

S. 579. A bill to amend the Foreign Assistance Act of 1961 to target assistance to support the economic and political independence of the countries of the South Caucasus and Central Asia; to the Committee on Foreign Relations.

By Mr. FRIST (for himself, Mr. JEFFORDS, Mr. KENNEDY, Mr. NICKLES, Ms. COLLINS, Mr. BREAUX, Mr. INOUE, Mr. MACK, Mr. HAGEL, Mr. SANTORUM, Ms. MIKULSKI, and Mr. BINGAMAN):

S. 580. A bill to amend title IX of the Public Health Service Act to revise and extend the Agency for Healthcare Policy and Research; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SPECTER:

S. 581. A bill to protect the Paoli and Brandywine Battlefields in Pennsylvania, to authorize a Valley Forge Museum of the American Revolution at Valley Forge National Historical Park, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SPECTER (for himself and Mr. SANTORUM):

S. 582. A bill to authorize the Secretary of the Interior to enter into an agreement for the construction and operation of the Gateway Visitor Center at Independence National Historical Park; to the Committee on Energy and Natural Resources.

By Mr. CHAFEE (by request):

S. 583. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to authorize programs for predisaster mitigation, to streamline the administration of disaster relief, to control the Federal costs of disaster assistance, and for other purposes; to the Committee on Environment and Public Works.

By Mr. KENNEDY (for himself and Mr. LAUTENBERG):

S. 584. A bill to amend title XIX of the Social Security Act to permit the Secretary of Health and Human Services to waive recoupment under the medicaid program of certain tobacco-related funds received by a State if a State uses a portion of such funds for tobacco use prevention and health care and early learning programs; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. MACK (for himself, Mr. MOYNIHAN, Mr. LOTT, Mr. BROWNBACK, and Mr. WELLSTONE):

S. Res. 60. A resolution recognizing the plight of the Tibetan people on the fortieth anniversary of Tibet's attempt to restore its independence and calling for serious negotiations between China and the Dalai Lama to achieve a peaceful solution to the situation in Tibet; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

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

S. 572. A bill to prohibit the Secretary of the Treasury from issuing regulations dealing with hybrid transactions; to the Committee on Finance.

SUBPART F OF INTERNAL REVENUE CODE

Mr. BREAUX. Mr. President, today Mr. MACK and I are again introducing

legislation to place a permanent moratorium on the Department of the Treasury's authority to finalize any proposed regulations issued pursuant to Notice 98-35, dealing with the treatment of hybrid branch transactions under subpart F of the Internal Revenue Code. Our bill also prohibits Treasury from issuing new regulations relating to the tax treatment of hybrid transactions under subpart F and requires the Secretary to conduct a study of the tax treatment of hybrid transactions and to provide a written report to the Senate Committee on Finance and the House Committee on Ways and Means.

By way of background, the United States generally subjects U.S. citizens and corporations to current taxation on their worldwide income. Two important devices mitigate or eliminate double taxation of income earned from foreign sources. First, bilateral income tax treaties with many countries exempt American taxpayers from paying foreign taxes on certain types of income (e.g. interest) and impose reduced rates of tax on other types (e.g. dividends and royalties). Second, U.S. taxpayers receive a credit against U.S. taxes for foreign taxes paid on foreign source income. To reiterate, these devices have been part of our international tax rules for decades and are aimed at preventing U.S. businesses from being taxed twice on the same income. The policy of currently taxing U.S. citizens on their worldwide income is in direct contrast with the regimes employed by most of our foreign trading competitors. Generally they tax their citizens and domestic corporations only on the income earned within their borders (the so-called "water's edge" approach).

Foreign corporations generally are also not subject to U.S. tax on income earned outside the United States, even if the foreign corporation is controlled by a U.S. parent. Thus, U.S. tax on income earned by foreign subsidiaries of U.S. companies—that is, from foreign operations conducted through a controlled foreign corporation (CFC)—is generally deferred until dividends paid by the CFC are received by its U.S. parent. This policy is referred to as "tax deferral."

In 1961, President John F. Kennedy proposed eliminating tax deferral with respect to the earnings of U.S.-controlled foreign subsidiaries. The proposal provided that U.S. corporations would be currently taxable on their share of the earnings of CFCs, except in the case of investments in certain "less developed countries." The business community strongly opposed the proposal, arguing that in order for U.S. multinational companies to be able to compete effectively in global markets, their CFCs should be subject only to the same taxes to which their foreign competitors were subject.

In the Revenue Act of 1962, Congress rejected the President's proposal to completely eliminate tax deferral, recognizing that to do so would place U.S. companies operating in overseas markets at a significant disadvantage vis-a-vis their foreign competitors. Instead, Congress opted to adopt a policy regime designed to end deferral only with respect to income earned from so-called "tax haven" operations. This regime, known as "subpart F," generally is aimed at currently taxing foreign source income that is easily moveable from one taxing jurisdiction to another and that is subject to low rates of foreign tax.

Thus, the subpart F provisions of the Internal Revenue Code (found in sections 951-964) have always reflected a balancing of two competing policy objectives: capital export neutrality (i.e. neutrality of taxation as between domestic and foreign operations) and capital import neutrality (i.e. neutrality of taxation as between CFCs and their foreign competitors). While these competing principles continue to form the foundation of subpart F today, recent actions by the Department of the Treasury threaten to upset this longstanding balance.

On January 16, 1998, the Department of the Treasury announced in Notice 98-11 its intention to issue regulations to prevent the use of hybrid branches "to circumvent the purposes of subpart F." The hybrid branch arrangements identified in Notice 98-11 involved entities characterized for U.S. tax purposes as part of a controlled foreign corporation, but characterized for purposes of the tax law of the country in which the CFC was incorporated as a separate entity. The Notice indicated that the creation of such hybrid branches was facilitated by the entity classification rules contained in section 301.7701-I through -3 of the Income Tax Regulations (the "check the box" regulations).

Notice 98-11 acknowledged that U.S. international tax policy seeks to balance the objectives of capital export neutrality with the objective of allowing U.S. businesses to compete on a level playing field with foreign competitors. In the view of the Treasury and IRS, however, the hybrid transactions attacked in the Notice "upset that balance." Treasury indicated that the regulations to be issued generally would apply to hybrid branch arrangements entered into or substantially modified after January 16, 1998, and would provide that certain payments to and from foreign hybrid branches of CFCs would be treated as generating subpart F income to U.S. shareholders in situations in which subpart F would not otherwise apply to a hybrid branch as a separate entity. This represented a significant expansion of subpart F, by regulation rather than through legislation.

Shortly after Notice 98-11 was issued, the Administration released its Fiscal Year 1999 budget proposals which, among other things, included a provision requesting Congress to statutorily grant broad regulatory authority to the Treasury Secretary to prescribe regulations clarifying the tax consequences of hybrid transactions in cases in which the intended results are inconsistent with the purposes of U.S. tax law. . . . While the explanation accompanying the budget proposal argued that this grant of authority as applied to many cases "merely makes the Secretary's current general regulatory authority more specific, and directs the Secretary to promulgate regulations pursuant to such authority," the explanation conceded that in other cases, "the Secretary's authority may be questioned and should be clarified."

Notice 98-11 and the accompanying budget proposal generated widespread concerns in the Congress and the business community that the Treasury was undertaking a major new initiative in the international tax arena that would undermine the ability of U.S. multinationals to compete in international markets. For example, House Ways and Means Committee Chairman BILL ARCHER wrote to Treasury Secretary Rubin on March 20, 1998 requesting that "Notice 98-11 be withdrawn and that no regulations in this area be issued or allowed to take effect until Congress has an appropriate opportunity, to consider these matters in the normal legislative process." The Ranking Democrat on the Committee, Charles RANGEL, wrote to Secretary Rubin expressing strong concerns about the Treasury's increasing propensity to "legislate through the regulatory process as evidenced by Notice 98-11."

Despite these concerns, on March 23, 1998, the Treasury department issued two sets of proposed and temporary regulations, the first relating to the treatment of hybrid branch arrangements under subpart F, and the second relating to the treatment of a CFC's distributive share of partnership income. As Notice 98-11 had promised, the regulations provided that certain payments between a controlled foreign corporation and a hybrid branch would be recharacterized as subpart F income if the payments reduce the payer's foreign taxes.

The week after the temporary and proposed regulations were issued, the Senate Finance Committee considered H.R. 2676, the Internal Revenue Service Restructuring and Reform Act of 1998. A provision was included in the bill prohibiting the Treasury and IRS from implementing temporary or final regulations with respect to Notice 98-11 prior to six months after the date of enactment of H.R. 2676. The Senate bill also included language expressing the "sense of the Senate" that "the Department of the Treasury and the In-

ternal Revenue Service should withdraw Notice 98-11 and the regulations issued thereunder, and that the Congress, and not the Department of the Treasury or the Internal Revenue Service, should determine the international tax policy issues relating to the treatment of hybrid transactions under subpart F provisions of the Code."

Opposition to Notice 98-11 and the temporary and proposed regulations continued to mount. On April 23, 1998, 33 Members of the House Ways and Means Committee wrote to Secretary Rubin expressing concern about the Treasury's decision to move forward and issue regulations pursuant to Notice 98-11 without an appropriate opportunity for Congress to consider this issue in the normal legislative process, urging Treasury to withdraw the regulations.

In the face of these and other pressures from the Congress and the business community, on June 19, 1998, the Treasury Department announced in Notice 98-35 that it was withdrawing Notice 98-11 and the related temporary, and proposed regulations. According to Notice 98-35, Treasury intends to issue a new set of proposed regulations to be effective in general for payments made under hybrid branch arrangements on or after June 19, 1998. These regulations, however, will not be finalized before January 1, 2000, in order to permit both the Congress and Treasury Department the opportunity to further study the issues that were raised following the publication of Notice 98-11 earlier this year.

While we applaud the Treasury's decision to withdraw Notice 98-11 and the temporary regulations, we believe that additional legislative action is needed to prevent the Treasury from finalizing the forthcoming regulations until Congress considers the issues involved. We believe that only the Congress has the authority to achieve a permanent resolution of this issue. Notice 98-35, like its predecessor, Notice 98-11 continues to suffer from a fatal flaw; it is the prerogative of Congress, and not the Executive Branch, to pass laws establishing the nation's fundamental tax policies. Simply put, Notice 98-35 adds restrictions to the subpart F regime that are not supported by the Code's clear statutory language, and there has been no express delegation of regulatory authority to the Treasury that relates specifically to the issues presented in the Notice.

More importantly, we question the policy objectives to be achieved by Notice 98-35 and the accompanying proposed regulations. We do not understand the rationale for penalizing U.S. multinational companies for employing normal tax planning strategies that reduce foreign (as opposed to U.S.) income taxes. Moreover, Notice 98-35 is contrary to recent Congressional efforts to simplify the international tax

provisions of the Code. For example, the Congress reduced complexity and ridded the code of a perverse incentive for U.S. companies to invest overseas by repealing the Section 956A tax on excess passive earnings in 1996. Again in 1997, the Congress repealed the application of the Passive Foreign Investment Company regime to U.S. shareholders of controlled foreign corporations because of the complexity involved in applying both regimes, in addition to enacting a host of other foreign tax simplifications. The Senate Finance Committee will hold a hearing on March 11, 1999 to further investigate the reforms needed in the international tax arena that not only reduce complexity, but also encourage U.S. global economic competition. I fully expect Notice 98-35 to be discussed at this hearing.

In order for Congress to gain a better understanding of the Treasury Department's position on this matter, our bill would require the Treasury to conduct a thorough study of the tax treatment of hybrid transactions under subpart F and to provide a report to the Senate Committee on Finance and House Committee on Ways and Means on this issue.

If the forthcoming regulations are permitted to be finalized by the Treasury, U.S. multinational businesses will be placed at a competitive disadvantage vis-a-vis foreign companies who remain free to employ strategies to reduce the foreign taxes they pay. Clearly, such a result should be permitted to take effect only if Congress, after having an opportunity to fully consider all of the tax and economic issues involved, agrees that the arguments advanced by the Treasury are compelling and determines that additional statutory changes to subpart F are necessary and appropriate.

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. 572

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

SECTION 1. HYBRID TRANSACTIONS UNDER SUBPART F.

(a) PROHIBITION ON REGULATIONS.—The Secretary of the Treasury (or his delegate)—

(1) shall not issue temporary or final regulations relating to the treatment of hybrid transactions under subpart F of part III of subchapter N of chapter 1 of the Internal Revenue Code of 1986 pursuant to Internal Revenue Service Notice 98-35 or any other regulations reaching the same or similar result as such notice,

(2) shall retroactively withdraw any regulations described in paragraph (1) which were issued after the date of such notice and before the date of the enactment of this Act, and

(3) shall not modify or withdraw sections 301.7701-1 through 301.7701-3 of the Treasury

Regulations (relating to the classification of certain business entities) in a manner which alters the treatment of hybrid transactions under such subpart F.

(b) **STUDY AND REPORT.**—The Secretary of the Treasury (or his delegate) shall study the tax treatment of hybrid transactions under such subpart F and submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate. The Secretary shall hold at least one public hearing to receive comments from any interested party prior to submitting such report.

Mr. MACK. Mr. President, today Senator BREAUX and I introduce a bill reaffirming that the lawmaking power is the province of the Congress, not the executive branch. Our bill prohibits the Treasury Department from issuing regulations that would impose taxes on U.S. companies merely because one of their subsidiaries pays money to itself.

As a general rule, U.S. corporations pay U.S. corporate income tax on the earnings of their foreign subsidiaries only when those earnings are actually distributed to the U.S. parent companies. An exception to this general rule is contained in subpart F of the Internal Revenue Code, which accelerates the income tax liability of U.S. parent companies under certain circumstances. The Treasury Department has announced, in Notice 98-35, an intention to issue regulations that will accelerate income tax liability for U.S. companies—not based on the specific circumstances enumerated in subpart F, but instead on a new “interpretation” of the “policies” that Treasury infers from that 36-year-old provision. This action crosses the line between administering the laws and making the laws, and cannot be allowed by Congress.

Notice 98-35 concerns so-called “hybrid arrangements.” These involve business entities that are considered separate corporations for foreign tax purposes, but are viewed as one company with a branch office for U.S. purposes. U.S. companies organize their subsidiaries in this manner to reduce the amount of foreign taxes they owe. Transactions between a subsidiary and its branch have no impact on U.S. taxable income of the parent, as its subsidiary is merely paying money to itself. But the Treasury Department intends to impose a tax on the U.S. parent to penalize it for reducing the foreign taxes it owes.

