Government to enhance the science base required to more fully develop the field of health promotion and disease prevention, and to explore how strategies can be developed to integrate life-style improvement programs into national policy, our health care system, schools, workplaces, families and communities.

S. RES. 41

At the request of Mr. SHELBY, the names of the Senator from Pennsylvania (Mr. SPECTER) and the Senator from Montana (Mr. BURNS) were added as cosponsors of S. Res. 41, a resolution designating April 4, 2001, as ‘‘National Murder Awareness Day.’’

S. RES. 44

At the request of Mr. COCHRAN, the names of the Senator from Delaware (Mr. BIDEN), the Senator from Hawaii (Mr. AKAKA), the Senator from Washington (Mrs. MURRAY), and the Senator from Arkansas (Mr. DODD) were added as cosponsors of S. Res. 44, a resolution designating each of March 2001, and March 2002, as ‘‘Arts Education Month.’’

S. RES. 63

At the request of Mr. CAMPBELL, the names of the Senator from Maine (Ms. SNOWE), the Senator from New York (Mr. SCHUMER), and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. Res. 63, a resolution commemorating and acknowledging the dedication and sacrifice made by the men and women who have lost their lives while serving as law enforcement officers.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HUTCHINSON:

A bill to authorize the establishment of a suboffice of the Immigration and Naturalization Service in Fort Smith, Arkansas; to the Committee on the Judiciary.

Mr. HUTCHINSON. Mr. President, I ask unanimous consent that a copy of the ‘‘Fort Smith INS Suboffice Act’’ be printed in the Record.

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

S. 644

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

SECTION 1. SHORT TITLE. This Act may be cited as the ‘‘Fort Smith INS Suboffice Act’’.

SECTION 2. FINDINGS. Congress finds the following:

(A) The Immigration and Naturalization Service office in Fort Smith, Arkansas, is an office within the jurisdiction of the district office in New Orleans, Louisiana.

(B) During the past 10 years, the foreign national population has grown substantially in the jurisdictional area of the Fort Smith office.

(C) According to the 2000 census, Arkansas’ Hispanic population grew by 337 percent over the Hispanic population in the 1990 census. This rate of growth is believed to be the fastest in the United States.

(D) Hispanics now comprise 3.2 percent of Arkansas’ population and 5.7 percent of the Third Congressional District of Arkansas’ population.

(E) This dramatic increase in immigration will continue as the growing industries and excellent quality of life of Northwest Arkansas are strong attractions.

(F) Interstate 540 and 40 intersect in Fort Smith and air transportation is readily available there.

(G) In the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001, Congress directed the Immigration and Naturalization Service to review the staffing needs of the Fort Smith office.

(H) The Immigration and Naturalization Service in Fort Smith, Arkansas, office to obtain additional information on officer-in-Charge who would have the authority to sign documents and take actions related to cases which now must be forwarded to the New Orleans District Office.

(I) The additional staff, authority, and autonomy that the suboffice designation would provide the Fort Smith office would result in a reduction in backlogs and waiting periods, a significant improvement in customer service, and a significant improvement in the enforcement of the immigration laws of the United States.

(J) The designation of the Fort Smith office as a suboffice would show that the Immigration and Naturalization Service is committed to facilitating the legal immigration process for those persons acting in good faith; and

(K) Likewise, the suboffice designation will require that someone such as Jack Quinn be registered as a lobbyist.

CONGRESSIONAL RECORD—SENATE March 29, 2001

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary for each fiscal year to establish and operate an Immigration and Naturalization Service suboffice in Fort Smith, Arkansas.

By Mr. SPECTER (for himself, Mr. LEAHY, Mr. HATCH, Mr. KOHL, Mr. BIDEN, Mrs. FEINSTEIN, Mr. SESSIONS, Mr. GRASSLEY, and Mrs. CLINTON):

S. 645. A bill to require individuals who lobby the President on pardon issues to register under the Lobbying Disclosure Act of 1995 and to require the President to report any gifts, pledges, or commitments of a gift to a trust fund established for purposes of establishing a Presidential library for that President after his or her term has expired; to the Committee on Government Affairs.

Mr. SPECTER. Mr. President, this legislation follows consideration by the Judiciary Committee of the pardons issued by President Clinton on January 20, the last day of his administration, and seeks to reform and correct a couple of major gaps which are present in existing procedures in two respects; stated succinctly, to require that lobbyists, such as Jack Quinn, be required to register and that contributions to Presidential libraries be subject to public disclosure.

I offer this legislation on behalf of myself, Senators LEAHY, HATCH, KOHL, BIDEN, FEINSTEIN, SESSIONS, GRASSLEY, and CLINTON.

The public record is filled with the details as to what happened with the notorious pardon of Marc Rich, who was a fugitive for some 17 years, where a pardon was granted at the very last minute without the pardon attorney at the Department of Justice being informed of the situation until 1 a.m. on January 20.

When the pardon attorney called the White House to try to get some information about Marc Rich and Pincus Grassley, they said that they were ‘‘traveling abroad.’’

When the pardon attorney testified at the Judiciary Committee hearing under my questioning, and testified that they were ‘‘traveling abroad,’’ he also broke up the hearing room for that characterization to be made of someone who had been a fugitive for 17 years.

In granting the pardon, former President Clinton notified Ms. Beth Dozoretz, who was very active in lobbying for the pardon, at 11 o’clock on January 19, some 2 hours in advance of telling the pardon attorney, and there had been extensive lobbying by Ms. Denise Rich, the former wife of Marc Rich.

The legislation we are introducing will require that someone such as Jack Quinn be registered as a lobbyist.

Without going into the details—and they are set forth in the Judiciary Committee hearing and major efforts made to keep this activity under the so-called radar screen so that nobody would know about it.

This legislation would require someone in Jack Quinn’s position to register and be known publicly, and then with the kind of public pressure which would be brought, I think it highly likely that a pardon such as that granted to Marc Rich would never have been granted.

The second provision deals with contributions or pledges or commitments to raise money for Presidential libraries. This legislation provides that there should be public disclosure of those contributions, pledges, or commitments to raise money, where those pledges or commitments are made during the term of office.

A pledge to contribute money to a Presidential library has a great many of the same characteristics as a campaign contribution. The question is raised about whether or not there is favoritism or influence sought from that kind of a monetary contribution. By having the public disclosure, then it would be within public view.
That is the essence of the legislation. Mr. President, the Senate Judiciary Committee was recently investigating the pardons and commutations issued by former President Clinton on January 20, 2001, and has disclosed major gaps which can be addressed through legislation. Today I am introducing a bill to address two of these matters.

My bill requires individuals who urge officials in the White House to grant clemency to register as lobbyists. There is currently no requirement for them to do so. This bill will also require the disclosure of donations or pledges of $5,000 or more, or commitments to raise $5,000 or more for presidential libraries while the President is still in office. Such donations, pledges or commitments are not currently subject to public disclosure, creating a situation where individuals could make large contributions to the President's library foundation in the hope of influencing favorable action by the President.

The migration of the pardons matter has been forward-looking from the beginning. The objective of the inquiry was to get the facts out in the open. Once the facts were known, the question was whether legislative remedies were appropriate.

This legislation does not deal with the President's power to grant executive clemency since any changes in that power would require a constitutional amendment. Former President Jimmy Carter called the pardon of fugitive commodities trader Marc Rich "disgraceful," and Democratic Representative HENRY WAXMAN said that "the failures in the pardon process should embarrass every Democrat and every American." The outrage over former President Clinton's last minute pardons is bi-partisan, and I expect there will be bi-partisan support for this legislation to fix the problems disclosed by the Senate Judiciary Committee inquiry.

The pardons of Marc Rich and Pincus Green have sparked the most public outrage, and rightly so. The actions of Hugh Rodham, who took more than $400,000 for his limited work on the clemency requests for Almon Glenn Braswell and Carlos Vignali, Jr., and Roger Clinton, who is reportedly recommended that the request for a pardon be denied. Several of the members of the White House, by not having the kind of scrutiny from the press that the case has had since January. Does anyone seriously believe that former President Clinton would have granted this pardon if the story had broken, with all the details out in the open, in early January instead of after the pardon was already a done deal? Of course not. Jack Quinn counted on being under the radar, and it worked.

This legislation will make it harder for the Jack Quinn's of the future to stay under the radar. When pardon lobbyists are required to register, they won't be able to hide their actions from public scrutiny. Mr. Quinn has testified that the idea of a pardon did not receive serious consideration until late in the year, but these e-mails raise questions about that assertion. Under ordinary circumstances, it would be of no interest when the Rich team made a decision to seek a pardon, but it is important in this case because the White House officials did not have a clear notion of who could create press or other exposure.

In a January 9, 2001, e-mail, Quinn told Fink, "I think we've benefitted from being under the press radar. Podesta said as much." How did they benefit? They benefitted by not having the U.S. Attorney from the Southern District of New York weigh in with the White House, by not having the kind of scrutiny from the press that the case has had since January. Does anyone seriously believe that former President Clinton would have granted this pardon if the story had broken, with all the details out in the open, in early January instead of after the pardon was already a done deal? Of course not. Jack Quinn counted on being under the radar, and it worked.

This legislation would also cover the activities of Hugh Rodham, who made more than $400,000 working to get clemency for Almon Glenn Braswell and Carlos Vignali, Jr. Mr. Braswell is the subject of an ongoing investigation related to allegations of tax evasion, and clearly should not have been granted a pardon. Mr. Vignali was one of the top members of a drug smuggling organization that shipped more than 800 pounds of cocaine from the Los Angeles area to Minnesota. He was not a likely candidate to have his sentence commuted, and the Pardon Attorney recommended that the request be denied. Several of the members of the White House, by not having the kind of scrutiny from the press that Vignali did are still sitting in jail.

But Carlos Vignali got a pardon. Hugh Rodham's role should have been
subject to public disclosure since he had close family ties to the White House—reportedly lived at the White House for the last several weeks of the Clinton Administration and had documents shipped to himself there.

Roger Clinton was also reportedly involved in several attempts to get paid for getting pardons for his friends. This matter, like several others, is reportedly being investigated by the U.S. Attorney for the Southern District of New York. It remains to be seen what she will find, but we don’t have to wait for the end of the investigation to know that if an individual trades on his access to the White House to make money, that’s lobbying, and he or she should be required to register as a lobbyist.

The second part of this bill requires the public disclosure of donations or pledges of $5,000 or more, or commitments to raise $5,000 or more for presidential libraries while the president is still in office. There are presently no requirements like such donations are public, and the Clinton library foundation has resisted efforts to review its donor list.

Presidential libraries are a relatively new phenomenon, with only ten of them in existence. Under current law, presidential libraries are built with private funds, then turned over to the National Archivist for operation. Amendments to the Presidential Libraries Act have mandated the establishment of an endowment to cover some of the costs of operating the library. These goals are usually met through the establishment of a charitable organization, a 501(c)(3) corporation.

Former Presidents Carter and Bush did not raise any money for their libraries while they were in office because they were concentrating on getting re-elected. But when both Presidents lost their re-election bids, they never faced a situation of having to raise money for a library while they were still in office.

Former Presidents Reagan and Clinton, as two-term Presidents, began raising money for their libraries during their second terms. Officials from the Reagan library have said that the library fund received several large contributions from corporate donors while former President Reagan was still in office, but the big corporate donations tailed off rapidly when the President left office.

It is not necessary to suggest that there was any wrongdoing on the part of former President Reagan or of former President Clinton to realize that a donor could make a large donation to a presidential library in the hope of receiving a favorable action from the President in exchange for the donation. The fact that these donations can be made without public disclosure makes them a matter of even greater concern.

The Rich case highlights the need for public disclosure of donations while the President is still in office. Denise Rich, Marc Rich’s mother, is reportedly involved in trying to get a pardon for Rich. She also gave at least $450,000 to former President Clinton’s library foundation. Beth Dozoretz, former finance chair of the Democratic National Committee who pledged to raise $41 million for the Clinton library, also worked on the Rich pardon.

Ms. Dozoretz’s involvement in the Rich case is remarkable in that the former President spent far more time talking to her about it than he did talking to the prosecutors in the Southern District of New York. Ms. Dozoretz had at least three conversations with former President Clinton about the Rich pardon, including one on January 19, 2001, the night before the pardon was actually issued.

Ms. Dozoretz had been scheduled to meet with my staff, but she changed attorneys and declined to be interviewed. But we found out that she had talked to the President on January 19, at about 11 p.m. to thank him for granting the pardon for Marc Rich. If Ms. Dozoretz knew of the Rich pardon in time to call the President at 11 p.m. on the evening of January 19, she found out about the decision at least two hours before Pardon Attorney Roger Adams, the official who was charged with actually writing up the pardon warrant. Mr. Adams testified that he had not heard that Rich and Green were being considered for clemency until almost 1 a.m. on the morning of January 20. Mr. Adams was told by the White House counsel’s office that there probably wouldn’t be much information available on Rich and Green because they had been “living abroad” for several years. That was a strange way of saying they were fugitives, but Mr. Adams was later able to figure that out himself. He had his staff research the Internet to see what he could learn about these two men, and he learned that they were on the Justice Department’s list of most wanted international fugitives. When he relayed his concerns to the White House, he was told to prepare the pardon documents anyway.

Ms. Dozoretz has refused to say from whom she learned that the President had decided to grant Rich’s clemency request, but she apparently knew before the official who was charged with overseeing the pardon process. Ms. Dozoretz has asserted her privilege against self-incrimination under the Fifth Amendment, so we have no way of knowing exactly how she learned that the decision had already been made on January 19.

But we have other relevant information. First, Beth Dozoretz pledged to raise $1 million for the Clinton library. Former President Clinton spoke to Ms. Dozoretz on January 10, 2001, when she was with Ms. Rich in Aspen. According to a January 10, 2001, e-mail from Robert Pink to Jack Quinn, Ms. Dozoretz received a “phone call from POTUS, the President, on January 10. Mr. Fink went on to quote former President Clinton as saying ‘that he wants to do it and is doing all possible to turn around the WH [White House] counsels, but she has not offered any explanation for what happened. It has been asserted that the message was garbled, but that explanation is inconsistent with the facts. All of former President Clinton’s top advisers in the White House—including his Chief of Staff, John Podesta; his White House Counsel, Beth Nolan; and Bruce Lindsey, one of his closest political advisers who held the title of Assistant to the President—looked at the facts and recommended against a pardon. That is consistent with the former President having to turn around his counsels. Former President Clinton was unable to turn around his counsels, but in the end it didn’t matter. He issued the pardons anyway, and created a firestorm.

When a President ignores the advice of his closest advisers, there isn’t much we can do since the power of executive clemency is in the hands of the President alone. But the Congress can and should ensure that bad judgment on the part of a President does not undermine the public’s confidence in government. The two provisions in this legislation will help to restore public confidence in the pardon process.

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. 645
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DISCLOSURE OF LOBBYING ACTIVITIES WITH RESPECT TO PRESIDENTIAL PARDONS.

