

STATEMENTS ON INTRODUCED
BILLS AND JOINT RESOLUTIONS

By Mr. JEFFORDS:

S. 466. A bill to provide that "Know Your Customer" regulations proposed by the Federal banking agencies may not take effect unless such regulations are specifically authorized by a subsequent Act of Congress, to require a comprehensive study and report to the Congress on various economic and privacy issues raised by the proposed regulations, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

THE FINANCIAL INSTITUTIONS PRIVACY ACT OF
1999

Mr. JEFFORDS. Mr. President, I rise today to introduce the "American Financial Institutions Privacy Act of 1999." This legislation will delay the implementation of the "Know Your Customer" regulations proposed by the Federal banking agencies. Additionally, this legislation would require these agencies to perform a comprehensive study, to be submitted to Congress in 180 days, on the privacy, freedom of association and economic issues implicated by these regulations. Only with Congressional authorization will these regulations be allowed to take effect.

These regulations mandate that banks identify each customer, find out the normal source and use of his or her funds and then watch transactions in the account to see if they deviate from "normal" and "expected" patterns. If the unexpected transactions seem "suspicious" banks are required under current law to report them to the Suspicious Activity Reporting System, a federal database that can be searched by the Internal Revenue Service, bank regulators, the FBI and other federal agencies.

Mr. President, I have heard from my constituents expressing great concern over the privacy implications of these regulations, and I think a resolution recently adopted by the Vermont House best expresses the concerns of Vermonters. The resolution states, ". . . the regulation will result in a substantial invasion of privacy and an illegal search in violation of innocent customers' rights. . . ." I will include a complete copy of this resolution in the RECORD.

The stated purpose behind these rules is to guard the banking system against harm from those who would launder money from drugs and other criminal activities. This is an admirable goal and one that is important in our continuing battle against crime. However, these regulations have moved beyond just a tool used to combat crime and into the realm where the government needs to know all of your personal, financial information. This is an unacceptable change.

Mr. President, the study is a necessary part of this legislation and will give Congress the factual basis to

evaluate the effects of this regulation on people's privacy and freedom of association, as well as its economic implications. These facts will allow Congress to properly evaluate the regulations and reach a final determination on the regulation's ultimate fate. The study will also give the federal banking agencies time to consider clarifications to the regulations, or rescind them.

I would encourage all of my colleagues to join me as cosponsors of the American Financial Institutions Privacy Act of 1999 and help stop this privacy infringement on all Americans.

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

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

STATE OF VERMONT—J.R.H. 35

Whereas, the Federal Deposit Insurance Corporation (FDIC), the Office of the Comptroller of the Currency (OCC), the Office of Thrift Supervision (OTS) and the Federal Reserve have proposed to issue a new regulation requiring banks to develop and maintain "Know Your Customer" programs, and

Whereas, as proposed, the regulation would require each bank to develop a program designed to determine the identity of its customers, determine its customers' sources of funds, determine the normal and expected transactions of its customers, monitor account activity for transactions that are inconsistent with those normal and expected transactions, and report any transactions of its customers that are suspicious, and

Whereas, in order to carry out the proposed regulation, banks will be forced to probe into the legitimate activities of its customers and into the sensitive private affairs of its customers, and

Whereas, the proposed "Know Your Customer" program would substantially change the relationship between banks and their customers, and

Whereas, the regulation will result in a substantial invasion of privacy and an illegal search in violation of innocent customers' rights under the constitutions of both the United States and Vermont, and

Whereas, the proposed regulation is clearly beyond the scope of authority granted the agencies by Congress, now therefore be it

Resolved by the Senate and the House of Representatives:

That the FDIC should not be allowed to issue this "Know Your Customer" regulation, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to the Federal Deposit Insurance Corporation, the Office of the Comptroller of Currency, the Office of Thrift Supervision, the Federal Reserve, the banking committee of the United States House of Representatives, the banking committee of the United States Senate and Vermont's congressional delegation.

Which was read and, in the Speaker's discretion, placed on the Calendar for action tomorrow under Rule 52.

By Mr. VOINOVICH (for himself,
Mr. THOMPSON, Mr. LIEBERMAN,
and Mr. DURBIN):

S. 468. A bill to improve the effectiveness and performance of Federal financial assistance programs, simplify Fed-

eral financial assistance application and reporting requirements, and improve the delivery of services to the public; to the Committee on Governmental Affairs.

Mr. VOINOVICH. Mr. President, today I am pleased to introduce the "Federal Financial Assistance Management Improvement Act of 1999", legislation that was championed in the previous Congress by my friend and predecessor, Senator JOHN GLENN. As a Governor, I supported this bill as an important step toward detangling the web of duplicative federal grants available to States, localities and community organizations. As a Senator, I am pleased to pick it up where Senator GLENN left off. I would also like to thank Senator THOMPSON, Senator LIEBERMAN and Senator DURBIN for joining me as original cosponsors of this bill.

Scores of programs, often administered by the same federal agency, have similar purposes but are subject to different application and reporting requirements. This unnecessary duplication of effort wastes time, paper, and does nothing to improve program performance for the benefit of our constituents. The Federal Financial Assistance Management Improvement Act is intended to streamline the grant application process, allowing those who serve their communities to focus on the job at hand—not on page after page of paperwork. The legislation directs federal agencies to simplify and coordinate the application requirements of related programs. The result, I hope, will be service to the public which is better, faster and more effective than before.

In other words, today in this country, if you want to apply for Federal assistance, every agency has a different form. If you have to report on what you are doing with that Federal assistance, every agency has a different form. We want to make those forms uniform across the board, which we know will relieve a lot of pressure and paperwork on the folks who are involved in these programs.

Another important component of this bill is the requirement that agencies develop a process to allow State and local governments and non-profit organizations to apply for and report on the use of funds electronically. Using the Internet as a substitute for cumbersome paperwork is a welcome innovation in the way the federal government does business, and I am pleased that the Federal Financial Assistance Management Improvement Act is leading the effort.

We need to bring technology into the Federal Government and allow people to do the same thing that they do when they are dealing with the private sector.

This bill was crafted in the last Congress by Senator GLENN after bipartisan, bicameral negotiations with the

Administration, and while I was sorry that it was not enacted before the end of the 105th Congress, I am pleased to be able to introduce it today. The legislation is supported by the National Governors' Association and others in the State and local government and non-profit community because of the real potential it has to reduce red tape and improve services to our communities. I urge all my colleagues to support this important legislation.

Mr. President, I ask unanimous consent that the text of the bill and a letter of support from State and local government organizations be printed in the RECORD.

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

S. 468

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Financial Assistance Management Improvement Act of 1999".

SEC. 2. FINDINGS.

The Congress finds that—

(1) there are over 600 different Federal financial assistance programs to implement domestic policy;

(2) while the assistance described in paragraph (1) has been directed at critical problems, some Federal administrative requirements may be duplicative, burdensome or conflicting, thus impeding cost-effective delivery of services at the local level;

(3) the Nation's State, local, and tribal governments and private, nonprofit organizations are dealing with increasingly complex problems which require the delivery and coordination of many kinds of services; and

(4) streamlining and simplification of Federal financial assistance administrative procedures and reporting requirements will improve the delivery of services to the public.

SEC. 3. PURPOSES.

The purposes of this Act are to—

(1) improve the effectiveness and performance of Federal financial assistance programs;

(2) simplify Federal financial assistance application and reporting requirements;

(3) improve the delivery of services to the public; and

(4) facilitate greater coordination among those responsible for delivering such services.

SEC. 4. DEFINITIONS.

In this Act:

(1) **DIRECTOR.**—The term "Director" means the Director of the Office of Management and Budget.

(2) **FEDERAL AGENCY.**—The term "Federal agency" means any agency as defined under section 551(1) of title 5, United States Code.

(3) **FEDERAL FINANCIAL ASSISTANCE.**—The term "Federal financial assistance" has the same meaning as defined in section 7501(a)(5) of title 31, United States Code, under which Federal financial assistance is provided, directly or indirectly, to a non-Federal entity.

(4) **LOCAL GOVERNMENT.**—The term "local government" means a political subdivision of a State that is a unit of general local government (as defined under section 7501(a)(11) of title 31, United States Code);

(5) **NON-FEDERAL ENTITY.**—The term "non-Federal entity" means a State, local government, or nonprofit organization.

(6) **NONPROFIT ORGANIZATION.**—The term "nonprofit organization" means any corporation, trust, association, cooperative, or other organization that—

(A) is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;

(B) is not organized primarily for profit; and

(C) uses net proceeds to maintain, improve, or expand the operations of the organization.

(7) **STATE.**—The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, and any instrumentality thereof, any multi-State, regional, or interstate entity which has governmental functions, and any Indian Tribal Government.

(8) **TRIBAL GOVERNMENT.**—The term "tribal government" means an Indian tribe, as that term is defined in section 7501(a)(9) of title 31, United States Code.

(9) **UNIFORM ADMINISTRATIVE RULE.**—The term "uniform administrative rule" means a Government-wide uniform rule for any generally applicable requirement established to achieve national policy objectives that applies to multiple Federal financial assistance programs across Federal agencies.

SEC. 5. DUTIES OF FEDERAL AGENCIES.

(a) **IN GENERAL.**—Not later than 18 months after the date of enactment of this Act, each Federal agency shall develop and implement a plan that—

(1) streamlines and simplifies the application, administrative, and reporting procedures for Federal financial assistance programs administered by the agency;

(2) demonstrates active participation in the interagency process under section 6(a)(2);

(3) demonstrates appropriate agency use, or plans for use, of the common application and reporting system developed under section 6(a)(1);

(4) designates a lead agency official for carrying out the responsibilities of the agency under this Act;

(5) allows applicants to electronically apply for, and report on the use of, funds from the Federal financial assistance program administered by the agency;

(6) ensures recipients of Federal financial assistance provide timely, complete, and high quality information in response to Federal reporting requirements; and

(7) establishes specific annual goals and objectives to further the purposes of this Act and measure annual performance in achieving those goals and objectives, which may be done as part of the agency's annual planning responsibilities under the Government Performance and Results Act of 1993 (Public Law 103-62; 107 Stat. 285).

(b) **EXTENSION.**—If one or more agencies are unable to comply with the requirements of subsection (a), the Director shall report to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives the reasons for noncompliance. After consultation with such committees, the Director may extend the period for plan development and implementation for each non-compliant agency for up to 12 months.

(c) **COMMENT AND CONSULTATION ON AGENCY PLANS.**—

(1) **COMMENT.**—Each agency shall publish the plan developed under subsection (a) in the Federal Register and shall receive public comment of the plan through the Federal Register and other means (including elec-

tronic means). To the maximum extent practicable, each Federal agency shall hold public forums on the plan.

(2) **CONSULTATION.**—The lead official designated under subsection (a)(4) shall consult with representatives of non-Federal entities during development and implementation of the plan. Consultation with representatives of State, local, and tribal governments shall be in accordance with section 204 of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1534).

(d) **SUBMISSION OF PLAN.**—Each Federal agency shall submit the plan developed under subsection (a) to the Director and Congress and report annually thereafter on the implementation of the plan and performance of the agency in meeting the goals and objectives specified under subsection (a)(7). Such report may be included as part of any of the general management reports required under law.

SEC. 6. DUTIES OF THE DIRECTOR.

(a) **IN GENERAL.**—The Director, in consultation with agency heads, and representatives of non-Federal entities, shall direct, coordinate, and assist Federal agencies in establishing—

(1) a common application and reporting system, including—

(A) a common application or set of common applications, wherein a non-Federal entity can apply for Federal financial assistance from multiple Federal financial assistance programs that serve similar purposes and are administered by different Federal agencies;

(B) a common system, including electronic processes, wherein a non-Federal entity can apply for, manage, and report on the use of funding from multiple Federal financial assistance programs that serve similar purposes and are administered by different Federal agencies; and

(C) uniform administrative rules for Federal financial assistance programs across different Federal agencies; and

(2) an interagency process for addressing—

(A) ways to streamline and simplify Federal financial assistance administrative procedures and reporting requirements for non-Federal entities;

(B) improved interagency and intergovernmental coordination of information collection and sharing of data pertaining to Federal financial assistance programs, including appropriate information sharing consistent with section 552a of title 5, United States Code; and

(C) improvements in the timeliness, completeness, and quality of information received by Federal agencies from recipients of Federal financial assistance.

(b) **LEAD AGENCY AND WORKING GROUPS.**—The Director may designate a lead agency to assist the Director in carrying out the responsibilities under this section. The Director may use interagency working groups to assist in carrying out such responsibilities.

(c) **REVIEW OF PLANS AND REPORTS.**—Upon the request of the Director, agencies shall submit to the Director, for the Director's review, information and other reporting regarding agency implementation of this Act.

(d) **EXEMPTIONS.**—The Director may exempt any Federal agency or Federal financial assistance program from the requirements of this Act if the Director determines that the Federal agency does not have a significant number of Federal financial assistance programs. The Director shall maintain a list of exempted agencies which shall be available to the public through the Office of Management and Budget's Internet site.

SEC. 7. EVALUATION.

(a) IN GENERAL.—The Director (or the lead agency designated under section 6(b)) shall contract with the National Academy of Public Administration to evaluate the effectiveness of this Act. Not later than 4 years after the date of enactment of this Act, the evaluation shall be submitted to the lead agency, the Director, and Congress. The evaluation shall be performed with input from State, local, and tribal governments, and nonprofit organizations.

(b) CONTENTS.—The evaluation under subsection (a) shall—

(1) assess the effectiveness of this Act in meeting the purposes of this Act and make specific recommendations to further the implementation of this Act;

(2) evaluate actual performance of each agency in achieving the goals and objectives stated in agency plans; and

(3) assess the level of coordination among the Director, Federal agencies, State, local, and tribal governments, and nonprofit organizations in implementing this Act.

SEC. 8. COLLECTION OF INFORMATION.

Nothing in this Act shall be construed to prevent the Director or any Federal agency from gathering, or to exempt any recipient of Federal financial assistance from providing, information that is required for review of the financial integrity or quality of services of an activity assisted by a Federal financial assistance program.

SEC. 9. JUDICIAL REVIEW.

There shall be no judicial review of compliance or noncompliance with any of the provisions of this Act. No provision of this Act shall be construed to create any right or benefit, substantive or procedural, enforceable by any administrative or judicial action.

SEC. 10. STATUTORY REQUIREMENTS.

Nothing in this Act shall be construed as a means to deviate from the statutory requirements relating to applicable Federal financial assistance programs.

SEC. 11. EFFECTIVE DATE AND SUNSET.

This Act shall take effect on the date of enactment of this Act and shall cease to be effective 5 years after such date of enactment.

COUNCIL OF STATE GOVERNMENTS,
INTERNATIONAL CITY/COUNTY MANAGEMENT ASSOCIATION, NATIONAL ASSOCIATION OF COUNTIES, NATIONAL CONFERENCE OF STATE LEGISLATURES, NATIONAL GOVERNORS' ASSOCIATION, NATIONAL LEAGUE OF CITIES, U.S. CONFERENCE OF MAYORS,

February 24, 1999.

Hon. FRED THOMPSON,
Hon. GEORGE V. VOINOVICH,
Hon. JOSEPH I. LIEBERMAN,
Hon. RICHARD J. DURBIN,
U.S. Senate,
Washington, DC

DEAR SENATORS THOMPSON, LIEBERMAN, VOINOVICH, AND DURBIN: On behalf of the elected leaders of the respective organizations of Governors, legislators, mayors, county officials, and city managers, we are pleased that you will be introducing the Federal Financial Assistance Management Improvement Act. This bill was passed by the Senate last year and has the strong support of all our organizations.

The bill would require the Office of Management and Budget (OMB) to reevaluate its array of over 75 crosscutting regulations that govern all funds going to state and local governments. We support a requirement that

OMB establish lead agencies to develop uniform common rules for crosscutting regulations, base data information for multiple grants to the same state or local government, and electronic filing of most intergovernmental paperwork.

We greatly appreciate your leadership for these reforms and urge all Senators to support passage of your bill.

Sincerely,

Governor Thomas R. Carper, State of Delaware, Chairman, National Governors' Association; Representative Dan Blue, North Carolina State House of Representatives and President, National Conference of State Legislatures; Commissioner Betty Lou Ward, Wake County, North Carolina, President, National Association of Counties; Mayor Deedee Corradini, Salt Lake City, Utah, President, The U.S. Conference of Mayors; Bryce (Bill) Stuart, City Manager, Winston-Salem, North Carolina, President, International City/County Management Association; Mayor Clarence Anthony, South Bay, Florida, President, National League of Cities; Senator Kenneth McClintock, Puerto Rico Senate, Chairman, Council of State Governments.

Mr. THOMPSON. Mr. President, I am pleased to support the Federal Financial Assistance Management Improvement Act of 1999. As a strong believer in our federalist system of government, I am pleased to be an original cosponsor of this legislation, which will cut red tape and waste in Federal grant and other assistance programs that impact State and local government, as well as nonprofit organizations. It is fitting that my good friend from Ohio, GEORGE VOINOVICH, is now providing leadership on this effort in the Senate. As a governor and Chairman of the National Governors' Association, GEORGE VOINOVICH strongly supported this bill from outside Congress. While we reported the bill out of the Governmental Affairs Committee and passed it through the Senate last year, unfortunately it did not become law. It's time to get the job done.

This legislation will improve the performance of Federal grant and other assistance programs by streamlining their application, administration, and reporting requirements for grant recipients—including State, local and tribal governments and nonprofit organizations. The Federal agencies, with guidance from the Office of Management and Budget, would develop plans within 18 months to streamline application, administrative and reporting requirements, develop uniform applications for related programs, develop and expand the use of electronic applications and reporting via the Internet, demonstrate interagency coordination in simplifying requirements for crosscutting programs, and set annual goals to further the purposes of the Act.

Agencies would then consult with outside parties in developing their plans. The agencies would submit their plans and annual reports to the Director of OMB and to Congress, and they

could be made a part of other management reports required under law. In addition to overseeing and coordinating agency activities, OMB would develop more common rules to cut across programs and would develop a release form to allow grant information to be shared across programs.

This legislation has been endorsed by many organizations representing our State and local government partners, including the National Governors' Association, the National Conference of State Legislatures, the National League of Cities, the Council of State Governments, and the National Association of Counties. It is a good government, common sense initiative. Let's pull together and pass this bill into law.

By Mr. BREAU (for himself, Mr. BURNS, and Mr. BAUCUS):

S. 469. A bill to encourage the timely development of a more cost effective United States commercial space transportation industry, and for other purposes; to the Committee on Commerce, Science, and Transportation.

COMMERCIAL SPACE TRANSPORTATION COST
REDUCTION ACT

Mr. BREAU. I take the time today, Mr. President and my colleagues, to introduce a bill which I happen to think addresses a very important issue that this Nation is facing; and that is the question of trying to devise a system where the United States can continue to be the world's leader in the space launch business.

Every day, every month, more and more satellites around the world are being put into service. I daresay that most people really do not follow the details of how this is accomplished, but I do know that over the last several months people in this country have heard a great deal about Chinese rockets, Ukrainian rockets, Russian rockets and all the problems that they have been involved with related to the U.S. aerospace industry.

One may wonder, why would a U.S. company have to use a Ukraine launch vehicle or a Chinese launch vehicle or a Russian launch vehicle or a European launch vehicle in order to launch a U.S. satellite to serve the technological and communications needs of the world. The reason is not that hard to figure out when you look at the fact that these countries that I just mentioned are not countries that are under the same economic obligations that we are. Many of those are not free market economies. Many are still government-run economies. Many of those countries have governments that have put a great deal of money in their launch industries and are now able to provide those launch vehicles for use at a cut-rate or subsidized price.

I do not think that is particularly good for our country to have to buy space transportation on a Ukraine

rocket to launch a U.S. satellite. When those rockets malfunction, then we are in a problem area trying to tell them based on our technological expertise why the failure happened. Our companies could get into trouble because of the risk that they are sharing with them technology that could be used for military purposes.

So I, for one, do not think I would want to drive a Ukrainian car let alone ride in a Ukrainian rocket. But that is what is happening because of a situation where we do not have enough access in the private industry to U.S.-built space transportation vehicles that can launch U.S.-built satellites for communications purposes.

We have learned that one of the reasons is the fact that there is inadequate private sector funding for U.S. companies to engage in building space transportation vehicles for this purpose. It is, of course, a high-risk business. This is much more risky than building a ship or building a car or building just about anything else. A lot can go wrong. So it is a high risk. And there is inadequate funding in the private sector.

To solve this problem, what do you do? Do you make the Government take it over? Do you make the Government own the launch vehicles and make the Government pay for the building of the launch vehicles? In our society the answer is no. But I think that the legislation that I am introducing today, along with Senator CONRAD BURNS of Montana, sets up a program which would be a loan guarantee program where the U.S. Government can pattern in the space transportation industry what we have done very successfully in the shipbuilding industry under what is known as a Title XI shipbuilding loan guarantee program, where the Federal Government comes to a qualified builder who is having a difficult time getting adequate financing because of the nature of the industry, and that the Federal Government will be in a position to guarantee the loan to a company which company would go out into the private market and borrow the money but have the loan guaranteed by the Federal Government. Under that scenario, we have built literally hundreds and hundreds of vessels, probably thousands, through the Title XI loan guarantee program.

What I am proposing in the "Commercial Space Transportation Cost Reduction Act of 1999" is to set up a loan guarantee program which would be patterned after the Title XI Shipyard Loan Guarantee Program. We would vest the Secretary of Transportation in our Government with the administrative responsibilities for the program operations. The legislation would initially provide up to \$500 million of funding for the loan guarantee program. That would represent the possibility of generating up to \$5 billion in

loans for U.S. space transportation companies to engage other U.S. companies and U.S. workers in building space transportation vehicles for use in our society.