This effort is wrong for several reasons. First, the Treasury Department possesses only the power to issue regulations to administer the laws passed by Congress. New rules based on Congressional purpose are known as laws, and under the Constitution laws are made by Congress.

Second, the Treasury Department is elevating one policy underlying subpart F—taxing domestic and foreign operations in the same manner—over the other policy of maintaining the

competitiveness of U.S. companies in foreign markets. This proposed tax would put U.S.-owned subsidiaries at a competitive disadvantage.

Finally, the Treasury Department should not impose a tax on U.S. companies to force these companies to reorganize in a way that increases the taxes they owe to foreign countries. The Treasury Department is not the tax collector for other nations. And by raising the foreign tax bills of U.S. companies, the Treasury Department is also increasing the size of foreign tax credits and thereby reducing U.S. tax revenues.

The Treasury Department is not only making policy that it has no right to make, it is also making bad policy. Our bill places a moratorium on this lawmaking. It also directs the Treasury Secretary to study these issues and submit a report to the tax-writing committees of Congress. Many people and organizations, including the Treasury Department, desire changes in the tax laws. But only Congress has the power to make these changes, and this is a power we intend to keep.

By Mr. LEAHY (for himself, Mr. KENNEDY, Mr. DASCHLE, and Mr. DORGAN):

S. 573. A bill to provide individuals with access to health information of which they are a subject, ensure personal privacy with respect to health-care-related information, impose criminal and civil penalties for unauthorized use of protected health information, to provide for the strong enforcement of these rights, and to protect States' rights; to the Committee on Health, Education, Labor, and Pensions.

MEDICAL INFORMATION PRIVACY AND SECURITY ACT

Mr. LEAHY. Mr. President, today, I am pleased to be joined by Senators KENNEDY, DASCHLE and DORGAN in introducing the Medical Information Privacy and Security Act (MIPSA). I am also pleased that a companion bill will be introduced in the House by Congressman EDWARD MARKEY.

The Millennium Bug is not the only computer-related problem Congress confronts this year. We face the deadline that Congress set for itself of August 21, 1999, to solve the multitude of privacy glitches in the handling of our medical records.

At a time when some states are selling driving license photos and information, when our leading computer chip and software companies have built secret identifiers into their products to trace our every move in cyberspace without our consent, it is time for Congress to wake up to the privacy rights and expectations of all Americans before it is too late.

The trouble is this: If you have a medical record, you have a medical privacy problem.

A guiding principle in drafting this legislation has been that the movement to a more integrated system of health care in our country will only continue to be supported by the American people if they are assured that the personal privacy of their health care information is protected. In fact, without the confidence that one's personal privacy will be protected, many will be discouraged from seeking medical help.

Most of us envision that our medical records are held in a manila file folder under the watchful care of our health care provider. If this is what you are picturing, you are sorely mistaken. Increased computerization of medical records and other health information is fueling both the supply and demand for our personal information. I do not want advancing technology to lead to a loss of personal privacy, and I do not want the fear that confidentiality is being compromised to deter people from seeking medical treatment or to stifle technological or scientific development.

The traditional right of confidentiality between a health care provider and a patient is at risk. This erosion may reduce the willingness of patients to confide in physicians and other practitioners and may inhibit patients from seeking care.

Unlike some, I believe that computerization can assure more privacy to individuals than the current system, if MIPSA is enacted. But if we do not act the increased potential for embarrassment and harassment is tremendous.

The ability to compile, store and cross reference personal health information has made our intimate health history a valuable commodity. In 1996 alone, the health care industry spent an estimated \$10 to \$15 billion on information technology.

This data can be very useful for quality assurance, and to provide more cost effective health care. But I doubt that the American public would agree with a Fortune magazine article which lauded a health insurer that poked through the individual medical records of clients to figure out who may be depressed and could benefit from the use of the anti-depressant Prozac. Are we now encouraging the replacement of sound clinical judgment of doctors with health insurance clerks who look at records to determine whether you are not really suffering from a physical illness, but a mental illness?

Just a few days ago The Wall Street Journal wrote about a company that is “seeking the mother lode in health ‘data mining.’” This company wants to get medical data on millions of Americans to sell to any buyer. Currently there are no laws constraining the creation of large data bases filled with sensitive personally identifiable information on any of us. Our information is like gold to these “data miners.”

If this battle is between American families who want some privacy and

big business buying access to their personal medical records, I will stand with American families every time.

Last year, an article in the Washington Post described the story of a woman whose prescription purchases were tracked electronically by a pharmacy benefits management company two states away, hired by her employer. With every swipe of her prescription-drug card she saved 50% on her prescriptions. At the same time, however, without her knowledge her sensitive health information was being compiled. Her doctor was soon informed that she would be enrolled in a "depression program," watched for continued use of anti-depression medications, and be targeted for "educational" material on depression. All of this was done at the behest of her employer who had unfettered access to all of her personal health information.

This woman was not suffering from a depression-related illness; her doctor prescribed the medication to help her sleep. This woman had no idea that by signing up for her managed care plan she was signing up to have her personal health information disclosed to individuals she had never even met.

Employer access to personal health information of their workers is a real problem. A recent University of Illinois study found that 35 percent of all Fortune 500 companies regularly review health information before making hiring decisions. On-work-site health care providers have testified before Congress that they are routinely pressured for employee health information and must comply or lose their jobs.

What MIPSAs makes clear is that there must be a "fire wall" between those within a company involved in providing health services and benefits, and other managers. The goal of privacy legislation is to be the first line of defense, so that individuals are not put in the situation of possibly being discriminated against. Our bill complements other laws and proposed legislation that bar discrimination based on health status.

We must not let privacy slide to the point that the only way for a person to ensure confidentiality is to avoid seeking medical treatment.

The simple fact is that many patients will not agree to participate in health research or to be tested if they fear the information that is revealed in the course of the research could be released, bringing them harm. In genetic testing studies at the National Institutes of Health, thirty-two percent of eligible people who were offered a test for breast cancer risk declined to take it, citing concerns about loss of privacy and the potential for discrimination in health insurance.

The bill we are introducing today, the Medical Information Privacy and Security Act, would be the first comprehensive federal health privacy law.

Our bill is broad in scope: It applies to medical records in whatever form—paper or electronic. It applies to each release of medical information, including re-releases. It comprehensively covers entities other than just health care providers and payers, such as life insurance companies, employers and marketers and others who may have access to sensitive personal health data.

It gives individuals the right to inspect, copy and supplement their protected health information.

It allows individuals to require the segregation of portions of their medical records, such as mental health records, from broad viewing by individuals who are not directly involved in their care.

It gives individuals a civil right of action against anyone who misuses their personally identifiable health information. It establishes criminal and civil penalties that can be invoked if individually identifiable health information is knowingly or negligently misused.

It creates a set of rules and norms to govern the disclosure of personal health information and narrows the sharing of personal details within the health care system to the minimum necessary to provide care, allow for payment and to facilitate effective oversight. Special allowances are made for situations such as emergency medical care and public health requirements.

We have been very careful to balance the right to privacy with the needs of providers and health care plans, who can use medical information to improve the care of patients. MIPSAs does not force patients to sign a blanket authorization allowing their information to go to anyone for any purpose in order to receive care. Unfortunately, individuals now have no choice but to sign away their rights if they want any health care treatment at all.

MIPSAs changes the authorization procedure by requiring that providers, health plans and hospitals clearly lay out to patients how their protected health information will be used, who will have access to their protected health information, and for what purpose. If anyone wants to use or disclose personally identifiable health information for a purpose that is not directly related to their treatment or billing, the patient has that right to say no without losing the ability to receive needed health care.

It also takes special care to make sure that important medical research continues. MIPSAs extends the protective practices currently followed by the National Institutes of Health (NIH) to all health research efforts—whether publicly or privately funded.

It establishes a clear and enforceable right of privacy for all personally identifiable medical information including

information regarding the results of genetic tests.

We have tried to accommodate legitimate oversight concerns so that we do not create unnecessary impediments to health care fraud investigations. Effective health care oversight is essential if our health care system is to function and fulfill its intended goals. Otherwise, we risk establishing a publicly sanctioned playground for the unscrupulous. Health care is too important a public investment to be the subject of undetected fraud or abuse.

It prohibits law enforcement agents from searching through medical records without a warrant. It does not limit law enforcement agents in gaining information while in hot pursuit of a suspect.

We also require anyone who maintains your medical information to have strong safeguards in place. And MIPSAs offers strong enforcement provisions and remedies for the misuse of medical information.

It sets up a national office of health information privacy to aid consumers in learning about their rights and about how they can seek recourse for violations of their rights.

Most importantly, our bill does not preempt any federal or state law or regulation that offers stronger privacy safeguards. We propose a floor rather than a ceiling, achieving two goals:

First, a strong federal privacy law will eliminate much of the current patchwork of state laws governing the exchange of medical information, and will replace the patchwork with strong, clear standards that will apply to everyone.

Second, MIPSAs makes room for the many possible future threats to medical privacy that we may not even anticipate today. As medical and information technology moves forward into the next century we must maintain the public's right to seek stronger medical privacy laws closer to home.

The elements of MIPSAs are essential to any strong medical privacy effort.

I am encouraged that a variety of public policy and health professional organizations, across the political spectrum, are signaling their intentions to step forward to join forces with consumers during this debate.

We have 164 days to implement a strong federal medical privacy law. With the clock ticking toward the August deadline, let us act sooner rather than later.

Mr. KENNEDY. Mr. President, we are here today to propose legislation to protect the privacy of personal medical information in our rapidly changing health care system. Today, video rental records have greater protection than sensitive medical information. Last month, we learned that the University of Michigan Medical Center posted information from thousands of patient records on the Internet, without any

password protection or other safeguards. In many other cases, individual patients have been harmed by improper release of their private medical records.

The legislation that Senator DASCHLE, Senator LEAHY, Congressman MARKEY, and I are introducing today—the Medical Information Privacy and Security Act—puts patients first, while allowing for legitimate uses of medical information to improve health care.

Congress recognized the need to act to protect the privacy of medical information when we passed the Kassebaum-Kennedy Act in 1996. That legislation contained a provision requiring Congress to pass legislation on the issue by August of this year. If the deadline is not met, the Administration has the power to act by regulation.

The measure we are introducing ensures strong protections nationwide. It also allows individual states to take additional action. Stronger state laws are not pre-empted.

The goal of these protections is to safeguard the confidential relationship between patients and physicians. Patients concerned about their privacy are less likely to disclose important information to their physicians. A recent survey by the California HealthCare Foundation found that one in six adults has taken steps to protect their personal medical information, such as providing inaccurate information in their medical history, or asking physicians not to include certain information in their medical records.

Our legislation recognizes the fundamental right of patients to limit disclosure of personally-identifiable medical information. We have balanced that right with the needs of providers and health care plans to use medical information to improve patient care. Our proposal does not force patients to sign a blanket authorization in order to receive care. Instead, it contains a flexible framework that can be modified to fit different situations.

Medical research is essential for progress against disease. But it is also essential for patients to have confidence that research is beneficial, not an invasion of privacy. In genetic testing studies at the National Institutes of Health, 32 percent of eligible people who were offered a test for breast cancer declined to take it, because of concerns about loss of privacy and the potential for discrimination in health insurance.

Currently, most federal health research is governed by the "Common Rule", which includes evaluations by Institutional Review Boards in order to protect patients involved in the research. Our proposed legislation strengthens the privacy provisions in the "Common Rule," and extends those protections to all health research.

These issues are important, and I am optimistic that Congress will act in

time to meet the August deadline. We have a responsibility to enact strong protections for privacy in all aspects of health care, and now is the time to act.

By Mr. CLELAND (for himself and Mr. COVERDELL):

S. 575. A bill to redesignate the National School Lunch Act as the "Richard B. Russell National School Lunch Act"; to the Committee on Agriculture, Nutrition, and Forestry.

RICHARD B. RUSSELL NATIONAL SCHOOL LUNCH ACT

Mr. CLELAND. Mr. President, I rise today to introduce a bill to rename the National School Lunch Act after Senator Richard Russell. I am pleased to have Senator COVERDELL as a original co-sponsor.

Having met Senator Russell over 30 years ago when I was an intern on Capitol Hill, I gained a deep respect and reverence for the "Senator from Georgia" Richard B. Russell. Since being elected to the Senate over two years ago, I have been looking for a way to appropriately honor and express my appreciation for the contributions of Senator Russell. Honestly, I, like many others, usually associate Senator Russell with military issues and the work he did to provide our nation with a strong national defense. However, in researching his history in the Senate, I noticed that, time and again, Senator Russell stated that he viewed his proudest achievement in the Senate as the School Lunch Act.

On February 26, 1946, speaking on the Senate floor, Senator Russell noted that the School Lunch Program, "has been one of the most helpful ones which has been inaugurated and promises to contribute more to the cause of public education in these United States than has any other policy which has been adopted since the creation of free public schools." Strong words, not only about the school lunch program, but about Senator Russell's commitment to the same.

Starting the first grade in 1947, I, like some of you, have always considered myself to be a true product of the national school lunch program. The program has been woven into the fabric of the American family. Today, the National School Lunch Program operates in more than 95,000 public and non-profit private schools and residential child care institutions throughout the country, providing nutritionally balanced, low-cost or free lunches to more than 26 million children each school day. The knowledge that every one of our children is ensured a healthy and affordable meal every school day provides us all with a great deal of comfort and satisfaction. The program is available in almost 99 percent of all public schools, and in many private schools as well. About 92 percent of all students nationwide have access to meals through the National School

Lunch Program. As cited in several studies, a well fed child is more likely to do better in school and is less likely to misbehave—both highly desirable outcomes.

Senator Russell was a tireless champion for establishing a program to deliver a healthy meal to our nation's schoolchildren. Senator Russell began his campaign to make school feeding programs available in the mid 1930's by utilizing Section 32 funds of the Act of August 24, 1935. As Chairman of the Subcommittee on Agricultural Appropriations, Senator Russell exerted a great deal of influence and was a vigilant advocate of directing the Section 32 food surpluses towards school feeding programs. In the early 1940's, Senator Russell introduced several bills authorizing a national school lunch program. And, after several unsuccessful attempts, Senator Russell sponsored and pushed through the National School Lunch Act in 1946.

Senator Russell's strong commitment to domestic agriculture production strengthened his support for the school feeding programs. In fact, Senator Russell's commitment to a strong national defense may have also played a role in his support for the program. As you know, Senator Russell served as a member, and later Chairman, of the Senate Armed Services Committee. During World War II and in post war hearings before the Armed Services Committee, testimony was provided by General Hershey and Surgeon General Parran and others indicating that a large percentage of men rejected from military service had diet-related health problems. This revelation resulted in the recognition by many that the school lunch program is a matter of national security.