Section 3(b) of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1602(b)) is amended—

(1) in subparagraph (A)—

(A) in clause (ii), by striking ‘‘or’’ after the semicolon,

(b) in clause (iv), by striking the period and inserting ‘‘; or’’; and

(C) by adding at the end the following:

‘‘(v) the issuance of a grant of executive clemency in the form of a pardon, commutation of sentence, reprieve, or remission of fine.’’; and

(2) in subparagraph (B)(xii), by striking ‘‘and inserting ‘except as provided in subparagraph (A)’’; and

SEC. 2. AMENDMENT TO THE ETHICS IN GOVERNMENT ACT OF 1978.

Section 102(a) of the Ethics in Government Act of 1978 (5 U.S.C. App) is amended by adding at the end the following: (8) If the reporting individual is the President and is currently serving as the President, the identity of the source, a brief description, and the value of all gifts, pledges,
March 29, 2001

CONGRESSIONAL RECORD—SENATE

or commitments of a gift aggregating $5,000 or more.* The establishment of a Presidential library for that President after his or her term has expired received from any source other than a relative of the President during the preceding calendar year. Information reported under this paragraph shall be made publicly available in accordance with this Act.’’.

Mr. LEAHY. Mr. President, I rise today with the honor of Senator from Pennsylvania to introduce legislation aimed at making our government more open and accountable to the American people. We are pleased to be joined by six other members of the Judiciary Committee, Senators HATCH, KONZ, BIDEN, FEINSTEIN, SESSIONS, GRASSLEY, and by the new junior Senator from New York, Senator CLINTON.

Our bill closes two loopholes in the laws governing what government officials and those who lobby them must disclose. The first discloses the Executive Office of the President to report any gifts or pledges of $5,000 or more to a presidential library during the President’s term in office. Second, it adds to the list of individuals who must register under the Lobbying Disclosure Act of 1995 those who lobby on behalf of a client for a grant of executive clemency.

This legislation builds on a hearing held by the Judiciary Committee on February 14, 2001, relating to the pardons granted by President Clinton in his last days in office. I said then that we needed to view these pardons as a whole and in their historical and constitutional context, not focus exclusively on one or two controversial cases. In this way, we could learn valuable lessons for the future.

The legislation that we introduce today is a pragmatic and forward-looking response to customs and practices that led to last Administration's pardons. As I have noted before, the controversies surrounding President Clinton's pardons are not unique.

Other presidents raised substantial funds for their libraries while still in office. The Ronald Reagan Presidential Foundation opened its doors in 1986 and began fundraising in February 1987, nearly four years before President Reagan left office. By November 1991, the Foundation had raised between $45 and $55 million. Much of that amount came in large lump sums from big corporations, a source of funding that reportedly dried up when President Reagan returned to private life.

Fund raising for the Bush library also began while the president was still in the White House. The Arkansas Democrat-Gazette, in an article dated May 25, 1997, quoted former Bush aide Jim Cicconi as saying that fund raising for the library remained “low key” and “very private.” The president left office in 1993. Established in 1991, while the president was campaigning for reelection, the George Bush Presidential Library Foundation initially consisted of three people, including Mr. Cicconi and the president’s son, George W. Bush.

I should add that the donor lists for the Reagan and Bush libraries were not and have never been disclosed to the public, a failure of transparency for which President Clinton, but not his predecessors, has been roundly criticized.

President Clinton was also not the first Chief Executive to grant clemency to friends or family members of major contributors. The very first pardon granted by the elder President Bush went to Armand Hammer, the late chairman of Occidental Petroleum Corporation, who pleaded guilty in 1975 to making illegal contributions to Richard Nixon’s reelection campaign. Not long before he received his pardon, Hammer had given $150,000 to the Republican party and another $100,000 to the Bush-Quayle Inaugural Committee. The team of lawyers who won Hammer’s pardon included former Reagan Justice Department official, Theodore Olson. While Mr. Olson’s name was well-known now, he was recently nominated to be Solicitor General, it was more important at the time that he was a close friend of C. Boyden Gray, the White House Counsel, and Richard Thornburgh, the Attorney General.

Let me note one more example from the end of the first Bush Administration: In January 1993, two days before leaving the White House, President Bush pardoned Edwin Cox, Jr., the son of a wealthy Texas oilman. The Cox pardon was lobbied for by Bill Clements, the former governor of Texas, who contacted James Baker, then White House Chief of Staff. Not surprisingly, Mr. Baker mentioned the Cox family largesse in a note to the President, referring to Edwin Cox Sr. as a “longtime supporter of the president’s.” The Cox family had in fact contributed nearly $200,000 to the Bush family’s political campaigns and to other Republican campaign committees. Shortly after the president pardoned his son, Cox Sr., made a generous contribution to the Bush Presidential Library. His name is now etched in gold on the exterior of the Library alongside the names of other “benefactors” who contributed between $100,000 and $250,000.

I mention these Bush-era pardons because they demonstrate that pardons which have become controversial and appear improper given the confluence of insider lobbying and financial contributions are not unique to the end of President Clinton’s term in office. The bill we introduce today will bring a greater degree of transparency into the clemency process and so reduce the appearance of impropriety that may otherwise attach to executive clemency.

I thank Senator SPECTER for the thoughtful and even-handed manner in which he conducted the Committee’s hearing last month, and commend him for seeking constructive and bipartisan solutions.

By Mr. FEINGOLD.

S. 646. A bill to reform the Army Corps of Engineers; to the Committee on Environment and Public Works.

Mr. FEINGOLD. Mr. President, I rise today to introduce the Corps of Engineers Reform Act of 2001. I am joined today in this effort by my colleague in the other body, Congressman Ron Kind.

As I introduce this bill, I realize that it is a work in progress. Reforming the Corps of Engineers will be a difficult task for Congress. It involves restoring credibility and accountability to a federal agency rocked by recent scandals, and yet an agency that we in Wisconsin, and many states across the country, have come to rely upon. From the Great Lakes to the mighty Mississippi, the Corps is involved in providing aids to navigation, environmental remediation, water control and a variety of other services to my state. My office has strong working relationships with the Detroit, Rock Island, and St. Paul District Offices that serve Wisconsin, and I want the cloud over the Corps to dissipate so that the Corps can continue to contribute to our environment and our economy.

This legislation evolved from my experience in seeking to offer an amendment last year to the Water Resources Development Act of 2000 to create independent review of Army Corps of Engineers’ projects. My interest in an independent review amendment was shared by the Minority Leader, Mr. DASCHLE, and the Senator from California, Mrs. BOXER, and a number of taxpayer and environmental organizations including: the League of Conservation Voters, American Rivers, Coast Alliance, Earthjustice Legal Defense Fund, Izaak Walton League of America, Natural Resources Defense Council, Sierra Club and Taxpayers for Common Sense.

In response to my initiative, the bill’s managers, Senator SMITH and Senator BAUCUS, adopted an amendment as part of their Manager’s Package which should help get the Authorizing Committee, the Environment and Public Works Committee, the additional information it needs to develop and refine legislation on this issue through a one year study by the National Academy of Sciences, NAS, on peer review. As part of the discussions with the Senator from New Hampshire, Mr. SMITH, and the Senator from Montana, Mr. BAUCUS, over the amendment I intended to offer, they have agreed that as the NAS conducts its review, they will hold hearings on the issue of Corps reform and on this bill. It is my hope that through hearings the NAS study and my bill can dovetail nicely so that we have a fully vetted bill which can then be fine-tuned by the
NAS recommendations. I feel that this body should pass a serious reform bill this year.

The bill I introduce today addresses more than the issue of independent review of Corps Projects. The bill is a comprehensive review of the project review and authorization procedures at the U.S. Army Corps of Engineers. The aim is to increase transparency and accountability, to ensure fiscal responsibility, to balance economic and environmental interests, and to allow greater stakeholder involvement.

The National Research Council recently completed a study of the Corps' analysis of a proposed extension of several locks on the Upper Mississippi River, Illinois Waterway after approximately $50 million was spent examining the feasibility of the proposed project. The National Research Council made several recommendations to revise the inland waterway and water resources system planning. And, as I mentioned, a second National Research Council study, required by the Water Resources Development Act of 2000, is now examining whether the Corps should establish a program of independent review of projects.

This bill builds on the key recommendations of the National Research Council study:

The Corps should have project review by an inter-disciplinary group of experts outside the Corps of Engineers. The Corps should have a broader range of stakeholders in the planning process. The Corps should revise the water resources project planning framework in their internal planning documents (known as the Principles and Guidelines) so that ecological concerns are not considered secondary to economic benefits.

The bill achieves this by creating both Stakeholder Advisory Committees and Independent Review Panels. Currently, the Corps goes through a multi-step process leading to project approval and construction. In the existing process, the public has limited involvement and environmental costs can be underestimated.

Stakeholder Advisory Committees—comprised of a balance of local government, other federal agencies, interest groups reflecting social, economic, and environmental interests, and interested private citizens—are authorized to provide input in the planning process. The Corps is required to form a Committee under the bill upon receipt of a written request to the Corps by any person to do so. The Committee is comprised of volunteers, and is allowed to provide input to the Corps beginning in the early project stages, such as the drafting of a feasibility study for a project, and conclude at the release of a draft environmental impact statement when the broader public is brought into the project. The Corps is also restricted so that they can spend no more than on the staffing or operations of $250,000 a Committee. In addition, the Corps must meet the requirements of the Federal Advisory Committee Act, FACA. Any Committee expenses are to be considered as part of the total costs of the project.

The bill also provides a comprehensive review of water resources projects by a panel with expertise in biology, engineering, and economics. The projects that will become subject to review include any projects, or significant modifications to existing projects: with an estimated cost of over $25 million (approximately 40 percent of the projects funded through the Water Resources Development Act), or which the Governor of an affected State requests independent review, that are determined to have significant adverse impacts on fish and wildlife after implementation of proposed mitigation plans by the US Fish and Wildlife Service, for which the head of another Federal Agency charges that implementing the project determines that the project has a significant adverse impact on environmental, cultural, or other resources under their jurisdiction, or determined by the Corps to be "controversial" in its scope, impact, or cost-benefit analysis.

To address concerns that the Independent Review Panel need to be truly independent, the Office of Independent Review is established within the Office of the Assistant Secretary for Civil Works. This office, located in the Pentagon, provides the greatest amount of independence for the review process since the Office of the Assistant Secretary is separate from and above the Chief of Engineers who runs the Corps. Independent reviews are required to be completed in 180 days after they start. They are able to run concurrently with the Environmental Statement/Impact Statement Process under NEPA, and, ideally, will conform to that time frame.

As with the Stakeholder Committees, the costs of these Panels are capped at no more than $500,000. Any panel expenses are to be considered as part of the total costs of the project and a Panel's product is required to be released to the public and to be submitted to Congress.

It is my hope that this legislation will increase transparency of the Corps' decision-making process through greater accessibility by the public and interested stakeholder groups. While there are heartening signs of reform in the Corps Civil Works program, Congress should be working to create an independent process to help affirm when the Corps gets it right and help to provide a means for identifying problems before taxpayer funded construction investments are made. Today we begin that work in earnest.

I feel that this bill is a practical first step down the road to a reformed Corps of Engineers. Independent review would catch mistakes by Corps planners, deter any potential bad behavior by Corps officials to justify questionable projects, and provide planners desperately needed support against the never ending pressure of project boosters. Those boosters, Mr. President, include Congressional interests, which is why I believe that this body needs to take action reform to end the perception that Corps projects are all pork and no substance.

I wish it were the case, that I could argue that additional oversight were not needed, but unfortunately, I see that there is need for additional scrutiny. In the Upper Mississippi there is troubling evidence of abuse. There is troubling evidence from whistleblowers that senior Corps officials, under pressure from barge interests, ordered their subordinates to exaggerate demand for barges in order to justify new Mississippi River locks. This is a matter which is still under investigation, and I hope that no wrongdoing will ultimately be found. Adequate assessment of the environmental impacts of barges is also very important. I am also concerned that the Corps' assessment of the environmental impacts of additional barges does not adequately assess the impacts of barge movements on fish, backwaters and aquatic plants. We should not gamble with the environmental health of the river. If we allow more barges on the Mississippi, we must be sure the environmental impacts of those barges are fully mitigated.

I am raising this issue principally because I believe that Congress should act to restore trust in the Corps if we are effectively going to address navigation and environmental needs. The first step in restoring that trust is restoring the credibility of the Corps' decision-making process.

Unfortunately, Congress now finds itself having to reset the scales to make economic benefits and environmental restoration co-equal goals of project planning. Our rivers serve many masters, barge owners as well as bass fisherman, and the Corps' planning process should reflect the diverse demands we place on them. I want to make sure that future Corps projects no longer fail to produce predicted benefits, stop costing more than the Corps estimated, and do not have unanticipated environmental impacts. This bill will help us monitor the result of projects so that we can learn from our mistakes and, when possible, correct them. As a first step, I have committed myself to making Corps reform a priority in this Congress with this bill.

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Corps of Engineers Reform Act of 2001”.

(b) Table of Contents.—The table of contents of this Act is as follows:

1. Short title; table of contents.
2. Findings and purposes.
3. Definition of Secretary.
I—PROJECT PLANNING REFORM
  102. Stakeholder advisory committees.
  103. Independent review.
  104. Public access to information.
  105. Benefit-cost analysis.
  106. Project criteria.
II—MITIGATION
  201. Full mitigation.
  203. Mitigation tracking system.

SEC. 2. FINDINGS AND PURPOSES.

(a) Findings.—Congress finds that—

(1) the Corps of Engineers is the primary Federal agency responsible for developing and managing the harbors, waterways, shorelines, and water resources of the United States;
(2) the scarcity of Federal resources requires more efficient use of Corps of Engineers funding and greater oversight of Corps of Engineers analyses;
(3) demand for recreation, clean water, and healthy wildlife habitat must be reflected in the Corps of Engineers project planning process;
(4) the social and environmental impacts of dams, levees, shoreline stabilization structures, and other projects must be adequately considered and fully mitigated; and
(5) affected interests must play a larger role in the oversight of Corps of Engineers project development.

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

(1) to ensure that the water resources investments of the United States are economically justified and enhance the environment;
(2) to provide independent review of Corps of Engineers feasibility studies, general reevaluation studies, and environmental impact statements;
(3) to ensure that mitigation for Corps of Engineers projects is successful and cost-effective;
(4) to enhance the involvement of affected interests in Corps of Engineers feasibility studies, general reevaluation studies, and environmental impact statements;
(5) to revise Corps of Engineers planning principles to meet the economic and environmental needs of riverside and coastal communities;
(6) to ensure that environmental analyses are considered to be co-equal to economic analyses in the assessment of Corps of Engineers projects recognizing the need for sound science in the evaluation of the impacts on the health of aquatic ecosystems; and
(7) to ensure that the Corps of Engineers is making appropriate, up-to-date calculations in conducting cost-benefit analyses of Corps of Engineers projects.

SEC. 3. DEFINITION OF SECRETARY.

In this Act, the term “Secretary” means the Secretary of the Army.

