered by the federal workers’ compensation system, and the various state workers’ compensation programs are not well geared to deal with chronic occupational illnesses like CBD. I believe that, since these workers became exposed to beryllium while working in the defense of their country, the country owes them something in return. Should they contract Chronic Beryllium Disease. That is why I will fight to help the workers and their families in New Mexico and elsewhere through this part of the bill.

The second situation which this bill seeks to remedy occurred at the DOE’s East Tennessee Technology Park, who also suffered exposures to radiation and hazardous materials that have resulted in occupational illness. Through this provision, DOE can make a grant of $300,000 per worker, if medical experts find that it is appropriate.

The Department of Energy, under Secretary Richardson’s leadership, is facing up to some of its past failures to properly oversee worker health and safety at its facilities. It is a tragedy that we have to introduce and pass bills like this one, particularly in cases where it seems so clear that the problems could have been avoided. But this bill is the right thing to do for workers who served their country and expected that they would be kept safe from occupational injury. As the Congress considers this bill, I hope that we also remain vigilant to the ongoing challenges to worker safety and health at DOE facilities, particularly in the parts of the Department that are being reorganized as a result of legislation we passed earlier this year.

I ask unanimous consent that a section-by-section analysis be printed in the RECORD. There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION I—ENERGY EMPLOYEES’ BERYLLIUM COMPENSATION ACT

SEC. 101. SHORT TITLE

This section designates this title as the “Energy Employees’ Beryllium Compensation Act.”

SEC. 102. FINDINGS

Employees of the Department of Energy and employees of the Department’s contractors and vendors, have been, and currently may be, exposed to harmful substances, including dust particles or vapor of beryllium, while performing duties uniquely related to the Department of Energy’s nuclear weapons production program. Exposure to dust particles or vapor of beryllium in this situation may cause beryllium sensitivity and chronic beryllium disease, and those who suffer beryllium-related health conditions should have uniform and adequate compensation.

SEC. 103. DEFINITIONS

This section provides the definitions of a number of terms necessary to implement
this legislation. It also incorporates the definitions of ‘covered employee’ from the Federal Employees’ Compensation Act, section 8101 of title, United States Code.

A beryllium vendor is defined as those vendors known to have provided beryllium for the Department of Energy. The definition allows the Secretary of Energy to add other vendors by regulation.

A covered employee is defined as an employee of an entity that contracted with the Department of Energy to perform certain services at a Department of Energy facility and an employee of the federal government who was exposed to beryllium during a time when beryllium was being processed and sold to the Department of Energy. An employee of the federal government is also a covered employee if the employee may have been exposed to beryllium at a Department of Energy facility or that of a beryllium vendor.

Covered illness is defined as Beryllium Sensitivity and Chronic Beryllium Disease. The statute sets forth criteria by which the existence of these conditions may be established. Consequential injuries arising from these conditions are also covered illnesses.

SECTION 104. REGULATORY AUTHORITY TO SPECIFY ADDITIONAL CRITERIA

This section provides specific authority for the Secretary of Energy to designate by regulation additional entities as beryllium vendors for the purposes of this title. This section also authorizes the Secretary of Energy to provide by regulation additional criteria through which a claimant may establish the existence of a covered illness.

With respect to subsection (b), advances in medical science and testing, and in the medical field’s understanding of the harmful effects of exposure to beryllium, are expected to occur. It is reasonable and consistent with section 103(4) of this title that the Secretary of Energy in the future; as these contractual relationships develop, it will become necessary to designate these vendors as ‘beryllium vendors’ for the purposes of this title.

With respect to subsection (c), it is possible that new vendors of beryllium or beryllium-related products will develop contractual relationships with the Department of Energy in the future; as these contractual relationships develop, it will become necessary to designate these vendors as ‘beryllium vendors’ for the purposes of this title.

This section provides that these employees have the burden of establishing by substantial evidence exposure to beryllium that was intended by the DOE. Thus, to the extent that employees of beryllium vendors adduce evidence of exposure to beryllium or beryllium dust solely in circumstances where the event was not intended for sale to, or use by, the DOE, this evidence would not support a finding that the employees were exposed to beryllium in the performance of duty.