As stated in a report I received from the Congressional Research Service, "Senator Russell played a key role in the creation and formation of the national school lunch program. The historical record of Senator Russell's actions on behalf of this program in the 1930's and 1940's give him a strong claim to being regarded as the "father" of the national school lunch program, and make a strong case for renaming the 1946 Act after him." There have most certainly been several other members from the House and Senate, both past and present, who have played an irreplaceable role in developing and championing the cause of the school lunch program and I believe that all of these members should be commended for their dedication. This proposal is not meant to diminish the contribution of countless others, but simply to recognize that Senator Russell played a primary role in the passage of the National School Lunch Act. I am convinced that no other member was as significant as Senator Russell in seeing the National School Lunch Act enacted into law. I am pleased to have received

the strong endorsement of the Georgia School Food Service Association in their Resolution of support on January 23, 1999.

Considering Senator Russell's vital role in making the school lunch program a reality and the passion he expressed for being its author, I believe that by renaming the School Lunch Act in his honor, we can fittingly memorialize his contribution, as well as call renewed attention to this vital national program. I ask for my colleagues support.

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

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

GEORGIA SCHOOL FOOD SERVICE ASSOCIATION
RESOLUTION IN SUPPORT OF SENATOR MAX
CLELAND'S PROPOSAL TO MEMORIALIZE SEN-
ATOR RICHARD B. RUSSELL

Whereas, The Georgia School Food Service Association (GSFSA) has learned that Senator Max Cleland wishes to sponsor legislation to permanently associate the name of Senator Richard B. Russell with and to memorialize the contribution that he made to the establishment of the National School Lunch Act by naming The National School Lunch Act of 1946 (NSLA), the Richard B. Russell National School Lunch Act, and

Whereas, Senator Richard B. Russell has been known as "the father of the school lunch act" as documented in a 1973 publication, "Education in the States," published by The National Education Association in cooperation with The Chief State School Officers, and

Whereas, a review of the 1945-46 Congressional debates leading up to the passage of the Act in May 1946 and signing by President Harry Truman on June 4, 1946 reflects the leadership role of Senator Russell as author of the bill that finally was approved by the Congress, and

Whereas, Senator Russell's success in getting the legislation passed was greatly enhanced by the outstanding bi-partisan support in the Senate by Senator George D. Aiken, Vermont and Senator Allen J. Ellender, Louisiana and in collaboration with The House of Representatives under the committee leadership of Congressman Flannagan of Virginia, and

Whereas, with the passage of time the names of NSLA pioneers are faded from memory and we believe there should be an appropriate memorial established to perpetuate the memory of the contribution made by the visionary Richard B. Russell for the program.

Whereas, the year 2000 will mark the 55th Anniversary of The National School Lunch Act and GSFSA joins with Senator Max Cleland in believing that the time is right for the name of Richard B. Russell to be memorialized and permanently attached to The National School Lunch Act, and

Whereas, the vision of this program defined by Senator Russell and articulated in The NSLA, Section 1 Policy, to "safeguard the health and well-being of all children . . . by supporting the establishment of programs and promoting the consumption of nutritious agricultural commodities" laid the foundation as a nutrition program for all children, and

Whereas, this vision enacted into legislation in 1946 has provided the framework for

the growth of Child Nutrition Programs, which began as a single meal, and has been expanded many times by many Congressional sessions promoted by the leaders in Congress to a year round, all day program serving breakfast, lunch, after school supplements, summer food service, and the child and adult care food program, and

Whereas, the leadership and commitment of Senator Richard B. Russell as Chairman of the US Senate Committee on Agriculture and Forestry in close collaboration with a bi-partisan group in the Senate and a collaborative relationship with the US House of Representatives, persisted through 10 years of year-to-year appropriations for the program and two long years of debate and resulted in the enactment of permanent legislation that established an infrastructure for the school lunch program and a framework for all child nutrition programs, and

Whereas, his leadership for the program did not stop at that point as he had a major role in having the school lunch program designated as an educational program in the states as many state agencies were vying to have administration of the program, and

Whereas his leadership continued into the 1960's during his final years in the US Senate when he was Chair of the Armed Services Committee, and he provided leadership to have the apportionment formula changed to allocate money to the states on the number of meals served rather than on state enrollment of children,

THE GEORGIA SCHOOL FOOD SERVICE
ASSOCIATION THEREFORE RECOMMENDS

That the General Assembly of Georgia be requested to adopt this resolution in support of Senator Cleland's proposal to have the National School Lunch Act of 1946 renamed the Richard B. Russell National School Lunch Act, and

The American School Food Service Association be requested to provide support for Senator Cleland's proposal for permanently associating Senator Russell's name with the NSLA, which would be an appropriate memorial to his leadership in authoring legislation that established the foundation for a program that has been successful for more than half-a-century, and,

The GSFSA expresses its appreciation to Senator Max Cleland for recognizing the importance of memorializing Senator Russell as "the father of the school lunch program" by attaching his name to the Act, and pledges its support to Senator CLELAND in having his proposal turned into reality, and finally,

That copies of this resolution be provided all members of the Georgia Congressional delegation as a means of seeking their support for honoring an outstanding statesman from Georgia who has been memorialized in many ways, including having a Senate Office Building named in his honor, but has never been publicly honored for the "piece of legislation that he often claimed to be his proudest work" that of the passage of the NSLA, as it served all children, the education program and the agriculture programs of the nation. "this program has been one of the most helpful ones which has been inaugurated and promises to contribute more to the cause of public education in these United States than has any other policy which has been adopted since the creation of free public schools."—Richard B. Russell, Feb. 26, 1946. The Congressional Record

Approved by,

JOAN KIDD,
President, GSFSA.

By Mr. HATCH:

S. 577. A bill to provide for injunctive relief in Federal district court to enforce State laws relating to the interstate transportation of intoxicating liquors; to the Committee on the Judiciary.

THE TWENTY-FIRST AMENDMENT ENFORCEMENT
ACT

Mr. HATCH. Mr. President, today I am proud to introduce the Twenty-First Amendment Enforcement Act. This legislation will provide a mechanism enabling States to more effectively enforce their laws regulating the interstate shipment of alcoholic beverages.

Interstate shipments of alcohol directly to consumers are increasing exponentially. Unfortunately, along with that growing commerce, problems associated with that trade are also growing. While I certainly believe that interstate commerce should be encouraged, and while I do not want small businesses stifled by unnecessary or overly burdensome and complex regulations, I do not subscribe to the notion that purveyors of alcohol are free to avoid State laws which are consistent with the power bestowed upon them by the Twenty-First Amendment.

All States, including the State of Utah, need to be sure that the liquor that is brought into their State is labelled properly and subject to certain quality control standards. States need to protect their citizens from consumer fraud and have a claim to the tax revenue generated by the sale of such goods. And of the utmost importance, States need to ensure that minors are not provided with unfettered access to alcohol. Unfortunately, indiscriminate direct sales of alcohol have opened a sophisticated generation of minors to the perils of alcohol abuse.

I can tell you that my home State of Utah, which has some of the strictest controls in the nation on the distribution of alcohol, is not immune from the dangers of direct sales. A recent story which ran on KUTV in Salt Lake City showed how a thirteen year old was able to purchase beer over the internet and have it shipped directly to her home—no questions asked. If a thirteen year old is capable of ordering beer and having it delivered by merely borrowing her brother's credit card and making a few clicks with her mouse, there is something very wrong with the level of control that is being exercised over these sales. Of course the Utah case is not an isolated example. Stings set up by authorities in New York and Maryland have also shown how easy it is for minors to obtain alcohol.

Debate over the control of alcoholic beverages has been raging for as long as this country has existed. Prior to 1933, every time individuals or legislative bodies engaged in efforts to control the flow and consumption of alcohol, whether by moral persuasion, legislation or Constitutional Prohibition,

others were equally determined to repeal, circumvent or ignore those barriers. However, the Twenty-First Amendment did, for a time, create an ordered system for the distribution of alcohol.

The Twenty-First Amendment was ratified in 1933. That amendment ceded to the States the right to regulate the importation and transportation of alcoholic beverages across their borders. By virtue of that grant of authority, each State created its own unique regulatory scheme to control the flow of alcohol. Some set up State stores to effectuate control of the shipment into, and dissemination of alcohol within, their State. Others refrained from direct control of the product, but set up other systems designed to monitor the shipments and ensure compliance with its laws. But whatever the type of State system enacted, the purpose was much the same: to protect its citizens and ensure that its laws were obeyed.

Although not perfect, the systems set up by the States worked reasonably well for many years. However, modern technology has opened the door for abuse and created the need for further governmental action to address those abuses. No longer must a State prosecute just an errant neighborhood retailer for selling to a minor—now, the ones selling to minors and others in violation of a State's regulatory laws are a continent away. A small winery can create its own web page and accept orders over the internet; a large retailer can advertise nationally in the New York Times and accept orders over the phone; an ad can be placed in a magazine with a national circulation offering sales through an 800 number.

Let me emphasize that there are many companies engaged in the direct interstate shipment of alcohol who do not violate State laws. In fact, many of these concerns look beyond their own interests and make diligent efforts to disseminate information to others to ensure that State laws are understood and complied with by all within the interstate industry.

I should also note that I am certainly sympathetic to the small wineries and specialty micro-breweries who feel that the requirement that they operate through a three tier system (producer-wholesaler-retailer) which does not embrace them may, in effect, shut them out of the marketplace. They make the argument that if wholesalers do not carry their product, they have no other avenue to the consumer other than through direct sales. However, if there is a problem with the system, we need to fix the system, not break the laws.

Federal law already prohibits the interstate shipment of alcohol in violation of State law. Unfortunately that general prohibition lacks any enforcement mechanism. The legislation I am introducing simply provides that mechanism by permitting the Attorney Gen-

eral of a State, who has reasonable cause to believe that his or her State laws regulating the importation and transportation of alcohol are being violated, to be permitted to file an action in federal court for an injunction to stop those illegal shipments.

This bill is balanced to ensure due process and fairness to both the State bringing the action and the company or individual alleged to have violated the State's laws. The bill:

1. Permits the chief law enforcement officer of a State to seek an injunction in federal court to prevent the violation of its laws regulating the importation or transportation of alcohol;
2. Allows for venue for the suit where the defendant resides and where the violations occur;
3. Does not require the posting of a bond by the requesting party;
4. Does not permit an injunction without notice to the opposing party;
5. Requires that any injunction be specific as to the parties, the conduct and the rationale underlying that injunction;
6. Allows for quick consideration of the application for an injunction and conserves court resources by avoiding redundant proceedings;
7. Mandates a bench trial; and
8. Does not preclude other remedies allowed by law.

Some will argue that State courts are capable of handling this issue. Unfortunately, States have had mixed success in enforcing their laws through State court actions. Companies and individuals have raised jurisdictional, procedural and legal defenses that have stalled those efforts, and that continue to hamper effective enforcement. It is, in part, because of those inconsistent rulings, that federal leadership is needed in this area.

Moreover, the scope and limitations of a State's ability to effectively enact laws under the Twenty-First Amendment are essentially federal questions that need to be decided by a federal court, and perhaps ultimately, by the Supreme Court. Only through such rulings can both the States and companies seeking to conduct interstate shipments be assured of consistency in interpretation and enforcement of the laws.

The introduction of a bill is just the beginning of the legislative process. It is my hope that, working together, we can reach an agreement on how best to balance legitimate commercial interests with the Constitutional rights of the States as ceded to them by the Twenty-First Amendment.

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

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

S. 577

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 "Twenty-First Amendment Enforcement Act".

SEC. 2. SHIPMENT OF INTOXICATING LIQUOR INTO STATE IN VIOLATION OF STATE LAW.

The Act entitled "An Act divesting intoxicating liquors of their interstate character in certain cases", approved March 1, 1913 (commonly known as the "Webb-Kenyon Act") (27 U.S.C. 122) is amended by adding at the end the following:

"SEC. 2. INJUNCTIVE RELIEF IN FEDERAL DISTRICT COURT.

"(a) DEFINITIONS.—In this section—

"(1) the term 'attorney general' means the attorney general or other chief law enforcement officer of a State, or the designee thereof;

"(2) the term 'intoxicating liquor' means any spirituous, vinous, malted, fermented, or other intoxicating liquor of any kind;

"(2) the term 'person' means any individual and any partnership, corporation, company, firm, society, association, joint stock company, trust, or other entity capable of holding a legal or beneficial interest in property, but does not include a State or agency thereof; and

"(3) the term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

"(b) ACTION BY STATE ATTORNEY GENERAL.—If the attorney general of a State has reasonable cause to believe that a person is engaged in, is about to engage in, or has engaged in, any act that would constitute a violation of a State law regulating the importation or transportation of any intoxicating liquor, the attorney general may bring a civil action in accordance with this section for injunctive relief (including a preliminary or permanent injunction or other order) against the person, as the attorney general determines to be necessary to—

"(1) restrain the person from engaging, or continuing to engage, in the violation; and

"(2) enforce compliance with the State law.

"(c) FEDERAL JURISDICTION.—

"(1) IN GENERAL.—The district courts of the United States shall have jurisdiction over any action brought under this section.

"(2) VENUE.—An action under this section may be brought only in accordance with section 1391 of title 28, United States Code.

"(d) REQUIREMENTS FOR INJUNCTIONS AND ORDERS.—

"(1) IN GENERAL.—In any action brought under this section, upon a proper showing by the attorney general of the State, the court shall issue a preliminary or permanent injunction or other order without requiring the posting of a bond.

"(2) NOTICE.—No preliminary or permanent injunction or other order may be issued under paragraph (1) without notice to the adverse party.

"(3) FORM AND SCOPE OF ORDER.—Any preliminary or permanent injunction or other order entered in an action brought under this section shall—

"(A) set forth the reasons for the issuance of the order;

"(B) be specific in terms;

"(C) describe in reasonable detail, and not by reference to the complaint or other document, the act or acts to be restrained; and

"(D) be binding only upon—

"(i) the parties to the action and the officers, agents, employees, and attorneys of those parties; and

"(ii) persons in active cooperation or participation with the parties to the action who

receive actual notice of the order by personal service or otherwise.

“(e) CONSOLIDATION OF HEARING WITH TRIAL ON MERITS.—

“(1) IN GENERAL.—Before or after the commencement of a hearing on an application for a preliminary or permanent injunction or other order under this section, the court may order the trial of the action on the merits to be advanced and consolidated with the hearing on the application.

