Mr. BREAX, Mr. STEVENS, Mr. CACCIHEL, Mr. M. KENNEDY, Mr. ABRAHAM, Mr. DOROSAN, Mrs. FEINSTEIN, Mr. KIRBY, Mrs. BOXER, Mr. RIEDEL, Mr. DURBIN, Mr. CONRAD, Mr. BYRD, Mr. INOUE, Mr. BAYH, Mr. BEYAN, Mr. LIEBERMAN, Mr. WYDEN, Mr. HOLINGS, and Mr. HATCH:

S. Res. 111. A resolution designating June 6, 1999, as "National Child's Day": considered and agreed to.

By Mr. FEINGOLD:

S. Res. 32. A resolution to designate June 5, 1999, as "Safe Night USA": considered and agreed to.

By Mr. SCHUMER (for himself, Mr. MONYHAN, Mr. BROWNACK, Mr. MACK, and Mr. LIEBERMAN):

S. Con. Res. 36. A concurrent resolution condemning Palestinian efforts to revolve the original Palestine partition plan of November 29, 1947, and condemning the United Nations Commission on Human Rights for its April 27, 1999, resolution endorsing Palestinian revisionism on the basis of the original Palestine partition plan; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. MIKULSKI (for herself, Mr. DODD, Mr. HOLINGS, Mr. JEFFORDS, Mr. KENNEDY, Mrs. MURRAY, and Mr. WELLSSTONE):

S. 1142. A bill to protect the right of a member of a health maintenance organization to receive continuing care at a facility selected by that member, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Seniors’ Access to Continuing Care Act of 1999

Ms. MIKULSKI, Mr. President, I rise today to introduce the “Seniors’ Access to Continuing Care Act of 1999”, a bill that gives seniors’ access to treatment in the setting of their choice and to ensure that seniors who reside in continuing care communities, and nursing and other facilities have the right to receive care after a hospitalization.

As our population ages, more and more elderly will become residents of various long term care facilities. These include independent living, assisted living and nursing facilities, as well as continuing care retirement communities (CCRC’s), which provide the entire continuum of care. In Maryland alone, there are over 12,000 residents in 32 CCRCs and 24,000 residents in over 200 licensed nursing facilities.

More and more individuals and couples are choosing to enter continuing care communities because of the community environment they provide. CCRC’s provide independent living, assisted living and nursing care, usually on the same campus—the Continuum of Care. It provides security, privacy and peace of mind. They often prepay for the continuum of care. Couples can stay together, and if one spouse needs additional care, it can be provided right there, where the other spouse can remain close by.

Most individuals entering a nursing facility do so because it is medically necessary, because they need a high level of care that they can no longer receive in their homes or in a more independent setting, such as assisted living. But residents are able to form relationships with other residents and staff and consider the facility their “home”. I have visited many of these facilities and have heard from both residents and operators. They have told me about the seniors and the unexpected problem encountered with returning to their facility after a hospitalization.

Hospitalization is traumatic for anyone, but particularly for our vulnerable seniors. We know that having comfortability is surroundings and familiar faces can aid dramatically in the recovery process. So, we should do everything we can to make sure that recovery process is not hindered.

Today, more and more seniors are joining managed care plans. This trend is likely to accelerate given the expansion of managed care choices under the 1997 Balanced Budget Act. As more and more decisions are made based on financial considerations, choices often gets lost. Currently, a resident of a continuing care retirement community or a nursing facility who goes to the hospital has no guarantee that he or she will be allowed by the managed care organization (MCO) to return to their facility after a hospitalization. The MCO can dictate that the resident go to a different facility that is in the MCO network for that follow up care, even if the home facility is medically able and able to provide the needed care.

Let me give you a few examples:

In the fall of 1996, a resident of Applewood Estates in Freehold, New Jersey was admitted to the hospital. Upon discharge, her HMO would not permit her to return to Applewood and sent her to another facility in Jackson. The following year, the same thing happened, but after strong protest, the HMO finally relented and permitted her to return to Applewood. She should not have had to protest, and many seniors are unable to assert themselves.

A Florida couple in their mid-80’s were separated by a distance of 20 miles after the wife was discharged from a hospital to an HMO-participating nursing home located on the opposite side of the county. This was a hardship for the husband who had difficulty driving and for the wife who belonged to return to her home, a CCRC. The CCRC had room in its skilled nursing facility on campus. Despite pleas from all those involved, the HMO would not allow the wife to recuperate in a familiar setting, close to her husband and friends. She later died at the HMO nursing facility, without the benefit of frequent visits by her husband and friends.

Collington Episcopal Life Care Community, in my home state of Maryland, is facing problems with its frail elderly having to obtain psychiatric services, including medication monitoring, off campus, even though the services are available at Collington—how disruptive to good patient care! The brighter of the two women’s husband was in a nursing facility. When she was hospitalized, and then discharged, she was able to be admitted to the same nursing facility because of the Ohio law that protected that right. Seniors coming out of the hospital should not be passed around like a baton. Their care should be decided based on what is clinically appropriate, not what is financially mandated. Why is that important? What are the consequences?

Residents consider their retirement community or long term care facility as their home. And being away from home for any reason can be very difficult. The trauma of being away from unfa-
beneficiaries, without a prior hospital stay, if the service is necessary to prevent loss of capability or to prevent hospitalization if the service is not provided as an additional benefit. Lastly, the bill requires an insurer or MCO to provide coverage to a beneficiary for services provided at a facility in which the beneficiary’s spouse already resides, even if the facility is not under contract with the MCO, provided the other requirements are met.

In conclusion, Mr. President, I am committed to providing a safety net for our seniors—this bill is part of that safety net. Seniors deserve quality, affordable health care and they deserve choice. This bill offers those residing in retirement communities and long-term care facilities assurance to have their choices respected, to have where they reside recognized as their “home,” and to be permitted to return to that “home” after a hospitalization. It ensures that spouses can be together as long as possible. And it ensures access to care in order to PREVENT a hospitalization. I want to thank my co-sponsors Senators DODD, BOLLES, JEFFORDS, KENNEDY, MURRAY and WELLS for their support. I urge my colleagues to join me in passing this important measure to protect the rights of seniors and their access to continuing care.

By Mr. VOINOVICH (for himself, Mr. CHAFEE, Mr. JEFFORDS, Mr. MONTNIK, Mr. WARNER, Mrs. HUTCHINSON, Mr. REID, Mr. LAUTENBERG and Mr. LEAHY):
S. 1144. A bill to provide increased flexibility in use of highway funding, and for other purposes; to the Committee on Environment and Public Works.

SURFACE TRANSPORTATION ACT OF 1999
Mr. VOINOVICH. Mr. President, I am pleased today to introduce the Surface Transportation Act of 1999 along with my colleagues, Chairman CHAFEE of the Senate Environment and Public Works Committee, Senators DODD, BOLLES, JEFFORDS, REID, WARNER, HUTCHINSON, REID, LAUTENBERG and LEAHY. The purpose of this bill is to provide additional flexibility to the States and localities in implementing the Federal transportation program.

Let me briefly describe the three most significant provisions of the bill.

(1) **State infrastructure banks**—the bill authorizes all 50 States to participate in the State Infrastructure Bank (SIB) program. SIBs are revolving funds, capitalized with Federal and State contributions, which are empowered to make loans and provide other forms of non-grant assistance to transportation projects. Before TEA-21 was enacted, transferring Federal highway funding to a State Infrastructure Bank was an option available to all 50 States, with 39 States actively participating. Regrettably, TEA-21 limited the SIB program to just four States. This section would restore the program as it existed prior to TEA-21.

The American Association of State Highway and Transportation Officials (AASHTO), the National Association of State Treasurers, and numerous industry groups, including the American Road & Transportation Builders Association (ARTBA), strongly support legislation giving all States the opportunity to participate in the SIB program.

The availability of SIB financial assistance has attracted additional investment. According to the U.S. Department of Transportation, SIBs made 21 loans and signed agreements for another 33 loans as of November 1, 1998. Together, these 54 projects are scheduled to receive SIB loan disbursements totaling $408 million to support project investments of more than $2.3 billion—resulting in a leverage ratio of about 5.6 to 1 (total investment to amount of SIB investment).

(2) **High priority project flexibility**—the bill includes a provision that allows States the flexibility to advance a “high priority” project faster than is allowed by TEA-21, which provides the funding for high priority projects spread over the six-year life of TEA-21. This provision would allow States to accelerate the construction of their “high priority” projects by borrowing funds from other highway funding categories (e.g., NHS, STP, CMAQ). The flexibility is particularly important for States who are ready to construct some of the high priority projects in the first few years of TEA-21, and without this provision, may need to defer completion until the later years of TEA-21. (3) **Funding flexibility for Intercity passenger rail**—the bill also gives States the option to use their National Highway System, Congestion Mitigation and Air Quality funds, and Surface Transportation Program funds to fund capital expenses associated with intercity passenger rail service, including high-speed rail service. The National Governors’ Association, has passed a resolution requesting this additional flexibility for States who are supportive of the State Infrastructure Bank program, have high priority projects that are ready-to-go, or would like the option of using available Federal transportation funding to support intercity passenger rail needs in their state.

I encourage my colleagues to support this important legislation. I ask that a section by section description of the bill be printed into the RECORD.

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

**SUMMARY OF THE SURFACE TRANSPORTATION ACT OF 1999**

Summary

The purpose of this bill is to provide additional flexibility to States and localities in implementing the Federal transportation program. This bill does not affect the funding formula agreed to in TEA 21 or modify the overall level of funding for any program.

**SECTION BY SECTION**

Section 1—Short Title

Section 2—State Infrastructure Banks

This section authorizes all 50 States to participate in the State Infrastructure Bank program. SIBs are revolving funds, capitalized with Federal and State contributions, which are empowered to make loans and provide other forms of non-grant assistance to transportation projects. Before the Transportation Equity Act for the 21st Century (TEA 21) was enacted, transferring Federal highway funding to a State Infrastructure Bank was an option available to all 50 States, with 39 States actively participating. Regrettably, TEA 21 took the program backwards and limited the SIB program to just four States. This section would restore the program as it existed prior to TEA 21. The bill extends thru FY 2003 the SIB program, which was authorized in the National Highway System Designation Act. The American Association of State Highway and Transportation Officials (AASHTO), the National Association of State Treasurers, and numerous industry groups, including the American Road & Transportation Builders Association (ARTBA), strongly support legislation giving all States the opportunity to participate in the SIB program. At their annual meeting in November 1998, AASHTO members adopted a resolution supporting expansion of the SIB program.

Availability of SIB financial assistance has resulted in additional investment. According to the U.S. DOT, SIBs made 21 loans and signed agreements for another 33 loans as of November 1, 1998. Together, these 54 projects are scheduled to receive SIB loan disbursements totaling $408 million to support project investments of more than $2.3 billion—resulting in a leverage ratio of about 5.6 to 1 (total project investment to amount of SIB investment).

Section 3—High Priority Project Flexibility

Subsection (a) allows States the flexibility to advance a “high priority” project faster than is allowed by TEA-21, which provides the funding for high priority projects spread over the six-year life of TEA-21. This provision would allow States to accelerate the construction of their “high priority” projects by borrowing funds from other highway funding categories (e.g., NHS, STP, CMAQ). This flexibility is particularly important for States who are ready to construct some of the high priority projects in the first few years of TEA 21, and without this provision may need to defer completion until the later years of TEA 21.

**Section 4—Funding Flexibility and High Speed Rail Corridors**

Subsection (a) gives States the option to use their National Highway System, Congestion Mitigation and Air Quality, and Surface Transportation Program funds to fund capital expenses associated with intercity passenger rail service, including high-speed rail service. The National Governors’ Association, has passed a resolution requesting this additional flexibility for States to
meet their transportation needs. In testi-
yfancy before the committee, the U.S. Con-
ference of Mayors and the National Council
of State Legislatures also requested this ad-
ditional flexibility.

Subsection (b) specifies how funds trans-
ferred for intercity passenger rail services
are to be administered.

Section 5—Historic Bridges

This section eliminates a restriction that
caps the amount of Federal-aid highway
funds that can be spent on a historic bridge
to an amount equal to the cost of demol-
ition. The restriction unnecessarily limits
States’ flexibility to preserve historic bridges,
specifically for transportation uses. A simi-
lar provision was included in the Senate-passed
version of the reauthorization, but
was not considered by the conference due to
time constraints.

Section 6—Accounting Simplification

This section makes a minor change to the
distribution of Federal-aid obligation
limitation that simplifies accounting for
States. Currently, a very small amount
of the obligation authority directed to the min-
imum obligation program is made available
for one-year even though the overwhelming
majority is made available for several years.
This section would make all obligation au-
thority for this program available as multi-
year funding. Therefore, this section elimi-
nates the need to account for the States
to plan for the small amount of funding sepa-
rately.

By Mr. LEAHY (for himself, Mr.
INOUYE, Mr. SARBAES, Mr.
REID, Mr. ROBB, Mr. ARAKA,
Mr. SCHUMER, and Mrs. FEINSTEIN):
S. 1145. A bill to provide for the ap-
pointment of additional Federal circuit and
district judges, and for other pur-
poses; to the Committee on the Judici-
ary.

THE FEDERAL JUDGESHIP ACT OF 1999

Mr. LEAHY, Mr. President, today I
am introducing the Federal Judgeship
Act of 1999. I am pleased that Senators
INOUYE, SARBAES, REID, ROBB, AKAKA,
and SCHUMER are joining me as original
cosponsors of this measure.

Our bill creates 69 new judgeships
across the country to address the in-
creased caseloads of the Federal judici-
ary. Specifically, our legislation would:
create 7 additional permanent judges-
ships and 4 temporary judgeships for the
U.S. Courts of Appeal; create 33 addi-
tional permanent judgeships and 26
temporary judgeships for the U.S. Dis-
trict Courts; and convert 10 existing
temporary district judgeships to per-
manent positions.

This bill is based on the rec-
ommendations of the Judicial Con-
ference of the United States, the non-
partisan policy-making arm of the ju-
dicial branch. Federal judges across the
nation believe that the continuing
heavy caseload of our courts of appeals
and district courts merit these addi-
tional judges. Indeed, the Chief Justice
of the United States in his 1998 year-
end report of the U.S. Judiciary de-
clared: “The number of cases brought
to federal courts is one of the most se-
rious problems facing them today.”

Chief Justice Rehnquist is right. The
caseloads of Federal courts have reached
record heights. For in-
stance, criminal case filings in Federal
courts rose 15 percent in 1998—nearly
tripling the 5.2 percent increase in 1997.
The number of criminal cases filed
since 1991 increased 25 percent with the
number of criminal defendants rising 21
percent. In fact, the filings of criminal
cases and defendants reached their
highest levels since the Prohibition
Amendment was repealed in 1933.

Federal civil caseloads have simi-
larity increased. For the past eight
tears, total civil case filings have in-
creased 22 percent in our Federal
courts. This increase includes jumps of
145 percent in personal injury product
liability cases, 85 percent in civil
rights filings, 71 percent in social secu-
rity cases, 49 percent in copyright, pat-
ent and trademark filings, and 29 per-
cent prisoner petitions from 1991 to
1998.

But despite these dramatic increases
in case filings, Congress has failed to
authorize new judgeships since 1990,
together endangering the administration
of justice in our nation’s Federal courts.

Historically, every six years Congress
has reviewed the need for new judge-
ships. In 1984, Congress passed legisla-
tion to address the need for additional
judgeships. Six years later, in 1990,
Congress again fulfilled its constitu-
tional responsibility and enacted the
Federal Judgeship Act of 1990 because
of a sharply increasing caseload, par-
ticularly for drug-related crimes. But
in the last two Congresses, the Repub-
lican majority failed to follow this tra-
dition. Two years ago the Judicial Con-
ference last year recommended 55
judgeships to address the growing
backlog. My legislation, based on the
Judicial Conference’s 1997 rec-
ommendations, S. 678, the Judicial
Judgeship Act of 1997, languished in
the Judicial Committee without action
during both sessions of the last Con-
gress.

It is now nine years since Congress
last seriously reexamined the caseload
of the federal judiciary and the need
for more federal judges. Congress ig-
nores the needs of the Federal judici-
ary at the peril of the American people.
Overworked judges and heavy caseloads
slow down the judicial process and
delay justice. In some cases, justice is
delayed or denied for anyone. I

By Mr. DASCHLE (for himself
and Mr. ROCKEFELLER):
S. 1146. A bill to amend title 38,
United States Code, to improve access
to veterans to emergency medical care
in non-Department of Veterans Affairs
medical facilities; to the Committee on
Veterans’ Affairs.

THE VETERANS’ ACCESS TO EMERGENCY CARE
ACT OF 1999

Mr. DASCHLE. Mr. President, the
American people continue to say they
want a comprehensive, enforceable Pa-

tient’s Bill of Rights. Toward that
goal, several of my Democratic col-
leagues and I introduced S. 6, the Pa-
tient’s Bill of Rights Act of 1999, ear-
lier this year. That legislation, which
we first introduced in the 105th Con-
gress, addresses the growing concerns
among Americans about the quality of
care delivered by health maintenance
organizations. I am disappointed that
some of my colleagues on the other
side of the aisle prevented the Senate
from considering managed care reform
legislation last year. However, I am
hopeful that the Republican leadership
will allow an open and honest debate
on this important issue this year.

I am hopeful that my colleagues will
also take a moment to listen to vet-
erans in this country who are raising
the concerns about the medical care
they receive from the Department of
Veterans Affairs (VA). Many vet-
erans are understandably concerned
that the Administration requested ap-
proximately $18 billion for VA health
care in FY99, almost the same amount
it requested last year. They fear that if
this flat-lined budget is enacted, the
VA would be forced to make significant
reductions in personnel, health care
services and facilities. I share their
concerns and agree that we simply can-
not allow that to happen. On the con-
trary, Congress and the Administration
need to work together to provide the
funds necessary to improve the health
care that veterans receive.

Toward that end, and as we prepare
to celebrate Memorial Day, I am re-
introducing the Veterans’ Access to
Emergency Care Act of 1999. I am
pleased that Senator ROCKEFELLER, the
Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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 "Veterans' Access to Emergency Care Act of 1999".

SEC. 2. EMERGENCY HEALTH CARE IN NON-DEPARTMENT OF VETERANS AFFAIRS FACILITIES FOR ENROLLED VETERANS.

(a) DEFINITIONS.—Section 1701 of title 38, United States Code, is amended—

(1) by striking "or" before "(D)"; and

(2) by striking by paragraph (6)—

(b) CONTRACT CARE.—Section 1703 of title 38, United States Code, is amended—

(1) in paragraph (3)—

(c) REIMBURSEMENT OF EXPENSES FOR EMERGENCY CARE.—Section 1728 of title 38, United States Code, is amended—

(d) The Secretary shall require in a contract—

(e) Payment...
Mr. ROCKEFELLER. Mr. President, I am pleased to offer my support to the Veterans' Access to Emergency Care Act of 1999. This bill will authorize VA to cover emergency care at non-Department of Veterans Affairs (VA) facilities for those veterans who have enrolled with VA for their health care. I recommend to working with my colleagues on the Senate Appropriations Committee to provide funding for this initiative.

Currently, VA is restricted by law from authorizing payment of comprehensive emergency care services in non-VA facilities except to veterans with special eligibility. Most veterans must rely on other insurance or pay out of pocket for emergency services. In many ways, this is a very generous package, which includes such things as pharmaceuticals. Enrolled veterans are, however, missing out on one essential part of health care coverage: the standard benefits package does not allow for comprehensive emergency care. So, in effect, we are asking veterans to choose VA health care, but leaving them out in the cold when it comes to emergency care.

Mr. President, we have left too many veterans out in the cold already. When veterans call their VA health care providers in the middle of the night, many reach a telephone recording. This recording tells veterans that veteran have emergencies dial "911." Veterans who call for help are then transported to non-VA facilities. After the emergency is over, veterans are presented with huge bills. These are bills which VA cannot pay in most cases, and veterans are, therefore, potentially financially crushing. We cannot abandon these veterans in their time of need.

Let me tell my colleagues about some of the problems that veterans face because of the restriction on emergency care. In January of this year, a low income, non-service-connected, World War II veteran with a history of heart problems, from my State of West Virginia, presented to the nearest non-VA hospital with severe chest pain. In an attempt to get the veteran admitted to the VA medical center, the private physician placed calls to the Clarksburg VA Medical Center, where the veteran was enrolled, on three separate occasions over the course of three days. The response was always the same—"no beds available."

Ultimately, a different VA medical center, from outside the veteran's service area, accepted the patient, and two days later transferred him back to the Clarksburg VA Medical Center where he underwent a surgical procedure to resolve the problem. By this time, however, complications had set in, and the veteran was critically ill.

The veteran's wife told me that "no one should have to endure the pain and suffering" they had to endure over a five-day period to get the emergency care her husband needed. But in addition to that emotional distress, the veteran now also faces a medical bill of almost $800 at the private hospital, the net amount due after Medicare paid its portion. This is an incredible burden for a veteran and his wife whose sole income are their small Social Security checks.

In another example from my state, in February 1998, a 100 percent service-connected veteran with post-traumatic stress disorder suffered an acute onset of mid-sternal chest pain, and an ambulance was called. The ambulance took the veteran to a non-VA facility. Staff at the private facility contacted the Clarksburg VA Medical Center and was told there were no ICU beds available and advised transferring the patient to the Pittsburgh VA Medical Center. When contacted, Pittsburgh refused the patient because of the length of necessary transport. A call to the Beckley VAMC was also fruitless. The doctor was advised by VA staff that the trip to Beckley would be "too risky for the three hour ambulance travel."

The veteran was kept overnight at the private hospital for observation, and then was billed for the care—$900, after Medicare paid its share.

Two more cases quickly come to mind involving 100 percent service-connected combat veterans, both of whom had to turn to the private sector in emergency situations.

One veteran had a heart attack and as I recall, his heart stopped twice before the ambulance got him to the closest non-VA hospital. The Huntington VA Medical Center was his health care provider and it was more than an hour away from the veteran's home. This veteran had Medicare, but he was still left with a sizeable medical bill for the emergency services that saved his life.

The other veteran suffered a fall that rendered him unconscious and caused considerable physical damage. He also was taken to the closest non-VA hospital—and was left with a $4,000 bill after Medicare paid its share.

Both contacted me to complain about the unfairness of these bills. As 100 percent service-connected veterans, they rely totally on VA for their health care. None of them, nor the other two West Virginia veterans I referred to, ever expected to be in the situation in which they all suddenly found themselves—strapped with large health care bills because they needed emergency treatment in life-threatening situations, when they could not get care from the nearest VA medical center.

Coverage of emergency care services for all veterans is supported by the consortium of veterans services organizations that authored the Independent Budget for Fiscal Year 2000—AMVETS, the Disabled American Veterans, the Paralyzed Veterans of America, and the Veterans of Foreign Wars. The concept is also included in the Administration's FY 2000 budget request for VA and the Consumer Bill of Rights, which President Clinton has directed every federal agency engaged in managing or delivering health care to adopt.

To quote from the Consumer Bill of Rights, "Consumers have the right to access emergency health care services when and where the need arises. Health plans should provide that when a consumer presents to an emergency department with acute symptoms of sufficient severity—including severe pain—such that a 'prudent layperson' could reasonably expect the absence of medical attention to result in placing their health in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part.'" This "prudent layperson" standard is included in the Veterans' Access to Emergency Care Services Act of 1999 and is intended to protect both the veteran and the VA.

To my colleagues who would argue that this expansion of benefits is something which the VA cannot afford, I would say that denying veterans access to care would not be the way to balance our budget. The Budget Resolution includes an additional $1.7 billion for VA. I call on the appropriators to ensure that this funding makes its way to VA hospitals and clinics across the country.

Truly, approval of the Veterans' Access to Emergency Care Services Act of 1999 would ensure appropriate access to emergency medical services. Thus, we would be providing our nation's veterans greater continuity of care.

Mr. President, veterans currently have the opportunity to come to VA facilities for their care, but they lack coverage for the one of the most important health care services. I look forward to working with my colleagues on the House and Senate Committees on Veterans' Affairs to make this proposal a reality.

By Mr. GRAHAM (for himself, Mr. JEFFORDS, Mr. KOHL, and Mrs. HUTCHISON):

S. 1147. A bill to amend the Internal Revenue Code of 1986 to provide a credit against tax employers who provide child care assistance for dependents of their employees, and for other purposes; to the Committee on Finance.
CONGRESSIONAL RECORD— SENATE

May 27, 1999

WORKSITE CHILD CARE DEVELOPMENT ACT OF 1999

Mr. GRAHAM. Mr. President, I am extremely proud to introduce the “Worksite Child Care Development Act of 1999” with Senators HUTCHISON, KOHL, and JEFFORDS. This measure will make child care more accessible and affordable to the many millions of Americans who find it not only important, but necessary, to work.

This legislation would grant tax credits to employers who assist their employees with child care expenses by providing:

- A one-time 50 percent tax credit not to exceed $100,000 for startup expenses, including expansion and renovations of an employer-sponsored child care facility;
- A 50 percent tax credit for employers not to exceed $25,000 annually for the operating costs to maintain a child care facility; and
- A 50 percent tax credit yearly not to exceed $50,000 for this employers who provide payments or reimbursements for their employees’ child care costs.

Why is this legislation important?

First, the workplace has changed over the years. In 1947, just over one-quarter of all mothers will children between 6 and 17 years of age were in the labor force. By 1996, their labor force participation rate had tripled.

Indeed, the Bureau of Labor Statistics reports that 65 percent of all women with children under 18 years of age are now working and that the growth in the number of working women will continue into the next century.

Second, child care is one of the most pressing social issues of the day. It impacts every family, including the poor, the working poor, middle class families, and stay-at-home parents.

Last June, I hosted a Florida statewide summit on child care where over 500 residents of my State shared with me their concerns and frustration on child care issues.

They told me that quality child care, when available, is often not affordable. Those who qualify told me there are often conflicting time demands of both work and child care.

They told me that working parents struggle to find ways to cope with the problem of finding high quality, affordable child care is one of the most difficult challenges faced by the modern American workforce. Companies should be encouraged to provide these services on site—as Ryder has done with great success at our Kids’ Corner facility—whenever possible. Your bill will provide incentives for other businesses to do just that.

We believe that encouraging businesses to help employees care for children will make it easier for parents to be more involved in their children’s education.

Most of all, Mr. President, we believe that this bill is good for employers and families and will go far in addressing the issue of child care for working families of America. I urge all of my colleagues to support this important piece of legislation.

Mr. President, I ask unanimous consent that letters of support from the Chief Executive Officers of the Ryder Corporation and Bright Horizons Corporation be included in the RECORD.

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

Bright Horizons, Family Solutions, May 6, 1999.

Hon. ROBERT GRAHAM, U.S. Senator, Hart Senate Office Building, Washington, DC.

DEAR SENATOR GRAHAM: Thank you for allowing our company the opportunity to review and comment on the Worksite Child Care Development Center Act of 1999. We strongly support this bill and want to do all that we can to support you as the primary sponsor.

We applaud your strategy of targeting tax credits for small businesses. Your approach makes perfect sense. Experience has shown that employer-sponsored child care is not as financially feasible for many small businesses. Since the majority of working parents work for small businesses, their needs have not been adequately addressed. We believe that your bill will have far reaching impact by making it possible for a greater number of working parents to benefit from support offered by their employers.

For your consideration, we respectfully submit comments and suggestions, which we think will strengthen the impact of your bill. I welcome the opportunity to share our experience with you and to discuss these or any other ideas you may have, so please feel free to call me.

Thank you for your willingness to champion the cause for more and better child care for today’s working families. Our company shares this important mission with you. We look forward to supporting you in your efforts to pass this historic legislation.

All my best,

ROGER H. BROWN, President.


Hon. BOB GRAHAM, U.S. Senate, Hart Building, Washington, DC.

DEAR BOB: I am writing to commend you on your introduction of the Worksite Child Care Development Center Act of 1999. The problem of finding high quality, affordable child care is one of the most difficult challenges faced by the modern American workforce. Companies should be encouraged to provide these services on site—as Ryder has done with great success at our Kids’ Corner facility—whenever possible. Your bill will provide incentives for other businesses to do just that.

We wish you great success with this important legislation.

Sincerely,

TONY.

By Mr. DASCHLE (for himself and Mr. KERREY):

S. 1148. A bill to provide for the Yankton Sioux Tribe and the Santee Sioux Tribe of Nebraska certain benefits of the Missouri River Basin Pick-Sloan project, and for other purposes; to the Committee on Indian Affairs.

YANKTON SIOUX TRIBE AND SANTEE SIOUX TRIBE OF NEBRASKA DEVELOPMENT TRUST FUND ACT

I am introducing legislation to compensate the Yankton Sioux Tribe of South Dakota and the Santee Sioux Tribe of Nebraska for losses the tribes suffered when the Fort Randall and Gavins Point dams were constructed on the Missouri River over four decades ago.

As a result of the construction of these dams, more than 3,259 acres of land owned by the Yankton Sioux Tribe was flooded or subsequently lost to erosion. Approximately 600 acres of land located near the Santee village and 400 acres on the Niobrara Island of the Santee Sioux Tribe Indian Reservation also was flooded. The flooding of these fertile lands struck a significant blow at the economies of these tribes, and the tribes have never adequately been compensated for that loss. Passage of this legislation will help compensate the tribes for their losses by providing the resources necessary to rebuild their infrastructure and their economy.

To appreciate fully the need for this legislation, it is important to understand the historic events that preceded its development. The Fort Randall and Gavins Point dams were constructed in South Dakota pursuant to the Flood Control Act (58 Stat. 887) of 1944. That legislation authorized implementation of the Missouri River Basin Pick-Sloan Plan for water development and flood control for downstream states.

The Fort Randall dam, which was an integral part of the Pick-Sloan project,
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initially flooded 2,851 acres of tribal land, forcing the relocation and resettlement of at least 13 families, including the traditional and self-sustaining community of White Swan, one of the four major settlement areas on the reservation. On other reservations, such as Crow Creek, Lower Brule, Cheyenne River, Standing Rock and Fort Berthold, communities affected by the Pick-Sloan dams were relocated to higher ground. In contrast, the White Swan community was completely dissolved and its residents dispersed to whatever areas they could settle and start again. The bill I am introducing today is the latest in a series of laws that have been enacted in the 1990s to address similar claims by other tribes in South Dakota for losses caused by the Pick-Sloan dams. In 1992 Congress enacted the Three Affiliated Tribes of Fort Berthold Reservation and the Standing Rock Sioux Tribe compensation for direct damages, including lost reservation infrastructure, relocation and resettlement expenses, the general rehabilitation of the tribes, and for unfulfilled government commitments regarding replacement facilities. In 1996 Congress enacted legislation compensating the Crow Creek tribe for its losses, while in 1997, legislation was enacted to compensate the Lower Brule tribe. The Yankton Sioux Tribe and Santee Sioux Tribe have not yet received fair compensation for their losses. Their time has come.

Mr. President, the flooding caused by the Pick-Sloan projects touched every aspect of life on the Yankton and Santee Sioux reservations, as large portions of their communities were forced to relocate wherever they could find shelter. Never were these effects fully considered in the federal government’s efforts to acquire these lands or designing the Pick-Sloan projects. The Yankton Sioux Tribe and Santee Sioux Tribe of Nebraska Development Trust Fund Act represents an important step in our continuing effort to compensate fairly the tribes of the Missouri River Basin for the sacrifices they made decades ago for the construction of the dams. Passage of this legislation not only will right a historic injustice but it will improve the lives of Native Americans living on these reservations. It has taken decades for us to recognize the unfulfilled federal obligation to compensate the tribes for the effects of the dams. We cannot, of course, re-make the lost lands that are now covered with water and return them to the tribes. We can, however, help provide the resources necessary to the tribe to improve the infrastructure on their reservation and in turn, will enhance opportunities for economic development that will benefit all members of the tribe. Now that we have reached this stage, the importance of passing this legislation as soon as possible cannot be stated too strongly. I am strongly urging all colleagues to approve this legislation this year. Providing compensation to the Yankton Sioux Tribe and the Santee Sioux Tribe of Nebraska for past harm inflicted by the federal government is long-overdue and any further delay only compounds that harm. 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. 1148

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

SECTION 1. SHORT TITLE. This Act may be cited as the “Yankton Sioux Tribe and Santee Sioux Tribe of Nebraska Development Act”.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) by enacting the Act of December 22, 1944, commonly known as the “Flood Control Act of 1944” (58 Stat. 867, chapter 665, 33 U.S.C. 701-1 et seq.) Congress approved the Pick-Sloan Missouri River Basin program (referred to in this section as the “Pick-Sloan program”);

(A) to promote the general economic development of the United States;

(B) to provide for irrigation above Sioux City, Iowa;

(C) to protect urban and rural areas from devastating floods of the Missouri River; and

(D) for other purposes;

(2) the waters impounded for the Fort Randall and Gavins Point projects of the Pick-Sloan program have inundated the fertile, wooded bottom lands along the Missouri River that constituted the most productive agricultural and pastoral lands of, and the homeland of, the members of the Yankton Sioux Tribe and the Santee Sioux Tribe;

(3) the Fort Randall project (including the Fort Randall Dam and Reservoir)—

(A) overlies the boundary of the Yankton Sioux Tribe Indian Reservation; and

(B) has caused the erosion of more than 400 acres of Yankton Sioux Reservation adjoining the east bank of the Missouri River;

(4) the Gavins Point project (including the Gavins Point Dam and Reservoir) overlies the eastern boundary of the Santee Sioux Tribe;

(5) although the Fort Randall and Gavins Point projects are major components of the Pick-Sloan program, and contribute to the economy of the United States by generating a substantial amount of hydroelectric power and impounding a substantial quantity of water, the reservations of the Yankton Sioux Tribe and the Santee Sioux Tribe remain undeveloped;

(6) the United States Army Corps of Engineers took the Indian lands used for the Fort Randall and Gavins Point projects by condemnation without fair compensation;

(7) the Federal Government did not give Yankton Sioux Tribe and the Santee Sioux Tribe an opportunity to receive compensa-

tion for direct damages from the Pick-Sloan program, even though the Federal Government gave 5 Indian reservations upstream from the reservations of those Indian tribes such an opportunity;

(8) the Yankton Sioux Tribe and the Santee Sioux Tribe did not receive just compensa-

tion for the taking of productive agricultural Indian lands through the condemnation referred to in paragraph (6) did not take into account the increase in property values over the years between the date of taking and the date of settlement; and

(9) the settlement agreement that the United States entered into with the Yankton Sioux Tribe and the Santee Sioux Tribe to provide compensation for the condemnation referred to in paragraph (6) did not take into account the increase in property values over the years between the date of taking and the date of settlement; and

(10) in addition to the financial compensation provided under the settlement agreement referred to in paragraph (9), the Yankton Sioux Tribe should receive an aggregate amount equal to $34,323,743 for—

(i) the loss value of 2,851.40 acres of Indian land taken for the Fort Randall Dam and Reservoir of the Pick-Sloan program; and

(ii) the use value of 468.40 acres of Indian land on the reservation of that Indian tribe that was lost as a result of stream bank erosion that has occurred since 1983; and

(B) the Santee Sioux Tribe should receive an aggregate amount equal to $8,132,838 for the loss value of—

(i) 593.10 acres of Indian land located near the Santee village; and

(ii) 412 acres on Nebroda Island of the Santee Sioux Tribe Indian Reservation used for the Gavins Point Dam and Reservoir.

SEC. 3. DEFINITIONS.

In this Act:

(1) INDIAN TRIBE.—The term “Indian tribe” has the meaning given that term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(c)).

(2) PROGRAM.—The term “Program” means the power program of the Pick-Sloan Missouri River Basin program, administered by the Western Area Power Administration.

(3) SANTEEN SIOUX TRIBE.—The term “Santee Sioux Tribe” means the Santee Sioux Tribe of Nebraska.

SEC. 4. YANKTON SIOUX TRIBE DEVELOPMENT TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund known as the “Yankton Sioux Tribe Development Trust Fund” (referred to in this section as the “Fund”). The Fund shall consist of any amounts deposited in the Fund under this Act.

(b) FUNDING.—Out of any money in the Treasury, not otherwise appropriated, the Secretary of the Treasury shall deposit $34,323,743 into the Fund not later than 60 days after the date of enactment of this Act.

(c) INVESTMENTS.—The Secretary of the Treasury shall invest the amounts deposited under subsection (b) in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. The Secretary of the Treasury shall deposit any earnings resulting from such investments into the Fund.

(d) PAYMENT OF INTEREST TO YANKTON SIOUX TRIBE.—

(1) WITHDRAWAL OF INTEREST.—Beginning at the end of the first fiscal year in which interest is deposited into the Fund, the Secretary of the Treasury shall withdraw the aggregate amount of interest paid into the Fund for that fiscal year and transfer that amount to the Secretary of the Interior for use in accordance with paragraph (2).

(2) PAYMENTS TO YANKTON SIOUX TRIBE.—

(A) IN GENERAL.—The Secretary of the Interior shall use the amount referred to under paragraph (1) only for the purpose of making payments to the Yankton Sioux Tribe for losses caused by the Pick-Sloan dams, which payments shall be made directly to the Tribe and not to any Indian trust fund.

(B) MANNER OF USE.—The Secretary of the Interior may use any amount referred to in paragraph (1) only in accordance with—

(i) the settlement agreement that the United States entered into with the Yankton Sioux Tribe to provide compensation for the condemnation referred to in paragraph (6) did not take into account the increase in property values over the years between the date of taking and the date of settlement;

(ii) in addition to the financial compensation provided under the settlement agreement referred to in paragraph (9), the Yankton Sioux Tribe should receive an aggregate amount equal to $34,323,743 for—

(i) the loss value of 2,851.40 acres of Indian land taken for the Fort Randall Dam and Reservoir of the Pick-Sloan program; and

(ii) the use value of 468.40 acres of Indian land on the reservation of that Indian tribe that was lost as a result of stream bank erosion that has occurred since 1983; and

(B) the Santee Sioux Tribe should receive an aggregate amount equal to $8,132,838 for the loss value of—

(i) 593.10 acres of Indian land located near the Santee village; and

(ii) 412 acres on Nebroda Island of the Santee Sioux Tribe Indian Reservation used for the Gavins Point Dam and Reservoir.

SEC. 5. CONCLUSION.

This Act shall take effect on the date of its enactment.
Tribe, as such payments are requested that Indian tribe pursuant to tribal resolution.

(B) LIMITATION.—Payments may be made by the Secretary of the Interior under subparagraph (A) only after the Yankton Sioux Tribe has adopted a tribal plan under section 6.

(C) USE OF PAYMENTS BY YANKTON SIOUX TRIBE.—The Yankton Sioux Tribe shall use the payments made under subparagraph (A) only for carrying out projects and programs under the tribal plan prepared under section 6.

(D) PLEDGE OF FUTURE PAYMENTS.—

(i) IN GENERAL.—Subject to clause (ii), the Yankton Sioux Tribe may enter into an agreement under which Indian tribe pledges future payments under this paragraph as security for a loan or other financial transaction.

(ii) LIMITATIONS.—The Yankton Sioux Tribe—

(I) may enter into an agreement under clause (i) only in connection with the purchase, development, or disposal of capital assets; and

(II) may not pledge, for any year under an agreement referred to in clause (i), an amount greater than 40 percent of any payment under this paragraph for that year.

(e) TRANSFERS AND WITHDRAWALS.—Except as provided in subsections (c) and (d)(1), the Secretary of the Treasury may not transfer or withdraw any amount deposited under subsection (b).

SEC. 5. SANTEE SIOUX TRIBE OF NEBRASKA DEVELOPMENT TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the "Sanford Sioux Tribe of Nebraska Development Trust Fund" (referred to in this section as the "Fund"). The Fund shall consist of any amounts deposited in the Fund under this Act.

(b) FUNDING.—Out of any money in the Treasury not otherwise appropriated, the Secretary of the Treasury shall deposit $3,132,838 into the Fund not later than 60 days after the date of enactment of this Act.

(c) INVESTMENTS.—The Secretary of the Treasury shall invest the amounts deposited under subsection (b) in interest-bearing obligations guaranteed as to both principal and interest by the United States Treasury.

(d) PAYMENT OF INTEREST TO SANTEE SIOUX TRIBE.—Beginning at the end of the first fiscal year in which interest is deposited into the Fund, the Secretary of the Treasury shall pay interest resulting from such investments into the Fund.

(e) TRANSFERS AND WITHDRAWALS.—Except as provided in subsections (c) and (d)(1), the Secretary of the Treasury may not transfer or withdraw any amount deposited under subsection (b).

SEC. 6. TRIBAL PLANS.

(a) IN GENERAL.—Not later than 24 months after the date of enactment of this Act, the tribal council of each of the Yankton and Santee Sioux Tribes shall prepare a plan for the use of the payments to the tribe under subsection (b) referred to in this section as a "tribal plan".

(b) CONTENTS OF TRIBAL PLAN.—Each tribal plan shall provide for the manner in which the tribe shall expend payments to the tribe under subsection (d) to promote—

(I) economic development;

(2) infrastructure development;

(3) the educational, health, recreational, and social welfare objectives of the tribe and its members; or

(4) any combination of the activities described in paragraphs (1), (2), and (3).

(c) TRIBAL PLAN REVIEW AND REVISION.—

(I) IN GENERAL.—Each tribal council referred to in subsection (a) shall make available for review and comment by the members of the tribe a copy of the tribal plan for the Indian tribe before the tribal plan becomes final, in accordance with procedures established by the tribal council.

(2) UPDATING OF TRIBAL PLAN.—Each tribal council referred to in subsection (a) may, on an annual basis, revise the tribal plan prepared by that tribal council to update the tribal plan. In revising the tribal plan under this paragraph, the tribal council shall provide the members of the tribe opportunity to review and comment on any proposed revision to the tribal plan.

SEC. 7. ELIGIBILITY OF TRIBE FOR CERTAIN PROGRAMS AND SERVICES.

(a) IN GENERAL.—No payment made to the Yankton Sioux Tribe or Santee Sioux Tribe pursuant to this Act shall result in the reduction or denial of any service or program to which, pursuant to Federal law—

(I) the Yankton Sioux Tribe or Santee Sioux Tribe is otherwise entitled because of the status of the tribe as a federally recognized Indian tribe; or

(II) any individual who is a member of a tribe under paragraph (1) is entitled because of the status of the individual as a member of the tribe.

(b) EXEMPTIONS FROM TAXATION.—No payment made pursuant to this Act shall be subject to any Federal or State income tax.

(c) POWER RATES.—No payment made pursuant to this Act shall affect Pick-Sloan Missouri River Basin programs.

SEC. 8. STATUTORY CONSTRUCTION.

Nothing in this Act may be construed as diminishing or affecting any water right of an Indian tribe, except as specifically provided in another provision of this Act, any treaty right that is in effect on the date of enactment of this Act, any authority of the Secretary of the Interior or the head of any other Federal agency under a law in effect on the date of enactment of this Act, or any Indian treaty.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act, including such sums as are necessary for the administration of the Yankton Sioux Tribe Development Trust Fund under section 4 and the Santee Sioux Tribe of Nebraska Development Trust Fund under section 5.

Mr. KERREY. Mr. President, today, I join with my colleagues to introduce the Yankton Sioux Tribe and the Santee Sioux Tribe of Nebraska Development Trust Fund Act. This legislation will provide compensation to the Yankton and Santee Sioux Tribes for damages incurred by the development of the Pick-Sloan Missouri River Basin program.

As a result of the construction of Pick-Sloan development projects on tribally-held land adjacent to the Missouri river, Tribes were subjected to forced land takings, involuntary resettlement of families, and the loss of irreplaceable reservation resources.

The Santee Sioux Tribe of Nebraska lost approximately 600 acres of Indian land located near the Santee village and an additional 400 acres on the Nebraska Island of the Santee Sioux Tribe Indian Reservation.

Congress provided compensation to other Native American Tribes for losses caused by the Pick-Sloan projects. However, the Yankton and the Santee Sioux Tribes were not provided opportunities to receive compensation by Congress. Instead, they received only a reduced value of their property through condemnation proceedings in U.S. District Court. But these Tribes did not receive rehabilitation compensation. As a result, the Yankton and Santee Sioux Tribes are entitled to this additional compensation.

This legislation seeks to utilize revenues from the sale of hydropower generated by the Pick-Sloan dams to redevelop Indian tribe pursuant to tribal resolution. Congress has endorsed this approach on three separate occasions by enacting legislation which established compensation for several other Tribes adversely impacted by the Pick-Sloan projects.

We propose to establish trust funds for the Yankton and Santee Sioux Tribes from a portion of the revenues of hydropower sales made by the Western Areas Power Administration. More specifically, the Santee Sioux Tribe of Nebraska would receive a yearly payment of interest on the principal in the trust fund. Our legislation encourages the Santee Sioux Tribe to craft an economic development plan for use of the interest income. This
self-governance approach will enable the Santee Sioux Tribe to continue to address improving the quality of life of its tribal members.

This legislation values the importance of redressing tribal claims and self-governance for Nebraska Native American Tribes. It will enable the Santee Sioux Tribe of Nebraska to address past grievances and look forward to investing in its future.

By Mr. LAUTENBERG:

S. 1149. A bill to amend the Safe Drinking Water Act to increase consumer confidence in safe drinking water and source water assessments, and for other purposes; to the Committee on Environment and Public Works.

THE DRINKING WATER RIGHT-TO-KNOW ACT OF 1999

Mr. LAUTENBERG. Mr. President, I am introducing today the Drinking Water Right-To-Know Act of 1999. This legislation is designed to give the public the Right to Know about contaminants of their drinking water that are unregulated, but still may present a threat to their health.

Mr. President, when we passed the Safe Drinking Water Act Amendments of 1996, I praised the bill because I believed it would enhance both the quality of our drinking water and America's confidence in its safety. While the bill did not require that states perform every measure necessary to protect public health, it provided tremendous flexibility and discretion to allow the states to do so.

I was especially hopeful that in my state—the most densely-populated state in the country, a state with an unfortunate legacy of industrial pollution, and a state with a newspaper articles describing threats to drinking water seem to appear every few days—that our state agencies would exercise their discretion to be more protective of public health than the minimum required under our 1996 bill.

Mr. President, I am sad to say I have been disappointed. I am sad to say that in my state, and probably in some of my colleagues' as well, the state agencies have clung too closely to the bare minimum requirements. A good example of this is in the "Source Water Assessment Plan," proposed by the state of New Jersey last November, as required by the 1996 law.

Under the law, the state is required to perform Source Water Assessments to identify geographic areas that are sources of public drinking water, assess the water systems' susceptibility to contamination, and inform the public of the results. The state's Source Water Assessment Plan describes the program for carrying out the assessments.

An aggregative Source Water Assessment Program is essentially if a state is going to achieve the goals we had for the 1996 Safe Drinking Water Act. Source Water Assessment is the cornerstone of the program by which the public will be made aware of immediate and treatable, but prevent—contamination of our drinking water resources. Source Water Assessment also underpins what I believe will be the most far-reaching provisions of the law—those giving the public the Right to Know about potential threats to its drinking water.

Mr. Chairman, there are serious deficiencies in my state's proposed Source Water Assessment Plan. These are deficiencies that I fear may characterize other states' plans as well.

First, under the proposed plan, the state will not identify and evaluate the threat presented by contaminants unless they are among the 80 or so specifically regulated under the Safe Drinking Water Act. The proposed plan, the state might ignore even contaminants known to be leaching into drinking water from toxic waste sites. For example, the chemical being studied as a possible cause of childhood cancer at the former Love Canal, New York, would not be evaluated under the state's plan. Radium 224, recently discovered in drinking water across my state, might not be evaluated under the state's plan until specifically regulated. With gaps like that in our information, what do I tell the families when they want to know what is in their drinking water?

In addition, under its proposed plan, the state would not consult the public in identifying and evaluating threats to drinking water. This exclusion would almost certainly result in exclusion of the detailed information known to the watershed groups and other community groups which exist across New Jersey and across the country. Also the plan's public disclosure of the assessments are vague and imply that only summary data would be made available to the public. The public must have complete and easy access to assessments for the Right to Know component of the drinking water program to be effective.

The Drinking Water Right-To-Know Act of 1999 will address these deficiencies by amending the Safe Drinking Water Act to improve Source Water Assessments and Consumer Confidence Reports. First, under my bill, when the state performs Source Water Assessments, it will assess the threat posed, not just by regulated contaminants, but by certain unregulated contaminants believed by EPA and U.S. geological Survey to cause health problems, and contaminants known to be released from local pollution sites, such as Superfund sites, other waste sites, and factories. The bill will also require the state to identify potential contamination of groundwater, even outside the immediate area of the well, perform the assessments with full involvement of the public, and update the assessments every five years.

Second, the Drinking Water Right-To-Know Act of 1999 will make several important improvements to the "Consumer Confidence Reports" required under the 1996 law to notify the public of water contamination. The bill will require monitoring and public notification, not only of regulated contaminants, but of significant unregulated contaminants identified through the Source Water Assessments, and of sources of contamination. The bill will not require local water purveyors to monitor for every conceivable contaminant—only those identified by the state as posing a threat and having been released by a potentially significant source. In addition, the bill will require notification of new or sharply-increased contamination.

Mr. President, the public has the Right-to-Know about the full range of contaminants they might find in their tap water. The Drinking Water Right-To-Know Act of 1999 will guarantee that right. I urge my colleagues to co-sponsor this legislation.

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

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

S. 1149

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 "Drinking Water Right-To-Know Act of 1999".

SEC. 2. RADIUM 224 IN DRINKING WATER.

Section 1412(b)(13) of the Safe Drinking Water Act (42 U.S.C. 300g–1(b)(13)) is amended by adding at the end the following:

"(H) RADIUM 224 IN DRINKING WATER.—A national primary drinking water regulation for radionuclides promulgated under this paragraph shall require testing drinking water for the presence of radium 224 not later than 48 hours after taking a sample of the drinking water."

SEC. 3. CONSUMER CONFIDENCE REPORTS BY COMMUNITY WATER SYSTEMS.

Section 1414(c)(4) of the Safe Drinking Water Act (42 U.S.C. 300g–3(c)(4)) is amended—

(1) in subparagraph (A)—

(A) by striking "The Administrator" and inserting the following:

"(i) IN GENERAL.—The Administrator";

(B) in the first sentence—

(1) by striking "consumer of" and inserting "consumer of the drinking water provided by"; and
HEALTH EFFECTS.—The procedures under subsection (N) with potential to have adverse health effects (as compared to the level of contamination reported in any previous consumer confidence report) by an unregulated contaminant.

(2) IDENTIFICATION.—In this paragraph, the term "consumer" includes—

(i) a customer of a public water system;

(ii) the ultimate consumer of the drinking water.

SEC. 4. SOURCE WATER ASSESSMENTS.

(a) IN GENERAL.—Section 1453(a)(2) of the Safe Drinking Water Act (42 U.S.C. 300j–13(a)(2)) is amended—

(1) in subparagraph (A), by striking "customer of a public water system; and"

(2) in subparagraph (B), by striking the period at the end and inserting a semicolon;

(b) APPLICATION.—Section 1453(a)(2) of the Safe Drinking Water Act (42 U.S.C. 300j–13(a)) is amended by adding at the end the following:

"(i) a customer of a public water system; and"

(c) PLANS.—Section 1453(a) of the Safe Drinking Water Act (42 U.S.C. 300j–13(a)) is amended by adding at the end the following:

"(A) INITIAL PLAN.—Not later than 1 year after the date of enactment of this paragraph, the State shall submit to the Administrator the plan of the State for carrying out this subsection.

(B) UPDATES.—Not later than 5 years after the date of the initial submission of the plan under paragraph (A), the State shall update, and submit to the Administrator, the plan of the State for carrying out this subsection.

By Mr. HATCH (for himself, Mr. BAUCUS, MRS. FEINSTEIN, MR. KYL, MR. ROBB, and MR. BINGAMAN):

S. 1150. A bill to amend the Internal Revenue Code of 1986 to more accurately codify the depreciable life of semiconductor manufacturing equipment; to the Committee on Finance.

The SEMICONDUCTOR EQUIPMENT INVESTMENT ACT OF 1999

Mr. HATCH. Mr. President, I rise today to introduce the Semiconductor Investment Act of 1999. I am joined by Senators BAUCUS, FEINSTEIN, KYL, ROBB, and BINGAMIN. This bill is designed to help the American semiconductor industry compete globally by shortening the depreciable life of semiconductor manufacturing equipment from 5 years to 3.

The U.S. semiconductor industry employs more than 275,000 Americans, sells over $67 billion of products annually, and currently controls 55 percent of the $122 billion world market. Its products form the foundation of practically every electronic device used today. Growth in this industry translates directly into new employment opportunities for American workers and to economic growth for the nation as a whole.

The American semiconductor industry is a success story because it has invested heavily in the most productive, cutting-edge technology available, and currently spends 14% of its revenues on research and development and 19% on capital investment. Unfortunately, Mr. President, our semiconductor industry is threatened.

While the equipment used to manufacture semiconductors has a useful life of only about 3 years, current tax depreciation rules require that cost of the equipment be written off over a full 5 years. The Semiconductor Investment Act would correct this flaw, Mr. President, by allowing equipment used in the manufacture of semiconductors to be depreciated over a more appropriate 3-year period. Given the massive level of investment in the semiconductor industry, accurate depreciation is critical to industry success.

The key reason for this 3-year depreciation period is that the equipment used to make semiconductors grows...
technologically obsolete more quickly than other manufacturing equipment. Research indicates that semiconductor manufacturers write equipment almost completely loses its ability to produce sellable products after less than 3 years. Today’s 5-year period simply doesn’t reflect reality. A quicker write-off period would help semiconductor manufacturers finance the large investment in equipment they need for the next generation of products.

The National Advisory Committee on Semiconductors reinforced this conclusion. Congress founded the committee in 1986, and it consisted of Presidential appointees from both the public and private sectors. In 1992, the committee recommended a 3-year schedule would increase the industry’s annual capital investment rate by a full 11 percent.

By comparison, Japan, Taiwan, and Korea employ much more generous depreciation schedules for similar equipment, and all three nations provide stiff competition for America’s semiconductor manufacturers. For example, under Japanese law, a company can depreciate up to 98 percent of its semiconductor equipment cost in the first year, while United States law permits a mere 20-percent depreciation over the same period. When multinational semiconductor firms are deciding where to invest, a depreciation gap this large can be decisive.

This legislation will help ensure that America’s semiconductor industry retains its hard-earned preeminence, a preeminence that yields abundant opportunities for high-wage, high-skill employment. Mr. President, my home State of Utah, provides an outstanding example of the industry’s job-creating capacity. Thousands of Utahns earn their living in the State’s flourishing semiconductor industry. Firms such as Micron Technology, National Semiconductor, Intel, and Varian have reinforced Utah’s strong position in high-technology industries. With the fair tax treatment this bill brings, all Utahns can look forward to a more secure and prosperous future.

Mr. President, the Semiconductor Investment Act of 1999 will help level the playing field between U.S. and foreign semiconductor manufacturers, and provides fair tax treatment to an industry that is one of the Nation’s greatest success stories of recent years. I hope that my fellow Senators will join me in supporting this legislation. Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

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

SEC. 2. 3-YEAR DEPRECIABLE LIFE FOR SEMICONDUCTOR MANUFACTURING EQUIPMENT.

(a) In GENERAL.—Subparagraph (A) of section 168(e)(3) of the Internal Revenue Code of 1986 (relating to classification of property) is amended by striking “and” at the end of clause (ii), by striking the period at the end of clause (iii) and inserting “; and”, and by adding at the end the following new clause:—

“(iv) any semiconductor manufacturing equipment.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 168(e)(3) of such Code is amended—

(A) by striking clause (ii),

(B) by redesignating clauses (iii) through (vi) as clauses (ii) through (v), respectively, and

(C) by striking “clause (vi)(I)” in the last sentence and inserting “clause (v(i))”.

(2) Subparagraph (B) of section 168(g)(3) of such Code is amended by striking the items relating to subparagraphs (B)(ii) and subparagraphs (B)(vii) and inserting the following:

“A(v) .......................... 3

“B(i) .......................... 9.5.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to equipment placed in service after the date of enactment of this Act.

By Mr. THOMPSON (for himself, Mr. LIEBERMAN, Mr. WARNER, and Mr. LEVIN).

S. 1151. A bill to amend the Office of Federal Procurement Policy Act to streamline the application of cost accounting standards; to the Committee on Governmental Affairs.

COST ACCOUNTING STANDARDS AMENDMENTS OF 1999

Mr. THOMPSON Mr. President, I rise today to introduce a bill on behalf of myself as chairman of the Governmental Affairs Committee and Senator LIEBERMAN, the Committee’s ranking minority member, and Senators WARNER and LIEBERMAN, and ranking minority member of the Armed Services Committee. This legislation will benefit the procurement process in all agencies across the Federal government.

In recent years, Congress has enacted two major acquisition reform statutes—the Federal Acquisition Streamlining Act of 1994 (FASA) and the Clinger-Cohen Act of 1996. These statutes changed the trend in government contracting toward simplifying the government’s acquisition process and eliminating many government-unique requirements. The goal of these changes in the government’s purchasing processes has been to modify or eliminate unnecessary and burdensome legislative mandates, increase the use of commercial items to meet government needs, and give more discretion to contracting agencies in making their procurement decisions.

Since the early 1900’s, the Federal government has been in a race to develop certain unique accounting standards or criteria designed to protect it from the risk of overpaying for goods and services by directing the manner or degree to which Federal contractors apportion costs to their contracts with the government. The Cost Accounting Standards Board (CAS) sets forth 19 accounting principles developed and maintained by the Cost Accounting Standards (CAS) Board, a body created by Congress to develop uniform and consistent standards. The CAS standards require government contractors to account for their costs on a consistent basis and prohibit any shifting of overhead or other costs from commercial contracts to government contracts, or from fixed-priced contracts to cost-type contracts.