TITLE I—PROJECT PLANNING REFORM

SEC. 101. PRINCIPLES AND GUIDELINES.

Section 209 of the Flood Control Act of 1970 (42 U.S.C. 1626-2) is amended to read as follows:

"SEC. 209. CONGRESSIONAL STATEMENT OF OB-


"(b) SEC. 201 of the Corps of Engineers Reform Act of 2001.
financial or close professional association with any organization or group with a strong financial or organizational interest in an ongoing water resources project.  
(3) **TIME LIMITATION.—**An individual may not serve for more than 2 years as the director, or any other person who serves on a panel of experts under this section and before elucidating the cost of a panel of experts established for a project under this section—  
(A) shall be a Federal expense;  
(B) shall not exceed $100 per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code;  
(4) by striking the period at the end and inserting “; and”; and  
(5) by adding after the following:—

**CONGRESSIONAL RECORD—SENATE March 29, 2001**

**SEC. 105. BENEFIT-COST ANALYSIS.**

Section 906(a) of the Water Resources Development Act of 1990 (33 U.S.C. 2218(a)) is amended—

(1) in paragraph (1)(B), by striking “and” at the end;  
(2) in paragraph (2), by striking the period at the end and inserting “; and”; and  
(3) by adding at the end the following:

To ensure concurrent mitigation, the Secretary shall complete 50 percent of any proposal to authorize or substantially modify a water resources project unless the proposal contains a certification by the Secretary that the proposal minimizes the maximum extent practicable adverse impacts on—

(1) the natural hydrologic patterns of aquatic ecosystems; and  
(2) the value or native diversity of aquatic ecosystems.

**TITLE II—MITIGATION**

**SEC. 201. FULL MITIGATION.**

Section 906(d) of the Water Resources Development Act of 1986 (33 U.S.C. 2236(d)) is amended—

(1) in paragraph (1)(A), by inserting “fully” before “mitigate” and;  
(2) by adding at the end the following:

(3) **STANDARDS FOR MITIGATION.—**

(A) **IN GENERAL.—**To mitigate losses to fish and wildlife resulting from a water resources project, the Secretary, at a minimum, shall acquire and restore 1 acre of habitat to replace each acre of habitat negatively affected by the project.

(B) **MONITORING PLAN.—**The mitigation plan for a water resources project under paragraph (1) shall include a detailed and specific plan to monitor mitigation implementation and success.

(4) **DESIGN OF MITIGATION PROJECTS.—**The Secretary shall—

(A) design each mitigation project to reflect contemporary understanding of the importance of spatial distribution of habitat and the natural hydrology of aquatic ecosystems; and  
(B) fully mitigate the adverse hydrologic impacts of water resources projects.

(5) **RECOMMENDATION OF PROJECTS.—**The Secretary shall not recommend a water resources project alternative or choose a project alternative in any final record of decision, environmental impact statement, or environmental assessment completed after the date of enactment of this paragraph unless the Secretary determines that the mitigation plan for the alternative has the greatest probability of cost-effectively and successfully mitigating the adverse impacts of the project on aquatic resources and fish and wildlife.

(6) **COMPLETION OF MITIGATION BEFORE CONSTRUCTION OF NEW PROJECTS.—**The Secretary shall complete all planned mitigation in a particular watershed before constructing any new water resources project in that watershed.

**SEC. 202. CONCURRENT MITIGATION.**

Section 906(a)(1) of the Water Resources Development Act of 1986 (33 U.S.C. 2236(a)(1)) is amended by adding at the end the following:

To ensure concurrent mitigation, the Secretary shall complete 50 percent of
required mitigation before beginning project construction and shall complete the re- 
mainder of required mitigation as expeditiously as practicable, but not later than the last 
day of project construction.

SEC. 203. MITIGATION TRACKING SYSTEM.

(a) In General.—Not later than 90 days 
after the date of enactment of this Act, the 
Secretary shall establish a recordkeeping 
system which—

(1) the quantity and type of wetland and 
other habitat types affected by the operation 
and maintenance of each water resources 
project carried out by the Secretary; and 

(2) the quantity and type of mitigation 
required for operation and maintenance of 
each water resources project carried out by 
the Secretary; 

(3) the quantity and type of mitigation 
that has been completed for the operation 
and maintenance of each water resources 
project carried out by the Secretary; and 

(4) wetland losses permitted under section 
404 of the Federal Water Pollution Control 
Act (33 U.S.C. 1344) and required mitigation 
for such losses. 

(b) REQUIREMENT AND ORGANIZA-
TION.—The recordkeeping system shall—

(1) include information on impacts and 
mitigation subsection (a) that occur after December 31, 1969; and 

(2) be organized by watershed, project, 
permit application, and zip code.

(c) AVAILABILITY OF INFORMATION.—The Secretary shall make information contained in the recordkeeping system available to the public on the Internet.

By Mrs. FEINSTEIN (for herself 
and Mr. DORGAN):

S. 649. A bill to modify provisions re-

lating to the Gun-Free Schools Act; to the 
Committee on Health, Education, 
Labor, and Pensions.

Mrs. FEINSTEIN. Mr. President, 
today Senator DORGAN and I are intro-
ducing a bill to make four important 
changes to the current Gun-Free 
Schools Act, GFSA.

I am a proud sponsor of the Gun-Free 
Schools Act, which was enacted as part 
of the Elementary and Secondary Edu-
cation Act in 1994. The law requires 
states receiving federal elementary-
secondary education funds to have a 
state law requiring local school dis-
tricts to expel from school for a period 
of not less than one year students who 
bring weapons to school.

A March report (ED-OIG/S05-A010) 
prepared by the Inspector General, IG, 
of the U.S. Department of Education, 
highlights several improvements need-
ed to clarify the law. This bill makes 
those important clarifications.

The IG’s report, called a “perspective 
paper,” resulted from an audit that 
Senator DORGAN and I requested to ex-
amine the enforcement of the GFSA in 
seven states.

We live in a society today that is 
much different than when I grew up. 
Our nation is awash in guns and our 
children live in a culture of violence, 
bombarded by horrific images in mov-
ies, television, and video games. Com-
bine these factors with a lack of paren-
tal supervision and this combustible 
mix has exploded again and again on 
too many school campuses.

In just the last few weeks alone, 
we’ve seen this mix erupt within just a 
few miles of each other in the San 
Diego area.

On March 5, a troubled young man 
named Charles “Andy” Williams 
brought a .22-caliber revolver to school, 
ired at random, killing two students 
and wounding five others at Santana 
High School, in Santee, California. And 
on March 22, an eighteen-year-old shot 
five students at Granite Hill High 
School in El Cajon, California. Fortu-
nately, in this case, no one was killed. 
The Los Angeles Times summed up this 
epidemic aptly on March 6 and 
called on public officials to act, saying 
“Nothing of course, assures that trag-
edy can be prevented, but leaders from 
the classroom to the White House can 
clearly take more steps to promote 
school safety.”

Now I know that gun laws are not the 
only answer to solving this problem, 
but they do represent part of the an-
swer. But the most simple, rational, and targeted 
measures to deter guns from falling 
into the hands of our young people 
have been cast aside.

The fact is that there are some sim-
ple steps we can take to limit the num-
ber of guns from reaching our children. 
We can close the loophole on the im-
portation of high capacity ammunition 
clips. We can include trigger locks on 
any gun purchased.

And we need to continue with meas-
ures that are working. The Gun Free 
Schools Act is a targeted fix that is 
working. And the bill we are intro-
ducing today refines this law slightly 
to make it work even better.

This legislation will close several 
loopholes in current law under which 
allows some students to escape punish-
ment who bring guns to school.

Because current law imposes a 
one-year expulsion for students who 
have “brought” a weapon to school, 
students who “have” or “possess” a 
weapon in school can go “scot-free.”

Under current law, for example, a 
student could use a firearm that was 
technically “brought” to school by an-
other student. The student could then 
possess it in his or her backpack or 
locker and thus potentially make it 
available to others and go unpunished 
because he or she did not technically 
“bring” it to school.

Another loophole that the bill ad-
dresses is the definition of school. The 
current prohibition on guns in schools 
applies to “a school.” This could be 
interpreted to mean literally the school 
building.

Our bill clarifies that school means 
“any setting that is under the control 
and supervision of the local education 
agency”, i.e., the school district. With-
out this change, a student could wield 
a firearm on the football field, on the 
school bus or in the parking lot and 
possibly evade punishment under this 
law.

Here are the four changes made by 
this bill: Under the current law, states 
are required to have a law requiring a 
one-year expulsion of students who 
have “brought a weapon to a school” in 
order to receive federal education 

funds.

The change our bill proposes is to add 
to current law, “or to have possessed a 
firearm.” We are proposing this change 
because punishing only people who 
bring” a weapon to school leaves a 
glimpse loophole in the law.

Without this change, students who 
ask friends to bring a weapon to school 
or who obtain a weapon from someone 
who has “brought” it to school, but 
carry it around or use the weapon, 
would not be covered since current law 
uses the term “brought.” Current law 
could be interpreted to mean that stu-
dents can have a gun at school as long 
as long as they do not actually “bring” it 
into the school. I believe this change is 
an important clarification.

The IG’s report says that without 
this change, states and school districts 
may “incorrectly implement the Act, 
resulting in non-compliance or the sub-
mission of erroneous information on 
disciplinary actions under the Act.” 
This is because current law does not 
“specify expulsion as the consequence 
for students found in possession of a 
firearm.”

Under current law, school districts 
and states are required to report expul-
sions. They are, however, required to 
report incidents. An example of this 
would be when students bring a weapon 
to or possess weapons in schools, for 
which no disciplinary action is taken.

Without reporting all incidents in 
in which students have or possess weap-
ons in schools, it is impossible to deter-
mine if school officials are in fact en-
forcing the law, if they are actually ex-
peelling students.

The IG’s audit cites an example at 
one Maryland school in which a stu-
dent who brought a firearm to school 
was not expelled. Instead, the school’s 
administrators allowed the student to 
withdraw from school and the school 
did not inform the school district of 
the incident. Police arrested the stu-
dent. So action was taken, but the inci-
dent itself did not appear in the annual 
report because technically the student 
was not expelled.

Similarly, the IG found that in one 
California district, school officials did 
not expel a student “involved in a fire-
arm incident” because the student was 
arrested and did not return to school.

In these cases, the students did face 
legal consequences for their action, but 
the weapons incidents were not re-
flected in the school’s report because 
the state did not require reporting only 
expulsions, not incidents.

The bill would add several new re-
porting requirements. School districts 
and states would have to report, 1. all
firearms incidents; 2. each modification of an expulsion, e.g., when an administrator shortens an expulsion, which is allowed under current law; and 3. the level of education in which the incident occurs, elementary, middle, high school.

Only through thorough reporting can public officials truly occur, and education, and the Congress know how well the law is working and how effectively it is being enforced.

These proposed changes should remedy that deficiency.

There are two additional changes we are proposing based on the IG’s work. The Department of Education has incorporated these two changes in their guidance to states and school districts, but I believe these changes should be codified in the law so they cannot be changed administratively.

The prohibition on weapons in “school” applies to “a school, which implies that this means the building only. For many years, the U.S. Department of Education interpreted this to mean the school buildings only.

Under that approach, therefore, a student could bring a weapon to school and leave it in an unlocked car, where it would still be readily available to students throughout the school day.

Interpreted strictly to mean “school buildings,” that policy also allowed guns on athletic fields, in equipment sheds, and in school yards. As one Virginia legislator put it, “you could legally come to a PTA meeting packing a weapon.”

Fortunately, the Department has corrected its guidance to school districts to clarify that the prohibition on bringing guns to schools applies to the entire school campus. The guidance states, “The one-year expulsion requirement applies to students who bring weapons to any setting that is under the control and supervision of the local education agency.”

Under our bill, weapons would be allowed to be kept in cars and trucks on school property only if the weapons are “lawfully stored inside a locked vehicle on school property.” This provision is an effort to recognize that in some communities students may go hunting directly after school.

Under current law, the chief school administrator in a school district can modify an expulsion on a case-by-case basis.

Our bill would require that all modifications be put in writing. The IG found inconsistent reporting of modifications. This change should establish one consistent and clear policy and should provide a record of expulsions that are modified.

Guns have no place in schools. Congress made this clear in 1994 when we approved the Gun-Free Schools Act.

This is a good law that should remain in place. The bill we introduce today makes some important clarifications in that law and strengthens it.

The latest Annual Report on School Safety reports that 3,930 students were expelled for bringing a firearm to school. One student is too many, in my view.

The latest incidents in California are but another disturbing reminder of the “culture of violence” that pervades our society. All of us must ask why students resort to guns to deal with their grievances or vent their frustrations.

Clearly, we must take strong steps to address the underlying societal issues and to get guns out of the hands of youngsters.

This bill is one small, yet important, step to ensure that no more schoolchildren die from weapons violence. I urge my colleagues to enact this bill promptly.

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

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

THE GUN-FREE SCHOOLS REFINEMENT ACT—SUMMARY


1. “BROUGHT A WEAPON”

Current Law: Requires states to have a law requiring a one-year expulsion of students who “brought a weapon to a school.”

Proposed Change: Adds “or possessed a weapon.”

2. ENTIRE SCHOOL CAMPUS

Current Law: The prohibition on bringing a weapon to school applies “to a school.

Proposed Change: Clarifies that the prohibition on bringing guns to schools applies to entire school, specifically “any setting that is under the control and supervision of the local education agency,” unless a gun is lawfully locked in a vehicle.

3. REPORT INCIDENTS, MODIFICATIONS

Current Law: Requires only reporting of expulsions.

Proposed Changes: Requires the reporting of—

1. All weapons incidents;

2. Each modification of an expulsion (e.g., when an administrator shortens an expulsion); and

3. The level of education in which the incident occurs (elementary, middle, high school).

4. MODIFICATIONS IN WRITING

Current Law: Allows states’ laws to allow the chief administering officer of a school district to modify one-year expulsions on a case-by-case basis.

Proposed Change: Requires that all modifications of expulsions be put in writing.

MR. DORGAN. Mr. President, I am pleased to join Senator Feinstein in introducing the Gun-Free Schools Refinement Act. As my colleagues may remember, Senator Feinstein and I were original authors of the Gun-Free Schools Act of 1994, and as a result of this law, more than 13,000 students have been expelled from school between 1996 and 1999 for bringing a gun to school. That is more than 13,000 potential tragedies that have been avoided because we as a nation adopted a “zero tolerance” policy toward bringing a weapon into our school classrooms and hallways.

Despite the Gun-Free Schools Act, however, school shootings still occasionally occur, and one of these incidents is too many. That’s why, nearly two years ago, Senator Feinstein and I asked the Department of Education Inspector General to conduct a review of the Gun-Free Schools Act to ensure that states and local school districts are vigorously enforcing this important law.

