S. 449. A bill to establish the Midewin National Tallgrass Prairie in the State of Illinois, and for other purposes; to the Committee on Armed Services.

By Mr. GRASSLEY:

S. 450. A bill for the relief of Foad Miahi-Neysi and his wife, Haiedeh Miahi-Neysi; to the Committee on the Judiciary.

By Mr. NICKLES (for himself, Mr. INHOFE, and Mr. DOLE):

S. 451. A bill to encourage production of oil and gas within the United States by providing tax incentives and easing regulatory burdens, and for other purposes; to the Committee on Finance.

By Mr. MOYNIHAN (for himself and Mr. DASCHLE) (by request):

S. 452. A bill to amend the Internal Revenue Code of 1986 to provide tax relief for the middle class; to the Committee on Finance.

By Mr. MOYNIHAN (for himself and Mr. DASCHLE) (by request):

S. 453. A bill to amend the Internal Revenue Code of 1986 to modify the eligibility criteria for the earned income tax credit, to improve tax compliance by United States persons establishing or benefiting from foreign trusts, and for other purposes; to the Committee on Finance.

By Mr. MCCONNELL (for himself, Mr. LIEBERMAN, and Mrs. KASSEBAUM):

S. 454. A bill to reform the health care liability system and improve health care quality through the establishment of quality assurance programs, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. KEMPTHORNE (for himself and Mr. CRAIG):

S. 455. A bill to clarify the procedures for consultation under the Endangered Species Act on management plans for, and specific activities on, federal lands, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BRADLEY (for himself, Mr. DODD, Mr. ROCKEFELLER, Mr. CHAFEE, Mrs. FEINSTEIN, Ms. SNOWE, Mr. LIEBERMAN, and Mr. DORGAN):

S. 456. A bill to improve and strengthen the child support collection system, and for other purposes; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Ms. SNOWE:

S. Con. Res. 8. A concurrent resolution expressing the sense of the Congress on the need for accurate guidelines for breast cancer screening for women ages 40–49, and for other purposes; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. SNOWE:

S. 427. A bill to amend various acts to establish offices of women's health within certain agencies, and for other purposes; to the Committee on Labor and Human Resources.

THE WOMEN'S HEALTH OFFICES ACT OF 1995

• Ms. SNOWE. Mr. President, today I am introducing legislation to focus attention on the special health needs of women by establishing offices of Women's Health within the Office of the Assistant Secretary for Health, the Centers for Disease Control, the Agency for Health Care Policy and Research, the Health Resources and Services Administration, and the Food and Drug Administration.

The directors of these offices of women's health will assess the current level of activity regarding women's health within their respective agencies, established short-range and long-range goals and objectives for women's health, identify projects in women's health that should be conducted or supported, consult with health professionals, nongovernmental organizations, consumer organizations, and other appropriate groups on their agency's women's health policies, and coordinate agency activities on women's health.

Congress has already taken a first step in recognizing that women's unique health needs should be addressed separately. In the 103d Congress, the 1993 NIH revitalization bill established an Office of Woman's Health within the National Institutes of Health. We must build upon that progress in the 104th Congress.

For too long, women have been systematically excluded from medical research studies, received less aggressive treatment for heart disease and other serious ailments, and lacked access to important preventive services. By statutorily establishing offices of Women's Health in Federal agencies which research and disseminate information about health, we ensure that women's needs and concerns will be given the consideration they deserve.•

By Mr. ROTH (for himself, Mr. BAUCUS, Mr. BIDEN, Mrs. BOXER, Mr. FEINGOLD, Mr. DODD, Mr. HARKIN, Mr. JEFFORDS, Mr. KERRY, Mr. LAUTENBERG, Mr. LEAHY, Mr. LIEBERMAN, Mrs. MURRAY, Mr. PELL, and Mr. WELLSTONE):

S. 428. A bill to improve the management of land and water for fish and wildlife purposes, and for other purposes; to the Committee on Environment and Public Works.

THE FISH AND WILDLIFE MANAGEMENT ACT OF 1995

• Mr. ROTH. Mr. President, I read recently that ''the best thing we have learned from nearly 500 years of contact with the American wilderness is restraint,'' the need to stay our hand and preserve our precious environment and future resources rather than destroy them for momentary gain.

With this in mind, I offer legislation today that designates the coastal plain of Alaska as wilderness area. At the moment this area is a national wildlife refuge, one of our beautiful and last frontiers. By changing its designation, Mr. President, we can protect it forever.

And I can't stress how important this is.

The Alaskan wilderness area is not only a critical part of our earth's ecosystem—the last remaining region where the complete spectrum of arctic and subarctic ecosystems comes together—but it is a vital part of our national consciousness. It is a place we can cherish and visit for our soul's good. It offers us a sense of well-being and promises that not all dreams have been dreamt.

The Alaskan wilderness is a place of outstanding wildlife, wilderness and recreation, a land dotted by beautiful forests, dramatic peaks and glaciers, gentle foothills, and undulating tundra. It is untamed—rich with caribou, polar bear, grizzly, wolves, musk oxen, Dall sheep, moose, and hundreds of thousands of birds—snow geese, tundra swans, black brant, and more. In all, about 165 species use the coastal plain. It is an area of intense wildlife activity. Animals give birth, nurse and feed their young, and set about the critical business of fueling up for winters of unspeakable severity.

The fact is, Mr. President, there are parts of this Earth where it is good that man can come only as a visitor. These are the pristine lands that belong to all of us. And perhaps most importantly, these are the lands that belong to our future.

Considering the many reasons why this bill is so important, I came across the words of the great western writer, Wallace Stegner. Referring to the land we are trying to protect with this legislation, he wrote that it is ''the most splendid part of the American habitat; it is also the most fragile.'' And we cannot enter ''it carrying habits that [are] inappropriate and expectations that [are] surely excessive.''

The expectations for oil exploration in this pristine region are excessive. There is only a one-in-five chance of finding any economically recoverable oil in the refuge. And if oil is found, the daily production of 400,000 barrels per day is less than .7 percent of world production—far too small to meet American's energy needs for more than a few months.

In other words, Mr. President, there is much more to lose than might ever be gained by tearing this frontier apart. Already, some 90 percent of Alaska's entire North Slope is open to oil and gas leasing and development. Let's keep this area as the jewel amid the stones.

What this bill offers—and what we need—is a brand of pragmatic environmentalism, an environmental stewardship that protects our important wilderness areas and precious resources, while carefully and judiciously weighing the short-term desires or our country against its long-term needs.

together, we need to embrace environmental policies that are workable and pragmatic, policies based on the desire to make the world a better place for us and for future generations. I believe a strong economy, liberty, and progress are possible only when we have a healthy planet—only when resources are managed through wise stewardship—only when an environmental ethic thrives among nations

and only when people have frontiers that are untrammeled and able to host their fondest dreams.●

By Mr. BRYAN (for himself and Mr. REID):

S. 429. A bill to amend the Nuclear Waste Policy Act of 1982 to allow commercial nuclear utilities that have contracts with the Secretary of Energy under section 302 of that act to receive credits to offset the cost of storing spent fuel that the Secretary is unable to accept for storage on and after January 31, 1998; to the Committee on Energy and Natural Resources.

THE INDEPENDENT SPENT NUCLEAR FUEL STORAGE ACT OF 1995

Mr. BRYAN. Mr. President, I rise today to introduce again legislation I have introduced in each of the past two Congresses, the Independent Spent Nuclear Fuel Storage Act.

As many of my colleagues are aware, since 1987, contrary to Nevada State law, and against the wishes of the vast majority of Nevadans, Nevada has been the sole site considered for the ultimate disposal of the United States' high-level nuclear waste.

Today, in spite of the expenditure of billions of dollars, the Yucca Mountain site is no closer to accepting waste from our Nation's nuclear reactors than it was 13 years ago, when the Nuclear Waste Policy Act of 1982 was enacted.

I strongly oppose the purely political decision made by Congress in 1987 to identify Yucca Mountain as the sole site to be characterized for a permanent repository. Now that the permanent repository program is an obvious failure, with the Department of Energy saying there is no hope of opening any type of storage facility before 2010, the nuclear power industry and its allies have conceived a new strategy.

Contrary to all objective scientific judgment, and general common sense, the nuclear industry's new effort is to instruct the DOE to build an interim storage facility at the Yucca Mountain site. As offensive as the 1987 act, commonly referred to in Nevada as the ''screw Nevada bill,'' was, the new effort of the nuclear power industry is even more of an outrage to Nevadans.

The nuclear power industry's newest proposal is nothing less than a direct assault on the health and safety of Nevadans. Frustrated by its inability to overcome the insurmountable safety concerns raised in relation to a permanent repository, the industry is now seeking to circumvent the objections of credible, objective scientists to a permanent repository at Yucca Mountain.

I am convinced, like many others, that any centralized interim storage facility will become the de facto permanent repository.

Funding for an interim storage program will necessarily come at the expense of the permanent repository program. The expression ''out of sight, out of mind'' could not be truer. Once the waste is removed from the reactor sites, the nuclear industry's commitment to finding a permanent solution to the waste problem will vanish. And since it is the nuclear power industry's obsession with moving this waste off the reactor sites that drives the Federal Civilian Nuclear Waste Program, the Federal commitment to permanent storage will vanish as well.

The nuclear power industry as much as concedes this—every version of their interim storage legislation I am aware of provides for licensing the interim site for 100 years, subject to renewal.

The permanent repository program is a failure. The nuclear power industry and its advocates, including the Department of Energy, have created a program which was bound to fail. Careless science, poor management, unreasonable deadlines and timetables, and the ill-fated decision to pursue only one site for characterization, thus leaving the program with no options or alternatives, have all contributed to the failure of the program.

The industry's suggestion to build an interim storage facility in Nevada is simply one more in a long series of irresponsible and ill-founded proposals by the nuclear power industry to solve their high level waste problem at the expense of the health and safety of all Nevadans.

I will concede that the nuclear power industry has a waste problem. I strongly object, however, to the industry's solution, which is simply to send their problem, their waste to Nevada.

The question arises, do we need a centralized interim storage site? If we are truly talking about interim storage, the answer is obviously no.

A few nuclear utilities, looking at the future uncertainty of the Federal nuclear waste program, have done the responsible thing and built interim dry cask storage at the reactor site. In dry cask storage, spent fuel assemblies are removed from the reactor pools and stored in various systems of canisters, casks, and concrete shells.

I recently visited one of these dry cask storage facilities, at Calvert Cliffs in Maryland, and, I must say, I was impressed by the simplicity and efficiency of the spent fuel management operation. It is a responsible action taken by the industry, and I commend their example to others. The Calvert Cliffs dry cask storage program provides a reasonable solution to the interim storage problem, the spent fuel is stored on site, where security and safety precautions already exist, until a safe plan for the long-term disposition of the waste can be finalized.

A centralized interim storage facility is simply not needed, or desirable. The original Nuclear Waste Policy Act recognized this fact, and placed restrictions on the DOE's authority to accept responsibility for interim storage. The nuclear power industry, faced with the reality of the failure to build a permanent repository at Yucca Mountain, is now engaged in yet another exercise of political muscle with one purpose: to make Nevada the final destination for their toxic and highly dangerous waste.

Even if we concede, which we do not, that there is a need for a centralized interim storage facility, there is no defensible reason to site the facility in Nevada. A simple look at a map easily shows that Nevada is one of the least central sites to store nuclear waste. The great majority of the reactor sites producing high-level waste are east of the Mississippi—93 reactors out of the U.S. total of 118.

Shipping thousands of tons of high level waste to Nevada will create dramatic threats to the safety of communities throughout the United States. An analysis of one proposal supported by the nuclear power industry reveals that interim storage in Nevada will require 15,000 shipments by rail and truck through 43 States to begin as early as 1998 and continue for 30 years.

Interim storage in Nevada is not the answer to the nuclear power industry's waste problem. The responsible answer to the waste problem, if the nuclear utilities choose to continue to run their reactors, is on-site, dry cask storage.

Unfortunately, most nuclear utilities appear to be unwilling to develop dry cask storage facilities for a variety of reasons, both political and financial.

There is not much we can do about the local political opposition faced by utilities. The utilities, and communities, that benefited from the operation of the powerplant should bear responsibility for their own waste. High-level waste storage is not popular, and there are political costs to the utilities for living up to their responsibilities.

Asking Nevada to solve the political problems in the communities they serve places the nuclear utilities on completely indefensible ground. The outright hypocrisy of the nuclear power industry's advocates, and their shameless attempts to exert political influence to solve complex scientific and environmental problems, has created an atmosphere of complete distrust and antagonism for the industry in Nevada.

There are also financial barriers to on-site, dry cask storage. Ratepayers have been making contributions to the nuclear waste trust fund with the exception that the Federal Government will dispose of their nuclear waste. I am somewhat sympathetic to the ratepayers' concerns. The Federal disposal program is a failure.

The civilian nuclear waste program has been so poorly managed, and so misguided, that Congress has had good reason not to release the full balance of the trust fund to the program. The ratepayers deserve some financial relief while the Federal Government attempts to meet its obligations, and while the utilities invest the needed capital to store their own waste.

The legislation I am introducing today recognizes the nuclear power industry's need for interim storage, as

well as the financial impact on ratepayers caused by delays in the repository program. The legislation provides credits against utilities' payments to the nuclear waste trust fund for costs incurred for on-site, dry cask storage.

The legislation provides an equitable solution to a difficult problem. It recognizes the financial contributions of the utilities' ratepayers to the trust fund, and recognizes the reality that a permanent repository will not be available to meet the needs of the nuclear power industry.

Mr. President, together with their advocates in Congress and the Department of Energy, the nuclear power industry has spared no expense or effort in moving its waste to Nevada. I have attempted to fight the industry at every turn.

I hope that Congress will not take the failure of the permanent repository program as a signal to bow to the nuclear power industry once again, and accelerate plans to store nuclear waste in Nevada, but instead to take this opportunity to find an equitable solution to a difficult problem which does not threaten the health and safety of future generations of Nevadans.

I urge my colleagues to support the legislation I am introducing today.

By Ms. SNOWE:

S. 430. A bill to amend title XIX of the Social Security Act to require States to adopt and enforce certain guardianship laws providing protection and rights to wards and individuals subject to guardianship proceedings as a condition of eligibility for receiving funds under the Medicaid Program, and for other purposes; to the Committee on Finance.

THE GUARDIANSHIP RIGHTS AND RESPONSIBILITIES ACT

• Ms. SNOWE. Mr. President, today I am introducing the Guardianship Rights and Responsibilities Act of 1995, which establishes a bill of rights for adults who, because of physical or mental incapacity, become wards of the courts.

Wards are individuals whose legal rights, decisionmaking authority and possessions have been transferred to the control of a guardian or conservator based on a judgment that the person is no longer capable of handling these affairs. This legal system severely limits an individual's personal autonomy and has considered problems and widespread abuses. Horror stories abound about guardians who force unnecessary nursing home care, embezzle assets, or otherwise abuse their wards.

The Guardianship Rights and Responsibilities Act of 1995 would require States to adopt and enforce laws to provide basic protection and rights to wards as a condition of receiving Federal Medicaid funds. It would assure due process protections such as counsel, the right to be present at their proceedings and to appeal decisions. Also required would be: clear and convincing evidence to determine the need for a guardianship; adequate court monitoring; and standards, training and oversight for guardians.

This legislation will help to protect the most vulnerable elderly and disabled from exploitation, and will help to assure them the highest possible autonomy. I hope my colleagues will join me in supporting this bill.•

By Ms. SNOWE:

S. 431. A bill to amend the Magnuson Fishery Conservation and Management Act to authorize the Secretary of Commerce to prepare fishery management plans and amendments to fishery management plans under negotiated rulemaking procedures, and for other purposes; to the Committee on Commerce, Science, and Transportation.

S. 432. A bill to amend the Magnuson Fishery Conservation and Management Act to require the Secretary of Commerce to prepare conservation and management measures for the northeast multispecies—groundfish—fishery under negotiated rulemaking procedures, and for other purposes; to the Committee on Commerce, Science, and Transportation.

NEGOTIATED RULEMAKING FOR FISHERIES LEGISLATION

• Ms. SNOWE. Mr. President, as many stories in the national media have reported, the New England groundfish industry is now facing the most difficult challenges in its long history. Scientists report that once plentiful stocks of cod, haddock, flounder, and other fish species have reached historic lows. In response to these stock assessments, the New England Fishery Management Council has approved severe restrictions on fishing that will probably force many fishermen out of business. These restrictions include a 5-year program to cut fishing efforts in half, mandatory use of large-mesh nets, a moratorium on new entrants into the fishery, and the emergency closure of large areas on the George's Bank fishing grounds off Massachusetts.

Most fishermen in Maine recognize that the groundfish stocks are low and that effective conservation measures are needed to help rebuild the fishery. But too many fishermen also believe that the specific program approved by the council will not succeed at restoring groundfish populations, and will place unnecessary economic burdens on working fishermen. In their view, the council, despite public hearings, dismissed too many of their recommendations despite the fact that they and others before them have been fishing the waters off New England for three centuries. In short, they have no support for or confidence in the council-developed management program under which they must operate.

The success of any regulatory program depends in large part on the confidence of the regulated community that the action takes their views into account, will achieve its ends, and is sensible and necessary. I am introducing legislation today that aims to restore the confidence of New England fishermen in the credibility of the Federal fisheries management process by giving them and other citizens with an interest in fisheries the ability to participate directly in that process.

My bills bring the concept of negotiated rulemaking or regulatory negotiation to fisheries management. The concept was established in Federal law by the negotiated Rulemaking Act of 1990. Under negotiated rulemaking, representatives of all stakeholder groups involved in a dispute negotiate directly on the regulatory solution with the aid of a professional facilitator. It provides a collaborative, consensus-based dispute resolution tool that agencies can use to develop potentially controversial regulations. If the negotiating group can reach consensus, then the agency can propose the agreement as a new regulation or rule. Negotiated rulemaking has been used—sometimes successfully, sometimes unsuccessful—by other Federal agencies, and it is time that this tool be made available in the fisheries management process.

The first bill that I have introduced today gives the Secretary of Commerce explicit authority to use negotiated rulemaking to develop fishery management plans or plan amendments. Under the Magnuson Act, the Secretary can only submit management plans or plan amendments under limited circumstances which preclude his flexibility in using this important tool effectively. Also, negotiated rulemaking is specifically used to develop rules, but fishery management plans are not technically rules. My bill removes these potential obstacles and clears the way for the Secretary to use this dispute resolution tool on controversial issues.

The second bill directs the Secretary to use negotiated rulemaking in the specific case of the New England groundfish fishery. Alternative dispute resolution is used more and more commonly in lieu of the traditional adversarial regulatory process, and I believe that it should be tried in the case of the New England groundfish issue.

These bills do not directly affect any existing fisheries management programs, or impose new management measures. They only offer an alternative route for devising plans that will restore fish stocks off the coast of New England and other parts of the country. They could lead to new management measures that not only do a better job of rebuilding fish stocks, but do so in a manner that minimizes the economic impact on fishermen and coastal communities, and in a manner that gains the confidence and support of most fishermen. Surely, given the extremely high stakes in an area like New England these days, we must explore every opportunity, every possibility, for achieving such critically important results.•

By Mr. KERRY:

S. 433. A bill to regulate handgun ammunition, and for other purposes; to the Committee on the Judiciary.

THE AMMUNITION SAFETY ACT OF 1995

• Mr. KERRY. Mr. President, no gun works without a bullet. Yet for no good reason, Congress in the early 1980's repealed laws that regulate ammunition. And while a background check is required to stop felons from purchasing guns, no such background check is required to stop them from buying ammunition for the guns they may already have.

In the meantime, bullets are getting meaner and more deadly. Law enforcement officers know all too well of the danger they face each and every time a gun is pointed at them.

Advances in technology only promise to make matters worse. When a large percentage of gun-related deaths involve handguns, and a large percentage of gun related deaths is accidental, it is insane for the public to fear the creation of new, more destructive bullets.

The fact is 157 police officers and State troopers were killed in this country last year. Five lost their lives in my home State of Massachusetts.

And more than 200 people die from the accidental use of handguns every year. In 1992 alone, 233 accidental deaths occurred because of handguns. This included 6 babies, 36 kids under the age of 14, and 8 senior citizens, 2 of whom were over the age of 80.

In light of these sad and disturbing facts, there is no good reason to have ever more dangerous bullets on the market. And there is every good reason to keep off our streets and out of our homes bullets that supply handguns with the destructive power of assault weapons.

That is why the Ammunition Safety Act of 1995 does two things: it reestablishes reasonable regulations for the sale of handgun ammunition, and it outlaws all exceedingly destructive handgun ammunition—whether or not such ammo has been invented yet—by expanding and updating the ban on armor-piercing handgun ammunition.

This bill would provide a weapon for law enforcement to crack down on crime and would make ordinary people safer from handgun violence and accidental shootings. The bill accomplishes these goals in three steps.

First, the bill reinstates and strengthens ammunition control language that Congress repealed during the Reagan era. It would require dealers of handgun ammunition to be licensed by the Federal Government. It would restrict interstate sale and transportation of handgun ammunition to licensed dealers. And it would double the maximum penalties for sale to and for possession of handgun ammunition by felons and persons under age 21.

Second, the bill would apply Brady bill provisions to handgun ammunition. To prevent the sale of handgun ammunition to felons, once the nationwide, instantaneous background check the Brady bill created is in place, every purchaser of ammunition will have to pass a background check before ammunition could be sold to him or her. These regulations would be a vital tool to law enforcement in investigating crime, and would provide equity to a system that currently monitors and restricts the flow of guns, but—inexplicably—not of ammunition.

Third, the bill expands the definition of illegal armor-piercing handgun ammunition to include any new conceivable kind of armor-piercing bullet. The bill establishes a new method to accomplish this goal.

To date, no law has been able to effectively ban all armor-piercing bullets. You can't ban what you can't define because vague laws are constitutionally void—and definitions to date have failed to cover all armor-piercing bullets. All that existing law does is ban bullets based on the materials of which they are made—consequently, bullets made of hard metals are illegal—in the hope that this definition will blanket most armor-piercing bullets. But the existing composition-based definition fails to prevent the sale of certain bullets that pierce armor—like large lead bullets that aren't intended for handguns but can be used in them—or the invention of new armor-piercing bullets—for example, a plastic bullet hard enough to pierce armor.

This bill calls on the Treasury Department to define armor-piercing bullets not by what they are but by what they are not. Fulfilling this new responsibility would entail four steps.

First, within 1 year, the Treasury Department is charged with determining a standard test to ascertain the destructive capacity of any and all bullets. This will probably result in something along the lines of a rating system equal to the width times the depth of the hole a projectile bores in a block of gelatin when it is shot with no extra powder from a standard Colt .45 at a distance of 10 feet.

Second, utilizing this destructive rating test, the Treasury Department would then determine a rating threshold which would be the rating of the least destructive bullet to pierce today's standard body armor.

Third, all manufacturers of bullets for sale in the United States would be required to cover the costs incurred by the Treasury Department in testing and determining the destructive rating of every existing bullet available on the market.

Fourth, this bill would make it illegal to manufacture, sell, import, use, or possess any bullet—existing or newly invented—that has a destructive rating equal to or higher than the armor-piercing threshold. This would be in addition to the existing composition-based definition.

This bill contains reasonable exemptions. Those bullets exclusively manufactured for law enforcement would be exempt; so would be those bullets designed for sporting purposes that Congress specifically exempts by law; and those bullets that are proven by their manufacturer at its expense to have a destructive rating below the armor-piercing threshold.

By setting the legal standard at the armor-piercing threshold, all armor-piercing bullets would be illegal. And there is an additional advantage to setting a legal threshold in this fashion: The threshold would ban more than armor-piercing bullets. It would ban any new, sick, perverse bullet that has yet to be invented that explodes on impact, that turns to shrapnel, that does things today's technology cannot yet fathom, or that by any other means is exceptionally destructive.

Setting a legal standard this way draws a hard and fast line between those bullets currently on the market and future bullets that do more damage than we can imagine today. This bills says that America is satisfied that the bullets of today are dangerous enough, and America will tolerate no greater likelihood of accidental death as a result of new bullets.

This bill recognizes the fact that regulating only weapons is naive. Among other reasons, guns last centuries, but ammunition has a shelf-life of not much more than 20 years. Felons who want to kill will always be able to find guns, but have to come out of the woodwork to purchase ammunition. When they do, this bill will be there to stop them.

Of course, felons can make bullets at home, but it isn't easy, it isn't cheap, and it isn't safe. Mr. President, I recognize that there is a limit to what the Government can do to stop gun violence and accidental death. But today, the Government is shirking its responsibility. This bill is a vital first step toward ensuring that the Government does what is necessary to save lives.

The law enforcement community and the public will never again have to react to advertisements like the one for the infamous Rhino bullet. This add states:

> The Rhino inflicts a wound of 8 inches in diameter. Each of these fragments becomes lethal shrapnel and is hurled into vital organs, lungs, circulatory system components, the heart and other tissues. The wound channel is catastrophic. * * * Death is nearly instantaneous.

If this bill is enacted, opportunistic manufacturers like the man who created the Rhino will have nothing to gain from advertising the dramatic innovations of their bullets. If an advertisement claims that a new bullet is unusually destructive, the public will know that the advertisement is either an outright lie or that the product is illegal. Either way, the public will know in advance that no such bullet will ever hit the street, and the public will have no cause for hysteria.

When this bill becomes law, no new bullets that are more dangerous than those of today will make it to market. When this bill becomes law, those bullets that are on the market won't end up in the wrong hands.

This bill is a solid step toward returning sanity and safety to our Nation's streets and household. The Government has no greater responsibility than to work toward this goal.

I welcome the support of colleagues who share my concerns, as many do. I urge them to join me in sponsoring this legislation.

Mr. President, I ask unanimous consent that the full text of the legislation appear in the RECORD.

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

S. 433

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 ''Ammunition Safety Act of 1995''.

SEC. 2. DEALERS OF AMMUNITION.

(a) DEFINITION.—Section 921(a)(11)(A) of title 18, United States Code, is amended by inserting ''or ammunition'' after ''firearms''.

(b) LICENSING.—Section 923(a) of title 18, United States Code, is amended—

(1) in the matter preceding paragraph (1) by striking ''or importing or manufacturing ammunition'' and inserting ''or importing, manufacturing, or dealing in ammunition''; and

(2) in paragraph (3)—

(A) in subparagraph (A), by striking ''or'' the last place it appears;

(B) in subparagraph (B), by striking the period at the end and inserting ''; or''; and

(C) by inserting the following new subparagraph:

''(C) in ammunition other than ammunition for destructive devices, $10 per year.''.

(c) UNLAWFUL ACTS.—Section 922(a)(1)(A) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) by inserting ''or ammunition'' after ''firearms''; and

(ii) by inserting ''or ammunition'' after ''firearm''; and

(B) in subparagraph (B), by striking ''or licensed manufacturer'' and inserting ''licensed manufacturer, or licensed dealer'';

(2) in paragraph (2), in the matter preceding subparagraph (A), by inserting ''or ammunition'' after ''firearm'';

(3) in paragraph (3), by inserting ''or ammunition'' after ''firearm'' the first place it appears;

(4) in paragraph (5), by inserting ''or ammunition'' after ''firearm'' the first place it appears; and

(5) in paragraph (9), by inserting ''or ammunition'' after ''firearms''.

(d) PENALTIES.—Section 924 of title 18, United States Code, is amended—

(1) in paragraph (5)—

(A) in subparagraph (A)(i), by striking ''1 year'' and inserting ''2 years''; and

(B) in subparagraph (B)—

(i) in clause (i), by striking ''1 year'' and inserting ''2 years''; and

(ii) in clause (ii), by striking ''10 years'' and inserting ''20 years''; and

(2) by adding at the end the following new subsection:

''(o) Except to the extent a greater minimum sentence is otherwise provided, any person at least 18 years of age who violates section 922(g) shall be subject to—

''(1) twice the maximum punishment authorized by this subsection; and

''(2) at least twice any term of supervised release.''.

(e) APPLICATION OF BRADY HANDGUN VIOLENCE PREVENTION ACT TO TRANSFER OF AMMUNITION.—Section 922(t) of title 18, United States Code, is amended by inserting ''or ammunition'' after ''firearm'' each place it appears.

SEC. 3. REGULATION OF ARMOR PIERCING AND NEW TYPES OF DESTRUCTIVE AMMUNITION.

(a) TESTING OF AMMUNITION.—Section 921(a)(17) of title 18, United States Code, is amended—

(1) by redesignating subparagraph (D), as added by section 2(e)(2), as subparagraph (E); and

(2) by inserting after subparagraph (C) the following new subparagraph:

''(D)(i) Notwithstanding subchapter II of chapter 5 of title 5, United States Code, not later than 1 year after the date of enactment of this subparagraph, the Secretary shall—

''(I) establish uniform standards for testing and rating the destructive capacity of projectiles capable of being used in handguns;

''(II) utilizing the standards established pursuant to subclause (I), establish performance-based standards to define the rating of 'armor piercing ammunition' based on the rating at which the projectiles pierce armor; and

''(III) at the expense of the ammunition manufacturer seeking to sell a particular type of ammunition, test and rate the destructive capacity of the ammunition utilizing the testing, rating, and performance-based standards established under subclauses (I) and (II).

''(ii) The term 'armor piercing ammunition' shall include any projectile determined to have a destructive capacity rating higher than the rating threshold established under subclause (II), in addition to the composition-based determination of subparagraph (B).

''(iii) The Congress may exempt specific ammunition designed for sporting purposes from the definition of 'armor piercing ammunition'.''.

(b) PROHIBITION.—Section 922(a) of title 18, United States Code, is amended—

(1) in paragraph (7)—

(A) by striking ''or import'' and inserting '', import, possess, or use'';

(B) in subparagraph (B), by striking ''and'';

(C) in subparagraph (C), by striking the period at the end and inserting ''; and''; and

(D) by adding at the end the following new subparagraph:

''(D) the manufacture, importation, or use of any projectile that has been proven, by testing performed at the expense of the manufacturer of the projectile, to have a lower rating threshold than armor piercing ammunition.''; and

(2) in paragraph (8)—

(A) in subparagraph (B), by striking ''and'';

(B) in subparagraph (C), by striking the period at the end and inserting ''; and''; and

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

''(D) the manufacture, importation, or use of any projectile that has been proven, by testing performed at the expense of the manufacturer of the projectile, to have a lower rating threshold than armor piercing ammunition.''.●

By Mr. KOHL:

S. 434. A bill to amend the Internal Revenue Code of 1986 to increase the deductibility of business meal expenses for individuals who are subject to Federal limitation on hours of service; to the Committee on Finance.

THE BUSINESS MEAL DEDUCTION FAIRNESS ACT OF 1995

● Mr. KOHL. Mr. President, in 1993, the 103d Congress took a crucial and difficult stand on the deficit. In August of that year we passed the omnibus budget reconciliation bill. I am proud to stand here today and say that that legislation has helped to produce falling deficits and sustained economic growth.

As my colleagues know, I am one of this body's strongest advocates for deficit reduction. I attribute much of my deep commitment to this goal to my days in business. As a businessman, I learned that you must balance your books and live within your means. I also learned that you must treat people fairly, and admit when you make a mistake. I have come to the floor today to once again acknowledge that a mistake was made in the 1993 reconciliation bill; a mistake which must be corrected.

During consideration of the reconciliation bill, I opposed tax increases on working middle- and lower-income Americans. However, in fighting to eliminate increases in broad taxes on middle- and lower-income Americans, Congress overlooked a provision which places a hidden tax on those hard-working Americans who work in the transportation sector. It is for this reason that I rise today to reintroduce the business meal deduction fairness bill.

Included in the 1993 reconciliation bill was a provision which lowered the deductible portion of business meals and entertainment expenses from 80 to 50 percent. On the surface, this seems only a tax on those rich enough to spend their lunchtimes in luxury restaurants and their nighttimes on luxury yachts. But contrary to popular belief, the business meal deduction is not only used by lobbyists and fat cats for three-martini lunches. Due to regulations limiting travel hours, many transportation workers must eat out. That means the reduced business meal deduction is a tax on workers who have no control over the length of their trips, the amount of time they must rest during a delivery, or, in many cases, the places they can stop to eat.

Let me provide you with a brief example to illustrate my point. The average truck driver earns approximately $30,000 a year. The reduced deduction will cost that driver between $750 and $1,000 per year. This is just one of many examples I could give to demonstrate the burden this change has placed on hard-working, middle-income Americans. The legislation I am introducing today, will lift this burden and restore some common sense to the tax code.

Mr. President, the business meal deduction fairness bill repeals the hidden tax created last year by restoring the business meal deduction to 80 percent for those individuals covered by the Department of Transportation hours-of-service limit. This legislation is simple, straightforward, and most importantly, fair.

Mr. President, I would like to remind my colleagues of a similar bill we worked on to correct another mistake which hurt tens of thousands of hard-

working, middle-income Americans. As my colleagues remember, the 1990 deficit reduction bill imposed a surtax on specific luxury items. At the time, it was argued that the surtax would only affect the wealthiest segment of society. However, after it went into effect, it became clear that, instead of paying the tax, the wealthy decided not to buy the new boat or the diamond ring. As a result, the middle- and lower-income Americans producing and selling those luxury items ended up bearing the burden of the tax through lost wages and jobs.

Once it was apparent that the luxury tax was not achieving its intended goal, I began working with a number of my colleagues to repeal it. Fortunately, we were successful in getting a repeal in the 1993 reconciliation bill. Unfortunately, far too many people were hurt by this mistake because we did not correct it quickly enough. We cannot let that happen again. Therefore I am requesting the support and assistance of my colleagues to ensure that the business meal deduction fairness bill becomes law. Mr. President, I ask unanimous consent that a copy of my legislation be printed in the RECORD.

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

S. 434

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

SECTION 1. INCREASED DEDUCTIBILITY OF BUSINESS MEAL EXPENSES FOR INDIVIDUALS SUBJECT TO FEDERAL LIMITATIONS ON HOURS OF SERVICE.

(a) IN GENERAL.—Section 274(n) of the Internal Revenue Code of 1986 (relating to only 50 percent of meal and entertainment expenses allowed as deduction) is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULE FOR INDIVIDUALS SUBJECT TO FEDERAL LIMITATIONS ON HOURS OF SERVICE.—In the case of any expenses for food or beverages consumed by an individual during, or incident to, any period of duty which is subject to the hours of service limitations of the Department of Transportation, paragraph (1) shall be applied by substituting '80 percent' for '50 percent'.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1994.●

By Mr. FAIRCLOTH:

S. 435. A bill to provide for the elimination of the Department of Housing and Urban Development, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

LEGISLATION TO ABOLISH HUD

Mr. FAIRCLOTH. Mr. President, today I am pleased to introduce legislation that will abolish the Department of Housing and Urban Development.

Mr. President, HUD was created in 1965. When it was created, the purpose of this Department was to revitalize our urban areas and provide more housing for America.

Mr. President, in short, HUD has been a collosal failure. Since 1965, HUD has spent hundreds of billions of dollars—that adjusted to inflation—probably exceeds a trillion dollars. Yet today, despite this massive spending, our Nation's urban areas are more decayed and more dangerous today than ever. Homelessness, hardly a problem 30 years ago, is now a major concern.

Public housing has been a disaster and home ownership is down.

Solving these problems was supposed to be HUD's mission. In each, it has failed miserably.

Imagine if we applied a performance standard like this to other Federal agencies. Suppose that when we created NASA with the purpose of putting a man on the Moon, that 30 years later, they still had not done it. We might consider abolishing them. That is exactly what we should do with HUD because they failed to accomplish their mission.

Suppose that instead of creating HUD, we had given a trillion dollars to an entrepreneur like Bill Gates. Do you think our inner cities would be any worse off, or do you think that they would be more livable places today? I think the answer is clear.

Take Fannie Mae for example. Fannie Mae plans to spend $1 trillion on affordable housing before the end of the decade. The plan will finance homes for 10 million people. This would provide a home to one in three renters in America. This plan, however, unlike HUD, won't cost American taxpayers one cent, and yet it will provide homes for millions of Americans.

Mr. President, I have no faith that HUD can be reinvented. Thirty years of failure is too much. Since the November 8 election, HUD Secretary Henry Cisneros has put on a masterful public relations plan to save his Department. I for one am not fooled. If he really believed in what he was doing, he would have done it 2 years ago.

Most importantly, what are the savings from the Cisneros plan? There are none. The only clearly identified savings will amount to one-half of 1 percent over 5 years. Mr. President, let me repeat that, the total savings in the Cisneros plan amount to only one-half of 1 percent over 5 years.

Of course, there are promises of more savings, but they are just that—promises.

Actually, if you look at the projected outlays by HUD in the fiscal year 1996 budget for the years 1995–99, spending is $3 billion more than was projected in last year's budget. Yes, that's right, spending will actually increase despite the reorganization.

Furthermore, my favorite line from the President's budget is on page 190. It is a chart about HUD's program consolidation. It says:

''Net impact, HUD consolidations''—spending of $29.4 billion in 1995 to $30.3 billion in 1996.

Yes, that's right. Spending will actually go up by $1 billion because of HUD's consolidations—not down.

The Wall Street Journal reported on February 15, 1995, that HUD's projected savings may have been oversold, and that down at HUD they knew this before they submitted their plan to Congress.

For these reasons, I am introducing a bill to abolish HUD. The bill will abolish HUD, effective January 1, 1998. The bill will direct the Secretary to make one housing block grant available to States and localities; transform all rental assistance into vouchers; and make FHA a Government-controlled corporation with income targeting and risk sharing.

By Mr. CAMPBELL (for himself, Mr. INOUYE, Mr. MCCAIN, and Mr. DASCHLE):

S. 436. A bill to improve the economic conditions and supply of housing in native American communities by creating the Native American Financial Services Organization, and for other purposes; to the Committee on Indian Affairs.

NATIVE AMERICAN FINANCIAL SERVICES ORGANIZATION ACT

Mr. CAMPBELL. Mr. President, today I am introducing legislation entitled the Native American Financial Services Organization Act. I am pleased to add my distinguished colleagues, the chairman and vice-chairman of the Indian Affairs Committee, Senators MCCAIN and INOUYE, and Senator DASCHLE, as cosponsors of this important legislation.

Mr. President, there is a continued need for assistance to improve the housing conditions that exist in many Indian reservation communities, Alaska Native villages, and native Hawaiian communities. Statistics from the Bureau of Indian Affairs estimated in 1993 that as many as 90,000 native American families were in need of improved housing and nearly 50,000 families need new homes.

Further, a study completed by the Commission on American Indian, Alaska Native, and Native Hawaiian Housing, found that housing shortages and deplorable living conditions are at crisis proportions in many native American communities. In its study the commission documented several obstacles that stand between Indian people and affordable, adequate, and available housing.

The Commission found there is currently little, if any, conventional lending available to native people seeking to purchase a home.

In addition, many Indian housing authorities lack the expertise to manage, coordinate, and maintain viable programs.

And importantly, tribal governments have had to rely primarily on Federal Government grant and loan programs to finance housing and economic development projects.

As a result of the study, the Commission recommended the creation of an entity that could serve as an intermediary financing institution with the authority to package mortgage loans, provide technical assistance, and serve

as a clearinghouse of information for alternative financing programs.

Mr. President, the Native American Financial Services Organization Act is the culmination of extensive deliberations between officials from the Department of Housing and Urban Development, the Department of Treasury, the USDA, members of my staff, and staff of the Senate Committee on Indian Affairs. The purpose of this legislation is to create a financial infrastructure for commercial financing opportunities by and for Indian people. The primary mechanism that will bridge Indian tribes with the commercial lending markets will be the creation of a Native American Financial Services Organization.

The Native American Financial Services Organization would establish a limited Government-chartered corporation. A Federal grant would capitalize the federally chartered organization, which would cease to exist upon a designated date. At that point the charter would become a private corporation.

More specifically, the legislation is designed to:

First, establish and organize native American community lending institutions, that will be called Native American Financial Institutions. These lending institutions could be any type of financial institution, including community banks, credit unions and saving banks, that together, could provide a wide range of financial services;

Second, develop and provide financial expertise and technical assistance to the Native American Financial Institutions, including methods of underwriting, securing, and selling mortgage and small commercial and consumer loans; and

Third, develop and provide specialized technical assistance on how to overcome barriers to primary mortgage lending on native American lands, including issues related to trust lands, discrimination, and inapplicability of standard underwriting criteria.

Importantly, this legislation will work in conjunction with the Community Development Financial Institutions [CDFI] fund established in the Reigle Community Development Banking and Regulatory Improvement Act, signed into law by the President last year. Under a cooperative agreement with the CDFI fund, this legislation will provide technical assistance and other services to Native American Financial Institutions.

This week, Secretary Cisneros testified before the Committee on Indian Affairs. In his remarks, he stated that this legislation will ''neither conflict nor duplicate the functions of CDFI or any other Government-sponsored enterprise, but is intended to supplement the efforts of existing organizations.''

In short, the Native American Financial Services Organization would help provide financial independence to the native American community and would begin to address the housing deficiencies by working to attract private capital into the Indian housing market.

Mr. President, I would like to conclude my remarks by making reference to a letter I recently received from the chairperson of the Ute Mountain Ute Tribe, that I believe illustrates the great necessity for this legislation. The letter states that the shortage of housing in the community is so severe that among the approximately 1,500 tribal members, 400 are without a permanent home and that a waiting list for new housing approaches 300 people.

It is for this reason, that I believe the Native American Financial Services Organization is much needed. Statistics such as this merit the need for an innovative financing mechanism the Native American Financial Services Organization can provide.

Mr. President, in closing, I ask unanimous consent that the bill be printed in the RECORD immediately following the full text of my statement and that the statements of Senators MCCAIN and INOUYE, who are both original cosponsors, appear in the RECORD immediately following the bill.

I also ask unanimous consent to include letters from the Ute Mountain Ute Tribe, the Native American Indian Housing Council, and HUD's Secretary Henry Cisneros to be printed in the RECORD.

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

S. 436

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

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the ''Native American Financial Services Organization Act of 1995''.

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

Sec. 1. Short title.

TITLE I—STATEMENT OF POLICY; DEFINITIONS

Sec. 101. Policy.
Sec. 102. Statement of purposes.
Sec. 103. Definitions.

TITLE II—NATIVE AMERICAN FINANCIAL SERVICES ORGANIZATION

Sec. 201. Establishment of the organization.
Sec. 202. Authorized assistance and service functions.
Sec. 203. Native American lending services grant.
Sec. 204. Audits.
Sec. 205. Annual housing and economic development reports.
Sec. 206. Advisory Council.

TITLE III—CAPITALIZATION OF ORGANIZATION

Sec. 301. Capitalization of the organization.
Sec. 302. Obligations and securities of the organization.
Sec. 303. Limit on total assets and liabilities.

TITLE IV—REGULATION, EXAMINATION, AND REPORTS

Sec. 401. Regulation, examination, and reports.
Sec. 402. Authority of the Secretary of Housing and Urban Development.

TITLE V—FORMATION OF NEW CORPORATION

Sec. 501. Formation of new corporation.
Sec. 502. Adoption and approval of merger plan.
Sec. 503. Consummation of merger.
Sec. 504. Transition.
Sec. 505. Effect of merger.

TITLE VI—AUTHORIZATIONS OF APPROPRIATIONS

Sec. 601. Authorization of appropriations for Native American Financial Institutions.
Sec. 602. Authorization of appropriations for organization.

TITLE I—STATEMENT OF POLICY; DEFINITIONS

SEC. 101. POLICY.

(a) IN GENERAL.—Based upon the findings and recommendations of the Commission on American Indian, Alaska Native and Native Hawaiian Housing established by the Department of Housing and Urban Development Reform Act of 1989, the Congress has determined that—

(1) housing shortages and deplorable living conditions are at crisis proportions in Native American communities throughout the United States; and

(2) the lack of private capital to finance housing and economic development for Native Americans and Native American communities seriously exacerbates these housing shortages and poor living conditions.

(b) POLICY OF THE UNITED STATES TO ADDRESS NATIVE AMERICAN HOUSING SHORTAGE.—It is the policy of the United States to improve the economic conditions and supply of housing in Native American communities throughout the United States by creating the Native American Financial Services Organization to address the housing shortages and poor living conditions described in subsection (a).

SEC. 102. STATEMENT OF PURPOSES.

The purposes of this Act are—

(1) to help serve the mortgage and other lending needs of Native Americans by assisting in the establishment and organization of Native American Financial Institutions, developing and providing financial expertise and technical assistance to Native American Financial Institutions, including assistance concerning overcoming—

(A) barriers to lending with respect to Native American lands; and

(B) the past and present impact of discrimination;

(2) to promote access to mortgage credit in Native American communities in the United States by increasing the liquidity of financing for housing and improving the distribution of investment capital available for such financing, primarily through Native American Financial Institutions;

(3) to promote the infusion of public capital into Native American communities throughout the United States and to direct sources of public and private capital into housing and economic development for Native American individuals and families, primarily through Native American Financial Institutions; and

(4) to provide ongoing assistance to the secondary market for residential mortgages and economic development loans for Native American individuals and families, Native American Financial Institutions, and other borrowers by increasing the liquidity of such investments and improving the distribution of investment capital available for such financing.

SEC. 103. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) ALASKA NATIVE.—The term ''Alaska Native'' has the meaning given the term ''Native'' by section 3(b) of the Alaska Native Claims Settlement Act.

(2) BOARD.—The term ''Board'' means the Board of Directors of the Organization established under section 201(a)(2).

(3) CHAIRPERSON.—The term ''Chairperson'' means the chairperson of the Board.

(4) COUNCIL.—The term ''Council'' means the Advisory Council established under section 206.

(5) DESIGNATED MERGER DATE.—The term ''designated merger date'' means the specific calendar date and time of day designated by the Board under section 502(b).

(6) DIRECTOR.—The term ''Director'' means the Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development.

(7) FUND.—The term ''Fund'' means the Community Development Financial Institutions Fund established under section 104 of the Riegle Community Development and Regulatory Improvement Act of 1994.

(8) INDIAN TRIBE.—The term ''Indian tribe'' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act that is recognized as eligible for the special programs and services provided by the Federal Government to Indians because of their status as Indians.

(9) MERGER PLAN.—The term ''merger plan'' means the plan of merger adopted by the Board under section 502(a).

(10) NATIVE AMERICAN.—The term ''Native American'' means any member of an Indian tribe.

(11) NATIVE AMERICAN FINANCIAL INSTITUTION.—The term ''Native American Financial Institution'' means a person (other than an individual) that—

(A) qualifies as a community development financial institution under section 103 of the Riegle Community Development and Regulatory Improvement Act of 1994;

(B) satisfies the requirements established by the Riegle Community Development and Regulatory Improvement Act of 1994 and the Fund for applicants for assistance from the Fund;

(C) demonstrates a special interest and expertise in serving the primary economic development and mortgage lending needs of the Native American community; and

(D) demonstrates that the person has the endorsement of the Native American community that the person intends to serve.

(12) NATIVE AMERICAN LENDER.—The term ''Native American lender'' means a Native American governing body, Native American housing authority, or other Native American Financial Institution that acts as a primary mortgage or economic development lender in a Native American community.

(13) NEW CORPORATION.—The term ''new corporation'' means the corporation formed in accordance with title V.

(14) NONQUALIFYING MORTGAGE LOAN.—The term ''nonqualifying mortgage loan'' means a mortgage loan that is determined by the Organization, on the basis of the quality, type, class, or principal amount of the loan, to fail to meet the purchase standards of the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation in effect on September 30, 1994.

(15) ORGANIZATION.—The term ''Organization'' means the Native American Financial Services Organization established under section 201.

(16) QUALIFYING MORTGAGE LOAN.—The term ''qualifying mortgage loan'' means a mortgage loan that is determined by the Organization, on the basis of the quality, type, class or principal amount of the loan, to meet the purchase standards of the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation in effect on September 30, 1994.

(17) TRANSITION PERIOD.—The term ''transition period'' means the period beginning on the date on which the merger plan is approved by both the Secretary of Housing and Urban Development and the Secretary of the Treasury and ending on the designated merger date.

TITLE II—NATIVE AMERICAN FINANCIAL SERVICES ORGANIZATION

SEC. 201. ESTABLISHMENT OF THE ORGANIZATION.

(a) CREATION; BOARD OF DIRECTORS; POLICIES; PRINCIPAL OFFICE; MEMBERSHIP; VACANCIES.—

(1) CREATION.—

(A) IN GENERAL.—There is established and chartered a corporation to be known as the Native American Financial Services Organization.

(B) PERIOD OF TIME.—The Organization shall be a congressionally chartered body corporate until the earlier of—

(i) the designated merger date; or

(ii) the date on which the charter is surrendered by the Organization.

(C) CHANGES TO CHARTER.—The right to revise, amend, or modify the Organization charter is specifically and exclusively reserved to the Congress.

(2) BOARD OF DIRECTORS; PRINCIPAL OFFICE.—

(A) BOARD.—The powers of the Organization shall be vested in a Board of Directors. The Board shall determine the policies that govern the operations and management of the Organization.

(B) PRINCIPAL OFFICE; RESIDENCY.—The principal office of the Organization shall be in the District of Columbia. For purposes of venue, the Organization shall be considered to be a resident of the District of Columbia.

(3) MEMBERSHIP.—

(A) IN GENERAL.—

(i) NINE MEMBERS.—Except as provided in clause (ii), the Board shall consist of 9 members, 3 of whom shall be appointed by the President and 6 of whom shall be elected by the class A stockholders, in accordance with the bylaws of the Organization.

(ii) THIRTEEN MEMBERS.—If class B stock is issued under section 301(b), the Board shall consist of 13 members, 9 of whom shall be appointed and elected in accordance with clause (i) and 4 of whom shall be elected by the class B stockholders, in accordance with the bylaws of the Organization.

(B) TERMS.—Each member of the Board shall be elected or appointed for a 4-year term, except that the members of the initial Board shall be elected or appointed for the following terms:

(i) Of the 3 members appointed by the President—

(I) 1 member shall be appointed for a 2-year term;

(II) 1 member shall be appointed for a 3-year term; and

(III) 1 member shall be appointed for a 4-year term;

as designated by the President at the time of the appointments.

(ii) Of the 6 members elected by the class A stockholders—

(I) 2 members shall each be elected for a 2-year term;

(II) 2 members shall each be elected for a 3-year term; and

(III) 2 members shall each be elected for a 4-year term.

(iii) If class B stock is issued and 4 additional members are elected by the class B stockholders—

(I) 1 member shall be elected for a 2-year term;

(II) 1 member shall be elected for a 3-year term; and

(III) 2 members shall each be elected for a 4-year term.

(C) QUALIFICATIONS.—Each member appointed by the President shall have expertise in 1 or more of the following areas:

(i) Native American housing and economic development programs.

(ii) Financing in Native American communities.

(iii) Native American governing bodies and court systems.

(iv) Restricted and trust land issues, economic development, and small consumer loans.

(D) CHAIRPERSON.—The Board shall select a Chairperson from among its members, except that the initial Chairperson shall be selected from among the members of the initial Board who have been appointed or elected to serve for a 4-year term.

(E) VACANCIES.—

(i) APPOINTED MEMBERS.—Any vacancy in the appointed membership of the Board shall be filled by appointment by the President, but only for the unexpired portion of the term.

(ii) ELECTED MEMBERS.—Any vacancy in the elected membership of the Board shall be filled by appointment by the Board, but only for the unexpired portion of the term.

(F) TRANSITIONS.—Any member of the Board may continue to serve after the expiration of the term for which the member was appointed or elected until a qualified successor has been appointed or elected.

(b) POWERS OF THE ORGANIZATION.—The Organization may—

(1) adopt, alter, and use a corporate seal;

(2) adopt bylaws, consistent with this Act, regulating, among other things, the manner in which—

(A) the business of the Organization shall be conducted;

(B) the elected members of the Board shall be elected;

(C) the stock of the Organization shall be issued, held, and disposed of;

(D) the property of the Organization shall be disposed of; and

(E) the powers and privileges granted to the Organization by this Act and other law shall be exercised;

(3) make and perform contracts, agreements, and commitments, including entering into a cooperative agreement with the Fund;

(4) prescribe and impose fees and charges for services provided by the Organization;

(5)(A) settle, adjust, and compromise; and

(B) with or without consideration or benefit to the Organization, release or waive in whole or in part, in advance or otherwise, any claim, demand, or right of, by, or against the Organization;

if such settlement, adjustment, compromise, release, or waiver is not adverse to the interests of the United States;

(6) sue and be sued, complain and defend, in any tribal, Federal, State, or other court;

(7) acquire, take, hold, and own, and to deal with and dispose of any property;

(8) determine the necessary expenditures of the Organization and the manner in which such expenditures shall be incurred, allowed, and paid, and appoint, employ, and fix and provide for the compensation and benefits of officers, employees, attorneys, and agents as the Board determines reasonable and not inconsistent with this section;

(9) incorporate a new corporation under State, District of Columbia, or tribal law, as provided in section 501;

(10) adopt a plan of merger, as provided in section 502;

(11) consummate the merger of the Organization into the new corporation, as provided in section 503; and

(12) have succession until the designated merger date or any earlier date on which the Organization surrenders its Federal charter.

(c) INVESTMENT OF FUNDS; DESIGNATION AS DEPOSITARY, CUSTODIAN, OR AGENT.—

(1) INVESTMENT OF FUNDS.—Funds of the Organization that are not required to meet current operating expenses shall be invested in obligations of, or obligations guaranteed by, the United States or any agency thereof, or in obligations, participations, or other instruments that are lawful investments for fiduciary, trust, or public funds.

(2) DESIGNATION AS DEPOSITARY, CUSTODIAN, OR AGENT.—Any Federal Reserve bank or Federal home loan bank, or any bank as to which at the time of its designation by the Organization there is outstanding a designation by the Secretary of the Treasury as a general or other depositary of public money, may—

(A) be designated by the Organization as a depositary or custodian or as a fiscal or other agent of the Organization; and

(B) act as such depositary, custodian, or agent.

(d) ACTIONS BY AND AGAINST THE ORGANIZATION.—Notwithstanding section 1349 of title 28, United States Code, or any other provision of law—

(1) the Organization shall be deemed to be an agency covered under sections 1345 and 1442 of title 28, United States Code;

(2) any civil action to which the Organization is a party shall be deemed to arise under the laws of the United States, and the appropriate district court of the United States shall have original jurisdiction over any such action, without regard to amount or value; and

(3) any civil or other action, case, or controversy in a tribal court, court of a State, or in any court other than a district court of the United States, to which the Organization is a party, may at any time before the commencement of the trial be removed by the Organization, without the giving of any bond or security and by following any procedure for removal of causes in effect at the time of the removal—

(A) to the district court of the United States for the district and division in which the action is pending;

(B) or, if there is no such district court, to the district court of the United States for the District of Columbia.

SEC. 202. AUTHORIZED ASSISTANCE AND SERVICE FUNCTIONS.

(a) TECHNICAL ASSISTANCE AND SERVICES.—The Organization may—

(1) assist the Fund in the establishment and organization of Native American Financial Institutions;

(2) assist the Fund in developing and providing financial expertise and technical assistance to Native American Financial Institutions, including methods of underwriting, securing, servicing, packaging, and selling mortgage and small commercial and consumer loans;

(3) develop and provide specialized technical assistance on overcoming barriers to primary mortgage lending on Native American lands, including issues related to trust lands, discrimination, high operating costs, and inapplicability of standard underwriting criteria;

(4) assist the Fund in providing mortgage underwriting assistance (but not in originating loans) under contract to Native American Financial Institutions;

(5) work with the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and other participants in the secondary market for home mortgage instruments in identifying and eliminating barriers to the purchase of Native American mortgage loans originated by Native American Financial Institutions and other lenders in Native American communities;

(6) obtain capital investments in the Organization from Indian tribes, Native American organizations, and other entities;

(7) assist the Fund in the operation of the Organization as an information clearinghouse by providing information on financial practices to Native American Financial Institutions; and

(8) assist the Fund in monitoring and reporting to the Congress on the performance of Native American Financial Institutions in meeting the economic development and housing credit needs of Native Americans.

(b) PURCHASES AND SALES OF MORTGAGES AND MORTGAGE-BACKED SECURITIES.—

(1) IN GENERAL.—

(A) AUTHORIZATION.—If a determination is made in accordance with subparagraph (B), the Organization may, upon receipt of a written authorization from the Secretary of Housing and Urban Development under this paragraph, carry out any activity described in paragraph (3).

(B) DETERMINATION.—For purposes of subparagraph (A), a determination made under this section is a determination by the Secretary of Housing and Urban Development that the combined purchases by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation of residential Native American nonqualifying mortgage loans originated by Native American Financial Institutions and other lenders on housing consisting of between 1 and 4 dwelling units—

(i) in the second year following the establishment of the Organization, total less than $20,000,000 (unless the Organization can demonstrate to the Secretary of Housing and Urban Development that such purchase goal could not be met); or

(ii) in any succeeding year, total less than that amount that the Secretary of Housing and Urban Development has determined and published as a reasonable Native American mortgage purchase goal (in accordance with paragraph (2)) for such combined purchases by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation in such year.

(2) FACTORS CONSIDERED.—In determining the purchase goal described in paragraph (1)(B)(ii), the Secretary shall take into account the study by the Fund of Native American lending and investment conducted pursuant to section 117(c) of the Riegle Community Development and Regulatory Improvement Act of 1994.

(3) POWERS OF THE ORGANIZATION.—Upon receiving a written authorization from the Secretary of Housing and Urban Development under paragraph (1), the Organization may, at any time—

(A) with respect to residential mortgage loans originated by Native American Financial Institutions that are qualifying mortgage loans—

(i) purchase such qualifying mortgage loans;

(ii) hold such qualifying mortgage loans for a period of not to exceed 12 months; and

(iii) resell such qualifying mortgage loans to the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or other secondary market participants, as provided in section 303(b);

(B) with respect to residential mortgage loans originated by the Native American Financial Institutions that are nonqualifying mortgage loans—

(i) purchase such nonqualifying mortgage loans from the Native American Financial Institutions for such terms as the Organization determines to be appropriate, including the life of the mortgage loan, if, with respect to any such loan—

(I) the Organization has reasonable assurance that the loan will be repaid within the time agreed;

(II) the Native American Financial Institution selling the loan retains a participation of not less than 10 percent in the mortgage;

(III) the Native American Financial Institution selling the loan agrees for such period of time and under such circumstances as the Organization may require, to repurchase or replace the mortgage upon demand of the Organization in the event that the loan is in default; or

(IV) that portion of the outstanding principal balance of the loan which exceeds 80 percent of the value of the property securing such loan is guaranteed or insured by a qualified insurer, as determined by the Organization; and

(ii) issue mortgage-backed securities or other forms of participations based on pools of such nonqualifying mortgage loans, as provided in section 303(c); and

(C) purchase, service, sell, lend on the security of, and otherwise deal in—

(i) residential mortgages that are secured by a subordinate lien against a property consisting of 1 to 4 dwelling units that is the principal residence of the mortgagor; and

(ii) residential mortgages that are secured by a subordinate lien against a property consisting of five or more dwelling units.

(4) RIGHTS AND REMEDIES.—

(A) IN GENERAL.—The rights and remedies of the Organization, including any rights and remedies of the Organization on, under, or with respect to any mortgage or any obligation secured thereby, shall be immune from impairment, limitation, or restriction by or under any State, District of Columbia, or tribal—

(i) law that becomes effective after the acquisition by the Organization of the subject or property on, under, or with respect to which such right or remedy arises or exists or would so arise or exist in the absence of such law; or

(ii) administrative or other action that becomes effective after such acquisition.

(B) QUALIFICATION.—The Organization may conduct its business without regard to any qualification or similar requirement in the District of Columbia, or any State or tribal jurisdiction.

SEC. 203. NATIVE AMERICAN LENDING SERVICES GRANT.

(a) INITIAL GRANT PAYMENT.—If the Fund and the Organization enter into a cooperative agreement for the Organization to provide technical assistance and other services to Native American Financial Institutions, such agreement shall, to the extent that funds are available as provided in section 602, provide that the initial grant payment, anticipated to be $5,000,000, shall be made when all members of the initial Board have been appointed under section 201.

(b) PAYMENT OF GRANT BALANCE.—The payment of the grant balance of $5,000,000 shall be made to the Organization not later than 1 year after the date on which the initial grant payment is made under subsection (a).

SEC. 204. AUDITS.

(a) INDEPENDENT AUDITS.—

(1) IN GENERAL.—The Organization shall have an annual independent audit made of its financial statements by an independent public accountant in accordance with generally accepted auditing standards.