I ask unanimous consent for 2 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BREAUX. And by having that type of a system, I think that we would give our private companies the ability to compete with all of these other companies in countries which have their governments supporting them in these areas.

We have had a number of Senators who have expressed an interest in participating with us in this legislation. Let me just mention Senator LOTT, Senator BACCHUS, Senator BINGAMAN, Senator GRAHAM of Florida and Senator LANDRIEU of Louisiana. I hope—and now that the bill has been introduced, that the Commerce Committee can have some hearings on it—that we can continue to improve it and move forward with establishing something that will allow the private sector of the United States to continue to be, and even increase the ability to be, the world leader in space transportation. In particular, the ability to launch our satellites with our vehicles and not have to rent space from the Russians or from the Chinese or from the Ukrainians or from any other part of the world. This is a vitally important industry, and the United States should be the technological leader now and for the future.

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

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

S. 469

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 "Commercial Space Transportation Cost Reduction Act".

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

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

Sec. 3. Purposes.

Sec. 4. Definitions.

TITLE 1—INCREASING THE AVAILABILITY OF PRIVATE SECTOR FINANCING FOR THE UNITED STATES COMMERCIAL SPACE TRANSPORTATION INDUSTRY THROUGH A LOAN GUARANTEE PROGRAM

Sec. 101. United States Commercial Space Transportation Vehicle Industry Program.

Sec. 102. Functions of the Secretary of the Department of Transportation.

Sec. 103. Space Transportation Loan Guarantee Fund.

Sec. 104. Authorization of Secretary to Guarantee Obligations.

Sec. 105. Eligibility for Guarantee.

Sec. 106. Defaults.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The United States commercial space transportation vehicle industry is an essential part of the national economy and opportunities for U.S. commercial providers are growing as international markets expand.

(2) The development of the U.S. commercial space transportation vehicle industry is consistent with the national security interests and foreign policy interests of the United States.

(3) United States trading partners have been able to lower their commercial space transportation prices aggressively either through direct cash payments for commercially targeted product development or with indirect benefits derived from nonmarket economy status.

(4) Because United States incentives for space transportation vehicle development have historically focused on civil and military rather than commercial use, U.S. launch costs have remained comparatively high, and U.S. launch technology has not been commercially focused.

(5) As a result, the U.S. share of the world commercial market has decreased from nearly 100% twenty years ago to approximately 47% in 1998.

(6) In order to avoid undue reliance on foreign space transportation services, the U.S. must strive to have sufficient domestic capacity as well as the highest quality and the lowest cost per service provided.

(7) A successful high quality, lower cost U.S. commercial space transportation industry should also lead to substantial U.S. taxpayer savings through collateral lower U.S. government costs for its space access requirements.

(8) The key to maintaining United States leadership in the world market is *not* another massive government program, but rather provision of just enough government support on an incremental and timely basis to enable the more cost effective U.S. private sector to build lower-cost space transportation vehicles.

(9) Private sector companies across the United States are already attempting to develop a variety of lower-cost space transportation vehicles, but lack of sufficient private financing, particularly in the early stages of development, has proven to be a major obstacle, an obstacle our trading partners have removed by providing direct access to government funding.

(10) Given the strengths and creativity of private industry in the United States, a more effective alternative to the approach of our trading partners is for the U.S. government to provide limited incentives, including loan guarantees which would help qualifying U.S. private-sector companies secure otherwise unavailable private "bridge" financing for the critical developmental stages of the project, while at the same time keeping government involvement at a minimum.

SEC. 3. PURPOSES.

Therefore the purposes of this Act are—

(1) to ensure availability of otherwise unavailable private sector "bridge" financing for U.S. private sector development of commercial space transportation vehicles with launch costs significantly below current levels;

(2) and, as a result—

(A) to avoid undue reliance on foreign space transportation services;

(B) to reduce substantially United States Government space transportation expenditures;

(C) to increase the international competitiveness of the United States space industry;

(D) to encourage the growth of space-related commerce in the United States and internationally; and

(E) to increase the number of high-value jobs in the United States space-related industries.

SEC. 4. DEFINITIONS.

In this Act:

(1) **TOTAL CAPITAL REQUIREMENT.**—The term “total capital requirement” of a United States commercial space transportation provider means the aggregate, as determined by the Secretary, of all Cash Requirements paid or to be paid by or on the account of the Obligor prior to the achievement by the Obligor of positive cash flow generation. For the purposes of this definition, the term “Cash Requirements” shall include all cash expended or invested by the Obligor (including but not limited to design, development, testing and evaluation (DDT&E)), construction, reconstruction, reconditioning, placing into operation, working capital, interest expense and initial operating and marketing expenses in connection with space transportation prior to the achievement of positive cash flow generation on ongoing operations.

(2) **LOAN.**—The term “loan” means an obligation.

(3) **OBLIGEE.**—The term “obligee” means the holder of an obligation.

(4) **OBLIGOR.**—The term “obligor” means any party primarily liable for payment of the principal of or interest on any obligation.

(5) **OBLIGATION.**—The term “obligation” means any note, bond, debenture, or other evidence of indebtedness issued for one of the purposes specified in section 105(a) of this Act.

(6) **SECRETARY.**—The term “Secretary” means the Secretary of the United States Department of Transportation.

(7) **SPACE LAUNCH SITE.**—The term “space launch site” means a location from which a launch or landing takes place and includes all facilities located on, or components of, a launch or landing site which are necessary to conduct a launch, whether on land, sea, in the earth’s atmosphere, or beyond the earth’s atmosphere.

(8) **SPACE TRANSPORTATION VEHICLE.**—The term “space transportation vehicle” includes all types of vehicles, whether in existence or under design, development, construction, reconstruction or reconditioning; constructed in the United States by United States commercial space transportation vehicle providers as defined below and owned by those commercial providers, for the purpose of operating in, or transporting a payload to, from, or within, outer space, or in suborbital trajectory, and includes any component of such vehicle not specifically designed or adapted for a payload.

(9) **STATE.**—The term “State” means each of the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other commonwealth, territory, or possession of the United States.

(10) **UNITED STATES COMMERCIAL PROVIDER.**—The term “United States commercial provider” means a commercial provider, organized under the laws of the United States or of a State, which is—

(A) more than 50 percent owned by United States nationals; or

(B) a subsidiary of a foreign company and the Secretary of Transportation finds that—

(i) such subsidiary has in the past evidenced a substantial commitment to the United States market through—

(I) investments in the United States in long-term research, development, and manufacturing (including the manufacture of major components and subassemblies); and

(II) significant contributions to employment in the United States; and

(ii) the country or countries in which such foreign company is incorporated or organized, and, if appropriate, in which it principally conducts its business, affords reciprocal treatment to companies described in subparagraph (A) comparable to that afforded to such foreign company’s subsidiary in the United States, as evidenced by—

(I) providing comparable opportunities for companies described in subparagraph (A) to participate in Government sponsored research and development similar to that authorized under this Act;

(II) providing no barriers, to companies described in subparagraph (A) with respect to local investment opportunities, that are not provided to foreign companies in the United States; and

(III) providing adequate and effective protection for the intellectual property rights of companies described in subparagraph (A).

(II) **SMALL BUSINESS.**—For the purposes of this Act, a “small business” is a commercial provider as defined by the Secretary according to criteria established in consultation with the commercial space transportation vehicle industry and professional associations.

(12) **UNITED STATES COMMERCIAL SPACE TRANSPORTATION VEHICLE PROVIDER.**—The term “United States commercial space transportation vehicle provider” means a United States commercial provider engaged in designing, developing, producing, or operating commercial space transportation vehicles.

(13) **UNITED STATES COMMERCIAL SPACE TRANSPORTATION VEHICLE INDUSTRY.**—The term “United States commercial space transportation vehicle industry” means the collection of United States commercial providers of space transportation vehicles.

(14) **COST TO THE GOVERNMENT.**—“Cost to the Government” means the Risk Rate multiplied by the amount of the guarantee issued by the Secretary. The Cost to the Government reduces the amount of the Fund until such time as part or all of the guarantee has been retired as described in Section 103 of the Act.

(15) **RISK RATE.**—“Risk Rate” means the percentage applies to a guarantee of an entity assigned to a specific Risk Category by the Secretary and used in calculating the Cost to the Government of the guarantee.

(16) **RISK CATEGORY.**—“Risk Category” means the category into which the Secretary assigns an entity applying for a guarantee based on the risk factors identified in Section 104(f). The Risk Category is assigned for the purpose of arriving at a Risk Rate in the calculation of the Cost to the Government.

(17) **FUND.**—The “Fund” means the amount appropriated under the Act as described under Section 103 of the Act.

TITLE 1—INCREASING THE AVAILABILITY OF PRIVATE SECTOR FINANCING FOR THE UNITED STATES COMMERCIAL SPACE TRANSPORTATION VEHICLE INDUSTRY THROUGH A LOAN GUARANTEE PROGRAM

SEC. 101. UNITED STATES COMMERCIAL SPACE TRANSPORTATION VEHICLE INDUSTRY LOAN GUARANTEE PROGRAM.

(a) **ESTABLISHMENT OF PROGRAM.**—There shall be a United States Commercial Space

Transportation Vehicle Industry Loan Guarantee program to provide loan guarantees to support the private development of multiple qualified United States commercial space transportation vehicle providers with launch costs significantly below current levels.

(b) **ADMINISTRATION OF PROGRAM.**—The program shall be carried out by the Secretary of Transportation under a streamlined application process pursuant to the terms of this Section and any regulations that may be promulgated hereunder, in consultation with other U.S. Government officials, and private sector representatives, as necessary, to ensure fair, effective and timely program administration.

(c) **SCOPE OF PROGRAM.**—

(1) **TEMPORARY GOVERNMENT SUPPORT.**—The United States Commercial Space Transportation Vehicle Industry Loan Guarantee program is intended to provide loan guarantees to support financing of qualified commercial space transportation vehicle development ventures during their startup phases and is not intended as a permanent source of financing for such ventures. Applications for guarantees under this program must include specific plans for the timely transition from guaranteed financing to standalone private sector financing as soon as the venture becomes commercially viable.

(2) **EXCLUSION OF SPACE LAUNCH SITES.**—The program does not provide for loan guarantees pertaining to the construction, reconstruction, or reconditioning of space launch sites.

(3) **EXCLUSION OF EVOLVED EXPENDABLE LAUNCH VEHICLE PROGRAM.**—The United States Commercial Space Transportation Vehicle Industry Loan Guarantee program shall not remove, restrict, or replace funding provided by the Department of Defense to commercial providers participating in the Evolved Expendable Launch Vehicle (EELV) program. Commercial providers already receiving Department of Defense funding for the development of specific expendable launch vehicles under the Evolved Expendable Launch Vehicle program shall not be eligible to apply for loan guarantees pertaining to this same program, under the United States Commercial Space Transportation Vehicle Industry Loan Guarantee program.

(4) **SMALL BUSINESS SET ASIDE.**—Depending upon the number of applications, not less than ten percent and up to 20 percent of the loan guarantee fund shall be set aside for small businesses as defined by the Secretary. In no event shall a single commercial provider be the sole beneficiary of loan guarantees available under this Act.

(5) **COMPETITION ENCOURAGED ON INITIATIVES ATTEMPTING TO MEET UNIQUE U.S. GOVERNMENT SPECIFICATIONS.**—When possible and economically feasible, in order to allow U.S. taxpayers to receive the benefits and disciplines of private sector competition, the Secretary shall administer the loan guarantee program to permit the participation of multiple United States space transportation vehicle commercial providers that are targeting unique U.S. government specifications.

(6) **NONDISCLOSURE OF CONFIDENTIAL MATERIALS.**—Materials that are submitted by a United States commercial space transportation vehicle provider to the Secretary in connection with an application submitted under the United States Commercial Space Transportation Vehicle Industry Loan Guarantee program and deemed by the commercial provider to be confidential, and that contain trade secrets or proprietary commercial, financial, or technical information

of a kind not customarily disclosed to the public, shall not be disclosed by the Secretary to persons other than Government officers, employees or contractors notwithstanding any other provision of law.

(d) SUNSET.—This Act shall sunset 10 years from date of enactment.

SEC. 102. FUNCTIONS OF THE SECRETARY OF TRANSPORTATION.

The Secretary shall carry out the following functions—

(a) CONSULTATION.—Consultation, to the extent deemed necessary for effective implementation of the Act with appropriate federal agencies, Congressional, and space transportation industry representatives, and members of the risk management industry concerning—

(1) assessments of international competition, potential markets for space transportation vehicles, and availability of private investment capital;

(2) recommendations of commercial entities, partnerships, joint ventures, or consortia regarding effective implementation of the loan guarantee program; and

(3) recommendations on how to make U.S. government space access requirements more compatible with U.S. commercial space transportation assets.

(b) PROGRAM MANAGEMENT.—Management of the loan guarantee program consistent with the purposes of this Act.

Sec. 103. AUTHORIZATION OF APPROPRIATION OF FUNDS.

(a) The Act authorizes an annual appropriation of the sum of \$400,000,000 to be deposited in a Fund to be used by the Secretary for the purpose of carrying out the provisions of the Act. The Fund will be reduced by the Cost to the Government (as defined) of each loan guarantee extended by the Secretary as further described in Section 104(f). As an Obligor releases its government guarantees on the schedule agreed to up front with the Secretary, this Cost to the Government shall be reduced or eliminated, thus replenishing the Fund for new guarantees.

Sec. 104. AUTHORIZATION OF SECRETARY TO GUARANTEE OBLIGATIONS

(a) PRINCIPAL AND INTEREST.—The Secretary is authorized to guarantee, and to enter into commitments to guarantee, the payment of the interest on, and the unpaid balance of the principal of, any obligation which is eligible to be guaranteed under this Act. A guarantee, or commitment to guarantee, made by the Secretary under this Act shall cover 100 percent of the amount of the principal and interest of the obligation.

(b) SECURITY INTEREST.—No obligation shall be guaranteed under this Act unless the obligor conveys or agrees to convey to the Secretary a security interest such as the Secretary may reasonably require to protect the interests of the United States.

(c) PRIVATE INSURANCE.—If the Secretary determines that other potential measures, as described in this Act, are not sufficient to provide adequate security, the Secretary, as a condition of processing or approving an application for guarantee of an obligation, may require that the obligor obtain private insurance with respect to a portion of the government's risk of default by the obligor on the obligation, including both the amount of the obligation still outstanding and the accrued interest. Such private insurance may be funded from the proceeds of any obligation guaranteed under this Act. If the obligor fails to renew such private insurance on a timely basis, the Secretary may take such action as deemed necessary, with regard to

seizure of security interest conveyed by the obligor or the assessment of additional fees to the obligor, to ensure that the appropriate insurance renewal is obtained without delay.

(d) PLEDGE OF UNITED STATES.—The full faith and credit of the United States is pledged to the payment of all guarantees made under this Act with respect to both principal and interest, including interest, as may be provided for in the guarantee, accruing between the date of default under a guaranteed obligation and the payment in full of the guarantee.

(e) PROOF OF OBLIGATIONS.—Any guarantee, or commitment to guarantee, made by the Secretary under this Act shall be conclusive evidence of the eligibility of the obligations for such guarantee, and the validity of any guarantee, or commitment to guarantee, so made shall be incontestable. Notwithstanding an assumption of an obligation by the Secretary under section 106 (a) or (b) of this Act, the validity of the guarantee of an obligation made by the Secretary under this Act is unaffected and the guarantee remains in full force and effect.

(f) DETERMINATION OF ESTIMATED BENEFIT AND COST TO GOVERNMENT FOR LOAN GUARANTEE PROGRAM.—

(1) The Secretary shall in consultation with the private risk management industry and consistent with the Federal Credit Reform Act of 1990 (2 U.S.C. 661a et seq.)—

(A) establish in accordance with this subsection a system of risk categories for obligations guaranteed under this Act, that categorizes the relative risk of guarantees made under this Act with respect to the risk factors set forth in paragraph (3); and

(B) determine for each of the risk categories a risk rate equivalent to the cost of obligations in the category, expressed as a percentage of the amount guaranteed under this Act for obligations in the category.

(2) Before making a guarantee under this section for an obligation, the Secretary shall apply the risk factors set forth in paragraph (3) to place the obligation in a risk category established under paragraph (1)(A).

(3) The risk factors referred to in paragraphs (1) and (2) are the following:

(A) The technological feasibility of the proposed venture and the magnitude of its projected overall space launch cost reduction;

(B) The period for which an obligation is to be guaranteed, such period not exceeding 12 years;

(C) The amount of obligations which are guaranteed or to be guaranteed, in relation to the Total Capital Requirement of the proposed venture;

(D) The financial condition of the applicant;

(E) The availability of private financing, including guarantees (other than the guarantees issued pursuant to this Act) and private insurance, for the proposed venture;

(F) The projected commercial and government utilization of each space transportation vehicle or other article to be financed by debt guaranteed pursuant to this Act (including any contracts, letters of intent, or other expressions of agreement under which the applicant will provide launch services using a space transportation vehicle or other article financed by debt guaranteed pursuant to this Act);

(G) The adequacy of collateral provided in exchange for a guarantee issued pursuant to this act;

(H) The management and operating experience of the applicant;

(I) Commercial viability of the business plan for the venture of the Obligor;

(J) The extent of private equity capital in the project;

(K) The applicant's plans for achieving a transition from Government-guaranteed financing to private financing;

(L) The likelihood that the venture would serve an identifiable national interest;

(M) The likelihood that the successful completion of the project would result in savings that would offset anticipated Government expenditures for space-related activities;

(N) The likelihood that the project will open new markets or result in the development of significant new technologies;

(O) other relevant criteria; and

(4) The amount of appropriated funds required by the Federal Credit Reform Act of 1990 in advance of the Secretary's issuance of a guarantee of an obligation, or a commitment to guarantee an obligation, may be provided, in whole or in part, by a non-Federal source and deposited by the Secretary in the financing account established under the Federal Credit Reform Act of 1990 for obligation guarantees issued by the Secretary. These non-Federal source funds may be in lieu of or combined with Federal funds appropriated for the purpose of satisfying the requirements of the Federal Credit Reform Act of 1990. The non-Federal source funds deposited into that financing account shall be held and applied by the Secretary in accordance with the provisions of the Federal Credit Reform Act of 1990, in the same manner as that legislation controls the use and disposition of Federally appropriated funds. Non-Federal source funds must be paid to the Secretary in cash prior to the issuance of any guarantee or commitment to guarantee an obligation. The payment of said non-Federal source funds shall not, in any way, relieve any entity from its responsibility to meet any other provision of this Act or its implementing regulations relating to the application for, issuance of, or administration of a guarantee of an obligation.

(5) In this subsection, the term "cost" has the meaning given that term in the Federal Credit Reform Act of 1990 (2 U.S.C. 661a).

SEC. 105. ELIGIBILITY FOR GUARANTEE

(a) PURPOSE OF OBLIGATIONS.—Pursuant to the authority granted under section 104(a) of this Act, the Secretary, upon such terms as he shall prescribe, consistent with the provisions and purpose of the Act, may guarantee or make a commitment to guarantee, payment of the principal of and interest on an obligation for the purpose of—

(1) Financing the Total Capital Requirement, as defined, of the DDT&E, construction, reconstruction, reconditioning, placing into operation, working capital, interest expense, and initial operating and marketing expenses in connection with space transportation vehicles with launch costs significantly below current levels.

(2) Financing the purchase, reconstruction, or reconditioning of space transportation vehicles to achieve launch costs significantly below current levels for which obligations were guaranteed under this Act that, under the provisions of section 106 of this Act are space transportation vehicles for which obligations were accelerated and paid and that have been repossessed by the Secretary or sold at foreclosure instituted by the Secretary.

(b) CONTENTS OF OBLIGATIONS.— Obligations guaranteed under this Act—

(1) shall have an obligor approved by the Secretary as responsible and possessing or having the ability to obtain the technical capability, experience, financial resources, and

other qualifications necessary to the adequate development, operation and maintenance of the space transportation vehicle or space transportation vehicles which serve as security for the guarantee of the Secretary;

(2) subject to the provisions of subsection (c)(1) of this section, shall be in an aggregate principal amount which does not exceed 80 per centum of the total Capital Requirement, as determined by the Secretary, of the space transportation vehicle which is used as security for the guarantee of the Secretary;

(3) shall have maturity dates satisfactory to the Secretary but, subject to the provisions of paragraph (2) of subsection (c) of this section, not to exceed twelve years from the date of the issuance of the guarantee.

(4) shall provide for payments by the obligor satisfactory to the Secretary;

(5) shall provide, or a related agreement shall provide that the space transportation vehicle shall meet such safety, reliability, and performance standards as are necessary for U.S. commercial licensing; and

(6) shall provide that the space transportation vehicle provider guarantee to the United States Government, launch services at the targeted significantly reduced launch cost or the prevailing commercial launch cost, which ever is lower.

(c) SECURITY.—

(1) The security for the guarantee of an obligation by the Secretary under this Act may relate to more than one space transportation vehicle and may consist of any combination of types of security. The aggregate principal amount of obligations which have more than one space transportation vehicle as security for the guarantee of the Secretary under this Act may equal, but not exceed, the sum of the principal amount of obligations permissible with respect to each space transportation vehicle.

(2) If the security for the guarantee of an obligation by the Secretary under this Act relates to more than one space transportation vehicle, such obligation may have the latest maturity date permissible under subsection (b) of this section with respect to any of such space transportation vehicles: Provided, that the Secretary may require such payments of principal, prior to maturity, with respect to all related obligations as he deems necessary in order to maintain adequate security for the guarantee.

(d) RESTRICTIONS.—

(1) RESTRICTION ON USED SPACE TRANSPORTATION VEHICLES.—No commitment to guarantee, or guarantee of an obligation may be made by the Secretary under this Act for the purchase of a used space transportation vehicle unless—

(A) the used space transportation vehicle will be reconstructed or reconditioned in the United States and will contribute to the development of the United States commercial space transportation vehicle industry; and

(B) the reconstruction or reconditioning of the used space transportation vehicle will result in a magnitude of projected space transportation cost reduction comparable to that which development of new space transportation vehicles would be required to project, in order to be eligible for guarantee of obligations.