The Inspector General completed this review and issued her final report in February, 2001. Fortunately, the IG found no evidence that states or school districts were intentionally ignoring instances where students brought weapons to schools. However, while we were glad to learn that schools were generally trying to comply with the spirit of the law, the IG did find some instances where schools and states have not complied with the letter of the law. This may result in uneven enforcement of the Gun-Free Schools Act. Therefore, the IG recommended in March that Congress consider making a number of technical changes to the Gun-Free Schools Act to clarify areas of the statute where schools were confused about what was required in the enforcement of their “zero tolerance” policies.

The Gun-Free Schools Refinement Act would make four changes to the 1994 law: First, this legislation clarifies that the law applies to students who “possess” a gun in school, not just those who “brought” a weapon to school, as the law currently reads. A common-sense interpretation of the law would compel schools to expel students who possess firearms in school, even if they were not the ones who physically brought the guns there. This change merely codifies a common-sense reading of the law so that it applies to students who either bring or possess a weapon at school.

Second, this bill clarifies that the Gun-Free Schools Act applies not just to the school buildings but to the grounds and any other setting under the jurisdiction of the school. That is meant by a “school” is not currently defined by the statute, but the Department of Education has already determined in its implementation guidance that a “school” means any area under the control of the school, such as buses or off-campus athletic events or field trips. This change codifies the Department’s reasonable definition. I do want to mention, however, that this change would still allow schools the flexibility to permit rifle clubs, hunter safety education, or other sanctioned school activities, as long as these limited purposes provide reasonable safeguards to ensure student safety and are
Mr. WYDEN, legislation to do just that.

I am introducing, along with Senator
by banning the exportation of crude oil
amount of our dependence on oil will
coming more energy efficient, the
standard for cars. That would save
SUVs and light trucks so that it equals
Average Fuel Economy standard for

is imperative that we address this
country is our oil supply. Americans
the spotlight on energy policy has in-

first. I encourage my colleagues to sup-

Finally, this legislation requires that
modifications to one-year expulsions,
which are made on a case-by-case basis
by the chief school officer, be made in
writing. This will simply ensure that
school officials, parents or other appro-
priate individuals will have access to a
written record explaining why the ex-

expulsion was shortened.

In summary, I think these are sim-
ple, straightforward, and sensible
changes to the Gun-Free Schools Act. I
urge my colleagues to join me and Sen-
ator Feinstein in making these tech-
nical changes when the Senate debates
upcoming legislation reauthorizing the
Elementary and Secondary Education Act.

By Mrs. BOXER (for herself and
Mr. WYDEN):
S. 650. A bill to amend the Mineral
Leasing Act to prohibit the export-
tation of Alaska North Slope crude oil;
to the Council on Banking, Hous-
ing, and Urban Affairs.

Mrs. BOXER. Mr. President, this year
the spotlight on energy policy has in-
creased. One issue that is key for this
country is our oil supply. Americans
are very dependent on gasoline, and it
is imperative that we address this
problem.

First on the demand side of the equa-
tion, we should increase the Corporate
Average Fuel Economy standard for
SUVs and light trucks so that it equals
the standard for cars. That would save
1 million barrels of oil per day. By be-
coming more energy efficient, the
amount of our dependence on oil will
decrease.

Second, we also need to focus on the
supply side of the picture. For example,
we should protect the American supply
by banning the exportation of crude oil
from Alaska’s North Slope. And, today,
I am introducing, along with Senator
WYDEN, legislation to do just that.

For 22 years, from 1973 to 1995, the ex-
port of Alaska North Slope oil was
banned. We banned it to reduce our de-
pendence on imported oil and to keep
gasoline prices down.

Unfortunately, at the behest of oil
producers, the ban was lifted in 1995.
The General Accounting Office has
stated that lifting the export ban re-
sulted in an increase in the price of
 crude oil by about $1 per barrel. In fact,
some oil companies used their ability
to export this oil to artificially in-
crease the price of gasoline on the West
Coast.

With the spotlight on energy policy,
President Bush and others have called
for drilling in the Arctic National
Wildlife Refuge, (ANWR). It makes no
sense to destroy a beautiful, pristine
sanctuary, one of the most remarkable
wildlife habitats in the world, for oil
that will only last six months. And this
call to destroy ANWR comes even in
the face of the possible export of Amer-
ican oil that is being drilled in areas
already opened.

For a little under a year now, no
North Slope oil has been exported. But
this has been done voluntarily—and in
one case mainly to ensure that a pro-
posed merger was approved by the FTC.
Although there are no exports now, the
human infrastructure of a current sit-
tuation, this ban is necessary to pre-
clude any chance of exporting this oil.

This is oil that is on public lands,
and that is transported along a federal
right-of-way. Taxpayers own this prod-
uct. We need to ensure that American
consumers and industry will remain
first. I encourage my colleagues to sup-
port the Oil Supply Improvement Act.

By Mr. REED (for himself, Mr.
JEFFORDS, Ms. MIKULSKI, Ms.
COLLINS, Mr. WELLSTONE, and
Mrs. CLINTON):
S. 651. A bill to provide for the estab-
lishment of an assistance program for
health care consumers to the
Committee on Health, Education,
Labor, and Pensions.

Mr. REED. Mr. President, I rise
today to join with my distinguished
colleagues, Senators JEFFORDS, Col-
LINS, MIKULSKI, WELLSTONE and CLIN-
TON, in introducing bipartisan legisla-
tion that we believe can make a real
difference in the lives of health care
consumers in this nation. The Health
Care Consumer Assistance Act provides
grants to States to create, or expand
upon, health care consumer assistance
or health ombudsman programs.

In 1997, the President’s Advisory
Commission on Consumer Protection
and Quality in the Health Care Indus-
try noted that consumers have the
right to accurate information and as-
sistance in making decisions about
health plans. One model program, the
Administration on Aging’s Long Term
Care Ombudsman Program, has been
highly successful for twenty five years
in promoting quality living and home
health care for nursing home residents
nationwide.

Now more than ever, people need this
kind of assistance to navigate the
health care system. The Health Care
Consumer Assistance Act would create
a grant program to establish, maintain,
and use the authority to operate statewide
health care consumer, including the
following: educational materials about
strategies for health care consumers to resolve problems and grievances; operate a 1-800 telephone hotline, consumer and health care plan coordination and make referrals to other private and public health care entities when appropriate; and conduct education and outreach in the community.

The concept of a health care consumer assistance program has gained considerable support over the past several years as states have contemplated the patient protection issue and several states have taken steps to create these programs. Governors and state legislatures in many states including Florida, Georgia, Massachusetts, Maryland, Nebraska, Nevada, Rhode Island, Texas, Vermont, Virginia and Wisconsin have introduced or enacted health care ombudsman legislation. However, a Families USA survey of existing programs has found that while some states have successfully launched their programs, other state initiatives have faltered due to a lack of sufficient funding.

I believe that Americans deserve access to the information and assistance they need to be empowered and informed health care consumers. As the health insurance system becomes more confusing and complex, it becomes critically important that consumers have a place where they can go for counseling and assistance. As health plan options become more complicated, people need a reliable, accessible source of information. State health care consumer assistance programs have proven their ability to meet this challenge. I look forward to working with my colleagues in advancing this important and timely legislation.

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. 651

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 "Health Care Consumers Assistance Fund Act".

SEC. 2. FINDINGS.
Congress makes the following findings:

(1) All consumers need information and assistance to understand their health insurance choices and to facilitate effective and efficient access to needed health services. Many do not understand their health care coverage despite the current efforts of both the public and private sectors.

(2) Federally initiated health care consumer assistance and information programs targeted to consumers of long-term care and to Medicare beneficiaries under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) and Medicaid and Medicare and Medicaid health care fraud and abuse activities including those authorized by Federal law under title II of the Social Security Act (42 U.S.C. 1395 et seq.), and State health insurance programs and health plans that perform similar functions;

(4) the manner in which the State will provide services to minority populations and populations residing in rural areas;

(5) the manner in which the State will establish and implement procedures and protocols, consistent with applicable Federal and State confidentiality laws, to ensure the confidentiality of all information shared by consumers and health care providers, health plans, or insurers with the office established under subsection (d)(1) and to ensure that no such information is used, recorded, or disclosed by the office, without the express prior permission of the consumer in accordance with section 4(b), except to the extent that the office collects or uses aggregate information;

(6) the manner in which the State will oversee the health care consumer assistance office, its activities and product materials, and health care consumer assistance programs. Health care consumer assistance programs have proven their ability to meet this challenge.

(4) Many states have created health care consumer assistance programs. The Federal Government can assist the States in developing and maintaining effective health care consumer assistance programs.

(5) the coordination of educational and outreach efforts with consumers, health plans, health care providers, payers, and governmental agencies; and

(7) the manner in which the State will provide for the collection of non-Federal contributions for the operations of the office in an amount that is not less than 25 percent of the amount of Federal funds provided under this Act; and

(8) the manner in which the State will ensure that funds made available under this Act will be used to supplement, and not supplant, any other Federal, State, or local funds expended to provide services for programs described under this Act and those described in paragraphs (3) and (4).

(c) AMOUNT OF GRANT.—

(1) IN GENERAL.—From amounts appropriated under section 4 for a fiscal year, the Secretary shall award a grant to a State in an amount that bears the same ratio to such amounts as the number of individuals within the State covered under a health insurance plan (as determined by the Secretary) bears to the total number of individuals covered under a health insurance plan in all States and territories as determined by the Secretary.

(2) MINIMUM AMOUNT.—In no case shall the amount provided to a State under this section for a fiscal year be less than 50 percent of the amount provided to a State under this section for the previous fiscal year.

(d) PROVISION OF FUNDS FOR ESTABLISHMENT OF OFFICE.—

(1) IN GENERAL.—From amounts provided under this Act to carry out consumer assistance activities directly or by contract with an independent, nonprofit organization, the State shall ensure the adequate training of personnel carrying out such activities. Such activities shall include—

(1) the operation of a toll-free telephone hotline to respond to consumer requests for assistance;

(2) the dissemination of appropriate educational materials on how best to access health care and the rights and responsibilities of health care consumers;

(3) the provision of education to health care consumers on effective methods to promptly and efficiently resolve their questions complaints, and grievances;

(4) referrals to appropriate private and public entities to resolve questions, problems and grievances;

(5) the coordination of educational and outreach efforts with consumers, health plans, health care providers, payers, and governmental agencies; and

(6) the provision of information and assistance to consumers regarding internal, external, or administrative grievances or appeals
procedures in nonlitigative settings to ap-
peal a denial, termination, or reduction of health care services, or the refusal to pay for such services, under a health insurance plan.

(b) CONFIDENTIALITY AND ACCESS TO INFOR-
MATION—The consumer assistance office of a State shall establish and im-
plement procedures and protocols, consistent with applicable Federal and State confiden-
tiality laws, that protect the confidentiality of all information shared by consumers and their health care providers, health plans, or insurers with the office and to ensure that no such information, released, referred to State agencies or outside entities without the expressed prior permission of the consumer, except to the extent that the office collects or uses aggregate information that is not individually identifiable. Such procedures and protocols shall ensure that the health care consumer is provided with a description of the policies and procedures of the office with respect to the manner in which health information may be used to carry out consumer assistance activities.

(c) AVAILABILITY OF SERVICES.—The health care consumer assistance office of a State shall not discriminate in the provision of information and referrals regardless of the source of funding. In the case of a consumer's health insurance coverage or prospective coverage, including individuals covered under employer-provided insurance, self-funded plans, the medicare or medicaid programs under title XVIII or XIX of the Social Security Act (42 U.S.C. 1395 and 1396 et seq.), or any other Federal or State health care program.

(d) DESIGNATION OF RESPONSIBILITIES.—
(1) WITHIN EXISTING STATE ENTITY.—If the health care consumer assistance office of a State is located within an existing State regulatory agency or office of an elector State official, the State shall ensure that—
(A) there is a separate delineation of the funding, activities, and responsibilities of the office as compared to the other funding, activities, and responsibilities of the agency;
and
(B) the office establishes and implements procedures and protocols to ensure the confiden-
tiality of all information shared by con-
sumers and their health care providers, health plans, or insurers with the office and to ensure that no information is transferred or released to the State agency or office without the expressed prior permission of the consumer in accordance with subsection (b).

(2) CONTRACT ENTITY.—In the case of an en-
tity that enters into a contract with a State under section 3(c), the entity shall provide assurances that the entity has no real or per-
ceived conflict of interest in providing ad-
vice and assistance to consumers regarding health insurance and that the entity is inde-
pendent of health insurance plans, compa-
nies, providers, payers, and regulators of care.

(e) SUBCONTRACTS.—The health care con-
sumer assistance office of a State may carry out activities and provide services through contracts entered into with 1 or more non-
profit entity or the individual’s health insurance or demonstrate that all of the requirements of this Act are complied with by the office.

(f) TIER.—A contract entered into under this section shall be for a term of 3 years.

SEC. 5. FUNDING.
There are authorized to be appropriated $100,000,000 to carry out this Act.

SEC. 6. REPORT OF THE SECRETARY.
Not later than 1 year after the Secretary first awards grants under this Act, and annu-
ally thereafter, the Secretary shall prepare

By Mr. EDWARDS (for himself. Mr. JEFFORDS, Mr. LEAHY, and Mr. WELLSTONE):

S. 652. A bill to promote the develop-
ment of affordable, quality rural hous-
ing in rural low-income households; to the Committee on Bank-
king, Housing, and Urban Affairs.

Mr. EDWARDS. Mr. President, I rise to reintroduce legislation I offered last year to promote the development of af-
ordable, quality rental housing for low-income households in rural areas. I am pleased, along with Senator JEFF-

There has been a growing and worsening need for quality rental housing for rural families and senior citizens. As a
group, residents of rural communities are the worst housed of all our citizens. Rural areas contain approximately 29 percent of the nation’s population as compared to suburbs with 50 percent. Yet, twice as many rural American families live in bad housing than in the suburbs. An estimated 2,600,000 rural households live in substandard housing with serious structural damage or with- out indoor plumbing, heat, or electricity.

Substandard housing is a particu-
larly grave problem in the rural areas of my home state of North Carolina. Ten percent or more of the population in five of North Carolina’s rural coun-
ties live in substandard housing. Rural housing units, in fact, comprise 60 per-
cent of all substandard units in the state.

Even as millions of rural Americans live in rented housing unit, millions more are paying an extraor-
dinarily high price for their housing. One out of every three renters in rural America pays more than 30 percent of their income for housing. Of the households living in rural areas, more than 50 percent are families live in high cost housing.

Most distressing is when people liv-
ing in housing that does not have heat or other heating or cooling systems or are furnished with the cost of the heating or cooling. When people live in housing that does not have heat or other heating or cooling systems or are furnished with the cost of the heating or cooling, they pay more than 50 percent of their income for housing.

Unfortunately, our rural commu-
nities are not in a position to address this problem alone. They are disproportionately poor and have fewer resources to bring to bear on the issue. Poverty is a crushing, persistent problem in rural America. One-third of the non-
metropolitan households in North Carolina have 20 percent or more of their population living below the pov-
erty line. In contrast, not a single met-
ropolitan county in North Carolina has 20 percent or more of its population living below the poverty line. Not surpris-
ingly, the economies of rural areas are generally less diverse, banks and other investors, seeking for larger projects with lower risk, seek metropolitan areas for loans and investment. Credit in rural areas is often more expensive and available at less favorable terms than in metropolitan areas.