(2) DETERMINATIONS.—In conducting an audit under this subsection, the independent public accountant shall determine and report on whether the financial statements of the Organization—

(A) are presented fairly in accordance with generally accepted accounting principles; and

(B) to the extent determined necessary by the Director, comply with any disclosure requirements imposed under section 401.

(b) GAO AUDITS.—

(1) IN GENERAL.—Beginning after the first 2 years of the operation of the Organization, unless an earlier date is required by any other statute, grant, or agreement, the programs, activities, receipts, expenditures, and financial transactions of the Organization shall be subject to audit by the Comptroller General of the United States under such rules and regulations as may be prescribed by the Comptroller General.

(2) ACCESS.—To carry out this subsection, the representatives of the General Accounting Office shall—

(A) have access to all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Organization and necessary to facilitate the audit;

(B) be afforded full facilities for verifying transactions with the balances or securities held by depositaries, fiscal agents, and custodians; and

(C) have access, upon request to the Organization or any auditor for an audit of the Organization under subsection (a), to any books, accounts, financial records, reports, files, or other papers, or property belonging to or in use by the Organization and used in any such audit and to any papers, records, files, and reports of the auditor used in such an audit.

(3) REPORTS.—The Comptroller General of the United States shall submit to the Congress a report on each audit conducted under this subsection.

(4) REIMBURSEMENT.—The Organization shall reimburse the General Accounting Office for the full cost of any audit conducted under this subsection.

SEC. 205. ANNUAL HOUSING AND ECONOMIC DEVELOPMENT REPORTS.

Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Organization shall collect, maintain, and provide to the Secretary of Housing and Urban Development, in a form determined by the Secretary, such data as the Secretary determines to be appropriate with respect to the Organization's—

(1) mortgages on properties consisting of between 1 and 4 dwelling units;

(2) mortgages on properties consisting of five or more dwelling units; and

(3) activities relating to economic development.

SEC. 206. ADVISORY COUNCIL.

(a) ESTABLISHMENT.—The Board shall establish an Advisory Council in accordance with this section.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Council shall consist of 13 members, who shall be appointed by the Board, including 1 representative from each of the 12 districts established by the Bureau of Indian Affairs and 1 representative from the State of Hawaii.

(2) QUALIFICATIONS.—Not less than 6 of the members of the Council shall have financial expertise, and not less than 9 members of the Council shall be Native Americans.

(3) TERMS.—Each member of the Council shall be appointed for a 4-year term, except that the initial Council shall be appointed, as designated by the Board at the time of appointment, as follows:

(A) Four members shall each be appointed for a 2-year term.

(B) Four members shall each be appointed for a 3-year term.

(C) Five members shall each be appointed for a 4-year term.

(c) DUTIES.—The Council shall advise the Board on all policy matters of the Organization. Through the regional representation of its members, the Council shall provide information to the Board from all sectors of the Native American community.

TITLE III—CAPITALIZATION OF ORGANIZATION

SEC. 301. CAPITALIZATION OF THE ORGANIZATION.

(a) CLASS A STOCK.—The class A stock of the Organization shall—

(1) be issued only to Indian tribes;

(2) be allocated on the basis of Indian tribe population, as determined by the Secretary of Housing and Urban Development in consultation with the Secretary of the Interior;

(3) have such par value and other characteristics as the Organization shall provide;

(4) be vested with voting rights, each share being entitled to 1 vote;

(5) be nontransferable; and

(6) be surrendered to the Organization if the holder ceases to be recognized as an Indian tribe under this Act.

(b) CLASS B STOCK.—

(1) IN GENERAL.—The Organization may issue class B stock evidencing capital contributions in the manner and amount, and subject to any limitations on concentration of ownership, as may be established by the Organization.

(2) CHARACTERISTICS.—Any class B stock issued under paragraph (1) shall—

(A) be available for purchase by investors;

(B) be entitled to such dividends as may be declared by the Board in accordance with subsection (c);

(C) have such par value and other characteristics as the Organization shall provide;

(D) be vested with voting rights, each share being entitled to 1 vote; and

(E) be transferable only on the books of the Organization.

(c) CHARGES AND FEES; EARNINGS.—

(1) CHARGES AND FEES.—The Organization may impose charges or fees, which may be regarded as elements of pricing, with the objectives that—

(A) all costs and expenses of the operations of the Organization should be within the income of the Organization derived from such operations; and

(B) such operations would be fully self-supporting.

(2) EARNINGS.—All earnings from the operations of the Organization shall be annually transferred to the general surplus account of the Organization. At any time, funds in the general surplus account may, in the discretion of the Board, be transferred to the reserves of the Organization.

(d) CAPITAL DISTRIBUTIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Organization may make such capital distributions (as such term is defined in section 1303 of the Federal Housing Financial Safety and Soundness Act of 1992) as may be declared by the Board. All capital distributions shall be charged against the general surplus account of the Organization.

(2) RESTRICTION.—The Organization may not make any capital distribution that would decrease the total capital (as such term is defined in section 1303 of the Federal Housing Financial Safety and Soundness Act of 1992) of the Organization to an amount less than the capital level for the Organization established under section 401, without prior written approval of the distribution by the Director.

SEC. 302. OBLIGATIONS AND SECURITIES OF THE ORGANIZATION.

(a) IN GENERAL.—

(1) AUTHORIZATION.—The Organization may—

(A) borrow funds to give security or pay interest or other return; and

(B) issue upon the approval of the Secretary of the Treasury, notes, debentures, bonds, or other obligations having maturities and bearing such rate or rates of interest as may be determined by the Organization with the approval of the Secretary of the Treasury;

if such borrowing and issuing of obligations qualifies as a transaction by an issuer not involving any public offering under section 4(2) of the Securities Act of 1933.

(2) RESTRICTIONS.—

(A) IN GENERAL.—Obligations issued by the Organization under this section shall not be obligations of the United States or any agency of the United States.

(B) NO GUARANTEES.—Payment of the principal of or interest on such obligations shall not be guaranteed by the United States or any agency of the United States. The obligations issued by the Organization under this section shall so plainly state.

(b) RESALES OF QUALIFYING MORTGAGE LOANS.—The sale or other disposition by the Organization of qualifying mortgage loans under section 202(b) shall be on such terms and conditions relating to resale, repurchase, substitution, replacement or otherwise as the Organization may prescribe, except that the Organization may not guarantee or insure the payment of any mortgage loan sold under section 202(b).

(c) SECURITIES BACKED BY NONQUALIFYING MORTGAGE LOANS.—Securities in the form of debt obligations or trust certificates of beneficial interest, or both, and based upon nonqualifying mortgage loans held and set aside by the Organization under section 202(b)—

(1) may be issued upon the approval of the Secretary of the Treasury; and

(2) shall have such maturities, and shall bear such rate or rates of interest, as may be determined by the Organization with the approval of the Secretary of the Treasury;

if such issuance qualifies as a transaction by an issuer not involving any public offering under section 4(2) of the Securities Act of 1933.

(d) PROHIBITIONS AND RESTRICTIONS; CREATION OF LIENS AND CHARGES.—

(1) IN GENERAL.—The Organization may, by regulation or by writing executed by the Organization—

(A) establish prohibitions or restrictions on the creation of indebtedness or obligations of the Organization or of liens or charges upon property of the Organization, including after-acquired property; and

(B) create liens and charges, which may be floating liens or charges, upon all or any part or parts of the property of the Organization, including after-acquired property.

(2) EFFECT.—Any prohibition, restriction, lien, or charge established under paragraph (2) shall—

(A) have such effect, including such rank and priority, as may be provided by regulations of the Organization or by any writing executed by the Organization; and

(B) create a cause of action which may be enforced by action in the United States district court for the District of Columbia or in the United States district court for any judicial district in which any of the property affected is located.

(3) JURISDICTION; SERVICE OF PROCESS.—Process in any action described in paragraph (2) may run to or be served in any judicial district or in any place subject to the jurisdiction of the United States.

(e) VALIDITY OF PROVISIONS; VALIDITY OF RESTRICTIONS, PROHIBITIONS, LIENS, OR CHARGES.—This section and any restriction, prohibition, lien, or charge referred to in subsection (b) shall be fully effective notwithstanding any other law, including any

law of or relating to sovereign immunity or priority.

SEC. 303. LIMIT ON TOTAL ASSETS AND LIABILITIES.

The aggregate of—

(1) the total equity of the Organization, including all capital from any issuance of class B stock; and

(2) the total liabilities of the Organization, including all obligations issued or incurred by the Organization;

shall not at any time exceed $20,000,000.

TITLE IV—REGULATION, EXAMINATION, AND REPORTS

SEC. 401. REGULATION, EXAMINATION, AND REPORTS.

(a) EFFECTIVE DATE OF SECTION.—This section shall take effect on the date on which the Secretary of Housing and Urban Development makes a determination in accordance with section 202(b) that the Organization may purchase and sell mortgages and mortgage-backed securities.

(b) IN GENERAL.—The Organization shall be subject to the regulatory authority of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development with respect to all matters relating to the financial safety and soundness of the Organization.

(c) DUTY OF DIRECTOR.—The Director shall ensure that the Organization is adequately capitalized and operating safely as a congressionally chartered body corporate.

(d) POWERS OF DIRECTOR.—The Director shall have all of the exclusive powers granted the Director under subsections (b), (d), and (e) of section 1313 of the Housing and Community Development Act of 1992, as determined by the Director to be necessary or appropriate to regulate the operation of the Organization.

(e) REPORTS TO DIRECTOR.—

(1) ANNUAL REPORT.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Organization shall submit to the Director a report describing the financial condition and operations of the Organization. The report shall be in such form, contain such information, and be submitted on such date as the Director shall require.

(2) OTHER REPORTS.—In addition to the reports submitted under paragraph (1), the Organization shall submit to the Director any report required by the Director pursuant to section 1314 of the Housing and Community Development Act of 1992.

(3) CONTENTS OF REPORT.—Each report submitted under this subsection shall contain a declaration by the president, vice president, treasurer, or any other officer of the Organization designated by the Board to make such declaration, that the report is true and correct to the best of such officer's knowledge and belief.

(f) FUNDING OFHEO OVERSIGHT.—

(1) ASSESSMENT AND COLLECTION.—The Director shall assess and collect from the Organization such amounts as are necessary to reimburse the Office of Federal Housing Enterprise Oversight for the reasonable costs and expenses of the activities undertaken by the Office of Federal Housing Enterprise Oversight to carry out the duties of the Director under paragraph (2), including the costs of examinations and overhead expenses.

(2) REQUIREMENTS.—Annual assessments imposed by the Director shall be—

(A) imposed prior to October 1 of each year;

(B) collected at such time or times during each assessment year as determined necessary or appropriate by the Director;

(C) deposited into the Federal Housing Enterprises Oversight Fund established by section 1316(f) of the Housing and Community Development Act of 1992; and

(D) available, to the extent provided in appropriations Acts, for carrying out the responsibilities of the Director under this section.

SEC. 402. AUTHORITY OF THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

Except for the authority of the Director under in section 401, the Secretary of Housing and Urban Development shall—

(1) have general regulatory power over the Organization; and

(2) issue such rules and regulations applicable to the Organization as determined necessary or appropriate by the Secretary to ensure that the purposes specified in section 102 are accomplished.

TITLE V—FORMATION OF NEW CORPORATION

SEC. 501. FORMATION OF NEW CORPORATION.

(a) IN GENERAL.—In order to continue the accomplishment of the purposes specified in section 102 beyond the terms of the charter of the Organization, the Board shall, not later than 10 years after the date of enactment of this Act, cause the formation of a new corporation under the laws of any tribe, any State, or the District of Columbia.

(b) POWERS OF NEW CORPORATION NOT PRESCRIBED.—Except as provided in this section, the new corporation may have any corporate powers and attributes permitted under the laws of the jurisdiction of its incorporation which the Board shall determine, in its business judgment, to be appropriate.

(c) USE OF NAFSO NAME PROHIBITED.—The new corporation may not use in any manner the name ''Native American Financial Services Organization'' or ''NAFSO'' or any variation of thereof.

SEC. 502. ADOPTION AND APPROVAL OF MERGER PLAN.

(a) IN GENERAL.—Not later than 10 years after the date of enactment of this Act, the Board shall prepare, adopt, and submit to the Secretary of Housing and Urban Development and the Secretary of the Treasury for approval, a plan for merging the Organization into the new corporation.

(b) DESIGNATED MERGER DATE.—

(1) IN GENERAL.—The Board shall establish the designated merger date in the merger plan as a specific calendar date on which and time of day at which the merger of the Organization into the new corporation shall take effect.

(2) CHANGES.—The Board may change the designated merger date in the merger plan by adopting an amended plan of merger.

(3) RESTRICTION.—Except as provided in paragraph (4), the designated merger date in the merger plan or any amended merger plan shall not be later than 11 years after the date of enactment of this Act.

(4) EXCEPTION.—Subject to the restriction contained in paragraph (5), the Board may adopt an amended plan of merger that designates a date later than 11 years after the date of enactment of this Act if the Board submits to both the Secretary of Housing and Urban Development and the Secretary of the Treasury a report—

(A) stating that an orderly merger of the Organization into the new corporation is not feasible before the latest date designated by the Board;

(B) explaining why an orderly merger of the Organization into the new corporation is not feasible before the latest date designated by the Board;

(C) describing the steps that have been taken to consummate an orderly merger of the Organization into the new corporation not later than 11 years after the date of enactment of this Act; and

(D) describing the steps that will be taken to consummate an orderly and timely merger of the Organization into the new corporation.

(5) LIMITATION.—The date designated by the Board in an amended merger plan shall not be later than 12 years after the date of enactment of this Act.

(6) CONSUMMATION OF MERGER.—The consummation of an orderly and timely merger of the Organization into the new corporation shall not occur later than 13 years after the date of enactment of this Act.

(c) GOVERNMENTAL APPROVALS OF MERGER PLAN REQUIRED.—The merger plan or any amended merger plan shall take effect on the date on which the plan is approved by both the Secretary of Housing and Urban Development and the Secretary of the Treasury.

(d) REVISION OF DISAPPROVED MERGER PLAN REQUIRED.—If either the Secretary of Housing and Urban Development or the Secretary of the Treasury, or both, disapprove the merger plan or any amended merger plan—

(1) each Secretary that disapproves the plan shall notify the Organization of such disapproval and indicate the reasons for the disapproval; and

(2) not later than 30 days after the date of notification of disapproval under paragraph (1), the Organization shall submit to both the Secretary of Housing and Urban Development and the Secretary of the Treasury for approval an amended merger plan responsive to the reasons for the disapproval indicated in such notification.

(e) NO STOCKHOLDER APPROVAL OF MERGER PLAN REQUIRED.—The approval or consent of the stockholders of the Organization shall not be required to accomplish the merger of the Organization into the new corporation.

SEC. 503. CONSUMMATION OF MERGER.

The Board shall ensure that the merger of the Organization into the new corporation is accomplished in accordance with—

(1) the merger plan approved by the Secretary of Housing and Urban Development and the Secretary of the Treasury; and

(2) all applicable laws of the jurisdiction in which the new corporation is incorporated.

SEC. 504. TRANSITION.

(a) CONTINUATION OF RIGHTS, DUTIES, AND RESTRICTIONS.—Except as provided in this section, the Organization shall, during the transition period, continue to have all of the rights, privileges, duties, and obligations, and shall be subject to all of the limitations and restrictions, set forth in this Act.

(b) COLLATERALIZATION OF OUTSTANDING OBLIGATIONS.—

(1) IN GENERAL.—The Organization shall provide for all debt obligations of the Organization that are outstanding on the date before the designated merger date to be secured as to principal and interest by obligations of the United States held in trust for the holders of such obligations.

(2) REQUIREMENTS, TERMS, AND CONDITIONS.—The collateralization and the trust referred to in the preceding sentence shall be subject to such requirements, terms, and conditions as the Secretary of the Treasury determines to be necessary or appropriate.

(c) ISSUANCE OF NEW OBLIGATIONS DURING TRANSITION PERIOD.—As needed to carry out the purposes for which it was formed, the Organization may, during the transition period, continue to issue obligations under section 303. Any new obligation issued during the transition period shall mature before the designated merger date.

SEC. 505. EFFECT OF MERGER.

(a) TRANSFER OF ASSETS AND LIABILITIES.—

(1) TRANSFER OF ASSETS.—On the designated merger date, all property, real, personal, and mixed, all debts due on any account, and any other interest of or belonging

to or due to the Organization shall be transferred to and vested in the new corporation without further act or deed, and title to any property, whether real, personal, or mixed, shall not in any way be impaired by reason of the merger.

(2) TRANSFER OF LIABILITIES.—On the designated merger date, the new corporation shall be responsible and liable for all obligations and liabilities of the Organization and neither the rights of creditors nor any liens upon the property of the Organization shall be impaired by the merger.

(b) TERMINATION OF THE ORGANIZATION AND ITS FEDERAL CHARTER.—On the designated merger date—

(1) the surviving corporation of the merger shall be the new corporation;

(2) the Federal charter of the Organization shall terminate; and

(3) the separate existence of the Organization shall terminate.

(c) REFERENCES TO THE ORGANIZATION IN LAW.—After the designated merger date, any reference to the Organization in any law or regulation shall be deemed to refer to the new corporation.

(d) SAVINGS CLAUSE.—

(1) PROCEEDINGS.—The merger of the Organization into the new corporation shall not abate any proceeding commenced by or against the Organization before the designated merger date, except that the new corporation shall be substituted for the Organization as a party to any such proceeding as of the designated merger date.

(2) CONTRACTS AND AGREEMENTS.—All contracts and agreements to which the Organization is a party and which are in effect on the day before the designated merger date shall continue in effect according to their terms, except that the new corporation shall be substituted for the Organization as a party to those contracts and agreements as of the designated merger date.

TITLE VI—AUTHORIZATIONS OF APPROPRIATIONS

SEC. 601. AUTHORIZATION OF APPROPRIATIONS FOR NATIVE AMERICAN FINANCIAL INSTITUTIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the Fund, without fiscal year limitation, $20,000,000 to provide financial assistance to Native American Financial Institutions.

(b) NOT MATCHING FUNDS.—To the extent that a Native American Financial Institution receives a portion of an appropriation made under subsection (a), such funds shall not be considered to be matching funds required of the Native American Financial Institution under section 108(e) of the Riegle Community Development and Regulatory Improvement Act of 1994.

SEC. 602. AUTHORIZATION OF APPROPRIATIONS FOR ORGANIZATION.

The Secretary of Housing and Urban Development may, to the extent provided in advance in an appropriations Act, provide not more than $10,000,000 to the Fund for the funding of a cooperative agreement to be entered into by the Fund and the Organization for technical assistance and other services to be provided by the Organization to Native American Financial Institutions.

UTE MOUNTAIN UTE TRIBE
TOWAOC, COLORADO,
January 26, 1995.

Senator BEN NIGHTHORSE CAMPBELL,
Russell Office Building, Washington, DC.

DEAR SENATOR CAMPBELL: Thank you for your letter of January 25, 1995 requesting my comments on the draft Native American Financial Services Organization Act (NAFSO) attached thereto. Based on this Tribe's experience and on the House Committee on Banking, Finance and Urban Affairs report referenced in the draft, this type of assistance to Tribes is desperately needed. Your efforts to remedy the current housing situation for Native Americans is greatly appreciated.

After a brief review of the draft NAFSO, I have some initial observations. First, with respect to governance of NAFSO, it will be important to ensure that financial services experts are either on the Board of Directors or in a position to directly advise them. The issue here is that such experts will be required for a successful NAFSO and to assist in the establishment of NAFIs. Experts are necessary for the fiscal management of NAFSO itself.

Second, along these same lines, there probably should be some federal oversight, but not necessarily regulatory control, consistent with the United States's trust responsibility, to make sure NAFSO and NAFIs are properly established and operated. This oversight would be in addition to that required by the draft if NAFSO is authorized to purchase and sell Native American mortgages. Please advise if NAFIs would be subject to banking and lending laws as other such institutions are. Third, a more detailed explanation of what the ''tribal contribution'' will amount to in NAFSO's future would be beneficial. Many tribes with limited financial resources will have concerns about this facet of the legislation and some indication of what such contributions will entail may help to alleviate apprehension about them. Nevertheless, some tribes may oppose any tribal contributions at all. One would hope that the NAFSO could operate on its own resources if it is indeed successful.

To sum up, my primary concern involves ensuring that NAFSO will be successful, particularly considering it will be up to the Tribes in large part to do so. Some expert or federal representation on the Board of Directors would be helpful in this regard.

Coupled with this consideration is the importance of oversight for operations of NAFIs. This seems appropriate since the draft implies these institutions will be very similar to banks, institutions which are already highly regulated.

As you may be aware, the Department of Veteran's Affairs entered into a Cooperative Agreement with the Tribe on November 15, 1993 to assist us in obtaining home loans for veteran tribal members. To date, no loans have been processed under this Cooperative Agreement. At the same time, I have some concern about HUD's involvement in this program based on their inability to resolve this problem on its own. Nevertheless, surely HUD has learned much from its mistakes and should add to the process. Whether that agency should be a majority voice in the decision-making or policy formulating process is something that should be examined.

The shortage of suitable housing on this Reservation is severe. We currently have close to 400 individuals without a permanent home and near 300 which have placed themselves on the waiting list for housing. Out of the 1500 or so tribal members which reside here, this means over 25% of our people are without a permanent home. We also have information which indicates that upwards of 200 families are forced to share their homes with other families to provide the most basic of human needs, shelter. As you can understand, this desperate situation seriously affects tribal member's sense of self-worth and self-esteem.

Although this Tribe operates a Casino as well as other successful enterprises, we must utilize those funds for operation of the Tribal budget and economic development to keep our people working and reduce unemployment. It is for this reason that your draft NAFSO/NAFI legislation is urgently needed. Again, I cannot stress enough how much your efforts in this regard are appreciated. The Tribe acknowledges this efforts and will endeavor to help where we can.

Thank you very much for the opportunity to comment. Please contact my office if you require anything further.

Sincerely,

JUDY KNIGHT FRANK,
Chairperson.

NATIONAL AMERICAN INDIAN
HOUSING COUNCIL,
Washington, DC, January 24, 1995.

Hon. BEN NIGHTHORSE CAMPBELL,
U.S. Senate, Washington, DC.

DEAR SENATOR: On behalf of the NAIHC's Board of Directors and membership, I am writing to thank you for supporting legislation that is very important to the Native American community. In particular, your support for the Native American Financial Services Organization (NAFSO) is greatly appreciated as NAIHC believes this legislation will bring much needed relief to solving the housing problems for Native Americans.

The housing needs in Indian Country remain acute and we recognize that we must move beyond housing assistance from the federal government. NAFSO will help us do so. We believe that allowing the creation of Native American Financial Institutions (NAFIs) will also stimulate local economies and encourage privately financed housing.

Your recognization that NAFSO will have a positive affect on Indian Country is appreciated and valued. Please feel free to contact me if I can be of further support regarding this legislation.

Sincerely,

RUTH A. JAURE,
Executive Director.

U.S. DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT,
Washington, DC, September 22, 1994.

Hon. ALBERT GORE, JR.,
President of the U.S. Senate,
Washington, DC.

DEAR MR. PRESIDENT: I am pleased to transmit to you the ''Native American Financial Services Organization Act of 1994.'' For the past several months, the Department of Housing and Urban Development has been working with the Departments of the Treasury, the Interior, Agriculture and Veterans' Affairs, in consultation with the Native American Community to develop this bill.

Based upon the findings and recommendations of the Commission on American Indian, Alaska Native and Native Hawaiian Housing, established by Public Law 101–235, HUD believes that housing shortages and deplorable living conditions have reached crisis proportions in Native American communities throughout the United States.

Historically, financing for most Native American housing and economic development has been provided through government programs. These federal programs, however, do not fully meet the needs of Native American communities. Furthermore, there are few financial institutions that provide financial services to these communities.

To begin to address this crisis, the Department is proposing this legislation to improve the conditions and supply of housing in Native American communities by creating the Native American Financial Services Organization. This legislation would establish a limited government-chartered corporation to be known as the Native American Financial Services Organization (NAFSO). A Federal grant would capitalize the federally-chartered, for-profit NAFSO through a cooperative agreement. Under the agreement, NAFSO could assist Native Americans in creating local financial institutions to address their capital needs. The Federal

NAFSO charter would cease to exist upon a designated date, by which time it would be merged into a private corporation. The legislation also provides for an ''asset cap'' that is designed to limit the size of the NAFSO to $20 million. It is anticipated that the NAFSO will be privatized in order to grow beyond this limit. It also is anticipated that tribal contributions would assist the NAFSO in becoming self-sufficient over time.

The governance of the NAFSO would be vested in a Board of Directors that would be representative of the Native American community. Shares would be equitably distributed among federally-recognized tribes; the Board could elect to distribute additional shares on an investment basis.

It is the purpose of this Act—

(1) to help serve the mortgage, economic development, and other lending needs of Native Americans by assisting in the establishment and organization of Native American community lending institutions that would be called Native American Financial Institutions (NAFIs); NAFIs would be any type of financial institution, including community banks, credit unions and savings banks, and therefore could provide a wide range of financial services;

(2) to develop and provide financial expertise and technical assistance to NAFIs, including assistance on how to overcome barriers to lending on Native American lands, and the past and present impact of discrimination;

(3) to promote access to mortgage and economic development credit throughout Native American communities by increasing the liquidity of financing for housing and improving the distribution of investment capital available for such financing, primarily through NAFIs;

(4) to direct sources of public and private capital into housing and economic development for Native American individuals and families, primarily through NAFIs; and,

(5) to provide ongoing assistance to the secondary market for residential mortgages and economic development loans for Native American individuals and families, NAFIs, and other borrowers by increasing the liquidity of such mortgage investments and improving the distribution of investment capital available for such residential mortgage financing.

At the outset, it is contemplated that the NAFSO itself will not purchase and sell Native American mortgages originated by the NAFIs, but rather will work with the existing secondary market for residential mortgages to increase the liquidity for such investment. However, if it is later determined that the secondary market is not meeting reasonable mortgage purchase goals established by this department, the NAFSO will be authorized to purchase and sell such mortgages.

The Secretary of Housing and Urban Development would be authorized to provide up to $10 million, subject to appropriations, for the funding of a cooperative agreement for technical assistance and other services to be provided by the NAFSO to NAFIs. In addition, there would be authorized, without fiscal year limitation, $20 million to provide financial assistance through the NAFSO to NAFIs. Funding would be made available from the Community Development Financial Institution (CDFI) fund. NAFIs are not eligible for additional funding under the CDFI fund if the NAFI elects to receive funding under this Act.

This legislation further provides that the Office of Federal Housing Enterprise Oversight would regulate matters pertaining to the financial safety and soundness of the NAFSO in the event that the NAFSO is authorized to purchase and sell Native American mortgages and the Department of Housing and Urban Development would have general regulatory authority.

The ''Native American Financial Services Act of 1994'' would provide financial independence to the Native American community that has never been enjoyed before. It provides the structure to marry private financial resources with Federal and tribal resources in a way that benefits all parties. The creation of the NAFSO would have the ripple effect of opening avenues to economic development and housing that have not been available heretofore.

The Office of Management and Budget has advised that it has no objection to the transmittal of this legislation to Congress.

I request that the bill be referred to the appropriate committee and urge its early consideration. I am sending a similar letter to the Speaker of the House of Representatives, Thomas S. Foley.

Sincerely,

HENRY G. CISNEROS,
Secretary.

Mr. INOUYE, Mr. President, I rise today to express my support for a measure being introduced by my esteemed colleague from Colorado, Senator BEN NIGHTHORSE CAMPBELL. This measure, the Native American Financial Services Organization Act of 1995, is being introduced at the request of the administration. It is the end-product of a multiagency Federal working group whose goal was to craft a legislative proposal which would encourage, promote, and foster the delivery of housing and economic development financing to native American families and communities.

Mr. President, it is difficult for many of us here to comprehend the sheer magnitude of the housing needs of this Nation's native communities. In 1993, the Bureau of Indian Affairs of the U.S. Department of Interior estimated that 88,689 native American families were in need of housing assistance. But anyone familiar with Indian country would agree that these figures reflect a gross underestimation. I am pleased to note that in the next few months, the Department of Housing and Urban Development will be releasing the results of an assessment of Indian housing needs and programs. This survey is one of the most ambitious and comprehensive ever undertaken, and it is my hope that we in the Congress will finally be provided with a more accurate picture of the housing needs and conditions of native American families.

The Native American Financial Services Organization Act has its genesis in the finding and recommendations of the National Commission on American Indian, Alaska Native, and Native Hawaiian housing. The Commission, established pursuant to Public Law 101–235, documented that native American Families and communities were overwhelmingly and consistently access to conventional financing mechanisms, often due to the unique legal status of Indian trust lands. The Commission recommended the creation of a Native American Finance Authority to direct sources of capital to native Americans, native American families, and other eligible mortgagors in order that they might meet their housing and related infrastructure needs.

Mr. President, this administration heeded the Commission's call for action. The Department of Housing and Urban Development spearheaded a multi-departmental effort, which included representatives for the Department of the Treasury, the Bureau of Indian Affairs, and the Office of Management and Budget. The working group began with the Commission's legislative proposal, and ended with the measure which I am honored to be co-sponsoring today. This administration deserves to be commended for recognizing the distressed housing conditions under which many of our native American families live and for taking deliberate and meaningful steps to change and improve these circumstances.

In many, many respects, the measure being introduced today addresses the concerns of the National Commission on American Indian, Alaska Native, and Native Hawaiian Housing and embodies the spirit of the Commission's recommendations. But Mr. President, I wish to point out one very fundamental difference between this measure, and the Commission's legislative proposal. The omission—one which I have just cause to be concerned about—is a glaring one, for while the original proposal included native Hawaiians, the bill before us today does not.

Mr. President, the Commission's final report documented that native Hawaiians are among the neediest in the State of Hawaii—they have the worst housing conditions and the highest percentage of homelessness, representing over 30 percent of the State's homeless population. Under any circumstances, the figures would be deplorable, but the truth is that this situation can only worsen. I surely do not need to point out that Hawaii is one of the most expensive States in which to build, rent, or purchase a home, and that, according to a recent survey conducted by the National Association of Home Builders, Honolulu ranked 179th out of 185 places in home affordability.

Mr. President, I stand here, not only as a co-sponsor, in support of this measure, but as the senior Senator from the State of Hawaii and one who has long sought to address the housing needs of the native Hawaiian people. I must express for the record my disappointment that this bill departs from the recommendation of the very Commission which was the genesis for the concept of a financial service organization—namely that native Hawaiians should be included in this measure. I assure you that I will seek to honor the Commission's recommendations.

Mr. McCAIN. Mr. President, today I am pleased to join as an original cosponsor of a bill to establish a Native American Financial Services Organization [NAFSO] that will provide financial incentives to increase homeownership opportunities in Indian and Alaska Native communities.

Indian housing problems have reached crisis proportions with seriously deteriorating conditions and severe overcrowding. The latest U.S. Census report indicates that 18 percent of Indian reservation homes are overcrowded, while the comparable data for the Nation as a whole is 2. The shortage of housing is made even more acute by the deplorable condition of existing housing in native American communities. Many Indian homes lack running water, indoor bathrooms, sufficient heat, or weatherization.

To date, most of the housing construction done on reservations has been financed directly by the U.S. Government. But Indian housing needs have far out-stripped the capacity of Federal housing construction efforts. Everyone who has looked at the problem agrees that one main reason for the Indian housing disaster is an absence of private capital participation in financing housing in Indian and Alaska Native communities.

The bill I am cosponsoring today would begin to change the Federal role in Indian housing in ways that strengthen and empower local tribal governments in their efforts to increase housing opportunities in their communities. The bill would do this by federally chartering a limited, for-profit corporation to be known as the Native American Financial Services Organization [NAFSO]. NAFSO would assist Indians and Alaska Natives to create local financial institutions that will attract capital investment in housing in Indian communities. It would also work within the existing secondary market to increase the liquidity of mortgages placed on housing located on land held in trust for Indians by the United States. If sufficient levels of private lending are not achieved, at a later date NAFSO could enter the secondary market itself to purchase and sell portages.

I am particularly pleased that the bill contains a sunset-type provision under which the Federal charter would cease and NAFSO would be merged into a private corporation to permit further growth and attract private contributions, including those of tribes with funds to invest in Indian and native American housing.

I look forward to a hearing on this bill because it will provide an opportunity for the Committee on Indian Affairs to evaluate this proposal to ensure that it is properly designed to accomplish its goals. While a commission on Indian and native American housing recommended the concepts underlying this bill, and while many tribal governments already are on record in support of the bill as introduced, I will ask tribes and tribal organizations to scrutinize the bill and provide the committee with recommendations to improve it and sharpen its focus on the serious problems plaguing Indian housing.

I commend HUD Secretary Cisneros for his increased support for Indian housing efforts, one of which is reflected in the Department's development of this NAFSO proposal, and I look forward to working with the administration to enact this important legislation.

By Ms. SNOWE:

S. 437. A bill to establish a Northern Border States-Canada Trade Council, and for other purposes; to the Committee on Finance.

ESTABLISHMENT OF A NORTHERN BORDER STATES COUNCIL ON UNITED STATES AND CANADIAN TRADE

• Ms. SNOWE. Mr. President, today I am introducing legislation that would establish the Northern Border States Council on United States-Canada Trade. The purpose of this Council is to oversee cross-border trade with our Nation's largest trading partner—an action that I believe is long overdue. The Council will serve as an early warning system to alert State and Federal trade officials to problems in cross-border traffic and trade. And the Council will help the United States more efficiently manage the administration of its trade policy with Canada by applying the wealth of insight, knowledge and expertise that resides in our northern border States on this critical policy issue.

Yes, we already have the Department of Commerce and a U.S. Trade Representative. But the fact is that these both are federal entities, responsible for our larger, national U.S. trade interest. Too often, they do not look after the interests of the 12 Northern States that share a border with Canada. The Northern Border States Council will provide State trade officials a mechanism to share information about cross-border traffic and trade. The Council will then advise the Congress, the President, the United States Trade Representative, the Secretary of Commerce, and other Federal and State trade officials on United States-Canada trade policies, practices, and relations.

Canada is America's largest trading partner. Trade with Canada accounts for approximately one-fifth of total United States exports and Canada is the top purchaser of U.S. exports. Canada is also the largest supplier of United States imports. Canada needs to maintain close trade ties with the United States to assure its survival. The Canadian economy is heavily oriented on exports, and most—roughly 75 percent—of that trade is directly with the United States.

Over the last decade, Canada and the United States have signed two major trade agreements—the United States-Canada Free-Trade Agreement in 1989, and the North American Free-Trade Agreement in 1993. Notwithstanding these trade accords, numerous disagreements have caused trade negotiators to shuttle back and forth between Washington and Ottawa. Most of the more well-known trade disputes with Canada have dealt with agricultural commodities such as durum wheat, peanut butter, dairy products, and poultry products, and these disputes have impacted more than just the 12 northern border States.

But each and every day an enormous quantity of trade and traffic crosses the United States-Canada border. There are literally thousands of businesses, large and small, that rely on this cross-border traffic and trade for their livelihood. Any disruption in that flow of traffic and trade, whether intentional or not, would have traumatic economic consequences on hundreds of thousands, if not millions, of people in the 12 northern border States.

The people best qualified to monitor that cross-border traffic and trade live in the States along our northern border—States that share that border with Canada. This is why it is important that the members of this Council be from those States.

My own State of Maine has had a long-running dispute with Canada over that Nation's unfair policies in support of its potato industry. Specifically, Canada protects its domestic potato growers from United States competition through a system of nontariff trade barriers, such as setting container size limitations and a prohibition on bulk imports from the United States. This bulk import prohibition effectively blocks United States potato imports into Canada. At the same time, Canada artificially enhances the competitiveness of its product through domestic subsidies for potato growers.

Another trade dispute with Canada, specifically with the province of New Brunswick, served as the inspiration for this legislation. In July 1993, Canadian Federal Customs Officials began stopping Canadians returning from Maine and collecting from them the 11-percent New Brunswick provincial sales tax [PST] on goods purchased in Maine. Canadian Customs Officers had already been collecting the Canadian Federal sales tax all across the United States-Canada border. The collection of the New Brunswick PST was specifically targeted against goods purchased in Maine—not on goods purchased in any of the other provinces bordering New Brunswick. The premier of New Brunswick even admitted that his province had no intention of trying to collect the PST along any of its provincial borders. Only along the border with Maine.

After months of imploring the United States Trade Representative to do something about the imposition of the unfair tax, Ambassador Kantor agreed that the New Brunswick PST was a violation of NAFTA, and that the United States would include the PST in the NAFTA dispute settlement process. It has languished in that process for almost a year because Canada and Mexico have been stubbornly refusing to finalize the details of the NAFTA dispute resolution process.

Throughout the early months of the PST dispute, we in the State of Maine had enormous difficulty convincing our

Federal trade officials that the PST was in fact an international trade dispute that warranted their attention action. We had no way of knowing if the PST was a national problem, or a localized one. If a body like the Northern State Trade Council had been in existence when the collection of the PST began, if would have immediately started investigating the issue to determine its causes and make recommendations on how to deal with it.

In short, the Northern Border States Council will serve as the eyes and ears for our States that share a border with Canada, and are vulnerable to fluctuations in cross-border trade and traffic. The Council will be a tool for Federal and State officials to use in monitoring their cross-border trade. It will help ensure that national trade policy regarding America's largest trading partner will be developed and implemented with an eye toward the unique burdens and opportunities present to the northern border States.

The Northern Border States Council will be an advisory body, not a regulatory one. Its fundamental purpose will be to determine the nature and course of cross-border trade issues or disputes, and to recommend how to resolve them.

The duties and responsibilities of the Council will include, but are not limited to, providing advice and policy recommendations on such matters as taxation and the regulation of cross-border wholesale and retail trade in goods and services; taxation, regulation and subsidization of food, agricultural, energy, and forest-products commodities; and the potential for Federal, State, and Canadian provincial laws and regulations—including customs and immigrations regulations—to act as nontariff barriers to trade.

As an advisory body, the Council will review and comment on all Federal and/or State reports, studies, and practices concerning United States-Canada trade, with particular emphasis on all reports from the dispute settlement panel established under the North American Free Trade Agreement. These Council reviews will be conducted upon the request of the U.S Trade Representative, the Secretary of Commerce, any Member of Congress from a Council State, and the Governor of a Council State.

If the Council determines that the origin of a cross-border trade dispute resides with Canada, the Council must determine, to the best of its ability, if the source of the dispute is the Canadian Federal Government or a Canadian provincial government.

My goal is not to create another Federal trade bureaucracy. The Council will be made up of individuals nominated by the Governors and approved by the Secretary of Commerce. Each Northern border State will have two members on the Council. The Council members will be unpaid, and serve a 2-year term.

The Northern Border States Council on United States-Canada Trade will not solve all of our trade problems with Canada. But it will ensure that the voices and views of our northern border States are heard in Washington by our Federal trade officials. For too long their voices were ignored, and the northern border States have had to suffer severe economic consequences at times because of it. This legislation will restore our northern border States to their rightful position as full partners in administering and managing corss-border trade and traffic with America's largest trading partner.

I urge my colleagues to join me in supporting this important legislation.●

By Ms. SNOWE:

S. 438. A bill to reform criminal laws, and for other purposes; to the Committee on the Judiciary.

LEGISLATION TO STRENGTHEN AMERICA'S ANTI-CRIME LAWS

● Ms. SNOWE. Mr. President, today I am introducing legislation to address the serious problem of crime in America, while offering stronger protection to the victims of crime. My legislation will propose mandatory minimum sentences for criminals who use a firearm while committing violent State crimes; require truth-in-sentencing provisions so that criminals complete at least 85 percent of their sentences; eliminate prison luxuries that coddle prisoners, and require courts to order restitution for the victims of crimes.

Many of these proposals—which are designed to strengthen the crime package passed by Congress last year—are not new. Some have already won passage in the Senate as part of the Senate-passed crime bill. But they are important proposals—and it is important for our citizens and especially for our children—that we include these plans to get tough on crime.

When 23 million households will suffer from crimes this year, it is no wonder that crime is the number one concern of most Americans, whether in a relatively safe State like Maine, or here in the District of Columbia. As Americans scan the front page of the newspapers every morning, word of crimes right in our own neighborhoods catches our eye, puts us on guard—and keeps the American people on edge. We have been raised in a humane and advanced nation—and our citizens place a premium on safety, security. For too many Americans, the home is no longer a castle. Too many Americans must lock up their homes like a fortress, and walk through our streets with fear because of the scourge of violent crime.

Indeed, Americans no longer feel safe in their own neighborhoods. In the 35 years since 1960, the population of the United States has increased by 44 percent. Over that same time, violent crime in America has increased by more than 500 percent. Our Nation has lost its edge in law enforcement and in humane social efforts that meet the root causes of crime. Indeed, according to a recent study published in Business Week, crime bears an enormous cost: The total direct and indirect cost of crime in America is a staggering $425 billion.

Sadly, crime does not discriminate across regional or social boundaries. Crime reaches to us all—and exacts a devastating personal toll on its victims and their families and loved ones. Few among us have escaped the devastating impact of crime. Every day, 14 Americans are murdered, 48 are raped, and 578 are robbed. In our lifetimes, one-third of all Americans will be robbed. Three-fourths will be assaulted.

In the course of the average day in America, there is a murder every 21 minutes. Rape is committed once every 5 minutes. Robberies occur every 46 seconds. Burglaries occur every 10 seconds. Imagine: A boy born in 1978 stands a greater chance of being murdered in the United States than one of our brave soldiers in World War II stood of dying in combat.

Last year, Congress passed the President's crime bill—a package that took steps to punish violent criminals and keep them off the streets, and to address the root problems of crime. Unfortunately, however, the President's bill stopped short of proposals that I believe will give our Nation's anticrime laws teeth.

My legislation includes tough provisions to provide mandatory minimum sentences for violent State crimes, or State drug trafficking crimes involving the use or possession of a firearm. Clearly, we must crack down on the violent offenders who have been proven responsible for the vast majority of crimes.

Studies by the criminologist Marvin Wolfgang show that just 7 percent of each age group was responsible for two-thirds of all violent crime, including three-fourths of all rapes and robberies—and virtually every murder. According to Mr. Wolfgang's study—conducted in Philadelphia over a 13-year period—this 7 percent of the population had five or more arrests by the age of 18. For every arrest, each individual had gotten away with another dozen crimes.

Indeed, it is estimated that last year, more than 1,100 convicted murderers did not go to prison; more than 6,900 convicted rapists did not go to prison; more than 37,000 individuals convicted of aggravated assault did not go to prison.

My proposal will impose tough mandatory minimum sentences on violent criminals. For first-time offenders, we will direct the courts to impose sentences of 10 years for those who possess a firearm; 20 years if they discharge that firearm with the intent to harm another person; and 30 years for possession of a machine gun or other weapon equipped with a firearm silencer or muffler.

Too often, however, even a tough first sentence is not enough to stop the endless cycle of crime. More than 40 percent of murderers released from

State prisons are re-arrested for a felony or serious misdemeanor within 3 years—more than 20 percent for another violent crime. Of the 50,000 violent criminals who are put on probation this year, more than 9,000 will not learn their lesson. They will be re-arrested in the same State within 3 years for another violent crime. An astonishing 10 percent of America's jail population—39,000 people in 1989—committed their current crime while out on parole.

So for second-time offenders, we will make our mandatory minimum sentences tougher; 20 years for possession of a firearm, 30 years for discharge of a firearm with the intent to injure another person, and life in prison for possession of a machine gun.

And for a third offense? Three strikes and they're out—for life imprisonment for any violent offender.

My provisions for mandatory minimum sentences will prohibit States from offering probation or suspended sentences, and we will direct the courts that sentences cannot run concurrently. This legislation also provides for Good Samaritans or for citizens who act in self-defense: the provision will not apply to those acting in defense of person or property during the course of a crime committed by another person.

Criminals have also learned, over times, that the odds in sentencing are in their favor. For every 100 violent crimes reported, only 4 criminals go to prison. The risk of punishment for a serious criminal offense has declined by two-thirds since 1950, while the annual number of serious crimes is seven times greater than it was then. This fact is not lost on criminals, who know that if they scoff at the criminal justice system—and hire a good lawyer—they can go free in little, if any time. Even when criminals are convicted and sent to prison after appeals, they know that the average violent offender—who in 1990 received a sentence of 7.8 years—will serve just over 3 years in jail.

To make sure that convicted criminals serve their time, my legislation will enact truth-in-sentencing provisions. In order to be eligible for prison funding under the 1994 crime bill, this legislation will require that States change their laws to require violent offenders to serve a minimum of 85 percent of their required sentence.

Prison is not meant to be a pleasant experience: it is meant, instead, to serve as both a deterrent to crime and to rehabilitate criminals so that they can again become productive members of society. Too often, however, our criminal justice system has coddled prisoners with luxury items that even hard-working Americans can not afford. Indeed, our Federal prison system has earned the nickname ''Club Fed'' because of its luxury. I believe our Federal prison system must instead address the root causes of crime as it rehabilitates prisoners. We should eliminate the luxuries in our prisons from expansive weight lifting equipment to X-rated movies, cable television, computer, even miniature golf.

Instead, we should require every able-bodied prisoner to work, and begin to return to society part of what the prisoner has taken. My legislation will give the Attorney General 120 days to implement and enforce regulations mandating prison work for able-bodied inmates in Federal penal and correctional institutions.

In addition to these provisions that get tough on criminals and make our tough sentences stick, my legislation includes provisions to require increased fairness—and awareness—of the victims of crimes. For the 5 million people each year who are victims of violent crimes—such as rape, murder, robbery or assault—these provisions will provide increased security and peace of mind. While criminals can pursue one legal remedy after another, victims of crimes quickly exhaust their options and are frequently forced to quietly bear the brunt of the crime, alone, and without restitution.

Victim restitution presently can be ordered by courts, at the discretion of the court. My legislation will require courts to order restitution, and extends to the victims of crimes the same sort of safeguards that we extended to women in the Violence Against Women Act, which I cosponsored in the House.

This legislation will state that victims should be reimbursed for all necessary expenses related to the investigation and prosecution of crime, whether child care, transportation or other expenses. No longer will the economic cost of prosecution serve as a deterrent that could keep victims from vigorously pursuing justice.

This legislation also will require reimbursement to the victim for medical services resulting from physical, psychiatric or psychological care, physical and occupational therapy costs due to rehabilitation, and all other losses suffered by the victim because of the crime. I believe that these provisions provide basic fairness for the victims of crime, and begin to balance our criminal justice system again by keeping in mind the needs of crime victims.

Mr. President, the people of Maine and America have a right to be personally secure, free from the fear of violent crime. My legislation combines positive steps that punish criminals and keep them off the streets, and to meet the often-overlooked needs of the victims of crime. This is legislation that is overdue, and will improve our nation's crime-fighting efforts.

I urge my colleagues to join me in supporting this legislation.●

By Mr. THOMAS (for himself, Mr. LOTT, Mr. SIMPSON, Mr. INHOFE, Mr. COATS, Mr. MURKOWSKI, and Mr. COCHRAN):

S. 439. A bill to direct the Director of the Office of Management and Budget to establish commissions to review regulations issued by certain Federal departments and agencies, and for other purposes; to the Committee on Governmental Affairs.

REGULATORY REFORM COMMISSION ACT

● Mr. THOMAS. Mr. President, it is well known that Federal regulations stifle economic growth. The cost of complying with Federal regulations alone is estimated to be between $300 and $500 billion per year—$4,000 to $6,000 for every working man and woman in America. The private sector spends 6.6 billion hours year complying with Federal paperwork requirements. The number of pages in the Federal Register last year was 45 percent higher than the number in 1986—without the Clinton health care bill going anywhere.

These excessive and misguided mandates impose enormous economic costs that limit economic growth and job creation. Small and medium-sized businesses—which are the businesses in my State of Wyoming—are disproportionately hurt by overregulation because they have fewer resources to allocate for compliance.

Mr. President, the 1994 elections were about change. The American people want less government in their lives. They don't want OSHA inspectors breathing down their necks, they don't want to pay for unnecessary EPA mandated facilities and they don't want Washington bureaucrats telling them how to live their lives.

That is why I am introducing the Regulatory Reform Commissions Act. This measure is designed to look back, review, and reduce existing regulations. My legislation would establish three bipartisan Regulatory Review Commissions, one for each selected Federal department or agency. Initially, I have selected the Departments of Interior, Labor, and the Environmental Protection Agency [EPA]. Over a 2-year period, the commissions will examine all regulations within the selected Federal department or agency and determine if the regulations are justified and report all appropriate changes to Congress, the department, and the Director of the Office of Management and Budget [OMB]. The commissions will examine the department's or agency's rules based on the following criteria: Whether the regulations are within the scope of authority of the statutes under which the regulations were issued; whether the regulations are consistent with the original intent of Congress; whether the regulations are based on cost/benefit analysis; and whether the regulations are subject to judicial review.

There have been several different proposals, which I support, to prevent new onerous regulations. This legislation is a perfect fit with those efforts, because it reviews the rules already on the books.

I urge my colleagues to join me in the effort against overregulation.●

By Mr. WARNER (for himself, Mr. CHAFEE, Mr. BAUCUS, Mr.

MOYNIHAN, Mr. BOND, Mr. FAIRCLOTH, Mr. KEMPTHORNE, Mr. LAUTENBERG, Mr. LIEBERMAN, Mr. INHOFE, Mr. REID, Mr. SMITH, Mr. LUGAR, Mrs. BOXER, Mr. GRAHAM, and Mr. PELL):

S. 440. A bill to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes; to the Committee on Environment and Public Works.

THE NATIONAL HIGHWAY SYSTEM DESIGNATION ACT OF 1995

• Mr. WARNER. Mr. President, I am pleased to be joined today by Chairman CHAFEE, Senator BAUCUS, Senator LAUTENBERG, Senator BOND, and others.

We are here today to provide assurances to the States, to commercial activities dependent on a viable transportation system, and to the motoring public that the Congress will enact the National Highway System legislation this year.

The legislation I am introducing to designate the National Highway System is sponsored by 14 of my colleagues.

The National Highway System is the cornerstone of the 1991 ISTEA statute which preserves a Federal role in a core surface transportation network.

As we come to the completion of the Eisenhower Interstate System, the NHS is the next generation of Federal focus to meet transportation challenges into the 21st century.

This system of 159,000 miles—although only a small fraction of highways in this country—consists of the 44,000-mile Interstate System and other primary routes.

Today, we affirm that Federal responsibility by ensuring a consistency of road engineering and safety among the States to provide for the free flow of commerce and to efficiently move people.

Ideally, Congress has only to approve the map which is the product of a joint effort between the Department of Transportation and our States. But, pragmatically, we all know that this legislation will be the 18-wheeler that will carry other issues.

We must not, however, be detoured from our mission.

Without passage of this bill, we know that our States will be crippled by the sanction of a loss of $6 billion until Congress does its job.

The NHS also will allow States to benefit from the flexibility and intermodalism which is the hallmark of ISTEA.

For the first time, States will focus their investments on connecting our rail, air, commercial water ports, and highways so that performance of the entire system can be maximized.

The NHS also provides an opportunity for States to target their future investments on these routes which carry high volumes of commuter traffic and commercial truck traffic.

Improving the safety of the motoring public must remain a Federal priority. Routes on the NHS must be among the first to benefit from the application of new and emerging technologies to improve safety and reduce congestion.

In Virginia, the twin problems of congestion and safety in major urban/suburban areas have been the focus of our transportation policies for some time.

We only need to look at Sunday's Washington Post to remind us of the dangers of driving on the Capital Beltway.

Again this morning, our commuters and commerce suffered extensive delays on the Capital Beltway when a tractor-trailer accident at the Cabin John Bridge closed a large segment of the beltway for hours.

As a result of this gridlock, commuters cannot get to work and interstate commerce is delayed. That translates into reduced productivity and wasted resources for all Americans.

The legislation we are introducing today also includes modest provisions to provide uniformity and flexibility to States as they continue to implement ISTEA.

As States enter the fourth year of ISTEA and we have sufficient information and experience to support these modifications.

As we move this legislation forward, my focus will be to reduce mandates on our States, without jeopardizing the safety of the traveling public, and to increase flexibility for States to allocate funds to meet their own needs.

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

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

NATIONAL HIGHWAY SYSTEM DESIGNATION ACT OF 1995—SECTION BY SECTION ANALYSIS

Sec. 1: Short Title.

Sec. 2:

Section 2 approves the most recent National Highway System submitted to Congress by the Secretary of Transportation. The section also specifies the procedure for future changes and modifications to the NHS after Congress has adopted the initial system. At the request of a State, the Secretary may add a new route segment to the NHS or delete an existing route segment and any connection to the route segment, as long as the segment or connection is within the jurisdiction of the requesting State and the total mileage of the NHS (including any route segment or connection proposed to be added) does not exceed 165,000 miles.

If a State requests a modification to the NHS as adopted by Congress, the State must establish that each change in a route segment or connection has been identified by the State in cooperation with local officials. This cooperative process between the State and local officials will be carried out under the existing transportation planning activities for metropolitan areas and the statewide planning processes established under ISTEA.

Congress will not approve or disapprove any subsequent modifications made to the NHS. The cooperative planning process between State and local officials, along with the approval of the Secretary, is the appropriate forum for considering modifications to the NHS following enactment of this legislation.

Sec. 3:

Section 3 amends section 103(i) of title 23 to permit States to use National Highway System and Congestion Mitigation and Air Quality funds for operational expenses of Intelligent Vehicle Highways System (IVHS) projects for an unlimited period of time rather than the two years currently stipulated.

Sec. 4:

Section 4 amends section 104 of title 23 to permit a State to transfer 60 percent of its bridge apportionments to its National Highway System or Surface Transportation Program categories.

Sec. 5:

Section 5 amends section 129(a)(5) of title 23 to provide that the Federal share for participation in toll highways, bridges, and tunnels shall be a percentage as determined by the State but not to exceed 80 percent. Depending on the facility, the federal share currently ranges from 50 to 80 percent.

Sec. 6:

Section 6 amends 217(f) of title 23 to permit states to apply the federal lands sliding scale match to bicycle and pedestrian projects.

Sec. 7:

Section 7 amends section 323 of title 23 to allow private funds, materials and services to be donated to an activity eligible under title 23 and permits a state to apply 100 percent of such donated funds, materials or services to the State's matching share under title 23.

Sec. 8:

Section 8 states that notwithstanding any requirements of the Metric Conversion Act of 1975, no state is required to erect signs which establish speed limits, distance or other measurements using the metric system. If a state chooses to use its federal-aid highway funds for such a purpose, it may do so.

Sec. 9:

Section 9 requires states to receive U.S. Department of Transportation approval for Intelligent Vehicle Highway System (IVHS) projects within two years of receiving funds for this purpose. If after two years the Secretary has not approved a plan, the DOT may redirect unobligated funds to another IVHS project. Prior to such redirection, the Secretary shall notify the intended recipient that they are in danger of losing their funds.•

• Mr. CHAFEE. Mr. President, I am pleased to join Senator WARNER in introducing legislation today that will approve the designation of the National Highway System.

As my colleagues will remember, the Environment and Public Works Committee fashioned what I believe is a landmark surface transportation bill now known as the Intermodal Surface Transportation Efficiency Act of 1991 or ISTEA. The purpose of this surface transportation law is to provide mobility for all our citizens, to enable our country to be competitive internationally, to promote economic development, and to provide transportation facilities that are sensitive to the environment and the communities they pass through.

The National Highway System, established by the surface transportation law, is an important part of our country's National Transportation System.

The National Highway System, which includes the Interstate System

represents 4 percent of the highway system but carries 40 percent of the Nation's highway travel. Even more importantly, it connects intermodal and strategic facilities including our ports, airports, train stations, and military bases.

The U.S. Department of Transportation worked with the States and local governments to develop the National Highway System. In December of 1993 the Department transmitted the proposed System to Congress. Congress must approve the National Highway System by September 30 of this year, or States will not receive over $6 billion in highway funds.

The NHS legislation we are introducing today maintains the important principles that ISTEA established for the National Highway System.

First, it maintains the flexibility of the NHS so that the System can change as our transportation needs change. The legislation enables States, in consultation with local officials, and the Secretary of Transportation to add to and delete routes from the System.

Second, the amount of funding a State receives for the NHS program is not tied to the number of miles it has on the NHS System. There is no incentive to pad the System with a lot of miles in hopes of receiving more of the Federal money.

And third, the NHS funds retain their flexibility. States continue to have the ability to transfer NHS funds to other categories to target their highest priority needs.

In addition to the approval of the National Highway System, the legislation we are introducing today includes several other provisions that are in keeping with the principles of ISTEA to provide flexibility wherever possible.

Stability is very important in the Federal-aid highway program. States need the assurance of long-term funding to efficiently manage their transportation programs. As the NHS legislation makes its way through Congress this year, there may be a temptation to reopen the surface transportation law and debate items that are controversial. To disrupt this program and make significant changes in midstream will damage the transportation program. If we are to meet the September 30 deadline for approval of the National Highway System, contentious issues must be postponed until ISTEA is reauthorized in 1997.

I am pleased to join my colleagues in introducing the National Highway System bill and will work with them for its early approval.●

By Mr. McCAIN:

S. 441. A bill to reauthorize appropriations for certain programs under the Indian Child Protection and Family Violence Prevention Act, and for other purposes; to the Committee on Indian Affairs.

THE INDIAN CHILD PROTECTION AND FAMILY VIOLENCE PROTECTION ACT

● Mr. McCAIN. Mr. President, today I am introducing a bill to reauthorize Public Law 101–630, the Indian Child Protection and Family Violence Prevention Act. This bill will provide a 2-year reauthorization of appropriations pursuant to sections 409, 410, and 411 of the act. These sections are critical to Indian tribal governments in preventing and treating incidents of child abuse and family violence at the local level. Specifically, section 409 requires the Indian Health Service [IHS] and the Bureau of Indian Affairs [BIA] to cooperatively establish an Indian Child Abuse Treatment Grant Program, section 410 requires the BIA to establish Indian child resource and family services centers to provide technical assistance, training, and to develop policies and procedures on child abuse for Indian tribes, and section 411 requires the BIA to establish an Indian Child Protection and Family Violence Prevention Program.

Mr. President, the Indian Child Protection and Family Violence Prevention Act was enacted into law on November 28, 1990 to address concerns raised by the findings of the Senate Select Committee on Indian Affairs and the Special Committee on Investigations. What these committees found through public hearings was that Indian country was literally a safe haven for child abuse perpetrators to prey upon Indian children. I'm sure that many of my colleagues in the Congress will recall the notorious cases of multiple child sexual abuse that rose within the Hopi, Navajo, and Cherokee Indian reservations. These crimes were perpetrated over the course of many years, and in some cases, the crimes were perpetrated upon generations of families. The Federal investigation and prosecution of these crimes provided insight into the purposeful plan of the perpetrators in committing their crimes in Indian communities. Child abuse perpetrators were aware that the conditions of detecting, reporting, investigating, and preventing crimes upon children were in such a sorry state that there crimes would rarely be detected. As a result, hundreds of Indian children, their families, and communities needlessly suffered.

Both the Special Committee on Investigations and the Committee on Indian Affairs held numerous hours of testimony in which both tribal and Federal witnesses testified about the serious deficiencies in the Federal Governments efforts to assist tribal governments in preventing and treating child abuse and family violence. The hearings disclosed that the BIA's failure to implement effective background checks on potential employees having contact with children resulted in negligent hiring practices, and child abuse reporting procedures deterred employees from reporting suspected child abuse. Tribal witnesses testified that law enforcement and social services lacked coordinated approaches to address child victimization. As a result, victims were often further traumatized by repeated interviews by physicians, social workers, investigators, and prosecutors. The hearings also revealed that due to scare resources, tribal social workers and mental health professional experienced case loads exceeding national standards. It also became very clear that both the IHS and the BIA lacked the professional experience necessary to treat incidents of child sexual abuse.

The Indian Child Protection and Family Violence Prevention Act was intended to give the Federal Government an opportunity to meet it's responsibility to Indian children and families by establishing policies and programs which would prevent the tragedies of child abuse and family violence. To accomplish the goals of the act, appropriations were authorized per fiscal year from 1990 through 1995 to establish prevention and treatment programs within the BIA and IHS. The act also authorize the BIA and IHS to assist tribes in establishing on-reservation child abuse prevention and treatment programs. The act also created mandatory Federal child abuse reporting and prescribed a process by which child abuse allegations would be handled to prevent further trauma to a victim.

