S. 2168. A bill to amend title 49, United States Code, to provide protection for airline employees who provide certain air safety information, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. PELL:

S. 2169. A bill to promote the survival of significant cultural resources that have been identified as endangered and that represent important economic, social, and educational assets of the United States and the world, to permit United States professionals to participate in the planning and implementation of projects worldwide to protect the resources, and to educate the public concerning the importance of cultural heritage to the fabric of life in the United States and throughout the world, and for other purposes; to the Committee on Energy and Natural Resources.

By Mrs. KASSEBAUM:

S. 2170. A bill to establish spending limits for entitlement programs and other mandatory spending programs, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly.

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

S. 2171. A bill to provide reimbursement under the medicare program for telehealth services, and for other purposes; to the Committee on Finance..

By Mr. MURKOWSKI:

S. 2172. A bill to provide for the appointment of a Special Master to meet with interested parties in Alaska and make recommendations to the Governor of Alaska, The Alaska State Legislature, The Secretary of Agriculture, The Secretary of the Interior, and the United States Congress on how to return management of fish and game resources to the State of Alaska and provide for subsistence uses by Alaskans, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DORGAN:

S. 2173. A bill to amend the Internal Revenue Code of 1986 to allow a family-owned business exclusion from the gross estate subject to estate tax, and for other purposes; to the Committee on Finance.

By Mr. CRAIG:

S. 2174. A bill to amend the Immigration and Nationality Act with respect to the admission of temporary H–2A workers; to the Committee on the Judiciary.

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

S. 2175. A bill to provide for the long-range solvency of the old-age, survivors, and disability insurance program, and for other purposes; to the Committee on Finance.

S. 2176. A bill to amend the Internal Revenue Code of 1986 and the Social Security Act to provide for personal investment plans funded by employee security payroll deductions; to the Committee on Finance.

By Mr. SANTORUM:

S. 2177. A bill to authorize the Small Business Administration to provide financial and business development assistance to military reservists' small businesses, and for other purposes; to the Committee on Small Business.

By Mrs. KASSEBAUM (for herself, Mr. KENNEDY, Mr. DODD, Mr. DEWINE, Ms. MIKULSKI, and Mr. SIMON):

S. 2178. A bill to amend the Federal Food, Drug, and Cosmetic Act to allow for additional deferred effective dates for approval of applications under the new drugs provisions, and for other purposes; to the Committee on Labor and Human Resources.

By Mrs. BOXER:

S. 2179. A bill to protect children and other vulnerable subpopulations from exposure to certain environmental pollutants, and for other purposes; to the Committee on Environment and Public Works.

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

S. 2180. A bill to establish felony violations for the failure to pay legal child support obligations and for other purposes; to the Committee on the Judiciary.

By Mr. DORGAN:

S. 2181. A bill to provide for more effective management of the National Grasslands, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DORGAN (for himself and Mr. CONRAD):

S. 2182. A bill to consolidate certain mineral interests in the National Grasslands in Billings County, North Dakota, through the exchange of Federal and private mineral interests to enhance land management capabilities and environmental and wildlife protection, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. KYL (for himself, Mrs. FEINSTEIN, and Mr. EXON):

S.J. Res. 65. A joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. ROTH (for himself, Mr. THOMAS, and Mr. NUNN):

S. Res. 306. A resolution to state the sense of the Senate that the Treaty of Mutual Cooperation and Security Between the United States of America and Japan is essential for furthering the security interests of the United States, Japan and the nations of the Asia-Pacific and that the people of Okinawa deserve recognition for their contributions toward ensuring the Treaty's implementation; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

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

S. 2162. A bill to provide for the disposition of certain funds appropriated to pay judgments in favor of the Mississippi Sioux Indians, and for other purposes; to the Committee on Indian Affairs.

THE MISSISSIPPI SIOUX TRIBES JUDGMENT FUND DISTRIBUTION ACT OF 1996

Mr. DORGAN. Mr. President, I rise today to introduce legislation which will fairly resolve a longstanding problem with respect to a judgment distribution to Sioux tribes in the Dakotas and Montana. Specifically, the bill would distribute the accrued interest on funds awarded by the Indian Claims Commission in 1967 to the Mississippi Sioux tribes. I am pleased to be joined by Senators DASCHLE and PRESSLER in introducing this measure.

In 1972, Congress enacted legislation that authorized the Secretary of the Interior to distribute 75 percent of a $5,900,000 judgment award to the Devils Lake Sioux Tribe of North Dakota, the Sisseton and Wahpeton Sioux Tribe of North and South Dakota, and the Assiniboine and Sioux Tribes of the Fort Peck Reservation in Montana. The remaining 25 percent was to be distributed to individuals who could trace their lineal ancestry to a member of the aboriginal Sisseton and Wahpeton Sioux Tribe.

The three Sioux tribes received their respective shares of the judgment award by the mid-1970's. To date, though, the funds allocated for the lineal descendants have never been distributed. This has resulted in a situation where the accrued interest on the original principal of approximately $1.5 million has now grown to more than $13 million.

If the 1,969 lineal descendants identified by the Department of the Interior receive per capita payments, they would receive more than 18 times what the 11,829 enrolled tribal members received in the 1970's.

In 1987, the three Sioux tribes filed suit in Federal court to challenge the constitutionality of the lineal descendancy provisions of the 1972 Act. This litigation is currently in its second appeal. In 1992, Congress enacted legislation which authorized the Attorney General to settle the case on any terms agreed to by the parties involved. However, the Department of Justice has refused to proceed with any settlement negotiations and has taken the position that the 1992 law did not authorize the Department to settle the case on any terms other than those laid out in the original 1972 act. While I believe this interpretation flies in the face of congressional intent, the Department has been unwilling to actively pursue this issue.

The legislation I am introducing on behalf of the three Sioux tribes represents a reasonable solution to this matter and a substantial compromise on behalf of the tribes. In the past, the tribes have sought to repeal the lineal descendancy provisions of the 1972 act altogether, and, in 1986, a bill was reported by the Senate Committee on Indian Affairs which would have achieved this goal.

In contrast, the Mississippi Sioux Tribes Judgment Fund Distribution Act of 1996 would retain the undistributed principal for the lineal descendants and distribute the accrued interest to the three Sioux tribes. There would be no per capita payments of the interest, which would have to be used by the tribes for economic development, resource development, or for other programs that collectively benefit tribal members, such as educational and social welfare programs. In addition, the legislation contains an audit requirement by the Secretary of the Interior to ensure that the funds are properly managed.

I believe that this legislation is fundamentally fair. It keeps the commitment that the Federal Government made to provide compensation to lineal descendants while ensuring that most of the remaining undistributed funds go to the tribes. It was, after all, the

tribes who were wronged and who should be compensated for their losses.

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

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

S. 2162

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 ''Mississippi Sioux Tribes Judgment Fund Distribution Act of 1996''.

SEC. 2. DEFINITIONS.

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

(1) COVERED INDIAN TRIBE.—The term ''covered Indian tribe'' means an Indian tribe listed in section 4(a).

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(3) TRIBAL GOVERNING BODY.—The term ''tribal governing body'' means the duly elected governing body of a covered Indian tribe.

SEC. 3. DISTRIBUTION TO, AND USE OF CERTAIN FUNDS BY, THE SISSETON AND WAHPETON TRIBES OF SIOUX INDIANS.

Notwithstanding any other provision of law, including Public Law 92–555 (25 U.S.C. 1300d et seq.), any funds made available by appropriations under Public Law 90–352 to the Sisseton and Wahpeton Tribes of Sioux Indians to pay a judgment in favor of the Tribes in Indian Claims Commission dockets numbered 142 and 359, including interest, after payment of attorney fees and other expenses, that, as of the date of enactment of this Act, have not been distributed, shall be distributed and used in accordance with this Act.

SEC. 4. DISTRIBUTION OF FUNDS TO TRIBES.

(a) IN GENERAL.—Subject to section 5, as soon as practicable after the date that is 1 year after the date of enactment of this Act, the Secretary shall distribute an aggregate amount, equal to the funds described in section 3 reduced by $1,469,831.50, as follows:

(1) 28.9276 percent of such amount shall be distributed to the tribal governing body of the Devils Lake Sioux Tribe of North Dakota.

(2) 57.3145 percent of such amount shall be distributed to the tribal governing body of the Sisseton and Wahpeton Sioux Tribe of South Dakota.

(3) 13.7579 percent of such amount shall be distributed to the tribal governing body of the Assiniboine and Sioux Tribes of the Fort Peck Reservation in Montana, as designated under subsection (b).

(b) TRIBAL GOVERNING BODY OF ASSINIBOINE AND SIOUX TRIBES OF FORT PECK RESERVATION.—For purposes of making distributions of funds pursuant to this Act, the Sisseton and Wahpeton Sioux Council of the Assiniboine and Sioux Tribes shall act as the governing body of the Assiniboine and Sioux Tribes of the Fort Peck Reservation.

SEC. 5. ESTABLISHMENT OF TRIBAL TRUST FUNDS.

(a) IN GENERAL.—As a condition to receiving funds distributed under section 4, each tribal governing body referred to in section 4(a) shall establish a trust fund for the benefit of the covered Indian tribe under the jurisdiction of that tribal governing body, consisting of—

(1) amounts deposited into the trust fund; and

(2) any interest that accrues from investments made from amounts deposited into the trust fund.

(b) TRUSTEE.—Each tribal governing body that establishes a trust fund under this section shall—

(1) serve as the trustee of the trust fund; and

(2) administer the trust fund in accordance with section 6.

SEC. 6. USE OF DISTRIBUTED FUNDS.

(a) PROHIBITION.—No funds distributed to a covered Indian tribe under section 4 may be used to make per capita payments to members of the covered Indian tribe.

(b) PURPOSES.—The funds distributed under section 4 may be used by a tribal governing body referred to in section 4(a) only for the purpose of making investments or expenditures that the tribal governing body determines to be reasonably related to—

(1) economic development that is beneficial to the covered Indian tribe;

(2) the development of resources of the covered Indian tribe; or

(3) the development of a program that is beneficial to members of the covered Indian tribe, including educational and social welfare programs.

(c) AUDITS.—

(1) IN GENERAL.—The Secretary shall conduct and annual audit to determine whether each tribal governing body referred to in section 4(a) is managing the trust fund established by the tribal governing body under section 5 in accordance with the requirements of this section.

(2) ACTION BY THE SECRETARY.—

(A) IN GENERAL.—If, on the basis of an audit conducted under paragraph (1), the Secretary determines that a covered Indian tribe is not managing the trust fund established by the tribal governing body under section 5 in accordance with the requirements of this section, the Secretary shall require the covered Indian tribe to take remedial action to achieve compliance.

(B) APPOINTMENT OF INDEPENDENT TRUSTEE.—If, after a reasonable period of time specified by the Secretary, a covered Indian tribe does not take remedial action under subparagraph (A), the Secretary, in consultation with the tribal governing body of the covered Indian tribe, shall appoint an independent trustee to manage the trust fund established by the tribal governing body under section 5.

SEC. 7. EFFECT OF PAYMENTS TO COVERED INDIAN TRIBES ON BENEFITS.

(a) IN GENERAL.—A payment made to a covered Indian Tribe or an individual under this Act shall not—

(1) for purposes of determining the eligibility for a Federal service or program of a covered Indian tribe, household, or individual, be treated as income or resources; or

(2) otherwise result in the reduction or denial of any service or program to which, pursuant to Federal law (including the Social Security Act (42 U.S.C. 301 et seq.)), the covered Indian tribe, household, or individual would otherwise be entitled.

(b) TAX TREATMENT.—A payment made to a covered Indian tribe or individual under this Act shall not be subject to any Federal or State income tax.

SEC. 8. DISTRIBUTION OF FUNDS TO LINEAL DESCENDANTS.

Not later than 1 year after the date of enactment of this Act, of the funds described in section 3, the Secretary shall, in the manner prescribed in section 202(c) of Public Law 92–555 (25 U.S.C. 1300d–4(c)), distribute an amount equal to $1,469,831.50 to the lineal descendants of the Sisseton and Wahpeton Tribes of Sioux Indians.

Mr. PRESSLER. Mr. President, I rise to speak on legislation that the senior Senator from North Dakota is introducing today that will provide for the distribution of a judgment to the Sisseton-Wahpeton Sioux Tribe and lineal descendants of tribe members.

This issue has been in litigation for many years and has been previously dealt with by Congress. Still, the issue remains unresolved.

I want to see this matter taken care of to the satisfaction of all parties involved, once and for all. I believe the legislation the Senator from North Dakota is sponsoring is an essential first step in getting the job done. While perhaps not the ultimate resolution of the issue, the legislation should be carefully considered by Congress. All parties involved deserve a chance to be heard.

As I believe thoughtful, bipartisan consideration of this bill will help push this issue off dead center and rolling toward resolution, I have decided to cosponsor this legislation. I urge my colleagues to give it serious consideration when the measure appears before them in committee and on the Senate floor.

By Mr. MOYNIHAN:

S. 2163. A bill to amend title 18, United States Code, to regulate the manufacture, importation, and sale of ammunition capable of piercing police body armor; to the Committee on the Judiciary.

LAW ENFORCEMENT OFFICERS PROTECTION ACT OF 1996

Mr. MOYNIHAN. Mr. President, the legislation I am introducing today would amend Title 18 of the United States Code to strengthen the existing prohibition on handgun ammunition capable of penetrating police body armor, commonly referred to as bulletproof vests. This provision would require the Secretary of the Treasury and the Attorney General to develop a uniform ballistics test to determine with precision whether ammunition is capable of penetrating police body armor. The bill also prohibits the manufacture and sale of any handgun ammunition determined by the Secretary of the Treasury and the Attorney General to have armor-piercing capability.

I am encouraged that President Clinton has taken an interest in this subject. In a statement similar to remarks he has made many times recently at campaign appearances around the country, President Clinton said to an audience in Cincinnati, OH, on September 16, 1996:

> So that's my program for the future—do more to break the gangs, ban those cop killer bullets, drug testing for parolees, improve the opportunities for community-based strategies that lower crime and give our kids something to say yes to.

Mr. President, it has been almost 15 years since I first introduced legislation in the Senate to outlaw armor-piercing, or cop-killer, bullets. In 1982, Phil Caruso of the Patrolman's Benevolent Association of New York City alerted me to the existence of a Teflon-coated bullet capable of penetrating the soft body armor police officers were then beginning to wear. Shortly

thereafter, I introduced the Law Enforcement Officers Protection Act of 1982 to prohibit the manufacture, importation, and sale of such ammunition.

At that time, armor-piercing bullets—most notably the infamous ''Green Hornet''—were manufactured with a solid steel core. Unlike the softer lead composition of most other ammunition, this hard steel core prevented these rounds from deforming at the point of impact—thus permitting the rounds to penetrate the 18 layers of Kevlar in a standard-issue police vest or flak-jacket. These bullets could go through a bullet-proof vest like a hot knife through butter. My legislation simply banned any handgun ammunition made with a core of steel or other hard metals.

Despite the strong support of the law enforcement community, it took 4 years before this seemingly noncontroversial legislation was enacted into law. The National Rifle Association initially opposed it—that is, until the NRA realized that a large number of its members were themselves police officers who strongly supported banning these insidious bullets. Only then did the NRA lend its grudging support. The bill passed the Senate on March 6, 1986 by a vote of 97 to 1, and was signed by President Reagan on August 8, 1986 (Public Law 99–408).

That 1986 act served us in good stead for 7 years. To the best of my knowledge, not a single law enforcement officer was shot with an armor-piercing bullet. Unfortunately, the ammunition manufacturers eventually found a way around the 1986 law. By 1993, a new Swedish-made armor-piercing round, the M39B, had appeared. This pernicious bullet evaded the 1986 statute's prohibition because of its unique composition. Like most common ammunition, it had a soft lead core, thus exempting it from the 1986 law. But this soft core was surrounded by a heavy steel jacket, solid enough to allow the bullet to penetrate body armor. Once again, our Nation's law enforcement officers were at risk. Immediately upon learning of the existence of the new Swedish round, I introduced a bill to ban it.

Another protracted series of negotiations ensued before we were able to update the 1986 statute to cover the M39B. We did it with the support of law enforcement organizations, and with technical assistance from the Bureau of Alcohol, Tobacco and Firearms. In particular, James O. Pasco, Jr., then the Assistant Director of Congressional Affairs at BATF, worked closely with me and my staff to get it done. The bill passed the Senate by unanimous consent on November 19, 1993 as an amendment to the 1994 crime bill.

Despite these legislative successes, it was becoming evident that continuing innovations in bullet design would result in new armor-piercing rounds capable of evading the existing ban. It was at this time that some of us began to explore in earnest the idea of developing a new approach to banning these bullets based on their performance, rather than their physical characteristics. Mind, this concept was not entirely new; the idea had been discussed during our efforts in 1986, but the NRA had been immovable on the subject. The NRA's leaders, and their constituent ammunition manufacturers, felt that any such broad-based ban based on a bullet performance standard would inevitably lead to the outlawing of additional classes of ammunition. They viewed it as a slippery slope, much as they have regarded the assault weapons ban as a slippery slope. The NRA had agreed to the 1986 and 1993 laws only because they were narrowly drawn to cover individual types of bullets.

And so in 1993 I asked the ATF for the technical assistance necessary to write into law an armor-piercing bullet performance standard. At the time, however, the experts at the ATF informed us that this could not be done. They argued that it was simply too difficult to control for the many variables that contribute to a bullet's capability to penetrate police body armor. We were told that it might be possible in the future to develop a performance-based test for armor-piercing capability, but at the time we had to be content with the existing content-based approach.

Two years passed and the Office of Law Enforcement Standards of the National Institute of Standards and Technology wrote a report describing the methodology for just such a armor-piercing bullet performance test. The report concluded that a test to determine armor-piercing capability could be developed within 6 months.

So we know it can be done, if only the agencies responsible for enforcing the relevant laws have the will. The legislation I am introducing requires the Secretary of the Treasury, in consultation with the Attorney General, to establish performance standards for the uniform testing of handgun ammunition. Such an objective standard will ensure that no rounds capable of penetrating police body armor, regardless of their composition, will ever be available to those who would use them against our law enforcement officers.

I wish to assure the Senate that this measure would in no way infringe upon the rights of legitimate hunters and sportsmen. It would not affect legitimate sporting ammunition used in rifles. It would only restrict the availability of armor-piercing rounds, for which no one can seriously claim there is a genuine sporting use. These cop-killer rounds have no legitimate uses, and they have no business being in the arsenals of criminals. They are designed for one purpose: to kill police officers.

The 1986 and 1993 cop-killer bullet laws I sponsored kept us one step ahead of the designers of new armor-piercing rounds. When the legislation I have introduced today is enacted—and I hope it will be early in the 105th Congress—it will put them out of the cop-killer bullet business permanently.

By Mr. LUGAR:

S. 2164. A bill to establish responsibility and accountability for information technology systems of the Department of Agriculture, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE DEPARTMENT OF AGRICULTURE RESPONSIBILITY AND ACCOUNTABILITY ACT OF 1996

• Mr. LUGAR. Mr. President. I rise to introduce the Department of Agriculture Responsibility and Accountability Act of 1996. This bill establishes an Information Technology System Control Board to manage the U.S. Department of Agriculture's [USDA] technology planning and procurement processes. The Board will give the Department a strong centralized decision-making body to eliminate the duplication and inefficiencies associated with the independent agency-based approach that has plagued the Department for years, delivered poor service, and squandered hundreds of millions of taxpayer dollars.

The Office of Management and Budget estimates the Department of Agriculture will spend $1.4 billion on information technology and automated data processing equipment in fiscal year 1997. The Information Technology System Control Board will oversee all information technology spending at the Department. The Board, consisting of the Secretary and two appointees, will assume control of information technology planning and acquisition until the year 2002, guiding the creation of a technical architecture to take the Department into the 21st century. Finally, the Board will determine how best to accomplish the missions of the various agencies and the Department before purchasing information technology systems.

The General Accounting Office, the Department of Agriculture's Office of Inspector General, and independent contractor reviews since 1989 have identified ongoing problems with USDA's administration of information resource management programs, including the multiagency program called Info Share and computer and telecommunication purchases. Since the USDA Reorganization Act was enacted in 1994, USDA management has continued their historic trend of purchasing telecommunication and information systems that: fail to link information technology budgeting and purchases to strategic business needs; fail to integrate information management strategies with financial and programmatic information and reporting requirements; fail to define information technology requirements through business process reengineering; fail to achieve departmentwide efficiencies by standardizing administrative functions; and, fail to address the cultural changes necessary to migrate from a piecemeal approach to a standardized,

collaborative delivery system in field service centers.

The Department continues to acquire hardware, software, and other equipment that does not match user needs, provides inefficient delivery of services to USDA customers, and creates unnecessary duplication. Many duplicated product and service acquisitions could have been avoided by departmentwide consolidation and sharing. Procurement activities do not allow the Farm Services Agency, Natural Resources Conservation Service and Rural Development to exchange information electronically in the agency headquarter and field offices. The Department lacks leadership to direct the changes necessary to establish a working field service center infrastructure.

In April 1993, USDA established the Info Share program to reframe the business activities of individual agencies into a consolidated strategy to meet the goals outlined for one-stop-shopping field service centers. In August 1993, the General Services Administration delegated procurement authority for USDA to spend up to $2.6 billion on Info Share. Besides the General Accounting Office, the Office of Management and Budget, and the USDA Office of the Inspector General, the National Institute of Standards and Technology criticized USDA's approach to purchasing computer equipment, hardware, and software before defining the future mission objectives of its agencies in a May 1994 report. The report stated that Federal agencies should first determine how best to accomplish their mission and then acquire technology solutions to meet their needs. Info Share was to be the cure-all for USDA's management and acquisition control problems.

The USDA Office of Inspector General sharply criticized the Info Share Program in a May 1995 report. The inspector general reported that USDA agencies were proceeding with their own information technology projects for information sharing between agencies with an apparent lack of funding and acquisition controls. The Office of Management and Budget complained to the Office of Budget and Program Analysis [OBPA] about inaccurate acquisition cost reporting and the need for a formal approval process for information technology purchases.

Despite heavy pressures for Info Share to succeed, by December 1995 Info Share had failed. The failure was due to an evident lack of upper management leadership, inadequate planning, failure to obtain consensus on program objectives, and poor program management. USDA's leadership, despite commitments made by Secretary Glickman, again failed to focus on the necessary development of departmentwide computer and information standards and a comprehensive analysis of emerging business requirements. The Info Share Program has now been replaced by a decentralized agency-led initiative under the National Food and Agriculture Council. As a result, individual agencies are again independently deciding what is best for their individual needs, abandoning the departmentwide effort necessary to consolidate administrative and information technology systems.

According to an August 1994 GAO Report, ''USDA Restructuring—Refocus Info Share Program on Business Processes Rather Than Technology'', USDA is not performing key business process reengineering [BPR] steps necessary for a successful reorganization of the Department. BPR is a management technique used fundamentally to rethink and redesign business processes to achieve dramatic changes in overall performance. It is also used to change how employees think and work to improve customer satisfaction. The success of the field service center initiative depends on cross-training field office employees to operate as educated contacts for all USDA programs. The lack of training is making it difficult for field office employees who remain after downsizing efforts to provide quality service to their customers. USDA's focus on improving computer automation prior to concentrating on the skills of its work force has hamstrung program delivery.

During farm bill deliberations, it was determined that reforms were needed to rein in the uncontrolled and obscured use of CCC funds for information technology. Commodity Credit Corporation [CCC] borrowing authority has been historically abused within the Department. Transfers and expenditures of CCC funds have too often been obscured from congressional oversight and at times have been of questionable legality. As a result, the FAIR Act established spending caps on the use of CCC funds for purchases or services for automated data processing or information technology, and for all reimbursable agreements—contracts—funded by the CCC. Finally, the CCC was required to report to Congress on a quarterly basis all expenditures of over $10,000 for these expenditures. This new level of transparency was designed to increase accountability by forcing USDA managers to fully examine information technology purchases and link purchase plans with work force needs.