Given the magnitude of this problem, it is startling to find that the federal government is turning its back on the situation. In the face of this challenge, the federal government’s investment in rural rental housing remains at its lowest level in more than 25 years. Federal spending for rural rental housing has been cut by 73 percent since 1994. Rural rental housing unit production fin-
anced by the federal government has been reduced by 88 percent since 1990. Moreover, poor rural renters do not fair as well as poor urban renters in ac-
cessing existing programs. Only 17 per-
cent of very low-income rural renters receive housing subsidies, compared to 28 percent of urban poor. Rural counties fared worse with Federal Housing Authority assistance on a per capita basis, as well, getting only $25 per capita versus $264 in metro areas. Our veterans in rural areas are no bet-
ter off. Veterans Affairs housing dol-
ars are spent disproportionately in metal areas.

To address the scarcity of rural rent-
ing housing, I believe that the federal government must come up with new so-
lutions. We cannot simply throw mon-
ies at the problem, and expect the situa-
tion to improve. Instead, we must work in partnership with State and local governments, private financial institutions, private philanthropic in-
stitutions, and the private and non-
profit sectors to make headway. We
must leverage our resources wisely to increase the supply and quality of rural rental housing for low-income house-
holds and the elderly.

Senator JEFFORDS, Senator LEAHY, Senator WELLSTONE, I am proposing a new solution. Today, we intro-
duce the Rural Rental Housing Act of 2001 to create a flexible source of fi-
nancing to allow project sponsors to build, acquire or rehabilitate rental housing based on local needs. We de-
mand that the federal dollars to be stretched by requiring State matching funds and by requiring the sponsor to find additional sources of funding for the project. We are pleased that more than 70 housing groups from 28 states have already indicated their support for this legislation.

Let me briefly describe what the measure would do. We propose a $250
million fund to be administered by the United States Department of Agriculture, USDA. The funds will be allotted to states on the basis of the number of rural substandard units and of the rural population living in poverty, with smaller states guaranteed a minimum of $2 million. We will leverage federal funding by requiring states or other non-profit intermediaries to provide a dollar-for-dollar match of project funds. The funds will be used for the acquisition, rehabilitation, and construction of low-income rural rental housing.

The USDA will make rental housing available for low-income populations in rural communities. The population served must earn less than 80 percent of area median income. Housing must be in rural areas with populations not exceeding 200,000, and the need for assistance will be given to very low income households, those earning less than 50 percent of area median income, and in very low income communities or in communities with a severe lack of affordable housing.

The Act promotes public-private partnerships to foster flexible, local solutions. The USDA will make assistance available to public bodies, Native American tribes, for-profit corporations, and private nonprofit corporations with a record of accomplishment in housing or community development. Again, it stretches federal assistance by limiting most projects from financing more than 50 percent of a project cost with this funding. The assistance may be made available in the form of capital grants, subsidies, loan guarantees, and other forms of financing for rental housing and related facilities.

Finally, the Act will be administered at the state level by organizations familiar with the unique needs of each state rather than creating a new federal bureaucracy. The USDA will be encouraged to identify intermediary organizations based in the state to administer the funding provided that it complies with the provisions of the Act. These intermediary organizations can be states or state agencies, private nonprofit community development corporations, nonprofit housing corporations, community development loan funds or community development credit unions.

This Act is not meant to replace, but to supplement the Section 515 rental housing program, which has been the primary source of federal funding for rural rental housing in rural America from its inception in 1963. Section 515, which is administered by the USDA's Rural Housing Service, makes direct loans to non-profit and for-profit developers to build rural rental housing for very low income tenants. Our support for Section 515 has decreased in recent years, and there has been a 73 percent reduction since 1994—which has had two effects. It is practically impossible to build new rental housing, and our ability to preserve and maintain the existing stock of Section 515 units is hobbled. Fully three-quarters of the Section 515 portfolio is more than 20 years old.

The time has come for us to take a new look at a critical problem facing rural America. How can we best work to promote the development of quality rental housing for low-income people in rural America? My colleagues and I believe that to answer this question, we must comply with certain basic principles. We do not want to create yet another program with a large federal bureaucracy. We want a program that is flexible, that fosters public-private partnerships, that leverages federal funding through locally controlled. We believe that the Rural Rental Housing Act of 2001 satisfies these principles and will help move us in the direction of ensuring that everyone in America, including those in rural areas, have access to affordable, quality housing options.

I request 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:

SEC. 3. DEFINITIONS.
In this Act:

(1) ELIGIBLE PROJECT.—The term 'eligible project' means a project for the acquisition, rehabilitation, or construction of rental housing and related facilities in an eligible rural area for occupancy by low-income families.

(2) ELIGIBLE RURAL AREA.—The term 'eligible rural area' means a rural area with a population of not more than 25,000, as determined by the most recent decennial census of the United States, and that is located outside an urbanized area.

(3) ELIGIBLE SPONSOR.—The term 'eligible sponsor' means a public agency, an Indian tribe, a for-profit corporation, or a private nonprofit corporation—
(A) a purpose of which is planning, developing, or managing housing or community development projects in rural areas; and
(B) that has a record of accomplishment in housing or community development and meets other criteria established by the Secretary by regulation.

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

(5) QUALIFIED INTERMEDIARY.—The term 'qualified intermediary' means a State, a State agency designated by the Governor of the State, a public instrumentality of the State, a private nonprofit community development corporation, a nonprofit housing corporation, a public housing authority, a farmer's cooperative, a community development credit union, or a rural development credit union, that—
(A) has a record of providing technical and financial assistance for housing and community development activities in rural areas; and

CONGRESSIONAL RECORD—SENATE March 29, 2001

March 29, 2001

S. 652

Be it enacted by the Senate and House of Representa"
(B) has a demonstrated technical and financial capacity to administer assistance made available under this Act.

(7) SECRETARY.—The term ‘‘Secretary’’ means the Secretary of Agriculture.

(8) State.—‘‘State’’ means each of the several States of the United States, the Commonwealth of Puerto Rico, the District of Columbia, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territories of the Pacific, and any other possession of the United States.

SEC. 4. RURAL RENTAL HOUSING ASSISTANCE.

(a) IN GENERAL.—The Secretary may, directly or through 1 or more qualified intermediaries in accordance with section 5, make assistance available to eligible sponsors in the form of loans, grants, interest subsidies, annuities, and other forms of financing assistance, to finance the eligible projects.

(b) APPLICATIONS.—

(1) IN GENERAL.—To be eligible to receive assistance under this section, an eligible sponsor shall submit to the Secretary, or a qualified intermediary, an application in such form and containing such information as the Secretary shall require by regulation.

(2) AFFORDABILITY RESTRICTION.—Each application under this subsection shall include a certification by the applicant that the housing proposed to be subsidized, established, or constructed with assistance under this section will remain affordable for low-income families for not less than 30 years.

(c) PRIORITY FOR ASSISTANCE.—In selecting among applicants for assistance under this section, the Secretary, or a qualified intermediary, shall give priority to providing assistance to eligible projects—

(1) for very low-income families (as defined in section 3(b) of the United States Housing Act of 1950 (42 U.S.C. 1437f(b)); and

(2) in low-income communities or in communities with a severe lack of affordable rental housing, in eligible rural areas, as determined by the Secretary; or

(3) if the applications are submitted by public agencies, Indian tribes, private non-profit corporations or limited dividend corporations, general partners, or non-profit entities whose principal purposes include planning, developing and managing low-income housing and community development projects.

(d) ALLOCATION OF ASSISTANCE.—

(1) IN GENERAL.—In carrying out this section, the Secretary shall allocate assistance among the States, taking into account the incidence of rural standard housing and rural poverty in each State and the share of that State of the national total of such incidence.

(2) SMALL STATE MINIMUM.—In making an allocation under paragraph (1), the Secretary shall provide each State an amount not less than $2,000,000.

(e) LIMITATIONS ON AMOUNT OF ASSISTANCE.—

(1) IN GENERAL.—Except as provided in paragraph (2), assistance made available under this Act may not exceed 50 percent of the total cost of the eligible project.

(2) EXEMPTION.—Assistance authorized under this Act shall not exceed 75 percent of the total cost of the eligible project, if the project is for the acquisition, rehabilitation, or construction of not more than 20 rental housing units for use by very low-income families.

SEC. 5. DELEGATION OF AUTHORITY.

(a) IN GENERAL.—The Secretary may delegate authority for distribution of assistance—

(1) to one or more qualified intermediaries in the State; and

(2) for a period of not more than 3 years, at which time that delegation of authority shall be subject to renewal, in the discretion of the Secretary, for 1 or more additional periods of not more than 3 years.

(b) SOLICITATION.—

(1) IN GENERAL.—The Secretary may, in the discretion of the Secretary, solicit applications from qualified intermediaries for a delegation of authority under this section.

(2) CONTENTS OF APPLICATION.—Each application under this subsection shall include—

(A) a certification that the applicant will—

(i) provide matching funds from sources other than this Act in an amount that is not less than the amount of assistance provided to the applicant under this section; and

(ii) distribute assistance to eligible sponsors in the State in accordance with section 4; and

(B) a description of—

(i) the State or the area within a State to be served;

(ii) the incidence of poverty and sub-standard housing in the State or area to be served;

(iii) the technical and financial qualifications of the applicant; and

(iv) the assistance sought and a proposed plan for the distribution of such assistance in accordance with section 4.

(c) INLINES OF APPROPRIATIONS.—

There is authorized to be appropriated to carry out this Act $250,000,000 for each of fiscal years 2002 through 2006.

Mr. LEAHY. Mr. President, I am proud, once again, to rise and offer my support for the Rural Rental Housing Act. This important legislation will help reaffirm the federal government’s commitment to provide quality affordable housing in rural areas. I joined Senator Edwards in introducing this bill last year and look forward to the opportunity to debate this issue in the 107th Congress.

The need for a new federal program to encourage production, rehabilitation and acquisition of rural rental housing has never been more evident than it is today. Families in small towns across the country find themselves with fewer and fewer options for a safe and affordable place to live. In my home state of Vermont, like many other states across the country, housing costs have soared out of reach of most low-income families and rental vacancy rates have fallen to alarmingly low levels. For those people fortunate enough to find an available apartment it is increasingly difficult to afford the rent the market demands.

Despite this trend, the federal government has continued to scale back their commitment to rural housing programs over the last decade. Money for production has dropped nearly 80 percent since 1990, and funding for subsidized housing has fallen by 73 percent since 1994. This decline has made it incredibly difficult to maintain the existing housing stock, little less produce the number of units need to meet demand. In Vermont four thousand rental units were built with federal assistance between 1970 and 1985, but during the next ten years this number fell to under two thousand—nearly half of what was produced the decade before, despite the rising need. Nationwide it is estimated that nearly 2.6 million households live in substandard conditions, often without proper plumbing, heat or electricity.

The Rural Rental Housing Act will provide $250 million dollars for a new matching federal grant program to address this situation. These funds will complement existing programs run by the Rural Housing Service at Department of Agriculture and will be used in a variety of ways to increase the supply, the affordability, and the quality of affordable housing units without disrupting the existing housing stock. Every year, in fact, every day, we see the demolition of old, unsafe rental units. We are losing not just dollars, but time. We are losing the creation of an equivalent number of new affordable housing units. And while there can be no question that some of our existing affordable housing units should be demolished, we have yet to meet our responsibility to replace the old units that are lost with new, better, affordable units. Our current policy simply results in too many displaced families, families who are forced to sometimes double-up or even become homeless in worst-case scenarios, overburdening already fragile communities.

The housing needs of rural communities are particularly pronounced.
Rural households pay more of their income for housing than do urban households. They are less likely to benefit from government-assisted mortgages; they tend to be poorer than urban households. They have limited access to mortgage credit, and they are often targeted by predatory lenders. Rural communities have a disproportionate share of the nation's substandard housing. They often have an inadequate supply of affordable housing. Development costs are higher in rural communities than in urban areas, and rural communities have a limited secondary mortgage market. Many low-income rural families have only limited experience with credit and lending institutions, and they often lack an understanding of what it takes to get a home loan. Compounding this problem is a lack of pre- and post-purchase counseling for rural homeowners.

Despite the critical housing needs of rural communities, direct lending for new or improved rural rental housing is currently at its lowest funding level in more than 25 years. The Department of Agriculture, USDA, has oversight of most of the federal rural housing assistance programs. The primary sources of funding for rural housing assistance, the Section 515 Rural Rental Housing Loan Program, which makes direct loans to developers and cooperatives to build rural rental housing and the Section 521 Housing Assistance Program (which provides rent subsidies to low-income rural renters), have seen their funding levels steadily eroded since the mid-eighties. As a consequence, right now the rate of housing assistance to non-metro areas is only about half that to metro areas.

Unfortunately, while funding levels for rural housing assistance programs have been decreasing, the need for affordable rural housing has been increasing. According to an analysis of the 1995 American Housing Survey, AHS, data, 10.4 million rural households, 28 percent, have housing problems. When considering only rural renters, the problem becomes even more pronounced. Thirty-three percent of all rural renters are "cost burdened," paying more than 30 percent of their income for housing costs. Almost one million rural renter households suffer from multiple housing problems. Of these households, 90 percent are severely cost burdened, paying more than 50 percent of their income for rent. Sixty percent pay more than 70 percent of their income for housing. Nearly 60 percent of Section 521 housing assistance are elderly, disabled or handicapped. The average tenant income is less than $8,000 a year, and the average income of tenants who receive Section 521 housing assistance is $7,300 per year. Ninety-eight percent of them are either low-income, 88 percent, or very low-income, 10 percent, and 75 percent are single female or female-headed households.

The "Rural Rental Housing Act of 2001" is intended to promote the development of affordable, quality rental housing in rural income households. The bill would authorize the Secretary of Agriculture, directly or through specified intermediaries, to provide rural rental housing assistance in the form of loans, grants, interest subsidies, annuities, and other forms of assistance to finance eligible projects. It would require that no state receives less than $2 million. It would limit the amount of assistance to 50 percent of the total cost of eligible projects, unless the project is smaller than 20 units and is targeted to very-low income tenants, then assistance can total up to 75 percent of the total cost. It would require that properties acquired, rehabsed, or constructed with these funds remain affordable for low-income families for 30 years, and it would give priority to low-income families, low-income communities, or communities lacking affordable rental housing. Finally, it would authorize $250,000,000 in appropriations for each fiscal year 2001 through 2005.

I am pleased to be a co-sponsor of this important legislation, and look forward to working with Senators Edwards, Jeffords, and Leahy to ensure its passage.