Mr. President, the implementation of this act has had positive results in Indian country. Indian tribal governments have initiated local public education programs on the prevention and detection of child abuse and domestic violence. However, these local efforts have been so successful that reports of child abuse and domestic violence incidents have increased substantially. Therefore, the need for funding for treatment of these victims has also substantially increased. Last Congress, the Committee on Indian Affairs received testimony from tribal governments which documented these needs, and which called for more vigorous implementation of the act by the Federal agencies.

Finally, I believe that the possible benefits of the act have not been fully realized. Neither the BIA nor the IHS have successfully requested or received appropriations to fully implement the programs that are so critical to the protection of vulnerable Indian children and families. As a result, Indian tribal governments that are in desperate need of these services have had to rely on special appropriations and congressional earmarks to fund their efforts. Those tribes that are unable to obtain earmarks must struggle to provide child abuse and family violence prevention and treatment services using existing resources and piecemeal grants.

Mr. President, I strongly believe that extending the authorization of appropriations for the Indian Child Protection and Family Violence prevention act will enable the Federal agencies and Indian tribal governments the opportunity to continue and enhance the work that has begun on behalf of Indian children and families.

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

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

S. 441

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

SECTION 1. REAUTHORIZATION OF PROGRAMS.

Sections 409(e), 410(h), and 411(i) of the Indian Child Protection and Family Violence prevention Act (25 U.S.C. 3208(e), 3209(h), and 3210(i), respectively) are each amended by striking ''and 1995'' and inserting ''1995, 1996, and 1997''.●

By Ms. SNOWE (for herself and Mr. DOLE):

S. 442. A bill to improve and strengthen the child support collection system, and for other purposes; to the Committee on Finance.

THE CHILD SUPPORT RESPONSIBILITY ACT OF 1995

● Ms. SNOWE. Mr. President, I am pleased to introduce, on behalf of myself and Senator DOLE, the Child Support Responsibility Act of 1995.

This bill improves upon existing child support enforcement mechanisms and establishes new enforcement systems where none currently are in place. Furthermore, it recognizes that the issue of child support enforcement goes far beyond parochial interests or state lines, that as a national problem for our children and their families, child support enforcement merits a national solution.

When two people, whether married or not, have a baby, they incur an obligation to provide for and care for their child. When parents live apart, the parent not living with, and providing day-to-day care for, the parent is expected to provide financial assistance for the child.

Consider the facts: millions of American single parents and children continue to suffer from the consequences of a parent who financially and emotionally abandons them. For mothers who have obtained a child support order—and more than 40 percent have not—only half of those actually receive what is owed—the other half receives partial payments or nothing. Never-married single parents have a particularly difficult time obtaining child support—1990 census data indicates that of all never-married custodial mothers, 75 percent did not have child support orders and more than 50 percent had household incomes below the poverty line. These statistics add up to significant economic and emotional burdens for single parents and their dependent children.

The Child Support Enforcement Program was first created in 1975 and significantly modified in 1984 and 1988. The program's purpose is to strengthen existing State and local efforts to locate noncustodial parents, to establish paternity for them, to obtain child support orders and collect child support payments. My proposed legislation, a companion to the House bill introduced by Congresswomen JOHNSON and ROUKEMA, would assist the Child Support Enforcement Program with each of these goals.

To strengthen efforts to locate parents, it expands the Federal parent locator system and provides for State-to-State access of the network. To increase paternity establishment, the bill simplifies paternity procedures, facilitates voluntary acknowledgment, and encourages outreach. To facilitate the setting of effective child support orders, it calls for the establishment of a National Child Support Guidelines Commission to develop a national child support guideline for consideration by Congress, and provides for a simplified process for review and adjustment of child support orders. And to facilitate child support enforcement and collection, the bill expands the penalties for child support delinquency to include the denial of professional, recreational, and driver's license to deadbeat parents, the imposition of liens on real property, and the automatic reporting of delinquency to credit unions. It also grants families who are owed child support the right of first access to an IRS refund credited to a deadbeat dad and permits the denial of a passport for individuals who are more than $5,000 or 24 months in arrears.

Other provisions include developing a national registry of child support orders, developing centralized State registries, and requiring States to adopt the Uniform Interstate Family Support Act, as approved by the National Conference of Commissioners on Uniform State Laws in August 1992.

Through the enactment of this child support legislation I would like to begin to ease, and eventually lift, the economic and emotional burdens caused by delinquent child support payments. Noncustodial parents must begin to accept and bear responsibility for their children, who will reap the support they so justly deserve and desperately need.●

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 444. A bill to amend the Alaska Native Claims Settlement Act to provide for the purchase of common stock of Cook Inlet region, and for other purposes; to the Committee on Energy and Natural Resources.

THE ALASKA NATIVE CLAIMS ACT AMENDMENT ACT OF 1995

● Mr. MURKOWSKI. Mr. President, I am pleased to introduce a bill to amend the Alaska Native Claims Act of 1971 at the request of Cook Inlet Region, Inc. [CIRI] to allow CIRI to purchase stock from their shareholders and retire the stock.

Congress enacted the Alaska Native Claims Settlement Act [ANCSA] in 1971 to address claims to lands in Alaska by the Eskimo, Indian, and Aleut Native people. Lands and other benefits transferred to Alaska Natives under the act were conveyed to corporations formed under this act. CIRI is one of the corporations formed under ANCSA and has approximately 6,262 Alaska Natives enrolled, each of whom were issued 100 shares of stock in CIRI, as required under ANCSA.

ANCSA stock, unlike most corporate stock, cannot be sold, transferred, or pledged by the owners of the shares. Rather, transfers can only happen through inheritance, or in limited case, by court decree.

To date, no Native corporation has sought to lift the restriction. For the most part, this is because Native shareholders continue to value Native ownership of the corporations and Native control of the lands and other assets held by them. These shareholders, whose numbers consistently register at the 70- 80-percent level, see economic benefits in the continuation of Native ownership, and also value the important cultural goals, values, and activities of their ANCSA corporation. However, a minority of shareholders favor assessing some or all of the value of their CIRI stock through the sale of that stock. These shareholders include, but are not limited to, elderly shareholders who have real current need yet doubt that sale of stock will be available to them in their lifetime; holder of small, fractional shares received through one or more cycles of inheritance; non-Natives who have acquired stock through inheritance but without attendant voting privileges; and shareholders who have few ties to the corporation or to Alaska, 25 percent of CIRI shareholders live outside of Alaska.

Under current law, these two legitimate but conflicting concerns cannot be addressed, because lifting restrictions on the sale of stock in an all or nothing proposition. In order to allow the minority of shareholders to exercise their desire to sell some or all of their stock, the majority of shareholders would have to sacrifice their important desire to maintain Native control and ownership of CIRI.

CIRI believes this conflict will eventually leave the interests of the majority of its shareholders vulnerable to political instability. In addition, CIRI recognizes that responding to the desire of those shareholders who wish to sell CIRI stock is a legitimate corporate responsibility. CIRI believes there is a way to address the needs and desires of both groups of shareholders, those who wish to sell stock and those who desire to maintain their Native ownership. The method embodied in this legislation is one that other companies routinely use, buying back of its own stock. The acquired stock would then be retired.

Mr. President, I have discussed this bill at length with CIRI and I am convinced this is the best solution. This bill is identical to one that passed the House, and was approved by the Senate Energy Committee last session, and I look forward to its passage.●

By Mr. D'AMATO (for himself, Mr. MACK, Mr. BENNETT, Mr. FAIRCLOTH, and Mr. BRYAN):

S. 445. A bill to expand credit availability by lifting the growth cap on limited service financial institutions, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

THE LIMITED-PURPOSE BANK GROWTH CAP RELIEF ACT

• Mr. D'AMATO. Mr. President, I am today introducing the Limited-Purpose Bank Growth Cap Relief Act with Senators MACK, BENNETT, FAIRCLOTH, and BRYAN as cosponsors.

Mr. President, this bill would lift the 7-percent cap on the annual asset growth of limited-purpose banks. This growth cap, which was imposed temporary under the 1987 Competitive Equality Banking Act [CEBA], imposes an arbitrary and unnecessary regulatory burden. The removal of this cap would enhance the ability of limited-purpose banks to serve their customers, increase the availability of credit, and allow such banks to maintain assets on their balance sheets.

By way of background, the ownership of limited-purpose banks by certain non-banking holding companies was protected by a grandfather provision in CEBA. A grandfathered non-bank holding company was permitted to maintain its ownership of limited-purpose bank if the bank, first, did not both accept demand deposits and engage in commercial lending; second, limited its cross-marketing of financial services with affiliates; third, did not participate in activities in which the bank did not already engage prior to the passage of CEBA; fourth, did not provide daylight overdrafts to affiliates; and fifth, limited its annual asset growth to 7 percent. Except for these restrictions, limited-purpose banks were subjected to the same capital requirements, regulatory supervision, community reinvestment obligations, consumer protection laws and banking laws as full-service banks.

Mr. President, Congress intended these CEBA restrictions on limited-purpose banks to be only a temporary measure coexistent with the moratorium on the ability of the bank regulators to permit banks to engage in additional securities, insurance and real estate activities. The legislative history is clear that these restrictions would be reconsidered as part of comprehensive banking legislation. The overall purpose of CEBA was merely to preserve the opportunity for Congress—not the regulators or the courts—to define more precisely regulatory supervision over financial service institutions and competition among financial service providers.

Mr. President, Congress has not enacted comprehensive banking legislation, although I am hopeful this important national policy objective can be accomplished in this Congress with the enactment of S. 337, the Depository Institution Affiliation Act of 1995, which I introduced on February 2. Despite the significant changes in the laws and regulation governing the financial services industry over the past 8 years that have enhanced the diversification opportunities of banks, securities firms, insurance companies and other financial providers, the temporary and arbitrary restrictions CEBA imposed on limited purpose banks remain in place. The number of limited-purpose banks has sharply dropped from nearly 160 to only 23. And the remaining institutions are forced to labor under severe restrictions that cannot be justified from a regulatory, public policy, or competitive standpoint.

Mr. President, limited service banks have been frozen in time. Congress has enacted numerous laws to render full-service banks more competitive, efficient and financially strong. The growth cap is no longer necessary from a regulatory perspective. In 1989 and 1991, Congress enacted legislation to increase the ability of regulators to ensure that all banks are run in a safe and sound manner, including the authority to freeze bank asset growth if capital levels decline significantly. And the restriction is not necessary from a competitive standpoint. The 103d Congress enacted interstate banking legislation. Finally, bank regulators and the courts continue to approve a growing list of securities, insurance, and other financial services activities for banks.

Mr. President, only a small category of specialized and limited purpose banks remain subject to onerous limitations on their growth, activities, products, and customer relationships. This situation is both unfair and unnecessary.

Mr. President, the Limited-Purpose Bank Growth Cap Relief Act would lift the 7-percent asset growth cap for limited-purpose banks. It would not remove any of the other CEBA restrictions and it would not allow the chartering of additional limited-purpose banks from a statutory requirements that has outlived its usefulness.

Mr. President, the repeal of the growth cap is entirely consistent with the objectives of the Depository Institutions Affiliation Act, which I introduced several weeks ago. Both bills seek to enhance the global competitiveness of the U.S. financial services industry and to ready the regulation of that industry for the next century.•

• Mr. BRYAN. Mr. President, today I am introducing legislation which repeals a restriction on the ability of limited-purpose banks to increase their assets by more than 7 percent per year. I believe that a removal of this restriction will promote increased credit availability, and will enhance the safety and soundness of the 22 institutions that are subject to the growth limitation.

This asset growth limitation was adopted in 1987, in legislation which stated that the restriction was being imposed temporarily. It remains in place nearly 8 years later, although the objectives it was intended to accomplish have been achieved by subsequent legislation, regulatory act on and judicial decisions. For example, supporters of this limitation said that it would help offset full-service banks' inability to establish interstate branches, an issue that has now been addressed.

Today, the growth restriction is not needed to protect the banks, their customers, or competitors. To the contrary, the growth cap harms these banks, by imposing enormous and unnecessary compliance costs and by forcing them to dispose of assets despite adverse marketplace conditions and negative safety and soundness implications. It hurts their depositors and borrowers—and other consumers—by reducing limited-purpose banks' ability to offer competitive banking services. And it provides no legitimate benefit to full service banks, whose ability to compete will not be impaired if a small number of limited-purpose banks are permitted to grow assets on their balance sheets rather than outside of the banks.

The legislation I am introducing addresses only one of the restrictions on limited-purpose banks: The 7-percent asset growth cap. These banks will continue to be subject to the same requirements as other banks, including the provision enacted in 1991 requiring the asset growth of any undercapitalized institution to be curtailed. And they will remain subject to additional restrictions unique to limited-purpose institutions, such as a limitation on engaging in new banking activities, and a restrictions on cross marketing with affiliates. The need to retain these restrictions is an issue that should be addressed in the near future, as we consider broader legislation addressing bank ownership, affiliations and permissible powers. But the asset growth restriction is a regulatory burden unrelated to these issues, and needs to be addressed now.

In the last Congress, a number of my colleagues on both sides of the aisle supported the removal of the 7-percent growth cap. I am especially pleased that the distinguished chairman of the Committee on Banking, Housing, and Urban Affairs and others are joining me today as original cosponsors of their bill. I look forward to prompt action on this legislation.•

By Mr. INOUYE (for himself, Mr. HATFIELD, Mr. LEVIN, Mr. D'AMATO, Mr. AKAKA, Mr. COCHRAN, Mr. DODD, Mr. GRASSLEY, Mr. HATCH, Mr. HEFLIN, Mr. HOLLINGS, Mr. KENNEDY, Ms. MIKULSKI, Mr. MOYNIHAN, Mr. ROBB, and Mr. SIMON):

S. 446. A bill to require the Secretary of the Treasury to mint coins in commemoration of the public opening of the Franklin Delano Roosevelt Memorial in Washington, DC; to the Committee on Banking, Housing, and Urban Affairs.

THE FRANKLIN DELANO ROOSEVELT COMMEMORATIVE COIN ACT

• Mr. INOUYE. Mr. President, today, I introduce the Franklin Delano Roosevelt Commemorative Coin Act. I am joined by Senator HATFIELD, Cochair of the FDR Memorial Commission, Senators LEVIN and D'AMATO, FDR Memorial Commissioners, and Senators AKAKA, COCHRAN, DODD, GRASSLEY, HATCH, HEFLIN, HOLLINGS, KENNEDY, MIKULSKI, MOYNIHAN, ROBB, and SIMON.

The Franklin Delano Roosevelt Commemorative Coin Act authorizes the Secretary of the Treasury to mint 500,000 half dollar silver coins bearing the likeness of our great leader, President Franklin Delano Roosevelt, in the year 1997, to celebrate the public opening of the Franklin Delano Roosevelt Memorial in Washington, DC.

A surcharge of $3 will be applied to each coin. Proceeds from the sale of the coin will be used to finance the construction of the memorial. In 1992, the Congress mandated the FDR Memorial Commission to raise $10 million in private funds to supplement the Federal appropriations for the memorial.

The American people are deeply indebted to Franklin Delano Roosevelt for his leadership in America's struggle for peace, well-being, and the assurance of human dignity. Personally, I will never forget the pride I felt in looking to President Roosevelt as my Commander in Chief as he led us in the worldwide struggle for freedom during World War II.

All Americans enjoy more secure lives and a higher standard of living because of this great President. The Civilian Conservation Corps helped restore America's forests and land; the National Rural Electric Cooperative gave farmers a decent life; the Federal Highway Program developed a national system upon which the automobile and the trucking industries depend; the Works Progress Administration built schools and hospitals throughout the country and every American who receives Social Security owes a debt of gratitude to President Roosevelt.

The commemorative coin will do more than honor one of our greatest Americans; it will also help ensure that an extraordinary era of our Nation's history will live on as a legacy for future generations. I want to assure my colleagues that this bill will not place any burden on the American taxpayer. The profits generated by the sale of this coin will cover all costs incurred by the Department of the Treasury.

I urge my colleagues to support this important legislation which will honor one of America's greatest Presidents by establishing a magnificent and historic national memorial in our Nation's Capital.

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. 446

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 ''1997 Franklin Delano Roosevelt Commemorative Coin Act''.

SEC. 2. FINDINGS.

The Congress finds that—

(1) the people of the United States feel a deep debt of gratitude to Franklin Delano Roosevelt for his leadership in America's struggle for peace, well-being, and human dignity;

(2) Franklin Delano Roosevelt served his country as the thirty-second President from 1932 until his death in 1945, and is the only United States President elected to 4 terms in office;

(3) Franklin Delano Roosevelt served the State of New York as Governor from 1928 through 1932;

(4) Franklin Delano Roosevelt served his country as the United States Assistant Secretary of the Navy from 1913 through 1920;

(5) Franklin Delano Roosevelt piloted the American people through the economic chaos of the Great Depression;

(6) Franklin Delano Roosevelt, as our commander in chief, led the American people through the turmoil of World War II;

(7) Franklin Delano Roosevelt established Social Security, thus providing all Americans with a more abundant and secure life;

(8) Franklin Delano Roosevelt was the author of ''The Four Freedoms: Freedom of Speech, Freedom of Worship, Freedom from Want, and Freedom from Fear'';

(9) Franklin Delano Roosevelt was the founder of the National Foundation for Infantile Paralysis, parent organization of the March of Dimes;

(10) Franklin Delano Roosevelt was the chief architect of the United Nations;

(11) after many years of planning, the Franklin Delano Roosevelt Memorial will soon join the memorials of Washington, Jefferson, and Lincoln as a tribute to another great American leader;

(12) the Franklin Delano Roosevelt Memorial will be a series of 4 large outdoor rooms encompassing over 7 acres, and will be situated between the Lincoln and Jefferson memorials in Washington, D.C.; and

(13) in 1997, the Nation will celebrate the public opening of this magnificent memorial, honoring one of our greatest Presidents.

SEC. 3. COIN SPECIFICATIONS.

(a) HALF DOLLAR SILVER COINS.—The Secretary of the Treasury (hereafter in this Act referred to as the ''Secretary'') shall mint and issue not more than 500,000 half dollar coins, each of which shall—

(1) weigh 12.50 grams;

(2) have a diameter of 30.61 millimeters; and

(3) contain 90 percent silver and 10 percent copper.

(b) LEGAL TENDER.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

(c) NUMISMATIC ITEMS.—For purposes of section 5134 of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

SEC. 4. SOURCES OF BULLION.

The Secretary shall obtain silver for minting coins under this Act only from stockpiles established under the Strategic and Critical Materials Stock Piling Act.

SEC. 5. DESIGN OF COINS.

(a) DESIGN REQUIREMENTS.—

(1) IN GENERAL.—The obverse side of each coin minted under this Act shall bear a likeness of Franklin Delano Roosevelt, the thirty-second President of the United States. The reverse side of each coin shall be emblematic of the Franklin Delano Roosevelt Memorial in Washington, D.C.

(2) DESIGNATION AND INSCRIPTIONS.—On each coin minted under this Act there shall be—

(A) a designation of the value of the coin;

(B) an inscription of the year ''1997''; and

(C) inscriptions of the words ''Liberty'', ''In God We Trust'', ''United States of America'', and ''E Pluribus Unum''.

(b) SELECTION.—The design for the coins minted under this Act shall be—

(1) selected by the Secretary after consultation with the Franklin Delano Roosevelt Memorial Commission and the Commission of Fine Arts; and

(2) reviewed by the Citizens Commemorative Coin Advisory Committee.

(c) ADDITIONS AND ALTERATIONS.—No addition or alteration to the design selected in accordance with subsection (b) shall be made without the approval of the Franklin Delano Roosevelt Memorial Commission.

SEC. 6. ISSUANCE OF COINS.

(a) QUALITY AND MINT FACILITY.—The coins authorized under this Act may be issued in uncirculated and proof qualities and shall be struck at the United States Bullion Depository at West Point.

(b) PERIOD FOR ISSUANCE.—The Secretary may issue coins minted under this Act only during the period beginning on January 1, 1997, and ending on December 31, 1997.

SEC. 7. SALE OF COINS.

(a) SALE PRICE.—The coins issued under this Act shall be sold by the Secretary at a price equal to the sum of—

(1) the face value of the coins;

(2) the surcharge provided in subsection (d) with respect to such coins; and

(3) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) BULK SALES.—The Secretary shall make bulk sales of the coins issued under this Act at a reasonable discount.

(c) PREPAID ORDERS.—

(1) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) DISCOUNT.—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.

(d) SURCHARGES.—All sales shall include a surcharge of $3 per coin.

SEC. 8. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this Act.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

SEC. 9. DISTRIBUTION OF SURCHARGES.

(a) IN GENERAL.—All surcharges received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary as follows:

(1) An amount equal to 50 percent of the total surcharges shall be paid to the National Park Foundation Restricted Account for the Franklin Delano Roosevelt Memorial.

(2) An amount equal to 50 percent of the total surcharges shall be paid to the National Park Service Restricted Construction Account for the Franklin Delano Roosevelt Memorial.

(b) AUDITS.—The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the accounts referred to in subsection (a) as may be related to the expenditures of amounts paid under such subsection.

SEC. 10. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this Act will not result in any net cost to the United States Government.

(b) PAYMENT FOR COINS.—A coin shall not be issued under this Act unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.●

By Mr. INHOFE (for himself and Mr. NICKLES):

S. 447. A bill to provide tax incentives to encourage production of oil and gas within the United States, and for other purposes; to the Committee on Finance.

THE DOMESTIC OIL AND GAS PRODUCTION TAX INCENTIVES ACT

● Mr. INHOFE. Mr. President, I introduce legislation that is designed to help the domestic oil and gas industry not only in my own State of Oklahoma, but also the multitude of energy producing States throughout the United States. We are all very much aware that a healthy and competitive oil and gas industry is critically important to the U.S. economy. The petroleum industry alone is burdened with the highest tax rates in corporate America. Changes fostered by this bill only level the playing field with businesses throughout the United States that are trying to attract capital.

Through tax incentives for new and existing marginal wells, small producers in Oklahoma, as well as throughout the United States, will be the primary benefactors of my legislation. Independents find more than half of all new oil and natural gas reserves, and they drill almost 85 percent of all domestic wells—both exploratory and development—onshore and offshore.

The U.S. oil and gas industry is one of the Nation's major economic assets and has long been recognized as a world leader in size, scope, and technology. As such a vital national industry, we cannot afford to continue down the road we have become accustomed to for so long. We need to focus our energies inward and try to help the industry restimulate its growth. As a nation we must face up to the threat posed by mounting U.S. dependency on foreign energy imports from such regions as the Middle East.●

By Mr. GRASSLEY (for himself, Mr. PRYOR and Mr. REID):

S. 448. A bill to amend sections 118 of the Internal Revenue Code of 1986 to provide for certain exceptions from rules for determining contributions in aid of construction, and for other purposes, to the Committee on Finance.

THE CONTRIBUTIONS ON AID OF CONSTRUCTION LEGISLATION

● Mr. GRASSLEY. Mr. President, today I am here to reintroduce revenue neutral legislation to reinstate the exclusion from gross income of contributions in aid of construction—known as CIAC—to a water or wastewater utility. Joining me as cosponsors are Senators PRYOR and REID. Senator REID has taken the lead on this issue for a number of years.

This legislation has passed as an amendment in the Senate on two occasions. It is my hope that this year we will finally be successful in passing this legislation and having the President sign it into law.

Utilities are capital-incentive industries. Historically, they have received the capital for the construction of a utility extension directly from new customers, either through the developer or small municipality. The customer contributes this property, or a cash equivalent, to the utility. In this manner, existing customers will not face rate increases every time the utility gains new customers.

Prior to enactment of the Tax Reform Act of 1986, CIAC were not included in the gross income of an investor-owned utility and therefore were not subject to Federal income tax. In addition, utilities could not take tax depreciation or investment tax credits on CIAC. The 1986 act repealed section 118(b) of the Internal Revenue Code and thus subjected CIAC to tax as gross income. As we all remember, the 1986 act had two basic premises as its core. One, the tax base would be broadened and rates would be lowered. Two, cuts in individual rates would be offset by increases in the corporate tax burden. Clearly the authors of the 1986 act intended to ensure that the burden of corporate taxes was spread to all industries including utilities.

The removal of the exclusion from gross income of CIAC was intended as a tax on utilities. In practice, the CIAC tax is not a tax on utilities, but a tax on utility customers, primarily on developers and home buyers. State utility regulatory bodies, referred to as PUC's, generally require utilities to pass tax costs onto their customers. This is done in one of two ways. The most common approach is to require the new customer to pay the cost of the tax. But this is not a simple dollar-for-dollar charge. In order for utility to be made whole, it must pay on the CIAC, plus a tax on the tax. The phenomenon is known as gross-up. Depending on the State, a gross-up can add as much as 70 percent to the customer's cost of the contributions. In other words, a contribution of water mains valued at $100,000 would cost a customer $170,000.

Alternatively, the PUC's may allow the utility to recover the tax cost from existing customers or over a period of time from the new ratepayers. Not only does this defeat the purpose of a contribution, it also means a rate increase. And with many water utilities seeking rate increases of as much as 25 percent in order to pay for Safe Drinking Water Act requirements, additional rate increases can lead to calls for condemnation.

Whichever method is chosen, utilities do not pay the tax, they pass it on. Passing the tax on has detrimental effects, not only on the utility's ability to bring in new business, but on the environment, and most significantly, on the price of new housing.

Any developer faced with a large gross-up will have to evaluate its effect on the bottom line. Depending on conditions in the local housing market, a developer will ultimately pass the cost of the CIAC and the gross-up on to the new home buyer. The National Association of Home Builders has estimated that the CIAC tax can increase the cost of new housing by as much as $2,000 a unit. This additional cost is enough to end the dream of home ownership for a young couple.

The CIAC tax also has some important environmental effects. New customers can avoid paying the CIAC tax by building their own independent water systems. This leads to a proliferation of systems that may not have the financial, technical, or managerial ability to comply with the rigorous requirements of the Safe Drinking Water Act. Such systems are referred to as nonviable. According to the EPA, in fiscal year 1990, more than 90 percent of the violations of the Safe Drinking Water Act were made by systems serving less than 3,300 individuals. By encouraging the proliferation of nonviable systems, the CIAC tax frustrates the environmental policy goal of consolidating these systems into already existing, professionally managed systems.

Mr. President, section 118(b) of the Internal Revenue Code, exempting CIAC from the gross income, should be restored. It is a tax on capital, not income. It is not a tax on utilities, it is a tax on their customers. The CIAC tax increases the price of new homes, leads to the development of environmentally unsound water and sewage facilities, and reduces the tax base for all levels of government.

Most important in my opinion, elimination of the CIAC tax will help home buyers, not by fueling real estate speculation, but by removing another barrier to the purchase of a new home. Anyone who has bought a house recently knows you don't just pay the price of the house. You pay closing costs, title costs, title insurance fees, attorney's fees, and points. And when you buy a house hooked up to privately owned utilities, you also pay the CIAC tax—as much as $2,000 per unit.

This legislation was most recently estimated to cost $106 million over 5 years. I have included a revenue offset in the bill as introduced that raises

$140 million over the same period, thus netting $34 million for the Federal Government. The offset extends depreciation on new water utility plant from 20 to 25 years and switches from 150 percent declining balance to straight-line depreciation. This offset was suggested by the investor-owned water industry and is indivisible from the substance of the legislation which is the restoration of the exclusion of CIAC from gross income. The industry suggested it only for the purpose of repealing the CIAC tax, and that is its only intended use.

Mr. President, repeal of the tax on CIAC for water and wastewater utilities will have a noticeable effect on both housing prices and environmental policy. It is supported by the National Association of Water Companies, the National Association of Regulatory Utility Commissioners, and the National Association of Home Builders. I urge my colleagues to cosponsor this important legislation.

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. 448

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

SECTION 1. TREATMENT OF CONTRIBUTIONS IN AID OF CONSTRUCTION.

(a) TREATMENT OF CONTRIBUTIONS IN AID OF CONSTRUCTION.—

(1) IN GENERAL.—Section 118 of the Internal Revenue Code of 1986 (relating to contributions to the capital of a corporation) is amended—

(A) by redesignating subsection (c) as subsection (e), and

(B) by inserting after subsection (b) the following new subsections:

''(c) SPECIAL RULES FOR WATER AND SEWAGE DISPOSAL UTILITIES.—

''(1) GENERAL RULE.—For purposes of this section, the term 'contribution to the capital of the taxpayer' includes any amount of money or other property received from any person (whether or not a shareholder) by a regulated public utility which provides water or sewerage disposal service if—

''(A) such amount is a contribution in aid of construction,

''(B) in the case of contribution of property other than water or sewerage disposal facilities, such amount meets the requirements of the expenditure rule of paragraph (2), and

''(C) such amount (or any property acquired or constructed with such amount) is not included in the taxpayer's rate base for ratemaking purposes.

''(2) EXPENDITURE RULE.—An amount meets the requirements of this paragraph if—

''(A) an amount equal to such amount is expended for the acquisition or construction of tangible property described in section 1231(b)—

''(i) which is the property for which the contribution was made or is of the same type as such property, and

''(ii) which is used predominantly in the trade or business of furnishing water or sewerage disposal services,

''(B) the expenditure referred to in subparagraph (A) occurs before the end of the second taxable year after the year in which such amount was received, and

''(C) accurate records are kept of the amounts contributed and expenditures made, the expenditures to which contributions are allocated, and the year in which the contributions and expenditures are received and made.

''(3) DEFINITIONS.—For purpose of this subsection—

''(A) CONTRIBUTION IN AID OF CONSTRUCTION.—The term 'contribution in aid of construction' shall be defined by regulations prescribed by the Secretary, except that such term shall not include amounts paid as service charges for starting or stopping services.

''(B) PREDOMINANTLY.—The term 'predominantly' means 80 percent or more.

''(C) REGULATED PUBLIC UTILITY.—The term 'regulated public utility' has the meaning given such term by section 7701(a)(33), except that such term shall not include any utility which is not required to provide water or sewerage disposal services to members of the general public in its service area.

''(4) DISALLOWANCE OF DEDUCTIONS AND INVESTMENT CREDIT; ADJUSTED BASIS.—Notwithstanding any other provision of this subtitle, no deduction or credit shall be allowed for, or by reason of, any expenditure which constitutes a contribution in aid of construction to which this subsection applies. The adjusted basis of any property acquired with contributions in aid of construction to which this subsection applies shall be zero.

''(d) STATUTE OF LIMITATIONS.—If the taxpayer for any taxable year treats an amount as a contribution to the capital of the taxpayer described in subsection (c), then—

''(1) the statutory period for the assessment of any deficiency attributable to any part of such amount shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of—

''(A) the amount of the expenditure referred to in subparagraph (A) of subsection (c)(2),

''(B) the taxpayer's intention not to make the expenditures referred to in such subparagraph, or

''(C) a failure to make such expenditure within the period described in subparagraph (B) of subsection (c)(2); and

''(2) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.''

(2) CONFORMING AMENDMENT.—Section 118(b) of such Code is amended by inserting ''except as provided in subsection (c),'' before ''the term''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts received after the date of the enactment of this Act.

(b) RECOVERY METHOD AND PERIOD FOR WATER UTILITY PROPERTY.—

(1) REQUIREMENT TO USE STRAIGHT LINE METHOD.—Section 168(b)(3) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

''(F) Water utility property described in subsection (e)(5).''

(2) 25-YEAR RECOVERY PERIOD.—The table contained in section 168(c)(1) of such Code is amended by inserting the following item after the item relating to 20-year property:

''Water utility property .... 25 years''.

(3) WATER UTILITY PROPERTY.—

(A) IN GENERAL.—Section 168(e) of such Code is amended by adding at the end the following new paragraph:

''(5) WATER UTILITY PROPERTY.—The term 'water utility property' means property—

''(A) which is an integral part of the gathering, treatment, or commercial distribution of water, and

''(B) which, without regard to this paragraph, would be 20-year property.''

(B) CONFORMING AMENDMENT.—Subparagraph (F) of section 168(e)(3) of such Code is amended by adding at the end the following new sentence: ''Such term does not include water utility property.''

(4) ALTERNATIVE SYSTEM.—Clause (iv) of section 168(g)(2)(C) of such Code is amended by inserting '', water utility property,'' and ''grading''.

(5) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after the date of the enactment of this Act, other than property placed in service pursuant to a binding contract in effect on such date and at all times thereafter before the property is placed in service.●

By Mr. SIMON (for himself and Ms. MOSELEY-BRAUN):

S. 449. A bill to establish the Midewin National Tallgrass Prairie in the State of Illinois, and for other purposes; to the Committee on Armed Services.

ILLINOIS LAND CONSERVATION ACT

● Mr. SIMON. Mr. President, I rise today to introduce a most unique piece of legislation—the Illinois Land Conservation Act. This bill is the result of a broad-based, bipartisan consensus involving Federal, State, county and municipal concerns. It is a model for the land reuse challenges faced by so many communities throughout the country who are impacted by military base closures. I believe this to be one of the most significant conservation and economic development efforts ever attempted.

The closing of the Joliet Army Ammunition Plant in northeastern Illinois has provided a once-in-a-lifetime opportunity to recapture and preserve the tallgrass prairie that once covered most of the Prairie State.

The Illinois Land Conservation Act will create the Midewin National Tallgrass Prairie. The term ''Midewin'' commemorates the grant medicine society of the Potawatoni Indian Tribe—the original inhabitants of this area of Illinois. This prairie will comprise 19,000 acres of land, which is home to 16 State endangered and threatened species, all within an easy drive of metropolitan Chicago.

A 910-acre tract adjacent to the Midewin Prairie will become our county's largest national veterans' cemetery. Under the auspices of the Department of Veterans Affairs, this long-awaited site will provide a dignified place of rest for the many veterans in this region who sacrificed so much for our country.

The remaining acreage will be developed as an industrial park and a county landfill by the local communities.

Mr. President, the impact of the Joliet Arsenal closing has been profound on the entire region—particularly the small communities. The municipalities surrounding the arsenal have sustained the military presence here for the last 50 years, with several generations of families involve in the important work of defending our freedom. The Illinois Land Conservation Act is our opportunity to provide a true peace dividend

to those who have supported this vital facility over the years.

I hope all my colleagues will support this innovative effort that recaptures an important part of our past, and addresses our needs for the future.●

● Ms. MOSELEY-BRAUN. Mr. President, I am pleased to join the distinguished senior Senator from Illinois, Senator SIMON, in introducing the Illinois Land Conservation Act of 1995.

This bill transfers land from the former Joliet Army Ammunition Plant to the Forest Service in order to establish a national grasslands. This bill also turns over land to the Veterans Administration for a new national veterans cemetery, and converts a number of former munitions production areas at the arsenal to local purposes.

Illinois is known as the Prairie State. This name commemorates a younger Illinois, a region of rolling prairies, seas of butterflies, grazing wildlife, and pioneers seeking out new lands to settle. At one time, more than 43,000 square miles of prairie existed in Illinois.

Over the course of 175 years, however, development has crept over these open lands. Farms, highways, and cities have been built to such an extent that today, only .01 percent of original prairie is left. Little evidence remains of, in the words of Charles Chamberlain, the author of the Illinois State song, this ''wilderness of prairies.''

That is one reason why the bill we are introducing today is important, Mr. President—so important that it has attracted support from a broad, bipartisan array of Illinois groups, from industrialists to environmentalists, and from researchers to hunters.

The Illinois Land Conservation Act is more than just a bill to create a national veterans cemetery, although it will address critical needs long awaited by Chicago veterans. It is more than just a bill to create a conservation area, although it will establish the largest in northern Illinois.

The Illinois Land Conservation Act, once enacted, gives Illinois a rare opportunity to preserve one of the last remaining areas of natural prairie. It's a once-in-a-lifetime chance to set aside such a large, undeveloped tract of property for environmental and recreational purposes. In a sense, this bill helps to protect a slice of ecological history, and in doing so, creates a legacy for future generations of Illinoisans to study and enjoy.

In April 1993, the U.S. Army, after announcing its intentions to close the Joliet Arsenal, approached former Illinois Congressman George Sangmeister to develop a concept plan for reutilization of the property. Congressman Sangmeister formed a commission of 24 local and Federal representatives, who, after several years of detailed planning, countless meetings, and extensive negotiations, carefully formulated and unanimously adopted a land reuse plan. The Illinois Land Conservation Act is the culmination of the commission's work.

At the heart of this bill is the creation of a 19,000-acre national grasslands, to be known as the Midewin National Tallgrass Prairie.

Located approximately 60 miles southwest of the Chicago metropolitan area, the grasslands will be a recreational treasure for city residents, accessible to millions for outdoor activities such as camping, horseback riding, hunting, hiking, and environmental education.

The grasslands designation also will help to protect and improve upon what already is considered an ecological wonderland. Hundreds of types of plants and animals are found here, including plants indigenous to the area for more than 10,000 years, and many threatened and endangered species. Many future projects are under consideration for the grasslands, such as the restoration of wetlands and the reintroduction of bison.

Another cornerstone of this bill is the establishment of a 1,000-acre national veterans cemetery. Identified as the leading location by the Veterans Administration, this cemetery, proposed for the center of the arsenal property, will be a landscape rich in streams, marshes, and hardwood forests—a magnificent and tranquil setting for veterans. When complete, the cemetery will honor over 92,000 Chicago veterans through the year 2030.

Mr. President, the Illinois Land Conservation Act is based upon a plan that has been carefully crafted by key representatives of the local community who have worked closely with Federal agencies and the State of Illinois. It deserves to move forward quickly.

This bill is an excellent opportunity to establish a monument to the fertile soils which cultivated the agricultural and commercial prosperity Illinois enjoys today.

It's an excellent opportunity to create the first and the largest tallgrass prairie ecosystem east of the Mississippi River.

And, most importantly, this bill is the last opportunity of our lifetimes to preserve a largely untouched, expansive tract of ecologically unique land in the State of Illinois. In the words of the Chicago Tribune, this is our chance to ''save Joliet Arsenal land for the ages.'' I agree, and urge the quick approval of this bill.●

By Mr. NICKLES (for himself, Mr. INHOFE, and Mr. DOLE):

S. 451. A bill to encourage production of oil and gas within the United States by providing tax incentives and easing regulatory burdens, and for other purposes; to the Committee on Finance.

THE DOMESTIC OIL AND GAS PRODUCTION AND PRESERVATION ACT

● Mr. NICKLES. Mr. President, today I am introducing The Domestic Oil and Gas Production and Preservation Act along with Senators INHOFE and DOLE. A companion bill is also being introduced in the House by Congressman LUCAS and the rest of the Oklahoma delegation. We are introducing this bill today in an effort to help revive our domestic oil and gas industry which plays such a vital role in our national security. If our domestic industry is to survive domestically, then Congress needs to act now to provide incentives and regulatory reforms to encourage production in America.

Since the early 1980's oil and gas extraction employment has been cut in half. Employment in the oil and gas industry has declined by 500,000 since 1984. Imports of crude oil products have increased by 200,000 barrels a day over the last year and the import dependency ratio now exceeds 50 percent. In December 1994, crude oil production dropped to 5 million barrels per day in the lower 48 States which is the lowest level since 1946. We must take action now to save domestic production not only for the sake of the oil and gas industry but for the sake of the national security of this Nation.

I understand that today the administration released an investigative report conducted under section 232 of the Trade Expansion Act of 1962 on the threat to national security from the rising tide of oil imports. I have not yet seen this report but previous Commerce Department reports have found that oil imports threaten the national security and they were conducted when our foreign oil dependence was much lower. The question now is not whether oil imports threaten national security; everyone agrees that is the case. The question now is what are we going to do about it.

To date, the Clinton administration has done nothing to encourage domestic production. In fact, in 1993, crude oil reserves continued to decline by 788 million barrels. Natural gas reserves fell by 2,600 Bcf to 162,415 Bcf. I have been asking the Secretary of Energy for 3 years now, what she intends to do to help preserve the domestic oil and gas industry. In the President's 1996 budget there is nothing to aid this industry. That is why I am introducing this bill today.

The Domestic Oil and Gas Production and Preservation Act is intended to do just what its name implies—encourage oil and gas production and preserve and revitalize the domestic oil and gas industry. This bill would accomplish these goals in several ways. In title 1, we provide for tax incentives. One of the cornerstone pieces of this legislation is a tax credit to preserve marginal production and to encourage new drilling. This provision would make it more economical to keep a marginal well producing during times of low prices and would provide incentives to producers not to shut in their marginal wells due to economics resulting in a permanent loss of the remaining unproduced reserves.

This legislation also includes a tax credit for production from new wells that have been drilled after June 1, 1995. This provision is meant to encourage domestic exploration which has

fallen dramatically in recent years. During the early 1980's the average rig count was around 2,929. In 1994 the rig count averaged 775. This is less than one-third the average during the boom years of the 1980's. If domestic production does not increase, our reliance on imported oil will only continue to grow.

In addition to the tax credit, this bill provides for several depletion reforms. There are provisions to repeal the net income limitation for computing percentage depletion, exclude marginal production from the current 1,000 barrels per day limitation, repeal the property allocation rule for computing depletion, and freeze the percentage depletion rate at current marginal levels.

Until 1976, percentage depletion was designed to operate as risk-weighted depreciation for mineral properties. Since then, the multiple limitations on the availability of percentage depletion as an effective capital cost recovery provision has diminished our proven reserves. The time has come to revise U.S. energy depletion policy. The circumstances that prevail in today's crude oil market are precisely the opposite of those that led to change to the depletion deduction in 1976. The world crude oil market is now glutted with overproduction from Kuwait and unsold Iraqi supplies are threatening another oil market crash. When prices decline, many wells are lost forever and many other wells cannot be drilled.

Percentage depletion should be reformed so that more U.S. production qualifies. Ensuring an adequate depletion allowance can reverse the falling U.S. energy resource base. These reforms will encourage new technology investments, provide economic stimulus to a major U.S. industry and create new, high-quality jobs.

In addition to the tax credit and the percentage depletion reforms, this legislation provides that geological and geophysical expenditures shall be treated as deductible expenses, it expands the existing enhanced oil recovery tax credit and makes it AMT creditable, it provides an election for optional 5-year write-off of intangible drilling costs, and it increases the amount of intangible drilling costs that can be expended without being treated as a preference item for AMT purposes. All these provisions will help encourage continued production from marginal wells, thus saving a valuable national resource from being lost.

Title II of this legislation calls for several regulatory reforms. It has provisions that address the enormous and unnecessary financial responsibility provisions of the Oil Pollution Act of 1990 [OPA '90]. This bill clarifies that the definition of ''navigable waters'' under OPA '90 only applies to true ''offshore facilities,'' not facilities onshore. It also changes the amount of financial responsibility required under OPA '90 from $150 to $35 million with discretion given to the Secretary to establish a higher amount (but not higher than $150 million) taking into account factors relevant to risks posed by a facility.

This legislation also addresses two oil and gas royalty issues. First, it establishes a 6-year statute of limitations on actions commenced by the United States for recovery of royalties due under an oil and gas lease on Federal lands unless a lessee has made a false or fraudulent statement with the intent to evade the payment of royalties due. This provision is intended to give some finality to the royalty collection process and require the government to be prompt and timely in their pursuit of any underpayment of royalties. Second, it provides the Secretary discretion to lower royalties on oil and gas leases on Federal lands. This is intended to be used to help marginal wells, when prices are low, from being shut in as uneconomical.

In addition to the aforementioned regulatory reforms, this bill addresses two critical areas of reform, private property rights and risk assessment. Private property rights are protected by the fifth amendment to the U.S. Constitution. Unfortunately, the Federal bureaucracy has increasingly used environmental laws to trample on these rights. Two of the worst offenders are the Endangered Species Act and the wetlands permitting program established by section 404 of the Clean Water Act. This legislation incorporates the provisions of a separate bill that I have introduced for the last 3 years entitled the Property Owners Bill of Rights. The provisions of this bill require a landowner's written consent before Federal agents could enter private property, guarantee a landowner's access to information gathered about their property, guarantee a landowner's right to dispute that information's accuracy, guarantee a landowner's right to appeal decisions made under endangered species or wetlands law, and guarantee that a landowner be compensated if federal actions under the Endangered Species Act or wetlands permitting program devalue their property by 33 percent or more.

The risk assessment provisions of this bill requires Federal agencies to use sound scientific data when risk criteria and benefits are determined. It also requires the agencies to make public the scientific basis for each risk criteria and full disclosure of all assumptions and uncertainties. It also provides for a petition process to require an agency to review an existing regulation to ensure that benefits exceed the costs.

Finally, title III of this bill abolishes the existing prohibitions against the export of domestic crude oil production. This provision would also help encourage production in the lower 48 States.

Together, the provisions of this bill provide much needed incentives and regulatory relief to an industry that is vital to our national security. The sooner the administration and Congress acknowledge the critical importance of the domestic oil and gas industry and stop burdening this industry with high taxes and regulatory obstacles, the sooner we can take the necessary actions to preserve and revitalize this important sector of our economy.●

By Mr. MOYNIHAN (for himself and Mr. DASCHLE) (by request):

S. 452. A bill to amend the Internal Revenue Code of 1986 to provide tax relief for the middle class; to the Committee on Finance.

THE MIDDLE-CLASS BILL OF RIGHTS TAX RELIEF ACT OF 1995

Mr. MOYNIHAN. Mr. President, as ranking member of the Committee on Finance, I am today joining with the Democratic leader in introducing a bill, at the request of the administration, containing the statutory provisions that implement the middle-income tax cuts contained in the President's fiscal year 1996 budget submission. Secretary Rubin appeared before the Finance Committee last week to testify concerning these proposals.

By making statutory language available early in the legislative process, the administration has aided the process of Senate consideration of these provisions. This legislation also will serve to answer many of the questions that the public may have with respect to the President's tax proposals.

I want to thank the administration for providing this level of detail in so timely a fashion, and I look forward to working with them on these proposals in the coming months.

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

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

S. 452

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

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the ''Middle-Class Bill of Rights Tax Relief Act of 1995''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; amendment of 1986 Code.

TITLE I—MIDDLE CLASS TAX RELIEF

Sec. 101. Credit for families with young children.

Sec. 102. Deduction for higher education expenses.

TITLE II—PROVISIONS RELATING TO INDIVIDUAL RETIREMENT PLANS

Subtitle A—Retirement Savings Incentives

PART I—IRA DEDUCTION

Sec. 201. Increase in income limitations.

Sec. 202. Inflation adjustment for deductible amount and income limitations.

Sec. 203. Coordination of IRA deduction limit with elective deferral limit.

PART II—NONDEDUCTIBLE TAX-FREE IRA'S

Sec. 211. Establishment of nondeductible tax-free individual retirement accounts.

Subtitle B—Penalty-Free Distributions

Sec. 221. Distributions from certain plans may be used without penalty to purchase first homes, to pay higher education or financially devastating medical expenses, or by the unemployed.

Sec. 222. Contributions must be held at least 5 years in certain cases.

TITLE I—MIDDLE CLASS TAX RELIEF

SEC. 101. CREDIT FOR FAMILIES WITH YOUNG CHILDREN.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 22 the following new section:

"SEC. 23. FAMILIES WITH YOUNG CHILDREN.

''(a) ALLOWANCE OF CREDIT.—

''(1) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to $300 multiplied by the number of eligible children of the taxpayer for the taxable year.

''(2) INCREASE IN CREDIT.—In the case of taxable years beginning after December 31, 1998, paragraph (1) shall be applied by substituting '$500' for '$300'.

''(b) LIMITATIONS.—

''(1) PHASE-OUT OF CREDIT.—

''(A) IN GENERAL.—The amount of the credit allowed under subsection (a) shall be reduced (but not below zero) by the amount determined under subparagraph (B).

''(B) AMOUNT OF REDUCTION.—The amount determined under this subparagraph equals the amount which bears the same ratio to the credit (determined without regard to this subsection) as—

''(i) the excess of—

''(I) the taxpayer's adjusted gross income for such taxable year, over

''(II) $60,000, bears to

''(ii) $15,000.

Any amount determined under this subparagraph which is not a multiple of $10 shall be rounded to the next lowest $10.

''(C) ADJUSTED GROSS INCOME.—For purposes of this paragraph, adjusted gross income of any taxpayer shall be increased by any amount excluded from gross income under section 911, 931, or 933.

''(2) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed by subsection (a) for the taxable year (after the application of paragraph (1)) shall not exceed the excess (if any) of—

''(A) the taxpayer's regular tax liability for the taxable year reduced by the credits allowable against such tax under this subpart (other than this section) determined without regard to section 26, over

''(B) the sum of—

''(i) the taxpayer's tentative minimum tax for such taxable year, plus

''(ii) the credit allowed for the taxable year under section 32.

''(c) ELIGIBLE CHILD.—For purposes of this section, the term 'eligible child' means any child (as defined in section 151(c)(3)) of the taxpayer—

''(1) who has not attained age 13 as of the close of the calendar year in which the taxable year of the taxpayer begins,

''(2) who is a dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151 for such taxable year, and

''(3) whose TIN is included on the taxpayer's return for such taxable year.

''(d) INFLATION ADJUSTMENTS.—In the case of a taxable year beginning in a calendar year after 1999—

''(1) IN GENERAL.—The $500 and $60,000 amounts contained in subsections (a)(2) and (b)(2) shall each be increased by an amount equal to—

''(A) such dollar amount, multiplied by

''(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1998' for 'calendar year 1992' in subparagraph (B) thereof.

''(2) INCREASE IN PHASEOUT RANGE.—If the amount applicable under subsection (a) for any taxable year exceeds $500, subsection (b)(2)(B) shall be applied by substituting an amount equal to 30 times such applicable amount for '$15,000'.

''(3) ROUNDING.—If any amount as adjusted under paragraph (1) is not a multiple of $100, such amount shall be rounded to the next lowest multiple of $100.

''(e) SPECIAL RULES.—

''(1) AMOUNT OF CREDIT MAY BE DETERMINED UNDER TABLES.—The amount of the credit allowed by this section may be determined under tables prescribed by the Secretary.

''(2) CERTAIN OTHER RULES APPLY.—Rules similar to the rules of subsections (c)(1)(E) and (F), (d), and (e) of section 32 shall apply for purposes of this section.''

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 22 the following new item:

''Sec. 23. Families with young children.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 102. DEDUCTION FOR HIGHER EDUCATION EXPENSES.

(a) DEDUCTION ALLOWED.— Part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) is amended by redesignating section 220 as section 221 and by inserting after section 219 the following new section:

"SEC. 220. HIGHER EDUCATION TUITION AND FEES.

''(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction the amount of qualified higher education expenses paid by the taxpayer during the taxable year.

''(b) LIMITATIONS.—

''(1) DOLLAR LIMITATION.—

''(A) IN GENERAL.—The amount allowed as a deduction under subparagraph (a) for any taxable year shall not exceed $10,000.

''(B) PHASE-IN.—In the case of taxable years beginning in 1996, 1997, or 1998, '$5,000' shall be substituted for '$10,000' in subparagraph (A).

''(2) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

''(A) IN GENERAL.—The amount which would (but for this paragraph) be taken into account under paragraph (1) shall be reduced (but not below zero) by the amount determined under subparagraph (B).

''(B) AMOUNT OF REDUCTION.—The amount determined under this subparagraph equals the amount which bears the same ratio to the amount which would be so taken into account as—

''(i) the excess of—

''(I) the taxpayer's modified adjusted gross income for such taxable year, over

''(II) $70,000 ($100,000 in the case of a joint return), bears to

''(ii) $20,000.

''(C) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means the adjusted gross income of the taxpayer for the taxable year determined—

''(i) without regard to this section and sections 911, 931, and 933, and

''(ii) after the application of sections 86, 135, 219 and 469.

For purposes of sections 86, 135, 219, and 469, adjusted gross income shall be determined without regard to the deduction allowed under this section.

''(D) INFLATION ADJUSTMENTS.—

''(i) IN GENERAL.—In the case of a taxable year beginning after 1999, the $70,000 and $100,000 amounts described in subparagraph (B) shall each be increased by an amount equal to—

''(I) such dollar amounts, multiplied by

''(II) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1998' for 'calendar year 1992' in subparagraph (B) thereof.

''(ii) ROUNDING.—If any amount as adjusted under clause (i) is not a multiple of $5,000, such amount shall be rounded to the next lowest multiple of $5,000.

''(c) QUALIFIED HIGHER EDUCATION EXPENSES.—For purposes of this section—

''(1) QUALIFIED HIGHER EDUCATION EXPENSES.—

''(A) IN GENERAL.—The term 'qualified higher education expenses' means tuition and fees charged by an educational institution and required for the enrollment or attendance of—

''(i) the taxpayer,

''(ii) the taxpayer's spouse, or

''(iii) any dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151,

as an eligible student at an institution of higher education.

''(B) EXCEPTION FOR EDUCATION INVOLVING SPORTS, ETC.—Such term does not include expenses with respect to any course or other education involving sports, games, or hobbies, unless such expenses—

''(i) are part of a degree program, or

''(ii) are deductible under this chapter without regard to this section.

''(C) EXCEPTION FOR NONACADEMIC FEES.—Such term does not include any student activity fees, athletic fees, insurance expenses, or other expenses unrelated to a student's academic course of instruction.

''(D) ELIGIBLE STUDENT.—For purposes of subparagraph (A), the term 'eligible student' means a student who—

''(i) meets the requirements of section 484(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1091(a)(1)), as in effect on the date of the enactment of this section, and

''(ii)(I) is carrying at least one-half the normal full-time work load for the course of study the student is pursuing, as determined by the institution of higher education, or

''(II) is enrolled in a course which enables the student to improve the student's job skills or to acquire new job skills.

''(E) IDENTIFICATION REQUIREMENT.—No deduction shall be allowed under subsection (a) to a taxpayer with respect to an eligible student unless the taxpayer includes the name, age, and taxpayer identification number of such eligible student on the return of tax for the taxable year.

''(2) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' means an institution which—

''(A) is described in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088), as in effect on the date of the enactment of this section, and

''(B) is eligible to participate in programs under title IV of such Act.

''(d) SPECIAL RULES.—

''(1) NO DOUBLE BENEFIT.—

''(A) IN GENERAL.—No deduction shall be allowed under subsection (a) for qualified higher education expenses with respect to which a deduction is allowable to the taxpayer under any other provision of this chapter unless the taxpayer irrevocably waives his right to the deduction of such expenses under such other provision.

''(B) DEPENDENTS.—No deduction shall be allowed under subsection (a) to any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins.

''(C) SAVINGS BOND EXCLUSION.—A deduction shall be allowed under subsection (a) for qualified higher education expenses only to the extent the amount of such expenses exceeds the amount excludable under section 135 for the taxable year.

''(2) LIMITATION ON TAXABLE YEAR OF DEDUCTION.—

''(A) IN GENERAL.—A deduction shall be allowed under subsection (a) for any taxable year only to the extent the qualified higher education expenses are in connection with enrollment at an institution of higher education during the taxable year.

''(B) CERTAIN PREPAYMENTS ALLOWED.—Subparagraph (A) shall not apply to qualified higher education expenses paid during a taxable year if such expenses are in connection with an academic term beginning during such taxable year or during the 1st 3 months of the next taxable year.

''(3) ADJUSTMENT FOR CERTAIN SCHOLARSHIPS AND VETERANS BENEFITS.—The amount of qualified higher education expenses otherwise taken into account under subsection (a) with respect to the education of an individual shall be reduced (before the application of subsection (b)) by the sum of the amounts received with respect to such individual for the taxable year as—

''(A) a qualified scholarship which under section 117 is not includable in gross income,

''(B) an educational assistance allowance under chapter 30, 31, 32, 34, or 35 of title 38, United States Code, or

''(C) a payment (other than a gift, bequest, devise, or inheritance within the meaning of section 102(a)) for educational expenses, or attributable to enrollment at an eligible educational institution, which is exempt from income taxation by any law of the United States.

''(4) NO DEDUCTION FOR MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—If the taxpayer is a married individual (within the meaning of section 7703), this section shall apply only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

''(5) NONRESIDENT ALIENS.—If the taxpayer is a nonresident alien individual for any portion of the taxable year, this section shall apply only if such individual is treated as a resident alien of the United States for purposes of this chapter by reason of an election under subsection (g) or (h) of section 6013.

''(6) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out this section, including regulations requiring recordkeeping and information reporting.''

(b) DEDUCTION ALLOWED IN COMPUTING ADJUSTED GROSS INCOME.—Section 62(a) is amended by inserting after paragraph (15) the following new paragraph:

''(16) HIGHER EDUCATION TUITION AND FEES.—The deduction allowed by section 220.''

(c) CONFORMING AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 is amended by striking the item relating to section 220 and inserting:

''Sec. 220. Higher education tuition and fees.

''Sec. 221. Cross reference.''

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made after December 31, 1995.

TITLE II—PROVISIONS RELATING TO INDIVIDUAL RETIREMENT PLANS

Subtitle A—Retirement Savings Incentives

PART I—IRA DEDUCTION

SEC. 201. INCREASE IN INCOME LIMITATIONS.

(a) IN GENERAL.—Subparagraph (B) of section 219(g)(3) is amended—

(1) by striking ''$40,000'' in clause (i) and inserting ''$80,000'', and

(2) by striking ''$25,000'' in clause (ii) and inserting ''$50,000''.

(b) PHASE-OUT OF LIMITATIONS.—Clause (ii) of section 219(g)(2)(A) is amended by striking ''$10,000'' and inserting ''an amount equal to 10 times the dollar amount applicable for the taxable year under subsection (b)(1)(A)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 202. INFLATION ADJUSTMENT FOR DEDUCTIBLE AMOUNT AND INCOME LIMITATIONS.

(a) IN GENERAL.—Section 219 is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

''(h) COST-OF-LIVING ADJUSTMENTS.—

''(1) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 1996, each dollar amount to which this subsection applies shall be increased by an amount equal to—

''(A) such dollar amount, multiplied by

''(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1995' for 'calendar year 1992' in subparagraph (B) thereof.

''(2) DOLLAR AMOUNTS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to—

''(A) the $2,000 amounts under subsection (b)(1)(A) and (c), and

''(B) the applicable dollar amounts under subsection (g)(3)(B).

''(3) ROUNDING RULES.—

''(A) DEDUCTION AMOUNTS.—If any amount referred to in paragraph (2)(A) as adjusted under paragraph (1) is not a multiple of $500, such amount shall be rounded to the next lowest multiple of $500.

''(B) APPLICABLE DOLLAR AMOUNTS.—If any amount referred to in paragraph (2)(B) as adjusted under paragraph (1) is not a multiple of $5,000, such amount shall be rounded to the next lowest multiple of $5,000.''

(b) CONFORMING AMENDMENTS.—

(1) Clause (i) of section 219(c)(2)(A) is amended to read as follows:

''(i) the sum of $250 and the dollar amount in effect for the taxable year under subsection (b)(1)(A), or''.

(2) Section 408(a)(1) is amended by striking ''in excess of $2,000 on behalf of any individual'' and inserting ''on behalf of any individual in excess of the amount in effect for such taxable year under section 219(b)(1)(A)''.

(3) Section 408(b)(2)(B) is amended by striking ''$2,000'' and inserting ''the dollar amount in effect under section 219(b)(1)(A)''.

(4) Subparagraph (A) of section 408(d)(5) is amended by striking ''$2,250'' and inserting ''the dollar amount in effect for the taxable year under section 219(c)(2)(A)(i)''.

(5) Section 408(j) is amended by striking ''$2,000''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 203. COORDINATION OF IRA DEDUCTION LIMIT WITH ELECTIVE DEFERRAL LIMIT.

(a) IN GENERAL.—Section 219(b) (relating to maximum amount of deduction) is amended by adding at the end the following new paragraph:

''(4) COORDINATION WITH ELECTIVE DEFERRAL LIMIT.—The amount determined under paragraph (1) or subsection (c)(2) with respect to any individual for any taxable year shall not exceed the excess (if any) of—

''(A) the limitation applicable for the taxable year under section 402(g)(1), over

''(B) the elective deferrals (as defined in section 402(g)(3)) of such individual for such taxable year.''

(b) CONFORMING AMENDMENT.—Section 219(c) is amended by adding at the end the following new paragraph:

''(3) CROSS REFERENCE.—

''For reduction in paragraph (2) amount, see subsection (b)(4).''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

PART II—NONDEDUCTIBLE TAX-FREE IRA'S

SEC. 211. ESTABLISHMENT OF NONDEDUCTIBLE TAX-FREE INDIVIDUAL RETIREMENT ACCOUNTS.

(a) IN GENERAL.—Subpart A of part I of subchapter D of chapter 1 (relating to pension, profit-sharing, stock bonus plans, etc.) is amended by inserting after section 408 the following new section:

''SEC. 408A. SPECIAL INDIVIDUAL RETIREMENT ACCOUNTS.

''(a) GENERAL RULE.—Except as provided in this chapter, a special individual retirement account shall be treated for purposes of this title in the same manner as an individual retirement plan.