“(2) ADMISSIBILITY OF EVIDENCE.—If the court does not order the consolidation of a trial on the merits with a hearing on an application described in paragraph (1), any evidence received upon an application for a preliminary or permanent injunction or other order that would be admissible at the trial on the merits shall become part of the record of the trial and shall not be required to be received again at the trial.

“(f) NO RIGHT TO TRIAL BY JURY.—An action brought under this section shall be tried before the court.

“(g) ADDITIONAL REMEDIES.—

“(1) IN GENERAL.—A remedy under this section is in addition to any other remedies provided by law.

“(2) STATE COURT PROCEEDINGS.—Nothing in this section may be construed to prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any State law.”

By Mr. JEFFORDS (for himself and Mr. DODD).

S. 578. A bill to ensure confidentiality with respect to medical records and health care-related information, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

THE HEALTH CARE PERSONAL INFORMATION NONDISCLOSURE ACT OF 1998

Mr. DODD. Mr. President. I am pleased to join the Chairman of the Health, Education, Labor and Pensions Committee, Senator JEFFORDS, in introducing the Health Care Personal Information Nondisclosure (PIN) Act of 1999. This legislation is designed to offer Americans the peace of mind that comes with knowing that their most personal and private medical information is protected from misuse and exploitation.

Medicine has changed dramatically since the time Norman Rockwell painted the scene of a doctor examining his young patient's doll. The flow of medical information is no longer confined to doctor-patient conversations and hospital charts. Recent technological advances have introduced more efficient methods of organizing data that allow information to be shared instantaneously—helping to contain costs—and even save lives.

But in the view of many Americans, the widespread sharing of medical records without appropriate safeguards, even in the pursuit of admirable goals, creates a staggering potential for abuse.

In fact, concerns that medical information is not being adequately protected from misuse has led some patients to avoid full disclosure of mental health or other sensitive conditions

to their physicians and to unnecessarily forego opportunities for treatment—in effect negating the benefits of the new technology.

The Health Care PIN Act offers the privacy protections that the public demands. This legislation sets clear guidelines for the use and disclosure of medical information by health care providers, researchers, insurers, employers and others. The Health Care PIN Act provides individuals with control over their most personal information, yet promotes the efficient exchange of health data for the purposes of treatment, payment, research and oversight. To ensure the accountability of entities and individuals with access to personal medical information, the legislation impose stiff penalties for unauthorized disclosures.

Just as you lock your doors to protect your home, this measure can act as deadbolt against those who would exploit your medical privacy.

This legislation represents commonsense middle ground in the range of proposals that have been offered both this and the previous Congress. I look forward to working with Senator JEFFORDS, as well as with Senators BENNETT, LEAHY, and KENNEDY, who have contributed so much to this debate, to move forward together to enact comprehensive, bipartisan legislation.

By Mr. SPECTER:

S. 581. A bill to protect the Paoli and Brandywine Battlefields in Pennsylvania, to authorize a Valley Forge Museum of the American Revolution at Valley Forge National Historical Park, and for other purposes; to the Committee on Energy and Natural Resources.

PENNSYLVANIA BATTLEFIELDS PROTECTION ACT OF 1999

Mr. SPECTER. Mr. President, I have sought recognition today to introduce the Pennsylvania Battlefields Protection Act, legislation which will protect two important Revolutionary War sites in Pennsylvania and authorize the construction and operation of a new museum and visitor center dedicated to the American Revolution at Valley Forge National Historical Park. Representative CURT WELDON has introduced similar legislation in the House, with the remaining twenty Members of the Pennsylvania House delegation joining him in this effort.

The first part of this legislation authorizes \$3 million for the acquisition of the 472-acre area generally known as the Meetinghouse Road Corridor, where the largest engagement of the American Revolution, the Battle of Brandywine, took place from September 10–11, 1777. During the 1777 British campaign to capture Philadelphia, British General William Howe defeated but proved unable to demoralize General George Washington's Continental Army of 12,500 men at the Battle of Brandywine.

While George Washington's and the Marquis de Lafayette's headquarters are preserved as part of the Brandywine Battlefield Park, the area where the actual fighting took place is not. The land is privately held and is in immediate danger of being sold and developed. The battlefield was declared a National Historic Landmark in 1961, and local officials, preservation groups, and the Commonwealth of Pennsylvania have been working together to protect the battlefield. This legislation will provide half of the \$6 million needed to purchase the land from willing buyers, with the remaining \$3 million to be raised from non-federal sources on a dollar for dollar basis. As with all aspects of this legislation, I have worked closely with the National Park Service, and they are supportive of federal assistance to protect this important Revolutionary War site.

This legislation will also protect the Paoli Battlefield, in Malvern, Pennsylvania, where at least fifty-three Americans were killed. Shortly after the Battle of Brandywine, General Washington ordered General “Mad” Anthony Wayne and 2,000 of his men to move to the rear and contain the British army. The British learned of General Wayne's move and attacked and bayoneted Wayne's men on September 20, 1777 in what has infamously become known as the Paoli massacre.

While the Senate passed legislation which I introduced late in the 105th Congress to authorize the addition of the Paoli Battlefield site to Valley Forge National Historical Park, at that time the bill did not enjoy the support of the National Park Service and eventually died in the House of Representatives. I have worked with Congressman WELDON on this legislation, and we believe that the federal government should provide assistance to acquire the 40-acre Paoli Battlefield, an unprotected Revolutionary War site that is privately owned by the Malvern Preparatory School. The School intends to sell the land in order to strengthen its endowment, but officials have agreed to give the community a first chance to purchase the land for historical preservation purposes. Thus, the Paoli Battlefield will become open to residential or commercial development if \$2.5 million is not raised by September 1999 to purchase the land. This bill envisions a combination of public and private financing to purchase the battlefield by authorizing a purchase price of \$2.5 million with not less than \$1 million in nonfederal funds. After much consultation with the National Park Service, I am now informed that they are supportive of this approach to protecting Paoli Battlefield.

The bill also authorizes the Secretary of the Interior to enter into a cooperative agreement with the Borough of Malvern, which has agreed to

manage the 45-acre Paoli Battlefield site in perpetuity. A similar provision authorizes the Secretary of Interior to enter into a cooperative agreement with the Commonwealth of Pennsylvania or the Brandywine Conservancy to manage the Meetinghouse Road Corridor area of the Brandywine Battlefield. Moreover, the bill directs the Secretary of Interior to undertake a resource study of Paoli and Brandywine Battlefields to identify the full range of their resources and historic themes and alternatives for National Park Service involvement at these two sites.

Finally, the last section of the bill authorizes the Secretary of Interior to enter into an agreement with the private, non-profit Valley Forge Historical Society to construct and operate a museum and visitor center within the boundaries of Valley Forge National Historical Park. After the Battles of Brandywine, the Clouds, Paoli, Germantown, and Whitemarsh, the Continental Army made Valley Forge its camp from December 19, 1777 to June 19, 1778, when it emerged as a new, better equipped, and well trained American army. Currently, there is no museum in the United States dedicated to the American Revolution. I believe it is important that Congress provide the authorization to bring this worthwhile project to fruition, which will not only tell the story of the Philadelphia campaign, but the story of the entire American Revolution as well.

This museum will combine the holdings of the Valley Forge National Historical Park and the Valley Forge Historical Society, making it the largest collection of Revolutionary War era artifacts in the world. The Valley Forge Historical Society, established in 1918, has a long history of service to the park, and has amassed one of the best collections of artifacts, art, books, and documents relating to the 1777-1778 encampment of the Continental Army at Valley Forge, the American Revolution, and the American colonial era. Their collection is currently housed in a facility that is inadequate to properly maintain, preserve, and display the Society's ever-growing collection. Construction of a new facility will rectify this situation.

This project is supported by local officials, and a new facility is part of the Valley Forge National Historical Park's General Management Plan, which has identified inadequacies in the park's current visitor center and calls for the development of a new or significantly renovated museum and visitor center. The museum will educate an estimated 500,000 visitors a year about the critical events surrounding the birth of our nation.

This legislation authorizes the Valley Forge Historical Society to operate the museum in cooperation with the Secretary of Interior. This project will directly support the historical, edu-

cational, and interpretive activities and needs of Valley Forge National Historical Park and the Valley Forge Historical Society while combining two outstanding museum collections.

Mr. President, too many important historical sites, especially Revolutionary War battlefields, have already been lost to residential and commercial development. The 105th Congress made a commitment to protecting battlefield sites. I have been pleased to support these efforts as well as the successful effort to obtain funding in the FY99 Interior and Related Agencies Appropriations bill to begin conducting the Revolutionary War and War of 1812 Historic Preservation Study. I hope the 106th Congress will continue that commitment by protecting the Brandywine and Paoli Battlefields. In addition, this legislation holds enormous potential for all Americans to learn about our country's rich history by establishing a new visitor center and museum at Valley Forge National Historical Park, which will then be better able to tell the story of the American Revolution. I therefore urge my colleagues to support this bill.

By Mr. SPECTER (for himself and Mr. SANTORUM):

S. 582. A bill to authorize the Secretary of the Interior to enter into an agreement for the construction and operation of the Gateway Visitor Center at Independence National Historical Park; to the Committee on Energy and Natural Resources.

GATEWAY VISITOR CENTER AUTHORIZATION ACT
OF 1999

Mr. SPECTER. Mr. President, I have sought recognition today to reintroduce legislation to authorize the operation of the Gateway Visitor Center in Independence National Historical Park in Philadelphia, Pennsylvania. Similar legislation has already been introduced in the House of Representatives by Representatives ROBERT BORSKI, CURT WELDON, and ROBERT BRADY.

As many of my colleagues are aware, Independence National Historical Park is one of the National Park Service's crown jewels, home to the Liberty Bell and Independence Hall and the birthplace of the Constitution and the Declaration of Independence. In the Spring of 1997, the Final General Management Plan for Independence Park was released, which spells out the vision for the Park for the next fifteen years. The first block of Independence Mall will contain a new home for the Liberty Bell, the second block the Gateway Visitor Center, and the third block the National Constitution Center. The revitalization of Independence Mall is well underway, but legislation is needed to fully implement the General Management Plan with regards to the Gateway Visitor Center.

The National Park Service is aware that this type of site-specific legisla-

tion is necessary for the Gateway Visitor Center. I have worked closely with the National Park Service and the Gateway Visitor Center Corporation in developing this legislation, and the National Park Service expressed its full support for this legislation during hearings held in the 105th Congress.

I would note that the \$24 million needed to construct the Gateway Visitor Center has already been committed, with the City of Philadelphia contributing \$5 million, the Commonwealth of Pennsylvania \$10 million, and various Foundations \$15 million, of which \$6 million will fund an endowment. The legislation I am introducing today merely provides the authorization for the operation of the Center. The Gateway Visitor Center will be financially self-sustaining, with only a modest contribution coming from the National Park Service for operations and maintenance.

While the Gateway Visitor Center will provide the traditional services to visitors to the Park, the Center will also provide some services which are somewhat beyond the scope of existing National Park Service legislation. In addition to its role as the Park's primary visitor center, providing visitor orientation to the Park, the city, and the region as a whole, the Gateway Visitor Center will be permitted to charge fees, conduct events, and sell merchandise, tickets, and food to visitors to the Center. These activities will allow the Gateway Visitor Center to meet its parkwide, citywide and regional missions while defraying the operating and management expenses of the Center.

The current visitor center in Independence National Historical Park is poorly located, making it underutilized and inconvenient to the millions of people who visit the Park each year. The Gateway Visitor Center will serve far more people than ever possible with the current facility by providing information, interpretation, facilities, and services to visitors to the Park, its surrounding historic areas, the City of Philadelphia, and the region in order to assist visitors in their enjoyment of the historical, cultural, educational, and recreational resources of the area. The Gateway Visitor Center will be a major asset for the Park and critical to the central management goal addressed in the General Management Plan of creating an outstanding visitor experience. The Gateway Visitor Center holds enormous potential for Independence National Historical Park and the greater Philadelphia region as a whole, and I therefore urge my colleagues to support this legislation.

By Mr. CHAFEE (by request):

S. 583. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to authorize programs for pre-disaster mitigation, to

streamline the administration of disaster relief, to control the Federal costs of disaster assistance, and for other purposes; to the Committee on Environment and Public Works.

DISASTER MITIGATION ACT OF 1999

Mr. CHAFEE. Mr. President, today, at the administration's request, I am introducing the Disaster Mitigation Act of 1999. This bill is designed to promote pre-disaster mitigation and streamline the operations of the Federal Emergency Management Agency (FEMA).

Last year, the Senate Committee on Environment and Public Works, which has oversight over FEMA, considered S. 2361, legislation authored by Senators INHOFE and GRAHAM that was based in part on the administration's 1997 proposal. While S. 2361 was reported by the committee, it was not considered by the Senate before it adjourned last November.

I believe it makes sense for Congress and FEMA to pay attention to pre-disaster mitigation efforts—i.e., the steps that can be taken before a disaster strikes. It also makes sense for us to ensure that FEMA's operations are streamlined so that the administering of disaster relief proceeds as smoothly and efficiently as possible. Taking these steps not only would be easier on the budget, but also would help prevent needless human suffering.

It is my hope that working with the administration, we will be able to craft legislation that will accomplish our goals. I look forward to working with my colleagues and administration officials toward that end.

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

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

S. 583

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 "Disaster Mitigation Act of 1999".

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

Sec. 1. Short title; table of contents.
Sec. 2. Amendments to the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

TITLE I—PREDISASTER HAZARD MITIGATION

Sec. 101. Findings and purpose.
Sec. 102. Pre-Disaster Hazard Mitigation.
Sec. 103. Maximum contribution for mitigation costs.
Sec. 104. Conforming amendment.

TITLE II—DISASTER PREPAREDNESS AND MITIGATION ASSISTANCE

Sec. 201. Insurance.
Sec. 202. Management costs.
Sec. 203. Assistance to repair, restore, reconstruct, or replace damaged facilities.
Sec. 204. Federal assistance to households.
Sec. 205. Repeals.

TITLE III—MISCELLANEOUS

Sec. 301. Technical correction of short title.
Sec. 302. Definitions.

SEC. 2. AMENDMENTS TO THE ROBERT T. STAFFORD DISASTER RELIEF AND EMERGENCY ASSISTANCE ACT.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision of law, the reference shall be considered to be made to a section or other provision of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

TITLE I—PREDISASTER HAZARDS MITIGATION

SEC. 101. FINDINGS AND PURPOSE.

(a) **FINDINGS.**—The Congress finds that—
(1) natural disasters, including earthquakes, tsunamis, tornadoes, hurricanes and flooding, cause great danger to human life and to property throughout the United States.