Despite repeated calls for leadership, USDA does not have the necessary management to link the Department's ability to define its work force to its information technology purchases. The Department has yet to determine how to provide quality services with a reduced work force and changing mission requirements. In addition, USDA is still using its Info Share initiative, now guided by the National Food and Agriculture Committee, as a vehicle to acquire new information technology, rather than develop a method to improve the way USDA does business and prepare the Department for the challenges of the 21st century.

On May 31, 1996, House Agriculture Committee Chairman PAT ROBERTS and I wrote to the Secretary stating that the USDA should not make additional investments in information technology products that are exclusive to one agency unless USDA can show that the investments will provide technology that will be shared among agencies. We also shared our concern that funds were being spent without adequate consideration of USDA's future business requirements. The Department responded with a less than adequate catalog of ongoing initiatives designed for individual agency program use rather than a departmentwide information technology architecture.

Despite efforts by USDA to meet the goal of information sharing as mandated by the USDA Reorganization Act of 1994 and Info Share, the Farm Services Agency, Rural Development, and Natural Resources Conservation Service field offices remain unable to operate in a common computing environment. This has resulted in the delivery of poor services to its customers. If USDA is ever to successfully share information, the Department must prevent agencies from planning and building their own individual networks.

For example, last year the Farm Services Agency [FSA] spent $36 million in Commodity Credit Corporation [CCC] funds to purchase new minicomputers for FSA field offices during the debate of the Federal Agriculture Improvement and Reform Act of 1996. The FAIR Act resulted in a 7-year phaseout of farm subsidy programs, significantly reducing work force requirements and workload of the Farm Service Agency. Less than a year later, FSA is proposing another upgrade that does not meet the requirements necessary for information sharing with other field office agency computer systems. Why did FSA spend $36 million on a new system if the agency knew it would be outdated only 9 months later? USDA estimates the upgrade alternative will result in acquisition costs of $125.8 million for FSA alone. Estimates of costs to be incurred by the Natural Resources Conservation Service and Rural Development to acquire similar equipment have not been made. This ill-conceived approach will result in an investment of $11,604 per computer in FSA offices that may not have employees to run those computers after work force downsizing occurs. This is yet another example of poor planning and waste of taxpayer dollars resulting from a lack of direction.

Despite repeated reviews by the General Accounting Office and the USDA Office of the Inspector General, and considerable concern of Congress, the Director of the Office of Information Resource Management has not determined how to address the information sharing needs of the Department. Therefore, USDA risks wasting millions by building new networks that are redundant, do not address future business needs, and do not provide the information sharing capabilities necessary among agencies. The creation of

the Information Technology System Control Board will put the Department back on track and save millions of taxpayer dollars.

My bill also makes necessary changes to the buyout authority granted to USDA in the 1997 Agriculture Appropriation Conference Report. The buyout authority gives the Department the authority to offer $25,000 bonuses to retirement-age employees, and those eligible for early retirement. This golden handshake approach to Department downsizing pays off employees who are already preparing to retire. In addition, it comes at the expense of conservation programs. The Senate Agriculture Committee recently learned that the Department may transfer an estimated $43 million from unobligated Conservation Reserve Program funds to pay for buyouts for 1,341 Farm Services Agency employees. The bill mandates that buyouts can only be paid from appropriations made available for salaries and expenses and prohibits the use of mandatory funds, including Commodity Credit Corporation funds, for buyout plans. In addition, the bill limits the Department's buyout authority to 1 year. These changes are important to monitor the Department's work force downsizing efforts by compelling USDA to properly plan for future work force reductions.

I cannot overstate my concern that the Department has failed to adequately assess the impact that the FAIR Act will have on the people who use the services of the Department and on the Department's work force requirements. Department management lacks strong central leadership in planning for information technology for the 21st century, continues to acquire equipment, hardware, software, and computers that do not match user needs, continues to provide inefficient delivery of services to USDA customers, and continues to allow unnecessary duplication.

Since I am introducing my bill at the end of this session, obviously it cannot become law before the 105th Congress convenes next year. However, I intend to pursue this important issue in the next Congress, and I will reintroduce this bill.

I ask my colleagues to support this important endeavor and I ask unanimous consent that the text of the summary and the bill be printed in the RECORD.

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

S. 2164

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 ''Department of Agriculture Responsibility and Accountability Act of 1996''.

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

Sec. 1. Short title; table of contents.

TITLE I—INFORMATION TECHNOLOGY SYSTEM CONTROL BOARD

Sec. 101. Findings.
Sec. 102. Definitions.
Sec. 103. Information Technology System Control Board.
Sec. 104. Mission of the Board.
Sec. 105. Duties of the Board.
Sec. 106. Powers of the Board.
Sec. 107. Review by Office of Management and Budget.
Sec. 108. Technical amendment.
Sec. 109. Termination of authorities.

TITLE II—ADMINISTRATION OF DEPARTMENT OF AGRICULTURE

Sec. 201. Administration of Department of Agriculture.

TITLE III—EFFECTIVE DATE

Sec. 301. Effective date.

TITLE I—INFORMATION TECHNOLOGY SYSTEM CONTROL BOARD

SEC. 101. FINDINGS.

Congress finds that—

(1) the Office of Management and Budget estimates that the Department of Agriculture will spend $1,100,000,000 for fiscal year 1996 and $1,400,000,000 for fiscal year 1997 on information technology and automated data processing equipment;

(2) according to the Department of Agriculture, as of October 1993, the Department had 17 major information technology systems under development with an estimated life-cycle cost of $6,300,000,000;

(3) both the General Accounting Office and the Office of Management and Budget have categorized the information technology programs of the Department as high risk due to lack of management and financial controls;

(4) the General Accounting Office, the Office of the Inspector General of the Department, and independent contract studies have shown that the Department's information technology decisions have been made in piecemeal fashion, on an individual agency basis, resulting in a lack of coordination, duplication, and wasted financial and technological resources among the various offices and agencies of the Department and costing hundreds of millions of wasted dollars over the past decade;

(5) over the past 10 years, committees of Congress, the General Accounting Office, the Office of Management and Budget, and private consultants have repeatedly pointed to the lack of strong central leadership and accountability as the fundamental reasons for the Department's failure to make informed decisions on critical information technology investments;

(6) committees of Congress, the General Accounting Office, the Office of Management and Budget, the Office of the Inspector General of the Department, and private consultants have—

(A) strongly criticized the Department over the past 10 years for ignoring business process reengineering; and

(B) pointed to the Department's refusal to use an industry accepted methodology as key to its failure to develop a technology platform that services the entire Department;

(7) the Department's role in regulating agriculture in the United States was substantially reduced by the FAIR Act;

(8) the Department has failed to adequately assess the impact of the FAIR Act will have on the needs of its customers;

(9) the Department has continued information technology procurement absent future business need considerations and workforce requirements resulting from the FAIR Act;

(10) the Department continues to approach the technological changes brought about by the Act without studying the changes in the context of the business processes of the Department;

(11) because the Department has failed to implement the internal changes necessary to effectively address the deficiencies raised by committees of Congress, the General Accounting Office, the Office of Management and Budget, and the Office of the Inspector General of the Department over the past decade, it is necessary to establish a single entity within the Department with both the responsibility and authority to make decisions regarding information technology planning and procurement; and

(12) having an Information Technology System Control Board to control the Department's information technology planning and procurements will—

(A) provide the Department with strong and coordinated leadership and direction;

(B) ensure that funds will be spent by the Department on information technology only after the Department has completed the required planning and review of future business requirements; and

(C) force the Department to act as a single enterprise with respect to information technology, thus eliminating the duplication and inefficiency associated with an independent agency-based approach.

SEC. 102. DEFINITIONS.

In this title:

(1) BOARD.—The term ''Board'' means the Information Technology System Control Board established under section 103.

(2) DEPARTMENT.—The term ''Department'' means the Department of Agriculture.

(3) FAIR ACT.—The term ''FAIR Act'' means the Federal Agriculture Improvement and Reform Act of 1996 (Public Law 104–127).

(4) INFORMATION TECHNOLOGY SYSTEM.—The term ''information technology system'' means all or part of each system of automated data processing, telecommunications, information resource management, or business process reengineering of an office or agency of the Department.

(5) OFFICE OR AGENCY OF THE DEPARTMENT.—The term ''office or agency of the Department'' means each current or future—

(A) national, regional, county, or local office or agency of the Department;

(B) county committee established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5));

(C) State committee, State office, or field service center of the Farm Service Agency; and

(D) multiple offices and agencies of the Department that are currently, or will be, connected by an information technology system.

(6) TRANSFER OR OBLIGATION OF FUNDS.—The term ''transfer or obligation of funds'' means, as applicable—

(A) the transfer of funds (including appropriated funds, mandatory funds, and funds of the Commodity Credit Corporation) from 1 account to another account of an office or agency of the Department for the purpose of funding any activity of the Department regarding planning, providing services, or leasing or purchasing of personal property (including all hardware and software) or services for an information technology system of an office or agency of the Department;

(B) the obligation of funds (including appropriated funds, mandatory funds, and funds of the Commodity Credit Corporation) for the purpose of funding any activity of the Department regarding planning, providing services, or leasing or purchasing of personal property (including all hardware and software) or services for an information technology system of an office or agency of the Department; or

(C) the obligation of funds (including appropriated funds, mandatory funds, and funds of the Commodity Credit Corporation) for the purpose of funding any activity of the Department regarding planning, providing

services, or leasing or purchasing of personal property (including all hardware and software) or services for an information technology system of an office or agency of the Department, to be obtained through a contract with any office or agency of the Federal Government, a State, the District of Columbia, or any person in the private sector.

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

SEC. 103. INFORMATION TECHNOLOGY SYSTEM CONTROL BOARD.

(a) ESTABLISHMENT.—An Information Technology System Control Board is established in the Department.

(b) COMPOSITION.—The Board shall consist of 3 members, of whom—

(1) 2 members shall be appointed from the private sector by the President by and with the advice and consent of the Senate; and

(2) 1 member shall be the Secretary.

(c) QUALIFICATIONS OF BOARD MEMBERS.—Of the members of the Board appointed by the President (other than the Secretary)—

(1) 1 member shall have—

(A) extensive private sector work-related experience in the field of total quality management; and

(B) at least 5 years of demonstrated work related experience in a full range of activities with large organizations involving information strategic planning, strategic quality planning, and strategic process management, including business process reengineering and business process improvement project-related experience; and

(2) 1 member shall have at least 15 years experience and industry-recognized credentials in the field of planning and managing the specification, design, and implementation of information technology, telecommunications, and information management systems in the private sector.

(d) COMPENSATION.—

(1) IN GENERAL.—A member of the Board appointed by the President (other than the Secretary) shall—

(A) be a limited term appointee (as defined in section 3132(a) of title 5, United States Code); and

(B) be paid an annual rate of compensation that does not exceed the annual rate in effect for positions at level V of the Executive Schedule.

(2) ADMINISTRATION.—A member of the Board (other than the Secretary) shall not be governed by—

(A) the provisions of title 5, United States Code, relating to appointments in the competitive service; or

(B) the provisions of chapter 51 and subchapter III of chapter 53 of title 5, or any other provision of law, relating to number or classification of General Schedule rates.

(3) CONFORMING AMENDMENT.—Section 5316 of title 5, United States Code, is amended by adding at the end the following:

''Limited term appointees of the Information Technology System Control Board, Department of Agriculture (2).''.

(e) CLERICAL AND SUPPORT PERSONNEL.—Notwithstanding any other provision of law:

(1) IN GENERAL.—The Board is authorized to obtain and employ such clerical or other support personnel, including detailees from an office or agency of the Department, as are necessary to enable the Board to carry out this title. The Secretary shall approve the transfer of each detailee selected by the Board.

(2) MANAGEMENT AND SUPERVISORY DUTIES.—The Board shall have general management and supervisory authority over all clerical and support personnel and detailees selected by the Board.

(3) SPECIFIC DUTIES.—In the case of clerical and support personnel and detailees selected by the Board, the supervisory and management authority of the Board under paragraph (2) shall include the exclusive authority (unless expressly delegated by a unanimous vote of the Board) to—

(A) establish and control workloads, quality of work, and work content;

(B) approve bonuses, step advancements, and promotions; and

(C) discipline employees for unsatisfactory performance or conduct.

(f) BOARD VOTING PROCEDURE.—Except as otherwise provided in this title—

(1) a decision or action of the Board shall require at least a ⅔-majority vote in favor of the decision or action; and

(2) if at least a ⅔-majority vote on a decision or action is obtained, the Secretary shall carry out the decision or action of the Board.

SEC. 104. MISSION OF THE BOARD.

(a) IN GENERAL.—The Board shall—

(1) develop and implement for the future a blueprint for a single platform information technology system of the Department that is coordinated between the offices or agencies of the Department, eliminate duplication, and are cost effective; and

(2) provide the strong central leadership, planning, and accountability that is needed in light of the substantial changes created by the FAIR Act and reorganization and downsizing initiatives already commenced within the Department.

(b) SPECIFIC GOALS OF THE BOARD.—The Board shall ensure that—

(1) information technology systems of the Department are designed to coordinate the functions of the offices or agencies of the Department on a departmental basis in contrast to the current practice of individual agencies designing and procuring information technology systems that service only a single agency;

(2) information technology systems are designed for field service centers—

(A) to best facilitate the exchange of information between field service centers and other offices or agencies of the Department;

(B) that integrate the changed missions of the Department in light of the FAIR Act and reorganization and downsizing initiatives of the Department; and

(C) that are cost effective; and

(3) a technical architecture is established that serves the entire Department.

(c) BUSINESS PLAN.—

(1) APPROVAL; REPORT.—Not later than 90 days after the date the last member of the Board appointed by the President (other than the Secretary) is confirmed by the Senate, the Board shall approve and report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a business plan to carry out this section through March 31, 2002.

(2) FAILURE TO REPORT.—If a business plan is not approved and reported in accordance with paragraph (1), notwithstanding any other provision of law, the transfer or obligation of funds available to the Department for the purpose of funding any activity of the Department regarding planning, providing services, or leasing or purchasing of personal property (including all hardware and software) or services for an information technology system of an office or agency of the Department shall be prohibited until the business plan is reported to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

SEC. 105. DUTIES OF THE BOARD.

The Board shall—

(1) review, evaluate, and approve (or, at the option of the Board, develop) each plan or design for all or part of each information technology system of each office or agency of the Department;

(2) exercise exclusive authority to approve each transfer or obligation of funds to be used to acquire all or part of each information technology system (including all hardware and software) for each office or agency of the Department;

(3) ensure that major information technology systems of the Department, where appropriate, result in improvements to the operations of the Department that are commensurate with the level of investment;

(4) ensure that the information technology system of each office or agency of the Department maximizes the effectiveness and efficiency of mission delivery and is focused first on specific improvements to core business processes (the strategic process management architecture) of the Department;

(5) ensure that the information technology system of each office or agency of the Department maximizes quality per dollar expended, and maximizes efficiency and coordination of information technology systems between offices and agencies of the Department;

(6) ensure that planning for, leases, and purchases of the information technology system of each office or agency of the Department most efficiently satisfy the needs of the office or agency in terms of the demographics, program, and the number of employees affected by the system; and

(7) ensure that funding used for planning or purchasing of the information technology system of each office or agency of the Department is used in the most effective manner.

SEC. 106. POWERS OF THE BOARD.

(a) IN GENERAL.—Subject to subsection (c) and notwithstanding any other provision of law, the Board shall have the exclusive authority (except as expressly delegated by a unanimous vote of the Board) to—

(1) review, evaluate, and approve each plan or design for each activity or regulation of the Department regarding planning, providing services, leasing, or purchasing of personal property (including all hardware and software) or services for the information technology system of each office or agency of the Department;

(2) develop (or, on a unanimous vote of the Board, direct employees of an agency or office of the Department to develop) a plan or design for an activity of the Department regarding planning, providing services, leasing, or purchasing of personal property (including hardware and software) or services for the information technology system of an office or agency of the Department; and

(3) approve each transfer or obligation of funds to be used for the purpose of funding any activity of the Department regarding planning, providing services, or leasing or purchasing of personal property (including all hardware and software) or services for the information technology system of each office or agency of the Department.

(b) REPORT TO BOARD.—An employee directed by the Board to develop a plan or design under paragraph (2) of subsection (a) shall report to the Board on actions taken to carry out the paragraph.

(c) BOARD NOT SUBJECT TO CONTROL OF SECRETARY.—The Board (including a decision or action of the Board approved by at least a ⅔-majority vote) shall not be subject to the control, direction, or supervision of the Secretary.

(d) EXCLUSIVE AUTHORITY.—Notwithstanding any other provision of law, the Board shall have the exclusive authority to exercise all powers described in subsection (a) during the period—

(1) beginning on the earlier of—

(A) the date the last member of the Board appointed by the President (other than the Secretary) is confirmed by the Senate; or

(B) March 31, 1997; and

(2) ending on March 31, 2002.

SEC. 107. REVIEW BY OFFICE OF MANAGEMENT AND BUDGET.

The Director of the Office of Management and Budget may review any regulation or transfer or obligation of funds involving an information technology system of the Department.

SEC. 108. TECHNICAL AMENDMENT.

The second sentence of section 13 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714k) is amended by striking ''section 5 or 11'' and inserting ''section 4, 5, or 11''.

SEC. 109. TERMINATION OF AUTHORITIES.

The Board and all other authorities provided by this title (other than section 108) shall terminate on March 31, 2002.

TITLE II—ADMINISTRATION OF DEPARTMENT OF AGRICULTURE

SEC. 201. ADMINISTRATION OF DEPARTMENT OF AGRICULTURE.

Section 735 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1997 (Public Law 104–180; 110 Stat. 1604), is amended—

(1) in subsection (a)(2)—

(A) in subparagraph (F), by striking ''or'' at the end;

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

(C) by adding at the end the following:

''(H) any employee who, on separation and application, would be eligible for an immediate annuity under subchapter III of chapter 83 or chapter 84 of title 5, United States Code (or another retirement system for an employee of the agency), other than an annuity subject to a reduction under section 8339(h) or 8415(f) of title 5, United States Code (or corresponding provisions of another retirement system for an employee of the agency).'';

(2) in subsection (c)—

(A) in paragraph (2)—

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

''(B) shall be paid from appropriations made available for salaries and expenses of the agency;'';

(ii) by redesignating subparagraphs (C) through (E) as subparagraphs (D) through (F), respectively;

(iii) by inserting after subparagraph (B) the following:

''(C) may not originate from funds of a mandatory account (including funds of the Commodity Credit Corporation) that are transferred to the salaries and expenses account of the agency;''; and

(iv) in subparagraph (D)(ii) (as so redesignated), by striking ''in fiscal year 1997,'' and all that follows through ''2000''; and

(B) in paragraph (3), by striking ''September 30, 2000'' and inserting ''March 31, 1997''; and

(3) by striking subsection (g) and inserting the following:

''(g) PERIOD.—The authority to offer separation incentive payments under this section shall apply during the period beginning October 1, 1996, and ending March 31, 1997.''.

TITLE III—EFFECTIVE DATE

SEC. 301. EFFECTIVE DATE.

Except as provided in section 106(d)(1), this Act and the amendments made by this Act shall become effective on the date of enactment of this Act.

SUMMARY OF THE DEPARTMENT OF AGRICULTURE RESPONSIBILITY AND ACCOUNTABILITY ACT OF 1996

TITLE I-INFORMATION TECHNOLOGY SYSTEM CONTROL BOARD

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

SEC. 101. FINDINGS.—Studies by several governmental and private organizations have repeatedly found that the Department of Agriculture has made planning decisions for, and procurement of, information technology in a piecemeal fashion, and on an individual agency basis (instead of a Department-wide basis), resulting in duplication, a lack of coordination, and wasted financial and technological resources. The Department has failed to adequately assess the impact that the 1996 Farm Bill will have on the people who use the services of the Department and on the Department's workforce requirements. Because of these and other longstanding deficiencies, it is necessary to establish a single entity within the Department that has the exclusive responsibility and authority to make decisions regarding planning for, and procurement of, information technology. This entity will—provide the Department with strong and coordinated leadership; ensure that funds will be spent on information technology only after a thorough review of future business requirements; and ensure that planning and procurement for information technology is performed on a departmental basis, instead of the Current independent agency-based approach.

SEC. 102. DEFINITIONS.

SEC. 103. INFORMATION TECHNOLOGY SYSTEM CONTROL BOARD.

An Information Technology System Control Board (Board) is established within the Department that consists of three members-the Secretary of Agriculture and two persons with extensive experience from the private sector who have qualifications such as quality management, strategic planning, and business process reengineering. The two members of the Board other than the Secretary shall be compensated at a rate according to level V of the Executive Schedule.

Sec. 104. MISSION OF THE BOARD.—The Board is required to—

Develop and implement for the future a blueprint for a single platform for information technology; ensure that planning and procurement for information technology is performed on a departmental basis, instead of an independent agency-based approach;

Ensure that information technology for field service centers is coordinated, cost effective, and designed in light of the changed requirements and reduced work force realities created by the 1996 Farm Bill;

Establish a technical architecture for information technology for the Department; and

Submit to Congress a business plan on how the Board intends to carry out its mission though 2002.

SEC. 105 & 106. DUTIES AND POWERS OF THE BOARD.

The Board is authorized and required to—

Review, evaluate, and approve every plan or design for an activity or regulation of the Department regarding planning, providing services, or procuring information technology for offices and agencies of the Department;

Develop a plan or design for activities of the Department regarding planning, providing services, or procuring information technology for offices and agencies of the Department; and

Approve every transfer or obligation of funds for procurement of information technology for offices and agencies of the Department.

The Board will not be subject to the control, direction, or supervision of the Secretary. The Board will obtain the exclusive authority to exercise these powers when the last member of the Board is confirmed by the Senate, or March 31, 1997, whichever is earlier, and will terminate on March 31, 2002.

SEC. 107. REVIEW BY OFFICE OF MANAGEMENT AND BUDGET.

The Office of Management and Budget may review any regulation or transfer or obligation of funds approved by the Board.

SEC. 108. TECHNICAL AMENDMENT.

A technical change is made to a reporting requirement regarding funding for automated data processing or information resource management.

SEC. 109. TERMINATION OF AUTHORITIES.

All authorities of this subtitle (except the technical amendment in section 108) will terminate on March 31, 2002.

TITLE II—ADMINISTRATION OF DEPARTMENT OF AGRICULTURE

The personnel buyout authority in the FY 1997 Agriculture Appropriations Act is amended—

By prohibiting persons who are eligible for retirement from also obtaining a buyout payment;

By requiring that only funds from an agency's salaries and expense accounts be used to pay for buyout payments;

By limiting this buyout authority to only FY 1997.

TITLE III—EFFECTIVE DATE.

This bill will become effective when it is signed into law by the President.●

By Mr. SPECTER:

S. 2165. A bill to require that the President to impose economic sanctions against countries that fail to eliminate corrupt business practices, and for other purposes; to the Committee on Foreign Relations.

UNFAIR TRADE PRACTICES ACT

Mr. SPECTER. Mr. President, today I am introducing the Unfair Trade Practices Act to level the playing field for U.S. companies competing with foreign firms overseas by imposing sanctions against foreign persons and concerns engaging in corrupt trade practices to the disadvantage of a U.S. company and against countries that refuse to enforce or adopt their own foreign corrupt practices laws similar to our Foreign Corrupt Practices Act.