''(b) SPECIAL INDIVIDUAL RETIREMENT ACCOUNT.—For purposes of this title, the term 'special individual retirement account' means an individual retirement plan which is designated at the time of establishment of the plan as a special individual retirement account.

''(c) TREATMENT OF CONTRIBUTIONS.—

''(1) NO DEDUCTION ALLOWED.—No deduction shall be allowed under section 219 for a contribution to a special individual retirement account.

''(2) CONTRIBUTION LIMIT.—The aggregate amount of contributions for any taxable year to all special individual retirement accounts maintained for the benefit of an individual shall not exceed the excess (if any) of—

''(A) the maximum amount allowable as a deduction under section 219 with respect to such individual for such taxable year, over

''(B) the amount so allowed.

''(3) SPECIAL RULES FOR QUALIFIED TRANSFERS.—

''(A) IN GENERAL.—No rollover contribution may be made to a special individual retirement account unless it is a qualified transfer.

''(B) LIMIT NOT TO APPLY.—The limitation under paragraph (2) shall not apply to a qualified transfer to a special individual retirement account.

''(d) TAX TREATMENT OF DISTRIBUTIONS.—

''(1) IN GENERAL.—Except as provided in this subsection, any amount paid or distributed out of a special individual retirement account shall not be included in the gross income of the distributee.

''(2) EXCEPTION FOR EARNINGS ON CONTRIBUTIONS HELD LESS THAN 5 YEARS.—

''(A) IN GENERAL.—Any amount distributed out of a special individual retirement account which consists of earnings allocable to contributions made to the account during the 5-year period ending on the day before

such distribution shall be included in the gross income of the distributee for the taxable year in which the distribution occurs.

''(B) ORDERING RULE.—

''(i) FIRST-IN, FIRST-OUT RULE.—Distributions from a special individual retirement account shall be treated as having been made—

''(I) first from the earliest contribution (and earnings allocable thereto) remaining in the account at the time of the distribution, and

''(II) then from other contributions (and earnings allocable thereto) in the order in which made.

''(ii) ALLOCATIONS BETWEEN CONTRIBUTIONS AND EARNINGS.—Any portion of a distribution allocated to a contribution (and earnings allocable thereto) shall be treated as allocated first to the earnings and then to the contribution.

''(iii) ALLOCATION OF EARNINGS.—Earnings shall be allocated to a contribution in such manner as the Secretary may by regulations prescribe.

''(iv) CONTRIBUTIONS IN SAME YEAR.—Except as provided in regulations, all contributions made during the same taxable year may be treated as 1 contribution for purposes of this subparagraph.

''(C) CROSS REFERENCE.—

''For additional tax for early withdrawal, see section 72(t).

''(3) QUALIFIED TRANSFER.—

''(A) IN GENERAL.—Paragraph (2) shall not apply to any distribution which is transferred in a qualified transfer to another special individual retirement account.

''(B) CONTRIBUTION PERIOD.—For purposes of paragraph (2), the special individual retirement account to which any contributions are transferred shall be treated as having held such contributions during any period such contributions were held (or are treated as held under this subparagraph) by the special individual retirement account from which transferred.

''(4) SPECIAL RULES RELATING TO CERTAIN TRANSFERS.—

''(A) IN GENERAL.—Notwithstanding any other provision of law, in the case of a qualified transfer to a special individual retirement account from an individual retirement plan which is not a special individual retirement account—

''(i) there shall be included in gross income any amount which, but for the qualified transfer, would be includible in gross income, but

''(ii) section 72(t) shall not apply to such amount.

''(B) TIME FOR INCLUSION.—In the case of any qualified transfer which occurs before January 1, 1997, any amount includible in gross income under subparagraph (A) with respect to such contribution shall be includible ratably over the 4-taxable year period beginning in the taxable year in which the amount was paid or distributed out of the individual retirement plan.

''(e) QUALIFIED TRANSFER.—For purposes of this section

''(1) IN GENERAL.—The term 'qualified transfer' means a transfer to a special individual retirement account from another such account or from an individual retirement plan but only if such transfer meets the requirements of section 408(d)(3).

''(2) LIMITATION.—A transfer otherwise described in paragraph (1) shall not be treated as a qualified transfer if the taxpayer's adjusted gross income for the taxable year of the transfer exceeds the sum of—

''(A) the applicable dollar amount, plus

''(B) the dollar amount applicable for the taxable year under section 219(g)(2)(A)(ii).

This paragraph shall not apply to a transfer from a special individual retirement account to another special individual retirement account.

''(3) DEFINITIONS.—For purposes of this subsection, the terms 'adjusted gross income' and 'applicable dollar amount' have the meanings given such terms by section 219(g)(3), except subparagraph (A)(ii) thereof shall be applied without regard to the phrase 'or the deduction allowable under this section'.''

(b) EARLY WITHDRAWAL PENALTY.—Section 72(t) is amended by adding at the end the following new paragraph:

''(6) RULES RELATING TO SPECIAL INDIVIDUAL RETIREMENT ACCOUNTS.—In the case of a special individual retirement account under section 408A—

''(A) this subsection shall only apply to distributions out of such account which consist of earnings allocable to contributions made to the account during the 5-year period ending on the day before such distribution, and

''(B) paragraph (2)(A)(i) shall not apply to any distribution described in subparagraph (A).''

(c) EXCESS CONTRIBUTIONS.—Section 4973(b) is amended by adding at the end the following new sentence: ''For purposes of paragraphs (1)(B) and (2)(C), the amount allowable as a deduction under section 219 shall be computed without regard to section 408A.''

(d) CONFORMING AMENDMENT.—The table of sections for subpart A of part I of subchapter D of chapter 1 is amended by inserting after the item relating to section 408 the following new item:

''Sec. 408A. Special individual retirement accounts.''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

Subtitle B—Penalty-Free Distributions

SEC. 221. DISTRIBUTIONS FROM CERTAIN PLANS MAY BE USED WITHOUT PENALTY TO PURCHASE FIRST HOMES, TO PAY HIGHER EDUCATION OR FINANCIALLY DEVASTATING MEDICAL EXPENSES, OR BY THE UNEMPLOYED.

(a) IN GENERAL.—Paragraph (2) of section 72(t) (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end the following new subparagraph:

''(D) DISTRIBUTIONS FROM CERTAIN PLANS FOR FIRST HOME PURCHASES OR EDUCATIONAL EXPENSES.—Distributions to an individual from an individual retirement plan—

''(i) which are qualified first-time homebuyer distributions (as defined in paragraph (7)); or

''(ii) to the extent such distributions do not exceed the qualified higher education expenses (as defined in paragraph (8)) of the taxpayer for the taxable year.''

(b) FINANCIALLY DEVASTATING MEDICAL EXPENSES.—

(1) IN GENERAL.—Section 72(t)(3)(A) is amended by striking ''(B),''.

(2) CERTAIN LINEAL DESCENDANTS AND ANCESTORS TREATED AS DEPENDENTS AND LONG-TERM CARE SERVICES TREATED AS MEDICAL CARE.—Subparagraph (B) of section 72(t)(2) is amended by striking ''medical care'' and all that follows and inserting ''medical care determined—

''(i) without regard to whether the employee itemizes deductions for such taxable year, and

''(ii) in the case of an individual retirement plan—

''(I) by treating such employee's dependents as including all children, grandchildren and ancestors of the employee or such employee's spouse and

''(II) by treating qualified long-term care services (as defined in paragraph (9)) as medical care for purposes of this subparagraph (B).''

(3) CONFORMING AMENDMENT.—Subparagraph (B) of section 72(t)(2) is amended by striking ''or (C)'' and inserting '', (C) or (D)''.

(c) DEFINITIONS.—Section 72(t), as amended by this Act, is amended by adding at the end the following new paragraphs:

''(7) QUALIFIED FIRST-TIME HOMEBUYER DISTRIBUTIONS.—For purposes of paragraph (2)(D)(i)—

''(A) IN GENERAL.—The term 'qualified first-time homebuyer distribution' means any payment or distribution received by an individual to the extent such payment or distribution is used by the individual before the close of the 60th day after the day on which such payment or distribution is received to pay qualified acquisition costs with respect to a principal residence of a first-time homebuyer who is such individual or the spouse, child (as defined in section 151(c)(3)), or grandchild of such individual.

''(B) QUALIFIED ACQUISITION COSTS.—For purposes of this paragraph, the term 'qualified acquisition costs' means the costs of acquiring, constructing, or reconstructing a residence. Such term includes any usual or reasonable settlement, financing, or other closing costs.

''(C) FIRST-TIME HOMEBUYER; OTHER DEFINITIONS.—For purposes of this paragraph—

''(i) FIRST-TIME HOMEBUYER.—The term 'first-time homebuyer' means any individual if—

''(I) such individual (and if married, such individual's spouse) had no present ownership interest in a principal residence during the 3-year period ending on the date of acquisition of the principal residence to which this paragraph applies, and

''(II) subsection (h) or (k) of section 1034 did not suspend the running of any period of time specified in section 1034 with respect to such individual on the day before the date the distribution is applied pursuant to subparagraph (A).

In the case of an individual described in section 143(i)(1)(C) for any year, an ownership interest shall not include any interest under a contract of deed described in such section. An individual who loses an ownership interest in a principal residence incident to a divorce or legal separation is deemed for purposes of this subparagraph to have had no ownership interest in such principal residence within the period referred to in subparagraph (A)(II).

''(ii) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 1034.

''(iii) DATE OF ACQUISITION.—The term 'date of acquisition' means the date—

''(I) on which a binding contract to acquire the principal residence to which subparagraph (A) applies is entered into, or

''(II) on which construction or reconstruction of such a principal residence is commenced.

''(D) SPECIAL RULE WHERE DELAY IN ACQUISITION.—If any distribution from any individual retirement plan fails to meet the requirements of subparagraph (A) solely by reason of a delay or cancellation of the purchase or construction of the residence, the amount of the distribution may be contributed to an individual retirement plan as provided in section 408(d)(3)(A)(i) (determined by substituting '120 days' for '60 days' in such section), except that—

''(i) section 408(d)(3)(B) shall not be applied to such contribution, and

''(ii) such amount shall not be taken into account in determining whether section 408(d)(3)(A)(i) applies to any other amount.

''(8) QUALIFIED HIGHER EDUCATION EXPENSES.—For purposes of paragraph (2)(D)(ii)—

''(A) IN GENERAL.—The term 'qualified higher education expenses' means tuition and fees required for the enrollment or attendance of—

''(i) the taxpayer,

''(ii) the taxpayer's spouse,

''(iii) a dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151, or

''(iv) the taxpayer's child (as defined in section 151(c)(3)) or grandchild,

as an eligible student at an institution of higher education (as defined in paragraphs (1)(D) and (2) of section 220(c)).

''(B) EXCEPTIONS.—The term 'qualified higher education expenses' does not include expenses described in subparagraphs (B) and (C) of section 220(c)(1).

''(C) COORDINATION WITH SAVINGS BOND PROVISIONS.—The amount of qualified higher education expenses for any taxable year shall be reduced by any amount excludable from gross income under section 135.

''(9) QUALIFIED LONG-TERM CARE SERVICES.—For purposes of paragraph (2)(B)—

''(A) IN GENERAL.—The term 'qualified long-term care services' means necessary diagnostic, curing, mitigating, treating, preventive, therapeutic, and rehabilitative services, and maintenance and personal care services (whether performed in a residential or nonresidential setting) which—

''(i) are required by an individual during any period the individual is an incapacitated individual (as defined in subparagraph (B)),

''(ii) have as their primary purpose—

''(I) the provision of needed assistance with 1 or more activities of daily living (as defined in subparagraph (C)), or

''(II) protection from threats to health and safety due to severe cognitive impairment, and

''(iii) are provided pursuant to a continuing plan of care prescribed by a licensed professional (as defined in subparagraph (D)).

''(B) INCAPACITATED INDIVIDUAL.—The term 'incapacitated individual' means any individual who—

''(i) is unable to perform, without substantial assistance from another individual (including assistance involving cueing or substantial supervision), at least 2 activities of daily living as defined in subparagraph (C), or

''(ii) has severe cognitive impairment as defined by the Secretary in consultation with the Secretary of Health and Human Services.

Such term shall not include any individual otherwise meeting the requirements of the preceding sentence unless a licensed professional within the preceding 12-month period has certified that such individual meets such requirements.

''(C) ACTIVITIES OF DAILY LIVING.—Each of the following is an activity of daily living:

''(i) Eating.

''(ii) Toileting.

''(iii) Transferring.

''(iv) Bathing.

''(v) Dressing.

''(D) LICENSED PROFESSIONAL.—The term 'licensed professional' means—

''(i) a physician or registered professional nurse, or

''(ii) any other individual who meets such requirements as may be prescribed by the Secretary after consultation with the Secretary of Health and Human Services.

''(E) CERTAIN SERVICES NOT INCLUDED.—The term 'qualified long-term care services' shall not include any services provided to an individual—

''(i) by a relative (directly or through a partnership, corporation, or other entity) unless the relative is a licensed professional with respect to such services, or

''(ii) by a corporation or partnership which is related (within the meaning of section 267(b) or 707(b)) to the individual.

For purposes of this subparagraph, the term 'relative' means an individual bearing a relationship to the individual which is described in paragraphs (1) through (8) of section 152(a).''

(d) PENALTY-FREE DISTRIBUTIONS FOR CERTAIN UNEMPLOYED INDIVIDUALS.—Paragraph (2) of section 72(t) is amended by adding at the end the following new subparagraph:

''(E) DISTRIBUTIONS TO UNEMPLOYED INDIVIDUALS.—A distribution from an individual retirement plan to an individual after separation from employment, if—

''(i) such individual has received unemployment compensation for 12 consecutive weeks under any Federal or State unemployment compensation law by reason of such separation, and

''(ii) such distributions are made during any taxable year during which such unemployment compensation is paid or the succeeding taxable year.''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to payments and distributions after December 31, 1995.

SEC. 222. CONTRIBUTIONS MUST BE HELD AT LEAST 5 YEARS IN CERTAIN CASES.

(a) IN GENERAL.—Section 72(t), as amended by this Act, is amended by adding at the end the following new paragraph:

''(10) CERTAIN CONTRIBUTIONS MUST BE HELD 5 YEARS.—

''(A) IN GENERAL.—Paragraph (2)(A)(i) shall not apply to any amount distributed out of an individual retirement plan (other than a special individual retirement account) which is allocable to contributions made to the plan during the 5-year period ending on the date of such distribution (and earnings on such contributions).

''(B) ORDERING RULE.—For purposes of this paragraph, distributions shall be treated as having been made—

''(i) first from the earliest contribution (and earnings allocable thereto) remaining in the account at the time of the distribution, and

''(ii) then from other contributions (and earnings allocable thereto) in the order in which made.

Earnings shall be allocated to contributions in such manner as the Secretary may prescribe.

''(C) SPECIAL RULE FOR ROLLOVERS.—

''(i) PENSION PLANS.—Subparagraph (A) shall not apply to distributions out of an individual retirement plan which are allocable to rollover contributions to which section 402(c), 403(a)(4), or 403(b)(8) applied.

''(ii) CONTRIBUTION PERIOD.—For purposes of subparagraph (A), amounts shall be treated as having been held by a plan during any period such contributions were held (or are treated as held under this clause) by any individual retirement plan from which transferred.

''(D) SPECIAL ACCOUNTS.—For rules applicable to special individual retirement accounts under section 408A, see paragraph (8).''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions (and earnings allocable thereto) which are made after December 31, 1995.

PRESIDENTIAL MESSAGE REGARDING THE MIDDLE-CLASS BILL OF RIGHTS

To the Congress of the United States:

I am pleased to transmit today for your immediate consideration and enactment the ''Middle-Class Bill of Rights Tax Relief Act of 1995.'' I am also sending you an explanation of the revenue proposals of this legislation.

This bill is the next step in my Administration's continuing effort to raise living standards for working families and help restore the American Dream for all our people.

For 2 years, we have worked hard to strengthen our economy. We worked with the last Congress to enact legislation that will reduce the annual deficits of 1994–98 by more than $600 billion; we created nearly 6 million new jobs; we cut taxes for 15 million low-income families and gave tax relief to small businesses; we opened export markets through global and regional trade agreements; we invested in human and physical capital to increase productivity; and we reduced the Federal Government by more than 100,000 positions.

With that strong foundation in place, I am now proposing a Middle Class Bill of Rights. Despite our progress, too many Americans are still working harder for less. The Middle Class Bill of Rights will enable working Americans to raise their families and get the education and training they need to meet the demands of a new global economy. It will let middle-income families share in our economic prosperity today and help them build our economic prosperity tomorrow.

The ''Middle-Class Bill of Rights Tax Relief Act of 1995'' includes three of the four elements of my Middle Class Bill of Rights. First, it offers middle-income families a $500 tax credit for each child under 13. Second, it includes a tax deduction of up to $10,000 a year to help middle-income Americans pay for post-secondary education expenses and training expenses. Third, it lets more middle-income Americans make tax-deductible contributions to Individual Retirement Accounts and withdraw from them, penalty-free, for the costs of education and training, health care, first-time home-buying, long periods of unemployment, or the care of an ill parent.

The fourth element of my Middle Class Bill of Rights—not included in this legislation—is the GI Bill for America's Workers, which consolidates 70 Federal training programs and creates a more effective system for learning new skills and finding better jobs for adults and youth. Legislation for this proposal is being developed in cooperation with the Congress.

If enacted, the Middle Class Bill of Rights will help keep the American Dream alive for everyone willing to take responsibility for themselves, their families, and their futures. And it will not burden our children with more debt. In my fiscal 1996 budget, we have found enough savings not only to pay for this tax bill, but also to provide another $81 billion in deficit reduction between 1996 and 2000.

This legislation will restore fairness to our tax system, let middle-income families in our economic prosperity, encourage Americans to prepare for the future, and help ensure that the United States moves into the 21st Century

still the strongest nation in the world. I urge the Congress to take prompt and favorable action on this legislation.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *February 13, 1995*.

GENERAL EXPLANATION OF THE MIDDLE-CLASS BILL OF RIGHTS TAX RELIEF ACT OF 1995

TAX CREDIT FOR DEPENDENT CHILDREN

Current law

A tax exemption, in the form of a deduction, is allowed for each taxpayer and for each dependent of a taxpayer. A dependent includes a child of the taxpayer who is supported by the taxpayer and is under age 19 at the close of the calendar year or is a student under age 24. The deduction amount is $2,500 for tax year 1995. This amount is indexed annually for inflation.

In addition to an exemption for each child, three other tax benefits may accrue to taxpayers with dependent or otherwise qualifying children: the credit for child and dependent care expenses, the exclusion for employer-provided child and dependent care benefits, and the earned income tax credit (EITC).

The EITC is a refundable tax credit based on the earnings of the taxpayer. The EITC is restricted to lower-income taxpayers and is phased out when earnings exceed specified levels. Although the EITC is available for taxpayers without dependents or otherwise qualifying children, the credit rate and income range of the credit are far greater when the taxpayer has one or more qualifying children. In addition, the rate and income range are higher for taxpayers with two or more qualifying children than for taxpayers with only one qualifying child.

Reasons for change

Tax relief for middle-class families has been and continues to be an important goal of this Administration. In 1993, the Administration faced a projection of ever-increasing deficits. Bringing the deficit under control and providing tax relief for the working poor through an expansion of the EITC were the first priorities. Having achieved more favorable than projected results from the deficit reduction program introduced in 1993, the Administration can now turn to providing tax relief to middle-income families.

Tax relief to taxpayers with children is needed to adjust the relative tax burdens of smaller and larger families to reflect more accurately their relative abilities to pay taxes. Available resources should be targeted to those in greatest need and at greatest risk.

Proposal

A nonrefundable tax credit, which would be applied after the EITC, would be allowed for each dependent child under age 13. It would be phased in, at $300 per child for tax years 1996, 1997, and 1998, and $500 per child for 1999 and thereafter. The credit would not reduce any alternative minimum tax liability. The credit would be phased out for taxpayers with adjusted gross income between $60,000 and $75,000. Beginning in the year 2000, both the amount of the credit and the phase-out range would be indexed for the effects of inflation.

Taxpayers claiming the dependent child credit would be required to provide valid social security numbers for themselves, their spouses, and their children who qualify for the credit. The procedures that would apply for determining the validity of social security numbers under the EITC, discussed below, would apply for purposes of the dependent child credit.

REVENUE ESTIMATE

[In billions of dollars]

	Fiscal years—						Total
	1995	1996	1997	1998	1999	2000	
Tax credit for dependent children	0	−3.5	−6.8	−6.6	−8.3	−10.1	−35.4

EDUCATION AND JOB TRAINING TAX DEDUCTION

Current law

Taxpayers generally may not deduct the expenses of higher education and training. There are, however, special circumstances in which deductions for educational expenses are allowed, or in which the payment of educational expenses by others is excluded from income.

Educational expenses may be deductible, but only if the taxpayer itemizes, and only to the extent that the expenses, along with other miscellaneous itemized deductions, exceed two percent of adjusted gross income (AGI). A deduction for educational purposes is allowed only if the education maintains or improves a skill required in the individual's employment or other trade or business, or is required by the individual's employer, or by law or regulation for the individual to retain his or her current job.

The interest from qualified U.S. savings bonds is excluded from a taxpayer's gross income to the extent the interest is used to pay qualified educational expenses. To be qualified, the savings bonds must be purchased after December 31, 1989, by a person who has attained the age of 25. Qualified educational expenses consist of tuition and fees for enrollment of the taxpayer, the taxpayer's spouse, or the taxpayer's dependent at a public or non-profit institution of higher education, including two-year colleges and vocational schools.

Reasons for change

Deductions for educational expenses combine needed tax relief with preparation for new economic imperatives. The expenses of higher education place a significant burden on many middle-class families. Grants and subsidized loans are available to students from low- and moderate-income families; high-income families can afford the costs of higher education.

Well-educated workers are essential to an economy experiencing technological change and facing global competition. The Administration believes that reducing the after-tax cost of education for individuals and families encourages investment in education and training while lowering tax burdens for middle-income taxpayers.

Proposal

A taxpayer would be allowed to deduct qualified educational expenses paid during the taxable year for the education or training of the taxpayer, the taxpayer's spouse, or the taxpayer's dependent. The deduction would be allowed in determining AGI. Therefore, taxpayers could claim the deduction even if they do not itemize and even if they do not meet the two-percent AGI floor on itemized deductions.

Qualified educational expenses would be defined as tuition and fees charged by educational institutions that are directly related to an eligible student's course of study (e.g., registration fees, laboratory fees, and extra charges for particular courses). Charges and expenses associated with meals, lodging, student activities, athletics, health care, transportation, books and similar personal, living or family expenses would not be included. The expenses of education involving sports, games, or hobbies would not be qualified educational expenses unless the education is required as part of a degree program or related to the student's current profession.

Qualified educational expenses would be deductible in the year the expenses are paid, subject to the requirement that the education commences or continues during that year or during the first three months of the next year. Qualified educational expenses paid with the proceeds of a loan generally will be deductible (rather than repayment of the loan itself). Normal tax benefit rules would apply to refunds (and reimbursements through insurance) of previously deducted tuition and fees.

In 1996, 1997, and 1998, the maximum deduction would be $5,000. In 1999 and thereafter, this maximum would increase to $10,000. The deduction would be phased out ratably for taxpayers with modified AGI between $70,000 and $90,000 ($100,000 and $120,000 for joint returns). Modified AGI would include taxable Social Security benefits and amounts otherwise excluded with respect to income earned abroad (or income from Puerto Rico or U.S. possessions). Beginning in 2000, the income phase-out range would be indexed for inflation.

Any amount taken into account as a qualified educational expense would be reduced by educational assistance that is not required to be included in the gross income of either the student or the taxpayer claiming the deduction. Thus, qualified educational expenses would be reduced by scholarship or fellowship grants excludable from gross income under section 117 of the Internal Revenue Code (even if the grants are used to pay expenses other than qualified educational expenses) and any educational assistance received as veterans' benefits. However, no reduction would be required for a gift, bequest, devise or inheritance within the meaning of section 102(a).

An eligible student would be one who is enrolled or accepted for enrollment in a degree, certificate, or other program (including a program of study abroad approved for credit by the institution at which such student is enrolled) leading to a recognized educational credential at an eligible institution. The student must pursue a course of study on at least a half-time basis (or be taking a course to improve or acquire job skills), cannot be enrolled in an elementary or secondary school, and cannot be a nonresident alien. Educational institutions would determine what constitutes a half-time basis for individual programs.

''Eligible institution'' is defined by reference to section 481 of the Higher Education Act. Such institutions must have entered into an agreement with the Department of Education to participate in the student loan program. This definition includes certain proprietary institutions.

This proposal would not affect deductions claimed under any other section of the Code, except that any amount deducted under another section of the Code could not also be deducted under this provision. An eligible student would not be eligible to claim a deduction under this provision if that student could be claimed as a dependent of another taxpayer.

REVENUE ESTIMATE

[In billions of dollars]

	Fiscal years—						
	1995	1996	1997	1998	1999	2000	Total
Education and job training tax deduction	0	−0.7	−4.7	−5.0	−5.8	−7.6	−23.7

EXPANDED INDIVIDUAL RETIREMENT ACCOUNTS

Current law

Under current law, an individual may make deductible contributions to an individual retirement account or individual retirement annuity (IRA) up to the lesser of $2,000 or compensation (wages and self-employment income). If the individual (or the individual's spouse) is an active participant in an employer-sponsored retirement plan, the $2,000 limit on deductible contributions is phased out for couples filing a joint return with adjusted gross income (AGI) between $40,000 and $50,000, and for single taxpayers with AGI between $25,000 and $35,000. To the extent that an individual is not eligible for deductible IRA contributions, he or she may make nondeductible IRA contributions (up to the contributions limit).

The earnings on IRA account balances are not included in income until they are withdrawn. Withdrawals from an IRA (other than withdrawals of nondeductible contributions) are includable in income, and must begin by age 70½. Amounts withdrawn before age 59½ are generally subject to an additional 10 percent penalty tax. The penalty tax does not apply to distributions upon the death or disability of the taxpayer or withdrawals in the form of substantially equal periodic payments over the life (or life expectancy) of the IRA owner or over the joint lives (or life expectancies) of the IRA owner and his or her beneficiary.

Reasons for change

The Nation's savings rate has declined dramatically since the 1970's. The Administration believes that increasing the savings rate is essential if the United States is to sustain a sufficient level of private investment into the next century. Without adequate investment, the continued healthy growth of the economy is at risk. The Administration is also concerned that many households are not saving enough to provide for long-term needs such as retirement and education.

The Administration believes that individuals should be encouraged to save, and that tax policies can provide a significant incentive. Under current law, however, savings incentives in the form of deductible IRAs are not available to all middle-income taxpayers. Furthermore, the present-law income thresholds for deductible IRAs and the maximum contribution amount are not indexed for inflation, so that fewer Americans are eligible to make a deductible IRA contribution each year, and the amount of the maximum contribution is declining in real terms over time. The Administration also believes that providing taxpayers with the option of making IRA contributions that are nondeductible but can be withdrawn tax free will provide an alternative savings vehicle that some middle-income taxpayers may find more suitable for their savings needs.

Individuals save for many purposes besides retirement. Broadening the tax incentives for non-retirement saving can be an important element in any proposal to increase the Nation's savings rate. Expanding the flexibility of IRAs to meet a wider variety of savings needs, such as first-time home purchases, higher education expenditures, unemployment and catastrophic medical and nursing home expenses, should prove to be more attractive to many taxpayers than accounts limited to retirement savings.

Proposal

Expand Deductible IRAs: Under the proposal the income thresholds and phase-out ranges for deductible IRAs would be doubled; therefore, eligibility would be phased out for couples filing joint returns with AGI between $80,000 and $100,000 and for single individuals with AGI between $50,000 and $70,000. The income thresholds and the present-law annual contribution limit of $2,000 would be indexed for inflation. As under current law, any individual who is not an active participant in an employer-sponsored plan and whose spouse is also not an active participant would be eligible for deductible IRAs regardless of income.

Under the proposal, the IRA contribution limit would be coordinated with the current law limits on elective deferrals under qualified cash or deferred arrangements (sec. 401(k) plans), tax-sheltered annuities (sec. 403(b) annuities), and similar plans. The proposal also would provide that the present-law rule permitting penalty-free IRA withdrawals after an individual reaches age 59½ does not apply in the case of amounts attributable to contributions made during the previous five years. This provision does not apply to amounts rolled over from tax-qualified plans or tax-sheltered annuities.

These provisions would be effective January 1, 1996.

Special IRAs: Each individual eligible for a traditional deductible IRA would have the option of contributing an amount up to the contribution limit to either a deductible IRA or to a new ''Special IRA.'' Contributions to a Special IRA would not be deductible, but if the contributions remained in the account for at least five years, distributions of the contributions and earnings thereon would be tax-free. Withdrawals of earnings from Special IRAs during the five-year period after contribution would be subject to ordinary income tax. In addition, such withdrawals would be subject to the 10-percent penalty tax on early withdrawals unless used for one of the four purposes described below.

The proposal would permit individuals whose AGI for a taxable year did not exceed the upper end of the new income eligibility limits to convert balances in deductible IRAs into Special IRAs without being subject to the 10-percent tax on early withdrawals. The amount transferred from the deductible IRA to the Special IRA generally would be includable in the individual's income in the year of the transfer. However, if a transfer was made before January 1, 1997, the transferred amount included in the individual's income would be spread evenly over four taxable years.

The Special IRA provisions would be effective January 1, 1996.

Penalty-Free Distributions. Amounts could be withdrawn penalty-free from deductible IRAs and Special IRAs within the five-year period after contribution, if the taxpayer used the amounts to pay post-secondary education costs, to buy or build a first home, to cover living costs if unemployed, or to pay catastrophic medical expenses (including certain nursing home costs).

a. *Education expenses:*

Penalty-free withdrawals would be allowed to the extent the amount withdrawn is used to pay qualified higher education expenses of the taxpayer, the taxpayer's spouse, the taxpayer's dependent, or the taxpayer's child or grandchild (even if not a dependent). In general, a withdrawal for qualified higher education expenses would be subject to the same requirements as the deduction for qualified educational expenses (*e.g.*, the expenses are tuition and fees that are charged by educational institutions and are directly related to an eligible student's course of study).

b. *First-time home purchasers:*

Penalty-free withdrawals would be allowed to the extent the amount withdrawn is used to pay qualified acquisition, construction, or reconstruction costs with respect to a principal residence of a first-time home buyer who is the taxpayer, the taxpayer's spouse, or the taxpayer's child or grandchild. A first-time home buyer would be any individual (and if married, the individual's spouse) who (1) did not own an interest in a principal residence during the three years prior to the purchase of a home and (2) was not in an extended period for rolling over gain from the sale of a principal residence.

c. *Unemployment:*

Penalty-free withdrawals could be made by an individual after the individual is separated from employment if (1) the individual has received unemployment compensation for 12 consecutive weeks and (2) the withdrawal is made in the taxable year in which the unemployment compensation is received for the succeeding taxable year.

d. Medical care expenses and nursing home costs:

The proposal would extend to IRAs the present-law exception to the early withdrawal tax for distributions from tax-qualified plans and tax-sheltered annuities for certain medical care expenses (deductible medical expenses that are subject to a floor of 7.5 percent of AGI) and expand the exception for IRAs to allow withdrawal for medical care expenses of the taxpayer's child, grandchild, parent or grandparent, whether or not such person otherwise qualifies as the taxpayer's dependent.

In addition, for purposes of the exemption from the 10 percent tax on early withdrawals for distributions from IRAs, the definition of medical care would include expenses for qualified long-term care services for incapacitated individuals. Qualified long-term care services generally would be services that are required by an incapacitated individual, where the primary purpose of the services is to provide needed assistance with any activity of daily living or protection from threats to health and safety due to severe cognitive impairment. An incapacitated individual generally would be a person who is certified by a licensed professional within the preceding 12-month period as being unable to perform without substantial assistance at least two activities of daily living, or as having severe cognitive impairment.

These provisions would be effective January 1, 1996.

REVENUE ESTIMATE

[In billions of dollars]

	Fiscal years—						
	1995	1996	1997	1998	1999	2000	Total
Expanded individual retirement accounts	0	0.4	−0.3	−0.8	−1.0	−2.0	−3.8

Mr. DASCHLE. Mr. President, I am pleased to join my distinguished colleague from New York, the ranking member of the Finance Committee, in introducing the President's Middle-Class Bill of Rights, a modest package of measures that will make it easier for middle-income Americans to raise their children, educate themselves and/or their children, and save for retirement.

These proposals are in stark contrast to the tax cut proposals advanced by Republicans. The tax cuts in the Republican Contract With America would cost four times as much as the President's tax cuts over the next 10 years, with the overwhelming majority of the benefit going to those making more than $100,000.

According to a recent report prepared by the Joint Committee on Taxation, while the Republican tax cuts would cost $200 billion over the first 5 years, that cost would balloon to $704 billion over 10 years. The President's Middle-Class Bill of Rights would cost less than a quarter of that amount—$171 billion—over a 10-year period.

In other words, Republicans are proposing tax cuts that will benefit the middle class, while at the same time asking those same middle-income Americans to pay for tax cuts for high-income taxpayers that are three times as large. That doesn't sound like a fair deal to me.

While there are some similarities between the President's tax cuts and those contained in the Contract With America, the principal difference is that the contract includes tax cuts for high-income people and large corporations. And, as far as their impact on the budget and middle-income taxpayers is concerned, it is an exceedingly large difference.

Another way the President's tax cuts can be distinguished from Republican proposals is that the President would provide middle-income tax relief specifically for higher education and job training. Education and job training expenses are among the largest costs faced by middle-income families. Yet, education and job training are critical tools needed by middle-class Americans to build more quality of life for themselves and their children.

Mr. President, I understand that the Finance Committee already has held hearings on the President's proposal, and I look forward to reviewing the committee's report on the testimony presented at those hearings.

By Mr. MOYNIHAN (for himself and Mr. DASCHLE) (by request):

S. 453. A bill to amend the Internal Revenue Code of 1986 to modify the eligibility criteria for the earned income tax credit, to improve tax compliance by U.S. persons establishing or benefiting from foreign trusts, and for other purposes; to the Committee on Finance.

THE TAX COMPLIANCE ACT OF 1995

Mr. MOYNIHAN. Mr. President, as ranking member of the Committee on Finance, I am today joining with the Democratic leader in introducing a bill, at the request of the administration, containing the statutory provisions that implement the tax compliance proposals in the President's fiscal year 1996 budget submission.

By making statutory language available early in the legislative process, the administration has aided the process of Senate consideration of these provisions. This legislation also will serve to answer many of the questions that the public may have with respect to the President's tax proposals.

I want to thank the administration for providing this level of detail in so timely a fashion, and I look forward to working with them on these proposals in the coming months.

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

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

S. 453

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

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the ''Tax Compliance Act of 1995''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; amendment of 1986 Code.

TITLE I—PROVISIONS RELATING TO THE EARNED INCOME CREDIT

Sec. 101. Earned income tax credit denied to individuals not authorized to be employed in the United States.

Sec. 102. Earned income tax credit denied to individuals with substantial unearned income.

TITLE II—PROVISIONS RELATING TO INTERNATIONAL TAXATION

Sec. 201. Revision of tax rules on expatriation.

Sec. 202. Improved information reporting on foreign trusts.

Sec. 203. Modification of rules relating to foreign trusts having one or more United States beneficiaries.

Sec. 204. Foreign persons not to be treated as owners under grantor trust rules.

Sec. 205. Gratuitous transfers by partnerships and foreign corporations.

Sec. 206. Information reporting regarding large foreign gifts.

Sec. 207. Modification of rules relating to foreign trusts which are not grantor trusts.

Sec. 208. Residence of estates and trusts.

TITLE III—ADDITIONAL EMPOWERMENT ZONES

Sec. 301. Additional empowerment zones.

TITLE I—PROVISIONS RELATING TO THE EARNED INCOME CREDIT

SEC. 101. EARNED INCOME TAX CREDIT DENIED TO INDIVIDUALS NOT AUTHORIZED TO BE EMPLOYED IN THE UNITED STATES.

(a) IN GENERAL.—Section 32(c)(1) (relating to individuals eligible to claim the earned income tax credit) is amended by adding at the end the following new subparagraph:

''(F) IDENTIFICATION NUMBER REQUIREMENT.—The term 'eligible individual' does not include any individual who does not include on the return of tax for the taxable year—

''(i) such individual's taxpayer identification number, and

''(ii) if the individual is married (within the meaning of section 7703), the taxpayer identification number of such individual's spouse.''

(b) SPECIAL IDENTIFICATION NUMBER.—Section 32 is amended by adding at the end the following new subsection:

''(k) IDENTIFICATION NUMBERS.—Solely for purposes of subsections (c)(1)(F) and (c)(3)(D), a taxpayer identification number means a social security number issued to an individual by the Social Security Administration (other than a social security number issued pursuant to clause (II) (or that portion of clause (III) that relates to clause (II)) of section 205(c)(2)(B)(i) of the Social Security Act).''

(c) EXTENSION OF PROCEDURES APPLICABLE TO MATHEMATICAL OR CLERICAL ERRORS.—Section 6213(g)(2) (relating to the definition of mathematical or clerical errors) is amended by striking ''and' at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting '', and'', and by inserting after subparagraph (E) the following new subparagraph:

''(F) an omission of a correct taxpayer identification number required under section 23 (relating to credit for families with younger children) or section 32 (relating to the earned income tax credit) to be included on a return.''

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 102. EARNED INCOME TAX CREDIT DENIED TO INDIVIDUALS WITH SUBSTANTIAL UNEARNED INCOME.

(a) IN GENERAL.—Paragraph (1) of section 32(c) (relating to individuals eligible to claim the earned income tax credit) is amended by adding at the end the following new subparagraph:

''(G) EXCEPTION FOR INDIVIDUAL WITH SUBSTANTIAL INTEREST AND DIVIDEND INCOME.—The term 'eligible individual' shall not include any individual if the aggregate amount

of interest and dividends includible in the gross income of the taxpayer for the taxable year exceeds $2,500.''

(b) CONFORMING AMENDMENT.—

(1) Paragraph (2) of section 32(i) (relating to inflation adjustments) is amended to read as follows:

''(2) UNEARNED INCOME LIMITATION.—In the case of a taxable year beginning in a calendar year after 1996, the dollar amount contained in subsection (c)(1)(G) shall be increased by an amount equal to—

''(A) such dollar amount, multiplied by

''(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1995' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $50, such dollar amount shall be rounded to the nearest multiple of $50.''

(2) Paragraph (1) of section 32(i) is amended by adding at the end the following new flush sentence:

''If any amount as adjusted under the preceding sentence is not a multiple of $10, such dollar amount shall be rounded to the nearest multiple of $10.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

TITLE II—PROVISIONS RELATING TO INTERNATIONAL TAXATION

SEC. 201. REVISION OF TAX RULES ON EXPATRIATION.

(a) IN GENERAL.—Subpart A of part II of subchapter N of chapter 1 is amended by inserting after section 877 the following new section:

''SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

''(a) GENERAL RULES.—For purposes of this subtitle—

''(1) CITIZENS.—If any United States citizen relinquishes his citizenship during a taxable year, all property held by such citizen at the time immediately before such relinquishment shall be treated as sold at such time for its fair market value and any gain or loss shall be taken into account for such taxable year.

''(2) CERTAIN RESIDENTS.—If any long-term resident of the United States ceases to be subject to tax as a resident of the United States for any portion of any taxable year, all property held by such resident at the time of such cessation shall be treated as sold at such time for its fair market value and any gain or loss shall be taken into account for the taxable year which includes the date of such cessation.

''(b) EXCLUSION FOR CERTAIN GAIN.—The amount which would (but for this subsection) be includible in the gross income of any taxpayer by reason of subsection (a) shall be reduced (but not below zero) by $600,000.

''(c) PROPERTY TREATED AS HELD.—For purposes of this section, except as otherwise provided by the Secretary, an individual shall be treated as holding—

''(1) all property which would be includible in his gross estate under chapter 11 were such individual to die at the time the property is treated as sold,

''(2) any other interest in a trust which the individual is treated as holding under the rules of section 679(e) (determined by treating such section as applying to foreign and domestic trusts), and

''(3) any other interest in property specified by the Secretary as necessary or appropriate to carry out the purposes of this section.

''(d) EXCEPTIONS.—The following property shall not be treated as sold for purposes of this section:

''(1) UNITED STATES REAL PROPERTY INTERESTS.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation which does not, on the date the individual relinquishes his citizenship or ceases to be subject to tax as a resident, meet the requirements of section 897(c)(2).

''(2) INTEREST IN CERTAIN RETIREMENT PLANS.—

''(A) IN GENERAL.—Any interest in a qualified retirement plan (as defined in section 4974(d)), other than any interest attributable to contributions which are in excess of any limitation or which violate any condition for tax-favored treatment.

''(B) FOREIGN PENSION PLANS.—

''(i) IN GENERAL.—Under regulations prescribed by the Secretary, interests in foreign pension plans or similar retirement arrangements or programs.

''(ii) LIMITATION.—The value of property which is treated as not sold by reason of this subparagraph shall not exceed $500,000.

''(e) DEFINITIONS.—For purposes of this section—

''(1) RELINQUISHMENT OF CITIZENSHIP.—A citizen shall be treated as relinquishing his United States citizenship on the date the United States Department of State issues to the individual a certificate of loss of nationality or on the date a court of the United States cancels a naturalized citizen's certificate of naturalization.

''(2) LONG-TERM RESIDENT.—

''(A) IN GENERAL.—The term 'long-term resident' means any individual (other than a citizen of the United States) who is a lawful permanent resident of the United States and, as a result of such status, has been subject to tax as a resident in at least 10 taxable years during the period of 15 taxable years ending with the taxable year during which the sale under subsection (a) is treated as occurring.

''(B) SPECIAL RULE.—For purposes of subparagraph (A), there shall not be taken into account—

''(i) any taxable year during which any prior sale is treated under subsection (a) as occurring, or

''(ii) any taxable year prior to the taxable year referred to in clause (i).

''(f) TERMINATION OF DEFERRALS, ETC.—On the date any property held by an individual is treated as sold under subsection (a)—

''(1) any period deferring recognition of income or gain shall terminate, and

''(2) any extension of time for payment of tax shall cease to apply and the unpaid portion of such tax shall be due and payable.

''(g) ELECTION BY EXPATRIATING RESIDENTS.—Solely for purposes of determining gain under subsection (a)—

''(1) IN GENERAL.—At the election of a resident not a citizen of the United States, property—

''(A) which was held by such resident on the date the individual first became a resident of the United States during the period of long-term residency to which the treatment under subsection (a) relates, and

''(B) which is treated as sold under subsection (a),

shall be treated as having a basis on such date of not less than the fair market value of such property on such date.

''(2) ELECTION.—Such an election shall apply to all property described in paragraph (1), and, once made, shall be irrevocable.

''(h) DEFERRAL OF TAX ON CLOSELY HELD BUSINESS INTERESTS.—The District Director may enter into an agreement with any individual which permits such individual to defer payment for not more than 5 years of any tax imposed by subsection (a) by reason of holding any interest in a closely held business (as defined in section 6166(b)) other than a United States real property interest described in subsection (d)(1).

''(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.

''(j) CROSS REFERENCE.—

''For termination of United States citizenship for tax purposes, see section 7701(a)(47).''

(b) DEFINITION OF TERMINATION OF UNITED STATES CITIZENSHIP.—Section 7701(a) is amended by adding at the end the following new paragraph:

''(47) TERMINATION OF UNITED STATES CITIZENSHIP.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(1).''

(c) CONFORMING AMENDMENTS.—

(1) Section 877 is amended by adding at the end the following new subsection:

''(f) TERMINATION.—This section shall not apply to any individual who is subject to the provisions of section 877A.''

(2) Paragraph (10) of section 7701(b) is amended by adding at the end the following new sentence: ''This paragraph shall not apply to any individual who is subject to the provisions of section 877A.''

(d) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

''Sec. 877A. Tax responsibilities of expatriation.''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) United States citizens who relinquish (within the meaning of section 877A(e)(1) of the Internal Revenue Code of 1986, as added by this section) United States citizenship on or after February 6, 1995, and

(2) long-term residents (as defined in such section) who cease to be subject to tax as residents of the United States on or after such date.

SEC. 202. IMPROVED INFORMATION REPORTING ON FOREIGN TRUSTS.

(a) IN GENERAL.—Section 6048 (relating to returns as to certain foreign trusts) is amended to read as follows:

''SEC. 6048. INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

''(a) NOTICE OF CERTAIN EVENTS.—

''(1) GENERAL RULE.—On or before the 90th day (or such later day as the Secretary may prescribe) after any reportable event, the responsible party shall—

''(A) notify each trustee of the trust of the requirements of subsection (b), and

''(B) provide written notice of such event to the Secretary in accordance with paragraph (2).

''(2) CONTENTS OF NOTICE.—The notice required by paragraph (1)(B) shall contain such information as the Secretary may prescribe, including—

''(A) the amount of money or other property (if any) transferred to the trust in connection with the reportable event,

''(B) the identity of the trust and of each trustee and beneficiary (or class of beneficiaries) of the trust, and

''(C) a statement that each trustee of the trust has been informed of the requirements of subsection (b).

''(3) REPORTABLE EVENT.—For purposes of this subsection, the term 'reportable event' means—

''(A) the creation of any foreign trust by a United States person,

''(B) the transfer of any money or property to a foreign trust by a United States person, including a transfer by reason of death,

''(C) a domestic trust becoming a foreign trust,

''(D) the death of a citizen or resident of the United States who is a grantor of a foreign trust, and

''(E) the residency starting date (within the meaning of section 7701(b)(2)(A)) of a grantor of a foreign trust subject to tax under section 679(a)(3).

Subparagraphs (A) and (B) shall not apply with respect to a trust described in section 404(a)(4) or 404A.

''(4) RESPONSIBLE PARTY.—For purposes of this subsection, the term 'responsible party' means—

''(A) the grantor in the case of a reportable event described in subparagraph (A) or (E) of paragraph (3),

''(B) the transferor in the case of a reportable event described in paragraph (3)(B) other than a transfer by reason of death,

''(C) the trustee of the domestic trust in the case of a reportable event described in paragraph (3)(C), and

''(D) the executor of the decedent's estate in the case of a transfer by reason of death.

''(b) TRUST REPORTING REQUIREMENTS.—If a foreign trust, at any time during a taxable year of such trust—

''(1) has a grantor who is a United States person and—

''(A) such grantor is treated as the owner of any portion of such trust under the rules of subpart E of part I of subchapter J of chapter 1, or

''(B) any portion of such trust would be included in the gross estate of such grantor if the grantor were to die at such time, or

''(2) directly or indirectly distributes, credits, or allocates money or property to any United States person (whether or not the trust has a grantor described in paragraph (1)),

then such trust shall meet the requirements of subsection (c) (relating to trust information and agent) and subsection (d) (relating to annual return).

''(c) CONTENTS OF SECTION 6048 STATEMENT.—

''(1) IN GENERAL.—The requirements of this subsection are met if the trust files with the Secretary a statement which contains such information as the Secretary may prescribe and which—

''(A) identifies a United States person who is the trust's limited agent to provide the Secretary with such information that reasonably should be available to the trust for purposes of applying sections 7602, 7603, and 7604 with respect to any request by the Secretary to examine trust records or produce testimony related to any transaction by the trust or with respect to any summons by the Secretary for such records or testimony, and

''(B) contains an agreement to comply with the requirements of subsection (d).

''(2) SPECIAL RULE.—A foreign trust which appoints an agent described in paragraph (1)(A) shall not be considered to have an office or a permanent establishment in the United States solely because of the activities of such agent pursuant to this section. For purposes of this section, the appearance of persons or production of records by reason of the creation of the agency shall not subject such persons or records to legal process for any purpose other than determining the correct treatment under this title of the activities and operations of the trust.

''(d) ANNUAL RETURNS AND STATEMENTS.—The requirements of this subsection are met if—

''(1) the trust makes a return for the taxable year which sets forth a full and complete accounting of all trust activities and operations for the taxable year, and contains such other information as the Secretary may prescribe; and

''(2) the trust furnishes such information as the Secretary may prescribe to each United States person—

''(A) who is treated as the owner of any portion of such trust under the rules of subpart E of part I of subchapter J of chapter 1,

''(B) to whom any item with respect to the taxable year is credited or allocated, or

''(C) who receives a distribution from such trust with respect to the taxable year.

''(e) TIME AND MANNER OF FILING INFORMATION.—Any notice, statement, or return required under this section shall be made at such time and in such manner as the Secretary shall prescribe.

''(f) MODIFICATION OF RETURN REQUIREMENTS.—The Secretary is authorized to suspend or modify any requirement of this section if the Secretary determines that the United States has no significant tax interest in obtaining the required information.''

(b) PENALTIES.—Section 6677 (relating to failure to file information returns with respect to certain foreign trusts) is amended to read as follows:

''SEC. 6677. FAILURE TO FILE INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

''(a) FAILURE TO REPORT CERTAIN EVENTS.—

''(1) IN GENERAL.—In the case of a reportable event described in any subparagraph of section 6048(a)(3) for which a responsible party does not file a written notice meeting the requirements of section 6048(a)(2) within the time specified in section 6048(a)(1), the responsible party shall pay a penalty of $10,000. If any failure described in the preceding sentence continues for more than 90 days after the day on which the Secretary mails notice of such failure to the responsible party, such party shall pay a penalty (in addition to the $10,000 amount) of $10,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period.

''(2) 35-PERCENT PENALTY.—In the case of a reportable event described in subparagraph (A), (B), or (C) of section 6048(a)(3) (other than a transfer by reason of death), the aggregate amount of the penalties under paragraph (1) shall not be less than an amount equal to 35 percent of the gross value of the property involved in such event (determined as of the date of the event).

''(3) RESPONSIBLE PARTY.—For purposes of this subsection, the term 'responsible party' has the meaning given to such term by section 6048(a)(4).

''(b) FAILURE TO MAKE CERTAIN STATEMENTS AND RETURNS.—

''(1) IN GENERAL.—In the case of any failure to meet the requirements of section 6048(b), the appropriate tax treatment of any trust transactions or operations shall be determined by the Secretary in the Secretary's sole discretion from the Secretary's own knowledge or from such information as the Secretary may obtain through testimony or otherwise.

''(2) MONETARY PENALTY.—In the case of any failure to meet the requirements of section 6048(b) with respect to a trust described in such section by reason of paragraph (1) thereof, the grantor described in such paragraph (1) shall pay a penalty of $10,000 for each taxable year with respect to which the foreign trust fails to meet such requirements. If any failure described in the preceding sentence continues for more than 90 days after the day on which the Secretary mails notice of such failure to such grantor, such grantor shall pay a penalty (in addition to any other penalty) of $10,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period.

''(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed by this section on any failure which is shown to be due to reasonable cause and not due to willful neglect. The fact that a foreign jurisdiction would impose a civil or criminal penalty on the taxpayer (or any other person) for disclosing the requested documentation is not reasonable cause.

''(d) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by this section.''

(c) CLERICAL AMENDMENTS.—

(1) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking the item relating to section 6048 and inserting the following new item:

''Sec. 6048. Information with respect to certain foreign trusts.''

(2) The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6677 and inserting the following new item:

''Sec. 6677. Failure to file information with respect to certain foreign trusts.''

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply—

(A) to reportable events occurring on or after February 6, 1995, and

(B) to the extent such amendments require reporting for any taxable year under section 6048(b) of the Internal Revenue Code of 1986 (as added by this section), to taxable years beginning after the date of the enactment of this Act.

(2) NOTICES.—For purposes of section 6048(a) of such Code, the 90th day referred to therein shall in no event be treated as being earlier than the 90th day after the date of the enactment of this Act.

SEC. 203. MODIFICATION OF RULES RELATING TO FOREIGN TRUSTS HAVING ONE OR MORE UNITED STATES BENEFICIARIES.

(a) IN GENERAL.—Section 679 (relating to foreign trusts having one or more United States beneficiaries) is amended to read as follows:

''SEC. 679. FOREIGN TRUSTS HAVING ONE OR MORE UNITED STATES BENEFICIARIES.

''(a) TRANSFEROR TREATED AS OWNER.—

''(1) IN GENERAL.—A United States person who directly or indirectly transfers property to a foreign trust (other than a trust described in section 404(a)(4) or section 404A) shall be treated as the owner for his taxable year of the portion of such trust attributable to such property if for such year there is a United States beneficiary of such trust.

''(2) EXCEPTION.—

''(A) IN GENERAL.—Paragraph (1) shall not apply to any sale or exchange of property to a trust if—

''(i) the trust pays fair market value for such property, and

''(ii) all of the gain to the transferor is recognized at the time of transfer.

''(B) CERTAIN OBLIGATIONS NOT TAKEN INTO ACCOUNT.—For purposes of subparagraph (A), in determining whether the transferor received fair market value, there shall not be taken into account—

''(i) any obligation of—

''(I) the trust,

''(II) any grantor or beneficiary of the trust, or

''(III) any person who is related (within the meaning of section 643(i)(3)) to any grantor or beneficiary of the trust, and

''(ii) except as provided in regulations, any obligation which is guaranteed by a person described in clause (i).

''(C) TREATMENT OF DEEMED SALE ELECTION UNDER SECTION 1057.—For purposes of subparagraph (A), a transfer with respect to which an election under section 1057 is made shall not be treated as a sale or exchange.

''(3) SPECIAL RULES APPLICABLE TO FOREIGN GRANTOR WHO LATER BECOMES A UNITED STATES PERSON.—A nonresident alien individual who becomes a United States resident within 5 years after directly or indirectly transferring property to a foreign trust shall be treated for purposes of this section and section 6048 as having transferred such property, and any undistributed income (including all realized and unrealized gains) attributable thereto, to the foreign trust immediately after becoming a United States resident. For this purpose, a nonresident alien shall be treated as becoming a resident of the United States on the residency starting date (within the meaning of section 7701(b)(2)(A)).

''(b) BENEFICIARIES TREATED AS TRANSFERORS IN CERTAIN CASES.—For purposes of this section and section 6048, if—

''(1) a citizen or resident of the United States who is treated as the owner of any portion of a trust under subsection (a) dies,

''(2) property is transferred to a foreign trust by reason of the death of a citizen or resident of the United States, or

''(3) a domestic trust to which any United States person made a transfer becomes a foreign trust,

then, except as otherwise provided in regulations, the trust beneficiaries shall be treated as having transferred to such trust (as of the date of the applicable event under paragraph (1), (2), or (3)) their respective interests (as determined under subsection (e)) in the property involved.

''(c) TRUSTS ACQUIRING UNITED STATES BENEFICIARIES.—If—

''(1) subsection (a) applies to a trust for the transferor's taxable year, and

''(2) subsection (a) would have applied to the trust for the transferor's immediately preceding taxable year but for the fact that for such preceding taxable year there was no United States beneficiary for any portion of the trust,

then, for purposes of this subtitle, the transferor shall be treated as having received as an accumulation distribution taxable under subpart D an amount equal to the undistributed net income (as determined under section 665(a) as of the close of such immediately preceding taxable year) attributable to the portion of the trust referred to in subsection (a).

''(d) TRUSTS TREATED AS HAVING A UNITED STATES BENEFICIARY.—

''(1) IN GENERAL.—For purposes of this section, a trust shall be treated as having a United States beneficiary for the taxable year unless—

''(A) under the terms of the trust, no part of the income or corpus of the trust may be paid or accumulated during the taxable year to or for the benefit of a United States person, and

''(B) if the trust were terminated at any time during the taxable year, no part of the income or corpus of such trust could be paid to or for the benefit of a United States person.

To the extent provided by the Secretary, for purposes of this subsection, the term 'United States person' includes any person who was a United States person at any time during the existence of the trust.

''(2) ATTRIBUTION OF OWNERSHIP.—For purposes of paragraph (1), an amount shall be treated as paid or accumulated to or for the benefit of a United States person if such amount is paid to or accumulated for a foreign corporation, foreign partnership, or foreign trust or estate, and—

''(A) in the case of a foreign corporation, more than 50 percent of the total combined voting power of all classes of stock of such corporation entitled to vote is owned (within the meaning of section 958(a)) or is considered to be owned (within the meaning of section 958(b)) by United States shareholders (as defined in section 951(b)),

''(B) in the case of a foreign partnership, a United States person is a partner of such partnership, or

''(C) in the case of a foreign trust or estate, such trust or estate has a United States beneficiary (within the meaning of paragraph (1)).

''(e) DETERMINATION OF BENEFICIARIES' INTERESTS IN TRUST.—

''(1) GENERAL RULE.—For purposes of this section, a beneficiary's interest in a foreign trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar advisor.

''(2) SPECIAL RULE.—In the case of beneficiaries whose interests in a trust cannot be determined under paragraph (1)—

''(A) the beneficiary having the closest degree of kinship to the grantor shall be treated as holding the remaining interests in the trust not determined under paragraph (1) to be held by any other beneficiary, and

''(B) if 2 or more beneficiaries have the same degree of kinship to the grantor, such remaining interests shall be treated as held equally by such beneficiaries.

''(3) CONSTRUCTIVE OWNERSHIP.—If a beneficiary of a foreign trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

''(4) TAXPAYER RETURN POSITION.—A taxpayer shall clearly indicate on its income tax return—

''(A) the methodology used to determine that taxpayer's trust interest under this section, and

''(B) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary's trust interest under this section.

''(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years ending on or after February 6, 1995.

(2) SECTION 679(a).—Paragraphs (2) and (3) of section 679(a) of the Internal Revenue Code of 1986 (as added by this section) shall apply to—

(A) any trust created on or after February 6, 1995, and

(B) the portion of any trust created before such date which is attributable to actual transfers of property to the trust on or after such date.

(3) SECTION 679(b).—

(A) IN GENERAL.—Paragraphs (1) and (2) of section 679(b) of such Code (as so added) shall apply to—

(i) any trust created on or after the date of the enactment of this Act, and

(ii) the portion of any trust created before such date which is attributable to actual transfers of property to the trust on or after such date.

(B) SECTION 679(b)(3).—Section 679(b)(3) of such Code (as so added) shall take effect on February 6, 1995, without regard to when the property was transferred to the trust.

SEC. 204. FOREIGN PERSONS NOT TO BE TREATED AS OWNERS UNDER GRANTOR TRUST RULES.

(a) IN GENERAL.—So much of section 672(f) (relating to special rule where grantor is foreign person) as precedes paragraph (2) is amended to read as follows:

''(f) SUBPART NOT TO RESULT IN FOREIGN OWNERSHIP.—

''(1) IN GENERAL.—Notwithstanding any other provision of this subpart, this subpart shall apply only to the extent such application results in an amount being included (directly or through 1 or more entities) in the gross income of a citizen or resident of the United States or a domestic corporation. The preceding sentence shall not apply to any portion of an investment trust if such trust is treated as a trust for purposes of this title and the grantor of such portion is the sole beneficiary of such portion.''

(b) CREDIT FOR CERTAIN TAXES.—Paragraph (2) of section 665(d) is amended by adding at the end the following new sentence: ''Under rules or regulations prescribed by the Secretary, in the case of any foreign trust of which the settlor or another person would be treated as owner of any portion of the trust under subpart E but for section 672(f), the term 'taxes imposed on the trust' includes the allocable amount of any income, war profits, and excess profits taxes imposed by any foreign country or possession of the United States on the settlor or such other person in respect of trust income.''

(c) DISTRIBUTIONS BY CERTAIN FOREIGN TRUSTS THROUGH NOMINEES.—

(1) Section 643 is amended by adding at the end the following new subsection:

''(h) DISTRIBUTIONS BY CERTAIN FOREIGN TRUSTS THROUGH NOMINEES.—For purposes of this part, any amount paid to a United States person which is derived directly or indirectly from a foreign trust of which the payor is not the grantor shall be deemed in the year of payment to have been directly paid by the foreign trust to such United States person.''

(2) Section 665 is amended by striking subsection (c).

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

(e) TRANSITIONAL RULE.—If—

(1) by reason of the amendments made by this section, any person other than a United States person ceases to be treated as the owner of a portion of a domestic trust, and

(2) before January 1, 1996, such trust becomes a foreign trust, or the assets of such trust are transferred to a foreign trust,

no tax shall be imposed by section 1491 of the Internal Revenue Code of 1986 by reason of such trust becoming a foreign trust or the assets of such trust being transferred to a foreign trust.

SEC. 205. GRATUITOUS TRANSFERS BY PARTNERSHIPS AND FOREIGN CORPORATIONS.