(2) greater emphasis needs to be placed on identifying and assessing the risks to State and local communities and on implementing adequate measures to reduce losses from such disasters, and to ensure that communities' critical public infrastructure and facilities will continue to function after a disaster.

(3) expenditures for post-disaster assistance are increasing without commensurate reductions in the likelihood of future losses from such natural disasters;

(4) high priority in the expenditure of Federal funds under this Act should be given to mitigate hazards for existing and new construction at the local level;

(5) with a unified effort of economic incentives, awareness and education, technical assistance, and demonstrated Federal support, States and local communities can form effective community-based partnerships for hazard mitigation purposes, implement effective hazards mitigation measures that reduce the existing disaster potential, ensure continued functionality of communities' critical public infrastructure, leverage additional non-Federal resources into their disaster resistance goals, and make commitments to long-term mitigation efforts in new and existing construction.

(b) **PURPOSE.**—It is the purpose of this Act to establish a national disaster mitigation program that—

(1) reduces the loss of life and property, human suffering, economic disruption and disaster assistance costs resulting from natural hazards, and

(2) provides a source of pre-disaster mitigation funding that will assist states and local governments in implementing effective mitigation measures that are designed to ensure the continued functionality of their critical facilities and public infrastructure after a natural disaster.

SEC. 102. PRE-DISASTER HAZARD MITIGATION.

(a) Title II of the Act is amended by adding new section 203 as follows:

"SEC. 203. PRE-DISASTER HAZARD MITIGATION.

"(a) **GENERAL AUTHORITY.**—The Director may establish a program of technical and financial assistance to states and local governments that implement predisaster mitigation measures in order to reduce injuries and loss of life and damage and destruction of property including damage to their critical public infrastructure and facilities.

"(b) **APPROVAL BY DIRECTOR.**—If the Director finds that a state or local government has identified all natural hazards in its juris-

diction and has demonstrated its ability to form effective public/private disaster mitigation partnerships, he may provide financial assistance to the State or local government for such purposes from the fund established under subsection (d) of this section.

"(c) **PURPOSE OF GRANTS.**—(1) The financial assistance shall be used principally by states and local governments to implement the predisaster hazard mitigation measures contained in proposals approved by the Director. Funding may also be used to support effective public/private partnerships, to ensure that new community growth and construction is disaster resistant, and to improve the assessment of a community's natural hazards vulnerabilities or to set a community's mitigation priorities.

"(2) The Director shall take into account the following when establishing priorities for pre-disaster mitigation grants:

"(A) The level and nature of the risks to be mitigated;

"(B) Grantee commitment to reduce damages from future disasters;

"(C) commitment by the State and local government to support ongoing non-Federal support for the mitigation measures to be undertaken.

"(d) **NATIONAL PRE-DISASTER MITIGATION FUND.**—To carry out the pre-disaster mitigation program authorized in subsection (a), the Director may establish in the United States Treasury a National Predisaster Mitigation Fund ("Fund"), which shall be available without fiscal year limitation for grants to States and local governments under subsection (b) of this section.

"(e) **FUNDS FOR THE ACCOUNT.**—The Fund shall be credited with:

"(1) Funds appropriated by the Congress for the purposes of this section, which funds shall be available until expended; and

"(2) sums available from bequests, gifts, or donations of service, money, or property, real, personal, or mixed, tangible, or intangible, given for purposes of pre-disaster mitigation.

"(f) **FEDERAL SHARE.**—Subject to the provisions of subsections (g) and (h) of this section, grants from the Fund shall be not more than 75 percent of the total costs of the mitigation proposal(s) approved by the Director.

"(g) **LIMIT ON GRANTS.**—No grants shall be made in excess of the money available in the Fund.

"(h) **RULES GOVERNING THE ACCOUNT.**—The Director shall publish rules to carry out the provisions of this section.

"(b) **EFFECTIVE DATE.**—Subsection (a) of this section shall take effect on the date of enactment of the Disaster Mitigation Act of 1999.

SEC. 103. MAXIMUM CONTRIBUTION FOR MITIGATION COSTS.

"(a) **IN GENERAL.**—Section 404(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c(a)) is amended in the last sentence by striking "15 percent" and inserting "20 percent".

"(b) **APPLICABILITY.**—The amendment made by subsection (a) shall apply to each major disaster declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) after the date of enactment of this Act.

SEC. 104. CONFORMING AMENDMENT.

Title II of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5131 et seq.) is amended by striking the title heading and inserting the following:

"TITLE II—DISASTER PREPAREDNESS AND MITIGATION ASSISTANCE".**TITLE II—DISASTER PREPAREDNESS AND MITIGATION ASSISTANCE****SEC. 201. INSURANCE.**

Section 311(a)(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5154(a)(2)) is amended—

(a) by inserting "(A)" before the sentence; and

(b) adding paragraph (B) to the subsection as follows:

"(B) The President shall publish rules to require States, communities or other applicants to protect property through self-insurance or adequate mitigation measures if the appropriate State insurance commissioner makes the certification provided in paragraph (A) and the President determines that the property is not adequately protected against natural or other disasters."

SEC. 202. MANAGEMENT COSTS.

(a) IN GENERAL.—Title III of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5141 et seq.) is amended by adding a new Section 322 as follows:

"SEC. 322. MANAGEMENT COSTS.

"(a) DEFINITION OF MANAGEMENT COST.—The term 'management cost', as used in this section, includes any indirect cost, administrative expense, and any other expense not directly chargeable to a specific project under a major disaster, emergency, or emergency preparedness activity or measure.

"(b) MANAGEMENT COST RATES.—Notwithstanding any other provision of law (including any administrative rule or guidance), the President shall establish management cost rates for grantees and subgrantees that shall be used to determine contributions under this Act for management costs.

"(c) REVIEW.—The President shall review the management cost rates established under subsection (b) not later than 3 years after the date of establishment of the rates and periodically thereafter.

"(d) REGULATIONS.—The President shall promulgate regulations to define appropriate costs to be included in management costs under this section."

(b) APPLICABILITY.—Section 322 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (as added by subsection (a)) shall apply as follows:

(1) IN GENERAL.—Subsections (a), (b), and (d) of section 322 of that Act shall apply to each major disaster declared under that Act on or after the date of enactment of this Act. Until the date on which the President establishes the management cost rates under that subsection, section 406(f) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172(f)) shall be used for establishing the rates.

(2) REVIEW; OTHER EXPENSES.—Section 322(c) of that Act shall apply to each major disaster declared under that Act on or after the date on which the President establishes the management cost rates under that section.

SEC. 203. ASSISTANCE TO REPAIR, RESTORE, RECONSTRUCT, OR REPLACE DAMAGED FACILITIES.

(a) MINIMUM FEDERAL SHARE.—Section 406(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172(b)) is amended to read as follows:

"(b)(1) Except as provided in paragraph (2) of this subsection, the Federal share of assistance under this section shall be not less than 75 percent of the eligible cost of repair, restoration, reconstruction, or replacement carried out under this section.

"(2) The President shall publish rules to reduce the Federal share of assistance under this section for the repair, restoration, reconstruction, or replacement of any eligible public or private nonprofit facility that has previously received significant disaster assistance under this Act on multiple occasions."

(b) CONTRIBUTIONS AND FEDERAL SHARE.—Section 406 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172) is amended by striking subsection (e) and inserting new subsection (e) to read as follows:

"(e) ELIGIBLE COST.—

"(1) DETERMINATION.—

"(A) IN GENERAL.—For the purposes of this section, the President shall estimate the eligible cost of repairing, restoring, reconstructing, or replacing a public facility or private nonprofit facility—

"(i) on the basis of the design of the facility as the facility existed immediately before the major disaster; and

"(ii) in conformity with current applicable codes, specifications, and standards (including floodplain management and hazard mitigation criteria required by the President or under the Coastal Barrier Resources Act (16 U.S.C. 3501 et seq.).

"(B) COST ESTIMATION PROCEDURES.—Subject to paragraph (2), the President shall use the cost estimation procedures developed under paragraph (3) to make the estimate under subparagraph (A).

"(2) MODIFICATION OF ELIGIBLE COST.—If the actual cost of repairing, restoring, reconstructing, or replacing a facility under this section is more than 120 percent or less than 80 percent of the cost estimated under paragraph (1), the President may determine that the eligible cost shall be the actual cost of the repair, restoration, reconstruction, or replacement.

"(3) EXPERT PANEL.—Not later than 18 months after the date of enactment of this paragraph, the President, acting through the Director of the Federal Emergency Management Agency, shall establish an expert panel, which shall include representatives from the construction industry, to develop procedures for estimating the cost of repairing, restoring, reconstructing, or replacing a facility consistent with industry practices.

"(4) SPECIAL RULE.—In any case in which the facility being repaired, restored, reconstructed, or replaced under this section was under construction on the date of the major disaster, the cost of repairing, restoring, reconstructing, or replacing the facility shall include, for the purposes of this section, only those costs that, under the contract for the construction, are the owner's responsibility and not the contractor's responsibility."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of enactment of this Act, except that paragraph (1) of section 406(e) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (as amended by paragraph (1)) shall take effect on the date on which the procedures developed under paragraph (3) of that section take effect.

SEC. 204. FEDERAL ASSISTANCE TO HOUSEHOLDS.

(a) IN GENERAL.—Section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174) is amended to read as follows:

"SEC. 408. FEDERAL ASSISTANCE TO HOUSEHOLDS.

"(a) GENERAL AUTHORITY.—In accordance with this section, the President, in consultation and coordination with the Governor of

an affected State, may provide financial assistance, and, if necessary, direct services, to disaster victims who—

"(1) as a direct result of a major disaster have necessary expenses and serious needs; and

"(2) are unable to meet the necessary expenses and serious needs through other means, including insurance proceeds or loan or other financial assistance from the Small Business Administration or another Federal agency. Inability to meet necessary expenses and serious needs through loan or other financial assistance from the Small Business Administration or another Federal agency shall not apply to temporary housing or rental assistance under subsection (c)(2) or to permanent housing construction under subsection (c)(4) of this section.

"(b) HOUSING ASSISTANCE.—

"(1) ELIGIBILITY.—The President may provide financial or other assistance under this section to household to respond to the disaster-related housing needs of households that are displaced from their predisaster primary residences or whose predisaster primary residences are rendered uninhabitable as a result of damage caused by a major disaster.

"(2) DETERMINATION OF APPROPRIATE TYPES OF ASSISTANCE.—The President shall determine appropriate types of housing assistance to be provided to disaster victims under this section based on considerations of cost effectiveness, convenience to disaster victims, and such other factors as the President considers to be appropriate. One or more types of housing assistance may be made available, based on the suitability and availability of the types of assistance, to meet the needs of disaster victims in a particular disaster situation.

"(c) TYPES OF HOUSING ASSISTANCE.—

"(1) Federal assistance under this subsection shall continue no longer than 18 months after the date of the major disaster declaration by the President, unless the President determines that it is in the public interest to extend such 18-month period.

"(2) TEMPORARY HOUSING.—

"(A) FINANCIAL ASSISTANCE.—

"(i) IN GENERAL.—The President may provide financial assistance under this section to households to rent alternate housing accommodations, existing rental units, manufactured housing, recreational vehicles, or other readily fabricated dwellings.

"(ii) AMOUNT.—The amount of assistance under clause (i) shall be based on the sum of—

"(I) the fair market rent for the accommodation being provided; and

"(II) the cost of any transportation, utility hookups, or unit installation not being directly provided by the President.

"(B) DIRECT ASSISTANCE.—

"(i) IN GENERAL.—The President may directly provide under this section housing units, acquired by purchase or lease, to households who, because of a lack of available housing resources, would be unable to make use of the assistance provided under subparagraph (A).

"(ii) COLLECTION OF RENTAL CHARGES.—After the expiration of the 18-month period referred to in paragraph (c)(1), the President may charge fair market rent for the accommodation being furnished.

"(3) REPAIRS.—

"(A) IN GENERAL.—The President may provide financial assistance for the repair of owner-occupied primary residences, utilities, and residential infrastructure (such as private access routes) damaged by a major disaster to a habitable or functioning condition.

“(B) EMERGENCY REPAIRS.—To be eligible to receive assistance under subparagraph (A), a recipient shall not be required to demonstrate that the recipient is unable to meet the need for the assistance through other means, except insurance proceeds, if the assistance—

“(i) is used for emergency repairs to make a private primary residence habitable; and

“(ii) does not exceed \$5,000, as adjusted annually to reflect changes in the Consumer Price Index for Urban Consumers as reported by the Bureau of Labor Statistics of the Department of Labor.

“(4) PERMANENT HOUSING CONSTRUCTION.—The President may provide financial assistance or direct assistance under this section to households to construct permanent housing in insular areas outside the continental United States and in other remote locations in cases in which—

“(A) no alternative housing resources are available; and

“(B) the types of temporary housing assistance described in paragraph (c)(1) are unavailable, infeasible, or not cost effective.

“(d) TERMS AND CONDITIONS RELATING TO HOUSING ASSISTANCE.—

“(1) SITES.—

“(A) IN GENERAL.—Any readily fabricated dwelling provided under this section shall, whenever practicable, be located on a site that—

“(i) is provided by the State or local government; and

“(ii) is complete with utilities provided by the State or local government, by the owner of the site, or by the occupant who was displaced by the major disaster.

“(B) SITES PROVIDED BY THE PRESIDENT.—Readily fabricated dwellings may be located on sites provided by the President if the President determines that the sites would be more economical or accessible.

“(2) DISPOSAL OF UNITS.—

“(A) SALE TO OCCUPANTS.—

“(i) IN GENERAL.—Notwithstanding any other provision of law, a temporary housing unit purchased under this section by the President for the purpose of housing disaster victims may be sold directly to the household who is occupying the unit if the household needs permanent housing.

“(ii) SALES PRICE.—Sales of temporary housing units under this clause shall be accomplished at prices that are fair and equitable.

“(iii) DEPOSIT OF PROCEEDS.—Notwithstanding any other provision of law, the proceeds of a sale under clause (i) shall be deposited into the appropriate Disaster Relief Fund account.

“(iv) USE OF GSA SERVICES.—The President may use the services of the General Services Administration to accomplish a sale under clause (i).

“(B) OTHER METHODS OF DISPOSAL.—

“(i) SALE.—If not disposed of under subparagraph (A), a temporary housing unit purchased by the President for the purpose of housing disaster victims may be resold.

“(ii) DISPOSAL TO GOVERNMENTS AND VOLUNTARY ORGANIZATIONS.—A temporary housing unit described in clause (i) may be sold, transferred, donated, or otherwise made available directly to a State or other governmental entity or to a voluntary organization for the sole purpose of providing temporary housing to disaster victims in major disasters and emergencies if, as a condition of the sale, transfer, donation, or other making available, the State, other governmental agency, or voluntary organizations agrees—

“(1) to comply with the nondiscrimination provisions of section 308; and

“(2) to obtain and maintain hazard and flood insurance on the housing unit.