FASA and the Clinger-Cohen Act took significant steps to exempt commercial items from the applicability of the CAS standards. Nonetheless, executive agencies, particularly the Department of Defense, and others in the public and private sectors continue to identify the CAS standards as a continuing barrier to the integration of commercial items into the government marketplace. Advocates of relaxing the CAS standards argue that companies require companies to create unique accounting systems to do business with the government in cost-type contracts. They believe that the added cost of developing the required accounting systems has discouraged some commercial companies from doing business with the government and led others to set up separate assembly lines for government products, substantially increasing costs to the government.

This bill carefully balances the government’s need for greater access to commercial items, particularly those of nontraditional suppliers, with the need for a strong set of CAS standards to protect the taxpayers from overpaying for government contracts. The bill would modify the CAS standards to streamline their applicability, while maintaining the applicability of the standards to the vast majority of contract dollars that are currently covered. In particular, the bill would raise the threshold for coverage under the CAS standards from $25 million to $50 million; exempt contractors from coverage if they do not have a contract in excess of $5 million; and exclude coverage based on fixed price contracts awarded on the basis of Defense, and others in the public and private sectors continue to identify the CAS standards as a continuing barrier to the integration of commercial items into the government marketplace. Advocates of relaxing the CAS standards argue that companies require companies to create unique accounting systems to do business with the government in cost-type contracts. They believe that the added cost of developing the required accounting systems has discouraged some commercial companies from doing business with the government and led others to set up separate assembly lines for government products, substantially increasing costs to the government.

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and i.e., the agency determines that it would not be able to obtain the products or services in the absence of a waiver.

I ask unanimous consent that a copy 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. 1151
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 “Cost Accounting Standards Amendments of 1999”.

SEC. 2. STREAMLINED APPLICABILITY OF COST ACCOUNTING STANDARDS.

(a) APPLICABILITY.—Paragraph (2) of section 26(f) of the Office of Federal Procurement Policy Act (41 U.S.C. 422(f)(2)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D);

(2) by striking subparagraph (B) and inserting the following:

“(B) The cost accounting standards shall not apply to a contractor or subcontractor for a fiscal year (or other one-year period used for cost accounting by the contractor or subcontractor) if the total value of all of the contracts and subcontracts covered by the cost accounting standards that were entered into by the contractor or subcontractor, respectively, in the previous fiscal year (or other one-year cost accounting period) was less than $50,000,000.

“(C) Paragraph (A) does not apply to the following contracts or subcontracts for the purpose of determining whether the contractor or subcontractor is subject to the cost accounting standards:

(i) Contracts or subcontracts for the acquisition of commercial items.

(ii) Contracts or subcontracts where the price negotiated is based on prices set by law or regulation.

(iii) Firm, fixed-price contracts or subcontracts awarded on the basis of adequate price competition without submission of certified cost or pricing data.

(iv) Contracts or subcontracts with a value that is less than $5,000,000.

(b) this section is further amended by adding at the end the following:

“(5)(A) The head of an executive agency may waive the applicability of cost accounting standards for a contract or subcontract with a value less than $10,000,000 if that official determines in writing that—

(i) the contractor or subcontractor is primarily engaged in the sale of commercial items; and

(ii) the contractor or subcontractor would not otherwise be subject to the cost accounting standards.

(B) The head of an executive agency may also waive the applicability of cost accounting standards for a contract or subcontract under extraordinary circumstances when necessary to meet the needs of the agency. A determination to waive the applicability of cost accounting standards under this subparagraph shall be set forth in writing and shall include a statement of the circumstances justifying the waiver.

(C) An executive agency may not delegate the authority under subparagraph (A) or (B) to any official in the executive agency below the senior policymaking level in the executive agency.

(D) The Federal Acquisition Regulation shall include the following:

(i) Criteria for selecting an official to be delegated authority to grant waivers under subparagraph (A).

(ii) The specific circumstances under which such a waiver may be granted.

(E) The head of each executive agency shall report the waivers granted under subparagraphs (A) and (B) for that agency to the Board on an annual basis.

(F) CONSTRUCTION REGARDING CERTAIN NOT-FOR-PROFIT ENTITIES.—The amendments made by this section shall not be construed as modifying or superseding, nor as intended to impair or restrict, the applicability of the cost accounting standards to—

(1) any educational institution or federally funded research and development center that is associated with an educational institution in accordance with Office of Management and Budget Circular A-21, as in effect on January 1, 1999; or

(2) any contract with a nonprofit entity that provides research and development and related products or services to the Department of Defense.

SEC. 3. EFFECTIVE DATE.
This Act and the amendments made by this Act shall take effect 180 days after the date of enactment of this Act.

By Ms. SNOWE:
S. 1152. A bill to amend title 5, United States Code, to ensure that coverage of bone mass measurements is provided under the health benefits program for Federal employees; to the Committee on Governmental Affairs.

OSTEOPOROSIS FEDERAL EMPLOYEE HEALTH BENEFITS STANDARDIZATION ACT

Section 201: Mr. President, I rise today to reintroduce legislation that will standardize coverage for bone mass measurement for people at risk for osteoporosis under the Federal Employee Health Benefits Program. This legislation is similar to my bill which was enacted as part of the Balanced Budget Act to standardize coverage of bone mass measurement under Medicare. The bill I reintroduce today guarantees the same uniformity of coverage to Federal employees and retirees as Congress provided to Medicare beneficiaries two years ago.

Mr. President, osteoporosis is a major public health problem affecting 28 million Americans, who either have the disease or are at risk due to low bone mass; 80 percent of its victims are women. This devastating disease causes 1.5 million fractures annually at a cost of $13.8 billion; $35 million per year in direct medical expenses. In their lifetime, one in two women and one in eight men over the age of 50 will fracture a bone due to osteoporosis. Amazingly, a woman's risk of a hip fracture is equal to her combined risk of contracting breast, uterine, and ovarian cancer.

Osteoporosis is largely preventable and thousands of fractures could be avoided if low bone mass were detected early and treated. Though we now have drugs that promise to reduce fractures by 50 percent and new drugs have been proven to actually rebuild bone mass, a bone mass measurement is the only way to diagnose osteoporosis and determine one's risk for future fractures. And we have learned that there are some prominent risk facts: age, gender, family history of bone fractures, early menopause, risky health behaviors such as smoking and excessive alcohol consumption, and some medications all have been identified as contributing factors to bone loss. But identification of risk factors alone cannot predict how much bone a person has and how strong bone is—experts estimate that without bone density tests, up to 40 percent of women with low bone mass could be missed.

Unfortunately, coverage of bone density tests under the Federal Employee Health Benefit Program (FEHBP) is inconsistent. Instead of a comprehensive national coverage policy, FEHBP leaves it to each of the nearly 500 participating plans to decide who is eligible to receive a bone mass measurement and what constitutes medical necessity. Many plans have no specific rules to guide reimbursement and cover the tests on a case-by-case basis. Some plans refuse to provide coverage, even with information indicating when the plan covers the test and when it does not and some plans cover the test only for people who already have osteoporosis.

Mr. President, we owe the people who serve our Government more than that. We know that osteoporosis is highly preventable, but only if it is discovered in time. There is simply no substitute for early detection. My legislation standardizes coverage for bone mass measurement under the FEHBP and I urge my colleagues to support this legislation.

By Mr. HARKIN (for himself, Mr. DASCHLE, Mr. Baucus, Mr. Conrad, Mr. Wellstone, Mr. Johnson, Mr. Wyden, Mr. Reid, Mr. Kerry, Mr. Rockefeller, and Mrs. Murray):
S. 1153. A bill to establish the Office of Rural Advocacy in the Federal Communications Commission, and for other purposes; to the Committee on Commerce, Science, and Transportation.

RURAL TELECOMMUNICATIONS IMPROVEMENT ACT OF 1999

Mr. HARKIN. Mr. President, today I am introducing important legislation to assist rural America, the Rural Telecommunications Improvement Act of 1999. I am pleased to be joined in this effort by our distinguished Democratic leader, Senator DASCHLE, as well as Senators Dorgan, Baucus, Conrad, Wellstone, Johnson, Wyden, Reid, Kerry, Rockefeller, and Murray. I would like to thank each of them for joining me in this effort to promote the interests of rural America within the Federal Communications Commission (FCC).

Our legislation will establish an Office of Rural Advocacy within the FCC.
to promote access to advanced telecommunications in rural areas. The Rural Advocate will be responsible for focusing the Commission's attention on the importance of rural areas to the future of American prosperity, as well as on ensuring that Universal Service provisions mandated by the Communications Act and the Telecommunications Act are being met and implemented.

Our proposal is modeled on the Small Business Administration's Office of Advocacy, which has been very successful in promoting the interests of small business within the U.S. government.

Under our bill, the Office of Rural Advocacy will have 9 chief responsibilities:

To promote access to advanced telecommunications service for populations in the rural United States;

To develop proposals to better fulfill the commitment of the Federal Government to universal service and access to advanced telecommunications services in rural areas;

To assess the effectiveness of existing Federal programs for providers of telecommunications services in rural areas;

To measure the costs and other effects of Federal regulations on telecommunications services in rural areas;

To serve as a focal point for the receipt of complaints, criticisms and suggestions concerning policies and activities of any department or agency of the Federal Government which affect the receipt of telecommunications services in rural areas;

To counsel providers of telecommunications services in rural areas; and

To represent the views and interests of rural populations and providers of telecommunications services in rural areas; and

To enlist the cooperation and assistance of public and private agencies, businesses, and other organizations in providing information about the telecommunications programs and services of the Federal Government which benefit rural areas and telecommunications companies.

Mr. President, such an office within the FCC is needed for one very important reason, no bureau or Commissioner at the FCC has as an institutional role with the responsibility to promote the interests of rural telecommunications. The FCC has a great number of issues to consider due to the ever changing role of communications.

Our legislation will ensure the FCC has the resources necessary to focus the Commission's attention on rural issues and will help establish an agenda at the FCC to address rural America's telecommunications needs, something the Commission has not done in the recent past. For example, the FCC's report on Advanced Telecommunications Services stated "deployment of advanced telecommunications generally appears inadequate and timely." I can tell you Mr. President, this is not the case in Iowa where, according to the Iowa Utilities Board (IUB), approximately 8% of its exchanges have no access to the Internet. Additionally, access in many rural areas is of low speed and poor quality. This doesn't even include access to broadband, or high-speed Internet access, which is not available in numerous rural areas and small towns in Iowa and across the country.

Other examples of the FCC's lack of focus on rural issues include a failure to understand how rural telephone cooperatives interact with their members, such as preventing rural telephone cooperatives from calling members to check on long distance preference changes, and an FCC definition that establishes a 3000 hertz level of basic voice grade service, when such a low level prevents Internet access on longer loops in rural areas.

In order to effectively influence policy on rural telecommunications, this legislation gives the Rural Advocate the rank of a bureau chief within the FCC. The Rural Advocate will also have the authority to file comments or reports on any matter before the Federal Government affecting rural telecommunications without having to clear the testimony with the OMB or the FCC. Additionally, the Rural Advocate can file reports with the Administration, Congress and the FCC to recommend legislation or changes in policy. Finally, the Rural Advocate will be appointed directly by the President and confirmed by the Senate.

Mr. President, this legislation would allow rural America to enter the fast lane of the Information Superhighway. Again, thank you to my colleagues who have joined me in sponsoring this proposal. I urge all Senators to consider joining us in moving this initiative forward.

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

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

S. 1153

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 "Rural Telecommunications Improvement Act of 1999".

SEC. 2. ESTABLISHMENT OF OFFICE OF RURAL ADVOCACY IN THE FEDERAL COMMUNICATIONS COMMISSION.

(a) ESTABLISHMENT.—Title I of the Communications Act of 1934 (47 U.S.C. 151 et seq.) is amended by adding at the end the following:

"SEC. 12. OFFICE OF RURAL ADVOCACY.

(a) ESTABLISHMENT.—There shall be in the Commission an Office of Rural Advocacy. The Office shall not be a bureau of the Commission.

S. 11378

CONGRESSIONAL RECORD—SENATE May 27, 1999

"(b) HEAD OF OFFICE.—(1) The Office shall be headed by the Rural Advocate of the Federal Communications Commission. The Rural Advocate shall be appointed by the President, by and with the advice and consent of the Senate, from among citizens of the United States.

"(2) The Rural Advocate shall have a status and rank in the Commission commensurate with the status and rank in the Commission of the heads of the bureaus of the Commission.

"(c) RESPONSIBILITIES OF OFFICE.—The responsibilities of the Office shall include:

"(1) To promote access to advanced telecommunications service for populations in the rural United States;

"(2) To develop proposals for the modification of policies and activities of the departments and agencies of the Federal Government in order to better fulfill the commitment of the Federal Government to universal service and access to advanced telecommunications services in rural areas, and submit such proposals to the departments and agencies;

"(3) To assess the effectiveness of existing Federal programs for providers of telecommunications services in rural areas, and make recommendations for legislative and non-legislative actions to improve such programs;

"(4) To measure the costs and other effects of Federal regulations on the capability of telecommunications carriers in rural areas to provide adequate telecommunications services (including advanced telecommunications services and information services) in such areas, and make recommendations for legislative and non-legislative actions to modify such regulations so as to minimize the interference of such regulations with that capability;

"(5) To determine the effect of Federal tax laws on providers of telecommunications services in rural areas, and make recommendations for legislative and non-legislative actions to modify Federal tax laws so as to enhance the availability of telecommunications services in rural areas;

"(6) To serve as a focal point for the receipt of complaints, criticisms, and suggestions concerning policies and activities of any department or agency of the Federal Government which affect the receipt of telecommunications services in rural areas;

"(7) To counsel providers of telecommunications services in rural areas on the effective resolution of questions and problems in the relationships between such providers and the Federal Government;

"(8) To represent the views and interests of rural populations and providers of telecommunications services in rural areas before any department or agency of the Federal Government whose policies and activities affect the receipt of telecommunications services in rural areas;

"(9) To enlist the cooperation and assistance of public and private agencies, businesses, and other organizations in disseminating information about the telecommunications programs and services of the Federal Government which benefit rural areas and telecommunications companies.

"(A) IN GENERAL.—For purposes of carrying out the responsibilities of the Office under this section, the Rural Advocate may employ and fix the compensation of such personnel for the Office as the Rural Advocate considers appropriate.
By Mr. VOINOVICH (for himself, Mr. GRAHAM, Mr. BAYH, and Mr. COCHRAN): S. 1154. A bill to enable States to use Federal funds more effectively on behalf of young children, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

PRENATAL, INFANT AND CHILD DEVELOPMENT

Mr. VOINOVICH. Mr. President, I rise today to introduce legislation with several of my Senate colleagues that will address the physical, cognitive and social development of an overburdened segment of our nation’s population—children from prenatal to three years old.

Our bill, the “Prenatal, Infant and Child Development Act of 1999,” will give states the necessary tools to help parents and educate families expecting a child. Through the provision of early childhood learning experiences, our children cultivate the basic learning patterns and abilities that they will use throughout their lives. We need to do all that we can to create healthy, early childhood development systems across the country, and Senator GRAHAM and I believe that in the next ten years—most important years of a child’s life—prenatal to three—that the most beneficial influence can be provided by parents, grandparents and caregivers.

Every field of endeavor has peak moments of discovery, when past knowledge converges with new information, new insights and new technologies to produce startling opportunities for advancement. For the healthy development of young children—we are faced with one such moment. Today, thanks to decades of research on brain chemistry and sophisticated new technologies, neuroscientists have the data that tells us the experiences that fill a baby’s first days, months, and years have a decisive impact on the architecture of the future and the extent of one’s adult capabilities. It is the education, the love and the nurturing that our children receive during the years prenatal to three that will determine who they become 10, 20 and 30 years down the road.

Consequently, a tremendous opportunity exists to assist those individuals and families most at risk in the area of prenatal care through age three. We must work to create systems that support and educate families expecting a baby and those already with young children. We must present a message that is perfectly clear—education does not and cannot begin in kindergarten, or even in a quality preschool.

Mr. President, in 1997, I served as Chairman of the National Governors’ Association (NGA). My focus during my tenure as Chairman, was the National Education Goal One, that by the year 2000, all children in America will start school ready to learn. We developed goals, model indicators, and measures of performance of child and family well-being in order to impact school readiness. The results-oriented goals focused states on the improved conditions of young children based on their family’s health and safety, state and local governments look across a variety of delivery systems—health care, child care, family support, and education—to make sure these systems would work together effectively for young children and their families. Based on that effort between 1997 and 1998, 42 governors made early childhood development a keynote issue as they outlined their state agendas.

Improving education is really about the process of lifelong learning—which includes efforts based on what doctors and researchers have said about the importance of positive early childhood learning experiences. The traditional primary and secondary education community needs to recognize that investments in early childhood are their ultimate goal—that is, a classroom that can continue to move the learning process forward. To achieve that goal, a significant tenet of our education agenda must be to ensure that our children enter school ready to learn. Thus, we must support parents and caregivers, to help them understand that day-to-day interaction with young children helps children develop cognitively, socially and emotionally.

To ensure that children have the best possible start in life, supports must exist to help parents and other adults who care for young children. Supports that are critical for young children from prenatal through age three include health care, nutrition programs, childcare, early development services, adoption assistance, education programs, and other support services.

There are three ways we can enhance these supports and create new ones. The first is to build on existing programs as they are already underway in the states and the local communities by protecting and increasing federal commitments to worthwhile programs such as WIC (Women, Infants, and Children), CCDBG (Child Care and Development Block Grant), and S-CHIP (State Children’s Health Insurance Program).

The second is to improve coordination among federal agencies in the administration of early childhood programs. As Chairman of the Senate Governmental Oversight and Restructuring, and the District of Columbia. I am taking steps to ensure, for example, that the Department of Education and the Department of Health and Human Services communicate with each other about the early childhood programs for which they are responsible in order to determine which are duplicative and which are most successful.

The Results Act contemplates that agencies should be using their Performance Plans to demonstrate how daily activities, including coordination, contribute to the achievement of strategic
Our bill would also allow the Temporary Assistance for Needy Families (TANF) program to serve young children in a more effective manner by allowing states the ability to transfer up to 10 percent of a state's TANF grant to the Social Services Block Grant (SSBG). Originally, the 1996 welfare reform block grants (Title XX of the Social Security Act) are a flexible source of funds that states may use to support a wide variety of social services for children and families, including child day care, protective services for children, foster care, and home-based services.

The third way to improve support services is to encourage states to make prenatal care and ways that tight spending restraints limit available resources. Consequently, it is a modest, incremental bill that encourages collaboration and integration among existing programs and services and provides additional flexibility to states and local governments if they implement programs to provide coordinated services dedicated to meeting the needs of young children.

Most child advocacy groups rank collaboration on the level as fundamental and essential to successful programs for healthy childhood development. Under the bill, funds will be provided through the CCDBG program and will reward states that initiate such collaboration in creating state and local councils. It will also encourage states with existing collaboratives to help expand their focus to social, emotional and cognitive development so that children have the best possible start in life. Funds could be used for a variety of coordinated services, such as child care, child development, pediatric literacy, parent education, home visits, or health services. States will lay out plans that identify ways to further promote the importance of early childhood care and education. Plans should also identify existing supports available to families and children and state and local councils can work with already established early development programs.

In addition, the bill focuses on three particular areas to increase public awareness and enhance training opportunities for parents and other adults caring for young children.

The first would provide funding to expand a satellite television network nationally. In order to help parents and caregivers perform the job of heating an environment where kids can learn, the legislation provides funds to support satellite television network services directly connected to child care centers, preschools, colleges, Early Head Start sites and the Internet. These services include high quality training, online job aids, and medical information dedicated to the specific needs of the Head Start staff and others in the early childhood field. In my state of Ohio, we already have networks in place at 1,500 sites.

The second would provide financial incentive for child-care workers to pursue credentialing or accreditation in early childhood education. Although many states do not have formal credentialing standards, there are several national organizations with accreditation curricula. The legislation would encourage caregivers to pursue skills-based training (including via satellite or on the Internet) that leads to credentialing or accreditation by the state or national organization. Whatever qualified incentive program is initiated, employers would be required to match each dollar of the Federal contribution.

The third would reauthorize and expand the multimedia parenting resources through video, print and interactive resources in the PBS ‘‘Ready to Learn’’ initiative. These resources include:

- Expanded Internet offerings that enable parents to reinforce PBS ‘‘Ready to Learn’’ curriculum at home. ‘‘Ready to Learn’’ curriculum is also accessible from the web for parents to utilize in reinforcing their child’s appreciation of public television programs prior to and after program viewing.
- Expanded national programming, such as Mr. Rogers and Sesame Street. Formalized and expanded ‘‘Ready to Learn Teachers’’ training and certificatory programs using ‘‘The Whole Child’’ video coursework, collateral materials and the development of new video and print coursework.
- Expanded caregiver/parent training which would include workshops, distribution of materials, and broadcasting of educational video vignettes regarding developmentally appropriate activities for young children.

Deployment of a 24-hour channel of Ready to Learn-based children’s programming and parenting training through digital technology.

Our bill is how the Temporary Assistance for Needy Families (TANF) program to serve young children in a more effective manner by allowing states the ability to transfer up to 10 percent of a state’s TANF grant to the Social Services Block Grant (SSBG). Originally, the 1996 welfare reform block grants (Title XX of the Social Security Act) are a flexible source of funds that states may use to support a wide variety of social services for children and families, including child day care, protective services for children, foster care, and home-based services.

The bill would also allow an additional 15 percent transfer of TANF money to the Child Care and Development Block Grant (CCDBG). In order to help parents and professionals in the early childhood field. The goal is to blend the latest in satellite technology with sound ‘‘prenatal to three’’ information and training principles, potentially reaching more than 140,000 caregivers and parents each month.

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Deployment of a 24-hour channel of Ready to Learn-based children’s programming and parenting training through digital technology.
to mothers and children, particularly those with low income or limited access to health services. Its goals are to reduce infant mortality, prevent disease and handicapping conditions among children and increase the availability of prenatal, delivery and postpartum care to mothers.

States are required to use 30 percent of their block grant for preventive and primary care services for children, 40 percent for services to children with special health care needs, and 40 percent at the states’ discretion for either of these groups or for other appropriate maternal and child health activities. Using this existing funding, this legislation encourages states to design programs to address the social and emotional development needs of children under the age of five. It encourages states to provide coordinated early development services, parent education, and strategies to meet the needs of state and local populations. It does not mandate any specific model, nor does it require that states set-aside a specific amount of money from this block grant. Rather, it is intended to give states flexibility in finding money to devote more resources to existing or new healthy early childhood development systems.

Mr. President, the pace at which children grow and learn during the first three years of life makes that period the most critical in their overall development. Children who lack proper nutrition, health care and nurturing during their early years tend to also lack adequate social, motor and language skills needed to perform well in school. I believe that all children, parents, and caregivers should have access to coordinated information and support services appropriate for healthy early childhood development in the first three years of life. The changing structure of the family requires that States streamline and coordinate healthy early childhood development systems of care to meet the needs of parents and children in the 21st century.

The Federal Government’s role in the development of these systems of care is minimal; it must give states the flexibility to implement programs that respond to local needs and conditions.

TITLE I—FUNDS PROVIDED UNDER THE TEMPORARY ASSISTANCE TO NEEDY FAMILIES PROGRAM

SEC. 101. AUTHORITY TO TRANSFER FUNDS FOR OTHER PURPOSES.

(a) Transfer of Funds for Block Grants for State and Local Services.—

(1) Elimination of Reduction in Amount Transferable for Fiscal Year 2001 and Thereafter.—Section 404(d)(2) of the Social Security Act (42 U.S.C. 604(d)(2)) is amended to read as follows:

“(2) LIMITATION ON AMOUNT TRANSFERABLE TO TITLE XX PROGRAMS.—A State may use not more than 10 percent of the amount of any grant made to the State under section 403(a) for a fiscal year to carry out State programs pursuant to title XX.”

(2) Effective Date.—The amendment made by paragraph (1) takes effect on October 1, 1999.

(b) Transfer of Funds for Early Childhood Collaborative Efforts Under the CCDBG.—

(1) In General.—Section 404(d) of the Social Security Act (42 U.S.C. 604(d)) is amended—

(A) in paragraph (1), by striking “paragraphs (2) and (3)”; and

(B) by redesignating paragraph (3) as paragraph (4); and

(C) by inserting after paragraph (2), the following:

“(3) ADDITIONAL AMOUNTS TRANSFERABLE TO EARLY CHILDHOOD COLLABORATIVE COUNCILS.—The percentage described in paragraph (1) may be increased by up to 10 percentage points if the additional funds resulting from that increase are provided to local early childhood development coordinating councils described in section 659H of the Child Care and Development Block Grant Act of 1990 to carry out activities described in section 658J of that Act.”

(2) Effective Date.—The amendments made by paragraph (1) take effect on October 1, 1999.

(c) Transfer of Funds To Enhance Child Care Quality Under the CCDBG.—

(1) In General.—Section 404(d) of the Social Security Act (42 U.S.C. 604(d)), as amended by subsection (b), is amended—

(A) in paragraph (1), by striking “and (3)” and inserting “(3)”; and

(B) by redesignating paragraph (4) as paragraph (5); and

(C) by inserting after paragraph (3), the following:

“(4) ADDITIONAL AMOUNTS TRANSFERABLE FOR THE ENHANCEMENT OF CHILD CARE QUALITY.—The percentage described in paragraph (1) determined without regard to any increase in that percentage as a result of the application of paragraph (3) may be increased by up to 5 percentage points if the additional funds resulting from that increase are used to enhance the child care quality under a State program pursuant to the Child Care and Development Block Grant Act of 1990.”

(2) Effective Date.—The amendments made by paragraph (1) take effect on October 1, 1999.

SEC. 102. BONUS TO REWARD HIGH PERFORMANCE STATES

(a) Additional Measures of State Performance.—Section 403(a)(4)(C) of the Social Security Act (42 U.S.C. 603(a)(4)(C)) is amended—

(1) by striking “Not later” and inserting the following:
(1) In general. — Not later:
(2) by inserting in the framework formula shall provide for the awarding of grants under this paragraph based on core national and State-selected measures in accordance with clauses (ii) and (iii).” after the period; and
(3) by striking at the end the following:
“(ii) core national measures. — The majority of grants awarded under this paragraph shall be based on employment-related measures of national and State selected measures that are related to the status of families and children. States may choose to compete from among such measures according to the policy priorities of the State and the ability of the State to provide data. Such State-selected measures may include—
"(1) successful diversion of applicants from a need for cash assistance under the State program under this title;"
"(2) school attendance records of children in families receiving assistance under the State program under this title;"
"(3) the degree of participation in the State in the Head Start program established under the Head Start Act (42 U.S.C. 9831 et seq.) or public preschool programs;"
"(4) the degree of participation in the program funded by this section take effect on October 1, 1999.
"(b) EFFECTIVE DATE. — The amendments made by this section apply to each of fiscal years 2000 through 2003.

TITLE II—EXPANSION OF THE MATERNAL AND CHILD HEALTH SERVICES BLOCK GRANT

SEC. 201. AUTHORITY TO PROVIDE STATE GRANTS FOR THE DEVELOPMENT OF CHILDREN UNDER AGE 5.

(a) In General. — Section 501(a)(1) of the Social Security Act (42 U.S.C. 701(a)(1)) is amended—
(1) by redesigning subparagraphs (B), (C), and (D) as subparagraphs (C), (D), and (E), respectively; and
(2) by inserting after subparagraph (A), the following:
"(B) to design programs to address the physical, cognitive, and social developmental needs of infants and children under age 5 by providing early child development services, parent education, and other tailored strategies to meet the needs of State and local populations;”.

(b) CONFORMING AMENDMENTS. — Paragraphs (1)(C) and (3)(B) of section 501(a) of the Social Security Act (42 U.S.C. 701(a)) are each amended by striking "501(a)(1)(D)" and inserting "501(a)(1)(E)".

(c) EFFECTIVE DATE. — The amendments made by this section take effect on October 1, 1999.

TITLE III—SATELLITE TRAINING

SEC. 301. SHORT TITLE. — This title may be cited as the “Digital Education Act of 1999.”


Part C of title III of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 672 et seq.) is revised to reflect such:

“PART C—READY-TO-LEARN DIGITAL TELEVISION

SEC. 3301. FINDINGS.

Congress makes the following findings:
"(1) In 1994, the Department collaborated to make a long-term, meaningful and public investment in the principle that high-quality preschool television programming will help children be ready to learn by the time the children entered first grade.
"(2) The Ready to Learn Television Program through the Public Broadcasting Service (PBS) and local public television stations has proven to be an extremely cost-effective national strategy to support early childhood development and helping parents, caregivers, and professional child care providers learn how to use television as a means to help children learn, develop, and play creatively.
"(3) Independent research shows that parents who participate in Ready to Learn workshops read more books and watch television and their children are more active viewers. A University of Alabama study showed that parents who attended a Ready to Learn Workshop increased their awareness of television and their children are more active viewers.
"(4) The Ready to Learn Television Program is ready for nation.
"(5) Through the Nation’s 350 local public television stations in English and in Spanish (PBS para la familia).
"(6) Because reading and literacy are central to the ready to learn principle, Ready to Learn Television stations also have received and distributed millions of free age-appropriate books in their communities as part of the Ready to Learn Television Program.
"(7) A University of Alabama study showed that parents who attended a Ready to Learn workshop read more books and watch television and their children are more active viewers.
"(8) Because reading and literacy are central to the ready to learn principle, Ready to Learn Television stations also have received and distributed millions of free age-appropriate books.
"(9) In 1998, the Public Broadcasting Service, in association with local colleges and local public television stations, developed a digital television programming pilot to receive a minimum of 200 books each month for free local distribution. Some stations are now distributing more than 1,000 books per month. Nationwide, more than 300,000 books are distributed each year in low-income and disadvantaged neighborhoods free of charge.
"(10) Demand for Ready To Learn Television Program outreach and training has increased dramatically, with the base of participants doubling since the Public Broadcasting Project housed at the Corporation for Public Broadcasting, began a pilot program to test the formal awarding of a Certificate of Early Childhood in digital television programming and is instrumental in having their children gain exposure to more educational programming. Moreover, 6 months after attending a Ready to Learn workshop, parents who attended generally had set rules for television viewing by their children. These rules related to the amount of time the children were allowed to watch television daily, the hours the children were allowed to watch television, and the tasks or chores the children must have accomplished before the children were allowed to watch television.
"(11) Federal policy played a crucial role in the evolution of analog television by funding the television program entitled ‘Sesame Street’ in the 1960’s. Federal policy should continue to play an equal role for children in the digital television age.
The Secretary is authorized—

(1) to award grants to, contracts, or cooperative agreements under section 3302 to eligible entities; and

(2) to establish within the Department a national clearinghouse to compile and provide information, referrals, and model program materials and programming obtained or developed under this part to parents, child care providers, and other appropriate individuals or entities to assist such individuals and entities in accessing programs and projects under this part; and

(3) to coordinate activities assisted under this section with the Department of Education, the Food and Nutrition Service of the Department of Agriculture, the Department of Health and Human Services, the Environmental Protection Agency, the Department of Housing and Urban Development, the Federal Communications Commission, and other Federal agencies.

SEC. 3304. DUTIES OF SECRETARY.

(1) The Secretary shall award grants, contracts, or cooperative agreements under section 3302 to eligible entities that—

(A) are educational programming for preschool and elementary school children, and make such programming widely available to federally funded programs serving such populations; and

(B) provide information to recipients of funds under Federal programs that have major training components for early childhood development, including programs under title III of the Elementary and Secondary Education Act, such as Head Start and Early Start, and State training activities funded under the Child Care Development Block Grant Act of 1990, regarding the availability and utilization of materials developed under this section.

(2) The Secretary shall, with the Transportation, Communications, and Information Technology subcommittee of the Senate Appropriations Committee, develop and distribute educational and instructional television programming and other educational materials through the Satellite Television Network that are designed to enhance knowledge of children's social and cognitive skill development and positive adult-child interactions; and

(3) provide information to recipients of funds under Federal programs that have major training components for early childhood development, including programs under title III of the Elementary and Secondary Education Act, such as Head Start and Early Start, and State training activities funded under the Child Care Development Block Grant Act of 1990, regarding the availability and utilization of materials developed under this section.

SEC. 3304A. NETWORK.

There are authorized to be appropriated—

(1) $200,000,000 for fiscal year 2000; and

(2) such sums as may be necessary for each of the 4 succeeding fiscal years.

SEC. 3306. REPORTS AND EVALUATION.

(1) The Secretary shall submit to the Congress an annual report which contains such information as the Secretary may require.

(a) An initial report shall be submitted not later than 1 year after section 3302 takes effect.

(b) Each report shall describe the program activities undertaken with funds received under section 3302, including—

(1) the programming that has been developed directly or indirectly by the eligible entity, and the target population of the programs developed;
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SEC. 659D. STATE COUNCIL.—The Governor of a State seeking an allotment under section 659C may, at the election of the Governor—

"(1) establish and appoint the members of a State early childhood development coordinating council, as described in subsection (b); or

"(2) designate an entity to serve as such a council, as described in subsection (c).

"(b) APPOINTED STATE COUNCIL.—The Governor may establish and appoint the members of a State council that—

"(1) may include—

"(A) the State superintendent of schools, or the designee of the superintendent;

"(B) the chief State budget officer or the designee of the officer;

"(C) the head of the State health department or the designee of the head;

"(D) the heads of the State agencies with primary responsibility for child welfare, child care, and the medicaid program carried out under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), or the designees of the heads;

"(E) the heads of other State agencies with primary responsibility for services for young children or pregnant women, which may be agencies with primary responsibility for alcohol and drug addiction services, mental health services, mental retardation services, food assistance services, and juvenile justice services, or the designees of the heads;

"(F) a representative of parents or consumers;

"(G) representatives of early childhood development agencies; and

"(H) the Governor; and

"(2) may, in the discretion of the Governor, include other members, including representatives of providers.

"(c) DESIGNATED STATE COUNCIL.—The Governor may designate an entity to serve as the State council if the entity—

"(1) includes members that are substantially similar to the members described in subsection (b); and

"(2) provides integrated and coordinated early childhood development services.

"(d) CHAIRPERSON.—The Governor shall serve as the chairperson of the State council.

"(e) QUORUM.—In State with a State council, the State council—

"(1) shall submit the State plan described in section 659E;

"(2) shall make the allocation described in section 659F(b);

"(3) may carry out activities described in section 659F(c); and

"(4) shall prepare and submit the report described in section 659F(e).

SEC. 659E. STATE PLAN.

"(a) IN GENERAL.—To be eligible to receive an allotment under section 659C, a State shall submit a State plan to the Secretary at such time, and in such manner, as the Secretary may require, including—

"(1) in the case of a State in which the Governor elects to establish or designate a State council, sufficient information about the entity established or designated under section 659D to enable the Secretary to determine whether the entity complies with the requirements of such section;

"(2) a description of the political subdivisions designated by the State to receive funds under section 659F and how political subdivisions in the State will carry out activities described in section 659J; and
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“(B) State goals for the activities described in this subpart.

“(4) such information as the Secretary shall require in order to monitor and source of State and local public funds, and donations, expended in the State to provide the services described in this subpart.

“(B) assignment that the State shall annually submit the report described in section 659F(e).

“(b) SUBMISSION.—At the election of the State, the State shall submit a plan for the allocation of funds under section 658E. With respect to that State, references to a State plan—

“(1) in this part shall be considered to refer to the portions of the plan described in this section; and

“(2) in part I shall be considered to refer to the portions of the plan described in section 658E.

“(c) CERTIFICATION.—The Secretary shall certify any State plan that meets the broad goals of this part.

**SEC. 659F. STATE ACTIVITIES.**

“(a) In GENERAL.—A State that receives an allotment under section 659C shall use the funds made available through the allotment to support systems of care that—

“(1) making allocations to political subdivisions under section 659G; and

“(2) carrying out State activities described in subsection (c).

“(b) MANDATORY RESERVATION FOR LOCAL ALLOCATIONS.—The State shall reserve 85 percent of the funds made available through the allotment to make allocations to political subdivisions under section 659G.

“(c) STATE ACTIVITIES.—The State may use the remainder of the funds made available through the allotment to support healthy early childhood development systems of care by—

“(1) entering into interagency agreements with appropriate entities to encourage coordinated efforts at the State and local levels to develop system for early childhood development services;

“(2) advising local councils on the coordination of delivery of early childhood development services for children;

“(3) developing programs and projects, including pilot projects, to encourage coordinated efforts at the State and local levels to improve the State delivery system for early childhood development services;

“(4) providing technical support for local councils and development of educational materials;

“(5) providing education and training for child care providers; and

“(6) supporting research and development of best practices for healthy early childhood development systems of care, establishing standards for such systems, and carrying out program evaluations for such systems.

“(d) ADMINISTRATION.—A State that receives an allotment under section 659C may use not more than 5 percent of the funds made available through the allotment to pay for the cost of administering the activities carried out under this part.

“(e) REPORT.—The State shall annually prepare and submit to the Secretary a report on the activities carried out under this part in the State, which shall include details of the use of Federal funds to carry out the activities and the extent to which the States and political subdivisions are making progress on State or local goals in carrying out the activities. In preparing the report, a State may require political subdivisions in the State to submit information to the State, and may compile the information.

**SEC. 659G. ALLOCATION TO POLITICAL SUBDIVISIONS.**

From the funds reserved by a State under section 659F(b) for a fiscal year, the State shall allot to each eligible political subdivision in the State the sum of—

“(1) an amount that bears the same ratio to 50 percent of such funds as the number of children in the political subdivision bears to the number of such children in all eligible political subdivisions in the State; and

“(2) an amount that bears the same ratio to 50 percent of such funds as the number of children in poverty in the political subdivision bears to the number of such children in all eligible political subdivisions in the State.

**SEC. 659H. LOCAL COUNCILS.**

“(a) In GENERAL.—The chief executive officer of a political subdivision that is located in a State with a State council and that seeks an allocation under section 659G may, at the election of the officer—

“(1) establish and appoint the members of a local early childhood development coordinating council, as described in subsection (b); or

“(2) designate an entity to serve as such a council, as described in subsection (c).

“(b) APPOINTED LOCAL COUNCIL.—(B) The officer may establish and appoint the members of a local council that may include—

“(1) representatives of any public or private agency that funds, advocates the provision of, or provides services to children and families;

“(2) representatives of schools;

“(3) members of families that have received services from an agency represented on the council;

“(4) representatives of courts; and

“(5) private providers of social services for families and children.

“(c) DESIGNATED LOCAL COUNCIL.—The officer may designate an entity to serve as the local council if the entity—

“(1) includes members that are substantially similar to the members described in subsection (b); and

“(2) provides training and coordinated early childhood development services.

“(d) DUTIES.—In a political subdivision with a local council, the local council—

“(1) shall submit the local plan described in section 659I;

“(2) shall carry out activities described in section 659J(a);

“(3) shall make carry out activities described in section 659J(b); and

“(4) shall submit such information as a State council may require under section 659F(e).

**SEC. 659I. LOCAL PLAN.**

“To be eligible to receive an allocation under section 659G, a political subdivision shall submit a local plan to the State at such time, in such manner, and containing such information as the State may require.

**SEC. 659J. LOCAL ACTIVITIES.**

“(a) In GENERAL.—Political subdivisions that receive an allocation under section 659G shall use the funds made available through the allocation to—

“(1) to provide assistance to entities carrying out early childhood development services through a healthy early childhood development system of care, in order to meet assessed needs for the services, expand the number of children receiving the services, and improve the quality of the services, both for young children who remain in the home and young children that require services in child care services offered in child care settings; and

“(2)(A) to establish and maintain an accountability system to monitor the progress of the political subdivision in achieving results for families and children through services provided through the healthy early childhood development system of care for the political subdivision; and

“(B) to establish and maintain a mechanism to ensure ongoing input from a broad range of stakeholders for children receiving services through the healthy early childhood development system of care for the political subdivision.

“(b) PERMISSIBLE ACTIVITIES.—A political subdivision that receives an allocation under section 659G may use the funds made available through the allocation—

“(1) to improve the healthy early childhood development system of care by enhancing efforts and building new opportunities for—

“(A) innovation in early childhood development services; and

“(B) formation of partnerships with businesses, associations, churches or other religious institutions, and philanthropic organizations to provide early childhood development services on behalf of young children; and

“(2) to develop and implement a process that annually evaluates and prioritizes services provided through the healthy early childhood development system of care, fills service gaps in that system where possible, and invests in new approaches to achieve better results for families and children through that system.

“(c) CONFORMING AMENDMENTS.—Part I of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.) is amended—

“(1) in section 658A(a) (42 U.S.C. 9801 note), by striking “This subchapter” and inserting “This part”;

“(2) except as provided in the last sentence of section 658B(c)(2)(F) (42 U.S.C. 9858(c)(2)(F)) and in section 658N(a)(3)(C) (42 U.S.C. 9858(a)(3)(C)) by striking “subchapter” and inserting “subsection”;

“(3) in section 658N(a)(3)(C) by striking “under this subchapter” and inserting “under this part.”

**TITLE V—CREDENTIALING AND ACCREDITATION**

**SEC. 501. DEFINITIONS.**

In this title:

(1) ACCREDITED CHILD CARE FACILITY.—The term “accredited child care facility” means—

“(A) a facility that is accredited, by a child care credentialing or accreditation entity recognized by a State or national organization described in paragraph (2)(A), to provide child care (except children who a tribal organization elects to serve through a facility described in subpart); and

“(B) a facility that is accredited, by a child care credentialing or accreditation entity recognized by a tribal organization, to provide child care for children served by the tribal organization.

“(C) a facility that is used as a Head Start center under the Head Start Act (42 U.S.C. 9801 et seq.) and is in compliance with applicable performance standards established by regulation under such Act for Head Start programs; or

“(D) a militia early childhood development center (as defined in section 1798(1) of title 10, United States Code) that is in a facility owned or
(2) Child care credentialing or accreditation entity [ ... ]

(3) CREDENTIALED CHILD CARE PROFESSIONAL.—The term ‘‘credentialed child care professional’’ means—

(a) an individual who—

(i) is credentialed, by a child care credentialing or accreditation entity recognized by a State or a national organization described in paragraph (2)(A), to provide child care (except children who a tribal organization determines are underserved) (as defined in section 658P(c)(2)(E)(i) of the Child Care and Development Block Grant Act (42 U.S.C. 9808m(m))) in military family housing appropriate, for the facility or individual; and

(ii) successfully completes a 4-year or graduate degree in a relevant academic field (such as early childhood education, education, or recreation services);

(b) an individual who is credentialed, by a child care accreditation or credentialing entity recognized by a State or a national organization described in paragraph (2)(A), to provide child care as a family child care provider (as described in subsection (a), in an amount that bears the same ratio to such funds as the number of children in poverty under age 5 in the State bears to the number of such children in all States.

SEC. 506. ADMINISTRATION.

A State that receives an allotment under section 503 may use not more than 5 percent of the funds made available through the allotment to pay for the costs of administering the program described in section 505.

SEC. 507. CREDENTIALING, ACCREDITATION, AND RETENTION OF QUALIFIED CHILD CARE WORKERS.

Section 658Q of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 986e) is amended—

(1) by inserting ‘‘and payments to encourage child care providers who serve children under age 5 to obtain credentialing as credentialed child care providers or accredit- ...'' in subsection (a), in an amount that is not less than $1 for every $1 of Federal funds provided through the payment.

(2) by adding at the end the following:— ‘‘In this section, the terms ‘credentialed child care provider’ and ‘accredited child care facility’ have the meanings given the terms in section 501 of the Prenatal, Infant, and Child Development Act of 1999.’’.

Mr. BAYH. Mr. President, today I arise as an original co-sponsor of the Prenatal Child and Infant Development Act, a bipartisan bill to provide states with the flexibility they need to address the needs of children during their formative years.

Children are born into this world with all the potential they need to make their dreams come true. The ages 0 to 3 are the most critical for a child’s development both mentally and socially. They have all the 100 billion brain cells they will need as adults. By age three, children have nearly all the necessary connections between the underdeveloped brain cells needed for the brain to function fully and properly. It is up to us, families, teachers, childcare providers, and communities to help our children live up to their potential. It is important that our children are ready when we allow them the opportun-...
from Temporary Assistance for Needy Families funds to the Child Care Development Block Grant for child care services. Initial state implementation initiatives after the State was able to provide services for 65,185 children, there still remains a need to help at least an additional 267,500 children. There is a need in my State to have the flexibility to transfer and utilize funds that otherwise are not being spent so these children can be served.

One of the programs this new flexibility will allow to expand in Indiana is the Building Bright Beginnings Coalition. This coalition is focused on assisting children that are prenatal to four years old. They have reached over 150,000 parents of newborns through their publication “A Parent’s Guide to Raising Healthy Babies.” The coalition implemented the “See and Demand Quality Child Care” campaign consisting of public service announcements, billboards, pamphlets, and a toll-free telephone line for parent information in cooperation with local resources and referral agencies. It also makes loans available to child care providers who are considered non-traditional borrowers, and it has formed an institute that creates a public/private partnership with higher education as well as the health, education, and early childhood communities. In the short time this program has been in place, it has helped over 100,000 parents of newborns be better informed, over 10,000 new public/private partnerships have been formed, and it has directly impacted the lives of over 15,000 children. We need more programs like this and in order for them to exist States need more flexibility with their funding streams.

These quality initiatives are administered by Indiana’s Step Ahead Councils. Step Ahead Councils are the types of councils this bill hopes to promote. Indiana has had a council in each of its 92 counties since 1991. These councils allow for locally based solutions and initiatives to locally based challenges with child care, parent information, early intervention, child nutrition and health screening. Local responses to local problems can create better solutions. This bill encourages such local involvement.

In addition, there are several other important goals this bill helps to accomplish. It will allow more programs to address the needs of prenatal to three year olds, it will increase satellite training for Head Start and other childhood program staff, it will increase direct child care and health services, and will encourage States to implement training programs for childcare providers.

As a Senator and a father of two 3½ year old boys, I am proud to support this bill and publically voice the need to invest in all children. There is no better way to utilize a dollar than to invest it in our future. Thank you Senator VOINOVICH and Senator GRAHAM for initiating this legislation, I urge my colleagues who have the time, to rise and support this bill and the message behind it.●

By Mr. BOND (for himself and Mr. KERRY): S. 1156. A bill to amend provisions of law enacted by the Small Business Regulatory Enforcement Fairness Act of 1996 to ensure full analysis of potential impacts on small entities of rules proposed by certain agencies and for other purposes; to the Committee on Small Business.

SMALL BUSINESS ADVOCACY REVIEW PANEL TECHNICAL AMENDMENTS ACT OF 1999

Mr. BOND. Mr. President, I rise to support S. 1156, the Small Business Advocacy Review Panel Technical Amendments Act of 1999. I am pleased to be joined by Senator KERRY, the Ranking Member on the Small Business Committee, which I chair. Our bill is simple and straightforward. It clarifies the responsibilities of each business agency in implementing the Small Business Regulatory Enforcement Fairness Act of 1996. In 1996, this body led the way toward enactment of this important law. With a unanimous vote, we took a major step to ensure that small businesses are treated fairly by federal agencies.

Like the Regulatory Flexibility Act, which it amended, the Red Tape Reduction Act is a remedial statute, designed to redress the fact that uniform federal regulations impose disproportionate impacts on small entities, including small business, small not-for-profits and small governments. A recent study conducted by the Office of Advocacy of the Small Business Administration documented, yet again, that small businesses continue to face higher regulatory compliance costs than their big-business counterparts. With the vast majority of businesses in this nation being small enterprises, it only makes sense for the rulemaking process to ensure that the concerns of such small entities get a fair airing early in the development of a federal regulation.

The bill Senator KERRY and I are introducing focuses on Section 244 of the Small Business Regulatory Enforcement Fairness Act of 1996, which amended chapter 6 of title 5, United States Code (commonly known as the Regulatory Flexibility Act). As a result of certain provisions of that act, each “covered agency” is required to convene a Small Business Advocacy Review Panel (Panel) to receive advice and comments from small entities. Specifically, under section 609(b), each covered agency is to convene a Panel of federal employees, representing the Office of Information and Regulatory Affairs within the Office of Management and Budget, the Chief Counsel of Advocacy of the Small Business Administration, and the covered agency promulgating the regulation, to receive input concerning the adverse impacts of the proposed rule. Our amendment clarifies that the initial Regulatory Flexibility analysis for a proposed rule with a significant economic impact on a substantial number of small entities. The Panel, which convenes for 60 days, produces a report containing comments from the small entities and the Panel’s own recommendations. The report is provided to the head of the agency, who reviews the report and, where appropriate, modifies the proposed rule, initial regulatory analysis or the decision on whether the rule significantly impacts small entities. The Panel report becomes a part of the rulemaking record. Consistent with the overall purpose of the Regulatory Flexibility Act and the Small Business Regulatory Enforcement Fairness Act, the objective of the Panel process is to minimize the adverse impacts and increase the benefits to small entities affected by the agency’s actions. Consequently, the Panel process is designed to reduce the regulatory burden on small entities is not known until the agency issues the proposed and final rules. So far, the results are encouraging.

Under current law, the Occupational Safety and Health Administration (OSHA) and the Environmental Protection Agency (EPA) are the only agencies currently covered by the Panel process. Our bill adds the Internal Revenue Service (IRS) as a covered agency. In 1996, the Red Tape Reduction Act expressly included the IRS under the Regulatory Flexibility Act; however, the Treasury Department has interpreted the language in the law in a manner that essentially exempted them from coverage. Our bill makes it clear that the IRS is covered by the law. The Small Business Advocacy Review Panel Technical Amendments Act of 1999 clarifies which interpretative rules involving the internal revenue code are to be subject to regulatory compliance costs than their big-business counterparts. With the vast majority of businesses in this nation being small enterprises, it only makes sense for the rulemaking process to ensure that the concerns of such small entities get a fair airing early in the development of a federal regulation.

The bill Senator KERRY and I are introducing focuses on Section 244 of the Small Business Regulatory Enforcement Fairness Act of 1996, which amended chapter 6 of title 5, United States Code (commonly known as the Regulatory Flexibility Act). As a result of certain provisions of that act, each “covered agency” is required to convene a Small Business Advocacy Review Panel (Panel) to receive advice and comments from small entities. Specifically, under section 609(b), each covered agency is to convene a Panel of federal employees, representing the Office of Information and Regulatory Affairs within the Office of Management and Budget, the Chief Counsel of Advocacy of the Small Business Administration, and the covered agency promulgating the regulation, to receive input concerning the adverse impacts of the proposed rule. Our amendment clarifies that the initial Regulatory Flexibility analysis for a proposed rule with a significant economic impact on a substantial number of small entities. The Panel, which convenes for 60 days, produces a report containing comments from the small entities and the Panel’s own recommendations. The report is provided to the head of the agency, who reviews the report and, where appropriate, modifies the proposed rule, initial regulatory analysis or the decision on whether the rule significantly impacts small entities. The Panel report becomes a part of the rulemaking record. Consistent with the overall purpose of the Regulatory Flexibility Act and the Small Business Regulatory Enforcement Fairness Act, the objective of the Panel process is to minimize the adverse impacts and increase the benefits to small entities affected by the agency’s actions. Consequently, the Panel process is designed to reduce the regulatory burden on small entities is not known until the agency issues the proposed and final rules. So far, the results are encouraging.

Under current law, the Occupational Safety and Health Administration (OSHA) and the Environmental Protection Agency (EPA) are the only agencies currently covered by the Panel process. Our bill adds the Internal Revenue Service (IRS) as a covered agency. In 1996, the Red Tape Reduction Act expressly included the IRS under the Regulatory Flexibility Act; however, the Treasury Department has interpreted the language in the law in a manner that essentially exempted them from coverage. Our bill makes it clear that the IRS is covered by the law. The Small Business Advocacy Review Panel Technical Amendments Act of 1999 clarifies which interpretative rules involving the internal revenue code are to be subject to compliance with the Regulatory Flexibility Act, for those rules with a significant economic impact on a substantial number of small entities, the IRS would be required to convene a Small Business Advocacy Review Panel.

If the Treasury Department and the IRS had implemented the Red Tape Reduction Act as Congress originally intended, the regulatory burdens on small businesses could have been reduced, and small businesses could have been saved considerable trouble in fighting unwarranted rulemaking actions. For instance, with input from the small business community early in the process, the IRS’ 1997 temporary regulations on the uniform capitalization rules could have had taken into consideration the adverse effects that inventory accounting would have on farming businesses, and especially nursery growers. Similarly, if the IRS had conducted an initial Regulatory
Flexibility, it would have learned of the enormous problems surrounding its limited partner regulations prior to issuing the proposal in January 1997. These regulations, which became known as the “stealth tax regulations,” would have raised self-employment taxes on countless small businesses operated as limited partnerships or limited liability companies, and also would have imposed burdensome new recordkeeping and collection of information requirements.

Specifically, the bill strikes the language in section 603 of title 5 that included IRS interpretative rules under the Regulatory Flexibility Act, “but only to the extent that such interpretative rules impose on small entities a collection of information requirement.” The Treasury Department has misconstrued this language in two ways. First, unless the IRS imposes a requirement on small businesses to complete a new OMB-approved form, the Treasury says Reg Flex does not apply. Second, in the limited circumstances where the IRS has acknowledged imposing a new reporting requirement, the Treasury has limited its analysis of the impact on small businesses to the burden imposed by the form. As a result, the Treasury Department and the IRS have turned Reg Flex compliance into an unnecessary, second Paperwork Reduction Act.

To address this problem, our bill revises the critical sentence in Section 603 to read as follows:

In the case of an interpretative rule involving the internal revenue laws of the United States, this chapter applies to interpretative rules (including proposed, temporary and final regulations) published in the Federal Register or specification in the Code of Federal Regulations.

Coverage of the IRS under the Panel process and the technical changes I have just described are strongly supported by the Small Business Legislative Council, the National Association for the Self-Employed, and many other organizations representing small businesses. Even more significantly, these changes have the support of the Chief Counsel for Advocacy. I ask unanimous consent to include in the RECORD following this statement copies of letters and statements from these small business advocates.

The remaining provisions of our bill address the mechanics of convening a Panel and the selection of the small entity representatives invited to submit advice and recommendations to the Panel. While these provisions are very similar to the legislation introduced in the other body (H.R. 1882) by our colleagues Representatives TALENT, VELÁZQUEZ, KELLY, BARTLETT, and EWING, VELÁZQUEZ has expressed some specific concerns regarding the potential for certain provisions to be misconstrued. I have agreed to work with him to address his concerns in reporting language and, if necessary, with minor revisions to the bill text.

Our mutual goal is to ensure that the views of small entities are brought forth through the Panel process and taken to heart by the “covered agency” and other federal agencies represented on the Panel—in short, to continue the success that EPA and OSHA have shown this process has for small businesses. I thank the Senator from Massachusetts for his support, and ask unanimous consent that the Small Business Advocacy Review Panel Technical Amendments Act of 1999 be printed, following this statement.

Mr. President, I ask unanimous consent that the bill and additional material be printed in the RECORD. There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1156

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 “Small Business Advocacy Review Panel Technical Amendments Act of 1999.”

SEC. 2. FINDINGS AND PURPOSES.

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

(1) A vibrant and growing small business sector is critical to creating jobs in a dynamic economy.

(2) Small businesses bear a disproportionate share of regulatory costs and burdens.

(3) Federal agencies must consider the impact of their regulations on small businesses early in the rulemaking process.

(4) The Small Business Advocacy Review Panel process that was established by the Small Business Regulatory Enforcement Fairness Act of 1996 has been effective in allowing small businesses to participate in rulemaking.

(b) Purposes.—The purposes of this Act are the following:

(1) To provide a forum for the effective participation of small businesses in the Federal regulatory process.

(2) To clarify and strengthen the Small Business Advocacy Review Panel process.

(3) To expand the number of Federal agencies that are required to convene Small Business Advocacy Review Panels.

SEC. 3. ENSURING FULL ANALYSIS OF POTENTIAL IMPACTS ON SMALL ENTITIES OF RULES PROPOSED BY CERTAIN AGENCIES.

Section 609(b) of title 5, United States Code, is amended to read as follows:

“(b)(1) Before the publication of an initial regulatory flexibility analysis that a covered agency is required to conduct under this chapter, the head of the covered agency shall:

“(A) notify the Chief Counsel for Advocacy of the Small Business Administration (in this subsection referred to as the ‘Chief Counsel’) in accordance with paragraph (3), (4), and (5) of section 603(b) and section 603(c); and

“(B) provide the Chief Counsel with information on the potential impacts of the proposed rule on small entities and the type of small entities that might be affected; and

“(c) not later than 30 days after complying with subparagraphs (A) and (B)—

“(i) with the concurrence of the Chief Counsel, identify affected small entity representatives; and

“(ii) transmit to the identified small entity representatives a detailed summary of the information referred to in subparagraph (B) and, if so requested by the small entity representative, for the purpose of obtaining advice and recommendations about the potential impacts of the draft proposed rule.

“(2)(A) Not earlier than 30 days after the covered agency transmits information pursuant to paragraph (1), the head of the covered agency shall convene a review panel for the draft proposed rule. The panel shall consist solely of full-time Federal employees of the office within the covered agency that will be responsible for carrying out the proposed rule, the Office of Information and Regulatory Affairs of the Office of Management and Budget, and the Chief Counsel.

“(B) The review panel shall—

“(i) review any material the covered agency has prepared in connection with this chapter, including any rule; and

“(ii) collect advice and recommendations from the small entity representatives identified under paragraph (1)(C)(i) on issues related to paragraphs (1)(C)(ii), (iii), and (iv) of section 603(b) and section 603(c); and

“(iii) allow any small entity representative identified under paragraph (1)(C)(i) to make an oral presentation to the panel, if requested.

“(C) Not later than 60 days after the date a covered agency convenes a review panel pursuant to this paragraph, the review panel shall report to the head of the covered agency on—

“(i) the comments received from the small entity representatives identified under paragraph (1)(C)(i); and

“(ii) its findings regarding issues related to paragraphs (3), (4), and (5) of section 603(b) and section 603(c).