(e) APPLICATION AND ADMINISTRATIVE FEES.—

(1) The Secretary may assess a fee for applications for loan guarantees submitted under this Act and/or a fee for administration of an obligation under this Act.

(2) Application fees under this subsection shall be assessed and collected at the time a U.S. commercial space transportation vehi-

cle provider submits an application for loan guarantees under this Act. Administrative fees under this section shall be assessed and collected not later than the date of issuance of the debt guaranteed pursuant to this Act.

(3) Administrative fees collected under this subsection shall not exceed one-eighth of one percent of the guaranteed amount of the face value of the debt covered by the guarantee.

(4) A fee paid under this subsection is generally not refundable. However, an obligor shall receive credit for the amount paid for the remaining term of the guaranteed obligation if the obligation is refinanced and guaranteed under this Act after such refinancing.

(5) A fee paid under this subsection shall be included in the amount of the actual cost of the obligation guaranteed under this Act and is eligible to be financed under this Act.

(6) There are authorized to be appropriated such sums as may be necessary for salaries and expenses to carry out the responsibilities under this title.

(f) ADDITIONAL REQUIREMENTS.—Obligations guaranteed under this Act and agreements relating thereto shall contain such other provisions with respect to the protection of the financial security interests of the United States as the Secretary may, in his or her discretion, prescribe.

SEC. 106. DEFAULTS.

(a) RIGHTS OF OBLIGEE.—In the event of a default, which has continued for thirty days, in any payment by the obligor of principal or interest due under an obligation guaranteed under this Act, the obligee or his agent shall have the right to demand (unless the Secretary shall, upon such terms as may be provided in the obligation or related agreements, prior to that demand, have assumed the obligor's rights and duties under the obligation and agreements and shall have made any payments in default), at or before the expiration of such period as may be specified in the guarantee or related agreements, but not later than ninety days from the date of such default, payment by the Secretary of the unpaid principal amount of such obligation and of the unpaid interest thereon to the date of payment. Within such period as may be specified in the guarantee or related agreements, but not later than thirty days from the date of such demand, the Secretary shall promptly pay to the obligee or his agent the unpaid principal amount of said obligation and unpaid interest thereon to the date of payment: Provided, That the Secretary shall not be required to make such payment if prior to the expiration of said period he shall find that there was no default by the obligor in the payment of principal or interest or that such default has been remedied prior to any such demand.

(b) NOTICE OF DEFAULT.—In the event of a default under a mortgage, loan agreement, or other security agreement between the obligor and the Secretary, the Secretary may upon such terms as may be provided in the obligation or related agreement, either:

(1) assume the obligor's rights and duties under the agreement, make any payment in default, and notify the obligee or the obligee's agent of the default and the assumption by the Secretary; or

(2) notify the obligee or the obligee's agent of the default, and the obligee or the obligee's agent shall have the right to demand at or before the expiration of such period as may be specified in the guarantee or related agreements, but not later than 60 days from the date of such notice, payment by the Secretary of the unpaid principal amount of said obligation and of the unpaid

interest thereon. Within such period as may be specified in the guarantee or related agreements, but not later than 30 days from the date of such demand, the Secretary shall promptly pay to the obligee or the obligee's agent the unpaid principal amount of said obligation and unpaid interest thereon to the date of payment.

(c) TO COMPLETE, SELL OR OPERATE PROPERTY.—In the event of any payment or assumption by the Secretary under subsection (a) or (b) of this section, the Secretary shall have all rights in any security held by him relating to his guarantee of such obligations as are conferred upon him under any security agreement with the obligor. Notwithstanding any other provision of law relating to the acquisition, handling, or disposal of property by the United States, the Secretary shall have the right, in his discretion, to complete, recondition, reconstruct, renovate, repair, maintain, operate, charter, or sell any property acquired by him pursuant to a security agreement with the obligor. The terms of the sale shall be as approved by the Secretary.

(d) ACTIONS AGAINST OBLIGOR.—In the event of a default under any guaranteed obligation or any related agreement, the Secretary shall take such action against the obligor or any other parties liable thereunder that, in his discretion, may be required to protect the interests of the United States. Any suit may be brought in the name of the United States or in the name of the obligee and the obligee shall make available to the United States all records and evidence necessary to prosecute any such suit. The Secretary shall have the right, in his discretion, to accept a conveyance of Act to and possession of property from the obligor or other parties liable to the Secretary, and may purchase the property for an amount not greater than the unpaid principal amount of such obligation and interest thereon. In the event that the Secretary shall receive through the sale of property an amount of cash in excess of the unpaid principal amount of the obligation and unpaid interest on the obligation and the expenses of collection of those amounts, the Secretary shall pay the excess to the obligor.

By Mr. CHAFEE (for himself, Mr. MOYNIHAN, Mr. WARNER, Mr. BOND, Mr. GRAHAM, and Mr. GORTON):

S. 470. A bill to amend the Internal Revenue Code of 1986 to allow tax-exempt private activity bonds to be issued for highway infrastructure construction; to the Committee on Finance.

THE HIGHWAY INNOVATION AND COST SAVINGS ACT

Mr. CHAFEE. Mr. President today, I am introducing legislation which will allow the private sector to take a more active role in building and operating our nation's highway infrastructure. The Highway Innovation and Cost Savings Act will allow the private sector to gain access to tax-exempt bond financing for a limited number of highway projects. I am pleased that my distinguished colleagues, Senators MOYNIHAN, WARNER, BOND, GRAHAM, and GORTON have agreed to join me in this effort.

In the United States, highway and bridge infrastructure is the responsibility of the government. Governments

build, own, and operate public highways, roads and bridges. In many other countries, however, the private sector, and private capital, construct and operate important facilities. These countries have found that increasing the private sector's role in major highway transportation projects offers opportunities for construction cost savings and more efficient operation. They also open the door for new construction techniques and technologies.

It is incumbent upon us to look at new and innovative ways to make the most of limited resources to address significant needs. To help meet the nation's infrastructure needs, we must take advantage of private sector resources by opening up avenues for the private sector to take the lead in designing, constructing, financing and operating highway facilities.

A substantial barrier to private sector participation in the provision of highway infrastructure is the cost of capital. Under current Federal tax law, highways built and operated by the government can be financed using tax exempt debt, but those built and operated by the private sector, or those with substantial private sector participation, cannot. As a result, public/private partnerships in the provision of highway facilities are unlikely to materialize, despite the potential efficiencies in design, construction, and operation offered by such arrangements.

To increase the amount of private sector participation in the provision of highway infrastructure, the tax code's bias against private sector participation must be addressed.

The Highway Innovation and Cost Savings Act creates a pilot program aimed at encouraging the private sector to help meet the transportation infrastructure needs for the 21st Century. It makes tax exempt financing available for a total of 15 highway privatization projects. The total face value of bonds that can be issued under this program is limited to 15 billion dollars.

The fifteen projects authorized under the program will be selected by the Secretary of Transportation, in consultation with the Secretary of Treasury. To qualify under this program, projects selected must: serve the general public; assist in evaluating the potential of the private sector's participation in the provision, maintenance, and operation of the highway infrastructure of the United States; be on publicly-owned rights-of-way; revert to public ownership; and, come from a state's 20-year transportation plan. These criteria ensure that the projects selected meet a state or locality's broad transportation goals.

This proposal was included in the Senate's version of last year's transportation reauthorization bill. Unfortunately, it was dropped during the conference with the House.

The bonds issued under this pilot program will be subject to the rules and regulations governing private activity bonds. Moreover, the bonds issued under the program will not count against a state's tax exempt volume cap.

This legislation has been endorsed by Project America, a coalition dedicated to improving our nation's infrastructure, the American Consulting Engineers Council, the Bond Market Association, the American Road and Transportation Builders Association, the Institute of Transportation Engineers, and the ITS America.

I hope that this bill can be one in a series of new approaches to meeting our substantial transportation infrastructure needs and will be one of the approaches that will help us find more efficient methods to design and to build the nation's transportation infrastructure.

I encourage my colleagues to join me as sponsors of this important initiative.

Mr. President, I ask unanimous consent that the text and a description of the bill be printed into the RECORD.

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

S. 470

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 "Highway Innovation and Cost Savings Act".

SEC. 2. TAX-EXEMPT FINANCING OF QUALIFIED HIGHWAY INFRASTRUCTURE CONSTRUCTION.

(a) **TREATMENT AS EXEMPT FACILITY BOND.**—A bond described in subsection (b) shall be treated as described in section 141(e)(1)(A) of the Internal Revenue Code of 1986, except that section 146 of such Code shall not apply to such bond.

(b) **BOND DESCRIBED.**—

(1) **IN GENERAL.**—A bond is described in this subsection if such bond is issued after the date of enactment of this Act as part of an issue—

(A) 95 percent or more of the net proceeds of which are to be used to provide a qualified highway infrastructure project, and

(B) to which there has been allocated a portion of the allocation to the project under paragraph (2)(C)(ii) which is equal to the aggregate face amount of bonds to be issued as part of such issue.

(2) **QUALIFIED HIGHWAY INFRASTRUCTURE PROJECTS.**—

(A) **IN GENERAL.**—For purposes of paragraph (1), the term "qualified highway infrastructure project" means a project—

(i) for the construction or reconstruction of a highway, and

(ii) designated under subparagraph (B) as an eligible pilot project.

(B) **ELIGIBLE PILOT PROJECT.**—

(1) **IN GENERAL.**—The Secretary of Transportation, in consultation with the Secretary of the Treasury, shall select not more than 15 highway infrastructure projects to be pilot projects eligible for tax-exempt financing.

(ii) **ELIGIBILITY CRITERIA.**—In determining the criteria necessary for the eligibility of

pilot projects, the Secretary of Transportation shall include the following:

(I) The project must serve the general public.

(II) The project is necessary to evaluate the potential of the private sector's participation in the provision, maintenance, and operation of the highway infrastructure of the United States.

(III) The project must be located on publicly-owned rights-of-way.

(IV) The project must be publicly owned or the ownership of the highway constructed or reconstructed under the project must revert to the public.

(V) The project must be consistent with a transportation plan developed pursuant to section 134(g) or 135(e) of title 23, United States Code.

(C) **AGGREGATE FACE AMOUNT OF TAX-EXEMPT FINANCING.**—

(i) **IN GENERAL.**—The aggregate face amount of bonds issued pursuant to this section shall not exceed \$15,000,000,000, determined without regard to any bond the proceeds of which are used exclusively to refund (other than to advance refund) a bond issued pursuant to this section (or a bond which is a part of a series of refundings of a bond so issued) if the amount of the refunding bond does not exceed the outstanding amount of the refunded bond.

(ii) **ALLOCATION.**—The Secretary of Transportation, in consultation with the Secretary of the Treasury, shall allocate the amount described in clause (i) among the eligible pilot projects designated under subparagraph (B), based on the extent to which—

(I) the projects use new technologies, construction techniques, or innovative cost controls that result in savings in building or operating the projects, and

(II) the projects address local, regional, or national transportation needs.

(iii) **REALLOCATION.**—If any portion of an allocation under clause (ii) is unused on the date which is 3 years after such allocation, the Secretary of Transportation, in consultation with the Secretary of the Treasury, may reallocate such portion among the remaining eligible pilot projects.

SUMMARY OF HIGHWAY INNOVATION AND COST SAVINGS ACT

The U.S. Department of Transportation estimates a substantial shortfall in funding for meeting our highway and bridge infrastructure needs, even with the increased investment levels under TEA 21. Closing the gap will require full access to private capital as well as government resources.

Existing tax laws discourage private investment in highway infrastructure by making lower cost tax-exempt financing unavailable for projects involving private equity investment and private sector management and operating contracts.

Today, U.S. companies, which have invested billions of dollars in foreign infrastructure projects, have participated in only a few such projects in the United States. This pilot program will demonstrate the benefits of bringing the full resources of the private sector to bear on solving our own nation's transportation needs for the 21st century.

Increasing the private-sector's role in major highway transportation projects offers opportunities for construction cost savings and more efficient operation, as well as opening the door for new construction techniques and technologies.

A substantial barrier to private-sector participation in the provision of highway infrastructure is the cost of capital. Under current Federal tax law, highways built and operated by government can be financed using tax exempt financing but those built and operated by the private sector cannot. As a result, public/private partnerships in the provision of highway facilities are unlikely to materialize, despite the potential efficiencies in design, construction, and operation offered by such arrangements.

To increase the amount of private-sector participation in the provision of highway infrastructure, the tax code's bias against private-sector participation must be addressed, or the benefits that the private-sector can bring to infrastructure development will never be fully realized.

Highways, bridges, and tunnels are the only major category of public infrastructure investment where projects involving private participation (commonly referred to as private-activity bonds) are denied access to tax-exempt debt financing. See Attachment.

PILOT PROGRAM UNDER HICSA

Tax-exempt financing for up to 15 projects is made available under this pilot program. The aggregate amount of bonds issued under this program is limited to \$15 billion.

Pilot projects are to be selected by the Secretary of Transportation, in consultation with the Secretary of the Treasury, based on the following criteria: the project must serve the general public; the project must be necessary to evaluate the potential of the private sector's participation in the provision of highway transportation infrastructure; the project must be located on a publicly-owned right-of-way; the project must be publicly owned or the ownership of the project must revert to the public; and the project must be consistent with transportation plans developed under Title 23 U.S.C.

Benefits resulting from the private sector participation include those resulting from using alternative procurement methodologies (including design-build and design and design-built-operate-maintain contracting), shortening construction schedules, reducing carrying costs, transferring greater construction and operating risk to the private sector, and obtaining from contractors long-term warranties and operating guaranties.

Private investors and operators are encouraged under this program to achieve efficiencies in design, construction, and operation by affording them a share in the project's net returns.

Projects will be subject to applicable environmental requirements, prevailing state design and construction standards and applicable state and local labor laws similar to any other transportation facility financed with tax-exempt bonds.

In the absence of this program, state and local governments could still build these projects with conventional tax-exempt financing, but at greater cost, on delayed time schedules, without contribution of private equity capital and without transferring to the private sector long term operating and maintenance risk.

TAX-EXEMPT BONDS FOR INFRASTRUCTURE

	Governmental only	Private activity bonds
Facility:		
Airport	Yes	Yes
Docks, Ports	Yes	Yes
Highways & Bridges	Yes	No
Mass Transit	Yes	Yes
High Speed Rail	Yes	Yes
Water Facilities	Yes	Yes

TAX-EXEMPT BONDS FOR INFRASTRUCTURE—Continued

	Governmental only	Private activity bonds
Sewage Facilities	Yes	Yes
Solid Waste Facilities	Yes	Yes
Hazardous Waste	Yes	Yes

Mr. GRAHAM. Mr. President, I am pleased to join my colleagues to introduce the Highway Innovation and Cost Savings Act of 1999. As you know, last year on June 9, President Clinton signed into law, the Transportation Equity Act of 1998. TEA 21 established many new programs, and a new budget treatment for highways. Throughout the debate on TEA 21, I always focused on one goal: to be able to promise my constituents that by 2003, the last year of TEA 21, our roads and bridges would be in better shape than they are today. In 1991, when ISTEA passed, I was not able to make that pledge, because I knew that the United States Department of Transportation had already estimated that the level of funding in the ISTEA bill would not close the gap between highway needs and money to meet those needs.

TEA 21 was a landmark piece of legislation. TEA 21 established a new budget category for funding the highway program which calls for funding levels each year to match the intake of gas taxes the year prior. This will be the first year we test the philosophy that we can commit to spending user fees exclusively to keep up the system. Unfortunately, this amount of funding is still not enough to maintain the quality of roads in Florida or any other state. Traditional grant programs will not be able to ever meet the infrastructure needs of the nation. We must look at innovative solutions to our congestion problems. We need to use innovative methods to finance construction projects. We need to get the private sector involved in transportation improvements.

The distinguished Chairman of the Environment and Public Works Committee and I worked very hard to develop and implement an innovative financing program called transportation Infrastructure Finance and Innovation Act (TIFIA). TIFIA was incorporated into TEA 21 and is now being implemented by the United States Department of Transportation. The program will extend federal credit to major, high cost transportation projects so as to enhance the project's ability to acquire private credit. The TIFIA program authorizes \$530 million to be extended in federal credit over six years. The \$530 million can be used to leverage up to \$10.6 billion in private loans and lines of credit. The TIFIA program offers the sponsors of major transportation projects a means to amplify federal resources up to twenty times. The objectives of the program are to stimulate additional nonfederal investment in our Nation's infrastructure, and en-

courage private sector participation in transportation projects.

Mr. President, I am very excited about the prospects for the TIFIA program. I believe that Congress must continue to look for new and innovative ways to meet our nation's infrastructure needs. I believe the bill we are introducing today, the Highway Innovation and Cost Savings Act of 1999 (HICSA), will be another tool in the financing toolbox. HICSA creates a pilot program which allows tax-exempt financing for up to 15 transportation projects. The amount of bonds issued under the pilot will be limited to \$15 billion. The projects for the pilot will be selected by the Secretary of Transportation based on numerous criteria.

HICSA will encourage more private sector investment in highway and bridge construction by making lower cost, tax-exempt financing available. Under current law, other forms of public infrastructure, such as airports and seaports, are eligible for tax-exempt debt financing for projects with private capital. Highway, bridge, and tunnel projects are not eligible for this type of financing. Increasing the private sector's role in major highway projects will not only help to close the needs gap, but will also open the door for new cost saving techniques in construction and the use of new technologies.

U.S. companies continually invest billions of dollars in foreign infrastructure projects, but have only participated in only a few projects in the United States. Why should American companies feel the need to invest their money overseas, when the United States is in such desperate need of funds for roads. American companies want to invest in American infrastructure. HICSA will demonstrate the benefits of private sector involvement in infrastructure projects, and will finally establish the private sector as an honored partner in building the road to the 21st century.

Mr. President, I want to be able to travel to Florida and tell my constituents that in 2003, their roads and bridges will be in better shape than they are today. I believe with the combination of TEA 21 traditional grant funding, new programs like TIFIA, and clearing hurdles in the tax code with HICSA, we will be well on our way. I look forward to working with my colleagues on the Senate Finance Committee to pass this much needed legislation.

By Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. JEFFORDS, Ms. COLLINS, Mr. COCHRAN, and Mr. ABRAHAM):

S. 471. A bill to amend the Internal Revenue Code of 1986 to eliminate the 60-month limit on student loan interest deductions; to the Committee on Finance.

LEGISLATION TO EXPAND THE TAX DEDUCTION
FOR STUDENT LOAN INTEREST

Mr. GRASSLEY. Mr. President, today I am introducing legislation to expand the tax deduction for student loan interest. Senators BAUCUS, JEFFORDS, COLLINS, COCHRAN and ABRAHAM are joining me in introducing this legislation.

Under the Tax Reform Act of 1986, the tax deduction for student loan interest was eliminated. This action, done in the name of fiscal responsibility, blatantly disregarded the duty we have to the education of our nation's students. This struck me and many of my colleagues as wrong. Since 1987, I have spearheaded the bipartisan effort to reinstate the tax deduction for student loan interest. In 1992, we succeeded in passing the legislation to reinstate the deduction, only to have it vetoed as part of a larger bill with tax increases. Finally, after ten long years, our determination and perseverance paid off. Under the Taxpayer Relief Act of 1997, we succeeded in reinstating the deduction. In our success, we sent a clear message to students and their families across the country that the Congress of the United States understands the financial hardships they face, and that we are willing to assist them in easing those hardships so they can receive the education they need.

In 1997 we took steps in the right direction, and did what had to be done. Regrettably, due to fiscal constraints, we were not able to go as far as we wanted to go. The nation was still in a fiscal crisis at that time. In order to control costs, we were forced to limit the deductibility of student loan interest to only sixty loan payments, which is equivalent to five years plus time spent in forbearance or deferment.

This restriction hurts some of the most needy borrowers. Many of these borrowers are students who, due to limited means, have borrowed most heavily. The restriction discriminates against those who have the highest debt loads and lowest incomes. It makes the American dream harder to achieve for those struggling to pull themselves up—for those who started with less. It is unjust.

Today, our situation is vastly different. In these times of economic vitality and budget surplus, we have a responsibility to do what we were unable to do before. Student debt is rising to alarming levels, and additional relief must be provided. We must eliminate the sixty month restriction on the deductibility of student loan interest and show that the United States Congress stands behind all of our nation's students in their endeavors to better themselves.

Eliminating the sixty payment restriction will bring needed relief to some of the most deserving borrowers. The restriction weighs heavily on those who, despite lower pay, have decided to

dedicate themselves to a career in public service. We will be rewarding civic virtue as we provide relief to these admirable citizens.

Additionally, eliminating this restriction will eliminate difficult and costly reporting requirements that are currently required for both borrowers and lenders. In supporting our nation's students, we will also be cutting costly bureaucracy.

Currently, to claim the deduction, the taxpayer must have an adjusted gross income of \$40,000 or less, or \$60,000 for married couples. The amount of the deduction is gradually phased out for those with incomes between \$40,000 and \$55,000, or \$60,000 and \$75,000 for married couples. Additionally, the deduction itself was phased in at \$1000, and will cap out at \$2500 in 2002.

Many in our country are suffering from excessive student debt. More can and must be done to help them. In this time of economic plenty, it is our duty to invest in our students' education. Doing so is an investment in America's future. To maintain competitiveness in the global marketplace, America must have a well-educated workforce. By eliminating the sixty payment restriction on the deductibility of student loan interest we recommit ourselves to education and to maintaining the position of this country at the pinnacle of the free world.