(a) IN GENERAL.—Subchapter C of chapter 80 (relating to provisions affecting more than one subtitle) is amended by adding at the end the following new section:

''SEC. 7874. PURPORTED GIFTS BY PARTNERSHIPS AND FOREIGN CORPORATIONS.

''(a) IN GENERAL.—Any property (including money) that is purportedly a direct or indirect gift by a partnership or a foreign corporation to a person who is not a partner of the partnership or a shareholder of the corporation, respectively, may be recharacterized by the Secretary to prevent the avoidance of tax. The Secretary may not recharacterize gifts made for bona fide business or charitable purposes.

''(b) STATEMENTS ON RECIPIENT'S RETURN.—A taxpayer who receives a purported gift

subject to subsection (a) shall attach a statement to his income tax return for the year of receipt that identifies the property received and describes fully the circumstances surrounding the purported gift.

''(c) EXEMPTION.—Subsection (a) shall not apply to purported gifts received by any person during any taxable year if the amount thereof is less than $2,500.

''(d) REGULATIONS.—The Secretary may prescribe such rules as may be necessary or appropriate to carry out the purposes of this section.''

(b) CLERICAL AMENDMENT.—The table of sections for such subchapter C is amended by adding at the end the following new item:

''Sec. 7874. Purported gifts by partnerships and foreign corporations.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after the date of the enactment of this Act.

SEC. 206. INFORMATION REPORTING REGARDING LARGE FOREIGN GIFTS.

(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 is amended by inserting after section 6039E the following new section:

''SEC. 6039F. NOTICE OF LARGE GIFTS RECEIVED FROM FOREIGN PERSONS.

''(a) IN GENERAL.—If the value of the aggregate foreign gifts received by a United States person (other than an organization described in section 501(c) and exempt from tax under section 501(a)) during any taxable year exceeds $100,000, such United States person shall furnish (at such time and in such manner as the Secretary shall prescribe) such information as the Secretary may prescribe regarding each foreign gift received during such year.

''(b) FOREIGN GIFT.—For purposes of this section, the term 'foreign gift' means any amount received from a person other than a United States person which the recipient treats as a gift or bequest. Such term shall not include any qualified transfer (within the meaning of section 2503(e)(2)).

''(c) PENALTY FOR FAILURE TO FILE INFORMATION.—

''(1) IN GENERAL.—If a United States person fails to furnish the information required by subsection (a) with respect to any foreign gift within the time prescribed therefor (including extensions)—

''(A) the tax consequences of the receipt of such gift shall be determined by the Secretary in the Secretary's sole discretion from the Secretary's own knowledge or from such information as the Secretary may obtain through testimony or otherwise, and

''(B) such United States person shall pay (upon notice and demand by the Secretary and in the same manner as tax) an amount equal to 5 percent of the amount of such foreign gift for each month for which the failure continues (not to exceed 25 percent of such amount in the aggregate).

''(2) REASONABLE CAUSE EXCEPTION.— Paragraph (1) shall not apply to any failure to report a foreign gift if the United States person shows that the failure is due to reasonable cause and not due to willful neglect.

''(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.''.

(b) CLERICAL AMENDMENT.—The table of sections for such subpart is amended by inserting after the item relating to section 6039E the following new item:

''Sec. 6039F. Notice of large gifts received from foreign persons.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after the date of the enactment of this Act in taxable years ending after such date.

SEC. 207. MODIFICATION OF RULES RELATING TO FOREIGN TRUSTS WHICH ARE NOT GRANTOR TRUSTS.

(a) MODIFICATION OF INTEREST CHARGE ON ACCUMULATION DISTRIBUTIONS.—Subsection (a) of section 668 (relating to interest charge on accumulation distributions from foreign trusts) is amended to read as follows:

''(a) GENERAL RULE.—For purposes of the tax determined under section 667(a)—

''(1) SUM OF INTEREST CHARGES FOR EACH THROWBACK YEAR.—The interest charge (determined under paragraph (2)) with respect to any distribution is the sum of the interest charges for each of the throwback years to which such distribution is allocated under section 666(a).

''(2) INTEREST CHARGE FOR YEAR.—Except as provided in paragraph (6), the interest charge for any throwback year on such year's allocable share of the partial tax computed under section 667(b) with respect to any distribution shall be determined for the period—

''(A) beginning on the due date for the throwback year, and

''(B) ending on the due date for the taxable year of the distribution,

by using the rates and method applicable under section 6621 for underpayments of tax for such period. For purposes of the preceding sentence, the term 'due date' means the date prescribed by law (determined without regard to extensions) for filing the return of the tax imposed by this chapter for the taxable year.

''(3) ALLOCABLE PARTIAL TAX.—For purposes of paragraph (2), a throwback year's allocable share of the partial tax is an amount equal to such partial tax multiplied by the fraction—

''(A) the numerator of which is the amount deemed by section 666(a) to be distributed on the last day of such throwback year, and

''(B) the denominator of which is the accumulation distribution taken into account under section 666(a).

''(4) THROWBACK YEAR.—For purposes of this subsection, the term 'throwback year' means any taxable year to which a distribution is allocated under section 666(a).

''(5) PERIODS OF NONRESIDENCE.—The period under paragraph (2) shall not include any portion thereof during which the beneficiary was not a citizen or resident of the United States.

''(6) THROWBACK YEARS BEFORE 1996.—In the case of any throwback year beginning before 1996—

''(A) interest for the portion of the period described in paragraph (2) which occurs before the first taxable year beginning after 1995 shall be determined by using an interest rate of 6 percent and no compounding, and

''(B) interest for the remaining portion of such period shall be determined as if the partial tax computed under section 667(b) for the throwback year were increased (as of the beginning of such first taxable year) by the amount of the interest determined under subparagraph (A).''

(b) RULE WHEN INFORMATION NOT AVAILABLE.—Subsection (d) of section 666 is amended by adding at the end the following: ''In the case of a distribution from a foreign trust to which section 6048(b) applies, adequate records shall not be considered to be available for purposes of the preceding sentence unless such trust meets the requirements referred to in such section. If a taxpayer is not able to demonstrate when a trust was created, the Secretary may use any reasonable approximation based on available evidence.''

(c) ABUSIVE TRANSACTIONS.—Section 643(a) is amended by inserting after paragraph (6) the following new paragraph:

''(7) ABUSIVE TRANSACTIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including regulations to prevent avoidance of such purposes.''

(d) TREATMENT OF USE OF TRUST PROPERTY.—Section 643 (relating to definitions applicable to subparts A, B, C, and D) is amended by adding at the end the following new subsection:

''(i) USE OF FOREIGN TRUST PROPERTY.—

''(1) GENERAL RULE.—For purposes of subparts B, C, and D, if, during a taxable year of a foreign trust a trust participant of such trust directly or indirectly uses any of the trust's property, the use value for such taxable year shall be treated as an amount paid to such participant (other than from income for the taxable year) within the meaning of sections 661(a)(2) and section 662(a)(2).

''(2) EXEMPTION.—Paragraph (1) shall not apply to any trust participant as to whom the aggregate use value during the taxable year does not exceed $2,500.

''(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

''(A) USE VALUE.—Except as provided in subparagraph (B), the term 'use value' means the fair market value of the use of property reduced by any amount paid for such use by the trust participant or by any person who is related to such participant.

''(B) SPECIAL RULE FOR CASH AND CASH EQUIVALENT.—A direct or indirect loan of cash, or cash equivalent, by a foreign trust shall be treated as a use of trust property by the borrower and the full amount of the loan principal shall be the use value.

''(C) USE BY RELATED PARTY.—

''(i) Use by a person who is related to a trust participant shall be treated as use by the participant.

''(ii) If property is used by any person who is a related person with respect to more than one trust participant, then the property shall be treated as used by the trust participant most closely related, by blood or otherwise, to such person.

''(D) PROPERTY INCLUDES CASH AND CASH EQUIVALENTS.—The term 'property' includes cash and cash equivalents.

''(E) TRUST PARTICIPANT.—The term 'trust participant' means each grantor and beneficiary of the trust.

''(F) RELATED PERSON.—A person is related to a trust participant if the relationship between such persons would result in a disallowance of losses under section 267(b) or 707(b). In applying section 267 for purposes of the preceding sentence—

''(i) section 267(e) shall be applied as if such person or the trust participant were a passthru entity,

''(ii) section 267(b) shall be applied by substituting 'at least 10 percent' for 'more than 50 percent' each place it appears, and

''(iii) in determining the family of an individual under section 267(c)(4), such section shall be treated as including the spouse (and former spouse) of such individual and of each other person who is treated under such section as being a member of the family of such individual or spouse.

''(G) SUBSEQUENT TRANSACTIONS REGARDING LOAN PRINCIPAL.—If any loan described in subparagraph (B) is taken into account under paragraph (1), any subsequent transaction between the trust and the original borrower regarding the principal of the loan (by way of complete or partial repayment, satisfaction, cancellation, discharge, or otherwise) shall be disregarded for purposes of this title.''

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

(2) INTEREST CHARGE.—The amendment made by subsection (a) shall apply to interest for throwback years beginning before, on, or after the date of the enactment of this Act.

SEC. 208. RESIDENCE OF ESTATES AND TRUSTS.

(a) TREATMENT AS UNITED STATES PERSON.—Paragraph (30) of section 7701(a) is amended by striking subparagraph (D) and by inserting after subparagraph (C) the following:

''(D) any estate or trust if—

''(i) a court within the United States is able to exercise primary supervision over the administration of the estate or trust, and

''(ii) in the case of a trust, one or more United States fiduciaries have the authority to control all substantial decisions of the trust.''

(b) CONFORMING AMENDMENT.—Paragraph (31) of section 7701(a) is amended to read as follows:

''(31) FOREIGN ESTATE OR TRUST.—The term 'foreign estate' or 'foreign trust' means any estate or trust other than an estate or trust described in section 7701(a)(30)(D).''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply—

(1) to taxable years beginning after December 31, 1996, and

(2) at the election of the trustee of a trust, to taxable years beginning after the date of the enactment of this Act and on or before December 31, 1996.

Such an election, once made, shall be irrevocable.

TITLE III—ADDITIONAL EMPOWERMENT ZONES

SEC. 301. ADDITIONAL EMPOWERMENT ZONES.

(a) IN GENERAL.—Paragraph (2) of section 1391(b) (relating to designations of empowerment zones and enterprise communities) is amended—

(1) by striking ''9'' and inserting ''11'',

(2) by striking ''6'' and inserting ''8'', and

(3) by striking ''750,000'' and inserting ''1,000,000''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

DEPARTMENT OF THE TREASURY,
Washington, DC, February 15, 1995.

Hon. DANIEL PATRICK MOYNIHAN,
Ranking Democratic Member, Committee on Finance, U.S. Senate, Washington, DC.

DEAR SENATOR MOYNIHAN: I am pleased to transmit the enclosed Tax Compliance Act of 1995 for your immediate consideration. The provisions contained in this bill, which were described in the budget submitted by the President to Congress February 6, 1995, include a number of compliance and related measures. Several proposals are aimed at curbing offshore tax abuses. One proposal would close a tax loophole that allows wealthy Americans to renounce their citizenship and avoid paying tax on appreciated assets. Another would tighten tax rules governing foreign trusts set up by U.S. taxpayers and foreigners. In addition, the earned income tax credit would be denied to undocumented workers and individuals whose interest and dividend income exceeds $2,500. Finally, the bill would authorize the designation of two additional urban empowerment zones.

An identical bill has been sent to Representative Gibbons of the House Ways and Means Committee, Senate Democratic Leader Daschle, and House Democratic Leader Gephardt. I urge Congress to give the attached bill prompt and favorable consideration.

The Office of Management and Budget advises that there is no objection to the presentation of this proposal to the Congress, and that its enactment would be in accord with the program of the President.

Sincerely,

ROBERT E. RUBIN,
Secretary of the Treasury.

GENERAL EXPLANATION OF THE TAX COMPLIANCE ACT OF 1995

EARNED INCOME TAX CREDIT COMPLIANCE PROPOSALS

Current law

to be eligible for the Earned Income Tax Credit (EITC), a taxpayer must reside in the United States for over six months. Nonresident aliens are not entitled to the EITC beginning in 1995. Other non-U.S. citizens are eligible for the EITC if, among other things, they meet a six-month residency requirement and do not file an income tax return as a non-resident alien.

To claim the higher EITC amounts available to taxpayers with qualifying children, those taxpayers are required to provide taxpayer identification numbers (TINs) for each qualifying child. Unless otherwise proscribed by regulation, social security numbers serve as TINs. Some taxpayers are unable to obtain social security numbers. Under section 205(c) of the Social Security Act, social security numbers are generally issued only to individuals who are citizens or who are authorized to work in the U.S. Undocumented workers may not be able to obtain social security numbers.

The IRS must follow deficiency procedures when investigating questionable EITC claims. First, contact letters are sent to the taxpayer. If the necessary information is not provided by the taxpayer, a statutory notice of deficiency is sent by certified mail, notifying the taxpayer that the adjustment will be assessed unless the taxpayer files a petition in Tax Court within 90 days. If a petition is not filed within that time and there is no other response to the statutory notice, the assessment is made and the EITC is denied.

Reasons for change

The Administration believes that the EITC should not be available to individuals who are not authorized to work in the United States. During the past year, the Administration and Congress have taken steps to improve the administration of the EITC. Further steps are desirable to ensure that only the intended beneficiaries receive the EITC.

Proposal

Only individuals who are authorized to work in the United States would be eligible for the EITC. Taxpayers claiming the EITC would be required to provide a valid social security number for themselves, their spouses, and qualifying children. Social security numbers would have to be valid for employment purposes in the United States. Thus, eligible individuals would include U.S. citizens and lawful permanent residents. Taxpayers residing in the United States illegally would not be eligible for the credit.

In addition, the IRS would be authorized to use the math-error procedures, which are simpler than deficiency procedures, to resolve questions about the validity of a social security number. Under this approach, the failure to provide a correct social security number would be treated as a math error. Taxpayers would have 60 days in which they could either provide a correct social security number or request that the IRS follow the current-law deficiency procedures. If a taxpayer failed to respond within this period, he or she would be required to refile with correct social security numbers in order to obtain the EITC.

These provisions would be effective for tax years beginning after December 31, 1995.

REVENUE ESTIMATE

[In billions of dollars] [1]

	Fiscal year—						
	1995	1996	1997	1998	1999	2000	Total
EITC compliance proposals	0	0	0.4	0.5	0.5	0.5	1.9

[1] Includes reduction in outlays.

INTEREST AND DIVIDEND TEST FOR EARNED INCOME TAX CREDIT

Current law

To be eligible to receive the Earned Income Tax Credit (EITC), an individual must have earned income. To target the EITC to low-income workers, the amount of the credit to which a taxpayer is entitled decreases when the taxpayer's earned income (or, if greater, adjusted gross income (AGI)) exceeds certain thresholds. The earned income and AGI thresholds are indexed for inflation and are also adjusted to take into account qualifying children. In 1995, a taxpayer with two or more qualifying children will not be eligible for the EITC if his or her income exceeds $26,673. The income cut-offs decline to $24,396 for a taxpayer with one qualifying child and $9,230 for a taxpayer with no qualifying children.

Reason for change

Under current law a taxpayer may have relatively low earned income, and therefore may be eligible for the EITC, even though he or she has significant interest and dividend income. The EITC should be targeted to families with the greatest need. Most EITC recipients do not have significant resources and must rely on earnings to meet their day-to-day living expenses, but taxpayers with high levels of interest and dividend income can draw upon the resources that produce this income to meet family needs.

Proposal

Beginning in 1996, a taxpayer would not be entitled to the EITC if his or her aggregate interest and dividend income during a taxable year exceeds $2,500. This threshold would be indexed for inflation thereafter.

REVENUE ESTIMATE

[In billions of dollars] [1]

	Fiscal year—						
	1995	1996	1997	1998	1999	2000	Total
Interest and dividend test for earned income tax credit	0	*	0.3	0.3	0.4	0.4	1.4

[1] Includes reduction in outlays.
* Revenue gain of less than $50 million.

TAX RESPONSIBILITIES OF AMERICANS WHO RENOUNCE CITIZENSHIP

Current law

Under current law, worldwide gains realized by U.S. citizens and resident aliens are subject to U.S. tax. Existing rules recognize that the United States has a tax interest in preventing tax avoidance through renunciation of citizenship. These rules continue to tax former U.S. citizens on U.S. source income for ten years following renunciation of citizenship if one of the principal purposes of the renunciation was to avoid U.S. income tax. A similar rule applies to aliens who cease to be residents.

Reasons for change

Wealthy U.S. citizens and long-term residents sometimes abandon their U.S. citizenship or status as residents. Existing rules to prevent tax avoidance through expatriation have proven largely ineffective because departing taxpayers have found ways to restructure their activities to avoid those rules, and compliance with the rules is difficult to monitor. Consequently, existing measures need to be enhanced to ensure that gains generally accruing during the time a taxpayer was a citizen or long-term permanent resident will be subject to U.S. tax at the time the taxpayer abandons citizenship or residency.

Proposal

Existing rules would be expanded to provide that if a U.S. person expatriates on or after February 6, 1995, the person would be treated as having sold his or her assets at fair market value immediately prior to expatriation and gain or loss from such sale would be recognized and would be subject to U.S. income tax. A U.S. citizen would be considered to expatriate if the citizens renounces or abandons U.S. citizenship. A resident alien individual would be taxed under this proposal if the alien has been subject to U.S. tax as a lawful permanent resident of the United States in at least ten of the prior fifteen taxable years and then ceases to be subject to U.S. tax as a resident.

For this purpose, a taxpayer would be treated as owning those assets that would be included in the taxpayer's gross estate (determined as if the taxpayer's estate had been created on the date of expatriation) as well as, in certain cases, the taxpayer's interest in assets held in certain trusts (defined below in Section II of the foreign trust discussion). Exceptions to the tax on expatriation would be made for most U.S. real property interests (because they remain subject to U.S. taxing jurisdiction) and interests in qualified retirement plans. An expatriating individual also would be entitled to exclude $600,000 of gain as determined under the proposal.

The IRS may allow a taxpayer to defer payment of the tax on expatriation with respect to interests in closely-held businesses. In those cases, the taxpayer would be required to provide collateral satisfactory to the IRS. Payment of tax could not be deferred for more than five years, and an interest charge would be imposed on the deferred tax.

Solely for purposes of determining gain or loss subject to the tax on expatriation, a resident alien individual would be permitted to elect to determine basis using the fair market value (instead of historical cost) of assets owned on the date when U.S. residence first began. If made, this election would apply to all of a taxpayer's property.

This proposal would replace existing income tax rules with respect to expatriations on or after February 6, 1995. Existing rules that apply to taxes other than income taxes would continue to apply.

REVENUE ESTIMATE

[In billions of dollars]

	Fiscal year—						
	1995	1996	1997	1998	1999	2000	Total
Tax responsibilities of Americans who renounce citizenship	0.1	0.2	0.3	0.4	0.5	0.7	2.2

REVISE TAXATION OF INCOME FROM FOREIGN TRUSTS

U.S. tax rules applicable to foreign trusts have not been revised for nearly two decades. New rules are needed to accommodate changes in the use and incidence of foreign trusts and to limit the avoidance and evasion of U.S. taxes. The Administration proposals would reform the taxation of foreign trusts in five respects.

I. Information reporting and foreign trusts

Current law

Under current law, most foreign trusts established by U.S. persons are grantor trusts, the income of which is taxed to the grantor. U.S. persons who create or transfer property to foreign trusts are required to report transactions with the foreign trust to the IRS.

Reasons for change

The existing information reporting statute predates the significant expansion of the foreign grantor trust rules in 1976. In general, penalties for noncompliance with reporting requirements are minimal. U.S. grantors of foreign trusts often do not report the income earned by foreign trusts and often do not comply with required information reporting. These foreign trusts are frequently established in tax haven jurisdictions with stringent secrecy rules. Consequently, the IRS's attempts to verify income earned by foreign trusts are often unsuccessful. Existing penalties have not proven adequate to encourage some U.S. taxpayers to comply with existing rules.

Proposal

Notice of Transfer: Section 6048 would require U.S. persons transferring property to foreign trusts to notify the IRS. This notice would identify the trustee of the foreign trust, indicate the property transferred to the trust, and identify the trust beneficiaries.

If a transferor did not file the required notice, a penalty would be imposed equal to 35 percent of the gross value of the property transferred, valued as of the date of transfer. This penalty would not be less than $10,000, and could be further increased for continuing noncompliance.

Trustee Statements: Section 6048 would require trustees of any foreign trust with a U.S. grantor or a U.S. beneficiary to file two types of statements: a ''Section 6048 Statement'' and an annual information return. In the Section 6048 Statement, the trustee would be required to:

(1) appoint a U.S. agent (whether or not a trustee) who has the ability to provide any information that reasonably should be available to the trust in response to requests by the IRS; and

(2) agree to file an annual information return for the foreign trust.

The annual information return would be required to include a full accounting of trust activities, including separate schedules (K–1s) for income attributable to U.S. grantors or U.S. beneficiaries, as appropriate. The foreign trust would not be considered to have an office or permanent establishment in the United States merely because of the section 6048 activities of its U.S. agent.

There would be two consequences if the trustee of the foreign trust did not file a Section 6048 Statement or the required annual information return. First, the U.S. settlor of a foreign trust would be subject to a $10,000 penalty for each failure to file a Section 6048 Statement or annual information return. This penalty would be increased for continuing noncompliance. Second, the IRS would be authorized to determine, in its discretion, the tax consequences of any trust transactions or operations to a U.S. grantor or U.S. beneficiary. Thus, for example, the IRS could impose a gift tax on property transferred to the foreign trust. In appropriate circumstances, the IRS could also impute taxable income to the U.S. settlor based on the value of assets transferred to or held in the foreign trust. A distribution to a U.S. beneficiary could be deemed to come from income accumulated in the year the trust was organized (or an alien beneficiary's first year of U.S. residence, if later). Although the trustee would have an incentive to file the trustee statements to avoid adverse U.S. tax consequences to U.S. grantors and U.S. beneficiaries, there would be no penalties directly imposed on a trustee for the failure to file those statements.

The Secretary would be authorized to waive any information reporting requirements when there was no significant U.S. tax interest in obtaining the information. Penalties would not be imposed if the taxpayer acted with reasonable cause and not willful neglect.

These proposals generally would be effective for trust taxable years beginning after the date of enactment.

II. Outbound foreign grantor trusts

Current law

Under section 679, a foreign trust established by a U.S. person for the benefit of U.S. persons generally is a ''grantor trust'', and the grantor is treated as owner of property transferred to the trust. There are, however, some transfers that are not covered by this general rule. First, transfers by reason of death are not subject to section 679. Second, sales of property to a foreign trust at fair market value are not subject to section 679. Third, if a foreign person transfers property to a foreign trust for the benefit of a U.S. person and then becomes a resident of the United States, section 679 does not apply to the transfer. Finally, current rules do not clearly address the tax consequences for a domestic trust that becomes a foreign trust.

Reasons for change

Tax planning to avoid or defer recognition of income from foreign trusts often utilizes the exceptions to section 679. For example, a foreign trust may be established by will upon the death of a U.S. person for the benefit of U.S. persons. Because the trust is not a grantor trust, the income of the trust is not subject to U.S. tax until distributed to a U.S. person, even though the trust was created by a U.S. person for the benefit of a U.S. person.

U.S. persons also sometimes attempt to avoid section 679 by selling property to a foreign trust in exchange for a note from the trust. Often, the U.S. transferor does not intend to collect on the note. In such a case, the purported seller of the assets should be treated as owning the assets transferred to the trust. (If there is no *bona fide* debt, these transactions are subject to challenge under current law, because the exchange would not be at fair market value.)

Prior to becoming residents of the United States, foreign persons often put their assets into irrevocable trusts in tax haven jurisdictions for the benefit of U.S. persons. As a result, the trust income escapes U.S. tax until distribution.

Further, as tax haven jurisdictions enact legislation to enable U.S. trusts to move to those jurisdictions, trust migrations are becoming more common. Taxpayers should not be able to achieve tax results through migration of a domestic trust that they could not achieve directly by creating a foreign trust.

Finally, the inadequacy of the existing attribution rules as they apply to discretionary beneficiaries encourages taxpayers to avoid the appropriate tax consequences of their transactions by disguising true economic ownership of assets through the use of foreign discretionary trusts.

Proposal

The Administration proposes several changes to section 679, described below.

Transfers at Death: Property transferred to a foreign trust at the death of a trust grantor (including property in a foreign grantor trust at the grantor's death) would be treated as having been transferred to the trust by the beneficiaries in accordance with their respective interests in the trust (described below) in a transaction in which no gain or loss would be recognized. U.S. beneficiaries therefore would become grantors for purposes of section 679. These proposals would be effective for assets transferred to foreign trusts after the date of enactment.

Sales to Foreign Trusts: The sale of property to a foreign trust by a U.S. person would be considered a transfer to a grantor trust under section 679 unless the trust pays the grantor full fair market value for the property without regard to any debt obligation received by the transferor issued by the trust, the grantor, a beneficiary, or a person related to the grantor or beneficiary or guaranteed by any such person. Exceptions would be provided for legitimate commercial transactions, such as credit extended by unrelated persons. A transferor would not be treated as receiving fair market value for property transferred in a deemed sale (pursuant to an election under section 1057 or otherwise). These proposals would be effective for assets transferred to foreign trusts on or after February 6, 1995.

Pre-immigration Trusts: If a foreign person transfers property to a foreign trust and becomes a U.S. person within five years of the transfer, the trust would be considered a grantor trust under section 679 with respect to such transferred assets if the trust has U.S. beneficiaries after the grantor becomes a U.S. person. This proposal would be effective for assets transferred to foreign trusts on or after February 6, 1995.

Outbound Trust Migrations: For purposes of section 679, if a domestic trust becomes a foreign trust, the trust assets would be deemed to have been transferred to the trust by the beneficiaries in accordance with their respective interests in the trust (defined below) in a transaction in which no gain or loss is recognized. Thus, any U.S. beneficiaries would be considered to be grantors of their respective interests in the foreign trust for purposes of section 679. However, if the IRS determines that the domestic trust was established pursuant to a plan to retransfer assets to a foreign trust, the IRS would be permitted to treat the U.S. settlor of the domestic trust as grantor of the foreign trust for purposes of section 679. The proposal would be effective for assets transferred to foreign trusts on or after February 6, 1995.

Determination of Respective Interests: For purposes of presenting abusive transactions designed to avoid section 679 and the tax on expatriation, a beneficiary's respective interest in a trust would be based on all relevant facts and circumstances, including the terms of the trust instrument. Other relevant factors may include letters of wishes or similar documents, patterns of historical trust distributions, and the existence of and functions performed by a trust protector or any similar advisor. If the respective interests of beneficiaries in a discretionary trust cannot otherwise be determined, those beneficiaries with the closest degree of family affiliation to the settlor could be presumed to have equal proportionate interests in the trust.

The proposed would apply the attribution rules of discretionary beneficiaries only to the abusive situations under section 679 described above and to the tax on expatriation of U.S. citizens and residents, but would not directly apply the attribution rules for other purposes (e.g., to determine if a discretionary beneficiary is a U.S. shareholder of a controlled foreign corporation that is owned by the trust). The determination of respective interests for purposes of the tax on expatriation by U.S. citizens and residents would be effective for expatriations occurring on or after February 6, 1995.

III. Inbound foreign grantor trusts

Current law

The United States disregards certain ''grantor'' trusts for income tax purposes. This treatment is designed to prevent abuses arising from attempts to shift income to beneficiaries who are likely to be paying taxes at lower rates than the grantor of the trust. Consequently, under existing anti-abuse rules, the grantor of such a trust is taxed as if he owned the trust assets directly. Trusts generally are considered grantor trusts if (1 the grantor has a reversionary interest in trust income or corpus, (2) the grantor or a nonadverse party holds certain powers over the beneficial enjoyment of trust income or corpus, (3) certain administrative powers are exercisable for the grantor's benefit (e.g., the grantor can reacquire trust assets by substituting assets of equivalent value), (4) the grantor or a nonadverse party has the power to revest trust assets in the grantor, or (5) trust income may be paid or accumulated for the benefit of the grantor or the grantor's spouse in the discretion of the grantor or a nonadverse party. A person other than the grantor is treated as owning trust assets if that person has the power to withdraw trust income or corpus.

The IRS has issued a revenue ruling in which a foreign person funded a foreign grantor trust for U.S. beneficiaries. The ruling holds that since the foreign person is treated as the owner of the grantor trust, a U.S. beneficiary is not taxable on trust distributions.

Reasons for change

Existing law inappropriately permits foreign taxpayers to affirmatively use the domestic anti-abuse rules concerning grantor trusts. Although current law treats a foreign grantor as the owner of the trust assets, the foreign grantor generally is not subject to U.S. tax on income of the trust. These rules therefore permit U.S. beneficiaries, who enjoy the benefits of residing in the United States, to avoid U.S. tax on trust income. U.S. beneficiaries should be appropriately taxed in the United States.

Proposal

Under the proposal, a person would be treated as owning trust assets under the grantor trust rules only if that person is a U.S. citizen, U.S. resident, or domestic corporation. The IRS may prescribe rules for applying the grantor trust rules to settlors that are partnerships, trusts, and estates to the extent that the beneficial interests in such entities are owned by U.S. citizens, U.S. residents, or domestic corporations. A U.S. person receiving distributions of trust income as result of this provision would be allowed to claim a foreign tax credit for foreign taxes paid on trust income by the trust or the foreign grantor.

Several related provisions are proposed to enforce these rules. First, enhanced authority would be granted to the IRS to prevent the use of nominees to evade these rules. For this purpose, a bona fide settlor of a trust with power to withdraw income or corpus from the trust would normally not be considered a nominee. Second, new rules would harmonize the treatment of purported gifts by corporations and partnerships with the new foreign grantor trust rules. Third, U.S. persons would be required to report the receipt of what they claim to be large gifts from foreign persons in order to allow the IRS to verify that such purported gifts are not, in fact, disguised income to the U.S. recipients.

If a trust that is a grantor trust under current law becomes a nongrantor trust pursuant to this rule, the trust would be treated as if it were resettled on the date the trust becomes a nongrantor trust. Neither the grantor nor the trust would recognize gain or loss. If a resettled domestic trust that has a foreign grantor became a foreign trust before December 31, 1995, the section 1491 excise tax on outbound transfers of assets would not be applied to the transfer by the domestic trust to the new foreign trust. Otherwise, this proposal would be effective on the date of enactment of this provision. These rules would not apply to normal security arrangements involving a trustee (including the use of indenture trustees and similar arrangements).

IV. Foreign nongrantor trusts

Current law

Accumulation distributions: U.S. beneficiaries of foreign trusts are subject to a nondeductible interest charge on distributions of accumulated income earned by the trust in earlier taxable years. The charge is based on the length of time the tax was deferred by deferring distributions of accumulated income. Under existing law, the interest charge is equal to six percent simple interest per year multiplied by the tax imposed on the distribution. If adequate records are not available to determine the portion of a distribution that is accumulated income, the distribution is deemed to be an accumulation distribution from the year the trust was organized.

Constructive Distributions: The tax consequences of the use of trust assets by beneficiaries is ambiguous under current law. Taxpayers may assert that a beneficiary's use of assets owned by a trust does not constitute a distribution to the beneficiary.

Reasons for change

Accumulation distributions: Interest paid by U.S. beneficiaries of foreign trusts should reflect market rates of interest.

Constructive distributions: If a corporation makes corporate assets available for a shareholder's personal use (e.g., a corporate apartment made available rent-free to a shareholder), the fair market value of the use of that property is treated as a constructive distribution. Further, if a controlled foreign corporation makes a loan to a U.S. person, the loan is treated as a deemed distribution by the foreign corporation to its U.S. shareholders. The use of foreign trust assets by trust beneficiaries should give rise to tax consequences that are similar to those associated with the use of corporate shareholders.

Proposal

Accumulation distributions: For periods of accumulation after December 31, 1995, the rate of interest charged on accumulation distributions would correspond to the interest rate taxpayers pay on underpayment of tax. If a trust does not provide information required under section 6048, the distribution would be deemed to be from income accumulated in the year the trust was organized (or an alien beneficiary's first year of U.S. residence, if later). If a taxpayer is not able to demonstrate when the trust was created, the IRS may use any approximation based on available evidence.

Taxpayers have used a variety of methods (e.g., tiered trusts, divisions of trusts, mergers of trusts, and similar transactions with corporations) to convert a distribution of accumulated income into a distribution of current income or corpus. The proposal would authorize the IRS to recharacterize such transactions, effective for transactions or arrangements entered into after the date of enactment. Transactions that may be entered into to avoid the interest charge on accumulation distributions (e.g., excessive ''compensation'' paid to trust beneficiaries who are directors of corporations owned by the foreign trust) may be subject to recharacterization.

The proposal also clarifies existing law by providing that if an alien beneficiary of a foreign trust becomes a U.S. resident and thereafter receives an accumulation distribution, no interest would be charged for periods of accumulation that predate U.S. residency.

Constructive distributions: If a beneficiary uses assets of a foreign trust, the value of that use would be a constructive distribution to the beneficiary. Thus, if a foreign trust made a residence available for use by a beneficiary (or a related person), the difference between the fair rental value of the residence and any rent actually paid would be treated as a constructive distribution to that beneficiary. If a foreign trust purported to loan cash (or cash equivalents) to a U.S. beneficiary, the loan would be treated as a constructive distribution by the foreign trust to the U.S. beneficiary. These provisions would not apply if constructive distributions did not exceed $2,500 during a taxable year. The provisions would be effective for taxable years of a trust that begin after the date of enactment.

V. Residence of trusts

Current law

Under current law, a ''foreign estate or trust'' is an estate or trust the ''income of which, from sources without the United States which is not effectively connected with the conduct of a trade or business within the United States, is not includable in gross income under subtitle A'' of the Internal Revenue Code. This definition does not provide criteria for determining when an estate or trust is foreign.

Court cases and rulings indicate that the residence of an estate or trust depends on various factors, such as the location of the assets, the country under whose laws the estate or trust is created, the residence of the fiduciary, the nationality of the decedent or settlor, the nationality of the beneficiaries, and the location of the administration of the trust or estate. *See e.g., B.W. Jones Trust v. Comm'r,* 46 B.T.A. 531 (1942), *aff'd,* 132 F.2d 914 (4th Cir. 1943).

Reasons for change

Present rules provide insufficient guidance for determining the residence of estates and trusts. Because the tax treatment of an estate, trust, settlor, or beneficiary may depend on whether the estate or trust is foreign or domestic, it is important to have an objective definition of the residence of an estate or trust. Reducing the number of factors used in determining the residence of estates or trusts for tax purposes would increase the flexibility of settlors and trust administrators to decide where to locate and in what assets to invest. For example, if the location of the administration of the trust were no longer a relevant criterion, settlors of foreign trusts would be able to choose whether to administer the trusts in the United States or abroad based on non-tax considerations.

Proposal

An estate or trust would be considered a domestic estate or trust if two factors were present: (1) a court within the United States is able to exercise primary supervision over the administration of the estate or trust; and (2) a U.S. fiduciary (alone or in concert with other U.S. fiduciaries) has the authority to control all major decisions of the estate or trust. A foreign estate or trust would be any estate or trust that is not domestic.

The first factor would be fulfilled only if a U.S. court had authority over the entire estate or trust, and not if it merely had jurisdiction over certain assets or a particular beneficiary. Normally, the first factor would be satisfied if the trust instrument is governed by the laws of a U.S. state. One way to satisfy this factor is to register the estate or trust in a state pursuant to a state law which is substantially similar to Article VII of the Uniform Probate Code as published by the American Law Institute. The second factor would normally be satisfied if a majority of the fiduciaries are U.S. persons and a foreign fiduciary (including a ''protector'' or similar trust advisor) may not veto important decisions of the U.S. fiduciaries. In applying this factor, the IRS would allow an estate or trust a reasonable period of time to adjust for inadvertent changes in fiduciaries (*e.g.*, a U.S. trustee dies or abruptly resigns where a trust has two U.S. fiduciaries and one foreign fiduciary).

The new rules defining domestic estates and trusts would be effective for taxable years of an estate or trust that begin after December 31, 1996. The delayed effective date is intended to allow estates and trusts a period of time to modify their governing instruments or to change fiduciaries. Moreover, taxpayers would be allowed to elect to apply these rules to taxable years of an estate or trust beginning after the date of enactment.

REVENUE ESTIMATE

[In billions of dollars]

	Fiscal year—						
	1995	1996	1997	1998	1999	2000	Total
Revise taxation of income from foreign trusts (sections I–V)	0.1	0.3	0.5	0.5	0.5	0.6	2.4

INCREASE IN NUMBER OF EMPOWERMENT ZONES

Current law

The Omnibus Budget Reconciliation Act of 1993 (OBRA '93) authorized a federal demonstration project in which nine empowerment zones and 95 enterprise communities would be designated in a competitive application process. Of the nine empowerment zones, six were to be located in urban areas and three were to be located in rural areas. State and local governments jointly nominated distressed areas and proposed strategic plans to stimulate economic and social revitalization. By the June 30, 1994 application deadline, over 500 communities had submitted applications.

On December 21, 1994, the Secretaries of the Department of Housing and Urban Development and the Department of Agriculture designated the empowerment zones and enterprise communities authorized by Congress in OBRA '93.

Among other benefits, businesses located in empowerment zones are eligible for three federal tax incentives: an employment and training credit; an additional $20,000 per year of section 179 expensing; and a new category of tax-exempt private activity bonds. Businesses located in enterprise communities are eligible for the new category of tax-exempt bonds. OBRA '93 also provided that federal grants would be made to designated areas.

Reasons for change

Because of the vast number of distressed urban areas and the need to revitalize these areas, the Administration believes that the number of authorized empowerment zones should be expanded, subject to budgetary constraints. Extending the tax incentives to economically distressed areas will help stimulate revitalization of these areas.

Proposal

The proposal would authorize the designation of two additional urban empowerment zones and would be effective on the date of enactment. No additional federal grants would be authorized. The sole effect of the proposal would be to extend the empowerment zone tax incentives to two additional areas.

REVENUE ESTIMATE

[In billions of dollars]

	Fiscal Year—						
	1995	1996	1997	1998	1999	2000	Total
Increase in number of empowerment zones	−0.1	−0.1	−0.1	−0.1	−0.1	−0.1	−0.7

By Mr. McCONNELL (for himself, Mr. LIEBERMAN, and Mrs. KASSEBAUM):

S. 454. A bill to reform the health care liability system and improve health care quality through the establishment of quality assurance programs, and for other purposes; to the Committee on Labor and Human Resources.

THE HEALTH CARE LIABILITY REFORM AND QUALITY ASSURANCE ACT OF 1995

• Mr. McCONNELL. Mr. President, I am pleased to introduce the Health Care Liability Reform and Quality Assurance Act of 1995. Last year, Congress spent many days and weeks considering a dramatic overhaul of the finest health care system in the world. But the vast majority of Americans concluded we didn't need to reinvent our medical system. So, Congress, with good reason, laid aside health care and vowed to come back this year and make some needed incremental changes to the health care system.

Health care liability is one issue on which there was bipartisan consensus about the need to make some significant change. This bill which I am introducing today with the co-sponsorship and assistance of Senators LIEBERMAN and KASSEBAUM represents this bipartisan effort.

The purpose of our bill is to promote patient safety, compensate those who suffer injuries fully and fairly, without enriching lawyers and bureaucrats, make health care more accessible, gain some cost containment in health care, strengthen the doctor-patient relationship and encourage medical innovation. Our present system, unfortunately, does none of the above.

First of all, patients don't get compensated. The Rand Corp. has reported that only 43 cents of every dollar spent in the liability system goes to the injured party. That means lawyers, experts, and court fees eat up 57 percent of all dollars spent in the liability system.

Second, the prohibitive cost of liability insurance means some doctors won't provide care to those in our society who need it most. Half a million rural women can't get an obstetrician to deliver their babies. Because of high malpractice premiums, African-American doctors are avoiding the practice of medicine in high-risk areas—generally urban areas, making it more difficult for minority communities to get necessary care.

Third, companies that invent new products are discouraged under the current system from putting them on the market. Medical device manufacturers are finding it more difficult to get raw materials to produce life saving devices because of the risk of lawsuits.

Fourth, doctors are less likely to explore risky treatment because of the proliferation of lawsuits. A doctor has a better than 1 in 3 chance of being sued during his practice years. And the likelihood of suit has nothing to do with whether the doctor was negligent. GAO reports that almost 60 percent of all suits are dismissed without a verdict or even a settlement.

So, something is very wrong with our liability system and our bill will help solve the problem. It contains many of the provisions that were considered, on a bipartisan basis, in the Finance Committee last year, during the health care debate. I have included a summary of the bill's provisions and I ask that the full text of the bill be printed in the RECORD.

Mr. President, I am hopeful that health care liability will get full consideration and action in this Congress. There will be at least two opportunities—when we consider some targeted health care reform and when we consider legal reform. It is very important that we tackle this issue and I look forward to prompt action.

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

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

S. 454

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 "Health Care Liability Reform and Quality Assurance Act of 1995".

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

Sec. 1. Short title; table of contents.

TITLE I—HEALTH CARE LIABILITY REFORM

Subtitle A—Liability Reform

Sec. 101. Findings and purpose.
Sec. 102. Definitions.
Sec. 103. Applicability.
Sec. 104. Statute of limitations.
Sec. 105. Reform of punitive damages.
Sec. 106. Periodic payments.
Sec. 107. Scope of liability.
Sec. 108. Mandatory offsets for damages paid by a collateral source.
Sec. 109. Treatment of attorneys' fees and other costs.
Sec. 110. Obstetric cases.
Sec. 111. State-based alternative dispute resolution mechanisms.
Sec. 112. Requirement of certificate of merit.

Subtitle B—Biomaterials Access Assurance

Sec. 121. Short title.
Sec. 122. Findings.
Sec. 123. Definitions.
Sec. 124. General requirements; applicability; preemption.
Sec. 125. Liability of biomaterials suppliers.
Sec. 126. Procedures for dismissal of civil actions against biomaterials suppliers.

Subtitle C—Applicability

Sec. 131. Applicability.

TITLE II—PROTECTION OF THE HEALTH AND SAFETY OF PATIENTS

Sec. 201. Health care quality assurance program.
Sec. 202. Risk management programs.
Sec. 203. National practitioner data bank.

TITLE III—SEVERABILITY

Sec. 301. Severability.

TITLE I—HEALTH CARE LIABILITY REFORM

Subtitle A—Liability Reform

SEC. 101. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) EFFECT ON HEALTH CARE ACCESS AND COSTS.—That the civil justice system of the United States is a costly and inefficient mechanism for resolving claims of health care liability and compensating injured patients and that the problems associated with the current system are having an adverse impact on the availability of, and access to, health care services and the cost of health care in this country.

(2) EFFECT ON INTERSTATE COMMERCE.—That the health care and insurance industries are industries affecting interstate commerce and the health care liability litigation systems existing throughout the United States affect interstate commerce by contributing to the high cost of health care and premiums for health care liability insurance purchased by participants in the health care system.

(3) EFFECT ON FEDERAL SPENDING.—That the health care liability litigation systems existing throughout the United States have a significant effect on the amount, distribution, and use of Federal funds because of—

(A) the large number of individuals who receive health care benefits under programs operated or financed by the Federal Government;

(B) the large number of individuals who benefit because of the exclusion from Federal taxes of the amounts spent to provide them with health insurance benefits; and

(C) the large number of health care providers who provide items or services for which the Federal Government makes payments.

(b) PURPOSE.—It is the purpose of this Act to implement reasonable, comprehensive, and effective health care liability reform that is designed to—

(1) ensure that individuals with meritorious health care injury claims receive fair and adequate compensation, including reasonable non-economic damages;

(2) improve the availability of health care service in cases in which health care liability actions have been shown to be a factor in the decreased availability of services; and

(3) improve the fairness and cost-effectiveness of our current health care liability system to resolve disputes over, and provide compensation for, health care liability by reducing uncertainty and unpredictability in the amount of compensation provided to injured individuals.

SEC. 102. DEFINITIONS.

As used in this subtitle:

(1) CLAIMANT.—The term ''claimant'' means any person who commences a health care liability action, and any person on whose behalf such an action is commenced, including the decedent in the case of an action brought through or on behalf of an estate.

(2) CLEAR AND CONVINCING EVIDENCE.—The term ''clear and convincing evidence'' is that measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established, except that such measure or degree of proof is more than that required under preponderance of the evidence, but less than that required for proof beyond a reasonable doubt.

(3) HEALTH CARE LIABILITY ACTION.—The term ''health care liability action'' means a civil action in a State or Federal court—

(A) against a health care provider, health care professional, or other defendant joined in the action (regardless of the theory of liability on which the action is based) in which the claimant alleges injury related to the provision of, or the failure to provide, health care services; or

(B) against a health care payor, a health maintenance organization, insurance company, or any other individual, organization, or entity that provides payment for health care benefits in which the claimant alleges that injury was caused by the payment for, or the failure to make payment for, health care benefits, except to the extent such actions are subject to the Employee Retirement Income Security Act of 1974.

(4) HEALTH CARE PROFESSIONAL.—The term ''health care professional'' means any individual who provides health care services in a State and who is required by Federal or State laws or regulations to be licensed, registered or certified to provide such services or who is certified to provide health care services pursuant to a program of education, training and examination by an accredited institution, professional board, or professional organization.

(5) HEALTH CARE PROVIDER.—The term ''health care provider'' means any organization or institution that is engaged in the delivery of health care items or services in a State and that is required by Federal or State laws or regulations to be licensed, registered or certified to engage in the delivery of such items or services.

(6) HEALTH CARE SERVICES.—The term ''health care services'' means any services provided by a health care professional or health care provider, or any individual working under the supervision of a health care professional, that relate to the diagnosis, prevention, or treatment of any disease or impairment, or the assessment of the health of human beings.

(7) INJURY.—The term ''injury'' means any illness, disease, or other harm that is the subject of a health care liability action.

(8) NONECONOMIC LOSSES.—The term ''noneconomic losses'' means losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of consortium, and other nonpecuniary losses incurred by an individual with respect to which a health care liability action is brought.

(9) PUNITIVE DAMAGES.—The term ''punitive damages'' means damages awarded, for the purpose of punishment or deterrence, and not for compensatory purposes, against a health care provider, health care organization, or other defendant in a health care liability action. Punitive damages are neither economic nor noneconomic damages.

(10) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

SEC. 103. APPLICABILITY.

(a) IN GENERAL.—Except as provided in subsection (c), this subtitle shall apply with respect to any health care liability action brought in any Federal or State court, except that this section shall not apply to an action for damages arising from a vaccine-related injury or death to the extent that title XXI of the Public Health Service Act applies to the action.

(b) PREEMPTION.—The provisions of this subtitle shall preempt any State law to the extent such law is inconsistent with the limitations contained in such provisions. The provisions of this subtitle shall not preempt any State law that—

(1) provides for defenses in addition to those contained in this subtitle, places greater limitations on the amount of attorneys' fees that can be collected, or otherwise imposes greater restrictions on non-economic or punitive damages than those provided in this subtitle;

(2) permits State officials to commence health care liability actions as a representative of an individual; or

(3) permits provider-based dispute resolution.

(c) EFFECT ON SOVEREIGN IMMUNITY AND CHOICE OF LAW OR VENUE.—Nothing in this subtitle shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any provision of law;

(2) waive or affect any defense of sovereign immunity asserted by the United States;

(3) affect the applicability of any provision of the Foreign Sovereign Immunities Act of 1976;

(4) preempt State choice-of-law rules with respect to actions brought by a foreign nation or a citizen of a foreign nation; or

(5) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss an action of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum.

(d) FEDERAL COURT JURISDICTION NOT ESTABLISHED ON FEDERAL QUESTION GROUNDS.—Nothing in this subtitle shall be construed to establish any jurisdiction in the district courts of the United States over health care liability actions on the basis of sections 1331 or 1337 of title 28, United States Code.

SEC. 104. STATUTE OF LIMITATIONS.

A health care liability action that is subject to this Act may not be initiated unless a complaint with respect to such action is filed within the 2-year period beginning on the date on which the claimant discovered or, in the exercise of reasonable care, should have discovered the harm and its cause, except that such an action relating to a claimant under legal disability may be filed within 2 years after the date on which the disability ceases. If the commencement of a health care liability action is stayed or enjoined, the running of the statute of limitations under this section shall be suspended for the period of the stay or injunction.

SEC. 105. REFORM OF PUNITIVE DAMAGES.

(a) LIMITATION.—With respect to a health care liability action, an award for punitive damages may only be made, if otherwise permitted by applicable law, if it is proven by clear and convincing evidence that the defendant—

(1) intended to injure the claimant for a reason unrelated to the provision of health care services;

(2) understood the claimant was substantially certain to suffer unnecessary injury, and in providing or failing to provide health care services, the defendant deliberately failed to avoid such injury; or

(3) acted with a conscious disregard of a substantial and unjustifiable risk of unnecessary injury which the defendant failed to avoid in a manner which constitutes a gross deviation from the normal standard of conduct in such circumstances.

(b) PUNITIVE DAMAGES NOT PERMITTED.—Notwithstanding the provisions of subsection (a), punitive damages may not be awarded against a defendant with respect to any health care liability action if no judgment for compensatory damages, including nominal damages (under $500), is rendered against the defendant.

(c) REQUIREMENTS FOR PLEADING OF PUNITIVE DAMAGES.—

(1) IN GENERAL.—No demand for punitive damages shall be included in a health care liability action as initially filed.

(2) AMENDED PLEADING.—A court may allow a claimant to file an amended complaint or pleading for punitive damages in a health care liability action if—

(A) the claimant submits a motion to amend the complaint or pleading within the earlier of—

(i) 2 years after the complaint or initial pleading is filed, or

(ii) 9 months before the date the matter is first set for trial; and

(B) after a finding by a court upon review of supporting and opposing affidavits or after a hearing, that after weighing the evidence the claimant has established by a substantial probability that the claimant will prevail on the claim for punitive damages.

(d) SEPARATE PROCEEDING.—

(1) IN GENERAL.—At the request of any defendant in a health care liability action, the trier of fact shall consider in a separate proceeding—

(A) whether punitive damages are to be awarded and the amount of such award, or

(B) the amount of punitive damages following a determination of punitive liability.

(2) ONLY RELEVANT EVIDENCE ADMISSIBLE.—If a defendant requests a separate proceeding under paragraph (1), evidence relevant only to the claim of punitive damages in a health care liability action, as determined by applicable State law, shall be inadmissible in any proceeding to determine whether compensatory damages are to be awarded.

(e) DETERMINING AMOUNT OF PUNITIVE DAMAGES.—In determining the amount of punitive damages in a health care liability action, the trier of fact shall consider only the following:

(1) The severity of the harm caused by the conduct of the defendant.

(2) The duration of the conduct or any concealment of it by the defendant.

(3) The profitability of the conduct of the defendant.

(4) The number of products sold or medical procedures rendered for compensation, as the case may be, by the defendant of the kind causing the harm complained of by the claimant.

(5) Awards of punitive or exemplary damages to persons similarly situated to the claimant, when offered by the defendant.

(6) Prospective awards of compensatory damages to persons similarly situated to the claimant.

(7) Any criminal penalties imposed on the defendant as a result of the conduct complained of by the claimant, when offered by the defendant.

(8) The amount of any civil fines assessed against the defendant as a result of the conduct complained of by the claimant, when offered by the defendant.

(f) LIMITATION AMOUNT.—The amount of damages that may be awarded as punitive damages in any health care liability action shall not exceed 3 times the amount awarded to the claimant for the economic injury on which such claim is based, or $250,000, whichever is greater. This subsection shall be applied by the court and shall not be disclosed to the jury.

(g) RESTRICTIONS PERMITTED.—Nothing in this section shall be construed to imply a right to seek punitive damages where none exists under Federal or State law.

SEC. 106. PERIODIC PAYMENTS.

With respect to a health care liability action, no person may be required to pay more than $100,000 for future damages in a single payment of a damages award, but a person shall be permitted to make such payments of the award on a periodic basis. The periods for such payments shall be determined by the adjudicating body, based upon projections of future losses and shall be reduced to present value. The adjudicating body may waive the requirements of this section if such body determines that such a waiver is in the interests of justice.

SEC. 107. SCOPE OF LIABILITY.

(a) IN GENERAL.—With respect to punitive and noneconomic damages, the liability of each defendant in a health care liability action shall be several only and may not be joint. Such a defendant shall be liable only for the amount of punitive or noneconomic damages allocated to the defendant in direct proportion to such defendant's percentage of fault or responsibility for the injury suffered by the claimant.

(b) DETERMINATION OF PERCENTAGE OF LIABILITY.—The trier of fact in a health care liability action shall determine the extent of each defendant's fault or responsibility for injury suffered by the claimant, and shall assign a percentage of responsibility for such injury to each such defendant.

(c) PROHIBITION ON VICARIOUS LIABILITY.—A defendant in a health care liability action may not be held vicariously liable for the direct actions or omissions of other individuals.

SEC. 108. MANDATORY OFFSETS FOR DAMAGES PAID BY A COLLATERAL SOURCE.

(a) IN GENERAL.—With respect to a health care liability action, the total amount of damages received by an individual under such action shall be reduced, in accordance with subsection (b), by any other payment that has been, or will be, made to an individual to compensate such individual for the injury that was the subject of such action.

(b) AMOUNT OF REDUCTION.—The amount by which an award of damages to an individual for an injury shall be reduced under subsection (a) shall be—

(1) the total amount of any payments (other than such award) that have been made or that will be made to such individual to pay costs of or compensate such individual for the injury that was the subject of the action; minus

(2) the amount paid by such individual (or by the spouse, parent, or legal guardian of such individual) to secure the payments described in paragraph (1).

(c) PRETRIAL DETERMINATION OF AMOUNTS FROM COLLATERAL SERVICES.—The reductions requires under subsection (b)(2) shall be determined by the court in a pretrial proceeding. At such proceeding—

(1) no evidence shall be admitted as to the amount of any charge, payments, or damage for which a claimant—

(A) has received payment from a collateral source or the obligation for which has been assured by a third party; or

(B) is, or with reasonable certainty, will be eligible to receive payment from a collateral source of the obligation which will, with reasonable certainty be assumed by a third party; and

(2) the jury, if any, shall be advised that—

(A) except for damages as to which the court permits the introduction of evidence, the claimant's medical expenses and lost income have been or will be paid by a collateral source or third party; and

(B) the claimant shall receive no award for any damages that have been or will be paid by a collateral source or third party.

SEC. 109. TREATMENT OF ATTORNEYS' FEES AND OTHER COSTS.

(a) LIMITATION ON AMOUNT OF CONTINGENCY FEES.—

(1) IN GENERAL.—An attorney who represents, on a contingency fee basis, a claimant in a health care liability action may not charge, demand, receive, or collect for services rendered in connection with such action in excess of the following amount recovered by judgment or settlement under such action:

(A) 33⅓ percent of the first $150,000 (or portion thereof) recovered, based on after-tax recovery, plus

(B) 25 percent of any amount in excess of $150,000 recovered, based on after-tax recovery.

(2) CALCULATION OF PERIODIC PAYMENTS.—In the event that a judgment or settlement includes periodic or future payments of damages, the amount recovered for purposes of computing the limitation on the contingency fee under paragraph (1) shall be based on the cost of the annuity or trust established to make the payments. In any case in which an annuity or trust is not established to make such payments, such amount shall be based on the present value of the payments.

(b) CONTINGENCY FEE DEFINED.—As used in this section, the term ''contingency fee'' means any fee for professional legal services which is, in whole or in part, contingent upon the recovery of any amount of damages, whether through judgment or settlement.

SEC. 110. OBSTETRIC CASES.

With respect to a health care liability action relating to services provided during labor or the delivery of a baby, if the health care professional against whom the action is brought did not previously treat the pregnant woman for the pregnancy, the trier of fact may not find that the defendant committed malpractice and may not assess damages against the health care professional unless the malpractice is proven by clear and convincing evidence.

SEC. 111. STATE-BASED ALTERNATIVE DISPUTE RESOLUTION MECHANISMS.

(a) APPLICATION TO HEALTH CARE LIABILITY CLAIMS UNDER HEALTH PLANS.—Prior to or immediately following the commencement of any health care liability action, the parties shall participate in the alternative dispute resolution system administered by the State under subsection (b). Such participation shall be in lieu of any other provision of Federal or State law applicable to the parties prior to the commencement of the health care liability action.

(b) ADOPTION OF MECHANISM BY STATE.—Each State shall—

(1) maintain or adopt at least one of the alternative dispute resolution methods satisfying the requirements specified under subsection (c) and (d) for the resolution of health care liability claims arising from the provision of (or failure to provide) health care services to individuals enrolled in a health plans; and

(2) clearly disclose to enrollees in health plans (and potential enrollees) the availability and procedures for consumer grievances, including a description of the alternative dispute resolution method or methods adopted under this subsection.

(c) SPECIFICATION OF PERMISSIBLE ALTERNATIVE DISPUTE RESOLUTION METHODS.—

(1) IN GENERAL.—The Attorney General, in consultation with the Secretary and the Administrative Conference of the United States, shall, by regulation, develop alternative dispute resolution methods for the use by States in resolving health care liability claims under subsection (a). Such methods shall include at least the following:

(A) ARBITRATION.—The use of arbitration, a nonjury adversarial dispute resolution process which may, subject to subsection (d), result in a final decision as to facts, law, liability or damages. The parties may elect binding arbitration.

(B) MEDIATION.—The use of mediation, a settlement process coordinated by a neutral third party without the ultimate rendering of a formal opinion as to factual or legal findings.

(C) EARLY NEUTRAL EVALUATION.—The use of early neutral evaluation, in which the parties make a presentation to a neutral attorney or other neutral evaluator for an assessment of the merits, to encourage settlement. If the parties do not settle as a result of assessment and proceed to trial, the neutral evaluator's opinion shall be kept confidential.

(D) EARLY OFFER AND RECOVERY MECHANISM.—

(i) IN GENERAL.—The use of early offer and recovery mechanisms under which a health care provider, health care organization, or any other alleged responsible defendant may offer to compensate a claimant for his or her reasonable economic damages, including future economic damages, less amounts available from collateral sources.

(ii) BINDING ARBITRATION.—If, after an offer is made under clause (i), the claimant alleges that payment of economic damages under the offer has not been reasonably made, or the participants in the offer dispute their relative contributions to the payments to be made to the claimant, such disputes shall be resolved through binding arbitration in accordance with applicable rules and procedures established by the State involved.

(2) STANDARDS FOR ESTABLISHING METHODS.—In developing alternative dispute resolution methods under paragraph (1), the Attorney General shall assure that the methods promote the resolution of health care liability claims in a manner that—

(A) is affordable for the parties involved;

(B) provides for timely resolution of claims;

(C) provides for the consistent and fair resolution of claims; and

(D) provides for reasonably convenient access to dispute resolution for individuals enrolled in plans.

(3) WAIVER AUTHORITY.—Upon application of a State, the Attorney General, in consultation with the Secretary, may grant the State the authority to fulfill the requirement of subsection (b) by adopting a mechanism other than a mechanism established by the Attorney General pursuant to this subsection, except that such mechanism must meet the standards set forth in paragraph (2).

(d) FURTHER REDRESS.—Except with respect to the claimant-requested binding arbitration method set forth in subsection (c)(1)(A), a claimant who is dissatisfied with

the determination reached as a result of an alternative dispute resolution method applied under this section may, after the final resolution of the claimant's claim under the method, initiate or resume a cause of action to seek damages or other redress with respect to the claim to the extent otherwise permitted under State law. State law shall govern the admissibility of results of any alternative dispute resolution procedure and all statements, offers, and other communications made during such procedures, at any subsequent trial. An individual who indicates or resumes a health care liability action shall only prevail if such individual proves each element of the action beyond a reasonable doubt, including proving that the defendant was grossly negligent or intentionally caused injury.

SEC. 112. REQUIREMENT OF CERTIFICATE OF MERIT.

(a) REQUIRING SUBMISSION WITH COMPLAINT.—Except as provided in subsection (b) and subject to the penalties of subsection (d), no health care liability action may be brought by any individual unless, at the time the individual commences such action, the individual or the individual's attorney submits an affidavit declaring that—

(1) the individual (or the individual's attorney) has consulted and reviewed the facts of the claim with a qualified specialist (as defined in subsection (c));

(2) the individual or the individual's attorney has obtained a written report by a qualified specialist that clearly identifies the individual and that includes the specialist's determination that, based upon a review of the available medical record and other relevant material, a reasonable medical interpretation of the facts supports a finding that the claim against the defendant is meritorious and based on good cause; and

(3) on the basis of the qualified specialist's review and consultation, the individual, and if represented, the individual's attorney, have concluded that the claim is meritorious and based on good cause.