By Mr. BAYH (for himself, Mr. DOMENICI, Mrs. LUCASI, Mr. LUGAR, Mr. GRAHAM, Mr. Voinovich, Mr. CARPER, Mr. LIEBERMAN, Mr. JOHNSON, Mr. MILLER, Ms. LANDRIEU, Mr. Breaux, and Mr. KOHL):

S. 633. A bill to amend part D of title IV of the Social Security Act to provide grants to States to encourage the development and operation of fatherhood education programs; to increase the amount of assistance to States for low-income families with respect to a father's responsibilities; and for other purposes; to the Committee on Finance.

Mr. BAYH. Mr. President, I rise today to introduce The Responsible Fatherhood Act of 2001 with Senator PETE DOMENICI. Our bill aims to encourage fathers to take both emotional and financial responsibility for their children.

Many of America's mothers, including single moms, are heroes in their efforts to make ends meet while raising good, responsible children. Many dads are too. But an increasing number of men are not doing their part, or are absent entirely. The decline in the involvement of fathers in the lives of their children over the last forty years is a troubling trend that affects us all. Fathers can help teach their children about respect, honor, duty and so many of the values that make our communities strong.

The number of children living in households without fathers has tripled over the last forty years, from just over 5 million in 1960 to more than 17 million today. Today, the United States leads the world in fatherless families, and too many children spend their lives without any contact with their fathers. The consequences are severe. A study by the Journal of Research in Crime and Delinquency found that the best predictor of violent crime and burglary in a community is not the rate of poverty, but the rate of fatherless homes.

When fathers are absent from their lives, children are: 5 times more likely to live in poverty; twice as likely to commit crimes; more likely to bring weapons and drugs into the classroom; twice as likely to drop out of school; twice as likely to be abused; more likely to commit suicide; over twice as likely to abuse alcohol or drugs; and more likely to become pregnant as teenagers.

I have had the opportunity to work with and visit local fatherhood programs in Indiana. I have talked to fathers who work to re-engage with their children, learn to be better parents, and gradually build the trust that allows them to be involved emotionally, as well as financially, with their children. I visited the Father Resource Program, run by Dr. Wallace McLaughlin in Indianapolis. This program is a wonderful example of a local, private/public partnership that delivers results. It has served more than 500 fathers, primarily young men between the ages of 15 and 25, to bring father peer support meetings, pre-marital counseling, family development forums and family support services, as well as co-parenting, employment, job training, education, and life skills classes.

The fathers there were eager to tell me about the profound impact these programs have made in their lives, and the lives of their children. One said to me, "After the six week fatherhood training program, I haven't stopped. . . . I was wild before. The program taught me self-discipline, parenting skills, and responsibility." Another said, "As fathers, we would like to interact with our kids. When they grow into something, we want to feel proud and say that we were a part of that." And yet another, "The program showed me how to have a better relationship with my child's mother, and a better relationship with my child. Because of the relationship, we are now considering having more money coming in. . . . We're looking at our finances. . . ."

While the program's emotional benefits to families are difficult to measure, we do know it is helping fathers enter the workforce. Over eighty percent of the men who have graduated from the program are currently employed.

This type of investment is a fiscally responsible one, it helps get to the root cause of many of the social problems that cost our society and our government a great deal of money: The cost to society of drug and alcohol abuse is more than $110 billion per year. The social and economic costs of teenage
pregnancy, abortion and STDs has been estimated at over $21 billion per year. The federal government spends $8 billion a year on poverty relief programs for families and children.

All this adds up to a staggering price. My legislation, The Responsible Fatherhood Act of 2001, does three primary things to help combat fatherlessness in America. First, it creates a grant program for state media campaigns to encourage fathers to act responsibly. Second, it funds community efforts that provide fathers with the tools necessary to be responsible fathers. Finally, the bill creates a National Clearinghouse to assist states with their programs and with the dissemination of materials to promote responsible fatherhood.

Senators Voinovich, Lincoln, Lugar, Johnson, Miller, Landrieu, Breaux, Graham, Lieberman, Kohl, and Carper along with the introduction of The Responsible Fatherhood Act of 2001. This legislation has been introduced in the House of Representatives by Congresswoman Julia Carson, and has the endorsement of the Congressional Black Caucus.

President Bush has included funding for responsible fatherhood in his budget blueprint and I encourage him to continue to make this initiative a priority. Collectively, I hope we are able to pass responsible fatherhood legislation prior to Father's Day this year.

I know that government cannot be the lone answer to this problem. We cannot legislate parental responsibility. Legislation can encourage fathers to behave responsibly, inform the public about the consequences of father absent, and remove barriers to responsible fatherhood. I urge my colleagues to support this important initiative.

By Mr. LUGAR (for himself and Mr. HARKIN):

S. 657. A bill to authorize funding for the National 4-H Program Centennial Initiative; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. LUGAR. Mr. President, I rise to introduce legislation authorizing funding for the National 4-H Program Centennial Initiative.

In 2002 we will celebrate the centennial of the founding of the 4-H program. This important youth development program operates in each of the 50 states and over 3,000 counties. The program is carried out through cooperative efforts of: youth; volunteer leaders; land grant universities; federal, state and local governments; and the U.S. Department of Agriculture.

Last year over 6 million youth ages 5 to 19 participated in the 4-H program. Over 600,000 volunteer leaders work directly or indirectly with youth through the 4-H program.

The legislation I am introducing today recognizes the important role of 4-H in youth development. I am pleased that Senator Harkin has joined with me as a cosponsor.

In celebration of its centennial, the National 4-H Council has proposed a public-private partnership to develop new strategies for youth development for the next century. The funding authorized in this bill will allow the National 4-H Council to convene meetings and hold discussions at the national, state, and local levels to form strategies for youth development. From input provided through these sessions, a final report will be prepared that summarizes the discussions, makes specific recommendations of strategies for youth development, and proposes a plan of action for carrying out those strategies.

Because 4-H is an important program for youth in each of our states, I am hopeful that there will be strong support for this initiative from my colleagues. I urge my colleagues to co-sponsor this legislation.

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

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

S. 657

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

SECTION 1. NATIONAL 4-H PROGRAM CENTENNIAL INITIATIVE.

(a) FINDINGS.—Congress finds that:

(1) the 4-H Program is 1 of the largest youth development organizations operating in each of the 50 States and over 3,000 counties;

(2) the 4-H Program is promoted by the Secretary of Agriculture through the Cooperative State Research, Education, and Extension Service and land-grant colleges and universities;

(3) the 4-H Program is supported by public and private resources, including the National 4-H Council; and

(4) in celebration of the centennial of the 4-H Program in 2002, the National 4-H Council has proposed a public-private partnership to develop new strategies for youth development for the next century in light of an increasingly global and technology-oriented economy and ever-changing demands and challenges facing youth in widely diverse communities.

(b) GRANT.—

(1) IN GENERAL.—Subject to the availability of appropriations, the Secretary of Agriculture shall make a grant to the National 4-H Council to be used to pay the Federal share of the cost of—

(A) conducting a program of discussions through meetings, seminars, and listening sessions on the National, State, and local levels regarding strategies for youth development; and

(B) preparing a report that—

(i) summarizes and analyzes the discussions;

(ii) makes specific recommendations of strategies for youth development; and

(iii) proposes a plan of action for carrying out those strategies.

(2) COST SHARING.—

(A) IN GENERAL.—The Federal share of the cost of the program under paragraph (1) shall be 50 percent.

(B) FORM OF NON-FEDERAL SHARE.—The non-Federal share of the cost of the program under paragraph (1) may be paid in the form of cash or the provision of services, material, or other in-kind contributions.

(c) REPORT.—The National 4-H Council shall submit the report prepared under subsection (b) to the President, the Secretary of Agriculture, the Committee on Agriculture, Nutrition and Forestry of the Senate, and the Committee on Agriculture, Nutrition, and Forestry of the House of Representatives.

(d) AUTHORIZATION OF APPROPRIATIONS.—

There is authorized to be appropriated to carry out this section $5,000,000 for fiscal year 2002.

Mr. HARKIN. Mr. President, I am pleased to join Senator Lugar, the chairman of the Committee on Agriculture, Nutrition and Forestry, in introducing this legislation to authorize a national effort to strengthen 4-H's youth development program. With the 4-H program set to observe its centennial year in 2002, this legislation is a fitting tribute to the contributions 4-H has made over the years to youth development in both rural and urban communities.

The 4-H program is uniquely positioned to continue and expand upon its record of service to our youth all across America and across our many diverse communities, from farms to inner cities. 4-H is federally authorized, carried out through state land-grant universities and supported with public and private resources, including from the National 4-H Council. However, the key to 4-H's success is the multitude of volunteers who make the 4-H program work at the local community level.

This legislation will authorize a new initiative for developing and carrying out strategies for strengthening 4-H youth development in its second century. Working through public-private partnerships, the National 4-H Council will start at the grassroots level with a program of discussions around the country involving meetings, seminars and listening sessions to address the future of 4-H youth development. Based on the information and ideas gathered, a report will be prepared that summarizes and analyzes the discussions, makes recommendations of strategies for youth development and proposes a plan of action for carrying out those strategies.

The objective, of course, is to build on the tradition and success of 4-H to develop new approaches for youth development that are appropriate and effective in the 21st Century. Youth today face ever-growing pressures, demands and challenges far different from those of the past. 4-H has a great deal to offer them, but to be fully successful 4-H must adapt to the realities of an increasingly complex and rapidly changing world. 4-H must also be responsive to the widening diversity of
the local communities where its contributions really make a difference.

In short, 4-H can expand its fine record of service and accomplish even more in its second century by developing new strategies for youth development. That is exactly what this legislation is designed to help achieve. I urge my colleagues to support it.

By Mr. LEAHY (for himself and Mr. JEFFORDS): S. 658. A bill to amend title 32, United States Code, to authorize units of the National Guard to conduct small arms competitions and athletic competitions, and for other purposes; to the Committee on Armed Services.

Mr. LEAHY. Mr. President, I am pleased to rise today with Senator JEFFORDS to introduce legislation that will allow the National Guard to participate fully in international sports competitions. Currently, members of the National Guard are involved in a myriad of athletic and small arms competitions, but their authority for such activities is unclear. This legislation will make it easier for the Guard to support the competitions and allow them to use their funds and facilities for such events. This is basic but necessary legislation.

The National Guard is already participating in such events. The Vermont National Guard hosted the 2001 Conseil International du Sport Militaire, CISM, World Military Ski Championships at the Stowe ski area this month. This military ski event united military personnel from more than 35 international athletes who competed in such events as the biathlon, giant slalom, cross country, and military patrol race. They tested their skill and mettle in the beautiful Green Mountains, where the recent nor’easter added to the already bountiful snow cover there.

But it takes a lot more than a 3-foot base of powder to carry off these competitions. It takes clear authorities, regulations, and resources. This legislation will allow the Guard to participate in international sports competitions and to develop new strategies for youth development.

I ask unanimous consent that additions to the material be printed in the RECORD.

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

S. 658

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, in the Congress of the United States begun and held at Washington, D.C., on March 29, 2001,

CONGRESSIONAL RECORD—SENATE
March 29, 2001

SECTION 1. CONDUCT OF SMALL ARMS COMPETITIONS; ATHLETIC COMPETITIONS BY THE NATIONAL GUARD.

(a) PREPARATION AND PARTICIPATION GENERALLY.—Section 504 of title 32, United States Code, is amended—

(1) in subsection (a)—

(A) by striking “or” at the end of paragraph (2);

(B) by striking paragraph (3) and inserting:

“(3) prepare for and participate in small arms competition; or”; and

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

“(4) prepare for and participate in qualifying athletic competitions.”; and

(2) by striking at the end the following new subsections:

“(b)(1) Units of the National Guard may conduct a small arms competition or qualifying athletic competition in conjunction with training required under this chapter if such activity (treating the activity as if it were a provision of services) meets the requirements set forth in paragraphs (1), (3), and (4) of section 508(a) of this title.

“(2) Facilities and equipment of the National Guard, including military property and vehicles described in section 508(c) of this title, may be used in connection with activities carried out under paragraph (1).

“(3) Except as otherwise provided in an appropriation Act, amounts appropriated for the National Guard may be used to pay the costs of activities carried out under this subsection and expenses incurred by members of the National Guard in engaging in activities under paragraph (3) or (4) of subsection (a), including participation fees, costs of attendance, costs of travel, per diem, lodging, costs of equipment, and related expenses.

“(d) In this section, the term ‘qualifying athletic competition’ means a competition in an athletic event that necessarily involves demonstrations by the competitors of—

“(1) skills relevant to the performance of military duties; or

“(2) physical fitness consistent with the standards that are applicable to members of the National Guard in evaluations of the physical readiness for military duty in the members’ armed force.’’.

(b) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

“§ 504. National Guard schools; small arms competitions; athletic competitions”.

(2) The item relating to such section in the table of sections at the beginning of chapter 5 of title 32, United States Code, is amended to read as follows:

“§ 504. National Guard schools; small arms competitions; athletic competitions.”.

SECTIONAL ANALYSIS

Section XXX amends 32 U.S.C. §504 to allow the National Guard to use appropriated funds to support certain costs of members of the National Guard involved with small arms and other athletic training and competitions to promote morale and military readiness. Although the Department of Defense (DOD), Air Force (USAF), and Army (DA) regulations allow use of appropriated funds to support sports programs, there are some inconsistencies under general fiscal law principles for which appropriated funds can not be used, unless specifically authorized by law. The Active Components cover these costs with non-appropriated funds. Unlike the Air Force and the Army, the National Guard receives no non-appropriated funds for Morale, Welfare, Recreation (MWR) sports activities and, therefore, can not cover costs associated with sports programs with such funds. Section XXX addresses this inconsistency and provides authority for NGB to spend appropriated funds on items the Active Components generally cover with non-appropriated funds.

Departmental, national, and international sports competition programs are run by the Army and the Air Force. AR 34–107 outlines the requirements for soldier/airmen athletes to apply to compete at this level as individuals or as part of departmental teams. 10 U.S.C. §717 provides specific statutory authority to use appropriated funds to purchase personal furnishings for soldier/airmen competitors at this level. This authority, however, can not be used to support the NG sports program because implementing regulations require control and approval at the departmental level. DODD 1330.4, AR 215–1, chap. 8, AFIP 34–107. The NG competitive sports program, as with other DOD level sports programs within the Active Components, maintains intramural sports programs to support athletes who will train to compete for positions on the departmental teams authorized by 10 U.S.C. §717. Section XXX authorizes the NG to use appropriated funds to support a MACOM level sports program on par with Active Component MACOMs.

Section XXX places two limits on NGB sports activities to ensure any training, participation, or holding of sports events enhances military readiness. First, the amendment allows preparation for and participation in events that are relevant to military duties or involve aspects of physical fitness that are evaluated by the armed forces in determining whether a member of the National Guard is fit for military duty.’’ Second, the amendment requires the National Guard hold only sports events that “meet the requirements set forth in paragraphs (1), (3), and (4) of section 508(a)” of title 32, United States Code. The confusion allows preparation for and participation in events that are not relevant to military duties or involve aspects of physical fitness that are evaluated by the armed forces in determining whether a member of the National Guard is fit for military duty.’’