SECTION 105. COMPENSATION FOR DISABILITY OR DEATH, MEDICAL SERVICES, AND VOCATIONAL REHABILITATION

This section incorporates into this statute the relevant provisions of the Federal Employees’ compensation system regarding medical services and benefits, and incorporates the definition of ‘covered employee.’ This section also incorporates 5 U.S.C. § 8103; vocational rehabilitation (§§ 8104 and 8111(b)); total (§ 8105) and partial (§ 8106) disability; schedule awards for permanent impairment (§§ 8107–8109); wage-earner’s compensation for dependents (§ 8110); additional compensation for services of attendants (§§ 8111a); maximum and minimum monthly payments or death (§ 8113); lump-sum payment (§ 8135); and cost-of-living adjustment (§§ 8144a and b).

Subsection (a) of this section prohibits any payment of compensation and other benefits for covered illnesses. Provisions incorporated by reference include FECA sections regarding medical services and benefits (5 U.S.C. § 8103); vocational rehabilitation (§§ 8104 and 8111(b)); total (§ 8105) and partial (§ 8106) disability; schedule awards for permanent impairment (§§ 8107–8109); wage-earner’s compensation for dependents (§ 8110); additional compensation for services of attendants (§§ 8111a); maximum and minimum monthly payments or death (§ 8113); lump-sum payment (§ 8135); and cost-of-living adjustment (§§ 8144a and b).

Subsection (b) of this section provides that all of the compensation under this title will come out of the Energy Employees’ Beryllium Compensation Fund established pursuant to section 120 of this title and is limited to amounts available in that fund.

Subsection (c) of this section prohibits any payment of compensation for any period prior to the effective date of the title, except that, if the compensation would have been paid under the Federal Employees’ Compensation Act, the compensation payment specified in section 111 of this title.

This section incorporates 5 U.S.C. § 8114 regarding computation of pay into this title. Subsection (b) of this section contains slight wording changes from 5 U.S.C. § 8114(d)(3) necessitated by the fact that not all covered employees under this title are federal employees within the meaning of the FECA.

SECTION 106. LIMITATIONS ON RECEIVING COMPENSATION

This section parallels, with some modifications, the restrictions on receipt of compensation simultaneously with receipt of other benefits for the same covered illness set forth in 5 U.S.C. § 8116. Subsections (a) and (b) of section 106 contain the same prohibition against receipt of compensation in 5 U.S.C. § 8116(a) and (b), and apply to federal employees and beneficiaries whose benefit derives from federal employees. Thus, individuals who are eligible to receive benefits under title this may not simultaneously receive these benefits and an annuity from the Office of Personnel Management, whether such annuity is based on length of service or disability. The election required by subsection (a) is subject to the provisions of section 110 regarding coordination of benefits.

Subsection (c) applies only to federal employees awarded benefits under this title and under FECA for the same covered illness or death. This section requires an election between the two systems.

Once an informed election has been made, the election is irrevocable.

Subsections (d) and (e) require an individual eligible to receive benefits under this title, and also eligible to receive benefits under state workers’ compensation systems, to elect either benefits under this title (subject to the reduction in benefits set forth in section 110) or under the applicable state workers’ compensation system, unless the state workers’ compensation coverage was secured by an insurance policy or contract, and the Secretary of Energy specifically waives the requirement to make an election. An informed election under these two subsections, once made, is irrevocable.

SECTION 107. RETROACTIVE COMPENSATION

This section allows an eligible covered employee, or a member of his or her immediate family, to seek such benefits in situations where the Secretary of Energy has determined that it is appropriate to waive the election requirement. In these circumstances, value may be obtained for insurance policies purchased prior to the enactment of this title.

SECTION 108. COMPUTATION OF PAY

This section provides for a dollar-for-dollar reduction of benefits under this title if the claimant is awarded benefits under any state or federal workers’ compensation system for the same covered illness or death. This section is intended to prevent a double recovery by individuals who have already received compensation for illnesses covered by the FECA. Subsection (a) of this section provides for a dollar-for-dollar reduction of benefits under this title by the amount of benefits received under this title, or under federal workers’ compensation system, less than reasonable costs of obtaining such benefits. The determination of the reasonable costs of obtaining such benefits is a matter reserved to the Secretary of Energy.

Subsection (b) of this section provides that, if the Secretary of Energy has granted a waiver of the election requirement under section 109(d)(2) of this title, the amount of compensation based on wages received or entitled to be received in the future, after deducting the claimant’s reasonable costs (as determined by the Secretary of Energy) of obtaining such benefits. Permitting an employee whose state workers’ compensation remedy is secured by insurance to retain an additional twenty percent of state benefits provides an incentive for employees to seek such benefits in situations where the Secretary of Energy has determined that it is appropriate to waive the election requirement. In these circumstances, value may be obtained for insurance policies purchased prior to the enactment of this title.