(b) EXTENSION IN CERTAIN INSTANCES.—

(1) IN GENERAL.—Subject to paragraph (2), subsection (a) shall not apply with respect to an individual who brings a health care liability action without submitting an affidavit described in such subsection if—

(A) despite good faith efforts, the individual is unable to obtain the written report before the expiration of the applicable statute of limitations;

(B) despite good faith efforts, at the time the individual commences the action, the individual has been unable to obtain medical records or other information necessary, pursuant to any applicable law, to prepare the written report requested; or

(C) the court of competent jurisdiction determines that the affidavit requirement shall be extended upon a showing of good cause.

(2) DEADLINE FOR SUBMISSION WHERE EXTENSION APPLIES.—In the case of an individual who brings an action to which paragraph (1) applies, the action shall be dismissed unless the individual submits the affidavit described in subsection (a) not later than—

(A) in the case of an action to which subparagraph (A) of paragraph (1) applies, 90 days after commencing the action; or

(B) in the case of an action to which subparagraph (B) of paragraph (1) applies, 90 days after obtaining the information described in such subparagraph or when good cause for an extension no longer exists.

(c) QUALIFIED SPECIALIST DEFINED.—

(1) IN GENERAL.—As used in subsection (a), the term ''qualified specialist'' means, with respect to a health care liability action, a health care professional who has expertise in the same or substantially similar area of practice to that involved in the action.

(2) EVIDENCE OF EXPERTISE.—For purposes of paragraph (1), evidence of required expertise may include evidence that the individual—

(A) practices (or has practiced) or teaches (or has taught) in the same or substantially similar area of health care or medicine to that involved in the action; or

(B) is otherwise qualified by experience or demonstrated competence in the relevant practice area.

(d) SANCTIONS FOR SUBMITTING FALSE AFFIDAVIT.—Upon the motion of any party or on its own initiative, the court in a health care liability action may impose a sanction on a party, the party's attorney, or both, for—

(1) any knowingly false statement made in an affidavit described in subsection (a);

(2) making any false representations in order to obtain a qualified specialist's report; or

(3) failing to have the qualified specialist's written report in his or her custody and control;

and may require that the sanctioned party reimburse the other party to the action for costs and reasonable attorney's fees.

Subtitle B—Biomaterials Access Assurance

SEC. 121. SHORT TITLE.

This subtitle may be cited as the ''Biomaterials Access Assurance Act of 1995''.

SEC. 122. FINDINGS.

Congress finds that—

(1) each year millions of citizens of the United States depend on the availability of lifesaving or life-enhancing medical devices, many of which are permanently implantable within the human body;

(2) a continued supply of raw materials and component parts is necessary for the invention, development, improvement, and maintenance of the supply of the devices;

(3) most of the medical devices are made with raw materials and component parts that—

(A) are not designed or manufactured specifically for use in medical devices; and

(B) come in contact with internal human tissue;

(4) the raw materials and component parts also are used in a variety of nonmedical products;

(5) because small quantities of the raw materials and component parts are used for medical devices, sales of raw materials and component parts for medical devices constitute an extremely small portion of the overall market for the raw materials and medical devices;

(6) under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), manufacturers of medical devices are required to demonstrate that the medical devices are safe and effective, including demonstrating that the products are properly designed and have adequate warnings or instructions;

(7) notwithstanding the fact that raw materials and component parts suppliers do not design, produce, or test a final medical device, the suppliers have been the subject of actions alleging inadequate—

(A) design and testing of medical devices manufactured with materials or parts supplied by the suppliers; or

(B) warnings related to the use of such medical devices;

(8) even though suppliers of raw materials and component parts have very rarely been held liable in such actions, such suppliers have ceased supplying certain raw materials and component parts for use in medical devices because the costs associated with litigation in order to ensure a favorable judgment for the suppliers far exceeds the total potential sales revenues from sales by such suppliers to the medical device industry;

(9) unless alternate sources of supply can be found, the unavailability of raw materials and component parts for medical devices will lead to unavailability of lifesaving and life-enhancing medical devices;

(10) because other suppliers of the raw materials and component parts in foreign nations are refusing to sell raw materials or component parts for use in manufacturing certain medical devices in the United States, the prospects for development of new sources of supply for the full range of threatened raw materials and component parts for medical devices are remote;

(11) it is unlikely that the small market for such raw materials and component parts in the United States could support the large investment needed to develop new suppliers of such raw materials and component parts;

(12) attempts to develop such new suppliers would raise the cost of medical devices;

(13) courts that have considered the duties of the suppliers of the raw materials and component parts have generally found that the suppliers do not have a duty—

(A) to evaluate the safety and efficacy of the use of a raw material or component part in a medical device; and

(B) to warn consumers concerning the safety and effectiveness of a medical device;

(14) attempts to impose the duties referred to in subparagraphs (A) and (B) of paragraph (13) on suppliers of the raw materials and component parts would cause more harm than good by driving the suppliers to cease supplying manufacturers of medical devices; and

(15) in order to safeguard the availability of a wide variety of lifesaving and life-enhancing medical devices, immediate action is needed—

(A) to clarify the permissible bases of liability for suppliers of raw materials and component parts for medical devices; and

(B) to provide expeditious procedures to dispose of unwarranted suits against the suppliers in such manner as to minimize litigation costs.

SEC. 123. DEFINITIONS.

As used in this subtitle:

(1) BIOMATERIALS SUPPLIER.—

(A) IN GENERAL.—The term ''biomaterials supplier'' means an entity that directly or indirectly supplies a component part or raw material for use in the manufacture of an implant.

(B) PERSONS INCLUDED.—Such term includes any person who—

(i) has submitted master files to the Secretary for purposes of premarket approval of a medical device; or

(ii) licenses a biomaterials supplier to produce component parts or raw materials.

(2) CLAIMANT.—

(A) IN GENERAL.—The term ''claimant'' means any person who brings a civil action, or on whose behalf a civil action is brought, arising from harm allegedly caused directly or indirectly by an implant, including a person other than the individual into whose body, or in contact with whose blood or tissue, the implant is placed, who claims to have suffered harm as a result of the implant.

(B) ACTION BROUGHT ON BEHALF OF AN ESTATE.—With respect to an action brought on behalf or through the estate of an individual into whose body, or in contact with whose blood or tissue the implant is placed, such term includes the decedent that is the subject of the action.

(C) ACTION BROUGHT ON BEHALF OF A MINOR.—With respect to an action brought on behalf or through a minor, such term includes the parent or guardian of the minor.

(D) EXCLUSIONS.—Such term does not include—

(i) a provider of professional services, in any case in which—

(I) the sale or use of an implant is incidental to the transaction; and

(II) the essence of the transaction is the furnishing of judgment, skill, or services; or

(ii) a manufacturer, seller, or biomaterials supplier.

(3) COMPONENT PART.—

(A) IN GENERAL.—The term ''component part'' means a manufactured piece of an implant.

(B) CERTAIN COMPONENTS.—Such term includes a manufactured piece of an implant that—

(i) has significant nonimplant applications; and

(ii) alone, has no implant value or purpose, but when combined with other component parts and materials, constitutes an implant.

(4) HARM.—

(A) IN GENERAL.—The term ''harm'' means—

(i) any injury to or damage suffered by an individual;

(ii) any illness, disease, or death of that individual resulting from that injury or damage; and

(iii) any loss to that individual or any other individual resulting from that injury or damage.

(B) EXCLUSION.—The term does not include any commercial loss or loss of or damage to an implant.

(5) IMPLANT.—The term ''implant'' means—

(A) a medical device that is intended by the manufacturer of the device—

(i) to be placed into a surgically or naturally formed or existing cavity of the body for a period of at least 30 days; or

(ii) to remain in contact with bodily fluids or internal human tissue through a surgically produced opening for a period of less than 30 days; and

(B) suture materials used in implant procedures.

(6) MANUFACTURER.—The term ''manufacturer'' means any person who, with respect to an implant—

(A) is engaged in the manufacture, preparation, propagation, compounding, or processing (as defined in section 510(a)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(a)(1)) of the implant; and

(B) is required—

(i) to register with the Secretary pursuant to section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) and the regulations issued under such section; and

(ii) to include the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section.

(7) MEDICAL DEVICE.—The term ''medical device'' means a device, as defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)).

(8) QUALIFIED SPECIALIST.—With respect to an action, the term ''qualified specialist'' means a person who is qualified by knowledge, skill, experience, training, or education in the specialty area that is the subject of the action.

(9) RAW MATERIAL.—The term ''raw material'' means a substance or product that—

(A) has a generic use; and

(B) may be used in an application other than an implant.

(10) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(11) SELLER.—

(A) IN GENERAL.—The term ''seller'' means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, packages, labels, or otherwise places an implant in the stream of commerce.

(B) EXCLUSIONS.—The term does not include—

(i) a seller or lessor of real property;

(ii) a provider of professional services, in any case in which the sale or use of an implant is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(iii) any person who acts in only a financial capacity with respect to the sale of an implant.

SEC. 124. GENERAL REQUIREMENTS; APPLICABILITY; PREEMPTION.

(a) GENERAL REQUIREMENTS.—

(1) IN GENERAL.—In any civil action covered by this subtitle, a biomaterials supplier may raise any defense set forth in section 125.

(2) PROCEDURES.—Notwithstanding any other provision of law, the Federal or State court in which a civil action covered by this subtitle is pending shall, in connection with a motion for dismissal or judgment based on a defense described in paragraph (1), use the procedures set forth in section 126.

(b) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), notwithstanding any other provision of law, this subtitle applies to any civil action brought by a claimant, whether in a Federal or State court, against a manufacturer, seller, or biomaterials supplier, on the basis of any legal theory, for harm allegedly caused by an implant.

(2) EXCLUSION.—A civil action brought by a purchaser of a medical device for use in providing professional services against a manufacturer, seller, or biomaterials supplier for loss or damage to an implant or for commercial loss to the purchaser—

(A) shall not be considered an action that is subject to this subtitle; and

(B) shall be governed by applicable commercial or contract law.

(c) SCOPE OF PREEMPTION.—

(1) IN GENERAL.—This subtitle supersedes any State law regarding recovery for harm caused by an implant and any rule of procedure applicable to a civil action to recover damages for such harm only to the extent that this subtitle establishes a rule of law applicable to the recovery of such damages.

(2) APPLICABILITY OF OTHER LAWS.—Any issue that arises under this subtitle and that is not governed by a rule of law applicable to the recovery of damages described in paragraph (1) shall be governed by applicable Federal or State law.

(d) STATUTORY CONSTRUCTION.—Nothing in this subtitle may be construed—

(1) to affect any defense available to a defendant under any other provisions of Federal or State law in an action alleging harm caused by an implant; or

(2) to create a cause of action or Federal court jurisdiction pursuant to section 1331 or 1337 of title 28, United States Code, that otherwise would not exist under applicable Federal or State law.

SEC. 125. LIABILITY OF BIOMATERIALS SUPPLIERS.

(a) IN GENERAL.—

(1) EXCLUSION FROM LIABILITY.—Except as provided in paragraph (2), a biomaterials supplier shall not be liable for harm to a claimant caused by an implant.

(2) LIABILITY.—A biomaterials supplier that—

(A) is a manufacturer may be liable for harm to a claimant described in subsection (b);

(B) is a seller may be liable for harm to a claimant described in subsection (c); and

(C) furnishes raw materials or component parts that fail to meet applicable contractual requirements or specifications may be liable for a harm to a claimant described in subsection (d).

(b) LIABILITY AS MANUFACTURER.—

(1) IN GENERAL.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable for harm to a claimant caused by an implant if the biomaterials supplier is the manufacturer of the implant.

(2) GROUNDS FOR LIABILITY.—The biomaterials supplier may be considered the manufacturer of the implant that allegedly caused harm to a claimant only if the biomaterials supplier—

(A)(i) has registered with the Secretary pursuant to section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) and the regulations issued under such section; and

(ii) included the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section; or

(B) is the subject of a declaration issued by the Secretary pursuant to paragraph (3) that states that the supplier, with respect to the implant that allegedly caused harm to the claimant, was required to—

(i) register with the Secretary under section 510 of such Act (21 U.S.C. 360), and the regulations issued under such section, but failed to do so; or

(ii) include the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section, but failed to do so.

(3) ADMINISTRATIVE PROCEDURES.—

(A) IN GENERAL.—The Secretary may issue a declaration described in paragraph (2)(B) on the motion of the Secretary or on petition by any person, after providing—

(i) notice to the affected persons; and

(ii) an opportunity for an informal hearing.

(B) DOCKETING AND FINAL DECISION.—Immediately upon receipt of a petition filed pursuant to this paragraph, the Secretary shall docket the petition. Not later than 180 days after the petition is filed, the Secretary shall issue a final decision on the petition.

(C) APPLICABILITY OF STATUTE OF LIMITATIONS.—Any applicable statute of limitations shall toll during the period during which a claimant has filed a petition with the Secretary under this paragraph.

(c) LIABILITY AS SELLER.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable as a seller for harm to a claimant caused by an implant if the biomaterials supplier—

(1) held title to the implant that allegedly caused harm to the claimant as a result of purchasing the implant after—

(A) the manufacture of the implant; and

(B) the entrance of the implant in the stream of commerce; and

(2) subsequently resold the implant.

(d) LIABILITY FOR VIOLATING CONTRACTUAL REQUIREMENTS OR SPECIFICATIONS.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable for harm to a claimant caused by an implant, if the claimant in an action shows, by a preponderance of the evidence, that—

(1) the raw materials or component parts delivered by the biomaterials supplier either—

(A) did not constitute the product described in the contract between the biomaterials supplier and the person who contracted for delivery of the product; or

(B) failed to meet any specifications that were—

(i) provided to the biomaterials supplier and not expressly repudiated by the biomaterials supplier prior to acceptance of delivery of the raw materials or component parts;

(ii)(I) published by the biomaterials supplier;

(II) provided to the manufacturer by the biomaterials supplier; or

(III) contained in a master file that was submitted by the biomaterials supplier to the Secretary and that is currently maintained by the biomaterials supplier for purposes of premarket approval of medical devices; or

(iii)(I) included in the submissions for purposes of premarket approval or review by the Secretary under section 510, 513, 515, or 520 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360, 360c, 360e, or 360j); and

(II) have received clearance from the Secretary,

if such specifications were provided by the manufacturer to the biomaterials supplier and were not expressly repudiated by the biomaterials supplier prior to the acceptance by the manufacturer of delivery of the raw materials or component parts; and

(2) such conduct was an actual and proximate cause of the harm to the claimant.

SEC. 126. PROCEDURES FOR DISMISSAL OF CIVIL ACTIONS AGAINST BIOMATERIALS SUPPLIERS.

(a) MOTION TO DISMISS.—In any action that is subject to this subtitle, a biomaterials supplier who is a defendant in such action may, at any time during which a motion to dismiss may be filed under an applicable law, move to dismiss the action on the grounds that—

(1) the defendant is a biomaterials supplier; and

(2)(A) the defendant should not, for the purposes of—

(i) section 125(b), be considered to be a manufacturer of the implant that is subject to such section; or

(ii) section 125(c), be considered to be a seller of the implant that allegedly caused harm to the claimant; or

(B)(i) the claimant has failed to establish, pursuant to section 125(d), that the supplier furnished raw materials or component parts in violation of contractual requirements or specifications; or

(ii) the claimant has failed to comply with the procedural requirements of subsection (b).

(b) PROCEDURAL REQUIREMENTS.—

(1) IN GENERAL.—The procedural requirements described in paragraphs (2) and (3) shall apply to any action by a claimant against a biomaterials supplier that is subject to this subtitle.

(2) MANUFACTURER OF IMPLANT SHALL BE NAMED A PARTY.—The claimant shall be required to name the manufacturer of the implant as a party to the action, unless—

(A) the manufacturer is subject to service of process solely in a jurisdiction in which the biomaterials supplier is not domiciled or subject to a service of process; or

(B) an action against the manufacturer is barred by applicable law.

(3) AFFIDAVIT.—At the time the claimant brings an action against a biomaterials supplier the claimant shall be required to submit an affidavit that—

(A) declares that the claimant has consulted and reviewed the facts of the action with a qualified specialist, whose qualifications the claimant shall disclose;

(B) includes a written determination by a qualified specialist that the raw materials or component parts actually used in the manufacture of the implant of the claimant were raw materials or component parts described in section 125(d)(1), together with a statement of the basis for such a determination;

(C) includes a written determination by a qualified specialist that, after a review of the medical record and other relevant material, the raw material or component part supplied by the biomaterials supplier and actually used in the manufacture of the implant was a cause of the harm alleged by claimant, together with a statement of the basis for the determination; and

(D) states that, on the basis of review and consultation of the qualified specialist, the claimant (or the attorney of the claimant) has concluded that there is a reasonable and meritorious cause for the filing of the action against the biomaterials supplier.

(c) PROCEEDING ON MOTION TO DISMISS.—The following rules shall apply to any proceeding on a motion to dismiss filed under this section:

(1) AFFIDAVITS RELATING TO LISTING AND DECLARATIONS.—

(A) IN GENERAL.—The defendant in the action may submit an affidavit demonstrating that defendant has not included the implant on a list, if any, filed with the Secretary pursuant to section 510(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(j)).

(B) RESPONSE TO MOTION TO DISMISS.—In response to the motion to dismiss, the claimant may submit an affidavit demonstrating that—

(i) the Secretary has, with respect to the defendant and the implant that allegedly caused harm to the claimant, issued a declaration pursuant to section 125(b)(2)(B); or

(ii) the defendant who filed the motion to dismiss is a seller of the implant who is liable under section 125(c).

(2) EFFECT OF MOTION TO DISMISS ON DISCOVERY.—

(A) IN GENERAL.—If a defendant files a motion to dismiss under paragraph (1) or (3) of subsection (a), no discovery shall be permitted in connection to the action that is the subject of the motion, other than discovery necessary to determine a motion to dismiss for lack of jurisdiction, until such time as the court rules on the motion to dismiss in accordance with the affidavits submitted by the parties in accordance with this section.

(B) DISCOVERY.—If a defendant files a motion to dismiss under subsection (a)(2) on the grounds that the biomaterials supplier did not furnish raw materials or component parts in violation of contractual requirements or specifications, the court may permit discovery, as ordered by the court. The discovery conducted pursuant to this subparagraph shall be limited to issues that are directly relevant to—

(i) the pending motion to dismiss; or

(ii) the jurisdiction of the court.

(3) AFFIDAVITS RELATING STATUS OF DEFENDANT.—

(A) IN GENERAL.—Except as provided in clauses (i) and (ii) of subparagraph (B), the court shall consider a defendant to be a biomaterials supplier who is not subject to an action for harm to a claimant caused by an implant, other than an action relating to liability for a violation of contractual requirements or specifications described in subsection (d).

(B) RESPONSES TO MOTION TO DISMISS.—The court shall grant a motion to dismiss any action that asserts liability of the defendant under subsection (b) or (c) of section 125 on the grounds that the defendant is not a manufacturer subject to such subsection 125(b) or seller subject to subsection 125(c), unless the claimant submits a valid affidavit that demonstrates that—

(i) with respect to a motion to dismiss contending the defendant is not a manufacturer, the defendant meets the applicable requirements for liability as a manufacturer under section 125(b); or

(ii) with respect to a motion to dismiss contending that the defendant is not a seller, the defendant meets the applicable requirements for liability as a seller under section 125(c).

(4) BASIS OF RULING ON MOTION TO DISMISS.—

(A) IN GENERAL.—The court shall rule on a motion to dismiss filed under subsection (a) solely on the basis of the pleadings of the parties made pursuant to this section and any affidavits submitted by the parties pursuant to this section.

(B) MOTION FOR SUMMARY JUDGMENT.—Notwithstanding any other provision of law, if the court determines that the pleadings and affidavits made by parties pursuant to this section raise genuine issues as concerning material facts with respect to a motion concerning contractual requirements and specifications, the court may deem the motion to dismiss to be a motion for summary judgment made pursuant to subsection (d).

(d) SUMMARY JUDGMENT.—

(1) IN GENERAL.—

(A) BASIS FOR ENTRY OF JUDGMENT.—A biomaterials supplier shall be entitled to entry of judgment without trial if the court finds there is no genuine issue as concerning any material fact for each applicable element set forth in paragraphs (1) and (2) of section 125(d).

(B) ISSUES OF MATERIAL FACT.—With respect to a finding made under subparagraph (A), the court shall consider a genuine issue of material fact to exist only if the evidence submitted by claimant would be sufficient to allow a reasonable jury to reach a verdict for the claimant if the jury found the evidence to be credible.

(2) DISCOVERY MADE PRIOR TO A RULING ON A MOTION FOR SUMMARY JUDGMENT.—If, under applicable rules, the court permits discovery prior to a ruling on a motion for summary judgment made pursuant to this subsection, such discovery shall be limited solely to establishing whether a genuine issue of material fact exists.

(3) DISCOVERY WITH RESPECT TO A BIOMATERIALS SUPPLIER.—A biomaterials supplier shall be subject to discovery in connection with a motion seeking dismissal or summary judgment on the basis of the inapplicability of section 125(d) or the failure to establish the applicable elements of section 125(d) solely to the extent permitted by the applicable Federal or State rules for discovery against nonparties.

(e) STAY PENDING PETITION FOR DECLARATION.—If a claimant has filed a petition for a declaration pursuant to section 125(b) with respect to a defendant, and the Secretary has not issued a final decision on the petition, the court shall stay all proceedings with respect to that defendant until such time as the Secretary has issued a final decision on the petition.

(f) MANUFACTURER CONDUCT OF PROCEEDING.—The manufacturer of an implant that is the subject of an action covered under this subtitle shall be permitted to file and conduct a proceeding on any motion for summary judgment or dismissal filed by a biomaterials supplier who is a defendant under this section if the manufacturer and any other defendant in such action enter into a valid and applicable contractual agreement under which the manufacturer agrees to bear the cost of such proceeding or to conduct such proceeding.

(g) ATTORNEY FEES.—The court shall require the claimant to compensate the biomaterials supplier (or a manufacturer appearing in lieu of a supplier pursuant to subsection (f)) for attorney fees and costs, if—

(1) the claimant named or joined the biomaterials supplier; and

(2) the court found the claim against the biomaterials supplier to be without merit and frivolous.

Subtitle C—Applicability

SEC. 131. APPLICABILITY.

This title shall apply to all civil actions covered under this title that are commenced on or after the date of enactment of this Act, including any such action with respect to which the harm asserted in the action or the conduct that caused the harm occurred before the date of enactment of this Act.

TITLE II—PROTECTION OF THE HEALTH AND SAFETY OF PATIENTS

SEC. 201. HEALTH CARE QUALITY ASSURANCE PROGRAM.

(a) FUND.—Each State shall establish a health care quality assurance program, to be approved by the Secretary, and a fund consisting of such amounts as are transferred to the fund under subsection (b).

(b) TRANSFER OF AMOUNTS.—Each State shall require that 50 percent of all awards of punitive damages resulting from all health care liability actions in that State be transferred to the fund established under subsection (a) in the State.

(c) OBLIGATIONS FROM FUND.—The chief executive officer of a State shall obligate such sums as are available in the fund established in that State under subsection (a) to—

(1) license and certify health care professionals in the State;

(2) implement health care quality assurance programs; and

(3) carry out programs to reduce malpractice-related costs for health care providers volunteering to provide health care services in medically underserved areas.

SEC. 202. RISK MANAGEMENT PROGRAMS.

(a) REQUIREMENTS FOR PROVIDERS.—Each State shall require each health care professional and health care provider providing services in the State to participate in a risk management program to prevent and provide early warning of practices which may result in injuries to patients or which otherwise may endanger patient safety.

(b) REQUIREMENTS FOR INSURERS.—Each State shall require each entity which provides health care professional or provider liability insurance to health care professionals and health care providers in the State to—

(1) establish risk management programs based on data available to such entity or sanction programs of risk management for health care professionals and health care providers provided by other entities; and

(2) require each such professional or provider, as a condition of maintaining insurance, to participate in one program described in paragraph (1) at least once in each 3-year period.

SEC. 203. NATIONAL PRACTITIONER DATA BANK.

Section 427 of the Health Care Quality Improvement Act of 1986 (42 U.S.C. 11137) is amended—

(1) by redesignating subsections (b) through (d) as subsections (c) through (e), respectively;

(2) by inserting after subsection (a), the following new subsection:

''(b) DISCLOSURE OF INFORMATION.—The Secretary shall promulgate regulations providing for the disclosure of information reported to the Secretary under sections 422 and 423, upon request, to any individual.''; and

(3) in subsection (c) (as so redesignated)—

(A) in the first sentence of paragraph (1), by striking ''under this part'' and inserting ''under section 421''; and

(B) in paragraph (3), by striking ''subsection (a)'' and inserting ''subsections (a) and (b)''.

TITLE III—SEVERABILITY

SEC. 301. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

SUMMARY OF MCCONNELL-LIEBERMAN-KASSEBAUM HEALTH CARE LIABILITY REFORM AND QUALITY ASSURANCE ACT OF 1995

TITLE I—LIABILITY REFORM

Subtitle A—Health Care Liability Reform

1. Scope:

a. Applies to any action, filed in federal or state court, against a health care provider, professional, payor, hmo, insurance company or any other defendant (except vaccine-related injuries);

b. Preempts state law to the extent it is inconsistent with the provisions herein; no preemption for state laws which:

(1) provide additional defenses;

(2) greater limitations on attorneys' fees;

(3) greater restrictions on punitive or noneconomic damages;

(4) permit state officials to institute action;

(5) permit provider-based dispute resolution.

c. Does not create federal jurisdiction for health care liability actions.

2. Uniform Statute of Limitations:

Two years from the date injury discovered or should have been discovered, except that any person under a legal disability may file within two years after the disability ceases.

3. Limit on Punitive Damages:

a. Awarded if proved by clear and convincing evidence defendant:

(1) intended to injure;

(2) understood claimant was substantially certain to suffer unnecessary injury and deliberately failed to avoid injury; or

(3) acted with conscious disregard of substantial and unjustifiable risk which defendant failed to avoid in a way which constitutes a gross deviation from the normal standard of conduct.

b. No punitive damages where compensatory damages of less than $500 are awarded.

c. Punitive damages may not be pleaded in original complaint. A complaint may be amended within, the earlier of, 2 years of original complaint or 9 months before the case is set for trial, and after court finds substantial probability that claimant will prevail on the claim for punitive damages.

d. At the defendant's request, punitive damages must be considered in a separate proceeding and, if so requested, no evidence relevant to the claim for punitive damages may be admitted in the proceedings for compensatory damages.

e. In determining the amount, court must consider only:

(1) severity of harm;

(2) duration of defendant's conduct and any concealment;

(3) profitability of defendant's conduct;

(4) number of products sold/procedures rendered which caused similar harm;

(5) similar awards of punitive damages in similar circumstances;

(6) prospective awards of compensatory damages to similarly situated persons;

(7) criminal penalties imposed on defendant;

(8) civil fines imposed.

f. No award may exceed the greater of 3 times the amount of economic damages or $250,000.

4. Periodic Payment of Damages:

No more than $100,000 may be required to be paid in one single payment. The court will determine the schedule for payments, based on projection of future losses and reduced to present value. This requirement may be waived, in the interests of justice.

5. Several, not Joint, Liability:

Defendant liable only for the amount of non-economic and punitive damages allocated to defendant's direct proportion of fault or responsibility. The trier of fact determines percentage of responsibility of each defendant. No vicarious liability for direct acts or omissions.

6. Collateral Source:

Total damages must be reduced by payments from other sources made, or to be made, to compensate individual for injury that is the subject of the health care liability action. The offset is reduced by any amount paid by the injured party (or family member) to secure the payment. The reductions must be determined by the judge in a pretrial proceeding.

7. Attorneys' Fees:

Limits attorney contingent fees to 33⅓% of the first $150,000 and 25% of any amount in excess of $150,000.

8. Obstetric Cases:

No malpractice award against a health care professional relating to delivery of a baby, if the health care professional did not previously treat the woman during the pregnancy, unless malpractice proved by clear and convincing evidence.

9. State Based Alternative Dispute Resolution:

a. Prior to the filing, or immediately following the filing of the action, the parties must participate in a state administered alternative dispute resolution system.

b. The Attorney General will develop adr methods for use by the states, including arbitration, mediation, early neutral evaluation, early offer and recovery. The parties may elect binding arbitration.

c. Adr must promote resolution of health care liability claims in an affordable, timely, fair and convenient manner. States may be granted waivers if they have programs that meet these standards.

d. Any party dissatisfied (except where binding arbitration selected) may continue the action in court and may prevail only if each element of the case is proved beyond a reasonable doubt, including that the defendant was grossly negligent or intentionally caused injury. State law governs the admission of adr proceedings.

10. Certificate of Merit:

Requires that, prior to bringing a lawsuit, an individual (or his or her attorney) to submit an affidavit declaring that the individual reviewed the facts with a qualified specialist and that the specialist has concluded the claim is meritorious. A qualified specialist means a health care professional with expertise (the specialist practices or teaches or has experience or demonstrated competence) in the same or substantially similar area of practice as that involved in the case. A court may impose sanctions for the submission of a false affidavit.

Subtitle B—Biomaterial Access Assurance

1. Summary:

The Biomaterial Access Assurance Act would allow suppliers of the raw material (biomaterial) used to make medical implants, to obtain dismissal, without extensive discovery or other legal costs, in certain tort suits in which plaintiffs allege harm from a finished medical implant.

The Act would not affect the ability of plaintiffs to sue manufacturers or sellers of medical implants. It would allow raw materials suppliers, however, to be dismissed from lawsuits if the generic raw material used in the medical device met contract specifications, and if the biomaterial supplier cannot be classified as either a manufacturer or seller of the medical implant.

2. Scope:

a. Establishes that any biomaterial supplier may seek its dismissal from a civil action within the parameters of the Subtitle.

b. Applies to any civil action brought by a claimant in Federal or State court against a manufacturer, seller, or biomaterial supplier, on the basis of any legal theory, for harm allegedly caused by an implant.

c. Preempts State law to the extent the bill establishes a rule of law.

3. Grounds for Dismissal:

a. Requires dismissal of a biomaterial supplier unless the claimant establishes that the supplier:

(1) was itself the manufacturer of the implant;

(2) was itself the seller of the implant; or

(3) furnished raw materials that failed to met applicable contractual requirements or specifications.

b. A supplier may be deemed to be a manufacturer only if the supplier registered as such with the FDA pursuant to medical device requirements or if the HHS Secretary issues a declaration that the supplier should have registered as such. Establishes a procedure for the Secretary to issue such a declaration.

c. A supplier may be deemed to be a seller if the supplier itself resold the implant after it had been manufactured and had entered the stream of commerce.

d. With respect to contractual requirements, a supplier may be liable for harm only if the claimant shows that the biomaterial were not the actual product for which the parties contracted or the biomaterial failed to meet certain specifications and that failure was the cause of the injury. The relevant specifications are those:

(1) provided to the supplier by the manufacturer,

(2) provided by the manufacturer (either published, given to the manufacturer, or included in an FDA master file), or

(3) included in manufacturer submissions that had received clearance from the FDA.

4. Procedures for Dismissal:

a. A supplier named as a defendant or joined as a co-defendant may file a motion to dismiss based on the defenses set forth above.

b. A plaintiff must sue a manufacturer directly whenever jurisdiction over the manufacturer is available. A plaintiff must submit an expert's affidavit certifying that the biomaterial were actually used and were the cause of the alleged harm and that the case has merit.

c. Specific rules are established for the handling of a motion to dismiss, including discovery limitations, summary judgment procedures, and staying the proceedings.

d. The manufacturer, not the supplier, may conduct the proceeding on the motion if an appropriate contractual indemnification agreement exists. The possibility of frivolous claims against a supplier is reduced by permitting the court to require the plaintiff to pay attorney fees if the plaintiff succeeds in making the supplier a defendant, but ultimately is found to have a meritless claim.

5. Effective Date: The bill will apply to civil actions commenced on or after the date of enactment.

TITLE II—PROTECTION OF PATIENT HEALTH AND SAFETY

1. Quality Assurance:

Requires each state to establish a health care quality assurance program and fund, approved by the Secretary of HHS. Allocates 50% of all punitive damage awards to be transferred to the fund for the purpose of licensing and certifying health care professionals, implementing programs, including programs to reduce malpractice costs for volunteers serving underserved areas.

2. Risk Management Programs:

Professionals and providers must participate in risk management program to prevent and provide early warning of practices which may result in injuries. Insurers must establish risk management programs and require participation, once every 3 years, as a condition of maintaining insurance.

3. National Practitioner Data Bank:

Requires that information on the discipline of health care practitioners, including suspension or revocation of licenses or hospital privileges, be accessible to the public.●

● Mr. LIEBERMAN. Mr. President, I am pleased to join Senators MCCONNELL and KASSEBAUM today in introducing the Liability Reform and Quality Assurance Act of 1995. I thank Senator MCCONNELL for his leadership on the bill.

Mr. President, our present system for compensating patients who have been injured by medical malpractice is ineffective, inefficient, and in many respects, unfair. The system promotes the overuse of medical tests and procedures, and diverts too much money away from victims. The Rand Corp. has estimated that injured patients receive only 43 percent of spending on medical malpractice and medical product litigation. And victims often receive their awards after many years of delay.

Our medical malpractice system is a stealth contributor to the high cost of health care. The American Medical Association reports that in the 1980's liability insurance premiums grew faster that other physician practice expenses. The cost of liability insurance has been estimated at $9 billion in 1992.

So called defensive medicine costs are an even greater concern. The Office of Technology Assessment has found that as many as 8 percent of diagnostic procedures are ordered primarily because of doctors' concerns about liability. These defensive practices present a hidden but significant burden on our health care system. The health care consulting firm, Lewin-VHI, has estimated that physician and hospital charges for defensive medicine were as high as $25 billion in 1991.

Taxpayers and health care consumers bear the financial burden of these excessive costs. Liability insurance and defensive medicine premiums drive up the cost of Medicare and Medicaid and of private health care premiums. Further, in some specialties, such as obstetrics, where malpractice premiums have skyrocketed, malpractice liability may be reducing access to quality health care. The American College of Obstetricians and Gynecologists report of that malpractice costs for ob/gyns increased 350 percent between 1982 and 1988, and that by 1988, 41 percent of those ob/gyns surveyed indicated that they had made changes in their practice patterns, such as ceasing to serve high-risk patients, because of malpractice concerns.

The bill we're introducing today will begin to address these inefficiencies and perverse effects of our malpractice system by directing a greater portion of malpractice awards to victims, by discouraging frivolous law suits, and by enhancing quality assurance programs. Key provisions of this malpractice reform bill include:

Establishing a uniform statute of limitations, 2 years from the date the injury was discovered.

Allowing periodic payments for awards greater than $100,000.

Applying several, not joint and several liability for noneconomic and punitive damages.

Limiting attorneys' contingency fees to 33⅓ of the $150,000 of an award and 25 percent of any amount above $150,000.

Establishing a clear and convincing evidence standard for doctors delivering a baby who had not previously treated the pregnant women.

Requiring States to establish mandatory alternative dispute resolution.

Strengthening the standard for awarding punitive damages and establish State health care quality assurance programs funded with 50 percent of punitive damage awards.

Requiring providers and insurers to participate in risk management programs every 3 years to better detect and prevent practices which may result in patient injury.

Increasing consumer access to the National Practitioner Data Bank which contains information on disciplinary actions against health care providers.

The bill also incorporates legislation I introduced earlier this year with Senator MCCONNELL and others, S. 303, the Biomaterials Access Assurance Act of 1995. That bill seeks to ensure that raw materials continue to be available for use in life-saving medical devices. It allows suppliers of raw materials or biomaterials used to make medical implants to obtain dismissal, with minimal legal costs, from certain tort suits in which plaintiffs allege harm from a finished medical product containing the biomaterial.

Many of the reform ideas in the legislation we are introducing today were proposed or cosponsored by Democrats and Republicans in the last Congress as part of comprehensive health care reform bills. A number of these ideas were embraced last year by a group of us participating in the bipartisan Senate mainstream coalition. But we had little chance to debate these issues in the last Congress. I am optimistic that we will have the opportunity in this Congress to pass a bipartisan medical malpractice reform bill. I encourage my colleagues to consider this legislation and join Senator MCCONNELL, Senator KASSEBAUM, and me as we seek to improve our medical malpractice system.●

By Mr. KEMPTHORNE (for himself and Mr. CRAIG):

S. 455. A bill entitled the ''Consultation Clarification Act''; to the Committee on Environment and Public Works.

CONSULTATION CLARIFICATION ACT

Mr. KEMPTHORNE. Mr. President, today I am introducing a bill to amend

the Endangered Species Act. I am introducing a bill critical to the people of this country who are held hostage by the inappropriate implementation of a provision of the Endangered Species Act.

One abuse in particular has caused me to rise today with an urgent need to make a clarification to the Endangered Species Act.

Late last month a Federal judge issued an injunction to protect an endangered strain of salmon. This action resulted in the shutting down of all mining, logging, and grazing in six Idaho National Forests. It didn't cover just the activities that would affect the salmon, it included all activities on lands that represent 30 percent of the land in the State of Idaho. And worse, it adversely affected people lives and jobs in half of the States.

Mr. President, this is the area of the State of Idaho where people's jobs are needlessly at risk because of the vagaries of the courts and Federal agencies. The court imposed a 5-day injunction on all activities on the national forests covering 30 percent of the area of the State of Idaho and jeopardizing the jobs of nearly 5,000 workers, workers on projects that have been in continuous operation that the Forest Service has determined will not jeopardize the endangered salmon runs. And adding uncertainty to another 5,000 workers whose jobs are influenced by the project work.

Mr. President, 2,500 people rallied in Challis, ID, January 21 to let their Government know that they are frustrated that no one is considering their plight. They are facing loss of jobs, not having money for food and clothing, and the uncertainties of having to move from their homes. I got a letter from Russell Ebberts who is an eighth grader in Challis, ID. He's facing having to move if his Dad looses his job. And Danny Fisher and Karena Turpin were planing on getting married in June. Their wedding and future plans have been shattered. And as long as there is a threat of a recurrence of that injunctions, they must continue to be worried.

The current injunction, when it was in effect, affected mainly mining operations, but future injunctions, when they come will affect grazing, timber harvest including salvage, and other activities. We have estimated that if the injunction is put in place again in March, it will cost $65,000 per day in the loss of folks' wages across Idaho. That is intolerable.

The insanity of this injunction was that many of the projects that would be shut down had already been the subject of consultation under the Endangered Species Act and had been determined to not harm the salmon.

Let me repeat that important point, Mr. President. These are projects that had already been the subject of consultation, and had been found to have no effect on the salmon. Nonetheless, just because these projects were contained within a national forest management plan, and the plan had not yet been consulted upon for the salmon, the projects were subject to immediate cessation.

Why, you ask, had the plan not been made subject to consultation? That is the irony of this judge's order. The plans in the six national forests had been consulted upon, in addition to the projects within the plans. The problem was that the salmon was listed under the Endangered Species Act after the forest plans had been consulted upon.

Well, Mr. President, the injunction was temporarily lifted, until March 15. Hopefully this will be enough time for the National Marine Fisheries Service to complete consultation on the forest plans. But, if anything goes wrong, the injunction may be imposed again. As the year progresses, more and more people's jobs will be at risk. These uncertainties in folks' lives are not necessary.

The legislation my colleague from Idaho and I are sponsoring does only one thing, it clarifies that it has never been the intent of Congress to give the regulatory agencies two opportunities to consult on the same project. It was never the intent to cause a project that has already been approved under the Endangered Species Act to come to a halt while the plan of which it is a part goes through a second review.

Since the enactment of the Endangered Species Act, Congress has enacted laws requiring agencies to do broad plans for their activities. These agencies are required by Federal law to have different levels of planning—a broad scale long term plan and then site specific plans.

Court decisions like this one have begun to force an interpretation that there must be consultation on both levels of planning and that both these plans and the resulting projects may be held up if the consultation on both has not been completed.

This is double jeopardy. We cannot afford to allow our Federal Government to waste taxpayers dollars in essentially looking at the same project twice. We can no longer throw out years of planning and community involvement on these plans every time a new species is listed. The laws and regulations for both the Forest Service and the BLM allow for these kinds of updates—they are called amendments and require the kinds of public involvement that put people back into the management of their public lands.

Mr. President, it is time that Congress is clear about what we intended for the consultation process. My bill amends section 7 of the Endangered Species Act to clarify that when a consultation has been completed on a project, the project does not need to stop while consultation is done on the overriding plan.

This is a necessary clarification of the intent of Congress on this issue. Its intent is to avoid unnecessary multiple consultations on a project. We envision that it will help with existing situations in Oregon, Idaho, New Mexico, and California and it will prevent many other States from getting in the same situation that we are currently facing in Idaho.

Mr. President, I want to make it clear that we are not intending to reform the Endangered Species Act with this bill. That reform effort is one that I feel needs careful consideration, constructive debate, and substantive suggestions over the months ahead. We are planning hearings on this broader reform bill and are looking to submit a comprehensive reauthorization bill in the fall.

Mr. President, my bill will fix a small, but critical part of the frustrations caused by liberal interpretations of the Endangered Species Act. And, it will head off potential catastrophes in the short run that will bog down the kind of innovative discussions that are needed to bring forth the best possible bill reauthorizing the Endangered Species Act, to benefit the species truly at risk and to help, not hinder the American people.

By Mr. BRADLEY (for himself, Mr. DODD, Mr. ROCKEFELLER, Mr. CHAFEE, Mrs. FEINSTEIN, Ms. SNOWE, Mr. LIEBERMAN, Mr. DORGAN, and Mr. KENNEDY):

S. 456. A bill to improve and strengthen the child support collection system, and for other purposes; to the Committee on Finance.

THE INTERSTATE CHILD SUPPORT RESPONSIBILITY ACT

• Mr. BRADLEY. Mr. President, the crucible of American society is the family. Today the family faces stresses and injuries that we have never seen before in this country. Almost every child is affected by these pressures: the 40 percent of children who go home to an empty house every afternoon because both parents work as well as the 27 percent of children who live with only one parent. Our efforts as a nation must address these stresses by seeking to recouple sexual behavior and childbearing with family responsibility. That responsibility involves giving time, love, care, and attention, but it also includes food, clothing, and medical care. We should send a clear message, above all to young men: If you father a child, whether or not you are married to the mother of that child, be prepared to set aside one-sixth or more of your earnings every year for 18 years to help that child grow up healthy, educated, and responsible.

That's the principle of child support. Today, Mr. President, I rise to introduce a bill that will reinforce that principle by repairing all the holes in the tattered, State-based system of child support enforcement. That system has not worked well. It left $5.1 billion in court-ordered child support uncollected last year. It succeeds in establishing paternity for less than 40 percent of out-of-wedlock births. Still,

the complex Federal-State system succeeds in collecting $3.98 for every dollar spent on enforcement. We face a choice. We can throw out the State system and replace it with a Federal bureaucracy, which might be more cumbersome but would be as hard to run away from as the IRS. Or, we can try to repair the State system, help States work together better, require some uniformity, and help the States by creating national databases of child support orders and new hires. That is the path that I and a number of my colleagues of both parties have chosen in developing the bill we introduce today.

About 17.6 million children live with just one parent. There are almost 10 million women who are raising children on their own. Almost one-third of them live below the poverty level. Less than 60 percent have child support orders. Only half of those who have child support orders receive the full amount due.

Mothers who do not receive child support do all they can to remain off of welfare. By definition, almost every family receiving Aid to Families with Dependent Children should be receiving child support, except in cases where one parent is deceased or in the small number of two-parent families participating in the AFDC–UP program. When we talk about welfare, we have to recognize that for every woman who is raising children, receiving welfare and not working, there is a father who is not raising the children and who may or may not be working. Either way, he is exploiting welfare as much or more than the mother who is receiving welfare. Tougher child support enforcement has resulted in collections for 873,000 families on welfare in 1993, and much of that money went back to the taxpayers to make up for welfare payments already made.

If this Congress undertakes a serious effort at welfare reform, child support enforcement along the lines we propose today must be a part of it. I am very pleased that my colleagues in the House of Representatives, especially Congresswomen MARGE ROUKEMA and NANCY JOHNSON, were able to persuade the leadership of the Ways and Means Committee to expand the Contract With America's welfare reform bill to include comprehensive child support reform. But as I said last year, if welfare reform continues to be delayed by controversy, we must not allow child support to be delayed along with it. There is consensus on child support, and there are also three times as many mothers due child support who are not eligible for welfare as are. They should not have to wait until we fix the welfare system before they receive the support due them.

The link to welfare makes child support a valid concern of the Federal Government, but it is also a Federal concern because one-third of all child support cases are interstate cases, which means that the parents live in different States. These cases are the most difficult to resolve. By moving from State to State and changing jobs, parents can systematically avoid paying child support, or even being located so that their wages can be withheld, for about a year at a time. These deliberate evasions occur against a backdrop of inconsistent State laws, inadequate staff and computer resources, and a continually growing caseload due to the tremendous rise in out-of-wedlock births.

Expanded paternity establishment is key to improving interstate child support enforcement. Every year more than 1 million children are born to unmarried women, about one-fourth of all births that year. About 57 percent of black children, 23 percent of Hispanic children, and 17 percent of white children born in 1990 were born to unwed mothers. In 1990, 68 percent of all births to women between the ages of 15 to 19 were out of wedlock.

Out-of-wedlock births need not automatically consign a mother and children to poverty. They can be handled like a divorce; support can be ordered and enforced. But in about one-quarter of the cases, the State cannot even get started, because they cannot obtain any information about the father.

Many of the paternity establishment provisions of my earlier bill were passed in the 1993 budget package, which required States to establish hospital-based paternity establishment programs. These programs are now up and running, and are demonstrating a significant increase in the number of child support cases in which the father can be identified, so that support can be ordered and the other enforcement mechanisms can kick in. About 85 percent of fathers are in touch with the child and mother at, or soon after, the birth. Many fathers visit their children in the hospital or birthing center. Programs that target these fathers and provide opportunities for them to acknowledge paternity can do a lot to cut down on the number of children for whom paternity has not been established.

For the situations where the father was not targeted at the hospital, this bill contains provisions which would make it easier for paternity to be established by courts or administrative agencies. It makes it less difficult to locate out-of-State fathers by expanding the locate information and services available to custodial parents and child support professionals. It mandates changes in evidence standards which remove many of the obstacles that now exist to paternity establishment across State lines. It provides State child support agencies for the first time with a Federal incentive to work on establishing paternity, not just collecting child support that has already been ordered.

Even when parentage is established, custodial parents always seem to be one step behind noncustodial parents. If a noncustodial parent gets a job in another State, child support officials do not usually learn about the job change until the next quarter in which the employer has to report payroll information. By the time child support officials in the custodial parent's State learn the information, the noncustodial parent has often moved to another job. A year can pass. This scenario is played out over and over in interstate cases.

This bill requires information on every new hire to be filed in a national database, which States can regularly search for the names or Social Security numbers of parents who owe support to children in their States.

To eliminate the problems associated with establishing a support order across State lines, my bill requires the States to expand their long-arm statutes to reach more out-of-State noncustodial parents. It requires States to recognize and enforce child support orders from other States, and it also requires all States to adopt the Uniform Interstate Family Support Act, adopted by the National Conference of Commissioners on Uniform State Laws, verbatim so that inconsistencies between the States in case processing and enforcement can be eliminated.

Even where a support order has been established, custodial parents still have problems collecting money, especially in interstate cases. In response, this bill requires the States to take tougher measures against parents who do not pay their child support. It requires them to pass laws making it possible for delinquent parents to lose their professional and occupational licenses, hitting them in a sense at their livelihood. It requires the States to hold off issuing driver's licenses to delinquent parents. It calls for the expanded use of credit reporting—it is interesting that a noncustodial parent can be delinquent on a car loan and that fact can be reported on a credit report, but the fact that he or she is delinquent on child support might not be reported. In addition, this bill requires the States to intercept lottery winnings, money judgments, and other income of noncustodial parents who owe child support. This bill also requires the States to make it easier to freeze the bank accounts of delinquent parents, and requires the States to make it a State crime to willfully fail to pay child support.

Finally, this bill responds to staffing the training issues which have plagued child support professionals for decades. In a GAO report I and the other congressional members of the commission requested, it was reported that the average caseload per child support case worker is 1,000 cases. Can you imagine, Mr. President, 1,000 cases? This bill requires the Department of Health and Human Services to conduct staffing studies in every State and report such findings to this body and the States. It also requires the Office of Child Support Enforcement to make training assistance available to State child support agencies.

Mr. President, this bill represents a consensus, an overdue consensus, about the kinds of repairs that are needed in the child support system. It began with the recommendations of the U.S. Commission on Interstate Child Support Enforcement, of which I was a member. I put those recommendations forward as legislation in 1992, as did my colleagues on the commission, Representatives MARGE ROUKEMA and BARBARA KENNELLY. Last year, the administration took those central recommendations and added some detail about the national databases of child support orders and new hires. Late last year and early this year, the House Caucus on Women's Issues took up the subject, and earlier this month introduced a bill modeled on the administration's and my earlier bill. The bill we introduce today is intended to be the Senate companion to H.R. 785, the Johnson bill in the House, with only minor differences.

I ask unanimous consent that the text of the bill and a summary be inserted in the RECORD.

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

S. 456

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

SECTION 1. SHORT TITLE; REFERENCE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Interstate Child Support Responsibility Act of 1995''.

(b) REFERENCE TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, wherever in this Act an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

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

Sec. 1. Short title; reference; table of contents.

TITLE I—IMPROVEMENTS TO THE CHILD SUPPORT COLLECTION SYSTEM

Subtitle A—Eligibility and Other Matters Concerning Title IV–D Program Clients

Sec. 101. State obligation to provide paternity establishment and child support enforcement services.
Sec. 102. Distribution of payments.
Sec. 103. Rights to notification and hearings.
Sec. 104. Privacy safeguards.

Subtitle B—Program Administration and Funding

Sec. 111. Federal matching payments.
Sec. 112. Performance-based incentives and penalties.
Sec. 113. Federal and State reviews and audits.
Sec. 114. Required reporting procedures.
Sec. 115. Automated data processing requirements.
Sec. 116. Director of CSE program; staffing study.
Sec. 117. Funding for secretarial assistance to State programs.
Sec. 118. Data collection and reports by the Secretary.

Subtitle C—Locate and Case Tracking

Sec. 121. Central State and case registry.
Sec. 122. Centralized collection and disbursement of support payments.
Sec. 123. Amendments concerning income withholding.
Sec. 124. Locator information from interstate networks.
Sec. 125. Expanded Federal parent locator service.
Sec. 126. Use of social security numbers.

Subtitle D—Streamlining and Uniformity of Procedures

Sec. 131. Adoption of uniform State laws.
Sec. 132. Improvements to full faith and credit for child support orders.
Sec. 133. State laws providing expedited procedures.

Subtitle E—Paternity Establishment

Sec. 141. State laws concerning paternity establishment.
Sec. 142. Outreach for voluntary paternity establishment.

Subtitle F—Establishment and Modification of Support Orders

Sec. 151. National Child Support Guidelines Commission.
Sec. 152. Simplified process for review and adjustment of child support orders.

Subtitle G—Enforcement of Support Orders

Sec. 161. Federal income tax refund offset.
Sec. 162. Internal Revenue Service collection of arrearages.
Sec. 163. Authority to collect support from Federal employees.
Sec. 164. Enforcement of child support obligations of members of the Armed Forces.
Sec. 165. Motor vehicle liens.
Sec. 166. Voiding of fraudulent transfers.
Sec. 167. State law authorizing suspension of licenses.
Sec. 168. Reporting arrearages to credit bureaus.
Sec. 169. Extended statute of limitation for collection of arrearages.
Sec. 170. Charges for arrearages.
Sec. 171. Denial of passports for nonpayment of child support.
Sec. 172. International child support enforcement.

Subtitle H—Medical Support

Sec. 181. Technical correction to ERISA definition of medical child support order.

Subtitle I—Access and Visitation Programs

Sec. 191. Grants to States for access and visitation programs.

TITLE II—EFFECT OF ENACTMENT

Sec. 201. Effective dates.
Sec. 202. Severability.

TITLE I—IMPROVEMENTS TO THE CHILD SUPPORT COLLECTION SYSTEM

Subtitle A—Eligibility and Other Matters Concerning Title IV–D Program Clients

SEC. 101. STATE OBLIGATION TO PROVIDE PATERNITY ESTABLISHMENT AND CHILD SUPPORT ENFORCEMENT SERVICES.

(a) STATE LAW REQUIREMENTS.—Section 466(a) (42 U.S.C. 666(a)) is amended by adding at the end the following new paragraph:

''(12) Procedures under which—

''(A) every child support order established or modified in the State on or after October 1, 1998, is recorded in the central case registry established in accordance with section 454A(e); and

''(B) child support payments are collected through the centralized collections unit established in accordance with section 454B—

''(i) on and after October 1, 1998, under each order subject to wage withholding under section 466(b); and

''(ii) on and after October 1, 1999, under each other order required to be recorded in such central case registry under this paragraph or section 454A(e), if requested by either party subject to such order.''.

(b) STATE PLAN REQUIREMENTS.—Section 454 (42 U.S.C. 654) is amended—

(1) by striking paragraph (4) and inserting the following new paragraph:

''(4) provide that such State will undertake—

''(A) to provide appropriate services under this part to—

''(i) each child with respect to whom an assignment is effective under section 402(a)(26), 471(a)(17), or 1912 (except in cases in which the State agency determines, in accordance with paragraph (25), that it is against the best interests of the child to do so); and

''(ii) each child not described in clause (i)—

''(I) with respect to whom an individual applies for such services; or

''(II) on and after October 1, 1998, with respect to whom a support order is recorded in the central State case registry established under section 454A, if application is made for services under this part.'';

(2) in paragraph (6)—

(A) by striking ''(6) provide that'' and all that follows through subparagraph (A) and inserting the following:

''(6) provide that—

''(A) services under the State plan shall be made available to nonresidents on the same terms as to residents;'';

(B) in subparagraph (B)—

(i) by inserting ''on individuals not receiving assistance under part A'' after ''such services shall be imposed''; and

(ii) by inserting ''but no fees or costs shall be imposed on any absent or custodial parent or other individual for inclusion in the central State registry maintained pursuant to section 454A(e)'';

(C) in each of subparagraphs (B), (C), (D), and (E), by indenting such subparagraph and aligning its left margin with the left margin of subparagraph (A); and

(D) in each of subparagraphs (B), (C), and (D), by striking the final comma and inserting a semicolon.

(c) CONFORMING AMENDMENTS.—

(1) PATERNITY ESTABLISHMENT PERCENTAGE.—Section 452(g)(2)(A) (42 U.S.C. 652(g)(2)(A)) is amended by striking ''454(6)'' each place it appears and inserting ''454(4)(A)(ii)''.

(2) STATE PLAN.—Section 454(23) (42 U.S.C. 654(23)) is amended, effective October 1, 1998, by striking ''information as to any application fees for such services and''.

(3) PROCEDURES TO IMPROVE ENFORCEMENT.—Section 466(a)(3)(B) (42 U.S.C. 666(a)(3)(B)) is amended by striking ''in the case of overdue support which a State has agreed to collect under section 454(6)'' and inserting ''in any other case''.

(4) DEFINITION OF OVERDUE SUPPORT.—Section 466(e) (42 U.S.C. 666(e)) is amended by striking ''or (6)''.

SEC. 102. DISTRIBUTION OF PAYMENTS.

(a) DISTRIBUTIONS THROUGH STATE CHILD SUPPORT ENFORCEMENT AGENCY TO FORMER ASSISTANCE RECIPIENTS.—Section 454(5) (42 U.S.C. 654(5)) is amended—

(1) in subparagraph (A)—

(A) by inserting ''except as otherwise specifically provided in section 464 or 466(a)(3),'' after ''is effective,''; and

(B) by striking ''except that'' and all that follows through the semicolon; and

(2) in subparagraph (B), by striking '', except'' and all that follows through ''medical assistance''.

(b) DISTRIBUTION TO A FAMILY CURRENTLY RECEIVING AFDC.—Section 457 (42 U.S.C. 657) is amended—

(1) by striking subsection (a) and redesignating subsection (b) as subsection (a);

(2) in subsection (a), as redesignated—

(A) in the matter preceding paragraph (2), to read as follows:

''(a) IN THE CASE OF A FAMILY RECEIVING AFDC.—Amounts collected under this part during any month as support of a child who is receiving assistance under part A (or a parent or caretaker relative of such a child) shall (except in the case of a State exercising the option under subsection (b)) be distributed as follows:

''(1) an amount equal to the amount that will be disregarded pursuant to section 402(a)(8)(A)(vi) shall be taken from each of—

''(A) the amounts received in a month which represent payments for that month; and

''(B) the amounts received in a month which represent payments for a prior month which were made by the absent parent in that prior month;

and shall be paid to the family without affecting its eligibility for assistance or decreasing any amount otherwise payable as assistance to such family during such month;'';

(B) in paragraph (4), by striking ''or (B)'' and all that follows through the period and inserting ''; then (B) from any remainder, amounts equal to arrearages of such support obligations assigned, pursuant to part A, to any other State or States shall be paid to such other State or States and used to pay any such arrearages (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing); and then (C) any remainder shall be paid to the family.''.

(3) by inserting after subsection (a), as redesignated, the following new subsection:

''(b) ALTERNATIVE DISTRIBUTION IN CASE OF FAMILY RECEIVING AFDC.—In the case of a State electing the option under this subsection, amounts collected as described in subsection (a) shall be distributed as follows:

''(1) an amount equal to the amount that will be disregarded pursuant to section 402(a)(8)(A)(vi) shall be taken from each of—

''(A) the amounts received in a month which represent payments for that month; and

''(B) the amounts received in a month which represent payments for a prior month which were made by the absent parent in that prior month;

and shall be paid to the family without affecting its eligibility for assistance or decreasing any amount otherwise payable as assistance to such family during such month;

''(2) second, from any remainder, amounts equal to the balance of support owed for the current month shall be paid to the family;

''(3) third, from any remainder, amounts equal to arrearages of such support obligations assigned, pursuant to part A, to the State making the collection shall be retained and used by such State to pay any such arrearages (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing);

''(4) fourth, from any remainder, amounts equal to arrearages of such support obligations assigned, pursuant to part A, to any other State or States shall be paid to such other State or States and used to pay any such arrearages (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing); and

''(5) fifth, any remainder shall be paid to the family.''.

(c) DISTRIBUTION TO A FAMILY NOT RECEIVING AFDC.—

(1) IN GENERAL.—Section 457(c) (42 U.S.C. 657(c)) is amended to read as follows:

''(c) DISTRIBUTIONS IN CASE OF FAMILY NOT RECEIVING AFDC.—Amounts collected by a State agency under this part during any month as support of a child who is not receiving assistance under part A (or of a parent or caretaker relative of such a child) shall (subject to the remaining provisions of this section) be distributed as follows:

''(1) first, amounts equal to the total of such support owed for such month shall be paid to the family;

''(2) second, from any remainder, amounts equal to arrearages of such support obligations for months during which such child did not receive assistance under part A shall be paid to the family;

''(3) third, from any remainder, amounts equal to arrearages of such support obligations assigned to the State making the collection pursuant to part A shall be retained and used by such State to pay any such arrearages (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing); and

''(4) fourth, from any remainder, amounts equal to arrearages of such support obligations assigned to any other State pursuant to part A shall be paid to such other State or States, and used to pay such arrearages, in the order in which such arrearages accrued (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing).''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall become effective on October 1, 1999.

(d) DISTRIBUTION TO A CHILD RECEIVING ASSISTANCE UNDER TITLE IV–E.—Section 457(d) (42 U.S.C. 657(d)) is amended, in the matter preceding paragraph (1), by striking ''Notwithstanding the preceding provisions of this section, amounts'' and inserting the following:

''(d) DISTRIBUTIONS IN CASE OF A CHILD RECEIVING ASSISTANCE UNDER TITLE IV–E.—Amounts''.

(e) REGULATIONS.—The Secretary of Health and Human Services shall promulgate regulations—

(1) under part D of title IV of the Social Security Act, establishing a uniform nationwide standard for allocation of child support collections from an obligor owing support to more than 1 family; and

(2) under part A of such title, establishing standards applicable to States electing the alternative formula under section 457(b) of such Act for distribution of collections on behalf of families receiving Aid to Families with Dependent Children, designed to minimize irregular monthly payments to such families.