“(3)(A) Except as provided in subparagraph (B), the head of the covered agency shall print in the Federal Register the report of the review panel under paragraph (2), including any written comments submitted by the small entity representatives and any appendices cited in the report, as soon as practical, but not later than 30 days after the date the head of the covered agency receives the report; and

“(B) The report of the review panel printed in the Federal Register shall not include any confidential business information submitted by any small entity representative.

“(C) Where appropriate, the covered agency shall modify the draft proposed rule, the initial regulatory flexibility analysis for the draft proposed rule, or the decision on whether an initial regulatory flexibility analysis is required for the draft proposed rule.

SEC. 4. DEFINITIONS.

Section 609(d) of title 5, United States Code, is amended to read as follows:

“(d) For the purposes of this section—

“(i) the term ‘covered agency’ means the Environmental Protection Agency, the Occupational Safety and Health Administration of the Department of Labor, and the Internal Revenue Service of the Department of the Treasury; and

“(ii) the term ‘small entity representative’ means a small entity, or an individual or organization that represents the interests of one or more small entities.”
SEC. 5. COLLECTION OF INFORMATION REQUIREMENT.

(a) DEFINITION.—Section 601 of title 5, United States Code, is amended—

(1) in paragraph (5) by inserting “and” after the semicolon;

(2) in paragraph (6) by striking “; and” and inserting a period; and

(3) by striking paragraphs (7) and (8).

(b) INITIAL REGULATORY FLEXIBILITY ANALYSIS.—The fourth sentence of section 603 of title 5, United States Code, is amended to read as follows: “In the case of an interpretive rule, internal revenue regulations of the United States, this chapter applies to interpretative rules (including proposed, temporary, and final regulations) published in the Federal Register for codification in the Code of Federal Regulations.”.

SEC. 6. EFFECTIVE DATE.

This Act shall take effect upon the expiration of the 90-day period beginning on the date of the enactment of this Act.

SMALL BUSINESS LEGISLATIVE COUNCIL,


Hon. Kit Bond,
Chairman, Committee on Small Business, U.S. Senate, Washington, DC.

Dear Mr. Chairman: On behalf of the Small Business Legislative Council (SBLC), I would like to offer our strong support for your legislation to expand the Small Business Regulatory Enforcement Fairness Act (SBREFA) to encompass more of the activities of the Internal Revenue Service (IRS).

As you know, there is nothing more annoying to the small business community than when the IRS issues a proposed rule and it is obvious the authors have little or no understanding of the business practices of the small businesses covered by the rule.

OSHA and the EPA have also been identified in the past as agencies guilty of acting without a solid understanding of an industry. Thanks to your leadership, the 104th Congress fixed the problem in the case of OSHA and EPA by enacting SBREFA. Those two agencies must go out and collect information on small businesses before they finish development of a proposed rule. The law requires the OSHA and EPA to increase small business participation in agency rulemaking activities by convening a Small Business Advocacy Review Panel for a proposed rule with a significant economic impact on small entities.

For such rules, the agencies must notify SBA’s Chief Counsel of Advocacy that the rule is under development and provide sufficient information so that the Chief Counsel can identify affected small entities and gather advice and comments on the effects of the proposed rule. A Small Business Advocacy Review Panel, comprised of federal government employees from the agency, the Office of Advocacy, and OMB, must be convened to review the proposed rule and to collect comments from small businesses. Within 60 days, the panel must issue a report of the comments received from small entities and the panel’s findings, which become part of the public record.

As we have said many times before, we believe your “red tape cutting” law, SBREFA, is one of the most significant small business laws of all time. As you know first hand, for a variety of reasons, the IRS was not included. This omission should be corrected. As we now see, there is one agency with ongoing rulemaking responsibilities that have an impact on small business, it is the IRS.

In the same manner, the other provisions of SBREFA apply only to the IRS when the interpretative rule of the IRS will “impose on small entities a collection of information requirement.” We already know the IRS has embraced an extraordinarily narrow interpretation of that phrase. We should take this opportunity to amend SBREFA to ensure the IRS complies with SBREFA any time it issues an interpretative regulation.

As you know, the SBLC is a permanent, independent coalition of eighty trade and professional associations that share a common commitment to the future of small business. Our members represent the interests of small businesses in such diverse economic sectors as manufacturing, distribution, professional and technical services, construction, transportation, tourism and agriculture. Our policies are developed through a consensus among our membership. Individual associations may express their own views. For your information, a list of our members is enclosed.

As always, we appreciate your outstanding leadership on behalf of small business.

Sincerely,

DAVID GORIN,
Chairman.

MEMBERS OF THE SMALL BUSINESS LEGISLATIVE COUNCIL

ACIL
Air Conditioning Contractors of America

Alliance for Affordable Services

Alliance for American Innovation

American Animal Hospital Association

American Association of Equine Practitioners

American Bus Association

American Consulting Engineers Council

American Machine Tool Distributors Association

American Nursery and Landscape Association

American Road & Transportation Builders Association

American Society of Interior Designers

American Society of Travel Agents, Inc.

American Subcontractors Association

American Textile Machinery Association

American Trucking Associations, Inc.

Architectural Precast Association

Associated Equipment Distributors

Associated Landscape Contractors of America

Association of Small Business Development Centers

Association of Sales and Marketing Companies

Automotive Recyclers Association

Automotive Service Association

Bowling Proprietors Association of America

Building Service Contractors Association

Business Advertising Council

CBA
Council of Fleet Specialists

Council of Growing Companies

Direct Selling Association

Electronics Representatives Association

Fiorists’ Transworld Delivery Association

Health Industry Representatives Association

Helicopter Association International

Independent Bankers Association of America

Independent Medical Distributors Association

International Association of Refrigerated Warehouses

International Formalwear Association

International Franchise Association

Machine Dealers National Association

Mail Advertising Service Association

Manufacturers Agents for the Food Service Industry

Manufacturers Agents National Association

Manufacturers Representatives of America, Inc.

National Association for the Self-Employed

National Association of Home Builders

National Association of Plumbing-Heating-Cooling Contractors

National Association of Realtors

National Association of RV Parks and Campgrounds

National Association of Small Business Investment Companies

National Association of the Remodeling Industry

National Chimney Sweep Guild

National Community Pharmacists Association

National Electrical Contractors Association

National Electrical Manufacturers Representatives Association

National Funeral Directors Association, Inc.

National Lumber & Building Material Dealers Association

National Moving and Storage Association

National Ornamental & Miscellaneous Metals Association

National Paperboard Association

National Society of Accountants

National Tooling and Machining Association

National Tour Association

National Wood Flooring Association

Organization for the Promotion and Advancement of Small Telephone Companies

Petroleum Marketers Association of America

Printing Industries of America, Inc.

Professional Lawn Care Association of America

Promotional Products Association International

The Retailer’s Bakery Association

Savannah Movers Coalition

Small Business Council of America, Inc.

Small Business Exporters Association

Small Business Technology Coalition

SME Business Councils

Society of American Florists

Turfgrass Producers International

Tire Association of North America

United Motorcoach Association

U.S. SMALL BUSINESS ADMINISTRATION,


Hon. Kit Bond,
Chairman, Committee on Small Business, U.S. Senate, Washington, D.C.

DEAR CHAIRMAN BOND: This is in response to your request for my views as to whether the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) should be amended to include more activities of the Internal Revenue Service (IRS).

The proposed amendments to SBREFA are constructive. In particular, applying the requirement that IRS convene Small Business Advocacy Review Panels to consider the impact of proposed rules involving the internal revenue laws is a goal that certainly would give small businesses a stronger voice in a process that affects them so dramatically.

The panel process has applied since 1996 to the Environmental Protection Agency (EPA) and the Occupational Safety and Health Administration (OSHA). A panel, comprising the administrator of EPA or OSHA, the Chief
Counsel for Advocacy of the Small Business Administration and the director of the Office of Information and Regulatory Affairs, collects comments from representatives of small entities. The panel issues a report on the comments and the panel’s findings within 60 days. The process has been extremely helpful in identifying the likely impact of major rules on small entities, yet it is still extremely helpful in identifying the likely impact of major rules on small entities, yet it is tight enough to assure that needed rules are not delayed unduly.

Tax regulations impose the most widespread burdens on small business. Therefore, it is in the small business interest at the earliest possible stage of rulemaking. This amendment builds on an existing panel process that is working well. The panel process would bring a new level of scrutiny to tax regulations, some of which have added immensely to small entity burdens in the past.

At the same time, I am mindful that this expansion will add significantly to the workload of both the Office of Advocacy and the IRS, and I hope suitable staffing adjustments to accommodate this important added work will be made.

Thank you for soliciting my views.

Sincerely,
JUBR W. GLOVER, Chief Counsel for Advocacy.

Mr. KERRY. Mr. President, as Ranking Democrat on the Committee on Small Business, I join Committee Chairman BOND in introducing the Small Business Advocacy Review Panel Technical Amendments Act of 1999. While there are a few minor points that Chairman BOND and I have agreed to work out before the Committee considers the bill, we both agree that this is an important piece of legislation which should be enacted promptly to facilitate the Small Business Enforcement Fairness Act process. This process enables small entity representatives to participate in rulemakings by the Environmental Protection Agency (EPA), the Occupational Safety and Health Administration (OSHA), and, under this bill, the Internal Revenue Service (IRS) of the Department of Treasury.

This bill improves and enhances the Small Business Regulatory Enforcement Fairness Act of 1996, which has not only reduced regulatory burdens that otherwise would have been placed on small businesses, but also has begun to institute a fundamental change in the way Federal agencies promulgate rules that could have “a substantial economic impact on a substantial number of small businesses.” Federal agencies are required under existing law to form so-called SBREFA panels in conjunction with the Office of Information and Regulatory Affairs in the Office of Management and Budget, and the panels have worked with small entities, or their representatives. These SBREFA panels are charged with creating flexible regulatory options that would allow small businesses to continue to operate without sacrificing the environmental, or health and safety goals of the proposed rule.

These panels have been highly effective in saving small businesses regulatory compliance costs. To date, sev-
the staff needed to comply with Davis-Bacon’s complex work rules and reporting requirements.

Congressional Davis-Bacon during the Great Depression, a period in which work was scarce. In those days, construction workers were willing to take what jobs they could find, regardless of the wage rate; most construction was publicly financed; and there were no other Federal worker protections on the books.

Conditions in the construction industry have changed a lot since then, however. Today, unemployment rates are low, and public works construction makes up only about 20 percent of the construction industry’s activity. Also, we now have many Federal laws on the books to protect workers. Such laws include the Fair Labor Standards Act of 1938, which enacts the Federal minimum wage, the Occupational Safety and Health Act of 1970, the Miller Act of 1935, the Contract Work Hours and Safety Standards Act of 1962, and the Social Security Act.

Yet the construction industry still has to operate under Davis-Bacon’s inflexible 1930s work requirements and play by its payroll reporting rules. Under the law’s craft-by-craft requirements, for example, contractors must pay Davis-Bacon wages for individuals who perform a given craft’s work. In many cases, that means a contractor either must pay a high wage to an unskilled worker for performing menial tasks, or he must pay a high wage to an experienced worker for these menial tasks. These requirements reduce productivity.

A related problem with Davis-Bacon is that it reduces entry-level jobs and training opportunities for the disadvantaged because the law makes it costly for contractors to hire lower-skilled workers on construction projects. The statute creates a disincentive to hire entry-level workers and provide on-the-job training.

The Congressional Budget Office raised this issue in its analysis, “Modifying the Davis-Bacon Act: Implications for the Labor Market and the Federal Budget.” As stated in that 1983 study:

Although the effect of Davis-Bacon on wages receives the most attention, the Act’s largest potential cost impact may derive from its effect on the use of labor. For one thing, DOL wage determinations require that, if an employee does the work of a particular craft, the wage paid should be for the craft. For example, carpentry work must be paid for at carpenters’ wages, even if performed by a general laborer, helper or member of another craft.

Moreover, the General Accounting Office has maintained that the Davis-Bacon Act is no longer needed. GAO began to openly question Davis-Bacon in the 1960s; and in 1979, it issued a report calling for the Act’s repeal. Titled “The Davis-Bacon Act Should Be Repealed,” the report states: “[o]ther wage legislation and changes in economic conditions and in the construction business since the Act’s enactment make the law obsolete; and the law is inflationary.”

To those who remain unconvinced that Davis-Bacon is bad public policy, I urge a review of the Act’s legislative history. Some early supporters of Davis-Bacon advocated its passage as a means to discriminate against minorities. For instance, Clayton Allgood, a member of the 71st Congress, argued on the House floor that Davis-Bacon would keep contractors from employing “cheap colored labor” on construction projects. As stated by Congressman Allgood on February 28, 1931, “it is labor of that sort that is in competition with white labor throughout the country.” Unfortunately, Davis-Bacon still has the effect of keeping minority-owned construction firms from competing for Federal construction contracts, because many such firms are small businesses.

Early supporters of Davis-Bacon also believed that the law would prevent outside contractors from undermining local firms in the Federal bidding process. In practice, however, Davis-Bacon wages hurt local businesses and make it more likely that outside contractors will win bids for Federal projects.

Mr. President, for all of the above reasons, I believe that the Davis-Bacon Act should be repealed. I urge my colleagues to support the Davis-Bacon Repeal Act of 1999.

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

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

SEC. 2. COPELAND ACT.

Section 2 of the Act of June 13, 1934 (40 U.S.C. 276a et seq.) (commonly referred to as the “Copeland Act”) is repealed.

SEC. 3. EFFECTIVE DATE.

The amendments made by sections 1 and 2 shall take effect 30 days after the date of enactment of this Act.

Mr. NICKLES. Mr. President, I am happy to join Senator Bob Smith as a cosponsor of the Davis-Bacon Repeal Act of 1999. I believe Davis-Bacon repeal is long overdue. This 68-year-old legislation requires contractors to pay workers on federally-subsidized projects what the Labor Department determines is the local prevailing wage. What Davis-Bacon actually does is cost the Federal Government billions of dollars, divert funds out of vital important projects, and limit opportunities for employment.

In my own State of Oklahoma, it has been proven that many “prevailing wages” have been calculated using fictitious projects, ghost workers, and companies established to pay artificially high wages. Oklahoma officials have reported that many of the wage survey forms submitted to the U.S. Department of Labor to calculate Federal wage rates in Oklahoma were wrong or fraudulent.

Records showed that an underground storage tank was built using 20 plumbers, while only 18 were needed. Paradoxical but no such tank was ever built. In another case, several asphalt machine operators were reported to have been employed at $15 an hour to build a parking lot but the lot was made of concrete and the actual Davis-Bacon wage should have been $8 an hour. Ultimately, the Oklahoma Secretary of Labor established that at least two of the inflated Oklahoma reports were filled out by union officials.

The Davis-Bacon Act also diverts urgently needed Federal funds. After the 1995 bombing of the Murrah Federal building in Oklahoma City, Mayor Ron Norick of Oklahoma City estimated that the city could have saved $5 million in construction costs had the President waived the Davis-Bacon Act. This money could have been used to provide additional assistance to those impacted by the bombing and to further rebuild the area around the Murrah site. The Federal role in disaster situations should be to empower communities and foster flexibility so that rebuilding efforts can proceed in the best manner possible.

The Congress should repeal a law that discourages, rather than encourages, the employment of lower skilled or non-skilled workers.

Davis-Bacon began as a way to keep construction workers on construction projects. Titled the “Copeland Act” (40 U.S.C. 276a et seq.), commonly referred to as the "Copeland Act" it is repealed.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, SEC. 1. DAVIS-BACON ACT.

(a) REPEAL.—The Act of March 3, 1931 (40 U.S.C. 276a et seq.) (commonly referred to as the "Davis-Bacon Act") is repealed.

(b) REFERENCES.—Any reference in any law to a wage requirement of the Act of March 3, 1931, shall after the date of the enactment of this Act be null and void.
opportunity to learn a trade, and the opportunity to climb the economic ladder.

I applaud Senator Smith for his efforts and appreciate the chance to co-sponsor this bill.

By Mr. HutchinsoN:

S. 1158. A bill to allow the recovery of attorney’s fees and costs by certain employers and labor organizations who are prevailing parties in proceedings brought against them by the National Labor Relations Board or by the Occupational Safety and Health Administration; to the Committee on Health, Education, Labor, and Pensions.

Fair Access to Indemnity and Reimbursement Act

Mr. Hutchinson. Mr. President, it is my honor today to introduce the “Fair Access to Indemnity and Reimbursement Act” (the “FAIR Act”), which will amend the National Labor Relations Act and the Occupational Safety and Health Act to provide that a small employer prevailing against either of these agencies automatically is entitled to recover the attorney’s fees and expenses it incurred to defend itself.

The FAIR Act is necessary because the National Labor Relations Board (“NLRB”) and Occupational Safety and Health Agency (“OSHA”) are two aggressive, well-funded agencies which share a “find and fine” philosophy. The destructive consequences that small businesses suffer as a result of these agencies’ “find and fine” approach are magnified by the abuse of “salting” or the placement of paid union organizers and their agents in non-union workplaces for the sole purpose of disrupting the workforce. “Salting abuse” occurs when “salts” create labor law violations or workplace hazards and then file frivolous claims with the NLRB or OSHA. Businesses are then often forced to spend thousands and sometimes hundreds of thousands of dollars to defend themselves against NLRB or OSHA as these agencies vigorously prosecute these frivolous claims. Accordingly, many businesses, when faced with the cost of a successful defense, make a bottom-line decision to settle these frivolous claims rather than going out of business or laying off employees in order to finance costly litigation.

The “FAIR Act” will allow these employers to defend themselves rather than settling, and, more importantly, it will force the NLRB or OSHA to ensure that the claims they pursue are worthy of their efforts. The FAIR Act will accomplish this by allowing employers with up to 100 employees and a net worth of up to $7,000,000 to recover their attorneys’ fees and litigation expenses directly from the NLRB or OSHA, regardless of whether those agencies’ decision to pursue the case was “substantially justified” or “special circumstances” make an award of attorneys fees unjust. Thus, the Congressional intent behind the broadly supportive Equal Access to Justice Act (“EAJA”) to “level the playing field” for small businesses will finally be realized.

The FAIR Act is solid legislation; it is a common sense attempt to give small businesses a fair fight against the private sector’s best-organized and best-funded groups. I ask my colleagues for their cooperation and assistance as I work to ensure that the “FAIR Act” is enacted into law.

By Mr. Stevens (for himself, Mr. Cochran, Mr. Inouye, Mr. Hagel, Mr. Bingaman, Mr. Shelby, Mr. Levin, Mr. Dodd, and Mr. Thurmond):

S. 1159. A bill to provide grants and contracts to local educational agencies to initiate, expand, and improve physical education programs for all kindergarten through twelfth grade students; to the Committee on Health, Education, Labor, and Pensions.

Physical Education for Progress Act

Mr. Stevens. Mr. President, today I send to the desk and introduce the Physical Education for Progress—or “PEP”—Act. My bill would provide incentive grants for local school districts to develop minimum weekly requirements for physical education, and daily physical education if possible.

Every student in our Nation’s schools, from kindergarten through grade 12, should have the opportunity to participate in quality physical education. Children need to know that physical activity can help them feel good, be successful in school and work, and stay healthy.

Engaging in sports activities provides lessons about teamwork and dealing with defeat. In my judgment, physical activity and sports are an important educational tool, and the lessons of sports may help resolve some of the problems that lead to violence in schools.

Regular physical activity produces short-term health benefits and reduces long-term risks for chronic disease, disability and premature death. Despite the proven benefits of being physically active, more than 60 percent of American adults do not engage in levels of physical activity necessary to provide health benefits.

More than a third of young people in our country aged 12 to 21 years do not regularly engage in vigorous physical activity, and the percentage of overweight Americans has more than doubled in the past 30 years. Daily participation in high school physical education classes dropped from 42 percent in 1991 to 27 percent in 1997. Right now, only one state in our union—Illinois—currently requires daily physical education for grades K through 12. I think that is a staggering statistic. Only one State requires daily physical education for our children.

The future cost savings in health care for emphasizing the importance of physical activity to a long and healthy life, to me, are immense.

By Mr. Grassley (for himself and Mrs. Feinstein):

S. 1160. A bill to amend the Internal Revenue Service Code of 1986 to provide marriage penalty relief, incentives to encourage health coverage, and expanded child care assistance, to extend increased child care assistance, to extend certain expiring tax provisions, and for other purposes; to the Committee on Finance.

Tax Relief for Working Americans Act of 1999

Mr. Grassley. Mr. President, today I am being joined by Senator Feinstein in introducing the “Tax Relief for Working Americans Act of 1999”. Congresswoman Nancy Johnson is introducing companion legislation in the House. We’re here today to declare victory in the debate over whether or not we should have significant tax relief for the American people. The President and most congressional Democrats have now joined Republicans in support of cutting taxes. The question now is whether there should be tax cuts, but what kind, and how much. I can’t think of a better problem to have.

With our core tax cut plan, we’re proposing a major first step in sending hard-earned dollars out of Washington and back to the taxpayer. I support an across the board tax cut. But, I’m also aware that if we do those, and don’t have any money left over to pay for tax cuts that people are telling me they really want, like addressing the marriage penalty, providing health care
tax relief, and more help for education. They want these problems in the tax code fixed. An across-the-board cut won’t fix these problems; it’ll only compound them. That isn’t fair. And we’re saying fairness should come first. The President only offered modest tax cuts, along with a new retirement savings proposal that nobody understands, and many question whether it will work. And then, he wants to raise other taxes to pay for it. The President wants it both ways. He wants to be able to take credit for a tax cut on the one hand, while he’s raising taxes on the other. We deserve what we get, if we let him get away with the double talk we all know so well.

We have two alternatives. One is to push for an across the board tax cut first, and let the President and some in Congress play the game and they play so well. And in the end, we probably end up with no tax relief. Senator FEINSTEIN and I are saying that we should take the initiative and push for major tax relief that people really want and both Republicans and Democrats support. Our package will provide close to $300 billion in tax relief over ten years. I, for one, view this as a very strong starting point in determining how the coming on-budget surplus will be used.

Among other things, our bill will provide tax relief for senior citizens, those who are married, those who need to buy their own health insurance, and those who purchase long-term care insurance. Moreover, it will include provisions to ensure that parents who make use of education or child care tax credits are not hurt by the Alternative Minimum Tax. We also hope to improve the living standards of Americans through tax relief for urban revitalization, preservation of affordable housing, and economic growth. We also provide needed tax assistance to farmers by shielding them from the Alternative Minimum Tax, and allowing them to set up special tax-deferred savings accounts to help them weather the ups and downs of farming. And, we help improve the environment by extending the production tax credit for wind energy and expanding the credit for biomass. I’ve strongly supported both of these alternative energy pieces taking the lead on them back in 1992.

We think this package is a good start in the process of delivering tax relief to the American people, and I urge my colleagues to join us in this effort. Mrs. FEINSTEIN, Mr. President, I rise, along with my colleague from Iowa, to introduce the Tax Relief for Working Americans Act—what I consider to be a “fair share” tax plan. This bill, while protecting our Social Security and Medicare needs, will also allow the American people a benefit from our economic prosperity.

The American people are responsible for more than $1 trillion in budget surpluses over the next 15 years, so it makes sense to give them some needed and deserved tax relief.

The Tax Relief for Working Americans Act is a sensible and moderate bill that provides needed tax relief for working families. It does so, moreover, in a fiscally responsible manner which protects Social Security and Medicare. This tax plan is estimated to provide tax relief of $271 billion over ten years, fitting within the budget framework set out by the President to protect Social Security and Medicare.

The legislation will provide relief to 21 million working couples who incur the marriage penalty by increasing the standard deduction to put them on equal footing with unmarried couples. A married couple in the 28% bracket, for example, will save $392.

It includes tax incentives for the over 30 million Americans who purchase their own health insurance or who pay more than $5,000 for employer-provided health care insurance. This means a family that earns $60,000 and pays $4,000 a year for health insurance will receive a tax credit of $2,400.

And it will raise the Social Security Earnings test to $30,000, so that the 1.1 million seniors between the ages of 65 and 69 who earn more than $15,500 would be able to keep more of their hard earned dollars. For a 67 year old secretary who earns $20,000 a year this year who would mean she will save nearly $5,000.

Under this legislation, millions of Americans who struggle to afford decent child care, will receive increased benefits from the Dependent Care Tax Credit. The credit will increase from 30% to 50% by 2004 and millions more will qualify for the maximum credit. When fully in effect, a family which earns $30,000 and spends $5,000 a year on child care and other out-of-pocket costs will receive a $2,400 tax credit which should eliminate any federal tax liability.

This legislation will also help to expand our economy by making permanent the Research and Development tax credit. Research and development is the backbone of our new technology driven economy. It is creating millions of high wage, high skilled jobs. The R&D credit has been extended 9 times since 1981, but it has been allowed to expire 4 times during that period. Now is the time to make it permanent.

There are also other important provisions in this legislation to promote long-term care, create more affordable housing, make education more affordable, and to help our farmers.

I believe that this tax plan is one which can, and will, receive broad bipartisan support from the majority of the Senate that Congress can pass and the President can sign. I urge my colleagues to work with the Senator from Iowa and myself, and to pass the Tax Relief for Working Americans Act.

By Mr. BENNETT (for himself, Mrs. MURRAY, Mr. SCHUMER, and Mr. TORRICELLI):

S. 1163. A bill to amend the Public Health Service Act to provide for research and care with respect to lupus. The Committee on Health, Education, Labor, and Pensions.

LUPUS RESEARCH AND CARE AMENDMENTS OF 1999

Mr. BENNETT. Mr. President, I rise today to introduce the Lupus Research and Care Amendments of 1999. This legislation would authorize additional funds for lupus research and grants for state and local governments to support the delivery of essential services to low-income individuals with lupus and their families. The National Institute of Health (NIH) spent about $42 million less than one half of one percent of its budget on lupus research last year. I believe that we need to increase the funds that are available for research of these devastations.

Lupus is not a well-known disease, nor is it well understood. Yet, at least 1,400,000 Americans have been diagnosed with lupus and many more are either misdiagnosed or not diagnosed at all. More Americans have lupus than AIDS, cerebral palsy, multiple sclerosis, sickle-cell anemia or cystic fibrosis. Lupus is a disease that attacks and weakens the immune system and is often life-threatening. Lupus is nine times more likely to affect women than men. African-American women are diagnosed with lupus two to three times more often than Caucasian women. Lupus is also more prevalent among certain minority groups including Latinos, Native Americans and Asians.

Because lupus is not well understood, it is difficult to diagnose, leading to uncertainty on the actual number of patients suffering from lupus. The symptoms of lupus make diagnosis difficult because the symptoms may mimic the symptoms of many other illnesses. If diagnosed early and with proper treatment, the majority of lupus cases can be controlled. Unfortunately, because of the difficulties in diagnosing lupus and inadequate research, many lupus patients suffer debilitating pain and fatigue. The resulting effects make it difficult, if not impossible, for individuals suffering from lupus to carry on normal everyday activities, including finding a job. Thousands of these debilitating cases needlessly end in death each year.

Title I of the Lupus Research and Care Amendments of 1999 authorizes $75 million in grants starting in fiscal year 2000 to be earmarked for lupus research at NIH. This new authorization would amount to less than one half of one percent of NIH’s total budget but would greatly enhance NIH’s research.

Title II of the Lupus Research and Care Amendments of 1999 authorizes $40 million in grants to state and local governments as well as to nonprofit organizations starting in fiscal year 2000. These funds would support the delivery
of essential services to low-income individuals with lupus and their families. I would urge all my colleagues, Mr. President, to join Senator MICHAY, Senator TORRICELLI, Senator SCHUMER, and myself in sponsoring this legislation to increase funding to fight lupus.

By Mr. HATCH (for himself, Mr. BAUCUS, and Mr. MACK).

S. 1164. A bill to amend the Internal Revenue Code of 1986 to simplify certain rules relating to the taxation of United States business operating abroad, and for other purposes; to the Committee on Finance.

INTERNATIONAL TAX SIMPLIFICATION FOR AMERICAN COMPETITIVENESS ACT OF 1999

Mr. HATCH. Mr. President, I rise today with my friend and colleagues Senator BAUCUS and Senator MACK to introduce the International Tax Simplification for American Competitiveness Act of 1999. This bill will provide much-needed tax relief from complex and inconsistent tax laws that burden our American companies attempting to compete in the world marketplace.

Our foreign tax code is in desperate need of reform and simplification. The rules in this arena are too complex and, often, their results are perverse.

Mr. President, the American economy has experienced significant growth and prosperity. That success, however, is becoming more and more intertwined with the success of our business in the global marketplace. This has become even more obvious during the recent financial distress in Asia and Latin America. Yet, most people still do not realize the important contributions to our economy from U.S. companies with global operations. We have seen the share of U.S. corporate profits attributed to foreign operations rise from 7.5 percent in the 1960’s to 17.7 percent in the 1990’s.

As technology blurs traditional boundaries, and as competition continues to increase from previously lesser-developed nations, it is imperative that American-owned businesses be able to compete effectively.

It seems to me that any rule, regulation, requirement, or tax that we can alleviate to enhance competition will inure to the benefit of American companies, their employees, and shareholders.

There are many barriers that the U.S. economy must overcome in order to remain competitive that Congress cannot hurdle by itself. For example, we have international trade negotiators working hard to remove the barriers to foreign markets that discourage and hamper U.S. trade. It is ironic, therefore, that one of the largest trade barriers is imposed by our own tax code on American companies operating abroad. Make no mistake: the complexities and inconsistencies in this section of the Tax Code have an appreciable adverse effect on our domestic economy.

The fact that we deal with the barriers in our own backyard will serve only to drive more American companies to other countries with simple, more favorable tax treatment. We just saw this occur with the merger of Daimler Benz and Chrysler. The new corpora-
tion will be headquartered in Germany due to the complex international laws of the United States.

The business world is changing at an increasingly rapid pace. Tax laws have failed to keep pace with the rapid changes in the world technology and economy. Too many of the international provisions in the Internal Revenue Code have not been substantially debated and revised in over a decade. Provisions such as minimum and international markets have changed significantly, and we have seen new markets created. The U.S. Tax Code needs to adapt to the changing times as well. Our current confusing and archaic tax code is woefully out of step with commercial realities as we approach the 21st century.

U.S. businesses frequently find themselves at a competitive disadvantage to their foreign competitors due to the high taxes and stiff regulations they often face. A U.S. company selling products abroad is often charged a higher tax rate by our own government than a foreign company is. For example, when Kodak sells film in the U.K. or Germany, they pay higher taxes than their foreign competitor Fuji does for those same sales.

If we close American companies out of the international arena due to complex and burdensome tax rules on exports and foreign production, then we are denying U.S. companies the ability to compete. Dooming them, and ourselves, to anemic economic growth and all its adverse subsidiary effects.

The bill we are introducing today is not a set of bold new initiatives. Instead, this bill contains a set of important intermediate steps which will take us a long way toward simplifying the rules and making some sense of the international tax regime. The bill contains provisions to simplify and update the tax treatment of controlled foreign corporations, fix some of the rules relating to the foreign tax credit, and make other changes to international tax law.

Some of these changes are in areas that are in dire need of repair, and others are changes that take into consideration the changes we have seen in international business practices and environments during the last decade. On many fronts for updating our laws is the financial services industry. This industry has seen rapid technological and global changes that have transformed the very nature of the way these corporations do business both here and abroad. This bill contains several provisions to help adapt the foreign regime to keep up with these changes.

In the debate about the globalization of our economy, we absolutely cannot forget the taxation of foreign companies with U.S. operations and subsidiaries. These companies are an important part of our growing economy. They employ 4.9 million American workers. In my home state of Utah, employees at U.S. subsidiaries constitute 3.6 percent of the work force. We must ensure that U.S. tax law is written and fairly enforced for all companies in the United States.

This bill is not the end of the international tax debate. If we were to pass every provision it contains, we would still not have a simple Tax Code. We would need to make more changes yet. We cannot limit this debate to only the intermediate changes such as those in this bill. We must not lose sight of the long term. I intend to urge broader debate about other areas in need of reform such as interest allocation, issues raised by the European Union, and subpart F itself. I believe that we must address these concerns in the next five years if we are to put U.S. corporations and the U.S. economy in a position to maintain economic position in the global economy of tomorrow.

This bill is important to the future of every American citizen. Without these changes, American businesses will see their ability to compete diminished, and the United States will have an uphill battle to remain the preeminent economic force in a changing world. This modest, but important package of international tax reforms will help to keep our businesses and our economy competitive and a driving force in the world economic marketplace.

Mr. President, I ask unanimous consent to print the text of the bill in the RECORD.

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

S. 1164

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

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "International Tax Simplification for American Competitiveness Act of 1999".

(b) AMENDMENT OF 1986 CODE.—This Act shall be set forth, insofar as may be practicable, in the form in which it is enacted in the Internal Revenue Code of 1986.

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

Sec. 1. Short title; amendment of 1986 Code; table of contents.
TITLE I—TREATMENT OF CONTROLLED FOREIGN CORPORATIONS

SEC. 101. PERMANENT SUBPART F EXEMPTION FOR ACTIVE FINANCING INCOME.

(a) BANKING, FINANCING, OR SIMILAR BUSINESSES.—Section 954(h) (relating to special rule for income derived in the active conduct of banking, financing, or similar businesses) is amended by striking paragraph (9).

(b) INSURANCE BUSINESSES.—Section 953(e) (defining exempt insurance income) is amended by adding at the end the following new paragraph:

“(b) EXCEPTION FOR INCOME FROM TRANSMISSION OF HIGH VOLTAGE ELECTRICITY.—The term ‘foreign base company services income’ does not include income derived in connection with the performance of services which are related to the transmission of high voltage electricity.”

SEC. 102. STUDY OF PROPER TREATMENT FOR SALES OF PARTNERSHIP INTERESTS.

(a) IN GENERAL.—Section 954(c) (defining foreign personal holding company income) is amended by adding at the end the following new paragraph:

“(4) LOOK-THROUGH RULE FOR CERTAIN PARTNERSHIP SALES.—

“(A) IN GENERAL.—In the case of any sale by a controlled foreign corporation of an interest in a partnership with respect to which such corporation is a 10-percent owner, such corporation shall be treated for purposes of this subsection as selling the proportionate share of the assets of the partnership attributable to such interest.

“(B) 10-PERCENT OWNER.—For purposes of this paragraph, the term ‘10-percent owner’ means a controlled foreign corporation which owns 10 percent or more of the capital or profits interest in the partnership. The constructive ownership rules of section 958(b) shall apply for purposes of the preceding sentence.”

CONFORMING AMENDMENT.—Section 954(c)(1)(B)(ii) is amended by inserting “except as provided in paragraph (4),” before “which.”

SEC. 103. EXPANSION OF DE MINIMIS RULE FOR INCOME DERIVED IN THE ACTIVE CONDUCT OF BANKING, FINANCING, OR SIMILAR BUSINESSES.

(a) IN GENERAL.—Subparagraph (A) of section 954(b)(3) (relating to de minimis, etc., rules) is amended by—

(1) by striking “5 percent” in clause (i) and inserting “10 percent”, and

(2) by striking “$1,000,000” in clause (ii) and inserting “$2,000,000.”

(b) TECHNICAL AMENDMENTS.——

(1) Clause (i) of section 881(c)(5)(A) is amended by striking “5 percent or $1,000,000” and inserting “10 percent or $2,000,000”.

(2) Clause (i) of section 881(c)(5)(A) is amended by striking “5 percent or $1,000,000” and inserting “10 percent or $2,000,000.”

SEC. 104. SUBPART F EARNINGS AND PROFITS DETERMINED UNDER GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.

(a) IN GENERAL.—Section 964(a) (relating to earnings and profits) is amended by striking “rules substantially similar to those applicable to domestic corporations, under regulations prescribed by the Secretary” and inserting “generally accepted accounting principles in the United States”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to distributions during, and the determination of the inclusion under section 951 of the Internal Revenue Code of 1986 with respect to, taxable years of foreign corporations beginning after December 31, 1999.

SEC. 105. CLARIFICATION OF TREATMENT OF PIPELINE TRANSPORTATION INCOME. 

Section 954(g)(1) (defining foreign base company oil related income) is amended by striking “or” at the end of subparagraph (A), by striking the period at the end of subparagraph (B), and by inserting “and” in place thereof.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 1999, and taxable years of United States shareholders with or within which such taxable years of controlled foreign corporations end.

TITLe III—OTHER PROVISIONS

SEC. 106. EXPANSION OF DE MINIMIS RULE UNDER SUBPART F.

(a) IN GENERAL.—Subparagraph (A) of section 954(b)(3) is amended by inserting “or” at the end of subparagraph (A), and by redesignating subparagraph (B) as subsection (k).

(b) DESCRIPTION.—Subparagraph (B) of section 954(b)(3) is redesignated as subsection (h).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply for purposes of the preceding sentence.

SEC. 107. LOOK-THROUGH RULE FOR SALES OF PARTNERSHIP INTERESTS.

(a) IN GENERAL.—In the case of any sale by a controlled foreign corporation of an interest in a partnership with respect to which such corporation is a 10-percent owner, such corporation shall be treated for purposes of this subsection as selling the proportionate share of the assets of the partnership attributable to such interest.

(b) 10-PERCENT OWNER.—For purposes of this paragraph, the term ‘10-percent owner’ means a controlled foreign corporation which owns 10 percent or more of the capital or profits interest in the partnership. The constructive ownership rules of section 958(b) shall apply for purposes of the preceding sentence.”

CONFORMING AMENDMENT.—Section 954(c)(1)(B)(ii) is amended by inserting “except as provided in paragraph (4),” before “which.”

SEC. 108. EFFECTIVE DATE.

Except as otherwise provided in this title, the amendments made by this title shall apply to taxable years of controlled foreign corporations beginning after December 31, 1999, and taxable years of United States shareholders with or within which such taxable years of controlled foreign corporations end.

TITLE II—PROVISIONS RELATING TO FOREIGN TAX CREDIT

SEC. 109. LOOk-THROUGH TREATMENT FOR SALES OF PARTNERSHIP INTERESTS.

(a) IN GENERAL.—Section 954(c) (defining foreign personal holding company income) is amended by adding at the end the following new paragraph:

“(4) LOOK-THROUGH RULE FOR CERTAIN PARTNERSHIP SALES.—

“(A) IN GENERAL.—In the case of any sale by a controlled foreign corporation of an interest in a partnership with respect to which such corporation is a 10-percent owner, such corporation shall be treated for purposes of this subsection as selling the proportionate share of the assets of the partnership attributable to such interest.

“(B) 10-PERCENT OWNER.—For purposes of this paragraph, the term ‘10-percent owner’ means a controlled foreign corporation which owns 10 percent or more of the capital or profits interest in the partnership. The constructive ownership rules of section 958(b) shall apply for purposes of the preceding sentence.”

CONFORMING AMENDMENT.—Section 954(c)(1)(B)(ii) is amended by inserting “except as provided in paragraph (4),” before “which.”

SEC. 110. EFFECTIVE DATE.

Except as otherwise provided in this title, the amendments made by this title shall apply to taxable years of controlled foreign corporations beginning after December 31, 1999, and taxable years of United States shareholders with or within which such taxable years of controlled foreign corporations end.

SEC. 111. TREATMENT OF CONTROLLED FOREIGN CORPORATIONS.

(a) PERMANENT SUBPART F EXEMPTION FOR ACTIVE FINANCING INCOME.

(b) INSURANCE BUSINESSES.—Section 953(e) defines exempt insurance income is amended by adding at the end the following new paragraph:

“(b) EXCEPTION FOR INCOME FROM TRANSMISSION OF HIGH VOLTAGE ELECTRICITY.—The term ‘foreign base company services income’ does not include income derived in connection with the performance of services which are related to the transmission of high voltage electricity.”

SEC. 112. STUDY OF PROPER TREATMENT FOR SALES OF PARTNERSHIP INTERESTS.

(a) IN GENERAL.—Section 954(c) (defining foreign personal holding company income) is amended by adding at the end the following new paragraph:

“(4) LOOK-THROUGH RULE FOR CERTAIN PARTNERSHIP SALES.—

“(A) IN GENERAL.—In the case of any sale by a controlled foreign corporation of an interest in a partnership with respect to which such corporation is a 10-percent owner, such corporation shall be treated for purposes of this subsection as selling the proportionate share of the assets of the partnership attributable to such interest.

“(B) 10-PERCENT OWNER.—For purposes of this paragraph, the term ‘10-percent owner’ means a controlled foreign corporation which owns 10 percent or more of the capital or profits interest in the partnership. The constructive ownership rules of section 958(b) shall apply for purposes of the preceding sentence.”

CONFORMING AMENDMENT.—Section 954(c)(1)(B)(ii) is amended by inserting “except as provided in paragraph (4),” before “which.”

SEC. 113. EFFECTIVE DATE.

Except as otherwise provided in this title, the amendments made by this title shall apply to taxable years of controlled foreign corporations beginning after December 31, 1999, and taxable years of United States shareholders with or within which such taxable years of controlled foreign corporations end.

TITLE III—OTHER PROVISIONS

SEC. 114. EXTENSION OF PERIOD TO WHICH EXCESS FOREIGN TAXES MAY BE CARRIED.

(a) GENERAL RULE.—Section 904(c) (relating to carryback and carryover of excess tax credits) is amended by striking “in the first, second, third, fourth, or fifth” and inserting “in any of the first 10”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to foreign taxes arising in taxable years beginning after December 31, 1999.

SEC. 115. RECHARACTERIZATION OF OVERALL DOMESTIC LOSS.

(a) GENERAL RULE.—Section 904 is amended by redesignating subsections (g), (h), (i), (j), and (k) as subsections (h), (i), (j), (k), and (l) respectively, and by adding at the end the following new subsection:

“(g) RECHARACTERIZATION OF OVERALL DOMESTIC LOSS.—

“(1) IN GENERAL.—For purposes of this section, in the case of any taxpayer who sustains an overall domestic loss for any taxable year beginning after December 31, 1999, the portion of the taxpayer’s taxable income from sources within the United States for each succeeding taxable year which is equal to the lesser of—

(A) the amount of such loss (to the extent not used under this paragraph in prior taxable years), or

(B) the amount of such loss (to the extent not used under this paragraph in prior taxable years), or
purposes of this subsection and section 936—

(1) EXCEPTION FOR INCOME ON DEALER PROPERTY.—Paragraph (1) shall not apply to any amount attributable to the direct or constructive ownership by a person that holds the security in connection with the holder’s activities as a dealer in securities (within the meaning of section 475(c)(2)) which is received or accrued by a person that holds the security in connection with the holder’s activities as a dealer in securities (within the meaning of section 475(c)(1)).

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1999.

(2) PARTNERSHIPS.—Section 904(d)(6)(C) (relating to rules of paragraph (3)(C)) is amended by redesignating subparagraph (ii) as clause (ii).
Title III—Other Provisions

Sec. 301. Deduction for Dividends Received from Certain Foreign Corporations.

(a) Constructive Ownership Rules to Apply in Determining 80 Percent Ownership. Section 245(a)(5) (relating to post-1986 distributions of U.S. earnings) is amended by adding at the end the following flush sentence:

“Section 31(b) shall apply for purposes of subparagraph (C).”

(b) Dividends to Include Subpart F Distributions. Section 245(a) (relating to dividends from 10-percent owned foreign corporations) is amended by striking at the end the following new paragraph:

“(1) Subpart F Inclusions Treated as Dividends.—For purposes of this subsection, the term ‘dividend’ shall include any amount the taxpayer is required to include in gross income for the taxable year under section 951(a).

(c) Effective Date. The amendments made by this section shall apply to taxable years beginning after December 31, 1999.

Sec. 302. Application of Uniform Capitalization Rules to Foreign Persons.

(a) In General. Section 263A(c) (relating to exceptions) is amended by adding at the end the following new paragraph:

“(7) Foreign Persons.—This section shall apply to any taxpayer who is not a United States person only if the purposes of applying sections 871(h)(1) and 822(a)(1).”

(b) Effective Date. The amendments made by this section shall apply to taxable years beginning after December 31, 1999.

Sec. 303. Treatment of Military Property.

(a) In General. Section 923(a) (defining exempt foreign trade income) is amended by striking paragraph (5) and by redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively.

(b) Conforming Amendment. Section 263A(c) (relating to elections) is amended by adding at the end the following new subparagraph (K) and inserting ‘‘; and’’, and by adding at the end the following new subparagraph (L):

“(L) securities acquired and held by a controlled foreign corporation in the ordinary course of business, including at the end the following new paragraph:

“(i) securities acquired and held by a controlled foreign corporation in the ordinary course of business, including at the end the following new paragraph:

“(ii) any interest-related dividend received from a regulated investment company which is designated by the regulated investment company as an interest-related dividend, and any interest-related dividend paid to a person within a foreign country or any interest-related dividend payment addressed to, or for the account of, persons within such foreign country during any period described in subsection (b)(6) with respect to such country.

(c) Effective Date. The amendments made by this section shall apply to taxable years beginning after December 31, 1999.

Sec. 304. United States Property Not to Include Certain Assets Acquired in Ordinary Course of Trade or Business.

(a) In General. Section 956(c)(2) (relating to exceptions from property treated as United States property) is amended by striking “and” at the end of subparagraph (J) and by redesignating paragraph (K) as paragraph (J).

(b) Conforming Amendment. Section 965(c) (relating to exceptions from property treated as United States property) is amended by striking “and” at the end of subparagraph (J) and by redesignating paragraph (K) as paragraph (L).

(c) Effective Date. The amendments made by this section shall apply to taxable years beginning after December 31, 1999.
on an obligation which is in registered form, except as otherwise provided in subparagraph (C), no tax shall be imposed under subsection (a)(1) on any short-term capital gain dividend received from a regulated investment company.

(B) Exception for aliens taxable under Subpart F.—Subparagraph (A) shall not apply with respect to a nonresident alien individual subject to tax under subsection (a)(2).

(C) Short-term Capital Gain Dividend.—For purposes of this paragraph, a short-term capital gain dividend is any dividend (or part thereof) which is designated by the regulated investment company as a short-term capital gain dividend in a written notice mailed to its shareholders not later than 60 days after the close of its taxable year.

DISTRIBUTIONS BY DOMESTICALLY CONTROLLED QUALIFIED INVESTMENT ENTITIES.—In the case of a domestically controlled qualified investment entity, rules similar to the rules of subsection (d) shall apply to the foreign ownership percentage of any gain.

(3) Subparagraphs (A) and (B) of section 896(h)(4) are each amended by striking "qualified investment entity" and inserting "qualified investment entity", and the references in section 897(h)(4) are each amended by striking "qualified investment entity" and inserting "domestically controlled qualified investment entity".

E. Stock in a RIC.—The term "domestically controlled qualified investment entity" means any qualified investment entity, rules similar to the rules of subsection (d) shall apply to the foreign ownership percentage of any gain.

F. Other Stock in a domestically controlled qualified investment entity.—The term "domestically controlled qualified investment entity" means any qualified investment entity in which at all times during the period of 10 years after the date of transfer of all United States real property interests, the United States real property interest of such investment entity, rules similar to the rules of subsection (d) shall apply to foreign persons.

(4) Paragraphs (2) and (3) of section 897(h)(4) are each amended by striking "domestically controlled qualified investment entity" and inserting "qualified investment entity".

G. Effective Date.—(1) In general.—Except as otherwise provided in this subsection, the amendments made by this section apply with respect to taxable years beginning after the date of the enactment of this Act.

(2) Estate tax treatment.—The amendments made by this section shall apply to estates of decedents dying after the date of the enactment of this Act.

(3) Certain stock in a domestically controlled qualified investment entity.—The amendments made by subsection (c) (other than paragraph (1) thereof) shall take effect on the date of the enactment of this Act.
SEC. 306. REGULATORY AUTHORITY TO EXCLUDE CERTAIN PRELIMINARY AGREEMENTS FROM DEFINITION OF INTANGIBLE PROPERTY.

(a) In General.—Section 936(h)(3)(B) (dealing in intangible property) is amended by adding at the end the following new sentence: "The Secretary shall by regulation provide that such term shall not include any preliminary agreement which is not legally enforceable.

(b) Effective Date.—The amendment made by this section shall apply to agreements entered into after the date of the enactment of this Act.

SEC. 307. AIRLINE MILEAGE AWARDS TO CERTAIN FOREIGN PERSONS.

(a) In General.—The last sentence of section 861(e)(3)(C) (relating to regulations) is amended by inserting "and mileage awards which are issued to individuals whose mailing addresses on record with the person providing such awards are located outside the United States" before the period at the end thereof.

(b) Effective Date.—The amendment made by this section shall apply to amounts paid, and benefits provided, after December 31, 1997.

SEC. 308. REPEAL OF REDUCTION OF SUBPART F INCOME OF EXPORT TRADE CORPORATIONS.

(a) In General.—Subpart F of chapter 1 of the Internal Revenue Code of 1986 (relating to export trade corporations) is amended by striking such subpart.

(b) Treatment of Certain Actual Distributions.

(1) In General.—For purposes of applying sections 959 and 960(b) of the Internal Revenue Code of 1986, in the case of any actual distribution of export trade income made after December 31, 1986, by an export trade corporation (or former export trade corporation) that was an export trade corporation on December 31, 1986, notwithstanding any other provision of chapter 1 of such Code, the earnings and profits attributable to amounts which have been included in the gross income of a United States shareholder under section 951(a) of such Code shall be treated as including an amount equal to the amount of export trade income that was included in gross income of such shareholder.

(2) Definitions.—For purposes of this subsection—

(A) EXPORT TRADE CORPORATION.—The term "export trade corporation" has the meaning given such term by section 971(a) of the Internal Revenue Code of 1986 (as so in effect before the amendment made by subsection (a)).

(B) EXPORT TRADE INCOME.—The term "export trade income" has the meaning given such term by section 971(b) of the Internal Revenue Code of 1986 (as so in effect).

(c) Conforming Amendments.—

(1) Section 866(a)(2)(A) is amended by striking the item (6) which designates such term.

(2) Section 101(b)(2)(D) is amended by striking "or export trade income of an export trade corporation (as defined in section 971)".

(3) The table of parts for part III of subchapter N of chapter 1 is amended by striking the item designated by such subsection.

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 309. STUDY OF INTEREST ALLOCATION.

(a) In General.—Section 163(j)(6)(D)(ii) (relating to exceptions to disallowed guarantee income) is amended by adding at the end the following new sentence: "The Secretary shall not require the reporting corporation to report any information with respect to any foreign person which is a related person if the aggregate value of the transactions between the corporation and the related person (related to such person) during the taxable year does not exceed $5,000,000.

(b) U.S. GOVERNMENT TRANSLATIONS OF SPECIFIC DOCUMENTS.—Notwithstanding Internal Revenue Service Regulation §1.6038A-3(f)(2), a taxpayer shall have at least 60 days to provide (through official means) the official translation of such document that is requested to translate. Nothing in this subsection shall limit the right of a taxpayer to file a written request for an extension of time to comply with the request.

(c) Effective Dates.—

(1) Exception.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1999.

(2) Translations.—Subsection (b) shall apply to requests made by the Internal Revenue Service after December 31, 1999.

By Mr. MACK. Mr. President, I rise to introduce the Defense Jobs and Trade Promotion Act of 1999. This bill, co-sponsored by Senator Feinstein and 16 of our colleagues, will eliminate a provision of tax law which discriminates against United States exporters of defense products.

Other nations have systems of taxation which rely less on corporate income taxes and more on value-added taxes. By rebating the value-added taxes for products that are exported, these nations lower the costs of their exports and provide their companies a competitive advantage that is not based on quality, ingenuity, or resources but rather on tax policy. In an attempt to level the playing field, our tax code allows U.S. companies to establish Foreign Sales Corporations (FSCs) through which U.S.-manufactured products may be exported. A portion of the profits from FSC sales are exempt from corporate income taxes, thereby giving U.S. companies a tax advantage that other countries give their exporters through value-added tax rebates.

But the tax benefits of a FSC are cut in half for defense exporters. This 50% limitation is the result of a compromise enacted 23 years ago as part of the predecessor to the FSC provisions. This compromise was not based on policy considerations, but instead merely split the difference between members of the committee who believed that all U.S. exporters should be treated equally.

U.S. defense manufacturers face intense competition from foreign businesses. With the sharp decline in the defense budget over the past decade, exports of defense products play a prominent role in maintaining a viable U.S. defense industry. It makes no sense to allow differences in international tax systems to stand as an obstacle to exports of U.S. defense products. We must level the international playing field for U.S. defense product manufacturers.

The fifty percent exclusion for sales of defense products makes even less sense when one considers that the sale of every defense product to a foreign government requires the determination of both the President and the Congress that the sale will strengthen the security of the United States and promote world peace. This is more than a matter of fair treatment for all U.S. exporters. National security is enhanced when our allies use U.S.-manufactured military equipment, because of its compatibility with equipment used by our armed forces.

The Department of Defense supports repeal of this provision. In an August

CONGRESSIONAL RECORD—SENATE

11399

DEFENSE JOBS AND TRADE PROMOTION ACT OF 1999

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Mr. NICKLES. Mr. President, today I have introduced legislation to clarify the proper depreciation of natural gas gathering lines. While depreciation is an arcane and technical area of the tax laws, continued uncertainty regarding the proper depreciation of these assets is having real and adverse impacts on members of the natural gas industry.

The purpose of this bill is quite simple—to clarify that natural gas gathering lines are assets that are properly depreciated over seven years. The legislation would codify the seven-year treatment of these assets as well as providing a sufficient definition for the term “natural gas gathering line” to distinguish these lines from transmission pipelines for depreciation purposes.

I believe that these assets should currently be depreciated over seven years under existing law, and that this is the longstanding practice of members of the industry. However, it has come to my attention that the Internal Revenue Service has been asserting both on audits and in litigation that seven-year depreciation is available only for gathering assets owned by producers. The IRS has asserted that all other gathering equipment is to be depreciated as transmission pipelines over a fifteen-year period. This confusing position ignores not only the plain language of the asset class guidelines governing depreciation, but would result in disparate treatment of the same assets based upon ownership for no discernible policy reason. Moreover, this position is also fundamentally in the interest of the industry. However, it has come to my attention that the Internal Revenue Service has been asserting both on audits and in litigation that seven-year depreciation is available only for gathering assets owned by producers. The IRS has asserted that all other gathering equipment is to be depreciated as transmission pipelines over a fifteen-year period. This confusing position ignores not only the plain language of the asset class guidelines governing depreciation, but would result in disparate treatment of the same assets based upon ownership for no discernible policy reason. Moreover, this position is also fundamentally

The legislation I am introducing today will finally stop the government from stealing money from Social Security trust funds, and for other purposes; to the Committee on Finance.

PROTECT SOCIAL SECURITY NOW LEGISLATION

Mr. MCCAIN: Mr. President, today I rise to introduce legislation which will give older Americans the freedom to work and protect the Social Security system by taking Social Security earnings from the black, and keeping it out of the hands of politicians. Our senior citizens are burdened by the earnings test, while most wealthy seniors escape unscathed. This is because the current law, which is $15,500 in 1999, allows senior citizens to work in order to cover their basic expenses: food, housing and health care. These lower-income seniors are hit hardest by the earnings test, while the most wealthy seniors escape unscathed. This is because the current law allows senior citizens to work in order to cover their basic expenses.

For too long, many have given lip service to eliminating the earnings test, but to no avail. It is time that we finally eliminate this ridiculous policy. In his State of the Union speech, President Clinton indicated that he may finally be ready to repeal the unfair Social Security earnings test, as originally $15,500 in 1999. However, the President did not include repeal of the earnings test in his budget proposal for 2000.

Hard-working senior citizens who need to work to help pay for their food, rent, prescription drugs, and daily living expenses are tired of empty promises. They are tired of being penalized for working. Repealing the unfair earnings test, as proposed in this legislation, is the right thing to do.

First, the bill protects the money in the Social Security Trust Funds by taking Social Security “off budget” and keeping this money out of the hands of politicians. This provision is
similar to other “lock box” proposals, except that it eliminates all the loopholes and exceptions, and truly locks up the money.

I support and applaud the efforts of my Republican colleagues to move forward on the Social Security Lockbox legislation that has been delayed by members of the other party. However, I am concerned that it contains loopholes which would allow Social Security funds to be spent on items other than retirement benefits for seniors.

For too long, Social Security funds have been used to pay for existing federal programs, create new government programs, and to mask our nation’s deficit. We must stop using Social Security funds for general government activities.

We must save Social Security to pay retirement benefits to hardworking Americans, as promised in the law.

Mr. President, I am introducing this legislation to turn Social Security trust fund surpluses safely away from a “lock box” without holes, so that neither we nor our successors can spend the people’s retirement money on anything other than their retirement.

Finally, the legislation requires that 62 percent of the non-Social Security budget surpluses from fiscal year 2001 through 2009 be transferred into the Social Security Trust Funds to strengthen and extend the solvency of the system. This amounts to $514 billion, based on current estimates of the non-Social Security surplus, which would shore up the system and ensure the availability of benefits for today’s seniors and those working and paying into the system today.

Locking up the Social Security Trust Fund and shoring up the fund with $514 billion in new money will extend the solvency of the system until about 2057, more than 20 years beyond the date when the system is currently expected to be bankrupt. This bill will provide senior citizens with the peace of mind that their Social Security checks will continue arriving each and every month. It will provide time for the Administration, the Congress, and the American people to develop and agree upon a structural reform plan which will save Social Security for future generations.

Mr. President, I would like to note that the National Committee to Preserve Social Security and Medicare has reviewed this legislation and has provided a letter in support of it that I would like to insert in the RECORD at this point.

Mr. President, this legislation that will truly preserve and protect Social Security for the future, and it will remove the unfair tax on working seniors. I urge my colleagues to support the bill and I intend to work for its passage this Congress.