I am introducing this bill at the end of this session rather than waiting to introduce it in the 105th Congress in order to provide people an opportunity to review this legislation over the intervening months. Earlier introduction of the bill was prevented by the press of Senate Intelligence Committee business.

The Select Committee on Intelligence, which I chair, had a particularly heavy agenda this year, including, among many other items, the annual Intelligence Authorization Act providing for the first real reform of the U.S. intelligence community since 1947, criminalizing economic espionage, and directing a thorough study of how the U.S. Government is organized to combat the proliferation of weapons of mass destruction. In addition, the committee has undertaken significant inquiries into CIA activities in Guatemala, the actions of U.S. officials regarding the flow of arms from Iran to

Bosnia, and the bombing of United States facilities in Saudi Arabia.

Mr. President, this bill directs the President to report to Congress regarding foreign persons and concerns that engage in corrupt practices and countries that do not have or do not enforce laws similar to our Foreign Corrupt Practices Act. Countries that the President determines are not engaged in a good faith effort to enact or enforce such laws will be sanctioned. Sanctions include a 50-percent reduction in foreign aid and USG opposition to the extension of any loan or financial or technical assistance by international financial institutions.

The bill also provides for sanctions against foreign persons and concerns engaging in corrupt trade practices to the disadvantage of a U.S. company. If the country with primary jurisdiction over the offenders fail to take action against them within 90 days, the President must, to fullest extent consistent with international obligations, ban all U.S. Government contracts with the offenders as well as all licenses or other authority allowing the offenders to conduct business within the United States.

In testimony earlier this year before the Select Committee on Intelligence, Director of Central Intelligence John Deutch said the problems of economic espionage and unfair trade practices were among the most serious economic issues facing the country today. Earlier this year, Senator KOHL and I introduced legislation to criminalize economic espionage, S. 1557, subsequently included in S. 1718, and S. 1557. The bill I am introducing today attempts to address the second issue, unfair trade practices by foreign concerns.

The importance of this effort to level the playing field by encouraging other countries to criminalize bribery of foreign officials throughout the world cannot be overstated. Earlier this year, then-U.S. Trade Representative Mickey Kantor noted that ''from April 1994 to May 1995, the U.S. Government learned of almost 100 cases in which foreign bribes undercut U.S. firms' ability to win contracts valued at $45 billion.''

A recent poll of 3,000 Asian executives conducted by the ''Far Eastern Economic Review'' found that more than a third of the business leaders in four major countries preferred to bribe a customer rather than lose a big sale. Another index is published annually by an institution called Transparency International, created by a group of multinational corporations including General Electric and the Boeing Corp. This index, which was a compilation of polls of business men and women around the world, revealed that corruption is not limited to any specific culture or business area but exists worldwide. Nor is it limited to less developed countries. In 1994, a year described in ''The Financial Times—Dec. 30, 1994, at 4—as ''The Year of Corruption,'' complaints of corruption surfaced in some of the wealthier countries, including Britain, Canada, France, and Japan.

Despite the evidence that corruption is still widespread, there are indications that the international community may finally be susceptible to increased pressure to crack down on these unfair trade practices. There is a growing recognition that bribery exacts a cost on the foreign country whose officials are corrupted. Studies show corrupt procurement practices deter foreign investment while as much as doubling the price that emerging countries pay for goods and services.

We may finally be approaching the point when focused U.S. pressure can actually make a difference, just as U.S.-led efforts to combat money laundering, including U.S. sanctions, extraterritorial enforcement of U.S. laws, and multilateral efforts, finally led countries to recognize that the stigma of being a dirty-money haven outweighed the benefits of attracting illicit funds.

Change will not occur without significant U.S. pressure, however. When then-Trade Representative Kantor returned this past March from discussions with the Organization on Economic Cooperation and Development [OECD], he expressed his frustration at the lack of progress in trying to get our European allies to adopt laws to stop unfair trade practices and suggested U.S. sanctions may be required to provide the necessary incentive. While most countries have enacted laws to punish the bribing of their officials by their nationals and foreigners, no other major nation has laws banning their nationals from bribing foreign officials. In fact, in a number of countries—including Germany and France—corruption and bribery are so accepted that individuals are permitted to deduct the cost of bribes from their taxes.

Sustained U.S. efforts finally led in April of this year to an agreement by the members of the OECD that these tax laws should be rewritten so that bribes paid to foreign officials, often listed as commissions or fees, would no longer be tax deductible. However, this agreement is not binding and there is no deadline by which members are to have adopted the changes. Moreover, this is still a long way from criminalizing bribery of foreign officials.

There is much more that needs to be done. In addition to pressing the OECD members to adopt foreign corrupt practices laws, the USG should move promptly to support the treaty negotiated this past April in the Organization of American States requiring each signatory to make bribery of foreign officials a crime and an extraditable offense. We should press for similar commitments in other fora, such as the G–7 meetings and the World Trade Organization.

In the meantime, the U.S. should take steps to ensure that U.S. firms are not penalized by the failure of other countries to enact laws prohibiting foreign bribery. Foreign firms that bribe foreign officials to gain an unfair advantage over U.S. competitors are, in effect, robbing those U.S. competitors of their right to compete fairly for international contracts. Such ''theft'' has adverse effects within the United States in terms of lost income and, often, jobs. If countries with jurisdiction over these trade thieves will not act to stop them, the U.S. should.

By Mr. HATFIELD:

S. 2166. A bill to increase the overall economy and efficiency of Government operations and enable more efficient use of Federal funding, by enabling State, local, and tribal governments and private, nonprofit organizations to use amounts available under certain Federal assistance programs in accordance with approved flexibility plans; to the Committee on Governmental Affairs.

THE LOCAL EMPOWERMENT AND FLEXIBILITY PILOT ACT OF 1996

•Mr. HATFIELD. Mr. President, the appropriations process of the past few weeks has been very complex. Rolling several spending bills into one—to the tune of $600 billion—is not the most appropriate method to appropriate. However, as the fiscal year expires tonight, avoiding a Government shutdown is our national priority. As a result of our need to be hasty, many Members have lost, or been asked to withhold, their legislative priorities. This is the compromising nature absolutely necessary to reach agreement in time for the President to sign this bill today.

One withheld legislative goal that I would like to expound upon is my own—the Local Empowerment and Flexibility Act of 1996. I introduced this bill on the first day of the 104th Congress. Congress has held three hearings, one in the Senate and two in the House, and ''Local-Flex,'' as I call it, was reported favorably out of both the House Government Reform and Oversight Committee and the Senate Governmental Affairs Committee months ago.

An agreement had been reached to include a six-State Local-Flex pilot in the Treasury-Postal appropriations bill. The assistance of the Governmental Affairs Committee as well as Senators SHELBY, KERREY, KENNEDY, and SIMON was greatly appreciated. However, before the agreement could be incorporated into the Treasury-Postal bill, various other amendments forced leadership to pull the bill off the floor. I then included the agreed upon pilot in the Senate CR with the hope and expectation that it would be included in the final omnibus bill. Unfortunately, the necessary haste of the government-wide spending bill precluded securing final agreement to incorporate the Local-Flex pilot. I have no doubt that a few additional moments would have made this possible.

Local-Flex provides communities flexibility in the administration of Federal funding. States and localities receive numerous Federal grants, each with their categorical purposes and

specific requirements. As grantees use more than one grant together, requirements conflict and common sense government can be lost. Under Local-Flex, in exchange for flexibility in the form of waivers of statutory and regulatory requirements, grantees agree to focus on and measure results rather than procedural compliance. With over 635 Federal grants available to be mixed and matched at the local level, there should be little doubt that flexibility is required.

Mr. President, the past year, the Governmental Affairs Committee, House of Representatives, administration, interest groups and other interested Members have come to the table to practically discuss how the bill would work and what improvements should be made. Serious concerns have been addressed and great headway was made to the point that the Local-Flexibility Pilot has the broad bipartisan support of the Governmental Affairs Committee.

Unfortunately, I am disappointed to report that even with the bipartisan support of the committee of jurisdiction, the support of the National League of Cities, the National Association of Counties, and yet other interest groups have targeted Local-Flex, warning their members of the danger that results whenever communities are empowered to make decisions which affect their citizens.

As former Governor of Oregon, I vividly recall the lack of trust Washington has for the State and local level. That is why for several years I have been pushing forward what I call the ''flexibility factor.'' The Education Flexibility Act or ''Ed-Flex,'' was my first piece and become law in 1993. It provides much needed flexibility in a select number of education programs. Ed-Flex has been enormously successful, and what started as a six-State pilot is being expanded with New Mexico becoming the most recent Ed-Flex State.

The second piece to my flexibility factor is ''Work-Flex.'' Originally a part of the Careers Act of Senator KASSEBAUM, and now a part of the omnibus appropriations bill, Work-Flex reduces Government bureaucracy specifically in the area of job training programs, of which there are over 100, by measuring and rewarding outcomes and not bureaucratic procedure.

The last and most significant piece to the flexibility factor has been Local-Flex—legislation which will not be passed this year, but I would like to, in a moment, introduce as a free-standing bill the Local Empowerment and Flexibility Pilot Act of 1996.

The key organization that resisted the concept of local-flexibility, was the National Education Association. No matter what changes were made to Local-Flex, an offshoot of the Education Flexibility Act, it has been made clear to me that the NEA would never support Local-Flex. It is not my usual custom to focus on any one group or individual on the Senate floor, but I cannot be silent as my commitment to education is questioned as flagrantly as it has been by the NEA. My support for education funding is absolute, but my support for flexible funding is just as strong.

More than once I have been endorsed by the Oregon Education Association, and on the issue of education vouchers, the NEA and I have stood on the same ground. To witness the NEA's uncompromising view on this matter has been at best disheartening. While I single out the NEA, many groups trying to protect their piece of the Federal pie have been vocal in their opposition.

Madam President, I would just like to close by explaining why I believe the flexibility factor is so important. As I mentioned a moment ago, we have been attempting—and when I say we I mean Members on both sides of the aisle and both sides of the Mall—to balance the budget on an 18-percent baseline of nondefense discretionary programs. By 2002, it is projected this baseline will decrease by 12 percent. In barely 5 years, it is estimated that nondefense discretionary spending will be only 13 percent of the Federal budget. These numbers should encourage each of us to stop and think. In short, we are running out of nondefense discretionary dollars.

On the first day of this Congress I introduced the Local Empowerment and Flexibility Act because if we are going to try and get our fiscal house in order using 18 percent of our budget, we may as well ensure that Federal dollars are doing more than being thrown at problems—we ought to be providing flexibility and measuring results.

It is appropriate then, that on this last day, the Local Empowerment and Flexibility Pilot Act—which has been built on the foundation of my original bill—be introduced today and made available to the 105th Congress for debate.

Mr. President, I would like to especially thank the Governmental Affairs Committee for their work with Local-Flex, especially Chairman STEVENS, Ranking Member GLENN and Senator LEVIN. I would also like to thank Senator KENNEDY for his assistance with this legislation. Their expertise has been invaluable. The Government Reform and Oversight Committee on the House side has also shown excellent leadership under Chairman CLINGER and the companion bill's sponsor Congressman SHAYS. And finally, I am delighted to know of Congressman STENY HOYER'S interest in moving the flexibility factor forward in the 105th Congress. I introduce this bill today to serve as a starting point for next year's discussion.

By Mr. KERRY:

S. 2168. A bill to amend title 49, United States Code, to provide protection for airline employees who provide certain air safety information, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE AVIATION SAFETY PROTECTION ACT

Mr. KERRY. Mr. President, in an effort to increase overall safety of the airline industry, I am introducing the Aviation Safety Protection Act of 1996, which would establish whistle blower protection for aviation workers.

The worker protections contained in the Occupational Safety and Health Act [OSHA] are of great importance to American workers. A number of members of this body have worked hard to maintain those protections. OSHA properly protects both private and Federal Government employees who report health and safety violations from reprisal by their employers. However, because of a loophole, aviation employees are not covered by these protections. Flight attendants and other airline employees are in the best position to recognize breaches in safety regulations and can be the critical link in ensuring safer air travel. Currently, those employees face the possibility of harassment, discipline, and even termination if they work for unscrupulous airlines and report violations.

Aviation employees perform an important public service when they choose to report safety concerns. No employee should be put in the position of having to choose between his or her job and reporting violations that threaten the safety of passengers and crew. For that reason, we need a strong whistle blower law to protect aviation employees from retaliation by their employers when reporting incidents to Federal authorities. Americans who travel on commercial airlines deserve the safeguards that exist when flight attendants and other airline employees can step forward to help Federal authorities enforce safety laws.

This bill would close the loophole in OSHA law and provide the necessary protections for aviation employees who provide safety violation information to Federal authorities or testify or assist in disclosure of safety violations. The act provides a Department of Labor complaint procedure for employees who experience employer reprisal for reporting such violations, and assures that there are strong enforcement and judicial review provisions for fair implementation of the protections. The act also protects airlines from frivolous complaints by establishing a fine which will be imposed on an employee who files a complaint if the Department of Labor determines that there is no merit to the complaint.

I want to acknowledge the leadership of Representative CLYBURN who has introduced the bill in the House of Representatives as H.R. 3187. I am pleased to introduce the companion legislation in the Senate.

This bill will provide important protections to aviation workers and the general public. I urge my colleagues to join me in supporting it.

By Mr. PELL:

S. 2169. A bill to promote the survival of significant cultural resources that have been identified as endangered and that represent important economic, social, and educational assets of the United States and the world, to permit United States professionals to participate in the planning and implementation of projects worldwide to protect the resources, and to educate the public concerning the importance of cultural heritage to the fabric of life in the United States and throughout the world, and for other purposes; to the Committee on Energy and Natural Resources.

THE ENDANGERED CULTURAL HERITAGE ACT OF 1996

Mr. PELL. Mr. President. I rise to express my concern for the many historic and artistic sites around the world that are in grave danger through a growing range of threats from natural catastrophes and environmental deterioration to destructive acts of man. These magnificent sites are resources of great importance, not only for their spiritual and educational meaning, but also as valuable economic, social, and learning blocks for the global community.

Through personal travel and my observations as a member of the Foreign Relations Committee and Honorary Chairman of the American Committee for Tyre, I have come to understand the value of preserving and protecting cultural heritage, especially in times of political upheaval or social change. In Cambodia, Vietnam and Croatia, we have seen that the use and abuse of culturally significant sites plays a large role in international relations.

The actual number of endangered sites is being well-documented by the World Monuments Fund, a United States nonprofit organization devoted to the conservation of cultural heritage on a worldwide scale that maintains an international listing of endangered sites. Within this country, the National Trust for Historic Preservation and the National Park Service work with the World Monuments Fund to track sites in need of conservation and rehabilitation.

I believe that the United States is in a unique position to lead an effort among independent nations to protect the future of our cultural legacy worldwide. A timely response is critical to prevent further losses. This can be achieved through sustained funding to stabilize and strengthen the ability of local institutions to protect their cultural resources on a consistent and long-term basis. Conservation work must increase. Professionals need to be trained in cultural resource management, and the public needs to be instilled with a concern for the survival of our significant cultural heritage.

I hope that the 105th Congress will take action to establish an endangered cultural heritage fund and am today introducing legislation to serve as a discussion piece to move us in that direction. As a nation composed of the people of many cultures, it is fitting to support the care of great historic and artistic sites which define national character and pay tribute to human accomplishment of universal significance.

By Mrs. KASSEBAUM:

S. 2170. A bill to establish spending limits for entitlement programs and other mandatory spending programs, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly.

THE SAVE OUR SAVINGS ACT OF 1996

● Mrs. KASSEBAUM. Mr. President, one good result of the strenuous budget debate of the past 2 years has been a bipartisan embrace of the need for reform in the long-sacrosanct realm of entitlement spending. The exchange of offers and counteroffers that characterized the budget process produced a new consensus that entitlement spending must be controlled. Most of us now realize that without controls, entitlement programs will continue to grow at a pace that threatens our fiscal security, jeopardizing any effort to balance the budget and squeezing funding away from important discretionary programs.

As we come to the end of this Congress, the fruits of that consensus are in peril. Republicans and Democrats, Congress and the White House—almost all of us have agreed that, at the very minimum, we can save $232 billion over 6 years from entitlement programs. We have not been able to agree on the policies to produce those savings, but we should not release ourselves from our obligation to do so. The legislation I am introducing today, the Save Our Savings Act of 1996, would ensure that we fulfill that obligation.

Sometimes when we talk about entitlements, we use terms that support the view that they are beyond our control. We often define entitlements as programs not controlled by the annual appropriations process, programs that must distribute payments to all eligible, regardless of the cost. On its face, that definition is correct. But at a more basic level, it betrays a sense of helplessness, an aversion to action, and a passive acceptance of their growing might.

When I was sworn in as a Senator 18 years ago, discretionary spending represented nearly 50 percent of the Federal budget. Now we spend little more than a third on these programs. We have seen in the past 2 years how hard it is to squeeze savings from discretionary programs. If we do nothing about entitlements, spending constraints will become tighter still.

Part of the explanation is that we now must set aside about one-sixth of the budget just to pay interest on the debt. At the same time, spending on entitlement programs has escalated rapidly in recent years, and the forecast is for even more rapid expansion in the future. In fact, if entitlements are allowed to grow unimpeded, they, combined with interest on the debt, will consume all revenues by 2012.

This bill takes affirmative steps to lock in significant entitlement savings that, without action, will vanish. The legislation would cap entitlements from fiscal years 1997 to 2002 at the CBO-defined levels of the President's budget or, where applicable, the levels in the recently passed welfare reform legislation. You can consider those levels of savings the lowest that most of us have agreed to.

Multiple caps would be enforced, including individual caps on the 11 largest entitlement programs, an all other cap, and an aggregate cap. Sequestration would be triggered only on programs that exceeded their caps, and the caps themselves would be adjusted for economic and demographic factors. The caps could be adjusted by recorded vote.

Some might argue that the very fact that both parties now advocate significant savings from entitlement programs has demonstrated our capacity to control Government spending—that we do not need our feet held to the fire—but experience is eloquent. If we let the evolution of the last 2 years' budget proposals fade into memory, the courage and resolve that should be invested in making difficult policy decisions will be spent instead on producing yet another set of budget blueprints. Congress does not need to start all over again; we need to finish what we have started.

I realize that nothing more can be done on this matter in this Congress. I also realize that I will not be here in the next Congress to carry on this effort. However, I believe it is important to voice both my concern and a specific proposal to give weight to that concern for those who must take up this battle in the years ahead.●

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

S. 2171. A bill to provide reimbursement under the Medicare Program for telehealth services, and for other purposes; to the Committee on Finance.

THE COMPREHENSIVE TELEHEALTH ACT OF 1996

● Mr. CONRAD. Mr. President, today, I am introducing legislation to help improve health care delivery in rural and underserved communities throughout America through the use of telecommunications and telehealth technology.

Telehealth encompasses a wide variety of technologies, ranging from the telephone to high-tech equipment that enables a surgeon to perform surgery from thousands of miles away. It includes interactive video equipment, fax machines and computers along with satellites and fiber optics. These technologies can be used to diagnose patients, deliver care, transfer health data, read x rays, provide consultation, and educate health professionals. Telehealth also includes the electronic storage and transmission of personally identifiable health information, such as medical records, test results, and insurance claims.

The promise of telehealth is becoming increasingly apparent. Throughout the country, providers are experimenting with a variety of telehealth approaches in an effort to improve access to quality medical and other health-related services. Those programs are demonstrating that telecommunications technology can alleviate the constraints of time and distance, as well as the cost and inconvenience of transporting patients to medical providers. Many approaches show promising results in reducing health care costs and bringing adequate care to all Americans. Technological advances and the development of a national information infrastructure for the first time give telehealth the potential to overcome barriers to health care services for rural Americans and give them the access that most Americans take for granted. But it is clear that our Nation must do more to integrate telehealth into our overall health care delivery infrastructure.

Because I believe telehealth holds incredible promise for rural America, I formed the ad hoc steering committee on telemedicine and health care informatics to explore telehealth and related issues in 1994. The purpose of the steering committee, which includes telehealth experts from Government, private industry, and the health care professions, is to evaluate federal policies on telehealth and how to use telecommunications technology more effectively to increase access to health care throughout America.

Throughout the last few years, as the steering committee held meetings and policy forums, it became increasingly apparent that there is enormous energy and financial effort being devoted to telehealth today, both by Government and private industry.

Because so many rural and underserved communities lack the ability to attract and support a wide variety of health care professionals and services, it is important to find a way to bring the most important medical services into those communities. Telehealth provides an important part of the answer. It helps bring services to remote areas in a quick, cost-effective manner, and can enable patients to avoid traveling long distances in order to receive health care treatment.

Telehealth is already making a difference in my State. The University of North Dakota has a fiber optic two-way audio and video interactive network that has been used to train students in areas like social work and medical technology. Recently, I had the opportunity to spend some time with two of the premier telehealth systems in the State of North Dakota. I was amazed at the capabilities of these systems. They currently supply speciality care to rural North Dakota clinics, manage chronic disease, lower administrative costs, and reduce the isolation felt by rural and frontier practitioners.

Because telehealth is in many respects an emerging health care application, it is particularly important to constructively capitalize on efforts like these. My proposal attempts to facilitate this in a number of ways.

The first element of my proposal builds on current demonstration projects to require the Health Care Financing Administration to put in place a reimbursement system for telehealth activities under Medicare. Medicare reimbursement policy is an essential component of helping integrate telehealth into the health care infrastructure, and must be explored. It is particularly important in rural areas, where many hospitals do as much as 80% of their business with Medicare patients.

The second element of this proposal asks the Secretary of Health and Human Services to submit a report to the Congress on the status of efforts to ease licensing burdens on practioners who cross State lines in the course of supplying telehealth services. Currently, consultation by almost any licensed health professional in this situation requires that the practitioner be licensed in both States.

In talking with telehealth providers in my State, and with experts on the Ad Hoc Committee, I have been told repeatedly that this is one of the most significant barriers to developing broad integrated telehealth systems. More importantly, they tell me States have actively been using licensure to close their borders to innovative telehealth practice. In the past two years, nine States have taken legislative action to ensure that out-of-state practitioners must be fully licensed in their State in order to provide telehealth services, even if they are fully licensed in the State they are practicing from. During a recent discussion with a telehealth practitioner from my home State of North Dakota, I was told about a group of telehealth specialists who, among their small group practice, were licensed in over 30 different States. That means they pay thirty different fees, are responsible for 30 different continuing education requirements, and are overseen by 30 different regulatory bodies. This is a costly and burdensome procedure for many practitioners, but the burden falls particularly heavily on rural practitioners, who face long travel times to acquire continuing education, and who frequently run on lower profit margins than urban practitioners.

While I am not prepared at this time to propose that the Federal Government get involved with professional licensure, I have asked the Secretary to study the issue and report to Congress yearly on the status of efforts by states and other interested organizations to address this issue. As part of this report, I have asked to the Secretary to make recommendations to Congress, if appropriate, about possible Federal action to lower the licensure barrier.

A third element of my proposal involves coordination of the Federal telehealth effort. Vice President GORE has been making outstanding contributions in the area of the information super highway. The Department of Health and Human Services, in large part at the urging of the Vice President, has created an informal interagency task force that is examining our Federal agency telehealth efforts. My bill attempts to use that task force to inventory Federal activity on telehealth and related technology, determine what applications have been found successful, and recommend an overall Federal policy approach to telehealth.

Many departments and agencies of the Federal Government are engaged in telehealth activity, including the Veterans Administration, Department of Defense, Department of Agriculture, Office of Rural Health Policy, and many others. The more these agencies work together to coordinate the Federal effort and consolidate Federal resources, the more effective the Federal Government will be at contributing to telehealth in a positive way. Such coordination will also help protect the American taxpayer from unnecessary duplication of effort.