“(e) FINANCIAL ASSISTANCE TO ADDRESS OTHER NEEDS.—

“(1) MEDICAL, DENTAL, AND FUNERAL EXPENSES.—The President, in consultation and coordination with the Governor of the affected State, may provide financial assistance under this section to a household adversely affected by a major disaster to meet disaster-related medical, dental, and funeral expenses.

“(2) PERSONAL PROPERTY, TRANSPORTATION, AND OTHER EXPENSES.—The President, in consultation and coordination with the Governor of the affected State, may provide financial assistance under this section to a household described in paragraph (1) to address personal property, transportation, and other necessary expenses or serious needs resulting from the major disaster.

“(f) STATE ROLE.—The President shall provide for the substantial and ongoing involvement of the affected State in administering assistance under this section.

“(g) MAXIMUM AMOUNT OF ASSISTANCE.—The maximum amount of financial assistance that a household may receive under this section with respect to a single major disaster shall be \$25,000, as adjusted annually to reflect changes in the Consumer Price Index for all Urban Consumers published by the Department of Labor.

“(h) ISSUANCE OF REGULATIONS.—The President shall issue rules and regulations to carry out the program established by this section, including criteria, standards, and procedures for determining eligibility for assistance.”.

(b) CONFORMING AMENDMENT.—Section 502(a)(6) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5192(a)(6)) is amended by striking “temporary housing”.

(c) REPEAL OF INDIVIDUAL AND FAMILY GRANT PROGRAMS.—Section 411 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5178) is repealed.

(d) EFFECTIVE DATE.—The amendments made by this section take effect 18 months after the date of enactment of this Act.

SEC. 205. REPEALS.

(a) ASSOCIATED EXPENSES.—Subject to the provisions of section 202(b)(2) of this Act, section 406(f) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172(f)) is repealed.

(b) COMMUNITY DISASTER LOANS.—Section 417 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5184) is repealed.

(c) SIMPLIFIED PROCEDURE.—Section 422 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5189) is repealed.

SECTIONAL ANALYSIS

Sec. 1 Short title; table of contents. Section 1 establishes the short title of the bill as the “Disaster Mitigation Act of 1999.”

Sec. 2 Amendments to the Robert T. Stafford Disaster Relief and Emergency Assistance Act. This section states that unless otherwise specified, any amendment or repeal of a section or provision shall be considered to be made to the Stafford Act.

TITLE I—PREDISASTER HAZARD MITIGATION

Sec. 101. Findings and purpose. Adopts the findings and statement of purpose found in S. 2361, 105th Congress. Section 101 describes four findings of Congress: (1) greater emphasis needs to be placed on hazard identification and hazard mitigation, (2) expenditures

for disaster assistance are increasing without evidence of potential reduction of future losses, (3) a high priority should be placed on the implementation or predisaster mitigation activities, and (4) a unified effort will be successful in reducing future losses from natural disasters.

These findings signal the importance of commitments by States and local communities to long-term disaster mitigation efforts (including developing appropriate construction standards, practices and materials) for new and existing structures. Such commitments can help reduce the rise of future damage to life and property and ensure that critical facilities and public infrastructure will function after a disaster strikes.

Sec. 102. Pre-Disaster Hazard Mitigation. Section 102 creates a new Section 203 in the Stafford Act that authorizes the Director to establish a program for States, local governments, and other entities for carrying out predisaster mitigation activities that exhibit long-term, cost-effective benefits and substantially reduce the risk of future damage from major disasters. For the purposes of this section, the term “entities” refers to governmental entities of the State or local government, regional planning organizations, governmental units organized along watershed or other planning foci, or tribal governments.

In selecting a site, the Director must consider the likelihood of damage resulting from a natural disaster; the identification of cost effective mitigation activities with meaningful outcomes; the consistency with State mitigation programs; the opportunity to maximize net benefits to society; the ability of a State or local government or entity to fund mitigation activities; private sector interest; and other criteria established in coordination with State and local governments. The Director must take into account the level and nature of risks to be mitigated, grantee commitment to reduce damages from future disasters, and commitment by the State or local government to support ongoing non-Federal support for the mitigation measures to be undertaken when establishing priorities for pre-disaster mitigation grants.

With regard to mitigation activities, this section requires the President and the States to consult on a list of those activities that are appropriate, and delegates decisions regarding selections from the list to local governments.

States receiving financial assistance under this section may use the assistance to fund activities to disseminate information about cost-effective mitigation technologies. Certain construction standards, practices, and materials have been proven effective in mitigating the risks or impacts of actual natural disasters. Public awareness of these technologies can allow communities to make informed decisions that can substantially reduce the risk of future damage, hardship or suffering from a major disaster.

Sec. 103. Maximum contribution for mitigation costs. Section 103 amends Section 404(a) of the Stafford Act by changing maximum hazard mitigation contributions from 15% to 20% of aggregate amount of grants. The changes made by this section are applicable to all major disasters declared after January 1, 1999.

Sec. 104. Conforming amendment. This section amends to the heading of Title II to read “Title II—Disaster Preparedness and Mitigation Assistance”.

TITLE II—DISASTER PREPAREDNESS AND MITIGATION ASSISTANCE.

Sec. 201. Insurance. Section 201 amends §311(a)(2) of the Stafford Act to authorize the

President to require by regulation that States, communities or other applicants protect property through self-insurance or adequate mitigation measures if the State's insurance commissioner certifies that insurance is not reasonably available. Under current law if the State insurance commissioner certifies that insurance is not reasonably available, an applicant need not take any further action to insure or mitigate the property against future damage. This provision authorizes the President to require further action to reduce future potential damage to the affected property.

Sec. 202. Management costs. Section 203 adds a new Section 322 to the Stafford Act. It provides a definition for management costs and directs the President to establish management cost reimbursement rates, subject to periodic review, for grantees and subgrantees receiving assistance under the Act. Appropriate costs are to be established by Federal regulation. The current reimbursement system will remain in effect for disasters declared before the new rates are established.

Sec. 203. Assistance to repair, restore, reconstruct, or replace damaged facilities. Section 203 amends and reorganizes the section of the Stafford Act (Section 406) that provides authority to the President to make contributions to a State, local government, or person for the repair, restoration, or replacement of public facilities or private nonprofit facilities. As amended, this section establishes a minimum Federal share of 75 percent of the cost of such activities. Section 203 would also amend Section 206 to authorize reduction in Federal disaster assistance for facilities which had received disaster assistance in the past and for which insurance had not been maintained since receipt of the disaster assistance.

This section also sets new rules for cost estimates by allowing the cost of repairs in situations where the actual cost is above 120 percent or below 80 percent of the estimated cost to be reconsidered. In addition, it directs the President to establish an expert panel for development of procedures for cost estimations.

Sec. 204. Federal assistance to households. Section 204(a) amends Section 408 of the Stafford Act to combine the Housing and Individual and Family Grant (IFG) Programs. As amended, this section establishes the type of assistance available for housing, repairs, and construction, and caps total assistance per individual or household under the combined program at \$25,000 per major disaster. It authorizes the President to assist individuals by replacing their homes under certain conditions or allowing them to rent alternate housing accommodations, and by providing financial assistance for medical, dental, funeral, personal property, and transportation expenses. The President is to issue regulations to determine eligibility for assistance.

Section 204(b) deletes the term "temporary housing" from §502(a)(6) of the Stafford Act. Section 502 specifies and limits the emergency assistance that the President may provide when he declares an emergency under the Act. Paragraph (a)(6) states that he may provide "temporary housing assistance" under §408 of the Act. This amendment would give the President authority to provide assistance under §408, which would encompass both housing and assistance to individuals and households in the consolidated section.

Sec. 204(c) repeals the Individual and Family Grant programs, which under this legisla-

tion are consolidated with the Temporary Housing program.

Sec. 205. Repeals. Section 205 repeals Section 406(f) and Section 417 of the Stafford Act (providing for Associated Expenses and for Community Disaster Loans), as well as Section 422 (regarding simplified procedure), in order to conform with the amendment made under Section 202(d) of the bill.

RAMSEYER/CORDON COMPARISON

Materials deleted within bold brackets [**]**, new text in *italic*.

SEC. 101. FINDINGS AND PURPOSE.

(d) *FINDINGS.—The Congress finds that—*
 (1) *natural disasters, including earthquakes, tsunamis, tornadoes, hurricanes and flooding, cause great danger to human life and to property throughout the United States.*

(2) *greater emphasis needs to be placed on identifying and assessing the risks to State and local communities and on implementing adequate measures to reduce losses from such disasters, and to ensure that communities' critical public infrastructure and facilities will continue to function after a disaster.*

(3) *expenditures for post-disaster assistance are increasing without commensurate reductions in the likelihood of future losses from such natural disasters;*

(4) *high priority in the expenditure of Federal funds under this Act should be given to mitigate hazards for existing and new construction at the local level;*

(5) *with a unified effort of economic incentives, awareness and education, technical assistance, and demonstrated Federal support, States and local communities can form effective community-based partnerships for hazard mitigation purposes, implement effective hazards mitigation measures that reduce the existing disaster potential, ensure continued functionality of communities' critical public infrastructure, leverage additional non-Federal resources into their disaster resistance goals, and make commitments to long-term mitigation efforts in new and existing construction.*

(b) *PURPOSE.—It is the purpose of this Act to establish a national disaster mitigation program that—*

(1) *reduces the loss of life and property, human suffering, economic disruption and disaster assistance costs resulting from natural hazards, and*

(2) *provides a source of pre-disaster mitigation funding that will assist states and local governments in implementing effective mitigation measures that are designed to ensure the continued functionality of their critical facilities and public infrastructure after a natural disaster.*

SEC. 102. PRE-DISASTER HAZARD MITIGATION.

42 U.S.C. Sec. 203. PRE-DISASTER HAZARD MITIGATION.

(a) *GENERAL AUTHORITY.—The Director may establish a program of technical and financial assistance to states and local governments that implement predisaster mitigation measures in order to reduce injuries and loss of life and damage and destruction of property including damage to their critical public infrastructure and facilities.*

(b) *APPROVAL BY DIRECTOR.—If the Director finds that a state or local government has identified all natural disaster hazards in its jurisdiction and has demonstrated its ability to form effective public/private disaster mitigation partnerships, he may make grants to the State or local government for such purposes from the fund established under subsection (d) of this section.*

(c) *PURPOSE OF GRANTS.—(1) The financial assistance shall be used principally by states and local governments to implement the predisaster hazard mitigation measures con-*

tained in proposals approved by the Director. Funding may also be used to support effective public/private partnerships, to ensure that new community growth and construction is disaster resistant, and to improve the assessment of a community's natural hazards vulnerabilities or to set a community's mitigation priorities.

(2) *The Director shall take into account the following when establishing priorities for predisaster mitigation grants:*

(A) *the level and nature of the risks to be mitigated;*

(B) *Grantee commitment to reduce damages from future disasters;*

(C) *commitment by the State or local government to support ongoing non-Federal support for the mitigation measures to be undertaken.*

(d) *NATIONAL PRE-DISASTER MITIGATION FUND.—To carry out the pre-disaster mitigation program authorized in subsection (a), the Director shall establish in the United States Treasury a National Predisaster Mitigation Fund ("Fund"), which shall be an account separate from any other accounts or funds, and which shall be available without fiscal year limitation for grants to States and local governments under subsection (b) of this section.*

(e) *FUNDS FOR THE ACCOUNT.—The Fund shall be credited with:*

(1) *funds appropriated by the Congress for the purposes of this section which funds shall be available until expended; and*

(2) *sums available from bequests, gifts, or donations of service, money, or property, real, personal, or mixed, tangible, or intangible, given for purposes of pre-disaster mitigation.*

(f) *FEDERAL SHARE.—Subject to the provisions of subsections (g) and (h) of this section, grants from the Fund shall be not more than 75 percent of the total cost of the mitigation proposal(s) approved by the Director.*

(g) *LIMIT ON GRANTS.—No grants shall be made in excess of the money available in the Fund.*

(h) *RULES GOVERNING THE ACCOUNT.—The Director shall publish rules to carry out the provisions of this section.*

SEC. 103. MAXIMUM CONTRIBUTION FOR MITIGATION COSTS.

42 U.S.C. SEC. 404. HAZARD MITIGATION.

(a) *IN GENERAL.—*

The President may contribute up to 75 percent of the cost of hazard mitigation measures which the President has determined are cost-effective and which substantially reduce the risk of future damage, hardship, loss, or suffering in any area affected by a major disaster. Such measures shall be identified following the evaluation of natural hazards under section 5176 of this title and shall be subject to approval by the President. The total of contributions under this section for a major disaster shall not exceed [15] 20 percent of the estimated aggregate amount of grants to be made (less any associated administrative costs) under this chapter with respect to the major disaster.

SEC. 201. INSURANCE.

42 U.S.C. SEC. 311. INSURANCE.

(a) *APPLICANTS FOR REPLACEMENT OF DAMAGED FACILITIES.—*

* * * * *

(2) *DETERMINATION.—*

(A) *In making a determination with respect to availability, adequacy, and necessity under paragraph (1), the President shall not require greater types and extent of insurance than are certified to him as reasonable by the appropriate State insurance commissioner responsible for regulation of such insurance.*

(B) *The President shall publish rules to require States, communities or other applicants to protect property through self-insurance or adequate mitigation measures if the appropriate*

State insurance commissioner makes the certification provided in paragraph (A) and the President determines that the property is not adequately protected against natural or other disasters.

SEC. 202. MANAGEMENT COSTS
SEC. 322. MANAGEMENT COSTS.

(a) **DEFINITION OF MANAGEMENT COST.**—The term ‘management cost’, as used in this section, includes any indirect cost, administrative expense, and any other expense not directly chargeable to a specific project under a major disaster, emergency, or emergency preparedness activity or measure.

(b) **MANAGEMENT COST RATES.**—Notwithstanding any other provision of law (including any administrative rule or guidance), the President shall establish management cost rates for grantees and subgrantees that shall be used to determine contributions under this Act for management costs.

(c) **REVIEW.**—The President shall review the management cost rates established under subsection (b) not later than 3 years after the date of establishment of the rates and periodically thereafter.

(d) **REGULATIONS.**—The President shall promulgate regulations to define appropriate costs to be included in management costs under this section.