The administration supports this direction as well. In his 2000 budget, President Clinton has proposed to eliminate the sixty payment restriction on the deductibility of student loan interest, starting after 1999. Our legislation takes a more fair and inclusive approach by including payments between 1997 and 1999, which the administration leaves out.

I urge members to join us in this effort to relieve the excessive burdens on those trying to better themselves and their families through education by expanding the tax deduction for student loan interest payments.

By Mr. GRASSLEY (for himself, Mr. REID, Mr. CONRAD, Mr. HOLLINGS, Mr. JOHNSON, Mr. DURBIN, Ms. COLLINS, Mr. DASCHLE, and Mr. DORGAN):

S. 472. A bill to amend title XVIII of the Social Security Act to provide certain Medicare beneficiaries with an exemption to the financial limitations imposed on physical, speech-language pathology, and occupational therapy services under part B of the Medicare program, and for other purposes; to the Committee on Finance.

THE MEDICARE REHABILITATION BENEFIT
IMPROVEMENT ACT OF 1999

Mr. GRASSLEY. Mr. President, I rise today to introduce the Medicare Rehabilitation Benefit Improvement Act of 1999 with my colleague, Senator REID. This legislation will enable seniors to

receive medically necessary rehabilitative services based on their condition and health and not on arbitrary payment limits. We introduced similar legislation last Congress.

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

The BBA included a \$1500 cap on occupational, physical and speech-language pathology therapy services received outside a hospital setting. This provision became effective January 1, 1999, and after just 31 days of implementation, an estimated one in four beneficiaries had exhausted half of their yearly benefit. According to a recent study, these limitations on services will harm almost 13 percent or 750,000 of Medicare beneficiaries because these individuals will exceed the cap. While many seniors will not need services that would cause them to exceed the \$1500 cap, others, like stroke victims and patients with Parkinson's disease, will likely need services beyond what the arbitrary caps will cover. Unfortunately, it is those beneficiaries who need rehabilitative care the most who will be penalized by being forced to pay the entire cost for these services outside of a hospital setting.

The bill I am introducing would establish certain exceptions to the \$1500 cap, for beneficiaries who have medical needs that require more intensive treatment than this benefit limit would allow. The Secretary of the Department of Health and Human Services would be required to implement the exceptions, and providers would be required to demonstrate medical necessity based on the criteria outlined in the bill. In essence, the bill attempts to accomplish the primary goal of the \$1500 cap, budgetary savings, but without harming the Medicare beneficiary. Payment is based on the patient's condition and not on an arbitrary monetary amount. Help us provide access to services for those beneficiaries who will need these services or risk further complications, establish a system that makes sense, and still achieve the budget savings sought from the BBA without reducing Medicare benefits.

Please join me and my colleagues in passing this legislation.

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

S. 472

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicare Rehabilitation Benefit Improvement Act of 1999".

SEC. 2. PURPOSES.

The purposes of this Act are as follows:

(1) To provide certain medicare beneficiaries with an exemption to the financial limitations imposed on physical, speech-language pathology, and occupational therapy services under section 1833(g) of the Social Security Act (42 U.S.C. 1395l(g)).

(2) To direct the Secretary of Health and Human Services to conduct a study on the implementation of such exemption and to submit a report to Congress that includes recommendations regarding alternatives to such financial limitations.

SEC. 3. ESTABLISHMENT OF EXEMPTION TO CAP ON PHYSICAL, SPEECH-LANGUAGE PATHOLOGY, AND OCCUPATIONAL THERAPY SERVICES.

(a) IN GENERAL.—Section 1833(g) of the Social Security Act (42 U.S.C. 1395l(g)) is amended by adding at the end the following:

"(4)(A) The limitations in this subsection shall not apply to an individual described in subparagraph (B).

"(B) An individual described in this subparagraph is an individual that meets any of the following criteria:

"(i) The individual has received services described in paragraph (1) or (3) in a calendar year and is subsequently diagnosed with an illness, injury, or disability that requires the provision in such year of additional such services that are medically necessary.

"(ii) The individual has a diagnosis that requires the provision of services described in paragraph (1) or (3) and an additional diagnosis or incident that exacerbates the individual's condition, thereby requiring the provision of additional such services.

"(iii) The individual will require hospitalization if the individual does not receive the services described in paragraph (1) or (3).

"(iv) The individual meets other criteria that the Secretary determines are appropriate.

"(C) Nothing in this paragraph shall be construed as affecting any requirement for, or limitation on, payment under this title (other than the financial limitation under this subsection).

"(D) Any service that is covered under this title by reason of this paragraph shall be subject to the same reasonable and necessary requirement under section 1862(a)(1) that is applicable to the services described in paragraph (1) or (3) that are covered under this title without regard to this paragraph."

(b) CONFORMING AMENDMENTS.—Paragraphs (1) and (3) of section 1833(g) of the Social Security Act (42 U.S.C. 1395l(g)) are each amended by striking "In the case" and inserting "Subject to paragraph (4), in the case".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services provided on or after the date of enactment of this Act.

SEC. 4. STUDY AND REPORT TO CONGRESS.

(a) STUDY.—The Secretary of Health and Human Services shall conduct a study on the amendments to section 1833(g) of the Social Security Act (42 U.S.C. 1395l(g)) made by section 3 of this Act, including a study of—

(1) the number of medicare beneficiaries that receive exemptions under paragraph (4) of such section (as added by section 3);

(2) the diagnoses of such beneficiaries;

(3) the types of physical, speech-language pathology, and occupational therapy services that are covered under the medicare program because of such exemptions;

(4) the settings in which such services are provided; and

(5) the number of medicare beneficiaries that reach the financial limitation under section 1833(g) of the Social Security Act in a year (without regard to the amendments to such section made by section 3 of this Act) and subsequently receive physical, speech-language pathology, or occupational therapy services in such year at an outpatient hospital department.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary of Health and Human Services shall submit a detailed report to Congress on the study conducted pursuant to paragraph (1), and shall include in the report recommendations regarding alternatives to the financial limitations on physical, speech-language pathology, and occupational therapy services under section 1833(g) of the Social Security Act and any other recommendations determined appropriate by the Secretary. Such report shall be included in the report required to be submitted to Congress pursuant to section 4541(d)(2) of the Balanced Budget Act of 1997 (42 U.S.C. 1395l note).

MEDICARE REHABILITATION BENEFIT IMPROVEMENT ACT OF 1999—SUMMARY

This bill will provide certain Medicare beneficiaries with an exemption based on medical necessity to the financial limitation imposed on physical, speech-language pathology, and occupational therapy services under part B of the Medicare program. It will also direct the Secretary of Health and Human Services (HHS) to conduct a study on the implementation of such an exemption, and then submit a report to Congress that includes recommendations regarding alternatives to such financial limitations.

The Balanced Budget Act (BBA) of 1997 imposed a \$1500 cap on all therapy effective January 1, 1999. There is a combined \$1500 cap for physical and speech-language pathology and a separate \$1500 cap on occupational therapy services received outside a hospital setting. An estimated 750,000 beneficiaries will reach the cap this year. These patients may be victims of stroke, brain-injury, or other serious conditions requiring additional services.

This bill establishes certain criteria in order for Medicare beneficiaries to be eligible for an exemption from the \$1500 cap and allows the Secretary of HHS to establish additional criteria if necessary. The criteria include:

(1) the beneficiary must be diagnosed with an illness, injury, or disability that requires additional physical, speech-language pathology, or occupational therapy services that are medically necessary in a calendar year, or

(2) the beneficiary has a diagnosis that requires such therapy services and has an additional diagnosis or incident that exacerbates his/her condition (ie: diabetes), which would require more services, or

(3) the beneficiary will require hospitalization if he/she does not receive the necessary therapy services, or

(4) the beneficiary meets other requirements determined by the Secretary of HHS. The bill also requires the Secretary of HHS to conduct a study and to report to Congress two years after the date of enactment of this Act. This study will include:

(1) the number of Medicare beneficiaries that receive exemptions to the cap;

(2) the diagnoses of the beneficiaries;

(3) the types of therapy services that are covered due to such exemptions;

(4) the settings in which services are provided; and

(5) the number of beneficiaries that reach the \$1500 cap.

AMERICAN SPEECH-LANGUAGE-HEARING ASSOCIATION,

Rockville, MD, February 19, 1999.

Hon. CHARLES E. GRASSLEY,
Chairman, U.S. Senate Special Committee on Aging, Washington, DC

DEAR CHAIRMAN GRASSLEY: The American Speech-Language-Hearing Association (ASHA) is pleased to support the "Medicare Rehabilitation Benefit Improvement Act of 1999." ASHA is the professional and scientific organization of more than 96,000 speech-language pathologists, audiologists, and speech, language, hearing scientists. Our members provide services in a number of practice settings, including hospitals, clinics, private practice, and home health agencies.

There is a clear need for exemptions from the Medicare financial limitations for beneficiaries receiving outpatient rehabilitation services. Since the provision went into effect on January 1, 1999, ASHA has received numerous calls and letters of concern from our members regarding the problems created by the financial limitation. Patients are actually refusing medically necessary treatment for fear that they may have a more acute episode or injury later in the year and want to keep their \$1500 "banked" for such a possibility. Essentially, the cap's arbitrary limit is indirectly forcing patients to inappropriately ration needed care that we believe will ultimately cost the Medicare program more.

A patient who requires both speech-language pathology services and physical therapy services is placed in a true dilemma. If the patient who has suffered a stroke chooses to receive speech-language pathology services, the patient may not have sufficient funding for physical therapy at the conclusion of the speech-language pathology treatment. Conversely, the patient who selects physical therapy may not have adequate funding for the speech-language pathology services. A third situation arises when the patient receives both rehabilitation services concurrently and the programs for both are inadequate because the financial limitation is not sufficient for receipt of both health care services.

I am enclosing a copy of a letter addressed to Congress that ASHA received early this year from a family member whose mother is receiving speech-language pathology services for a swallowing disorder. Ms. Carol Eller McCaffrey of Lawrence, Kansas, begins her letter with:

"I am the daughter of an 87-year-old woman whose brain stem stroke left her unable to swallow or speak well and weakened her right side, and whose quality of life will suffer greatly with \$1500 Medicare cap.

"The new cap will all but completely discontinue . . . treatment thus requiring increased hydration through an alternative feeding tube which we have left intact for these emergencies. Taking away the very important . . . therapy causes the need for more nursing care. Also, her quality of life is 'down the tubes' when mother is unable to eat and drink comfortably."

This is but one example of the problems that arise because of the arbitrary Medicare financial limitation. As 1999 progresses, there will undoubtedly be more examples of difficulties caused by the cap unless legislation such as yours can restore reasonable benefits in the program.

The members of the American Speech-Language-Hearing Association are committed to improving the health and safety of those who suffer communication and related disorders. Your legislation will make it possible for more Americans to receive the care they need. ASHA commends you for your efforts to seek a remedy to the cap that ensures patient access to medically-needed services through the "Medicare Rehabilitation Benefit Improvement Act of 1999."

Sincerely,

DONNA GEFFNER,
President.

JANUARY 1, 1999.

HONORABLE CONGRESSIONAL LEADERS: I am not a professional in the medical world nor am I very knowledgeable about the logistics of medicare. I am the daughter of an 87 year old woman whose brain stem stroke left her unable to swallow or speak well and weakened her right side and whose quality of life will suffer greatly with the \$1500.00 medicare gap.

With them help of our speech and physical therapists, Mother has come a long way. Although she still doesn't speak well, she eats normal food in the dining room with fellow residents. Mother has a problem with thin liquids that causes choking and probable aspiration. A new treatment called Deep Pharyngeal Neuromuscular Stimulation (DPNS) is being taught; our speech therapist has treated Mom with DPNS, resulting in a 90% improvement. In my mother's case, the problem is that several months after treatment, the benefits wear off. Periodically, Mother needs another round of DPNS.

The new cap will all but completely discontinue this treatment thus requiring increased hydration through an alternative feeding tube which we have left intact for these emergencies. Taking away the very important DPNS therapy causes the need for more nursing care. Also, her life quality of life is "down the tubes" when mother is unable to eat and drink comfortably.

Mom also needs continual assertive physical therapy to keep her strength up but the guidelines, even before the medical cap, require a decrease in her function to qualify for treatment. So, periodically, as Mother weakens, therapists have to start over. This seems backwards to me. I thought that as a nation, we were making great strides in the care of our elderly and disabled. In my opinion, the recent medicare cap is a huge backslide. Does the left hand of the government know what the right hand is doing? And look who's suffering? Obviously those making the rules have not had personal experiences in this area.

The paperwork for all medical personnel is already overwhelming. Our professionals are spending more time with paper than with patients! All this, I presume, to try and thwart cheaters. I feel the cheaters are the minority and it all comes down to punishing the patients.

You are smart people. Come up with a reasonable way to deal with this situation without losing sight of what is truly important—the patients.

Private pay is exorbitant—Have you checked? There is no way normal families can take up where medicare leaves off.

Please, rethink this decision to cap medicare part B benefits. It is, after all, this particular generation who have supported the US Government through thick and thin. Don't let them down, visit nursing home/care facilities. Speak with hard working, caring therapists and the red, white, and

blue Americans who need your help. It is in your own best interests . . . you'll be there yourself one day.

Sincerely,

CAROL ELLER MCCAFFREY.

AMERICAN PHYSICAL
THERAPY ASSOCIATION,
Alexandria, VA, February 22, 1999.

Hon. CHARLES GRASSLEY,
*Chairman, Senate Special Committee on Aging,
Washington, DC.*

CHAIRMAN GRASSLEY: On behalf of the more than 74,000 members of the American Physical Therapy Association (APTA) and the patients our members serve, I am writing to express our strong support and appreciation for your leadership in introducing the "Medicare Rehabilitation Benefit Improvement Act of 1999."

As you know, section 4541(c) of the Balanced Budget Act of 1997 imposes annual caps of \$1,500 per beneficiary on all outpatient rehabilitation services except those furnished in a hospital outpatient department. The new law has been interpreted to establish two separate limits—\$1,500 cap for physical therapy and speech-language pathology services and a separate \$1,500 cap for occupational therapy services. These limits are effective for services rendered on or after January 1, 1999.

APTA maintains concern with the impact this limitation on services will have on Medicare beneficiaries who require physical therapy treatment. Senior citizens and disabled citizens eligible for Medicare benefits suffering from a range of conditions including stroke, hip fracture, Parkinson's Disease, cerebral palsy and other serious conditions that require extensive rehabilitation may not be able to access the care they require to resume normal activities of daily living due to the present limitation on coverage. Enactment of your legislation provides the Secretary of the U.S. Department of Health and Human Services the authority to establish exceptions to the present \$1,500 cap for patients with conditions that would likely exceed such a limitation on coverage. APTA applauds the inclusion of this provision.

APTA maintains concern that the \$1,500 cap is completely arbitrary and bears no relation to the medical condition of the patient nor the health outcomes of the rehabilitation services. There exists absolutely no medical or empirical justification for such a cap. The caps are by definition completely insensitive to patients with chronic injuries and illness or who have multiple episodes of care in a given calendar year. Enactment of your legislation would provide relief from the \$1,500 annual cap for Medicare beneficiaries who experience multiple episodes of care in a given calendar year for services that are deemed medically necessary. APTA applauds the inclusion of this provision.

APTA maintains concern that the \$1,500 cap dramatically reduces Medicare beneficiaries' choice of care giver. Under the present statute, beneficiaries who have exceeded their cap in need of additional rehabilitation services are restricted from receiving care from facilities other than outpatient hospital departments. This restriction is a notable step backward in Congress' efforts to expand access to care, especially in rural and urban underserved communities. Enactment of your legislation would better ensure access to a wide range of community settings in which Medicare beneficiaries could receive care, to include rehabilitation agencies, Comprehensive Outpatient Rehabilitation Facilities, and physical therapy

private practices. APTA applauds the inclusion of this provision.

Lastly, APTA continues to object to the inclusion of physical therapy and speech-language pathology under the same \$1,500 cap. Confusion has surrounded the interpretation of how the \$1,500 cap is to be applied. As the Medicare Policy Advisory Committee (MedPAC) reported to Congress in its July 1998 report, 70 percent of outpatient therapy expenditures under the program are for physical therapy services, while 21 percent are for occupational therapy, and 9 percent for speech therapy. The combination of physical therapy and speech therapy has no rational basis. Speech therapy is a distinct and separate benefit provided under the Medicare program and should not be included as a part of the physical therapy benefit. While your legislation does not clarify this issue, APTA is hopeful that Congress will address this issue with common sense clarifications as it considers Medicare revisions this year. APTA will continue to work with you to achieve this end.

Physical therapists across Iowa and the nation applaud your leadership on this important issue. Passage of the Medicare Rehabilitation Benefit Improvement Act of 1999 can ensure that patients in need of outpatient physical therapy services receive appropriate care in the setting of their choice without the fear of exceeding their coverage. APTA stands ready to assist you in any way to ensure that swift enactment of this important legislation.

Sincerely,

NANCY GARLAND, ESQ.,
Director of Government Affairs.

AMERICAN HEALTH CARE ASSOCIATION,
Washington, DC, February 24, 1999.

Hon. CHARLES GRASSLEY,
*Dirksen Senate Office Building,
Washington, DC.*

DEAR SENATOR GRASSLEY: On behalf of the American Health Care Association, long term care providers, and those for whom we provide care, I'm writing you to commend you on your leadership in introducing legislation designed to protect America's most frail and elderly from the adverse effects of arbitrary caps on certain medical services.

One of the provisions contained in the 1997 Balanced Budget Act (BBA) has the potential to harm senior citizens who rely on Medicare for their health care needs. Congress changed Medicare by imposing arbitrary annual limits of \$1500 for outpatient rehabilitation services. This includes a \$1500 cap on occupational therapy and a \$1500 cap on physical therapy and speech-language-pathology combined. Arbitrary caps do not reflect the real rehabilitation needs of Medicare beneficiaries and target the sickest and most vulnerable.

Your efforts will protect senior citizens suffering from common medical conditions such as stroke and hip fractures. These seniors may not be able to obtain the rehabilitative care they require to resume normal activities of daily living because the \$1500 limits are too low to pay for the services which responsible medical practice deem necessary.

Once again, thank you for taking the lead to redress the problem posed by these arbitrary caps. On behalf of the American Health Care Association, we commend you and stand eager to assist you in your efforts.

Sincerely,

BRUCE YARWOOD,
Legislative Counsel.

THE AMERICAN OCCUPATIONAL
THERAPY ASSOCIATION, INC.,
Bethesda, MD, February 23, 1999.

Hon. CHARLES GRASSLEY,
Chairman, Special Committee on Aging, U.S.
Senate, Washington, DC.

DEAR CHAIRMAN GRASSLEY: On behalf of the 60,000 members of the American Occupational Therapy Assn., I would like to commend and thank you for your leadership in introducing the Medicare Rehabilitation Benefit Improvement Act of 1999.

The financial limitation on outpatient rehabilitation, including occupational therapy, imposed by the Balanced Budget Act of 1997 was, in AOTA's view, a misguided attempt to constrain Medicare costs which is having a harmful effect on patient care. The payment limitation interposes government between a patient and a health care provider; it restricts patient choice, and could have the unintended consequence of exacerbating patient conditions causing Medicare cost increases.

Your bill will allow for patients such as those with multiple injuries, illnesses or disabilities; those with more than one incident of need in a year and, through the Secretary's authority to establish criteria, those whose diagnosis or condition requires extensive therapy to receive the treatment which the Medicare coverage criteria guarantees them.

AOTA has been very concerned that individuals with conditions such as severe strokes, spinal cord injury, traumatic brain injury, extensive fractures, severe burns, or diseases such as Parkinson's or multiple sclerosis will be restricted in their access to needed occupational therapy before the rehabilitation process is completed. Your bill will allow for these and other individuals to have access to appropriate care.

Your efforts will move policy forward and establish some necessary protections for Medicare beneficiaries. AOTA appreciates your efforts to ameliorate the impacts of this unwise policy.

We look forward to working with you as the bill moves through the legislative process. Please contact me if I can be of further assistance.

Sincerely,

CHRISTINA A. METZLER,
Director, Federal Affairs Department.

NATIONAL ASSOCIATION OF
REHABILITATION AGENCIES,
Reston, VA, February 23, 1999.

CHARLES E. GRASSLEY,
Chairman, Senate Special Committee on Aging,
U.S. Senate, Washington, DC.

DEAR CHAIRMAN GRASSLEY: The National Association of Rehabilitation Agencies ("NARA") strongly endorses the Medicare Rehabilitation Benefit Improvement Act of 1999 and applauds your initiative in introducing this important legislation. NARA represents over 225 Medicare-certified rehabilitation agencies which provide physical therapy, speech-language pathology, and occupational therapy services to hundreds of thousands of Medicare beneficiaries annually.

The \$1500 financial limitation on outpatient rehabilitation services, as established by the Balanced Budget Act of 1997, constitutes an arbitrary limit on the amount of services which a Medicare enrollee may receive. The caps bear no relation to the patient's medical need for rehabilitation services nor the beneficial health outcomes which would flow from the provision of such services. The most pernicious aspect of the

limitations is that they will deprive Medicare patients who are most in need of rehabilitation—e.g. stroke victims and those suffering from traumatic brain injury—of the very care they require.

Your legislation is a workable and realistic solution to many of the patient care and access problems caused by the \$1500 limitations. NARA's members are deeply appreciative of the time and effort which you and your staff have expended in developing the Medicare Rehabilitation Benefit Improvement Act of 1999. NARA pledges to work with you to ensure that this critical proposal becomes law.

Sincerely,

LARRY FRONHEISER,
President.

PRIVATE PRACTICE SECTION, AMERICAN
PHYSICAL THERAPY ASSOCIATION,
Washington, DC, February 23, 1999.

CHARLES E. GRASSLEY,
Chairman, Senate Special Committee on Aging,
U.S. Senate, Washington, DC.