The fourth part of my proposal helps communities build home-grown telehealth networks. It attempts to both build a telehealth infrastructure and foster rural economic development. Clearly, the scarcity of resources in many rural communities requires that the coordination and use of those resources be maximized. My bill encourages cooperation by various local entities in an effort to help build sustainable telehealth programs in rural communities. It plants seed money to encourage health care providers to join with other segments of the community to jointly use telecommunications resources. Using a unique loan forgiveness program, it rewards telehealth systems that supply appropriate, high-quality care while reducing overall health care costs.

Most importantly, it does not create a system where various technological approaches are imposed upon communities. Rather it enables potential grantees to determine user-friendly approaches that work best for them. This home-grown approach to developing user-friendly telehealth systems, as well as the preference for coordinating resources within communities, will help ensure the long-term viability of such programs after the grant expires.

Mr. President, my proposal is a sound first step in our national efforts to integrate telecommunications technology into the rapidly evolving health care delivery system. Over the past several weeks, I have attempted to reach out to different groups and incorporate their ideas into this proposal. I hope the result is a bill that will command broad support. But, as with any complex issue, I understand that some may prefer different approaches. By introducing this legislation in the waning moments of the 104th Congress, I hope to send a message to all interested parties that now is the time to

come forward with creative solutions to these important issues, because I am certain that they will be revisited again in the 105th Congress.

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:

S. 2171

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 ''Comprehensive Telehealth Act of 1996''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
TITLE I—MEDICARE REIMBURSEMENT FOR TELEHEALTH SERVICES
Sec. 101. Medicare reimbursement for telehealth services.
TITLE II—TELEHEALTH LICENSURE
Sec. 201. Initial report to Congress.
Sec. 202. Annual report to Congress.
TITLE III—PERIODIC REPORTS TO CONGRESS FROM THE JOINT WORKING GROUP ON TELEHEALTH
Sec. 301. Joint working group on telehealth.
TITLE IV—DEVELOPMENT OF TELEHEALTH NETWORKS
Sec. 401. Development of telehealth networks.
Sec. 402. Administration.
Sec. 403. Guidelines.
Sec. 404. Authorization of appropriations.

SEC. 2. FINDINGS AND PURPOSES.

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

(1) Hospitals, clinics, and individual health care providers are critically important to the continuing health of rural populations and the economic stability of rural communities.

(2) Rural communities are underserved by specialty care providers.

(3) Telecommunications technology has made it possible to provide a wide range of health care services, education, and administrative services between practitioners, patients, and administrators across State lines.

(4) The delivery of health services by licensed health practitioners is a privilege and the licensure of health care practitioners and the ability to discipline such practitioners is necessary for the protection of citizens and for the public interest, health, welfare, and safety.

(5) The licensing of health care practitioners to provide telehealth services has a significant impact on interstate commerce and any unnecessary barriers to the provision of telehealth services across State lines should be eliminated.

(6) Rapid advances in the field of telehealth give the Congress a need for current information and updates on recent developments in telehealth research, policy, technology, and the use of this technology to supply telehealth services to rural and underserved areas.

(7) Telehealth networks can provide hospitals, clinics, practitioners, and patients in rural and underserved communities with access to specialty care, continuing education, and can act to reduce the isolation from other professionals that these practitioners sometimes experience.

(8) In order for telehealth systems to continue to benefit rural and underserved communities, medicare must reimburse the provision of health care services from remote locations via telecommunications.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To mandate that the Health Care Financing Administration reimburse the provision of clinical health services via telecommunications.

(2) To determine if States are making progress in facilitating the provision of telehealth services across State lines.

(3) To create a coordinating entity for Federal telehealth research, policy, and program initiatives that reports to Congress annually.

(4) To encourage the development of rural telehealth networks that supply appropriate, cost-effective care, and which contribute to the economic health and development of rural communities.

(5) To encourage research into the clinical efficacy and cost-effectiveness of telehealth diagnosis, treatment, or education on individuals, practitioners, and health care networks.

TITLE I—MEDICARE REIMBURSEMENT FOR TELEHEALTH SERVICES

SEC. 101. MEDICARE REIMBURSEMENT FOR TELEHEALTH SERVICES.

(a) IN GENERAL.—Not later than January 1, 1998, the Secretary of Health and Human Services (hereafter in this section referred to as the ''Secretary'') shall make payments from the Federal Supplementary Medical Insurance Trust Fund under part B of title XVIII of the Social Security Act in accordance with the methodology described in subsection (b) for professional consultation via telecommunication systems with an individual or entity furnishing a service for which payment may be made under such part to a medicare beneficiary residing in a rural area (as defined in section 1886(d)(2)(D) of such Act) or an underserved area, notwithstanding that the individual health care practitioner providing the professional consultation is not at the same location as the individual furnishing the service to the medicare beneficiary.

(b) METHODOLOGY FOR DETERMINING AMOUNT OF PAYMENTS.—Taking into account the findings of the report required under section 192 of the Health Insurance Portability and Accountability Act of 1996, including those findings relating to the clinical efficacy and cost-effectiveness of telehealth applications, the Secretary shall establish a methodology for determining the amount of payments made under subsection (a), including the cost of the consultation service, a reasonable overhead adjustment, and a malpractice risk adjustment.

(c) ADDITIONAL ANALYSIS INCLUDED IN REPORT.—Section 192 of the Health Insurance Portability and Accountability Act of 1996 is amended—

(1) by inserting ''and telehealth'' after ''telemedicine'' each place it appears, and

(2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

''(2) include an analysis of—

''(A) how telemedicine and telehealth systems are expanding access to health care services,

''(B) the clinical efficacy and cost-effectiveness of telemedicine and telehealth applications,

''(C) the quality of telemedicine and telehealth services delivered, and

''(D) the reasonable cost of telecommunications charges incurred in practicing telemedicine and telehealth in rural, frontier, and underserved areas;''.

TITLE II—TELEHEALTH LICENSURE

SEC. 201. INITIAL REPORT TO CONGRESS.

Not later than July 1, 1997, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report concerning—

(1) the number, percentage and types of practitioners licensed to provide telehealth services across State lines, including the number and types of practitioners licensed to provide such services in more than 3 States;

(2) the status of any reciprocal, mutual recognition, fast-track, or other licensure agreements between or among various States;

(3) the status of any efforts to develop uniform national sets of standards for the licensure of practitioners to provide telehealth services across State lines;

(4) a projection of future utilization of telehealth consultations across State lines;

(5) State efforts to increase or reduce licensure as a burden to interstate telehealth practice; and

(6) any State licensure requirements that appear to constitute unnecessary barriers to the provision of telehealth services across State lines.

SEC. 202. ANNUAL REPORT TO CONGRESS.

(a) IN GENERAL.—Not later than July 1, 1998, and each July 1 thereafter, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress, an annual report on relevant developments concerning the matters referred to in paragraphs (1) through (6) of section 201.

(b) RECOMMENDATIONS.—If, with respect to a report submitted under subsection (a), the Secretary of Health and Human Services determines that States are not making progress in facilitating the provision of telehealth services across State lines by eliminating unnecessary requirements, adopting reciprocal licensing arrangements for telehealth services, implementing uniform requirements for telehealth licensure, or other means, the Secretary shall include in the report recommendations concerning the scope and nature of Federal actions required to reduce licensure as a barrier to the interstate provision of telehealth services.

TITLE III—PERIODIC REPORTS TO CONGRESS FROM THE JOINT WORKING GROUP ON TELEHEALTH

SEC. 301. JOINT WORKING GROUP ON TELEHEALTH.

(a) IN GENERAL.—

(1) REDESIGNATION.—The Joint Working Group on Telemedicine, established by the Secretary of Health and Human Services, shall hereafter be known as the ''Joint Working Group on Telehealth'' with the chairperson being designated by the Director of the Office of Rural Health Policy.

(2) MISSION.—The mission of the Joint Working Group on Telehealth is—

(A) to identify, monitor, and coordinate Federal telehealth projects, data sets, and programs,

(B) to analyze—

(i) how telehealth systems are expanding access to health care services, education, and information,

(ii) the clinical, educational, or administrative efficacy and cost-effectiveness of telehealth applications, and

(iii) the quality of the services delivered, and

(C) to make further recommendations for coordinating Federal and State efforts to increase access to health services, education, and information in rural and underserved areas.

(3) PERIODIC REPORTS.—The Joint Working Group on Telehealth shall report not later

than January 1 of each year (beginning in 1998) to the Congress on the status of the Group's mission and the state of the telehealth field generally.

(b) REPORT SPECIFICS.—The annual report required under subsection (a)(3) shall provide—

(1) an analysis of—

(A) how telehealth systems are expanding access to health care services,

(B) the clinical efficacy and cost-effectiveness of telehealth applications,

(C) the quality of telehealth services delivered,

(D) the Federal activity regarding telehealth, and

(E) the progress of the Working Group's efforts to coordinate Federal telehealth programs; and

(2) recommendations for a coordinated Federal strategy to increase health care access through telehealth.

(c) TERMINATION.—The Joint Working Group on Telehealth shall terminate immediately after the annual report filed not later than January 1, 2002.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary for the operation of the Joint Working Group on Telehealth on and after the date of the enactment of this Act.

TITLE IV—DEVELOPMENT OF TELEHEALTH NETWORKS

SEC. 401. DEVELOPMENT OF TELEHEALTH NETWORKS.

(a) IN GENERAL.—The Secretary of Health and Human Services (hereafter referred to in this title as the ''Secretary''), acting through the Director of the Office of Rural Health Policy (of the Health Resources and Services Administration), shall provide financial assistance (as described in subsection (b)(1)) to recipients (as described in subsection (c)(1)) for the purpose of expanding access to health care services for individuals in rural and frontier areas through the use of telehealth.

(b) FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—Financial assistance shall consist of grants or cost of money loans, or both.

(2) FORM.—The Secretary shall determine the portion of the financial assistance provided to a recipient that consists of grants and the portion that consists of cost of money loans so as to result in the maximum feasible repayment to the Federal Government of the financial assistance, based on the ability to repay of the recipient and full utilization of funds made available to carry out this title.

(3) LOAN FORGIVENESS PROGRAM.—

(A) ESTABLISHMENT.—With respect to cost of money loans provided under this section, the Secretary shall establish a loan forgiveness program under which recipients of such loans may apply to have all or a portion of such loans forgiven.

(B) REQUIREMENTS.—A recipient described in subparagraph (A) that desires to have a loan forgiven under the program established under such paragraph shall—

(i) within 180 days of the end of the loan cycle, submit an application to the Secretary requesting forgiveness of the loan involved;

(ii) demonstrate that the recipient has a financial need for such forgiveness;

(iii) demonstrate that the recipient has met the quality and cost-appropriateness criteria developed under subparagraph (C); and

(iv) provide any other information determined appropriate by the Secretary.

(C) CRITERIA.—As part of the program established under subparagraph (A), the Secretary shall establish criteria for determining the cost-effectiveness and quality of programs operated with loans provided under this section.

(c) RECIPIENTS.—

(1) APPLICATION.—To be eligible to receive a grant or loan under this section an entity described in paragraph (2) shall, in consultation with the State office of rural health or other appropriate State entity, prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require, including—

(A) a description of the anticipated need for the grant or loan;

(B) a description of the activities which the entity intends to carry out using amounts provided under the grant or loan;

(C) a plan for continuing the project after Federal support under this section is ended;

(D) a description of the manner in which the activities funded under the grant or loan will meet health care needs of underserved rural populations within the State;

(D) a description of how the local community or region to be served by the network or proposed network will be involved in the development and ongoing operations of the network;

(E) the source and amount of non-Federal funds the entity would pledge for the project; and

(F) a showing of the long-term viability of the project and evidence of provider commitment to the network.

The application should demonstrate the manner in which the project will promote the integration of telehealth in the community so as to avoid redundancy of technology and achieve economies of scale.

(2) ELIGIBLE ENTITIES.—An entity described in this paragraph is a hospital or other health care provider in a health care network of community-based providers that includes at least—

(A) two of the following:

(i) community or migrant health centers;

(ii) local health departments;

(iii) nonprofit hospitals;

(iv) private practice health professionals, including rural health clinics;

(v) other publicly funded health or social services agencies;

(vi) skilled nursing facilities;

(vii) county mental health and other publicly funded mental health facilities; and

(viii) home health providers; and

(B) one of the following, which must demonstrate use of the network for purposes of education and economic development (as required by the Secretary):

(i) public schools;

(ii) public library;

(iii) universities or colleges;

(iv) local government entity; or

(v) local nonhealth-related business entity.

An eligible entity may include for-profit entities so long as the network grantee is a nonprofit entity.

(d) PRIORITY.—The Secretary shall establish procedures to prioritize financial assistance under this title considering whether or not the applicant—

(1) is a health care provider in a rural health care network or a provider that proposes to form such a network, and the majority of the providers in such a network are located in a medically underserved, health professional shortage areas, or mental health professional shortage areas;

(2) can demonstrate broad geographic coverage in the rural areas of the State, or States in which the applicant is located;

(3) proposes to use Federal funds to develop plans for, or to establish, telehealth systems that will link rural hospitals and rural health care providers to other hospitals, health care providers and patients;

(4) will use the amounts provided for a range of health care applications and to promote greater efficiency in the use of health care resources;

(5) can demonstrate the long term viability of projects through use of local matching funds (cash or in-kind); and

(6) can demonstrate financial, institutional, and community support for the long-term viability of the network.

(e) MAXIMUM AMOUNT OF ASSISTANCE TO INDIVIDUAL RECIPIENTS.—The Secretary may establish the maximum amount of financial assistance to be made available to an individual recipient for each fiscal year under this title, and establish the term of the loan or grant, by publishing notice of the maximum amount in the Federal Register.

(f) USE OF AMOUNTS.—

(1) IN GENERAL.—Financial assistance provided under this title shall be used—

(A) with respect to cost of money loans, to encourage the initial development of rural telehealth networks, expand existing networks, or link existing networks together; and

(B) with respect to grants, as described in paragraph (2).

(2) GRANTS AND LOANS.—The recipient of a grant or loan under this title may use financial assistance received under such grant or loan for the acquisition of telehealth equipment and modifications or improvements of telecommunications facilities including—

(A) the development and acquisition through lease or purchase of computer hardware and software, audio and video equipment, computer network equipment, interactive equipment, data terminal equipment, and other facilities and equipment that would further the purposes of this section;

(B) the provision of technical assistance and instruction for the development and use of such programming equipment or facilities;

(C) the development and acquisition of instructional programming;

(D) demonstration projects for teaching or training medical students, residents, and other health professions students in rural training sites about the application of telehealth;

(E) transmission costs, maintenance of equipment, and compensation of specialists and referring practitioners;

(F) development of projects to use telehealth to facilitate collaboration between health care providers;

(G) electronic archival of patient records;

(H) collection of usage statistics; or

(I) such other uses that are consistent with achieving the purposes of this section as approved by the Secretary.

(3) EXPENDITURES IN RURAL AREAS.—In awarding a grant or cost of money loan under this section, the Secretary shall ensure that not less than 50 percent of the grant or loan award is expended in a rural area or to provide services to residents of rural areas.

(g) PROHIBITED USES.—Financial assistance received under this section may not be used for any of the following:

(1) To build or acquire real property.

(2) Expenditures to purchase or lease equipment to the extent the expenditures would exceed more than 40 percent of the total grant funds.

(3) To purchase or install transmission equipment (such as laying cable or telephone lines, microwave towers, satellite dishes, amplifiers, and digital switching equipment).

(4) For construction, except that such funds may be expended for minor renovations relating to the installation of equipment.

(5) Expenditures for indirect costs (as determined by the Secretary) to the extent the

expenditures would exceed more than 20 percent of the total grant funds.

(h) MATCHING REQUIREMENT FOR GRANTS.—The Secretary may not make a grant to an entity State under this section unless that entity agrees that, with respect to the costs to be incurred by the entity in carrying out the program for which the grant was awarded, the entity will make available (directly or through donations from public or private entities) non-Federal contributions (in cash or in kind) in an amount equal to not less than 50 percent of the Federal funds provided under the grant.

SEC. 402. ADMINISTRATION.

(a) NONDUPLICATION.—The Secretary shall ensure that facilities constructed using financial assistance provided under this title do not duplicate adequate established telehealth networks.

(b) LOAN MATURITY.—The maturities of cost of money loans shall be determined by the Secretary, based on the useful life of the facility being financed, except that the loan shall not be for a period of more than 10 years.

(c) LOAN SECURITY AND FEASIBILITY.—The Secretary shall make a cost of money loan only if the Secretary determines that the security for the loan is reasonably adequate and that the loan will be repaid within the period of the loan.

(d) COORDINATION WITH OTHER AGENCIES.—The Secretary shall coordinate, to the extent practicable, with other Federal and State agencies with similar grant or loan programs to pool resources for funding meritorious proposals in rural areas.

(e) INFORMATIONAL EFFORTS.—The Secretary shall establish and implement procedures to carry out informational efforts to advise potential end users located in rural areas of each State about the program authorized by this title.

SEC. 403. GUIDELINES.

Not later than 180 days after the date of enactment of this Act, the Secretary shall issue guidelines to carry out this title.

SEC. 404. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title, $25,000,000 for fiscal year 1997, and such sums as may be necessary for each of the fiscal years 1998 through 2004.

THE COMPREHENSIVE TELEHEALTH ACT OF 1996

BILL SUMMARY

Section 1. Short Title; Table of Contents.

Sec. 2. Findings and Purposes.

Subtitle A—Medicare Reimbursement For Telehealth Services.

Sec. 101. Medicare Reimbursement For Telehealth Service.

Mandates that HCFA reimburse for telehealth services provided to rural and underserved areas by January of 1998. Reimbursement would be given to any Medicare-eligible provider. This provision builds on the results of the HCFA telemedicine reimbursement demonstration program, and adds additional reporting requirements to the reimbursement methodology report that HCFA must forward to Congress by March of 1997.

Subtitle B—Telehealth Licensure.

Sec. 201. Initial Report to Congress.

Asks the Secretary of Health and Human Services to submit an initial report to the Congress on the status of efforts to ease licensing burdens on practioners who cross state lines in the course of supplying telehealth services.

Sec. 202. Annual Report to Congress.

Asks the Secretary to report yearly on developments concerning the matters in Sec. 1201. If the Secretary feels the states or other relevant entities are not making progress on removing licensure barriers to multistate telehealth practice, the Secretary may make recommendations about possible federal action necessary to reduce licensure burdens.

Subtitle C—Periodic Reports to Congress From the Joint Working Group on Telehealth.

Sec. 301. Joint Working Group on Telehealth.

The Joint Working Group on Telemedicine (JWGT) is currently operating out of the HHS/HRSA Office of Rural Health Policy, at the request of the Secretary and the Vice-President. The group consists of representatives from over twenty government agencies and divisions that operate or oversee telehealth related projects, including the VHA, DOD, IHS, NASA, USDA, and others. The JWGT coordinates federal programs and telehealth initiatives, and will complete a report on its efforts in January of 1997.

Under this proposal, the name of the group will change to the ''Joint Working Group on Telehealth'', and the Office of Rural Health Policy will have the authority to select the Chair. It requires yearly updates (through 2002) to Congress on the report on Telehealth due March 1, 1997. The group sunsets in 2002.

Subtitle D—Development of Telehealth Networks.

Sec. 401. Development of Telehealth Networks.

Grants and loans are awarded through the Office of Rural Health Policy (ORHP) to rural hospitals, clinics, schools, libraries, business organizations, and universities to develop local multi-use telehealth systems. Systems are given an incentive to design effective programs; all or part of a loan can be forgiven if the program meets certain cost-effectiveness and quality criteria. Grantees must put up not less than a 50 percent match of the federal funds (cash or in-kind).

Sec. 402. Administration.

Sec. 403. Guidelines.

Sec. 404. Authorization of Appropriations.

Up to $25 million per year through 2004.

By Mr. MURKOWSKI:

S. 2172. A bill to provide for the appointment of a Special Master to meet with interested parties in Alaska and make recommendations to the Governor of Alaska, The Alaska State Legislature, The Secretary of Agriculture, The Secretary of the Interior, and the United States Congress on how to return management of fish and game resources to the State of Alaska and provide for subsistence uses by Alaskans, and for other purposes; to the Committee on Energy and Natural Resources.

THE ALASKA SUBSISTENCE HUNTING AND FISHING ACT OF 1996

Mr. MURKOWSKI. Mr. President, I rise for the purpose of introducing legislation regarding subsistence hunting and fishing in Alaska.

I am under no false hope that this legislation will move through the Senate this year but I want it to appear in the RECORD for purposes of discussion.

The issue of subsistence hunting and fishing in Alaska has caused a great divisiveness in my State that has led to the State of Alaska becoming the only State in the union which no longer retains control of its fish and game resources on public lands.

This legislation calls for the appointment of a special master to come up with non-binding recommendations to the Secretaries of Agriculture and the Interior, the Governor of the State of Alaska and to the Congress.

The recommendations will be on how to return management of fish and game resources to the State, and how best to provide for the continuation of a subsistence lifestyle for Alaska's rural residents.

I hope to have significant discussions with the people of Alaska on this issue between now and the start of the 105th Congress and intend to introduce legislation again upon our return in January.

Mr. President, I intend to place a longer statement in the RECORD next week on this issue.

By Mr. DORGAN:

S. 2173. A bill to amend the Internal Revenue Code of 1986 to allow a family-owned business exclusion from the gross estate subject to estate tax, and for other purposes; to the Committee on Finance.

THE FAMILY BUSINESS ESTATE TAX RELIEF ACT OF 1996

● Mr. DORGAN. Mr. President, I introduce the Family Business Estate Tax Relief Act of 1996, which would help preserve our Nation's most important economic assets. I am referring, of course, to our farms, ranches and other family-owned small businesses which are the major creators of new wealth and jobs in this country.

Farms, ranches and other closely held family businesses that operate in this country face a number of obstacles to succeeding, ranging from price gouging by tough international competitors to excessive U.S. regulations. That is why it is not surprising to find, for example, that we have lost some 377,000 family farms since 1980, a decline of some 23,500 family farms every year.

Since 1980, we have lost some 9,000 of our family farms in North Dakota. At the same time, we see that only a small fraction of other family-run businesses survive beyond the second generation.

When family farms are sold or family-run businesses on Main Street are boarded up, those families lose their very livelihood. Moreover, our country loses the jobs and services those families provide to our communities.

I have been approached on a number of occasions at town meetings by North Dakotans who say it is virtually impossible for them to pass along their farm or business—which has been the family's major asset for decades—to their children because of the exorbitant estate taxes they would pay. They think it is unfair, and I agree.

Unfortunately, our estate tax laws force many family members who inherit a modestly sized farm, ranch or other family business to sell it, or a large part of it, out of the family in order to pay off estate taxes. This is especially onerous when the inheriting family members have already been participating in the business for years and depend upon it to earn a living.

I think that we must take immediate steps to breathe new economic life and opportunities into our family businesses and the communities in which they operate. It seems to me that a good first step is correcting our estate tax laws so they do not unfairly penalize those working families who are now prevented from passing along a small farm or business to their kids or grandkids because they would have to pay exorbitant estate taxes.

There are a few provisions included in our estate tax laws that are intended to help a family's effort to keep the family business running long after the death of its original owner. But, for the most part, these provisions are either too modest or too narrowly drawn to do much good.

Now I also understand that there are some complicated estate tax planning techniques available for those wealthy enough to hire sophisticated and costly tax advisors. Clearly some estate planning devices may reduce the estate tax burden imposed on some family businesses upon the death of a principal owner. But for those less affluent families inheriting a family business—where such estate planning tools were unavailable for whatever reason—the estate taxes will ultimately force them to amass a pile of debt, or to sell off all or a large part of a family business, just to pay off their estate taxes. I think that this is wrong, and it runs counter to the kinds of policies that we ought to be pursuing in support of our family-owned businesses.