SECTION 109. CONGRESSIONAL RECORD—SENATE

November 17, 1999
When an employee who would have been eligible to elect to receive retroactive compensation dies prior to making the election, of any cause, the employee's survivors may make the election. The right to make an election shall be afforded to a surviving or deceased employee's personal representative, or to a beneficiary designated by the deceased employee in accordance with paragraph (b) of this section. (b) If the claimant fails to file a claim within 1 year of the death, any possible rights to compensation are extinguished.

This section limits the time for filing a claim. The time limit begins to run from the date upon which the employee became aware that the disability or condition was caused by employment at a DOE facility. The time for filing a claim shall be extended if the Secretary of Energy extends the time. Informed elections are irrevocable and binding on all survivors.

When an employee or a survivor has made an election, no other payment of compensation may be made on account of any other beryllium-related illness. A determination that the covered employee had 'beryllium-related pulmonary condition' does not constitute a determination that he or she had a covered illness. Retroactive compensation is not subject to a court of title 5, United States Code, as administered by the Office of Personnel Management.

This section creates in the U.S. Treasury the Energy Employees’ Beryllium Compensation Fund, which consists of amounts appropriated to the Fund and amounts appropriated Acts, to carry out the programs authorized by this title.

This section authorizes appropriations and authorizes transfers from other DOE accounts, to the extent provided in advance in appropriations Acts, to carry out the programs authorized by this title.

This section provides that any amendments to provisions of the Federal Employees’ Compensation Act, which have been incorporated by reference into, this title, will also be effective to proceedings under this title.
TITLE II—ENERGY EMPLOYEES PILOT PROJECT ACT

SECTION 201. SHORT TITLE
This section designates this Act as the "Energy Employees Pilot Project Act."

This section directs the Secretary of Energy to conduct a pilot program to examine the possible relationship between workplace exposures to radiation, hazardous materials, or both and occupational illness or other adverse health conditions.

SECTION 202. PHYSICIANS PANEL
This section requires a panel of physicians who specialize in health conditions related to occupational exposure to radiation and hazardous materials to issue a report which examines whether 55 current and former employees of the Department of Energy's East Tennessee Technology Park may have sustained any illness or health condition as a result of their employment.

SECTION 203. SECRETARY OF ENERGY FINDING
The costs incurred by the Secretary of Energy in carrying out the provisions of this Act to enter into contracts or to make payments necessary to carry out this title shall be issued not later than 270 days after enactment of this title. This section also establishes in the Treasury of the United States, COMPENSATION FUND which the United States is subrogated to a claimant's right to proceed under a state workers' compensation system.

This section defines a number of terms necessary to implement this legislation, including "Paducah employee" and "specified disease."

SECTION 204. SECRETARY OF ENERGY FINDING
If an individual dies before making the election under section 205 concerning an employee, the employee may receive an award of $100,000. If the employee is eligible for an award under title I, the employee may elect to receive payment under this title in place of compensation under any workers' compensation system.

SECTION 205. ELECTION
This section provides that the employee is to make the election under section 205 within a certain period of time. Informed elections are irrevocable and binding on all survivors.

SECTION 206. SURVIVOR'S ELECTION
If an individual dies before making the election, the employee's survivor may make the election by a written notice to the Secretary of Energy in certain instances.

This section sets forth the conditions under which the United States is subrogated to a claim.

SECTION 207. SURVIVOR'S ELECTION
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SECTION 208. ELECTION
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SECTION 209. PAYMENT IN FULL SETTLEMENT OF CLAIMS AGAINST THE UNITED STATES, CONTRACTORS, AND SUBCONTRACTORS
This section provides that employees at the facility eligible for benefits under this title can elect which remedy to pursue. If they elect to proceed under this title, then acceptance of payment under this title will be in full settlement of all claims against the United States, a DOE contractor, a DOE subcontractor, or an employee, agent, or assign of one of them arising out of the illness for which the payment was made, except for any administrative or judicial proceeding under a state workers' compensation statute, subject to the reduction-of-benefits provision of subparagraph (3). Under that subparagraph, benefits awarded to a claimant under this title would be reduced by the amount of any other payments received by that claimant because of the same specified illness, excluding payments for medical expenses under a workers' compensation system.