(f) CLERICAL AMENDMENTS.—Section 454 (42 U.S.C. 654) is amended—

(1) in paragraph (11)—

(A) by striking ''(11)'' and inserting ''(11)(A)''; and

(B) by inserting after the semicolon ''and''; and

(2) by redesignating paragraph (12) as subparagraph (B) of paragraph (11).

(g) MANDATORY CHILD SUPPORT PASS-THROUGH.—

(1) IN GENERAL.—Section 402(a)(8)(A)(vi) (42 U.S.C. 602(a)(8)(A)(vi)) is amended—

(A) by striking ''$50'' each place it appears and inserting ''$50, or, if greater, $50 adjusted by the CPI (as prescribed in section 406(i));''; and

(B) by striking the semicolon at the end and inserting ''or, in lieu of each dollar amount specified in this clause, such greater amount as the State may choose (and provide for in its State plan);''.

(2) CPI ADJUSTMENT.—Section 406 (42 U.S.C. 606) is amended by adding at the end the following new subsection:

''(i) For purposes of this part, an amount is 'adjusted by the CPI' for any month in a calendar year by multiplying the amount involved by the ratio of—

''(1) the Consumer Price Index (as prepared by the Department of Labor) for the third quarter of the preceding calendar year, to

''(2) such Consumer Price Index for the third quarter of calendar year 1996,

and rounding the product, if not a multiple of $10, to the nearer multiple of $10.''.

SEC. 103. RIGHTS TO NOTIFICATION AND HEARINGS.

(a) IN GENERAL.—Section 454 (42 U.S.C. 654), as amended by section 102(f), is amended by inserting after paragraph (11) the following new paragraph:

''(12) establish procedures to provide that—

''(A) individuals who are applying for or receiving services under this part, or are parties to cases in which services are being provided under this part—

''(i) receive notice of all proceedings in which support obligations might be established or modified; and

''(ii) receive a copy of any order establishing or modifying a child support obligation, or (in the case of a petition for modification) a notice of determination that there should be no change in the amount of the child support award, within 14 days after issuance of such order or determination;

''(B) individuals applying for or receiving services under this part have access to a fair hearing or other formal complaint procedure that meets standards established by the Secretary and ensures prompt consideration and resolution of complaints (but the resort to such procedure shall not stay the enforcement of any support order); and

''(C) the State may not provide to any noncustodial parent of a child representation relating to the establishment or modification of an order for the payment of child support with respect to that child, unless the State makes provision for such representation outside the State agency;''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on October 1, 1997.

SEC. 104. PRIVACY SAFEGUARDS.

(a) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 454) is amended—

(1) by striking ''and'' at the end of paragraph (23);

(2) by striking the period at the end of paragraph (24) and inserting ''; and''; and

(3) by adding after paragraph (24) the following:

''(25) provide that the State will have in effect safeguards applicable to all sensitive and confidential information handled by the State agency designed to protect the privacy rights of the parties, including—

''(A) safeguards against unauthorized use or disclosure of information relating to proceedings or actions to establish paternity, or to establish or enforce support;

''(B) prohibitions on the release of information on the whereabouts of 1 party to another party against whom a protective order with respect to the former party has been entered; and

''(C) prohibitions on the release of information on the whereabouts of 1 party to another party if the State has reason to believe that the release of the information may result in physical or emotional harm to the former party.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on October 1, 1997.

Subtitle B—Program Administration and Funding

SEC. 111. FEDERAL MATCHING PAYMENTS.

(a) INCREASED BASE MATCHING RATE.—Section 455(a)(2) (42 U.S.C. 655(a)(2)) is amended to read as follows:

''(2) The applicable percent for a quarter for purposes of paragraph (1)(A) is—

''(A) for fiscal year 1997, 69 percent,

''(B) for fiscal year 1998, 72 percent, and

''(C) for fiscal year 1999 and succeeding fiscal years, 75 percent.''.

(b) MAINTENANCE OF EFFORT.—Section 455 (42 U.S.C. 655) is amended—

(1) in subsection (a)(1), in the matter preceding subparagraph (A), by striking ''From'' and inserting ''Subject to subsection (c), from''; and

(2) by inserting after subsection (b) the following new subsection:

''(c) Notwithstanding the provisions of subsection (a), total expenditures for the State program under this part for fiscal year 1997 and each succeeding fiscal year (excluding 1-time capital expenditures for automation), reduced by the percentage specified for such fiscal year under subsection (a)(2) shall not be less than such total expenditures for fiscal year 1996, reduced by 66 percent.''.

SEC. 112. PERFORMANCE-BASED INCENTIVES AND PENALTIES.

(a) INCENTIVE ADJUSTMENTS TO FEDERAL MATCHING RATE.—Section 458 (42 U.S.C. 658) is amended to read as follows:

''INCENTIVE ADJUSTMENTS TO MATCHING RATE

''SEC. 458. (a) INCENTIVE ADJUSTMENT.—

''(1) IN GENERAL.—In order to encourage and reward State child support enforcement programs which perform in an effective manner, the Federal matching rate for payments to a State under section 455(a)(1)(A), for each fiscal year beginning on or after October 1, 1998, shall be increased by a factor reflecting the sum of the applicable incentive adjustments (if any) determined in accordance with regulations under this section with respect to Statewide paternity establishment and to overall performance in child support enforcement.

''(2) STANDARDS.—

''(A) IN GENERAL.—The Secretary shall specify in regulations—

''(i) the levels of accomplishment, and rates of improvement as alternatives to such levels, which States must attain to qualify for incentive adjustments under this section; and

''(ii) the amounts of incentive adjustment that shall be awarded to States achieving specified accomplishment or improvement levels, which amounts shall be graduated, ranging up to—

''(I) 5 percentage points, in connection with Statewide paternity establishment; and

''(II) 10 percentage points, in connection with overall performance in child support enforcement.

''(B) LIMITATION.—In setting performance standards pursuant to subparagraph (A)(i) and adjustment amounts pursuant to subparagraph (A)(ii), the Secretary shall ensure that the aggregate number of percentage point increases as incentive adjustments to all States do not exceed such aggregate increases as assumed by the Secretary in estimates of the cost of this section as of June 1995, unless the aggregate performance of all States exceeds the projected aggregate performance of all States in such cost estimates.

''(3) DETERMINATION OF INCENTIVE ADJUSTMENT.—The Secretary shall determine the amount (if any) of incentive adjustment due each State on the basis of the data submitted by the State pursuant to section 454(15)(B) concerning the levels of accomplishment (and rates of improvement) with respect to performance indicators specified by the Secretary pursuant to this section.

''(4) FISCAL YEAR SUBJECT TO INCENTIVE ADJUSTMENT.—The total percentage point increase determined pursuant to this section with respect to a State program in a fiscal year shall apply as an adjustment to the applicable percent under section 455(a)(2) for payments to such State for the succeeding fiscal year.

''(5) RECYCLING OF INCENTIVE ADJUSTMENT.—A State shall expend in the State program under this part all funds paid to the State by the Federal Government as a result of an incentive adjustment under this section.

''(b) MEANING OF TERMS.—

''(1) STATEWIDE PATERNITY ESTABLISHMENT PERCENTAGE.—

''(A) IN GENERAL.—For purposes of this section, the term 'Statewide paternity establishment percentage' means, with respect to a fiscal year, the ratio (expressed as a percentage) of—

''(i) the total number of out-of-wedlock children in the State under 1 year of age for whom paternity is established or acknowledged during the fiscal year, to

''(ii) the total number of children requiring paternity establishment born in the State during such fiscal year.

''(B) ALTERNATIVE MEASUREMENT.—The Secretary shall develop an alternate method of measurement for the Statewide paternity establishment percentage for any State that does not record the out-of-wedlock status of children on birth certificates.

''(2) The term 'overall performance in child support enforcement' means a measure or measures of the effectiveness of the State agency in a fiscal year which takes into account factors including—

''(A) the percentage of cases requiring a child support order in which such an order was established;

''(B) the percentage of cases in which child support is being paid;

''(C) the ratio of child support collected to child support due; and

''(D) the cost-effectiveness of the State program, as determined in accordance with standards established by the Secretary in regulations.''.

(b) ADJUSTMENT OF PAYMENTS UNDER PART D OF TITLE IV.—Section 455(a)(2) (42 U.S.C. 655(a)(2)), as amended by section 111(a), is amended—

(1) by striking the period at the end of subparagraph (C) and inserting a comma; and

(2) by adding after and below subparagraph (C), flush with the left margin of the paragraph, the following:

''increased by the incentive adjustment factor (if any) determined by the Secretary pursuant to section 458.''.

(c) CONFORMING AMENDMENTS.—Section 454(22) (42 U.S.C. 654(22)) is amended—

(1) by striking ''incentive payments'' the first place it appears and inserting ''incentive adjustments''; and

(2) by striking ''any such incentive payments made to the State for such period'' and inserting ''any increases in Federal payments to the State resulting from such incentive adjustments''.

(d) CALCULATION OF IV–D PATERNITY ESTABLISHMENT PERCENTAGE.—

(1) OVERALL PERFORMANCE.—Section 452(g)(1) (42 U.S.C. 652(g)(1)) is amended in the matter preceding subparagraph (A) by inserting ''its overall performance in child support enforcement is satisfactory (as defined in section 458(b) and regulations of the Secretary), and'' after ''1994,''.

(2) DEFINITION.—Section 452(g)(2)(A) (42 U.S.C. 652(g)(2)(A)) is amended, in the matter preceding clause (i)—

(A) by striking ''paternity establishment percentage'' and inserting ''IV–D paternity establishment percentage''; and

(B) by striking ''(or all States, as the case may be)''.

(3) MODIFICATION OF REQUIREMENTS.—Section 452(g)(3) (42 U.S.C. 652(g)(3)) is amended—

(A) by striking subparagraph (A) and redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively;

(B) in subparagraph (A), as redesignated, by striking ''the percentage of children born out-of-wedlock in the State'' and inserting ''the percentage of children in the State who are born out of wedlock or for whom support has not been established''; and

(C) in subparagraph (B), as redesignated—

(i) by inserting ''and overall performance in child support enforcement'' after ''paternity establishment percentages''; and

(ii) by inserting ''and securing support'' before the period.

(e) REDUCTION OF PAYMENTS UNDER PART D OF TITLE IV.—

(1) NEW REQUIREMENTS.—Section 455 (42 U.S.C. 655) is amended—

(A) by redesignating subsection (e) as subsection (f); and

(B) by inserting after subsection (d) the following new subsection:

''(e)(1) Notwithstanding any other provision of law, if the Secretary finds, with respect to a State program under this part in a fiscal year beginning on or after October 1, 1997—

''(A)(i) on the basis of data submitted by a State pursuant to section 454(15)(B), that the State program in such fiscal year failed to achieve the IV–D paternity establishment percentage (as defined in section 452(g)(2)(A)) or the appropriate level of overall performance in child support enforcement (as defined in section 458(b)(2)), or to meet other performance measures that may be established by the Secretary, or

''(ii) on the basis of an audit or audits of such State data conducted pursuant to section 452(a)(4)(C), that the State data submitted pursuant to section 454(15)(B) is incomplete or unreliable; and

''(B) that, with respect to the succeeding fiscal year—

''(i) the State failed to take sufficient corrective action to achieve the appropriate performance levels as described in subparagraph (A)(i) of this paragraph, or

''(ii) the data submitted by the State pursuant to section 454(15)(B) is incomplete or unreliable,

the amounts otherwise payable to the State under this part for quarters following the end of such succeeding fiscal year, prior to quarters following the end of the first quarter throughout which the State program is in compliance with such performance requirement, shall be reduced by the percentage specified in paragraph (2).

''(2) The reductions required under paragraph (1) shall be—

''(A) not less than 3 nor more than 5 percent, or

''(B) not less than 5 nor more than 7 percent, if the finding is the second consecutive finding made pursuant to paragraph (1), or

''(C) not less than 7 nor more than 10 percent, if the finding is the third or a subsequent consecutive such finding.

''(3) For purposes of this subsection, section 402(a)(27), and section 452(a)(4), a State which is determined as a result of an audit to have submitted incomplete or unreliable data pursuant to section 454(15)(B), shall be determined to have submitted adequate data if the Secretary determines that the extent of the incompleteness or unreliability of the data is of a technical nature which does not adversely affect the determination of the level of the State's performance.''.

(2) CONFORMING AMENDMENTS.—

(A) PAYMENTS TO STATES.—Section 403 (42 U.S.C. 603) is amended by striking subsection (h).

(B) DUTIES OF SECRETARY.—Subsections (d)(3)(A), (g)(1), and (g)(3)(A) of section 452 (42 U.S.C. 652) are each amended by striking ''403(h)'' and inserting ''455(e)''.

(f) EFFECTIVE DATES.—

(1) INCENTIVE ADJUSTMENTS.—

(A) IN GENERAL.—The amendments made by subsections (a), (b), and (c) shall become effective on October 1, 1997, except to the extent provided in subparagraph (B).

(B) EXCEPTION.—Section 458 of the Social Security Act, as in effect prior to the enactment of this section, shall be effective for purposes of incentive payments to States for fiscal years prior to fiscal year 1999.

(2) PENALTY REDUCTIONS.—

(A) IN GENERAL.—The amendments made by subsection (d) shall become effective with respect to calendar quarters beginning on and after the date of the enactment of this Act.

(B) REDUCTIONS.—The amendments made by subsection (e) shall become effective with respect to calendar quarters beginning on and after the date 1 which is year after the date of the enactment of this Act.

SEC. 113. FEDERAL AND STATE REVIEWS AND AUDITS.

(a) STATE AGENCY ACTIVITIES.—Section 454 (42 U.S.C. 654) is amended—

(1) in paragraph (14)—

(A) by striking ''(14)'' and inserting ''(14)(A)''; and

(B) by inserting after the semicolon ''and'';

(2) by redesignating paragraph (15) as subparagraph (B) of paragraph (14); and

(3) by inserting after paragraph (14) the following new paragraph:

''(15) provide for—

''(A) a process for annual reviews of and reports to the Secretary on the State program under this part—

''(i) which shall include such information as may be necessary to measure State compliance with Federal requirements for expedited procedures and timely case processing, using such standards and procedures as are required by the Secretary; and

''(ii) under which the State agency will determine the extent to which such program is in conformity with applicable requirements with respect to the operation of State programs under this part (including the status of complaints filed under the procedure required under paragraph (12)(B)); and

''(B) a process of extracting from the State automated data processing system and transmitting to the Secretary data and calculations concerning the levels of accomplishment (and rates of improvement) with respect to applicable performance indicators (including IV–D paternity establishment percentages and overall performance in child support enforcement) to the extent necessary for purposes of sections 452(g) and 458.''.

(b) FEDERAL ACTIVITIES.—Section 452(a)(4) (42 U.S.C. 652(a)(4)) is amended to read as follows:

''(4)(A) review data and calculations transmitted by State agencies pursuant to section 454(15)(B) on State program accomplishments with respect to performance indicators for purposes of section 452(g) and 458, and determine the amount (if any) of penalty reductions pursuant to section 455(e) to be applied to the State;

''(B) review annual reports by State agencies pursuant to section 454(15)(A) on State program conformity with Federal requirements; evaluate any elements of a State program in which significant deficiencies are indicated by such report on the status of complaints under the State procedure under section 454(12)(B); and, as appropriate, provide to the State agency comments, recommendations for additional or alternative corrective actions, and technical assistance; and

''(C) conduct audits, in accordance with the government auditing standards of the United States Comptroller General—

''(i) at least once every 3 years (or more frequently, in the case of a State which fails to meet requirements of this part, or of regulations implementing such requirements, concerning performance standards and reliability of program data) to assess the completeness, reliability, and security of the data, and the accuracy of the reporting systems, used for the calculations of performance indicators specified in subsection (g) and section 458;

''(ii) of the adequacy of financial management of the State program, including assessments of—

''(I) whether Federal and other funds made available to carry out the State program under this part are being appropriately expended, and are properly and fully accounted for; and

''(II) whether collections and disbursements of support payments and program income are carried out correctly and are properly and fully accounted for; and

''(iii) for such other purposes as the Secretary may find necessary;''.

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to calendar quarters beginning on or after the date which is 1 year after the enactment of this section.

SEC. 114. REQUIRED REPORTING PROCEDURES.

(a) ESTABLISHMENT.—Section 452(a)(5) (42 U.S.C. 652(a)(5)) is amended by inserting '', and establish procedures to be followed by States for collecting and reporting information required to be provided under this part, and establish uniform definitions (including those necessary to enable the measurement of State compliance with the requirements of this part relating to expedited processes and timely case processing) to be applied in following such procedures'' before the semicolon.

(b) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 654), as amended by section 104(a), is amended—

(1) by striking ''and'' at the end of paragraph (24);

(2) by striking the period at the end of paragraph (25) and inserting ''; and''; and

(3) by adding after paragraph (25) the following:

''(26) provide that the State shall use the definitions established under section 452(a)(5) in collecting and reporting information as required under this part.''.

SEC. 115. AUTOMATED DATA PROCESSING REQUIREMENTS.

(a) REVISED REQUIREMENTS.—

(1) STATE PLAN.—Section 454(16) (42 U.S.C. 654(16)) is amended—

(A) by striking '', at the option of the State,'';

(B) by inserting ''and operation by the State agency'' after ''for the establishment'';

(C) by inserting ''meeting the requirements of section 454A'' after ''information retrieval system'';

(D) by striking ''in the State and localities thereof, so as (A)'' and inserting ''so as'';

(E) by striking ''(i)''; and

(F) by striking ''(including, but not limited to,'' and all that follows and to the semicolon.

(2) AUTOMATED DATA PROCESSING.—Part D of title IV (42 U.S.C. 651–669) is amended by inserting after section 454 the following new section:

''AUTOMATED DATA PROCESSING

''SEC. 454A. (a) IN GENERAL.—In order to meet the requirements of this section, for purposes of the requirement of section 454(16), a State agency shall have in operation a single statewide automated data processing and information retrieval system which has the capability to perform the tasks specified in this section, and performs such tasks with the frequency and in the manner specified in this part or in regulations or guidelines of the Secretary.

''(b) PROGRAM MANAGEMENT.—The automated system required under this section shall perform such functions as the Secretary may specify relating to management of the program under this part, including—

''(1) controlling and accounting for use of Federal, State, and local funds to carry out such program; and

''(2) maintaining the data necessary to meet Federal reporting requirements on a timely basis.

''(c) CALCULATION OF PERFORMANCE INDICATORS.—In order to enable the Secretary to determine the incentive and penalty adjustments required by sections 452(g) and 458, the State agency shall—

''(1) use the automated system—

''(A) to maintain the requisite data on State performance with respect to paternity establishment and child support enforcement in the State; and

''(B) to calculate the IV–D paternity establishment percentage and overall performance in child support enforcement for the State for each fiscal year; and

''(2) have in place systems controls to ensure the completeness, and reliability of, and ready access to, the data described in paragraph (1)(A), and the accuracy of the calculations described in paragraph (1)(B).

''(d) INFORMATION INTEGRITY AND SECURITY.—The State agency shall have in effect safeguards on the integrity, accuracy, and completeness of, access to, and use of data in the automated system required under this section, which shall include the following (in addition to such other safeguards as the Secretary specifies in regulations):

''(1) POLICIES RESTRICTING ACCESS.—Written policies concerning access to data by State agency personnel, and sharing of data with other persons, which—

''(A) permit access to and use of data only to the extent necessary to carry out program responsibilities;

''(B) specify the data which may be used for particular program purposes, and the personnel permitted access to such data; and

''(C) ensure that data obtained or disclosed for a limited program purpose is not used or redisclosed for another, impermissible purpose.

''(2) SYSTEMS CONTROLS.—Systems controls (such as passwords or blocking of fields) to ensure strict adherence to the policies specified under paragraph (1).

''(3) MONITORING OF ACCESS.—Routine monitoring of access to and use of the automated system, through methods such as audit trails and feedback mechanisms, to guard against and promptly identify unauthorized access or use.

''(4) TRAINING AND INFORMATION.—The State agency shall have in effect procedures to ensure that all personnel (including State and local agency staff and contractors) who may have access to or be required to use sensitive or confidential program data are fully informed of applicable requirements and penalties, and are adequately trained in security procedures.

''(5) PENALTIES.—The State agency shall have in effect administrative penalties (up to and including dismissal from employment) for unauthorized access to, or disclosure or use of, confidential data.''.

(3) REGULATIONS.—Section 452 (42 U.S.C. 652) is amended by adding at the end the following new subsection:

''(j) The Secretary shall prescribe final regulations for implementation of the requirements of section 454A not later than 2 years after the date of the enactment of this subsection.''.

(4) IMPLEMENTATION TIMETABLE.—Section 454(24) (42 U.S.C. 654(24)), as amended by sections 104(a)(2) and 114(b)(1), is amended to read as follows:

''(24) provide that the State will have in effect an automated data processing and information retrieval system—

''(A) by October 1, 1996, meeting all requirements of this part which were enacted on or before the date of the enactment of the Family Support Act of 1988; and

''(B) by October 1, 1999, meeting all requirements of this part enacted on or before the date of the enactment of the Interstate Child Support Responsibility Act of 1995 (but this provision shall not be construed to alter earlier deadlines specified for elements of such system), except that such deadline shall be extended by 1 day for each day (if any) by which the Secretary fails to meet the deadline imposed by section 452(j);''.

(b) SPECIAL FEDERAL MATCHING RATE FOR DEVELOPMENT COSTS OF AUTOMATED SYSTEMS.—Section 455(a) (42 U.S.C. 655(a)) is amended—

(1) in paragraph (1)(B)—

(A) by striking ''90 percent'' and inserting ''the percent specified in paragraph (3)'';

(B) by striking ''so much of''; and

(C) by striking ''which the Secretary'' and all that follows through ''thereof''; and

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

''(3)(A) The Secretary shall pay to each State, for each quarter in fiscal year 1996, 90 percent of so much of State expenditures described in paragraph (1)(B) as the Secretary finds are for a system meeting the requirements specified in section 454(16), or meeting such requirements without regard to subparagraph (D) thereof.

''(B)(i) The Secretary shall pay to each State, for each quarter in fiscal years 1997 through 2001, the percentage specified in clause (ii) of so much of State expenditures described in paragraph (1)(B) as the Secretary finds are for a system meeting the requirements specified in section 454(16) and 454A, subject to clause (iii).

''(ii) The percentage specified in this clause, for purposes of clause (i), is the higher of—

''(I) 80 percent, or

''(II) the percentage otherwise applicable to Federal payments to the State under subparagraph (A) (as adjusted pursuant to section 458).''.

(c) CONFORMING AMENDMENT.—Section 123(c) of the Family Support Act of 1988 (102 Stat. 2352; Public Law 100–485) is repealed.

SEC. 116. DIRECTOR OF CSE PROGRAM; STAFFING STUDY.

(a) REPORTING TO SECRETARY.—Section 452(a) (42 U.S.C. 652(a)) is amended in the matter preceding paragraph (1) by striking ''directly''.

(b) STAFFING STUDIES.—

(1) SCOPE.—The Secretary of Health and Human Services (in this subsection referred to as the ''Secretary'') shall, directly or by contract, conduct studies of the staffing of each State child support enforcement program under part D of title IV of the Social Security Act. Such studies shall—

(A) include a review of the staffing needs created by requirements for automated data processing, maintenance of a central case registry and centralized collections of child support, and of changes in these needs resulting from changes in such requirements; and

(B) examine and report on effective staffing practices used by the States and on recommended staffing procedures.

(2) FREQUENCY OF STUDIES.—The Secretary shall complete the first staffing study required under paragraph (1) not later than October 1, 1997, and may conduct additional studies subsequently at appropriate intervals.

(3) REPORT TO THE CONGRESS.—The Secretary shall submit a report to the Congress stating the findings and conclusions of each study conducted under this subsection.

SEC. 117. FUNDING FOR SECRETARIAL ASSISTANCE TO STATE PROGRAMS.

Section 452 (42 U.S.C. 652), as amended by section 115(a)(3), is amended by adding at the end the following new subsection:

''(k)(1) There shall be available to the Secretary, from amounts appropriated for fiscal year 1996 and each succeeding fiscal year for payments to States under this part, the amount specified in paragraph (2) for the costs to the Secretary for—

''(A) information dissemination and technical assistance to States, training of State and Federal staff, staffing studies, and related activities needed to improve programs (including technical assistance concerning State automated systems);

''(B) research, demonstration, and special projects of regional or national significance relating to the operation of State programs under this part; and

''(C) operation of the Federal Parent Locator Service under section 453, to the extent such costs are not recovered through user fees.

''(2) The amount specified in this paragraph for a fiscal year is the amount equal to a percentage of the reduction in Federal payments to States under part A on account of child support (including arrearages) collected in the preceding fiscal year on behalf of children receiving aid under such part A in such preceding fiscal year (as determined on the basis of the most recent reliable data available to the Secretary as of the end of the third calendar quarter following the end of such preceding fiscal year), equal to—

''(A) 1 percent, for the activities specified in subparagraphs (A) and (B) of paragraph (1); and

''(B) 2 percent, for the activities specified in subparagraph (C) of paragraph (1).''.

SEC. 118. DATA COLLECTION AND REPORTS BY THE SECRETARY.

(a) ANNUAL REPORT TO CONGRESS.—

(1) IN GENERAL.—Section 452(a)(10)(A) (42 U.S.C. 652(a)(10)(A)) is amended—

(A) by striking ''this part;'' and inserting ''this part, including—''; and

(B) by adding at the end the following indented clauses:

''(i) the total amount of child support payments collected as a result of services furnished during such fiscal year to individuals receiving services under this part;

''(ii) the cost to the States and to the Federal Government of furnishing such services to those individuals; and

''(iii) the number of cases involving families—

''(I) who became ineligible for aid under part A during a month in such fiscal year; and

''(II) with respect to whom a child support payment was received in the same month;''.

(2) CERTAIN DATA.—Section 452(a)(10)(C) (42 U.S.C. 652(a)(10)(C)) is amended—

(A) in the matter preceding clause (i), by striking ''with the data required under each clause being separately stated for cases'' and all that follows through ''part:'' and inserting ''separately stated for cases where the child is receiving aid to families with dependent children (or foster care maintenance payments under part E), or formerly received such aid or payments and the State is continuing to collect support assigned to it under section 402(a)(26), 471(a)(17), or 1912, and all other cases under this part—'';

(B) in each of clauses (i) and (ii), by striking '', and the total amount of such obligations'';

(C) in clause (iii), by striking ''described in'' and all that follows through the semicolon and inserting ''in which support was collected during the fiscal year;'';

(D) by striking clause (iv); and

(E) by redesignating clause (v) as clause (vii), and inserting after clause (iii) the following new clauses:

''(iv) the total amount of support collected during such fiscal year and distributed as current support;

''(v) the total amount of support collected during such fiscal year and distributed as arrearages;

''(vi) the total amount of support due and unpaid for all fiscal years; and''.

(3) USE OF FEDERAL COURTS.—Section 452(a)(10)(G) (42 U.S.C. 652(a)(10)(G)) is amended by striking ''on the use of Federal courts and''.

(4) ADDITIONAL INFORMATION NOT NECESSARY.—Section 452(a)(10) (42 U.S.C. 652(a)(10)) is amended by striking all that follows subparagraph (I).

(b) DATA COLLECTION AND REPORTING.—Section 469 (42 U.S.C. 669) is amended—

(1) by striking subsections (a) and (b) and inserting the following:

''(a) The Secretary shall collect and maintain, on a fiscal year basis, up-to-date statistics, by State, with respect to services to establish paternity and services to establish child support obligations, the data specified in subsection (b), separately stated, in the case of each such service, with respect to—

''(1) families (or dependent children) receiving aid under plans approved under part A (or E); and

''(2) families not receiving such aid.

''(b) The data referred to in subsection (a) are—

''(1) the number of cases in the caseload of the State agency administering the plan under this part in which such service is needed; and

''(2) the number of such cases in which the service has been provided.''; and

(2) in subsection (c), by striking ''(a)(2)'' and inserting ''(b)(2)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to fiscal year 1996 and succeeding fiscal years.

Subtitle C—Locate and Case Tracking

SEC. 121. CENTRAL STATE AND CASE REGISTRY.

Section 454A, as added by section 115(a)(2), is amended by adding at the end the following new subsections:

''(e) CENTRAL CASE REGISTRY.—

''(1) IN GENERAL.—The automated system required under this section shall perform the functions, in accordance with the provisions of this subsection, of a single central registry containing records with respect to each case in which services are being provided by the State agency (including, on and after October 1, 1998, each order specified in section 466(a)(12)), using such standardized data elements (such as names, social security numbers or other uniform identification numbers, dates of birth, and case identification numbers), and containing such other information (such as information on case status) as the Secretary may require.

''(2) PAYMENT RECORDS.—Each case record in the central registry shall include a record of—

''(A) the amount of monthly (or other periodic) support owed under the support order, and other amounts due or overdue (including arrearages, interest or late payment penalties, and fees);

''(B) all child support and related amounts collected (including such amounts as fees, late payment penalties, and interest on arrearages);

''(C) the distribution of such amounts collected; and

''(D) the birth date of the child for whom the child support order is entered.

''(3) UPDATING AND MONITORING.—The State agency shall promptly establish and maintain, and regularly monitor, case records in the registry required by this subsection, on the basis of—

''(A) information on administrative actions and administrative and judicial proceedings and orders relating to paternity and support;

''(B) information obtained from matches with Federal, State, or local data sources;

''(C) information on support collections and distributions; and

''(D) any other relevant information.

''(f) DATA MATCHES AND OTHER DISCLOSURES OF INFORMATION.—The automated system required under this section shall have the capacity, and be used by the State agency, to extract data at such times, and in such standardized format or formats, as may be required by the Secretary, and to share and match data with, and receive data from, other data bases and data matching services, in order to obtain (or provide) information necessary to enable the State agency (or Secretary or other State or Federal agencies) to carry out responsibilities under this part. Data matching activities of the State agency shall include at least the following:

''(1) DATA BANK OF CHILD SUPPORT ORDERS.—Furnishing to the Data Bank of Child Support Orders established under section 453(h) (and updating as necessary, with information, including notice of expiration of orders) minimal information specified by the Secretary on each child support case in the central case registry.

''(2) FEDERAL PARENT LOCATOR SERVICE.—Exchanging data with the Federal Parent Locator Service for the purposes specified in section 453.

''(3) AFDC AND MEDICAID AGENCIES.—Exchanging data with State agencies (of the State and of other States) administering the programs under part A and title XIX, as necessary for the performance of State agency responsibilities under this part and under such programs.

''(4) INTRA- AND INTERSTATE DATA MATCHES.—Exchanging data with other agencies of the State, agencies of other States, and interstate information networks, as necessary and appropriate to carry out (or assist other States to carry out) the purposes of this part.''.

SEC. 122. CENTRALIZED COLLECTION AND DISBURSEMENT OF SUPPORT PAYMENTS.

(a) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 654), as amended by sections 104(a) and 114(b), is amended—

(1) by striking ''and'' at the end of paragraph (25);

(2) by striking the period at the end of paragraph (26) and inserting ''; and''; and

(3) by adding after paragraph (26) the following new paragraph:

''(27) provide that the State agency, on and after October 1, 1998—

''(A) will operate a centralized, automated unit for the collection and disbursement of child support under orders being enforced under this part, in accordance with section 454B; and

''(B) will have sufficient State staff (consisting of State employees), and, at State option, contractors reporting directly to the State agency to monitor and enforce support collections through such centralized unit, including carrying out the automated data processing responsibilities specified in section 454A(g) and to impose, as appropriate in particular cases, the administrative enforcement remedies specified in section 466(c)(1).''.

(b) ESTABLISHMENT OF CENTRALIZED COLLECTION UNIT.—Part D of title IV (42 U.S.C. 651–669) is amended by adding after section 454A the following new section:

''CENTRALIZED COLLECTION AND DISBURSEMENT OF SUPPORT PAYMENTS

''SEC. 454B. (a) IN GENERAL.—In order to meet the requirement of section 454(27), the State agency must operate a single, centralized, automated unit for the collection and disbursement of support payments, coordinated with the automated data system required under section 454A, in accordance with the provisions of this section, which shall be—

''(1) operated directly by the State agency (or by 2 or more State agencies under a regional cooperative agreement), or by a single contractor responsible directly to the State agency; and

''(2) used for the collection and disbursement (including interstate collection and disbursement) of payments under support orders in all cases being enforced by the State pursuant to section 454(4).

''(b) REQUIRED PROCEDURES.—The centralized collections unit shall use automated procedures, electronic processes, and computer-driven technology to the maximum extent feasible, efficient, and economical, for the collection and disbursement of support payments, including procedures—

''(1) for receipt of payments from parents, employers, and other States, and for disbursements to custodial parents and other obligees, the State agency, and the State agencies of other States;

''(2) for accurate identification of payments;

''(3) to ensure prompt disbursement of the custodial parent's share of any payment; and

''(4) to furnish to either parent, upon request, timely information on the current status of support payments.''.

(c) USE OF AUTOMATED SYSTEM.—Section 454A, as added by section 115(a)(2) and as amended by section 121, is amended by adding at the end the following new subsection:

''(g) CENTRALIZED COLLECTION AND DISTRIBUTION OF SUPPORT PAYMENTS.—The automated system required under this section shall be used, to the maximum extent feasible, to assist and facilitate collections and disbursement of support payments through the centralized collections unit operated pursuant to section 454B, through the performance of functions including at a minimum—

''(1) generation of orders and notices to employers (and other debtors) for the withholding of wages (and other income)—

''(A) within 2 working days after receipt (from the directory of New Hires established under section 453(i) or any other source) of notice of and the income source subject to such withholding; and

''(B) using uniform formats directed by the Secretary;

''(2) ongoing monitoring to promptly identify failures to make timely payment; and

''(3) automatic use of enforcement mechanisms (including mechanisms authorized pursuant to section 466(c)) where payments are not timely made.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall become effective on October 1, 1998.

SEC. 123. AMENDMENTS CONCERNING INCOME WITHHOLDING.

(a) MANDATORY INCOME WITHHOLDING.—

(1) FROM WAGES.—Section 466(a)(1) (42 U.S.C. 666(a)(1)) is amended to read as follows:

''(1)(A) Procedures described in subsection (b) for the withholding from income of amounts payable as support in cases subject to enforcement under the State plan.

''(B) Procedures under which all child support orders issued (or modified) before October 1, 1996, and which are not otherwise subject to withholding under subsection (b), shall become subject to withholding from wages as provided in subsection (b) if arrearages occur, without the need for a judicial or administrative hearing.''.

(2) REPEAL OF CERTAIN PROVISIONS CONCERNING ARREARAGES.—Section 466(a)(8) (42 U.S.C. 666(a)(8)) is repealed.

(3) PROCEDURES DESCRIBED.—Section 466(b) (42 U.S.C. 666(b)) is amended—

(A) in the matter preceding paragraph (1), by striking ''subsection (a)(1)'' and inserting ''subsection (a)(1)(A)'';

(B) in paragraph (5), by striking ''a public agency'' and all that follows through the period and inserting ''the State through the centralized collections unit established pursuant to section 454B, in accordance with the requirements of such section 454B.'';

(C) in paragraph (6)(A)(i)—

(i) by inserting '', in accordance with timetables established by the Secretary,'' after ''must be required''; and

(ii) by striking ''to the appropriate agency'' and all that follows through the period and inserting ''to the State centralized collections unit within 5 working days after the date such amount would (but for this subsection) have been paid or credited to the employee, for distribution in accordance with this part.'';

(D) in paragraph (6)(A)(ii), by inserting ''be in a standard format prescribed by the Secretary, and'' after ''shall''; and

(E) in paragraph (6)(D) to read as follows:

''(D) Provision must be made for the imposition of a fine against any employer who—

''(i) discharges from employment, refuses to employ, or takes disciplinary action against any absent parent subject to wage withholding required by this subsection because of the existence of such withholding and the obligations or additional obligations which it imposes upon the employer; or

''(ii) fails to withhold support from wages, or to pay such amounts to the State centralized collections unit in accordance with this subsection.''.

(b) CONFORMING AMENDMENT.—Section 466(c) (42 U.S.C. 666(c)) is repealed.

(c) DEFINITION OF TERMS.—The Secretary of Health and Human Services shall promulgate regulations providing definitions, for purposes of part D of title IV of the Social Security Act, for the term ''income'' and for such other terms relating to income withholding under section 466(b) of such Act as the Secretary may find it necessary or advisable to define.

SEC. 124. LOCATOR INFORMATION FROM INTERSTATE NETWORKS.

Section 466(a) (42 U.S.C. 666(a)), as amended by section 123(a)(2), is amended by inserting after paragraph (7) the following new paragraph:

''(8) Procedures ensuring that the State will neither provide funding for, nor use for any purpose (including any purpose unrelated to the purposes of this part), any automated interstate network or system used to locate individuals—

''(A) for purposes relating to the use of motor vehicles; or

''(B) providing information for law enforcement purposes (where child support enforcement agencies are otherwise allowed access by State and Federal law),

unless all Federal and State agencies administering programs under this part (including the entities established under section 453) have access to information in such system or network to the same extent as any other user of such system or network.''.

SEC. 125. EXPANDED FEDERAL PARENT LOCATOR SERVICE.

(a) EXPANDED AUTHORITY TO LOCATE INDIVIDUALS AND ASSETS.—Section 453 (42 U.S.C. 653) is amended—

(1) in subsection (a), by striking ''information as to the whereabouts'' and all that follows through the period and inserting '', for the purpose of establishing parentage, establishing, setting the amount of, modifying, or enforcing child support obligations—

''(1) information on, or facilitating the discovery of, the location of any individual—

''(A) who is under an obligation to pay child support;

''(B) against whom such an obligation is sought; or

''(C) to whom such an obligation is owed,

including such individual's social security number (or numbers), most recent residential address, and the name, address, and employer identification number of such individual's employer; and

''(2) information on the individual's wages (or other income) from, and benefits of, employment (including rights to or enrollment in group health care coverage); and

''(3) information on the type, status, location, and amount of any assets of, or debts owed by or to, any such individual.'';

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking ''social security'' and all that follows through ''absent parent'' and inserting ''information specified in subsection (a)''; and

(B) in paragraph (2), by inserting before the period '', or from any consumer reporting agency (as defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f))''; and

(3) in subsection (e)(1), by inserting before the period '', or by consumer reporting agencies''.

(b) REIMBURSEMENT FOR DATA FROM FEDERAL AGENCIES.—Section 453(e)(2) (42 U.S.C. 653(e)(2)) is amended in the fourth sentence by inserting before the period ''in an amount which the Secretary determines to be reasonable payment for the data exchange (which amount shall not include payment for the costs of obtaining, compiling, or maintaining the data)''.

(c) ACCESS TO CONSUMER REPORTS UNDER FAIR CREDIT REPORTING ACT.—

(1) IN GENERAL.—Section 608 of the Fair Credit Reporting Act (15 U.S.C. 1681f) is amended—

(A) by striking '', limited to'' and inserting ''to a governmental agency (including the entire consumer report, in the case of a Federal, State, or local agency administering a program under part D of title IV of the Social Security Act, and limited to''; and

(B) by striking ''employment, to a governmental agency'' and inserting ''employment, in the case of any other governmental agency)''.

(2) REIMBURSEMENT FOR REPORTS BY STATE AGENCIES AND CREDIT BUREAUS.—Section 453 (42 U.S.C. 653) is amended by adding at the end the following new subsection:

''(g) The Secretary is authorized to reimburse to State agencies and consumer credit reporting agencies the costs incurred by such entities in furnishing information requested by the Secretary pursuant to this section in an amount which the Secretary determines to be reasonable payment for the data exchange (which amount shall not include payment for the costs of obtaining, compiling, or maintaining the data).''.

(d) DISCLOSURE OF TAX RETURN INFORMATION.—

(1) BY THE SECRETARY OF THE TREASURY.—Section 6103(*l*)(6)(A)(ii) of the Internal Revenue Code of 1986 (relating to disclosure of return information to Federal, State, and local child support enforcement agencies) is amended by striking '', but only if'' and all that follows to the period.

(2) BY THE SOCIAL SECURITY ADMINISTRATION.—Section 6103(*l*)(8) of the Internal Revenue Code of 1986 (relating to disclosure of certain return information by Social Security Administration to State and local child support enforcement agencies) is amended—

(A) in subparagraph (A), by striking ''State or local'' and inserting ''Federal, State, or local''; and

(B) in subparagraph (C), by inserting ''(including any entity under contract with such agency)'' after ''thereof''.

(e) TECHNICAL AMENDMENTS.—

(1) Sections 452(a)(9), 453(a), 453(b), 463(a), and 463(e) (42 U.S.C. 652(a)(9), 653(a), 653(b), 663(a), and 663(e)) are each amended by inserting ''Federal'' before ''Parent'' each place it appears.

(2) Section 453 (42 U.S.C. 653) is amended in the heading by inserting ''FEDERAL'' before ''PARENT''.

(f) NEW COMPONENTS.—Section 453 (42 U.S.C. 653), as amended by subsection (c)(2), is amended by adding at the end the following new subsections:

''(h) DATA BANK OF CHILD SUPPORT ORDERS.—

''(1) IN GENERAL.—Not later than October 1, 1998, in order to assist States in administering their State plans under this part and parts A, F, and G, and for the other purposes specified in this section, the Secretary shall establish and maintain in the Federal Parent Locator Service an automated registry to be known as the Data Bank of Child Support Orders, which shall contain abstracts of child support orders and other information described in paragraph (2) on each case in each State central case registry maintained pursuant to section 454A(e), as furnished (and regularly updated), pursuant to section 454A(f), by State agencies administering programs under this part.

''(2) CASE INFORMATION.—The information referred to in paragraph (1), as specified by the Secretary, shall include sufficient information (including names, social security numbers or other uniform identification numbers, and State case identification numbers) to identify the individuals who owe or are owed support (or with respect to or on behalf of whom support obligations are sought to be established), and the State or States which have established or modified, or are enforcing or seeking to establish, such an order.

''(i) DIRECTORY OF NEW HIRES.—

''(1) IN GENERAL.—Not later than October 1, 1998, in order to assist States in administering their State plans under this part and parts A, F, and G, and for the other purposes specified in this section, the Secretary shall establish and maintain in the Federal Parent Locator Service an automated directory to be known as the directory of New Hires, containing—

''(A) information supplied by employers on each newly hired individual, in accordance with paragraph (2); and

''(B) information supplied by State agencies administering State unemployment compensation laws, in accordance with paragraph (3).

''(2) EMPLOYER INFORMATION.—

''(A) INFORMATION REQUIRED.—Subject to subparagraph (D), each employer shall furnish to the Secretary, for inclusion in the directory under this subsection, not later than 10 days after the date (on or after October 1, 1998) on which the employer hires a new employee (as defined in subparagraph (C)), a report containing the name, date of birth, and social security number of such employee, and the employer identification number of the employer.

''(B) REPORTING METHOD AND FORMAT.—The Secretary shall provide for transmission of the reports required under subparagraph (A) using formats and methods which minimize the burden on employers, which shall include—

''(i) automated or electronic transmission of such reports;

''(ii) transmission by regular mail; and

''(iii) transmission of a copy of the form required for purposes of compliance with section 3402 of the Internal Revenue Code of 1986.

''(C) EMPLOYEE DEFINED.—For purposes of this paragraph, the term 'employee' means any individual subject to the requirement of section 3402(f)(2) of the Internal Revenue Code of 1986.

''(D) PAPERWORK REDUCTION REQUIREMENT.—As required by the information resources management policies published by the Director of the Office of Management and Budget pursuant to section 3504(b)(1) of title 44, United States Code, the Secretary, in order to minimize the cost and reporting burden on employers, shall not require reporting pursuant to this paragraph if an alternative reporting mechanism can be developed that either relies on existing Federal or State reporting or enables the Secretary to collect the needed information in a more cost-effective and equally expeditious manner, taking into account the reporting costs on employers.

''(E) CIVIL MONEY PENALTY ON NONCOMPLYING EMPLOYERS.—

''(i) IN GENERAL.—Any employer that fails to make a timely report in accordance with this paragraph with respect to an individual shall be subject to a civil money penalty, for each calendar year in which the failure occurs, of the lesser of $500 or 1 percent of the wages or other compensation paid by such employer to such individual during such calendar year.

''(ii) APPLICATION OF SECTION 1128A.—Subject to clause (iii), the provisions of section 1128A (other than subsections (a) and (b) thereof) shall apply to a civil money penalty under clause (i) in the same manner as they apply to a civil money penalty or proceeding under section 1128A(a).

''(iii) COSTS TO SECRETARY.—Any employer with respect to whom a penalty under this subparagraph is upheld after an administrative hearing shall be liable to pay all costs of the Secretary with respect to such hearing.

''(3) EMPLOYMENT SECURITY INFORMATION.—

''(A) REPORTING REQUIREMENT.—Each State agency administering a State unemployment compensation law approved by the Secretary of Labor under the Federal Unemployment Tax Act shall furnish to the Secretary extracts of the reports to the Secretary of Labor concerning the wages and unemployment compensation paid to individuals required under section 303(a)(6), in accordance with subparagraph (B).

''(B) MANNER OF COMPLIANCE.—The extracts required under subparagraph (A) shall be furnished to the Secretary on a quarterly basis, with respect to calendar quarters beginning on and after October 1, 1996, by such dates, in such format, and containing such information as required by that Secretary in regulations.

''(j) DATA MATCHES AND OTHER DISCLOSURES.—

''(1) VERIFICATION BY SOCIAL SECURITY ADMINISTRATION.—

''(A) TRANSMISSION OF DATA.—The Secretary shall transmit data on individuals and employers in the registries maintained under this section to the Social Security Administration to the extent necessary for verification in accordance with subparagraph (B).

''(B) VERIFICATION.—The Commissioner of Social Security shall verify the accuracy of, correct or supply to the extent necessary and

feasible, and report to the Secretary, the following information in data supplied by the Secretary pursuant to subparagraph (A):

''(i) the name, social security number, and birth date of each individual; and

''(ii) the employer identification number of each employer.

''(2) CHILD SUPPORT LOCATOR MATCHES.—For the purpose of locating individuals for purposes of paternity establishment and establishment and enforcement of child support, the Secretary shall—

''(A) match data in the directory of New Hires against the child support order abstracts in the Data Bank of Child Support Orders not less than every 2 working days; and

''(B) report information obtained from a match established under subparagraph (A) to concerned State agencies operating programs under this part not later than 2 working days after such match.

''(3) DATA MATCHES AND DISCLOSURES OF DATA IN ALL REGISTRIES FOR TITLE IV PROGRAM PURPOSES.—The Secretary shall—

''(A) perform matches of data in each component of the Federal Parent Locator Service maintained under this section against data in each other such component (other than the matches required pursuant to paragraph (1)), and report information resulting from such matches to State agencies operating programs under this part and parts A, F, and G; and

''(B) disclose data in such registries to such State agencies,

to the extent, and with the frequency, that the Secretary determines to be effective in assisting such States to carry out their responsibilities under such programs.

''(k) FEES.—

''(1) FOR SSA VERIFICATION.—The Secretary shall reimburse the Commissioner of Social Security, at a rate negotiated between the Secretary and the Commissioner, the costs incurred by the Commissioner in performing the verification services specified in subsection (j).

''(2) FOR INFORMATION FROM SESAS.—The Secretary shall reimburse costs incurred by State employment security agencies in furnishing data as required by subsection (i)(3), at rates which the Secretary determines to be reasonable (which rates shall not include payment for the costs of obtaining, compiling, or maintaining such data).

''(3) FOR INFORMATION FURNISHED TO STATE AND FEDERAL AGENCIES.—State and Federal agencies receiving data or information from the Secretary pursuant to this section shall reimburse the costs incurred by the Secretary in furnishing such data or information, at rates which the Secretary determines to be reasonable (which rates shall include payment for the costs of obtaining, verifying, maintaining, and matching such data or information).

''(l) RESTRICTION ON DISCLOSURE AND USE.—Data in the Federal Parent Locator Service, and information resulting from matches using such data, shall not be used or disclosed except as specifically provided in this section.

''(m) RETENTION OF DATA.—Data in the Federal Parent Locator Service, and data resulting from matches performed pursuant to this section, shall be retained for such period (determined by the Secretary) as appropriate for the data uses specified in this section.

''(n) INFORMATION INTEGRITY AND SECURITY.—The Secretary shall establish and implement safeguards with respect to the entities established under this section designed to—

''(1) ensure the accuracy and completeness of information in the Federal Parent Locator Service; and

''(2) restrict access to confidential information in the Federal Parent Locator Service to authorized persons, and restrict use of such information to authorized purposes.

''(o) LIMIT ON LIABILITY.—The Secretary shall not be liable to either a State or an individual for inaccurate information provided to a component of the Federal Parent Locator Service and disclosed by the Secretary in accordance with this section.''.

(g) CONFORMING AMENDMENTS.—

(1) TO PART D OF TITLE IV OF THE SOCIAL SECURITY ACT.—Section 454(8)(B) (42 U.S.C. 654(8)(B)) is amended to read as follows:

''(B) the Federal Parent Locator Service established under section 453;''.

(2) TO FEDERAL UNEMPLOYMENT TAX ACT.—Section 3304(16) of the Internal Revenue Code of 1986 (relating to approval of State laws) is amended—

(A) by striking ''Secretary of Health, Education, and Welfare'' each place it appears and inserting ''Secretary of Health and Human Services'';

(B) in subparagraph (B), by striking ''such information'' and all that follows through the semicolon and inserting ''information furnished under subparagraph (A) or (B) is used only for the purposes authorized under such subparagraph;'';

(C) by striking ''and'' at the end of subparagraph (A);

(D) by redesignating subparagraph (B) as subparagraph (C); and

(E) by inserting after subparagraph (A) the following new subparagraph:

''(B) wage and unemployment compensation information contained in the records of such agency shall be furnished to the Secretary of Health and Human Services (in accordance with regulations promulgated by such Secretary) as necessary for the purposes of the directory of New Hires established under section 453(i) of the Social Security Act, and''.

(3) TO STATE GRANT PROGRAM UNDER TITLE III OF THE SOCIAL SECURITY ACT.—Section 303(a) (42 U.S.C. 503(a)) is amended—

(A) by striking ''and'' at the end of paragraph (8);

(B) by striking the period at the end of paragraph (9) and inserting ''; and''; and

(C) by adding after paragraph (9) the following new paragraph:

''(10) The making of quarterly electronic reports, at such dates, in such format, and containing such information, as required by the Secretary under section 453(i)(3), and compliance with such provisions as such Secretary may find necessary to ensure the correctness and verification of such reports.''.

SEC. 126. USE OF SOCIAL SECURITY NUMBERS.

(a) STATE LAW REQUIREMENT.—Section 466(a) (42 U.S.C. 666(a)), as amended by section 101(a), is amended by adding at the end the following new paragraph:

''(13) Procedures requiring the recording of social security numbers—

''(A) of both parties on marriage licenses and divorce decrees;

''(B) of both parents, on birth records and child support and paternity orders; and

''(C) on all applications for motor vehicle licenses and professional licenses.''.

(b) CLARIFICATION OF FEDERAL POLICY.—Section 205(c)(2)(C)(ii) (42 U.S.C. 405(c)(2)(C)(ii)) is amended by striking the third sentence and inserting ''This clause shall not be considered to authorize disclosure of such numbers except as provided in the preceding sentence.''.

Subtitle D—Streamlining and Uniformity of Procedures

SEC. 131. ADOPTION OF UNIFORM STATE LAWS.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 101(a) and 126(a), is amended by adding at the end the following new paragraph:

''(14)(A) Procedures under which the State adopts in its entirety (with the modifications and additions specified in this paragraph) not later than January 1, 1997, and uses on and after such date, the Uniform Interstate Family Support Act, as approved by the National Conference of Commissioners on Uniform State Laws in August 1992.

''(B) The State law adopted pursuant to subparagraph (A) shall be applied to any case—

''(i) involving an order established or modified in one State and for which a subsequent modification is sought in another State; or

''(ii) in which interstate activity is required to enforce an order.

''(C) The State law adopted pursuant to subparagraph (A) of this paragraph shall contain the following provision in lieu of section 611(a)(1) of the Uniform Interstate Family Support Act described in such subparagraph (A):

'' '(1) the following requirements are met:

'' '(i) the child, the individual obligee, and the obligor—

'' '(I) do not reside in the issuing State; and

'' '(II) either reside in this State or are subject to the jurisdiction of this State pursuant to section 201; and

'' '(ii) in any case where another State is exercising or seeks to exercise jurisdiction to modify the order, the conditions of section 204 are met to the same extent as required for proceedings to establish orders; or'.

''(D) The State law adopted pursuant to subparagraph (A) shall recognize as valid, for purposes of any proceeding subject to such State law, service of process upon persons in the State (and proof of such service) by any means acceptable in another State which is the initiating or responding State in such proceeding.''.

SEC. 132. IMPROVEMENTS TO FULL FAITH AND CREDIT FOR CHILD SUPPORT ORDERS.

Section 1738B of title 28, United States Code, is amended—

(1) in subsection (a)(2), by striking ''subsection (e)'' and inserting ''subsections (e), (f), and (i)'';

(2) in subsection (b), by inserting after the first undesignated paragraph the following:

'' 'child's home State' means the State in which a child lived with a parent or a person acting as parent for at least 6 consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than 6 months old, the State in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the 6-month period.'';

(3) in subsection (c), by inserting ''by a court of a State'' before ''is made'';

(4) in subsection (c)(1), by inserting ''and subsections (e), (f), and (g)'' after ''located'';

(5) in subsection (d)—

(A) by inserting ''individual'' before ''contestant''; and

(B) by striking ''subsection (e)'' and inserting ''subsections (e) and (f)'';

(6) in subsection (e), by striking ''make a modification of a child support order with respect to a child that is made'' and inserting ''modify a child support order issued'';

(7) in subsection (e)(1), by inserting ''pursuant to subsection (i)'' before the semicolon;

(8) in subsection (e)(2)—

(A) by inserting ''individual'' before ''contestant'' each place such term appears; and

(B) by striking ''to that court's making the modification and assuming'' and inserting ''with the State of continuing, exclusive jurisdiction for a court of another State to modify the order and assume'';

(9) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively;

(10) by inserting after subsection (e) the following new subsection:

''(f) RECOGNITION OF CHILD SUPPORT ORDERS.—If 1 or more child support orders have been issued in this or another State with regard to an obligor and a child, a court shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction and enforcement:

''(1) If only 1 court has issued a child support order, the order of that court must be recognized.

''(2) If 2 or more courts have issued child support orders for the same obligor and child, and only 1 of the courts would have continuing, exclusive jurisdiction under this section, the order of that court must be recognized.

''(3) If 2 or more courts have issued child support orders for the same obligor and child, and only 1 of the courts would have continuing, exclusive jurisdiction under this section, an order issued by a court in the current home State of the child must be recognized, but if an order has not been issued in the current home State of the child, the order most recently issued must be recognized.

''(4) If 2 or more courts have issued child support orders for the same obligor and child, and none of the courts would have continuing, exclusive jurisdiction under this section, a court may issue a child support order, which must be recognized.

''(5) The court that has issued an order recognized under this subsection is the court having continuing, exclusive jurisdiction.'';

(11) in subsection (g) (as so redesignated)—

(A) by striking ''PRIOR'' and inserting ''MODIFIED''; and

(B) by striking ''subsection (e)'' and inserting ''subsections (e) and (f)'';

(12) in subsection (h) (as so redesignated)—

(A) in paragraph (2), by inserting ''including the duration of current payments and other obligations of support'' before the comma; and

(B) in paragraph (3), by inserting ''arrears under'' after ''enforce''; and

(13) by adding at the end the following new subsection:

''(i) REGISTRATION FOR MODIFICATION.—If there is no individual contestant or child residing in the issuing State, the party or support enforcement agency seeking to modify, or to modify and enforce, a child support order issued in another State shall register that order in a State with jurisdiction over the nonmovant for the purpose of modification.''.

SEC. 133. STATE LAWS PROVIDING EXPEDITED PROCEDURES.

(a) STATE LAW REQUIREMENTS.—Section 466 (42 U.S.C. 666), as amended by section 123(b), is amended—

(1) in subsection (a)(2), in the first sentence, to read as follows: ''Expedited administrative and judicial procedures (including the procedures specified in subsection (c)) for establishing paternity and for establishing, modifying, and enforcing support obligations.''; and

(2) by adding after subsection (b) the following new subsection:

''(c) The procedures specified in this subsection are the following:

''(1) Procedures which give the State agency the authority (and recognize and enforce the authority of State agencies of other States), without the necessity of obtaining an order from any other judicial or administrative tribunal (but subject to due process safeguards, including (as appropriate) requirements for notice, opportunity to contest the action, and opportunity for an appeal on the record to an independent administrative or judicial tribunal), to take the following actions relating to establishment or enforcement of orders:

''(A) To order genetic testing for the purpose of paternity establishment as provided in section 466(a)(5).

''(B) To enter a default order, upon a showing of service of process and any additional showing required by State law—

''(i) establishing paternity, in the case of any putative father who refuses to submit to genetic testing; and

''(ii) establishing or modifying a support obligation, in the case of a parent (or other obligor or obligee) who fails to respond to notice to appear at a proceeding for such purpose.

''(C) To subpoena any financial or other information needed to establish, modify, or enforce an order, and to sanction failure to respond to any such subpoena.

''(D) To require all entities in the State (including for-profit, nonprofit, and governmental employers) to provide promptly, in response to a request by the State agency of that or any other State administering a program under this part, information on the employment, compensation, and benefits of any individual employed by such entity as an employee or contractor, and to sanction failure to respond to any such request.

''(E) To obtain access, subject to safeguards on privacy and information security, to the following records (including automated access, in the case of records maintained in automated data bases):

''(i) Records of other State and local government agencies, including—

''(I) vital statistics (including records of marriage, birth, and divorce);

''(II) State and local tax and revenue records (including information on residence address, employer, income and assets);

''(III) records concerning real and titled personal property;

''(IV) records of occupational and professional licenses, and records concerning the ownership and control of corporations, partnerships, and other business entities;

''(V) employment security records;

''(VI) records of agencies administering public assistance programs;

''(VII) records of the motor vehicle department; and

''(VIII) corrections records.

''(ii) Certain records held by private entities, including—

''(I) customer records of public utilities and cable television companies; and

''(II) information (including information on assets and liabilities) on individuals who owe or are owed support (or against or with respect to whom a support obligation is sought) held by financial institutions (subject to limitations on liability of such entities arising from affording such access).

''(F) To order income withholding in accordance with subsection (a)(1) and (b) of section 466.

''(G) In cases where support is subject to an assignment under section 402(a)(26), 471(a)(17), or 1912, or to a requirement to pay through the centralized collections unit under section 454B) upon providing notice to obligor and obligee, to direct the obligor or other payor to change the payee to the appropriate government entity.

''(H) For the purpose of securing overdue support—

''(i) to intercept and seize any periodic or lump-sum payment to the obligor by or through a State or local government agency, including—

''(I) unemployment compensation, workers' compensation, and other benefits;

''(II) judgments and settlements in cases under the jurisdiction of the State or local government; and

''(III) lottery winnings;

''(ii) to attach and seize assets of the obligor held by financial institutions;

''(iii) to attach public and private retirement funds in appropriate cases, as determined by the Secretary; and

''(iv) to impose liens in accordance with paragraph (a)(4) and, in appropriate cases, to force sale of property and distribution of proceeds.

''(I) For the purpose of securing overdue support, to increase the amount of monthly support payments to include amounts for arrearages (subject to such conditions or restrictions as the State may provide).

''(J) To suspend drivers' licenses of individuals owing past-due support, in accordance with subsection (a)(16).

''(2) The expedited procedures required under subsection (a)(2) shall include the following rules and authority, applicable with respect to all proceedings to establish paternity or to establish, modify, or enforce support orders:

''(A) Procedures under which—

''(i) the parties to any paternity or child support proceedings are required (subject to privacy safeguards) to file with the tribunal before entry of an order, and to update as appropriate, information on location and identity (including social security number, residential and mailing addresses, telephone number, driver's license number, and name, address, and telephone number of employer); and

''(ii) in any subsequent child support enforcement action between the same parties, the tribunal shall be authorized, upon sufficient showing that diligent effort has been made to ascertain such party's current location, to deem due process requirements for notice and service of process to be met, with respect to such party, by delivery to the most recent residential or employer address so filed pursuant to clause (i).

''(B) Procedures under which—

''(i) the State agency and any administrative or judicial tribunal with authority to hear child support and paternity cases exerts statewide jurisdiction over the parties, and orders issued in such cases have statewide effect; and

''(ii) in the case of a State in which orders in such cases are issued by local jurisdictions, a case may be transferred between jurisdictions in the State without need for any additional filing by the petitioner, or service of process upon the respondent, to retain jurisdiction over the parties.''.