That is why I am introducing the Family Business Estate Tax Relief Act to rectify this matter, and I urge you consider joining me in this endeavor.

The Family Business Estate Tax Relief Act would provide two significant measures of estate tax relief to those families hoping to pass along their businesses to the next generation.

First, my bill allows a decedent's estate to exclude up to the first $900,000 of value of the family business from estate taxes so long as the heirs continue to materially participate in the business for many years after the death of the owner. Together, this proposal, when coupled with the existing $600,000 benefit from unified estate and gift tax credit, will eliminate estate tax liability on qualifying family business assets valued up to $1.5 million. In addition, the full benefit of this new $900,000 exclusion is available to couples trying to pass along the family business without the complicated tax planning tailored to one spouse or the other that is sometimes used today.

Second, my bill would allow the executor of a qualifying estate who chooses to pay estate taxes in installments to benefit from a special 4 percent rate on the estate taxes attributable to a family business worth between $1.5 and $2.5 million. In other words, my bill would also lighten the estate tax burden on the next $1 million of estate assets.

My proposals expand upon the well-tested approaches found in Sections 2032A and 6601(j) of the Tax Code.

For example, we currently provide a ''special-use'' calculation for valuing real estate used in a farm or other trade or business for estate tax purposes, where a qualifying business is passed along to another family member after the death of the owner. To benefit from the ''special-use'' formula under Section 2032A, the inheriting family member must continue to actively participate in the business operation. If the heir ceases to participate in the business, he or she may face a substantial recapture of the estate taxes which would have been paid at the time of the original owner's death.

In enacting this provision, Congress embraced the goal of keeping farms and other closely held business in the family after the death of the owner. However, in the case of family farms, special-use valuation primarily helps those farms adjacent to urban areas, where the value of the land for non-farm uses is often much higher. But Section 2032A does not help many farms located in truly rural areas of the country where farming is the land's best use. This provision also provides little help for families transferring other non-farm small businesses under similar circumstances. My legislation would correct these glaring shortfalls in current law.

In addition, my bill would increase the benefit of the existing preferential interest rates under Section 6601(j) that apply to farms and other closely held businesses. The benefits of the current provision have been significantly reduced by inflation over the past several decades, and my bill simply increases the amount of estate taxes that qualify for a special 4 percent interest rate if paid to the IRS in installment payments over time.

Moreover, my bill includes several safeguards to ensure that its tax benefits are truly targeted at the preservation of most family businesses.

Finally, I plan to offset any estimated revenue losses from this bill by offering another legislative package to close a number of outdated or unnecessary tax loopholes for large multinational corporations doing business in the United States. As a result, passing my estate tax relief proposals will not increase the Federal deficit. But passing the Family Business Estate Tax Relief Act will help to preserve the economic backbone of this country.

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

By Mr. CRAIG:

S. 2174. A bill to amend the Immigration and Nationality Act with respect to the admission of temporary H–2A workers; to the Committee on the Judiciary.

THE H–2A TEMPORARY AGRICULTURAL WORKERS

● Mr. CRAIG. Mr. President, I introduce a bill that would make needed reforms to the so-called H–2A Program, the program intended by Congress in the Immigration and Nationality Act to allow for a reliable supply of legal, temporary, immigrant workers in the agricultural sector, under terms that also provide reasonable worker protections, when there is a shortage of domestic labor in this sector.

Let me start by once again thanking my good friend, AL SIMPSON, the senior Senator from Wyoming, who agreed to including in the Illegal Immigration Reform conference report some compromise language regarding the Sense of the Congress on the H–2A Program and requiring the General Accounting Office to review the effectiveness of the program by the end of the year. AL SIMPSON is a true friend, a statesman, and a dedicated public servant. The Senate will miss him and I will miss our working together on a regular basis.

The language included in the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 is essentially the same as language agreed to in the conference report on fiscal year 1997 Agriculture Appropriations. With these provisions, the Congress now has gone on record twice on the importance of having a program that helps ensure an adequate work force for agricultural producers.

This is an issue that of the utmost importance to this country's farmers and ranchers, especially in light of the impact that immigration reform will have on the supply of agricultural labor. There is very real concern among Idaho farmers and throughout the country that these reforms will reduce the availability of agricultural workers.

Farmers need access to an adequate supply of workers and want to have certainty that they are hiring a legal work force. In 1995, the total agricultural work force was about 2.5 million people. That equals 6.7 percent of our labor force, which is directly involved in production agriculture and food processing.

Hired labor is one of the most important and costly inputs in farming. U.S. farmers spent more than $15 billion on hired labor expenses in 1992 $1 of every $8 of farm production expenses. For the labor-intensive fruit, vegetable and horticultural sector, labor accounts for 35 to 45 percent of production costs.

The competitiveness of U.S. agriculture, especially in the fruit, vegetable and horticultural specialty sectors, depends on the continued availability of hired labor at a reasonable cost. U.S. farmers, including producers of labor-intensive perishable commodities, compete directly with producers in other countries for market share in both U.S. and foreign commodity markets.

Wages of U.S. farmworkers will not be forced up by eliminating alien labor, because growers' production costs are capped by world market commodity prices. Instead, a reduction in the work force available to agriculture will force

U.S. producers to reduce production to the level that can be sustained by a smaller work force.

Over time, wages for these farm workers have actually risen faster than non-farm worker wages. Between 1986–1994, there was a 34.6 percent increase in average hourly earnings for farm workers, while non-farm workers only saw a 27.1 percent increase.

Even with this increase in on-farm wages, this country has historically been unable to provide a sufficient number of domestic workers to complete the difficult manual labor required in the production of many agricultural commodities. In Idaho, this is especially true for producers of fruit, sugar beets, onions and other specialty crops.

The difficulty in obtaining sufficient domestic workers is primarily due to the fact that domestic workers prefer the security of full-time employment in year round positions. As a result the available domestic work force tends to prefer the long term positions, leaving the seasonal jobs unfilled. In addition, many of the seasonal agricultural jobs are located in areas where it is necessary for workers to migrate into the area and live temporarily to do the work. Experience has shown that foreign workers are more likely to migrate than domestic workers. As a result of domestic short supply, farmers and ranchers have had to rely upon the assistance of foreign workers.

The only current mechanism available to admit foreign workers for agricultural employment is the H–2A program. The H–2A program is intended to serve as a safety valve for times when domestic labor is unavailable. Unfortunately, the H–2A program isn't working.

Despite efforts to streamline the temporary worker program in 1986, it now functions so poorly that few in agriculture use it without risking an inadequate work force, burdensome regulations and potential litigation expense. In fact, usage of the program has actually decreased from 25,000 workers in 1986 to only 17,000 in 1995.

The bill I am introducing would provide some much-needed reforms to the H–2A program. I urge my colleagues to consider the following reasonable modifications of the H–2A program.

First, the bill would reduce the advance filing deadline from 60 to 40 days before workers are needed. In many agricultural operations, 60 days is too far in advance to be able to predict labor needs with the precision required in H–2A applications. Furthermore, virtually all referrals of U.S. workers who actually report for work are made close to the date of need. The advance application period serves little purpose except to provide time for litigation.

Second, in lieu of the present certification letter, the Department of Labor [DOL] would issue the employer a domestic recruitment report indicating that the employer's job offer meets the statutory criteria and lists the number of U.S. workers referred. The employer would then file a petition with INS for admission of aliens, including a copy of DOL's domestic recruitment report and any countervailing evidence concerning the adequacy of the job offer and/or the availability of U.S. workers. The Attorney General would make the admission decision. The purpose is to restore the role of the Labor Department to that of giving advice to the Attorney General on laboravailability, and return decision making to the Attorney General.

Third, the Department of Labor would be required to provide the employer with a domestic recruitment report not later than 20 days before the date of need. The report either states sufficient domestic workers are not available or gives the names and Social Security Numbers of the able, willing and qualified workers who have been referred to the employer. The Department of Labor now denies certification not only on the basis of workers actually referred to the employer, but also on the basis of reports or suppositions that unspecified numbers of workers may become available. The proposed change would assure that only workers actually identified as available would be the basis for denying foreign workers.

Fourth, the Immigration and Naturalization Service [INS] would provide expedited processing of employers' petitions, and, if approved, notify the visa issuing consulate or port of entry within 15 calendar days. This would ensure timely admission decisions.

Fifth, INS would also provide expedited procedures for amending petitions to increase the number of workers admitted on 5 days before the date of need. This is to reduce the paperwork and increase the timeliness of obtaining needed workers very close to or after the work has started.

Sixth, DOL would continue to recruit domestic workers and make referrals to employers until 5 days before the date of need. This method is needed to allow the employer at a date certain to complete his hiring, and to operate without having the operation disrupted by having to displace existing workers with new workers.

Seventh, the bill would enumerate the specific obligations of employers in occupations in which H–2A workers are employed. The proposed definition would define jobs that meet the following criteria as not adversely affecting U.S. workers:

1. The employer offers a competitive wage for the position.

2. The employer would provide approved housing, or a reasonable housing allowance, to workers whose permanent place of residence is beyond normal commuting distance.

3. The employer continues to provide current transportation reimbursement requirements.

4. A guarantee of employment is provided for at least three-quarters of the anticipated hours of work during the actual period of employment.

5. The employer would provide workers' compensation or equivalent coverage.

6. Employer must comply with all applicable federal, state and local labor laws with respect to both U.S. and alien workers.

This combination of employment requirements would eliminate the discretion of Department of Labor to specify terms and conditions of employment on a case-by-case basis. In addition, the scope for litigation would be reduced since employers (and the courts) would know with particularity the required terms and conditions of employment.

Eighth, the bill would provide that workers must exhaust administrative remedies before engaging their employers in litigation.

Ninth, certainty would be given to employers who comply with the terms of an approved job order. If at a later date the Department of Labor requires changes, the employer would be required to comply with the law only prospectively. This very important provision removes the possibility of retroactive liability if an approved order is changed.

With the Illegal Immigration Reform bill on its way to becoming law, action on these H–2A reforms would be necessary early next year to avoid jeopardizing the labor supply for American agriculture.

Therefore, it is fully my intention to reintroduce this bill at the start of the 105th Congress. I am introducing it at this time, at the end of the 104th Congress, so that those in Congress and around the country who are interested in this issue can get a head start on discussing these issues and examining these vitally-needed reforms.

Again, I urge my colleagues to examine this bill, hopefully with an eye toward supporting these reforms when they are reintroduced in the next Congress.

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:

S. 2174

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

SECTION 1. CONSIDERATIONS IN THE APPROVAL OF H–2A PETITIONS.

Section 218(a) (8 U.S.C. 1188(a)) of the Immigration and Nationality Act is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following:

''(2) In considering an employer's petition for admission of H–2A aliens, the Attorney General shall consider the certification decision of the Secretary of Labor and shall consider any countervailing evidence submitted by the employer with respect to the nonavailability of United States workers and the employer's compliance with the requirements of this section, and may consult with the Secretary of Agriculture.''.

SEC. 2. CONDITION FOR DENIAL OF LABOR CERTIFICATION.

Section 218(b)(4) (8 U.S.C. 1188(b)(4)) of the Immigration and Nationality Act is amended to read as follows:

''(4) DETERMINATION BY THE SECRETARY.—The Secretary determines that the employer has not filed a job offer for the position to be filled by the alien with the appropriate local office of the State employment security agency having jurisdiction over the area of intended employment, or with the State office of such an agency if the alien will be employed in an area within the jurisdiction of more than one local office of such an agency, which meets the criteria of paragraph (5).

''(5) REQUIRED TERMS AND CONDITIONS OF EMPLOYMENT.—The Secretary determines that the employer's job offer does not meet one or more of the following criteria:

''(A) REQUIRED RATE OF PAY.—The employer has offered to pay H–2A aliens and all other workers in the occupation in the area of intended employment an adverse effect wage rate of not less than the median rate of pay for similarly employed workers in the area of intended employment.

''(B) PROVISION OF HOUSING.—

''(i) IN GENERAL.—The employer has offered to provide housing to H–2A aliens and those workers not reasonably able to return to their residence within the same day, without charge to the worker. The employer may, at the employer's option, provide housing meeting applicable Federal standards for temporary labor camps, or provide rental or public accommodation type housing which meets applicable local or state standards for such housing.

''(ii) HOUSING ALLOWANCE AS ALTERNATIVE.—In lieu of offering the housing required in clause (i), the employer may provide a reasonable housing allowance to workers not reasonably able to return to their place of residence within the same day, but only if the Secretary determines that housing is reasonably available within the approximate area of employment. An employer who offers a housing allowance pursuant to this subparagraph shall not be deemed to be a housing provider under section 203 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1823) merely by virtue of providing such housing allowance.

''(iii) SPECIAL HOUSING STANDARDS FOR SHORT DURATION EMPLOYMENT.— The Secretary shall promulgate special regulations permitting the provision of short-term temporary housing for workers employed in occupations in which employment is expected to last 40 days or less.

''(iv) TRANSITIONAL PERIOD FOR PROVISION OF SPECIAL HOUSING STANDARDS IN OTHER EMPLOYMENT.—For a period of five years after the date of enactment of this section, the Secretary shall approve the provision of housing meeting the standards described in clause (iii) in occupations expected to last longer than 40 days in areas where available housing meeting the criteria described in subparagraph (i) is found to be insufficient.

''(v) PREEMPTION OF STATE AND LOCAL STANDARDS.—The standards described in clauses (ii) and (iii) shall preempt any State and local standards governing the provision of temporary housing to agricultural workers.

''(C) REIMBURSEMENT OF TRANSPORTATION COSTS.—The employer has offered to reimburse H–2A aliens and workers recruited from beyond normal commuting distance the most economical common carrier transportation charge and reasonable subsistence from the place from which the worker comes to work for the employer, (but not more than the most economical common carrier transportation charge from the worker's normal place of residence) if the worker completes 50 percent of the anticipated period of employment. If the worker recruited from beyond normal commuting distance completes the period of employment, the employer will provide or pay for the worker's transportation and reasonable subsistence to the worker's next place of employment, or to the worker's normal place of residence, whichever is less.

''(D) GUARANTEE OF EMPLOYMENT.—The employer has offered to guarantee the worker employment for at least three-fourths of the workdays of the employer's actual period of employment in the occupation. Workers who abandon their employment or are terminated for cause shall forfeit this guarantee.

''(6) PREFERENCE FOR UNITED STATES WORKERS.—The employer has not assured on the application that the employer will provide employment to all qualified United States workers who apply to the employer and assure that they will be available at the time and place needed until the time the employer's foreign workers depart for the employer's place of employment (but not sooner than 5 days before the date workers are needed), and will give preference in employment to United States workers who are immediately available to fill job opportunities that become available after the date work in the occupation begins.''.

SEC. 3. SPECIAL RULES APPLICABLE TO THE ISSUANCE OF LABOR CERTIFICATIONS.

Section 218(c) (8 U.S.C. 1188(c)) of the Immigration and Nationality Act is amended to read as follows:

''(c) SPECIAL RULES APPLICABLE TO THE ISSUANCE OF LABOR CERTIFICATIONS.—The following rules shall apply to the issuance of labor certifications by the Secretary under this section:

''(1) DEADLINE FOR FILING APPLICATIONS.—The Secretary may not require that the application be filed more than 40 days before the first date the employer requires the labor or services of the H–2A worker.

''(2) NOTICE WITHIN SEVEN DAYS OF DEFICIENCIES.—

''(A) The employer shall be notified in writing within seven calendar days of the date of filing, if the application does not meet the criteria described in subsection (b) for approval.

''(B) If the application does not meet such criteria, the notice shall specify the specific deficiencies of the application and the Secretary shall provide an opportunity for the prompt resubmission of a modified application.

''(3) ISSUANCE OF CERTIFICATION.—

''(A) The Secretary shall provide to the employer, not later than 20 days before the date such labor or services are first required to be performed, the certification described in subsection (a)(1)—

''(i) with respect to paragraph (a)(1)(A) if the employer's application meets the criteria described in subsection (b), or a statement of the specific reasons why such certification can not be made, and

''(ii) with respect to subsection (a)(1)(B), to the extent that the employer does not actually have, or has not been provided with the names, addresses and Social Security numbers of workers referred to the employer who are able, willing and qualified and have indicated they will be available at the time and place needed to perform such labor or services on the terms and conditions of the job offer approved by the Secretary. For each worker referred, the Secretary shall also provide the employer with information sufficient to permit the employer to contact the referred worker for the purpose of reconfirming the worker's availability for work at the time and place needed.

''(B) If, at the time the Secretary determines that the employer's job offer meets the criteria described in subsection (b) there are already unfilled job opportunities in the occupation and area of intended employment for which the employer is seeking workers, the Secretary shall provide the certification at the same time the Secretary approves the employer's job offer.''.

SEC. 4. EXPEDITED APPEALS OF CERTAIN DETERMINATIONS.

Section 218(e) (8 U.S.C 1188(e)) of the Immigration and Nationality Act is amended to read as follows:

''(e) EXPEDITED APPEALS OF CERTAIN DETERMINATIONS.—The Secretary shall provide by regulation for an expedited procedure for the review of the nonapproval of an employer's job offer pursuant to subsection (c)(2) and of the denial of certification in whole or in part pursuant to subsection (c)(3) or, at the applicant's request, a de novo administrative hearing respecting the nonapproval or denial.''.

SEC. 5. PROCEDURES FOR THE CONSIDERATION OF H–2A PETITIONS.

Section 218 of the Immigration and Nationality Act (8 U.S.C. 1188) is amended—

(1) by redesignating subsections (f) through (i) as subsections (g) through (j), respectively; and

(2) by adding the following after subsection (e):

''(f) PROCEDURES FOR THE CONSIDERATION OF H–2A PETITIONS.—The following procedures shall apply to the consideration of petitions by the Attorney General under this section:

''(1) EXPEDITED PROCESSING OF PETITIONS.—The Attorney General shall provide an expedited procedure for the adjudication of petitions filed under this section, and the notification of visa-issuing consulates where aliens seeking admission under this section will apply for visas and/or ports of entry where aliens will seek admission under this section within 15 calendar days from the date such petition is filed by the employer.

''(2) EXPEDITED AMENDMENTS TO PETITIONS.—The Attorney General shall provide an expedited procedure for the amendment of petitions to increase the number of workers on or after five days before the employers date of need for the labor or services involved in the petition to replace referred workers whose continued availability for work at the time and place needed under the terms of the approved job offer can not be confirmed and to replace referred workers who fail to report for work on the date of need and replace referred workers who abandon their employment or are terminated for cause, and for which replacement workers are not immediately available pursuant to subsection (b)(6).''.

SEC. 6. LIMITATION ON EMPLOYER LIABILITY.

Section 218(g) (8 U.S.C. 1188(g)) of the Immigration and Nationality Act is amended—

(1) by redesignating paragraph (2) as paragraph (2)(A); and

(2) by inserting after paragraph (2)(A) the following:

''(B) No employer shall be subject to any liability or punishment on the basis of an employment action or practice by such employer that conforms with the terms and conditions of a job offer approved by the Secretary pursuant to this section, unless and until the employer has been notified that such certification has been amended or invalidated by a final order of the Secretary or of a court of competent jurisdiction.''.

SEC. 7. LIMITATION ON JUDICIAL REMEDIES.

Section 218(h) of the Immigration and Nationality Act (8 U.S.C. 1188(h)) is amended by adding at the end thereof the following:

''(3) No court of the United States shall have jurisdiction to issue any restraining

order or temporary or permanent injunction preventing or delaying the issuance by the Secretary of a certification pursuant to this section, or the approval by the Attorney General of a petition to import an alien as an H–2A worker, or the actual importation of any such alien as an H–2A worker following such approval by the Attorney General.''.

SUMMARY OF THE BILL TO REFORM THE IMMIGRATION AND NATIONALITY ACT WITH RESPECT TO THE H–2A TEMPORARY AGRICULTURAL WORKERS PROGRAM

The following proposed changes to the H–2A program would improve its timeliness and utility for agricultural employers in addressing agricultural labor shortages, while providing wages and benefits that equal or exceed the median level of compensation in non-H–2A occupations, and reducing the vulnerability of the program to being hamstrung and delayed by litigation.

1. Reduce the advance filing deadline from 60 to 40 days before workers are needed.

Rationale: In many agricultural operations, 60 days is too far in advance to be able to predict labor needs with the precision required in H–2A applications. Furthermore, virtually all referrals of U.S. workers who actually report for work are made close to the date of need. The advance application period serves little purpose except to provide time for litigation.

2. In lieu of the present certification letter, DOL would issue the employer a domestic recruitment report indicating that the employer's job offer meets the statutory criteria (or the specific deficiencies in the order) and the number of U.S. workers referred, per #3 below. The employer would file a petition with INS for admission of aliens (or transfer of aliens already in the United States), including a copy of DOL's domestic recruitment report and any countervailing evidence concerning the adequacy of the job offer and/or the availability of U.S. workers. The Attorney General would make the admission decision.

Rationale: The purpose is to restore the role of the Labor Department to that of giving advice to the AG on labor availability, and return the true gatekeeper role to the AG. Presently the certification letter is, de facto, the admission decision.

3. DOL provides employer with a domestic recruitment report not later than 20 days before the date of need stating either that sufficient domestic workers are not available, or giving the names and Social Security Numbers of the able, willing and qualified workers who have been referred to the employer and who have agreed to be available at the time and place needed. DOL also provides a means for the employer to contact the referred worker to confirm availability close to the date of need. DOL would be empowered to issue a report that sufficient domestic workers are not available without waiting until 20 days before the date of need for workers if there are already unfilled orders for workers in the same or similar occupations in the same area of intended employment.

Rationale: DOL now denies certification not only on the basis of workers actually referred to the employer, but also on the basis of reports or suppositions that unspecified numbers of workers may become available. These suppositions almost never prove correct, forcing the employer into costly and time wasting redeterminations on or close to the date of need and delaying the arrival of workers. The proposed change would assure that only workers actually identified as available would be the basis for denying foreign workers. DOL also interprets the existing statutory language as precluding it from issuing each labor certification until 20 days before the date of need, even in situations where ongoing recruitment shows that sufficient workers are not available.

4. INS to provide expedited processing of employer's petitions, and, if approved, notify the visa issuing consulate or port of entry within 15 calendar days.

Rationale: The assure timely admission decisions.

5. INS to provide an expedited procedures for amending petitions to increase the number of workers admitted (or transferred) on or after 5 days before the date of need, to replace referred workers whose continued availability can not be confirmed, who fail to report on the date of need, or who abandon employment or are terminated for cause, without first obtaining a redetermination of need from DOL.

Rationale: To reduce the paperwork and increase the timeliness of obtaining needed workers very close to or after the work has started.

6. DOL would continue to recruit domestic workers and make referrals to employers until 5 days before the date of need. Employers would be required to give preference to able, willing and qualified workers who agree to be available at the time and place needed who are referred to the employer until 5 days before the date workers are needed. After that time, employers would be required to give preference to U.S. workers who are immediately available in filling job opportunities that become available, but would not be required to bump alien workers already employed.

Rationale: A method is needed to allow the employer at a date-certain close to the date of need to complete his hiring, and to operate without having the operation disrupted by having to displace existing workers with new workers.

7. Create a ''bounded definition'' of adverse effect by enumerating the specific obligations of employers in occupations in which H–2A aliens are employed. The proposed definition would define jobs that meet the following criteria as not adversely affecting U.S. workers:

7a. Offer at least the median rate of pay for the occupation in the area of intended employment.