DEAR CHAIRMAN GRASSLEY: The Private Practice Section of the American Physical Therapy Association has carefully reviewed your proposed legislation, the Medicare Rehabilitation Benefit Improvement Act of 1999, and is pleased to express its support for this legislation.

The membership of the Private Practice Section is comprised of physical therapists in independent practice who, for many years, have been subject to a financial limitation on the amount which Medicare will pay for their services furnished to any Medicare beneficiary. As a result, the Section's members understand all too well the harmful effects which the arbitrary \$1500 caps will have on Medicare beneficiaries who require outpatient rehabilitation services. Your proposal is a sensible and practical approach to protecting those patients.

Your legislation is entirely consistent with the Private Practice Section's goals and objectives for ensuring that Medicare beneficiaries have access to all necessary rehabilitation services. Accordingly, we are pleased to proffer our commitment to help secure its enactment.

Thank you for your leadership on this essential piece of legislation.

Sincerely,

LISA WADE,
Chief Executive Officer.

NATIONAL ASSOCIATION FOR THE
SUPPORT OF LONG TERM CARE,
Alexandria, VA, February 24, 1999.

Hon. CHARLES E. GRASSLEY,
U.S. Senate,
Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the National Association for the Support of Long Term Care (NASL), we applaud your leadership and your colleagues who have joined you in the introduction of legislation entitled the "Medicare Rehabilitation Benefit Improvement Act of 1999." You have developed a rational, good policy that will help beneficiaries who would otherwise be limited in their availability of rehabilitation services.

The National Association for the Support of Long Term Care (NASL) is an organization that represents over 150 providers offering services in the long term care setting. We work daily with patients who need rehabilitation services and this limitation is hurting seniors access to services. There are seniors in America who are already reaching

the cap and they need additional services that are medically necessary. These are seniors who have had strokes. These are seniors who have Parkinson's disease. These are seniors who have had hip replacements and an additional illness. Senator Grassley, we want to thank you for helping these patients get services that are medically necessary.

We are ready to help you share information about the adverse effects of this cut in benefits that was enacted in the BBA in 1997. We are certain that this was not the intent of the law—and now that it is implemented, seniors will be denied care. Your legislation will go a long way to ensure that the most disadvantaged and ill seniors will get the care that they need. The stroke patient that needs speech-language pathology to learn how to swallow will get care. The Parkinson's patient who is learning how to walk with an exacerbating illness will get physical therapy in order to improve.

Again, we applaud your leadership and strongly support this legislation. Please feel free to call on us for support and help.

Sincerely yours,

PETER CLENDENIN.

EASTER SEALS,

OFFICE OF PUBLIC AFFAIRS,
Washington, DC, February 25, 1999.

Hon. CHARLES E. GRASSLEY,
Chairman, Senate Special Committee on Aging,
Washington, DC.

DEAR MR. CHAIRMAN: Easter Seals is very pleased to support the introduction of the "Medicare Rehabilitation Benefit Improvement Act of 1999." This legislation begins to eliminate damaging limitations on needed therapy services for Medicare beneficiaries. Easter Seals is committed to assisting you and your colleagues to improve and enact this critical measure.

Easter Seals is dedicated to assisting children and adults with disabilities to live with equality, dignity, and independence. Each year, Easter Seals 106-affiliate network serves more than one million people nationally. Thousands of Medicare beneficiaries and their families rely on Easter Seals for community-based physical therapy, occupational therapy, and speech-language pathology services. Without such services, these beneficiaries would experience diminished health, function, and quality of life.

Current Medicare policy limiting payment for outpatient medical rehabilitation services to \$1,500 for occupational therapy and \$1,500 for physical therapy and speech-language pathology services combined is out-of-step with the real medical needs of a significant share of Medicare beneficiaries. It will cause beneficiaries with serious medical needs resulting from illness, injury, and disability, including stroke, traumatic brain injuries, total joint replacement, and other serious conditions, to forfeit needed care or seek such care in less cost-effective, often inappropriate institutional settings.

For many Easter Seals Medicare clients the impact of current policy is devastating. One client's situation, if constrained by a \$1,500 cap, illustrates this point.

Eighty-four-year old Richard H. lived independently with his wife when, on February 27, 1997, he experienced a serious stroke. Prior to the stroke he had high blood pressure, heart disease, and diabetes. The stroke paralyzed his left side, seriously impaired his vision, and left him very depressed.

Physical therapy helped him learn to move independently and to walk safely again. Occupational therapy retrained him in the tasks of daily living, including preparing

food, toileting, and home safety. Speech and swallowing therapy eliminated his choking on food, which presented a high risk of aspiration pneumonia. This therapy, combined with much determination and effort by Richard and his wife, has enabled him to resume living independently at home.

The doctors, therapists and family agree that without this full course of medical rehabilitation, Richard would now be helpless, severely depressed, and confined to a very expensive nursing home for care. The current Medicare policy limiting medical rehabilitation therapy services under the \$1,500 cap, with no exemptions, would have deprived Richard of 62% of his needed rehabilitation treatment.

Easter Seals believes that the "Medicare Rehabilitation Benefit Improvement Act of 1999" is a necessary, timely, and thoughtful approach to correcting serious problems for Medicare beneficiaries requiring comprehensive services. Easter Seals will work with you and your Senate colleagues to refine this legislation, as appropriate, and promote its enactment into law.

Thank you very much for your commitment to assuring Medicare beneficiaries the services that they need to live healthy, productive lives.

Sincerely,

RANDALL L. RUTTA,
Vice President, Government Relations.

Mr. REID. Mr. President, I rise in strong support of the "Medicare Rehabilitation Benefit Improvement Act of 1999". This legislation is designed to protect our sickest, most vulnerable seniors from the adverse effects of arbitrary limits on crucial rehabilitative services.

The Balanced Budget Act of 1997 (BBA) created annual caps for two categories of therapy provided to beneficiaries under Medicare Part B: a \$1500 annual cap on physical therapy and speech language combined; and a separate cap for occupational therapy. These arbitrary limits on rehabilitation therapy were hastily included in the BBA without the benefit of Congressional hearings or thorough review by the Health Care Financing Administration. As a result, the \$1500 limits bear no relation to the medical condition of the patient, or the health outcomes of the rehabilitative services.

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

Coverage for rehabilitative therapy should be based on medically necessary treatment, not arbitrary spending lim-

its that ignore a patient's clinical needs. During the 105th Congress, I joined with Senator GRASSLEY to introduce legislation that would correct this problem. The "Medicare Rehabilitation Benefit Improvement Act of 1999" builds on our effort to ensure that all Medicare beneficiaries have access to the crucial therapy services they need.

Our bill establishes criteria by which Medicare beneficiaries would be eligible for an exemption from the \$1500 cap. According to our bill, any beneficiary who would require hospitalization if he did not receive the necessary therapy services would be allowed to exceed the cap. Beneficiaries suffering from a diagnosis that requires therapy services and has an additional diagnosis that exacerbates this condition would also be eligible for therapy services above the \$1500 limit. In addition, any beneficiary that is diagnosed with an illness, injury, or disability that requires additional physical, speech-language pathology, or occupational therapy services that are medically necessary will receive the therapy services he or she requires. Finally, our bill gives the Department of Health and Human Services Secretary the flexibility to establish additional criteria if necessary.

The \$1500 therapy caps penalize our most frail and elderly citizens. Not only does allowing our seniors to have access to critical outpatient therapy services makes sense, it is the right thing to do. I urge you to join me in protecting Medicare's most vulnerable beneficiaries by supporting the "Medicare Rehabilitation Benefit Improvement Act of 1999".

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

S. 473. A bill to amend the Internal Revenue Code of 1986 to make higher education more affordable by providing a full tax deduction for higher education expenses and interest on student loans; to the Committee on Finance.

MAKE COLLEGE AFFORDABLE ACT

By Mr. SCHUMER:

S. 474. A bill to amend the Internal Revenue Code of 1986 to provide a deduction for contributions to education individual retirement accounts, and for other purposes; to the Committee on Finance.

SAVE FOR COLLEGE ACT

By Mr. SCHUMER:

S. 475. A bill to amend the Higher Education Act of 1965 to increase the amount of loan forgiveness for teachers; to the Committee on Health, Education, Labor, and Pensions.

TEACHERS LOAN FORGIVENESS ACT

By Mr. SCHUMER:

S. 476. A bill to enhance and protect retirement savings; to the Committee on Finance.

COMPREHENSIVE PENSION AND SECURITY
RETIREMENT ACT

By Mr. SCHUMER:

S. 477. A bill to enhance competition among airlines and reduce airfares, and for other purposes; to the Committee on Commerce, Science, and Transportation.

AIRLINE COMPETITION ACT OF 1999

By Mr. SCHUMER:

S. 478. A bill to amend the Internal Revenue Code of 1986 to provide a credit for the purchase of a principal residence within an empowerment zone or enterprise community by a first-time homebuyer, to the Committee on Finance.

EMPOWERING COMMUNITIES LEGISLATION

By Mr. SCHUMER:

S. 479. A bill to amend title XXVII of the Public Health Service Act and other laws to assure the rights of enrollees under managed care plans; to the Committee on Health, Education, Labor, and Pensions.

EQUITY IN WOMEN'S HEALTH ACT

By Mr. SCHUMER:

S. 480. A bill to amend the Truth in Lending Act to protect consumers from certain unreasonable practices of creditors which result in higher fees or rates of interest for credit card holders, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

CREDIT CARD CONSUMER PROTECTION ACT OF
1999

By Mr. SHUMER:

S. 481. A bill to increase penalties and strengthen enforcement of environmental crimes, and for other purposes; to the Committee on the Judiciary.

THE ENVIRONMENTAL CRIMES ACT

Mr. SCHUMER. Mr. President, today I am introducing my first bills as a United States Senator. I said over the last year that the picture that I want to keep at the forefront of my mind is that of families sitting around their kitchen table paying their bills, planning for retirement, affording a home, paying for college for their children, and discussing the quality of their local schools.

Today I am introducing my first bills for those families at the kitchen table. And let me tell you a little bit about these families. They are the same in Brooklyn and Buffalo, Mt. Vernon and Massapequa, Syracuse and Setauket.

They are living in a time of both overwhelming promise and overwhelming challenge.

The promise—the upside—is that America remains indisputably the pre-eminent economy in the world. The challenge—the downside—is that for most families there is a great deal of uncertainty about the future. They are concerned that forces beyond their control—rising college costs, inferior

schools, struggling communities—put them behind the eight-ball.

Their concern isn't so much that the U.S. economy will turn sour. It's that they, or their town, or their children may be washed aside in the economic tide. The families of Upstate New York have lived that reality for six years.

The nine bills that I am introducing today are designed to help families deal and thrive with the changing times of a global, competitive economy.

I am introducing two bills to make college affordable for working families. The Make College Affordable Act, which I am honored to introduce with Senator MOYNIHAN, makes all college tuition tax deductible for families with less than \$140,000 in income.

The Save for College Act allows families to contribute up to \$2,000 per year in an education IRA that is tax-free when the money goes in and tax-free when it comes out so long as it is spent on college costs. Families earning up to \$200,000 are eligible for the IRAs.

Let me make two points about these bills. Since 1980, the cost of attending college has increased at more than twice the rate of inflation and has risen even faster than health care. At the same time, the necessity of a college education is greater now than at any time in our history.

If our country is to remain economically strong and if we want families to be able to get ahead, then college—whether it's SUNY or NYU—must not put families in the poorhouse.

The Teachers Loan Forgiveness Act will recruit new, high quality professionals to teaching by forgiving all student loans for public and private school teachers.

It is expensive to become a teacher. The pay is low. And we wonder why there is a shortage of young, eager, qualified teachers to educate our children. We must make the teaching profession more financially attractive to put excellence in the classrooms.

The Comprehensive Pension & Security Retirement Act makes all pensions portable. If you lose a job, if you take time off to raise a child, if you change jobs—your pension will stay with you and grow. Pension portability and reform is the most important retirement security issue next to Social Security.

Specifically for Upstate New York, with Senator MOYNIHAN I am introducing the Airline Competition Act of 1999 to end predatory pricing and to direct the Transportation Department to grant take-off and landing slots to underserved airports within a 500 mile radius of New York. Monopolistic airfares in Rochester, Syracuse and Buffalo are slowly strangling the economy of Upstate and the Southern Tier. I believe the days of sky-high airfares to these cities are numbered.

To rebuild struggling neighborhoods through homeownership I am intro-

ducing legislation to offer a \$2,000 tax credit to first time homebuyers in Enterprise Zones and Empowerment Communities. In New York, that includes the South Bronx, Harlem, and parts of Albany, Schenectady, Troy, Buffalo, Kingston, Newburgh, and Rochester.

Because women pay more for health care than men, the Equity in Women's Health Act bars any health plan from discriminating on the basis of gender or sexual orientation through their coverage options. It also requires each health plan to include a short prospectus to describe exactly what they will and will not cover.

To protect consumers, the Credit Card Consumer Protection Act of 1999 closes loopholes in existing law that allows credit card companies to offer low teaser rates that increase dramatically unbeknownst to the cardholder.

And last, the Environmental Crimes Act increases fines and penalties for criminally negligent polluters and it also trains new personnel to investigate environmental crimes.

These are not all—but some of my priorities for the year. As I have said many times, my passion is legislating in ways that make people's lives better. With the impeachment over, I am anxious to get started on the issues that matter to New Yorkers and all Americans.

By Mr. ABRAHAM (for himself, Mr. LOTT, Mr. ASHCROFT, Mr. HELMS, Mr. INHOFE, Mr. BUNNING, Mr. DEWINE, Mr. COCHRAN, and Mr. MACK):

S. 482. A bill to amend the Internal Revenue Code of 1986 to repeal the increase in the tax on the Social Security benefits; to the Committee on Finance.

LEGISLATION TO REPEAL THE TAX ON SOCIAL SECURITY

Mr. ABRAHAM. Mr. President, I rise now in conjunction with the distinguished majority leader, Mr. LOTT, and with the distinguished Senator from Missouri, Mr. ASHCROFT, to introduce legislation which will repeal the 1993 increase in the tax on Social Security benefits.

As my colleagues are aware, senior citizens pay Federal taxes on a portion of their Social Security benefits if they receive additional income from savings or from work. Before 1993, seniors paid taxes on half their Social Security benefits if their combined income, as it is described—which means their adjusted gross income and one-half the amount of the Social Security benefits they receive—exceeded \$25,000 for individuals or \$32,000 for couples.

Soon after coming into office, however, the new administration increased this tax on these middle-income retirees as part of the 1993 tax bill. For individuals now, after that, with combined incomes exceeding \$34,000, and couples with combined incomes exceeding

\$44,000, the tax increase on the percentage of their Social Security benefits subject to taxation went from 50 percent to 85 percent. This provision increased taxes for nearly one-quarter of Social Security recipients. It in large part produced an increase of 7.5 percent in the tax burden on America's seniors, a tax increase that was more than double the 3.5 percent that the rest of that legislation imposed on other Americans.

This tax increase is unfair. It penalizes senior citizens, and it penalizes them for exactly the wrong reason—for saving to achieve security in their retirement. It also unfairly punishes seniors who have the capacity and choose to continue to work.

We are engaged, as you know, in an important debate here in Congress, the debate over the future of our Social Security system. Republicans have joined with Democrats in pledging to set aside the entire Social Security trust fund surplus over the next 15 years, to shore up that system, to make certain it is available for the senior citizens both of today and tomorrow.

At such a time, with dire warnings of impending bankruptcies still ringing in our ears, it seems the last thing the Federal Government should be doing is to discourage people from work and saving for their retirement.

Wise Americans have always saved for their retirement. They have sought to be independent in their old age by working hard and by putting aside a portion of their income. Yet the 1993 tax increase proposed by the President and ultimately passed into law by the Congress changed the rules for these wise savers. After plans and investment decisions had already been made, this proposal came in and declared that savings and hard work would be taxed significantly more heavily than they had been before.

As we work to shore up Social Security, we must not allow the Federal Government to punish people for working and saving. We must not allow the Federal Government to tell people they might as well not save for retirement, that they must depend solely on Social Security benefits for their well-being once they retire.

What is more, we should not forget that the projected Federal budget surplus over the next 10 years alone is slated to reach approximately \$2.565 trillion. We have agreed, wisely in my view, to save the bulk of this surplus to shore up Social Security. But surely, at a time when we foresee at least \$787 billion in surpluses in addition to those earmarked for Social Security, the Federal Government can afford, in my judgment, to give seniors and those planning for their retirement the kind of tax relief they need to prepare for their futures and to keep our economy strong.

That means, in my view, that we must repeal this onerous tax hike for

the sake of our seniors and for the sake of our economy as a whole. Discouraging savings has always been a recipe for economic disaster because it reduces the amount of money available for investment in new jobs and a growing economy.

Now is the time to reduce the extent to which Washington discourages savings. It is time to repeal this tax hike so we may increase savings, investment, and the financial security of our senior citizens.

Mr. President, this legislation has a simple purpose: It repeals the 1993 ill-considered Social Security tax hike returning our seniors to the position they were in prior to 1993.

It restores a modicum of fairness to our Byzantine tax structure and to our dealings with senior citizens. It is important legislation for our seniors, for our Social Security system and for the future of our Nation, and I urge my colleagues' strong support.

In short, Mr. President, I think we should do everything possible to make it feasible for seniors, both today and especially in the future, to be able to live in retirement in a comfortable way and to not solely depend on the Social Security system. We know the burdens that system will take.

By discouraging savings during people's working years, by discouraging people from continuing to work after they reach retirement age, we are actually, I think, undermining our chances of providing the kind of long-term income security that Americans deserve in their old age.

For that reason, we should, in my judgment, repeal this tax hike. We should make that a priority this year, and we should then couple that action with other action aimed at shoring up the Social Security system so it not only works for today's seniors, but for the seniors of our future as well.

By Ms. SNOWE (for herself, Mr. GRAHAM, and Mr. VOINOVICH):

S. 483. A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to limit consideration of nonemergency matters in emergency legislation and permit matter that is extraneous to emergencies to be stricken as provided in the Byrd rule; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committee have thirty days to report or be discharged.

SURPLUS PROTECTION ACT OF 1999

Ms. SNOWE. Mr. President, I rise today, along with my friend and colleague from Florida, Senator GRAHAM, to introduce the "Surplus Protection Act of 1999"—legislation that will reform the budget process by tightening the manner in which emergency spending legislation is considered in the Sen-

ate. Not only will these reforms ensure that there is greater accountability in the emergency spending process, but they will also ensure that the unified budget surplus we now enjoy will be protected from spending raids that are designed to circumvent the normal budget process—and that could undercut our ability to utilize the surplus for strengthening Social Security.

Mr. President, as my colleagues are aware, last year the federal government enjoyed its first balanced budget since 1969. To be precise, the federal government actually achieved a unified budget surplus of \$70 billion in fiscal year 1998. According to the Congressional Budget Office (CBO), this surplus will not be a one time occurrence; rather, unified budget surpluses will continue to accrue during the next 10 years if CBO's projections for economic growth, federal revenues, and federal spending hold true.

While the surplus is welcome news after decades of annual deficits and burgeoning debt, we must never forget how easily this valuable national asset can be squandered if we fail to be vigilant in protecting it. For too long, the federal government treated the budget like a credit card with an unlimited spending limit, and such bad habits—even if broken for a few years—can quickly return, especially when there is a surplus just burning a hole in the pocket of Congress and the President!

Therefore, in an effort to ensure the surplus is protected from future spending raids, we are offering legislation today that will crack down on arguably the most insidious manner in which budgetary spending limits and protections can be circumvented: the emergency spending designation. In light of the \$21.4 billion in emergency spending that was contained in last year's omnibus bill, the need to provide safeguards against the abuse of this provision—and the squandering of the surplus—could not be more clear.

Mr. President, the emergency spending designation was created for a very important reason. If a sudden, urgent, unforeseen, and temporary event occurs, the strict spending limits imposed in the budget resolution can be exceeded through the designation of that event as an "emergency." This exception is understandable when considering that the hands of Congress and the Administration should not be tied when the pressing needs of our nation override the need for strict budget discipline.

For instance, recent earthquakes in California, floods in the Midwest, hurricanes in the South, and ice storms in the Northeast—which were devastating to my home state of Maine—are all examples of natural disasters that warranted the emergency designation because they were completely unexpected and unforeseen, and could not have been addressed in a timely manner through

the regular budget process. By the same token, the tragic bombing in Oklahoma City is an example of an unexpected and unforeseeable event that also warranted emergency treatment.

Yet even as the emergency designation is necessary and warranted for these and other unexpected disasters, it can also be used as a major loophole by those who wish to circumvent the normal budget or legislative process. Rather than restricting the use of the emergency designation to only those bills or items that are truly unforeseen and urgent, some may use this designation to either fund programs or projects that are debatable as to their emergency nature, while others may use emergency bills to push through unrelated legislation or spending programs without the normal level of scrutiny provided in the normal legislative process.

For example, the omnibus bill adopted at the close of the 105th Congress contained \$21.4 billion in emergency spending that came directly out of the surplus. While some of the provisions in that package undoubtedly deserved the emergency designation, several items were either debatably an "emergency" or were an outright effort to circumvent the regular budget process. Specifically, the \$2 billion in emergency funding for our three-year-old mission in Bosnia was hardly unexpected and should have been included in the President's budget at the beginning of the year. It should not have been designated an "emergency" simply to avoid the budget caps that ensure fiscal restraint.

Ultimately, regardless of the manner in which the emergency designation can be misused—whether it is to fund a military operation that has been ongoing for years, or to fast-track a piece of legislation that has no relationship to the emergency in question—it is a practice that we must stop.

The legislation we are offering today will do just that. Specifically, the bill establishes three new rules to ensure that bills or individual provisions receiving the emergency designation are subject to careful—but reasonable—scrutiny.