SEC. 203. ASSISTANCE TO REPAIR, RESTORE, RECONSTRUCT, OR REPLACE DAMAGED FACILITIES

42 U.S.C. SEC. 406. REPAIR, RESTORATION, AND REPLACEMENT OF DAMAGED FACILITIES

(a) **MINIMUM FEDERAL SHARE.**—

【§ 406】(b) **MINIMUM FEDERAL SHARE.**—

【The Federal share of assistance under this section shall be not less than—

(1) 75 percent of the net eligible cost of repair, restoration, reconstruction, or replacement carried out under this section;

(2) 100 percent of associated expenses described in subsections (f)(1) and (f)(2); and

(3) 75 percent of associated expenses described in subsections (f)(3), (f)(4), and (f)(5).】

(1) *Except as provided in paragraph (2) of this subsection, the Federal share of assistance under this section shall be not less than 75 percent of the eligible cost of repair, restoration, reconstruction, or replacement carried out under this section.*

(2) *The President shall publish rules to reduce the Federal share of assistance under this section for the repair, restoration, reconstruction, or replacement of any eligible public or private nonprofit facility that has previously received significant disaster assistance under this Act on multiple occasions.*

(B) **CONTRIBUTIONS AND FEDERAL SHARE**

【(e) **NET ELIGIBLE COST.**—

【(1) **General rule.**—

【For purposes of this section, the cost of repairing, restoring, reconstructing, or replacing a public facility or private nonprofit facility on the basis of the design of such facility as it existed immediately prior to the major disaster and in conformity with current applicable codes, specifications, and standards (including floodplain management and hazard mitigation criteria required by the President or by the Coastal Barrier Resources Act (16 U.S.C. 3501 et seq.)) shall, at a minimum, be treated as the net eligible cost of such repair, restoration, reconstruction, or replacement.

【(2) **Special rule**

【In any case in which the facility being repaired, restored, reconstructed, or replaced under this section was under construction on the date of the major disaster, the cost of repairing, restoring, reconstructing, or replacing such facility shall include, for purposes of this section, only those costs which, under

the contract for such construction, are the owner's responsibility and not the contractor's responsibility.

【§ 406】(e) **Eligible cost.**—

(1) **Determination.**—

(A) **IN GENERAL.**—For the purposes of this section, the President shall estimate the eligible cost of repairing, restoring, reconstructing, or replacing a public facility or private nonprofit facility—

(i) on the basis of the design of the facility as the facility existed immediately before the major disaster; and

(ii) in conformity with current applicable codes, specifications, and standards (including floodplain management and hazard mitigation criteria required by the President or under the Coastal Barrier Resources Act (16 U.S.C. 3501 et seq.)).

(B) **COST ESTIMATION PROCEDURES.**—Subject to paragraph (2), the President shall use the cost estimation procedures developed under paragraph (3) to make the estimate under subparagraph (A).

(2) **MODIFICATION OF ELIGIBLE COST.**—If the actual cost of repairing, restoring, reconstructing, or replacing a facility under this section is more than 120 percent or less than 80 percent of the cost estimated under paragraph (1), the President may determine that the eligible cost shall be the actual cost of the repair, restoration, reconstruction, or replacement.

(3) **EXPERT PANEL.**—Not later than 18 months after the date of enactment of this paragraph, the President, acting through the Director of the Federal Emergency Management Agency, shall establish an expert panel, which shall include representatives from the construction industry, to develop procedures for estimating the cost of repairing, restoring, reconstructing, or replacing a facility consistent with industry practices.

(4) **SPECIAL RULE.**—In any case in which the facility being repaired, restored, reconstructed, or replaced under this section was under construction on the date of the major disaster, the cost of repairing, restoring, reconstructing, or replacing the facility shall include, for the purposes of this section, only those costs that, under the contract for the construction, are the owner's responsibility and not the contractor's responsibility.

SEC. 204. FEDERAL ASSISTANCE TO HOUSEHOLDS
42 U.S.C. [SEC. 408. TEMPORARY HOUSING ASSISTANCE

【(a) **PROVISION OF TEMPORARY HOUSING.**—

【(1) **IN GENERAL.**—

【The President may—

【(A) provide, by purchase or lease, temporary housing (including unoccupied habitable dwellings), suitable rental housing, mobile homes, or other readily fabricated dwellings to persons who, as a result of a major disaster, require temporary housing; and

【(B) reimburse State and local governments in accordance with paragraph (4) for the cost of sites provided under paragraph (2).

【(2) **MOBILE HOME SITE.**—

【(A) **IN GENERAL.**—

【Any mobile home or other readily fabricated dwelling provided under this section shall whenever possible be located on a site which—

【(i) is provided by the State or local government; and

【(ii) has utilities provided by the State or local government, by the owner of the site, or by the occupant who was displaced by the major disaster.

【(B) **Other sites.**—

【Mobile homes and other readily fabricated dwellings may be located on sites provided by the President if the President determines that such sites would be more ec-

onomical or accessible than sites described in subparagraph (A).

【(3) **PERIOD.**—

【Federal financial and operational assistance under this section shall continue for not longer than 18 months after the date of the major disaster declaration by the President, unless the President determines that due to extraordinary circumstances it would be in the public interest to extend such 18-month period.

【(4) **FEDERAL SHARE.**—

【The Federal share of assistance under this section shall be 100 percent; except that the Federal share of assistance under this section for construction and site development costs (including installation of utilities) at a mobile home group site shall be 75 percent of the eligible cost of such assistance. The State or local government receiving assistance under this section shall pay any cost which is not paid for from the Federal share.

【(b) **TEMPORARY MORTGAGE AND RENTAL PAYMENTS.**—

【The President is authorized to provide assistance on a temporary basis in the form of mortgage or rental payments to or on behalf of individuals and families who, as a result of financial hardship caused by a major disaster, have received written notice of dispossession or eviction from a residence by reason of a foreclosure of any mortgage or lien, cancellation of any contract of sale, or termination of any lease, entered into prior to such disaster. Such assistance shall be provided for the duration of the period of financial hardship but not to exceed 18 months.

【(c) **IN LIEU EXPENDITURES.**—

【In lieu of providing other types of temporary housing after a major disaster, the President is authorized to make expenditures for the purpose of repairing or restoring to a habitable condition owner-occupied private residential structures made uninhabitable by a major disaster which are capable of being restored quickly to a habitable condition.

【(d) **TRANSFER OF TEMPORARY HOUSING.**—

【(1) **DIRECT SALE TO OCCUPANTS.**—

【Notwithstanding any other provision of law, any temporary housing acquired by purchase may be sold directly to individuals and families who are occupants of temporary housing at prices that are fair and equitable, as determined by the President.

【(2) **TRANSFERS TO STATES, LOCAL GOVERNMENTS, AND VOLUNTARY ORGANIZATIONS.**—

【The President may sell or otherwise make available temporary housing units directly to States, other governmental entities, and voluntary organizations. The President shall impose as a condition of transfer under this paragraph a covenant to comply with the provisions of section 308 requiring non-discrimination in occupancy of such temporary housing units. Such disposition shall be limited to units purchased under the provisions of subsection (a) and to the purposes of providing temporary housing for disaster victims in major disasters or emergencies.

【(e) **NOTIFICATION.**—

【(1) **IN GENERAL.**—

【Each person who applies for assistance under this section shall be notified regarding the type and amount of any assistance for which such person qualifies. Whenever practicable, such notice shall be provided within 7 days after the date of submission of such application.

【(2) **INFORMATION.**—

【Notification under this subsection shall provide information regarding—

【(A) all forms of such assistance available;

[(B) any specific criteria which must be met to qualify for each type of assistance that is available;

[(C) any limitations which apply to each type of assistance; and

[(D) the address and telephone number of offices responsible for responding to—

[(i) appeals of determinations of eligibility for assistance; and

[(ii) requests for changes in the type or amount of assistance provided.

[(f) LOCATION—

[(In providing assistance under this section, consideration shall be given to the location of and travel time to—

[(1) the applicant's home and place of business;

[(2) schools which the applicant or members of the applicant's family who reside with the applicant attend; and

[(3) crops of livestock which the applicant tends in the course of any involvement in farming which provides 25 percent or more of the applicant's annual income.]

SEC. 408. FEDERAL ASSISTANCE TO HOUSEHOLDS.

(a) GENERAL AUTHORITY.—In accordance with this section, the President, in consultation and coordination with the Governor of an affected State, may provide financial assistance, and, if necessary, direct services, to disaster victims who—

(1) as a direct result of a major disaster have necessary expenses and serious needs; and

(2) are unable to meet the necessary expenses and serious needs through other means, including insurance proceeds or loan or other financial assistance from the Small Business Administration or another Federal agency. Inability to meet necessary expenses and serious needs through loan or other financial assistance from the Small Business Administration or another Federal agency shall not apply to temporary housing or rental assistance under subsection (c)(2) or to permanent housing construction under subsection (c)(4) of this section.

(b) HOUSING ASSISTANCE—

(1) ELIGIBILITY.—The President may provide financial or other assistance under this section to households to respond to the disaster-related housing needs of households that are displaced from their predisaster primary residence or whose predisaster primary residence are rendered uninhabitable as a result of damage caused by a major disaster.

(2) DETERMINATION OF APPROPRIATE TYPES OF ASSISTANCE.—The President shall determine appropriate types of housing assistance to be provided to disaster victims under this section based on consideration of cost effectiveness, convenience to disaster victims, and such other factors as the President considers to be appropriate. One or more types of housing assistance may be made available, based on the suitability and availability of the types of assistance, to meet the needs of disaster victims in a particular disaster situation.

(c) TYPES OF HOUSING ASSISTANCE—

(1) FEDERAL ASSISTANCE UNDER THIS SUBSECTION shall continue no longer than 18 months after the date of the major disaster declaration by the President, unless the President determines that it is in the public interest to extend such 18-month period.

(2) TEMPORARY HOUSING—

(A) FINANCIAL ASSISTANCE—

(i) IN GENERAL.—The President may provide financial assistance under this section to households to rent alternate housing accommodations, existing rental units, manufactured housing, recreational vehicles, or other readily fabricated dwellings.

(ii) AMOUNT.—The amount of assistance under clause (i) shall be based on the sum of—

(1) the fair market rent for the accommodation being provided; and

(II) the cost of any transportation, utility hookups, or unit installation not being directly provided by the President.

(B) DIRECT ASSISTANCE.—

(i) IN GENERAL.—The President may direct provide under this section housing units; acquired by purchase or lease, to households who, because of a lack of available housing resources, would be unable to make use of the assistance provided under subparagraph (A).

(ii) COLLECTION OF RENTAL CHARGES.—After the expiration of the 18-month period referred to in clause (ii), the President may charge fair market rent for the accommodation being provided.

(3) REPAIRS.—

(A) IN GENERAL.—The President may provide financial assistance for the repair of owner-occupied primary residences, utilities, and residential infrastructure (such as private access routes) damaged by a major disaster to a habitable or functioning condition.

(B) EMERGENCY REPAIRS.—To be eligible to receive assistance under subparagraph (A), a recipient shall not be required to demonstrate that the recipient is unable to meet the need for the assistance through other means, except insurance proceeds, if the assistance—

“(i) is used for emergency repairs to make a private primary residence habitable; and

“(ii) does not exceed \$5,000, as adjusted annually to reflect changes in the Consumer Price Index for Urban Consumers as reported by the Bureau of Labor Statistics of the Department of Labor.

(4) PERMANENT HOUSING CONSTRUCTION.—The President may provide financial assistance or direct assistance under this section to households to construct permanent housing in insular areas outside the continental United States and in other remote locations in cases in which—

“(A) no alternative housing resources are available; and

“(B) the types of temporary housing assistance described in paragraph (c)(1) are unavailable, infeasible, or not cost effective.

(d) TERMS AND CONDITIONS RELATING TO HOUSING ASSISTANCE—

(1) SITES—

(A) IN GENERAL.—Any readily fabricated dwelling provided under this section shall, whenever practicable, be located on a site that—

“(i) is provided by the State or local government; and

“(ii) is complete with utilities provided by the State or local government, by the owner of the site, or by the occupant who was displaced by the major disaster.

(B) SITES PROVIDED BY THE PRESIDENT.—Readily fabricated dwellings may be located on sites provided by the President if the President determines that the sites would be more economical or accessible.

(2) DISPOSAL OF UNITS—

(A) SALE TO OCCUPANTS—

(i) IN GENERAL.—Notwithstanding any other provision of law, a temporary housing unit purchased under this section by the President for the purpose of housing disaster victims may be sold directly to the household who is occupying the unit if the household needs permanent housing.

(ii) SALES PRICE.—Sales of temporary housing units under clause shall be accomplished at prices that are fair and equitable.

(iii) DEPOSIT OF PROCEEDS.—Notwithstanding any other provision of law, the proceeds of a sale under clause (i) shall be deposited into the appropriate Disaster Relief Fund account.

(iv) USE OF GSA SERVICES.—The President may use the services of the General Services Ad-

ministration to accomplish a sale under clause (i).

“(B) OTHER METHODS OF DISPOSAL—

(i) SALE.—If not disposed of under subparagraph (A), a temporary housing unit purchased by the President for the purpose of housing disaster victims may be resold.

(ii) DISPOSAL TO GOVERNMENTS AND VOLUNTARY ORGANIZATIONS.—A temporary housing unit described in clause (i) may be sold, transferred, donated, or otherwise made available directly to a State or other governmental entity or to a voluntary organization for the sole purpose of providing temporary housing to disaster victims in major disasters and emergencies if, as a condition of the sale, transfer, donation, or other making available, the State, other governmental agency, or voluntary organization agrees—

“(I) to comply with the nondiscrimination provisions of section 308; and

“(II) to obtain the maintain hazard and flood insurance on the housing unit.

(e) FINANCIAL ASSISTANCE TO ADDRESS OTHER NEEDS—

(1) MEDICAL, DENTAL, AND FUNERAL EXPENSES.—The President, in consultation and coordination with the Governor of the affected State, may provide financial assistance under this section to a household adversely affected by a major disaster to meet disaster-related medical, dental, and funeral expenses.

(2) PERSONAL PROPERTY, TRANSPORTATION, AND OTHER EXPENSES.—The President, in consultation and coordination with the governor of the affected State, may provide financial assistance under this section to a household described in paragraph (1) to address personal property, transportation, and other necessary expenses or serious needs resulting from the major disaster.

(f) STATE ROLE.—The President shall provide for the substantial and ongoing involvement of the affected State in administering assistance under this section.

(g) MAXIMUM AMOUNT OF ASSISTANCE.—The maximum amount of financial assistance that a household may receive under this section with respect to a single major disaster shall be \$25,000, as adjusted annually to reflect changes in the Consumer Price Index for all Urban Consumers published by the Department of Labor.