(c) EXCEPTIONS FROM STATE LAW REQUIREMENTS.—Section 466(d) (42 U.S.C. 666(d)) is amended—

(1) by striking ''(d) If'' and inserting ''(d)(1) Subject to paragraph (2), if''; and

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

''(2) The Secretary shall not grant an exemption from the requirements of—

''(A) subsection (a)(5) (concerning procedures for paternity establishment);

''(B) subsection (a)(10) (concerning modification of orders);

''(C) subsection (a)(12) (concerning recording of orders in the central State case registry);

''(D) subsection (a)(13) (concerning recording of social security numbers);

''(E) subsection (a)(14) (concerning interstate enforcement); or

''(F) subsection (c) (concerning expedited procedures), other than paragraph (1)(A) thereof (concerning establishment or modification of support amount).''.

(c) AUTOMATION OF STATE AGENCY FUNCTIONS.—Section 454A, as added by section

115(a)(2) and as amended by sections 121 and 122(c), is amended by adding at the end the following new subsection:

''(h) EXPEDITED ADMINISTRATIVE PROCEDURES.—The automated system required under this section shall be used, to the maximum extent feasible, to implement any expedited administrative procedures required under section 466(c).''.

Subtitle E—Paternity Establishment

SEC. 141. STATE LAWS CONCERNING PATERNITY ESTABLISHMENT.

(a) STATE LAWS REQUIRED.—Section 466(a)(5) (42 U.S.C. 666(a)(5)) is amended—

(1) in subparagraph (B)—

(A) by striking ''(B)'' and inserting ''(B)(i)'';

(B) in clause (i), as redesignated, by inserting before the period '', where such request is supported by a sworn statement—

''(I) by such party alleging paternity setting forth facts establishing a reasonable possibility of the requisite sexual contact of the parties; or

''(II) by such party denying paternity setting forth facts establishing a reasonable possibility of the nonexistence of sexual contact of the parties;''; and

(C) by inserting after clause (i) (as redesignated) the following new clause:

''(ii) Procedures which require the State agency, in any case in which such agency orders genetic testing—

''(I) to pay the costs of such tests, subject to recoupment (where the State so elects) from the putative father if paternity is established; and

''(II) to obtain additional testing in any case where an original test result is disputed, upon request and advance payment by the disputing party.'';

(2) by striking subparagraphs (C), (D), (E), and (F) and inserting the following:

''(C)(i) Procedures for a simple civil process for voluntarily acknowledging paternity under which the State must provide that, before a mother and a putative father can sign an acknowledgment of paternity, the putative father and the mother must be given notice, orally, in writing, and in a language that each can understand, of the alternatives to, the legal consequences of, and the rights (including, if 1 parent is a minor, any rights afforded due to minority status) and responsibilities that arise from, signing the acknowledgment.

''(ii) Such procedures must include a hospital-based program for the voluntary acknowledgment of paternity focusing on the period immediately before or after the birth of a child.

''(iii) Such procedures must require the State agency responsible for maintaining birth records to offer voluntary paternity establishment services.

''(iv) The Secretary shall prescribe regulations governing voluntary paternity establishment services offered by hospitals and birth record agencies. The Secretary shall prescribe regulations specifying the types of other entities that may offer voluntary paternity establishment services, and governing the provision of such services, which shall include a requirement that such an entity must use the same notice provisions used by, the same materials used by, provide the personnel providing such services with the same training provided by, and evaluate the provision of such services in the same manner as, voluntary paternity establishment programs of hospitals and birth record agencies.

''(D)(i) Procedures under which a signed acknowledgment of paternity is considered a legal finding of paternity, subject to the right of any signatory to rescind the acknowledgment within 60 days.

''(ii)(I) Procedures under which, after the 60-day period referred to in clause (i), a signed acknowledgment of paternity may be challenged in court only on the basis of fraud, duress, or material mistake of fact, with the burden of proof upon the challenger, and under which the legal responsibilities (including child support obligations) of any signatory arising from the acknowledgment may not be suspended during the challenge, except for good cause shown.

''(II) Procedures under which, after the 60-day period referred to in clause (i), a minor who signs an acknowledgment of paternity other than in the presence of a parent or court-appointed guardian ad litem may rescind the acknowledgment in a judicial or administrative proceeding, until the earlier of—

''(aa) attaining the age of majority; or

''(bb) the date of the first judicial or administrative proceeding brought (after the signing) to establish a child support obligation, visitation rights, or custody rights with respect to the child whose paternity is the subject of the acknowledgment, and at which the minor is represented by a parent, guardian ad litem, or attorney.

''(E) Procedures under which no judicial or administrative proceedings are required or permitted to ratify an unchallenged acknowledgment of paternity.

''(F) Procedures requiring—

''(i) that the State admit into evidence, for purposes of establishing paternity, results of any genetic test that is—

''(I) of a type generally acknowledged, by accreditation bodies designated by the Secretary, as reliable evidence of paternity; and

''(II) performed by a laboratory approved by such an accreditation body;

''(ii) that any objection to genetic testing results must be made in writing not later than a specified number of days before any hearing at which such results may be introduced into evidence (or, at State option, not later than a specified number of days after receipt of such results); and

''(iii) that, if no objection is made, the test results are admissible as evidence of paternity without the need for foundation testimony or other proof of authenticity or accuracy.''; and

(3) by adding after subparagraph (H) the following new subparagraphs:

''(I) Procedures providing that the parties to an action to establish paternity are not entitled to a jury trial.

''(J) Procedures which require that a temporary order be issued, upon motion by a party, requiring the provision of child support pending an administrative or judicial determination of parentage, where there is clear and convincing evidence of paternity (on the basis of genetic tests or other evidence).

''(K) Procedures under which bills for pregnancy, childbirth, and genetic testing are admissible as evidence without requiring third-party foundation testimony, and shall constitute prima facie evidence of amounts incurred for such services and testing on behalf of the child.

''(L) At the option of the State, procedures under which the tribunal establishing paternity and support has discretion to waive rights to all or part of amounts owed to the State (but not to the mother) for costs related to pregnancy, childbirth, and genetic testing and for public assistance paid to the family where the father cooperates or acknowledges paternity before or after genetic testing.

''(M) Procedures ensuring that the putative father has a reasonable opportunity to initiate a paternity action.''.

(b) NATIONAL PATERNITY ACKNOWLEDGMENT AFFIDAVIT.—Section 452(a)(7) (42 U.S.C. 652(a)(7)) is amended by inserting '', and develop an affidavit to be used for the voluntary acknowledgment of paternity which shall include the social security number of each parent'' before the semicolon.

(c) TECHNICAL AMENDMENT.—Section 468 (42 U.S.C. 668) is amended by striking ''a simple civil process for voluntarily acknowledging paternity and''.

SEC. 142. OUTREACH FOR VOLUNTARY PATERNITY ESTABLISHMENT.

(a) STATE PLAN REQUIREMENT.—Section 454(23) (42 U.S.C. 654(23)) is amended—

(1) by striking ''(23)'' and inserting ''(23)(A)'';

(2) by inserting ''and'' after the semicolon; and

(3) by adding at the end the following new subparagraph:

''(B) publicize the availability and encourage the use of procedures for voluntary establishment of paternity and child support through a variety of means, which—

''(i) include distribution of written materials at health care facilities (including hospitals and clinics), and other locations such as schools;

''(ii) may include pre-natal programs to educate expectant couples on individual and joint rights and responsibilities with respect to paternity (and may require all expectant recipients of assistance under part A to participate in such pre-natal programs, as an element of cooperation with efforts to establish paternity and child support);

''(iii) include, with respect to each child discharged from a hospital after birth for whom paternity or child support has not been established, reasonable follow-up efforts, providing—

''(I) in the case of a child for whom paternity has not been established, information on the benefits of and procedures for establishing paternity; and

''(II) in the case of a child for whom paternity has been established but child support has not been established, information on the benefits of and procedures for establishing a child support order, and an application for child support services;''.

(b) ENHANCED FEDERAL MATCHING.—Section 455(a)(1)(C) (42 U.S.C. 655(a)(1)(C)) is amended—

(1) by inserting ''(i)'' before ''laboratory costs'', and

(2) by inserting before the semicolon '', and (ii) costs of outreach programs designed to encourage voluntary acknowledgment of paternity''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsection (a) shall become effective October 1, 1997.

(2) EXCEPTION.—The amendments made by subsection (b) shall be effective with respect to calendar quarters beginning on and after October 1, 1996.

Subtitle F—Establishment and Modification of Support Orders

SEC. 151. NATIONAL CHILD SUPPORT GUIDELINES COMMISSION.

(a) ESTABLISHMENT.—There is hereby established a commission to be known as the ''National Child Support Guidelines Commission'' (in this section referred to as the ''Commission'').

(b) GENERAL DUTIES.—

(1) IN GENERAL.—The Commission shall determine—

(A) whether it is appropriate to develop a national child support guideline for consideration by the Congress or for adoption by individual States; or

(B) based on a study of various guideline models, the benefits and deficiencies of such models, and any needed improvements.

(2) DEVELOPMENT OF MODELS.—If the Commission determines under paragraph (1)(A)

that a national child support guideline is needed or under paragraph (1)(B) that improvements to guideline models are needed, the Commission shall develop such national guideline or improvements.

(c) MATTERS FOR CONSIDERATION BY THE COMMISSION.—In making the recommendations concerning guidelines required under subsection (b), the Commission shall consider—

(1) the adequacy of State child support guidelines established pursuant to section 467;

(2) matters generally applicable to all support orders, including—

(A) the feasibility of adopting uniform terms in all child support orders;

(B) how to define income and under what circumstances income should be imputed; and

(C) tax treatment of child support payments;

(3) the appropriate treatment of cases in which either or both parents have financial obligations to more than 1 family, including the effect (if any) to be given to—

(A) the income of either parent's spouse; and

(B) the financial responsibilities of either parent for other children or stepchildren;

(4) the appropriate treatment of expenses for child care (including care of the children of either parent, and work-related or job-training-related child care);

(5) the appropriate treatment of expenses for health care (including uninsured health care) and other extraordinary expenses for children with special needs;

(6) the appropriate duration of support by 1 or both parents, including

(A) support (including shared support) for post-secondary or vocational education; and

(B) support for disabled adult children;

(7) procedures to automatically adjust child support orders periodically to address changed economic circumstances, including changes in the consumer price index or either parent's income and expenses in particular cases;

(8) procedures to help non-custodial parents address grievances regarding visitation and custody orders to prevent such parents from withholding child support payments until such grievances are resolved; and

(9) whether, or to what extent, support levels should be adjusted in cases in which custody is shared or in which the noncustodial parent has extended visitation rights.

(d) MEMBERSHIP.—

(1) NUMBER; APPOINTMENT.—

(A) IN GENERAL.—The Commission shall be composed of 12 individuals appointed jointly by the Secretary of Health and Human Services and the Congress, not later than January 15, 1997, of which—

(i) 2 shall be appointed by the Chairman of the Committee on Finance of the Senate, and 1 shall be appointed by the ranking minority member of the Committee;

(ii) 2 shall be appointed by the Chairman of the Committee on Ways and Means of the House of Representatives, and 1 shall be appointed by the ranking minority member of the Committee; and

(iii) 6 shall be appointed by the Secretary of Health and Human Services.

(B) QUALIFICATIONS OF MEMBERS.—Members of the Commission shall have expertise and experience in the evaluation and development of child support guidelines. At least 1 member shall represent advocacy groups for custodial parents, at least 1 member shall represent advocacy groups for noncustodial parents, and at least 1 member shall be the director of a State program under part D of title IV of the Social Security Act.

(2) TERMS OF OFFICE.—Each member shall be appointed for a term of 2 years. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(e) COMMISSION POWERS, COMPENSATION, ACCESS TO INFORMATION, AND SUPERVISION.—The first sentence of subparagraph (C), the first and third sentences of subparagraph (D), subparagraph (F) (except with respect to the conduct of medical studies), clauses (ii) and (iii) of subparagraph (G), and subparagraph (H) of section 1886(e)(6) of the Social Security Act shall apply to the Commission in the same manner in which such provisions apply to the Prospective Payment Assessment Commission.

(f) REPORT.—Not later than 2 years after the appointment of members, the Commission shall submit to the President, the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate, a recommended national child support guideline and a final assessment of issues relating to such a proposed national child support guideline.

(g) TERMINATION.—The Commission shall terminate 6 months after the submission of the report described in subsection (e).

SEC. 152. SIMPLIFIED PROCESS FOR REVIEW AND ADJUSTMENT OF CHILD SUPPORT ORDERS.

Section 466(a)(10) (42 U.S.C. 666(a)(10)) is amended to read as follows:

''(10)(A)(i) Procedures under which—

''(I) every 3 years, at the request of either parent subject to a child support order, the State shall review and, as appropriate, adjust the order in accordance with the guidelines established under section 467(a) if the amount of the child support award under the order differs from the amount that would be awarded in accordance with such guidelines, without a requirement for any other change in circumstances; and

''(II) upon request at any time of either parent subject to a child support order, the State shall review and, as appropriate, adjust the order in accordance with the guidelines established under section 467(a) based on a substantial change in the circumstances of either such parent.

''(ii) Such procedures shall require both parents subject to a child support order to be notified of their rights and responsibilities provided for under clause (i) at the time the order is issued and in the annual information exchange form provided under subparagraph (B).

''(B) Procedures under which each child support order issued or modified in the State after the effective date of this subparagraph shall require the parents subject to the order to provide each other with a complete statement of their respective financial condition annually on a form which shall be provided by the State. The Secretary shall establish regulations for the enforcement of such exchange of information.''.

Subtitle G—Enforcement of Support Orders

SEC. 161. FEDERAL INCOME TAX REFUND OFFSET.

(a) CHANGED ORDER OF REFUND DISTRIBUTION UNDER INTERNAL REVENUE CODE.—Section 6402(c) of the Internal Revenue Code of 1986 (relating to offset of past-due support against overpayments) is amended—

(1) by striking ''The amount'' and inserting ''(1) IN GENERAL.—The amount'';

(2) by striking ''paid to the State. A reduction'' and inserting ''paid to the State.

''(2) PRIORITIES FOR OFFSET.—A reduction'';

(3) by striking ''has been assigned'' and inserting ''has not been assigned''; and

(4) by striking ''and shall be applied'' and all that follows and inserting ''and shall thereafter be applied to satisfy any past-due support that has been so assigned.''.

(b) ELIMINATION OF DISPARITIES IN TREATMENT OF ASSIGNED AND NON-ASSIGNED ARREARAGES.—

(1) IN GENERAL.—Section 464(a) (42 U.S.C. 664(a)) is amended—

(A) in paragraph (1)—

(i) in the first sentence, by striking ''which has been assigned to such State pursuant to section 402(a)(26) or section 471(a)(17)''; and

(ii) in the second sentence, by striking ''in accordance with section 457 (b)(4) or (d)(3)'' and inserting ''as provided in paragraph (2)'';

(B) in paragraph (2), to read as follows:

''(2) The State agency shall distribute amounts paid by the Secretary of the Treasury pursuant to paragraph (1)—

''(A) in accordance with subsection (a)(4) or (d)(3) of section 457, in the case of past-due support assigned to a State pursuant to section 402(a)(26) or section 471(a)(17); and

''(B) to or on behalf of the child to whom the support was owed, in the case of past-due support not so assigned.'';

(C) in paragraph (3)—

(i) by striking ''or (2)'' each place it appears; and

(ii) in subparagraph (B), by striking ''under paragraph (2)'' and inserting ''on account of past-due support described in paragraph (2)(B)''.

(2) NOTICES OF PAST-DUE SUPPORT.—Section 464(b) (42 U.S.C. 664(b)) is amended—

(A) by striking ''(b)(1)'' and inserting ''(b)''; and

(B) by striking paragraph (2).

(3) DEFINITION OF PAST-DUE SUPPORT.—Section 464(c) (42 U.S.C. 664(c)) is amended—

(A) by striking ''(c)(1) Except as provided in paragraph (2), as'' and inserting ''(c) As''; and

(B) by striking paragraphs (2) and (3).

(c) TREATMENT OF LUMP-SUM TAX REFUND UNDER AFDC.—

(1) EXEMPTION FROM LUMP-SUM RULE.—Section 402(a)(17) (42 U.S.C. 602(a)(17)) is amended by inserting before the semicolon at the end the following: '', but this paragraph shall not apply to income received by a family that is attributable to a child support obligation owed with respect to a member of the family and that is paid to the family from amounts withheld from a Federal income tax refund otherwise payable to the person owing such obligation, to the extent that such income is placed in a qualified asset account (as defined in section 406(j)) the total amounts in which, after such placement, does not exceed $10,000''.

(2) QUALIFIED ASSET ACCOUNT DEFINED.—Section 406 (42 U.S.C. 606), as amended by section 102(g)(2), is amended by adding at the end the following new subsection:

''(j)(1) The term 'qualified asset account' means a mechanism approved by the State (such as individual retirement accounts, escrow accounts, or savings bonds) that allows savings of a family receiving aid to families with dependent children to be used for qualified distributions.

''(2) The term 'qualified distribution' means a distribution from a qualified asset account for expenses directly related to 1 or more of the following purposes:

''(A) The attendance of a member of the family at any education or training program.

''(B) The improvement of the employability (including self-employment) of a member of the family (such as through the purchase of an automobile).

''(C) The purchase of a home for the family.

''(D) A change of the family residence.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall become effective October 1, 1999.

SEC. 162. INTERNAL REVENUE SERVICE COLLECTION OF ARREARAGES.

(a) AMENDMENT TO INTERNAL REVENUE CODE.—Section 6305(a) of the Internal Revenue Code of 1986 (relating to collection of certain liability) is amended—

(1) in paragraph (1), by inserting ''except as provided in paragraph (5)'' after ''collected'';

(2) by striking ''and'' at the end of paragraph (3);

(3) by striking the period at the end of paragraph (4) and inserting '', and'';

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

''(5) no additional fee may be assessed for adjustments to an amount previously certified pursuant to such section 452(b) with respect to the same obligor.''; and

(5) by striking ''Secretary of Health, Education, and Welfare'' each place it appears and inserting ''Secretary of Health and Human Services''.

(b) EFFECTIVE DATE.—The amendments made by this section shall become effective October 1, 1997.

SEC. 163. AUTHORITY TO COLLECT SUPPORT FROM FEDERAL EMPLOYEES.

(a) CONSOLIDATION AND STREAMLINING OF AUTHORITIES.—

(1) Section 459 (42 U.S.C. 659) is amended—

(1) in the heading, by inserting ''INCOME WITHHOLDING,'' before ''GARNISHMENT'';

(2) in subsection (a)—

(A) by striking ''section 207'' and inserting ''section 207 and section 5301 of title 38, United States Code''; and

(B) by striking ''to legal process'' and all that follows through the period and inserting ''to withholding in accordance with State law pursuant to subsections (a)(1) and (b) of section 466 and regulations of the Secretary thereunder, and to any other legal process brought, by a State agency administering a program under this part or by an individual obligee, to enforce the legal obligation of such individual to provide child support or alimony.'';

(3) in subsection (b), to read as follows:

''(b) Except as otherwise provided herein, each entity specified in subsection (a) shall be subject, with respect to notice to withhold income pursuant to subsection (a)(1) or (b) of section 466, or to any other order or process to enforce support obligations against an individual (if such order or process contains or is accompanied by sufficient data to permit prompt identification of the individual and the moneys involved), to the same requirements as would apply if such entity were a private person.'';

(4) by striking subsections (c) and (d) and inserting the following new subsections:

''(c)(1) The head of each agency subject to the requirements of this section shall—

''(A) designate an agent or agents to receive orders and accept service of process; and

''(B) publish—

''(i) in the appendix of such regulations;

''(ii) in each subsequent republication of such regulations; and

''(iii) annually in the Federal Register,

the designation of such agent or agents, identified by title of position, mailing address, and telephone number.

''(2) Whenever an agent designated pursuant to paragraph (1) receives notice pursuant to subsection (a)(1) or (b) of section 466, or is effectively served with any order, process, or interrogatories, with respect to an individual's child support or alimony payment obligations, such agent shall—

''(A) as soon as possible (but not later than 15 days) thereafter, send written notice of such notice or service (together with a copy thereof) to such individual at his duty station or last-known home address;

''(B) not later than 30 days (or such longer period as may be prescribed by applicable State law) after receipt of a notice pursuant to subsection (a)(1) or (b) of section 466, comply with all applicable provisions of such section 466; and

''(C) not later than 30 days (or such longer period as may be prescribed by applicable State law) after effective service of any other such order, process, or interrogatories, respond thereto.

''(d) In the event that a governmental entity receives notice or is served with process, as provided in this section, concerning amounts owed by an individual to more than 1 person—

''(1) support collection under section 466(b) must be given priority over any other process, as provided in section 466(b)(7);

''(2) allocation of moneys due or payable to an individual among claimants under section 466(b) shall be governed by the provisions of such section 466(b) and regulations thereunder; and

''(3) such moneys as remain after compliance with subparagraphs (A) and (B) shall be available to satisfy any other such processes on a first-come, first-served basis, with any such process being satisfied out of such moneys as remain after the satisfaction of all such processes which have been previously served.'';

(5) in subsection (f)—

(A) by striking ''(f)'' and inserting ''(f)(1)''; and

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

''(2) No Federal employee whose duties include taking actions necessary to comply with the requirements of subsection (a) with regard to any individual shall be subject under any law to any disciplinary action or civil or criminal liability or penalty for, or on account of, any disclosure of information made by him in connection with the carrying out of such duties.''; and

(6) by adding at the end the following new subsections:

''(g) Authority to promulgate regulations for the implementation of the provisions of this section shall, insofar as the provisions of this section are applicable to moneys due from (or payable by)—

''(1) the executive branch of the Federal Government (including in such branch, for the purposes of this subsection, the territories and possessions of the United States, the United States Postal Service, the Postal Rate Commission, any wholly owned Federal corporation created by an Act of Congress, and the government of the District of Columbia), be vested in the President (or the President's designee);

''(2) the legislative branch of the Federal Government, be vested jointly in the President pro tempore of the Senate and the Speaker of the House of Representatives (or their designees); and

''(3) the judicial branch of the Federal Government, be vested in the Chief Justice of the United States (or the Chief Justice's designee).

''(h) Subject to subsection (i), moneys paid or payable to an individual which are considered to be based upon remuneration for employment, for purposes of this section—

''(1) consist of—

''(A) compensation paid or payable for personal services of such individual, whether such compensation is denominated as wages, salary, commission, bonus, pay, allowances, or otherwise (including severance pay, sick pay, and incentive pay);

''(B) periodic benefits (including a periodic benefit as defined in section 228(h)(3)) or other payments—

''(i) under the insurance system established by title II;

''(ii) under any other system or fund established by the United States which provides for the payment of pensions, retirement or retired pay, annuities, dependents' or survivors' benefits, or similar amounts payable on account of personal services performed by the individual or any other individual;

''(iii) as compensation for death under any Federal program;

''(iv) under any Federal program established to provide 'black lung' benefits; or

''(v) by the Secretary of Veterans Affairs as pension, or as compensation for a service-connected disability or death (except any compensation paid by such Secretary to a former member of the Armed Forces who is in receipt of retired or retainer pay if such former member has waived a portion of his retired pay in order to receive such compensation); and

''(C) worker's compensation benefits paid under Federal or State law; but

''(2) do not include any payment—

''(A) by way of reimbursement or otherwise, to defray expenses incurred by such individual in carrying out duties associated with his employment; or

''(B) as allowances for members of the uniformed services payable pursuant to chapter 7 of title 37, United States Code, as prescribed by the Secretaries concerned (defined by section 101(5) of such title) as necessary for the efficient performance of duty.

''(i) In determining the amount of any moneys due from, or payable by, the United States to any individual, there shall be excluded amounts which—

''(1) are owed by such individual to the United States;

''(2) are required by law to be, and are, deducted from the remuneration or other payment involved, including Federal employment taxes, and fines and forfeitures ordered by court-martial;

''(3) are properly withheld for Federal, State, or local income tax purposes, if the withholding of such amounts is authorized or required by law and if amounts withheld are not greater than would be the case if such individual claimed all the dependents that the individual was entitled to (the withholding of additional amounts pursuant to section 3402(i) of the Internal Revenue Code of 1986 may be permitted only when such individual presents evidence of a tax obligation which supports the additional withholding);

''(4) are deducted as health insurance premiums;

''(5) are deducted as normal retirement contributions (not including amounts deducted for supplementary coverage); or

''(6) are deducted as normal life insurance premiums from salary or other remuneration for employment (not including amounts deducted for supplementary coverage).

''(j) For purposes of this section—''.

(b) TRANSFER OF SUBSECTIONS.—Subsections (a) through (e) of section 462 (42 U.S.C. 662), are transferred and redesignated as paragraphs (1) through (4), respectively of section 459(j) (as added by subsection (a)(6)), and the left margin of each of such paragraphs (1) through (4) is indented 2 ems to the right of the left margin of subsection (j) (as added by subsection (a)(6)).

(c) CONFORMING AMENDMENTS.—

(1) TO PART D OF TITLE IV.—Sections 461 and 462 (42 U.S.C. 661) are repealed.

(2) TO TITLE 5, UNITED STATES CODE.—Section 5520a of title 5, United States Code, is amended, in subsections (h)(2) and (i), by striking ''sections 459, 461, and 462 of the Social Security Act (42 U.S.C. 659, 661, and 662)'' each place it appears and inserting ''section 459 of the Social Security Act (42 U.S.C. 659)''.

(d) MILITARY RETIRED AND RETAINER PAY.—Section 1408(a)(1) of title 10, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by striking ''and'';

(B) in subparagraph (C), by striking the period and inserting ''; and''; and

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

''(D) any administrative or judicial tribunal of a State competent to enter orders for support or maintenance (including a State agency administering a State program under part D of title IV of the Social Security Act).'';

(2) in paragraph (2), by inserting ''or a court order for the payment of child support not included in or accompanied by such a decree or settlement,'' before ''which—'';

(3) in subsection (d)—

(A) in the heading, by inserting ''(OR FOR BENEFIT OF)'' after ''CONCERNED''; and

(B) in paragraph (1), in the first sentence, by inserting ''(or for the benefit of such spouse or former spouse to a State central collections unit or other public payee designated by a State, in accordance with part D of title IV of the Social Security Act, as directed by court order, or as otherwise directed in accordance with such part D)'' before ''in an amount sufficient''; and

(4) by adding at the end the following new subsection:

''(j) RELATIONSHIP TO OTHER LAWS.—In any case involving a child support order against a member who has never been married to the other parent of the child, the provisions of this section shall not apply, and the case shall be subject to the provisions of section 459 of the Social Security Act.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall become effective 6 months after the date of the enactment of this Act.

SEC. 164. ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS OF MEMBERS OF THE ARMED FORCES.

(a) AVAILABILITY OF LOCATOR INFORMATION.—

(1) MAINTENANCE OF ADDRESS INFORMATION.—The Secretary of Defense shall establish a centralized personnel locator service that includes the address of each member of the Armed Forces under the jurisdiction of the Secretary. Upon request of the Secretary of Transportation, addresses for members of the Coast Guard shall be included in the centralized personnel locator service.

(2) TYPE OF ADDRESS.—

(A) RESIDENTIAL ADDRESS.—Except as provided in subparagraph (B), the address for a member of the Armed Forces shown in the locator service shall be the residential address of that member.

(B) DUTY ADDRESS.—The address for a member of the Armed Forces shown in the locator service shall be the duty address of that member in the case of a member—

(i) who is permanently assigned overseas, to a vessel, or to a routinely deployable unit; or

(ii) with respect to whom the Secretary concerned makes a determination that the member's residential address should not be disclosed due to national security or safety concerns.

(3) UPDATING OF LOCATOR INFORMATION.—Not later than 30 days after a member listed in the locator service establishes a new residential address (or a new duty address, in the case of a member covered by paragraph (2)(B)), the Secretary concerned shall update the locator service to indicate the new address of the member.

(4) AVAILABILITY OF INFORMATION.—The Secretary of Defense shall make information regarding the address of a member of the Armed Forces listed in the locator service available, on request, to the Federal Parent Locator Service.

(b) FACILITATING GRANTING OF LEAVE FOR ATTENDANCE AT HEARINGS.—

(1) REGULATIONS.—The Secretary of each military department, and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, shall prescribe regulations to facilitate the granting of leave to a member of the Armed Forces under the jurisdiction of that Secretary in a case in which—

(A) the leave is needed for the member to attend a hearing described in paragraph (2);

(B) the member is not serving in or with a unit deployed in a contingency operation (as defined in section 101 of title 10, United States Code); and

(C) the exigencies of military service (as determined by the Secretary concerned) do not otherwise require that such leave not be granted.

(2) COVERED HEARINGS.—Paragraph (1) applies to a hearing that is conducted by a court or pursuant to an administrative process established under State law, in connection with a civil action—

(A) to determine whether a member of the Armed Forces is a natural parent of a child; or

(B) to determine an obligation of a member of the Armed Forces to provide child support.

(3) DEFINITIONS.—For purposes of this subsection:

(A) The term ''court'' has the meaning given that term in section 1408(a) of title 10, United States Code.

(B) The term ''child support'' has the meaning given such term in section 462 of the Social Security Act (42 U.S.C. 662).

(c) PAYMENT OF MILITARY RETIRED PAY IN COMPLIANCE WITH CHILD SUPPORT ORDERS.—Section 1408 of title 10, United States Code, as amended by section 163(d)(4), is amended—

(1) by redesignating subsections (i) and (j) as subsections (j) and (k), respectively;

(2) by inserting after subsection (h) the following new subsection:

''(i) CERTIFICATION DATE.—It is not necessary that the date of a certification of the authenticity or completeness of a copy of a court order or an order of an administrative process established under State law for child support received by the Secretary concerned for the purposes of this section be recent in relation to the date of receipt by the Secretary.''; and

(3) in subsection (d)—

(A) in paragraph (1), by inserting after the first sentence the following: ''In the case of a spouse or former spouse who, pursuant to section 402(a)(26) of the Social Security Act (42 U.S.C. 602(26)), assigns to a State the rights of the spouse or former spouse to receive support, the Secretary concerned may make the child support payments referred to in the preceding sentence to that State in amounts consistent with that assignment of rights.''; and

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

''(6) In the case of a court order or an order of an administrative process established under State law for which effective service is made on the Secretary concerned on or after the date of the enactment of this paragraph and which provides for payments from the disposable retired pay of a member to satisfy the amount of child support set forth in the order, the authority provided in paragraph (1) to make payments from the disposable retired pay of a member to satisfy the amount of child support set forth in a court order or an order of an administrative process established under State law shall apply to payment of any amount of child support arrearages set forth in that order as well as to amounts of child support that currently become due.''.

SEC. 165. MOTOR VEHICLE LIENS.

Section 466(a)(4) (42 U.S.C. 666(a)(4)) is amended—

(1) by striking ''(4)'' and inserting ''(4)(A)''; and

(2) by adding at the end the following new subparagraph:

''(B) Procedures for placing liens for arrearages of child support on motor vehicle titles of individuals owing such arrearages equal to or exceeding 1 month of support (or other minimum amount set by the State), under which—

''(i) any person owed such arrearages may place such a lien;

''(ii) the State agency administering the program under this part shall systematically place such liens;

''(iii) expedited methods are provided for—

''(I) ascertaining the amount of arrears;

''(II) affording the person owing the arrears or other titleholder to contest the amount of arrears or to obtain a release upon fulfilling the support obligation;

''(iv) such a lien has precedence over all other encumbrances on a vehicle title other than a purchase money security interest; and

''(v) the individual or State agency owed the arrears may execute on, seize, and sell the property in accordance with State law.''.

SEC. 166. VOIDING OF FRAUDULENT TRANSFERS.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 101(a), 126(a), and 131, is amended by adding at the end the following new paragraph:

''(15) Procedures under which—

''(A) the State has in effect—

''(i) the Uniform Fraudulent Conveyance Act of 1981,

''(ii) the Uniform Fraudulent Transfer Act of 1984, or

''(iii) another law, specifying indicia of fraud which create a prima facie case that a debtor transferred income or property to avoid payment to a child support creditor, which the Secretary finds affords comparable rights to child support creditors; and

''(B) in any case in which the State knows of a transfer by a child support debtor with respect to which such a prima facie case is established, the State must—

''(i) seek to void such transfer; or

''(ii) obtain a settlement in the best interests of the child support creditor.''.

SEC. 167. STATE LAW AUTHORIZING SUSPENSION OF LICENSES.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 101(a), 126(a), 131, and 166, is amended by adding at the end the following new paragraph:

''(16) Procedures under which the State has (and uses in appropriate cases) authority (subject to appropriate due process safeguards) to withhold or suspend, or to restrict the use of driver's licenses, professional and occupational licenses, and recreational licenses of individuals owing overdue child support or failing, after receiving appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings.''.

SEC. 168. REPORTING ARREARAGES TO CREDIT BUREAUS.

Section 466(a)(7) (42 U.S.C. 666(a)(7)) is amended to read as follows:

''(7)(A) Procedures (subject to safeguards pursuant to subparagraph (B)) requiring the State to report periodically to consumer reporting agencies (as defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) the name of any absent parent who is delinquent in the payment of support, and the amount of overdue support owed by such parent.

''(B) Procedures ensuring that, in carrying out subparagraph (A), information with respect to an absent parent is reported—

''(i) only after such parent has been afforded all due process required under State law, including notice and a reasonable opportunity to contest the accuracy of such information; and

''(ii) only to an entity that has furnished evidence satisfactory to the State that the entity is a consumer reporting agency.''.

SEC. 169. EXTENDED STATUTE OF LIMITATION FOR COLLECTION OF ARREARAGES.

(a) IN GENERAL.—Section 466(a)(9) (42 U.S.C. 666(a)(9)) is amended—

(1) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively;

(2) by striking ''(9)'' and inserting ''(9)(A)''; and

(3) by adding at the end the following new subparagraph:

''(B) Procedures under which the statute of limitations on any arrearages of child support extends at least until the child owed such support is 30 years of age.''.

(b) APPLICATION OF REQUIREMENT.—The amendment made by this section shall not be interpreted to require any State law to revive any payment obligation which had lapsed prior to the effective date of such State law.

SEC. 170. CHARGES FOR ARREARAGES.

(a) STATE LAW REQUIREMENT.—Section 466(a) (42 U.S.C. 666(a)), as amended by sections 101(a), 126(a), 131, 166, and 167, is amended by adding at the end the following new paragraph:

''(17) Procedures providing for the calculation and collection of interest or penalties for arrearages of child support, and for distribution of such interest or penalties collected for the benefit of the child (except where the right to support has been assigned to the State).''.

(b) REGULATIONS.—The Secretary of Health and Human Services shall establish by regulation a rule to resolve choice of law conflicts arising in the implementation of the amendment made by subsection (a).

(c) CONFORMING AMENDMENT.—Section 454(21) (42 U.S.C. 654(21)) is repealed.

(d) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to arrearages accruing on or after October 1, 1998.

SEC. 171. DENIAL OF PASSPORTS FOR NON-PAYMENT OF CHILD SUPPORT.

(a) HHS CERTIFICATION PROCEDURE.—

(1) SECRETARIAL RESPONSIBILITY.—Section 452 (42 U.S.C. 652), as amended by sections 115(a)(3) and 117, is amended by adding at the end the following new subsection:

''(l)(1) If the Secretary receives a certification by a State agency in accordance with the requirements of section 454(28) that an individual owes arrearages of child support in an amount exceeding $5,000 or in an amount exceeding 24 months' worth of child support, the Secretary shall transmit such certification to the Secretary of State for action (with respect to denial, revocation, or limitation of passports) pursuant to section 171(b) of the Interstate Child Support Responsibility Act of 1995.

''(2) The Secretary shall not be liable to an individual for any action with respect to a certification by a State agency under this section.''.

(2) STATE CSE AGENCY RESPONSIBILITY.—Section 454 (42 U.S.C. 654), as amended by sections 104(a), 114(b), and 122(a), is amended—

(A) by striking ''and'' at the end of paragraph (26);

(B) by striking the period at the end of paragraph (27) and inserting ''; and''; and

(C) by adding after paragraph (27) the following new paragraph:

''(28) provide that the State agency will have in effect a procedure (which may be combined with the procedure for tax refund offset under section 464) for certifying to the Secretary, for purposes of the procedure under section 452(*l*) (concerning denial of passports) determinations that individuals owe arrearages of child support in an amount exceeding $5,000 or in an amount exceeding 24 months' worth of child support, under which procedure—

''(A) each individual concerned is afforded notice of such determination and the consequences thereof, and an opportunity to contest the determination; and

''(B) the certification by the State agency is furnished to the Secretary in such format, and accompanied by such supporting documentation, as the Secretary may require.''.

(b) STATE DEPARTMENT PROCEDURE FOR DENIAL OF PASSPORTS.—

(1) IN GENERAL.—The Secretary of State, upon certification by the Secretary of Health and Human Services, in accordance with section 452(*l*) of the Social Security Act, that an individual owes arrearages of child support in excess of $5,000, shall refuse to issue a passport to such individual, and may revoke, restrict, or limit a passport issued previously to such individual.

(2) LIMIT ON LIABILITY.—The Secretary of State shall not be liable to an individual for any action with respect to a certification by a State agency under this section.

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall become effective October 1, 1996.

SEC. 172. INTERNATIONAL CHILD SUPPORT ENFORCEMENT.

(a) SENSE OF THE CONGRESS THAT THE UNITED STATES SHOULD RATIFY THE UNITED NATIONS CONVENTION OF 1956.—It is the sense of the Congress that the United States should ratify the United Nations Convention of 1956.

(b) TREATMENT OF INTERNATIONAL CHILD SUPPORT CASES AS INTERSTATE CASES.—Section 454 (42 U.S.C. 654), as amended by sections 104(a), 114(b), 122(a), and 171(a)(2) of this Act, is amended—

(1) by striking ''and'' at the end of paragraph (27);

(2) by striking the period at the end of paragraph (28) and inserting ''; and''; and

(3) by inserting after paragraph (28) the following new paragraph:

''(29) provide that the State must treat international child support cases in the same manner as the State treats interstate child support cases under the plan.''.

Subtitle H—Medical Support

SEC. 181. TECHNICAL CORRECTION TO ERISA DEFINITION OF MEDICAL CHILD SUPPORT ORDER.

(a) IN GENERAL.—Section 609(a)(2)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(a)(2)(B)) is amended—

(1) by striking ''issued by a court of competent jurisdiction'';

(2) in clause (ii) by striking the period and inserting a comma; and

(3) by adding after clause (ii), the following flush left language:

''if such judgment, decree, or order (I) is issued by a court of competent jurisdiction or (II) is issued by an administrative adjudicator and has the force and effect of law under applicable State law.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall become effective on the date of the enactment of this Act.

(2) PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1996.—

(A) IN GENERAL.—Any amendment to a plan required to be made by an amendment made by this section shall not be required to be made before the first plan year beginning on or after January 1, 1996, if—

(i) during the period after the date before the date of the enactment of this Act and before such first plan year, the plan is operated in accordance with the requirements of the amendments made by this section; and

(ii) such plan amendment applies retroactively to the period after the date before the date of the enactment of this Act and before such first plan year.

(B) NO FAILURE FOR COMPLIANCE WITH THIS PARAGRAPH.—A plan shall not be treated as failing to be operated in accordance with the provisions of the plan merely because it operates in accordance with this paragraph.

Subtitle I—Access and Visitation Programs

SEC. 191. GRANTS TO STATES FOR ACCESS AND VISITATION PROGRAMS.

(a) IN GENERAL.—Part D of title IV is amended by adding at the end the following new section:

''GRANTS TO STATES FOR ACCESS AND VISITATION PROGRAMS

''SEC. 469A. (a) PURPOSES; AUTHORIZATION OF APPROPRIATIONS.—For purposes of enabling States to establish and administer programs to support and facilitate absent parents' access to and visitation of their children, by means of activities including mediation (both voluntary and mandatory), counseling, education, development of parenting plans, visitation enforcement (including monitoring, supervision, and neutral drop-off and pickup), and development of guidelines for visitation and alternative custody arrangements, there are authorized to be appropriated $5,000,000 for each of fiscal years 1996 and 1997, and $10,000,000 for each succeeding fiscal year.

''(b) PAYMENTS TO STATES.—

''(1) IN GENERAL.—Each State shall be entitled to payment under this section for each fiscal year in an amount equal to its allotment under subsection (c) for such fiscal year, to be used for payment of 90 percent of State expenditures for the purposes specified in subsection (a).

''(2) SUPPLEMENTARY USE.—Payments under this section shall be used by a State to supplement (and not to substitute for) expenditures by the State, for activities specified in subsection (a), at a level at least equal to the level of such expenditures for fiscal year 1994.

''(c) ALLOTMENTS TO STATES.—

''(1) IN GENERAL.—For purposes of subsection (b), each State shall be entitled (subject to paragraph (2)) to an amount for each fiscal year bearing the same ratio to the amount authorized to be appropriated pursuant to subsection (a) for such fiscal year as the number of children in the State living with only 1 biological parent bears to the total number of such children in all States.

''(2) MINIMUM ALLOTMENT.—Allotments to States under paragraph (1) shall be adjusted as necessary to ensure that no State is allotted less than $50,000 for fiscal year 1996 or 1997, or $100,000 for any succeeding fiscal year.

''(d) FEDERAL ADMINISTRATION.—The program under this section shall be administered by the Administration for Children and Families.

''(e) STATE PROGRAM ADMINISTRATION.—

''(1) IN GENERAL.—Each State may administer the program under this section directly or through grants to or contracts with courts, local public agencies, or non-profit private entities.

''(2) STATEWIDE PLAN PERMISSIBLE.—State programs under this section may, but need not, be statewide.

''(3) EVALUATION.—States administering programs under this section shall monitor, evaluate, and report on such programs in accordance with requirements established by the Secretary.''.

TITLE II—EFFECT OF ENACTMENT

SEC. 201. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise specifically provided (but subject to subsections (b) and (c))—

(1) provisions of title I requiring enactment or amendment of State laws under section 466 of the Social Security Act, or revision of State plans under section 454 of such Act, shall be effective with respect to periods beginning on and after October 1, 1996; and

(2) all other provisions of title I shall become effective upon the date of the enactment of this Act.

(b) GRACE PERIOD FOR STATE LAW CHANGES.—The provisions of title I shall become effective with respect to a State on the later of—

(1) the date specified in title I, or

(2) the effective date of laws enacted by the legislature of such State implementing such provisions,

but in no event later than the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(c) GRACE PERIOD FOR STATE CONSTITUTIONAL AMENDMENT.—A State shall not be found out of compliance with any requirement enacted by title I if it is unable to comply without amending the State constitution until the earlier of—

(1) the date which is 1 year after the effective date of the necessary State constitutional amendment, or

(2) the date which is 5 years after the date of the enactment of this Act.

SEC. 202. SEVERABILITY.

If any provision of title I or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of title I which can be given effect without regard to the invalid provision or application, and to this end the provisions of title I shall be severable.

INTERSTATE CHILD SUPPORT RESPONSIBILITY ACT OF 1995—BILL SUMMARY

The Interstate Child Support Responsibility Act of 1995 is a comprehensive effort to repair the state-based system of child support. It would establish uniform procedures among states; create state and national databases to locate absent parents and garnish the wages of parents who owe child support; improve paternity establishment; and make it easier to modify child support orders as necessary.

The legislation is based on recommendations of the U.S. Commission on Interstate Child Support Enforcement, the Office of Child Support Enforcement at HHS, and child support administrators from many states. Its provisions are comparable to those of S. 689 in the 103d Congress (the Bradley bill) and the child support section of S. 2224, the Work and Family Responsibility Act, updated to account for more recent innovations in enforcement at the state level. It also parallels H.R. 785, with exceptions as noted below.

STATE UNIFORMITY

States would be required to adopt the Uniform Interstate Family Support Act (UIFSA) in its entirety. This model legislation, already adopted by 20 states, sets a framework for determining jurisdiction of interstate cases, and governs the relationship among states.

The Full Faith and Credit Act, signed into law last year, which requires every state to respect child support orders from other states, would be modified to follow UIFSA.

States would establish administrative procedures for paternity establishment, subpoenas, liens, access to financial information, and suspension of drivers' and professional licenses for parents in arrears on child support. Custodial parents would not have to go to court.

ENFORCEMENT OF SUPPORT ORDERS

Outlines the procedures by which a state may suspend the licenses (including driver's, professional and occupational) of delinquent non-custodial parents, as well as procedures through which the state may place liens on the delinquent parent property.

Requires states to report to credit bureaus delinquencies that exceed 30 days.

Grants families who are owed child support the right to first access to an IRS refund credited to a delinquent non-custodial parent, except for amounts due from time the family received AFDC.

Subjects federal employees to the same withholding and enforcement rules as other workers. Clarifies rules for active-duty military personnel.

Extends the statute of limitations for the collection of child support arrearage to the child's 30th birthday.

Permits the denial of a passport for individuals who are more than $5,000 or 24 months in arrears.

Establlishes state-based demonstration projects to address non-custodial parents' visitation and custody issues.

STATE AUTOMATED SYSTEMS

Each state would establish a database of basic information about every child support order opened in that state. This data would be sent to a national registry on a regular basis to aid in enforcement of interstate cases.

States would centralize the collection and disbursement of information and payments. Employers would be able to send withheld income to one state location, even if a county has jurisdiction over the child support order. States may contract the collection and distribution system out to private firms.

NATIONAL SYSTEMS—EXPANDED FEDERAL PARENT LOCATOR SYSTEM

The modified Federal Parent Locator System would contain three components: a databank of Child Support Orders; directory of new hires, and expanded locator.

The Databank of Child Support Orders contains information on child support orders, as obtained from the individual states.

The Directory of New Hires will record basic information supplied by employers. This data will be compared against the child support data in order to better track down parents evading payment of child support, especially on the interstate level.

The expanded locator component allows states to access federal information to not only enforce orders, but also to establish paternity and establish and modify orders.

VOLUNTARY PATERNITY ESTABLISHMENT

The process of determination of paternity would be simplified, and voluntary paternity processes enhanced. These provisions would strengthen the hospital-based paternity establishment provisions enacted into law in the 1993 budget reconciliation.

For parents who voluntarily acknowledge paternity, a signed affidavit would be presumed to be a final judgement of paternity 60 days after signature. Both parents must be informed of their rights and responsibilities before signing the acknowledgement. Exceptions to the final judgement status include fraud, duress, or material mistake of fact.

Minor parents who sign the voluntary acknowledgement not in the presence of a parent or guardian may rescind that acknowledgment at any time until turning 18, or until court proceedings in which the teen and his or her attorney, parent or guardian is present.

At state option, states may waive fees charged to fathers who cooperate with the state, e.g. for genetic testing.

MODIFICATION AND ESTABLISHMENT OF SUPPORT ORDERS

Requires that child support orders may be reviewed by a state at the request of either parent every three years or when there is a substantial change in the financial circumstances of either parent.

Requires parents to exchange financial information annually.

Establishes a National Child Support Guidelines Commission, which will develop support order guidelines which states may adopt of Congress may consider adopting nationally.

PROGRAM ADMINISTRATION AND FUNDING

Increases the base federal matching rate for child support services from 66% to 75%. Creates an incentive payment to state of up to 15% for paternity establishment and overall performance of a state IV–D program. Strengthens penalties on states for failure to comply with program requirements.

COSTS

Increased match rate will cost approximately $300 million over five years. Other costs to federal and state taxpayers have not been scored by CBO, but all will be offset by increased collections. (The existing program, despite flaws, collects $3.98 for every $1 spent.)

DIFFERENCES BETWEEN SENATE BILL AND H.R. 785

Senate bill authorizes a demonstration in several states of innovative procedures to mediate disputes over visitation and custody.

Senate bill is slightly less prescriptive to states.

Senate bill includes more specific instructions to the Commission on Child Support Guidelines, and permits the Commission to conclude that national guidelines are not needed.●

● Mr. CHAFEE. Mr. President, I am pleased to support the Child Support Act of 1995, introduced by Mr. BRADLEY.

With over half of our marriages ending in divorce in the United States, and more and more children being born out-of-wedlock, single parent households have become more and more common. Most of the children in these homes grow up to be healthy and happy contributors to our society. Too many, however, are abandoned by a parent at a young age and struggle into adulthood. Mom or Dad, while raising a child, is working to make ends meet—without the help of the child's other parent.

We have spent a great deal of time talking about family and the role of the State in preserving traditional families. We have talked at great length about how to help poor unwed and single mothers become independent from government handouts. Certainly, a central factor as to why these mothers are on welfare in the first place and may not be able to get off, is because of the lack of support coming from their child's father.

Only 58 percent of single mothers had a child support order in 1990—the vast

majority of single mothers had applied for such an order but were unsuccessful in receiving one. The numbers are quite stark: over half of the 17.2 million children in single parent homes in our Nation are living in poverty.

I think there is consensus on this issue—Republican or Democrat, Rhode Islander or Mississippian—we all agree that the time has come for Congress to become more involved in ensuring that children are not cheated out of a healthy childhood. This legislation does an admirable job of addressing the problems of ''dead-beat'' parents.

Currently, States have a rather haphazard way of collecting child support. With the ease in which citizens move from one State to another, there is a real need to have strong and efficient communication between the States in collecting child support. This legislation addresses this problem through the creation of a national data base of child support orders. States will be required to periodically contribute new child support orders to this registry which may then be accessed by other states. Clearly, such a program aids greatly in tracking down interstate cases. In addition, by requiring parents to exchange financial information annually and streamlining the collection and distribution policy of the States, this legislation will make it far less complicated to ensure that those families deserving of child support moneys will get it.

I would urge my colleagues to support this crucial legislation. By some estimates, in 1990, if we had enforceable child support orders reflecting ability to pay, single mothers and children would have received nearly $50 billion in child support. I am sure that you would agree that such a number is astounding. This money is wilfully being kept from the children who need it. We cannot, in good conscience, talk about reforming our welfare system without discussing more effective ways to ensure that poor children are in fact receiving the fiscal and emotional support that they need in order to grow and to thrive. Thank you very much for your time and consideration.●

● Mr. LIEBERMAN. Mr. President, I am pleased to join Senator BRADLEY today as a cosponsor of the Interstate Child Support Responsibility Act of 1995. My esteemed colleague from Connecticut, Representative JOHNSON, introduced a similar bill in the House, and I thank them both for their leadership on this issue. The bill will greatly strengthen our child support enforcement system. This year, as Congress debates dramatic changes to our welfare system, we should make child support enforcement a key part of our welfare reform agenda and should pass the comprehensive reforms set forth in this act.

A tough child support enforcement system has three far-reaching benefits for our society. First, child support directly improves the lives of millions of children. An increasing number of our children depend on child support. Thirty years ago the vast number of children lived with both of their parents. But an astounding 50 percent of all children born in the 1980's will spend some time in a single-parent family. Children living with only one parent are all too likely to experience poverty. In 1992, half of the children living in single-parent families—over 8 million children—were poor. Improving child support enforcement will directly improve the quality of these children's lives and their chances for a bright future.

Second, enhancing child support enforcement will help keep families off of public assistance. About 45 percent of families enter our welfare system as a result of a divorce or separation, and another 30 percent seek welfare assistance after having a child out-of-wedlock. Receiving support from the absent parent can make the difference for many families between self-sufficiency and dependency.

Third, strengthening child support enforcement sends a critical message of responsibility to parents. The decision to have a child has profound moral content. Our child support policies must clearly signal that our society will hold all parents accountable for their children. In an era of skyrocketing out-of-wedlock births and rising teen pregnancy rates, child support enforcement payments must become a well known and unavoidable fact of life for absent fathers and mothers. Would-be ''dead-beat'' dads must know that they can't simply cross a State border to escape support payments.

For too many parents today, child support collection is not a certainty. Less than 60 percent of custodial mothers establish a child support order. And only half of support orders are paid in full. The Urban Institute estimates that the gap between the amount of child support parents should be paying and the amount we are actually collecting is $34 billion a year.

The bill we are introducing today will help close that child support collection gap. It will help States at each step of the child support collection process. The bill will make it easier for States to locate absent noncustodial parents; establish paternity; establish a court order; and enforce payment of court orders.

To help States locate parents and collect child support the bill, among other things: Requires States to automate and centralize child support order data to aid in enforcement of interstate cases; requires employers to notify States of new hires and establishes a Federal directory of new hires to aid in locating parents; streamlines procedures for voluntary paternity establishment; provides States with greater financial incentives to establish paternity; requires more frequent modification of child support orders so awards will increase with parents' earnings; requires States to have procedures for suspending drivers licenses and professional licenses of deadbeat parents; and provides greater incentives for States to increase child support collection.

The bill will also support State demonstration projects to address an underlying cause of some parents' failure to pay child support because access or visitation rulings limit their involvement in their children's lives. The bill will help States try new ways of working with families to increase noncustodial parents' visitation privileges and their financial commitment to their children.

While the bill will impose modest administrative costs on States and the Federal Government, it will also save both levels of government money over the long term. That is why State welfare administrators support it. The U.S. Department of Health and Human Services Reports that for every $1 spent on child support enforcement, $4 is collected. The collected funds are delivered to families and are used in part to reimburse Federal and State governments for welfare expenditures. This bill's provisions will increase the rate of return on our investment, benefiting children, families, and taxpayers.

Mr. President, let me reiterate that child support enforcement must be a part of our welfare reform strategy. Last month I introduced S. 246, the Welfare Reform That Works Act—a bill that would help States make bold changes to their welfare systems to move welfare recipients into the work force and strengthen families. I stated when I introduced the bill, and I want to reiterate now, that the States ability to achieve our welfare reform goals will be limited if we do not improve our child support enforcement programs. States' welfare caseloads will be higher and their budgets lower if deadbeat parents can continue to evade their responsibilities, if teenagers know that they can continue to have babies without consequences.

Mr. President, I urge my colleagues to join Senator BRADLEY and the bill's other cosponsors in supporting the act.●

ADDITIONAL COSPONSORS

S. 31

At the request of Mr. MCCAIN, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 31, a bill to amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age.

S. 47

At the request of Mr. SARBANES, the names of the Senator from Colorado [Mr. CAMPBELL], and the Senator from California [Mrs. BOXER] were added as cosponsors of S. 47, a bill to amend certain provisions of title 5, United States Code, in order to ensure equality between Federal firefighters and other employees in the civil service and other public sector firefighters, and for other purposes.

S. 141

At the request of Mrs. KASSEBAUM, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 141, a bill to repeal the Davis-Bacon Act of 1931 to provide new job opportunities, effect significant cost savings on Federal construction contracts, promote small business participation in Federal contracting, reduce unnecessary paperwork and reporting requirements, and for other purposes.

S. 160

At the request of Mr. SHELBY, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 160, a bill to impose a moratorium on immigration by aliens other than refugees, certain priority and skilled workers, and immediate relatives of United States citizens and permanent resident aliens.

S. 227

At the request of Mr. HATCH, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 227, a bill to amend title 17, United States Code, to provide an exclusive right to perform sound recordings publicly by means of digital transmissions and for other purposes.

S. 234

At the request of Mr. CAMPBELL, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 234, a bill to amend title 23, United States Code, to exempt a State from certain penalties for failing to meet requirements relating to motorcycle helmet laws if the State has in effect a motorcycle safety program, and to delay the effective date of certain penalties for States that fail to meet certain requirements for motorcycle safety laws, and for other purposes.

S. 262

At the request of Mr. GRASSLEY, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 262, a bill to amend the Internal Revenue Code of 1986 to increase and make permanent the deduction for health insurance costs of self-employed individuals.

S. 270

At the request of Mr. SMITH, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 270, a bill to provide special procedures for the removal of alien terrorists.

S. 275

At the request of Mr. GRASSLEY, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 275, a bill to establish a temporary moratorium on the Interagency Memorandum of Agreement Concerning Wetlands Determinations until enactment of a law that is the successor to the Food, Agriculture, Conservation, and Trade Act of 1990, and for other purposes.

S. 277

At the request of Mr. D'AMATO, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 277, a bill to impose comprehensive economic sanctions against Iran.

S. 356

At the request of Mr. SHELBY, the names of the Senator from Mississippi [Mr. COCHRAN] and the Senator from Minnesota [Mr. GRAMS] were added as cosponsors of S. 356, a bill to amend title 4, United States Code, to declare English as the official language of the Government of the United States.

SENATE JOINT RESOLUTION 24

At the request of Mr. COCHRAN, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of Senate Joint Resolution 24, a joint resolution proposing an amendment to the Constitution of the United States relative to the free exercise of religion.

AMENDMENT NO. 274

At the request of Mrs. FEINSTEIN the names of the Senator from Arizona [Mr. MCCAIN], the Senator from Maryland [Ms. MIKULSKI], the Senator from Wisconsin [Mr. KOHL], and the Senator from Iowa [Mr. HARKIN] were added as cosponsors of Amendment No. 274 intended to be proposed to House Joint Resolution 1, a joint resolution proposing a balanced budget amendment to the Constitution of the United States.

SENATE CONCURRENT RESOLUTION 8—RELATIVE TO MAMMOGRAPHY SCREENING GUIDELINES

Ms. SNOWE submitted the following concurrent resolution; which was referred to the Committee on Labor and Human Resources:

S. CON. RES. 8

Whereas the National Cancer Institute is the lead Federal agency for research on the causes, prevention, diagnosis, and treatment of cancer;

Whereas health professionals and consumers throughout the Nation regard the guidelines of the National Cancer Institute as reliable scientific and medical advice;

Whereas it has been proven that intervention with routine screening for breast cancer through mammography can save women's lives at a time when medical science is unable to prevent this disease;

Whereas there are statistical limitations to evaluating the efficacy of mammography in a 5–10 year age range of women, using existing studies designed to test the efficacy of mammography in a 25–30 year age range of women;

Whereas there were numerous shortcomings identified in a Canadian study designed to address reduction of mortality from breast cancer in the 40–49 age range;

Whereas to date, it is not possible to have the same degree of scientific confidence about the benefit of mammography for women ages 40–49 as exists for women ages 50–69 due to inherent limitations in the studies that have been conducted;

Whereas meta-analysis (combining the results of several studies) is sometimes useful, and the studies used to reach the National Cancer Institute's conclusions were not easily combined because of variations in design, technology, screening interval, the inclusion or exclusion of clinical breast examination, and quality;

Whereas the existing clinical trial data are inadequate to provide a definite answer to the efficacy of early detection in the 40–49 age group and there has been a dramatic change in technology during the 30-year period since the initiation of the first study of breast cancer screening;

Whereas the majority, approximately 80 percent, of women who are diagnosed with breast cancer have no identifiable risk for this disease;

Whereas breast cancer is the leading cause of cancer death among women in the age group 15–54;

Whereas the American Cancer Society and 21 other national medical organizations and health and consumer groups are at variance with the recently rescinded guideline of the National Cancer Institute for mammography for women ages 40–49; and

Whereas the statement of scientific fact on breast cancer screening issued by the National Cancer Institute on December 3, 1993, will cause widespread confusion and concern among women and physicians, erode confidence in mammography, and reinforce barriers and negative attitudes that keep women of all ages from being screened: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) adequately designed and conducted studies are needed to determine the benefit of screening women ages 40–49 through mammography and other emerging technologies;

(2) the National Cancer Institute's statement of scientific fact on breast cancer screening should clearly state that the uncertainty of evidence for women in this age group is due to the limitations of existing studies (as of the date of issuance of the statement); and

(3) the National Cancer Institute should reissue the recently rescinded guideline for mammography for women ages 40–49 or direct the public to consider guidelines issued by other organizations.

• Ms. SNOWE. Mr. President, breast cancer is the most common form of cancer in American women. One out of every eight women in the United States will develop breast cancer in her lifetime—a staggering increase from the 1-out-to-14 rate in 1960. An estimated 2.6 million women in America are living with breast cancer—1.6 million who have been diagnosed and an estimated 1 million do not yet know they have the disease. And every 12 minutes, a woman will die from breast cancer.

We do not know what causes breast cancer, or how to cure it. Women with breast cancer are dying at the same rate today as they did in the 1930's, and the same basic methods of treatment are being used—surgery, chemotherapy, and radiation. Clearly, we need to promote research into the cause of, optimal treatment of, and cure for breast cancer.

However, another importance weapon in fighting the battle against breast cancer is detecting breast cancer in its early stages. Survival rates drop dramatically the later the disease is diagnosed. And one of the most important tools for early detection is mammography, a low-dose x ray used to examine a woman's breasts.

Recognizing the important of consistent guidelines on breast cancer