SECTION 210. SUBROGATION
This section sets out the conditions under which the United States is subrogated to a claim.

SECTION 211. AUTHORIZATION OF APPROPRIATION
This section authorizes appropriations for the program and provides that authority under this title to make payments is effective in any fiscal year only to the extent, or in the amounts, provided in advance in an appropriation Act.

SECTION III—PADUCAH EMPLOYEES' EXPOSURE COMPENSATION ACT

SECTION 301. SHORT TITLE
This section designates this Act as the "Paducah Employees' Exposure Compensation Act."

SECTION 302. DEFINITIONS
This section defines a number of terms necessary to implement this legislation, including "Paducah employee" and "specified disease."

SECTION 303. PADUCAH EMPLOYEES' EXPOSURE COMPENSATION FUND
This section establishes in the Treasury of the United States the Paducah Employee's Exposure Compensation Fund. The amounts in the fund are available for expenditure by the Attorney General under section 305, and in the amounts, provided in advance in any fiscal year except to the extent, or in the amounts, provided in advance in appropriations Acts. The amounts in the fund are available in the amounts, provided in advance in any fiscal year only to the extent, or in the amounts, provided in advance in appropriations Acts.

SECTION 304. ELIGIBLE EMPLOYEES
This section sets forth who is eligible to receive compensation under this title and provides that an eligible employee who files a claim that the Attorney General determines meet the requirements of this title, receives $100,000 as compensation. A person eligible for compensation is a Paducah employee (as defined under section 302(2)) who was employed at the Paducah, Kentucky, gaseous diffusion plant for at least one year during the period beginning on January 1, 1952, and ending on February 1, 1962, who during that period was monitored through the use of dosimetry badges for exposure to the plant to radiation from gamma rays or who worked in a job that, as determined by regulation, led to exposure to the plant to radioactive contaminants, including plutonium contaminants; and who submits written medical documentation as to having contracted a specified disease after beginning employment at a job that could have led to exposure as specified.

SECTION 305. DETERMINATION AND PAYMENT OF CLAIMS
Generally, this section sets forth the procedures for filing claims, authority for the Attorney General to consider claims and make compensation payments, consequences of payment of a claim, cost of administering the program, and appeals procedures.

Subsection (a) provides that the Attorney General establish procedures whereby individuals may submit claims for payment under this title.

Subsection (b) provides that the Attorney General determine whether a claim filed under this title meets the requirements of this title and make a payment on the claim. An attorney who violates this section shall be fined not more than $5,000.
ADDITIONAL COSPONSORS

S. 88
At the request of Mr. Bunning, the name of the Senator from North Dakota (Mr. Conrad) was added as a cosponsor of S. 88, a bill to amend title XIX of the Social Security Act to exempt disabled individuals from being required to enroll with a managed care entity under the medicaid program.

S. 345
At the request of Mr. Allard, the name of the Senator from Oregon (Mr. Wyden) was added as a cosponsor of S. 345, a bill to amend the Animal Welfare Act to remove the limitation that permits interstate movement of live birds, for the purpose of fighting, to States in which animal fighting is lawful.

S. 505
At the request of Mr. Grassley, the name of the Senator from South Dakota (Mr. Johnson) was added as a cosponsor of S. 505, a bill to give gifted and talented students the opportunity to develop their capabilities.

S. 751
At the request of Mr. Leahy, the name of the Senator from New Jersey (Mr. Lautenberg) was added as a cosponsor of S. 751, a bill to combat nursing home fraud and abuse, increase protections for victims of telemarketing fraud, enhance safeguards for pension plans and health care benefit programs, and enhance protections for seniors, and for other purposes.

S. 763
At the request of Mr. Abraham, the name of the Senator from New Hampshire (Mr. Smith) was added as a cosponsor of S. 763, a bill to regulate interstate commerce by electronic means by permitting and encouraging the continued expansion of electronic commerce through the operation of free market forces, and for other purposes.

S. 963
At the request of Mr. Harkin, his name was added as a cosponsor of S. 963, a bill to amend the Consolidated Farm And Rural Development Act to improve shared appreciation arrangements.

S. 1187
At the request of Mr. Dorgan, the names of the Senator from Utah (Mr. Bennett), and the Senator from Alaska (Mr. Stevens) were added as cosponsors of S. 1187, a bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the Lewis and Clark Expedition, and for other purposes.