The first provision—which is patterned after the "Byrd Rule" that applies to reconciliation bills—will ensure that non-emergency items will not be attached to emergency spending bills by creating a point of order for striking these provisions. Simply put, because emergency spending bills are often put on a "fast-track" to ensure rapid consideration, we should not allow non-emergency spending or legislative riders to be attached to these bills in an effort to avoid the normal, deliberative legislative process. To waive this restriction, an affirmative vote by three-fifths of the members of the Senate would be required—a level that will be easily achieved for a true emergency.

The second provision—which is also patterned after the Byrd Rule—will ensure that the validity of any item that is designated as an emergency—in either an emergency spending bill or a non-emergency bill—can be challenged by the members of the Senate. The bottom line is that just because an item placed in a bill is given the emergency designation does not mean it deserves that designation—and this point of order will ensure that members agree that the designation is warranted.

As outlined earlier, the omnibus bill adopted at the close of the 105th Congress contained a variety of provisions that were debatable “emergencies”—in particular, the funding for troops in Bosnia, because this cost was hardly unforeseen, sudden, or temporary. This point of order will ensure that such provisions do not avoid budget scrutiny, and that the surplus is protected for Social Security accordingly.

The final provision will ensure that any legislation that contains emergency spending will require a three-fifths vote for final passage. Because members may feel compelled to act quickly on bills that contain even a single item designated as an emergency, this provision will ensure that such bills do not slide through the regular legislative process without full consideration and without more than simple majority support. While the previous two points of order will prevent improper abuse of the emergency designation, this requirement will serve as a final safeguard in the process.

Mr. President, the bottom line is that although the emergency designation is a vitally important means of ensuring the unexpected needs of our nation can be addressed, it can also become a loophole that subverts budget discipline, drains our new-found surplus, and potentially impacts our ability to strengthen the Social Security program. But with proper safeguards put in place, we can ensure that this potential loophole is closed while still ensuring legitimate emergencies are addressed.

The legislation I am offering today along with Senator GRAHAM provides such thoughtful and reasonable safeguards, so I urge that my colleagues support the “Surplus Protection Act of 1999.”

Mr. GRAHAM. Mr. President, earlier today our colleague, Senator SNOWE of the State of Maine, introduced legislation, of which both I and Senator VOINOVICH of the State of Ohio are the cosponsors, relating to reforms in the emergency appropriations law. Mr. President, I would like to discuss the rationale for this legislation.

Mr. President, we received some good news just a few months ago. We learned that after 5 years of fiscal austerity and economic growth, we had transformed a \$290-billion annual deficit

into the first budget surplus in more than a generation.

I am dedicated to strengthening the Nation’s long-term economic prospects through prudent fiscal policy. The discipline that helped us to create favorable economic, fiscal, demographic, and political conditions to address the long-term Social Security and Medicare deficits that will accompany the aging of our population will be fully required if we are to meet these challenges. These deficits threaten to undo the hard work and fiscal discipline of recent years, as well as to undermine our potential for future economic growth.

But that success, the success that we had in converting a \$290-billion annual deficit into this year’s surplus, did not give to Congress a license to return to the free-spending ways of the past. That absence of license is especially true since over 100 percent of the surplus was the result of surpluses in the Social Security trust fund.

I say over 100 percent because the only surplus we had is Social Security, and a portion of that surplus is still being applied to the deficit that is being run in the general accounts, a deficit which will continue for the next 2 to 3 years. We owe it to our children and our grandchildren to save this Social Security-generated surplus until Social Security’s long-term solvency is assured.

As you know, what we have been doing for the last 30 years is asking our grandchildren to pay our credit card bill. Now what we are saying to our grandchildren is that we are going to give them a secure Social Security system that will last for our generation, for their parents’ generation, and for their generation—to the year 2075.

Unfortunately, both the last legislative action of the 105th Congress and the first legislative action passed by the Senate in the 106th Congress have made a mockery of our promise to our grandchildren. Last night the Senate passed a military pay bill without simultaneously approving a way to fund it, an action that, if not corrected in the conference committee, could subtract as much as \$17 billion from our children’s and grandchildren’s chances of having a secure Social Security system.

I wish I could say that last night’s vote was an aberration, nothing more than a momentary lapse of judgment, an inadvertent mistake in the haste to turn from impeachment to legislation. Sadly, I cannot make that claim. It is the second time in less than 4 months that we have proven ourselves willing to sacrifice future generations’ well-being on the altar of immediate expediency.

In the waning hours of last fall’s budget negotiations, mid-October 1998, we passed a \$532-billion omnibus appropriations bill. Included in that \$532 bil-

lion was \$21.4 billion in so-called emergency spending. Since that \$21.4 billion could be approved without having to find an offsetting funding source, those \$21.4 billion came directly out of the surplus.

Some of you who might have been making speeches to the effect that we were going to have an \$80-billion surplus at the end of the last fiscal year therefore had to strike out “80” and insert “59” as the amount of surplus we would have, because that was the figure that remained after we had paid out of the Social Security surplus for \$21.4 billion in emergencies.

That action would have been possibly more palatable had all of that \$21.4 billion been allocated to true emergencies, to those kinds of incidents which in the past Congress has recognized as being appropriate to not require an offset in spending or increase in revenue. While some of the \$21.4 billion was used to fund what have traditionally been accepted as emergencies, defined as necessary expenditures for sudden, urgent, or unforeseen temporary needs, much of the \$21.4 billion was not. Let me give some examples.

The Y2K computer problem, the problem that at the turn of the millennium our computers might be rendered inoperative because of the failure to account for the new century, received \$3.35 billion of the \$21.4 billion. It is hard to argue that it took us until October of 1998, and then under urgent duress circumstances, to wake up to the fact that the millennium was coming and that there might be a problem with our computers. In fact, here in the Senate, our colleagues in the House of Representatives and in the executive branch, as well as in the private sector community and State and local governments, had been aware of and working on this problem long before October of 1998.

Another smaller example of a non-emergency emergency was \$100 million that was appropriated for a new visitors center here at the Capitol. A new visitors center has been under consideration for a decade or more—hardly an emergency that just came to our attention in October of 1998.

These expenditures might have been desirable, might have been appropriate, but to label them “emergency,” and therefore remove them from the fiscal discipline requiring offsetting spending or additional revenue to support them, threatens to undermine the safeguards that we have built in to protect our Social Security surplus.

This budgetary sleight-of-hand was also used to increase funding for projects that had already been funded through the traditional appropriations process. For example, after previously allocating \$270.5 billion to the Department of Defense in the emergency appropriations provision without any offsetting spending reductions or revenue

increases, Congress provided an additional \$8.3 billion in "emergency" defense spending in the omnibus appropriations bill.

That is not all. Because these pseudoemergency spending provisions were included in an omnibus appropriations conference report—that is, a bill that was the result of reconciliation of differences between the Senate and the House—then, under the normal rules governing a conference report, that legislation was not subject to amendment. Therefore, there could be no motion made that would have removed, reduced, or otherwise modified the provisions that were labeled as "emergency appropriations."

Members of the Congress were left with an unpalatable choice: Shut down the Government in mid-October of 1998 by failure to pass this significant appropriations bill that covered approximately one-third of the Federal budget, or steal from our children's and grandchildren's Social Security surplus. Mr. President, that is not a choice; that is a national disgrace. It is vital that we institute an emergency spending process that responds expeditiously to true emergencies without maintaining this open door to abuse. We must establish procedural safeguards to deter future Congresses from misusing the emergency spending procedures. We should not attach, as an example, any emergency spending to nonemergency legislation.

We should not designate emergency spending measures that do not meet our own definition of an emergency.

Mr. President, as I indicated earlier, I am pleased to join with Senator OLYMPIA SNOWE of Maine in introducing legislation that will protect our newly won budget surplus from false emergency budgetary alarms. Senators SNOWE, VOINOVICH and I are introducing the Surplus Protection Act to amend the Congressional Budget and Impoundment Control Act of 1974. This will limit consideration of non-emergency matters in emergency legislation.

Specifically, we propose the following three reforms: First, to create a point of order, similar to the Byrd rule which currently exists, that prevents nonemergency items from being included in emergency spending. This will enable Members to challenge the validity of any individual item that is designated an emergency without defeating the entire emergency spending bill.

Second, we would require a 60-vote supermajority in the Senate for passage of any bill that contains emergency spending, whether it is designated an emergency spending bill or not. This will encourage Congress to either pay for supplemental appropriations or make certain that they do, in fact, represent a true emergency, as that term has been defined.

And third, to make all proposed emergency spending subject to a 60-vote point of order in the Senate. This rule will help to prevent nonemergency items from ever being included in emergency legislation by providing a forum in which they can be appropriately challenged on the Senate floor.

Even if passed, our legislation would not be the total cure for Congress' apparent addiction to emergency spending. In the short term, it is vital that we immediately replenish the surplus with the funds that were "borrowed" last fall.

Let me repeat that, Mr. President. We have a challenge before us in the next few weeks to recoup to the Social Security surplus those funds that were improvidently labeled as emergency spending and thus became the means by which the Social Security surplus was raided last October. We will face that challenge when we deal with the budget resolution and subsequent appropriations bills.

The day after the passage of the Omnibus Appropriations Act on October 21, 1998, I wrote the President and asked that the Federal Government commit itself to restoring funding for the nontraditional "emergency" items which were included in that omnibus legislation. I must state with disappointment that I have not yet received a response. So, in January, I again wrote to the President and made the same request for a commitment to fiscal discipline. Once again, I have not received a response.

On January 18, 1999, Roll Call published an opinion piece which I had written in which I asked the President to address this subject in his State of the Union Address. Mr. President, he did not.

Fortunately, the U.S. Constitution says that the Congress need not wait for the President. We can and must take steps necessary to restore the budget surplus to its previous levels, and we must do that now, before the urge to spend the surplus becomes a full-fledged addiction.

We must also realistically fund existing emergency accounts. While the Congress cannot anticipate the precise nature or cost of future emergencies, we do know that emergencies will occur. For instance, Congress prospectively budgets an annual amount not to exceed \$320 million in emergency funding for the Federal Emergency Management Agency disaster relief fund. That is the good news. Now the bad news.

Over the past 12 years, the average emergency outlays from the Federal Emergency Management Agency disaster relief fund have exceeded by \$1.7 billion per year. What we have consistently done is underfund the account based on 12 years of experience, so that we have mandated that we are going to

have unfunded emergencies. It would be as if homeowners consistently underinsured their homes or the contents of their homes, knowing that when the disaster struck, they were not going to have sufficient funds to rebuild or to recoup their losses.

If we are to save the surplus of Social Security, Congress should stop systematically underfunding the emergency accounts and, thus, shifting anticipated emergency spending off budget. We should require emergency accounts to be funded through the normal appropriations process based on our historical experience.

Mr. President, I join Senator SNOWE in the hopes that our colleagues will support this important legislation. It is vital that we assure that we do not misuse our emergency spending powers. The next Congress that leaves the door wide open to raids on the surplus will be the one that passes on more debt and a less secure future for our children and our grandchildren.

By Mr. CAMPBELL:

S. 484. A bill to provide for the granting of refugee status in the United States to nationals of certain foreign countries in which American Vietnam War POW/MIAs or American Korean War POW/MIAs may be present, if those nationals assist in the return to the United States of those POW/MIAs alive; to the Committee on the Judiciary.

THE BRING THEM HOME ALIVE ACT OF 1999

Mr. CAMPBELL. Mr. President, I am pleased to introduce the Bring Them Home Alive Act of 1999. This bill would persuade foreign nationals to take the bold steps needed to return any possibly surviving American POW/MIAs home alive. I am pleased to be joined today by Senators GREGG and HELMS as original cosponsors.

With the passage of the Soldiers', Sailors', Airmen's, and Marines' Bill of Rights Act of 1999, the Senate this week has made great strides in providing for the men and women of our armed forces. I am continuing this effort today.

This bill would grant asylum in the United States to foreign nationals who personally deliver a living American POW/MIA from either the Vietnam War or the Korean War to the United States. Citizens of Vietnam, Cambodia, Laos, China, or any of the states of the former Soviet Union who deliver living American POW/MIAs from the Vietnam War would be granted asylum here. Similarly, citizens of North Korea, China, or any of the states of the former Soviet Union who deliver living American POW/MIAs from the Korean War would also be granted asylum. Of course, that foreign national's immediate family, including their spouse and children, would also be granted asylum in the U.S. since their safety, and even their lives, would most likely

be imperiled by such a daring rescue of surviving American POW/MIAs.

While some may doubt that any American POW/MIAs from these two wars remain alive, official U.S. policy distinctly recognizes the possibility that U.S. POW/MIAs from the Vietnam War could still be alive and held captive in Indochina. As the Defense Department's current position states:

Although we have thus far been unable to prove that Americans are still being held against their will, the information available to us precludes ruling out that possibility. Actions to investigate live-sighting reports receive and will continue to receive necessary priority and resources based on the assumption that at least some Americans are still held captive. Should any report prove true, we will take appropriate action to ensure the return of those involved.

The bill I am introducing today supports this official position and enables the possibility of bringing any surviving U.S. servicemen home alive.

Since the fall of South Vietnam in 1975, there have been reports of live sightings of American POW/MIAs being held in Indochina. While the majority of these live-sightings have been resolved over the years, and have decreased in recent years, the possibility of Americans still being held remains. Two Russian translations of Vietnamese documents were discovered in Soviet archives in 1993 which contain detailed statistics indicating that approximately twice as many American POWs were being held by Vietnam in late 1972 than were actually ever returned to the United States.

Furthermore, the Senate Select Committee on POW/MIA Affairs' final report in 1993 concluded that about 100 U.S. POWs that were expected to be returned by Vietnam were never returned and that at least some of them may still be alive and held captive in Indochina.

It is also possible that American POW/MIAs are still being held in North Korea. A few years ago a 1996 Defense Department internal report was uncovered that concluded that between 10-15 POW/MIAs may still be alive and held against their will in North Korea.

The Bring Them Home Alive Act includes the states of the former Soviet Union, for just cause. Longstanding rumors that American POW/MIAs from both the Vietnam War and the Korean War were transferred to the Soviet Union were recently reinforced by the memoirs of recently deceased Soviet General Dmitri Volkogonov. As reported in a January 12, 1999, Washington Times article, Gen. Volkogonov wrote of seeing a secret KGB document from the 1960s outlining a plan to transfer U.S. POWs being held in Vietnam to the Soviet Union. The goal of this secret KGB plan was "to bring knowledgeable Americans to the Soviet Union for intelligence (gathering) purposes." During a Congressional Delegation visit to Russia late last year,

Russian General Sergeyev tacitly confirmed the existence of this document. While some officials contend this plan was never carried out, this is far from certain. In addition, the cumulative weight of compelling circumstantial evidence supports the assertion that American POWs were also transferred to the Soviet Union during the Korean War.

Finally, a key section of this bill would help spread news of the Bring Them Home Alive Act around the world. This is needed to help make sure that the key foreign nationals who need to hear about this act, do so. My bill calls on the International Broadcasting Bureau to use its assets, including Worldnet Television and its Internet sites, to spread the news. The bill also calls on Radio Free Europe and Radio Free Asia to participate.

If this bill leads to even one long-held POW/MIA being returned home to America alive, this effort will be well worth it, 10,000 times over. Even though it has been many years since these two wars ended, they have not ended for any Americans who may have been left behind and are still alive. As long as there remains even the remotest possibility that there may be any surviving POWs, we owe it to our Soldiers, Sailors, Airmen and Marines, and their families, to do everything possible to bring them home alive. This is the least we can do after all they have sacrificed.

Key groups involved in Veterans and POW/MIA issues have endorsed this legislation, including the National Vietnam & Gulf War Veterans Coalition, the VietNow National POW/MIA Committee, and the Coalition of Families of Korean and Cold War POW/MIAs. Naturally, I welcome any additional endorsements that any of the other important organizations involved in POW/MIA related issues may wish to provide.

Mr. President, I ask unanimous consent that the text of the Bring Them Home Alive Act of 1999, the Washington Times article, and the letters of endorsement be included in the RECORD. I urge my colleagues to support passage of this important legislation.

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

S. 484

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 "Bring Them Home Alive Act of 1999".

SEC. 2. AMERICAN VIETNAM WAR POW/MIA ASYLUM PROGRAM.

(a) ASYLUM FOR ELIGIBLE ALIENS.—Notwithstanding any other provision of law, the Attorney General shall grant refugee status in the United States to any alien described in subsection (b), upon the application of that alien.

(b) ELIGIBILITY.—Refugee status shall be granted under subsection (a) to—

(1) any alien who—

(A) is a national of Vietnam, Cambodia, Laos, China, or any of the independent states of the former Soviet Union; and

(B) personally delivers into the custody of the United States Government a living American Vietnam War POW/MIA; and

(2) any parent, spouse, or child of an alien described in paragraph (1).

(c) DEFINITIONS.—In this section:

(1) AMERICAN VIETNAM WAR POW/MIA.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term "American Vietnam War POW/MIA" means an individual—

(i) who is a member of a uniformed service (within the meaning of section 101(3) of title 37, United States Code) in a missing status (as defined in section 551(2) of such title and this subsection) as a result of the Vietnam War; or

(ii) who is an employee (as defined in section 5561(2) of title 5, United States Code) in a missing status (as defined in section 5561(5) of such title) as a result of the Vietnam War.

(B) EXCLUSION.—Such term does not include an individual with respect to whom it is officially determined under section 552(c) of title 37, United States Code, that such individual is officially absent from such individual's post of duty without authority.

(2) MISSING STATUS.—The term "missing status", with respect to the Vietnam War, means the status of an individual as a result of the Vietnam War if immediately before that status began the individual—

(A) was performing service in Vietnam; or

(B) was performing service in Southeast Asia in direct support of military operations in Vietnam.

(3) VIETNAM WAR.—The term "Vietnam War" means the conflict in Southeast Asia during the period that began on February 28, 1961, and ended on May 7, 1975.

SEC. 3. AMERICAN KOREAN WAR POW/MIA ASYLUM PROGRAM.

(a) ASYLUM FOR ELIGIBLE ALIENS.—Notwithstanding any other provision of law, the Attorney General shall grant refugee status in the United States to any alien described in subsection (b), upon the application of that alien.

(b) ELIGIBILITY.—Refugee status shall be granted under subsection (a) to—

(1) any alien—

(A) who is a national of North Korea, China, or any of the independent states of the former Soviet Union; and

(B) who personally delivers into the custody of the United States Government a living American Korean War POW/MIA; and

(2) any parent, spouse, or child of an alien described in paragraph (1).

(c) DEFINITIONS.—In this section:

(1) AMERICAN KOREAN WAR POW/MIA.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term "American Korean War POW/MIA" means an individual—

(i) who is a member of a uniformed service (within the meaning of section 101(3) of title 37, United States Code) in a missing status (as defined in section 551(2) of such title and this subsection) as a result of the Korean War; or

(ii) who is an employee (as defined in section 5561(2) of title 5, United States Code) in a missing status (as defined in section 5561(5) of such title) as a result of the Korean War.

(B) EXCLUSION.—Such term does not include an individual with respect to whom it is officially determined under section 552(c) of title 37, United States Code, that such individual is officially absent from such individual's post of duty without authority.

(2) KOREAN WAR.—The term “Korean War” means the conflict on the Korean peninsula during the period that began on June 27, 1950, and ended January 31, 1955.

(3) MISSING STATUS.—The term “missing status”, with respect to the Korean War, means the status of an individual as a result of the Korean War if immediately before that status began the individual—

(A) was performing service in the Korean peninsula; or

(B) was performing service in Asia in direct support of military operations in the Korean peninsula.

SEC. 4. BROADCASTING INFORMATION ON THE “BRING THEM HOME ALIVE” PROGRAM.

(a) REQUIREMENT.—

(1) IN GENERAL.—The International Broadcasting Bureau shall broadcast, through WORLDDNET Television and Film Service and Radio or otherwise, information that promotes the “Bring Them Home Alive” refugee program under this Act to foreign countries covered by paragraph (2).

(2) COVERED COUNTRIES.—The foreign countries covered by paragraph (1) are—

(A) Vietnam, Cambodia, Laos, China, and North Korea; and

(B) Russia and the other independent states of the former Soviet Union.

(b) LEVEL OF PROGRAMMING.—The International Broadcasting Bureau shall broadcast—

(1) at least 20 hours of the programming described in subsection (a)(1) during the 10-day period that begins on the date of enactment of this Act; and

(2) at least 10 hours of the programming described in subsection (a)(1) in each calendar quarter during the period beginning with the first calendar quarter that begins after the date of enactment of this Act and ending five years after the date of enactment of this Act.

(c) AVAILABILITY OF INFORMATION ON THE INTERNET.—International Broadcasting Bureau shall ensure that information regarding the “Bring Them Home Alive” refugee program under this Act is readily available on the World Wide Web sites of the Bureau.

(d) SENSE OF CONGRESS.—It is the sense of Congress that RFE/RL, Incorporated, Radio Free Asia, and any other recipient of Federal grants that engages in international broadcasting to the countries covered by subsection (a)(2) should broadcast information similar to the information required to be broadcast by subsection (a)(1).

(e) DEFINITION.—The term “International Broadcasting Bureau” means the International Broadcasting Bureau of the United States Information Agency or, on and after the effective date of title XIII of the Foreign Affairs Reform and Restructuring Act of 1998 (as contained in division G of Public Law 105-277), the International Broadcasting Bureau of the Broadcasting Board of Governors.

SEC. 5. INDEPENDENT STATES OF THE FORMER SOVIET UNION DEFINED.

In this Act, the term “independent states of the former Soviet Union” has the meaning given the term in section 3 of the FREEDOM Support Act (22 U.S.C. 5801).