7b. Provide approved housing or, if sufficient housing is available in the approximate area of employment, a reasonable housing allowance, to workers whose permanent place of residence is beyond normal commuting distance.

NOTE: Provision should also be made to allow temporary housing that does not meet the full set of Federal standards for a transitional period in areas where sufficient housing that meets standards is not presently available, and for such temporary housing on a permanent basis in occupations in which the term of employment is very short (e.g. cherry harvesting, which lasts about 15–20 days) if sufficient housing that meets the full standards is not available. Federal law should pre-empt state and local laws and codes with respect to the provision of such temporary housing.

7c. Current transportation reimbursement requirements (i.e. employer reimburses transportation of workers who complete 50 percent of the work contract and provides or pays for return transportation for workers who complete the entire work contract).

7d. A guarantee of employment for at least three-quarters of the anticipated hours of work during the actual period of employment.

7e. Employer-provided Workers' Compensation or equivalent.

7f. Employer must comply with all applicable federal, state and local labor laws with respect to both U.S. and alien workers.

Rationale: The objective is to eliminate the discretion of DOL to specify terms and conditions of employment on a case-by-case basis and reduce the scope for litigation of applications. Employers (and the courts) would know with particularity, up front, what the required terms and conditions of employment are. The definition also reduces the cost premium for participating in the program by relating the Adverse Effect Wage Rate to the minimum wage and limiting the applicability of the three-quarters guarantee to the actual period of employment.

8. Provide that workers must exhaust administrative remedies before engaging their employers in litigation.

Rationale: To reduce litigation costs.

9. Provide that if an employer complies with the terms of an approved job order, and DOL or a court later orders a provision to be changed, the employer would be required to comply with the new provision only prospectively.

Rationale: To reduce the exposure of employers to litigation seeking to overturn DOL's approval of job orders, and to retroactive liability if an approved order is changed.●

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

S. 2176. A bill to amend the Internal Revenue Code of 1986 and the Social Security Act to provide for personal investment plans funded by employee security payroll deductions; to the Committee on Finance.

THE PERSONAL INVESTMENT PLAN ACT OF 1996

Mr. KERREY. Mr. President, in May 1995, it was my distinct pleasure to join the fine, distinguished Senator from Wyoming, the Honorable ALAN K. SIMPSON, to introduce the Kerrey-Simpson Retirement Reform bills. The intent of this series of eight bills has two important goals: Put Social Security and other Federal retirement programs on the path to long term fiscal health; and renew America's commitment to national savings.

Today, I rise with Senator SIMPSON to reintroduce two of these bills, S.824 and S.825, for the purpose of offering technical changes.

Specifically, it was our original intent to permit contributors to a personal investment plan to pass the balance of such plan to their surviving spouse upon their death, except if the surviving spouse agrees in writing that such balance should be transferred to a designated beneficiary, such as child or sibling. Our intent was to provide the contributor with the greatest amount of flexibility in his/her estate planning, while at the same time recognizing the vulnerability of a surviving spouse.

The second technical correction would require that in the event of the contributor's death where there is no surviving spouse and there has been no designation of a beneficiary of the proceeds of the personal investment plan, the proceeds should revert to the deceased's estate, not to the Social Security trust fund. It was our original intent to allow contributors to retain ownership of their personal investment plan, even after death.

The third technical correction would permit financial institutions—in addition to banks—to administer personal

investment plans. It was our original intent to permit personal investment plans to be administered by the identical institutions permitted to administer individual retirement accounts.

Finally, technical corrections are made to S.825 to adjust certain dates in the formula for determining benefits to our original intent.

As these changes are technical in nature, we have been assured by the actuaries of the Social Security Administration that such changes should have no effect on the solvency of the Social Security trust fund.

Finally, I would like to add what a joy and pleasure it has been to work with my good friend from Wyoming. His leadership and candidness on this issue will be sorely missed. But more importantly, Mr. President, the character and leadership of ALAN K. SIMPSON as a Senator, colleague, and friend will be equally difficult to replace in the U.S. Senate.

I wish him all the best in whatever his fine future holds, and I expect he will continue to fight the good fight on this matter of critical importance to our Nation's fiscal future.

Mr. SIMPSON. Mr. President, on May 18, 1995, I joined my able and steady colleague Senator BOB KERREY from Nebraska in introducing a series of eight bills to address the long-term problems of Social Security. I rise today to join Senator KERREY in reintroducing two bills, S. 824 and S. 825, which address the long-term solvency problems of the Social Security Program. The changes that Senator KERREY and I propose are technical in nature and are made in both S. 824 and S. 825 unless otherwise indicated.

Specifically, it was our original intent to permit contributors on a Personal Investment Plan [PIP] to pass the balance of such plan to their surviving spouse upon their death, except if the surviving spouse agrees in writing that such balance should be transferred to a designated beneficiary, such as a child or sibling. Our intent was to provide the contributor with the greatest possible flexibility in his or her estate planning, while at the same time recognizing the vulnerability of a surviving spouse.

The second technical correction would require that in the event of the contributor's death where there is no surviving spouse and there has been no designation of a beneficiary of the proceeds of the personal investment plan, the proceeds should revert to the deceased's estate, not to the Social Security trust fund. It was our original intent to allow contributors to retain ownership of their personal investment plan, even after death.

The third technical correction would permit financial institutions, in addition to banks, to administer personal investment plans. It was our original intent to permit personal investment plans to be administered by the identical institutions that were permitted to administer individual retirement accounts.

Finally, technical corrections are made to S. 825 to conform to our original intent adjustments in the formula for determining benefits to our original intent.

As these changes are technical in nature, we have been assured by the actuaries of the Social Security Administration that such changes should have no effect on the present solvency of the Social Security trust fund.

By Mr. SANTORUM:

S. 2177. A bill to authorize the Small Business Administration to provide financial and business development assistance to military reservists' small businesses, and for other purposes; to the Committee on Small Business.

THE MILITARY RESERVISTS SMALL BUSINESS RELIEF ACT

• Mr. SANTORUM. 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. 2177

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 ''Military Reservists Small Business Relief Act''.

SEC. 2. REPAYMENT DEFERRAL FOR ACTIVE DUTY RESERVISTS.

Section 7 of the Small Business Act (15 U.S.C. 636) is amended by adding at the end the following new subsection:

''(n) REPAYMENT DEFERRED FOR ACTIVE DUTY RESERVISTS.—

''(1) IN GENERAL.—The Administration shall, upon written request, defer repayment of a direct loan made pursuant to subsection (a) or (b), if such loan was incurred by a qualified borrower.

''(2) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

''(A) QUALIFIED BORROWER.—The term 'qualified borrower' means—

''(i) an individual who is an eligible Reserve and who received a direct loan under subsection (a) or (b) before being called or ordered to, or retained on, active duty as described in subparagraph (B); or

''(ii) a small business concern that received a direct loan under subsection (a) or (b) before an eligible Reserve, who is an owner, manager, or key employee described in subparagraph (C), was called or ordered to, or retained on, active duty as described in subparagraph (B).

''(B) ELIGIBLE RESERVE.—The term 'eligible Reserve' means a member of a reserve component of the Armed Forces serving pursuant to a call or order to active duty, or retention on active duty, during a period of military conflict.

''(C) OWNER, MANAGER, OR KEY EMPLOYEE.—An eligible Reserve is an owner, manager, or key employee described in this subparagraph if the eligible Reserve is an individual who—

''(i) has not less than a 20 percent ownership interest in the small business concern described in subparagraph (A)(ii);

''(ii) is a manager responsible for the day-to-day operations of such small business concern; or

''(iii) is a key employee (as defined by the Administration) of such small business concern.

''(D) PERIOD OF MILITARY CONFLICT.—The term 'period of military conflict' means—

''(i) a period of war declared by the Congress;

''(ii) a period of national emergency declared by the Congress or by the President; or

''(iii) a period for which members of reserve components of the Armed Forces are serving on active duty in the Armed Forces under a call or order to active duty, or retention on active duty, under section 688, 12301(a), 12302, 12304, or 12306 of title 10, United States Code.

''(3) PERIOD OF DEFERRAL.—The period of deferral for repayment under this subsection shall begin on the date on which the eligible Reserve is ordered to active duty during any period of military conflict and shall terminate on the later of—

''(A) 180 days after the date on which such eligible Reserve is discharged or released from that active duty; and

''(B) 180 days after the date of enactment of this subsection.''.

''(4) NO ACCRUAL OF INTEREST DURING DEFERRAL.—During the period of deferral described in paragraph (3), repayment of principal and interest on the deferred loan shall not be required and no interest shall accrue on such loan.''.

SEC. 3. DISASTER LOAN ASSISTANCE FOR MILITARY RESERVISTS' SMALL BUSINESSES.

(a) IN GENERAL.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting after the undesignated paragraph that begins ''*Provided,* That no loan'', the following new paragraph:

''(3)(A) The Administration may make such disaster loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) to assist a small business concern (including a small business concern engaged in the lease or rental of real or personal property) that has suffered or is likely to suffer economic injury as the result of the owner, manager, or key employee of such small business concern being ordered to active duty during a period of military conflict.

''(B) Any loan or guarantee under this paragraph shall be made at an annual interest rate of not more than 4 percent, without regard to the ability of the small business concern to secure credit elsewhere.

''(C) No loan shall be made under this paragraph, either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis, if the total amount outstanding and committed to the borrower under this subsection would exceed $500,000, except that the Administration may waive the $500,000 limitation if the Administration determines that the applicant constitutes a major source of employment in an area not larger than a county that is suffering a disaster.

''(D) For purposes of assistance under this paragraph, no declaration of a disaster area shall be required.

''(E) For purposes of this paragraph—

''(i) the term 'period of military conflict' means—

''(I) a period of war declared by the Congress;

''(II) a period of national emergency declared by the Congress or by the President; or

''(III) a period for which members of reserve components of the Armed Forces are serving on active duty in the Armed Forces under a call or order to active duty, or retention on active duty, under section 688, 12301(a), 12302, 12304, or 12306 of title 10, United States Code;

''(ii) the term 'economic injury' includes the inability of a small business concern to

market or produce a product or to provide a service ordinarily provided by the small business concern; and

''(iii) the term 'owner, manager, or key employee' means an individual who—

''(I) has not less than a 20 percent ownership in the small business concern;

''(II) is a manager responsible for the day-to-day operations of such small business concern; or

''(III) is a key employee (as defined by the Administration) of such small business concern.''.

(b) CONFORMING AMENDMENTS.—Section 4(c) of the Small Business Act (15 U.S.C. 633(c)) is amended—

(1) in paragraph (1), by striking ''7(b)(4),''; and

(2) in paragraph (2), by striking ''7(b)(4), 7(b)(5), 7(b)(6), 7(b)(7), 7(b)(8),''.

SEC. 4. REGULATIONS.

Not later than 30 days after the date of enactment of this Act, the Small Business Administration may issue such regulations as may be necessary to carry out the amendments made by sections 2 and 3.

SEC. 5. APPLICABILITY AND EFFECTIVE DATES.

(a) APPLICABILITY.—This Act and the amendments made by this Act shall not apply to any member of a reserve component of the Armed Forces serving pursuant to a call or order to active duty, or retention on active duty, during a period of military conflict, who is eligible to participate in the Ready Reserve Mobilization Income Insurance Program established under section 512 of the National Defense Authorization Act for Fiscal Year 1996.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this Act shall take effect on the date of enactment of this Act.

(2) EXCEPTIONS.—

(A) LOAN REPAYMENT DEFERRAL.—The amendment made by section 2 shall apply with respect to any eligible Reserve called or ordered to, or retained on, active duty as the result of a period of military conflict occurring on or after August 1, 1990.

(B) DISASTER LOANS.—The amendments made by section 3 shall apply to economic injury suffered or likely to be suffered as the result of a period of military conflict occurring on or after August 1, 1990.

(c) DEFINITIONS.—For purposes of this section—

(1) the term ''economic injury'' has the same meaning as in section 7(b)(3)(E) of the Small Business Act, as added by section 3 of this Act;

(2) the term ''eligible Reserve'' has the same meaning as in section 7(n)(2) of the Small Business Act, as added by section 2 of this Act; and

(3) the term ''period of military conflict'' has the same meaning as in section 7(n)(2) of the Small Business Act, as added by section 2 of this Act.●

By Mrs. KASSEBAUM (for herself, Mr. KENNEDY, Mr. DODD, Mr. DEWINE, Ms. MIKULSKI, and Mr. SIMON):

S. 2178. A bill to amend the Federal Food, Drug, and Cosmetic Act to allow for additional deferred effective dates for approval of applications under the new drugs provisions, and for other purposes; to the Committee on Labor and Human Resources.

THE BETTER PHARMACEUTICALS FOR CHILDREN ACT

Mrs. KASSEBAUM. Mr. President, today I am introducing the Better Pharmaceuticals for Children Act. This bill will create a new partnership among pharmaceutical researchers and manufacturers, pediatric researchers, and the government to improve the information about pediatric uses of pharmaceuticals. The provisions of this bill were originally included in S. 1477, the Food and Drug Administration [FDA] Performance and Accountability Act, which was approved in March, with bipartisan support, by the Senate Committee on Labor and Human Resources.

The Food, Drug, and Cosmetic Act requires a showing of safety and effectiveness before drugs can be marketed to the American public. Until recently, it was thought that such a showing would be the same for adults and children. It is now clear, however, that children are not small adults. They do not necessarily react to drugs the same way. New data are necessary to ensure that America's children have the same benefit of safe and effective drugs as our adults do. As it stands now, however, 80 percent of the drugs taken by children are not labelled for pediatric use.

The Better Pharmaceuticals for Children Act addresses this need for pediatric use data by providing an incentive to manufacturers to conduct pediatric studies for new and approved drugs. Manufacturers who provide pediatric data for the drugs most urgently needed by our children would receive an extra six months market exclusivity for their product. By taking this type of partnership approach, we can get critically needed information on pediatric uses. Providing the FDA with the extra authority to offer this type of encouragement will help to ensure that companies conduct such studies.

Under the bill, the Secretary of Health and Human Services is required to develop, in consultation with pediatric experts, a list of approved drugs for which additional pediatric information may produce health benefits in the pediatric population. For pediatric studies of new and approved drugs to trigger the six-month exclusivity incentive, they must be formally requested by the Secretary, and filed with the Secretary in an acceptable manner. Manufacturers would be precluded from obtaining more than one six-month period of exclusivity.

I am proud to join with Senators KENNEDY, DODD, DEWINE, MIKULSKI, and SIMON in introducing this bill. Mr. President, it creates a win-win situation in which manufacturers get a benefit for proactively testing drugs for pediatric use, while our children get timely access to the safe and effective drugs they so desperately need.

Mr. DODD. Mr. President, I rise today as a proud cosponsor, again, of the Better Pharmaceuticals for Children Act. I have cosponsored this legislation in several Congresses now, and hope that finally, we will pass this enormously important legislation.

This act would address a problem that pediatricians first recognized more than 30 years ago: information about safe and effective therapies for their young patients is scarce. According to the American Academy of Pediatrics only about one-fifth of all drugs marketed in the United States today, and only four of the 25 new drugs approved by the FDA last year, have been labeled for use by children.

Given this largely adults-only drug market, individual doctors face an uncomfortable dilemma with many of their child patients. Should doctors limit themselves to the handful of proven pediatric drugs? Some might not even exist for certain illnesses, and in such cases this could mean not treating a sick child. Or should they take a gamble on an adult drug and rely on their training, professional judgment, and luck to make it work as intended?

Most physicians find the latter option, known as ''off-label prescribing,'' to be the more acceptable choice. As a result, the American Academy of Pediatrics says that off-label prescribing has ''by default become an established standard of care of children.''

This practice is neither illegal nor improper, but it can present unnecessary risk for young patients. Children are not just smaller than adults. Their bodies function very differently from adults. And as any parent can tell you, they change drastically from infancy to childhood to adolescence. For young, growing patients, the only way to be sure whether a medication is safe and effective, and what the dosage should be, is the test it on different age groups.

The Better Pharmaceuticals for Children Act is a straightforward solution to the unnecessary shortage of pediatric medicine. It grants an additional 6 months of market exclusivity for drugs which have undergone pediatric studies according to accepted scientific protocols. This provides a fair and reasonable market incentive for drug companies to make the extra effort needed to label their products for use by children.

Simply put, this bill is a sensible way to keep our children healthier. That is why it has enjoyed broad bipartisan support, both inside and outside this body. In addition to the American Academy of Pediatrics, other supporters include the Pharmaceuticals Research and Manufacturers of America, and the Pediatric AIDS Foundation. I urge my colleagues to support this act.

By Mrs. BOXER:

S. 2179. A bill to protect children and other vulnerable subpopulations from exposure to certain environmental pollutants, and for other purposes; to the Committee on Environment and Public Works.

CHILDREN'S ENVIRONMENTAL PROTECTION ACT OF 1996

● Mrs. BOXER. Mr. President, I am today introducing a bill that will help protect the children of this country from the harmful effects of environmental pollutants including pesticides and other hazardous substances.

As a member of the Environment and Public Works Committee, I have worked to protect children and other vulnerable subpopulations from contaminants in drinking water. The Safe Drinking Water Act that was recently signed into law by President Clinton included my amendments to require that Environmental Protection Agency [EPA] drinking water standards be set at levels that take into account the special vulnerability of our children, our infants, pregnant women, our elderly, the chronically ill, and other groups that are at substantially higher risk than the average healthy adult. That was a very important step forward because our safe drinking water standards—and, in fact, most of our country's public protection standards—are set at levels to protect the average healthy person, and not our most vulnerable loved ones.

The bill I am introducing today, the Children's Environmental Protection Act [CEPA], carries the concept of my Safe Drinking Water Act amendments even further. It requires the EPA to set all health and safety standards at levels that protect our children and our vulnerable subpopulations.

Mr. President, this is a much needed step forward because science tells us that children are not simply smaller versions of adults. Recent studies by the National Academy of Sciences found that children are more vulnerable to the chemical hazards in the environment for two principal main reasons. First, children eat more food, drink more water, and breath more air as a percentage of their body weight than adults. As a consequence, they are more exposed to the chemicals present in food, water and air. Second, because children are still growing and many of their internal systems are still in the process of developing and maturing, children may be physiologically more susceptible than adults to the hazards associated with these exposures.

Today, there are more questions than ever with respect to children's developmental health. For example, it has been estimated that up to one half of a person's lifetime cancer risk may be incurred in the first six years of life, but current science cannot tell us exactly where and how children are exposed to cancer risks in the environment.

Unfortunately, while we have many questions, we have very few answers. It is clear that the factors behind the special environmental risks that children face need immediate special attention.

If the EPA is to be able to fulfill a mandate to set all of its standards to protect our children, it must collect more data and carry out more research to improve our understanding of how children are exposed to environmental pollutants, where they are exposed, and how the exposure may affect their health. My bill would require the EPA to work with the Secretary of Agriculture and the Department of Health and Human Services to develop and implement research studies to examine the physiological and pharmacokinetic effects of environmental pollutants on children and other vulnerable subpopulations. It also requires research on children's dietary, dermal and inhalation exposure to environmental pollutants.

Mr. President, CEPA would also institute measures that would help protect our children from coming into contact with environmental pollutants including pesticides and other hazardous substances. First, my bill includes a family-right-to-know initiative to be adopted by every State. The principle behind the initiative is that public health and safety depends on citizens being aware of the toxic dangers that exist in their communities and neighborhoods. We must provide basic information to parents to give them the ability to make informed decisions to protect their family.

The Children's Environmental Protection Act would require users who apply pesticides and other hazardous substances in public areas that are reasonably accessible to children, to keep a record of the amount of chemical used, where it was applied and when it was applied. States would provide the public with copies of annual reports summarizing the information. The reports would also be available on the Internet. Detailed information such as information on a particular school would be available to the public upon request. The EPA would complete a nationwide survey every two years and make the information available to the public in written form and on the Internet. So both scientists and parents would have information about to what extent children are being exposed in public areas such as school, parks, playgrounds, shopping malls, and movie theaters.

CEPA takes a further step in the case of schools and parks by requiring that the EPA identify a list of most dangerous commonly used hazardous substances and pesticides—and within one year prohibit their use.

I would like to pay tribute to one exceptional mother. This mother knows the intense sadness of losing her child. This very special mother lives in my State and I am proud to call her my friend. Three years ago, Mrs. Nancy Chuda came to visit me to ask for help. Her little girl, all of 5 years old, had died of a nongenetic form of cancer. No one knows why or how or what caused little Colette Chuda to become afflicted. She was a normal, beautiful girl in every way. She liked to draw pictures of flowers and happy people. One thing is certain, she was blessed to have two wonderful parents. Nancy and Jim Chuda, despite their grief, chose to turn their own personal tragedy into something positive. They have labored endlessly to bring to the country's attention the environmental dangers that threaten our children. If future illness and death can be prevented, I know we all will be indebted to the tremendous energy and perseverance of Nancy Chuda.

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

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

S. 2179

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 ''Children's Environmental Protection Act of 1996''.

SEC. 2. ENVIRONMENTAL PROTECTION FOR CHILDREN.

The Toxic Substances Control Act (15 U.S.C. 2601 et seq.) is amended by adding at the end the following:

''TITLE V—ENVIRONMENTAL PROTECTION FOR CHILDREN

''SEC. 501. FINDINGS AND POLICY.

''(a) FINDINGS.—Congress finds that—

''(1) public health and safety depends on citizens and local officials knowing the toxic dangers that exist in their communities and neighborhoods;

''(2) children and other vulnerable subpopulations are more at risk from environmental pollutants than adults and therefore face unique health threats that need special attention;

''(3) a study conducted by the National Academy of Sciences on the effects of pesticides in the diets of infants and children concluded that current approaches to risk assessment typically do not consider risks to children and, as a result, current standards and tolerances often fail to adequately protect infants and children;

''(4) risk assessments of pesticides and other environmental pollutants conducted by the Environmental Protection Agency do not clearly differentiate between the risks to children and the risks to adults;

''(5) data are lacking that would allow adequate quantification and evaluation of child-specific and other-vulnerable-subpopulation-specific susceptibility and exposure to environmental pollutants; and

''(6) the absence of data precludes effective government regulation of environmental pollutants, and denies individuals the ability to exercise a right to know and make informed decisions to protect their families.

''(b) POLICY.—It is the policy of the United States that—

''(1) all environmental and public health standards set by the Environmental Protection Agency must be adequate to protect children and other vulnerable subpopulations that are at greater risk from exposure to environmental pollutants;

''(2) adequate hazard data should be developed with respect to the special vulnerability and exposure to environmental pollutants of children and other vulnerable subpopulations to better assess where, and at what levels, children and other vulnerable subpopulations are being exposed;

''(3) scientific research opportunities should be identified by the Environmental Protection Agency to study the health effects of cumulative and simultaneous exposures of children and other vulnerable subpopulations to environmental pollutants;

''(4) information should be made readily available by the Environmental Protection Agency to the general public to advance the public's right-to-know, and allow the public to avoid unnecessary and involuntary exposure; and

''(5) a family right-to-know initiative should be developed by the Environmental

Protection Agency to provide parents with basic information so the parents can make informed choices to protect their children from environmental health threats in their homes, schools, and communities.

"SEC. 502. DEFINITIONS.

''In this title:

''(1) CHILDREN.—The term 'children' includes adolescents and infants.

''(2) ENVIRONMENTAL POLLUTANT.—The term 'environmental pollutant' means a hazardous substance, as defined in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601), or a pesticide, as defined in section 2 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136).

''(3) USER.—The term 'user' means any commercial applicator of, or any person who applies, an environmental pollutant in a school, park, or public area that is reasonably accessible to children.