S. 1272
At the request of Mr. Nickles, the name of the Senator from Louisiana (Mr. Breaux) was added as a cosponsor of S. 1272, a bill to amend the Controlled Substances Act to promote pain management and palliative care without permitting assisted suicide and euthanasia, and for other purposes.

S. 1384
At the request of Mr. Kohl, the name of the Senator from Louisiana (Mr. Breaux) was added as a cosponsor of S. 1384, a bill to amend the Public Health Service Act to provide for a national folic acid education program to prevent birth defects, and for other purposes.

S. 1452
At the request of Mr. Shelby, the name of the Senator from South Dakota (Mr. Johnson) was added as a cosponsor of S. 1452, a bill to modernize the requirements under the National Manufactured Housing Construction and Safety Standards of 1974 and to establish a balanced consensus process for the development, revision, and interpretation of Federal construction and safety standards for manufactured homes.

S. 1526
At the request of Mr. Rockefeller, the name of the Senator from Connecticut (Mr. Dodd) was added as a cosponsor of S. 1526, a bill to amend the Internal Revenue Code of 1986 to provide a tax credit to taxpayers investing in entities seeking to provide capital to create new markets in low-income communities.

S. 1547
At the request of Mr. Burns, the name of the Senator from New Jersey (Mr. Lautenberg) was added as a cosponsor of S. 1547, a bill to amend the Communications Act of 1934 to require the Federal Communications Commission to preserve low-power television stations that provide community broadcasting, and for other purposes.

S. 1557
At the request of Mr. Kerrey, the name of the Senator from Virginia (Mr. Robb) was added as a cosponsor of S. 1557, a bill to amend the Internal Revenue Code of 1986 to codify the authority of the Secretary of the Treasury to issue regulations covering the practices of enrolled agents.

S. 1579
At the request of Ms. Snowe, the name of the Senator from Vermont (Mr. Jeffords) was added as a cosponsor of S. 1579, a bill to amend title 38, United States Code, to revise and improve the authorities of the Secretary of Veterans Affairs relating to the provision of counseling and treatment for sexual trauma experienced by veterans.

S. 1592
At the request of Mr. Durbin, the name of the Senator from New Jersey (Mr. Lautenberg) was added as a cosponsor of S. 1592, a bill to amend the Nicaraguan Adjustment and Central American Relief Act to provide to certain nationals of El Salvador, Guatemala, Honduras, and Haiti an opportunity to apply for adjustment of status under that Act, and for other purposes.

S. 1680
At the request of Mr. Asarco, the name of the Senator from Vermont (Mr. Jeffords) was added as a cosponsor of S. 1680, a bill to provide for the improvement of the processing of claims for veterans compensation and pensions, and for other purposes.

S. 1762
At the request of Mr. Coverdell, the name of the Senator from Georgia (Mr. Cleland) was added as a cosponsor of S. 1762, a bill to amend the Water and Flood Protection and Flood Prevention Act to authorize the Secretary of Agriculture to provide cost share assistance for the rehabilitation of structural measures constructed as part of water resources projects previously funded by the Secretary under such Act or related laws.

S. 1798
At the request of Mr. Reid, his name was added as a cosponsor of S. 1798, a bill to amend title 35, United States Code, to provide enhanced protection for investors and innovators, protect patent terms, reduce patent litigation, and for other purposes.

S. 1803
At the request of Mr. Robb, the names of the Senator from Connecticut (Mr. Dodd) and the Senator from New Jersey (Mr. Torricelli) were added as cosponsors of S. 1803, a bill to amend the Internal Revenue Code of 1986 to extend permanently and expand the research tax credit.

S. 1812
At the request of Mr. Warner, the name of the Senator from Maine (Ms. Collins) was added as a cosponsor of S. 1812, a bill to establish a commission on a nuclear testing treaty, and for other purposes.

S. 1814
At the request of Mr. Smith, the name of the Senator from New Hampshire (Mr. Gregg) was added as a cosponsor of S. 1814, a bill to establish a system of registries of temporary agricultural workers to provide for a sufficient supply of such workers and to amend the Immigration and Nationality Act to streamline procedures for the admission and extension of stay of nonmigrant agricultural workers, and for other purposes.

S. 1823
At the request of Mr. DeWine, the name of the Senator from Mississippi...