[From the Washington Times, Jan. 12, 1999]

STATE DEPARTMENT ACCUSED OF STIFLING POW-MIA PROBE—WELDON SAYS RUSSIAN LAWMAKER TOLD HIM OF U.S. EFFORT

(By Bill Gertz)

A Russian parliamentarian who worked on prisoner-of-war issues claims the State Department discouraged Moscow from pursuing the fate of missing Americans, according to a senior member of Congress.

Rep. Curt Weldon said he is upset by the claim of the Duma member who told him about the State Department comments during a meeting in Moscow last month.

“During a conversation, the official told me ‘I can tell you, we were told by your government, your State Department, not to pursue these issues,’” Mr. Weldon, Pennsylvania Republican, said in an interview.

The statement bolsters private criticism by some Pentagon officials that the State Department is refusing to press the Russian government to investigate cases of missing Americans.

Pentagon officials told The Washington Times last month that Secretary of State Madeleine K. Albright delayed for months contacting senior Russian officials about a secret KGB plan to transport “knowledgeable Americans” to the Soviet Union during the late 1960s for intelligence purposes.

Mrs. Albright also failed to raise the issue directly with Russian Foreign Minister Yevgeny Primakov, who is now prime minister, during several meetings. Mr. Primakov would have had direct knowledge of the secret plan while he was director of Russian intelligence in the early 1990s.

Mr. Weldon said he is investigating the claim and has written to Mrs. Albright asking for an explanation.

The Russian official was not identified by name, but Mr. Weldon said the official had worked on the U.S.-Russian Joint Commission on POWs headed by retired Russian Gen. Dmitri Volkogonov. The Duma members told Mr. Weldon about the problem in a private meeting.

“His accusation is quite disturbing in light of the administration’s initial reluctance to aggressively pursue the matter with the Russian government,” Mr. Weldon states in a Jan. 6 letter to Mrs. Albright, “I urge that you investigate this charge and inform me of your findings.”

Ann Johnson, a State Department spokeswoman, said the matter was “looked into,” but no one in the State Department relayed such a message to any Duma members.

Asked if Mrs. Albright would raise the issue of the POW document during her upcoming meetings with Russian officials in Moscow, Miss Johnson said the agenda has not been set. “We do look forward to getting a look at the results of the Russian investigation of this matter, as Prime Minister Primakov promised Vice President [Al] Gore in Kuala Lumpur in November,” she said.

Gen. Volkogonov, who died in December 1995, disclosed in a memoir published in September that he had uncovered the secret plan by the KGB intelligence service during the late 1960s “to bring knowledgeable Americans to the Soviet Union for intelligence purposes.”

After the plan was disclosed by The Times in November, White House spokesmen initially said President Clinton would not raise the issue in meetings with Mr. Primakov set for late November in Kuala Lumpur, Malaysia. Later, the White House reversed its position and said the president would bring up the issue if talks at the POW commission in Moscow failed to resolve the matter.

After Mr. Clinton canceled his trip to Malaysia because of the crisis with Iraq, Mr. Gore raised the issue with Mr. Primakov.

Mr. Clinton said in a letter to a POW activist last month that he is “very concerned” about the Russian plan “given that American personnel were held as POWs in Southeast Asia during this same period.” He promised to “press” the Russians to provide answers.

The president stated in a Dec. 18 letter to Delores Alfond, chairman of the National Alliance of Families, that his administration is trying to find out about the authors of the KGB plan, whether it was carried out, and “the names of any Americans who were transferred.” If the plan was not carried out, “we have requested documentation that convincingly proves this point,” he said.

Mr. Weldon said in his letter to Mrs. Albright that he was encouraged by the administration’s discussions, “but I remain deeply disappointed that you deferred pursuit of this matter for so long after it first came to your attention.”

“With hundreds of U.S. POW-MIAs still unaccounted for, we must aggressively pursue all evidence which might help us determine their fate,” he said. “The United States has no basis on which to turn its back on information which may lead us to closure on the POW issue. Nor should we fear repercussions from the Russian government, as it will not suffer the reputation of its predecessor’s excesses, but may actually enhance its own reputation by fully disclosing the fact.”

Mr. Weldon said that Mrs. Albright should investigate the Duma official’s charge and “reaffirm the strong U.S. commitment to leave no stone unturned in the effort to determine the fate of all U.S. POWs.”

VIETNOW NATIONAL HEADQUARTERS,

Rockford, IL, February 18, 1999.

Hon. BEN NIGHORSE CAMPBELL,
Senate Russell Office Building,
Washington, DC.

DEAR SENATOR CAMPBELL: I wanted to write and thank you and Larry Vigil for your efforts to bring our “Live” POWs home. Sir, there is overwhelming evidence that living American POWs were left behind and in enemy hands at the conclusion of the U.S. involvement in both the Vietnam and Korean Wars. There is reason to believe that some of these fellow Americans are still alive. Your approach to gain their release, as outlined in your bill titled “The Bring Them Home Alive Act of 1999”, is viable and provides incentive for those who may be able to secure our POWs release to do so.

I have written my two senators, Boxer and Feinstein, with a request that they join your effort and cosponsor your bill. A copy of my letters to them is enclosed for your review and file. In addition, I have sent information regarding your bill to each VietNow chapter POW/MIA chairman and various other POW/MIA organizations and individual activists. I have encouraged these people to contact their respective U.S. Senators and to urge them to also cosponsor this bill.

Thank you for caring about our “Live” POWs and taking a positive step to gain their release!

Sincerely,

RICH TEAGUE, *Chairman.*

NATIONAL VIETNAM & GULF

WAR VETERANS COALITION,

Washington, DC, February 17, 1999.

Re the Bring Them Home Alive Act of 1999.

Hon. BEN NIGHORSE CAMPBELL,

U.S. Senate, Washington, DC.

(Attention of Larry Vigil).

DEAR SENATOR CAMPBELL: The National Vietnam & Gulf War Veteran’s Coalition is a federation of 101 Vietnam and Gulf War veteran support organizations that work together on ten (10) goals. One of the most important goals of our Coalition is the return of any living missing American servicemen in Southeast Asia.

Your legislative initiative of introducing the "Bring Them Home Alive Act of 1999" is the right bill at the right time. This bill will grant asylum or refugee status to any foreign national that helps bring out a live American prisoner of war (POW) from the Vietnam War. This applies to nationals of Vietnam, Cambodia, Laos, North Korea, China and the former states of the Soviet Union. It would also grant asylum or refugee status to the rescuer's family.

Passing this legislation is the least we can do for any Soldier, Sailor, Airman or Marine that may still be held as a POW. As long as there remains even the remotest possibility that there may be surviving POWs we owe this to them to bring them home.

In conclusion, our National Vietnam & Gulf War Veterans Coalition hereby endorses the "Bring Them Home Alive Act of 1999" and will utilize our resources to secure passage of this legislation as our promised legislative effort in this session of Congress.

Sincerely yours,

J. THOMAS BURCH, Jr.,
Chairman.

By Mr. McCAIN:

S. 485. A bill to provide for the disposition of unoccupied and substandard multifamily housing projects owned by the Secretary of Housing and Urban Development; to the Committee on Banking, Housing, and Urban Affairs.

URBAN HOMESTEAD ACT

Mr. McCAIN. Mr. President, today I introduce the Urban Homestead Act, a bill designed to reform the way in which the Department of Housing and Urban Development (HUD) disposes of unoccupied and substandard housing stock.

In summary, the Urban Homestead Act would require HUD, every six months, to publish in the National Register a complete listing of all single, and multi-family housing stock that has been in the Department's inventory for at least six months. Further, HUD is required to publish a complete listing of all substandard housing stock in the same manner. Locally based community development corporations would then be allowed to petition HUD for possession of these properties. HUD would be required to transfer the properties to the CDC free of cost.

There are few more obnoxious examples of government inefficiency and ineffectiveness than that of HUD's inability to address the housing needs of low-income families. HUD is notorious for its bloated bureaucracy and malfeasance in administering our nations public housing assistance programs. Nowhere is this ineptitude more glaringly obvious than in HUD's disposition of housing stock.

In our nation's inner cities, there are thousands of quiet heroes, struggling against and conquering near-insurmountable obstacles in efforts to revitalize their communities. They are winning the battle one house, one street, one neighborhood at a time.

These organizations are as unique as the communities and neighborhoods in

which they work their magic. It is their ability to adapt to the local demands of their neighborhoods which is the key to their success. However, one challenge which is the same, regardless of what community they are operating in, is the vacant house. These abandoned houses play host to all types of criminal activity. They are crack houses, centers of gang activities, and prostitution. You name it. The abandoned house has become a symbol of urban blight.

I ask my colleagues, who do you think is to blame for this outrage? A slum lord, or an absentee owner, perhaps a greedy land speculator? In some instances, this may be the case. But a principal culprit responsible for kneecapping the efforts of these neighborhood heroes is non-other-than the Department of Housing and Urban Development. Many of these homes are the product of FHA foreclosures. They are the product of lax lending habits and pathetic administration of the HUD property disposition program.

Well, Mr. President, it is my intention to put HUD out of the slumlord business. The legislation I introduce today sends a very simple message to HUD. They have six months to get a property on the market and sold. If they fail to get the job done, they're going to have to turn the property over to a CDC and they'll get the job done for them.

By channeling these properties into the hands of CDCs providing home ownership opportunities to low-income families, we will be accomplishing several important objectives. First, we will be placing a valuable resource into the hands of not-for-profits who may otherwise lack the capital resources to purchase the housing stock. Secondly, we get the property back in circulation. In doing so, it ceases to be a center for criminal activity and a symbol of blight. Finally, and most important, these organizations will use this housing stock to do what HUD has failed to accomplish. They will provide low-income families a piece of the American dream—a chance at home ownership.

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

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

S. 485

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 "Urban Homestead Act of 1999".

SEC. 2. DEFINITIONS.

In this Act:

(1) COMMUNITY DEVELOPMENT CORPORATION.—The term "community development corporation" means a nonprofit organization whose primary purpose is to promote community development by providing housing opportunities to low-income families.

(2) LOW-INCOME FAMILIES.—The term "low-income families" has the same meaning as in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)).

(3) MULTIFAMILY HOUSING PROJECT.—The term "multifamily housing project" has the same meaning as in section 203 of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z-11).

(4) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(5) SEVERE PHYSICAL PROBLEMS.—A dwelling unit shall be considered to have "severe physical problems" if such unit—

(A) lacks hot or cold piped water, a flush toilet, or both a bathtub and a shower in the unit, for the exclusive use of that unit;

(B) on not less than 3 separate occasions, during the preceding winter months was uncomfortably cold for a period of more than 6 consecutive hours due to a malfunction of the heating system for the unit;

(C) has no functioning electrical service, exposed wiring, any room in which there is not a functioning electrical outlet, or has experienced not less than 3 blown fuses or tripped circuit breakers during the preceding 90-day period;

(D) is accessible through a public hallway in which there are no working light fixtures, loose or missing steps or railings, and no elevator; or

(E) has severe maintenance problems, including water leaks involving the roof, windows, doors, basement, or pipes or plumbing fixtures, holes or open cracks in walls or ceilings, severe paint peeling or broken plaster, and signs of rodent infestation.

(6) SINGLE FAMILY RESIDENCE.—The term "single family residence" means a 1- to 4-family dwelling that is held by the Secretary.

(7) SUBSTANDARD MULTIFAMILY HOUSING PROJECT.—A multifamily housing project is "substandard" if not less than 25 percent of the dwelling units of the project have severe physical problems.

(8) UNIT OF GENERAL LOCAL GOVERNMENT.—The term "unit of general local government" has the same meaning as in section 102(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302).

(9) UNOCCUPIED MULTIFAMILY HOUSING PROJECT.—The term "unoccupied multifamily housing project" means a multifamily housing project that the Secretary certifies in writing is not inhabited.

SEC. 3. DISPOSITION OF UNOCCUPIED AND SUBSTANDARD PUBLIC HOUSING.

(a) PUBLICATION IN FEDERAL REGISTER.—

(1) IN GENERAL.—Subject to paragraph (2), beginning 6 months after the date of enactment of this Act, and every 6 months thereafter, the Secretary shall publish in the Federal Register a list of each unoccupied multifamily housing project, substandard multifamily housing project, and other residential property that is owned by the Secretary.

(2) EXCEPTION FOR CERTAIN PROJECTS AND PROPERTIES.—

(A) PROJECTS.—A project described in paragraph (1) shall not be included in a list published under paragraph (1) if less than 6 months have elapsed since the later of—

(i) the date on which the project was acquired by the Secretary; or

(ii) the date on which the project was determined to be unoccupied or substandard.

(B) PROPERTIES.—A property described in paragraph (1) shall not be included in a list published under paragraph (1) if less than 6 months have elapsed since the date on which the property was acquired by the Secretary.

(b) **TRANSFER OF OWNERSHIP TO COMMUNITY DEVELOPMENT CORPORATIONS.**—Notwithstanding section 203 of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z-11) or any other provision of Federal law pertaining to the disposition of property, upon the written request of a community development corporation, the Secretary shall transfer to the community development corporation ownership of any unoccupied multifamily housing project, substandard multifamily housing project, or other residential property owned by the Secretary, if the project or property is—

(1) located in the same unit of general local government as the community development corporation; and

(2) included in the most recent list published by the Secretary under subsection (a).

(c) **SATISFACTION OF INDEBTEDNESS.**—Prior to any transfer of ownership under subsection (b), the Secretary shall satisfy any indebtedness incurred in connection with the project or residence at issue, either by—

(1) cancellation of the indebtedness; or

(2) reimbursing the community development corporation to which the project or residence is transferred for the amount of the indebtedness.

SEC. 4. EXEMPTION FROM PROPERTY DISPOSITION REQUIREMENTS.

No provision of the Multifamily Housing Property Disposition Reform Act of 1994, or any amendment made by that Act, shall apply to the disposition of property under this Act.

SEC. 5. TENANT LEASES.

This Act shall not affect the terms or the enforceability of any contract or lease entered into before the date of enactment of this Act.

SEC. 6. PROCEDURES.

Not later than 6 months after the date of enactment of this Act, the Secretary shall establish, by rule, regulation, or order, such procedures as may be necessary to carry out this Act.

By Mr. ASHCROFT (for himself,
Mr. DEWINE, Mr. BOND, and Mr.
ENZI):

S. 486. A bill to provide for the punishment of methamphetamine laboratory operators, provide additional resources to combat methamphetamine production, trafficking, and abuse in the United States, and for other purposes, to the Committee on the Judiciary.

DETERMINED AND FULL ENGAGEMENT AGAINST THE THREAT OF METH ("DEFEAT METH") ACT

Mr. ASHCROFT. Mr. President, we live in a time of unparalleled prosperity. The stock market continually hits new highs, while unemployment and gasoline plunge to record lows. This prosperity brings many blessings, chief among them material comfort. But sometimes prosperity can mask problems as well as solve them. As Francis Bacon said, "Prosperity is not without many fears and distastes; and adversity is not without comforts and hopes." Prosperity can breed apathy and complacency, weakening a society's ability to respond to the challenges facing it. And as for adversity, it is only when people realize the true extent of their challenges that they can overcome them.

One of the greatest challenges we face is drugs, especially the recent rise in the production and use of methamphetamines. Despite the continued challenge drugs present, we have not heard enough about this problem recently. This administration has chosen not to make it a priority. A few years ago, Democrat Representative CHARLES RANGEL lamented this administration's inaction on the drug war: "I've been in Congress over two decades, and I have never, never, never found any administration that's been so silent on this great challenge to the American people." Former Drug Czar William Bennett agrees, having testified before our colleagues in the House of Representatives that: "The Clinton Administration has been AWOL in the war on drugs." We have gone from an era of "just say no" to an era of "I didn't inhale," and the numbers concerning youth drug use show that these contrasting messages make a difference.

While the financial numbers continue to move in the right direction, the numbers concerning youth direction have gone in the wrong direction. In 1998, the percentage of 12th graders who had tried illegal drugs was a shocking 54%—133% of the level in 1992. This figure, which had decreased during the 1980s, increased in the 1990s. Similarly, in 1998, the reported illicit drug use by 12th graders in the last 30 days was more than 177% of the level seven years earlier.

What is particularly alarming is the drastic increase in the use of heavy drugs by teenagers. In 1998, the percentage of 12th graders who used cocaine in the last 30 days was 178% of the level in 1992. Moreover, the percentage of heroin use was 250% of the 1992 level. The plain facts are that drug use among our nation's youth is far too common and becoming more so. Our nation appears to be sliding backward from the strides we made in the 1980s.

The increases in drug use among our children are alarming. Our children are our greatest asset and they are at great risk from drugs. They are the most vulnerable members of our society. And, more than any other group, young people face the highest risk of being lost to drugs forever.

The more than half of the nation's high school seniors who have already tried drugs run much greater risks of future drug use than their peers. According to the National Household Survey on Drug Abuse, those who do not try drugs by their mid-twenties are unlikely ever to use drugs. Protecting our children from drugs is the best way to stop adults from using drugs.

The challenge before us—protecting our children from drugs—becomes ever more difficult in a society plagued by divorce, single-parent households, diffuse communities, and the never-ending beat of "live for today" messages

coming from our culture. Every one of these factors makes it harder to impart the right messages to the next generation and to keep our children off drugs.

Protecting our children from drugs is more difficult than ever. In the last few years, a new enemy has emerged to join the other, more familiar, threats of cocaine, heroin, and marijuana. That new threat is methamphetamine or "meth," a dangerous, addictive substance that is ruining lives and weakening communities across this great land. Meth is to the 1990s what cocaine was to the 1980s and heroin was to the 1970s. And the problem is growing exponentially, in both Missouri and the nation at large. In 1992, DEA agents seized 2 clandestine meth labs in the State of Missouri. By 1994, there were 14 seizures. That was serious enough. However, in 1997, they seized 421 labs.

Meth ensnares our children, endangers us all, and causes users to commit other crimes. In 1998, the percentage of 12th graders who used meth was double the 1992 level. Meth-related emergency room incidents are up 63 percent over that same period. The National Institute of Justice released a report just a couple of months ago that showed meth use among adult arrestees and detainees has risen to alarming levels across the country.

Meth is one of the most serious drug problems in our nation—and, in states like Missouri—it remains the most serious problem. Just ask the McClelland family in Kansas City. Their 11-year-old daughter was bludgeoned to death by a family friend who was high on meth. Her murderer admitted to beating her in the head repeatedly with a claw hammer after she resisted his sexual advances.

This is not an isolated incident. Meth kills. Law enforcement officers in Missouri refer to it as a triple threat. It can kill the user; it can make the user kill and, in many cases, even its production can kill.

Meth labs have been called toxic time bombs because volatile chemicals are mixed in the manufacturing process. There have been dozens of lab explosions. There are also numerous cases of meth abusers booby-trapping their abandoned labs, resulting in serious injuries to law enforcement agents. Even when not booby trapped, abandoned labs are like toxic waste dumps. Clean up is both dangerous and expensive.

Meth production poses a unique challenge to law enforcement because of the difficulties in effective interdiction. Although some meth comes into the United States from Mexico, much of it is home produced from readily-available materials. It can be manufactured in clandestine labs and even in the kitchen of a moving RV—a literal moving target for law enforcement. Meth also can be manufactured in batches large or small. Law enforcement officials in Missouri have told me

that as we have poured more resources into the fight against meth, some meth cooks have resorted to smaller and smaller batches to reduce the chances of detection. Other law enforcement officers report meth operations that contract out the various steps in the manufacturing process to different sites to reduce the chances of detection.

Meth also has some unique attributes which appeal to users. Smoking meth produces a high that lasts 8 to 24 hours. Cocaine, in contrast, produces a high that lasts for 20 to 30 minutes. Meth appeals not only to those looking for an extended high. It appeals to vanity as well. Meth suppresses appetite and is enticing to young adults trying to lose weight.

While meth is different from other drugs in some ways—more dangerous, more difficult to police—at its core, it is the same as other narcotics in that it imposes costs. According to Bill Bennett, the use of drugs “makes every other social problem much worse.”

Meth contributes to a host of societal ills—violence, unemployment, homelessness, family breakup. I have heard too many stories of neglected children all but abandoned in a home turned into a meth lab. There are enough threats to our children that we do not need meth adding to our burden.

I want to fight the scourge of meth because of the violence it causes. I want to fight meth because of the costs it imposes, on society and on families, on taxpayers and on communities. But there is another factor that motivates my opposition to meth: I want to fight meth because its use and production is wrong. And too few people are willing to stand up these days and call drugs wrong.

This laissez faire attitude leads to too much permissiveness on the subject of drugs. And permissiveness on drugs imposes terrible moral and psychic costs on America's youth.

In fact, much of our current predicament stems for the permissive attitudes that emerged from the 1960s. The decay of enforcement that began in the 1960s helped to cause the problems of the succeeding decades.

Make no mistake. Enforcement is an extremely effective tool in diminishing drug use. During the 1960s and 1970s, the period coinciding with the dawn of this country's second great drug crisis, incarceration rates plummeted from 90 per 1,000 arrests in 1960 to only 19 per 1,000 arrests by 1980. Laws are what protects society from anarchy. And when we choose not to enforce our laws, our laws lose their effectiveness, and the bulwark against anarchy withers.

While our society too often tends towards laxness, we also have a history of responding to challenges. America has never faced a problem that has proven too great for us to meet or too big for us to tackle. The meth chal-

lenge, while daunting, is no exception. If we make a determined and full engagement in our war against meth, we will win. We will defeat meth.

In my four years in the United States Senate, I have fought the growth of meth trafficking. In the last Congress, I introduced the “Trafficking Penalties Enhancement Act” to provide more severe penalties for manufacturing, trafficking, or importing meth. That legislation, which was signed into law last fall, increases prison terms for meth possession to a 10-year minimum for possession of 50 grams of meth or more, and a 5-year minimum for 5 grams or more. That law also made more meth crimes eligible for the death penalty in situations in which a murder is committed in conjunction with the meth offense. In light of the triple threat nature of meth, the availability of the death penalty is particularly relevant and appropriate.