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

The material was ordered to be printed in the RECORD, as follows:

S. 1168

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

TITLE I—ELIMINATION OF SOCIAL SECURITY EARNINGS TEST

SEC. 101. SHORT TITLE.

This title may be cited as the “Older Americans Freedom to Work Act”.

SEC. 102. ELIMINATION OF EARNINGS TEST FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE.

(a) IN GENERAL.—Section 203 of the Social Security Act (42 U.S.C. 403(b)) is amended—

(1) in subsection (f), by striking “the age of seventy” and inserting “retirement age (as defined in section 216(l));”;

(2) in paragraphs (1)(A) and (2) of subsection (d), by striking “was at age seventy or over” and inserting “was at or above retirement age (as defined in section 216(l));”;

(3) in subsection (f)(1)(B), by striking “was at age seventy or over” and inserting “was at or above retirement age (as defined in section 216(l));”;

(4) in subsection (g)(1)—

(A) by striking “32%” and all that follows through “any other individual,” and inserting “50 percent of such individual’s earnings for such year in excess of the product of the exempt amount as determined under paragraph (b);”;

and (B) by striking “age 70” and inserting “retirement age (as defined in section 216(l));”;

(5) in subsection (h)(1)(A), by striking “age 70” each place it appears and inserting “retirement age (as defined in section 216(l));”;

(6) in subsection (i)—

(A) in the heading, by striking “Age Sever- eny” and inserting “Retirement Age”; and

(B) by striking “seventy years of age” and inserting “retirement age (as defined in section 216(l));”;

(b) CONFORMING AMENDMENTS ELIMINATING THE SPECIAL EXEMPT AMOUNT FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE.—

(1) UNIFORM EXEMPT AMOUNT.—Section 208(f)(8)(A) of the Social Security Act (42 U.S.C. 403(f)(8)(A)) is amended by striking “the new exempt amounts (separately stated for other individuals) which are to be applicable” and inserting “a new exempt amount which shall be applicable”.

(2) CONFORMING AMENDMENTS.—Section 208(f)(8)(B) of the Social Security Act (42 U.S.C. 403(f)(8)(B)) is amended—

(A) in the matter preceding clause (i), by striking “Except” and all that follows through “may be applied” and inserting “the exempt amount which is applicable for each month of a particular taxable year shall be whichever of the following applies:

(B) in clauses (i) and (ii), by striking “cor- responding” each place it appears; and

(C) in the last sentence, by striking “an exempt amount” and inserting “the exempt amount”;

(3) REPEAL OF BASIS FOR COMPUTATION OF SPECIAL EXEMPT AMOUNT.—Section 208(f)(8)(D) of the Social Security Act (42 U.S.C. 403(f)(8)(D)) is repealed.

(c) ADDITIONAL CONFORMING AMENDMENTS.—

(1) ELIMINATION OF REDUNDANT REFERENCES TO RETIREMENT AGE.—Section 203 of the Social Security Act (42 U.S.C. 403) is amended—

(A) in subsection (c), in the last sentence, by striking “nor shall any deduction be made under this subsection from any widow’s or widower’s insurance benefit if the widow, surviving divorced wife, widower, or surviving divorced husband involved became entitled to such benefit prior to attaining age 60.”;

and (B) in subsection (b)(1), by striking clause (B) and inserting the following: “(D) for which such individual is entitled to widow’s or widower’s insurance benefits if such individual became so entitled prior to attaining age 60.”;

(2) CONFORMING AMENDMENT TO PROVISIONS FOR DETERMINING AMOUNT OF INCREASE ON ACCOUNT OF DELAYED RETIREMENT.—Section 203(b)(2)(B)(i) of the Social Security Act (42 U.S.C. 402(w)(2)(B)(i)) is amended—

(A) by striking “either”; and

(B) by striking “or suffered deductions under section 216(l) of the Internal Revenue Code of 1986 which is equal to the amount of such deduction equal to the amount of such benefit”;

(3) PROVISIONS RELATING TO EARNINGS TAKEN INTO ACCOUNT IN DETERMINING SUBSTANTIAL GAINFUL ACTIVITY OF BLIND INDIVIDU- ALS.—The second sentence of section 223(d)(4)(A) of the Social Security Act (42 U.S.C. 423(d)(4)(A)) is amended by striking “section 102 of the Senior Citizens’ Right to Work Act of 1996”;

(4) EFFECTIVE DATE.—The amendments and repeal made by this section shall apply with respect to taxable years ending after December 31, 1998.

TITLE II—PROTECTING AND PRESERVING THE SOCIAL SECURITY TRUST FUNDS

SEC. 201. SHORT TITLE.

This title may be cited as the “Protecting and Preserving the Social Security Trust Funds Act”.

SEC. 202. FINDINGS.

Congress finds that—

(1) the $69,246,000,000 unified budget surplus achieved in fiscal year 1998 was entirely due to surpluses generated by the social security trust funds and the cumulative unified budget surplus projected for subsequent fiscal years are primarily due to surpluses generated by the social security trust funds;

(2) Congress and the President should not use the social security trust funds surpluses to balance the budget or fund existing or new non-social security programs; and

(3) all surpluses generated by the social security trust funds must go towards saving and strengthening the social security system.

SEC. 203. PROTECTION OF THE SOCIAL SECURITY TRUST FUNDS.

(a) PROTECTION BY CONGRESS.—

(1) REAFFIRMATION OF SUPPORT.—Congress reaffirms its support for the provisions of section 13301 of the Budget Enforcement Act of 1990 that provides that the receipts and disbursements of the social security trust funds...
funds shall not be counted for the purposes of the budget as specified by the President, the congressional budget, or the Balanced Budget and Emergency Deficit Control Act of 1985.

(2) PROTECTION OF SOCIAL SECURITY BENEFITS.—Balances in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund shall be used solely for paying social security benefit payments as promised to be paid by law.

(b) POINTS OF ORDER.—Section 301 of the Congressional Budget Act of 1974 is amended by adding the following:

"(j) SOCIAL SECURITY POINT OF ORDER.—It shall not be in order in the Senate to consider a concurrent resolution on the budget, an amendment thereto, or a conference report thereto that would cause or increase an on-budget deficit for any fiscal year.

"(k) SOCIAL SECURITY SURPLUS PROTECTION POINT OF ORDER.—It shall not be in order in the Senate to consider a concurrent resolution on the budget, an amendment thereto, or a conference report thereto that would cause or increase an on-budget deficit for any fiscal year.

"(l) SUBSEQUENT LEGISLATION.—

"(1) In general.—It shall not be in order in the Senate to consider any bill, joint resolution, amendment, motion, or conference report if—

"(A) the enactment of the bill or resolution as reported;

"(B) the adoption and enactment of that amendment; or

"(C) the enactment of the bill or resolution in the form recommended in the conference report; would cause or increase an on-budget deficit for any fiscal year.

"(2) POINT OF ORDER.—This subsection shall not apply to social security reform legislation that would protect the social security system from insolvency and preserve benefits as promised to beneficiaries.

"(m) SUPERMAJORITY WAIVER AND APPEAL.—Subsection (2) of section 204 of the Congressional Budget Act of 1974 is amended by striking "305(b)(2)," and inserting "301(j), 301(k), 301(l), 305(b)(2),"

SEC. 201. DESIGNATION OF ON-BUDGET SURPLUSES.

(a) In general.—Notwithstanding any other provision of law, not less than the amount referred to in subsection (b) for a fiscal year shall be reserved and applied to the social security trust funds for that fiscal year in addition to the Social Security Trust Fund surpluses.

(b) AMOUNT RESERVED.—The amount referred to in this subsection is—

(1) for fiscal year 2001, $6,820,000,000;

(2) for fiscal year 2002, $8,380,000,000;

(3) for fiscal year 2003, $8,720,000,000;

(4) for fiscal year 2004, $62,160,000,000;

(5) for fiscal year 2005, $48,980,000,000;

(6) for fiscal year 2006, $71,920,000,000;

(7) for fiscal year 2007, $85,090,000,000;

(8) for fiscal year 2008, $90,520,000,000; and

(9) for fiscal year 2009, $102,300,000,000.

SEC. 202. SENSE OF THE SENATE ON DEDICATING SOCIAL SECURITY SURPLUS AMOUNTS.

It is the sense of the Senate if the budget surplus in future years is greater than the currently projected surplus, serious consideration should be given to directing more of the surplus to strengthening the social security trust funds.


Hon. John McCain, Russell Building, U.S. Senate, Washington, DC.

Dear Senator McCain: On behalf of the approximately five million members and supporters of the Committee I commend your leadership on the issue of protecting the Social Security trust funds and eliminating the Social Security earnings test.

The National Committee's members earnestly believe in the future of the Social Security system and its critical importance to America's hard working families. Your legislation would not only safeguard the Social Security surpluses and reaffirm Social Security's off-budget status, but would also strengthen the program's solvency by committing 62 percent of projected off-budget surpluses to Social Security. Using the off-budget surpluses to fortify Social Security and keep it strong will help our nation better meet the challenge of the baby-bomb generation's retirement.

We also commend you for your long commitment to eliminating the earnings test for individuals who have reached normal retirement age. Encouraging seniors to remain in the work force as long as they are willing and able to work strengthens their ability to remain financially independent throughout their retirement years.

Sincerely,

Max Richtman, Executive Vice President.

By Mr. MCCAIN (for himself, Mr. COCHRAN, and Mr. BURNS):

S. 1169. A bill to require that certain multilateral development banks and other lending institutions implement independent third party procurement monitoring, and for other purposes; to the Committee on Foreign Relations:

COMPETITION IN FOREIGN COMMERCE ACT OF 1999

Mr. MCCAIN. Mr. President, I along with Senators COCHRAN and BURNS are proud to introduce the Fair Competition in Foreign Commerce Act of 1999, to address the serious problem of waste, fraud and abuse resulting from bribery and corruption in international development projects. This legislation will set conditions for U.S. funding through multilateral development banks. These conditions will require the country receiving aid to adopt substantive procurement and independent third-party procurement monitoring of their international development projects.

During the cold war, banks and governments often looked the other way as pro-western leaders in developing countries treated national treasuries as their personal treasury troves. Today, we cannot afford to look the other way when we see bribery and corruption running rampant in other countries because these practices undermine our goals of promoting democracy and accountability, fostering economic development and trade liberalization, and achieving a level playing field throughout the world for American businesses.

The United States is increasingly called upon to lead multilateral efforts to provide much-needed economic assistance to developing nations. The American taxpayers make substantial contributions to the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the North American Development Bank, and the African Development Fund.

However, it is critical that we take steps to ensure that Americans' hard earned tax dollars are being used appropriately. The Fair Competition in Foreign Commerce Act of 1999 is designed to decrease the stifling effects of bribery and corruption and to ensure that foreign development contracts are awarded to companies who are not engaged in bribery and corruption.

Multilateral lending efforts are only effective in spurring economic development if the funds are used to further the intended development projects, not to line the pockets of foreign bureaucrats and their well-connected political allies.

When used for its intended purpose, foreign aid yields both short- and long-term benefits to U.S. businesses. Direct foreign aid assists developing nations to develop their infrastructure. A developed infrastructure is vital to creating and sustaining a modern economic competitive edge. We must ensure that our aid is not used to support corruption.

We also commend you for your long commitment to eliminating the earnings test for individuals who have reached normal retirement age. Encouraging seniors to remain in the work force as long as they are willing and able to work strengthens their ability to remain financially independent throughout their retirement years.

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May 27, 1999

evaluation reports and contract preparation, to the delivery of goods and services. This monitoring takes place throughout the entire life of the international development project.

Mr. President, this system has worked for other governments. Procurement reforms and third-party procurement monitoring resulted in the United States saving 48% when it adopted a third-party procurement monitoring system and other procurement reform measures in a recent contract for pharmaceuticals.

Mr. President, bribery and corruption have many harmful effects. Bribery and corruption imperil vital U.S. interests. Both harm consumers, taxpayers, and honest traders who lose contracts, production, and profits because they refuse to offer bribes to secure foreign contracts.

Bribery and corruption have become a serious problem. A World Bank survey of 3,600 firms in 69 countries showed 40% of businesses paying bribes. More startling is that Germany showed 40% of businesses paying bribes. Commerce Secretary Daley summed up the serious impact of bribery and corruption upon American businesses' ability to compete for foreign contracts in 1997:

Since mid-1994, foreign firms have used bribery to win approximately 180 commercial contracts valued at nearly $80 billion. We estimate that over the past year, American companies have lost at least 50 of these contracts, valued at $15 billion. And since many of these contracts were for groundbreaking projects—the kind that produce exports for years to come—the ultimate cost could be much higher.

Since then American companies have continued to lose international development contracts because of unfair competition from businesses paying bribes. This terrible trend must be brought to a halt.

Exports will continue to play an increasing role in our economic expansion. We can ill afford to allow any artificial impediments to our ability to export. Bribery and corruption significantly hinder American businesses' ability to compete for lucrative overseas government contracts. American businesses are simply not competitive when bidding against foreign firms that have bribed government officials to secure government contracts. Openness and fairness in government contracts will greatly enhance opportunities to compete in the rapidly expanding global economy. Exports equate to jobs. Jobs equate to more money in hard-working American pockets. More money in Americans' pockets means more money for Americans to save and invest in their future.

Bribery and corruption also harm the country receiving the aid because bribery and corruption commonly inflate the cost of international development projects. For example, state sponsorship of massive infrastructure projects that are deliberately beyond the required specification needed to meet the cost of international development projects. Here, the cost of corruption is not the amount of the bribe itself, but the inefficient use of resources that the bribes encourage. Bribery and corruption drive up costs. Companies are forced to increase prices to cover the cost of bribes they are forced to pay. A 2% bribe on a contract can raise costs by 15%. Over time, tax revenues will have to be raised or diverted from other more deserving projects to fund these excesses. Higher taxes and the inefficient use of resources both hinder growth. The World Bank and IMF both recognize the link between bribery and corruption, and decreased economic growth. Recent studies also indicate that high levels of corruption are associated with low levels of investment and growth. Furthermore, corruption lessens the effectiveness of industrial policies and encourages businesses to operate in the unofficial sector in violation of tax and regulatory laws. More important, corruption breeds corruption and discourages legitimate investment. In short, bribery and corruption create a "lose-lose" situation for the U.S. and developing nations.

The U.S. recognizes the damaging effects bribery and corruption have at home and abroad. The U.S. continues to combat foreign corruption, waste, and abuse on many fronts—from prohibiting U.S. firms from bribing foreign officials, to leading the anti-corruption efforts in the United Nations, the Organization of American States, and the Organization for Economic Cooperation and Development ("OECD"). The U.S. was the first country to enact legislation (the Foreign Corrupt Practices Act) to prohibit its nationals and corporations from bribing foreign public officials in international and business transactions.

However, we must do more. The Foreign Corrupt Practices Act prevents U.S. nationals and corporations from bribing foreign officials, but does nothing to prevent foreign nationals and corporations from bribing foreign officials to obtain foreign contracts. Valuable resources are often diverted or squandered because of officials or the use of non-transparent specifications, contract requirements and the like in international procurements for goods and services. Such corrupt practices also minimize competition and prevent the recipient nation or agency from receiving the full value of the goods and services for which it bargained. In addition, despite the importance of international markets to U.S. economy, Robust new economies create new markets to which U.S. businesses can export their goods and services. Exporting U.S. products increasingly competitive global economy.

The current laws and procedures are inadequate and meaningless. This bill seeks to ensure that U.S. taxpayers' hard-earned dollars contributed to international projects are used appropriately, by detecting and eliminating bribery and corruption before they can taint the integrity of international projects. Past experience illustrates that it is ineffective to attempt to reverse waste, fraud, and abuse in large-scale foreign infrastructure projects, once the abuse has already begun. Therefore, it is vital to detect and eliminate the abuse before it begins. The Fair Competition in Foreign Commerce Act of 1999 requires the United States Government, through its participation in multilateral lending institutions and in its disbursement of non-humanitarian foreign assistance funds, to: (1) require the recipient international financial institution to adopt an anti-corruption plan that requires the aid recipient to use independent third-party procurement monitoring services at each stage of the procurement process to ensure openness and transparency in government procurements, and (2) require the recipient nation to institute specific strategies for minimizing corruption and maximizing transparency in procurements at each stage of the procurement process. The legislation directs the Secretary of the Treasury to instruct the United States Executive Directors of the various international institutions to use the voice and vote of the U.S. to prevent an lending institution from providing funds to nations which do not satisfy the procurement reforms criteria.

This Act has two important exceptions. First, it does not apply to assistance to meet urgent humanitarian needs such as providing food, medicine, disaster, and refugee relief. Second, it also permits the President to waive the funding restrictions with respect to a particular country, if making such funds available is important to the national security interest of the United States.

Independent third-party procurement monitoring is a system where an unin- volved entity conducts a program to eliminate bias, to promote transparency and open competition, and to minimize fraud and corruption, waste and inefficiency and other misuse of funds in international procurements. The system does this through an independent third-party procurement monitoring process. The development and issuance of technical specifications, bidding documents, and contract preparation, to the delivery of goods and services. This monitoring takes place throughout the entire life of the international development project.

Mr. President, this system has worked for other governments. Procurement reforms and third-party procurement monitoring resulted in the United States saving 48% when it adopted a third-party procurement monitoring system and other procurement reform measures in a recent contract for pharmaceuticals.

Mr. President, bribery and corruption have many harmful effects. Bribery and corruption imperil vital U.S. interests. Both harm consumers, taxpayers, and honest traders who lose contracts, production, and profits because they refuse to offer bribes to secure foreign contracts.

Bribery and corruption have become a serious problem. A World Bank survey of 3,600 firms in 69 countries showed 40% of businesses paying bribes. More startling is that Germany showed 40% of businesses paying bribes. Commerce Secretary Daley summed up the serious impact of bribery and corruption upon American businesses' ability to compete for foreign contracts in 1997:

Since mid-1994, foreign firms have used bribery to win approximately 180 commercial contracts valued at nearly $80 billion. We estimate that over the past year, American companies have lost at least 50 of these contracts, valued at $15 billion. And since many of these contracts were for groundbreaking projects—the kind that produce exports for years to come—the ultimate cost could be much higher.

Since then American companies have continued to lose international development contracts because of unfair competition from businesses paying bribes. This terrible trend must be brought to a halt.

Exports will continue to play an increasing role in our economic expansion. We can ill afford to allow any artificial impediments to our ability to export. Bribery and corruption significantly hinder American businesses' ability to compete for lucrative overseas government contracts. American businesses are simply not competitive when bidding against foreign firms that have bribed government officials to secure government contracts. Openness and fairness in government contracts will greatly enhance opportunities to compete in the rapidly expanding global economy. Exports equate to jobs. Jobs equate to more money in hard-working American pockets. More money in Americans' pockets means more money for Americans to save and invest in their future.

Bribery and corruption also harm the country receiving the aid because bribery and corruption often inflate the cost of international development projects. For example, state sponsorship of massive infrastructure projects that are deliberately beyond the required specification needed to meet the cost of international development projects. Here, the cost of corruption is not the amount of the bribe itself, but the inefficient use of resources that the bribes encourage. Bribery and corruption drive up costs. Companies are forced to increase prices to cover the cost of bribes they are forced to pay. A 2% bribe on a contract can raise costs by 15%. Over time, tax revenues will have to be raised or diverted from other more deserving projects to fund these excesses. Higher taxes and the inefficient use of resources both hinder growth. The World Bank and IMF both recognize the link between bribery and corruption, and decreased economic growth. Recent studies also indicate that high levels of corruption are associated with low levels of investment and growth. Furthermore, corruption lessens the effectiveness of industrial policies and encourages businesses to operate in the unofficial sector in violation of tax and regulatory laws. More important, corruption breeds corruption and discourages legitimate investment. In short, bribery and corruption create a "lose-lose" situation for the U.S. and developing nations.

The U.S. recognizes the damaging effects bribery and corruption have at home and abroad. The U.S. continues to combat foreign corruption, waste, and abuse on many fronts—from prohibiting U.S. firms from bribing foreign officials, to leading the anti-corruption efforts in the United Nations, the Organization of American States, and the Organization for Economic Cooperation and Development ("OECD"). The U.S. was the first country to enact legislation (the Foreign Corrupt Practices Act) to prohibit its nationals and corporations from bribing foreign public officials in international and business transactions.

However, we must do more. The Foreign Corrupt Practices Act prevents U.S. nationals and corporations from bribing foreign officials, but does nothing to prevent foreign nationals and corporations from bribing foreign officials to obtain foreign contracts. Valuable resources are often diverted or squandered because of officials or the use of non-transparent specifications, contract requirements and the like in international procurements for goods and services. Such corrupt practices also minimize competition and prevent the recipient nation or agency from receiving the full value of the goods and services for which it bargained. In addition, despite the importance of international markets to U.S. economy, Robust new economies create new markets to which U.S. businesses can export their goods and services. Exporting U.S. products increasingly competitive global economy.

The current laws and procedures designed to detect and deter corruption after the fact are inadequate and meaningless. This bill seeks to ensure that U.S. taxpayers' hard-earned dollars contributed to international projects are used appropriately, by detecting and eliminating bribery and corruption before they can taint the integrity of international projects. Past experience illustrates that it is ineffective to attempt to reverse waste, fraud, and abuse in large-scale foreign infrastructure projects, once the abuse has already begun. Therefore, it is vital to detect and eliminate the abuse before it begins. The Fair Competition in Foreign Commerce Act of 1999 requires the United States Government, through its participation in multilateral lending institutions and in its disbursement of non-humanitarian foreign assistance funds, to: (1) require the recipient international financial institution to adopt an anti-corruption plan that requires the aid recipient to use independent third-party procurement monitoring services at each stage of the procurement process to ensure openness and transparency in government procurements, and (2) require the recipient nation to institute specific strategies for minimizing corruption and maximizing transparency in procurements at each stage of the procurement process. The legislation directs the Secretary of the Treasury to instruct the United States Executive Directors of the various international institutions to use the voice and vote of the U.S. to prevent an lending institution from providing funds to nations which do not satisfy the procurement reforms criteria.

This Act has two important exceptions. First, it does not apply to assistance to meet urgent humanitarian needs such as providing food, medicine, disaster, and refugee relief. Second, it also permits the President to waive the funding restrictions with respect to a particular country, if making such funds available is important to the national security interest of the United States.
goods and service providers, many U.S. companies refuse to participate in international procurements that may be corrupt. This legislation is designed to provide a mechanism to ensure, to the extent possible, the integrity of U.S. contributions to multilateral lending institutions and other non-humanitarian U.S. foreign aid. Corrupt international procurements, often funded by these multilateral banks, weaken democratic institutions and undermine the very opportunities that multilateral lending institutions were founded to promote. This will encourage and support the development of transparent government procurement systems, which are vital for emerging democracies constructing the infrastructure that can sustain market economies.

Mr. President, on behalf of the millions of Americans who will benefit from increased opportunities for U.S. businesses to participate in the global economy, and the billions of people in developing nations throughout the world who are desperate for economic assistance, I urge my colleagues to support this legislation and demonstrate their continued commitment to the orderly evolution of the global economy and the efficient use of American economic assistance.

Mr. Vice 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. 1169
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.
This Act may be cited as the "Fair Competition in Foreign Commerce Act of 1999".

SEC. 2. FINDINGS AND STATEMENT OF PURPOSE.
(a) FINDINGS.—Congress finds that—
(1) The United States makes substantial contributions and provides significant funding for major international development projects through the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the North American Development Bank, the African Development Fund, and other multilateral lending institutions.
(2) These international development projects are often plagued with fraud, corruption, waste, inefficiency, and misuse of funding.
(3) Fraud, corruption, waste, inefficiency, misuse, and abuse are major impediments to competition in foreign commerce throughout the world.
(4) Identifying these impediments before they occur is inadequate and meaningless.
(5) Detection of impediments before they occur helps to ensure that valuable United States resources contributed to important international development projects are used appropriately.
(6) Independent third-party procurement monitoring is an important tool in detecting and preventing such impediments.
(7) Third-party procurement monitoring includes evaluations of each stage of the procurement process and assesses the openness and transparency of the process.
(8) Improving transparency and openness in the procurement process helps to minimize fraud, corruption, waste, inefficiency, and other misuse of funding, and promotes competition, thereby strengthening international trade and foreign commerce.
(b) PURPOSE.—The purpose of this Act is to build on the progress associated with the Organization on Economic Development and Cooperation Agreement on Bribery and Corruption, by requiring the use of independent third-party procurement monitoring as part of the United States participation in multilateral development banks and other lending institutions that receive assistance from a multilateral development bank or lending institution during the preceding year.

SEC. 3. DEFINITIONS.
(a) DEFINITIONS.—In this Act:
(1) APRPROPRIATE COMMITTEES.—The term "appropriate committees" means the Committee on Commerce, Science, and Technology of the Senate and the Committee on Commerce, Science, and Technology of the House of Representatives.
(2) INDEPENDENT THIRD-PARTY PROCUREMENT MONITORING.—The term "independent third-party procurement monitoring" means a program to—
(A) eliminate bias,
(B) promote transparency and open competition,
(C) minimize fraud, corruption, waste, inefficiency, and other misuse of funds;
(3) the recipient country institutes specific term "each stage of procurement" means the development and issuance of technical specifications, bidding documents, evaluation reports, contract preparation, and the delivery of goods and services;
(4) MULTILATERAL DEVELOPMENT BANKS AND OTHER LENDING INSTITUTIONS.—The term "multilateral development banks and other lending institutions" means the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the North American Development Bank, and the African Development Fund.

SEC. 4. REQUIREMENTS FOR FAIR COMPETITION IN FOREIGN COMMERCE.
(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Treasury shall transmit to the President and to appropriate committees of Congress a strategic plan for requiring the use of independent third-party procurement monitoring and other international procurement reform, and requires the United States participation in multilateral development banks and other lending institutions.
(b) STRATEGIC PLAN.—The strategic plan shall include—
(1) the recipient international financial institution has demonstrated compliance with the Organization on Economic Development and Cooperation Agreement on Bribery and Corruption,
(2) the recipient country institutes specific term "appropriate committees" means the Committee on Commerce, Science, and Technology of the Senate and the Committee on Commerce, Science, and Technology of the House of Representatives.

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. 1170
May 27, 1999

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

SECTION 1. SHORT TITLE.
This Act may be cited as the "Fair Competition in Foreign Commerce Act of 1999".

SEC. 2. FINDINGS AND STATEMENT OF PURPOSE.
(a) FINDINGS.—Congress finds that—
(1) The United States makes substantial contributions and provides significant funding for major international development projects through the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the North American Development Bank, the African Development Fund, and other multilateral lending institutions.
(2) These international development projects are often plagued with fraud, corruption, waste, inefficiency, and misuse of funding.
(3) Fraud, corruption, waste, inefficiency, misuse, and abuse are major impediments to competition in foreign commerce throughout the world.
(4) Identifying these impediments before they occur is inadequate and meaningless.
(5) Detection of impediments before they occur helps to ensure that valuable United States resources contributed to important international development projects are used appropriately.
(6) Independent third-party procurement monitoring is an important tool in detecting and preventing such impediments.
(7) Third-party procurement monitoring includes evaluations of each stage of the procurement process and assesses the openness and transparency of the process.
(8) Improving transparency and openness in the procurement process helps to minimize fraud, corruption, waste, inefficiency, and other misuse of funding, and promotes competition, thereby strengthening international trade and foreign commerce.
(b) PURPOSE.—The purpose of this Act is to build on the progress associated with the Organization on Economic Development and Cooperation Agreement on Bribery and Corruption, by requiring the use of independent third-party procurement monitoring as part of the United States participation in multilateral development banks and other lending institutions that receive assistance from a multilateral development bank or lending institution during the preceding year.

SEC. 3. DEFINITIONS.
(a) DEFINITIONS.—In this Act:
(1) APPROPRIATE COMMITTEES.—The term "appropriate committees" means the Committee on Commerce, Science, and Technology of the Senate and the Committee on Commerce, Science, and Technology of the House of Representatives.
(2) INDEPENDENT THIRD-PARTY PROCUREMENT MONITORING.—The term "independent third-party procurement monitoring" means a program to—
(A) eliminate bias,
(B) promote transparency and open competition,
(C) minimize fraud, corruption, waste, inefficiency, and other misuse of funds;
(3) the recipient country institutes specific term "each stage of procurement" means the development and issuance of technical specifications, bidding documents, evaluation reports, contract preparation, and the delivery of goods and services;
(4) MULTILATERAL DEVELOPMENT BANKS AND OTHER LENDING INSTITUTIONS.—The term "multilateral development banks and other lending institutions" means the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the North American Development Bank, and the African Development Fund.

SEC. 4. REQUIREMENTS FOR FAIR COMPETITION IN FOREIGN COMMERCE.
(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Treasury shall transmit to the President and to appropriate committees of Congress a strategic plan for requiring the use of independent third-party procurement monitoring and other international procurement reform, and requires the United States participation in multilateral development banks and other lending institutions.
(b) STRATEGIC PLAN.—The strategic plan shall include—
(1) the recipient international financial institution has demonstrated compliance with the Organization on Economic Development and Cooperation Agreement on Bribery and Corruption,
By Mr. COVERDELL (for himself, Mrs. Feinstein, Mr. DeWine, Mr. Melson, Mr. Lott, Mr. Torricelli, Mr. Craig, Mr. Graham, and Mr. Reid):

S. 1171. A bill to block assets of narcotics traffickers who pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States; to the Committee on Banking, Housing, and Urban Affairs.

Legislation to Block Assets of Narcotics Traffickers

Mr. COVERDELL. Mr. President, I am pleased to join my colleague from California, Senator Feinstein, in introducing legislation that will intensify our fight against the terrible scourge of drugs. A version of this bill was introduced by Senator Specter in March 2. Since then, we have conferred with various agencies, including the Department of the Treasury’s Office of Foreign Assets Control, the Department of Justice, and the Office of National Drug Control Policy, on the drafting of this concept. The current bill includes some of their comments and suggestions.

Simply put, Mr. President, this legislation decertifies the drug kingpins by preventing them, and any of their associates or companies, from conducting business with the United States. The bill codifies and expands a 1995 Executive Order created under the International Emergency Economic Powers Act (IEEPA), which targeted Colombia drug traffickers. The bill expands the existing Executive Order to include other foreign drug traffickers considered a threat to our national security. The bill freezes the assets of the identified drug traffickers and their associates and prohibits these individuals and organizations from conducting any financial or commercial dealings with the United States.

In the case of the Cali cartel in Colombia, this tool was remarkably effective in weakening the drug kingpins. The United States targeted over 150 companies and nearly 300 individuals involved in the ownership and management of the Colombian drug cartels’ non-narcotics business empire, everything from drugstores to poultry farms. Once labeled as drug-linked businesses, these companies found themselves financially isolated. Banks and legitimate companies chose not to do business with the blacklisted firms, cutting off key revenue flows to the cartels.

The goal is to isolate the leaders of the drug cartels and prevent them from doing business in the United States. Taking legitimate U.S. dollars out of drug dealers’ pockets is a vital step in destroying their ability to traffic narcotics across our borders. This is a bold but necessary new tool to wage war against illegal drugs and to curb the increasing power of the drug cartels.

By Mr. TORRICELLI:

S. 1173. A bill to provide for a teacher quality enhancement and incentive program; to the Committee on Health, Education, Labor, and Pensions.

Teacher Quality Enhancement Incentive Act

Mr. TORRICELLI. Mr. President, today I am introducing the Teacher Quality Enhancement and Incentive Act. I rise to focus the nation’s attention on the potentially critical shortage of school teachers we will be facing in upcoming years. While K-12 enrollments are steadily increasing the teacher population is aging. There is a need, now more than ever, to attract competent, capable, and bright college graduates or mid-career professionals to the teaching profession.

The Department of Education projects that 2 million new teachers will have to be hired in the next decade. Shortage, if they occur, will most likely be felt in urban or rural regions of the country where working conditions may be difficult or compensation levels cannot, or do not, offer quality learning environment for our students if they are forced into over-crowded classrooms with under-qualified instructors. If our students are to receive a high quality education and remain competitive in the global market, we must attract talented and motivated people to the teaching profession in large numbers.

Law firms, technology firms, and many other industries typically offer signing bonuses in order to attract the best possible candidates to their organizations. Part of making the teaching profession competitive with the private sector is to match these institutional perks.

This bill would authorize $15 million per year over the next five years for the Department of Education to award grants to local educational agencies (LEAs) for the purpose of attracting highly qualified individuals to teach. These grants will enable LEAs in high poverty and rural areas to award new teachers a $15,000 tax free salary bonus, spread over their first two years of employment, over and above their regular starting salary. These bonuses will attract teachers to districts where they are most needed.

On an annual basis, LEAs will use competitive criteria to select the best and brightest teaching candidates based on objective measures, including test scores, grade point average or class rank and such other criteria as each LEA may determine. The number of bonuses awarded depends upon the number of students enrolled in the LEA.

Teachers who receive the bonus will be required to teach in low income or rural areas for a minimum of four years. If they fail to work the four year minimum they will be required to repay the bonus they received.

By making this funding available, America’s schools will better be able to...
compete with businesses for the best and brightest college graduates. These new teachers will, in turn, produce better students and reduce the risk of a possible teacher shortage. With arguably the most successful economy of any nation in history, we should be doing more to make teaching an attractive career alternative for qualified and motivated individuals. The Teacher Quality Enhancement and Incentive Act will be an excellent first step.

By Ms. COLLINS:
S. 1175. A bill to amend title 49, United States Code, to require that fuel economy labels for new automobiles include air pollution information that consumers can use to help communities meet Federal air quality standards, to the Committee on Commerce, Science, and Transportation.

AUTOMOBILE EMISSIONS CONSUMER INFORMATION ACT OF 1999

Ms. COLLINS. Mr. President, I rise today to introduce a bill that will give consumers important information many want to factor into their decisions when they shop for a new vehicle. My legislation will ensure that consumers have the information they need to compare the pollution emissions of new vehicles. The Automobile Emissions Consumer Information Act of 1999 simply takes data already collected by the Environmental Protection Agency and requires that this information be presented to consumers in a understandable format as they purchase cars. This proposal, if enacted into law, will benefit both the consumer and the environment.

This measure is modeled after existing requirements for gas mileage information. It ensures that emissions information will be on the window stickers of new cars. Just as fuel efficiency information is currently displayed. Additionally, emissions information for all new vehicles will be published by the EPA in an easy-to-understand booklet for consumers. This information is already collected by the EPA, but is disseminated in an extremely burdensome way. First, consumers must pro-actively request emissions information. Then, after securing the relevant EPA documents, the consumer is presented with an overload of complicated data in spreadsheet form. Furthermore, the EPA organizes emissions data by engine type and not by the more commonly compared model and make categories.

Let me refer to a page from the EPA’s 1999 Annual Certification Test Results of emission standards. As my colleagues can see, it is an extraordinarily difficult document to read and interpret. The complicated nature of this document becomes increasingly apparent when it is compared with the simplified information currently provided to consumers about fuel mileage. The federal government should be aiding consumers who want to consider emissions in choosing which vehicle to purchase. This bill will do just that.

Mr. President, this is not a new idea. The Clean Air Act Amendments of 1970 mandated that the EPA make available to the public the data collected from manufacturers on emissions. The 1970 Amendments further required, “Such results shall be described in such non-technical manner as will responsibly disclose to prospective ultimate purchasers of new motor vehicles and new motor vehicle engines the comparative performance of the vehicles and engines.” Mr. President, clearly, the EPA is not abiding by the letter and spirit of the 1970 law.

It is important to note that the Automobile Emissions Consumer Information Act of 1999 does not require either motor vehicle manufacturers or the EPA to conduct new tests. Manufacturers must only test emissions of all new vehicles and submit the test results to the EPA. Unfortunately, the gathering of this information does not translate into useful information for consumers.

While all vehicles must meet the Federal standards, some vehicles exceed the standards. Consumers who are concerned about vehicle emissions deserve to be able to exercise their right to buy from manufacturers who take extra steps in reducing emissions, if they so choose.

Representative BRIAN BILBAY of California is introducing this bill in the House of Representatives today. I greatly appreciate his leadership on this issue and his bringing this common-sense proposal to my attention. He is clearly committed to protecting both consumers and the environment.

Mr. President, I urge my colleagues to join me in enacting the Automobile Emissions Consumer Information Act, and I ask unanimous consent that one page from the EPA’s 1999 Annual Certification Test Results of emissions standards be printed in the Record.

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

CERTIFICATION AND FUEL ECONOMY INFORMATION SYSTEM (CFES), 1999 ANNUAL CERTIFICATION TEST RESULTS, ALL SALES AREA—LIGHT DUTY VEHICLES AND LIGHT DUTY TRUCKS

By Mr. ROBB (for himself, Mr. WARNER, and Mr. SARBANES):
S. 1176. A bill to provide for greater access to child care services for Federal employees; to the Committee on Governmental Affairs.

CHILD CARE SERVICES FOR FEDERAL EMPLOYEES

Mr. ROBB, Mr. President, today I’m introducing legislation to assist federal workers seeking affordable care for their young children.

Many federal facilities provide child care centers for their employees’ use. But for many lower and middle income employees, these services are simply unaffordable—their costs put them beyond the reach of these families. The bill I am introducing today, along with Senators WARNER and SARBANES, will make this option affordable for these employees.

This legislation authorizes federal agencies to use appropriated funds to help lower middle income federal workers afford the child care services they need. Let me emphasize that these funds have already been appropriated, meaning no new government spending is involved. This is a modest, cost-effective solution that will certainly ease the minds of parents who are understandably concerned about their child care needs.

Our federal employees should not have to choose between their desire for public service and their need for child care services.

By Mr. DASCHLE:
S. 1178. A bill to direct the Secretary of the Interior to convey certain parcels of land acquired for the Blunt Reservoir and Pierre Canal features of the
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Oahe Irrigation Project, South Dakota, to the Commission of Schools and Public Lands of the State of South Dakota for the purpose of mitigating lost wildlife habitat, on the condition that the current preferential leaseholders shall have an option to purchase the parcels from the Commission, and for other purposes; to the Committee on Energy and Natural Resources.

THE BLUNT RESERVOIR AND PIERRE CANAL LAND CONVEYANCE ACT OF 1999

Mr. DASCHLE. Mr. President, I am today introducing the Blunt Reservoir and Pierre Canal Land Conveyance Act of 1999. This proposal is the culmination of more than 2 years of discussion with local landowners, the South Dakota Water Congress, the U.S. Bureau of Reclamation, local legislators, representatives of South Dakota sportsmen and women, and citizens. It lays out a plan to convey certain parcels of land acquired for the Blunt Reservoir and Pierre Canal features of the Oahe Irrigation Project in South Dakota to the Commission of Schools and Public Lands of the State of South Dakota for the purpose of mitigating lost wildlife habitat, and provides the option to preferential leaseholders to purchase their original parcels from the Commission.

In order to more fully understand the issues addressed by the legislation, it is necessary to review some of the history related to the Oahe Unit of the Missouri River Basin project in South Dakota.

The Oahe Unit was originally approved as part of the overall plan for water development in the Missouri River Basin that was incorporated in the Flood Control Act of 1944. Subsequently, Public Law 90–433 authorized construction and operation of the initial stage. The purposes of the Oahe Unit as authorized were to provide for the irrigation of 190,000 acres of farmland, conserve and enhance fish and wildlife habitat, promote recreation, and meet other important goals.

The project came to be known as the Oahe Irrigation Project, and the principal features of the initial stage of the project contained the Oahe pumping plant located near Oahe Dam to pump water from the Oahe Reservoir, a system of canals, including the Pierre Canal, running east from the Oahe Reservoir, and the establishment of regulating reservoirs, including the Blunt Dam and Reservoir located approximately 35 miles east of Pierre, South Dakota.

Under the authorization legislation, 42,155 acres were to be acquired by the Federal government in order to construct and operate the Blunt Reservoir feature of the Oahe Irrigation Project. Land acquisition for the proposed Blunt Reservoir feature began in 1972 and continued through 1977. A total of 17,878 acres actually were acquired from willing sellers.

The first land for the Pierre Canal feature was purchased in July 1975 and included the 1.3 miles of Reach 1B. An additional 12,978 acres were acquired from 1976 through 1977, also from willing sellers.

Organized opposition to the Oahe Irrigation Project surfaced in 1973 and continued to build until a series of public meetings were held in 1977 to determine if the project should continue. In late 1977, the Oahe project was made a part of President Carter's Federal Water Project review process.

The Oahe project construction was then halted on September 30, 1977, when Congress did not include funding in the FY1978 appropriations.

Thus, all major construction contract activities ceased and land acquisition was halted. The Oahe Project nonetheless contained some of the project with a bleak future and minimal chances of being completed as authorized. Consequently, the Department of the Interior, through the Bureau of Reclamation, gave to those persons who had leased land and sold their lands to the project the right for them and their descendants to lease those lands and use them as they had in the past until needed by the Federal government for future project purposes.

During the period from 1978 until the present, the Bureau of Reclamation has administered these lands on a preference lease basis for those original landowners or their descendants and on a non-preferential basis for lands under lease to persons who were not preferential leaseholders. Currently, the Bureau of Reclamation administers 12,978 acres as preferential leases and 4,304 acres as non-preferential leases in the Blunt Reservoir.

As I noted previously, the Oahe Irrigation Project is related directly to the overall project purposes of the Pick-Sloan Missouri Basin program authorized under the Flood Control Act of 1944. Under this program, the U.S. Army Corps of Engineers constructed four major dams across the Missouri River in South Dakota. The two largest reservoirs formed by these dams, Oahe Reservoir and Sharpe Reservoir, caused the loss of approximately 221,000 acres of fertile, wooded bottomland, which is the most productive, unique and irreplaceable wildlife habitat in the State of South Dakota. This included habitat for both game and non-game species, including several species which are now listed as threatened or endangered. Merriweather Lewis, while traveling up the Missouri River in 1804 on his famous expedition, wrote in his diary, "Song birds, game species and furbearing animals abound here in numbers like none of the party has ever seen. The bottomlands and cottonwood trees provide a shelter and food for a great variety of species, all laying their claim to the river bottom."

Under the provisions of the Wildlife Coordination Act of 1958, the State of South Dakota has developed a plan to mitigate the loss of wildlife habitat as authorized by Section 602 of Title VI of Public Law 105–277, October 21, 1998, known as the Cheyenne River Sioux Tribe, Lower Brule Sioux Tribe, and State of South Dakota Terrestrial Wildlife Habitat Restoration Act.

The State’s habitat mitigation plan has received the necessary approval and interim funding authorizations under Sections 602 and 609 of Title VI.

The State’s habitat mitigation plan requires the development of approximately 27,000 acres of wildlife habitat in South Dakota. Transferring the 4,304 acres of non-preferential lease lands in the Blunt Reservoir feature to the South Dakota Department of Game, Fish and Parks would constitute a significant step toward satisfying the habitat mitigation obligation owed to the state by the Federal government and as agreed upon by the U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service, and the South Dakota Department of Game, Fish and Parks.

As we developed this legislation, many meetings occurred among the local landowners, South Dakota Department of Game, Fish and Parks, business owners, local legislators, the Department of Game, Fish and Parks, representatives of sportsmen groups. It became apparent that the best solution for the local economy, tax base and wildlife mitigation issues would be to allow the preferential leaseholders (original landowner or descendant or operator of the land at the time of purchase) to have an option to purchase the land from the Commission of School and Public Lands after the preferential lease parcels are conveyed to the Commission. This option will be available for a period of 10 years after the date of conveyance to the Commission. During the interim period, the preferential leaseholders shall be entitled to continue to lease from the Commission. In summary, the State of South Dakota, the Federal government, the original landowners, the sportsmen and wildlife will benefit.
from this bill. It provides for a fair and just resolution to the private property and environmental problems caused by the Pick-Sloan Irrigation Project some 25 years ago. We have waited long enough to right some of the wrongs suffered by our landowners and South Dakota’s wildlife resources.

I am hopeful that the Senate will act quickly on this legislation. Our goal is to enact a bill that will allow meaningful wildlife habitat mitigation to begin, give certainty to local landowners who sacrificed their lands for a defunct federal project they once supported, ensure the viability of the local landbase and tax base, and provide well maintained and managed recreation areas for sportmen. I ask unanimous consent that the bill appear in the RECORD.

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

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 “Blunt Reservoir and Pierre Canal Land Conveyance Act of 1999”.

SEC. 2. FINDINGS.

Congress finds that—

(1) under the Act of December 22, 1944 (commonly known as the “Flood Control Act of 1944”) (58 Stat. 887, chapter 665; 33 U.S.C. 701–1 et seq.), Congress approved the Pick-Sloan Missouri River Basin program—

(A) to protect the general economic development of the United States;

(B) to provide for irrigation above Sioux City, Iowa;

(C) to protect urban and rural areas from devastating floods of the Missouri River; and

(D) for other purposes;

(2) the purpose of the Oahe Irrigation Project was to meet the requirements of that Act by providing irrigation above Sioux City, Iowa;

(3) the principle features of the Oahe Irrigation Project included—

(A) a system of main canals, including the Pierre Canal, running east from the Oahe Reservoir; and

(B) the establishment of regulating reservoirs, including the Blunt Dam and Reservoir, located approximately 35 miles east of Pierre, South Dakota;

(4) land to establish the Pierre Canal and Blunt Reservoir was purchased from willing sellers between 1972 and 1977, when construction on the Oahe Irrigation Project was halted;

(5) since 1978, the Commissioner of Reclamation has administered the land—

(A) on a preferential lease basis to original landowners or their descendants; and

(B) on a nonpreferential lease basis to other persons;

(6) the 2 largest reservoirs created by the Pick-Sloan Missouri River Basin Program, Lake Oahe and Lake Sharpe, caused the loss of approximately 221,000 acres of fertile, wooded bottomland in South Dakota that consisted of the most productive, unique, and irreplaceable wildlife habitat in the State;

(7) the State of South Dakota has developed a plan to meet the Federal obligation under the Fish and Wildlife Coordination Act (18 U.S.C. 661 et seq.) to mitigate the loss of wildlife habitat, the implementation of which is authorized by section 102 of title I of Public Law 105–277 (112 Stat. 2681–660); and

(8) it is in the interests of the United States and the State of South Dakota to—

(A) provide original landowners or their descendants with an opportunity to purchase back their land; and

(B) transfer the remaining land to the State of South Dakota to allow implementation of its habitat mitigation plan.

SEC. 3. BLUNT RESERVOIR AND PIERRE CANAL.

(a) DEFINITIONS.—In this section:

(1) BLUNT RESERVOIR FEATURE.—The term “Blunt Reservoir feature” means the Blunt Reservoir feature of the Oahe Irrigation Project authorized by section 9 of the Act of December 22, 1944 (58 Stat. 881, chapter 665), as part of the Pick-Sloan Missouri River Basin Program.

(2) COMMISSION.—The term “Commission” means the Commission of Schools and Public Lands of the State of South Dakota.

(3) NONPREFERENTIAL LEASE PARCEL.—The term “nonpreferential lease parcel” means a parcel of land that—

(A) was purchased by the Secretary for use in connection with the Blunt Reservoir feature or the Pierre Canal feature; and

(B) is under lease to a person other than a preferential lessee as of the date of enactment of this Act.


(5) PREFERENTIAL LEASEHOLDER.—The term “preferential leaseholder” means a lessee of a parcel of land who is—

(A) the person from whom the Secretary purchased the parcel for use in connection with the Blunt Reservoir feature or the Pierre Canal feature;

(B) the original operator of the parcel at the time of acquisition; or

(C) a descendant of a person described in subparagraph (A) or (B).

(6) PREFERENTIAL LEASE PARCEL.—The term “preferential lease parcel” means a parcel of land that—

(A) was purchased by the Secretary for use in connection with the Blunt Reservoir feature or the Pierre Canal feature; and

(B) is under lease to a preferential lessee as of the date of enactment of this Act.

(7) SECRETARY.—The term “Secretary” means the Secretary of the Interior, acting through the Commissioner of Reclamation.

(b) IN GENERAL.—If a preferential leaseholder fails to exercise the option under subsection (c) to exercise the option under this Act;

(i) the amount that is equal to—

(I) the number of acres of the preferential lease parcel; multiplied by

(ii) the amount of the per-acre assessment of adjacent parcels made by the Director of Equalization of the county in which the preferential lease parcel is situated; or

(ii) the amount of a valuation of the preferential lease parcel for agricultural use made by an independent appraiser.

(c) COST OF APPRAISAL.—If a preferential leaseholder elects to exercise the option described in subparagraph (A)(i), the cost of the valuation shall be paid by the Secretary.

(d) CONVEYANCE TO THE STATE OF SOUTH DAKOTA.—

(A) IN GENERAL.—If a preferential leaseholder fails to exercise the option under this subsection, the Commission shall convey the parcel to the State of South Dakota Department of Game, Fish, and Parks; or

(B) WILDLIFE HABITAT MITIGATION.—Land conveyed under subparagraph (A) shall be used by the South Dakota Department of Game, Fish, and Parks for the purpose of mitigating the wildlife habitat that was lost as a result of the development of the Pick-Sloan project.

(e) USE OF PROCEEDS.—Of the proceeds of sales of land under this subsection—

(A) not more than $500,000 shall be used to reimburse the Secretary for expenses incurred in implementing this Act; and

(B) an amount not exceeding 10 percent of the cost of each transaction conducted under this Act shall be used to reimburse the Commission for expenses incurred implementing this Act.

(f) WILDLIFE HABITAT MITIGATION TRUST FUND.—$3,085,000 shall be deposited in the South Dakota Wildlife Habitat Mitigation Trust Fund established by section 605 of division C of Public Law 106–277 (112 Stat. 2681–660) for the purpose of paying property taxes on land transferred to the State of South Dakota.
(D) $100,000 shall be provided to Hughes County, South Dakota, for the purpose of supporting public education;
(E) $100,000 shall be provided to Sully County, South Dakota, for the purpose of supporting public education; and
(F) shall be used by the Commission to support public schools in the State of South Dakota.

*Conveyance of Nonpreferential Lease Parcels and Unleased Parcels.*—
(1) In general.—The Secretary shall convey to the South Dakota Department of Game, Fish, and Parks the nonpreferential lease parcels and unleased parcels of the Blunt Reservoir and Pierre Canal.

(2) Wildlife Habitat Mitigation.—Land conveyed under paragraph (1) shall be used by the South Dakota Department of Game, Fish, and Parks for the purpose of mitigating the wildlife habitat that was lost as a result of the development of the Pick-Sloan project.

(3) Land Exchanges for Nonpreferential Lease Parcels and Unleased Parcels.—
(1) With the concurrence of the South Dakota Department of Game, Fish, and Parks, the South Dakota Commission of Schools and Public Lands may allow a person to exchange land that the person owns elsewhere in the State of South Dakota for a nonpreferential lease parcel or unleased parcel at Blunt Reservoir or Pierre Canal, as the case may be.

(2) Priority.—The right to exchange nonpreferential lease parcels or unleased parcels shall be granted in the following order of priority:

(A) Exchanges with current lessees for nonpreferential lease parcels.

(B) Exchanges with adjoining and adjacent landowners for unleased parcels and nonpreferential lease parcels not exchanged by current lessees.

(g) Easement for Irrigation Pipe.—A preferential leaseholder that purchases land at Pierre Canal or exchanges land for land at Pierre Canal shall to allow the State of South Dakota to retain an easement on the land for irrigation pipe.

(h) Funding of the South Dakota Terrestrial Wildlife Habitat Restoration Trust Fund.—Section 603(b) of title VI of Public Law 104–167, as amended by section 926 of the Omnibus Budget Reconciliation Act of 1993 (P.L. 103–66) is amended by striking "$108,000,000" and inserting "$111,995,000".

By Mrs. BOXER.

S. 1179. A bill to amend title 18, United States Code, to prohibit the sale, delivery, or other transfer of any type of firearm to a juvenile, with certain exceptions.

Youth Access to Firearms Act of 1999

Mrs. BOXER. Mr. President, last week during consideration of the juvenile justice bill, the Senate passed some reasonable, common-sense proposals to control the proliferation of guns in this country. I believe the Senate’s action was an important first step. But there is more to be done. And, today, I am introducing legislation to prohibit the sale and transfer of any gun to a juvenile, unless it comes from a parent, grandparent, or legal guardian.

Let me start, Mr. President, with a review of current law. A federally licensed firearms dealer—that is, someone who runs a gun store—cannot sell a handgun to someone under the age of 21 and cannot sell any other type of gun to someone under the age of 18.

The law does not apply for private transactions. Those are sales or transfers by unlicensed individuals at gun shows, at flea markets, or in a private home. Since 1994, it has been illegal for anyone under the age of 18 to buy a handgun in these cases. But it is not illegal for a juvenile to buy a long—gun—that is, a rifle, a shotgun, or a semiautomatic assault weapon—in a private transaction. And, it is not illegal for a long-gun to be transferred—given—to a juvenile.

This is not right. An 18-year-old cannot buy a can of beer. An 19-year-old cannot buy a bottle of liquor or a bottle of wine. Anyone under 18 cannot buy a pack of cigarettes. And, as I mentioned, since 1994, if you are under 18, you cannot buy a handgun.

There is a reason for this. There is a reason we keep certain things away from juveniles. And, it does not make sense to me to say that it is illegal to sell cigarettes, alcohol, and handguns to a kid, but it is okay to sell them a rifle or a shotgun or a semiautomatic assault weapon.

So, my bill—the Youth Access to Firearms Act—simply says that it would be illegal to sell, deliver, or transfer any firearm to anyone under the age of 18.

Now, in recognition of the culture and circumstances in many areas of this country, my bill does contain some exceptions to this prohibition.

First, the bill would not make possession of a long-gun by a juvenile a crime. It would only make the sale or transfer illegal.

Second, the bill would not apply to a rifle or a shotgun given to a juvenile by that person’s parent, grandparent, or legal guardian.

Third, it would not apply to another family member giving a juvenile a rifle or a shotgun with the permission of the juvenile’s parent, grandparent, or legal guardian.

Fourth, it would not apply to a temporary transfer—a loan—of a rifle or a shotgun for hunting purposes.

And, fifth, it would not apply to the temporary transfer of a gun to a juvenile for employment, target shooting, or a course of instruction in the safe and lawful use of a firearm, if the juvenile has parental permission.

I have put these exceptions into the bill to make it clear what I am trying to do here. I am not trying to stop teenagers from having or responsibly using a rifle or a shotgun. I am not trying to stop teenagers from going hunting. I am not trying to prevent a parent or grandparent from giving a rifle or a shotgun for hunting purposes, however. But, what I am saying is that juveniles should not be able to buy a gun on their own—or be given one without the knowledge of their parents.

This is precisely what happened in Littleton, Colorado. The two teenage boys who shot up Columbine High School with a gun and a rifle were given to them by an 18-year-old female friend. Under federal law, that was perfectly legal.

I should not be. You should not be able to sell a gun to a juvenile. And you should not be able to give a gun to a juvenile, unless you are the parent or grandparent.

As I said earlier, there are certain things that are legally off-limits to juveniles. Selling and giving them guns, if you are not their parent, should be one of those things.

I urge my colleagues to support this bill.

By Mr. KENNEDY:

S. 1180. A bill to amend the Elementary and Secondary Education Act of 1965, to reauthorize and make improvements to that Act, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Educational Excellence for All Children Act of 1999

Mr. KENNEDY. Mr. President, it is a privilege to introduce President Clinton’s proposal for reauthorizing the Elementary and Secondary Education Act, the “Educational Excellence for All Children Act of 1999,” along with Senators DODD, DASCHLE, MURRAY, SCHUMER, LEVIN, and DORGAN.

This is another strong step by the President to ensure that all children have the benefit of the best possible education.

Since 1993, President Clinton has consistently led the way on improving schools and making sure that all children meet high standards.

Today, as a result, almost every state has established high standards for its students. “High standards” is no longer just a term for academics experts and policy makers—it is becoming a reality for the nation’s schools and students.

The recently released National Assessment of Title I shows that student achievement is improving—and that the federal government is an effective partner in that success. This result is good news for schools, good news for parents, and good news for students—and it should be a wake up call to Congress.

We need to do more to build on these emerging successes to ensure that every child has the opportunity for an excellent education.

At dinner tables and boardrooms across America, the topic of discussion is education. As a result of the progress we have made the past few years, we can look at the education glass on the table and say it’s “half full”—not “half empty.” And we should be proud of that progress.

Since the reauthorization of Title I in 1994, a non-partisan Independent Review Panel of twenty-two experts from
across the country has been overseeing the evaluation of the program. As the largest federal investment in improving education, Title I is improving education for 11 million children in 45,000 schools with high concentrations of poverty. It helps schools provide professional development for teachers, improve curricula, and extend learning time, so that students meet high state standards of achievement.

Under the 1994 amendments to Title I, states were no longer allowed to set lower standards for children in the poorest communities than for students in more affluent communities. The results are clear. Students do well when expectations are set high and they are given the support they need and deserve.

Student achievement in reading and math has increased—particularly the achievement of the poorest students. Since 1992, reading achievement for 9-year-olds in the highest poverty schools has increased by one whole grade level nationwide. Between 1990 and 1996, math scores of the poorest students also rose by a grade level.

Students are meeting higher state standards. According to state-reported results, students in the highest poverty elementary schools improved in 5 of 6 states reporting three-year data in reading and in 4 out of 5 states in math. Students in Connecticut, Maryland, North Carolina, and Texas made progress in both subjects.

Many urban school districts report that achievement, also improved in their highest-poverty schools. In 10 of 13 large urban districts that report three-year trend data, more elementary students in the highest poverty schools are now meeting district or state standards in reading or math. Six districts, including Houston, Dade County, New York, Philadelphia, San Antonio, and San Francisco, made progress in both subjects.

Federal funds are increasingly targeted to the poorest schools. The 1994 amendments to Title I shifted funds away from low-poverty schools and into high-poverty schools. Today, 96 percent of the highest-poverty schools receive Title I funds, up from 80 percent in 1993.