Section XXX is designed to help achieve. I urge my colleagues to support it.

Mr. JEFFORDS. Mr. President, it is with great pleasure that Senator LEAHY and I today to introduce the National Guard Competitive Sports Equity Act.

Passage of this bill will allow the National Guard to utilize appropriated funds to support the National Guard Sports Programs, National Guard Bureau sanctioned competitive events and associated training programs.

The National Guard Competitive Events and Sports program adds value to the National Guard by enhancing the National Guard’s competitive...

5104
By Mr. THOMPSON (for himself, Mr. BREAUx, Mr. MUKROWSKI, Mr. JEFFORDS, Mr. GRAMM, Mr. NICKLES, and Mrs. LINCOLN):

S. 661. A bill to amend the Internal Revenue Code of 1986 to repeal the 4.3-cent motor fuel excise taxes on railroad and inland waterway transportation which remain in the general fund of the Treasury; to the Committee on Finance.

Mr. THOMPSON. Mr. President, today I am introducing legislation to repeal the 4.3-cent federal excise tax on railroad and inland waterway transportation fuels. This tax was signed into law by President Clinton in 1993 in order to help reduce the federal budget deficit. Now that the budget is in surplus, however, the tax is no longer needed. Railroad and barges should not continue to be the only forms of transportation that must pay this tax for purposes of deficit reduction, particularly during this time of high fuel prices. I am pleased to be joined in my efforts by the Senator from Louisiana, Mr. BREAUx, the Senator from Alaska, Mr. MUKROWSKI, the Senator from Vermont, Mr. JEFFORDS, the Senator from Oklahoma, Mr. NICKLES, the Senator from Texas, Mr. GRAMM, and the Senator from Arkansas, Mrs. LINCOLN.

The Omnibus Budget Reconciliation Act of 1993 imposed a Federal excise tax of 4.3 cents per gallon on all transportation fuels. The revenue raised from the tax was dedicated to deficit reduction, so tax revenue was deposited in the general fund instead of into any of the transportation trust funds. Prior to the 1993 act, the gasoline, aviation and diesel fuel excise taxes had been considered to be “user fees.” The revenue raised from these taxes was deposited into the transportation trust funds and was dedicated to improving highways, airports and waterways. There is no railroad trust fund. Therefore, the 1993 act was a significant departure from previous treatment of transportation fuel taxes.

In 1997, Congress redirected the 4.3-cent gasoline excise tax back into the highway trust fund and the 4.3-cent aviation fuel excise tax back into the airport and airway trust fund as a part of the surface transportation reauthorization bill, TEA-21. The 1997 law restored the gasoline and aviation taxes to their previous status as true user fees. The revenue collected from these taxes which once again benefited our highways and airports. However, the final version of TEA-21 did not touch the tax on inland waterway barge fuel or railroad fuel, so that tax revenue is still being deposited in the general fund.

In the 106th Congress, the Senator from Rhode Island, John Chafee, led the effort to repeal the 4.3-cent excise tax on railroad and barge fuel. The 106th Congress actually voted to repeal the tax.
as part of the Taxpayer Refund and Relief Act of 1999. Unfortunately, the bill was vetoed by President Clinton.

I am pleased to carry on the work of our former colleague by introducing this bill to repeal the 4.3-cent tax on railroad and barge fuel effective this year. I believe the time has come to repeal the 4.3-cent tax, since it provides no benefit to the railroad and barge systems, and it only imposes a burden on these two industries that are important to my home state of Tennessee. I look forward to working with my colleagues to repeal this outdated tax.

By Mr. DODD (for himself, Mr. BYRD, Mr. SANTORUM, Mr. CONRAD, Mr. FEINGOLD, Mr. KENNEDY, Mr. KOHL, Mr. LEAHY, Mr. DORGAN, and Mr. Voinovich):

S. 662. A bill to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to furnish headstones or markers for marked graves of, or to otherwise commemorate, certain individuals; to the Committee on Veterans' Affairs.

Mr. DODD. Mr. President, according to the Department of Veterans Affairs, today some 1,500 American World War II-era veterans, members of the so-called Greatest Generation will pass away. Tomorrow about the same number will pass away. That daily number will gradually rise in the weeks, months, and years to come. Most of them were not career soldiers, but they answered the call to serve our country. Many bravely confronted our enemies in distant lands, in battles that we regard as history, but that they remember as their personal stories. Midway Island, Omaha Beach, and Iwo Jima are just a few of the places hallowed by their deeds. Through their strength and dedication these veterans have earned the respect and gratitude of all Americans to follow.

As these veterans pass away, their families are rightfully seeking to preserve the record of their loved ones' service to our nation. One way in which they are seeking to record that service is to secure official burial recognition. But, because of a provision of current law, the Department of Veterans Affairs is prohibited from providing an official headstone or grave marker to as many as 20,000 of these families each year.

The law I am referring to dates back to the Civil War era, when our nation wanted to ensure that our fallen soldiers were not buried in unmarked graves. Thus, the law instructs the VA to provide a grave marker for veterans who would otherwise lie in unmarked graves. Of course, in this day and age, a grave rarely goes unmarked. Today, virtually every deceased veteran is buried in a marked grave, or in some other way duly memorialized by surviving family members. Until 1990, the surviving family members of a deceased veteran could receive from the VA, the burial portion of a partial reimbursement for the cost of a private headstone, a VA headstone, or a VA marker. The choice was solely up to the vet's surviving family members. However, budgetary belt tightening measures enacted in 1990 eliminated the reimbursement component and precluded the VA from providing a headstone or a marker where the family had already done so privately. That measure has left the VA without any recourse when dealing with veterans families who have made private burial arrangements, other than denying their request for official headstones or grave markers.

The inequity created by the current law is not difficult to understand. A family disqualified from the Army in the law can simply request the official headstone, or in most cases grave marker, prior to making private arrangements for a headstone or marker. The VA will examine the request, find that the veterans grave has not been marked, and provide the marker, bestowing the appropriate recognition for service to the Nation. The family is then able to incorporate the VA marker into its private arrangements as the family deems fit.

However, many, if not most, families do not know about the peculiarities of the law in this area. Most families are unaware of the current law and act as any family would in a time of loss and grief: they make private and appropriate arrangements to commemorate the deceased. For most, the idea of checking with the VA at this most difficult time is the farthest thing from their minds, but the effect of not doing so is absolute and final. When families appropriate markers or grave markers, nearly every family does these days, they un- knowingly forfeit the opportunity to receive a government headstone or marker.

The Guzzo family of West Hartford, CT is one of the countless families who have found out about this law the hard way. Thomas Guzzo first brought this matter to my attention several years ago. His late father, Agostino Guzzo, served in the Philippines and was honorably discharged from the Army in 1947. Today, Agostino Guzzo is interred in a mausoleum at the Cedar Hill Cemetery in Hartford, CT, but the mausoleum bears no reference to his service because of the current law. Like so many families, the Guzzo family provided its own marker and subsequently found that it was not eligible for an official VA marker.

When I was first contacted by the Guzzo family, I attempted to straighten out this bureaucratic mixup. I was surprised to realize that Thomas Guzzo’s difficulties resulted not from some glitch in the system, but rather from the law itself. In the end, I wrote to the former Secretary of Veterans Affairs regarding Agostino Guzzo, that marker could not be placed on a cemetery bench or tree dedicated in his name. The law prevented the Department from providing a marker for placement anywhere but the grave site and thus prevents families from recognizing their veteran’s service as they wish.

I rise today to introduce a bill that will appropriately address these issues and ensure our deceased veterans are treated equitably. The bill will allow the families of deceased veterans to receive an official headstone or grave marker in recognition of their veteran’s contribution to our nation, regardless of whether their grave is privately marked.

What I propose today is a modest means of solving a massive problem. The VA has described this issue as one of its greatest public affairs challenges, but the cost of fixing it is relatively small. Last Congress, the idea was scored by the Congressional Budget Office at less than $3 million dollars per year, over the first 5 years. This bill will put at ease countless families who are disillusioned by the current system. Moreover, it gives those families the appropriate flexibility, with respect to common cemetery restrictions, to commemorate deceased veterans by dedicating a tree or bench or other suitable site in the veteran’s honor.

America is different today than it was when we changed the burial benefits in 1990. Our fiscal house is in order; disciplined spending has produced budget surpluses for the first time in many years. We know that the VA is forced to reject as many as 20,000 headstones and grave marker requests each year under the current law. These are meritorious requests by deserving applicants whose families unknowingly forfeit their right to this modest memorial in a time of stress and loss. The cost of fixing this inequity is minor. It is appropriate. I feel, to make sure that all our veterans receive the recognition they have earned.

The policy is simple. We should provide these markers or headstones to the families when they request them, and we should allow these families to recognize their deceased veterans in a manner more fitting to their family. Time is of the essence. One thousand five hundred veterans pass away each day, and each day there are 1,500 new families who may be denied a modest recognition of the service their loved one gave to our Nation.

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. 662
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY TO PROVIDE HEADSTONES OR MARKERS FOR MARKED GRAVES OR OTHERWISE COMMEMORATE CERTAIN INDIVIDUALS.—

(a) IN GENERAL.—Section 2306 of title 38, United States Code, is amended—

(1) in subsections (a) and (e)(1), by striking “the unmarked grave of” and

(2) by adding at the end the following:

“(f) A headstone or marker furnished under subsection (a) shall be furnished, upon request, for the marked grave or unmarked grave of the individual or at another area appropriate for the purpose of commemorating the individual.

(b) APPLICABILITY.—The amendment to subsection (a) of section 2306 of title 38, United States Code, made by subsection (a) of this section, shall apply to burials occurring on or after November 1, 1990.

By Mr. WELLSTONE (for himself and Mr. DAVEN):

S. 663. A bill to authorize the President to present a gold medal on behalf of Congress to Eugene McCarthy in recognition of his service to the Nation; to the Committee on Banking, Housing, and Urban Affairs.

Mr. WELLSTONE. Mr. President, in recognition of his distinguished record of service to the United States, I am introducing a bill today to award a Congressional Gold Medal to Eugene McCarthy.

The Congressional Gold Medal is considered to be the most distinguished recognition that Congress bestows. I believe, and I hope my colleagues will agree, that the Congressional Gold Medal is a fitting tribute to the dedicated service Eugene McCarthy has given to our Nation.

Eugene McCarthy graduated from St. Johns University in Minnesota in 1935, and from the University of Minnesota in 1939. He taught economics and sociology at public and Catholic high schools and colleges in Minnesota and North Dakota, including at St. Thomas College in St. Paul, and at his own alma mater in Stillwater. In the military intelligence division of the U.S. War Department in 1944. In 1948, he was elected to Congress to represent the State of Minnesota. For Eugene McCarthy, this was merely a first step, revealing that his long-time interest in politics would be even more a calling than it would be a career. He has pursued his political vocation and mission for more than 40 years. This span covers Eugene McCarthy’s service in the House of Representatives and in the Senate during the years 1948 to 1971, his anti-war presidential campaign of 1968, his Independent candidacy of 1976, and the many books, essays and speeches that always spoke out for reform of the political process and the limitation of executive power.

Eugene McCarthy exemplified the highest standards of public service and dedication to Constitutional principles as a member of the House of Representatives for five terms, from 1948 to 1958, and as a Member of this body, the Senate, for two terms, from 1959 to 1971. Through his shaping of legislation on civil rights, tax policy, Social Security and Medicare, the minimum wage, unemployment compensation, government reform, foreign policy and Congressional oversight of the Central Intelligence Agency, McCarthy upheld the finest principles of politics and policy. As Chairman of the Senate Special Committee on Unemployment Problems in 1959-60, McCarthy held hearings which led to the Committee’s outlining of many of the economic development and social welfare programs later enacted during the Kennedy and Johnson administrations. As Ways and Means and Finance Committees of the House and Senate, respectively, McCarthy pushed for additional benefits and minimum wage coverage for migrant workers. In the early 1960s, he insisted that the right to give Medicare coverage to the mentally ill. He was a leader throughout the 1960s in efforts to extend unemployment compensation. Beginning in 1964, and subsequently for more than 15 years in both the House and the Senate, McCarthy called for Congressional oversight of the CIA.

Eugene McCarthy’s principled campaign for the Democratic Presidential nomination in 1968 and his courageous stand regarding the Vietnam War inspired countless young people to believe they could make a difference in public life. He always emphasized the role of Congress in foreign policy, and his actions helped hasten the end of the most controversial war in American history. Eugene McCarthy deplored cynicism and any tendency to look upon all politicians as corrupt. He said:

“Truth will prove the best antidote to cynicism which is an especially dangerous attitude when it prevails among young people . . . Not only does it destroy confidence and hope, some of the most precious assets of youth, but it also eats away the will to attack difficult political problems, as it does problems in other fields.

As a distinguished author, poet and lecturer, Eugene McCarthy has elevated the language of public dialogue in a way that enlivens the deepest and most cherished values of American political life. “What the country needs,” McCarthy said in 1969, “is a freeing of our moral energy, a freeing of our resolution, a freeing of our spirit.” Today, in the global economy, the potential for leadership must exist in every man and every woman.” McCarthy has authored numerous books on American politics and institutions, including “A Liberal Answer to the Conservative Challenge,” 1969; America: Obligated to the World for 150 Years After Tocqueville,” 1976; “the Ultimate Tyranny: The Majoriy over the Majoriy,” 1980; and “Up Till Now: A Memoir,” 1988.

Eugene McCarthy has dedicated much of his life to our Nation. His leadership and service have extended far beyond his tenure in the United States Congress. It is an honor for me to ask that we award the Congressional Gold Medal to this deserving scholar and gentleman. This bill offers here in the Senate finally to recognize Eugene McCarthy’s extraordinary contributions to the United States and to say: Eugene McCarthy, we thank you.

By Mr. GREGG (for himself and Mr. KOHL):

S. 664. A bill to provide jurisdictional standards for the imposition of State and local tax obligations on interstate commerce, and for other purposes; to the Committee on Finance.

Mr. GREGG. Mr. President, today I introduce with Senator KOHL the New Economy Tax Fairness Act, or NET FAIR. As we all know, the Internet and electronic commerce have reshaped our society over the last decade. Much of the success that our Nation’s economy has enjoyed has been a result of innovative companies making use of Internet technology to commerce online. E-commerce has created new jobs, increased productivity, lowered business costs, generated a higher level of convenience for consumers, and sparked overall growth in the U.S. economy.

With this in mind, there remain those that would like to tax interstate commerce over the Internet even while this budding technology has yet to meet its full potential. The NET FAIR Act addresses the issue of taxing remote sellers that conduct interstate commerce electronically.

In 1992, the Supreme Court ruled in Quill Corp. v. North Dakota that States cannot force out-of-State retail firms to collect sales taxes. The Court held that Congress alone has the authority to impose such requirements under the interstate commerce clause of the Constitution. NET FAIR builds upon the Quill decision by extending the same approach that currently governs catalogue sales to the Internet. This legislation would allow States to require a company to collect sales and use tax, or to pay business activity taxes if their goods or services are sold to individuals living in states where the company has a substantial physical presence, or “nexus.”