(h) ISSUANCE OF REGULATIONS.—The President shall issue rules and regulations to carry out the program established by this section, including criteria, standards, and procedures for determining eligibility for assistance.

Sec. 204(b). CONFORMING AMENDMENT.

SEC. 502. FEDERAL EMERGENCY ASSISTANCE.

(a) SPECIFIED.—

In any emergency, the President may—

* * * * *
(6) provide [temporary housing] assistance in accordance with section 408 [42 U.S.C. §5174]; and

Sec. 204(c). REPEAL OF INDIVIDUAL AND FAMILY GRANT PROGRAMS.

42 U.S.C. [SEC. 411. INDIVIDUAL AND FAMILY GRANT PROGRAMS.

[(a) IN GENERAL.—

The President is authorized to make a grant to a State for the purpose of making grants to individuals or families adversely affected by a major disaster for meeting disaster-related necessary expenses or serious needs of such individuals or families in those cases where such individuals or families are unable to meet such expenses or needs through assistance under other provisions of this Act or through other means.

[(b) COST SHARING.—

(1) FEDERAL SHARE.—

The Federal share of a grant to an individual or a family under this section shall be equal to 75 percent of the actual cost incurred.

(2) STATE CONTRIBUTION.—

The Federal share of a grant under this section shall be paid only on condition that the remaining 25 percent of the cost is paid to an individual or family from funds made available by a State.

[(c) REGULATIONS.—

The President shall promulgate regulations to carry out this section and such regulations shall include national criteria, standards, and procedures for the determination of eligibility for grants and the administration of grants under this section.

[(d) ADMINISTRATIVE EXPENSES.—

A State may expend not to exceed 5 percent of any grant made by the President to it under subsection (a) for expenses of administering grants to individuals and families under this section.

[(e) ADMINISTRATION THROUGH GOVERNOR.—

The Governor of a State shall administer the grant program authorized by this section in the State.

[(f) LIMIT ON GRANTS TO INDIVIDUAL.—

No individual or family shall receive grants under this section aggregating more than \$10,000 with respect to any single major disaster. Such \$10,000 limit shall annually be adjusted to reflect changes in the Consumer Price Index for All Urban Consumers published by the Department of Labor.]

SEC. 205. REPEALS.**Sec. 205(a). Associated Expenses.**

[(f) ASSOCIATED EXPENSES.—

For purposes of this section, associated expenses include the following:

[(1) NECESSARY COSTS.—

Necessary costs of requesting, obtaining, and administering Federal assistance based on a percentage of assistance provided as follows:

(A) For an applicant whose net eligible costs equal less than \$100,000, 3 percent of such net eligible costs,

(B) For an applicant whose net eligible costs equal \$100,000 or more but less than \$1,000,000, \$3,000 plus 2 percent of such net eligible costs in excess of \$100,000.

(C) For an applicant whose net eligible costs equal \$1,000,000 or more but less than \$5,000,000, \$21,000 plus 1 percent of such net eligible costs in excess of \$1,000,000.

(D) For an applicant whose net eligible costs equal \$5,000,000 or more, \$61,000 plus ½ percent of such net eligible costs in excess of \$5,000,000.

[(2) EXTRAORDINARY COSTS.—

Extraordinary costs incurred by a State for preparation of damage survey reports, final inspection reports, project applications, final audits, and related field inspections by State employees, including overtime pay and per diem and travel expenses of such employees, but not including pay for regular time of such employees, based on the total amount of assistance provided under sections 5170b, 5170c, 5172, 5173, 5192, 5193 of this title in such State in connection with the major disaster as follows:

(A) If such total amount is less than \$100,000, 3 percent of such total amount,

(B) If such total amount is \$100,000 or more but less than \$1,000,000, \$3,000 plus 2 percent of such total amount net eligible cost in excess of \$100,000,

(C) If such total amount is \$1,000,000 or more but less than \$5,000,000, \$21,000 plus 1 percent of such total amount net eligible cost in excess of \$1,000,000,

(D) If such total amount is \$5,000,000 or more, \$61,000 plus ½ percent of such total amount net eligible cost in excess of \$5,000,000.

[(3) COSTS OF NATIONAL GUARD.—

The costs of mobilizing and employing the National Guard for performance of eligible work.

[(4) COSTS OF PRISON LABOR.—

The costs of using prison labor to perform eligible work, including wages actually paid, transportation to a worksite, and extraordinary costs of guards, food, and lodging.

[(5) OTHER LABOR COSTS.—

Base and overtime wages for an applicant's employees and extra hires performing eligible work plus fringe benefits on such wages to the extent that such benefits were being paid before the disaster.]

SEC. 205(b) COMMUNITY DISASTER LOANS.**42 U.S.C. [Sec. 417. COMMUNITY DISASTER LOANS.**

[(a) The President is authorized to make loans to any local government which may suffer a substantial loss of tax and other revenues as a result of a major disaster, and has demonstrated a need for financial assistance in order to perform its governmental functions. The amount of any such loan shall be based on need, and shall not exceed 25 percent of the annual operating budget of that local government for the fiscal year in which the major disaster occurs. Repayment of all or any part of such loan to the extent that revenues of the local government during the three full fiscal year period following the major disaster are insufficient to meet the operating budget of the local government, including additional disaster-related expenses of a municipal operation character shall be canceled.

[(b) Any loans made under this section shall not reduce or otherwise affect any grants or other assistance under this Act.]

Sec. 205(c) SIMPLIFIED PROCEDURE.

[(SEC. 422. SIMPLIFIED PROCEDURE.

[(If the Federal estimate of the cost of—

(1) repairing, restoring, reconstructing, or replacing under section 406 any damaged or destroyed public facility or private nonprofit facility,

(2) emergency assistance under section 403 or 502, or

(3) debris removed under section 407,

is less than \$35,000, the President (on application of the State or local government or the owner or operator of the private nonprofit facility) may make the contribution to such State or local government or owner or operator under section 403, 406, 407, or 502, as the case may be, on the basis of such Federal estimate. Such \$35,000 amount shall be adjusted annually to reflect changes in the Consumer Price Index for All Urban Consumers published by the Department of Labor.]

By Mr. KENNEDY (for himself and Mr. LAUTENBERG):

S. 584. A bill to amend title XIX of the Social Security Act to permit the Secretary of Health and Human Services to waive recoupment under the medicaid program of certain tobacco-related funds received by a State if a State uses a portion of such funds for tobacco use prevention and health care and early learning programs; to the Committee on Finance.

CHILDREN'S SMOKING PREVENTION, HEALTH, AND EARLY LEARNING TRUST FUND

Mr. KENNEDY. Mr. President, today I am introducing legislation which will insure that the federal share of the state Medicaid settlements negotiated with the tobacco industry is used by the states to prevent youth smoking,

to improve health care, and to promote child development. Fifty-seven cents of every Medicaid dollar spent by the states comes from the federal government. The cost of Medicaid expenditures to treat people suffering from smoking-induced disease was at the core of state lawsuits against the tobacco industry. While the federal government could legally demand that the states reimburse Washington from their settlements, I believe the states should be allowed to keep one hundred percent of the money. However, the federal share should be used by the states for programs that will advance the goals of protecting children and enhancing public health which were at the heart of the litigation and are consistent with the purposes of Medicaid. That would be an eminently fair and reasonable compromise of this contentious issue.

While there were a variety of claims made by the states against the tobacco industry, the Medicaid dollars used to treat tobacco-related illness constituted by far the largest claim monetarily, and it formed the basis for the national settlement. As part of that settlement, every state released the tobacco companies from federal Medicaid liability, as well as state Medicaid liability. Medicaid expenditures heavily influenced the distribution formula used to divide the national settlement amongst the states. In light of these undeniable facts, the dollars obtained by the states from their settlements cannot now be divorced from Medicaid. States are free to use the state share of their recoveries in any way they choose. However, Congress has a vital interest in how the federal share will be used.

My legislation would require states to use half of the amount of money they receive from the tobacco industry each year (the federal share) to protect children and improve public health. At least thirty-five percent of the federal share would be spent on programs to deter youth smoking and to help smokers overcome their addiction. This would include a broad range of tobacco control initiatives, including school and community based tobacco use prevention programs, counter-advertising to discourage smoking, cessation programs, and enforcement of the ban on sale to minors. Three thousand children start smoking every day, and one thousand of them will die prematurely as a result of tobacco-induced disease. Prevention of youth smoking should be, without question, our highest priority for the use of these funds. The state settlements provide the resources to dissuade millions of teenagers from smoking, to break the cycle of addiction and early death. We must seize that opportunity.

The remainder of the federal share would be available for states to use to fund health care and early learning initiatives which they select. States can

either use the additional resources to supplement existing programs in these areas, or to fund creative new state initiatives to improve public health and promote child development.

Smoking has long been America's foremost preventable cause of disease and early death. It has consumed an enormous amount of the nation's health care resources. Finally, resources taken from the tobacco companies would be used to improve the nation's health. A state could, for example, use a portion of this money to help senior citizens pay for prescription drugs, or to provide expanded health care services to the uninsured. Funds could be used to support community health centers, to reduce public health risks, or to make health insurance more affordable.

For years, the tobacco companies callously targeted children as future smokers. The financial success of the entire industry was based upon addicting kids when they were too young to appreciate the health risks of smoking. It is particularly appropriate that resources taken from this malignant industry be used to give our children a better start in life. States could use a portion of these funds to improve early learning opportunities for young children, or to expand child care services, or for other child development initiatives.

Congress has a compelling interest in how the federal share of these dollars is used. They are Medicaid dollars. They should not be used for road repair or building maintenance. They should be used by the states to create a healthier future for all our citizens, and particularly for our children.

ADDITIONAL COSPONSORS

S. 25

At the request of Ms. LANDRIEU, the name of the Senator from Indiana [Mr. BAYH] was added as a cosponsor of S. 25, a bill to provide Coastal Impact Assistance to State and local governments, to amend the Outer Continental Shelf Lands Act Amendments of 1978, the Land and Water Conservation Fund Act of 1965, the Urban Park and Recreation Recovery Act, and the Federal Aid in Wildlife Restoration Act (commonly referred to as the Pittman-Robertson Act) to establish a fund to meet the outdoor conservation and recreation needs of the American people, and for other purposes.

S. 51

At the request of Mr. BIDEN, the names of the Senator from Wisconsin [Mr. KOHL] and the Senator from New Jersey [Mr. TORRICELLI] were added as cosponsors of S. 51, a bill to reauthorize the Federal programs to prevent violence against women, and for other purposes.

S. 289

At the request of Mr. GRAMS, his name was added as a cosponsor of S.

289, a bill to amend the Public Health Service Act to permit faith-based substance abuse treatment centers to receive Federal assistance, to permit individuals receiving Federal drug treatment assistance to select private and religiously oriented treatment, and to protect the rights of individuals from being required to receive religiously oriented treatment.

S. 322

At the request of Mr. CAMPBELL, the names of the Senator from Georgia [Mr. CLELAND], the Senator from California [Mrs. FEINSTEIN], and the Senator from Washington [Mrs. MURRAY] were added as cosponsors of S. 322, a bill to amend title 4, United States Code, to add the Martin Luther King Jr. holiday to the list of days on which the flag should especially be displayed.

S. 331

At the request of Mr. JEFFORDS, the names of the Senator from Idaho [Mr. CRAPO], the Senator from Colorado [Mr. ALLARD], and the Senator from Wisconsin [Mr. FEINGOLD] were added as cosponsors of S. 331, a bill to amend the Social Security Act to expand the availability of health care coverage for working individuals with disabilities, to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide such individuals with meaningful opportunities to work, and for other purposes.

S. 346

At the request of Mrs. HUTCHISON, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of S. 346, a bill to amend title XIX of the Social Security Act to prohibit the recoupment of funds recovered by States from one or more tobacco manufacturers.

S. 391

At the request of Mr. KERREY, the names of the Senator from Minnesota [Mr. WELLSTONE] and the Senator from Connecticut [Mr. DODD] were added as cosponsors of S. 391, a bill to provide for payments to children's hospitals that operate graduate medical education programs.

S. 456

At the request of Mr. CONRAD, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 456, a bill to amend the Internal Revenue Code of 1986 to allow employers a credit against income tax for information technology training expenses paid or incurred by the employer, and for other purposes.

S. 483

At the request of Ms. SNOWE, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 483, a bill to amend the Congressional Budget and Impoundment Control Act of 1974 to limit consideration of non-emergency matters in emergency legislation and permit matter that is extraneous to emergencies to be stricken as provided in the Byrd rule.

S. 484

At the request of Mr. CAMPBELL, the name of the Senator from Kansas [Mr. BROWNBACK] was added as a cosponsor of S. 484, a bill to provide for the granting of refugee status in the United States to nationals of certain foreign countries in which American Vietnam War POW/MIAs or American Korean War POW/MIAs may be present, if those nationals assist in the return to the United States of those POW/MIAs alive.

S. 494

At the request of Mr. GRAHAM, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 494, a bill to amend title XIX of the Social Security Act to prohibit transfers or discharges of residents of nursing facilities as a result of a voluntary withdrawal from participation in the medicaid program.

S. 499

At the request of Mr. FRIST, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 499, a bill to establish a congressional commemorative medal for organ donors and their families.

S. 510

At the request of Mr. CAMPBELL, the name of the Senator from Alabama [Mr. SESSIONS] was added as a cosponsor of S. 510, a bill to preserve the sovereignty of the United States over public lands and acquired lands owned by the United States, and to preserve State sovereignty and private property rights in non-Federal lands surrounding those public lands and acquired lands.

S. 526

At the request of Mr. GRAHAM, the name of the Senator from California [Mrs. FEINSTEIN] was added as a cosponsor of S. 526, a bill to amend the Internal Revenue Code of 1986 to allow issuance of tax-exempt private activity bonds to finance public-private partnership activities relating to school facilities in public elementary and secondary schools, and for other purposes.

S. 531

At the request of Mr. ABRAHAM, the names of the Senator from Texas [Mr. GRAMM], the Senator from Connecticut [Mr. DODD], and the Senator from Maryland [Mr. SARBANES] were added as cosponsors of S. 531, a bill to authorize the President to award a gold medal on behalf of the Congress to Rosa Parks in recognition of her contributions to the Nation.

S. 532

At the request of Mrs. FEINSTEIN, the name of the Senator from California [Mrs. BOXER] was added as a cosponsor of S. 532, a bill to provide increased funding for the Land and Water Conservation Fund and Urban Parks and Recreation Recovery Programs, to resume the funding of the State grants program of the Land and Water Conservation Fund, and to provide for the