In addition, Title I funds help improve teaching and learning in the classroom. 99 percent of Title I funds go to the local level. 93 percent of those federal dollars are spent directly on instruction, while only 62 percent of all state and local education dollars are spent on instruction.

The best illustrations of these successes are in local districts and schools in Baltimore County, Maryland, all but one of the 19 Title I schools increased student performance between 1993 and 1998. The success has come from Title I support for extended year programs, implementation of effective programs in reading and writing, intensive professional development for teachers, and the strategies for improvement.

At Roosevelt High School in Dallas, Texas, where 80 percent of the students are poor, Title I funds were used to increase parent involvement, train teachers to work more effectively with parents, and make other changes to bring high standards into every classroom. Student reading scores have nearly doubled, from the 40th percentile in 1992 to the 77th percentile in 1996. During the same period, math scores soared from the 16th to the 73rd percentile, and writing scores rose from the 58th to the 84th percentile.

In addition to the successes supported by Title I, other indicators demonstrate that student achievement is improving and are near the top on the latest international assessment of reading. American 4th graders out-performed students from all other nations except Finland.

At Baldwin Elementary School in Boston, 75 percent of the students are poor. Performance on the Stanford 9 test rose substantially from 1996 to 1998 because of increases in teacher professional development and implementation of a whole-school reform plan to raise standards and achievement for all children. In 1996, 66 percent of the 3rd grade students scored in the lowest levels in math. In 1998, 100 percent scored in the highest levels. In 1997, 75 percent of 4th graders scored in the lowest levels in reading. In 1998, no 4th graders scored at the lowest level, and 56 percent scored in the highest levels.

The combined verbal and math scores on the SAT increased 19 points from 1982 to 1997, with the largest gain of 15 points occurring between 1992 and 1997. The average math score is at its highest level in 26 years.

Students are taking more rigorous subjects than ever—and doing better in them. The proportion of high school graduates taking the core courses recommended in the 1983 report, A Nation At Risk, has increased to 52 percent by 1994, up from 14 percent in 1982 and 40 percent in 1990. Since 1982, the percentage of graduates taking biology, chemistry, and physics has doubled, rising from 10 percent in 1982 to 21 percent in 1994. With increased participation in advanced placement courses, the number of students that scored at 3 or above on the AP exams has risen nearly five-fold since 1982, from 131,871 in that year to 635,922 in 1996.

Clearly, the work is not done. These improvements are gratifying, but there is no cause for complacency. We must do more to ensure that all children have a solid education. We must do more to increase support for programs like Title I to build on these successes and make them available to all children.

President Clinton’s “Educational Excellence for All Children Act of 1999” builds on the success of the 1994 reauthorization of ESEA, and is designed to ensure that all children are held to the same high academic standards. This bill makes high standards the core of classroom activities in every school across the country—and holds schools and school districts responsible for making sure all children meet those standards. The bill focuses on three fundamental ways to accomplish this goal: improving teacher quality, increasing accountability for results, and creating safe, healthy, and disciplined learning environments for children.

This year, the nation set a new record for elementary and secondary student enrollment. The figure will reach an all-time high of 53 million students—500,000 more students than last year. Communities, states, and Congress must work together to see that these students receive a good education.

Serious teacher shortages are being caused by the rising student enrollments, and also by the growing number of teacher retirements. The nation’s schools need to hire 2.2 million public school teachers over the next ten years, just to hold their own. If we don’t act now, the need for more teachers will put even greater pressure in the future on school districts to lower their standards and hire unqualified teachers. Too many teachers leave within the first three years of teaching—including 30-50% of teachers in urban areas—because they don’t get the support and mentoring they need. Veteran teachers need more professional development opportunities to enhance their knowledge and skills, to integrate technology into the curriculum, and to help children meet high state standards.

Many communities are working hard to attract, keep, and support good teachers—and often they’re succeeding. The North Carolina Teaching Fellows Program has recruited 3,600 high-ability high school graduates to go into teaching. The students agree to teach for four years in the state’s public schools, in exchange for a four-year college scholarship. School principals in the state report that the performance of the fellows far exceeds that of other new teachers.

In Chicago, a program called the “Golden Apple Scholars of Illinois” recruits promising young men and women into teaching by selecting them during their junior year of high school, then mentoring them through the rest of high school, college, and five years of actual teaching. 60 Golden Apple Scholars enter the teaching field each year, and 90 percent of them stay in the classroom.

Colorado State University’s “Project Promise” recruits prospective teachers
from fields such as law, geology, chemistry, stock trading and medicine. Current teachers mentor graduates in their first year of teaching. More than 90 percent of the recruits go into teaching, and 80 percent stay for at least five years.

New York City's Mentor Teacher Internship Program has increased the retention of new teachers. In Montana, only 4 percent of new teachers in mentoring programs left after their first year of teaching, compared with 28 percent of teachers without the benefit of mentoring.

New York City's District 2 has made professional development the central component for improving schools. The idea is that student learning will increase as the knowledge of educators grows—and it's working. In 1996, student math scores were second in the city.

Massachusetts has invested $60 million in the Teacher Quality Endowment Fund to launch the 12-to-62 Plan for Strengthening Massachusetts Future Teaching Force. The program is a comprehensive effort to improve recruitment, retention, and professional development of teachers throughout their careers.

Congress should build on and support these successful efforts across the country to ensure that the nation's teaching force is strong and successful in the years ahead.

The Administration's proposal makes a major investment in ensuring quality teachers in every classroom, especially in areas where the needs are greatest. It authorizes funds to help states and communities improve the recruitment, retention, and on-going professional development of teachers. It will provide additional school district grants with the support they need to recruit excellent teacher candidates, to retain and support promising beginning teachers through mentoring programs, and to provide veteran teachers with the on-going professional development they need to help all children meet high standards of achievement. It will also support a national effort to recruit and train school principals.

In recognition of the national need to recruit 2.2 million teachers over the next decade, the Administration's proposal will fund projects to recruit and retain high-quality teachers and school principals in high-need areas. The Transition to Teaching proposal will continue and expand the successful "Troops to Teachers" initiative by recruiting and supporting mid-career professionals in the armed forces as teachers, particularly in high-poverty school districts and high-need subjects.

The proposal holds states accountable for having qualified teachers in the classroom. It requires that within four years, 95 percent of all teachers must be certified, working toward full certification through an alternative route that will lead to full certification within three years, or are fully certified in another state and working toward state-specific requirements. It also requires states to ensure that at least 95 percent of secondary school teachers have academic training or demonstrated competence in the subject area in which they teach.

Parents and educators across the country also say that reducing class size is at the top of their priorities for education reform. It is obvious that smaller class sizes, particularly in the early grades, improve student achievement. We must help states and communities reduce class sizes in the early grades, when individual attention is needed most. Congress made a down-payment last year on helping communities reduce class size, and we can't walk away from that commitment now.

The Educational Excellence for All Children Act authorizes the full 7 years of this program, so that communities will be able to hire 100,000 teachers across the country.

We know qualified teachers in small classes make a difference for students. There is also mounting evidence that the President and Congress took the right step in 1994 by making standards-based reform the centerpiece of the 1994 reauthorization. In schools and school districts across the country that have set high standards and required accountability for results, student performance has risen, and the numbers of failing schools has fallen.

Nevertheless, 10 to 15 percent of high school graduates each year—up to 340,000 graduates per year—do not continue their education. Often, they cannot balance a checkbook or write a letter to a credit card company to explain an error on a bill. Even worse, 11 percent of high school students never make it to graduation.

We are not meeting our responsibility to these students—and it is unconscionable to continue to abdicate our responsibility. Every day, children—poor children, minority children, English language learners, children with disabilities—face barriers to a good education, and also face the high-stakes consequences of failing in the future because the system is failing them now.

Schools and communities must do more to see that students obtain the skills and knowledge they need in order to move on to the next grade and to graduate. If students are socially promoted or forced to repeat the same grade without changing the instruction that failed the first time, they are more likely to drop out. Clearly, these practices must end.

The Administration's proposal makes public schools the centers of opportunity for all children—and holds schools accountable for providing this opportunity.

It requires schools, school districts, and states to provide parents with report cards that include information about the new educational practices socially promoting children or making them repeat a grade. States must collect data on social promotion and retention rates as an indicator of whether children are meeting high standards, and schools must implement responsible promotion policies. The proposal is designed to eliminate the dismal choice between social promotion and repeating a grade. It does so in several ways—by increasing support for early education programs, by improving early reading skills, by improving the quality of the teaching force, by providing extended learning time through after-school and summer-school programs, by creating safe, disciplined learning environments for children.

Last year in Boston, School Superintendent Tom Payzant ended social promotion and traditional grade retention. With extensive community involvement, Mayor Menino, Superintendent Payzant, and the School Committee implemented a policy to clarify for everyone—schools, teachers, parents, and students—the requirements needed to advance from one grade to the next, and to graduate from a Boston public school.

Retention and promotion and retention policy came primarily from middle and high schools, where teachers were facing students who had not mastered the skills they needed in order to go on to a higher grade. Now, all students will have to demonstrate that they have mastered the content and skills in every grade. If they fail to do so, schools and teachers must intervene with proven effective practices to help the students, such as attending summer school programs, providing extra help during the regular school day, and working more closely with parents to ensure better results. In ways like these, schools and teachers are held accountable for results.

The Administration's proposal gives children who have fallen behind in their school work the opportunities they need to catch up, to meet legitimate requirements for graduation, to participate in post-secondary programs, and to meet high standards of achievement. A high school diploma should be more than a certificate of attendance. It should be a certificate of achievement.
Finally, the President’s proposal helps create safe, disciplined, and healthy environments for children. Last year, President Clinton led a successful effort to increase funding for after-school programs in the current year. But far more needs to be done.

Effective programs are urgently needed for children of all ages during the many hours they are not in school each week and during the summer. The “Home Alone” problem is serious, and deserves urgent attention. Every day, 5 million children, many as young as 8 or 9 years old, are left alone after school. Juvenile crime peaks in the hours between 3 p.m. and 8 p.m. A recent study of gang crimes by juveniles in Orange County, California, shows that 60 percent of all juvenile gang crimes occur on schools days and peak immediately after school. Children left unattended are more likely to be involved in illegal activities and destructive behavior. We need constructive alternatives to keep children off the streets, away from drugs, and out of trouble.

We need to do all we can to encourage communities to develop after-school activities that will engage children. The proposal will triple our investment in after-school programs, so that one million children will have access to worthwhile activities.

The Act also requires school districts and schools to have sound discipline policies that are consistent with the Individual with Disabilities Education Act, are fair, and are developed with the participation of the school community. In addition, the Safe and Drug-Free Schools and Communities Act is strengthened to support research-based prevention programs to address violence and drug-use by youth.

In order to develop a healthy environment for children, local school districts will be able to use 5 percent of their funds to support coordinated services, so that children and their families will have better access to social, health, and educational services necessary for students to do well in school.

In all of these ways and more ways, President Clinton’s proposal will help schools and communities bring high standards of education to every child. We must ensure that all children meet them. Major new investments are needed to improve teacher quality—hold schools, school districts, and states accountable for results—expand after-school programs—reduce class size in the early grades—and ensure that schools meet strict discipline standards. With investments like these, we are doing all we can to ensure that the nation’s public schools are fit for the 21st Century.

Education must continue to be a top priority in this Congress. We must address the needs of public schools, families, and children so that we ensure that all children have an opportunity to attend an excellent public school now and throughout the 21st Century.

President Clinton’s proposal is an excellent series of needed initiatives, and it deserves broad bipartisan support. I look forward to working with my colleagues to make it the heart of this year’s ESEA Reauthorization Bill.

Mr. President, I have no objection that additional material be printed in the RECORD.

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

**The Educational Excellence for All Children Act of 1999—Section-by-Section Analysis**

**Section 2. Table of Contents.** Section 2 of the bill would set out the table of contents for the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), hereinafter in the section-by-section analysis referred to as “the ESEA”) as it would be amended by the bill.

**Section 3. America’s Education Goals.** Section 5 of the bill would rename the National Education Goals (currently in Title I of the Goals 2000: Educate America Act, P.L. 101–227), as “America’s Education Goals” and update the Goals to reflect our Nation’s continuing need for the Goals. Even though all the Goals will not have been reached by the year 2000 as originally hoped, nor accomplished to equal degrees, the Goals were purposely designed to set high expectations for educational performance at every stage of an individual’s life, and there is a continued need to reaffirm these Goals as a benchmark to which all students can strive and attain. With policymakers, educators, and the public united in an effort to achieve America’s Education Goals, the Nation will be able to raise its overall level of educational achievement.

**Section 3(a) of the bill would contain findings concerning America’s Education Goals, as well as a description of the overall purpose of the Act.** Section 3(b) of the bill would amend the ESEA to place the Goals in a proposed new section 3 of the ESEA. Proposed new section 3(a) of the ESEA would state the purpose of America’s Education Goals as: setting forth a common set of national goals for the education of our Nation’s students that the Federal Government and all States and local communities will work to achieve; identifying the Nation’s highest education priorities related to preparing students for responsible citizenship, further learning, and the technological, scientific, economic, challenge of the 21st century; and establishing a framework for educational excellence at the national, State, and local levels. Proposed new section 3(b) of the ESEA would state the Goals:

**Title I of the Goals 2000: Educate America Act, the current authority for the National Education Goals, would be repealed by section 1211 of the bill.**

**Section 4. Transition.** Section 4 of the bill would specify the actions that the Secretary must, and a recipient of ESEA funds may, take to ensure that the provisions of the ESEA as in effect the day before the date of enactment of the Educational Excellence for All Children Act of 1999 and the requirements of the ESEA as amended by the bill.

Under section 4(a) of the bill, the Secretary would be required to take such steps as the Secretary determines to provide for the orderly transition to programs and activities under the ESEA, as amended by the bill, from programs and activities under the ESEA as in effect the date before the date of enactment of the bill.

Under section 4(b) of the bill, a recipient of funds under the ESEA, as it was in effect the date before the date of enactment of the bill, may use such funds to carry out necessary and reasonable planning and transition activities in order to ensure a smooth implementation of programs and activities under the ESEA, as amended by the bill.

**Section 5. Effective Dates.** Section 5 of the bill would set out the effective dates for the bill. The bill would take effect July 1, 2000, except for those amendments made by the bill that pertain to programs administered by the Secretary on a competitive basis, and the amendments made by Title VIII of the bill (Impact Aid), which would take effect with respect to appropriations for fiscal years 2001 and subsequent fiscal years, and amendments made by sections 3(b), (7), and (9) (transition requirements), which would take effect upon enactment.

**Title I—Helping Disadvantaged Children Meet High Standards**

**Section 101, declaration of policy and statement of purpose (ESEA, §1001).** Section 101(a) of the bill would amend the statement of policy in section 1001(a) of the ESEA by deleting (9), which would authorize a 1 percent increase in appropriations of at least $750 million from fiscal year 1996 through 1999.

Section 101(b) would amend the statement of need in section 1001(b) of the ESEA to reflect the bill’s proposal to move the text of the National Education Goals from the Goals 2000: Educate America Act to section 3 of the ESEA, and to add a paragraph (6) noting the benefits of holding local educational agencies (LEAs) and schools accountable for results.

**Section 101(c) would update the statement, in section 1001(c), of what has been learned, the experience since the original statement was enacted in 1994, including the addition of six new findings.**

**Section 101(d) would add the list of activities through which Title I’s purpose is to be achieved, providing comprehensive schoolwide reforms that are based on reliable research and effective practices.**

**Section 102, authorization of appropriations (ESEA, §1002).** Section 102 of the bill would restate, in its entirety, section 1002 of the ESEA, which authorizes the appropriation of funds to carry out the various Title I programs. As revised, section 1002 would authorize the appropriations of “such sums as may be necessary” for fiscal years 2001 through 2005 for grants to LEAs under Part A, the Even Start program under Part B, the education of migratory children under Part C, State agency programs for neglected or delinquent children under Part D, the Reading Excellence program (to be transferred to Part E from Title II), and Federal activities under section 1502 (to be redesigned as section 1602). Funds would no longer be authorized for capital expenses relating to the provision of Title I services to children in private schools. In addition, certain school-improvement activities would be funded by requiring States to dedicate a portion of their Title I funds to pay for those activities, rather than through a separate authorization in current law.
Section 112, reservations for accountability and effective schools (§1113). Section 111(1) of the ESEA, to require each SEA to reserve 2.5 percent of its annual Basic Grant under Part A of Title I to carry out the LEA and school improvement activities described in sections 1116 and 1117 for the years 2001, 2002, and 3.5 percent of that amount for that purpose in subsequent fiscal years. This requirement, which is an important component of the bill’s overall emphasis on accountability for results, will ensure that each participating State devotes a sufficient portion of its Part A funds to activities described in those sections. In addition, the SEA would have to allocate at least 70 percent of the reserved amount directly to LEAs in accordance with certain specified priorities or use at least that portion of the reserved amount to carry out an alternative system of school and LEA improvement and corrective action described in the State plan and approved by the Secretary.

Section 1093(b) of the ESEA would permit the Secretary to reserve up to 0.8 percent of each SEA’s Basic Grant for technical assistance for LEAs that developed an alternative system of school accountability for which the SEA has determined that it will participate in the Part A program. This re-

requirement would be replaced by the new provision in the Part A program. Section 111(b)(3), described below. Section 11112(c) would also redesignate paragraph (3) of section 1111(b), relating to assessments, as paragraph (2).

Section 11112(d)(1) would clarify that States must start using the yearly assessments described in current paragraph (3) of section 1111(b) (which the bill would redesignate as paragraph (2)) no later than the 2000–2001 school year.

Section 11112(d)(ii) would amend subparagraph (B) of section 1111(c), which describes the assessments that must be included in the annual assessment report to the Secretary for the first year for which Part A is in effect following the bill’s enactment.

Section 1111(e) would amend section 1111(e) to require each State to submit its plan to the Secretary for the first year for which Part A is in effect following the bill’s enactment.

Section 1111(f) would amend section 1111(f), which is obsolete by its terms, with language permitting the Secretary to take any of the actions described in section 1111(e). Section 1111(g) would further determine that a State is not carrying out its responsibilities under the new accountability provisions in section 1111(b)(3). These provisions apply only if the Secretary determines that a State has not submitted a new accountability plan to the Secretary for the first year for which Part A is in effect following the bill’s enactment.

State that wishes to receive a Basic Grant under Part A of Title I to submit a State plan to the Secretary of Education (the Secretary). Section 111(1)(A)(i) would add language emphasizing that the purpose of a State’s plan is to help all children achieve to high standards and to improve teaching and learning in the State. Section 111(1)(A)(ii) would add, to the list of other programs with which the plan must be coordinated, specific references to the Individuals with Disabilities Education Act (IDEA) and the Carl D. Perkins Vocational and Technical Education Act of 1998. This section would also delete a reference to the Goals 2000: Educate America Act, which another provision of the bill would repeal, and delete a cross-reference to a section in Title XIV that another provision of the bill would repeal.

Section 111(1)(B) would improve the readability of section 1111(a)(2), which permits a State to leave Part A as a consolidated plan under section 14302 (to be redesignated as § 14302).

Section 111(2)(A) would add a reference to accountability to the heading of section 1111(b), to reflect the proposed addition of language on that topic as section 1111(b)(3).

Section 112(2)(B)(i) would streamline section 1111(b)(1)(B), which requires that the challenging content and student-performance standards each State must use in carrying out Part A be the same standards that the State uses for all schools and children in the State, to require the progress that States are expected to have made under current law by the effective date of the bill.

Section 11112(b)(ii) would delete outdated language from section 11111(b)(1)(C), which provides that, if a State has not adopted content and performance standards that apply to all students, it must have those standards for children served under Part A in subjects determined by the State, which must include at least mathematics and reading or language arts.

Section 11112(c) would delete current section 1111(b)(2), which requires States to describe what constitutes adequate yearly progress by LEAs and schools participating in the Part A program. This re-

accountability to the heading of section 1111(b), to reflect the proposed addition of language on that topic as section 1111(b)(3).

Section 11112(d)(i) would clarify that States must start using the yearly assessments described in current paragraph (3) of section 1111(b) (which the bill would redesignate as paragraph (2)) no later than the 2000–2001 school year.

Section 11112(d)(ii) would amend subparagraph (B) of section 1111(c), which describes the assessments that must be included in the annual assessment report to the Secretary for the first year for which Part A is in effect following the bill’s enactment.

Section 1111(e) would amend section 1111(e) to require each State to submit its plan to the Secretary for the first year for which Part A is in effect following the bill’s enactment.

Section 1111(f) would amend section 1111(f), which is obsolete by its terms, with language permitting the Secretary to take any of the actions described in section 1111(e). Section 1111(g) would further determine that a State has not submitted a new accountability plan to the Secretary for the first year for which Part A is in effect following the bill’s enactment.

State that wishes to receive a Basic Grant under Part A of Title I to submit a State plan to the Secretary of Education (the Secretary). Section 111(1)(A)(i) would add language emphasizing that the purpose of a State’s plan is to help all children achieve to high standards and to improve teaching and learning in the State. Section 111(1)(A)(ii) would add, to the list of other programs with which the plan must be coordinated, specific references to the Individuals with Disabilities Education Act (IDEA) and the Carl D. Perkins Vocational and Technical Education Act of 1998. This section would also delete a reference to the Goals 2000: Educate America Act, which another provision of the bill would repeal, and delete a cross-reference to a section in Title XIV that another provision of the bill would repeal.

Section 111(1)(B) would improve the readability of section 1111(a)(2), which permits a State to leave Part A as a consolidated plan under section 14302 (to be redesignated as § 14302).

Section 111(2)(A) would add a reference to accountability to the heading of section 1111(b), to reflect the proposed addition of language on that topic as section 1111(b)(3).

Section 11112(b)(i) would streamline section 1111(b)(1)(B), which requires that the challenging content and student-performance standards each State must use in carrying out Part A be the same standards that the State uses for all schools and children in the State, to require the progress that States are expected to have made under current law by the effective date of the bill.

Section 11112(b)(ii) would delete outdated language from section 1111(b)(1)(C), which provides that, if a State has not adopted content and performance standards that apply to all students, it must have those standards for children served under Part A in subjects determined by the State, which must include at least mathematics and reading or language arts.

Section 11112(c) would delete current section 1111(b)(2), which requires States to describe what constitutes adequate yearly progress by LEAs and schools participating in the Part A program. This re-
of children for whom an LEA’s plan must describe the coordination of Title I services with other educational services those children receive.

Section 112(f) would amend section 1112(b)(9), relating to preschool programs, to replace the term in that provision with a cross-reference to a new language that the bill would add to section 112B.

Section 112(c) would amend section 1112(b) to require LEAs to include two additional items in their plans: (1) a description of the actions it will take to assist its low-performing programs and to provide those parents to the parents of those children; and (2) comply with the requirements of section 119 regarding teacher qualifications and the use of paraprofessionals.

Section 112(d) would amend section 1112(d), relating to the development and duration of an LEA’s plan, to require the LEA to submit the plan for the first year for which Part A, as amended by the bill, is in effect, and to require the LEA to submit subsequent revisions to its plan to the LEA for its approval.

Section 112(e) would amend section 1112(e), relating to State review and approval of LEA plans, to require that States use a peer-review process in reviewing those plans, and to remove the time limits.

Section 113, eligible school attendance areas [ESEA, §1113]. Section 113(1) of the bill would amend section 1113, relating to eligible school attendance areas, to clarify that the waiver of the normal requirements for school attendance areas covered by State-ordered or court-ordered desegregation plans approved by the Secretary.

Section 113(2)(C) would restore to section 1112 the authority for an LEA to continue serving an attendance area for one year after it loses its eligibility. This language, which was removed from the Act in 1994, would give LEAs flexibility to prevent the abrupt loss of services to children who can clearly benefit from them, as individual attendance areas encompassed in the LEA’s jurisdiction.

Section 113(3)(A) would add, as section 113(c)(2)(C), language to clarify that an LEA may allocate greater per-child amounts of Title I funds to higher-poverty areas and schools than it provides to lower-poverty areas and schools.

Section 113(3)(B) would amend section 1113(c)(3) to require an LEA to reserve sufficient funds to serve homeless children who do not attend participating schools, not just when the LEA finds it “appropriate”. Some LEAs have invoked the current language as a justification for failing to provide services that the Act required.

Section 114, schoolwide programs [ESEA, §1114]. Section 114(a)(1) and (2) of the bill would amend section 1114(a) of the ESEA, which describes the eligibility for, and requirements of, which eligible children and other groups of children are eligible for services under section 1115.

Section 115(c)(1)(E), relating to coordination with, and support of, the regular education program.

Section 115(c)(1)(F) to emphasize that instructional staff must meet the standards set out in revised section 1119.

Section 115(d)(3) relating to professional development, because other provisions of Part A would address that topic.

Section 115A, school choice [ESEA, §1115A]. Section 115A of the bill would make a conformance amendment to section 115A(b)(4) of the ESEA.

Section 116, assessment and local educational agency and school improvement [ESEA, §1116]. Section 116(a) of the bill would revise subsection (a) of section 1116 of the HSEA, in their entirety, as follows:

Section 116(b), relating to LEA reviews of schools served under Part A, would be renumbered and revised to reflect the bill’s streamlining of that section.

Section 116(c)(1)(3), relating to an LEA’s obligation to identify participating schools that need improvement, and to take various actions to bring about that improvement, would be strengthened, consistent with the bill’s overall emphasis on greater accountability.

In particular, section 116(c)(3)(A) would require each school so identified by an LEA, within three months of being identified, to develop or revise a school plan, in consultation with parents, school staff, the LEA, and a State school support team or other outside experts. The plan would have to reflect and report on the progress of improving the performance of participating children in meeting the State student performance standards, address the fundamental teaching and learning needs identified, and address the need to improve the skills of the school’s staff through effective professional development, identify student performance targets and goals for the next three years, and specify the responsibilities of the LEA and the school under the plan.

The LEA would have to submit the plan to a peer-review process, work with the school to revise the plan as necessary, and approve it before it is implemented.

Section 116(c)(3)(C) would be revised to make clear that, with limited exceptions, an LEA would have to take at least one of a list of specified corrective actions in the case of a school that fails to make progress within three years of its identification as being in need of improvement. The list would be limited to four possible actions, each of which is intended to have severe consequences for the school, to ensure that the LEA takes action that is likely to have a positive effect.

Section 116(d), relating to SEA review of LEA programs, would similarly be revised to make clear that, with limited exceptions, the bill relating to accountability for achievement; to remove obsolete provisions; and to require an LEA that has been identified by the SEA as having made insufficient progress with its revised Part A plan to the SEA for peer review and approval. In addition, the bill would...
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strengthen and clarify language relating to the case in Section 1117 of the ESEA, relating to State
support for LEA and school support and improvement. Much of current section 1117 is
needlessly prescriptive and otherwise unnecessary, particularly in light of the strength-
ened provisions on LEA and school improvement and corrective actions in revised sec-
tions 1003(a)(2) and 1116.

Section 117(a) would retain the require-
ment of current law that each SEA establish
a statewide system of intensive and sus-
tained support and improvement for LEAs
and schools, in order to increase the opportu-
nity for all students in those LEAs and
schools to meet State standards.

Section 117(b) would replace the state-
ment of sections 1116 and 1117 as redesignated
of section 1120 to require that an LEA's Part A
program.

Section 117(c) would provide examples of
approaches the SEA could use in providing
support and assistance to LEAs and schools.

Section 117(d) would direct each SEA to
use the funds available to it for technical as-
sistance and support under section 1003(a)(1)
(other than the 70 percent or more that it re-
serves under section 1003(a)(2)) to carry out
section 1117, and would permit the SEA to also
use the funds it reserves for State ad-
ministration under redesignated section 1701(c)(2)
(current section 1603(c)) for that purpose.

Section 118, parental involvement (ESEA, § 118).
Section 118. (1), (2), and (3) would make confor-
ming amendments to section 1118, re-
lating to parental involvement in Part A
programs.

Section 118(4) would amend section 1118(f)
so that the requirement to provide full op-
portunities for participation by parents with limited English proficiency and parents with
disabilities, to the extent practicable, ap-
plies to all Part A activities, not just to the specific provisions relating to parental in-
volvement.

Section 118(5) would repeal subsection (g) of
section 1118, to reflect the bill's proposed

Section 119, teacher qualification and profes-
sional development (ESEA, § 119).
Section 119(1) would change the heading of section
1119 to "Teacher Instruction," to reflect amend-
ments made to this section that are designed
to ensure that participating chil-
dren receive high-quality instruction.

Section 119(2) of the bill would delete sub-
section (f) of section 1119, which is not need-
ed, and redesignate subsections (b) through
(e) and (g) of that section as subsections (d)
through (h).

Section 119(3) would insert a new sub-
section (a) in section 1119 to require that each participating LEA hire qualified in-
structors and provide high-quality profes-
sional development to staff members, and
use at least five percent of its Part A grant for fiscal years 2001 and 2002, and 10 percent of its grant for each year thereafter, for that professional development.

Section 119(4) would insert new subsections
(b) and (c) in section 1119 to specify the mini-
imum qualifications for teachers and for
paraprofessionals in programs supported with Part A funds. These requirements are
designed to ensure that participating chil-
dren receive high-quality instruction and as-
sistance, so that they can meet challenging
State standards.

Section 119(5)(A) would revise the list of re-
quired professional development activities in
current section 1119(b), which would be re-
designated as section 1119(c), to reflect expe-
rience and research on the most effective ap-
proaches to professional development.

Section 119(5)(B)(ii) would add child-care
providers to those with whom an LEA could choose to conduct joint professional develop-
ment activities in current section 1119(b)(2)(H) (current section 1119(b)(2)(H)).

Section 119(6) would make a forming amend-
ment to section 1119(g), which would be re-
designated as section 1119(h), to clarify how the combined use of funds from multiple
sources to provide professional development.

Section 120, participation of children enrolled
in private schools (ESEA, § 120).
Section 120(1) of the bill would add, to section
120(a)(1) of the bill, would add section
120(a)(1)(A) of the bill would add section
120(a)(1)(B) to amend section
210(a)(1)(B) of the ESEA, which authorizes the
SEAs to use the funds available to it for technical as-
sistance, so that they can meet challenging
State standards.

Section 120(2) would make a forming amend-
ment to section 120(a)(4) to give each LEA the option of de-
termining the number of poor children in private schools every year, as under current
law, or every five years, as under current law.

Section 120(2)(A)(ii) and (iii) would amend
section 120(b)(1), relating to the topics on
which an LEA consults with private school
families of children in those schools, to include:
(1) how the results of the assessments of the services the LEA provides will be used to improve those services; (2) the
amounts of funds generated by poor children in each participating attendance area; (3) the method or sources of data that the LEA uses to determine the number of those children; and (4) how and when the LEA will make de-
cisions about the delivery of services to
those children.

Section 120(2)(B)(ii) would amend section
120(b)(2) to clarify that LEA-private school
consultations must take place throughout the implementation and assessment of the
LEA's Part A program.

Section 120(3) would revise cross-references
in section 120(d)(2) to reflect the redesigna-
tion of sections by other provisions of the
bill.

Section 120(4) would delete subsection (e)
of section 120(b), which authorizes the award of separate grants to States to help
them pay for capital expenses that States
and LEAs incur in providing services to chil-
dren who attend private schools. In light of
the Supreme Court's 1997 decision in Agostini
v. Felton, which allows LEAs to provide Title
I services on the premises of parochial schools, this authority would be deleted.

Section 120A, fiscal requirements (ESEA, § 120A).
Section 120A(1) of the bill would make a forming amendment to a cross-
reference in section 120A of the ESEA, which requires an LEA to maintain fiscal ef-
fort as a condition of receiving Part A funds.

Section 120A(2) would amend section
120A(c) of the ESEA, which requires a par-
ticipating LEA to ensure that it provides
services in Title I schools, from State and local sources, that are at least comparable
to the services it provides in its other schools.

Section 120A(3) would amend section
120A(e)(2)(c) to replace the current criteria for determining the LEA's comparability
more fairly and thoroughly. LEAs would be
given until July 1, 2002, to comply with these new criteria.

Section 120B, preschool services and coordina-
tion requirements (ESEA, §§ 120B, 120C).
Section 120B(1) of the bill would amend the heading of
section 120B of the ESEA to read "Pre-
School Services; Coordination Require-
ments" to more accurately reflect its content.

Section 120B(2) would make a technical amend-
ment to section 120B(c), relating to
coordination of Title I regulations with Head
Start regulations issued by the Department
of Health and Human Services, to reflect en-
derment of the Head Start Amendments of
1998.

Section 120B(3) would add a subsection (d)
to section 120B to provide additional direc-
tion to preschool programs carried out with
Part A funds, and to ensure that those pro-
grams are of high quality. This language re-
places, and builds on, current section
1121(c)(1)(H).

Section 120C, allocations (ESEA, §§ 1121–1127).
Section 120C(a) of the bill would amend sec-
tions 1121(b)(1) of the ESEA, which authorizes
assistance to the outlying areas, to correct
an internal cross-reference in paragraph (1)
and to make the $6 million total for assist-
ance to the Freely Associated States (includ-
ing the Commonwealth of the Northern Mariana Islands) a maximum rather than a fixed annual
amount. The Secretary should have the flexi-
bility to determine that an amount less than
the full $6 million may be warranted for the
Free Association in any given year, particularly in light of possible revisions to their respective com-
 pact of free association.

Section 120C(b) would amend section
1122 of the ESEA, which governs the allocation of Part A funds to the States, by: (1) removing provisions that had been expired; (2) describing the amount to be available for targeted as-
stance grants under section 1125; (3) pro-
viding for proportionate reductions in State allocations, in case of insufficiencies in local appropria-
tions; and (4) retaining the provisions on
"hold-harmless" amounts that apply to fis-
cal year 1999. Most of the substance of law
that currently would be retained, but the section as a whole would be significantly shortened.

Section 120C(c)(1)(B) would redesignate paragraphs (3) and (4) of section 1122(a) as paragraphs (4) and (5).
Section 120(c)(1)(C) would revise, in their entirety, general and special provisions governing the calculation of LEA basic grants in section 1124(a)(2) and move some of those provisions to section 1124(a)(3) to improve the section’s structure and readability. As amended, section 1124(a)(2), which permits the Secretary to make allocations on an LEA-by-LEA basis, unless the Secretary and the Secretary of Commerce (who is responsible for the decennial census and other activities of the Bureau of the Census) determine the LEA-level data on poor children is unreliable or that other data be more appropriate. In that case, the two Secretaries would announce the reasons for their determination, and the Secretary would make allocations on the basis of county data, rather than LEA data, in accordance with new paragraph (3).

For any fiscal year for which the Secretary allocates funds to LEAs, rather than to counties, section 1124(a)(2)(B) would clarify that the amount of a grant to any LEA with a population of 20,000 or more is the amount determined by the Secretary. For LEAs with fewer people, the SEA could either allocate the amount determined by the Secretary or use an alternative method, approved by the Secretary, to determine the distribution of poor families among the State’s small LEAs.

For any fiscal year for which the Secretary allocates funds to counties, rather than to LEAs, section 1124(a)(3) would direct the States to suballocate those funds to LEAs, in accordance with the Secretary’s regulations. A State could propose to allocate funds directly to LEAs without regard to the county allocations calculated by the Secretary if a large number of its LEAs overlap county boundaries. However, it has data that would better target funds than allocating them initially by counties.

In general, paragraphs (2) and (3) of section 1124(a) would retain current law, while eliminating extraneous or obsolete provisions, and making this portion of the statute much easier to read and understand than current law.

Section 120(c)(1)(D) would revise language relating to Puerto Rico’s Part A allocation (current section 1124(a)(3)), which the bill would expand to include an additional provision that, over a 5-year phase-in period, its allocation would be determined on the same basis as the allocations to the 50 States and the District of Columbia.

Section 120(c)(2) would amend section 1124(b), relating to the minimum number of poor children needed to qualify for a basic grant, to improve its readability and to delete obsolete language.

Section 120(c)(3)(A)(I) would amend section 1124(c)(1), which describes the children to be counted in determining an LEA’s eligibility for, and the amount of, a basic grant, to delete subparagraph (B), which permits the inclusion of certain children whose families have income above the poverty level. The number of these children is now quite small, and collection of reliable data on them is burdensome.

Section 120(c)(3)(A)(II) would amend section 1124(c)(1)(C), relating to counts of certain children who are neglected or delinquent, to give the Secretary the flexibility to use data on those children for the preceding year (required by current law) or for the second preceding year.

Section 120(c)(3)(B)(II) would delete the 3rd and 4th sentences of section 1124(c)(2), which provide a special, and unwaranted, benefit to a single LEA.
should be devoted instead to services to children and families, including the clarifications and consolidations of the language incorporated from Part A of Title I by providing that each State’s plan would cover the duration of its participation in the program and require States to periodically review it and revise it as necessary.

Section 123(3) and (4) of the bill would make technical and conforming amendments to section 123.

Section 124, uses of funds [ESEA, §1204]. Section 124(1) of the bill would amend section 1204(a) of the ESEA, relating to the permissible uses of Even Start funds, by replacing a reference to “family-centered education programs” with “family literacy services.” “Family literacy services” is the term used elsewhere in the statute and defined in section 1203(e)(3).

Section 124(2) would make a conforming amendment to section 1204(b)(1).

Section 125, program elements [ESEA, §1205]. Section 125 of the bill would restate, in its entirety, section 1205 of the ESEA, which lists the required elements of each Even Start program. The language incorporated from section 1205(a) of the ESEA would ensure that each State to develop. Subsection (a) would redefine the meaning of program elements under Part A of Title I by providing that each State’s plan would cover the duration of its participation in the program and require States to periodically review it and revise it as necessary.

Section 123(3) and (4) of the bill would make technical and conforming amendments to section 123.

Section 124, uses of funds [ESEA, §1204]. Section 124(1) of the bill would amend section 1204(a) of the ESEA, relating to the permissible uses of Even Start funds, by replacing a reference to “family-centered education programs” with “family literacy services.” “Family literacy services” is the term used elsewhere in the statute and defined in section 1203(e)(3).

Section 124(2) would make a conforming amendment to section 1204(b)(1).

Section 125, program elements [ESEA, §1205]. Section 125 of the bill would restate, in its entirety, section 1205 of the ESEA, which lists the required elements of each Even Start program. The language incorporated from section 1205(a) of the ESEA would ensure that each State to develop. Subsection (a) would redefine the meaning of program elements under Part A of Title I by providing that each State’s plan would cover the duration of its participation in the program and require States to periodically review it and revise it as necessary.

Section 123(3) and (4) of the bill would make technical and conforming amendments to section 123.
eligible children and encouraging them to participate in education.

Section 131(2) would revise subsection (b), which describes the computation of Puerto Rico’s allocation, so that, over a 5-year phase-in period beginning in fiscal year 2006, its allocation would be decreased by 13% of the amount that the Secretary could reserve under section 1308(a). The current restriction to nonprofit entities has made it difficult to find organizations with the necessary technical expertise and experience to carry out certain important activities, such as the 1-800 help line and the program support center.

Section 131(1)(B) would amend section 1308(b) to remove obsolete provisions relating to the records of migratory children and to conform to the proposed deletion of references in section 1303 to the “full-time equivalent” numbers of those students in determining child counts.

Section 133, State applications [ESEA, §1304]. Section 132 of the bill would amend section 1304 of the ESEA, which requires States to submit, as a part of their application for funds, in order to streamline the process, a State plan that is separate from the State’s application for funds, in order to streamline program requirements and reduce paperwork burden.

Section 132(1)(B) would amend section 1304(b)(5) to clarify that the factors that States are to consider when making subgrants to local operating agencies.

Section 132(1)(C) would redesignate paragraph (5) of section 1304(b) as paragraphs (6) and (7), respectively.

Section 132(1)(D) would insert a new paragraph (5) in section 1304(b) to require a State’s application to describe how the State will ensure that children who are eligible to participate in State assessments required under Part A of Title I.

Section 132(2)(A) and (B) would make technical and conforming amendments to section 1304(c)(1) and (2).

Section 132(2)(C) would strengthen the requirements of section 1304(c)(3) relating to the involvement of parents and parent advisory councils.

Section 132(2)(D) would make a conforming amendment to section 1304(c)(7) to reflect the bill’s amendments relating to child counts.

Section 133, authorized activities [ESEA, §1306]. Section 133 of the bill would amend section 1306 of the ESEA, which describes the Migrant Education program, describes the children who are to be given priority for services, and authorizes the provision of services to certain categories of children who are no longer migratory.

Section 131(1)(A) would amend section 1304(b)(1) to require the State’s application to include certain material that is now required to be in its comprehensive plan (but not in its application) under section 1306(a). This reflects the proposed repeal of the requirement for a comprehensive service-delivery plan that is separate from the State’s application for funds, in order to streamline program requirements and reduce paperwork burden.

Section 132(1)(B) would amend section 1306(a)(5) to clarify that the factors that States are to consider when making subgrants to local operating agencies.

Section 132(1)(C) would redesignate paragraphs (5) and (6) of section 1306(b) as paragraphs (6) and (7), respectively.

Section 132(1)(D) would insert a new paragraph (5) in section 1306(b) to require a State’s application to describe how the State will ensure that children who are eligible to participate in State assessments required under Part A of Title I.

Section 132(2)(A) and (B) would make technical and conforming amendments to section 1306(c)(1) and (2).

Section 132(2)(C) would strengthen the requirements of section 1306(c)(3) relating to the involvement of parents and parent advisory councils.

Section 132(2)(D) would make a conforming amendment to section 1306(c)(7) to reflect the bill’s amendments relating to child counts.

Section 133, authorized activities [ESEA, §1306]. Section 133 of the bill would amend section 1306 of the ESEA, which describes the Migrant Education program, describes the children who are to be given priority for services, and authorizes the provision of services to certain categories of children who are no longer migratory.

Section 131(1)(A) would amend section 1304(b)(1) to require the State’s application to include certain material that is now required to be in its comprehensive plan (but not in its application) under section 1306(a). This reflects the proposed repeal of the requirement for a comprehensive service-delivery plan that is separate from the State’s application for funds, in order to streamline program requirements and reduce paperwork burden.

Section 132(1)(B) would amend section 1306(a)(5) to clarify that the factors that States are to consider when making subgrants to local operating agencies.

Section 132(1)(C) would redesignate paragraphs (5) and (6) of section 1306(b) as paragraphs (6) and (7), respectively.

Section 132(1)(D) would insert a new paragraph (5) in section 1306(b) to require a State’s application to describe how the State will ensure that children who are eligible to participate in State assessments required under Part A of Title I.

Section 132(2)(A) and (B) would make technical and conforming amendments to section 1306(c)(1) and (2).

Section 132(2)(C) would strengthen the requirements of section 1306(c)(3) relating to the involvement of parents and parent advisory councils.

Section 132(2)(D) would make a conforming amendment to section 1306(c)(7) to reflect the bill’s amendments relating to child counts.

Section 133, authorized activities [ESEA, §1306]. Section 133 of the bill would amend section 1306 of the ESEA, which describes the Migrant Education program, describes the children who are to be given priority for services, and authorizes the provision of services to certain categories of children who are no longer migratory.
the agency. This modification would recognize that, for a variety of reasons, it may not be appropriate to administer the same tests to students who are, or have been, neglected or delinquent, as are given to children of the same age who are in traditional public schools.

Section 148(d) of the bill would amend section 1431(c), relating to the results of evaluations, to reflect the proposed repeal of Subpart 2. Section 149, definitions [ESEA, §1432]. Section 140 of the bill would delete the definition of capital and other definitions in section 1422 and Section 1432, and renumber the remaining paragraphs. The deleted term is used only in Subpart 2, which would be repealed.

Part E—Federal evaluations, demonstrations, and transition projects

Section 151, evaluations, management information, and other Federal activities [ESEA, §1501]. Section 151 of the bill would amend, in its entirety, section 151 of the ESEA, which authorizes the Secretary to conduct evaluations and assessments, collect data, and carry out other activities that support the Title I program. It would provide improved use of the data and information useful to those who authorize and administer that title. As revised, section 1501 would support the activities that are essential for the Secretary to carry out over the next several years: evaluating Title I programs; helping States, LEAs, and schools develop management-information systems; carrying out applied research and technical assistance; disseminating evaluation and recognition activities; and obtaining updated census information so that funds are allocated using the most up-to-date information. Paragraph (a) of Section 1501 would also provide for the continued conduct of the national assessment of Title I and the national longitudinal study of Title I schools.

Section 1502, demonstrations of innovative practices. Section 152 of the bill would make conforming amendments to section 1502 of the ESEA.

Part F—General provisions

Section 161, general provisions [ESEA, §§1601–1604]. Section 161(1) of the bill would repeal sections 1601 and 1602 of the ESEA. Section 1601 provides a list of administrative, accountability, and other requirements of the Administrative Procedure Act and of section 437 of the General Education Provisions Act. Section 1602 requires the Secretary to issue a program assistance manual and to respond to certain inquiries within 90 days. These are similarly inappropriate and unwarranted restrictions on the Secretary’s discretion in administering the Title I program.

Section 161(2) would reauthorize sections 1603 and 1604 as sections 1601 and 1602. Part G—Reading excellence

Section 171, reading and literacy grants to State educational agencies [ESEA, §2253]. Section 171 of the bill would amend section 2253 of the ESEA (which directs the Secretary to award grants to SEAs to carry out the reading and literacy activities described in Part C of Title II of the ESEA), which section 178(b)(1) of the bill would transfer to Part E of Title I, as follows:

Paragraph (1) would amend the current limit of one grant per State, in section 2253(a)(2)(A), to permit a State to receive several grants. Thus, a State could receive a second grant after its first grant period is over.

Paragraph (2) would add, to the State application that is defined in section 2253(b)(1)(B), a clause (1)(x) to require an SEA’s application to include the process and criteria it will use to review and approve LEA applications for the two types of subgrants validating improvement subgrants under section 2255 and tutorial assistance subgrants under section 2256, including a peer-review process that includes individuals with relevant expertise.

Paragraph (3) would clarify the language in section 2253(c)(2)(C), which requires the Secretary, in making funding recommendations to the Secretary, to give priority to States that have modified, are modifying, or will modify their teacher certification requirements to require effective training of prospective teachers in methods of reading instruction that reflect scientifically based reading research.

Paragraph (4) would make a technical amendment to section 2253(d)(3), which permits States to use certain consortia or similar entities to support improvements in the Reading Excellence Act on October 21, 1998, in lieu of a partnership that meets that Act’s requirements.

Section 172, funds by amounts by State educational agencies [ESEA, §2254]. Section 172 of the bill would amend section 2254 of the ESEA so that the State’s cost of administering the program of tutorial assistance subgrants under section 2256 would be subject to the overall five percent limit on State administrative costs. That amount would be subject to the overall five percent on State administrative costs. That amount would be subject to the overall five percent limit on State administrative costs. That amount would be subject to the overall five percent limit on State administrative costs. That amount would be subject to the overall five percent limit on State administrative costs.

Section 173, local reading improvement subgrants [ESEA, §2255]. Section 173(a) of the bill would amend section 2255(a) of the ESEA, which describes the LEAs that are eligible to apply for a local reading improvement subgrant under section 2255, to limit eligibility to LEAs serving students in grades 1 through 3. LEAs that serve only grades 4 through 12 and meet that criteria will be eligible. These LEAs will be eligible to receive the same for the two types of subgrants, as provided by this amendment, will increase the likelihood that tutorial activities are carried out in the same LEAs that receive local reading improvement subgrants, promoting the coordination of the activities supported by the two types of subgrants.

Paragraph (5) would delete, from current section 2255(a)(1)(B), which the bill would redesignate as section 2256(a)(3)(B), language conditioning the receipt of all Title I funds by each LEA that is currently eligible under section 2256 on its providing public notice of the tutorial assistance program to parents and possible providers of tutoring services. This provision is grossly disproportionate in its severity and is not logically related to the large amounts of funds it affects under the other Title I programs. Any failure to remove notice described in this section should be subject to the same range of consequences that attach to possible noncompliance with any other requirement of the statute.

Paragraph (6) would make conforming amendments to current section 2256(a)(3), which the bill would redesignate as section 2256(a)(3)(B), to reflect the reclassification of eligibility of LEAs on the basis of having a school located in an empowerment zone or enterprise community under section 2256(a)(1)(A).

Paragraph (7) would make technical and conforming amendments to current subsection (a)(4), which the bill would redesignate as subsection (a)(5).

Section 175, national evaluation [ESEA, §2257]. Section 175 of the bill would amend section 2257 of the ESEA, which provides for a national evaluation of the program under this part, to remove a cross-reference to a continuing appropriation for LEAs and not for State administrative expenses.

Section 176, information dissemination [ESEA, §2258]. Section 176(1) of the bill would amend section 2258 of the ESEA, which provides for the dissemination of program information, to reflect the transfer of the program’s authorization of appropriations to section 1002(e) of the ESEA, which provides for the National Institute for Literacy, which administers section 2258, to use up to five percent of the amount available each year to pay for the costs of administering that section.

Section 176(2) would add, as subsection (c) of section 2258, authority for the Secretary to reserve up to one percent of each fiscal year’s appropriation for the Reading Excellence program for technical assistance, program improvement, and replication activities.

Section 177, authorization of appropriations [ESEA, §2259]. Section 177 of the bill would amend section 2259 of the ESEA, which authorizes appropriations for the program, to reflect the transfer of the program’s authorization of appropriations to section 1002(e) of the ESEA.

Section 178, transfer and redesignations. Section 178 of the bill would transfer the authority for the Reading Excellence program, currently authorized in Part C of Title II of the ESEA, to Part E of Title I, redesignate current Parts E and F of Title I as Parts F and G, and make other technical and conforming amendments.

TITLE II—HIGH STANDARDS IN THE CLASSROOM

Section 201 of the bill would amend Title II of the ESEA in its entirety, as follows:
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Part A—Teaching to high standards

Part A of Title II would authorize a new program in the ESEA by consolidation of the existing Eisenhower State Grants (Title II) and Innovation and Education Program Strategies (Title VI) programs in the ESEA and Title III of the Goals 2000: Educate America Act.

Subpart 1—Findings, purpose and Authorization of appropriations

Section 2111, findings. Section 2111 would set out findings for Part A.

Section 2112, purpose. Section 2112 would state that the purpose of Part A is to: (1) Support States and LEAs in continuing the task of developing challenging content and student performance standards and aligned assessments, revising curricula and teacher certification requirements, and using challenging content and student performance standards to improve teaching and learning; (2) ensure that teachers and administrators have access to professional development that is aligned with challenging content and student performance standards in the core academic subjects; (3) provide assistance to new teachers during their first three years on the job; and (4) support the development and acquisition of curricular materials and other instructional aids that are not normally provided as part of the regular instructional program and that will advance local standards-based school reform efforts.

Section 2113, authorizations of appropriations. Section 2113 would authorize the appropriation of such sums as may be necessary for each of the two operational subparts of Part A for fiscal years 2001, through 2005.

Subpart 2—State and local activities.

Section 2121, allocations to States. Section 2121 would provide for allocations to the States, including the District of Columbia and Puerto Rico; the outlying areas; and schools operated or funded by the Bureau of Indian Affairs (BIA). The Secretary would reserve a total of one percent for the outlying areas and the BIA. The remaining funds would be allocated to States, based on one half of each State’s share of funds under Part A of Title I for the previous fiscal year and one half on each State’s relative share of the population age 3 to 24. No State享受 would receive a grant that is less than one half of one percent of the amount available for State allocations.

Section 2122, priority for professional development in mathematics and science. Section 2122(a) would establish rules for the use of Part A funds for professional development in mathematics and science at various appropriations levels. A key priority of the Teaching to High Standards proposal is directing Federal resources to support professional development that is aligned with challenging content and student performance standards in the core academic content areas, instead of professional development that uses general strategies for improving classroom instruction that are not based on academic content. Toward that end, the bill would require States and LEAs to use funds for professional development only in the academic content areas and would increase the current Eisenhower program’s $250 million set-aside for professional development in mathematics and science to $300 million. This “trigger” means that the appropriation for Part A is $300 million or less, each State would be required to devote its entire allocation to supporting professional development in the academic content areas, including funds retained at the State level and those distributed by the SEA and the State agency for higher education (SAHE) as grants to LEAs. For years in which the appropriation is higher than $300 million, each State would be required to allocate a percentage of its funding toward mathematics and science professional development that is at least as high as the percentage appropriation would have received had the appropriation been $300 million. The SEA and the SAHE would jointly determine how the State would structure the use of State-level funding and grants to LEAs to meet this requirement.

Section 2122(b) would provide that, for purposes of the requirement on subparts of subsection (a), professional development in mathematics and science may include interdisciplinary activities, as long as these activities include a strong focus on mathematics and science. Subsection (c) would require that funds in excess of the $300 million appropriation be used in one or more of the core academic subjects, including mathematics and science.

Section 2123, State application. Section 2123 would require each State to submit an application to the Secretary that describes its priorities and goals for the use of the funding provided by Title II of the Higher Education Act of 1965 (if the LEA or IHE is participating in that program) or involves using the school or department of education and the school or departments in the specific disciplines in which the professional development will be provided.

Section 2127 would also describe the activities that award recipients must carry out and require them to submit an annual report to the SAHE, beginning with fiscal year 2002, on their progress against indicators of program performance that the Secretary may establish. The SAHE would provide the SEA with copies of these reports.

Section 2128, competitive local awards. Section 2128 would require SEAs to award competitive subgrants to LEAs from the funds they receive under Section 2125. The SEA would use a peer-review process that includes reviewers who are knowledgeable and experienced in the academic content areas. SEAs would be required to consider the potentially new uses of the applicants’ proposals and their likelihood of success, and on the demonstrated need of applicants, based on specified criteria.

Section 2129 would also require SEAs to adopt strategies to ensure that LEAs with the greatest need are provided a reasonable opportunity to receive an award. Subgrants would be for a three-year period, which the SEA would extend for an additional two years if it determines that the LEA is making substantial progress toward meeting the goals in the LEA’s district-wide plan for raising student achievement.

Section 2123, State application. Section 2123 would require a State to submit annual reports to the Secretary that describe its activities for the two prior fiscal years and information that the Secretary requires. Section 2124 would also require SEAs to report to the Secretary that describe its activities for the two prior fiscal years and indicators of program performance that the Secretary may establish. The SAHE would provide the SEA with copies of these reports.

Section 2125, within-State allocations. Section 2125 would allow an SEA to reserve up to 10 percent of the State allocation for State-level activities, program evaluations, and administration. Not more than one third of the debt capital that could be used for administration in the fiscal year 1997. No State would receive a grant that is less than one half of one percent of the amount available for State grants.

Section 2126, local applications. Section 2126 would allow an LEA to receive a formula or competitive subgrant. The application would include a district-wide plan that describes how the LEA will raise student achievement for the two prior fiscal years if it determines that the LEA is making substantial progress toward meeting the goals in the LEA’s district-wide plan for raising student achievement.

In addition, the LEA application would: (1) identify specific goals for achieving the purposes of the program; (2) describe how the LEA will address the needs of high-poverty, low-performing schools; (3) describe how the LEA will coordinate funds under this subpart with Federal funds provided under other programs; (4) describe how the LEA will coordinate funds under this subpart with funds provided under other programs; (5) describe how the LEA will coordinate funds under this subpart with funds provided under other programs; (6) describe how the LEA will use the subgrant funds awarded by formula to administer or support the LEA’s performance improvement plan; and (7) describe how the LEA would receive the additional funds from a competitive...
subgrant, if it is applying for one, to implement the plan.

Section 2130, use of funds. Section 2130 would describe the activities an LEA may conduct with program funds in order to implement the plan.

Section 2131, local accountability. Section 2131 would require each LEA to submit an annual report to the SEA, beginning in fiscal year 2001. This report would include: (1) information on its progress against the indicators of program performance that the Secretary identifies and against the LEA’s program goals; (2) data on the LEA’s school poverty levels, as defined by the Secretary; and (3) a description of the methodology the subgrantee used to gather the data.

Section 2132, local cost-sharing requirement. Section 2132 would provide that the Federal share of activities carried out under Subpart 2 with funds received by formula may not exceed 77 percent for any fiscal year. The Federal share of activities carried out under this subpart with funds awarded on a competitive basis could not exceed 65 percent during the first year, 75 percent during the second year, 85 percent during the third year, 55 percent during the fourth year, and 50 percent during the fifth year.

Section 2133, maintenance of effort. Section 2133 would require each participating LEA to maintain its fiscal effort for professional development at the average of its expenditures over the previous three years.

Section 2134, equipment and textbooks. Section 2134 would provide that subgrantees may use program funds for equipment, computer hardware, textbooks, telecommunication fees, or other items, that would otherwise be provided by the LEA or State, or by a private school whose students receive services under the program.

Section 2135, supplement, not supplant. Section 2135 would require an LEA to use program funds only to supplement the level of funds or resources that would otherwise be made available from non-Federal sources, and not to supplant those non-Federal funds or resources.

Section 2136, program performance indicators. Section 2136 would require the Secretary to identify indicators of program performance against which recipients would report their progress.

Section 2137, definitions. Section 2137 would define “core academic subjects,” “high-poor- vity local educational agency,” “low-per- forming school,” and “professional develop- ment.”

Subpart 3—National activities for the improve- ment of teaching and school leadership

Section 2141, program authorized. Section 2141 would authorize the Secretary to make awards to a wide variety of public and private agencies and entities to support: (1) activities of national significance that are not supported through other sources and that the Secretary determines will contribute to the improvement of teaching and school leadership in schools; (2) activities of national significance that will contribute to the recruitment and retention of highly qualified teachers and principals in high-poverty schools; (3) activities of national significance that will contribute to the recruitment and retention of highly qualified teachers and principals in high-poverty schools; (4) the National Board for Professional Teaching Standards. Section 2141(b)(6) would direct the Secretary to provide for the Eisenhower National Clearinghouse for Mathematics and Science Education under section 2142.