Today, there are over 7,600 taxing jurisdictions nationwide. NET FAIR provides clear rules of the road for all parties involved, establishing sound nexus standards for the 21st Century. This legislation allows the Internet to continue as an engine of economic growth
while respecting the sovereign right of States to determine their own tax pol-
icy from that conducted within their borders. A failure to address this
issue will subject small and large busi-
nesses alike to thousands of different
tax standards and rules, making it dif-
cult to ensure compliance. In fact, it
will be the small and medium sized
businesses—using the Internet to re-
main competitive in the new econ-
omy—that will be hit the hardest, as
they lack the resources to comply with
the thousands of jurisdictional tax
standards that exist across the coun-
try.

At my urging, the bipartisan Advi-
sory Commission on Electronic Com-
erce was established in 1998. The
Commission was established to exam-
line all aspects of the Internet taxation
issue. In April 2000, the Commission
issued its report to Congress. With ma-
)ority votes to our AECEC report re-
quested that the Internet tax moratorium be ex-
 tended, which I support, and that
Congress clarify nexus rules for e-com-
erce and establish clear guidelines
for when state and local governments
could levy taxes on vendors of inter-
state commerce. Our legislation goes to
the very heart of this issue, and es-
 tablishes clear nexus rules for e-com-
erce. Since the AECEC issued its re-
port, it has become apparent that re-
form in this area is necessary; however,
Congress should not allow a “tax first,
reform later” approach to prevail. Rather, Congress should address the
nexus issue head on.

NET FAIR provides legal certainty
for companies and consumers that en-
gage in interstate commerce via the
Internet, telephone, or mail order. This
bill adheres to our Founding Father's
tenet of “no taxation without represen-
tation” by codifying fair taxation prin-
ciples. We cannot stand idly by and
allow this new economic avenue to be
hampered with new taxes. This legisla-
tion does not preempt a State's right
to tax commerce; however, it does pro-
tect businesses and consumers from un-air taxation on interstate commerce
and from what could be a crippling ef-
fect on the growth of the new 21St
Century economy.

Senator Kohl and I firmly believe
that the New Economy Tax Fairness
Act accomplishes this task. It is vital
that Congress address Internet tax-
ation and clarify nexus standards so
that interstate commerce, especially
online, electronic commerce, can con-
tinue to thrive and positively impact
our Nation's overall economic success.
I would ask that our Senate colleagues
join us in this effort.

I ask that the text of this legislation
be printed in the RECORD.

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

SEC. 2. JURISDICTIONAL STANDARDS FOR THE
IMPOSITION OF STATE AND LOCAL
BUSINESS ACTIVITY, SALES, AND
USE TAX OBLIGATIONS ON INTER-
STATE COMMERCE.

Title I of the Act entitled “An Act relating to the power of the United States to impose net in-
tcome taxes on income derived from inter-
state commerce, and authorizing studies by
congressional committees of matters per-
taining thereto”, approved on September 14,
1959 (15 U.S.C. 381 et seq.), is amended to read as
follows:

"TITLE I—JURISDICTIONAL STANDARDS

SEC. 101. IMPOSITION OF STATE AND LOCAL
BUSINESS ACTIVITY, SALES, AND
USE TAX OBLIGATIONS ON INTER-
STATE COMMERCE.

(a) In General.—A State shall have
power to impose, for any taxable year ending after the date of enactment of this title, a
business activity tax or a duty to collect and remit a sales or use tax on the income der-
ived within such State by any person from
commerce, unless such person has a
substantial physical presence in such State. A substantial physical presence is not
established if the only business activities
within such State by or on behalf of such
person during such taxable year are any or
all of the following:

"(1) The solicitation of orders or contracts
by such person or such person's representa-
tive in such State for sales of tangible or in-
tangible personal property or services, which
orders or contracts are approved or rejected
outside the State, and, if approved, are ful-
filled by shipment or delivery of such prop-
ercy or by performance of such services outside the
State.

"(2) The solicitation of orders or contracts
by such person or such person's representa-
tive in such State in the name of or for the
benefit of a prospective customer of such
person, if orders or contracts by such cus-
tomer to fill orders or contracts resulting
from such solicitation are orders or con-
tacts described in paragraph (1).

"(3) The presence or use of intangible per-
sonal property in such State, including pat-
ents, copyrights, trademarks, logos, securi-
ties, contracts, money, deposits, loans, elec-
tronic or digital signals, and web pages,
whether or not subject to licenses, fran-
chises, or other agreements.

"(4) The use of the Internet to create or
maintain a World Wide Web site accessible
by persons in such State.

"(5) The use of an Internet service pro-
vider, on-line service provider, internet
network communication service provider, or
other Internet access service provider, or World
Wide Web hosting services to maintain or
take and process orders via a web page or
site on a computer that is physically located in
such State.

"(6) The use of any service provider for
transmission of communications, whether by
satellite, cable, wire, or other telecommunica-
tions, or other similar system.

"(7) The affiliation with a person located
in the State, unless such arrangement or
arrangement by such person in the State is the
person's agent under the terms and condi-
tions of subsection (d); and

"(8) The use of an unaffiliated representa-
tive or independent contractor in such State
for the purpose of performing any services with
respect to the sale of tangible or in-
tangible personal property sold by a
person located outside the State.

(b) DOMESTIC CORPORATIONS; PERSONS
DOMESTIC WITH RESPECT TO TAXATION.—The
provisions of subsection (a) shall not apply to
the imposition of a business activity tax or a
duty to collect and remit a sales or use tax by
any State with respect to—

"(1) any corporation which is incorporated
under the laws of such State; or

"(2) any individual who, under the laws of
such State, is domiciled in, or a resident of,
such State.

"(c) SALES OR SOLICITATION OF ORDERS OR
CONTRACTS FOR SALES BY INDEPENDENT
CONTRACTORS.—For purposes of subsection (a), a
person shall not be considered to have en-
gaged in business activities within a State
during any taxable year merely by reason
of the sale of tangible or intangible personal prop-
erties or services offered or rendered over the
Internet or otherwise. The provisions of subsec-
tion (a) shall not apply to the sale of tangible or
intangible personal property or services
offered by such person to such person to enable such cus-
tomer to fill orders or contracts resulting
from the consent by both persons that one
person act on behalf and subject to the control of the other;
and

"(1) results from the consent by both per-
sons that one person act on behalf
and subject to the control of the other; and

"(2) relates to the activities of the person
within the State.

"(d) DEFINITIONS.—For purposes of this
section—

"(1) BUSINESS ACTIVITY TAX.—The term
‘business activity tax’ means a tax imposed
by any State with respect to—

"(2) any individual who, under the laws
of such State, is domiciled in, or a resident of,
such State.

"(3) INDEPENDENT CONTRACTOR.—The term
‘independent contractor’ means a commis-
sion agent, broker, or other independent con-
tactor who is engaged in selling, or solic-
iting orders or contracts for the sale of,
tangible or intangible personal property or serv-
ices for more than one principal and who
holds himself or herself out as such in the
regular course of his or her business activi-
ties.

"(4) INDEPENDENT CONTRACTOR.—The term
‘independent contractor’ means a commis-
sion agent, broker, or other independent con-
tactor who is engaged in selling, or solic-
iting orders or contracts for the sale of,
tangible or intangible personal property or services
for more than one principal and who
holds himself or herself out as such in the
regular course of his or her business activities.

"(5) INDEPENDENT CONTRACTOR.—The term
‘independent contractor’ means a commis-
sion agent, broker, or other independent con-
tactor who is engaged in selling, or solic-
iting orders or contracts for the sale of,
tangible or intangible personal property or services
for more than one principal and who
holds himself or herself out as such in the
regular course of his or her business activities.

"(6) INDEPENDENT CONTRACTOR.—The term
‘independent contractor’ means a commis-
sion agent, broker, or other independent con-
tactor who is engaged in selling, or solic-
iting orders or contracts for the sale of,
tangible or intangible personal property or services
for more than one principal and who
holds himself or herself out as such in the
regular course of his or her business activities.

"(7) INDEPENDENT CONTRACTOR.—The term
‘independent contractor’ means a commis-
sion agent, broker, or other independent con-
tactor who is engaged in selling, or solic-
iting orders or contracts for the sale of,
tangible or intangible personal property or services
for more than one principal and who
holds himself or herself out as such in the
regular course of his or her business activities.

"(8) INDEPENDENT CONTRACTOR.—The term
‘independent contractor’ means a commis-
sion agent, broker, or other independent con-
tactor who is engaged in selling, or solic-
iting orders or contracts for the sale of,
tangible or intangible personal property or services
for more than one principal and who
holds himself or herself out as such in the
regular course of his or her business activities.
"(5) REPRESENTATIVE.—The term 'representative' does not include an independent contractor.

"(6) SALES TAX.—The term 'sales tax' means a tax that is—

(A) imposed on or incident to the sale of tangible or intangible personal property or services as may be defined or specified under the laws imposing such tax; and

(B) measured by the amount of the sales price, cost, charge, or other value of or for such property or services.

"(7) SOLLICITATION OF ORDERS OR CONTRACTS.—The term 'solicitation of orders or contracts' includes activities normally ancillary to such solicitation.

"(8) STATE.—The term 'State' means any of the several States, the District of Columbia, or any territory or possession of the United States, or any political subdivision thereof.

"(9) USE TAX.—The term 'use tax' means a tax that is—

(A) imposed on the purchase, storage, consumption, distribution, or other use of tangible or intangible personal property or services as may be defined or specified under the laws imposing such tax; and

(B) measured by the purchase price of such property or services.

"(10) WORLD WIDE WEB.—The term 'World Wide Web' means a computer server-based file archive accessible over the Internet, using a hypertext transfer protocol, file transfer protocol, or similar protocols.

"(1) APPLICATION OF SECTION.—This section shall not be construed to limit, in any way, constitutional restrictions otherwise existing on State taxing authority.

"SEC. 102. ASSESSMENT OF BUSINESS ACTIVITY TAXES.

"(a) LIMITATIONS.—No State shall have power to tax a person on or before the date of enactment of this title any business activity tax which was imposed by such State or political subdivision for any taxable year ending on or before such date, on the income derived for activities within such State that affect interstate commerce, if the imposition of such tax for a taxable year ending after such date is prohibited by section 101.

"(b) COLLECTIONS.—The provisions of subsection (a) shall not be construed—

(1) to invalidate the collection on or before the date of enactment of this title of any business activity tax imposed on or before such date; or

(2) to prohibit the collection after such date of any business activity tax which was assessed on or before such date for a taxable year ending on or before such date.

"SEC. 103. TERMINATION OF SUBSTANTIAL PHYSICAL PRESENCE.

"If a State has imposed a business activity tax or a duty to collect and remit a sales or use tax on a person as described in section 101, and the person so obligated no longer has a substantial physical presence in that State, the obligation to pay a business activity tax or to collect and remit a sales or use tax on behalf of that State applies only for the period in which the person has a substantial physical presence.

"SEC. 104. SEPARABILITY.

"If any provision of this title or the application of such provision to any person or circumstance is held invalid, the remainder of this title or the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

Mr. KOHL. Mr. President, today I introduce with my good friend from New Hampshire NET FAIR, the New Economy Fairness Act. This bill is identical to a bill we introduced last Congress. It would clarify the tax situation of companies that have offices out of the state in which they are located. NET FAIR codifies current legal decisions defining when a business can be subject to state and local business taxes and be required to collect state and local sales taxes. Currently, a business falls into a state or local taxing jurisdiction when it has a "substantial physical presence" or "nexus" there.

That makes sense. If a business is located in a State—uses the roads there, impacts the environment there, employs local workers there it should pay taxes and business fees there, and it should collect sales taxes on products sold there.

But if a business is located out of State, and simply ships products to consumers there, it is not part of the local economy. It does not use local services or infrastructure. And it should not be subject to the taxes and tax collection burdens that support a community and local economy.

That seems simple. But as with anything that happens in tax law, it is not.

Cases have been brought in courts across the country trying to clarify exactly what is a "substantial physical presence." Is it maintaining a Web site? Sending employees to training conferences? Taking orders over the Internet? Our bill codifies the decisions already established by the courts and restates the principle on which they are all based. State and local taxing authorities do not have jurisdiction over businesses that are not physically located in their borders.

Because this area of the law is as arcane as it is important, it is important to describe what our bill does not do.

It does not exempt e-businesses or any other mail order businesses from taxation. The businesses our bill covers pay plenty of taxes—Federal taxes and State and local taxes and fees in every state in which they maintain a physical presence.

Our bill does not offer special breaks for e-businesses. Though the struggling e-economy will certainly benefit from having its tax situation clarified, nothing we state in this bill goes beyond current established case law.

Our bill does not take away any revenue States and localities are currently collecting. Only Congress has the right to regulate the flow of commerce between the States. State and local tax collectors have never been able to reach into other States and collect revenues from businesses outside their borders.

Our bill does not threaten "main street businesses." In fact, it is just the opposite. Main Street are threatened by malls and mega-stores—not by the Internet or catalogue companies. In fact, many Main Street specialty stores are staying alive by offering their products over the Internet.

In Wisconsin, for example, we have cheese makers who have run small family businesses for years. A quick search on the World Wide Web yields 20 Wisconsin cheese makers selling over the Internet. They are from Wisconsin towns like Plain, Durand, Fennimore, Thorp, Prairie Ridge. Could these small towns support specialty cheese makers with walk-in traffic only? Would these small businesses continue to sell over the Internet if they had to figure and remit sales taxes and business fees to the over 7000 taxing jurisdictions into which they might ship? Of course not.

What our bill does do is protect businesses, big and small, and consumers from facing a plethora of new taxes and tax collection burdens. What it does do is keep the life-line of Internet sales available for countless small businesses and entrepreneurs. What it does do is clarify the tax law and eliminate the need for State-by-State litigation—that governs the developing world of e-commerce.

What our bill does do is protect thousands of small businesses and millions of consumers from new and onerous tax burdens.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 65—HONORING NEIL L. RUDENSTINE, PRESIDENT OF HARVARD UNIVERSITY

Mr. KERRY submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. RES. 65

Whereas Neil L. Rudenstine is retiring as the 26th President of Harvard University in Cambridge, Massachusetts, on June 30, 2001, after 10 years of service in the position;

Whereas Harvard University, founded in 1638, is the oldest university in the United States and 1 of the preeminent academic institutions in the world;

Whereas throughout the history of the United States, graduates of Harvard University have served the United States as leaders in public service, including 7 Presidents and many distinguished members of the United States Senate and the House of Representatives;

Whereas in recognition of his belief in, and Harvard University's continued commitment to, public service as a value of higher education, Neil L. Rudenstine worked to establish the Center for Public Leadership at Harvard University's Kennedy School of Government to prepare individuals for public service and leadership in an ever-changing world;

Whereas in order to make a Harvard University education available to as many qualified young people as possible, during Neil L. Rudenstine's tenure, the University expanded its financial aid budget by