''(4) VULNERABLE SUBPOPULATIONS.—The term 'vulnerable subpopulations' means children, pregnant women, the elderly, individuals with a history of serious illness, and other subpopulations identified by the Administrator as likely to experience elevated health risks from environmental pollutants.

"SEC. 503. FAMILY RIGHT-TO-KNOW INITIATIVE.

''(a) IN GENERAL.—The Administrator shall work with each State to develop a family right-to-know initiative in accordance with this section.

''(b) GRANTS.—

''(1) IN GENERAL.—The Administrator shall make grants to States to develop and carry out a family right-to-know initiative in accordance with this section.

''(2) TERMS AND CONDITIONS.—Grants made under this subsection shall be subject to such terms and conditions as the Administrator establishes to further the purposes of this title.

''(c) REQUIREMENTS OF INITIATIVE.—A State carrying out a family right-to-know initiative shall—

''(1) require that any user who applies an environmental pollutant in a public area that is reasonably accessible to children complete a simple, easy-to-understand form that provides the amount of environmental pollutant applied, where the environmental pollutant was applied, and when the environmental pollutant was applied;

''(2) work with the Administrator to—

''(A) develop a uniform definition of the term 'public area that is reasonably accessible to children' for purposes of this section, that shall include, at a minimum, schools, shopping malls, movie theaters, and parks;

''(B) develop a uniform form to be completed by users under paragraph (1);

''(C) determine the manner and length of time of keeping the forms completed by users; and

''(D) determine the format for reporting information collected under paragraph (1) to the public;

''(3) prepare annual State reports summarizing the information collected under paragraph (1) for distribution to the Administrator;

''(4) provide the public with copies of annual State reports and local recordkeeping for schools, parks, and public areas;

''(5) make State reports available to the public on the Internet;

''(6) provide the Administrator with such data as the Administrator requests to prepare a nationwide survey under subsection (d); and

''(7) satisfy such other requirements as the Administrator prescribes to carry out this section.

''(d) NATIONWIDE SURVEYS.—

''(1) IN GENERAL.—The Administrator shall prepare a biennial nationwide survey of the information collected under this section.

''(2) ASSESSMENT.—The nationwide survey shall assess the extent to which environmental pollutants are present in private office and commercial buildings that are reasonably accessible to children.

''(3) RECOMMENDATION.—The nationwide survey shall recommend whether public recordkeeping and public reporting concerning application of environmental pollutants in areas that are reasonably accessible to children should be required.

''(e) PUBLIC AVAILABILITY OF INFORMATION.—

''(1) IN GENERAL.—On request by a member of the public, the Administrator shall provide a copy of any State report or nationwide survey prepared under this section.

''(2) INTERNET.—The Administrator shall make any State report or nationwide survey prepared under this section available to the public on the Internet.

"SEC. 504. SAFE SCHOOLS AND PARKS.

''(a) IN GENERAL.—Not later than 1 year after the date of enactment of this title, the Administrator shall—

''(1) identify hazardous substances and pesticides commonly used in schools and parks;

''(2) create, after peer review, a list of the substances identified in paragraph (1) with high hazard health risks to children and other vulnerable subpopulations;

''(3) make the list created under paragraph (2) available to the public;

''(4) review the list created under paragraph (2) on a biennial basis; and

''(5) develop and issue an Environmental Protection Agency approved sign and label for posting by a school or park to indicate that high hazard environmental pollutants were not used in the school or park.

''(b) COOPERATION.—The Administrator shall work with the Secretary of Health and Human Services, the Secretary of Education, the Secretary of the Interior, and the Secretary of Agriculture to ensure wide public distribution of the list created under subsection (a)(2).

''(c) COMPLIANCE BY SCHOOLS AND PARKS.—Not later than 1 year after the list created under subsection (a)(2) is made available to the public, the Administrator shall prohibit a school or park from using any environmental pollutant on the list.

"SEC. 505. RESEARCH TO IMPROVE INFORMATION ON EFFECTS ON CHILDREN.

''(a) TOXICITY DATA.—The Administrator, the Secretary of Agriculture, and the Secretary of Health and Human Services shall coordinate the development and implementation of research studies to examine the physiological and pharmacokinetic differences in the effects and toxicity of pesticides (including active and inert ingredients) and other environmental pollutants on children and other vulnerable subpopulations, as identified in the study of the National Academy of Sciences entitled 'Pesticides in the Diets of Infants and Children'.

''(b) EXPOSURE DATA.—The Administrator, the Secretary of Agriculture, and the Secretary of Health and Human Services shall conduct surveys and applied research to document differences between children and adults with respect to dietary, dermal, and inhalation exposure to pesticides and other environmental pollutants.

''(c) BIENNIAL REPORTS.—The Administrator, the Secretary of Agriculture, and the Secretary of Health and Human Services shall submit biennial reports to Congress on actions taken to carry out this section.

"SEC. 506. SAFEGUARDING CHILDREN AND OTHER VULNERABLE SUBPOPULATIONS.

''(a) IN GENERAL.—The Administrator shall—

''(1) evaluate environmental health risks to vulnerable subpopulations in all of the risk assessments, risk characterizations, environmental and public health standards, and general regulatory decisions carried out by the Administrator;

''(2) carry out paragraph (1) in accordance with the policy of the Environmental Protection Agency on the assessment of risks to children in effect on November 1, 1995; and

''(3) develop and use a separate assessment or finding of risks to vulnerable subpopulations or publish in the Federal Register an explanation of why the separate assessment or finding is not used.

''(b) REEVALUATION OF CURRENT PUBLIC HEALTH AND ENVIRONMENTAL STANDARDS.—

''(1) IN GENERAL.—As part of any risk assessment, risk characterization, environmental or public health standard, or general regulatory decision carried out by the Administrator, the Administrator shall evaluate the environmental health risks to children and other vulnerable subpopulations.

''(2) IMPLEMENTATION.—In carrying out paragraph (1), not later than 1 year after the date of enactment of this title, the Administrator shall—

''(A) develop an administrative strategy and an administrative process for reviewing standards;

''(B) identify a list of standards that may need revision to ensure the protection of children and vulnerable subpopulations;

''(C) prioritize the list according to the standards that are most important for expedited review to protect children and vulnerable subpopulations;

''(D) identify which standards on the list will require additional research in order to be reevaluated and outline the time and resources required to carry out the research; and

''(E) identify, through public input and peer review, not fewer than 5 public health and environmental standards of the Environmental Protection Agency to be repromulgated on an expedited basis to meet the criteria of this subsection.

''(3) REVISED STANDARDS.—Not later than 6 years after the date of enactment of this title, the Administrator shall propose not fewer than 5 revised standards that meet the criteria of this subsection.

''(4) COMPLETED REVISION OF STANDARDS.—Not later than 15 years after the date of enactment of this title, the Administrator shall complete the revision of standards in accordance with this subsection.

''(5) REPORT.—The Administrator shall report to Congress on an annual basis on progress made by the Administrator in carrying out the objectives and policy of this subsection.

"SEC. 507. PUBLIC AVAILABILITY OF DATA.

''(a) DISCLOSURE OF HEALTH EFFECTS AND EXPOSURE DATA.—Subject to subsection (b), any data or information known by a Federal agency concerning any test of a pesticide, residue of a pesticide, or other environmental pollutant to determine the potential levels of exposure or health effects shall be available for disclosure to the public, except to the extent the data or information relates to—

''(1) a manufacturing or quality control process;

''(2) a method for detecting the quantity of any deliberately added inert ingredient of a chemical substance other than a method for detecting a residue of the inert ingredient in or on food; or

''(3) explicit information derived from a pesticide use form submitted under section 1491 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 136i–1).

''(b) DATA AND INFORMATION SUBMITTED UNDER FIFRA.—Any data or information described in subsection (a) that was submitted to the Administrator under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.) shall be made available for disclosure to the public in accordance with section 10 of the Act (7 U.S.C. 136h).

''(c) DISCLOSURE.—This section shall not restrict the release of—

''(1) information that is otherwise subject to disclosure under section 552 of title 5, United States Code; or

''(2) information available through—

''(A) a material safety data sheet;

''(B) published scientific literature; or

''(C) a government document.

''SEC. 508. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated such sums as are necessary to carry out this title.''.●

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

S. 2180. A bill to establish felony violations for the failure to pay legal child support obligations and for other purposes; to the Committee on the Judiciary.

THE DEADBEAT PARENTS PUNISHMENT ACT OF 1996

Mr. KOHL. Mr. President, I introduce the Deadbeat Parents Punishment Act of 1996. Along with Senator SHELBY and Congressmen HYDE and SCHUMER, I introduced the original Child Support Recovery Act in 1992, and today I am pleased to introduce a bill that will toughen the original legislation to ensure that more serious crimes receive more serious punishment. In so doing, we can send a clear message to deadbeat dads—and moms: ignore the law, ignore your responsibilities, and you will pay a high price; that is, pay up or go to jail.

Current law already makes it a Federal offense to willfully fail to pay child support obligations to a child in another State if the obligation has remained unpaid for longer than a year or is greater than $5,000. However, current law provides for a maximum of just 6 months in prison for a first offense, and a maximum of 2 years for a second offense.

Police officers and prosecutors have used the current law effectively, but they have found that these penalties do not adequately deal with more serious cases—those deadbeat parents who deliberately ignore or evade the law. These are cases in which parents move from State to State to intentionally evade child support penalties, or fail to pay child support obligations for more than 2 years—serious cases that deserve serious punishment. In response to these concerns, President Clinton has drafted legislation that would address this problem, and I am pleased to introduce it today.

This new effort builds on past successes achieved through bipartisan work. In the 4 years since the original deadbeat parents legislation was signed into law by President Bush, collections have increased by nearly 50 percent, from $8 billion to $11.8 billion, and we should be proud of that increase. Moreover, a new national database has helped identify 60,000 delinquent fathers, over half of whom owed money to women on welfare.

Nevertheless, there is much more we can do. It has been estimated that if delinquent parents fully paid up their child support, approximately 800,000 women and children could be taken off the welfare rolls. Our legislation cracks down on the worst violators, and makes clear that intentional or long-term evasion of child support responsibilities will not receive a slap on the wrist. In so doing, it will help us continue the fight to ensure that every child receives the parental support they deserve.

Mr. President, we introduce this measure today, at the end of the session, in order to provide an opportunity for review in the coming months. But when we return for the 105th Congress, it will be one of my highest priorities. So I look forward to working with my colleagues to give police and prosecutors the tools they need to effectively pursue individuals who seek to avoid their family obligations.

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:

SECTION-BY-SECTION ANALYSIS

The Child Support Recovery Amendments Act of 1996 amends the current criminal statute regarding the failure to pay legal child support obligations, 18 U.S.C. §228, to create felony violations for egregious offenses. Current law makes it a federal offense willfully to fail to pay a child support obligation with respect to a child who lives in another State if the obligation has remained unpaid for longer than a year or its greater than $5,000. A first offense is subject to a maximum of six months of imprisonment, and a second or subsequent offense to a maximum of two years.

The bill addresses the law enforcement and prosecutorial concern that the current statute does not adequately address more serious instances of nonpayment of support obligations. A maximum term of imprisonment of just six months does not meet the sentencing goals of punishment and deterrence. Egregious offenses, such as those involving parents who move from State-to-State to evade child support payments, require more severe penalties.

Section 2 of the bill creates two new categories of felony offenses, subject to a two-year maximum prison term. These are: (1) traveling in interstate or foreign commerce with the intent to evade a support obligation if the obligation has remained unpaid for a period longer than one year or is greater than $5,000; and (2) willfully failing to pay a support obligation regarding a child residing in another State, if the obligation has remained unpaid for a period longer than two years or is greater than $10,000. These offenses, proposed 18 U.S.C. §228(a) (2) and (3); indicate a level of culpability greater than that reflected by the current six-month maximum prison term for a first offense. The level of culpability demonstrated by offenders who commit the offenses described in these provisions is akin to that demonstrated by repeat offenders under current law, who are subject to a maximum two-year prison term.

Proposed section 228(b) of title 18, United States Code, states that the existence of a support obligation in effect for the time period charged in the indictment or information creates a rebuttable presumption that the obligor has the ability to pay the support obligation for that period. Although ''ability to pay'' is not an element of the offense, a demonstration of the obligor's ability to pay contributes to a showing of willful failure to pay the known obligation. The presumption in favor of ability to pay is needed because proof that the obligor is earning or acquiring income or assets is difficult. Child support offenders are notorious for hiding assets and failing to document earnings. A presumption of ability to pay, based on the existence of a support obligation determined under State law, is useful in a jury's determination of whether the nonpayment was willful. An offender who lacks the ability to pay a support obligation due to legitimate, changed circumstances occurring after the issuance of a support order has civil means available to reduce the support obligation and thereby avoid violation of the federal criminal statute in the first instance. In addition, the presumption of ability to pay set forth in the bill is rebuttable; a defendant can put forth evidence of his or her inability to pay.

The reference to mandatory restitution in proposed section 228(d) of title 18, United States Code, amends the current restitution requirement in section 228(c). The amendment conforms the restitution citation to the new mandatory restitution provision of federal law, 18 U.S.C. §3663A, enacted as part of the Antiterrorism and Effective Death Penalty Act of 1996, P.L. 104–132, section 204. This change simply clarifies the applicability of that statute to the offense of failure to pay legal child support obligations.

For all of the violations set forth in proposed subsection (a) of section 228, the requirement of the existence of a State determination regarding the support obligation is the same as under current law. Under proposed subsection (e)(1), as under current subsection (d)(1)(A), the government must show that the support obligation is an amount determined under a court order or an order of a administrative process pursuant to the law of a State to be due from a person for the support and maintenance of a child or of a child and the parent with whom the child is living.

Proposed subsection (e)(2) of section 228 amends the definition of ''State,'' currently in subsection (d)(2), to clarify that prosecutions may be brought under this statute in a commonwealth, such as Puerto Rico. The current definition of ''State'' in section 228, which includes possessions and territories of the United States, does not include commonwealths.●

By Mr. DORGAN:

S. 2181. A bill to provide for more effective management of the National Grasslands, and for other purposes; to the Committee on Energy and Natural Resources.

NATIONAL GRASSLANDS MANAGEMENT ACT

Mr. DORGAN. Mr. President, today I am introducing the National Grasslands Management Act. This bill applies to the grasslands in North Dakota and half a dozen other States. I want to explain briefly what the objective of this bill is and how it came about.

For several years, the ranchers in western North Dakota have been asking for a less cumbersome approach to management of the grasslands and in North Dakota, both Chambers of the 1995 legislature passed a resolution unanimously asking for change on the grasslands as well.

The current regulatory regime is cumbersome mainly because the Forest Service must manage the grasslands under the same framework as it does the rest of the National Forest System. It doesn't handle efficiently the day-to-day problems of the ranchers and grazing associations. For example, ranchers have had to wait for as long as 2 to 3 years to get approval for a stock tank because of the labyrinth of regulations that the Forest Service overlays on the management of the grasslands. This legislation will change that by removing the national grasslands from the National Forest System and creating a new structure of rules specifically suited to the grasslands and their environment.

However, it is not only the ranchers needs that I am attempting to address. There is a broad range of uses on the public lands which must be protected. All hunting, fishing and recreational activities will continue as before and environmental protections will continue to be in place. Further, it is my intention that the public must be involved in the decision making process as these new rules are implemented. Only by working together can we solve the problems on the grasslands.

Several environmental groups and interested citizens have expressed concern that this bill, which was originally incorporated as part of a larger grazing package, would make grazing the dominant use of the public lands at the expense of other uses and some have expressed concern that this bill would prohibit hunting and fishing, end the multiple use of the national grasslands, turn over the management of the Grasslands to the ranchers and disconnect the grasslands from environmental laws such as the Endangered Species Act, the Clean Air Act, and the Clean Water Act.

These concerns are unfounded. I have worked diligently with the ranchers, environmentalists, and other recreational users of the grasslands to ensure that further misinterpretation is not possible. The result of that work is the National Grasslands Management Act that I am introducing today.

The legislation explicitly states that there will be no diminished hunting or fishing opportunities, that all applicable environmental laws will apply to those lands, and that the grasslands will be managed under a multiple use policy. The bill directs the Secretary to promulgate regulations which promote the efficient administration of livestock agriculture and provide environmental protections equivalent to that of the National Forest System.

In short, I believe that the National Grasslands Management Act is a solid piece of legislation that will make the administration of the Grasslands more responsive to the people who live there, without diminishing the rights and opportunities of other multiple users of this public land.

By Mr. DORGAN (for himself and Mr. CONRAD):

S. 2182. A bill to consolidate certain mineral interests in the National Grasslands in Billings County, North Dakota, through the exchange of Federal and private mineral interests to enhance land management capabilities and environmental and wildlife protection, and for other purposes; to the Committee on Energy and Natural Resources.

MINERAL RIGHTS EXCHANGE LEGISLATION

Mr. DORGAN. Mr. President, today, I, along with Senator KENT CONRAD, am introducing a bill that will facilitate a mineral exchange in Western North Dakota. The purpose of this mineral exchange is to consolidate certain mineral estates of both the U.S. Forest Service and Burlington Resources, formerly known as Meridian Oil. This consolidation will produce tangible benefits to an economically distressed region in North Dakota and also protect environmentally sensitive areas.

For years, the land and mineral ownership pattern in Western North Dakota has been extremely fragmented. In many cases the Forest Service owns and manages the surface land while private parties, such as Burlington Resources, own the subsurface mineral estates. This fragmentation has not only frustrated the management objectives of the Forest Service, it has also inhibited mineral exploration and development.

By consolidating the mineral estates, the Forest Service will have the opportunity to protect the viewshed along the Little Missouri River, creating a more attractive hunting, fishing and hiking area. Further, the mineral exchange will protect certain bighorn sheep calving areas. The Forest Service and Burlington have already signed a Memorandum of Understanding which will aid in the protection of wildlife and wildlife habitat after the exchange is concluded. The exchange is also supported by all major environmental groups in the State, the Governor of North Dakota, and the Bureau of Land Management's Dakotas Resource Advisory Council.

Burlington Resources supports this legislation. Burlington will have better opportunities for mineral exploration and development within their consolidated mineral estates. This increased development will benefit not only Burlington, but also Billings County and the State of North Dakota through increased tax revenue..

One point that I would like to make clear is that this mineral exchange should in no way be seen as affecting the multiple uses of the land. Current multiple uses, such as recreation, livestock grazing, watershed protection or fish and wildlife purposes, will continue as before.

I would also like to point out that this mineral exchange is not meant as a preamble to—or a substitute for—a designation of this area as wilderness. I do not favor the designation of wilderness within Billings County.

May I further underscore that this mineral exchange costs the U.S. taxpayer nothing. The bill provides for an exchange of about the same number of acres with equivalent monetary values. Yet, this no-cost transaction will yield substantial economic, environmental, and management dividends.

It is my hope that this mineral exchange will address some of the difficult land use questions in this area. It will accomplish a number of objectives. It will protect certain environmentally sensitive and scenic areas from development and I think that is important in these unique circumstances. It will also consolidate mineral holdings so that more orderly and predictable development will occur where development is feasible and appropriate. And, as I noted before, it will preserve a multiple use framework for managing these lands so that grazing and other activities are not otherwise affected by this legislation.

Further, it does not rely on the Government imposing a solution. Rather, this voluntary agreement embodies a consensus reached between the affected parties, the mineral holders, the State and its citizens, the environmental organizations, and the United States Forest Service.

I ask unanimous consent that letters of support from the Governor of North Dakota, the Dakotas Resource Council and the Sierra Club, and the Memorandum of Understanding signed by the Forest Service and Burlington Resources be printed in the RECORD in order to aid my colleagues in their deliberations on the bill.

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

STATE OF NORTH DAKOTA,
Bismark, ND, July 25, 1996.

Hon. BYRON L. DORGAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR DORGAN: The State of North Dakota supports the introduction of a bill which would implement a proposed mineral exchange between the United States Forest Service and Meridian Oil, Inc. This effort will advance our ''2020'' program to plan and implement sound management of the Badlands well into the future.

Current land and mineral ownership patterns in the Bullion Butte and Ponderosa Pine areas of the Little Missouri National Grasslands are fragmented, thereby complicating management of surface and mineral resources.

The proposed exchange is an opportunity to consolidate ownership, enhance natural badlands habitat adjacent to the Little Missouri River and facilitate mineral development while reducing conflict by competing activities.

Finally, I have included a summary describing more completely, the intended exchange and its effect.

Sincerely,

EDWARD T. SCHAFER,
Governor.

LEGISLATION TO EFFECT AN EXCHANGE OF MINERAL RIGHTS IN THE LITTLE MISSOURI NATIONAL GRASSLANDS, BILLINGS, ND

For over a decade, the United States Forest Service (USFS) and Meridian Oil, Inc. (Meridian) have been considering a possible exchange of oil and gas rights in the Bullion

Butte and Ponderosa Pine areas of the Little Missouri National Grasslands in North Dakota. The land ownership pattern in those areas is very fragmented, with both federal and privately owned mineral rights and federal surface and private subsurface estates. This lack of unity between the surface and subsurface estates and intermixture of public and private mineral rights have complicated both effective management of surface resource values and efficient extraction of minerals. The USFS views an exchange to consolidate mineral ownerships as an opportunity to protect bighorn sheep and their habitat and the viewshed in the Little Missouri River corridor. Meridian expects an exchange to facilitate exploration for and development of oil and gas by reducing the conflict such activities would have with other sensitive Grasslands resources.

At the urging of Senator Dorgan and Governor Schafer, the USFS and Meridian reached an agreement last year on an exchange of certain federal and private mineral rights and the imposition of certain constraints on Meridian oil and gas activities. The agreement would be implemented by this legislation.

What the legislation does. The legislation would accomplish the following:

Direct the completion of the transfer of Meridian's mineral rights in approximately 9,582 acres to the USFS for federal oil and gas rights in 8,796 acres, all in Billings County, North Dakota, within 45 days of enactment.

Authorize the exchange of any other private mineral rights in the same area for federal mineral rights within 6 months of enactment.

Deem the mineral rights to be transferred in the USFS/Meridian exchange to be of equal value (since the two parties have already negotiated the exchange and are of the informed opinion that the values are equivalent) and require that the other mineral rights to be transferred be of approximately equal value.

Require Meridian, as a condition for the exchange, to secure release of any leasehold or other contractual rights that may have been established on the Meridian oil and gas interests that will be exchanged.

Assure Meridian that it will have access across federal lands to be able, subject to applicable federal and State laws, to explore for and develop oil and gas on the interests it will receive in the exchange and that it will have the same surface occupancy and use rights on the interests it will receive that it now holds on the interests to be surrendered.

Find that the USFS/Meridian exchange meets the requirements of other federal exchange, environmental, and cultural laws that would apply if the exchange were to be processed without Congressional approval and direction.

Assure that no provision of the legislation can be interpreted to limit, restrict, or otherwise affect the application of the principle of multiple use (including such uses as hunting, fishing, grazing and recreation) in the Grasslands.

In addition to facilitating the exchange, the legislation would memorialize a Memorandum of Understanding (MOU) also negotiated and executed by the USFS and Meridian concerning management of certain Meridian oil and gas properties that will remain in Grasslands' areas with high surface resource values. In particular the MOU, adopted by reference in the legislation, obligates Meridian to make its best efforts to locate any oil and gas facilities and installations outside of the ¼ mile view corridor on either side of the stretch of the Little Missouri River being considered for designation as a Wild and Scenic River and to access certain other property adjacent to an important bighorn sheep lambing area only by directional drilling.

Equally important is what the legislation does not do:

It does not increase the amount of surface which the USFS controls. The USFS currently controls the surface on essentially all the land involved in the exchange, and this will not change since only mineral interests will be transferred.