Section 2142, Eisenhower National Clearing- house for Mathematics and Science Education under section 2142.

Section 2143, the Secretary would be required to cooperate with the Department of Defense and Transportation with respect to the appropriate amount of funding necessary to continue and enhance the Troops to Teachers program. Additionally, section 213(b)(1)(B) would provide that, upon agreement, the Secretary would transfer the amount under section 213(b)(1)(A) to the Department of Defense and Transportation, as appropriate, so that the Secretary determines are appropriate to ensure effective continuation of the Troops to Teachers program.

Section 2111, findings. Section 2111 of the ESEA would set out the Congressional findings that Part B is needed, with other institutions, agencies, or organizations to recruit, train, place, and support program participants under this part, including a description of the targeted group that shows how the knowledge and experience of its members is relevant to meeting the purposes of this part; (2) describe how it plans to identify and recruit program participants; (3) include a description of the training program participants would receive and how that training would relate to their certification as teachers; (4) describe how it would ensure that program participants were placed and would teach in high-poverty LEAs; (5) include a description of the teacher induction services that program participants would receive throughout at least their first year of teaching; (6) include a description of how the applicant would collaborate, as needed, with other institutions, agencies, or organizations to recruit, train, place, and support program participants under this part, including a description of the targeted group that shows how the knowledge and experience of its members is relevant to meeting the purposes of this part; (7) include a description of how the applicant would evaluate the progress and effectiveness of its program, including the program’s goals and objectives, the performance indicators the applicant would use to measure the progress and the outcome measures that would be used to determine the program’s effectiveness; and (8) submit an assurance that the applicant would provide to the Secretary such information as the Secretary determines necessary to determine the overall effectiveness of programs under this part.

Section 2115, uses of funds and period of serv- ice. Section 2115 of the ESEA would describe the activities authorized under Part B. Under section 2115(a), Part B funds could be used to: (1) recruit program participants, including informing them of opportunities under the program and putting them in contact with other institutions, agencies, or organizations to recruit, train, place, and support them; (2) authorize training stipends and other financial incentives for program participants, not to exceed $5,000, in the aggregate, per participant, per year; (3) enter into cooperative agreements with institutions of higher education or other providers of teacher training to meet the particular needs of professionals who are changing their careers; (4) provide support for the implementation activities, including identifying high-poor- vity LEAs with needs for particular skills

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and characteristics of the newly trained professionals. The Secretary would be required to make awards under Part B that support programs in different geographic regions of the Nation. Section 2307, cost-sharing. Section 2307(a) of the ESEA would authorize the Secretary to make grants in Part B for program activities, and the Secretary would be required to consult with, relevant agencies and organizations that are directly related to the purpose of the Part. Federal Technical assistance and dissemination activities under the ESEA  Part D—Technical assistance programs Section 2402, purpose. Section 2402(a) of the ESEA would authorize the President to use funds under the ESEA to provide technical assistance to States, LEAs, schools, and other recipients of funds under the ESEA in implementing and improving programs and systems that reflect identified national needs.
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Section 2411, purpose. Section 2411 of the ESEA would state the purposes of Subpart 1 as being to provide grants to SEAs and LEAs, and other consumers of technical assistance needs and how their various sources of funds would be coordinated to carry out the activities for which such amount has been allocated for a fiscal year.

Section 2414, State application. Section 2414 of the ESEA would describe the application requirements that the Secretary must consider in making grants under Subpart 1. The State would be required to: (1) build its capacity to use ESEA technical assistance funds effectively through the acquisition of high-quality technical assistance, including all ESEA sources and other sources, and in implementing the State's plan or policies for technical assistance and other means, to provide the highest priority to meeting the technical assistance needs identified by the SEA, within the State and implement that system; (3) the SEA's plan for using funds from all sources under the ESEA to build its capacity to provide outside technical assistance and other means, to provide technical assistance to LEAs and other recipients within the State; (4) how, in carrying out technical assistance activities using funds provided from all sources under the ESEA, the State will assist LEAs and schools in providing high-quality education to all children served under the ESEA to achieve to challenging academic standards, including all ESEA sources and other sources, in implementing the State's plan or policies for technical assistance and other means, and in building the State's capacity to provide the highest priority to meeting the technical assistance needs identified by the SEA, within the State and implement that system; (5) planning and implementing effective, research-based reform strategies, including all ESEA sources and other sources, in building the State's capacity to provide the highest priority to meeting the technical assistance needs identified by the SEA, within the State and implement that system; and (6) planning and implementing effective, research-based reform strategies, including all ESEA sources and other sources, in achieving the State's plan or policies for technical assistance and other means, to provide the highest priority to meeting the technical assistance needs identified by the SEA, within the State and implement that system; and (7) the purposes of Subpart 1 as being to provide grants to SEAs and LEAs, and other consumers of technical assistance needs and how their various sources of funds would be coordinated to carry out the activities for which such amount has been allocated for a fiscal year.

Section 2417, local application. Section 2417 of the ESEA would describe the application requirements that the LEA must meet to receive direct grants under Subpart 1. Each LEA would be required to submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. Each application would be required to describe: (1) the LEA's need for technical assistance in implementing programs under Subpart 1 of the ESEA; (2) how the LEA will use the grant funds to coordinate all its various sources of funds for technical assistance, including all ESEA sources and other sources, in implementing the LEA's plan or policies for technical assistance and other means, to provide the highest priority to meeting the technical assistance needs identified by the LEA, within the State and implement that system; (3) how, in carrying out technical assistance activities using funds provided from all sources under the ESEA, the LEA will assist LEAs and schools in providing high-quality education to all children served under the ESEA to achieve to challenging academic standards, including all ESEA sources and other sources, in implementing the LEA's plan or policies for technical assistance and other means, and in building the LEA's capacity to provide the highest priority to meeting the technical assistance needs identified by the LEA, within the State and implement that system; (4) how, in carrying out technical assistance activities using funds provided from all sources under the ESEA, the LEA will assist LEAs and schools in providing high-quality education to all children served under the ESEA to achieve to challenging academic standards, including all ESEA sources and other sources, in implementing the LEA's plan or policies for technical assistance and other means, and in building the LEA's capacity to provide the highest priority to meeting the technical assistance needs identified by the LEA, within the State and implement that system; and (5) how, in carrying out technical assistance activities using funds provided from all sources under the ESEA, the LEA will assist LEAs and schools in providing high-quality education to all children served under the ESEA to achieve to challenging academic standards, including all ESEA sources and other sources, in implementing the LEA's plan or policies for technical assistance and other means, and in building the LEA's capacity to provide the highest priority to meeting the technical assistance needs identified by the LEA, within the State and implement that system; and (6) how, in carrying out technical assistance activities using funds provided from all sources under the ESEA, the LEA will assist LEAs and schools in providing high-quality education to all children served under the ESEA to achieve to challenging academic standards, including all ESEA sources and other sources, in implementing the LEA's plan or policies for technical assistance and other means, and in building the LEA's capacity to provide the highest priority to meeting the technical assistance needs identified by the LEA, within the State and implement that system; and (7) the purposes of Subpart 1 as being to provide grants to SEAs and LEAs, and other consumers of technical assistance needs and how their various sources of funds would be coordinated to carry out the activities for which such amount has been allocated for a fiscal year.

Section 2418, local use of funds. Section 2418 of the ESEA would describe the ways in which an LEA could use direct grant funds under Subpart 1. Each LEA could use those funds to: (1) build its capacity to use ESEA technical assistance funds through the acquisition of high-quality technical assistance and the selection of high-quality technical assistance activities and providers, that meet the technical assistance needs identified by the LEA, within the State, directly, through contracts, or through subgrants to LEAs, or other recipient of funds, for activities that meet the purposes of Subpart 1 of the ESEA and are designed for technical assistance, including all ESEA sources; (3) acquire the technical assistance it needs to increase opportunities for all children served under the ESEA to achieve to challenging academic standards, including all ESEA sources and other sources, in implementing the LEA's plan or policies for technical assistance and other means, and in building the LEA's capacity to provide the highest priority to meeting the technical assistance needs identified by the LEA, within the State and implement that system; (4) acquire the technical assistance it needs to increase opportunities for all children served under the ESEA to achieve to challenging academic standards, including all ESEA sources and other sources, in implementing the LEA's plan or policies for technical assistance and other means, and in building the LEA's capacity to provide the highest priority to meeting the technical assistance needs identified by the LEA, within the State and implement that system; and (5) acquire the technical assistance it needs to increase opportunities for all children served under the ESEA to achieve to challenging academic standards, including all ESEA sources and other sources, in implementing the LEA's plan or policies for technical assistance and other means, and in building the LEA's capacity to provide the highest priority to meeting the technical assistance needs identified by the LEA, within the State and implement that system.
all ESEA sources; and (3) acquire the tech-
nical assistance providers in order to coordi-
ate with the Department and other federally supported tech-

alized with State and local education re-
requirements for the purpose of ensuring that all LEAs in the States served, educational service agencies (where appropriate), and representa-
atives of high-poverty, low-performing urban and rural LEAs in each State served, develop and carry out targeted approaches to providing technical assistance that gives priority to providing intensive, ongoing services to high-poverty LEAs and schools that are in need of raising student achievement (such as schools identified as in need of improvement under section 1116(c) of the ESEA); (4) cooperate with other activities (including technical assistance activities au-
thorized by other ESEA programs) such as publicly disseminating materials and infor-
mation that are produced by the Department and are relevant to the purpose, expertise, and mission of the technical assistance pro-

funds appropriated to carry out Subpart 1.

Secretary would use technology, particularly the
telephone networks and Internet-based resources, in innovative ways to pro-
vide high-quality technical assistance.

Section 2422, centers for technical assistance on section 2422 of the ESEA would authorize the Sec-

Section 2423, parental information and re-

Examples of high-poverty, low-performing schools, schools (par-

the Secretary would be required, to the

greatest extent possible, to ensure that each State is served by at least one award recipi-

tent. Currently, there are PIRCs in all 50 States. The District of Columbia, Puerto

Rico, and each territory.

Section 2423(b) would establish the applica-
tion requirements for the PIRCs. Applicants desiring assistance under section 2423 would be required to submit an application at such time and in such form as the Secretary shall determine. At a minimum, the applica-
tion would include: a description of the ap-
plicant’s capacity and expertise to imple-
ment the State’s, or its own, plan or

are designed to ensure the quality and effec-
tiveness of the programs.

Section 2422(e) would authorize the appro-
priation of such sums as may be necessary for fiscal year 2001 and for each of the four

successing fiscal years to carry out the pur-
pose of section 2422.

Section 2423, parental information and re-

under section 2422 could be up to 5 years in dura-
tion.

Under section 2422(c), each center would be
required to maintain appropriate staff experi-
ced in parent and family involvement work, and to participate in the

ty and the lowest student achievement levels.

Under section 2422(d), the Secretary would be
required to: (1) develop a set of perform-
ications that support parents in the

requests for their use. Such a contract

could be awarded for a period of up to five
years, and the Secretary could reserve, from the funds appropriated to carry out Subpart 1 for such sums as the Sec-

or other recipients of funds under the ESEA, in selecting technical assistance activities and providers for their use. Such a contract

might be awarded to the State or LEA, a

In carrying out section 2422(c), the Sec-

that the Secretary would be required to award grants, contracts, or coopera-
tive agreements to nonprofit organizations that serve parents (particularly those orga-
nizations that make substantial efforts to reach low-income, minority, or limited

ing high-quality parent education and family involvement programs and with national, State and local organizations that provide families in promoting early language and liter-

the Secretary to develop, test, and evaluate

under section 2422(b) would authorize

ment agreements to public or private non-
profit organizations that serve parents in the

take whatever action necessary to ensure that the

funds appropriated under section 2422 could

sufficient to meet the requirements and arrange for the provision of professional development services for the private

school teachers or school administra-
tors in private schools located in the same
graphic area. However, if a SEA or LEA is

or LEA would be required to provide for professional
development for teachers or school adminis-
trators in private schools located in the same

graphic area. Similarly, if a SEA or LEA uses funds under Subpart 1 to provide information about

nations applicable to all technical assistance

alarmed by the Secretary in carrying out activities as required by the Secretary in carrying out interim arrangements. All of these activities

on how to help their children prepare for suc-
dation requirements for the PIRCs. Applicants
desiring assistance under section 2423 would be
required to submit an application at such time and in such form as the Secretary shall determine. At a minimum, the application

would include: a description of the applicant’s capacity and expertise to imple-
ment the State’s, or its own, plan or

the Secretary would be required to award
grants, contracts, or cooperative agreements to public or private non-
profit organizations that serve parents in the

in schools, and strategies to overcome those

under section 2423 would be required to submit an application at such time and in such form as the Secretary shall determine. At a minimum, the application

would include: a description of the applicant’s capacity and expertise to imple-
ment the State’s, or its own, plan or

in carrying out activities as required by the Secretary in carrying out interim arrangements. All of these activities

are designed to ensure the quality and effec-
tiveness of the programs.

Section 2422(e) would authorize the appro-
priation of such sums as may be necessary for fiscal year 2001 and for each of the four

successing fiscal years to carry out the pur-
pose of section 2422.

Section 2423, parental information and re-

resources.

libraries and, clear-
houses of the Edu-
cational Resources
Information Center, supported under the Edu-
cation Development, Improvement, and

Section 2421, general provisions. Section 2421
of the ESEA would set out the general provi-
sions applicable to all technical assistance
funds and a description of the applicant’s plan to disseminate information on high-

the availability and quality of services pro-

the centers, and share that informa-
tion with relevant Federal, State, and local education programs and with national, State and local

organizations that provide families and

families and to increase technical assistance
for all children to achieve to chal-

ing federal program or policies for compre-

and a description of the applicant’s goals for

funds and a description of the applicant’s goals for

under section 2422(c) of the ESEA); (4) cooperate with other activities (including technical assistance activities au-
thorized by other ESEA programs) such as publicly disseminating materials and infor-
mation that are produced by the Department and are relevant to the purpose, expertise, and mission of the technical assistance pro-

under section 2422 could be up to 5 years in dura-
tion.

Under section 2422(c), each center would be
required to maintain appropriate staff experi-
ced in parent and family involvement work, and to participate in the

ty and the lowest student achievement levels.

Under section 2422(d), the Secretary would be
required to: (1) develop a set of perform-
ications that support parents in the

in schools, and strategies to overcome those

under section 2423 could be required to submit an application at such time and in such form as the Secretary shall determine. At a minimum, the application

would include: a description of the applicant’s capacity and expertise to imple-
ment the State’s, or its own, plan or

the Secretary would be required to award
grants, contracts, or cooperative agreements to public or private non-
profit organizations that serve parents in the

in schools, and strategies to overcome those

under section 2423 could be required to submit an application at such time and in such form as the Secretary shall determine. At a minimum, the application

would include: a description of the applicant’s capacity and expertise to imple-
ment the State’s, or its own, plan or

the Secretary would be required to award
grants, contracts, or cooperative agreements to public or private non-
profit organizations that serve parents in the

in schools, and strategies to overcome those

under section 2423 could be required to submit an application at such time and in such form as the Secretary shall determine. At a minimum, the application

would include: a description of the applicant’s capacity and expertise to imple-
ment the State’s, or its own, plan or

the Secretary would be required to award
grants, contracts, or cooperative agreements to public or private non-
profit organizations that serve parents in the

in schools, and strategies to overcome those

under section 2423 could be required to submit an application at such time and in such form as the Secretary shall determine. At a minimum, the application

would include: a description of the applicant’s capacity and expertise to imple-
ment the State’s, or its own, plan or
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Section 2423(c) would limit the Federal share to not more than 75 percent of the cost of a PIRC. The remaining 25 percent may be provided from cash or in kind. Under current law, a grant recipient must provide a match in each fiscal year after the first year of the grant, but does not specify the amount of the match.

Section 2423(d)(1) would establish the allowable uses for program funds. Recipients would be required to use their awards to support: (1) notifying, evaluating, and implementing programs that provide parents with training, information, and support on how to help their children achieve high academic standards. Such activities could include: assistance in the implementation of programs that support parents and families in promoting early language and literacy development and prepare children to enter school ready to succeed in school; assistance in developing networks and other strategies to support the use of research-based, proven models of parent education and family involvement, including the “Parents as Teachers” and “Home Instruction Program for Preschool Youngsters” programs; individual and group parental development and learning; assistance in preparing parents to communicate more effectively with teachers and other professional educators and support staff; and providing a means for ongoing, meaningful communication between parents and schools; assistance in developing and implementing parent education and family involvement programs that increase parental knowledge about standards-based school reform; and disseminating information on programs, resources, and support at the national, State, and local levels that support parent and family involvement in the education of their school-age children.

Section 2423(d)(2) would require that each recipient use at least 75 percent of its award to support activities that serve areas with large numbers or concentrations of low-income families. Recipients would be required to use 50 percent of their funds to provide services to low-income areas.

Section 2423(e) would authorize the Secretary to establish the Eisenhower Regional Mathematics and Science Education Consortia. The Eisenhower Consortia are currently authorized under Part C of Title II of the ESEA, as amended, for purposes of carrying out current law to eliminate outdated or unnecessary provisions and making structural changes, Section 2424 would eliminate some of the current authorized uses of funds for the Eisenhower Consortia in order to focus the uses of funds more closely on the program’s core purposes. Section 2424 would also authorize the appropriation of such sums as may be necessary for fiscal years 2001 through 2005 to carry out the Eisenhower Consortia.

Title III—Technology for Education

Section 2431, Web-based and other information dissemination. Section 2431 of the ESEA would authorize the Secretary to carry out, through grants, cooperative agreements, a national system, through the Worldwide Web and other advanced telecommunications technologies, that supports interactive information sharing and dissemination about ways to improve educational practices throughout the Nation. In designing and implementing this proposed information dissemination activities, the Secretary could require the technical assistance providers funded under proposed Part D of Title II of the ESEA (as amended by Title III of the bill), or the educational laboratories and clearinghouses of the Educational Resources Information Center supported under the Educational Research, Development, Dissemination, and Improvement Act, to: (1) provide information (including information on practices employed in the regions or States served by the providers) for use in the proposed information dissemination system; (2) coordinate their activities in order to ensure a unified system of technical assistance; and (3) facilitate the use of the information dissemination system.

Section 2431(b) would authorize the Secretary to carry out national activities, using advanced telecommunications technologies where appropriate, to assist LEAs, SEAs, tribes, and other ESEA recipients in meeting the requirements of the Government Performance and Results Act of 1993. This assistance could include information on measuring and benchmarking program performance and student outcomes, that constitutes effective technical assistance; (2) evaluate the effectiveness of the technical assistance and dissemination programs authorized by, or assisted under, Part E of Title II of the ESEA, and the educational laboratories, and clearinghouses of the Educational Resources Information Center, supported under the Educational Research, Development, Dissemination, and Improvement Act, (notwithstanding any other provision of such Act); and (3) increase the effectiveness of those programs.

Title III—Technology for Education

Subpart 1—Short Title. Section 301 of the bill would amend section 301 of the ESEA to change the short title for Title III of the ESEA to the “Technology for Education Act.”

Section 302. Findings. Section 302 of the bill would update the findings in section 311 of the ESEA to reflect progress that has been made in achieving the technology goals and identify those areas in which progress still needs to be made.

Section 303. Legislative Findings and Intentions. Section 303 of the bill would add a new section 303 to the ESEA to provide a framework for planning and implementing the technology goals and identify those areas in which progress still needs to be made.
Section 303. Statement of Purpose. Section 303 of the bill would amend Section 312 of the ESEA to better align the purposes of Title III of the ESEA to the national technology goals and the Department’s goals for the use of educational technology to improve teaching and learning. This title would be to: (1) help provide all classrooms with access to educational technology through support for the acquisition of advanced multimedia computers, Internet connections, and other technologies; (2) help ensure access to, and effective use of, educational technology in all classrooms through the provision of sustained and intensive, high-quality professional development that improves teachers’ capability to integrate educational technology effectively into their classrooms by actively engaging students and teachers in the use of technology; (3) help improve the capability of teachers to design and construct new learning experiences using technology, and actively engage students in that design and construction; (4) support efforts by SEAs and LEAs to create learning communities designed to challenge State students to achieving challenging State academic content and performance standards through the use of research-based teaching practices; (5) support technical assistance to State educational agencies, local educational agencies, and communities to help them use technology in all classrooms; and improve systems to support school reform and meet the needs of students and teachers; (6) support the development of applications that make use of such technologies as telecommunications, hand-held devices, web-based learning resources, distance learning networks, and modeling and simulation software; (7) foster partnerships between education and business and industry to realize more rapidly the potential of digital communications to expand the scope of, and opportunities for, learning; (8) support evaluation and research on the effective use of technology in preparing all students to achieve challenging State academic content and performance standards and high-technology and performance standards, and the impact of technology on teaching and learning; (9) provide national leadership to stimulate and coordinate the use of technology and improve the national, State, and local levels, that support the development and integration of advanced technologies and applications to improve school planning and classroom instruction; (9) support the development, or redesign, of teacher preparation programs to enable prospective teachers to integrate the use of technology in teaching and learning; (11) increase the capacity of State and local educational agencies to improve student achievement, particularly that of students in high-poverty, low-performing schools; (12) promote the formation of partnerships and consortia to stimulate the development of, and new uses for, technology in teaching and learning; (13) support the creation or expansion of community technology centers that will provide disadvantaged residents of economically distressed urban and rural communities with access to educational technology and related training; and (14) help to ensure that technology is accessible to, and usable by, all students, particularly students with disabilities or limited English proficiency.

Section 304. Prohibition Against Supplanting. Section 304 of the bill would repeal section 312(a)(2) of the ESEA, which currently clarifies the definitions applicable to Title III of the ESEA. Definitions would instead be placed in the part of the title to which they apply. In addition, Section 304 of the bill would add new section 3113 to the ESEA that would require a recipient of funds awarded under this title to use that award only to supplement the amount of funds or resources that would, in the absence of such Federal funds, be made available from non-Federal sources for the purposes of the programs authorized under this title. This provision would be overridden in appropriation language each year to carry out the purposes of Title III of the ESEA.

Part A—Federal leadership and national activities

Section 311. Structure of Part. Section 311 of the bill would make technical changes to Title III of the ESEA to eliminate the current structure of Part A of Title III of the ESEA and add a new heading for Part A, Federal Leadership and National Activities. This section would also repeal the current Product Development program, which has never received funding.

Section 312. Long-Range Technology Plan. Section 312 of the bill would amend section 3121 of the ESEA, which currently requires the Secretary to publish a national long-range technology plan. The new section would amend section 3121(a) of the ESEA to require the Secretary to publish the national long-range technology plan within one year of the enactment of the bill and to broadly disseminate the updated plan.

Section 313(3) of the bill would amend section 3121(c) of the ESEA, which establishes the requirements for the national long-range technology plan, by adding the requirement that the plan describe the strategies the Secretary will: (1) promote the full integration of technology into learning, including the creation of new instructional opportunities through access to challenging courses and information that would otherwise not have been available, and independent learning opportunities for students through technology; (2) encourage the creation of opportunities for teachers to develop, through the use of technology, their own networks and resources for sustained and intensive, high-quality professional development; (3) encourage the commercial development of effective, high-quality, cost-competitive educational technology and software.

Section 313. Federal Leadership. Section 313 of the bill would amend section 3122 of the ESEA, which authorizes a program of Federal leadership in promoting the use of educational technology in education. Section 313(1) of the bill would amend section 3122(a) of the ESEA by eliminating a reference to the United States National Commission on Libraries and Information Systems, and replacing it with the White House Office of Science and Technology Policy, on the list of agencies with which the Secretary consults under this program.

Section 313(2) of the bill would amend section 3122(b)(1) of the ESEA by removing the reference to the National Education America Act, which would be repealed by another section of this bill. The National Education Goals would be renamed America’s Education Goals, and added to the ESEA by section 2 of the bill.

Section 313(3) of the bill would amend current section 3122(c) of the ESEA by eliminating the authority for the Product Development, and undertake activities designed to facilitate maximum interoperability of educational technologies. Instead, the Secretary would be authorized to provide technical assistance to State educational agencies to improve student achievement, particularly that of students in the design and construction of educational technology in all classrooms, and the use of new instructional opportunities through access to challenging courses and information that would otherwise not have been available, and independent learning opportunities for teachers to develop, through the use of technology, their own networks and resources for sustained and intensive, high-quality professional development; (3) encourage the commercial development of effective, high-quality, cost-competitive educational technology and software; (4) promote the formation of partnerships and consortia to stimulate the development of, and new uses for, technology in teaching and learning; (5) support the creation or expansion of community technology centers that will provide disadvantaged residents of economically distressed urban and rural communities with access to educational technology and related training; and (6) help to ensure that technology is accessible to, and usable by, all students, particularly students with disabilities or limited English proficiency.
Title III of the ESEA. Section 321(a) of the bill would redesignate current Title III of the ESEA, Ready-To-Learn Television, as Subpart 2 of Part B of Title III of the ESEA, and redesignate current Part D of Title III of the ESEA, Telecommunications Demonstration Project for Mathematics as Subpart 3 of Part B of Title III of the ESEA.

Section 321(d) of the bill would add a new Subpart C, Community Technology Innovation Awards, to Part B of Title III of the ESEA.

Proposed new section 3211 of the ESEA ("Purpose; Program Authority") would state, in subsection (a), that it is the purpose of the program to: (1) expand the knowledge base about the use of the next generation of advanced computers and telecommunications in delivering new applications for teaching and learning; (2) address questions of national significance about the next generation of technology, particularly its use to improve teaching and learning; and (3) develop, for wide-scale adoption by SEAs and LEAs, models of innovative and effective applications in teaching and learning. This evaluation authority would promote the design and implementation of innovative and effective applications. In addition, recipients would be required to use program funds to carry out activities consistent with the purposes of the proposed new subpart, such as: developing teachers' ability to integrate technology effectively into course curriculum, through distance learning networks, and the development of educational software and other applications. Proposals would also be required to use program funds to develop classroom and extracurricular opportunities for female students to explore the different uses of technology; promoting school-family partnerships, which may include services for adults and families, particularly parent education programs that provide parents with training, information, and support on how to help their children achieve high performance levels; developing and evaluating the application requirements in section 3232 of the ESEA; and requiring connectivity linkages, resources, distance learning networks, and services, including hardware and software, as needed to accomplish the purposes (and (7) disseminate findings and methodologies from evaluations assisted under the proposed new subpart, or other information obtained from such projects that would promote the design and implementation of effective models for evaluating the impact of educational technology in teaching and learning. This evaluation authority would enable the Department to provide projects with tools for evaluation and disseminate findings from the individual project evaluations.

Proposed new section 3215 of the ESEA ("Authorization of Appropriations") would authorize such sums as may be necessary to carry out this part for fiscal years 2001 through 2005.

Section 322. Ready To Learn Digital Television. Section 322 of the bill would amend the subpart heading for Subpart 2 of Part B of Title III of the ESEA (as redesignated by section 321(b) of the bill) to reflect advances in technology and to change the reference to "television" with a reference to "digital television."

In addition, section 322 of the bill would amend the provisions of this subpart to reflect the redesignations made by section 321(c) of the bill, and to authorize the appropriation of such sums as may be necessary to carry out this subpart for fiscal years 2001 through 2005.

Section 323. Telecommunications Program for Professional Development in the Core Content Areas. Section 323(a) of the bill would amend the heading for Subpart 3 of Part B of Title III (as redesignated by section 321(b) of the bill) from the current "Telecommunications Demonstration Project for Mathematics" to "Telecommunications Program for Professional Development in the Core Content Areas."

Section 323(b) of the bill would amend section 3231 of the ESEA (as redesignated by section 321(c) of the bill), which currently states the purpose of carrying out a national telecommunications-based demonstration project to improve the teaching of mathematics and to assist elementary and secondary school teachers in preparing all students for achieving State content standards. As amended by section 323(b) of the bill, this program would no longer be a demonstration project, and its purposes would be expanded to assist elementary and secondary school teachers in preparing all students to achieve challenging State content standards. As amended by section 323(b) of the bill, this program would no longer be a demonstration project, and its purposes would be expanded to assist elementary and secondary school teachers in preparing all students to achieve challenging State content standards. As amended by section 323(b) of the bill, this program would no longer be a demonstration project, and its purposes would be expanded to assist elementary and secondary school teachers in preparing all students to achieve challenging State content standards.
Proposed new section 3242 of the ESEA ("Eligibility: Application Requirement") would set out the eligibility and application requirements for the proposed new subpart. Under proposed new section 3242(a) of the ESEA, an eligible applicant must: (1) have the capacity to expand significantly access to computers and related services for disadvantaged residents of economically distressed urban and rural communities (who would otherwise be denied such access); and (2) be an entity such as a foundation, museum, library, for-profit business, public or private nonprofit organization, community-based organization, an institution of higher education, an SEA, and LEA, or a consortium of these entities.

Under proposed new section 3242(b) of the ESEA, an applicant would be required to submit an application to the Secretary at such time, and containing such information, as the Secretary may require, and that application must include: (1) a description of the proposed project; (2) a description of the magnitude of the need for the services and how the project would expand access to information technology and related services to disadvantaged residents of an economically distressed urban or rural community; (2) a demonstration of the commitment, including the financial commitment, of entities such as institutions, organizations, business and other groups in the community that will provide support for the creation, expansion, and continuation of the proposed project, and the extent to which the proposed project establishes linkages with other appropriate agencies, efforts, and organizations providing services to disadvantaged residents of an economically distressed urban or rural community; (3) a description of how the proposed project would be sustained once the Federal funds awarded under this subpart end; and (4) a plan for the evaluation of the program, including benchmarks to monitor progress toward specific project objectives.

Under proposed new section 3242(c) of the ESEA, the Federal share of the cost of any project funded under the proposed new subpart could not exceed 50 percent, and the non-Federal share would include in-kind cash or in-kind, fairly evaluated, including services.

Proposed new section 3243 of the ESEA ("Uses of Funds") would describe the required and permissible uses of funds awarded under the proposed new subpart. Under proposed new section 3243(a) of the ESEA, a recipient would be required to use these funds for creating or expanding community technology centers that expand access to information technology and related training for disadvantaged residents of distressed urban or rural communities, and evaluating the effectiveness of the project.

Under proposed new section 3243(b) of the ESEA, a recipient could use funds awarded under the proposed new subpart for activities that it described in its application that carry out the purposes of this subpart such as: (1) supporting a center coordinator, and staff, to supervise instruction and build community partnerships; (2) acquiring equipment, network access, and software, and an applicant carry out the project; and (3) developing and providing services and activities for community residents that provide access to computers and information technology, and examples of such technology in support of pre-school preparation, academic achievement, lifelong learning, and workforce development job preparation.

Proposed new section 3244 of the Act ("Authorization of Appropriations") would authorize the appropriation of such sums as may be necessary to carry out the purposes of any new subpart for each of the fiscal years 2001 through 2005.

Part C—Preparing tomorrow's teachers to use technology

Section 321. New Part. Section 331 of the bill would amend Title III of the ESEA by adding a new Part C, Preparing Tomorrow's Teachers To Use Technology.

Proposed new section 3301 of the ESEA ("Purpose; Program Authority") would state, in subsection (a), that the purpose of the proposed new part is to assist consortia of public or private nonprofit organizations in carrying out programs that prepare prospective teachers to use advanced technology to foster learning environments conducive to preparing all students to achieve to challenging State and local content and student performance standards.

Proposed new section 3301(b) of the ESEA would authorize the Secretary, through the Office of Educational Technology, to award grants, contracts, or cooperative agreements on a competitive basis to applicants in order to assist them in developing or redesigning teacher preparation programs to enable prospective teachers to use technology effectively. The Secretary could make these awards for a period of not more than five years.

Proposed new section 3302 of the ESEA ("Eligibility") would detail the eligibility, application, and matching requirements for the proposed new part. To be eligible under proposed new section 3302(a), an applicant must be a consortium that includes at least one institution of higher education that offers a baccalaureate degree and prepares teachers who teach in the classroom, and at least one SEA or LEA. In addition, each consortium must include at least one of the following entities: an institution of higher education (other than the institution described above); a school or department of education at an institution of higher education; a school or college of arts and sciences, an institution of higher education; a private elementary or secondary school; or a professional association, foundation, non-profit business, public or private nonprofit organization, community-based organization, or other entity with the capacity to contribute to the technology-related reform of teacher preparation programs.

The application requirements in proposed new section 3302(b) of the ESEA would require an applicant to submit an application to the Secretary at such time, and containing such information, as the Secretary may require, and that application would be required to include: a description of the proposed project, including how the project would ensure that individuals participating in the project would be prepared to use technology to create learning environments conducive to preparing all students to achieve to challenging State and local content and student performance standards; a demonstration of the commitment, including the financial commitment, of each of the members of the consortium to the proposed project; a description of how the proposed project would be sustained once the Federal funds awarded under this part end; and a plan for the evaluation of the project.

Part D—Regional, State, and local educational technology resources

Section 341. Repeal; New Part. Section 341 of the bill would add a new Part D, Regional, State, and Local Educational Technology Resources, to Title III of the ESEA that would consist of two subparts: Subpart 1, the Technology Literacy Challenge Fund (TLCF), and Subpart 2, Regional Technology Leaders Initiative (RTLI).

Proposed new section 3411 of the ESEA ("Purpose") would state that it is the purpose of the TLCF to increase the capacity of States, LEAs, and other groups to achieve technology learning environments, particularly that of students in high-poverty, low-performing schools, by supporting State and local efforts to: (1) make effective use of new and existing educational technology applications, networks, and electronic resources; (2) utilize research-based teaching practices that are linked to adult learning and development, workforce learning, and other groups in the community that will provide support for the creation, expansion, and continuation of the proposed project, and the extent to which the proposed project establishes linkages with other appropriate agencies, efforts, and organizations providing services to disadvantaged residents of an economically distressed urban or rural community; (3) a description of how the proposed project would be sustained once the Federal funds awarded under this subpart end; and (4) a plan for the evaluation of the program, including benchmarks to monitor progress toward specific project objectives.

Proposed new section 3412(c)(1) of the ESEA would limit that any project funded under this part to no more than 50 percent of the cost of the project. The non-Federal share may be in cash or in kind, as required under proposed new section 3320(c)(2) of the ESEA, which would limit, to not more than 10 percent of the funds awarded for a project under this part, the extent to which the required match is used to acquire equipment, networking capabilities or infrastructure, and would require that the non-Federal share of the cost of any such acquisition be in cash.

Proposed new section 3413 of the ESEA ("Uses of Funds") would establish the required and permissible uses of funds awarded under the proposed new part. Under proposed new section 3413(a) of the ESEA, recipients would be required to: create programs that enable prospective teachers to use advanced technology to create learning environments conducive to preparing all students to achieve to challenging State and local content and student performance standards; and evaluate the effectiveness of the project.

Under proposed new section 3413(b), recipients would be permitted to use funds for activities such as: developing and implementing high-quality technology applications and demonstration programs that enable educators to learn the full range of resources that can be accessed through the use of technology, integrate a variety of technologies into the classroom in order to expand students' knowledge, evaluate educational technologies and their potential for use in instruction, and help students develop their own digital learning environments; developing alternative teacher development programs that provide elementary and secondary schools with well-prepared, technology-proficient educators; developing performance-based standards and aligned assessments to measure the capacity of prospective teachers to use technology effectively in their classrooms; providing technical assistance to other teacher preparation programs; developing and disseminating resources and information in order to assist institutions of higher education to prepare teachers to use technology effectively in their classrooms; and acquiring equipment, network, and infrastructure to carry out the project.

Proposed new section 3414 of the ESEA ("Authorization of Appropriations") would authorize the appropriation of such sums as may be necessary to carry out the proposed new part for each of the fiscal years 2001 through 2005.
capacity to create improved learning environments through the integration of educational technology into instruction. These purposes would focus program efforts on activities that have been proven to improve teaching and learning.

Section 344. Local Technology Planning. Section 344 of the bill would amend section 3132(b)(2) of the ESEA. Under current law, LEAs are required to use 10 percent of their funds for local technology planning. This section would require LEAs to use up to 15 percent of their funds for local technology planning, with the additional funds to be used for activities such as developing technology plans that are aligned with the State technology plan, and having a substantial need for educational technology.

Section 345. Local Uses of Funds. Section 345 of the bill would amend section 3135 of the ESEA. This section would require LEAs to use at least 95 percent of their funds for local technology planning and activities identified as priorities for educational technology. The bill would also add a new section 3136 to the ESEA, which would authorize the use of LEA funds for program planning and development activities.

Section 346. Local Applications. Section 346 of the bill would amend section 3134 of the ESEA. Under current law, LEAs are required to use at least 90 percent of their funds for district-level technology planning. This section would require LEAs to use 95 percent of their funds for district-level technology planning, with the additional funds to be used for activities such as developing technology plans that are aligned with the State technology plan, and having a substantial need for educational technology.

Section 347. Local Applications. Section 347 of the bill would amend section 3137 of the ESEA. Under current law, LEAs are required to use at least 90 percent of their funds for local technology planning and activities identified as priorities for educational technology. This section would require LEAs to use 95 percent of their funds for local technology planning and activities identified as priorities for educational technology, with the additional funds to be used for activities such as developing technology plans that are aligned with the State technology plan, and having a substantial need for educational technology.

Section 348. Local Applications. Section 348 of the bill would amend section 3138 of the ESEA. Under current law, LEAs are required to use at least 90 percent of their funds for local technology planning and activities identified as priorities for educational technology. This section would require LEAs to use 95 percent of their funds for local technology planning and activities identified as priorities for educational technology, with the additional funds to be used for activities such as developing technology plans that are aligned with the State technology plan, and having a substantial need for educational technology.

Section 349. Regional Technology in Education. Section 349 of the bill would amend section 3139 of the ESEA. Under current law, LEAs are required to use at least 90 percent of their funds for local technology planning and activities identified as priorities for educational technology. This section would require LEAs to use 95 percent of their funds for local technology planning and activities identified as priorities for educational technology, with the additional funds to be used for activities such as developing technology plans that are aligned with the State technology plan, and having a substantial need for educational technology.
Section 349(b) of the bill would amend section 349(b) of the bill to authorize the Secretary to enter into contracts and cooperative agreements, in addition to the Secretary’s current authority to award grants, to carry out the purposes of the proposed new subpart. In addition, the priority for various regional entities would be eliminated, although the Secretary would still be required to ensure, to the extent possible, that each geographic region of the United States is served by a project funded under this program.

Section 349(b)(2)(B)(iii) of the bill would add a new section 341(a)(2)(B) of the ESEA that would require the RTECs to meet the generous provisions relating to technical assistance providers contained in proposed new section 342I of the ESEA. Section 349(b) of the bill would also make several conforming changes to references and citations to section 341 of the ESEA, including updating provisions to reflect recent advances in technology.

Section 349(b)(2)(B)(iv) of the bill would amend section 341(b)(2)(A) of the ESEA, which currently requires RTECs, to the extent possible, to develop and implement professional development programs that represent the interests of the region, to coordinate their activities with organizations and institutions of higher education that represent the interests of the region regarding the application of technology to teaching, learning, instructional management, dissemination, the collection and distribution of information, statistics, and the transfer of student information; and (3) collaborate with the Department and recipients of funding under other Department of Education programs, particularly the Technology Literacy Challenge Fund and the Next-Generation Technology Innovation Grant Program (as added by the Secretary’s current authority to award grants, to enter into contracts and cooperative agreements, and to assist the Department and the recipients as requested by the Secretary. Finally, section 349(c) of the bill would designate section 341 of the ESEA as section 342I of the ESEA, and section 349(d) of the bill would amend Title III of the ESEA by inserting proposed new section 3422 of the ESEA (as added by the Secretary’s current authority to award grants, to enter into contracts and cooperative agreements, and to assist the Department and the recipients as requested by the Secretary. This section would provide, among other things, that the Secretary may reserve each fiscal year for evaluation to $2 million (up from $1 million under the current law) to support more intensive evaluations that are needed to demonstrate program outcomes and effectiveness.

Proposed new section 4111(a)(2)(A)(i) of the bill would amend section 349(b)(2)(B)(v) of the bill to require the RTECs to work with local districts and schools to develop support from parents and community members for educational technology programs. The amendments made by section 349(b)(2)(B)(v) of the bill would require the RTECs to work with districts and schools to increase the involvement and support of parents and community members for educational technology programs.

Finally, section 349(b)(2)(C)(v) of the bill would amend section 341(b)(3) of the ESEA by eliminating the requirement that the RTECs coordinate their activities with organizations of higher education that represent the interests of the region served as such interests pertain to the application of technology in teaching, learning, and other activities.

Section 349(b)(2)(C)(vi) of the bill would amend section 341(b)(3) of the ESEA by adding a new requirement that each RTEC maintain complete and current copies of information on the effective use of educational technology, including for professional development, and to disseminate the information to the extent possible, to the extent possible.
They would significantly strengthen the current law, which does not specify any criteria for funds to eligible applicants competitively, based on need and quality, as required by section 4113(c)(2) of the ESEA. These changes would significantly strengthen the current law, which does not specify any criteria for how Governors must award their funds under this current law.

They would also be required to include in their applications a description of how the SEA and Governor will use the funds received under proposed new sections 4113(b) and 4115(b) of the ESEA for coordinated capacity-building, technical assistance, and program accountability services and activities to address the program that, under current law, would retain the provisions in current law; and (4) defining "State" and "local educational agency." Proposed new section 4112 ("State Applications") of the ESEA would set forth the State grant application procedure for this title. Proposed new section 4112(a) of the ESEA would change the current State grant application process for reviewing applications.

Proposed new section 4112(b) of the ESEA would retain the language in the current law under section 4112(d) requiring the Secretary to use a peer review process in reviewing SDFSC State grant applications.

Proposed new section 4113(a) of the ESEA would describe the SEA and LEA programs to be carried out under this part. Proposed new section 4113(b)(4)(B)(i) of the ESEA would depart from the current statute by establishing a new authority requiring SEAs to reserve between 10 percent and 20 percent of their allocations under proposed new section 4113(a) for State-level activities. Under this new authority, SEAs may use the reserved funds to plan, develop, and implement, jointly with the Governor, capacity building and technical assistance and accountability services to support the effective implementation of local drug and violence prevention activities throughout the State and promote program accountability and improvement. Within this 20 percent cap, but in addition to the 10 percent minimum for State-level activities, SEAs may also use up to 5 percent of their funding (i.e., up to 25 percent of the amount they reserve for State activities) for drug and violence prevention activities to support the effective implementation of local drug and violence prevention activities in schools and communities following a traumatic crisis, such as a shooting or major accident that has disrupted the learning environment.

Proposed new section 4112(b) of the ESEA would also contain a description of the procedures the State grant application will support the attainment of the State's results-based performance indicators. These changes would address the program that, under current law, many States have created for their SDFSC programs that are entirely process-oriented and do not tie strategically to the State's needs in this area.

The proposed State grant application would also contain a description of the procedures the State will use for reviewing applications and awarding funds to LEAs competitively, based on need and quality as required by proposed new section 4113(c)(2) of the ESEA, as well as a description of the procedures the SEA will use for reviewing applications and awarding funds to LEAs non-competitively, based on need and quality as permitted by section 4113(c)(3) of the ESEA. These changes constitute a significant departure from current law, under which SEAs award funds to LEAs on the basis of student funding; (3) permitting the Secretary to redistribute to other States, on the basis of the amount of State grant funds the Secretary determines a State will be unable to use within the two years of the initial award; and (4) making minor wording changes to the nine "need" factors in the current statute, and add language requiring that the SEA and Governor may carry out one time only, an evaluation of the effectiveness of the grant program, and how closely it is aligned with the following principles of effectiveness: (1) the LEA's program is based on a thorough assessment of objectives; (2) the LEA's program is based on drug and violence problems in the schools and communities to be served; (2) the LEA has
established a set of measurable goals and objectives that specify the programs, projects, and other activities to be supported by the LEA under the ESEA. Proposed new section 4114(b) would require the Governor to use evaluation results to refine, improve, and strengthen its program, and refine its goals and objectives, as needed.

Proposed new section 4115(c)(2)(D) of the ESEA would require SEAs to make competitive awards under proposed new section 4113(c)(2)(A) to no more than 50 percent of the LEAs in the State and still comply with proposed new subparagraph (E) of this section.

Proposed new section 4115(c)(2)(E) of the ESEA would require SEAs to make their competitive awards to LEAs under proposed new section 4115(c)(2) of sufficient size to support high-quality, effective programs and activities that are designed to create safe, drug-free, and orderly learning environments in schools and that are consistent with the needs, goals, and objectives identified in the State's plan under proposed new section 4115(b).

Proposed new section 4115(c)(3)(A) of the ESEA would depart from the current statute to permit SEAs to use up to 10 percent of their State grant funding for non-competitive awards to LEAs with the greatest need for assistance, as described in proposed new section 4115(c)(2)(B), that did not receive a competitive award under section 4115(c)(2)(A). LEAs would be eligible to receive only one subgrant under this paragraph.

Proposed new section 4115(c)(3)(B) of the ESEA would require, for accountability purposes, that in order for an SEA to make a non-competitive award to an LEA under proposed new section 4115(c)(3)(A), the SEA must assist the LEA in meeting the information requirements under proposed new section 4116(a) of the ESEA pertaining to LEA needs assessment, results-based performance measures, comprehensive safe and drug-free schools plan, evaluation plan, and assurances, and provide continuing technical assistance to the LEA to build up its capacity to develop and implement high-quality, effective programs consistent with the principles of effectiveness in proposed new section 4113(c)(2)(C) of the ESEA.

Proposed new section 4113(d) of the ESEA would provide that LIA awards under section 4113(c) be for a project period not to exceed three years, and require that, in order to receive funds for the second or third year of a project, the LEA demonstrate to the satisfaction of the SEA that the LEA's project is making significant progress toward performance indicators under proposed new section 4116(a)(3)(C) of the ESEA. This proposed new section would also make technical changes to the local allocation formula in current law.

Proposed new section 4113 (“Local Drug and Violence Prevention Programs”) of the ESEA would require LEAs to develop and implement high-quality, effective programs and activities that are consistent with the principles of effectiveness in proposed new section 4113(c)(2)(C). This proposed new section would require that, to be eligible for a grant, an applicant (other than a LEA applying on its own behalf) must include in its application a plan for how other LEAs, or one or more schools within an LEA, to provide services and activities in support of these LEAs or schools, as well as an explanation of how the proposed new section 4113(c) would complement or support the LEAs' or schools' efforts to provide a drug-free, safe, and orderly school environment. Proposed new section 4113(a) of the ESEA would require the Governor to prepare the list of LEAs that are to be served under this title. Proposed new section 4113(b) of the ESEA would require LEAs to use their subgrant funds to use those funds to support research-based drug and violence prevention services and activities that are consistent with the principles of effectiveness in proposed new section 4113(c)(2)(C).

Proposed new section 4113(b)(4) of the ESEA would require LEAs to use their subgrant funds generally to support drug-free, safe, and orderly learning environments in schools and that are consistent with the most recent research and evidence-based practices. Proposed new section 4113(b)(5) of the ESEA would also include an illustrative list of 13 such activities.

Proposed new section 4113(c)(3)(B) of the ESEA would require that LEAs make their subgrant awards to LEAs under proposed new section 4113(c)(2) of the ESEA, to the satisfaction of its SEA, in its application for funding under proposed new section 4116 of the ESEA, that it has a compelling need to do so.

Proposed new section 4115 (“Governor’s Program”) of the ESEA would establish the Governor’s Program. Proposed new section 4115(c)(2) of the ESEA would make technical changes to the current law that 20 percent of the funds allocated to each State under proposed new section 4115(b) be awarded to the Governor, but require the Governor to use these funds to support community efforts that directly complement the efforts of LEAs to foster drug-free, safe, and orderly learning environments in schools and that are consistent with the principles of effectiveness in proposed new section 4115(c)(2)(B) of the ESEA.

Proposed new section 4116(a) of the ESEA would require LEAs to use evaluation results to refine, improve, and strengthen its program, and refine its goals and objectives, as needed.

Proposed new section 4116(a)(4) of the ESEA would require a Governor to base the competition for these subgrants on: (1) the quality of the applicant’s proposed program and how closely it is aligned with the principles of effectiveness in proposed new section 4113(c)(2)(C); and (2) on objective criteria, determined by the Governor, on the needs of the schools for LEAs to be served.

Subgrants made by Governors under proposed new section 4115(c) of the ESEA may support community efforts on a Statewide, regional, or local basis and may support community efforts on a Statewide, regional, or local basis and may support community efforts on a Statewide, regional, or local basis and may support community efforts on a Statewide, regional, or local basis. Proposed new section 4115(c)(2)(B) of the ESEA would include an illustrative list of 5 such activities.

Proposed new section 4116 (“Local Application”) of the ESEA would include an illustrative list of 5 such activities.
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new section 4113(c)(2) of the ESEA, or the non-competing national grants that the Secretary of Education would make available under proposed new section 4117 of the ESEA, would add minor technical changes to the current law to refocus the State reports required by this section on the State's progress toward achieving its performance indicators for achieving drug-free, safe, and orderly learning environments in its schools, consistent with the changes proposed through-put out proposed new Part A of Title IV of the ESEA. The Act also adds a new requirement for States to report, in such form as the Secretary, in consultation with the State technology grants that the Secretary of Education would make available under proposed new section 4117(a) of the ESEA, would add a new requirement that the LEA include in its application any programs the LEA has encountered in implementing its program that warrant the provision of technical assistance by the SEA, to assist the LEA in implementing the assistance activities. These changes would apply to LEAs that receive SDFSC subgrants through their SEA under proposed new sections 4113(c)(2) or 4113(c)(3).

Proposed new section 4117(c)(1)(B) of the ESEA would add a new requirement that SEAs review the annual LEA reports, and terminate funding for the second or third year of an LEA's program unless the SEA determines that the LEA is making reasonable progress toward meeting its objectives.

Proposed new section 4117(c)(2) of the ESEA would add new language to the ESEA requiring that Governors' award recipients under proposed new section 4113(c) of the ESEA submit an annual progress report to the Governor and to the public containing the same type of information required for LEA progress reports under proposed new section 4117(c)(1)(A) of the ESEA. The Governor would be required to review the annual progress report and terminate the funding for the second or third year of a subgrantee's program unless the Governor determines that the subgrantee is making reasonable progress toward meeting its objectives.

PART B—National Programs

Proposed new section 4211(c)(1) of the ESEA would authorize the Secretary to use national programs authorized under proposed new section 4211(a) directly, or through grants, contracts, or cooperative agreements with Federal agencies, and (b) through agreements with other Federal agencies, and to coordinate with other Federal agencies as appropriate.
Proposed new section 4111(b) of the ESEA would require the Secretary of Education, in consultation with the Attorney General, the Secretary of Health and Human Services, and the Director of the Federal Emergency Management Agency, to establish criteria and application requirements as may be needed to identify which LEAs are assisted under Project SERV, and permit the Secretary to establish reporting requirements for under such information from all LEAs assisted under Project SERV.

Proposed new section 4111(c) of the ESEA would require the establishment of a Federal Coordinating Committee on school safety comprised of the Secretary (who shall serve as chair of the Committee), the Attorney General, the Secretary of Health and Human Services, and the Director of the Federal Emergency Management Agency, the Director of the Office of National Drug Control Policy, and such other members as the Secretary determines, shall be charged with coordinating the Federal responses to crises that occur in schools or directly affect the learning environment in schools.

Part D—Related provisions

Proposed new section 4111 (“Gun-Free Schools Act”) of the ESEA would authorize the Gun-Free Schools Act as proposed new Part D of Title IV of the ESEA because of its close relationship with the SDPSF program. The Gun-Free Schools Act is currently authorized under Part F of Title XIV of the ESEA.

Proposed new section 4111(b) of the ESEA would continue, with minor technical changes, the current requirement that each State receiving Federal funds under the ESEA have in effect a State law requiring LEAs to expel from school, for a period of not less than one year, a student who is determined to be a threat to school safety (including, but not limited to, firearms) or to his or her peers or to school officials.

Proposed new section 4112 (“Local Policies”) of the ESEA would require each LEA that receives Title IV ESEA funds to adopt policies prohibiting the possession, sale, purchase, distribution, or use of tobacco, and the illegal use of alcohol and other drugs.

Proposed new section 4113 (“Materials”) of the ESEA would authorize the Secretary to make grants under Title IV of the ESEA to SEAs and LEAs to purchase, develop, and disseminate curriculum materials to be used in programs and activities authorized under Title IV of the ESEA.

Proposed new section 4114 (“Local Policies”) of the ESEA would include in the definition of state educational agency a grantee that has a policy requiring each LEA receiving Federal funds under the ESEA to adopt policies prohibiting the possession, sale, purchase, distribution, or use of tobacco, and the illegal use of alcohol and other drugs.

Proposed new section 4115 (“Drug-Free, Alcohol-Free, and Tobacco-Free Schools”) of the ESEA would authorize the Secretary to make grants under Title IV of the ESEA to SEAs and LEAs to purchase, develop, and disseminate curriculum materials to be used in programs and activities authorized under Title IV of the ESEA.

Proposed new section 4116 (“Local Policies”) of the ESEA would include in the definition of state educational agency a grantee that has a policy requiring each LEA receiving Federal funds under the ESEA to adopt policies prohibiting the possession, sale, purchase, distribution, or use of tobacco, and the illegal use of alcohol and other drugs.
of Title V of the ESEA; (4) move Charter Schools Program in Title X of the ESEA to Part B of Title V of the ESEA; and (5) add a new initiative, “Options: Opportunities to Improve Our Nation’s Schools,’ to be new Part C of Title V that would provide a new flexible authority to support SEAs and LEAs in experimenting with different kinds of public elementary and secondary schools, such as work-based schools.

Section 501. Renaming the Title. Section 501 of the bill would change the name of Title V of the ESEA to “Promoting Equity, Excellence, and School Choice.”

MAGNET SCHOOL ASSISTANCE

Section 502. Findings. Section 502 of the bill would amend Part A (Magnet School Assistance) of Title V of the ESEA. Section 502(a) of the bill would make editorial changes to, and update, section 5101 of the ESEA, the findings for the Magnet School Assistance Program.

Section 502(b) of the bill would amend section 5102(3) of the ESEA (Statement of Purpose) to clarify that the purpose of providing financial assistance to develop and design innovative methods and programs is to promote diversity and increase choices in public elementary and secondary schools and educational programs.

Section 502(c) of the bill would amend section 5106(b)(1)(D) of the ESEA (Information and Assurances), a part of the application requirements, to eliminate reference to the Goals 2000: Educate America Act and to make an editorial change.

Section 502(d) of the bill would amend section 5107 of the ESEA (Priority) to eliminate the current priorities for greatest need and new, or significantly revised, projects. These priorities are not well defined and have not helped to determine which grant applications are most deserving. Section 502(d) would also add a new priority for projects that propose activities, which may include professional development, that will build local capacity to operate the magnet program once Federal assistance has ended.

Section 502(e) of the bill would amend section 5108 of the ESEA (Uses of Funds) to authorize such sums as may be necessary for (1) to high-quality public school choice. Programs that promote innovative approaches to high-quality public school choices that would authorize a flexible, competitive grant program to help SEAs and LEAs provide innovative, high-quality public school choice programs.

Proposed new section 5302(a) of the ESEA would authorize the Secretary, from funds appropriated under section 5305(a) and not reserved under section 5305(b), to make grants to SEAs and LEAs to support proposals that promote innovative approaches to high-quality public school choices. Proposed new section 5302(b) of the ESEA would prohibit grants under this part from exceed-
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be used for transportation; and (3) be used for projects that are specifically authorized under Part A or B of the title.

Proposed new section 504(a) of the ESEA would require a SEA or LEA desiring to receive funds under this part to submit an application to the Secretary, in such form and containing such information, as the Secretary may require. Each application would be required to describe a proposal for a program for which funds are sought and the goals for such program, a description of how the program funded under this part will be coordinated with and will complement and enhance, programs under other related Federal and non-Federal projects, and, if the program includes partners, the name of each partner and a description of its responsibilities. Also, each application would be required to include a description of the policies and procedures the applicant will use to ensure its accountability for results, including its goals and performance indicators, and that the program is open and accessible to, and will promote high-academic standards for, all students, and will help ensure equitable access to high-quality schools, while allowing, for example, public-private partnerships to create public worksite schools that allow children and their parents working at the worksite to attend such a school. The Secretary would be required to give a priority to applications demonstrating that the applicant will carry out its project in partnership with one or more public and private agencies, organizations, and institutions, including institutions of higher education and public and private employers.

Proposed new section 505(a) of the ESEA would authorize such sums as may be necessary for fiscal year 2000 and for each of the four succeeding fiscal years to carry out the part. Proposed new section 505(b) of the ESEA would, from amounts appropriated for any fiscal year, authorize the Secretary to reserve not more than five percent to carry out evaluations, provide technical assistance, and administration. Proposed new section 505(c) of the ESEA would authorize the Secretary to use funds reserved under paragraph (a) to carry out or for more evaluations of programs assisted under this part. Those evaluations would, at a minimum, address: (1) how and the extent to which funds supported with funds under the part promote educational equity and excellence; and (2) the extent to which public schools of choice supported with funds under the part are held accountable to the public, effective in improving public education, and open and accessible to all students.

Title VI—Class-Size Reduction

Section 601. Class-size (ESEA, Title I). Section 601 of the bill would require Title VI of the ESEA with a multi-year extension of the 1-year initiative, enacted in the Department's appropriation Act for fiscal year 1999, to help States and LEAs improve educational outcomes through reducing class sizes in the early grades, as follows:

sec.

601.

Purpose. Section 602 of the ESEA, Section 601 of the ESEA would set out 8 findings in support of the new Title VI.

ESEA, §6002, purpose. Section 602 of the ESEA, Section 601 of the ESEA would set out 8 findings in support of the new Title VI to be help States and LEAs recruit, train, and hire 100,000 additional teachers, in order to: (1) reduce class sizes nationally, in grades K through 3, to an average of 18 students per regular classroom; and (2) improve teaching in the early grades so that all students can learn to read independently and well by the third grade.