In order to protect residents of public housing, I worked with my colleague from Missouri, Senator BOND, to place a “one strike and your out,” lifetime ban from public housing premises for individuals who manufacture or produce methamphetamine.

I also worked to set up a regional High-Intensity Drug Trafficking Area (or HIDTA) that covers Missouri. More recently, I organized a bipartisan effort by the Missouri congressional delegation that led to increased funding for anti-meth initiatives, including resources for law enforcement and lab cleanup. These steps are all important. When I talked with representatives of Missouri law enforcement earlier this week, they underscored that these programs are having a positive effect in the fight against meth. But winning the battle against meth once and for all will take continued hard work and effort.

Mr. President, today I rise to take the next step in the fight against meth, the Determined and Full Engagement Against the Threat of Meth Act, or the “DeFEAT Meth Act” for short.

My anti-methamphetamine legislation will have five main components.

First, the bill directs the U.S. Sentencing Commission to adjust its guidelines to increase penalties for meth crimes. In the last Congress we were able to raise the mandatory minimum sentences for meth trafficking crimes involving over 5 grams. This provision complements last year's legislation by increasing penalties for meth crimes that do not come under the mandatory minimums, and adding a special sentencing enhancement for meth crimes that endanger human life. This provision completes the process of imposing appropriate and severe penalties on those who wish to tear apart the very fabric of our society by distributing meth.

Second, my legislation will provide law enforcement officers with more re-

sources for combating meth. Specifically, it is time to authorize more funding for the Drug Enforcement Administration's meth initiative. This funding is essential. In order to stop the spread of meth, the DEA needs to hire more agents, and provide additional training for state and local law enforcement officers. These agents will participate in the DEA's comprehensive plan for targeting and investigating meth trafficking, production and abuse. The DEA also needs to provide additional support for local law enforcement. When law enforcement busts a meth lab, they are taking over the equivalent of a toxic waste dump. The serious and unique problems cleanup problems created by meth demand a serious and unique response.

Third, we need to educate our children about the dangers of meth. While DEA interdiction is vital, we also need to educate parents, teachers, and children—who may not yet be familiar with the dangers of meth—about the size of the threat. We should authorize new funding for programs to educate parents and teachers of the dangers of methamphetamine. Missouri law enforcement officers estimate that as many as 10% of high-school students know the recipe for meth. We must make sure that 100% of them know that meth is a recipe for disaster.

Fourth, we need to recognize that, more than any other narcotic, meth can be made all too easily, in home grown laboratories, with readily-available chemicals. To counteract this problem, we must ensure that the list of banned precursor chemicals used to make meth is kept up to date. It seems that when a precursor chemical is added to the list, meth cooks figure out how to manufacture meth with a new unlisted chemical. We must remain vigilant in the battle against meth. After consulting with people on the front line—in the crime labs in Missouri—we have proposed adding two new precursor chemicals: red phosphorous and sodium dichromate.

Finally, the bill amends the federal drug paraphernalia statute to cover meth. The current law covers paraphernalia used to ingest a number of specific drugs including marijuana and cocaine. It does not cover meth. There is no basis for this differential treatment, and the bill adds meth to the statute.

This comprehensive plan is an essential step in the war against meth. While no plan will not stop the spread of meth overnight, we must continue the long process of stopping this onslaught. Defeating meth will be a struggle that takes place in schools, in communities, in churches, within families. We must teach the next generation the danger of drugs and give them alternatives to the easy short term answers that drugs provide.

Meth presents us with a formidable challenge. We have overcome other

challenges in the past and we can conquer this one as well. In fact, the history of America is one of meeting challenges and surpassing people's highest expectations. Meth is no exception. All we need to succeed is to marshal our will and channel the great indomitable American spirit. The experience of the past few years demonstrates that you cannot win the war on drugs with a half-hearted effort. However, experience also shows that we can win if we commit to a determined and full engagement against the threat of drugs. This bill provides full engagement. With it, we will meet the meth challenge and we will defeat it.

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

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

S. 486

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 "Determined and Full Engagement Against the Threat of Methamphetamine" or "Defeat Meth" Act of 1999.

SEC. 2. ENHANCED PUNISHMENT OF METHAMPHETAMINE LABORATORY OPERATORS.

(a) FEDERAL SENTENCING GUIDELINES.—

(1) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines in accordance with paragraph (2) with respect to any offense relating to the manufacture, attempt to manufacture, or conspiracy to manufacture amphetamine or methamphetamine in violation of—

(A) the Controlled Substances Act (21 U.S.C. 801 et seq.);

(B) the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.); or

(C) the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.).

(2) REQUIREMENTS.—In carrying out this paragraph, the United States Sentencing Commission shall, with respect to each offense described in paragraph (1)—

(A) increase the base offense level for the offense—

(i) by not less than 3 offense levels above the applicable level in effect on the date of enactment of this Act; or

(ii) if the resulting base offense level after an increase under clause (i) would be less than level 27, to not less than level 27; or

(B) if the offense created a substantial risk of danger to the health and safety of another person (including any Federal, State, or local law enforcement officer lawfully present at the location of the offense), increase the base offense level for the offense—

(i) by not less than 6 offense levels above the applicable level in effect on the date of enactment of this Act; or

(ii) if the resulting base offense level after an increase under clause (i) would be less than level 30, to not less than level 30.

(3) EMERGENCY AUTHORITY TO SENTENCING COMMISSION.—The United States Sentencing Commission shall promulgate amendments pursuant to this subsection as soon as practicable after the date of enactment of this Act in accordance with the procedure set

forth in section 21(a) of the Sentencing Act of 1987 (Public Law 100-182), as though the authority under that Act had not expired.

(b) EFFECTIVE DATE.—The amendments made pursuant to this section shall apply with respect to any offense occurring on or after the date that is 60 days after the date of enactment of this Act.

SEC. 3. INCREASED RESOURCES FOR LAW ENFORCEMENT.

(a) AUTHORIZATION OF DEA FUNDS TO COMBAT METHAMPHETAMINES.—

(1) PURPOSE.—From amounts made available to carry out this subsection, the Administrator of the Drug Enforcement Administration shall implement a comprehensive approach for targeting and investigating methamphetamine production, trafficking, and abuse to combat the trafficking of methamphetamine in areas designated by the Director of National Drug Control Policy as high intensity drug trafficking areas, which approach shall include—

(A) training local law enforcement agents in the detection and destruction of clandestine methamphetamine laboratories, and the prosecution of any offense relating to the manufacture, attempt to manufacture, or conspiracy to manufacture methamphetamine in violation of the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.), or applicable State law;

(B) investigating and assisting in the prosecution of methamphetamine traffickers, establishing a national clandestine laboratory computer database, reducing the availability of precursor chemicals being diverted to clandestine laboratories in the United States and abroad, and cleaning up the hazardous waste generated by seized clandestine laboratories; and

(C) allocating agents to States with the highest rates of clandestine laboratory closures during the most recent 5 fiscal years.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection—

(A) \$30,000,000 for fiscal year 2000; and

(B) such sums as may be necessary for each of fiscal years 2001 through 2004.

(b) HIGH INTENSITY DRUG TRAFFICKING AREAS.—

(1) IN GENERAL.—From amounts made available to carry out this subsection, the Director of National Drug Control Policy shall combat the trafficking of methamphetamine in areas designated by the Director of National Drug Control Policy as high intensity drug trafficking areas, including the hiring of new laboratory technicians in rural communities.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection—

(A) \$25,000,000 for fiscal year 2000; and

(B) such sums as may be necessary for each of fiscal years 2001 through 2004.

(c) EXPANDING METHAMPHETAMINE ABUSE PREVENTION EFFORTS.—

(1) PREVENTION PROGRAMS AND ACTIVITIES.—(A) IN GENERAL.—From amounts made available to carry out this subsection, the Director of National Drug Control Policy shall—

(i) carry out community-based prevention programs that are focused on those populations within the community that are most at-risk for methamphetamine abuse and addiction;

(ii) assist local government entities to conduct appropriate methamphetamine prevention activities;

(iii) train and educate State and local law enforcement officials on the signs of methamphetamine abuse and addiction and the options for treatment and prevention;

(iv) carry out planning, administration, and educational activities related to the prevention of methamphetamine abuse and addiction;

(v) monitor and evaluate methamphetamine prevention activities, and report and disseminate resulting information to the public; and

(vi) carry out targeted pilot programs with evaluation components to encourage innovation and experimentation with new methodologies.

(B) PRIORITY.—In carrying out this paragraph, the Director of National Drug Control Policy shall give priority to assisting rural and urban areas that are experiencing a high rate or rapid increases in methamphetamine abuse and addiction.

(C) ANALYSES AND EVALUATION.—

(i) IN GENERAL.—Of the amount made available to carry out this subsection in each fiscal year, not less than \$500,000 shall be used by the Director of National Drug Control Policy, in consultation with the heads of other departments and agencies of the Federal Government—

(I) to support and conduct periodic analyses and evaluations of effective prevention programs for methamphetamine abuse and addiction; and

(II) for the development of appropriate strategies for disseminating information about and implementing those programs.

(ii) ANNUAL REPORTS.—The Director shall annually submit to Congress a report on results of the analyses and evaluations under clause (i) during the preceding 12-month period.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection—

(A) \$25,000,000 for fiscal year 2000; and

(B) such sums as may be necessary for each of fiscal years 2001 through 2004.

SEC. 4. PRECURSOR CHEMICALS.

Section 102(35) of the Controlled Substances Act (21 U.S.C. 802(35)) is amended—

(1) by inserting ", or immediate precursor," after "chemical"; and

(2) by adding at the end the following:

“(K) Red phosphorous.

“(L) Sodium dichromate.”.

SEC. 5. METHAMPHETAMINE PARAPHERNALIA.

Section 422(d) of the Controlled Substances Act (21 U.S.C. 863(d)) is amended by inserting "methamphetamines," after "PCP,".

By Mr. GRAMS (for himself and Mr. ASHCROFT):

S. 487. A bill to amend the Internal Revenue Code of 1986 to provide additional retirement savings opportunities for small employers, including self-employed individual; to the Committee on Finance.

SMALLER EMPLOYER EGG ACT

By Mr. GRAMS:

S. 488. A bill to amend the Internal Revenue Code of 1986 to repeal the taxation of social security benefits; to the Committee on Finance.

REPEAL OF SOCIAL SECURITY TAX

By Mr. GRAMS:

S. 489. A bill to provide an automatic tax rebate when the Federal tax burden

grows faster than the personal income of working Americans, and for other purposes; to the Committee on Finance.

NATIONAL TAX REBATE ACT OF 1999

By Mr. GRAMS:

S. 490. A bill to amend the Internal Revenue Code of 1986 to provide that the conducting of certain games of chance shall not be treated as an unrelated trade or business; to the Committee on Finance.

FEDERAL UNRELATED BUSINESS INCOME TAX
LEGISLATION

Mr. GRAMS. Mr. President, at the beginning of this session, I, along with Senator ROTH and others, introduced S. 3, the Tax Cuts for All Americans Act, which calls for a 10 percent across-the-board tax cut on the federal income taxes of hard-working Americans.

If enacted, this will be the largest middle-class tax relief since President Ronald Reagan's 1981 tax cuts. I believe this legislation is imperative for our economic security and growth in the new millennium. I will address this issue more fully later this week.

But today I also rise to introduce four bills representing some other tax relief priorities on which I hope we can also focus in this Congress. These bills will help reform our tax system and will help to terminate some unfair and unjust tax provisions in the Tax Code, again, with the aim and the goal of allowing working Americans to keep a little bit more of their own money rather than sending it to Washington.

Mr. President, the first bill I am introducing today, the National Tax Rebate Act, requires the Government to refund taxes collected to taxpayers when Federal revenue grows faster than the income of working Americans.

The rationale for this legislation is simple: and that is, the Federal Government's taxes should not grow faster than working Americans' income. Our growing tax burden should not reduce the standard of living that we work hard to achieve. This legislation will ensure that it does not.

Eighteen of the last 19 Democrat-controlled Congresses passed tax increases. President Clinton's whopping \$241 billion tax increase in 1993 was the largest tax hike we have had. We had only two Federal personal income tax rates at that time. They were 15 and 28 percent, those under President Ronald Reagan.

Today, after President Clinton has been in office for 6 years, we have five Federal tax brackets. The top one has reached nearly 40 percent. More hard-working, middle-income families have been pushed into higher tax brackets because of an unfair tax system. So we have gone from two brackets of 15 percent and 28 percent to now five tax brackets, the highest being nearly 40 percent. No wonder Washington's income is growing and growing much faster than the income of the tax-

payors. That is one reason why we have a surplus in Washington today, because incomes have gone up for Americans, and Washington has taken a larger share of that in the form of taxes.

Thanks to our exceptionally strong economy, more Americans are working today, and are earning more than ever before as a result. Government data show that real median family income is now at a near-historic high and per capita income is at a record \$19,241.

We should not be here penalizing those who work long and hard to achieve the American dream of higher earnings and better jobs by slapping higher taxes on them.

Unfortunately, a large share of the newly earned income of hard-working Americans has not been spent on family priorities but siphoned off by Washington.

The progressive Federal tax system created by Washington allows Federal Government income to grow faster by taking a larger bite from any newly earned income increases. That is because it pushes us into one of these higher tax brackets.

According to Scott Hodge, a leading economist at Citizens for a Sound Economy, total personal income since 1993 has grown by an average of 5.2 percent a year, while Federal taxes have grown by 7.9 percent a year—so taxes have grown 52 percent faster than personal income growth.

In fiscal year 1998 alone, federal taxes grew 70 percent faster than personal income.

Mr. President, this is not justifiable. Uncle Sam's income should by no means grow faster than the income of the people who earn it.

While broad-based tax relief for every American, such as S.3, would certainly correct the unfairness of the tax system, we need a mechanism that ensures Washington's income will never grow faster than the income of taxpayers.

This is all my legislation does. It limits federal taxes by prohibiting the growth rate of federal revenues collected for any fiscal year from exceeding the average growth rate of personal income of working Americans.

Set a guidepost. Set a marker as to how fast Washington should grow in the money it collects and spends.

It requires a two-thirds vote of both the House and the Senate to waive this limit. Whenever Washington's tax revenues grow faster than the personal income of working Americans, an automatic national tax rebate will be triggered as a result.

The federal government must refund taxpayers the excessive taxes pro rata based on liability reported on federal income tax annual returns filed in the previous tax year.

The national tax rebate is not a new idea. A number of states, such as Florida and Missouri, have either statutory

laws or constitutional amendments requiring state governments to give back tax money if the revenue exceeds these limits.

My own State of Minnesota is currently deciding how best to refund excess tax collection to Minnesota taxpayers.

If it works at the state level, there is no excuse for the federal government not to adopt a similar mechanism.

By passing this simple tax limitation and rebate legislation, taxpayers will be fully protected and better represented in Washington.

Mr. President, this piece of legislation would repeal taxation of our senior citizens' Social Security benefits.

As you know, Mr. President, Social Security benefits were exempt from the federal income tax since the creation of the program.

They were never taxed by the Federal Government. Retirement benefits shouldn't be.

But as Social Security encountered a financial crisis in early 1980s, Congress began taxing Social Security benefits, and thus causing financial hardship to many seniors.

The amount of taxable benefits was the lesser of one-half of Social Security cash benefits or one-half of the excess of the taxpayer's provisional income over the thresholds of \$25,000 per single person and \$32,000 for couples.

In 1993, when President Clinton needed more money to fund his new spending programs, he increased the taxable proportion of Social Security benefits from 50 to 85 percent for Social Security recipients whose threshold incomes exceed \$34,000 for singles and \$44,000 for couples.

These two tax increases have seriously injured a significant number of senior citizens. In fact, a quarter of recipients are affected by this provision, creating enormous financial hardship for them as well.

I believe taxation on Social Security benefits is wrong and unfair because Social Security benefits are earned benefits for many senior citizens. Federal income tax is paid when Social Security contributions are made to the program. Taxing Social Security benefits is clearly double taxation.

In other words, those benefits are paid when the money is put into Social Security, and now the government wants to tax them again as it takes the money out.

In addition, Congress never intended to tax Social Security benefits when it first established the program. In fact, for half a century Social Security benefits were exempted from federal taxes.

Millions of senior citizens who planned for their retirement based on their understanding of the Social Security law were penalized. As the tax rate continues to grow, the incomes of more and more senior citizens are falling along with their standard of living.

This tax hurts seniors who choose or must work after retirement to maintain their standard of living or to pay for costly health insurance premiums, medical care, prescriptions and many other expenses which increase in retirement years.

It also discourages today's workers to save and invest for the future. It won't help protect Social Security for our children and grandchildren.

I believe this is not acceptable.

Repealing all taxation on Social Security benefits would reverse this trend, and help responsible senior citizens. The federal government has entered into a sacred covenant with the American people to provide retirement benefits once contribution commitments are made.

It is the government's contractual duty to honor that commitment. The government cannot and should not change the covenant without consent of the people whom these changes would affect.

Mr. GRAMS. Mr. President, this bill deals with a relatively smaller tax matter. This bill calls for exemption of additional charitable gambling activities from the Federal unrelated business income tax (UBIT).

As you know, Mr. President, the fundamental difference between charitable gambling and regular gambling is where and how the profit is spent.

Most of the income derived from charitable gambling games is spent in communities to fund charitable activities such as the Boy and Girl Scouts, Head Start, and many city and school programs that help local residents and students.

In my State alone of Minnesota, more than 1,500 local charities conduct a variety of games such as bingo and pull tabs, and in doing so contribute some \$75 million per year to their local communities.

Beneficiaries include youth recreation and education, as well as organizations serving the sick and disabled, and many other community programs, as well.

My state leads the nation in charitable non-profit gaming, but some 35 other states are involved in similar activities.

In 1978, President Carter signed into law a bill that classified bingo income as related business income.

As a result, this charitable game is not subject to the Federal UBIT. But the law did not include other forms of charitable gambling. Consequently, the income of these charitable gambling games is taxed under the UBIT.

Taxes take a big bite out of charitable gambling income and seriously undermine the ability of nonprofit organizations to provide charitable assistance.

Now, while the IRS has not collected UBIT on these charities as they anticipate Congressional action, without my

legislation, the IRS could begin collections in the near future. My legislation would remove this uncertainty as charities attempt to go on with their good works.

This legislation is not controversial. It should have bipartisan support. In the last Congress I introduced a similar bill with Senator WELLSTONE which the Senate adopted. I hope we can pass it again in the 106th Congress.

The last bill I am introducing today would provide a tax incentive for small business employers to set up pension plans for their workers.

Working Americans' retirement security is based on Social Security, private pensions, and personal savings. But even though Social Security is fast approaching a financial crisis, our national savings rate remains among the lowest, and many workers do not have company pension plans to help make up the Retirement Benefits.

Despite recent congressional action to improve private pension plans, the complexity of qualification requirements under current law and the administrative expenses associated with setting up retirement plans, including the SIMPLE plan, remain significant impediments to widespread implementation of employer-based retirement systems, especially for small business.

This is particularly true for small employers with less than 100 employees, for whom the resulting benefits do not outweigh the administrative costs.

Consequently, only 42% of individuals employed by small businesses now participate in an employer-sponsored plan, as opposed to 78% of those who work for larger businesses.

To address this problem, I am introducing the Small Employer Nest Egg Act of 1999. This legislation will create a new retirement option for small business owners with 100 or fewer employees.

It would allow the same level of benefits both to employers and employees as larger employers who maintain traditional qualified plans. Upon retirement or separation of service, employees would receive 100% of their pension account value.

To offset the high costs associated with starting a pension plan, my proposal calls for a tax cut equal to 50% of the administrative and retirement education expenses incurred for the first five years of a plan's operation.

Mr. President, small businesses are the lifeblood of our communities, providing millions of jobs nationwide. Small business owners want to help their employees save for their retirement.

Yet, because of the costs, many are unable to do so and, also, because of the rigid Government policies and, again, the administrative costs that go with it.

This legislation, I believe, will help millions of workers begin building

their retirement security. I urge the support of my colleagues for the four bills I have offered today.

ADDITIONAL COSPONSORS

S. 11

At the request of Mr. ABRAHAM, the name of the Senator from Delaware (Mr. ROTH) was added as a cosponsor of S. 11, a bill for the relief of Wei Jingsheng.

S. 241

At the request of Mr. FEINGOLD, his name was added as a cosponsor of S. 241, a bill to amend the Federal Meat Inspection Act to provide that a quality grade label issued by the Secretary of Agriculture for beef and lamb may not be used for imported beef or imported lamb.

S. 256

At the request of Mr. GRASSLEY, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 256, a bill to amend title XVIII of the Social Security Act to promote the use of universal product numbers on claims forms submitted for reimbursement under the medicare program.

S. 271

At the request of Mr. FRIST, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 271, a bill to provide for education flexibility partnerships.

S. 280

At the request of Mr. FRIST, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 280, a bill to provide for education flexibility partnerships.

S. 285

At the request of Mr. MCCAIN, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 285, a bill to amend title II of the Social Security Act to restore the link between the maximum amount of earnings by blind individuals permitted without demonstrating ability to engage in substantial gainful activity and the exempt amount permitted in determining excess earnings under the earnings test.

S. 314

At the request of Mr. BOND, the names of the Senator from Maine (Ms. COLLINS), the Senator from Iowa (Mr. HARKIN), and the Senator from Minnesota (Mr. WELLSTONE) were added as cosponsors of S. 314, a bill to provide for a loan guarantee program to address the Year 2000 computer problems of small business concerns, and for other purposes.

S. 325

At the request of Mrs. HUTCHISON, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 325, a bill to amend the Internal Revenue Code of 1986 to provide tax incentives to encourage production of oil