It does not decrease the federal land available for oil and gas development. To the contrary, in the exchange the federal government will receive a net gain of almost 800 acres in mineral rights that may be leased for exploration and development by other parties. And, by consolidating federal mineral rights which now are scattered in a checkerboard pattern, access to them should be improved. The extent to which existing and new federal mineral rights are leased to private parties will be decided by the USFS in the ongoing planning and Environmental Impact Statement for the Southern Little Missouri Grasslands. The ''multiple use'' provision of the legislation makes certain the legislation will not affect that decision-making process.

It does not decrease revenue to the county, state, and federal governments. For the same reason that the exchange would not decrease land available for oil and gas development, the economic interests of taxing entities and the oil and gas industry should not be affected significantly by the exchange. In fact, with Meridian consolidating its mineral holdings in a more manageable and less sensitive unit, area oil and gas activity should increase and produce a net positive economic effect.

It does not provide either Meridian or USFS with mineral rights of greater value than those they now hold. The USFS with the assistance of the Bureau of Land Management, has reached the conclusion that the mineral rights to be exchanged between the USFS and Meridian are of equal value. Some additional value will accrue to both sets of mineral rights transferred by the exchange because of the greater ease of access and management that will result from consolidation. The legislation requires that any other mineral rights exchanged by other parties under the legislation be of approximately equal value.

It does not resolve the issue of wilderness designation. Some parties desire wilderness protection for the area. Other parties, including Meridian, oppose wilderness designation, and the USFS has not indicated any intent to establish a wilderness. The legislation would not increase, or decrease, the prospect for wilderness designation since wilderness may be designated whether the mineral rights are privately or publicly owned, the designation can only be accomplished by a separate Act of Congress, and the legislation's ''multiple use'' language makes clear the intent of Congress that the exchange is not intended to affect the wilderness issue.

DAKOTAS RESOURCE ADVISORY COUNCIL,
Dickinson, ND, September 12, 1996.

Hon. ED SCHAFER,
Governor of North Dakota, State Capitol, Bismarck, ND.

DEAR GOVERNOR SCHAFER: The Dakota Resource Advisory Council (RAC), a 12-member body appointed by the Secretary of the Interior, represents users of public lands in North and South Dakota. The RAC provides opportunities for meaningful public participation in land management decisions at the district level and encourages conflict resolution among various interest groups.

At our meeting in Dickinson, North Dakota on September 9, 1996, the RAC reviewed and discussed the Meridian Mineral Exchange that you have been considering. After careful review by our RAC, a resolution was passed indicating our support for legislative to allow the Meridian Mineral Exchange to be completed by the Bureau of Land Management.

Since there is considerable activity in this area, there is a definite urgency to move this legislation in the remaining of this Congress. The Dakota RAC respectfully requests the introduction and passage of legislation of the Meridian Mineral Exchange.

If we can be of further assistance to your efforts in this regard, we are most willing to help. District Manager, Doug Burger, has more details with respect to the exchange and we have asked him to assist you.

Thank you for considering the recommendations of the Dakota RAC.

Sincerely,

MARC TRIMMER,
Chair, Dakota RAC.

MEMORANDUM OF UNDERSTANDING

The Memorandum of Understanding (MOU) is between Meridian Oil Inc. (Meridian) with offices in Englewood, Colorado and the U.S. Forest Service, Custer National Forest (Forest Service).

The intent of the MOU is to set forth agreement regarding development of certain oil and gas interests beneath Federal surface. This MOU is in addition to, and does not abrogate, any rights the United States otherwise has to regulate activities on the Federal surface estate or any rights Meridian otherwise has to develop the oil and gas interest conveyed.

The provisions of this MOU shall apply to the successors and assigns of Meridian.

The MOU may be amended by written agreement of the parties.

Section A. View Corridor—Little Missouri River. Includes the following land (Subject Lands) in Township 137N., Range 102W.:

Section 3: Lots 6, 7, 9–12, 14–17 (+) River Bottom 54.7 acres

Section 10: Lots 1–4, N½, N½SE¼, SE¼SE¼ (+) River Bottoms 7.3 acres

Section 14: Lots 1, 2, 3, 6, 7, NW¼NE¼, NW¼SW¼, S½S½ (+) River Bottom 41.4 acres

Section 24: Lots 1–9, NE¼, S½NW¼, NE¼NW¼ (+) River Bottom 75.84 acres

1. The purpose of this Section is to set forth the agreements that Meridian and the Forest Service have made concerning reasonable protection of the view from the Little Missouri River which has been identified as potentially suitable for classification as a Wild and Scenic River under the Wild and Scenic Rivers Act. This section of the MOU shall remain in effect as long as the Forest Service maintains a corridor for this purpose.

2. The Forest Service has designated a ¼ mile corridor on either side of the River for protection of the view from the River, and this Section applies to the location permanent improvements within said corridor and not to temporary activities such as seismic operations within said corridor.

3. Meridian agrees to use its best efforts to locate permanent production facilities, well sites, roads and other installations outside the ¼ mile corridor on the Subject Lands. However, such facilities may be located within the ¼ mile corridor if mutually agreed to by the parties in writing.

4. The Forest Service agrees that Meridian may access its minerals within or without the ¼ mile corridor of the subject lands from a well or wells whose surface location is on adjoining lands in which Meridian owns the severed mineral estate.

Section B. Development of T. 138N., R 102W., Section 12: S½

1. The purpose of this section is to set forth the agreement that Meridian and the Forest Service have made concerning the option to develop the mineral resources in the S½ Section 12 from specified locations in Section 13, T. 138N., R. 102W.

2. If, at any time, Meridian, at its sole discretion, decides that the development potential of the S½ Section 12 justifies additional directional drilling the following options are hereby made available to them by the Forest Service:

A. Directional drilling from an expanded pad on the Duncan MP#1 location is Section 13, T. 138N., R. 102W. or

B. Directional drilling from a location in Section 13 adjacent to the county road and screened from the bighorn sheep lambing area located in Section 12.

If Meridian elects to develop the S½ Section 12 from one of the specified locations in Section 13, surface disturbing activities related to development and production will only be allowed from June 16 through October 14, annually.

3. This section of the MOU shall remain in effect as long as the S½ of Section 12 is subject to the present, or a future, oil and gas lease.

STEVEN L. REINERT,
Attorney-in-Fact, Meridian Oil, Inc.
NANCY CURRIDEN,
Forest Supervisor, Custer National Forest.

DACOTAH CHAPTER OF THE SIERRA CLUB,
Mandan, ND, September 14, 1995.

Re Meridian mineral exchange.

Hon. BYRON DORGAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR DORGAN: I am writing to convey the Sierra Club's support for the ''agreement in principle'' for a mineral exchange between Meridian Oil Inc. (MOI) and the Bureau of Land Management (BLM)/United States Forest Service (USFS). This agreement follows extensive negotiations between MOI, USFS, BLM, the North Dakota Game and Fish Department (NDGF) and local conservation organizations.

It is my understanding that their are two components to the agreement. Part One involves the actual exchange of the mineral estate. Part Two outlines a Memorandum of Understanding (MOU) between the USFS and MOI to protect the viewshed of the Little Missouri State Scenic River while still allowing MOI to access their minerals. The MOU also addresses a plan to directionally drill an oil well to protect a bighorn sheep lambing area.

I have contacted the enclosed list of conservation organizations and they have also stated their support for Parts One and Two of the agreement as proposed. I join them in urging you to introduction enabling legislation at the earliest opportunity. Your efforts throughout this process have been very much appreciated. Please contact me if there is anything conservationists can do to facilitate this mineral exchange.

Sincerely,

WAYDE SCHAFER.

CONSERVATION ORGANIZATIONS IN SUPPORT OF THE MINERAL EXCHANGE

Dacotah Chapter of the Sierra Club, National Wildlife Federation, National Audubon Society, Clean Water Action, North Dakota Chapter of the Wildlife Society, Bismarck Mandan Bird Club, Lewis and Clark Wildlife Club.

Mr. CONRAD. Mr. President, I rise today to join with my colleague from North Dakota, Senator DORGAN, to introduce legislation that would implement an exchange of subsurface mineral rights between the U.S. Forest Service and Burlington Resources in the Little Missouri National Grasslands.

Mr. President, this exchange and consolidation of mineral rights makes sense. The current pattern of ownership resembles a checkerboard, and this consolidation will help protect sensitive lands in the North Dakota Badlands and also facilitate additional oil and gas exploration in other areas of the grasslands. The legislation being introduced today would transfer Burlington's subsurface mineral rights of 9,582 acres to the Forest Service, and transfer 8,796 acres of Forest Service subsurface mineral rights to Burlington Resources. The parties have agreed that the value of the mineral rights being exchanged are of equal value. The legislation would also authorize the exchange of other private mineral rights for federal mineral rights within 6 months of enactment. Finally, this bill contains a very important provision that assures that nothing in the legislation can be interpreted to limit, restrict, or otherwise affect the application of the principle of multiple use.

It is also important to acknowledge what this legislation does not do. This legislation does not increase the surface area controlled by the Forest Service. This bill only deals with subsurface mineral rights. This bill does not decrease revenue to the county, State, or Federal government, nor does it provide Burlington Resources with mineral rights of greater value than they currently hold. Finally, this legislation is silent on the issue of wilderness designation.

Mr. President, I believe this is a good, balanced piece of legislation that deserves the support of every Member of the Senate.

By Mr. KYL (for himself, Mrs. FEINSTEIN and Mr. EXON):

S.J. Res. 65. A joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims; to the Committee on the Judiciary.

THE VICTIMS' RIGHTS CONSTITUTIONAL AMENDMENT

Mr. KYL. Mr. President, to ensure that crime victims are treated with fairness, dignity, and respect, I rise—along with Senator FEINSTEIN—to introduce a joint resolution proposing a constitutional amendment to establish and protect the rights of crime victims.

This joint resolution is the product of extended discussions with Senators HATCH and BIDEN, the Department of Justice, the White House, law enforcement, major victims' rights groups, and such diverse scholars as Professors Larry Tribe and Paul Cassell.

This latest joint resolution is still a work in progress; Senator FEINSTEIN and I anticipate modifications. We are introducing this new version to show the changes that have been made and to make clear that Senate Joint Resolution 52—which was introduced on April 22—has been superseded. We welcome suggestions on ways to improve the amendment and ask that comments refer to this new joint resolution.

Three principal issues remain unresolved. First, whether there should be an effective remedy when crime victims are denied rights regarding sentences or pleas. Second, whether to include non-violent crimes—other crimes—and if these crimes are included, whether they should be defined by Congress or by Congress and the states. Third, whether to have a right to a final disposition free from unreasonable delay or whether to limit this right to trial proceedings.

The introduced version—and the most recent version—contain the core principles that crime victims should have:

To be informed of the proceedings.

To be heard at certain crucial stages in the process.

To be notified of the offender's release or escape.

To proceedings free from unreasonable delay.

To an order of restitution.

To have the safety of the victim considered in determining a release from custody.

To be notified of these rights.

The language describing these rights has changed—and we continue to welcome suggestions. But it is clear that these rights are necessary. They are the core of the amendment.

In putting together a constitutional amendment, a broad consensus has to be reached to obtain two-thirds approval in the House and Senate and to ensure ratification by three-fourths of the States. In making changes, Senator FEINSTEIN and I have tried to accommodate the concerns of those who work in the criminal justice system—including judges, prosecutors, police officers, corrections officials, and defense attorneys—while at the same time protecting fundamental rights for crime victims.

Senator FEINSTEIN and I will continue to work intensively with these groups, law professors, and other Members of Congress from both parties and both Houses over the ensuing months to craft the best amendment possible. We then intend to introduce the finished revised amendment at the beginning of the next Congress. We believe that we now are close to a version that can be voted on by the House and Senate. We welcome comments and input as we move forward.

In closing, I would like to thank Senator DIANNE FEINSTEIN for her hard work on this amendment and for her tireless efforts on behalf of crime victims.

Mr. President, for far too long, the criminal justice system has ignored crime victims who deserve to be treated with fairness, dignity, and respect. Our criminal justice system will never

be truly just as long as criminals have rights and victims have none. We need a new definition of justice—one that includes the victim.

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

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

S.J. RES. 65

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid for all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

Section 1. Victims of crimes of violence and other crimes that Congress and the States may define by law pursuant to section 3, shall have the rights to notice of and not to be excluded from all public proceedings relating to the crime; to be heard if present and to submit a statement at a public pretrial or trial proceeding to determine a release from custody, an acceptance of a negotiated plea, or a sentence; to these rights at a parole proceeding to the extent they are afforded to the convicted offender; to notice of a release pursuant to a public or parole proceeding or an escape; to a final disposition free from unreasonable delay; to an order of restitution from the convicted offender; to have the safety of the victim considered in determining a release from custody; and to notice of the rights established by this article.

Section 2. The victim shall have standing to assert the rights established by this article; however, nothing in this article shall provide grounds for the victim to challenge a charging decision or a conviction, obtain a stay of trial, or compel a new trial; nor shall anything in this article give rise to a claim of damages against the United States, a State, a political subdivision, or a public official; nor shall anything in this article provide grounds for the accused or convicted offender to obtain any form of relief.

Section 3. The Congress and the States shall have the power to enforce this article within their respective federal and state jurisdictions by appropriate legislation, including the power to enact exceptions when required for compelling reasons of public safety.

Section 4. The rights established by this article shall be applicable to all proceedings occurring after ratification of this article.

Section 5. The rights established by this article shall apply in all federal, state, military, and juvenile justice proceedings, and shall also apply to victims in the District of Columbia, and any commonwealth, territory, or possession of the United States.

Mrs. FEINSTEIN. Mr. President, I rise today along with my distinguished colleague from Arizona, Senator JON KYL, to introduce a revised and substantially improved version of the victims' rights amendment to the U.S. Constitution.

Since Senator KYL and I originally introduced a victims' rights amendment in April, we have been working very diligently and intensively with the Department of Justice, law enforcement, the White House, major victims' rights groups, Senate Judiciary Committee Chairman HATCH and Ranking Member BIDEN, House Judiciary Committee Chairman HYDE, and a variety of distinguished scholars in the field of law enforcement, to more finely craft this amendment and resolve various concerns with its initial language. We have gone through 41 different drafts of the amendment, so far, as the language has evolved, culminating in the resolution that we are introducing today.

We are introducing this most recent version so that interested people have an up to date draft to evaluate. Many of the people who have commented on the victims' rights amendment were commenting on an out of date draft, leading to erroneous and false conclusions by some, including legal scholars.

What really focused my attention on the need for greater protection of victims' rights was a particularly horrifying case, in 1974, in San Francisco, when a man named Angelo Pavageau broke into the house of the Carlson family in Portero Hill. Pavageau tied Mr. Carlson to a chair, bludgeoning him to death with a hammer, a chopping block, and a ceramic vase. He then repeatedly raped Carlson's 24-year old wife, breaking several of her bones, He slit her wrist, tried to strangle her with a telephone cord, and then, before fleeing, set the Carlson's home on fire—cowardly retreating into the night, leaving this family to burn up in flames.

But Mrs. Carlson survived the fire. She courageously lived to testify against her attacker. But she has been forced to change her name and continues to live in fear that her attacker may, one day, be released. When I was mayor of San Francisco, she called me several times to notify me that Pavageau was up for parole. Amazingly, it was up to Mrs. Carlson to find out when his parole hearings were.

Mr. President, I believe this case represents a travesty of justice—It just shouldn't have to be that way. I believe it should be the responsibility of the State to send a letter through the mail or make a phone call to let a victim know that her attacker is up for parole, and she should have the opportunity to testify at that hearing.

But today, in most States in this great Nation, victims still are not made aware of the accused's trial, many times are not allowed in the courtroom during the trial, and are not notified when convicted offender is released from prison.

I have vowed to do everything in my power to add a bit of balance to our Nation's justice system. This is why Senator KYL and I have crafted the victim's rights amendment before us today.

The people of California were the first in the Nation to pass a crime victims' amendment to the State constitution in 1982—the initiative proposition 8—and I supported its passage. This measure gave victims the right to restitution, the right to testify at sentencing, probation and parole hearings established a right to safe and secure public school campuses, and made various changes in criminal law. California's proposition 8 represented a good start to ensure victims' rights.

Since the passage of proposition 8, 20 more States have passed constitutional amendments guaranteeing the rights of crime victims—and five others are expected to pass by the end of this year. In each case, these amendments have won with the overwhelming approval of the voters.

But citizens in other States lack these basic rights. The 20 different State constitutional amendments differ from each other, representing a patchwork quilt of rights that vary from State to State. And even in those States which have State amendments, criminals can assert rights grounded in the Federal constitution to try to trump those rights.

I stand before you today to appeal to my colleagues in this body—the highest legislative institution in the land—that the time is now to amend the U.S. Constitution in order to protect the rights of victims of serious crimes.

The U.S. Constitution guarantees numerous rights to the accused in our society, all of which were established by amendment to the Constitution. I steadfastly believe that this Nation must attempt to guarantee, at the very least, some basic rights to the millions victimized by crime each year.

For those accused of crimes in this country, the Constitution specifically protects: The right to a grand jury indictment for capital or infamous crimes; the prohibition against double jeopardy; the right to due process; the right to a speedy trial and the right to an impartial jury of one's peers; the right to be informed of the nature and cause of the criminal accusation; the right to confront witnesses; the right to counsel; the right to subpoena witnesses—and so on.

I must say to my colleagues that I find it truly astonishing that no where in the text of the U.S. Constitution does there appear any guarantee of rights for crime victims.

To rectify this disparity, Senator KYL and I introduce the victims' rights amendment in April. That amendment, like the one we introduced today, provides for certain basic rights for victims of crime: The right to be notified of public proceedings in their case; The right to be heard at any proceeding involving a release from custody or sentencing; The right to be informed of the offender's release or escape; The right to restitution from the convicted offender; and the right to be made of all of your rights as a victim.

Personally, I can say that the process of forging a constitutional amendment for victims' rights has been truly fascinating. The Constitution our forefathers scribed 200 years ago is a remarkable document that has withstood the test of time. Earlier this year, Senator KYL and I embarked on a journey

to include an amendment to this magnificent document that would ensure that the rights of the roughly 43 million people victimized by crime each year will be protected.

Our ongoing effort to include a victims' rights amendment in the Constitution has been at times frustrating, while at other times exhilarating. Each sentence, each word, and each comma has undergone hours of deliberation and questioning.

Having said that, I must tell this body and share with my colleagues that this latest resolution is still a work in progress—let me be perfectly clear, we anticipate modifications. Three principal issues remain unresolved:

First, whether there should be an effective remedy when crime victims are denied rights regarding sentences or pleas.

Second, whether to include nonviolent crimes (''other crimes''), and if these crimes are included, whether they should be defined by Congress or by Congress and the States.

Third, whether to have a right to a ''final disposition free from unreasonable delay'', whether to limit this right to trial proceedings, or whether to exclude this altogether.

Mr. President, Senator KYL and I believe that the latest resolution before us is much better than the version than was previously introduced for a number of reasons. The language describing these rights has changed—and we continue to welcome suggestions to ensure that this amendment pass with the largest majority.

Unfortunately, there was precious little time to advance the amendment in this Congress, and once it became clear that the other Chamber would not proceed with the amendment this session, Senators KYL and BIDEN and I decided not to press for Senate action in the last few weeks of the Congress, but, rather, to spend the next few months continuing to work to fine tune the amendment and build a consensus for its passage.

We implore Members of this body to examine this amendment, and to help to secure passage of this monumental piece of legislation. After 200 years, doesn't this Nation owe something to the millions of victims of crime? I believe that is our obligation and should be our highest priority—not only for the crime victims, but, for all Americans—to ensure passage of a victims' rights constitutional amendment.

I want to personally than Senator KYL for his tireless efforts to accomplish this amendment, and to say that I look forward to continuing to work with him in the months to come.

I thank my colleagues and I yield the floor.

ADDITIONAL COSPONSORS

S. 553

At the request of Ms. MOSELEY-BRAUN, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of S. 553, a bill to amend the Age Discrimination in Employment Act of 1967 to reinstate an exemption for certain bona fide hiring and retirement plans applicable to State and local firefighters and law enforcement officers, and for other purposes.

S. 1233

At the request of Ms. MIKULSKI, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 1233, a bill to assure equitable coverage and treatment of emergency services under health plans.

S. 1385

At the request of Mr. BREAUX, the names of the Senator from Virginia [Mr. ROBB], and the Senator from New Mexico [Mr. BINGAMAN] were added as cosponsors of S. 1385, a bill to amend title XVIII of the Social Security Act to provide for coverage of periodic colorectal screening services under Part B of the medicare program.

S. 1726

At the request of Mr. CRAIG, his name was added as a cosponsor of S. 1726, a bill to promote electronic commerce by facilitating the use of strong encryption, and for other purposes.

S. 1862

At the request of Mr. PRESSLER, the name of the Senator from Wisconsin [Mr. FEINGOLD] was added as a cosponsor of S. 1862, a bill to permit the interstate distribution of State-inspected meat under appropriate circumstances.

S. 1911

At the request of Ms. MOSELEY-BRAUN, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 1911, a bill to amend the Internal Revenue Code of 1986 to encourage economic development through the creation of additional empowerment zones and enterprise communities and to encourage the cleanup of contaminated brownfield sites.

S. 1949

At the request of Mr. PRESSLER, his name was added as a cosponsor of S. 1949, a bill to ensure the continued viability of livestock producers and the livestock industry in the United States.

S. 1951

At the request of Mr. FORD, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 1951, a bill to ensure the competitiveness of the United States textile and apparel industry.

S. 1965

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 1965, a bill to prevent the illegal manufacturing and use of methamphetamine.

S. 2030

At the request of Mr. LOTT, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 2030, a bill to establish nationally uniform requirements regarding the titling and registration of salvage, nonrepairable, and rebuilt vehicles, and for other purposes.

S. 2086

At the request of Mr. PRESSLER, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 2086, a bill to amend the Internal Revenue Code of 1986 to simplify certain rules relating to the taxation of United States business operating abroad, and for other purposes.

S. 2091

At the request of Mr. PRESSLER, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 2091, a bill to provide for small business and agriculture regulatory relief.

S. 2141

At the request of Mr. HATFIELD, his name was added as a cosponsor of S. 2141, a bill to amend the Internal Revenue Code of 1986 to permit certain tax free corporate liquidations into a 501(c)(3) organization and to revise the unrelated business income tax rules regarding receipt of debt-financed property in such a liquidation.

S. 2143

At the request of Mr. WARNER, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 2143, a bill to authorize funds for construction of highways, and for other purposes.

SENATE RESOLUTION 306—RELATIVE TO THE PEOPLE OF OKINAWA

Mr. ROTH (for himself, Mr. THOMAS, and Mr. NUNN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 306

Whereas the Senate finds that the Treaty of Mutual Cooperation and Security Between the United States of America and Japan is critical to the security interests of the United States, Japan and the nations of the Asian Pacific region;

Whereas the bilateral security relationship is the foundation for U.S. security strategy in Asia and the Pacific;

Whereas strong bilateral security ties provide a key stabilizing influence in an uncertain post-Cold War world;

Whereas the bilateral security relationship makes it possible for the United States to preserve its interest in the Asia Pacific region;

Whereas U.S. forward-deployed forces are welcomed by our allies in the region because they are critical for maintaining stability in East Asia;

Whereas the recognition by our allies of the importance of American troops for regional security confers on the United States irreplaceable good will and diplomatic influence in the Asia Pacific;

Whereas Japan's host nation support is a key element in the U.S. ability to maintain forward-deployed forces;

Whereas the people of Okinawa have borne a disproportionate share of the burdens of Japan's host nation support for America's bases in Japan;

Whereas the Government's of the United States and Japan have made a commitment to reducing the burdens of U.S. forces of the people of Okinawa;