ESEA, §6003, authorization of appropriations. Section 6003 of the ESEA would authorize the appropriations of such sums as may be necessary for fiscal year 2001 through 2005.

ESEA, §6004, allocations to States. Section 6004(a) of the ESEA would direct the Secretary to reserve a total of not more than 1 percent of each year's appropriation for Title VI to make payments, on the basis of their respective needs, to the several outlying areas and territories. The Secretary would be required to allocate the remaining amount among the States on the basis of the respective shares under Part A of Title I of the ESEA or under Title II of the ESEA, whichever was greater, for the previous fiscal year. Because these allocations would exceed the amount available, they would then be apportioned among the States choos-

ESEA, §6005, applications. Section 6005(a) of the ESEA would require the SEA of each State desiring to receive a Title VI grant to submit an application to the Secretary. The Secretary may reasonably require.

ESEA, §6006, within-State allocations. Section 6006(a) of the ESEA would require each participating State to reserve up to one percent of each year's Title I allocation for the cost of administering the program, and direct them to distribute all remaining funds to LEAs. A State would distribute 80 percent of its allocation on the basis of the relative number of children from low-income families in LEAs, and the remaining 20 percent on the basis of school-age children enrolled in public and private nonprofit schools in LEAs.

ESEA, §6009, cost-sharing requirement. Section 6009(a) of the ESEA would require each LEA to provide the non-Federal share of a project through cash expenditures from non-Federal sources, less an amount to services provided with $10,000, for professional development. The maximum Federal share for LEAs with child-pov-

ESEA, §6013, definition. Section 6013 of the ESEA would define “State”, for the purpose of Title VI, as meaning each of the 50 States, the District of Columbia, and the Outlying Areas. The outlying areas, which would otherwise be treated as States under the definition in
Title VII of the bill would revise Title VII (Bilingual Education, Language Enhancement, and Language Acquisition Programs).

Section 701. Findings, Policy, and Purpose.
Section 701 of the bill would amend sections 7102(a) and 7103(4) of the ESEA to incorporate recent research findings and to add the policy that limited English proficient students be tested in English proficiency studies master English as a stated purpose and to make minor editorial changes.

Section 702. Authorization of Appropriations for Part A.
Section 702 of the bill would amend section 7103(a) of the ESEA to authorize the appropriation of such sums as may be necessary to carry out programs under Part A of the Title from fiscal year 2001 through 2005.

Section 703. Program Development and Enhancement Grants.
In order to simplify and improve accountability, the bill would amend section 7113 of the ESEA to consolidate the activities of the Program Development and Implementation Grants program (currently in section 7112 of the ESEA and repealed in section 730 of the bill) and the Enhancement Grants program into a new three-year grant program.

Title VII—BILINGUAL EDUCATION, LANGUAGE ENHANCEMENT, AND LANGUAGE ACQUISITION PROGRAMS

BILINGUAL EDUCATION

Section 701. Findings, Policy, and Purpose.
Section 701 of the bill would amend sections 7102(a) and 7103(4) of the ESEA to incorporate recent research findings and to add the policy that limited English proficient students be tested in English proficiency studies master English as a stated purpose and to make minor editorial changes.

Section 702. Authorization of Appropriations for Part A.
Section 702 of the bill would amend section 7103(a) of the ESEA to authorize the appropriation of such sums as may be necessary to carry out programs under Part A of the Title from fiscal year 2001 through 2005.

Section 703. Program Development and Enhancement Grants.
In order to simplify and improve accountability, the bill would amend section 7113 of the ESEA (Enhancement Grants) to consolidate the activities of the Program Development and Implementation Grants program (currently in section 7112 of the ESEA and repealed in section 730 of the bill) and the Enhancement Grants program into a new three-year grant program.

Program Development and Enhancement Grants.

Section 703(3) of the bill would require grants to be used to: (1) develop and implement comprehensive, preschool, elementary, or secondary education programs for children and youth with limited English proficiency that are aligned with standards-based State and local school reform efforts and coordinated with other relevant programs and services; (2) provide high-quality professional development; and (3) require annual assessment of student progress in learning English. Section 703(3) of the bill would also amend section 7113 of the ESEA to authorize five-year Comprehensive School Grants for school district and local education agencies under the annual evaluations under section 7118 (as redesignated), and such other data and information as the Secretary may require. If the Secretary determines that the recipient is not making substantial progress in implementing the program improvement plan, the Secretary would be required to deny a continuation award.

Section 704 of the bill would amend section 7114 of the ESEA to require an annual evaluation under section 7118 (as redesignated) of the ESEA that authorizes five-year grants to be used to: (1) develop and implement comprehensive, preschool, elementary, or secondary education programs for children and youth with limited English proficiency that are aligned with standards-based State and local school reform efforts and coordinated with other relevant programs and services; (2) provide high-quality professional development; and (3) require annual assessment of student progress in learning English. If the Secretary determines that the recipient is not making substantial progress in implementing the program improvement plan, the Secretary would be required to deny a continuation award.

Section 705 of the bill would amend section 7115 of the ESEA (Systemwide Improvement Grants) of the ESEA that authorizes five-year grants for projects within an entire school district. Section 705 of the bill would also amend current language on allowable activities to, among other things, emphasize effective instructional practice and the use of technology in the classroom.

Section 706 of the bill would amend section 7116 of the ESEA (Applications) to make changes designed to increase program accountability.

Section 707 of the bill would amend section 7116(b)(1)(A) of the ESEA (State Review and Comments) to clarify that SEAs must not only report to the Secretary the SEA's review and comments but also transmit that review in writing to the Department.

Section 708 of the bill would amend section 7116(c) of the ESEA (Required Documentation) to require documentation that the leadership of each participating school had been involved in the development and planning of the program in the school.

Section 709 of the bill would amend section 7116(g) of the ESEA (Contents) to organize paragraph (A) and to add to the list of data to be included in the application, data on: (1) current achievement data of the limited English proficient students to be served by the program; (2) in comparison to their English proficient peers in reading or language arts (in English and in the native language if applicable); and (3) the previous school experiences of participating students; and (4) the professional development that the SEA will provide to serve limited English proficient students. Many school districts already collect such data and its collection would help ensure that data on the application would be useable to establish a baseline against which instructional progress could be measured.
Section 706(3) of the bill would also makeedit legislation in section 716(e)(2)(E) of the ESEA and require, in section 716(e)(2)(E) of the ESEA, an assurance that the applicant will employ teachers in the proposed program who individually, or in combination, are proficient in one or more of the languages in the number of limited English proficient students enrolled and demonstrate that they have a proven record of success in helping children and youth with limited English proficiency learn English and achieve to high academic standards and make editorial revisions.

Section 707. Evaluations under Subpart 1. Section 707(1) of the bill would amend current section 7123(a) of the ESEA (Evaluation) to require that grantees conduct an annual, rather than biennial, evaluation of the project. The change would enhance the Department's ability to hold projects accountable for teaching English to limited English proficient students and allow the Secretary to establish such indicators to determine if progress has been made.

Section 707(4) of the bill would amend section 7126(i) of the ESEA (Priorities and Special Rules) to add two new priorities for applicants to the programs. The priorities are designed to ensure that the majority of students they teach, if instruction in the program is also in the native language.

Section 708. Research. Section 708 of the bill would amend current section 7231 of the ESEA (Research) to support the use of the research conducted under sections 7101 and 7102 through the Office of Educational Research and Improvement in collaboration with the Office of Bilingual Education and Minority Language Affairs and also to provide a list of allowable research activities (including data collection needed for compliance with GPRA and identifying technology-based approaches that show effectiveness in helping limited English proficient students reach challenging State standards).

Section 708(3) of the bill would make further amendments to current sections 7132 (a) (Administration) and (b) (Requirements) of the ESEA to eliminate the requirement that the Secretary pre-announces the data collected as part of the evaluation program. The current provision unnecessarily complicates the conduct of these grant competitions.

Section 708(4) of the bill would eliminate section 721(3)(Data Collection) since data collection is an activity authorized in subsection (a).

Section 709. Academic Excellence Awards. Section 709 of the bill would replace current section 7133 of the ESEA (Academic Excellence Awards) that authorizes grants, contracts, and cooperative agreements to promote the adoption of innovative instructional and professional development programs, with a State discretionary grant program. Under the new program, the Secretary would be authorized to make grants to SEAs to assist them in recognizing LEAs and other public and non-profit entities whose programs have demonstrated significant progress in assisting LEAs in their efforts to learn English and to meet the same challenging State content standards expected of all children and youth, within three years. The proposed amendment recognizes that instructional and professional development activities are effective in improving problem solving, critical thinking, and creative problem solving.

Section 710. State Grant Program. Section 710 of the bill would amend subsection (c) (Use of Funds) of section 7134 (State Grant Program) of the ESEA to require State to use funds under the section to: (1) assist LEAs with program design, capacity building, assessment of student performance, program evaluation, and development of data collection and accountability systems for limited English proficient students that are aligned with State reform efforts; and (2) collect data on limited English proficient students. The Secretary's reports would also be expanded to include information on higher education, SEAs, and other languages of outlying areas. The amendment would add other low-incidence languages in the United States for which instructional materials are not readily available. The kinds of materials that may be developed would also be expanded to include materials on State content standards and assessment for parents of limited English proficient students. The proposed amendment recognizes that instructional materials may be needed in languages other than those listed in the statute and that materials may be needed to prepare parents to become more involved in the education of their children.

Section 712 of the bill would also require the Secretary to give priority to applications for developing instructional materials in languages indigenous to the United States or to the outlying territories and for developing and evaluating instructional materials that reflect challenging State and local content standards, in collaboration with LEAs assisted under Subpart 1 and section 7124.
would amend section 7143 of the ESEA (Bilingual Education Grants) to limit grants to institutions of higher education for preservice professional development. This change would provide greater accountability. Since the current statute covers both inservice and preservice professional development.

Also, section 715(3) of the bill would add a new subsection requiring funds to be used to put in place a course of study that prepares teachers to serve limited English proficient students, integrate course content training the recipients of limited English proficient students into all programs for prospective teachers, assign tenured faculty to train teachers to serve limited English proficient students, incorporate state content and performance standards into the institution's coursework, and expand clinical experiences for participants.

The new subsection would also authorize grantees to use funds for such activities as supporting partnerships with LEAs, restructuring high-education programs and expanding recruitment and retention efforts for students who will participate in relevant professional development programs.

The proposed amendments recognize that all prospective teachers should have a basic understanding of effective methods for serving limited English proficient students. Because of the rapid growth in this population, all teachers can expect to have limited English proficient students in their classrooms at some point in their teaching career. The bill also recognizes the importance of creating a closer link between schools of education that produce new teachers and the schools that hire them.

Section 716, Bilingual Education Career Ladder Program. Section 716 of the bill would amend section 7144 of the ESEA (Bilingual Education Career Ladder Program) to authorize grants to a consortia of one or more institutions of higher education and one or more institutions of higher education and one or more LEAs or LEAs to develop and implement bilingual education career ladder programs. A bilingual education career ladder program would be a program designed to provide high-quality, pre-baccalaureate coursework and bilingual education and training for paraprofessional personnel who do not have a baccalaureate degree and that would lead to timely receipt of a baccalaureate degree and certification or licensure of program participants as bilingual education teachers or other educational personnel who serve limited English proficient students. Recipients of grants would be required to coordinate with programs under title II of the Higher Education Act of 1965, and other relevant programs, for the coordination of bilingual students in postsecondary programs to train them to become bilingual educators, and make use of all existing sources of student financial aid before using grant funds to pay tuition and stipends for participating students.

Also, section 716(4) of the bill would amend section 7144 of the ESEA (Special Considerations) to eliminate the current special considerations and require the Secretary, instead, to give special consideration to applications from institutions of higher education in a second language, including developing proficiency in the instructional use of English and, as appropriate, a second language in classrooms with limited English proficient students.

Section 717, Graduate Fellowships in Bilingual Education Program. Section 717 of the bill would amend section 7145(a) of the ESEA (Authority) in the Graduate Fellowships in Bilingual Education Program, to eliminate the authorization for fellowships at the post-doctoral level and the requirement that the Secretary make a specific number of fellowships available. Masters and doctoral level fellowships are more likely to provide a direct benefit to classroom instruction than fellowships at the post-doctoral level.

Section 718, Applications for Awards under Subpart 3. Section 718 of the bill would amend section 7146 of the ESEA (Application) under Subpart 3 to require that the Department review and submit written comments on all applications for professional development grants, with the exception of those for fellowships, to the Secretary.

Section 719, Evaluations under Subpart 3. Section 719 of the bill would amend section 7149 of the ESEA (Program Evaluations) to require annual evaluation and to clarify evaluation requirements. The purpose of these proposed amendments is to increase project accountability and ensure that the professional development that is required to address performance goals established under the GPRRA.

Section 720, Transition. Section 720 of the bill would amend section 721 of the ESEA (Emergency Immigrant Education Program) to provide a recipient of a grant under subpart 1 of Part A of this title that is in its third or fourth year of the grant that is no longer eligible under that subpart, in a form and language understandable to the parents, that informs them that they may withdraw their child from the program at any time.

Section 722, State Administrative Costs. Section 722 of the bill would amend section 7302 of the ESEA (State Administrative Costs) to authorize States to use up to 2 percent of their grant to cover administrative costs if they distribute funds to LEAs within the State on a competitive basis. The current provision caps State administrative costs at 1.5 percent, which is insufficient to cover the costs of holding a State discretionary grant competition.

Section 723, Competitive State Grants to Local Educational Agencies. Section 723 of the bill would amend section 7304(e)(1) of the ESEA to eliminate the $50 million appropriations trigger on, and the 20 percent cap for, allowing States each year to reserve funds from their program allotments and award grants, on a competitive basis, to LEAs with the State. This change reflects current budgetary policy and provides all States recipients the opportunity to allow LEAs to compete for funds.

Section 724, Authorization of Appropriations for Part C. Section 724 of the bill would amend section 7309 of the ESEA (Authorizations of Appropriations) to authorize the appropriation of such sums as may be necessary for each of fiscal years 2005 through 2009 to carry out Part C of Title VII.

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Section 725, Definitions. Section 725 of the bill would amend section 7301 of the ESEA (Definitions) to include a new definition of “reclassification rate,” a term used in the proposed amendments to the Applications and Evaluations sections of Subpart 1 of Part A. This term would mean the annual percentage of limited English proficient students who have met the State criteria for no longer being considered limited English proficient. Also, the definition of “Teaching Personnel Inservice and Professional Development Instructional Program,” would be eliminated.

Section 726, Regulations, Parental Notification, and Use of Paraprofessionals. Section 726 of the bill would amend section 7502 (Regulations and Notification) of Part E to add requirement for projects funded under subpart 1 of Part A of the title relating to parental notification and the use of instructional staff who are not certified in the field in which they teach. Section 726(1) of the bill would amend the section heading to read: “REGULATIONS, PARENTAL NOTIFICATION, AND USE OF PARAPROFESSIONALS.”

Section 726(2) of the bill would amend section 7502(b) (Parental Notification) of the ESEA by making conforming amendments in paragraphs (A) through (F) of that subsection and amending paragraph (2)(A) of the subsection to change the paragraph heading to “Option to Withdraw” and to require a recipient of funds under subpart 1 of Part A to provide a written notice to parents of children who will participate in the programs under that subpart, in a form and language understandable to the parents, that informs them that they may withdraw their child from the program at any time.

Section 729, Repeals. Section 729 of the bill would repeal current sections 7112, 7117, 7119, 7210, 7212, 7147 and Part B of Title VII of the ESEA.

Section 7112 would no longer be needed since the authorized activity would be consolidated with the activity authorized by section 7113.

Section 7117 (Intensified Instruction), 7119 (Subgrants), 7210 (Priority on Funding), and 7211 (Coordination) of the ESEA would be repealed since these sections repeat language appearing elsewhere in the statute or cover situations that are unlikely to occur.

Section 7147 (Program Requirements) of the ESEA would be repealed because it requires that all professional development grants assist educational personnel in meeting State and local certification requirements that are applicable to all of the authorized professional development activities.

Part B of Title VII of the ESEA would be moved to new Part I of Title X of the ESEA.

Section 729, Repeals, Redesignations, and Conforming Amendments. Section 731 of the bill would amend sections 7112, 7117, 7119, 7210, 7212, 7147 and Part B of Title VII of the ESEA.

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provide for the redesignation of various sections of the ESEA and for conforming references to those sections and to other sections of the ESEA that have been changed.

**TITLE VIII—IMPACT AID**

Title VIII of the bill would amend Title VIII of the ESEA, which authorizes the Impact Aid Program.

Section 801, purpose (ESEA, § 8001). Section 801 of the bill would amend section 8001 of the ESEA to clarify that the purpose of the Impact Aid program is to provide assistance to certain LEAs that are financially burdened as a result of activities of the Federal Government that are not the responsibility of the Federal Government. In the absence of federal financial assistance in those situations, in order to help those LEAs provide educational services to their children, including federally connected children, so that they can meet challenging State standards.

This will provide a succinct statement of the program’s purpose, as is typical of other programs, in place of the statement in the current statute, which is overly long and which refers to certain categories of eligibility that other provisions of the bill would repeat.

Section 802, payments relating to Federal acquisition of property (ESEA, § 8002). Section 802 of the bill would amend section 8002 of the ESEA, which authorizes the Secretary to partially compensate certain LEAs for revenue lost due to the presence of non-exempt Federal property, such as a military base or a national park, in their jurisdictions. The amendments made by section 802 would better target funds on the LEAs most burdened by the presence of Federal property, so that appropriations for section 8002, which are not warranted under current law, may be justified in the future.

Section 802(a)(1) of the bill would delete unneeded language in section 8002(a) of the ESEA that refers to the fiscal years for which payments under section 8002 are authorized. That issue is fully covered by the authorization of appropriations in section 8014 of the ESEA.

Section 802(a)(2) would delete an alternative eligibility criterion (current section 8002(a)(1)(C)(ii)), which was enacted to benefit a few LEAs that would add an additional requirement that the Federal property claimed as the basis of eligibility have a current aggregate assessed value (as determined under section 8002(b)(3)), which is at least 10 percent of the total assessed value of all real property in the LEA. (The current statutory requirement that Federal property constituted at least 10 percent of the total assessed value when the Federal Government acquired it would be retained.) The new provision will ensure that payments under section 8002 are made only to LEAs in which the presence of Federal property continues to have a significant effect on the local tax base.

Section 802(b) would repeal subsections (d) through (g) and (i) through (l) of section 8002. Each of these provisions was enacted for the benefit of a single LEA (or a limited number of LEAs) and describes a situation in which the Secretary, from Federal taxpayers, would provide a different method of calculating payments in section 8003(e) of the bill. Such a method may be appropriate for an LEA with high concentrations of federally connected students, which face a disproportionately high burden as a result of Federal activities, but would not be appropriate for LEAs that legitimate, discussed above, that Federal property constitutes at least ten percent of the current assessed value of all real property in the LEA. This phaseout period is reasonable for those LEAs to adjust to the loss of their eligibility, while making more funds available to those LEAs whose local tax bases continue to be affected by the presence of Federal property.

Section 802(d) would make minor conforming amendments to section 8002(b)(1).

Section 803, payments for eligible federal-aided connected children (ESEA, § 8003). Section 803(a)(1) of the bill would amend the list of categories of children who may be counted for LEAs for purposes under section 8003(a), by deleting the various categories of so-called “(b)” children, whose attendance at LEA schools imposes a much lower burden that does not warrant Federal compensation. As amended, these payments would be made on behalf of approximately 300,000 “(a)” students throughout the Nation, i.e.: (1) children of Federal employees who both live and work on Federal property; (2) children of military personnel (and other members of the uniformed services) living on Federal property; (3) members of the uniformed services living on Federal property; (4) children of foreign military officers living on Federal property. Section 803(a)(2) would conform the statement of withdrawal under section 8003(a)(2) to reflect the elimination of “(b)” students from eligibility.

Section 803(a)(3) would delete section 8003(a)(3), which relates to particular categories of children whose eligibility would be ended under paragraph (1).

Section 803(b)(1)(B) would delete the requirement that an LEA have at least 400 eligible students (or that those students constitute at least three percent of its average daily attendance) in order to receive a payment. Thus, any LEA with “(a)” children would qualify for a basic support payment.

Section 803(b)(1)(D) would amend section 8003(b)(1)(C) (which would be redesignated as subparagraph (B) to delete two of the four options for determining an LEA’s local contribution rate (LCR), which is used to compute its maximum payment, and to add a third option), to the remaining two. These changes would make payments more closely reflect the actual local cost of educating students because each of the three options, unlike the third option, that would include a measure of the amount or proportion of funds that are provided at the local level. Section 803(b)(1)(E) would add a new subparagraph (C) to section 8003(b)(1) to provide that, generally, local contribution rates would be determined using data from the third preceding fiscal year. This is the most recent fiscal year for which satisfactory data on average per-pupil expenditures are usually available.

Section 803(b)(2)(B) would amend section 8003(b)(2)(B), which describes how the Secretary computes each LEA’s “learning opportunity threshold” (LOT), a factor used in determining actual payment amounts when sufficient funds are not available, as is the norm, to pay the maximum statutory amounts. Under current law, an LEA’s LOT is determined by the Secretary, based on its average per-pupil expenditure for purposes of basic support payments under section 8003, by providing a different method of calculating its LOT that is not available to any other LEA. Section 803(b)(2)(C) would amend section 8003(b)(2)(C) to clarify that payments that are proportionately increased from the amounts determined under the LOT provisions (but not to exceed the statutory maximums) when available funds are sufficient to make payments above the LOT-based amounts.

Section 803(b)(3) would provide an unwarranted benefit to a particular State in which there is only one LEA by requiring the Secretary to include that LEA in the calculation of that LEA as if they were individual LEAs. As with other LEAs (many of which have more students than the State in question and that also have internal administrative districts, this LEA’s eligibility for a payment, and the amount of any payment, should be determined with regard to the entire LEA, not its administrative districts.)

Section 803(c) would make a technical amendment to section 8003(c) of the ESEA, which generally requires the use of data from the second preceding fiscal year in making determinations under section 8003, to reflect the addition of section 8003(b)(1)(C), which provides for the use of data from the third preceding fiscal year in determining LEA local contribution rates.

Section 803(d) would amend section 8003(d) of the ESEA, which authorizes additional payments to LEAs on behalf of students with disabilities, to conform to the deletion of “(b)” children from eligibility for basic support payments, and to reflect the fact that students with disabilities, as just defined, do not receive the same type of early intervention services, rather than a free appropriate public education, under the Individuals with Disabilities Education Act.

Section 803(e) would delete the “hold-harmless” provisions relating to basic support payments in section 8003(e) of the ESEA. By guaranteeing that certain LEAs continue to receive a high percentage of the amounts they received in prior years, without regard to current circumstances, these provisions inappropriately divert a substantial amount of funds from LEAs that truly have a greater need, based on the statutory criteria.

Section 803(f) of the bill would amend section 8003(f) of the ESEA, which authorizes additional payments to LEAs that are heavily impacted by the presence of federally connected children in their schools. In general, the amendments to this provision are intended to ensure that an LEA that receives relatively few additional payments is restricted to those relatively few LEAs for whom it is warranted, and that the amounts of those payments have a greater relative burden caused by a large Federal presence in those LEAs.

Under section 8003(f)(2), an LEA would have to meet each of three criteria to qualify for a payment. First, federally connected children (i.e., “(a)” children) would have to

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constitute at least 40 percent of the LEA’s enrollment and would have to have a tax rate for general-fund purposes that is at least 100 percent of the average tax rate of comparable LEAs in the State. Any LEA whose boundaries are the same as those of a military installation or facility would qualify. Second, the LEA would have to be exercising due diligence to obtain financial assistance from the State and from other sources. Third, the State would have to make State aid available to the LEA on at least as favorable a basis as it does to other LEAs.

Section 804 would retain the current requirements of section 8003(a) of the ESEA under which an LEA that claims children residing on Indian lands in its application for Impact Aid funds must ensure that the parents of Indian children and Indian tribes are given an opportunity to present their views and make recommendations on the unique educational needs of those children and how those children may realize the benefits of the LEA’s educational programs and activities. Section 804(a) would also add language providing that an LEA that receives an Indian Education Program grant under Subpart 1 of Part A of Title IX shall meet the requirements described in the previous sentence through activities planned and carried out by the Indian parent committee established in the education program, and could choose to form such a committee for that purpose if it is not participating in the Title IX program. An LEA that could not comply with section 8003(a) by complying with the parental involvement provisions of Title I and must comply with those provisions for Indian children. Finally, an LEA could use any of its section 8003 funds (except for the supplemental funds provided on behalf of children with disabilities) for activities designed to increase tribal and parental involvement in the education of Indian children.

Section 804(b) would streamline the language of section 8003(h) so that an LEA is not required to rerenote records to demonstrate its compliance with section 8003(a), without changing the substance of that provision. Section 804(c) would delete subsection (c) of section 8004, which automatically waives the substantive requirement of subsection (a) and the record-keeping requirement of subsection (b) with respect to the children of any Indian tribe that provides the LEA a written statement that it is satisfied with the educational services the LEA is providing to children of that Indian tribe. Finally, section 804 provides that an LEA could use a grant under this section for the minimum initial equipment necessary for school buildings that are owned by the Department of Defense, but may use a grant under the Indian Education Program to support the construction or renovation of school buildings. As amended, section 8004(a) would authorize assistance only to an LEA that receives a basic support grant under section 8003 and in which children residing on Indian lands make up at least half of the average daily attendance (one of the current eligible categories). This limitation would target limited construction funds on LEAs with substantial school-construction needs and severely limited ability to meet those needs.

Subsection (b) of section 8007 would require an interested LEA to submit an application to the Secretary, including an assessment of its school-construction needs.

Subsection (c) would provide that available funds would be allocated to qualifying LEAs in proportion to their respective numbers of children residing on Indian lands.

Subsection (d) would set the maximum hold-harmless portion of an LEA’s Impact Aid payments to 50 percent, and give an LEA three years after its proposal is approved to demonstrate that it can provide its share of the project’s cost.

Subsection (e) would clarify that an LEA could use a grant under this section for the minimum initial equipment necessary for the construction of the new or renovated school, as well as for construction.

Section 806, facilities (ESEA, § 8006), Section 806 would make a conforming amendment to section 8008 of the ESEA, relating to certain school buildings that are owned by the Department but used by LEAs to serve dependent of military personnel, to reflect the revised authorization of appropriations in section 8014.

Section 809, State consideration of payments in providing State aid (ESEA, § 8009). Section 809 of the bill would amend section 8009 of the ESEA, which generally prohibits a State from taking an LEA’s Impact Aid payments into account in determining the LEA’s eligibility for State aid (or the amount of that aid) unless the Secretary certifies that the State’s actions are in effect a distortion of the equalization plan that meets certain criteria.

Section 809(b) would add to section 8009(b)(1)(i)’s statement of preconditions for State consideration of any payments, a requirement that the average per-pupil expenditure (APPE) in the State be at least 80 percent of the APPE in the 50 States and the District of Columbia. This will help ensure that LEAs in States with comparatively low expenditures for education receive adequate funds before the State reduces State aid on account of Impact Aid payments.

Section 809 would also make technical and conforming amendments to section 8009.

Section 810, Federal education (ESEA, § 810). Section 810 of the bill would rename section 810 of the ESEA, which authorizes grants to certain categories of LEAs to provide capital grants and equipment necessary for school construction under which an LEA requests a capital grant for the construction or renovation of a school, to the Secretary, including an assessment of the LEA’s educational needs and severely limited ability to meet those needs.

Section 810(a) would streamline the language of section 8007 so that an LEA is not required to rerenote records to demonstrate its compliance with section 8007(a), without changing the substance of that provision. Section 810(c) would delete subsection (c) of section 8004, which automatically waives the substantive requirement of subsection (a) and the record-keeping requirement of subsection (b) with respect to the children of any Indian tribe that provides the LEA a written statement that it is satisfied with the educational services the LEA is providing to children of that Indian tribe. Finally, section 804 provides that an LEA could use a grant under this section for the minimum initial equipment necessary for school buildings that are owned by the Department of Defense, but may use a grant under the Indian Education Program to support the construction or renovation of school buildings. As amended, section 8004(a) would authorize assistance only to an LEA that receives a basic support grant under section 8003 and in which children residing on Indian lands make up at least half of the average daily attendance (one of the current eligible categories). This limitation would target limited construction funds on LEAs with substantial school-construction needs and severely limited ability to meet those needs.

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Section 810(a) would streamline the language of section 8007 so that an LEA is not required to rerenote records to demonstrate its compliance with section 8007(a), without changing the substance of that provision. Section 810(c) would delete subsection (c) of section 8004, which automatically waives the substantive requirement of subsection (a) and the record-keeping requirement of subsection (b) with respect to the children of any Indian tribe that provides the LEA a written statement that it is satisfied with the educational services the LEA is providing to children of that Indian tribe. Finally, section 804 provides that an LEA could use a grant under this section for the minimum initial equipment necessary for school buildings that are owned by the Department of Defense, but may use a grant under the Indian Education Program to support the construction or renovation of school buildings. As amended, section 8004(a) would authorize assistance only to an LEA that receives a basic support grant under section 8003 and in which children residing on Indian lands make up at least half of the average daily attendance (one of the current eligible categories). This limitation would target limited construction funds on LEAs with substantial school-construction needs and severely limited ability to meet those needs.

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Section 809 would also make technical and conforming amendments to section 8009.
Section 907, payments [ESEA, §9117]. Section 907 of the bill would delete obsolete language from section 9117 of the ESEA, relating to payments of grants and authorizations of grants, and reorganize that section generally to be treated as LEAs for the purpose of the formula grant program, except that they are not subject to the statutory requirements relating to parent committees, maintenance of effort, or submission of grant applications to the SEA for review. These requirements would not apply to the schools, as they would be for Indian tribes that receive grants (in place of an eligible LEA) under section 912(b).

Section 904, applications [ESEA, §9114]. Section 904(1) of the bill would amend section 9114(b)(2)(A) of the ESEA, relating to the consistency of an LEA’s comprehensive program to meet the needs of its children. Under certain other plans, to remove a reference to the Goals 2000: Educate America Act (which would be consolidated into the new Title I), to require that the LEA’s plan be consistent with State and local plans under other provisions of the ESEA, not just plans under Title I. Section 904(c)(1) of the ESEA to require that the local assessment of the educational needs of its Indian students be comprehensive. This should help ensure that LEAs provide useful guidance to LEA and parent committees in planning and carrying out projects.

Section 904(2) would amend ambiguous language in section 9114(a)(2) of the ESEA, to clarify that a majority of participating LEA’s parent committee must be parents of Indian children.

Section 905, authorized services and activities [ESEA, §9118]. Section 905 of the bill would make a conforming amendment to section 9115(b)(5) of the ESEA to reflect the renaming of the Perkins Act by P.L. 105–332.

Section 906, student eligibility forms [ESEA, §9116]. Section 906(1) of the bill would make technical amendments to section 9116(f) of the ESEA.

Section 906(2) would amend section 9116(g) to permit tribal schools operating under grants or contracts from the BIA to use either general or categorical funding or by the BIA for purposes of receiving funds from the Bureau or to use a count of children for whom the school has eligibility forms (category in which they can serve Indian peoples. Section 910(1) of the bill would repeal section; 9122(e)(2) of the Act, which affords a performance or demonstration projects to include information demonstrating that the program is either a research-based program or that it is a research-based program that has been modified to be culturally relevant to Indian students who will be served, as well as a description of how the applicant will incorporate the proposed services into the ongoing school program once the grant period is over.

Section 910, professional development [ESEA, §9122]. Section 910 of the bill would amend section 9122 of the ESEA, which authorizes grants to provide training and support for a variety of projects, selected on a competitive basis, to develop, test, and demonstrate the effectiveness of services and programs for Indian children.

Section 911, administration and appropriation of grants [ESEA, §9123]. Section 911 of the bill would amend section 9123 of the ESEA, relating to the submission of applications to the Secretary, since that duplicates the requirement in section 9114(a) of the ESEA, where it logically belongs. The revised section would also improve the clarity of the requirement that an LEA submit its application to the SEA for its possible review.

Section 912, improvement of educational opportunities for Indian children [ESEA, §9121]. Section 912 of the bill would amend section 9121 of the ESEA, which authorizes grants to colleges for preservice and in-service degree courses and programs. This provision, which was carried over from a related program authorized before the 1994 amendments, has no practical effect, since the only projects that have been eligible since 1994 are those that train Indians.

Section 912(2) would amend section 9122(b)(1), which requires individuals who receive training under section 9122 to perform related work that benefits Indian people or repay the assistance they received, so that it would continue to apply to preserve training, but would not apply to in-service training. Individuals receiving in-service training are already serving Indian people, and that training is relatively inexpensive to the taxpayers, is generally of short duration, and frequently does not involve an established per-person cost of participating, such as the substantial tuition and fees that are charged to prepare individuals for preservice degree courses and programs.

Section 913(3) of the bill would add to section 9122 a new authority for grants to contracts or grants to provide training to teachers in LEAs with substantial numbers of Indian children in their schools, so that these teachers can better meet the needs of Indian children. In these eligible LEAs, an eligible consortium would consist of a tribal college and an institution of higher education.
that awards a degree in education, or either or both of the following: (1) the operation of one or more tribal schools, tribal educational agencies, or LEAs serving Indian children. This new authority will help ensure that classroom teachers are aware of, and responsive to, the unique needs of the Indian children they teach.

Section 911, repeal of authorities [ESEA, §§9123, 9124, 9125, and 9131]. Section 911 of the bill would repeal various sections of Part A of Title IX of the ESEA that have not been recently funded and for which the Administration is not requesting funding for fiscal year 2000. The goals of these provisions (fellowships for Indian students, gifted and talented education, tribal administrative planning, and adult education) are more effectively addressed through other programs. Because Subpart 3 of Part A would be repealed, section 911 would also redesignate the remaining subparts.

Section 912, Federal administration [ESEA, §§9152 and 9153]. Section 912 of the bill would make technical amendments to sections 9152 and 9153 of the ESEA to simplify federal administration of Title IX of the ESEA. Section 912 would repeal sections 9152(b) and 9153(b) of the ESEA, to reflect the proposed redesignation of the remaining subparts.

Section 913 of the bill would amend section 9162 of the ESEA to authorize appropriations for the Indian education program under Part A of Title IX of the ESEA for fiscal years 2001 through 2005.

Part B—Native Hawaiian Education Act

Section 921, Native Hawaiian Education. Section 901 of the bill would amend Part B of Title IX of the ESEA in order to replace a series of categorical programs serving Native Hawaiian children and adults with a single, more flexible authority to accomplish those purposes. The bill would authorize the Secretary to require recipients of funds more narrowly. Authorized activities would include: (1) development, evaluation, and dissemination of successful programs or programs of instruction consistent with the purposes of this part; (2) the development, implementation, and evaluation of programs designed to foster student community service, encourage responsible citizenship; and improve academic learning; (3) the identification and recognition of exemplary schools and programs, such as Blue Ribbon Schools; (4) activities to study and implement strategies for creating smaller learning communities; (5) programs under section 9304 of the bill to promote family involvement in education; and (7) other programs that meet the purposes of this section.

Section 902 of the bill would amend section 10101(c) of the ESEA to require an applicant for an award to establish clear goals and objectives for its project and describe the activities it will undertake in order to meet these goals and objectives. It would also require recipients of funds to report to the Secretary such information as may be required, including evidence of its progress towards meeting the goals and objectives of its project, in order to determine the project’s effectiveness. This change would allow the Department more flexibility in operating the program in a manner that meets the educational needs of Native Hawaiian children and adults.

Proposed new section 9304 (“Program Authorized”) of the ESEA would authorize the new Native Hawaiian Education program. Proposed new section 9304(a) would authorize the Secretary to award grants or enter into contracts with, Native Hawaiian educational organizations, Native Hawaiian community-based organizations, public and private nonprofit organizations, and institutions that have experience in developing Native Hawaiian programs of instruction in the Native Hawaiian language, and consortia of these organizations, agencies, or institutions to carry out Native Hawaiian Education programs.

Permissible Native Hawaiian Education programs under Part B of Title IX of the ESEA would include: (1) the operation of one or more councils to coordinate the provisions of education and related services and programs under Native Hawaiian Education programs; (2) the operation of family-based education centers; (3) activities to enable Native Hawaiians to enter and complete programs of postsecondary education; (4) activities that address the special needs of gifted and talented Native Hawaiian students; (5) activities to meet the special needs of Native Hawaiian school students; (6) the development of academic and vocational curricula to address the needs of Native Hawaiian children and adults, including curriculum materials in the Native Hawaiian language and mathematics and science curricula that incorporate Native Hawaiian tradition and culture; (7) the operation of community-based learning centers that address the needs of Native Hawaiian children and adults; (8) other activities consistent with the purposes of this part, to meet the educational needs of Native Hawaiian children and adults.

Proposed new section 9304(b) of the ESEA would authorize the appropriation of such sums as may be necessary for each of the fiscal years 2001 through 2005 to carry out Part C of Title IX of the ESEA.

TITLe X—Programs of National Significance

Section 1001, Fund for the Improvement of Education (FIE). Section 1001 of the bill would amend Part A of Title X of the ESEA, which authorizes funds to support nationally significant programs and projects to improve the quality of elementary and secondary education, to assist students to meet challenging State content standards and challenging State performance standards, and to improve the achievement of America’s Education Goals.

Section 1001(1)(a) of the bill would amend section 1001(a) of the ESEA to emphasize that the Fund for the Improvement of Education (FIE) is a program designed to improve elementary and secondary education.

Section 1001(1)(b) of the bill would amend section 1001(b) of the ESEA to strengthen the program by focusing the authorized use of funds more narrowly. Authorized activities would include: (1) development, evaluation, and dissemination of successful programs or programs of instruction consistent with the purposes of this part, to meet the educational needs of Native Hawaiian children and adults.

Proposed new section 9304(a) of the FIE would authorize the appropriation of such sums as may be necessary for each of the fiscal years 2001 through 2005 to carry out Part B of Title IX of the ESEA.
school climate. Allowing LEAs and consortia of education agencies to apply for grants to improve school climate, and to improve the educational environment for students, would be useful to character education programs.

Section 1002. Gifted and Talented Children. Section 1002 of the bill would authorize funds under this section to support educational services for gifted and talented children.

Section 1003. International Education Exchange Programs. Section 1003 of the bill would authorize funds under this section to support educational exchange programs.

Section 1004. Arts in Education. Section 1004 of the bill would authorize funds under this section to support arts education programs.

Section 1005. Inexpensive Book Distribution Program. Section 1005 of the bill would authorize funds under this section to support an inexpensive book distribution program.

Section 1006. Civic Education. Section 1006 of the bill would authorize funds under this section to support civic education programs.

Section 1007. Allen J. Ellender Program. Section 1007 of the bill would authorize funds under this section to support the Allen J. Ellender program.

Section 1008. Century Community Learning Centers. Section 1008 of the bill would authorize funds under this section to support community learning centers.

Section 1009. Early Childhood Learning and Development Centers. Section 1009 of the bill would authorize funds under this section to support early childhood learning and development centers.

Section 1010. National Center for Research and Development in Education. Section 1010 of the bill would authorize funds under this section to support the National Center for Research and Development in Education.

Section 1011. Technical Center for Research and Development in Education. Section 1011 of the bill would authorize funds under this section to support the Technical Center for Research and Development in Education.

Section 1012. Remedial Education and Career Development Centers. Section 1012 of the bill would authorize funds under this section to support remedial education and career development centers.

Section 1013. International Education Exchange Programs. Section 1013 of the bill would authorize funds under this section to support international education exchange programs.

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Section 1018. Century Community Learning Centers. Section 1018 of the bill would authorize funds under this section to support community learning centers.

Section 1019. Early Childhood Learning and Development Centers. Section 1019 of the bill would authorize funds under this section to support early childhood learning and development centers.

Section 1020. National Center for Research and Development in Education. Section 1020 of the bill would authorize funds under this section to support the National Center for Research and Development in Education.

Section 1021. Technical Center for Research and Development in Education. Section 1021 of the bill would authorize funds under this section to support the Technical Center for Research and Development in Education.

Section 1022. Remedial Education and Career Development Centers. Section 1022 of the bill would authorize funds under this section to support remedial education and career development centers.

Section 1023. International Education Exchange Programs. Section 1023 of the bill would authorize funds under this section to support international education exchange programs.

Section 1024. Arts in Education. Section 1024 of the bill would authorize funds under this section to support arts in education programs.

Section 1025. Inexpensive Book Distribution Program. Section 1025 of the bill would authorize funds under this section to support an inexpensive book distribution program.

Section 1026. Civic Education. Section 1026 of the bill would authorize funds under this section to support civic education programs.

Section 1027. Allen J. Ellender Program. Section 1027 of the bill would authorize funds under this section to support the Allen J. Ellender program.

Section 1028. Century Community Learning Centers. Section 1028 of the bill would authorize funds under this section to support community learning centers.

Section 1029. Early Childhood Learning and Development Centers. Section 1029 of the bill would authorize funds under this section to support early childhood learning and development centers.

Section 1030. National Center for Research and Development in Education. Section 1030 of the bill would authorize funds under this section to support the National Center for Research and Development in Education.

Section 1031. Technical Center for Research and Development in Education. Section 1031 of the bill would authorize funds under this section to support the Technical Center for Research and Development in Education.

Section 1032. Remedial Education and Career Development Centers. Section 1032 of the bill would authorize funds under this section to support remedial education and career development centers.

Section 1033. International Education Exchange Programs. Section 1033 of the bill would authorize funds under this section to support international education exchange programs.

Section 1034. Arts in Education. Section 1034 of the bill would authorize funds under this section to support arts in education programs.

Section 1035. Inexpensive Book Distribution Program. Section 1035 of the bill would authorize funds under this section to support an inexpensive book distribution program.

Section 1036. Civic Education. Section 1036 of the bill would authorize funds under this section to support civic education programs.

Section 1037. Allen J. Ellender Program. Section 1037 of the bill would authorize funds under this section to support the Allen J. Ellender program.

Section 1038. Century Community Learning Centers. Section 1038 of the bill would authorize funds under this section to support community learning centers.

Section 1039. Early Childhood Learning and Development Centers. Section 1039 of the bill would authorize funds under this section to support early childhood learning and development centers.

Section 1040. National Center for Research and Development in Education. Section 1040 of the bill would authorize funds under this section to support the National Center for Research and Development in Education.

Section 1041. Technical Center for Research and Development in Education. Section 1041 of the bill would authorize funds under this section to support the Technical Center for Research and Development in Education.
that address health, social service, cultural, and recreational programs and services. It would also add a special rule to require a community learning center operated by a local educational agency (but not a CBO) to be located within a public elementary or secondary school building.

Section 1008 (6) of the bill would amend section 10907 of the ESEA to authorize the appropriation of such sums as may be necessary to carry out this part through fiscal year 2005.

Section 1006 (7) of the bill would add a proposed new section 10906 ("Continuing Awards") to the ESEA that would allow the Secretary to use funds appropriated under this part to make continuation awards for projects that were funded with fiscal year 1999 and 2000 funds, under the terms and conditions that applied to the original awards.

This provision would have the effect of allowing the Department to provide continuing funding for the last year of 3-year grants made in fiscal year 1998 under the provisions of current law.

Section 1008 of the bill would redesignate Part I of Title X of the ESEA as Part G of that title and make conforming changes.

Section 1009, Urban and Rural Education Assistance Title X of the ESEA.

Proposed new section 10901 ("Purposes") of the ESEA would state the congressional findings that support this new program. Subsection (b) would provide that the purposes of Part H are to: (1) support the planning and implementation of educational reforms in high schools, particularly in urban and rural high schools, so that the majority of students from low-income families; (2) support the further development of educational reforms, designed specifically for high schools, that help students meet challenging State standards, and that increase connections between students and adults and provide safe learning environments; (3) create position in high schools, that help students meet challenging State standards, and that increase connections between students and adults and provide safe learning environments; students; (4) increase the number of high school graduates who can enter advanced educational technologies; and (6) collect data on, and evaluation of, effective educational programs, local implementation of innovative programs that meet local needs, and information and dissemination of information on best practices in elementary school foreign language education.

Proposed new section 10902 ("Findings: Purpose") would set forth the findings and purposes of the ESEA that the Secretary could use to make competitive grants to LEAs to carry out the part's purposes in their high schools.

Proposed new section 10902 ("Grants to Local Education Agencies") of the ESEA would authorize the Secretary to make competitive grants to LEAs to carry out the part's purposes in their high schools, by offering rewards to participating schools that achieve significant improvements in student achievement; (4) increase the number of high school graduates who can enter advanced educational technologies; and (6) collect data on, and evaluation of, effective educational programs, local implementation of innovative programs that meet local needs, and information and dissemination of information on best practices in elementary school foreign language education.

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Proposed new section 10902(d) would authorize the Secretary to conduct, in program years under this section, to establish one or more priorities consistent with the purpose of this part, including priorities of projects carried out by LEAs that include immersion programs, such as dual language programs (for a major portion of the day or that promote the sequential study of a foreign language) and a few additional provisions, and writing a foreign language, and compare such educational outcomes to the State’s foreign language standards, if such State standards exist.

Proposed new section 10902(e) would require that the Federal share of a program under this section for each fiscal year be not more than 50 percent. The Secretary would be authorized to waive the requirement of cost sharing and determine that the Secretary determines does not have adequate resources to pay the non-Federal share of the cost of the activities assisted under this section.

Proposed new section 10902(f) would authorize appropriations of such sums as may be necessary for fiscal year 2001 and for each of the four succeeding fiscal years for the purpose of carrying out this section. Proposed new section 10902(g)(2) would, for any fiscal year, authorize the Secretary to reserve up to five percent of the amount appropriated to: (1) conduct independent evaluations of the activities assisted under this section; (2) provide technical assistance to recipients of awards under this section; and (3) disseminate findings and methodologies from evaluations required by, or funded under, this section and other information obtained from such programs.

Section 1012. National Writing Project. Section 1012 of the bill would reauthorize and improve Part K of Title X of the ESEA, which authorizes a grant to the National Writing Project for the improvement of the English Language Arts instruction in elementary schools.

Proposed new section 1012(b) of the bill would amend various provisions of Part B of Title XIV of the ESEA to: (1) revise the list of programs that are subject to the authority to consolidate State administrative funds; (2) expand the list of additional uses for consolidated administrative funds; (3) clarify that local consolidated administrative funds may be used at the school district level to fund programs and practices that promote the sequential study of a foreign language for a major portion of the day and that integrate interactive literacy activities between parents and their children, children, and full partners in the education of their children, parent literacy training leading to self-sufficiency, and an age-appropriate education to prepare children for success in school and life experiences.

Section 1102. Administrative Funds. Section 1102 of the bill would amend various provisions of Part B of Title XIV of the ESEA to: (1) revise the list of programs that are subject to the authority to consolidate State administrative funds; (2) expand the list of additional uses for consolidated administrative funds; (3) clarify that local consolidated administrative funds may be used at the school district and school level to fund programs and practices that promote the sequential study of a foreign language for a major portion of the day and that integrate interactive literacy activities between parents and their children, children, and full partners in the education of their children, parent literacy training leading to self-sufficiency, and an age-appropriate education to prepare children for success in school and life experiences.

Section 1103. Coordination of Programs. Section 1103 of the bill would authorize, in awarding grants under Part A of Title II, Subpart 1 of Part D of Title III, and Part A of Title IV (other than section 4115), the Comprehensive School Reform Demonstration Program, Title VII of the ESEA, the term “family literacy services” would mean services provided to eligible participants on a voluntary basis that are of sufficient intensity, both in hours per week and in the nature of services provided, to enable the primary teachers for their children and full partners in the education of their children, parent literacy training leading to self-sufficiency, and an age-appropriate education to prepare children for success in school and life experiences.

Section 1104. Title I—General Provisions, Definitions, and Accountability

Title XI of the bill would amend Title XIV of the ESEA containing general provisions relating to Title I of the bill.

Section 1101. Definitions. Section 1101 of the bill would amend various provisions of Part A of Title XIV of the ESEA to: (1) define the terms “consolidated plan” and “covered program” to add a new definition for the term “family literacy services;” and (3) make a number of cross-reference changes from provisions and parts in Title XI of the ESEA to reflect the redesignation of Title XIV as Title XI by section 1108 of the bill. As amended, covered programs under Part A of Title I; Part A of Title II; Subpart 1 of Part D of Title III; Part A of Title IV (other than section 4115), the Comprehensive School Reform Demonstration Program, Title VII of the ESEA, the term “family literacy services” would mean services provided to eligible participants on a voluntary basis that are of sufficient intensity, both in hours per week and in the nature of services provided, to enable the primary teachers for their children and full partners in the education of their children, parent literacy training leading to self-sufficiency, and an age-appropriate education to prepare children for success in school and life experiences.

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the descriptions and information needed to ensure the effective administration of each program that the State shall have in the State plan. The Secretary shall receive comments and a report on the effectiveness of each program from the State, and shall make recommendations to the State to ensure that the data that the Secretary will make recommendations to.

Proposed new section 14502(b)(2) of the ESEA would require an SEA to include in its consolidated plan a description of the strategies in the plan how funds under the included programs will be integrated to best serve the needs of the students and teachers intended to benefit and how such funds will be coordinated with federal programs. Proposed new section 14502(c) of the ESEA would require an SEA to include in its consolidated plan a description of the strategies in the plan how funds under the included programs will be incorporated with local, State and Federal programs, and to the extent practicable, the State shall cooperate with LEAs in developing strategies to correct problems.

Proposed new section 14502(d) of the ESEA would require an SEA to cooperate with LEAs in the State to ensure that the LEAs that receive funds under more than one program included in the consolidated plan to plan to require its LEAs to receive funds under more than one program included in the consolidated State plan to submit consolidated local plans for such programs.

Proposed new section 14307 of the ESEA would require an SEA to collaborate with LEAs in the State in establishing criteria and procedures for the submission of the consolidated local plans. For each program under an ESEA covered program in a consolidated plan, the plan would specify the criteria for the submission of the consolidated local plans that would be used for the submission of the consolidated local plans. Proposed new section 14305(d) of the ESEA would authorize the Secretary to designate the descriptions of the strategies in the consolidated State plan for each program that would be included in a local consolidated plan to ensure that each program is administered in a proper and effective manner in accordance with its purposes.

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to carry out the purposes of the Government and Savings Act of 1999 and related federal education programs that are subject to ED-Flex authority to reflect the amendments that would be made to the ESEA by the bill and to include Subtitle B of Title VII of the McKinney-Vento Homeless Assistance Act. Paragraph 5 would also clarify that, while States may grant waivers with respect to the minimum percentage of children from low-income families needed to permit a schoolwide program under section 1114 of the ESEA, in doing so they may not go below 40 percent.

Section 1109. Redesignations. Section 1109 of the bill would amend section 1100(a) of the ESEA to designate “Education Accountability Act of 1999” as the “Education Flexibility Partnership Act of 1999.”

Proposed new section 11203 (‘‘Purpose’’) of the ESEA would set out the statement of purpose for the new part. Under proposed new section 11202, the purpose of the part would be to improve academic achievement for all children, assist in meeting America’s Education Goals under section 2 of the ESEA, promote the incorporation of challenging State academic content and student achievement standards, and to include Subtitle B of Title VII of the McKinney-Vento Homeless Assistance Act, to assist in measuring program performance. It would further require that the indicators, benchmarks, and targets be consistent with Government Performance and Results Act of 1993, strategic plans adopted by the Secretary under that Act, and section 11501 of the ESEA.

Proposed new section 11202(b) of the ESEA would require that each eligible entity desiring to use funds under the Act for coordinated services submit an application to the appropriate SEA. Proposed new section 11203(b) of the ESEA would establish the short title of this part as the ‘‘Education Accountability Act of 1999.’’
policy under subsection (a). Under proposed new section 11204 of the ESEA, and require its LEAs to implement continuous, intensive and comprehensive educational interventions as may be necessary to ensure that all students can meet the challenging academic performance standards required under section 1111(b)(4) of the ESEA, and require all students to meet those challenging standards before being promoted at three key transition points (one of which must be graduation from secondary school), as determined by the State, consistent with section 1111(b)(4). The SEA would require the LEAs to determine, through the collection of appropriate data, whether LEAs and schools are ending the practices of social promotion and retention; (3) require its LEAs to provide to all students educational opportunities in class- rooms with qualified teachers who use proven instructional practices that are aligned to the State’s challenging standards and who are supported by high-quality professional development; and (4) require its LEAs to use effective, research-based prevention and early identification strategies to identify students who need additional help to meet those promotion standards.

Proposed new subsection (b) would also require the State to provide reports to parents regarding the status of education and educational opportunities in their school or LEA, and provide information to the public regarding the results of the State’s performance assessment program. The State would be required to include in its accountability plan a detailed description of its policy under proposed new subsection (b). Additionally, a State would be required to include in its plan the strategies and steps (including timelines and performance indicators) it will take to ensure that its policy is fully implemented no later than four years from the date of the State’s plan. The State would also be required to address in its plan the steps that it will take to ensure that the policy will be disseminated to all LEAs and schools in the State and to the general public.

Proposed new section 11205 (‘‘Ensuring ‘Teacher Quality’”) of the ESEA would establish provisions to ensure teacher quality. Specifically, proposed new section 11205(a) would provide that a State that receives funds under the ESEA must have in effect, at the time it submits its accountability plan, a policy designated to ensure that there are qualified teachers in every classroom in the State, and that meets the requirements of proposed new subsection (b). Proposed new section 11205(b)(1) of the ESEA would require that a State have in effect, at the time it submits its accountability plan, an assurance that it has in effect a policy that meets the requirements of this section. Under proposed new section 11206(b)(3) of the ESEA, the required disciplinary policy would require LEAs and schools to implement disciplinary policies that focus on prevention and are coordinated with prevention strategies and programs under Title IV of the ESEA. Additionally, LEA and school policies would have to: apply to all students; be enforced consistently and equitably; be clear and understandable; be developed with the participation of school staff, students, and parents; be broadly disseminated; ensure that due process is provided; be consistent with applicable Federal, State and local laws or regulations; and be clearly communicated to those students trained to manage their classrooms effectively; and, in case of students suspended or expelled from school, provide for appropriate educational services that will help those students continue to meet the State’s challenging standards.

Subsection (a) of proposed new section 11207 (‘‘Education Report Cards’’) of the ESEA would require a State that receives assistance under the ESEA, to have in effect, at the time it submits its accountability plan, a policy that requires the development and dissemination of annual report cards regarding the status of education and educational opportunities in the State and in its LEAs and schools. Under proposed new section 11207(a), report cards would have to be concise and disseminated in a format and manner that parents could understand, and focus on educational results. Proposed new section 11207(b) of the ESEA would establish the information that, at a minimum, the State must include in its annual State-level report card. Under proposed new section 11207(b)(1), a State would be required to include information regarding student performance assessments, set forth on an aggregated basis, in both reading (or language arts) and mathematics, as well as any other subject area for which there is a State accountability plan. A State would also be required under proposed new section 11207(b)(1) to include in its report...
card information regarding attendance and graduation rates at the State's separate accountability plan, as well as the average class size in each of the State's school districts. A State would also be required to include information with respect to school safety, including the incidence of school violence and drug and alcohol abuse and the number of instances in which a student has possessed a firearm at school, subject to the Gun-Free Schools Act. Finally, a State would be required under proposed new section 11207(b)(1) to include in its report card information regarding the professional qualifications of teachers in the State, including the number of teachers teaching with emergency credentials and the number of teachers teaching outside their field of expertise.

Proposed new section 11207(b)(2) of the ESEA would require that student achievement data in the State's report card contain statistically sound, disaggregated results with respect to the following categories: gender; racial and ethnic group; migrant status; students with disabilities, as compared to students without disabilities; economically disadvantaged students, as compared to students who are not economically disadvantaged; and students with limited English proficiency, compared to students who are proficient in English. Under proposed new section 11207(b)(2), a State could also include in its report card any other information it determines appropriate to reflect school quality and student achievement. This could include information: on longitudinal achievement scores from the National Assessment of Educational Progress or State assessments; parent involvement, as determined by such measures as the extent of parental participation in school parental involvement; extended learning time programs, such as after-school and summer programs; and the performance of students in meeting physical education goals.

Under proposed new section 11207(c) of the ESEA, a State would be required to ensure that each LEA and each school in the State includes in its report card, at a minimum, the information required by proposed new sections 11207(b)(1) and (2). Additionally, a State would be required under proposed new section 11207(c) to ensure that LEAs and schools provide in their annual report cards the number of their low-performing schools, such as schools identified as in need of improvement under section 1116(c)(1) of the ESEA, and information that shows how students in their schools performed on statewide assessments compared to students in the rest of the State (including such comparisons over time, if the information is available), and schools include in their annual report cards whether they have been identified as a low-performing school and information that shows how their students performed on statewide assessments compared to students in the rest of the LEA and the State (including such comparisons over time, if the information is available). LEAs and schools could also include in their annual report cards the information described in proposed new section 11207(d) and (e).

Proposed new section 11207(d) of the ESEA would establish requirements for the dissemination of report cards. Under proposed new section 11207(d), State-level report cards would be required to be posted on the Internet, disseminated to all schools, and made broadly available to the public. LEA report cards would have to be disseminated to all their schools and to all parents of students attending those schools. Finally, a State would be required to make its accountability plan information available to the public. School report cards would have to be disseminated to all parents of students attending that school and made broadly available to the public.

Under proposed new section 11207(e) of the ESEA, a State would be required to include in its accountability plan an assurance that it has in effect an education report card policy that meets the requirements of proposed new section 11207.

Proposed new section 11208 ("Education Accountability Plans") of the ESEA would require each State to establish the requirements for a State's accountability plan. In general, each State that received assistance under ESEA, and on or after July 1, 2000, would be required to have on file with the Secretary, an approved accountability plan that meets the requirements of this section.

Proposed new section 11208(b) would establish the specific contents of a State accountability plan. A State would be required to include a description of the State's accountability plan, including information on the specific steps the State will take to ensure that all LEAs have the capacity needed to ensure compliance with this part; the assurance that the Secretary determined that it substantially met the requirements of this section.

Proposed new section 11209 ("Authority of the Secretary") of the ESEA would require the Secretary to take one or more additional steps under proposed new section 11209(a) of the ESEA to bring the State into compliance if he determines that previous steps under that provision have failed to correct the State's non-compliance. Proposed new section 11210 ("Recognition and Rewards") of the ESEA would require the Secretary to recognize and reward States that the Secretary determines have demonstrated significant, statewide achievement in reducing the practices of social promotion and retention. Such recognition and rewards could include conferring a priority in competitive programs under the ESEA, incurring additional funds under the ESEA; (6) withholding, in whole or in part, State administrative funds under the ESEA; (7) imposing one or more conditions upon the Secretary's approval of a State plan or application under the ESEA; (8) taking other actions under such other provisions of the Act; and (9) taking other appropriate steps, including referral to the Department of Justice for enforcement.

Proposed new section 11210(b) of the ESEA would require the Secretary to take one or more additional steps under proposed new section 11209(a) of the ESEA to bring the State into compliance if he determines that previous steps under that provision have failed to correct the State's non-compliance. Proposed new section 11210 ("Recognition and Rewards") of the ESEA would require the Secretary to recognize and reward States that the Secretary determines have demonstrated significant, statewide achievement in reducing the practices of social promotion and retention. Such recognition and rewards could include conferring a priority in competitive programs under the ESEA, increased flexibility in administering programs under the ESEA (consistent with maintaining accountability), and supplementary grants or administrative funds to carry out the purposes of the ESEA. Proposed new section 11210(c) of the ESEA would authorize, for fiscal year 2001 and each of the four succeeding fiscal years, the appropriation of whatever sums are necessary to provide such supplementary funds.

Proposed new section 11211 ("Best Practices Model") of the ESEA would require the Secretary, in implementing this part, to disseminate information regarding best practices, models, and other innovations in financial assistance, after consulting with State and LEAs and other agencies, institutions, and organizations with experience or information relevant to the purposes of this part.

Finally, proposed new section 11212 ("Construction") of the ESEA would provide that this part may be construed as affording a defense in any suit or action under the civil rights laws or the Individuals with Disabilities.
Section 1112. America's Education Goals Panel. Section 1201 of the bill would move the authority for the National Education Goals Panel from Title II of the Goals 2000: Educate America Act to a new Part C of Title XI of the ESEA, and rename the panel the National Education Goals Panel. This conforms to the renaming of the National Education Goals as "America's Education Goals." Section 1202 of the bill would ame

Section 1113. Repeat. Section 1112 of the bill would repeal Title XII of the ESEA.

Title XII—Amendments to other laws; supplemental.

Part A—Amendments to other laws

Section 1201. Amendments to the Stewart B. McKinney Homeless Assistance Act. Section 1201 of the bill would set forth amendments to the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11421 et seq., herein-after referred to in this section as the "Act"). Among other things, these amendments to the McKinney program by: (1) helping ensure that students are not segregated based on their status as homeless; (2) enhancing coordination at the State and local levels; (3) facilitating parental involvement; and (4) clarifying that subgrants to LEAs are to be awarded competitively on the basis of the quality of the program and the need for the assistance; and (5) enhancing data collection and dissemination at the national level. The program would also be reauthorized through 2009.

Section 1201(a) of the bill would amend section 721(c) of the Act (Statement of Policy), by changing the current statement to make it clear that homelessness alone is not sufficient reason to separate students from the mainstream school environment. This language, which is reflected in amendments that follow make a strong statement against segregating homeless children on the basis of their homelessness. This responds to some local actions being taken around the country to create separate, generally inferior, schools for homeless children. Homeless advocacy groups and State coordinators have strongly encouraged this action.

Section 1201(b) of the bill would amend section 722 of the Act (Grants for State and Local Activities for the Education of Homeless Children and Youth). Section 1201(b)(1) of the bill would amend sections 722(c) and (3) of the Act, reserving funds for the territories and defining the term "State," to remove Palau from those provisions. Palau does not receive funds through the program.

Section 1201(b)(2) of the bill would amend section 722(c) of the Act (Federal Compact of Free Association was ratified. Section 1201(b)(3) of the bill would amend section 722(e) of the Act (State and Local Grants) to provide that the term "school year" means the last school year ending July 31.

Section 1201(b)(4) of the bill would amend section 722(g)(7) of the Act to require each LEA liaison to report to the Secretary, from funds appropriated under section 726 of the Act, and either directly or through grants, contracts, or cooperative agreements, in the format specified by the Secretary, to disseminate data and information on the number and location of homeless children and education, the education and related services to be provided, and the extent to which such needs are being met, such other data and information as the Secretary

Section 1201(c) of the bill would amend section 722(a) of the Act to: (1) make certain editorial changes; (2) clarify that where services under the section are provided on school grounds, schools may use funds under this Act to provide the same services to other children and youth who are determined by the LEA to be at risk of failing in, or dropping out of, schools; and (3) provide grants and services for homeless children and youth, including those at-risk children and youth, in settings within a school that segregate homeless children and youth from other children and youth, except to the extent feasible, to keep a homeless child or youth in his or her school of origin, except when doing so is contrary to the wishes of the parent or guardian of such child or youth, and to provide a written explanation to the homeless child's or youth's parent or guardian when the child or youth is sent to a school other than the school of origin or a school requested by the parent or guardian.

Section 1201(b)(5) of the bill would amend section 722(g)(6) of the Act to consoli

Section 1201(d) of the bill would amend section 724 of the Act (Secrecy, Qualifica

Section 1201(e) of the bill would amend section 726 of the Act (State program) to make clear that the Secretary, from funds appropriated under section 726 of the Act, and either directly or through grants, contracts, or cooperative agreements, in the format specified by the Secretary, to disseminate data and information on the number and location of homeless children and youth, the education and related services to be provided, and the extent to which such needs are being met, such other data and information as the Secretary

Section 1201(f) of the bill would amend section 728 of the Act (Program and reports) to provide that the provisions of the Act shall be interpreted to promote the best interests of the homeless child or youth, except as is necessary for short periods of time because of health and safety concerns. Section 1201(g)(7) of the Act would be further amended by adding a new subparagraph (C) requiring LEA liaisons, as a part of their duties, to coordinate and collaborate with State and local educational officials and school personnel responsible for the provisi

Section 1201(h) of the bill would amend section 722(g)(9) of the Act, which would be combined with section 722(g)(6) of the Act.
deems necessary and relevant to carry out this subtitle. The Secretary would also be re-
quired to coordinate such collection and dis-
semination with the other agencies and enti-
ties that receive assistance and administer pro-
grams under this subtitle. Proposed new section
1201(e) of the bill would amend the Secretary, not later than four years after the
date of the enactment of the bill, to prepare and sub-
mit to the President and appropriate committees of the House of Representa-
tives and the Senate a report on the status of edu-
cation of homeless youth and children.

Section 1202. Amendments to Other Laws.
Section 1202 of the bill would make con-
forming amendments to other statutes that reflect the changes to the ESEA that arepro-
posed in this bill.

Section 1202(a) of the bill would eliminate an outdated cross-reference in section 116(a) of the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2326(a)(5)).

Section 1202(b) of the bill would update a cross-reference in section 317(b)(1) of the Higher Education Act of 1965 (20 U.S.C. 1092b(b)(10)).

Section 1202(3) of the bill would amend the Pro-Children Act of 1994 (20 U.S.C. 6081 et seq.) to eliminate references to kindergarten, elementary, and secondary education services from the prohibition against smoking contained in that Act. Proposed new Title IV of the ESEA, as amended by Title IV of the bill, contains a comparable prohibition against smoking facilities used for carry out the education services, and the education references in the Pro-Children Act are no longer ne-
cessary.

Part B—Repeals.
Section 1211. Repeals. Section 1211 of the bill would repeal Title XIII of the ESEA, several parts and titles of the Goals 2000: Educate America Act (P.L. 103-227), and Title III of the Economic Security and Education Reformation Act of 1990 (20 U.S.C. 3001 et seq.). These provisions have ei-
ther accomplished their purpose, authorize activities that are more appropriately car-
rried out by the Federal, State, or local resources, or have been incorporated into the ESEA as amended by the bill.

Title XIII, Support and Assistance Pro-
grams to Improve Education, of the ESEA would be repealed. Proposed new Part D of Title II of the ESEA contains the new ESEA technical assistance and information dis-
semination programs.

In the Goals 2000 statute, Title I, National Education Goals; Title II, National Educa-

tion Reform Leadership, Standards, and Assess-
ments, Title III, State and Local Educa-
tion Systemic Improvement; Title IV, Pa-
rental Assistance; Title VII, Safe Schools; and Title VIII, Minority-focused Civics Edu-
cation, would be repealed. Part B, Gun-free Schools, of Title X of the Goals 2000 statute would also be repealed.

Next, the Educational Research, Develop-
ment, and Improvement Act of 1994 (Title IX of P.L. 103-227) would be amended by repealing Part F, Star Schools; Part G, Office of Comprehensive School Health Act; Part H, Field Offices; and Part I, Amendments to the Carl D. Per-
kins Vocational and Applied Technology Act.

Title III, Partnerships in Education for Mathematics, Science, and Engineering, of the Education for Economic Security Act would also be repealed by section 1211 of the bill.

By Mr. LEAHY: S. 1181. A bill to appropriate funds to carry out the commodity supplemental food program and the emergency food assistance program fiscal year 2000 to the Committee on Agriculture, Nutri-
tion, and Forestry.

COMMODITY SUPPLEMENTAL FOOD PROGRAM

Mr. LEAHY. Mr. President, I am
proud to introduce a bill to increase funding for the Commodity Supple-
mental Food Program for Fiscal Year 2000. I look forward to working with Appropriate Committee members on this and other important matters through the appropriations process.

The Commodity Supplemental Food Program does exactly what its name suggests—it provides supplemental foods to states who distribute them to low-income postpartum, pregnant and breastfeeding women, infants, children up to age six, as well as senior citizens. People participating in CSFP receive healthy packages of food including items such as infant formula juice, rice, pasta, and canned fruits and vege-
tables.

The Commodity Supplemental Food Program currently operates in twenty states and last year more than 370,000 people participated in it every month. There still remains a great need to ex-
pand this program, as there is a wait-
list of states—including my state of Vermont—who want to participate, but are not able to because of lack of fund-
ing. The bill I am introducing would fix this problem, by increasing the funding so that more women, children and sen-
ior in need could participate. I look forward to working with the Vermont Congressional delegation on this mat-
ter.

The Commodity Supplemental Food Program has proven itself to be vitally important to senior citizens, as 243,000 of the 370,000 people who participate every month are seniors. There con-
tinues to be a great need for our sen-
iors in Vermont, and in the rest of the nation.

This has been true for sometime, and still is the case. I successfully fought efforts a few years ago to terminate the Meals on Wheels Program. Ending that program would have been a dis-
aster for our seniors.

According to an evaluation of the El-
derly Nutrition Program of the Older Americans Act, approximately 67% to 98% of the participants are at moderate to high nutritional risk. It is further estimated that 40% of older adults have inap-
propriate intakes of three or more nutrients in their diets. And the re-\nsults of nutritional programs on the health of seniors are amazing—for in-
stance, it was estimated in a report that for every $1 spent on Senior Nutri-
tion Programs, more than $3 is saved in hospital costs.

This Congress, I have taken a number of steps to address the nutritional problems facing our seniors, and have made some progress. In response to a budget request that I submitted last year, the Administration increased their funding request for the Elderly Nutrition Program by $10 million to $150 million for fiscal year 2000. I will continue to work to see that the full $150 million is included in the final budget.

This past April I also cosponsored the Medicare Medical Nutrition Therapy Act, which provides for Medicare cov-

age of medical nutrition therapy services of registered dietitians and nu-

trition professionals. Medicare coverage of medical nutrition therapy would save money by reducing hospital admisions, shortening hospital stays, and decreasing complications.

I look forward to working with my colleagues to pass this measure into law through the normal appropriations process for fiscal year 2000.

By Mr. DOMENICI: S. 1182. A bill to authorize the use of flat grave markers to extend the useful life of the Santa Fe National Cemetery, New Mexico, and to allow more vet-
erans the honor and choice of being buried in the cemetery; to the Com-
mmittee on Veterans' Affairs.

SANTA FE NATIONAL CEMETERY LEGISLATION

By Mr. DOMENICI: It is with great pleasure and honor that I rise today to introduce a bill to extend the useful life of the Santa Fe National Cemetery in New Mexico.

The men and women who have served in the United States Armed Forces have made immeasurable sacrifices for the principles of freedom and liberty that make this Nation unique through-

out civilization. The service of vet-
erans has been vital to the history of this Nation, and the sacrifices made by veterans and their families should not be forgotten.

These veterans at the very least de-
serve every opportunity to be buried at a National Cemetery of their choosing. However, unless Congressional action is taken the Santa Fe National Ceme-
tery will run out of space to provide casketed burials for our veterans at the conclusion of 2000.

I believe all New Mexicans can be proud of the Santa Fe National Ceme-
tery that has grown from 39/100 of an acre to its current 77 acres. The ceme-
tery first opened in 1868 and within sev-

eral years was designated a National Cemetery in April of 1875.

Many men and women have fought in all of nation’s wars hold an honored spot within the hallowed ground of the cemetery. Today the Santa Fe Na-
tional Cemetery contains almost 27,000 gravestones that are mostly marked by up-
right headstones.

However, as I have already stated, unless Congress acts the Santa Fe Na-
tional Cemetery will be forced to close.
The Bill I am introducing today allows the Secretary of Veterans Affairs to provide for the use of flat grave markers that will extend the useful life of the cemetery until 2008. While I wish the practice of utilizing headstones could continue indefinitely if a veteran chose, my wishes are outweighed by my desire to extend the useful life of the cemetery. I would note that my desire is shared by the New Mexico Chapter of the American Legion, the Albuquerque Chapter of the Retired Officers’ Association, and the New Mexico Chapter of the VFW who have all endorsed the use of flat grave markers.

Finally, this is not without precedent because exceptions to the law have been granted on six prior occasions with the most recent action occurring in 1994 when Congress authorized the Secretary of Veterans Affairs to provide for flat grave markers at the Willamette National Cemetery in Oregon. Mr. President, I ask unanimous consent that a copy of the Bill and four letters of support for the use of flat grave markers be printed in the RECORD.

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

S. 1182

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

SECTION 1. AUTHORITY TO USE FLAT GRAVE MARKERS AT SANTA FE NATIONAL CEMETERY, NEW MEXICO.

(a) FINDINGS.—Congress makes the following findings:

(1) The men and women who have served in the Armed Forces have made immeasurable sacrifices for the principles of freedom and liberty that make this Nation unique in all civilization.

(2) The service of veterans has been vital to the history of the Nation, and the sacrifices made by veterans and their families should not be forgotten.

(3) These veterans at the very least deserve every opportunity to be buried in a National Cemetery of their choosing.

(4) The Santa Fe National Cemetery in New Mexico opened in 1868 and was designated a National Cemetery in April 1875.

(5) The Santa Fe National Cemetery now has 77 acres with almost 27,000 graves most of which are marked by upright headstones.

(6) The Santa Fe National Cemetery will run out of space to provide for casketed burials at the end of 2000 unless Congress acts to allow the use of flat grave markers to extend the useful life of the cemetery until 2008.

(b) AUTHORITY.—Notwithstanding section 2404(c)(2) of title 38, United States Code, the Secretary of Veterans Affairs may provide for flat grave markers at the Santa Fe National Cemetery, New Mexico.

THE AMERICAN LEGION,
DEPARTMENT OF NEW MEXICO,

Mr. GIL GALLO,
Director, Santa Fe National Cemetery,
Santa Fe, NM.

DEAR MR. GALLO: The American Legion has discussed your proposal on having a section of flat cemetery markers at the National Cemetery, which would decrease the size of the individual plots; therefore making more room for our veterans, at the National Cemetery.

We are in complete agreement and in support of this venture. If we can be of assistance in any way, please advise.

Sincerely,

HARRY C. RHIZOR,
Department Commander,
ALBUQUERQUE CHAPTER,
The RETIRED OFFICERS’ ASSOCIATION,

Director,
Santa Fe National Cemetery,
Santa Fe, NM.

DEAR SIR, The Albuquerque Chapter of the Retired Officers Association supports your position to begin using flat grave markers for future interments.

Sincerely,

GEORGE PIERCE,
LTC, USA, President.

VFW,
DEPARTMENT OF NEW MEXICO,
Albuquerque, NM, April 16, 1997.

GILL GALLO,
Director, Department of Veterans Affairs,
Santa Fe National Cemetery,
Santa Fe, NM.

DEAR MR. GALLO: This letter will acknowledge receipt of your informational letter concerning the Santa Fe National Cemetery dated April 4, 1997. Please be advised that I took the liberty to circulate the information to VFW Post Commanders located in northern New Mexico. The following is our consensus:

Although we would want to continue with the upright marble headstones which are provided with the 5x10 grave site, we found it more important to extend the life of the National Cemetery therefore we support your efforts to utilize the granite markers and the recommended 4x8 grave sites. We are also in agreement with your recommendations for a columbarium for the burial of our cremated Comrades.

Please thank your staff for the outstanding work and service which they provide to our veterans and their families.

Let me also thank you for providing us with the specific information needed to come to our decision.

As State Commander of the Veterans of Foreign Wars of the United States of America Department of New Mexico I pledge our full support of your recommendation and would ask that you forward this letter of support to your Washington Office.

May God Bless America and our men and women who served and serve in our military armed forces.

Yours in comradeship,

ROBERT O. PEREA,
State Commander,

DEPARTMENT OF VETERANS AFFAIRS,
DIRECTOR NATIONAL CEMETARY SYSTEM,
WASHINGTON, DC, January 9, 1998.

MICHAEL C. D’ARCO,
Director, New Mexico Veterans Services Commission
Santa Fe, NM.

DEAR MR. D’ARCO, I know that you are completing your study on the issue of veteran cemeteries in New Mexico. Following is information on the Santa Fe National Cemetery.

There is approximately a three-year inventory of casketed sites readily available for immediate use in the recently developed sections of the cemetery, sections 10, 11, and 12. If no other casketed sites are developed, then we would exhaust this inventory in 2001. Based on our understanding that future flat grave sites are unacceptable at the east side of the cemetery and the neighboring community, an additional seven-year inventory of sites can be developed in that portion of the cemetery. This would extend the useful life of the cemetery for casketed burials to the year 2008. While it is just a general estimate, and exact details will not be available until a more formal design is completed, we anticipate developing and using these sites. According to the Surplus Property Act of 1949, excess federal property is screened for use for the following: Housing and Urban Development, Health and Human Services, and local and state organizations including nonprofit organizations. At the conclusion of the screening process, a negotiated sale conducted by the property is still undeclared it goes to auction.

Unfortunately this process can take many years, thus preventing the city...
of Bartlesville from realizing any near-
term economic boost from NIPER's re-
development. Consequently, this legis-
lation is needed to ensure that the 
NIPER facilities are redeveloped as 
quickly as possible in order to provide a 
prompt economic boost to the com-

The City of Bartlesville intends to 
provide an educational facility and a 
place for business and industry that 
would facilitate job creation through 
technology and investment. The 
NIPER facility will also provide hous-
ing for administrative services for 
community development organization 
such as Pavilion House, a shelter for 
delinquent children, and a magnet for 
homeless community development organization 
such as Community Impact. Projects the city 
also seeks the support of the Mayor of 

By Mr. DOMENICI (for himself 
and Mr. KYL):

S. 1184. A bill to authorize the Sec-

etary of Agriculture to convey land 
for recreation or other public purposes; 
to the Committee on Energy and Nat-
ural Resources.

NATIONAL FOREST SYSTEM COMMUNITY 
PURPOSES ACT

Mr. DOMENICI. Mr. President, I rise to introduce important legislation, co-
sponsored by Senator Kyl, that would 
allow the Forest Service to convey par-
cels of land to States and local govern-
ments, on the condition that it be used for 
a specific recreational or local pub-
lic purpose. The National Forest Sys-
tem Community Purposes Act is pat-
tterned after an existing law that set in 
place one of the most successful local 
community assistance programs under the 
Bureau of Land Management (BLM).

That law, the Recreation and Public 

Purposes Act, was enacted in 1926. 
Under its authority, the BLM has been 
able to work cooperatively with States and 
communities to provide land need-
ed for recreational areas and other pub-
lic projects to benefit local commu-
nities in areas where Federal land 
dominate the landscape. With sky-
rocketing demands on the Forest Serv-

ice and local communities to provide accommoda-
tions and other services for an 
ever-increasing number of Ameri-
cans who take advantage of all the op-
portunities available in the national 
forests, I believe the time has come to 
provide this ability to the Forest Serv-

In the 1996 Omnibus Parks and Public 

Land Management Act, there were no 
fewer than 31 boundary adjustments, 
land conveyances, and exchanges au-
thorized, many of which dealt with na-
tional forests. Had this legislation been 

enacted at that time, I cannot say for sure how many of these provisions 
would have been unnecessary, but I ex-
pect that they have been reduced by at least one-third.

During the 105th Congress, I spon-
sored three bills that directed the Sec-

etary of Agriculture to convey small 
tracts Forest Service land to commu-
nities in New Mexico. All three bills 
were subsequently passed in the Senate 
unanimously, but two of these bills 
were not enacted last year, and the 
Senate has once again seen fit to pass 
them in the 106th Congress. We now 
await action in the House. I know that 
other Senators are faced with a similar 
situation of having to shepherd bills 
through the legislative process simply 
to give the Forest Service the author-

sority to cooperate with local commu-
nities, but they are constrained by cur-
rent law. Over one-third of the land in 
New Mexico is owned by the federal 
government, and therefore finding appro-
riate sites for community and educa-
tional purposes can be difficult.

In many cases, these recreational and other 
local needs are not within the mission 
of the Forest Service, but would not be 
inconsistent with forest plans devel-
oped for the adjacent national 

Forest. To compound the problem, small 
communities are often unable to 
acquire land due to its extremely high market 
value resulting from the predominance of 
Federal land in the local area.

The subject of one of the bills I just 
alluded to provides an excellent exam-
ple of the problem. That bill provided 
for a one-acre conveyance to the Vil-
lage of Jemez Springs, New Mexico. 
The land is to be used for a desperately 
needed fire substation, which will obvi-
ously benefit public safety for the local 
community. Since over 70 percent of 
the emergency calls in this particular 
area come from the Santa Fe National 
Forest, however, the Forest Service would 
also benefit greatly from this new station.

In fairness, the Forest Service was 
very willing to sell this land to the vil-
lage but constrained by current law to 
charge the appraised fair 

value. Herein lies the biggest 
problem for small communities like 
Jemez Springs. In this case, the 
appraised value of an acre of land along 
the highway, obviously necessary for 
this kind of a facility, was estimated to 
be around $50,000. Combined with the 
cost of building the station itself, this 
additional cost put the project out of 
reach of the community's 400 residents.

It is clear to see that both the national 
forests and adjacent communities could mutually 

benefit from a process similar to that 
under the Recreation and Public Pur-
poses Act. This program has worked so 
well for the BLM over the years, I see 
no reason for the Forest Service not to have the same kind of authority.

The National Forest System Commu-
nity Purposes Act would give the Sec-

etary of Agriculture the authority to 
convey or lease parcels of Forest Serv-
ice land to States, counties, or other 
incorporated communities at a cost 
that could be less than fair market 
value. In order to obtain the land, the 
State or community would develop a 
plan of use that would be subjected to 
Forest Service approval.

In closing, Mr. President, I think the 
time has come for this legislation. In 
fact, during a recent discussion I had 
with Forest Service Chief Donbeck, he 
was somewhat surprised to learn that 
the agency did not already have this 
authority. I would urge the Senate to 
provide this needed assistance to local 
communities around the country.

By Mr. ABRAHAM (for himself, 
Mr. LIEBERMAN, Mr. MCCAIN, Mr. 
MCCONNELL, Mr. LOTT, Mr. BOND, Mr. ASHCROFT, 
Mr. COVERDELL, Mr. NICKLES, Mr. BROWNBACK, Mr. GORTON, 
Mr. GRASSLEY, Mr. SESSIONS, Mr. BURNS, Mr. INOPOH, Mr. 
HELMS, Mr. ALLARD, Mr. HAGEL, Mr. MACK, Mr. BUNNING, Mr. 
JEFFORDS, Mr. DEWINE, Mr. CRAIG, Mr. HUTCHINSON, and Mr. 
ENZI): 

S. 1185. A bill to provide small busi-

ness certain protections from litigation 
excesses and to limit the product li-
ability of non-manufacturer product 
sellers; to the Committee on the Judi-

ciary.

THE SMALL BUSINESS LIABILITY REFORM ACT OF 
1999

Mr. ABRAHAM. Mr. President, I rise 
to today to introduce the Small Business 

Liability Reform Act of 1999, legisla-
tion that will provide targeted relief to 
small businesses nationwide.

Small businesses in Michigan and 
across this nation are faced with a 
daily threat of burdensome litigation, 
a circumstance which has created a 
desperate need for relief from unwar-
granted and costly lawsuits. While other 
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constrained, limitations and fear posed by the very real threat of abusive and unwarranted litigation. The real world impacts of punitive damages are immense and widespread. It wastes resources that could instead be used to expand small businesses, to provide more jobs, or to offer more benefits to employees. According to a recent Gallup survey, one out of every five small businesses decides not to hire more employees, expand its business, introduce a new product, or improve an existing product because of the fear of lawsuits—not entrepreneurial risk, not lack of capital resources, but lawsuits.

In the same vein, innocent product sellers—often small businesses like your neighborhood corner grocery store—have also described the high legal costs they incur when they are needed of our economy that are particular lawsuits. The unfairness in these cases is astonishing—the business may not even produce a product, but is still sued for product defects. The reason? It is no secret that courts differ in how favorably they look upon product liability suits—some are receptive, others outright hostile. So even though a local store neither designs nor manufactures the product, it is routinely dragged into court because the plaintiff’s attorney desires to pull manufacturers into a favorable forum. That’s called “forum shopping” on the part of the plaintiff, and the practice causes needless financial damage to America’s small businesses. And while the non-culpable product seller is rarely found liable for damages, it must still bear the enormous cost of defending itself against these unwarranted suits. Rental and leasing companies are in a similarly vulnerable position, as they are commonly held liable for the wrongful conduct of their customers. Another example: though the companies themselves are found to have committed no wrong.

The 105th Congress passed the Volunteer Protection Act, which provides specific protections from abusive litigation to volunteers. The Senate passed that legislation by an overwhelming margin of 99–1, and the President signed it, making it Public Law 105–19. That legislation provides a model for further targeted reforms for sectors of our economy that are particularly hard hit and in need of immediate relief. I believe it is high time for small business liability reform, time to take this small step, time to shield those not at fault from needless expense and unwarranted distress.

Mr. President, I’d like to take a moment and provide a little background on our effort, as I believe it will highlight the desperate need for reform. Small businesses shoulder an often unbearable unwarranted and unjustified lawsuits. Data from San Diego’s Superior Court published by the Washington Legal Foundation reveals that punitive damages are requested in 41 percent of suits against small businesses. It is simply unfathomable that such a large proportion of claims would be engaging in the sort of egregious misconduct that would warrant a claim of punitive damages. Similarly, the National Federal of Independent Business reports that 34 percent of Texas small business owners are sued or threatened with court action seeking punitive damages; again, the outrageously high rate of prayer for punitive damages simply cannot have anything to do with actual wrongdoing by the defendant.

The specifics of the cases are no better. In a case reported by the American Consulting Engineers Council, a drunk driver had an accident after speeding and bypassing detour signs. Eight hours later, and after expending exorbitant amounts on legal fees, the defendants settled the case for $35,000. The engineering firm, a small 15 person firm, was swamped with over $200,000 in legal costs—an intolerable amount for a small business to have to pay in defending an unwarranted lawsuit.

There are more examples. An Ann Landers column from October, 1995, reported a case in which a minister and his wife sued a guide-dog school for $160,000 after a blind man who was learning to use a seeing-eye dog stepped on the minister’s wife’s toes in a shopping mall. The guide-dog school, Southeastern Guide Dogs, Inc., which provided the instructor supervising the man, was the only school of its kind in the state highway department. Five years later, and after expending exorbitant amounts on legal fees, the defendants settled the case for $35,000. The engineering firm, a small 15 person firm, was swamped with over $200,000 in legal costs—an intolerable amount for a small business to have to pay in defending an unwarranted lawsuit.

Other provisions in this title specify that many small businesses simply do not have deep pockets, and they frequently need all of their resources just to stay in business, take care of their employees, and make ends meet.

First, the bill limits punitive damages that may be awarded against a small business. In most civil lawsuits anywhere, punitive damages would be available against the small business only if the claimant proves by clear and convincing evidence that the harm was caused by the small business through at least a conscious, fragrant indifference to the rights and safety of the claimant. Punitive damages would also be limited in amount to the lesser of $250,000 or two times the compensatory damages awarded for the harm. That formulation is exactly the same as that in the small business protection provision that was included in the Product Liability Conference Report passed in the 104th Congress.

Second, joint and several liability reforms for small businesses are included under the exact same formulation used in the Volunteer Protection Act passed in the 105th Congress and in the Protection Liability Conference Report passed in the 104th Congress. Joint and several liability would be limited such that a small business would be liable for an economic loss only in proportion to the small business’s responsibility for causing the harm. If a small business is responsible for 100 percent of an accident, then it will be liable for 100 percent of noneconomic damages. But if it is only 10 percent, or 10 percent or any other percent responsible, then the small business will be liable only for a like percentage of noneconomic damages.

Small businesses would still be jointly and severally liable for economic damages, and any other defendants in the action that were not small businesses could be held jointly and severally liable for all damages. But the intent of this provision is to provide some protection to small businesses, so that they will not be sought out as “deep pocket” defendants by trial lawyers who would otherwise try to get small businesses on the hook for harms that they have not caused. The fact is that many small businesses simply do not have deep pockets, and they frequently need all of their resources just to stay in business, take care of their employees, and make ends meet.

Other provisions in this title specify the situations in which its reforms apply. The title defines small business as any business having fewer than 25 employees, the same definition included in the Product Liability Conference Report. Like the Volunteer Protection Act, this title covers all civil lawsuits except those involving certain types of egregious misconduct. The limitations on liability would not apply to any misconduct that constitutes a crime of violence, act of international terrorism, hate crime, sexual offense, civil rights law violation, or natural resource damages, or...
Title II of the Act addresses liability reform for non-culpable product sellers, commonly small businesses, who have long sought help in gaining a degree of protection from unwarranted lawsuits. Product sellers, like your corner grocery store, provide a crucial service to all of us by serving as a convenient source for a wide assortment of goods. Unfortunately, current law subjects them to harassment and unnecessary litigation; in about twenty-nine states, product sellers are drawn into the overwhelming majority of product liability cases even when they play no part in the designing and manufacturing process, and are not to blame in any way for the harm. It is pointless to haul a product seller into the litigation when everyone in the system knows that the seller is not at fault. Dragging in the neighborhood convenience store helps no one, not the claimant, not the product seller, and certainly not the consumer. All it does is increase the cost to product sellers of doing business in our neighborhoods, because these businesses are unnecessarily forced to bear the cost of court expenses in their defense.

Again, the real-world background presents a compelling case. In one instance, a product seller was dragged into a product liability suit even though the product it sold was shipped directly from the manufacturer to the plaintiff. In the end, the manufacturer—not the product seller—had to pay compensation to the plaintiff. Unfortunately, this was after the product seller had been forced to spend $25,000 in court expenses $25,000 that could have been used to expand the business or to provide higher salaries.

Title II of the Act addresses liability reform for non-culpable product sellers. This limitation on several liability for the innocent product seller, as well as broader limitations applied to actions brought for certain categories of product liability claims, would cover all product liability actions brought against auto rental companies. An example of this type of limitation is the case of a British driver who was seriously injured when the rental car in which he was driving on Long Island flipped over. The auto rental company was found not to have acted negligently, and was ordered by a jury to pay the plaintiff $7.7 million solely due to Alamo’s ownership of the vehicle. Often even when the injured party and the driver are both at fault, it is the innocent rental company that has to bear the resulting expenses. For example, an individual in a rented auto struck a pedestrian at an intersection in suburban Detroit, and the driver was not wearing a seat belt. The car rental company, which was at fault, nevertheless settled for $1.226 million out of fear of being held vicariously liable for the passenger’s death. In another case, one British sailor rented a car from Alamo to drive from Fort Lauderdale to Naples. The driver fell asleep at the wheel, and his car left the road and ended up in a canal. The driver and two passengers were killed, while the fourth passenger was seriously injured. Although the Court found Alamo not to have acted negligently, Alamo was ordered by a jury to pay the plaintiffs $7.7 million solely due to Alamo’s ownership of the vehicle.

As a result, auto rental companies cost the industry approximately $100 million annually. In Michigan, for example, a renter lost control of a car and drove off the highway. The care flipped over several times, killing the driver who was not wearing a seat belt. The car rental company, which was at fault, nevertheless settled for $1.226 million out of fear of being held vicariously liable for the passenger’s death. In another case, one British sailor rented a car from Alamo to drive from Fort Lauderdale to Naples. The driver fell asleep at the wheel, and his car left the road and ended up in a canal. The driver and two passengers were killed, while the fourth passenger was seriously injured. Although the Court found Alamo not to have acted negligently, Alamo was ordered by a jury to pay the plaintiffs $7.7 million solely due to Alamo’s ownership of the vehicle.

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The spiralling costs of litigation and the magnitude of liability and punitive damage awards and noneconomic damage awards have continued unabated for at least the past 30 years; the Supreme Court of the United States has recognized that a punitive damage award can be unconstitutional if the award is grossly excessive in relation to the legitimate interest of the government in the punishment and deterrence of unlawful conduct; just as punitive damage awards can be grossly excessive, so can it be grossly excessive in relation to the legitimate interest of the government in the punishment and deterrence of unlawful conduct; the terms imposed by the civil justice system on small businesses are particularly acute, since small businesses often lack the resources to bear the costs and to challenge unwarranted lawsuits; due to high liability costs and unwarranted litigation costs, small businesses face higher costs in purchasing insurance through the Interstate insurance markets to cover their activities; liability reform for small businesses will promote the orderly flow of goods and services, lessen burdens on interstate commerce, and decrease litigiousness; and legislation to address these concerns is an appropriate exercise of the powers of Congress under clauses 3, 9, and 18 of section 8 of article I of the Constitution of the United States, and the 14 amendment to the Constitution of the United States.

In this title:

(a) 2 times the total amount awarded to the claimant for economic and noneconomic losses; or
(b) $250,000.

APPLICATION BY COURT.—This section shall be applied by the court and shall not be disclosed to the jury.

LIMITATION ON LIABILITY FOR NONECONOMIC LOSS FOR SMALL BUSINESSES.

(a) GENERAL RULE.—Except as provided in section 105, in any civil action against a small business, punitive damages shall not exceed the lesser of:

SEC. 107. EFFECTIVE DATE.

APPLICABILITY.—This title does not apply to any action in which all parties are citizens of the State, if the State enacts a statute—

(citing the authority of this subsection; (b) declaring the election of such State that this title does not apply as of a date certain to such actions in the State; and (c) containing no other provision.

SEC. 105. EXCEPTIONS TO LIMITATIONS ON LIABILITY.

The limitations on liability under sections 108 and 104 do not apply to any misconduct of a defendant—

(1) that constitutes—

(A) a crime of violence; (B) an act of international terrorism; or (C) a hate crime; and (2) that results in liability for damages relating to the injury to, destruction of, loss of, or loss of use of, natural resources described in—

(a) section 1002(b)(2)(A) of the Oil Pollution Act of 1990 (33 U.S.C. 2702(b)(2)(A)); or
(3) that involves—

(A) a sexual offense, as defined by applicable State law; or (B) a violation of a Federal or State civil rights law; or (C) if the defendant was under the influence (as determined under applicable State law) of intoxicating alcohol or a drug at the time of the conduct, and conduct by that defendant was under the influence was the cause of any harm alleged by the plaintiff in the subject action.

SEC. 106. PREEMPTION AND ELECTION OF STATE NONAPPLICABILITY.

(a) PREEMPTION.—Subject to subsection (b), this title preempts the laws of any State to the extent that State laws are inconsistent with this title, except that this title shall not preempt any State law that provides additional protections from liability for small businesses.

(b) ELECTION OF STATE REGARDING NONAPPLICABILITY.—This title does not apply to any action in a State court against a small business in which all parties are citizens of the State, if the State enacts a statute—

(c) APPLICATION TO SMALL BUSINESS.—

(a) CITING THE AUTHORITY OF THIS SUBSECTION; (b) DECLARING THE ELECTION OF SUCH STATE THAT THIS TITLE DOES NOT APPLY AS OF A DATE CERTAIN TO SUCH ACTIONS IN THE STATE; AND (C) CONTAINING NO OTHER PROVISION.

SEC. 102. DEFINITIONS.

In this title:

(a) Cited in this title:

(b) Except as provided in section 105, in any civil action against a small business, nonpecuniary damages are not scalable to the extent that State laws are inconsistent with this title, except that this title shall not preempt any State law that provides additional protections from liability for small businesses.

(c) Subject to subsection (b), this title preempts the laws of any State to the extent that State laws are inconsistent with this title, except that this title shall not preempt any State law that provides additional protections from liability for small businesses.

(d) This title does not apply to any claim for harm caused by an act or omission of a small business, if the claim is filed on or after the effective date of this title, without regard to whether the harm that is the subject of the claim or the conduct that caused the harm occurred before such effective date.

TITLe II—PRODUCT SELLER FAIR TREATMENT

SEC. 201. FINDINGS; PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) although damage awards in product liability actions may encourage the production of safer products, they may also have a direct effect on interstate commerce and consumers of the United States by increasing the cost of, and decreasing the availability of, products; (2) some of the rules of law governing product liability actions are inconsistent within and among the States, resulting in differences in State laws that may be inequitable with respect to plaintiffs and defendants and may impose burdens on interstate commerce; (3) product liability awards may jeopardize the financial well-being of individuals and industries, particularly the small businesses of the United States; and (4) because the product liability laws of a State may have adverse effects on consumers.
and businesses in other States, it is appropriate for the Federal Government to enact national, uniform product liability laws that preempt State laws; and

(5) under clause 3 of section 8 of article I of the United States Constitution, are to promote the progress of science and useful arts, to secure to the several States, the District of Columbia, and the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, any other territory or possession of the United States, or any political subdivision of any such State, territory, or possession.

SEC. 201. APPLICABILITY; PREEMPTION.

(a) PREEMPTION.—

(1) IN GENERAL.—Except as provided in paragraph (2), this title governs any product liability action brought in any Federal or State court.

(2) ACTIONS EXCLUDED.—

(A) ACTIONS FOR COMMERCIAL LOSS.—A civil action brought for commercial loss shall not be governed by any applicable Federal or State laws that are similar to the Uniform Commercial Code.

(B) NEGLIGENCE PER SE CONCERNING FIREARMS AND AMMUNITION; DRAM-SHOP.—

(i) NEGLIGENCE PER SE CONCERNING FIREARMS AND AMMUNITION.—A civil action brought under a theory of negligence per se concerning the use of a firearm or ammunition shall not be subject to the provisions of this title governing product liability actions, but shall be subject to any applicable Federal or State law.

(ii) DRAM-SHOP.—A civil action brought under a theory of dram-shop or third-party liability arising out of the sale or providing of an alcoholic product to an intoxicated person or minor shall not be subject to the provisions of this title governing product liability actions, but shall be subject to any applicable Federal or State law.

(b) RELATIONSHIP TO STATE LAW.—This title supersedes a State law only to the extent that the State law applies to an issue covered by this title. Any issue that is not governed by this title, including any standard of liability applicable to a manufacturer, shall be governed by any applicable Federal or State law.

(c) EFFECT ON OTHER LAW.—Nothing in this title shall be construed to—

(1) affect the applicability of any provision of chapter 97 of title 28, United States Code; or

(2) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation.

(3) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim a foreign nation or to a citizen of a foreign nation on the ground of inconvenient forum; or

(4) supersede or modify any statutory or common law, including any law providing for common law, including any law providing for

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(3) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim a foreign nation or to a citizen of a foreign nation on the ground of inconvenient forum; or

(4) supersede or modify any statutory or common law, including any law providing for an action to abate a nuisance, that authorizes a person to institute an action for civil damages or civil penalties, cleanup costs, injunctive relief, or any other relief, for any violation of the environmental laws listed in section 101(8) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(8)).

SEC. 202. DEFINITIONS.

In this title:

(1) ALCOHOL PRODUCT.—The term "alcohol product" includes any product that contains not less than 1/2 of 1 percent of alcohol by volume and is intended for human consumption.

(2) CLAIMANT.—The term "claimant" means any person who brings an action covered by this title on behalf such an action is brought. If such an action is brought through or on behalf of an estate, the term includes the claimant's decedent, or, if such an action is brought through or on behalf of a minor or incompetent, the term includes the claimant's legal guardian.

(3) COMMERCIAL LOSS.—The term "commercial loss" includes—

(A) any loss or damage solely to a product itself;

(B) loss relating to a dispute over the value of a product; or

(C) consequential economic loss, the recovery of which is governed by applicable State commercial or contract laws that are similar to the Uniform Commercial Code.

(4) COMPENSATORY DAMAGES.—The term "compensatory damages" means damages awarded for economic and noneconomic losses.

(5) DRAM-SHOP.—The term "drum-shop" means a drinking establishment where alcoholic beverages are sold to be consumed on the premises.

(6) ECONOMIC LOSS.—The term "economic loss" means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities) to the extent recovery for that loss is allowed under applicable State law.

(7) HARM.—The term "harm" includes physical, nonphysical, economic, and noneconomic loss.

(8) MANUFACTURER.—The term "manufacturer" means—

(A) any person who—

(i) is engaged in a business to produce, create, make, or construct any product (or component part of a product); and

(ii) designs or formulates the product (or component part of the product); or

(B) a product seller, but only with respect to those aspects of a product (or component part of a product) that are created or affected when, before placing the product in the stream of commerce, the product seller—

(1) produces, creates, makes, constructs, or otherwise affects an aspect of the product (or component part of the product) made by another person; or

(2) has engaged another person to design or formulate an aspect of the product (or component part of the product) made by another person; or

(C) any product seller not described in subparagraph (B) that holds itself out as a manufacturer to the user of the product.

(9) NONECONOMIC LOSS.—The term "noneconomic loss" means loss for physical or emotional pain and suffering, inconvenience, physical impairment, mental anguish,disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic services), injury to reputation, or any other nonpecuniary loss of any kind or nature.

(10) PERSON.—The term "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity).

(11) PRODUCT.—

(A) IN GENERAL.—The term "product" means any object, substance, mixture, or raw material in a gaseous, liquid, or solid state that—

(i) is capable of delivery itself or as an assembled whole, in a mixed or combined state, or as a component part or ingredient;

(ii) is produced for introduction into trade or commerce;

(iii) has intrinsic economic value; and

(iv) is intended for sale or lease to persons for commercial or personal use.

(B) EXCLUSION.—The term "product" does not include—

(i) tissue, organs, blood, and blood products used for therapeutic or medical purposes, except to the extent that such tissue, organs, blood, and blood products (or the provision thereof) are subject, under applicable State law, to a standard of liability other than negligence; or

(ii) electricity, water delivered by a utility, natural gas, or steam.

(12) PRODUCT LIABILITY ACTION.—The term "product liability action" means a civil action brought on any theory for any physical injury, illness, disease, death, or damage to property that is caused by a product.

(13) PRODUCT SELLER.—

(A) IN GENERAL.—The term "product seller" means a person who in the course of a business conducted for that purpose—

(i) sells, distributes, rents, leases, prepares, blends, packages, labels, or otherwise is involved in placing a product in the stream of commerce; or

(ii) installs, repairs, refurbishes, reconditions, or maintains the harm-causing aspect of the product.

(B) EXCLUSION.—The term "product seller" does not include—

(i) a seller or lessor of real property;

(ii) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(iii) any person who—

(I) acts in only a financial capacity with respect to the sale of a product; or

(II) leases a product under a lease arrangement in which the lessee does not initially select the leased product and does not during the lease term ordinarily control the daily operations and maintenance of the product.

(14) PRODUCT LIABILITY ACTION COVERED.—In this title "product liability action covered under this Act" means any product liability action covered under this Act, a product seller other than a manufacturer shall be liable

(c) EFFECT ON OTHER LAW.—Nothing in this title shall be construed to—

(1) affect the applicability of any provision of chapter 97 of title 28, United States Code; or

(2) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation; or

(3) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim a foreign nation or to a citizen of a foreign nation on the ground of inconvenient forum; or

(4) supersede or modify any statutory or common law, including any law providing for an action to abate a nuisance, that authorizes a person to institute an action for civil damages or civil penalties, cleanup costs, injunctive relief, or any other relief, for any violation of the environmental laws listed in section 101(8) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(8)).

SEC. 204. LIABILITY RULES APPLICABLE TO PRODUCT SELLERS, RENTERS, AND LESSORS.

(a) GENERAL RULE.—

(1) IN GENERAL.—In any product liability action covered under this Act, a product seller other than a manufacturer shall be liable
to a claimant only if the claimant establishes
(A) the product that allegedly caused the
harm that is the subject of the complaint
was sold, rented, or leased by the product
seller;
(ii) the product seller failed to exercise
reasonable care with respect to the product;
and
(iii) the failure to exercise reasonable care
was a proximate cause of the harm to the
claimant;
(B)(i) the product seller made an express
warranty applicable to the product that al-
legedly caused the harm that is the subject of
the complaint, independent of any express
warranty made by a manufacturer as to the
same product;
(ii) the product failed to conform to the
warranty; and
(iii) the failure of the product to conform
to the warranty caused the harm to the
claimant; or
(C)(i) the product seller engaged in in-
tentional wrongdoing, as determined under applicable
State law;
(ii) the intentional wrongdoing caused the
harm that is the subject of the complaint.
(2) Reasonable Opportunity for Inspec-
tion.—For purposes of paragraph (1)(A), a
product seller shall not be considered to have
failed to exercise reasonable care with re-
spect to a product based upon an alleged fail-
ure to inspect the product, if—
(A) the failure occurred because there was
no reasonable opportunity to inspect the
product; or
(B) the inspection, in the exercise of rea-
sonable care, would not have revealed the
aspect of the product that allegedly caused the
claimant's harm.
(b) In General.—
(1) In General.—A product seller shall be
deemed to be liable as a manufacturer of a
product for harm caused by the product, if—
(A) the manufacturer is not subject to
service of process under the laws of any
State in which the action may be brought; or
(B) the court determines that the claimant is
or would be unable to enforce a judgment
against the manufacturer.
(2) Statute of Limitations.—For purposes
of this subsection only, the statute of limita-
tions applicable to claims asserting liability
of a product seller as a manufacturer shall be
toled from the date of the filing of a com-
plaint against the manufacturer to the date
that judgment is entered against the manu-
facturer.
(c) Rented or Leased Products.—
(1) Definition.—For purposes of paragraph
(2), and for determining the applicability of
this title to any person subject to that para-
graph, the term "product liability action"
means a civil action brought on any theory
for harm caused by a product or product use.
(2) Liability.—Notwithstanding any other
provision of law, any person engaged in the
business of renting or leasing a product
(other than a person excluded from the defi-
nition of product seller under section
202(13)(B)) shall be subject to liability in a
product liability action under subsection
(a), but only if the person was directly
engaged in the business of renting or leasing
a product shall not be lia-
able to a claimant for the tortious act of
another solely by reason of ownership of
that product.
SEC. 205. FEDERAL CAUSE OF ACTION PRE-
CLUDED.
The district courts of the United States
shall not have jurisdiction under this title
based on section 1331 or 1337 of title 28,
United States Code.
In product liability lawsuits, the bill would limit the liability of non-manufacturer product sellers, such as wholesalers-distributors, retailers, lessors and renters to harms caused by their own negligence or intentional wrongdoing, the product's breach of the implied warranty, and for the product manufacturer's responsibility when the manufacturer is judgment-proof.

"The product liability laws of a majority of states do not make the distinction between the differing roles of manufacturers and non-manufacturer product sellers. As a result, wholesaler-distributors are routinely joined in product liability lawsuits simply because they are in the product's chain of distribution," explained George Keesey, NAW general counsel and senior partner in the firm of Keesey, Kuenst & Reid. "In the end, the staggering legal fees which cost the seller dearly do not benefit the claimant in any way. These costs will be significantly reduced if the Abraham-Lieberman bill is enacted."

"For too long, wholesaler-distributors have been among the victims of a product liability system that serves the interests of trial lawyers very well, at everyone else's expense," said Dirk Van Dongen, NAW's president. "For nearly two decades, NAW has vigorously advocated Federal legislation to rein-in these abuses. Enactment of the Small Business Liability Reform Act of 1999 is at the very top of our agenda for the 106th Congress and I commend Senators Abraham and Lieberman for their continuing, tireless leadership of this important effort."

NFIB Backs New Legal Reform Initiative

WASHINGTON, D.C.—The National Federation of Independent Business (NFIB) will champion a new legal reform proposal that aims to protect small-business owners from frivolous lawsuits and the threat of being "stuck with the whole tab" for damage awards arising from incidents in which they were not at fault.

The nation's leading small-business advocacy group, NFIB hailed today's introduction of the Small Business Liability Reform Act of 1999. Sponsored by U.S. Sens. Spencer Abraham (Mich.) and Joseph Lieberman (Conn.), the proposal would limit the amount of punitive damages that might be assessed from a small firm to two times the amount of compensatory damages or $250,000, whichever is less.

The measure also would eliminate joint-and-several liability for small firms, leaving them responsible for paying only their "proportionate" share of non-economic damages. Under the current doctrine of joint-and-several liability, defendants found to be as little as one percent "at fault" in a civil case may end up paying all assessed damages, if no other defendants are able to pay.

"This bill strikes a long-overdue blow on behalf of fairness, common sense and true justice," said Dan Danner, NFIB's vice president of federal public policy. "Limiting punitive damages and exposure to liability will make small businesses a much less lucrative—and, thus, a much less attractive—target for court actions and other types of file frivolous lawsuits to extort settlements."

"Ending joint-and-several liability will improve justice by making sure small-business owners are not held responsible for damages—but not more," he continued. "Under the current doctrine, the effort to compensate one victim often creates yet another victim—the marginal business owner left holding the bag for everyone else involved."
WASHINGTON, DC—National Small Business United (NSBU), the nation’s oldest bipartisan small business advocacy organization, is pleased to announce their support for the Small Business Liability Reform Act of 1999. The Small Business Association of Michigan (SBAM), one of NSBU’s affiliate groups, has also announced their support for the legislation which provides liability protections to small business from frivolous and excessive litigation as well as limiting the product liability exposure of non-manufacturer product sellers.

Senators Spencer Abraham (R-MI) and Joseph Lieberman (D-CT), both of whom sit on the Senate Committee on Small Business, will introduce this measure which provides critical and necessary restrictions upon litigation, while not prohibiting legitimate litigation.

“In today’s litigious environment, small businesses are often sued as scapegoats. Everyday, small businesses are forced to shut down and close because of these frivolous, and often times, unnecessary lawsuits,” said Tom Farrell, NSBU Chair and owner of Farrell Consulting, Inc. in Pittsburgh, PA. “The Small Business Liability Reform Act will finally place some common sense limitations on these unfounded lawsuits.”

NSBU joins SBAM in applauding Senators Abraham and Lieberman for their pragmatic leadership on such an important issue for the small business community.

NRF SUPPORTS BILL TO PROTECT SMALL BUSINESSES FROM UNNECESSARY LITIGATION

WASHINGTON, DC—The National Retail Federation voiced its support for the Small Business Liability Reform Act of 1999. The bill, which is sponsored by Senators Spencer Abraham (R-MI) and Joseph Lieberman (D-CT), will help small businesses avoid the dangerous and exorbitant legal fees of frivolous litigation. It is of particular interest to the retail industry as the bill’s provisions to exclude punitive damages for small business from liability stemming from products they sell.

“Retailers often find themselves party to product liability lawsuits where no direct liability exists,” said Karen A. Nelson, CEO of Retail Litigation Coalition and General Counsel, Mallory Duncan. “This bill would shift the responsibility for defective products to where it rightly belongs—the manufacturers.”

The Small Business Liability Reform Act of 1999 would apply to businesses with 25 or fewer employees. The Federal Trade Commission is a department of Commerce figures, more than 80 percent of the nation’s retailers employ fewer than 25 individuals.

A recent Gallup survey suggests that some business owners’ fear of litigation may impact critical operational decisions. The result of “chilling effect” on the growth potential of small businesses underscores the need for reform, according to NRF. “This bill would provide long-overdue and much needed relief to entrepreneurs whose businesses could succeed or fail as the result of a single lawsuit,” Duncan said. “Most small business owners lack the resources and self-confidence to go against legal action and remain solvent. This bill will give them some piece of mind and the confidence to manage their business without undue fear of financial ruin.”

The National Retail Federation (NRF) is the world’s largest retail trade association with membership that comprises all retail formats and contributions including department, specialty, discount, catalogue, Internet and independent stores. NRF members represent an industry that encompasses more than 1.4 million U.S. retail establishments, employs more than 20 million people—about 1 in 5 American workers—and registered 1998 sales of $2.7 trillion. NRF’s international members operate stores in more than 50 nations. In its role as the retail industry’s umbrella group, NRF also represents 32 national associations in the U.S. as well as 36 international associations representing retailers abroad.

NATIONAL RESTAURANT ASSOCIATION BUCKS ABRAHAM/LIEBERMAN EFFORT TO CRACK DOWN ON FRIVOLOUS LAWSUITS SAYS SMALL RESTAURANTS NEED PROTECTION FROM COSTLY, EXCESSIVE LITIGATION

WASHINGTON, DC—Saying that just one costly lawsuit is enough to put a restaurant out of business, the National Restaurant Association today strongly endorsed a bill sponsored by Sens. Spencer Abraham (R-MI) and Joseph Lieberman (D-CT) to protect small businesses from litigation abuse.

“Recent evidence suggests that the trend for people today to sue for outlandish reasons is out of control,” said Association Senior Vice President of Government and Corporate Affairs Elaine Z. Graham. In recent years, many restaurants unfortunately have become targets for frivolous lawsuits. The reality is that it only takes one such lawsuit to drive a restaurant out of business. Fortunately, small businesses pay for high-priced liability insurance in an effort to arm themselves against the prospects of being sued.

“Our legal system needs to be reformed. We strongly support the Abraham/Lieberman bill and believe it will go a long way toward protecting smaller restaurants and curbing litigation abuse,” said Graham.

The bill, the Small Business Lawsuit Abuse Protection Act, limits the amount of punitive damages that may be awarded to a plaintiff when a business is sued by a small employer. Currently, many small businesses settle out of court and pay hefty awards—even if the claim is unfounded—because they are fearful of being hit with punitive damages. By putting a cap on punitive damages, the Abraham/Lieberman bill helps eliminate needless lawsuits and makes it possible for small business owners to get fair settlements, avoiding excessive legal fees.

The Association is urging members of Congress to support the Abraham/Lieberman bill.
The Small Business Liability Reform Act would limit the exposure of small businesses to punitive damages and joint liability for non-economic damages in any civil action, with the exception of lawsuits involving certain types of fraud. If passed, the bill would limit punitive damages to the lesser of two times the amount awarded to the claimant for economic and noneconomic losses or $250,000.

Howard M. Messner, ACEC's Executive Vice President, applauding the Senators' decision to sponsor this legislation, saying "ACEC has long supported the types of reforms incorporated in this legislation. Our member firms have learned from direct experience that frivolous lawsuits can cripple a professional's practice, especially when that professional is a small businessperson. For this reason, we will certainly support legislative initiatives designed to provide some much-needed relief from baseless lawsuits."

IMRA HAILS BILL LIMITING RETAILERS' EXPOSURE TO PRODUCT LIABILITY SUITS
ABRAHAM-LIEBERMAN BILL WOULD GUARD INNOCENT DISTRIBUTORS

ARLINGTON, VA—The International Mass Retail Association (IMRA) applauds today's introduction of the bipartisan "Small Business Liability Reform Act of 1999" by Senators Spencer Abraham (R-MI) and Joseph Lieberman (D-Conn). The bill would provide limited relief to businesses or organizations that have fewer than 25 full-time employees. Title I seeks to provide some reasonable limits on punitive damages, which typically serve as a windfall to plaintiffs. It also provides that a business's responsibility for non-economic losses would be in proportion to the business's responsibility for causing the harm.

The other Title in the bill includes liability reforms for innocent product sellers—which are very often small businesses. These businesses are often dragged into product liability cases even though they did not produce, design or manufacture the product, and are not in any way to blame for the harm that the product is alleged to have caused. Title II would help protect product sellers from being subjected to frivolous lawsuits when they are not responsible for the alleged harm.

Mr. President, this is a sensible, narrowly-tailored piece of legislation that is greatly needed to free up the enterprising spirit of our small businesses. I look forward to the Senate's consideration of this important legislation.

ADDITIONAL COSPONSORS

At the request of Mr. Daschle, the name of the Senator from New York (Mr. Schumer) was added as a cosponsor of S. 10, a bill to provide health protection and needed assistance for older Americans, including access to health insurance for 55 to 65 year olds, assistance for individuals with long-term care needs, and social services for older Americans.

At the request of Mr. Robb, his name was added as a cosponsor of S. 13, a bill to amend the Internal Revenue Code of 1986 to provide additional tax incentives for education.